



# Ulster County 2021 Climate Smart Communities Recertification Documentation

## INNOVATION Action: New Innovative Actions

### 9 POINTS DOCUMENTED

**Background:** Ulster County has developed a procurement program to support the development of community distributed generation (CDG) projects in the local community by using municipal accounts to serve as an anchor customer for solar PV projects, off-taking up to 40% of a solar PV project's output. This program directly supports developers of solar PV by making their projects easier to finance and reducing customer acquisition costs.

A key component of the program is a condition of the RFP that extends contract pricing to political sub-divisions and other entities as authorized by general municipal law.

While this action supports the County and other participating municipalities in the achievement of PE3: Clean Energy Upgrades, the program's impact extends beyond this action by allowing the County to:

- complete procurement on behalf of other program participants
- provide centralized technical and legal support to program participants
- promote CDG subscriptions through its Climate Smart Municipal Task Force

#### Program Timeline:

- 6/11/2020: Ulster County releases RFP-UC20-031
- 7/23/2020: Ulster County awards a contract to East Light Partners for projects physically located in Ulster and Dutchess Counties.
- 2/3/2021: Ulster County executes 10-year utility credit purchase agreements with East Light Partners for a projected total of \$240,000/year of utility credits.
- 00/00/2021: Ulster County Community College (SUNY Ulster) executes a 10-year agreement for a projected \$310,000/year of utility credits.
- 00/00/2021: Ulster County releases RFP-UC21-018 for the purpose of selecting a second vendor for the program. The City of Kingston has agreed to participate in the program with several of their large electricity accounts.

The following describes how Ulster County's program provides benefits in each of the three CSC-designated categories:

Reduced GHG emissions – A CDG subscription in this program reduces GHG emissions by “greening the grid,” that is, reducing the overall emissions intensity of electric power generation in the region. The municipality cannot claim a Scope 2 emissions reduction because the environmental attributes of the power generated are sold to the load serving entity through the VDER value stack compensation model. The subscribing municipality does not directly receive RECs for participation in the program so it cannot qualify for PE4 Action: Green Power Procurement Policy or PE4 Action: Renewable Energy Certificates. Yet, to the extent that participating municipalities enroll in the program, additional projects can be financed and built thereby expanding the GHG emissions reduction impact.



Enhanced community resilience to climate change – In a distributed electric power grid, locally-sited clean power generation is critical to increase community resilience as carbon reduction regulations increasingly result in higher costs for fossil fuel-based electricity generation. Electric utilities with higher levels of distributed electric resource (DER) penetration may be able to offer lower costs to the consumer. Lower energy costs make community members better prepared to respond to other effects of climate change (higher temperatures, winter weather events).

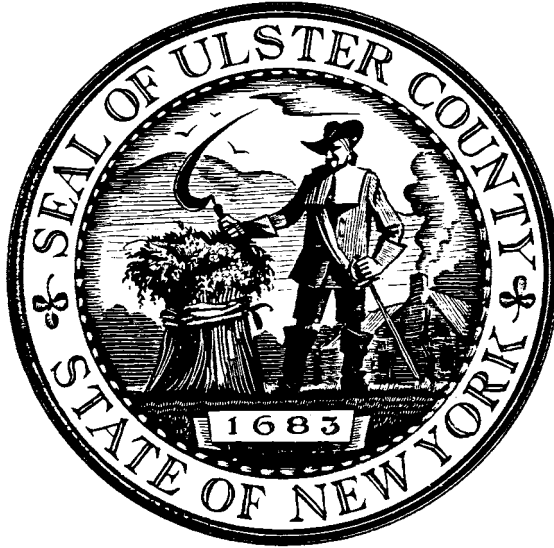
Helped to build a green economy at the local level – A municipality acting as an anchor customer for a CDG project directly supports the developer by providing a secure counterparty for up to 40% of the project's output and reducing customer acquisition costs. Strong municipal support of CDG projects can create an environment where it is financially feasible to develop CDG projects locally which will stimulate additional project proposals. Additionally, through its RFP, Ulster County has requested that proposers detail the following qualifications and project experience to serve as selection criteria in the competitive procurement process:

- *"Provide examples of how local firms were, are or will be used in project development, construction and/or operations & maintenance.*
- *Provide examples of local job creation resulting from host site development, including Proposer participation with local and/or regional career training programs.*
- *Provide examples of the Proposer, or project developer, supporting community development through the proposed host site(s). "*

**Documentation:**

- RFP-UC20-031
- RFP-UC21-031 Attachment A
- RFP-UC20-031 award letter
- RFP-UC21-018
- Screen shots of New Project Media social media posts related to RFP-UC20-031 and RFP-UC21-018

# **COUNTY OF ULSTER REQUEST FOR PROPOSALS**



**RFP-UC20-031**

## **Community Distributed Generation Subscriptions**

***ULSTER COUNTY PURCHASING DEPARTMENT  
EDWARD JORDAN  
DIRECTOR OF PURCHASING  
244 FAIR STREET 3<sup>RD</sup> FLOOR  
PO BOX 1800  
KINGSTON, NY 12402***

## **RECEIPT CONFIRMATION FORM**

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

Michael Maphis; Principal Buyer  
Ulster County Purchasing Department  
244 Fair Street, 3<sup>rd</sup> Floor Kingston, NY 12401  
Telephone: (845) 340-3999 Fax: (845) 340-3434  
RFP-UC20-031: Community Distributed Generation Subscriptions

**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**  
THIRD FLOOR, 244 FAIR STREET, PO BOX 1800, KINGSTON, NY 12402-1800  
PHONE: 845-340-3400 / FAX: 845-340-3434 / WEB: [www.co.Ulster.ny.us/purchasing/](http://www.co.Ulster.ny.us/purchasing/)

**RFP NAME:** Community Distributed Generation Subscriptions

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**REQUEST FOR PROPOSAL**

**DATE:** Thursday June 11<sup>th</sup>, 2020

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

**RFP NAME:** Community Distributed Generation Subscriptions

**RFP NUMBER:** RFP- UC20-031

**MAIL PROPOSAL TO:** Ulster County Purchasing,  
Ulster County Office Building  
244 Fair St 3<sup>rd</sup> Floor  
PO Box 1800  
Kingston, NY 12402

**SUBMISSION DATE** Friday July 10<sup>th</sup>, 2020  
4:00 P.M.

**Proposals received after the time specified will not be opened.**

**CONTACT PERSON:** Michael Maphis; Principal Buyer  
Ph(845) 340-3999 Email: [mmap@co.ulster.ny.us](mailto:mmap@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

## **REQUEST FOR PROPOSAL**

### **1.0 PURPOSE**

The purpose of this RFP is to obtain competitive proposals from community distributed generation (CDG) project sponsors (hereafter referred to as the “Proposer”) for the purchase of subscriptions for Value of Distributed Energy Resources (VDER) value stack credits.

#### **Background:**

Ulster County has a strong track record of being a leader in green power use and environmental sustainability. Since 2014, Ulster County has purchased 100% of its electricity from renewable sources through a combination of on-site generation, distributed generation, renewable energy certificates and utility green power products.

Pursuant to [Executive Order Number 1-2019](#), Ulster County is committed to supplying 100% of its annual building and fleet electricity usage from locally generated renewable energy sources by the year 2030. The County defines local renewable energy as generation from a renewable source that occurs within the same utility territory and NY Independent System Operator (NYISO) zone as the load.

### **2.0 SCOPE OF WORK**

Ulster County is soliciting proposals for the purchase of VDER value stack discount subscriptions for distributed generation from locally sited project(s).

- Pricing shall be proposed as a fixed percentage discount to the monetary value of the VDER value stack credits applied to the County’s utility invoice(s) for the electricity generated by the allocated portion of the project capacity each billing period.
- Subscriptions will be applied only to municipal accounts.
- The Proposer shall either own or be authorized by the owner to manage and sell subscriptions for the CDG Project(s).
- This discount percentage shall include all costs associated with the implementation of the CDG project(s) including, but not limited to financing, designing, installing, owning, operating, maintaining and administering subscriptions to the distributed generation system(s) through the life of the agreement. The County will not be responsible for any additional costs to construct, maintain, own and operate system.
- Distributed generation systems that are yet to be built/installed, must commence commercial operation within one year after contract execution unless an extension is agreed upon by the County. Proposers must have completed the 25% interconnection payment for the proposed project to be eligible.
- The proposed project(s) shall be sited and metered within Central Hudson’s utility territory and shall interconnect in NY Independent System Operator (ISO) Load Zone G.

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**RFP NAME:** Community Distributed Generation Subscriptions

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- The proposed project(s) need not convey the environmental attributes of renewable energy generation to the County by contract (i.e. the VDER “E” credit should be included in the value stack total). Proposers may offer an alternate proposal for each site proposed with discount pricing that includes environmental attributes via a REC swap or other method.
- For each account subscribed, the successful Proposer will provide a monthly statement and invoice to the County showing the amount of electricity generated by their subscription, the monetary credit applied to their utility bill(s), and the cost of the subscription. This statement and invoice should contain monthly detail for each subscribed utility account. Monthly statements and invoices shall be combined or separated at the County’s request. The Proposer shall also provide, or provide access to, an annual statement containing the monthly data electronically in tabular format.
- The successful Proposer shall provide consolidated billing on the County’s utility invoices if the option becomes available during the term of the Contract.
- The successful Proposer must provide an annual true-up mechanism to ensure that the County pays only for the actual credits or amount of electricity generated by its contracted allocation.

### **3.0 ESTIMATED QUANTITIES**

The County intends to procure subscriptions for the following accounts:

<b>Central Hudson Account Number</b>	<b>Account Holder</b>	<b>Estimated Annual Usage (kWh)</b>
3618025000	County of Ulster	796,320
3618026100	County of Ulster	518,910
3620059000	County of Ulster	493,875
3620110300	County of Ulster	236,640
3620058100	County of Ulster	203,742
<b>Total</b>		<b>2,249,487</b>

The total capacity allocation to which the County will subscribe will be determined based on the nature and availability of proposals received.

The County will reserve the right to reduce capacity allocation during the term of the Contract if such reductions result from changes to account ownership or building configuration (i.e. energy efficiency improvements, changes to building systems). The County intends to make a good faith effort to ensure that the contracted capacity allocation is credited throughout the life of the Contract. However, there is no guarantee of quantities to be purchased, nor is there any guarantee that demand will continue in any manner consistent with historical usage.

The County may request additional capacity allocation at the same discount from the successful proposer, if available, during the term of the Contract. This allocation may include mass market account types. This allocation may also be extended to political sub-divisions per Section 21.0 below.

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By submitting a Bid, the Proposer acknowledges the foregoing and agrees that actual good faith purchasing volumes during the term of the resulting Contracts could vary from the estimates provided in this Solicitation.

#### **4.0 PROPOSAL/SUBMITTAL RETURN DATE**

##### **4.1 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.

##### **4.2 RETURN DATE**

One unbound original, six (6) photocopies, and one electronic copy (CD or thumb drive ) of the proposal and other required documents containing 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 defined as the copy containing the original ink signed signature pages.**

Proposals must be received no later than **4:00 P.M. on Friday July 10<sup>th</sup>, 2020** at the following address:

**Ulster County Purchasing  
Edward Jordan, Director of Purchasing  
PO Box 1800  
244 Fair St 3<sup>rd</sup> Floor  
Kingston, NY 12401**

##### **4.3 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.

Oral, faxed, or telephoned submittals, or modification thereof, will not be accepted. The County of Ulster



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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.

#### **4.4 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 **5.0 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.

#### **4.5 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

Edward Jordan, Director of Purchasing,  
Ulster County Purchasing,  
244 Fair St 3<sup>rd</sup> Floor  
Kingston, NY 12402  
Email [ejor@co.ulster.ny.us](mailto:ejor@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.

## **5.0 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**

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 other service and system providers (e.g., County government), history of regulatory compliance, fiscal solvency and budget performance; 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 how local firms were, are or will be used in project development, construction and/or operations & maintenance.

Provide examples of local job creation resulting from host site development, including Proposer participation with local and/or regional career training programs.

Provide examples of the Proposer, or project developer, supporting community development through the proposed host site(s).

### **SECTION III: PROPOSED PLAN**

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.

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

Describe the plan to work with the County.

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

## **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.”** The fee schedule supplied will include all items of labor, materials, travel, equipment and other costs necessary to fully provide the service.

The Fee/Cost Proposal shall be submitted using ATTACHMENT A.

Discount pricing submitted shall be valid for a period of 1-year from the due date for proposals.

The County acknowledges that the available capacity as proposed may change from the due date for proposals. The successful responder shall provide an update of available capacity upon notification of award.

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

## **SECTION V: RETURN DOCUMENTS**

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

### **6.0 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**
  - Completeness of responder ’s proposed plan to provide community generated subscriptions
  - Demonstrated capability of the responder to satisfactorily meet not only the requirements outlined in this document but all necessary phases of the program.
  - Plan to accomplish all required tasks.
- **FEE/PRICING PROPOSAL**
  - Cost of proposal
  - Reasonableness of fees and budget
  - Reasonableness of optional fees
- **QUALIFICATIONS AND EXPERIENCE**
  - Responder’s experience with projects of similar size and scope
  - Personnel qualifications and experience

- Responder's business history and viability
- References
- **UNDERSTANDING OF COUNTY'S GOALS AND OBJECTIVES**
  - Responder understands and proposal addresses the needs of the County and offers a program that will meet or exceed the County's objectives.
- **LOCAL ECONOMIC DEVELOPMENT**
  - Vendors located within Ulster County will receive five points.
  - Vendors located within a contiguous county will receive three points.
  - Vendors located within New York State will receive one point.

## **7.0 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.

## **8.0 PRE-PROPOSAL MEETING (VENDOR'S CONFERENCE)**

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

## **9.0 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.

## **10.0 CONTRACT PERIOD**

The term of the contract will be for a period of no less than 5 years.

The responder's preferred contract term shall be specified for each project in ATTACHMENT A and will be negotiated during contract development.

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 VENDOR SERVICES, (ATTACHMENT B)**.

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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.

**11.0 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.

**12.0 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.

**13.0 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.

**14.0 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.

**15.0 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 Vendor 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.

**16.0 DISQUALIFICATION**

The County reserves the right to refuse to issue an award to responders 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.

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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.

**17.0 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.

**18.0 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.

**19.0 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.

**20.0 SUSPENSION AND DEBARMENT**

By submitting a proposal in response to this RFP, each responder warrants that neither it nor any of its

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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.

**21.0 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.

**22.0 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.

**23.0 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.

7/1/2020	Last day to submit written inquiries
7/10/2020	Due Date for Proposals
7/13/2020 – 7/17/2020	Selection Committee evaluates Proposals
7/20/2020 – 7/24/2020	Oral Interviews By Invited Companies
7/27/2020	Notice of Intent to Award
10/1/2020 or as available	Contract Start Date

**COUNTY OF ULSTER – PURCHASING DEPARTMENT**  
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(Rev. 11.01.19)

County Contract No. \_\_\_\_\_



## AGREEMENT FOR VENDOR 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 VENDOR NAME]**, a [to be completed by the County Attorney’s Office] with principal offices at [Enter Vendor’s business address] (the “**Vendor**”), (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 Vendor [state brief description of how vendor is qualified to provide service and was selected] OR [was the lowest, responsible bidder to respond to the County’s Request for Bid RFB-UC\_\_\_ (the “**Bid**”) pursuant to the terms and conditions of the Bid]; and

**WHEREAS**, the County has agreed to engage the Vendor, and the Vendor has agreed to contract with the County, to [state brief description of services to be provided] [pursuant to Bid No. \_\_\_\_\_ and the Vendor’s Response to Bid 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 Vendor 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 Vendor agrees to perform the Services in accordance with the terms and conditions of this Agreement. It is specifically agreed to by the Vendor that the County will not compensate the Vendor 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 Vendor agrees to perform the Services **beginning [Enter Start Date], 20\_\_**, and **ending [Enter Completion Date], 20\_\_**. In accordance with the Bid and with written notice to the Vendor, 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 Vendor. 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 Vendor 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



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Purchasing Director is not given in writing prior to the performance of any services 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 Vendor 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 Vendor will, in whole or in part, be compensated with New York State funds, the Vendor 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://www.governor.ny.gov/executiveorder/38>.

#### **ARTICLE 4 - EXECUTORY CLAUSE**

The County will have no liability under this Agreement to the Vendor 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 Vendor 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 Vendor 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 Vendor, 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 Vendor 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 Vendor represents and warrants that no person or selling agent has been employed or retained by the Vendor 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 Vendor 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 Vendor 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 Vendor 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 Vendor 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 Vendor 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 Vendor 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 VENDOR**

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

By signing this Agreement, the Vendor 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 Vendor 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 Vendor agrees to provide immediate and detailed notice to the County Attorney regarding such status. Any misrepresentation or false statement related to the Vendor's status in this regard, or any failure by the Vendor 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 Vendor 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 Vendor 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 [www.co.ulster.ny.us/downloads/UlsterCountyCompliancePlan.pdf](http://www.co.ulster.ny.us/downloads/UlsterCountyCompliancePlan.pdf). Alternatively, a hard copy of the Plan will be provided upon the Vendor's request. The Plan relates to the County's compliance with relevant federal and state fraud and abuse laws. The Vendor 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 Vendor 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 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 [www.co.ulster.ny.us/downloads/compliance.pdf](http://www.co.ulster.ny.us/downloads/compliance.pdf). The Vendor 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 Vendor, and each person signing on behalf of the Vendor, 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 Vendor 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 Vendor have not been knowingly disclosed by the Vendor 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 Vendor 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 Vendor (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 Vendor shall operate as and have the status of an independent Vendor, and shall not act as agent for or on behalf of the County, nor will the Vendor represent the County, or bind the County in any manner. As an independent contractor, the Vendor shall be solely responsible for determining the means and methods of performing the Services, and shall have complete charge and responsibility for the Vendor's personnel engaged in the performance of the same.

In accordance with such status as independent Vendor, the Vendor 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 Vendor'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 Vendor 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 Vendor 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 Vendor, 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 Vendor's employees for past Services.

The provisions of this clause shall not hinder, prevent, or affect any assignment by the Vendor 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 Vendor 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 Vendor, 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 Vendor, 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 Vendor.

Upon signing this Agreement, the Vendor 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 Vendor's obligations pursuant to this Agreement. Furthermore, upon the County's request, the Vendor shall provide copies of any and all subcontract agreements for Services to be performed pursuant to this Agreement.

The Vendor 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 Vendor. The Vendor will not in any way be relieved of any responsibility under this Agreement by any subcontract.

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

## ARTICLE 13 - PERFORMANCE

The Vendor shall perform the Services using its own equipment and facilities wherever and whenever possible. In performing the Services, the Vendor 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 Vendor is hereby given notice that the County will be relying upon the accuracy, competence, and completeness of the Vendor's performance in using the results achieved by the Vendor's performance of these Services. The Vendor 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 Vendor [45 C.F.R. Section 164.504(e)]. If HIPAA is applicable to this Agreement, the County and the Vendor agree to enter into a separate BAA that complies with HIPAA, as that law may be amended from time to time. Unless the Vendor 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 Vendor from or through the County or any other person connected with the County, or developed, produced, or obtained by the Vendor 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 "Vendor" as used herein includes all officers, directors, employees, agents, subcontractors, assignees, or representatives of the Vendor.

The Vendor shall keep all Confidential Information in a secure location within the Vendor's offices. The County will have the right, but not the obligation, to enter the Vendor's offices in order to inspect the arrangements of the Vendor for keeping Confidential Information secure.

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The County's inspection, or its failure to inspect, will not relieve the Vendor of its responsibilities pursuant to this Article 15.

The Vendor 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 Vendor 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 Vendor 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 Vendor, 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 Vendor 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 Vendor shall disclose only such portions of Confidential Information that, in the opinion of the County, the Vendor is legally required to disclose, and the Vendor 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 Vendor 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 Vendor shall obtain such an agreement from the officers, directors, agents, representatives, or employees of the Vendor 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 Vendor 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 Vendor, such information shall be retained in a secure location in the Vendor'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 Vendor 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 Vendor, 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 Vendor 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.

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The Vendor 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 Vendor 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 Vendor 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 Vendor 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 Vendor 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 Vendor 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 Vendor 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 Vendor 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 Vendor 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 Vendor 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 - INSURANCE**

For provision of the Services set forth herein and as may be hereinafter amended, the Vendor 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 Vendor 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 Vendor and not those of the County. Notwithstanding anything to the contrary in this Agreement, the Vendor irrevocably waives all claims against the County for all losses,

**COUNTY OF ULSTER – PURCHASING DEPARTMENT**

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damages, claims, or expenses resulting from risks commercially insurable under the insurance described in Schedule C and this Article 22. The provision of insurance by the Vendor will not in any way limit the Vendor'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 fifteen (15) 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 Vendor.

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 Vendor'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 Vendor 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 Vendor 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.

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## **ARTICLE 23 - INDEMNIFICATION**

The Vendor 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 Vendor, 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 Vendor, its employees, representatives, subcontractors, assignees, or agents. The Vendor 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 Vendor or an employee, representative, subcontractor, assignee, or agent of the Vendor, either within or without the scope of the respective employment, representation, subcontract, assignment, or agency, or arising out of the Vendor'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 24 - RESPONSIBILITY TO CORRECT DEFICIENCIES**

The Vendor shall be responsible to correct, in a timely fashion and at the Vendor's sole expense, any deficiencies in its Services resulting from the Vendor'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 Vendor within one hundred-twenty (120) days after completion and final acceptance of the Services. If the Vendor 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 Vendor and/or set-off such amount against any sums otherwise due to the Vendor. 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 25 - CURRENT OR FORMER COUNTY EMPLOYEES**

The Vendor 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 Vendor 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 Vendor 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 26 - PROTECTION OF COUNTY PROPERTY**

The Vendor 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 Vendor, its officers, directors, members, partners, employees, representatives, or assignees, or any person, firm, company, agent, or others engaged by the Vendor as an expert, consultant, specialist, or subcontractor hereunder, will be the responsibility of the Vendor.

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 Vendor 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



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County property described in this Article 26.

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 27 – EXTENSIONS AND DELAYS**

If, owing to the actions or neglect of the County, the Vendor is prevented from completing the Services within the Term of this Agreement, then the Vendor'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 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 Vendor, its subcontractors, agents, assignees, or any other person or entity, for damages arising out of or resulting from any such delays.

## **ARTICLE 28 - TERMINATION**

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

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

Upon termination of this Agreement, the Vendor 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 Vendor 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 Vendor 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 28, the County may procure upon such terms and in such manner as deemed appropriate, Services similar to those so terminated, and the Vendor 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 Vendor and/or set off against any sums due to the Vendor.

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

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## **ARTICLE 29 - 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 Vendor (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 30 - 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 31 – DISPUTES**

In the event of a dispute arising from this Agreement, the Vendor 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 Vendor 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 Vendor 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 Vendor, seeking Indemnification pursuant to Article 23, obtaining Correction of Deficiencies pursuant to Article 24, Termination pursuant to Article 28, and/or Set-Off Rights pursuant to Article 29. The Vendor 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 32 - GOVERNING LAW**

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

## **ARTICLE 33 – 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 Vendor agrees that all laborers, workers, or mechanics employed by the Vendor 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 34 - 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 35 - GENERAL RELEASE**

Acceptance by the Vendor or its assignees of the final payment under this Agreement, whether by voucher, judgment of any court of

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competent jurisdiction, administrative, or other means, will constitute and operate as a general release to the County from any and all claims of the Vendor arising out of the performance of this Agreement.

## **ARTICLE 36 - NO CLAIM AGAINST OFFICERS, AGENTS OR EMPLOYEES**

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

## **ARTICLE 37 - 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 38 - SURVIVING OBLIGATIONS**

The Vendor's obligations and those of the Vendor's employees, representatives, agents, subcontractors, successors, and assignees, assumed pursuant to Article 7 (Representations by the Vendor), 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 23 (Indemnification), Article 24 (Responsibility to Correct Deficiencies), Article 26 (Protection of County Property), and Article 29 (Set-Off Rights) will survive completion of the Services and/or the expiration or termination of this Agreement.

## **ARTICLE 39 - 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:

**Vendor:**

[Insert Vendor Name]  
Attention: [Insert Appropriate Information]  
[Insert Vendor Address]  
[Insert Vendor 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, 5<sup>th</sup> 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 40 - 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

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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 41 – 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.

Upon removal of such cause, the Party affected shall resume its performance as soon as reasonably possible. The Vendor's financial inability to perform will not be deemed to be an event of Force Majeure regardless of the source causing such financial inability. If the Vendor is so delayed in the timely performance of the Services, the Vendor'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 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 Vendor or to its subcontractors, agents, assignees, or any other person or entity for damages arising out of, or resulting from, any such delays.

## **ARTICLE 42 - 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 43 – 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 VENDOR NAME]**

By: \_\_\_\_\_  
NAME: [If known]  
TITLE: [If known]  
DATE: \_\_\_\_\_

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**SCHEDULE A**  
**SCOPE OF SERVICES**

1. State that the Vendor will be performing the Services for the County. (Example: *The Vendor shall perform engineering design Services for the County's Department of Public Works.*)
2. Provide a detailed description of **WHAT** Services the Vendor shall perform for the County.
3. State **WHERE** the Services shall be performed by the Vendor.
4. State **HOW** the Services are to be performed by the Vendor.
5. State **WHEN** the Services shall be performed by the Vendor.
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 Vendor'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 Vendor 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 Vendor shall submit to the County original invoices for payment.
4. The Vendor shall submit its invoices by the [write out: first, tenth, etc.] (\_\_\_<sup>th</sup>) day of each [month/quarter], for the Services provided during the previous [month/quarter].
- [4. The Vendor shall submit its invoices to the County according to the schedule below:]

Dates of Services Provided:	Invoice submitted no later than:
January 1, 20XX – March 31, 20XX	April 20, 20XX
April 1, 20XX – June 30, 20XX	July 20, 20XX
July 1, 20XX– September 30, 20XX	October 20, 20XX
October 1, 20XX – December 31, 20XX	January 30, 20XX

- [4. The Vendor shall submit its invoices by the [write out: first, tenth, etc.] (\_\_\_<sup>th</sup>) day of each [month/quarter] for the Service provided during the previous [month/quarter] with the understanding that the Vendor will begin submitting invoices after the New York State budget has provided for allocation of funds.]
5. The Vendor's invoices must contain, or have attached, sufficient supporting detail, as reasonably required by the County, to verify the claim.
6. In no event shall claims be submitted in advance or accrued prior to expenditure.
7. The Vendor's final invoice under this Agreement shall be submitted by the [write out: tenth, thirtieth, etc.] (\_\_\_<sup>th</sup>) day of the month following the ending date contained in Article 2 (Term of Agreement).
8. The County will remit payment to the Vendor 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 Vendor'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 Vendor agrees to meet any additional invoicing requirements that the County may from time to time require, with reasonable notice to the Vendor.

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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 it is entering into a contract with. The Vendor should contact their insurance agent to obtain acceptable proof of WC coverage:

**COUNTY OF ULSTER – PURCHASING DEPARTMENT**

THIRD FLOOR, **244 FAIR STREET, PO BOX 1800**, KINGSTON, NY 12402-1800  
PHONE: 845-340-3400 / FAX: 845-340-3434 / WEB: [www.co.Ulster.ny.us/purchasing/](http://www.co.Ulster.ny.us/purchasing/)

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- 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 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 **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.



**COUNTY OF ULSTER – PURCHASING DEPARTMENT**

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**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 **TWO MILLION AND 00/100 (\$2,000,000.00) DOLLARS**.

**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 **TWO MILLION AND 00/100 (\$2,000,000.00) 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.

**COUNTY OF ULSTER – PURCHASING DEPARTMENT**  
THIRD FLOOR, **244 FAIR STREET, PO BOX 1800**, KINGSTON, NY 12402-1800  
PHONE: 845-340-3400 / FAX: 845-340-3434 / WEB: [www.co.Ulster.ny.us/purchasing/](http://www.co.Ulster.ny.us/purchasing/)

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(02/17/10)

## **Business Associate Agreement (HIPPA)**

**INSERT IF NECESSARY**

**THE FOLLOWING SHEETS MUST BE**  
**COMPLETED AND RETURNED**  
**WITH YOUR PROPOSAL**

**RESPONSE RETURN FORM**

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

**TITLE:** \_\_\_\_\_

**PHONE NUMBER:** \_\_\_\_\_

**E-MAIL:** \_\_\_\_\_

**ADDRESS:** \_\_\_\_\_

**AUTHORIZED SIGNATURE:** \_\_\_\_\_

**COUNTY OF ULSTER – PURCHASING DEPARTMENT**  
THIRD FLOOR, 244 FAIR STREET, PO BOX 1800, KINGSTON, NY 12402-1800  
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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

**COUNTY OF ULSTER – PURCHASING DEPARTMENT**  
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**ORGANIZATION INFORMATION FORM**

RESPONDER NAME: \_\_\_\_\_

TYPE OF ENTITY: CORP. \_\_\_\_\_ PARTNERSHIP \_\_\_\_\_ INDIVIDUAL \_\_\_\_\_ OTHER \_\_\_\_\_

FEDERAL EMPLOYER ID #: \_\_\_\_\_ OR SOCIAL SECURITY #: \_\_\_\_\_

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):

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**COUNTY OF ULSTER – PURCHASING DEPARTMENT**  
THIRD FLOOR, 244 FAIR STREET, PO BOX 1800, KINGSTON, NY 12402-1800  
PHONE: 845-340-3400 / FAX: 845-340-3434 / WEB: www.co.Ulster.ny.us/purchasing/

**RFP NAME:** Community Distributed Generation Subscriptions

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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

**COUNTY OF ULSTER – PURCHASING DEPARTMENT**  
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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 \_\_\_\_\_

201 \_\_\_\_

**Notary Public:** \_\_\_\_\_

**COUNTY OF ULSTER – PURCHASING DEPARTMENT**  
THIRD FLOOR, 244 FAIR STREET, PO BOX 1800, KINGSTON, NY 12402-1800  
PHONE: 845-340-3400 / FAX: 845-340-3434 / WEB: www.co.Ulster.ny.us/purchasing/

**RFP NAME:** Community Distributed Generation Subscriptions

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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:



**COUNTY OF ULSTER – PURCHASING DEPARTMENT**  
THIRD FLOOR, 244 FAIR STREET, PO BOX 1800, KINGSTON, NY 12402-1800  
PHONE: 845-340-3400 / FAX: 845-340-3434 / WEB: www.co.Ulster.ny.us/purchasing/

**RFP NAME:** Community Distributed Generation Subscriptions

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**INSURANCE REQUIREMENTS:**

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

The \_\_\_\_\_, if a successful bidder,  
(Company Name)

agrees to provide an insurance certificate with endorsement, in compliance with the insurance requirements set forth in this bid:

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

THIRD FLOOR, 244 FAIR STREET, PO BOX 1800, KINGSTON, NY 12402-1800  
PHONE: 845-340-3400 / FAX: 845-340-3434 / WEB: [www.co.Ulster.ny.us/purchasing/](http://www.co.Ulster.ny.us/purchasing/)

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[illegible]

ATTACHMENT A - Price Proposal Form

Proposer Name:	
----------------	--

Project/Site Name	Site Address	Site Capacity (KW DC)	Site Annual Generation Estimate (kWh)	% Capacity Available for demand account (>25KW) subscriptions	% Capacity Available for mass market account subscriptions	% Value Stack Discount Proposed	Preferred Contract Term (years)

# COUNTY OF ULSTER

## PURCHASING DEPARTMENT

244 FAIR STREET – 3<sup>RD</sup> Floor, PO Box 1800  
KINGSTON, NEW YORK 12401  
(845) 340-3400/FAX (845) 340-3434

PATRICK K. RYAN  
County Executive

EDWARD M. JORDAN  
Director of Purchasing



DEAN RYLEWICZ  
Deputy Director of Purchasing

July 23, 2020

Wendy De Wolf  
East Light Partners  
552 Massachusetts Ave., Suite 201  
Cambridge, MA 02139

RE: RFP-UC20-031 COMMUNITY DISTRIBUTED GENERATION SUBSCRIPTIONS

Dear Ms. De Wolf:

Thank you for your reply concerning the above-referenced RFP for Ulster County.

East Light Partners has been selected to begin contract negotiations for the above mentioned RFP. This letter serves as an intention to award. Should the contract negotiations fail, the contract may be awarded to a different responder.

A representative from the Ulster County Department of Environment will contact you regarding drafting a contract. Once the contract is drawn it will be forwarded to you for your signature. This notice of selection shall not be binding upon the County until the contract has been approved by Ulster County and has been fully executed by the parties.

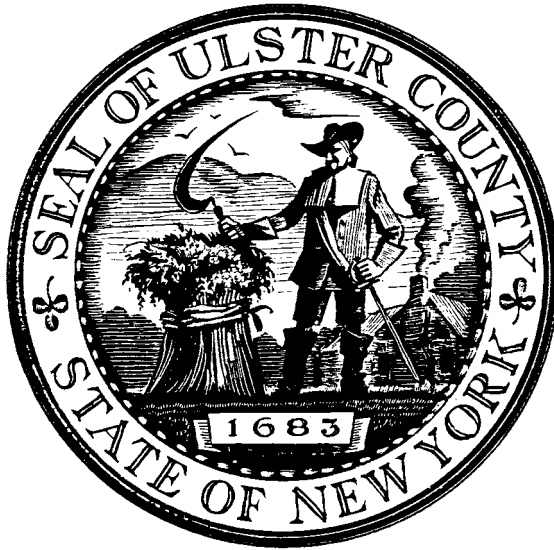
We appreciate your interest in Ulster County and look forward to continuing working with you.

Sincerely,

Ed Jordan  
Director of Purchasing

EJ/mm

# **COUNTY OF ULSTER REQUEST FOR PROPOSALS**



**RFP-UC21-018**

## **COMMUNITY SOLAR FOR MUNICIPAL ACCOUNTS**

***ULSTER COUNTY PURCHASING DEPARTMENT  
EDWARD JORDAN  
DIRECTOR OF PURCHASING  
244 FAIR STREET 3<sup>RD</sup> FLOOR  
PO BOX 1800  
KINGSTON, NY 12402***

## **RECEIPT CONFIRMATION FORM**

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

Michael Maphis; Principal Buyer  
Ulster County Purchasing Department  
244 Fair Street, 3<sup>rd</sup> Floor Kingston, NY 12401  
Telephone: (845) 340-3999 Fax: (845) 340-3434  
RFP-UC21-018: COMMUNITY SOLAR FOR MUNICIPAL ACCOUNTS

**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**

## **REQUEST FOR PROPOSAL**

**DATE:** March 11, 2021

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

**RFP NAME: Community Solar for Municipal Accounts**

**RFP NUMBER: RFP- UC21-018**

**MAIL PROPOSAL TO:** Ulster County Purchasing,  
Ulster County Office Building  
244 Fair St 3<sup>rd</sup> Floor  
PO Box 1800  
Kingston, NY 12402

**SUBMISSION DATE** Friday, April 9, 2021 4:00 P.M.  
**Proposals received after the time specified will not be opened.**

**CONTACT PERSON:** Michael Maphis; Principal Buyer  
Ph: (845)340-3999 Email: [mmap@co.ulster.ny.us](mailto:mmap@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**

## **REQUEST FOR PROPOSAL**

### **1.0 PURPOSE**

The purpose of this RFP is to obtain competitive proposals from community distributed generation (CDG) subscription providers (hereafter referred to as the “Proposer”) for the purchase of subscriptions for Value of Distributed Energy Resources (VDER) value stack credits.

Ulster County released an initial version of this RFP in June of 2020 and selected one vendor. The purpose of this RFP is to select another vendor to subscribe additional electricity accounts of Ulster County and its municipal partners.

#### **Background:**

Ulster County has a strong track record of being a leader in green power use and environmental sustainability. Since 2014, Ulster County has purchased 100% of its electricity from renewable sources through a combination of on-site generation, distributed generation, renewable energy certificates and utility green power products.

Pursuant to Executive Order Number 1-2019, Ulster County is committed to supplying 100% of its annual building and fleet electricity usage from locally generated renewable energy sources by the year 2030. The County defines local generation as generation that occurs within the same utility territory and NY Independent System Operator (NYISO) zone as the load.

### **2.0 SCOPE OF WORK**

Ulster County is soliciting proposals for the purchase of VDER value stack discount subscriptions for distributed generation from locally sited project(s).

- Pricing shall be proposed as a fixed percentage discount to the monetary value of the VDER value stack credits applied to the County’s utility invoice(s) for the electricity generated by the allocated portion of the project capacity each billing period.
- Subscriptions will be applied only to municipal accounts.
- The Proposer shall either own or be authorized by the owner to manage and sell subscriptions for the CDG Project(s).
- This discount percentage shall include all costs associated with the implementation of the CDG project(s) including, but not limited to financing, designing, installing, owning, operating, maintaining and administering subscriptions to the distributed generation system(s) through the life of the agreement. The County will not be responsible for any additional costs to construct, maintain, own and operate system.
- Distributed generation systems that are yet to be built/installed, must commence commercial operation within one year after contract execution unless an extension is agreed upon by the County. Proposers must have completed the 25% interconnection payment for the proposed project to be eligible.



**COUNTY OF ULSTER – PURCHASING DEPARTMENT**

THIRD FLOOR, 244 FAIR STREET, PO BOX 1800, KINGSTON, NY 12402-1800  
PHONE: 845-340-3400 / FAX: 845-340-3434 / WEB: [www.co.Ulster.ny.us/purchasing/](http://www.co.Ulster.ny.us/purchasing/)

**RFP NAME:** COMMUNITY SOLAR FOR MUNICIPAL ACCOUNTS

RFP-UC21-018

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- The proposed project(s) shall be sited and metered within Central Hudson’s utility territory and interconnect in NY Independent System Operator (ISO) Load Zone G.
- The proposed project(s) need not convey the environmental attributes of renewable energy generation to the County by contract (i.e. the VDER “E” credit should be included in the value stack total). Proposers may offer an alternate proposal for each site proposed with discount pricing that includes environmental attributes via a REC swap or other method.
- For each account subscribed, the successful Proposer will provide a monthly statement and invoice to the County showing the amount of electricity generated by their subscription, the monetary credit applied to their utility bill(s), and the cost of the subscription. This statement and invoice should contain monthly detail for each subscribed utility account. Monthly statements and invoices shall be combined or separated at the County’s request. The Proposer shall also provide, or provide access to, an annual statement containing the monthly data electronically in tabular format.
- The successful Proposer shall provide net crediting on the County’s utility invoices if the option becomes available during the term of the Contract.
- The successful Proposer must provide an annual true-up mechanism to ensure that the County pays only for the actual credits or amount of electricity generated by its contracted allocation.
- The successful Proposer shall adjust project allocation for each account as needed or as requested by the County to ensure credits are not banked for greater than 12 months.

The County may evaluate and give preference to proposals based on the following factors. This list is not all inclusive and will be used in conjunction with the evaluation methodology described in Section 6.0 below.  
:

- Total available capacity. Proposers should include all available project capacity for consideration, even if greater than required to subscribe the accounts listed in Section 3.0 below, as the County may work with other municipal partners to utilize excess capacity using the provision in Section 22.0 below.
- Timeline for availability of credits. Projects that can provide credits closer to the expected subscription agreement execution date are preferred.
- Geographic location of project sites. Sites within Ulster County are preferred.
- Environmental and social impacts of site development.

### **3.0 ESTIMATED QUANTITIES**

The County intends to subscribe the following accounts:

**COUNTY OF ULSTER – PURCHASING DEPARTMENT**

THIRD FLOOR, 244 FAIR STREET, PO BOX 1800, KINGSTON, NY 12402-1800  
PHONE: 845-340-3400 / FAX: 845-340-3434 / WEB: [www.co.Ulster.ny.us/purchasing/](http://www.co.Ulster.ny.us/purchasing/)

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Central Hudson Account Number	Account Holder	Estimated Annual Usage (kWh)
3613012000	County of Ulster	228,205
3609014000	City of Kingston	1,646,560
3601034500	City of Kingston	309,440
3601006800	City of Kingston	251,840
3616003001	City of Kingston	68,280
3611111000	City of Kingston	65,672
3611112000	City of Kingston	55,084
3612048800	City of Kingston	24,980
<b>Total</b>		<b>2,650,061</b>

The total capacity allocation to which the County will subscribe will be determined based on the nature and availability of proposals received.

The County may request additional capacity allocation at the same discount from the successful proposer, if available, during the term of the Contract. This allocation may include mass market account types. This allocation may also be extended to political sub-divisions per Section 21.0 below.

By submitting a Bid, the Proposer acknowledges the foregoing and agrees that actual purchasing volumes during the term of the resulting Contracts could vary from the estimates provided in this Solicitation.

#### **4.0 PROPOSAL/SUBMITTAL RETURN DATE**

##### **4.1 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.

##### **4.2 RETURN DATE**

One unbound original, six (6) photocopies, and one electronic copy (CD or thumb drive) of the proposal in **MS Word and PDF format** and other required documents containing 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 defined as the copy containing the original ink signed signature pages.**

Proposals must be received no later than **4:00 P.M. on Friday, April 9, 2021** at the following address:

**Ulster County Purchasing  
Edward Jordan, Director of Purchasing  
PO Box 1800  
244 Fair St 3<sup>rd</sup> Floor  
Kingston, NY 12401**

### 4.3 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.

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.

### 4.4 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 **4.0 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.

### 4.5 QUESTIONS/CLARIFICATIONS

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

**COUNTY OF ULSTER – PURCHASING DEPARTMENT**

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

Edward Jordan, Director of Purchasing,  
Ulster County Purchasing,  
244 Fair St 3<sup>rd</sup> Floor  
Kingston, NY 12402  
Email [ejor@co.ulster.ny.us](mailto:ejor@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.

## **5.0 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**

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 other service and system providers (e.g., County government), history of regulatory compliance, fiscal solvency and budget performance; 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 how local firms were, are or will be used in project development, construction and/or operations & maintenance.

Provide examples of local job creation resulting from host site development, including Proposer participation with local and/or regional career training programs.

Provide examples of the Proposer, or project developer, supporting community development through the proposed host site(s).

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

### **SECTION III: PROPOSED PLAN**

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.

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

Describe the plan to work with the County.

Detail methods to be employed which will result in cost savings for the County. Give examples and where possible provide a realistic estimate cost savings.

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

### **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.”** The fee schedule supplied will include all items of labor, materials, travel, equipment and other costs necessary to fully provide the service.

The Fee/Cost Proposal shall be submitted using ATTACHMENT A.

Discount pricing submitted shall be valid for a period of 1-year from the due date for proposals.

The County acknowledges that the available capacity as proposed may change between the due date for proposals and date of award. The successful responder shall provide an update of available capacity upon notification of award.

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

### **SECTION V: RETURN DOCUMENTS**

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

## **6.0 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**
  - Completeness of responder's proposed plan to provide Community Solar.
  - Demonstrated capability of the responder to satisfactorily meet not only the requirements outlined in this document but all necessary phases of the program.
  - Plan to accomplish all required tasks.
- **FEE/PRICING PROPOSAL**
  - Cost of proposal
  - Reasonableness of fees and budget
  - Reasonableness of optional fees
- **QUALIFICATIONS AND EXPERIENCE**
  - Responder's experience with projects of similar size and scope
  - Personnel qualifications and experience
  - Responder's business history and viability
  - References
- **UNDERSTANDING OF COUNTY'S GOALS AND OBJECTIVES**
  - Responder understands and proposal addresses the needs of the County and offers a program that will meet or exceed the County's objectives.
- **LOCAL ECONOMIC DEVELOPMENT**
  - Vendors located within Ulster County will receive five points.
  - Vendors located within a contiguous county will receive three points.
  - Vendors located within New York State will receive one point.

## **7.0 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.

## **8.0 PRE-PROPOSAL MEETING (VENDOR'S CONFERENCE)**

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

## **9.0 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.

## **10.0 CONTRACT PERIOD**

The responder's preferred contract term shall be specified for each project in ATTACHMENT A and will be negotiated during contract development.

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 VENDOR SERVICES**.

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.

## **11.0 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.

## **12.0 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.

## **13.0 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.

#### **14.0 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.

#### **15.0 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 Vendor 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.

#### **16.0 DISQUALIFICATION**

The County reserves the right to refuse to issue an award to a responders 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.

#### **17.0 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.

#### **18.0 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.



**COUNTY OF ULSTER – PURCHASING DEPARTMENT**

THIRD FLOOR, 244 FAIR STREET, PO BOX 1800, KINGSTON, NY 12402-1800  
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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.

**19.0 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.

**20.0 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,.

**21.0 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.

**22.0 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.

**COUNTY OF ULSTER – PURCHASING DEPARTMENT**

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**RFP NAME: COMMUNITY SOLAR FOR MUNICIPAL ACCOUNTS****RFP-UC21-018****- 12 -****23.0 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.

March 30, 2021	Last day to submit written inquiries
April 9, 2021	Due Date for Proposals
Week of 4/5/2021	Selection Committee evaluates Proposals
Week of 4/12/2021	Oral Interviews By Invited Companies
4/16/2021	Notice of Intent to Award
6/18/2021	Contract Start Date

**COUNTY OF ULSTER – PURCHASING DEPARTMENT**  
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(Rev. 11.01.19)

County Contract No. \_\_\_\_\_



## AGREEMENT FOR VENDOR 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 VENDOR NAME]**, a [to be completed by the County Attorney’s Office] with principal offices at [Enter Vendor’s business address] (the “**Vendor**”), (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 Vendor [state brief description of how vendor is qualified to provide service and was selected] OR [was the lowest, responsible bidder to respond to the County’s Request for Bid RFB-UC\_\_\_ (the “Bid”) pursuant to the terms and conditions of the Bid]; and

**WHEREAS**, the County has agreed to engage the Vendor, and the Vendor has agreed to contract with the County, to [state brief description of services to be provided] [pursuant to Bid No. \_\_\_\_\_ and the Vendor’s Response to Bid 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 Vendor 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 Vendor agrees to perform the Services in accordance with the terms and conditions of this Agreement. It is specifically agreed to by the Vendor that the County will not compensate the Vendor 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 Vendor agrees to perform the Services **beginning [Enter Start Date], 20\_\_**, and **ending [Enter Completion Date], 20\_\_**. In accordance with the Bid and with written notice to the Vendor, 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 Vendor. 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 Vendor 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

**COUNTY OF ULSTER – PURCHASING DEPARTMENT**  
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Purchasing Director is not given in writing prior to the performance of any services 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 Vendor 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 Vendor will, in whole or in part, be compensated with New York State funds, the Vendor 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://www.governor.ny.gov/executiveorder/38>.

#### **ARTICLE 4 - EXECUTORY CLAUSE**

The County will have no liability under this Agreement to the Vendor 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 Vendor 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 Vendor 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 Vendor, 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 Vendor 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 Vendor represents and warrants that no person or selling agent has been employed or retained by the Vendor 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 Vendor 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 Vendor 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 Vendor 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 Vendor 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 Vendor 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 Vendor 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 VENDOR**

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

By signing this Agreement, the Vendor 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 Vendor 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 Vendor agrees to provide immediate and detailed notice to the County Attorney regarding such status. Any misrepresentation or false statement related to the Vendor's status in this regard, or any failure by the Vendor 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 Vendor 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 Vendor 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 [www.co.ulster.ny.us/downloads/UlsterCountyCompliancePlan.pdf](http://www.co.ulster.ny.us/downloads/UlsterCountyCompliancePlan.pdf). Alternatively, a hard copy of the Plan will be provided upon the Vendor's request. The Plan relates to the County's compliance with relevant federal and state fraud and abuse laws. The Vendor 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 Vendor 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 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 [www.co.ulster.ny.us/downloads/compliance.pdf](http://www.co.ulster.ny.us/downloads/compliance.pdf). The Vendor 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 Vendor, and each person signing on behalf of the Vendor, 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 Vendor 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 Vendor have not been knowingly disclosed by the Vendor 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 Vendor 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 Vendor (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 Vendor shall operate as and have the status of an independent Vendor, and shall not act as agent for or on behalf of the County, nor will the Vendor represent the County, or bind the County in any manner. As an independent contractor, the Vendor shall be solely responsible for determining the means and methods of performing the Services, and shall have complete charge and responsibility for the Vendor's personnel engaged in the performance of the same.

In accordance with such status as independent Vendor, the Vendor 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 Vendor'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 Vendor 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 Vendor 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 Vendor, 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 Vendor's employees for past Services.

The provisions of this clause shall not hinder, prevent, or affect any assignment by the Vendor 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 Vendor 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 Vendor, 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 Vendor, 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 Vendor.

Upon signing this Agreement, the Vendor 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 Vendor's obligations pursuant to this Agreement. Furthermore, upon the County's request, the Vendor shall provide copies of any and all subcontract agreements for Services to be performed pursuant to this Agreement.

The Vendor 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 Vendor. The Vendor will not in any way be relieved of any responsibility under this Agreement by any subcontract.

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

## **ARTICLE 13 - PERFORMANCE**

The Vendor shall perform the Services using its own equipment and facilities wherever and whenever possible. In performing the Services, the Vendor 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 Vendor is hereby given notice that the County will be relying upon the accuracy, competence, and completeness of the Vendor's performance in using the results achieved by the Vendor's performance of these Services. The Vendor 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 Vendor [45 C.F.R. Section 164.504(e)]. If HIPAA is applicable to this Agreement, the County and the Vendor agree to enter into a separate BAA that complies with HIPAA, as that law may be amended from time to time. Unless the Vendor 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 Vendor from or through the County or any other person connected with the County, or developed, produced, or obtained by the Vendor 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 "Vendor" as used herein includes all officers, directors, employees, agents, subcontractors, assignees, or representatives of the Vendor.

The Vendor shall keep all Confidential Information in a secure location within the Vendor's offices. The County will have the right, but not the obligation, to enter the Vendor's offices in order to inspect the arrangements of the Vendor for keeping Confidential Information secure.

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The County's inspection, or its failure to inspect, will not relieve the Vendor of its responsibilities pursuant to this Article 15.

The Vendor 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 Vendor 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 Vendor 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 Vendor, 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 Vendor 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 Vendor shall disclose only such portions of Confidential Information that, in the opinion of the County, the Vendor is legally required to disclose, and the Vendor 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 Vendor 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 Vendor shall obtain such an agreement from the officers, directors, agents, representatives, or employees of the Vendor 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 Vendor 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 Vendor, such information shall be retained in a secure location in the Vendor'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 Vendor 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 Vendor, 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 Vendor 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.



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The Vendor 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 Vendor 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 Vendor 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 Vendor 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 Vendor 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 Vendor 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 Vendor 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 Vendor 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 Vendor 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 Vendor 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 - INSURANCE**

For provision of the Services set forth herein and as may be hereinafter amended, the Vendor 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 Vendor 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 Vendor and not those of the County. Notwithstanding anything to the contrary in this Agreement, the Vendor irrevocably waives all claims against the County for all losses,

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damages, claims, or expenses resulting from risks commercially insurable under the insurance described in Schedule C and this Article 22. The provision of insurance by the Vendor will not in any way limit the Vendor'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 fifteen (15) 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 Vendor.

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 Vendor'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 Vendor 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 Vendor 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.

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## **ARTICLE 23 - INDEMNIFICATION**

The Vendor 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 Vendor, 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 Vendor, its employees, representatives, subcontractors, assignees, or agents. The Vendor 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 Vendor or an employee, representative, subcontractor, assignee, or agent of the Vendor, either within or without the scope of the respective employment, representation, subcontract, assignment, or agency, or arising out of the Vendor'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 24 - RESPONSIBILITY TO CORRECT DEFICIENCIES**

The Vendor shall be responsible to correct, in a timely fashion and at the Vendor's sole expense, any deficiencies in its Services resulting from the Vendor'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 Vendor within one hundred-twenty (120) days after completion and final acceptance of the Services. If the Vendor 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 Vendor and/or set-off such amount against any sums otherwise due to the Vendor. 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 25 - CURRENT OR FORMER COUNTY EMPLOYEES**

The Vendor 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 Vendor 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 Vendor 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 26 - PROTECTION OF COUNTY PROPERTY**

The Vendor 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 Vendor, its officers, directors, members, partners, employees, representatives, or assignees, or any person, firm, company, agent, or others engaged by the Vendor as an expert, consultant, specialist, or subcontractor hereunder, will be the responsibility of the Vendor.

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 Vendor 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

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County property described in this Article 26.

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 27 – EXTENSIONS AND DELAYS**

If, owing to the actions or neglect of the County, the Vendor is prevented from completing the Services within the Term of this Agreement, then the Vendor'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 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 Vendor, its subcontractors, agents, assignees, or any other person or entity, for damages arising out of or resulting from any such delays.

## **ARTICLE 28 - TERMINATION**

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

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

Upon termination of this Agreement, the Vendor 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 Vendor 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 Vendor 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 28, the County may procure upon such terms and in such manner as deemed appropriate, Services similar to those so terminated, and the Vendor 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 Vendor and/or set off against any sums due to the Vendor.

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

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## **ARTICLE 29 - 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 Vendor (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 30 - 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 31 – DISPUTES**

In the event of a dispute arising from this Agreement, the Vendor 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 Vendor 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 Vendor 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 Vendor, seeking Indemnification pursuant to Article 23, obtaining Correction of Deficiencies pursuant to Article 24, Termination pursuant to Article 28, and/or Set-Off Rights pursuant to Article 29. The Vendor 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 32 - GOVERNING LAW**

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

## **ARTICLE 33 – 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 Vendor agrees that all laborers, workers, or mechanics employed by the Vendor 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 34 - 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 35 - GENERAL RELEASE**

Acceptance by the Vendor or its assignees of the final payment under this Agreement, whether by voucher, judgment of any court of

<p align="center"><b>COUNTY OF ULSTER – PURCHASING DEPARTMENT</b>  <b>THIRD FLOOR, 244 FAIR STREET, PO BOX 1800, KINGSTON, NY 12402-1800</b>  PHONE: 845-340-3400 / FAX: 845-340-3434 / WEB: <a href="http://www.co.Ulster.ny.us/purchasing/">www.co.Ulster.ny.us/purchasing/</a></p>		
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competent jurisdiction, administrative, or other means, will constitute and operate as a general release to the County from any and all claims of the Vendor arising out of the performance of this Agreement.

## **ARTICLE 36 - NO CLAIM AGAINST OFFICERS, AGENTS OR EMPLOYEES**

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

## **ARTICLE 37 - 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 38 - SURVIVING OBLIGATIONS**

The Vendor's obligations and those of the Vendor's employees, representatives, agents, subcontractors, successors, and assignees, assumed pursuant to Article 7 (Representations by the Vendor), 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 23 (Indemnification), Article 24 (Responsibility to Correct Deficiencies), Article 26 (Protection of County Property), and Article 29 (Set-Off Rights) will survive completion of the Services and/or the expiration or termination of this Agreement.

## **ARTICLE 39 - 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:

**Vendor:**

[Insert Vendor Name]  
Attention: [Insert Appropriate Information]  
[Insert Vendor Address]  
[Insert Vendor 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, 5<sup>th</sup> 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 40 - 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

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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 41 – 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.

Upon removal of such cause, the Party affected shall resume its performance as soon as reasonably possible. The Vendor's financial inability to perform will not be deemed to be an event of Force Majeure regardless of the source causing such financial inability. If the Vendor is so delayed in the timely performance of the Services, the Vendor'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 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 Vendor or to its subcontractors, agents, assignees, or any other person or entity for damages arising out of, or resulting from, any such delays.

## **ARTICLE 42 - 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 43 – 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 VENDOR NAME]**

By: \_\_\_\_\_  
NAME: [If known]  
TITLE: [If known]  
DATE: \_\_\_\_\_

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**SCHEDULE A**  
**SCOPE OF SERVICES**

1. State that the Vendor will be performing the Services for the County. (Example: *The Vendor shall perform engineering design Services for the County's Department of Public Works.*)
2. Provide a detailed description of **WHAT** Services the Vendor shall perform for the County.
3. State **WHERE** the Services shall be performed by the Vendor.
4. State **HOW** the Services are to be performed by the Vendor.
5. State **WHEN** the Services shall be performed by the Vendor.
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 Vendor'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 Vendor 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 Vendor shall submit to the County original invoices for payment.
4. The Vendor shall submit its invoices by the [write out: first, tenth, etc.] (\_\_<sup>th</sup>) day of each [month/quarter], for the Services provided during the previous [month/quarter].

- [4. The Vendor shall submit its invoices to the County according to the schedule below:]

Dates of Services Provided:	Invoice submitted no later than:
January 1, 20XX – March 31, 20XX	April 20, 20XX
April 1, 20XX – June 30, 20XX	July 20, 20XX
July 1, 20XX– September 30, 20XX	October 20, 20XX
October 1, 20XX – December 31, 20XX	January 30, 20XX

- [4. The Vendor shall submit its invoices by the [write out: first, tenth, etc.] (\_\_<sup>th</sup>) day of each [month/quarter] for the Service provided during the previous [month/quarter] with the understanding that the Vendor will begin submitting invoices after the New York State budget has provided for allocation of funds.]
5. The Vendor's invoices must contain, or have attached, sufficient supporting detail, as reasonably required by the County, to verify the claim.
6. In no event shall claims be submitted in advance or accrued prior to expenditure.
7. The Vendor's final invoice under this Agreement shall be submitted by the [write out: tenth, thirtieth, etc.] (\_\_<sup>th</sup>) day of the month following the ending date contained in Article 2 (Term of Agreement).
8. The County will remit payment to the Vendor 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 Vendor'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 Vendor agrees to meet any additional invoicing requirements that the County may from time to time require, with reasonable notice to the Vendor.

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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 it is entering into a contract with. The Vendor should contact their insurance agent to obtain acceptable proof of WC coverage:

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- 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 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 **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.

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**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 **TWO MILLION AND 00/100 (\$2,000,000.00) DOLLARS**.

**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 **TWO MILLION AND 00/100 (\$2,000,000.00) 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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**Business Associate Agreement (HIPPA)**

**INSERT IF NECESSARY**

**THE FOLLOWING SHEETS MUST BE**  
**COMPLETED AND RETURNED**  
**WITH YOUR PROPOSAL**

**RESPONSE RETURN FORM**

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

**TITLE:** \_\_\_\_\_

**PHONE NUMBER:** \_\_\_\_\_

**E-MAIL:** \_\_\_\_\_

**ADDRESS:** \_\_\_\_\_

**AUTHORIZED SIGNATURE:** \_\_\_\_\_

**COUNTY OF ULSTER – PURCHASING DEPARTMENT**  
THIRD FLOOR, 244 FAIR STREET, PO BOX 1800, KINGSTON, NY 12402-1800  
PHONE: 845-340-3400 / FAX: 845-340-3434 / WEB: www.co.Ulster.ny.us/purchasing/

RFP NAME: COMMUNITY SOLAR FOR MUNICIPAL ACCOUNTS

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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 #: \_\_\_\_\_

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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**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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<b>RFP NAME:</b> COMMUNITY SOLAR FOR MUNICIPAL ACCOUNTS	RFP-UC21-018	- 36 -

**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 bid even if the bidder is unable to provide their certificate of insurance with their bid.*

The \_\_\_\_\_, if a successful bidder,  
(Company Name)

agrees to provide an insurance certificate with endorsement, in compliance with the insurance requirements set forth in  
this bid:

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

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RFP INTERVIEW: NY official discusses new VDER value stack credits RFP, highlights responses

Ulster County, New York, is ramping up its clean energy initiatives as it works to protect its diverse landscape of more than 40 miles of Hudson River shoreline, the Shawangunk Ridge and the Catskill Mountains.


The County recently released a Request for Proposals (RFP) from community distributed generation (CDG) project sponsors for the purchase of 2.25 mw kW of subscriptions for Value of Distributed Energy Resources (VDER) value stack credits, due 10 July.

The initiative is expected to help the mid-Hudson Valley county meet its clean energy goals as laid out in its Climate Action Plan to reduce greenhouse gas (GHG) emissions from county operations by 25 percent by 2025, purchasing 100 percent renewable energy for government operations, and operating a carbon neutral government.

"We have a lot of people calling us up, knocking on the door saying, 'Hey, we have this solar project, do you want to be an off-taker?'" Amanda LaVelle, Ulster County Dept. of the Environment Coordinator, told New Project Media.

To read more of this story register here:  
<https://nkd.in/qOdtHvB>

#NY #renewableenergy #RFP #UlsterCountyNY #greenenergy #greenjobs #GoNPM



Intel Alert

Actionable Renewables Intelligence

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Ulster County, New York, is ramping up its clean energy initiatives as it works to protect its diverse landscape of more than 40 miles of Hudson River.

@UlsterCountyNY

#NY #renewableenergy #GoNPM

To read more of this story register here:  
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Intel Alert

Actionable Renewables Intelligence

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15 March 2021

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DOCKET WATCH: NY's High Bridge Wind gets key approval, Maryland DER review, NY's Eight Point Wind

INTERVIEW: Challenge of [Duke Energy Corporation's](#) 2020 IRP shows importance of holding big utilities accountable

RFP: Ulster County, New York seeks proposals for VDER value stack credits from local community solar projects

Data and intel for the developer and project finance community. Identify, Monitor, and Originate deal flow. To read more of today's intel visit the link below:

<https://lnkd.in/gW2m8t>

[#renewables](#) [#cleanenergy](#) [#utilityscale](#) [#GoNPM](#)



1



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## Innovation: New Innovative Actions

3 — 18  
Points

### A. Why is this action important?

Climate change mitigation and adaptation are evolving fields with new technologies, policy solutions, and programmatic solutions being developed around the country and around the world. Local governments are encouraged to implement innovative solutions that achieve the same goals as the Climate Smart Communities (CSC) program but are not included in the list of CSC certification actions. Innovative projects are not only beneficial for the immediate community, but for local governments across the state, as local leaders are encouraged to share best practices and learn from each other. This action is also important because it adds flexibility to the CSC Certification program and helps it expand and improve over time. Submittals under this action may become the basis for new actions that are added to the CSC program in the future.

### B. How to implement this action

This action offers points for innovative projects that are substantially different from any of the actions that are part of the existing list of CSC certification actions. Applicants for this action should closely examine the full list of CSC certification actions to confirm that their innovative project is not related to an existing action. (If a project is related to an existing CSC action and it represents an innovative *approach* to implementing that action, local governments should apply under [PE11 Action: Innovative Approaches to Existing CSC Actions](#))

To be eligible for points, the innovative project must have a significant impact on at least one of these three CSC goals: reduction of greenhouse gas (GHG) emissions, enhancing community resiliency to climate change, and building a local green economy at the local level.

As much as possible, applicants under this action should measure the impact of the innovative project and provide information on its benefits community. For example, where applicable, the submittal should include descriptions of the associated GHG reductions, climate resiliency benefits (such as the number of people or the value of assets that are better protected from extreme weather because of the project), and jobs created.

Projects that are very narrowly focused or have minimal benefits to the broader community are not likely to be deemed eligible for points under this CSC action. Projects that are focused on education or planning are less likely to qualify for points than other types of projects. Measuring the benefits of a educational process or planning document is often less straightforward than measuring the benefits of a new infrastructure project or the impact of implementing a new local law or policy, for example.

### C. Time frame, project costs, and resource needs

The time frame, costs, and resource needs depend on the type of action. However, an innovative action does not necessarily must have a high level of effort to implement. Many innovative solutions involve partnerships or other forms of collaboration that seek to minimize the costs and level of effort for a community to implement.

### D. Which local governments implement this action? Which departments within the local government are most likely to have responsibility for this?

This action is applicable to all types of local governments. The department with responsibility for the action depends on the type of action.



## E. How to obtain points for this action

Please note that this action has a high bar for earning points. Applicants must show that their projects are 1) innovative (within the context of New York State), 2) significantly different from any existing CSC action, and 3) that the projects have provided a significant benefit to the community in terms of GHG reductions, climate adaptation, and/or building a green economy.

Points are tiered based on the benefits under the three following categories.

	POSSIBLE POINTS
Reduced GHG emissions	3
Enhanced community resilience to climate change	3
Helped to build a green economy at the local level	3

Local governments may submit information for two projects under this action in the same application, if each project is unique and unrelated. As a result, the maximum number of possible points is 18, assuming both projects have benefits across all three of the categories above and each project is therefore eligible for nine points.

## F. What to submit

Submit documentation demonstrating that the project has been completed and an explanation of how each project is innovative, different from any existing CSC action, and provides a significant benefit to the community. The project must have been implemented within ten years prior to the application date to be eligible for points.

All CSC action documentation is available for public viewing after an action is approved. Action submittals should not include any information or documents that are not intended to be viewed by the public.

## G. Links to additional resources or best practices

Resources on best practices can be found throughout the list of CSC certification actions. Reviewing the resources under each CSC pledge element may inspire new innovative solutions.

## H. Recertification requirements

The recertification requirements are the same as the initial certification requirements.