



COMMON COUNCIL MEETING

Common Council Chambers

Monday, November 4, 2019

6:30 p.m.

I. ROLL CALL:

II. REVIEW OF MINUTES:

Common Council Meeting of August 19, 2019

Common Council Meeting of August 26, 2019

Common Council Meeting of September 9, 2019

Common Council Meeting of September 23, 2019

III. READING OF ITEMS by the City Chamberlain of any resolutions not listed on the printed agenda.

IV. PUBLIC PARTICIPATION: Three (3) minutes per person up to 45 minutes of public comment on any agenda and non-agenda item.

V. CHAIRWOMAN'S COMMENTS AND PRESENTATIONS:

VI. MAYOR'S COMMENTS:

VII. MOTIONS AND RESOLUTIONS:

1. Resolution R19-77, approving an agreement with Enterprise for Lease and Fleet Management.
2. Resolution R19-78, final drawdown with New York State Department of Public Transportation for Transit.
3. Resolution R19-79, fixing the compensation for the Mayor.

VIII. ORDINANCES AND LOCAL LAWS:

IX. PRESENTATIONS OF PETITIONS AND COMMUNICATIONS:

- 1. FROM COMMISSIONER OF FINANCE BRADY**, a communication regarding bonding of Mansion Street Bridge.
- 2. FROM COMMISSIONER OF FINANCE BRADY**, a communication regarding large meter replacement.
- 3. FROM COUNCILMEMBER SALEM**, a communication regarding LWRP.
- 4. FROM KENYANTE FRANK**, a notice of property damage sustained on July 16, 2019.
- 5. FROM THE ESTATE OF LORRAINE A. KRUK**, a notice of personal injuries sustained on August 22, 2019.
- 6. FROM SOBO & SOBO**, a notice of claim of Shaniece Brown for personal injuries sustained on October 1, 2019.
- 7. FROM SHEDRICK D. DAY**, a notice of property damage sustained on October 1, 2019.

X. UNFINISHED BUSINESS:

XI. NEW BUSINESS:

XII. ADJOURNMENT:

**RESOLUTION
(R19-77)**

**RESOLUTION AUTHORIZING AN AGREEMENT WITH ENTERPRISE FLEET
MANAGEMENT REGARDING THE LEASE OF VEHICLES FOR THE CITY**

INTRODUCED BY COUNCILMEMBER CHERRY

WHEREAS, the City of Poughkeepsie is desirous of entering into an agreement with Enterprise Fleet Management for the purpose of leasing vehicles and management of its fleet, and

WHEREAS, an RFP was issued on behalf of the City through Sourcewell (Contract #060618-EFM) which allows the vehicles to be leased at the lowest price possible and has recommended Enterprise Fleet Management, and

WHEREAS, the Board of Contract and Supply authorized the use of the Sourcewell Contract (Contract #060618-EFM) for purposes of procurement; and

WHEREAS, the Commissioner of Finance has indicated that the leasing of vehicles with Enterprise Fleet Management will significantly reduce operational cost such as maintenance and fuel consumption; and

WHEREAS, the Commissioner of Finance also indicated that the total annual cost of the leasing of 10 vehicles will be \$109,140; and

NOW, THEREFORE,

BE IT RESOLVED, by the Common Council of the City of Poughkeepsie that the Mayor on behalf of the City of Poughkeepsie is authorized to enter into an agreement in form and substance as attached hereto with Enterprise Fleet Management or a related company; and be it further

RESOLVED, that the Corporation Counsel is authorized to approve said lease agreement as to form and content, and, be it further

RESOLVED, that the City Chamberlain is directed to forward certified copies of this resolution to the appropriate City Officials.

SECONDED BY COUNCILMEMBER _____

FLEET LEASING AND MANAGEMENT AGREEMENT

This Agreement dated this _____ day of November, 2019 for Fleet Leasing and Management Services (the, "Agreement"), by and between the City of Poughkeepsie, a municipal corporation, with a principal place of business located at 62 Civic Center Plaza, Poughkeepsie, New York 12601 (the, "City") and Enterprise Fleet Management Services, a Missouri Corporation, and Enterprise FM Trust, a Delaware statutory trust, and by and through its attorney-in-fact, Enterprises Fleet Management Services, a Missouri Corporation, (hereinafter collectively, "Vendor").

In consideration of the mutual covenants and agreements contained herein, and other good and valuable consideration, the parties agree as follows:

1. **SCOPE OF SERVICES.** Pursuant to General Municipal Law Section 103, CITY will utilize Sourcewell (formally National Joint Powers Alliance), RFP #06018 entitled "Fleet Management Services" (the, "RFP") for the award of this Agreement. The overall Scope of Services and terms of this Agreement shall be governed by the RFP, which is attached hereto and made a part hereof as **Exhibit "A"** and which RFP further contains the following documents: current pricing information, fully executed Forms C, D, E, F & P (collectively, the "Sourcewell Contract"). The Parties shall enter into a "Master Equity Lease Agreement" setting forth the general terms applicable to the leasing of vehicles from Vendor. A copy of the executed Master Equity Lease Agreement are attached hereto and made a part hereof as **Exhibit "B"**. However, each leased vehicle's length of lease and cost shall be governed by the negotiated rates and terms in an "Open-End (Equity) Lease Rate Quote" offered by Vendor. A copy of a sample Open-End (Equity) Lease Rate Quote is attached hereto and made a part hereof as **Exhibit "C"**. Each Open-End (equity Lease Rate Quote must be agreed to and executed by a duly authorized representative of CITY and must be in accordance with the RFP. If any terms and or conditions contained in either the Master Equity Lease Agreement or the Open-End (Equity) Lease Rate Quote conflict with the RFP, the RFP shall control.

2. **EXECUTORY.** The City of Poughkeepsie fiscal year begins on January 1st and ends on December 31st of any given year. Notwithstanding anything to the contrary contained herein, it is understood and agreed that this Agreement shall be deemed executory only to the extent of the moneys available to the CITY for the performance of the terms hereof and that, in the event that the CITY's Common Council fails to appropriate the necessary funds to affect payment in any calendar year beyond the initial year herein, this Agreement shall automatically cease and terminate on the last day of the year in which funds have been appropriated for said Agreement and no liability on account thereof shall be incurred by the CITY beyond the funds available for the performance of this Agreement. It is further understood and agreed that neither this Agreement nor any representation by any public employee or officer creates any legal or moral obligation to request, appropriate or make available moneys for the purpose of this Agreement

3. CERTIFICATES OF INSURANCE

The Contractor shall purchase and maintain in full force and effect insurance policies with the limits of insurance provided in the contract documents or the following insurance coverage's, whichever is greater. The insurance should be from an insurer that has an A.M. Best Rating of "A-" or better.

1. Commercial General Liability with limits not less than \$1,000,000 per occurrence, \$2,000,000 general aggregate, \$1,000,000 and \$2,000,000 products-completed operations aggregate. Such insurance shall cover liability arising from premises, operations, independent contractors, product-completed operations for one year following project completion, personal and advertising injury and liability assumed under an insured contract. There shall be no endorsement or modification of the Commercial GL form arising from pollution, explosion, collapse, underground property damage or work performed by subcontractors.
2. If required by owner, professional liability with a limit of \$2,000,000 per claim/occurrence and \$2,000,000 annual policy aggregate.
3. If required by owner, contractors pollution cleanup/remediation and pollution liability with a limit of \$2,000,000 per claim and \$2,000,000 annual policy aggregate
4. Business Automobile Liability with a limit of not less than \$1,000,000 each accident, including owned, non-owned, leased and hired vehicles.
5. Statutory Workers Compensation and employers liability coverage for all employees, including corporate officers and sole proprietors.
6. Umbrella/Excess Liability with a limit of not less than \$5,000,000 per occurrence/aggregate

City of Poughkeepsie is to be included as an additional insured on a primary, non-contributory basis (using CG 2010 07/04 and CG 2037 10/01 or its equivalent) for item 1. Items 1 and 6 will have no exclusions for New York State "labor law" claims and/or claims for injuries to subcontractor employees.

All policies required by this paragraph shall include a waiver of subrogation in favor of **City of Poughkeepsie**.

Except where prohibited by law, all policies and certificates of insurance shall expressly provide that **City of Poughkeepsie** must receive 30 days written notice in the event of material alteration, cancellation or nonrenewal of coverage, including subcontractors' insurance.

- b. All certificates of insurance shall contain a clause naming the Owner as loss payee on the policies and providing that any notices of cancellation of insurance be given to the Owner's no less than ten (10) days' notice.
- c. Renewal certificates covering the renewal of all policies expiring during the life of this Contract shall be filed with the Owner not less than thirty (30) days before the expiration of such policies.

All insurance companies issuing policies relating to this Contract must be licensed to do business in New York State and be approved by the Owner's Law Department.

5. **NOTICE.** Any notices to the City shall be directed to the:

City of Poughkeepsie Mayor
62 Civic Center Plaza,
Poughkeepsie, New York 12601

City of Poughkeepsie Corporation Counsel
62 Civic Center Plaza,
Poughkeepsie, New York 12601.

6. **OPERATING LEASE.** The agreement is intended to be a true operating lease in compliance with New York State Local Finance Law and General Municipal Law and no portion of this agreement shall be construed to nor act as a financing lease.

7. **NON-WAIVER.** Failure of either party to exercise any rights under this Agreement for a breach thereof shall not be deemed a waiver thereof or a waiver of any subsequent breach.

8. **SEVERABILITY.** If any provision of this Agreement shall be held unenforceable, the rest of the Agreement shall nevertheless remain in full force and effect.

9. **CHOICE OF LAW, VENUE.** Any dispute arising directly or indirectly out of this Agreement shall be determined pursuant to the laws of the State of New York. The parties hereby choose the New York State Supreme Court, Dutchess County as the forum for any such dispute.

10. **NO ARBITRATION**. Disputes involving this contract, including the breach or alleged breach thereof, may not be submitted to binding arbitration but must instead be heard in accordance with the Paragraph above entitled "Choice of Law, Venue".

11. **REQUIRED PROVISIONS OF LAW**. Each and every provision of federal, and state or local law, rule or regulation required by law to be inserted in this Agreement shall be deemed to have been inserted herein. If any such provision is not inserted, through mistake or otherwise, then upon the application of either party, this Agreement shall be physically amended to make such insertion.

12. **BINDING**. This Agreement shall be valid and binding once it has been approved by the Corporation Counsel, executed by the Mayor and delivered to the CITY at the address indicated in the introductory paragraph of this Agreement.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement.

APPROVED AS TO FORM:

CITY OF POUGHKEEPSIE

Corporation Counsel

By: _____
Robert G. Rolison, Mayor

ENTERPRISE FLEET MANAGEMENT

FLEET MANAGEMENT

SERVICE AGREEMENT

This Agreement is entered into as of the ____ day of _____, 2019, by and between Enterprise Fleet Management, Inc., (EFM), a Missouri corporation, and City of Poughkeepsie (City).

WITNESSETH:

Enterprise Fleet Management, Inc. is the "Servicer" as denoted by the MASTER EQUITY LEASE AGREEMENT that is by and between Enterprise FM Trust, a Delaware statutory trust and City of Poughkeepsie.

Scope of Service: The pricing and services under this contract are in accordance with the contract between Enterprise Fleet Management and Sourcewell for Fleet Management Services Request for Proposal #060618.

Notice: EFM shall provide any notices to the City as required under the Agreement to the following locations:

City of Poughkeepsie Mayor
62 Civic Center Plaza,
Poughkeepsie, New York 12601

City of Poughkeepsie Corporation Counsel
62 Civic Center Plaza,
Poughkeepsie, New York 12601

EFM Insurance: EFM shall purchase and maintain in full force and effect insurance policies with the limits of insurance provided in the contract documents or the following insurance coverage's, whichever is greater. The insurance should be from an insurer that has an A.M. Best Rating of "A-" or better and name the City as additional insured:

1. Commercial General Liability with limits not less than \$1,000,000 per occurrence, \$2,000,000 general aggregate, \$1,000,000 and \$2,000,000 products-completed operations aggregate. Such insurance shall cover liability arising from premises, operations, independent contractors, product-completed operations for one year following project completion, personal and advertising injury and liability assumed under an insured contract. There shall be no endorsement or modification of the Commercial GL form arising from pollution, explosion, collapse, underground property damage or work performed by subcontractors.
2. Business Automobile Liability with a limit of not less than \$1,000,000 each accident, including owned, non-owned, leased and hired vehicles.
3. Statutory Workers Compensation and employer's liability coverage for all employees, including corporate officers and sole proprietors.
4. Umbrella/Excess Liability with a limit of not less than \$5,000,000 per occurrence/aggregate



FLEET MANAGEMENT

IN WITNESS WHEREOF, EFM and City of Poughkeepsie have executed this Service Agreement as of the day and year first above written.

County: City of Poughkeepsie

EFM: ENTERPRISE FLEET MANAGEMENT INC.

By: _____
Title: _____

By: _____
Title: _____

Address: _____

Address: _____

Acct: 210150

Owner: CSX TRANSPORTATION INC

Grid: 6162-62-233288-0000

Location: N HAMILTON ST

Property	10/17 1	10/17 2	10/17 3	10/17 4	
Tax	355.28	355.25	355.25	355.25	-Due

School Tax	Qtr 1	Int 1	Qtr 2	Int 2	Fees	--Totals--
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Service Invoice

Water Accounts

With Penalty

W/O Penalty

FLEET MANAGEMENT

SERVICE AGREEMENT

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Poughkeepsie, New York 12601

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Poughkeepsie, New York 12601

EFM Insurance: EFM shall purchase and maintain in full force and effect insurance policies with the limits of insurance provided in the contract documents or the following insurance coverage's, whichever is greater. The insurance should be from an insurer that has an A.M. Best Rating of "A-" or better and name the City as additional insured:

1. Commercial General Liability with limits not less than \$1,000,000 per occurrence, \$2,000,000 general aggregate, \$1,000,000 and \$2,000,000 products-completed operations aggregate. Such insurance shall cover liability arising from premises, operations, independent contractors, product-completed operations for one year following project completion, personal and advertising injury and liability assumed under an insured contract. There shall be no endorsement or modification of the Commercial GL form arising from pollution, explosion, collapse, underground property damage or work performed by subcontractors.
2. Business Automobile Liability with a limit of not less than \$1,000,000 each accident, including owned, non-owned, leased and hired vehicles.
3. Statutory Workers Compensation and employer's liability coverage for all employees, including corporate officers and sole proprietors.
4. Umbrella/Excess Liability with a limit of not less than \$5,000,000 per occurrence/aggregate

FLEET MANAGEMENT

IN WITNESS WHEREOF, EFM and City of Poughkeepsie have executed this Service Agreement as of the day and year first above written.

County: City of Poughkeepsie

EFM: ENTERPRISE FLEET MANAGEMENT INC.

By: _____
Title: _____

By: _____
Title: _____

Address: _____

Address: _____

FLEET MANAGEMENT

AMENDMENT TO MASTER EQUITY LEASE AGREEMENT

THIS AMENDMENT ("Amendment") dated this ____ day of October, 2019 is attached to, and made a part of, the MASTER EQUITY LEASE AGREEMENT entered into on the ____ day of October, 2019 ("Agreement") by and between Enterprise FM Trust, a Delaware statutory trust ("Lessor") and City of Poughkeepsie ("Lessee"). This Amendment is made for good and valuable consideration, the receipt of which is hereby acknowledged by the parties.

Section 14 of the Master Equity Lease Agreement is amended to include this additional paragraph:

In the event that Lessor fails to perform in a satisfactory manner its obligation under this Agreement or a Schedule hereunder, Lessee may, in addition to any other remedy available at law or equity, provide Lessor with written notice of Lessee's intent to terminate the Schedule or portion of the Schedule directly related to Lessor's breach or non-performance. Such termination shall take effect automatically unless Lessor cures the breach or non-performance within three (3) business days of receipt of Lessee's notice, with no penalties or additional charges incurred by Lessee.

Section 16 of the Master Equity Lease Agreement is amended to read as follows:

This Agreement contains the entire understanding of the parties. This Agreement may only be amended or modified by an instrument in writing executed by both parties. Neither party shall by any act, delay, omission or otherwise be deemed to have waived any of its rights or remedies under this Agreement and no waiver whatsoever shall be valid unless in writing and signed by the waiving party and then only to the extent therein set forth. A waiver by either party of any right or remedy under this Agreement on any one occasion shall not be construed as a bar to any right or remedy, which waiting party would otherwise have on any future occasion. If any term or provision of this Agreement or any application of any such term or provision is invalid or unenforceable, the remainder of this Agreement and any other application of such term or provision will not be affected thereby. Giving of all notices under this Agreement will be sufficient if mailed by certified mail to a party at its address set forth below or at such other address as such party may provide in writing from time to time. Any such notice mailed to such address will be effective one (1) day after deposit in the United States mail, duly addressed, with certified mail, postage prepaid. Lessee will promptly notify Lessor of any change in Lessee's address. This Agreement may be executed in multiple counterparts (including facsimile and pdf counterparts), but the counterpart marked "ORIGINAL" by Lessor will be the original lease for purposes of applicable law. All of the representations, warranties, covenants, agreements and obligations of each Lessee under this Agreement (if more than one) are joint and several.

Section 17 of the Master Equity Lease Agreement is amended to read as follows:

Subject to the provisions of Section 15, this Agreement will be binding upon Lessee and its heirs, executors, personal representatives, successors and assigns, and will inure to the benefit of Lessor, Servicer, any other agent of Lessor and their respective successors and assigns. This Agreement will be governed by and construed in accordance with the substantive laws of the State of New York (determined without reference to conflict of law principles). The venue for any dispute under this Agreement shall be with the New York Supreme Court, Dutchess County.

FLEET MANAGEMENT

All references in the Agreement and in the various Schedules and addenda to the Agreement and any other references of similar import shall henceforth mean the Agreement as amended by this Amendment. Except to the extent specifically amended by this Amendment, all of the terms, provisions, conditions, covenants, representations and warranties contained in the Agreement shall be and remain in full force and effect and the same are hereby ratified and confirmed.

IN WITNESS WHEREOF, Lessor and Lessee have executed this Amendment to Master Equity Lease Agreement as of the day and year first above written.

City of Poughkeepsie (Lessee)

Enterprise FM Trust (Lessor)
By: Enterprise Fleet Management, Inc., its attorney in fact

By _____

By _____

Title: _____

Title: _____

Date Signed: _____, _____

Date Signed: _____, _____

FLEET MANAGEMENT

MASTER EQUITY LEASE AGREEMENT

This Master Equity Lease Agreement is entered into this _____ day of _____, by and between Enterprise FM Trust, a Delaware statutory trust ("Lessor"), and the lessee whose name and address is set forth on the signature page below ("Lessee").

1. LEASE OF VEHICLES: Lessor hereby leases to Lessee and Lessee hereby leases from Lessor the vehicles (individually, a "Vehicle" and collectively, the "Vehicles") described in the schedules from time to time delivered by Lessor to Lessee as set forth below ("Schedule(s)") for the rentals and on the terms set forth in this Agreement and in the applicable Schedule. References to this "Agreement" shall include this Master Equity Lease Agreement and the various Schedules and addenda to this Master Equity Lease Agreement. Lessor will, on or about the date of delivery of each Vehicle to Lessee, send Lessee a Schedule covering the Vehicle, which will include, among other things, a description of the Vehicle, the lease term and the monthly rental and other payments due with respect to the Vehicle. The terms contained in each such Schedule will be binding on Lessee unless Lessee objects in writing to such Schedule within ten (10) days after the date of delivery of the Vehicle covered by such Schedule. Lessor is the sole legal owner of each Vehicle. This Agreement is a lease only and Lessee will have no right, title or interest in or to the Vehicles except for the use of the Vehicles as described in this Agreement. This Agreement shall be treated as a true lease for federal and applicable state income tax purposes with Lessor having all benefits of ownership of the Vehicles. It is understood and agreed that Enterprise Fleet Management, Inc. or an affiliate thereof (together with any subservicer, agent, successor or assign as servicer on behalf of Lessor, "Servicer") may administer this Agreement on behalf of Lessor and may perform the service functions herein provided to be performed by Lessor.

2. TERM: The term of this Agreement ("Term") for each Vehicle begins on the date such Vehicle is delivered to Lessee (the "Delivery Date") and, unless terminated earlier in accordance with the terms of this Agreement, continues for the "Lease Term" as described in the applicable Schedule.

3. RENT AND OTHER CHARGES:

(a) Lessee agrees to pay Lessor monthly rental and other payments according to the Schedules and this Agreement. The monthly payments will be in the amount listed as the "Total Monthly Rental Including Additional Services" on the applicable Schedule (with any portion of such amount identified as a charge for maintenance services under Section 4 of the applicable Schedule being payable to Lessor as agent for Enterprise Fleet Management, Inc.) and will be due and payable in advance on the first day of each month. If a Vehicle is delivered to Lessee on any day other than the first day of a month, monthly rental payments will begin on the first day of the next month. In addition to the monthly rental payments, Lessee agrees to pay Lessor a pro-rated rental charge for the number of days that the Delivery Date precedes the first monthly rental payment date. A portion of each monthly rental payment, being the amount designated as "Depreciation Reserve" on the applicable Schedule, will be considered as a reserve for depreciation and will be credited against the Delivered Price of the Vehicle for purposes of computing the Book Value of the Vehicle under Section 3(c). Lessee agrees to pay Lessor the "Total Initial Charges" set forth in each Schedule on the due date of the first monthly rental payment under such Schedule. Lessee agrees to pay Lessor the "Service Charge Due at Lease Termination" set forth in each Schedule at the end of the applicable Term (whether by reason of expiration, early termination or otherwise).

(b) In the event the Term for any Vehicle ends prior to the last day of the scheduled Term, whether as a result of a default by Lessee, a Casualty Occurrence or any other reason, the rentals and management fees paid by Lessee will be recalculated in accordance with the rule of 78's and the adjusted amount will be payable by Lessee to Lessor on the termination date.

(c) Lessee agrees to pay Lessor within thirty (30) days after the end of the Term for each Vehicle, additional rent equal to the excess, if any, of the Book Value of such Vehicle over the greater of (i) the wholesale value of such Vehicle as determined by Lessor in good faith or (ii) except as provided below, twenty percent (20%) of the Delivered Price of such Vehicle as set forth in the applicable Schedule. If the Book Value of such Vehicle is less than the greater of (i) the wholesale value of such Vehicle as determined by Lessor in good faith or (ii) except as provided below, twenty percent (20%) of the Delivered Price of such Vehicle as set forth in the applicable Schedule, Lessor agrees to pay such deficiency to Lessee as a terminal rental adjustment within thirty (30) days after the end of the applicable Term. Notwithstanding the foregoing, if (i) the Term for a Vehicle is greater than forty-eight (48) months (including any extension of the Term for such Vehicle), (ii) the mileage on a Vehicle at the end of the Term is greater than 15,000 miles per year on average (prorated on a daily basis) (i.e., if the mileage on a Vehicle with a Term of thirty-six (36) months is greater than 45,000 miles) or (iii) in the sole judgment of Lessor, a Vehicle has been subject to damage or any abnormal or excessive wear and tear, the calculations described in the two immediately preceding sentences shall be made without giving effect to clause (ii) in each such sentence. The "Book Value" of a Vehicle means the sum of (i) the "Delivered Price" of the Vehicle as set forth in the applicable Schedule minus (ii) the total Depreciation Reserve paid by Lessee to Lessor with respect to such Vehicle plus (iii) all accrued and unpaid rent and/or other amounts owed by Lessee with respect to such Vehicle.

(d) Any security deposit of Lessee will be returned to Lessee at the end of the applicable Term, except that the deposit will first be applied to any losses and/or damages suffered by Lessor as a result of Lessee's breach of or default under this Agreement and/or to any other amounts then owed by Lessee to Lessor.

(e) Any rental payment or other amount owed by Lessee to Lessor which is not paid within twenty (20) days after its due date will accrue interest, payable on demand of Lessor, from the date due until paid in full at a rate per annum equal to the lesser of (i) Eighteen Percent (18%) per annum or (ii) the highest rate permitted by applicable law (the "Default Rate").

(f) If Lessee fails to pay any amount due under this Agreement or to comply with any of the covenants contained in this Agreement, Lessor, Servicer or any other agent of Lessor may, at its option, pay such amounts or perform such covenants and all sums paid or incurred by Lessor in connection therewith will be repayable by Lessee to Lessor upon demand together with interest thereon at the Default Rate.

Initials: EFM_____ Customer_____

(g) Lessee's obligations to make all payments of rent and other amounts under this Agreement are absolute and unconditional and such payments shall be made in immediately available funds without setoff, counterclaim or deduction of any kind. Lessee acknowledges and agrees that neither any Casualty Occurrence to any Vehicle nor any defect, unfitness or lack of governmental approval in, of, or with respect to, any Vehicle regardless of the cause or consequence nor any breach by Enterprise Fleet Management, Inc. of any maintenance agreement between Enterprise Fleet Management, Inc. and Lessee covering any Vehicle regardless of the cause or consequence will relieve Lessee from the performance of any of its obligations under this Agreement, including, without limitation, the payment of rent and other amounts under this Agreement.

4. USE AND SURRENDER OF VEHICLES: Lessee agrees to allow only duly authorized, licensed and insured drivers to use and operate the Vehicles. Lessee agrees to comply with, and cause its drivers to comply with, all laws, statutes, rules, regulations and ordinances and the provisions of all insurance policies affecting or covering the Vehicles or their use or operation. Lessee agrees to keep the Vehicles free of all liens, charges and encumbrances. Lessee agrees that in no event will any Vehicle be used or operated for transporting hazardous substances or persons for hire, for any illegal purpose or to pull trailers that exceed the manufacturer's trailer towing recommendations. Lessee agrees that no Vehicle is intended to be or will be utilized as a "school bus" as defined in the Code of Federal Regulations or any applicable state or municipal statute or regulation. Lessee agrees not to remove any Vehicle from the continental United States without first obtaining Lessor's written consent. At the expiration or earlier termination of this Agreement with respect to each Vehicle, or upon demand by Lessor made pursuant to Section 14, Lessee at its risk and expense agrees to return such Vehicle to Lessor at such place and by such reasonable means as may be designated by Lessor. If for any reason Lessee fails to return any Vehicle to Lessor as and when required in accordance with this Section, Lessee agrees to pay Lessor additional rent for such Vehicle at twice the normal pro-rated daily rent. Acceptance of such additional rent by Lessor will in no way limit Lessor's remedies with respect to Lessee's failure to return any Vehicle as required hereunder.

5. COSTS, EXPENSES, FEES AND CHARGES: Lessee agrees to pay all costs, expenses, fees, charges, fines, tickets, penalties and taxes (other than federal and state income taxes on the income of Lessor) incurred in connection with the titling, registration, delivery, purchase, sale, rental, use or operation of the Vehicles during the Term. If Lessor, Servicer or any other agent of Lessor incurs any such costs or expenses, Lessee agrees to promptly reimburse Lessor for the same.

6. LICENSE AND CHARGES: Each Vehicle will be titled and licensed in the name designated by Lessor at Lessee's expense. Certain other charges relating to the acquisition of each Vehicle and paid or satisfied by Lessor have been capitalized in determining the monthly rental, treated as an initial charge or otherwise charged to Lessee. Such charges have been determined without reduction for trade-in, exchange allowance or other credit attributable to any Lessor-owned vehicle.

7. REGISTRATION PLATES, ETC.: Lessee agrees, at its expense, to obtain in the name designated by Lessor all registration plates and other plates, permits, inspections and/or licenses required in connection with the Vehicles, except for the initial registration plates which Lessor will obtain at Lessee's expense. The parties agree to cooperate and to furnish any and all information or documentation, which may be reasonably necessary for compliance with the provisions of this Section or any federal, state or local law, rule, regulation or ordinance. Lessee agrees that it will not permit any Vehicle to be located in a state other than the state in which such Vehicle is then titled for any continuous period of time that would require such Vehicle to become subject to the titling and/or registration laws of such other state.

8. MAINTENANCE OF AND IMPROVEMENTS TO VEHICLES:

(a) Lessee agrees, at its expense, to (i) maintain the Vehicles in good condition, repair, maintenance and running order and in accordance with all manufacturer's instructions and warranty requirements and all legal requirements and (ii) furnish all labor, materials, parts and other essentials required for the proper operation and maintenance of the Vehicles. Any alterations, additions, replacement parts or improvements to a Vehicle will become and remain the property of Lessor and will be returned with such Vehicle upon such Vehicle's return pursuant to Section 4. Notwithstanding the foregoing, so long as no Event of Default has occurred and is continuing, Lessee shall have the right to remove any additional equipment installed by Lessee on a Vehicle prior to returning such Vehicle to Lessor under Section 4. The value of such alterations, additions, replacement parts and improvements will in no instance be regarded as rent. Without the prior written consent of Lessor, Lessee will not make any alterations, additions, replacement parts or improvements to any Vehicle which detract from its economic value or functional utility. Lessor will not be required to make any repairs or replacements of any nature or description with respect to any Vehicle, to maintain or repair any Vehicle or to make any expenditure whatsoever in connection with any Vehicle or this Agreement.

(b) Lessor and Lessee acknowledge and agree that if Section 4 of a Schedule includes a charge for maintenance, (i) the Vehicle(s) covered by such Schedule are subject to a separate maintenance agreement between Enterprise Fleet Management, Inc. and Lessee and (ii) Lessor shall have no liability or responsibility for any failure of Enterprise Fleet Management, Inc. to perform any of its obligations thereunder or to pay or reimburse Lessee for its payment of any costs and expenses incurred in connection with the maintenance or repair of any such Vehicle(s).

9. SELECTION OF VEHICLES AND DISCLAIMER OF WARRANTIES:

(a) LESSEE ACCEPTANCE OF DELIVERY AND USE OF EACH VEHICLE WILL CONCLUSIVELY ESTABLISH THAT SUCH VEHICLE IS OF A SIZE, DESIGN, CAPACITY, TYPE AND MANUFACTURE SELECTED BY LESSEE AND THAT SUCH VEHICLE IS IN GOOD CONDITION AND REPAIR AND IS SATISFACTORY IN ALL RESPECTS AND IS SUITABLE FOR LESSEE'S PURPOSE. LESSEE ACKNOWLEDGES THAT LESSOR IS NOT A MANUFACTURER OF ANY VEHICLE OR AN AGENT OF A MANUFACTURER OF ANY VEHICLE.

(b) LESSOR MAKES NO REPRESENTATION OR WARRANTY OF ANY KIND, EXPRESS OR IMPLIED, WITH RESPECT TO ANY VEHICLE, INCLUDING, WITHOUT LIMITATION, ANY REPRESENTATION OR WARRANTY AS TO CONDITION, MERCHANTABILITY OR FITNESS FOR ANY PARTICULAR PURPOSE, IT BEING AGREED THAT ALL SUCH RISKS ARE TO BE BORNE BY LESSEE. THE VEHICLES ARE LEASED "AS IS," "WITH ALL FAULTS." All warranties made by any supplier, vendor and/or manufacturer of a Vehicle are hereby assigned by Lessor to Lessee for the applicable Term and Lessee's only remedy, if any, is against the supplier, vendor or manufacturer of the Vehicle.

Initials: EFM_____ Customer_____

(c) None of Lessor, Servicer or any other agent of Lessor will be liable to Lessee for any liability, claim, loss, damage (direct, incidental or consequential) or expense of any kind or nature, caused directly or indirectly, by any Vehicle or any inadequacy of any Vehicle for any purpose or any defect (latent or patent) in any Vehicle or the use or maintenance of any Vehicle or any repair, servicing or adjustment of or to any Vehicle, or any delay in providing or failure to provide any Vehicle, or any interruption or loss of service or use of any Vehicle, or any loss of business or any damage whatsoever and however caused. In addition, none of Lessor, Servicer or any other agent of Lessor will have any liability to Lessee under this Agreement or under any order authorization form executed by Lessee if Lessor is unable to locate or purchase a Vehicle ordered by Lessee or for any delay in delivery of any Vehicle ordered by Lessee.

10. RISK OF LOSS: Lessee assumes and agrees to bear the entire risk of loss of, theft of, damage to or destruction of any Vehicle from any cause whatsoever ("Casualty Occurrence"). In the event of a Casualty Occurrence to a Vehicle, Lessee shall give Lessor prompt notice of the Casualty Occurrence and thereafter will place the applicable Vehicle in good repair, condition and working order; provided, however, that if the applicable Vehicle is determined by Lessor to be lost, stolen, destroyed or damaged beyond repair (a "Totaled Vehicle"), Lessee agrees to pay Lessor no later than the date thirty (30) days after the date of the Casualty Occurrence the amounts owed under Sections 3(b) and 3(c) with respect to such Totaled Vehicle. Upon such payment, this Agreement will terminate with respect to such Totaled Vehicle.

11. INSURANCE:

(a) Lessee agrees to purchase and maintain in force during the Term, insurance policies in at least the amounts listed below covering each Vehicle, to be written by an insurance company or companies satisfactory to Lessor, insuring Lessee, Lessor and any other person or entity designated by Lessor against any damage, claim, suit, action or liability:

(i) Commercial Automobile Liability Insurance (including Uninsured/Underinsured Motorist Coverage and No-Fault Protection where required by law) for the limits listed below (Note - \$2,000,000 Combined Single Limit Bodily Injury and Property Damage with No Deductible is required for each Vehicle capable of transporting more than 8 passengers):

<u>State of Vehicle Registration</u>	<u>Coverage</u>
Connecticut, Massachusetts, Maine, New Hampshire, New Jersey, New York, Pennsylvania, Rhode Island, and Vermont	\$1,000,000 Combined Single Limit Bodily Injury and Property Damage - No Deductible
Florida	\$500,000 Combined Single Limit Bodily Injury and Property Damage or \$100,000 Bodily Injury Per Person, \$300,000 Per Occurrence and \$50,000 Property Damage (100/300/50) - No Deductible
All Other States	\$300,000 Combined Single Limit Bodily Injury and Property Damage or \$100,000 Bodily Injury Per Person, \$300,000 Per Occurrence and \$50,000 Property Damage (100/300/50) - No Deductible

(ii) Physical Damage Insurance (Collision & Comprehensive): Actual cash value of the applicable Vehicle. Maximum deductible of \$500 per occurrence - Collision and \$250 per occurrence - Comprehensive).

If the requirements of any governmental or regulatory agency exceed the minimums stated in this Agreement, Lessee must obtain and maintain the higher insurance requirements. Lessee agrees that each required policy of insurance will by appropriate endorsement or otherwise name Lessor and any other person or entity designated by Lessor as additional insureds and loss payees, as their respective interests may appear. Further, each such insurance policy must provide the following: (i) that the same may not be cancelled, changed or modified until after the insurer has given to Lessor, Servicer and any other person or entity designated by Lessor at least thirty (30) days prior written notice of such proposed cancellation, change or modification, (ii) that no act or default of Lessee or any other person or entity shall affect the right of Lessor, Servicer, any other agent of Lessor or any of their respective successors or assigns to recover under such policy or policies of insurance in the event of any loss of or damage to any Vehicle and (iii) that the coverage is "primary coverage" for the protection of Lessee, Lessor, Servicer, any other agent of Lessor and their respective successors and assigns notwithstanding any other coverage carried by Lessee, Lessor, Servicer, any other agent of Lessor or any of their respective successors or assigns protecting against similar risks. Original certificates evidencing such coverage and naming Lessor, Servicer, any other agent of Lessor and any other person or entity designated by Lessor as additional insureds and loss payees shall be furnished to Lessor prior to the Delivery Date, and annually thereafter and/or as reasonably requested by Lessor from time to time. In the event of default, Lessee hereby appoints Lessor, Servicer and any other agent of Lessor as Lessee's attorney-in-fact to receive payment of, to endorse all checks and other documents and to take any other actions necessary to pursue insurance claims and recover payments if Lessee fails to do so. Any expense of Lessor, Servicer or any other agent of Lessor in adjusting or collecting insurance shall be borne by Lessee.

Lessee, its drivers, servants and agents agree to cooperate fully with Lessor, Servicer, any other agent of Lessor and any insurance carriers in the investigation, defense and prosecution of all claims or suits arising from the use or operation of any Vehicle. If any claim is made or action commenced for death, personal injury or property damage resulting from the ownership, maintenance, use or operation of any Vehicle, Lessee will promptly notify Lessor of such action or claim and forward to Lessor a copy of every demand, notice, summons or other process received in connection with such claim or action.

(b) Notwithstanding the provisions of Section 11(a) above: (i) if Section 4 of a Schedule includes a charge for physical damage waiver, Lessor agrees that (A) Lessee will not be required to obtain or maintain the minimum physical damage insurance (collision and comprehensive) required under Section 11(a) for the Vehicle(s) covered by such Schedule and (B) Lessor will assume the risk of physical damage (collision and comprehensive) to the Vehicle(s) covered by such Schedule; provided, however, that such physical damage waiver shall not apply to, and Lessee shall be and remain liable and responsible for, damage to a covered Vehicle caused by wear and tear or mechanical breakdown or failure, damage to or loss of any parts, accessories or components added to a covered

Initials: EFM _____ Customer _____

Vehicle by Lessee without the prior written consent of Lessor and/or damage to or loss of any property and/or personal effects contained in a covered Vehicle. In the event of a Casualty Occurrence to a covered Vehicle, Lessor may, at its option, replace, rather than repair, the damaged Vehicle with an equivalent vehicle, which replacement vehicle will then constitute the "Vehicle" for purposes of this Agreement; and (ii) if Section 4 of a Schedule includes a charge for commercial automobile liability enrollment, Lessor agrees that it will, at its expense, obtain for and on behalf of Lessee, by adding Lessee as an additional insured under a commercial automobile liability insurance policy issued by an insurance company selected by Lessor, commercial automobile liability insurance satisfying the minimum commercial automobile liability insurance required under Section 11(a) for the Vehicle(s) covered by such Schedule. Lessor may at any time during the applicable Term terminate said obligation to provide physical damage waiver and/or commercial automobile liability enrollment and cancel such physical damage waiver and/or commercial automobile liability enrollment upon giving Lessee at least ten (10) days prior written notice. Upon such cancellation, insurance in the minimum amounts as set forth in 11(a) shall be obtained and maintained by Lessee at Lessee's expense. An adjustment will be made in monthly rental charges payable by Lessee to reflect any such change and Lessee agrees to furnish Lessor with satisfactory proof of insurance coverage within ten (10) days after mailing of the notice. In addition, Lessor may change the rates charged by Lessor under this Section 11(b) for physical damage waiver and/or commercial automobile liability enrollment upon giving Lessee at least thirty (30) days prior written notice.

12. INDEMNITY: To the extent permitted by state law, Lessee agrees to defend and indemnify Lessor, Servicer, any other agent of Lessor and their respective successors and assigns from and against any and all losses, damages, liabilities, suits, claims, demands, costs and expenses (including, without limitation, reasonable attorneys' fees and expenses) which Lessor, Servicer, any other agent of Lessor or any of their respective successors or assigns may incur by reason of Lessee's breach or violation of, or failure to observe or perform, any term, provision or covenant of this Agreement, or as a result of any loss, damage, theft or destruction of any Vehicle or related to or arising out of or in connection with the use, operation or condition of any Vehicle. The provisions of this Section 12 shall survive any expiration or termination of this Agreement. Nothing herein shall be deemed to affect the rights, privileges, and immunities of Lessee and the foregoing indemnity provision is not intended to be a waiver of any sovereign immunity afforded to Lessee pursuant to the law.

13. INSPECTION OF VEHICLES; ODOMETER DISCLOSURE; FINANCIAL STATEMENTS: Lessee agrees to accomplish, at its expense, all inspections of the Vehicles required by any governmental authority during the Term. Lessor, Servicer, any other agent of Lessor and any of their respective successors or assigns will have the right to inspect any Vehicle at any reasonable time(s) during the Term and for this purpose to enter into or upon any building or place where any Vehicle is located. Lessee agrees to comply with all odometer disclosure laws, rules and regulations and to provide such written and signed disclosure information on such forms and in such manner as directed by Lessor. Providing false information or failure to complete the odometer disclosure form as required by law may result in fines and/or imprisonment. Lessee hereby agrees to promptly deliver to Lessor such financial statements and other financial information regarding Lessee as Lessor may from time to time reasonably request.

14. DEFAULT; REMEDIES: The following shall constitute events of default ("Events of Default") by Lessee under this Agreement: (a) if Lessee fails to pay when due any rent or other amount due under this Agreement and any such failure shall remain unremedied for ten (10) days; (b) if Lessee fails to perform, keep or observe any term, provision or covenant contained in Section 11 of this Agreement; (c) if Lessee fails to perform, keep or observe any other term, provision or covenant contained in this Agreement and any such failure shall remain unremedied for thirty (30) days after written notice thereof is given by Lessor, Servicer or any other agent of Lessor to Lessee; (d) any seizure or confiscation of any Vehicle or any other act (other than a Casualty Occurrence) otherwise rendering any Vehicle unsuitable for use (as determined by Lessor); (e) if any present or future guaranty in favor of Lessor of all or any portion of the obligations of Lessee under this Agreement shall at any time for any reason cease to be in full force and effect or shall be declared to be null and void by a court of competent jurisdiction, or if the validity or enforceability of any such guaranty shall be contested or denied by any guarantor, or if any guarantor shall deny that it, he or she has any further liability or obligation under any such guaranty or if any guarantor shall fail to comply with or observe any of the terms, provisions or conditions contained in any such guaranty; (f) the occurrence of a material adverse change in the financial condition or business of Lessee or any guarantor; or (g) if Lessee or any guarantor is in default under or fails to comply with any other present or future agreement with or in favor of Lessor, The Crawford Group, Inc. or any direct or indirect subsidiary of The Crawford Group, Inc.. For purposes of this Section 14, the term "guarantor" shall mean any present or future guarantor of all or any portion of the obligations of Lessee under this Agreement.

Upon the occurrence of any Event of Default, Lessor, without notice to Lessee, will have the right to exercise concurrently or separately (and without any election of remedies being deemed made), the following remedies: (a) Lessor may demand and receive immediate possession of any or all of the Vehicles from Lessee, without releasing Lessee from its obligations under this Agreement; if Lessee fails to surrender possession of the Vehicles to Lessor on default (or termination or expiration of the Term), Lessor, Servicer, any other agent of Lessor and any of Lessor's independent contractors shall have the right to enter upon any premises where the Vehicles may be located and to remove and repossess the Vehicles; (b) Lessor may enforce performance by Lessee of its obligations under this Agreement; (c) Lessor may recover damages and expenses sustained by Lessor, Servicer, any other agent of Lessor or any of their respective successors or assigns by reason of Lessee's default including, to the extent permitted by applicable law, all costs and expenses, including court costs and reasonable attorneys' fees and expenses, incurred by Lessor, Servicer, any other agent of Lessor or any of their respective successors or assigns in attempting or effecting enforcement of Lessor's rights under this Agreement (whether or not litigation is commenced) and/or in connection with bankruptcy or insolvency proceedings; (d) upon written notice to Lessee, Lessor may terminate Lessee's rights under this Agreement; (e) with respect to each Vehicle, Lessor may recover from Lessee all amounts owed by Lessee under Sections 3(b) and 3(c) of this Agreement (and, if Lessor does not recover possession of a Vehicle, (i) the estimated wholesale value of such Vehicle for purposes of Section 3(c) shall be deemed to be \$0.00 and (ii) the calculations described in the first two sentences of Section 3(c) shall be made without giving effect to clause (ii) in each such sentence); and/or (f) Lessor may exercise any other right or remedy which may be available to Lessor under the Uniform Commercial Code, any other applicable law or in equity. A termination of this Agreement shall occur only upon written notice by Lessor to Lessee. Any termination shall not affect Lessee's obligation to pay all amounts due for periods prior to the effective date of such termination or Lessee's obligation to pay any indemnities under this Agreement. All remedies of Lessor under this Agreement or at law or in equity are cumulative.

15. ASSIGNMENTS: Lessor may from time to time assign, pledge or transfer this Agreement and/or any or all of its rights and obligations under this Agreement to any person or entity. Lessee agrees, upon notice of any such assignment, pledge or transfer of any amounts due or to become due to Lessor under this Agreement to pay all such amounts to such assignee, pledgee or transferee. Any such assignee, pledgee or transferee of any rights or obligations of Lessor under this Agreement will have all of the rights and obligations that have been assigned to it. Lessee's rights and interest in and to the Vehicles are and will continue

at all times to be subject and subordinate in all respects to any assignment, pledge or transfer now or hereafter executed by Lessor with or in favor of any such assignee, pledgee or transferee, provided that Lessee shall have the right of quiet enjoyment of the Vehicles so long as no Event of Default under this Agreement has occurred and is continuing. Lessee acknowledges and agrees that the rights of any assignee, pledgee or transferee in and to any amounts payable by the Lessee under any provisions of this Agreement shall be absolute and unconditional and shall not be subject to any abatement whatsoever, or to any defense, setoff, counterclaim or recoupment whatsoever, whether by reason of any damage to or loss or destruction of any Vehicle or by reason of any defect in or failure of title of the Lessor or interruption from whatsoever cause in the use, operation or possession of any Vehicle, or by reason of any indebtedness or liability howsoever and whenever arising of the Lessor or any of its affiliates to the Lessee or to any other person or entity, or for any other reason.

Without the prior written consent of Lessor, Lessee may not assign, sublease, transfer or pledge this Agreement, any Vehicle, or any interest in this Agreement or in and to any Vehicle, or permit its rights under this Agreement or any Vehicle to be subject to any lien, charge or encumbrance. Lessee's interest in this Agreement is not assignable and cannot be assigned or transferred by operation of law. Lessee will not transfer or relinquish possession of any Vehicle (except for the sole purpose of repair or service of such Vehicle) without the prior written consent of Lessor.

16. MISCELLANEOUS: This Agreement contains the entire understanding of the parties. This Agreement may only be amended or modified by an instrument in writing executed by both parties. Lessor shall not by any act, delay, omission or otherwise be deemed to have waived any of its rights or remedies under this Agreement and no waiver whatsoever shall be valid unless in writing and signed by Lessor and then only to the extent therein set forth. A waiver by Lessor of any right or remedy under this Agreement on any one occasion shall not be construed as a bar to any right or remedy, which Lessor would otherwise have on any future occasion. If any term or provision of this Agreement or any application of any such term or provision is invalid or unenforceable, the remainder of this Agreement and any other application of such term or provision will not be affected thereby. Giving of all notices under this Agreement will be sufficient if mailed by certified mail to a party at its address set forth below or at such other address as such party may provide in writing from time to time. Any such notice mailed to such address will be effective one (1) day after deposit in the United States mail, duly addressed, with certified mail, postage prepaid. Lessee will promptly notify Lessor of any change in Lessee's address. This Agreement may be executed in multiple counterparts (including facsimile and pdf counterparts), but the counterpart marked "ORIGINAL" by Lessor will be the original lease for purposes of applicable law. All of the representations, warranties, covenants, agreements and obligations of each Lessee under this Agreement (if more than one) are joint and several.

17. SUCCESSORS AND ASSIGNS; GOVERNING LAW: Subject to the provisions of Section 15, this Agreement will be binding upon Lessee and its heirs, executors, personal representatives, successors and assigns, and will inure to the benefit of Lessor, Servicer, any other agent of Lessor and their respective successors and assigns. This Agreement will be governed by and construed in accordance with the substantive laws of the State of Missouri (determined without reference to conflict of law principles).

18. NON-PETITION: Each party hereto hereby covenants and agrees that, prior to the date which is one year and one day after payment in full of all indebtedness of Lessor, it shall not institute against, or join any other person in instituting against, Lessor any bankruptcy, reorganization, arrangement, insolvency or liquidation proceedings or other similar proceeding under the laws of the United States or any state of the United States. The provisions of this Section 18 shall survive termination of this Master Equity Lease Agreement.

19. NON-APPROPRIATION: Lessee's funding of this Agreement shall be on a Fiscal Year basis and is subject to annual appropriations. Lessor acknowledges that Lessee is a municipal corporation, is precluded by the County or State Constitution and other laws from entering into obligations that financially bind future governing bodies, and that, therefore, nothing in this Agreement shall constitute an obligation of future legislative bodies of the County or State to appropriate funds for purposes of this Agreement. Accordingly, the parties agree that the lease terms within this Agreement or any Schedules relating hereto are contingent upon appropriation of funds. The parties further agree that should the County or State fail to appropriate such funds, the Lessor shall be paid all rentals due and owing hereunder up until the actual day of termination. In addition, Lessor reserves the right to be paid for any reasonable damages. These reasonable damages will be limited to the losses incurred by the Lessor for having to sell the vehicles on the open used car market prior to the end of the scheduled term (as determined in Section 3 and Section 14 of this Agreement).

IN WITNESS WHEREOF, Lessor and Lessee have duly executed this Master Equity Lease Agreement as of the day and year first above written.

LESSEE: City of Poughkeepsie, New York

By: _____

Title: _____

Address: 62 Civic Center Plaza
Poughkeepsie, NY 12601

Date Signed: _____, 2019

LESSOR: Enterprise FM Trust
By: Enterprise Fleet Management, Inc. its attorney in fact

By: _____

Title: Regional Sales Manager

Address: 1550 Route 23 N
Wayne, NJ 07470

Date Signed: _____, 2019

Initials: EFM _____ Customer _____



INDEMNITY AGREEMENT

This Agreement is entered into as of the ____ day of _____, 2019, by and between Enterprise Fleet Management, Inc., (EFM), a Missouri corporation, and City of Poughkeepsie.

WITNESSETH:

INDEMNITY: Enterprise Fleet Management, Inc. ("EFM") agrees to defend and indemnify City of Poughkeepsie from and against any and all losses, damages, liabilities, suits, claims, demands, costs and expenses (including, without limitation, reasonable attorneys' fees and expenses) which City of Poughkeepsie may incur by reason of EFM's breach or violation of, or failure to observe or perform, any of its obligations as Servicer (EFM in such capacity, "Servicer") for Enterprise FM Trust in connection with the Master Equity Lease Agreement between City of Poughkeepsie and Enterprise FM Trust dated as of the date hereof, or as a result of any loss, damage, theft or destruction of any Vehicle or related to or arising out of or in connection with the use, operation or condition of any Vehicle, in each case, while the Vehicle was in possession of the Servicer.

Capitalized terms used herein and not defined herein shall have the meanings given in the Lease.

IN WITNESS WHEREOF, EFM and City of Poughkeepsie have executed this Indemnity Agreement as of the day and year first above written.

Company: City of Poughkeepsie

EFM: ENTERPRISE FLEET MANAGEMENT INC.

By: _____
Title: _____

Address: _____

Date Signed: _____, _____

By: _____
Title: _____

Address: _____

Date Signed: _____, _____



National Joint Powers Alliance®
REQUEST FOR PROPOSAL
for the procurement of
FLEET MANAGEMENT SERVICES

RFP Opening

JUNE 7, 2018

8:30 a.m. Central Time

At the offices of the

National Joint Powers Alliance®

202 12th Street Northeast, Staples, MN 56479

RFP #060618

The National Joint Powers Alliance® (NJPA), on behalf of NJPA and its current and potential member agencies, which includes all governmental, higher education, K-12 education, not-for-profit, tribal government, and all other public agencies located in all fifty states, Canada, and internationally, issues this Request For Proposal (RFP) to result in a national contract solution for the procurement of #060618 FLEET MANAGEMENT SERVICES. Details of this RFP are available beginning April 26, 2018. Details may be obtained by letter of request to James Voelker, NJPA, 202 12th Street Northeast, P.O. Box 219, Staples, MN 56479, or by e-mail at RFP@njpacoop.org. Proposals will be received until June 6, 2018 at 4:30 p.m. Central Time at the above address and opened June 7, 2018 at 8:30 a.m. Central Time.

RFP Timeline

April 26, 2018	Publication of RFP in the print and online version of <i>USA Today</i> , in the print and online version of the <i>Salt Lake News</i> within the State of Utah, in the print and online version of the <i>Daily Journal of Commerce</i> within the State of Oregon (note: OR entities this pertains to: http://www.njpacoop.org/oregon-advertising and also RFP Appendix B), in the print and online version of <i>The State</i> within the State of South Carolina, the NJPA website, MERX, PublicPurchase.com, Biddingo, and Onvia.
May 16, 2018 10:00 a.m. CT	Pre-Proposal Conference (the webcast/conference call). The connection information will be sent to all inquirers two business days before the conference.
May 30, 2018	Deadline for RFP questions.
June 6, 2018 4:30 p.m. CT	Deadline for Submission of Proposals. Late responses will be returned unopened.
June 7, 2018 8:30 a.m. CT	Public Opening of Proposals.

Direct questions regarding this RFP to: James Voelker at james.voelker@njpacoop.org or (218) 895-4191.

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1 DEFINITIONS

A. CONTRACT

Contract means this RFP, current pricing information, fully executed Forms C, D, F, & P from the Proposer's response pursuant to this RFP, and a fully executed Form E ("Acceptance and Award") with final terms and conditions. Form E will be executed after a formal award and will provide final clarification of terms and conditions of the award.

B. PROPOSER

A Proposer is a company, person, or entity delivering a timely response to this RFP. This RFP may also use the terms "respondent" or "proposed Vendor," which is interchangeable with Proposer as the context allows.

C. SOURCED GOOD or OPEN MARKET ITEM

A Sourced Good or Open Market Item is a product within the RFP's scope 1) that is not currently available under the Vendor's NJPA contract, 2) that a member wants to buy under contract from an awarded Vendor, and 3) that is generally deemed incidental to the total transaction or purchase of contract items.

D. VENDOR

A Proposer whose response has been awarded a contract pursuant to this RFP.

2 ADVERTISEMENT OF RFP

2.1 NJPA advertises this solicitation: 1) in the hard copy print and online editions of the USA Today; 2) once each in Oregon's Daily Journal of Commerce, South Carolina's The State and Utah's Salt Lake Tribune; 3) on NJPA's website; and 4) on other third-party websites deemed appropriate by NJPA. Other third-party advertisers may include Onvia, PublicPurchase.com, MERX, and Biddingo.

2.2 NJPA also notifies and provides solicitation documentation to each state-level procurement departments for possible re-posting of the solicitation within their systems and at their option for future use and to meet specific state requirements.

3 INTRODUCTION

A. ABOUT NJPA

3.1 The National Joint Powers Alliance® (NJPA) is a public agency serving as a national municipal contracting agency established under the Service Cooperative statute by Minnesota Legislative Statute §123A.21 with the authority to develop and offer, among other services, cooperative procurement services to its membership. Eligible membership and participation includes states, cities, counties, all government agencies, both public and non-public educational agencies, colleges, universities and non-profit organizations.

3.2 Under the authority of Minnesota state laws and enabling legislation, NJPA facilitates a competitive solicitation and contracting process on behalf of the needs of itself and the needs of current and potential member agencies nationally. This process results in national procurement contracts with various Vendors of products/equipment and services which NJPA Member agencies desire to procure. These procurement contracts are created in compliance with applicable Minnesota Municipal Contracting Laws. A complete listing of NJPA cooperative procurement contracts can be found at www.njpacoop.org.

3.3 NJPA is a public agency governed by publicly elected officials that serve as the NJPA Board of Directors. NJPA's Board of Directors oversees and authorizes the calls for all new proposals and holds those resulting Contracts for the benefit of its own and its Members use.

3.4 NJPA currently serves over 50,000 member agencies nationally. Both membership and utilization of NJPA contracts continue to expand, due in part to the increasing acceptance of Cooperative Purchasing throughout the government and education communities nationally.

B. JOINT EXERCISE OF POWERS LAWS

3.5 NJPA cooperatively shares those contracts with its Members nationwide through various Joint Exercise of Powers Laws or Cooperative Purchasing Statutes established in Minnesota, other states and Canadian provinces. The Minnesota Joint Exercise of Powers Law is Minnesota Statute §471.59 which states "Two or more governmental units...may jointly or cooperatively exercise any power common to the contracting parties..." This Minnesota Statute allows NJPA to serve Member agencies located in all other states. Municipal agencies nationally can participate in cooperative purchasing activities under their own state law. These laws can be found on our website at <http://www.njpacoop.org/national-cooperative-contract-solutions/legal-authority/>.

3.5.1 For Members within the Commonwealth of Virginia, this RFP is intended to be a "joint procurement agreement" as described in Vir. Code § 2.2-4304(A), and those Virginia Members identified in Appendix C may agree to be a Joint Purchaser under this RFP.

3.5.2 For Members within Canada, this RFP is intended to include municipalities and publicly-funded academic institutions, schools boards, health authorities, and social services (MASH

sectors). In addition this RFP is intended to include current and potential Members of the Rural Municipalities of Alberta (RMA), and their represented Associations (SARM, SUMA and AMM).

C. WHY RESPOND TO A NATIONAL COOPERATIVE PROCUREMENT CONTRACT

3.6 National Cooperative Procurement Contracts create value for Municipal and Public Agencies, as well as for Vendors of products/equipment and services in a variety of ways:

3.6.1 National cooperative contracts potentially save time and effort for municipal and public agencies, who otherwise would have to solicit vendor responses to individual RFPs, resulting in individual contracts, to meet the procurement needs of their respective agencies. Considerable time and effort is also potentially saved by the Vendors who would have had to otherwise respond to each of those individual RFPs. A single, nationally advertised RFP, resulting in a single, national cooperative contract can potentially replace thousands of individual RFPs for the same equipment/products/services that might have been otherwise advertised by individual NJPA member agencies.

3.6.2 NJPA contracts offer our Members nationally leveraged volume purchasing discounts. Our contract terms and conditions offer the opportunity for Vendors to recognize individual member procurement volume commitment through additional volume based contract discounts.

3.7 State laws that permit or encourage cooperative purchasing contracts do so with the belief that cooperative efficiencies will result in lower prices, better overall value, and considerable time savings.

3.8 The collective purchasing power of thousands of NJPA Member agencies nationwide offers the opportunity for volume pricing discounts. Although no sales or sales volume is guaranteed by an NJPA Contract resulting from this RFP, substantial volume is anticipated and volume pricing is requested and justified.

3.9 NJPA and its Members desire the best value for their procurement dollar as well as a competitive price. Vendors have the opportunity to display and highlight value-added attributes of their company, equipment/products and services without constraints of a typical individual proposal process.

D. THE INTENT OF THIS RFP

3.10. National contract awarded by NJPA: NJPA seeks the most responsive and responsible Vendor relationship(s) to reflect the best interests of NJPA and its Member agencies. Through a competitive proposal and evaluation process, the NJPA Proposal Evaluation Committee recommends vendors for a national contract awarded by the action of the NJPA Chief Procurement Officer. NJPA's primary intent is to establish and provide a national cooperative procurement contract that offer opportunities for NJPA and our current and potential Member agencies throughout the United States and Canada to procure quality product/equipment and services as desired and needed. The contracts will be marketed nationally through a cooperative effort between the awarded vendor(s) and NJPA. Contracts are expected to offer price levels reflective of the potential and collective volume of NJPA and the nationally established NJPA membership base.

3.11 Beyond our primary intent, NJPA further desires to:

3.11.1 Award a four-year contract with a fifth-year contract option resulting from this RFP. Any fifth-year extension is exercised at NJPA's discretion and results from NJPA's contracting needs or from Member requests; this extension is not intended merely to accommodate an awarded Vendor's request. If NJPA grants a fifth-year extension, it may also terminate the contract (or cause it to expire) within the fifth year if the extended contract is replaced by

a resolicited or newly solicited contract. In exigent circumstances, NJPA may petition NJPA's Board of Directors to extend the contract term beyond five years. This rarely used procedure should be employed only to avoid a gap in contract coverage while a replacement contract is being solicited;

- 3.11.2** Offer and apply any applicable technological advances throughout the term of a contract resulting from this RFP;
- 3.11.3** Deliver "Value Added" aspects of the company, equipment/products and services as defined in the "Proposer's Response";
- 3.11.4** Deliver a wide spectrum of solutions to meet the needs and requirements of NJPA and NJPA Member agencies; and
- 3.11.5** Award an exclusive contract to the most responsive and responsible vendor when it is deemed to be in the best interest of NJPA and the NJPA Member agencies.

3.12 Exclusive or Multiple Awards: Based on the scope of this RFP and on the responses received, NJPA may award either an exclusive contract or multiple contracts. In some circumstances, a single national supplier may best meet the needs of NJPA Members; in other situations, multiple vendors may be in the best interests of NJPA and the NJPA Members and preferred by NJPA to provide the widest array of solutions to meet the member agency's needs. NJPA retains sole discretion to determine which approach is in the best interests of NJPA Member agencies.

3.13 Non-Manufacturer Awards: NJPA reserves the right to make an award under this RFP to a non-manufacturer or dealer/distributor if such action is in the best interests of NJPA and its Members.

3.14 Manufacturer as a Proposer: If the Proposer is a manufacturer or wholesale distributor, the response received will be evaluated on the basis of a response made in conjunction with that manufacturer's authorized dealer network. Unless stated otherwise, a manufacturer or wholesale distributor Proposer is assumed to have a documented relationship with their dealer network where that dealer network is informed of, and authorized to accept, purchase orders pursuant to any Contract resulting from this RFP on behalf of the manufacturer or wholesale distributor Proposer. Any such dealer will be considered a sub-contractor of the Proposer/Vendor. The relationship between the manufacturer and wholesale distributor Proposer and its dealer network may be proposed at the time of the submission if that fact is properly identified.

3.15 Dealer/Reseller as a Proposer: If the Proposer is a dealer or reseller of the products and/or services being proposed, the response will be evaluated based on the Proposer's authorization to provide those products and services from their manufacturer. When requested by NJPA, Proposers must document their authority to offer those products and/or services.

E. SCOPE OF THIS RFP

3.16 Scope: The scope of this RFP is to award a contract to a qualifying vendor defined as a manufacturer, provider, or dealer/distributor, established as a Proposer, and deemed responsive and responsible through our open and competitive proposal process. Vendors will be awarded contracts based on the proposal and responders demonstrated ability to meet the expectations of the RFP and demonstrate the overall highest valued solutions which meet and/or exceed the current and future needs and requirements of NJPA and its Member agencies nationally within the scope of FLEET MANAGEMENT SERVICES. **Respondents must be able to provide on-road assets through leasing options.**

3.17 Additional Scope Definitions: In addition to FLEET MANAGEMENT SERVICES, this solicitation should be read to include, but not to be limited to:

3.17.1 Fleet Management Services covering the acquisition (by lease or financing) of a wide range of on-road vehicle types spanning all weight classes and vehicle classifications including, but not limited to:

1. Conventional internal combustion vehicles;
2. Battery electric vehicles;
3. Plug-in hybrid vehicles;
4. EPA- (or CARB-) certified, OEM-approved (e.g. QVM, SVM) natural gas vehicles (dedicated or bi-fuel);
5. EPA- (or CARB-) certified, OEM-approved (e.g. QVM, SVM) propane autogas vehicles (dedicated or bi-fuel);
6. Flex fuel vehicles;
7. Other on-road vehicle assets;

3.17.1.1 New vehicle service and preparation for the above vehicles (e.g. safety inspection, installation of all parts, fluid level and tire pressure service, charge EV battery if applicable, apply vehicle markings).

3.17.1.2 The provision of preventative maintenance plans, maintenance and repairs in accordance with OEM recommendations, meeting allowable downtime standards.

3.17.2 NJPA reserves the right to limit the scope of this solicitation for NJPA, current and potential NJPA member agencies.

3.17.2.1 All related solutions must be complementary to a Proposer's offering of FLEET MANAGEMENT SERVICES and the activities described in Section 3.17.1 above. Examples may include, but are not limited to::

1. Short-term rental programs;
2. Upfitting of after-market products;
3. Fleet management information technologies: telematics, fleet monitoring, fuel management, fuel tank management and motorpool/fleet sharing software and systems;
4. Roadside assistance including towing, emergency charging, mechanical repair and other repairs necessary to return vehicles and equipment to safe operation;
5. Installation, operation and maintenance of dedicated charging and fueling stations;
6. Battery longevity monitoring and replacement plans

3.18 **Overlap of Scope:** When considering equipment/products/services, or groups of equipment/products/services submitted as a part of your response, and whether inclusion of such will fall within a "Scope of Proposal," please consider the validity of an inverse statement.

3.18.1 For example, pencils and post-it-notes can generally be classified as office supplies and office supplies generally include pencils and post-it-notes.

3.18.2 In contrast, computers (PCs and peripherals) can generally be considered office supplies; however, the scope of office supplies does not generally include computer servers and infrastructure.

3.18.3 In conclusion: With this in mind, individual products and services must be examined individually by NJPA, from time to time and in its sole discretion, to determine their compliance and fall within the original "Scope" as intended by NJPA.

3.19 Best and Most Responsive – Responsible Proposer: It is the intent of NJPA to award a Contract to the best and most responsible and responsive Proposer(s) offering the best overall quality and selection of equipment/products and services meeting the commonly requested specifications of the NJPA and NJPA Members, provided the Proposer's Response has been submitted in accordance with the requirements of this RFP. Qualifying Proposers who are able to anticipate the current and future needs and requirements of NJPA and NJPA member agencies; demonstrate the knowledge of any and all applicable industry standards, laws and regulations; and possess the willingness and ability to distribute, market to and service NJPA Members in all 50 states are preferred. NJPA requests proposers submit their entire product line as it applies and relates to the scope of this RFP.

3.20 Sealed Proposals: NJPA will receive sealed proposal responses to this RFP in accordance with accepted standards set forth in the Minnesota Procurement Code and Uniform Municipal Contracting Law. Awards may be made to responsible and responsive Proposers whose proposals are determined in writing to be the most advantageous to NJPA and its current or qualifying future NJPA Member agencies.

3.21 Use of Contract: Any Contract resulting from this solicitation shall be awarded with the understanding that it is for the sole convenience of NJPA and its Members. NJPA and/or its members reserve the right to obtain like equipment/products and services solely from this contract or from another contract source of their choice or from a contract resulting from their own procurement process.

3.22 Awarded Vendor's interest in a contract resulting from this RFP: Awarded Vendors will be able to offer to NJPA, and current and potential NJPA Members, only those products/equipment and services specifically awarded on their NJPA Awarded Contract(s). Awarded Vendors may not offer as "contract compliant," products/equipment and services which are not specifically identified and priced in their NJPA Awarded Contract.

3.23 Sole Source of Responsibility- NJPA desires a "Sole Source of Responsibility" Vendor. This means that the Vendor will take sole responsibility for the performance of delivered equipment/products/ services. NJPA also desires sole responsibility with regard to:

3.23.1 Scope of Equipment/Products/Services: NJPA desires a provider for the broadest possible scope of products/equipment and services being proposed over the largest possible geographic area and to the largest possible cross-section of NJPA current and potential Members.

3.23.2 Vendor use of sub-contractors in sourcing or delivering equipment/product/services: NJPA desires a single source of responsibility for equipment/products and services proposed. Proposers are assumed to have sub-contractor relationships with all organizations and individuals whom are external to the Proposer and are involved in providing or delivering the equipment/products/services being proposed. Vendor assumes all responsibility for the equipment/products/services and actions of any such Sub-Contractor. Suggested Solutions Options include:

3.23.3 Multiple solutions to the needs of NJPA and NJPA Members are possible. Examples could include:

3.23.3.1 Equipment/Products Only Solution: Equipment/Products Only Solution may be appropriate for situations where NJPA or NJPA Members possess the ability, either in-house or through local third party contractors, to properly install and bring to operation those equipment/products being proposed.

3.23.3.2 Turn-Key Solutions: A Turn-Key Solution is a combination of equipment/products and services that provides a single price for equipment/products, delivery, and installation to a properly operating status. Generally this is the most desirable solution because NJPA and NJPA Members may not possess, or desire to engage,

personnel with the necessary expertise to complete these tasks internally or through other independent contractors

3.23.3.3 Good, Better, Best: Where appropriate and properly identified, Proposers may offer the choice “of good, better, best” multiple-grade solutions to meet NJPA Members’ needs.

3.23.3.4 Proven – Accepted – Leading-Edge Technology: Where appropriate and properly identified, Proposers may provide a spectrum of technology solutions to complement or enhance the proposed solutions to meet NJPA Members’ needs.

3.23.4 If applicable, Contracts will be awarded to Proposer(s) able to deliver a proposal meeting the entire needs of NJPA and its Members within the scope of this RFP. NJPA prefers Proposers submit their complete product line of products and services described in the scope of this RFP. NJPA reserves the right to reject individual, or groupings of specific equipment/products and services proposals as a part of the award.

3.24 Geographic Area to be Proposed: This RFP invites proposals to provide FLEET MANAGEMENT SERVICES to NJPA and NJPA Members throughout the entire United States and possibly internationally. Proposers will be expected to express willingness to explore service to NJPA Members located abroad; however the lack of ability to serve Members outside of the United States will not be cause for non-award. The ability and willingness to serve Canada, for instance, will be viewed as a value-added attribute.

3.25 Contract Term: At NJPA’s option, a Contract resulting from this RFP will become effective either on the date awarded by the NJPA Board of Directors or on the day following the expiration date of an existing NJPA procurement contract for the same or similar product/equipment and services.

3.25.1 NJPA is seeking a Contract base term of four years as allowed by Minnesota Contracting Law. Full term is expected. However, one additional one-year renewal/extension may be offered by NJPA to Vendor beyond the original four year term if NJPA deems such action to be in the best interests of NJPA and its Members. NJPA reserves the right to conduct periodic business reviews throughout the term of the contract.

3.26 Minimum Contract Value: NJPA anticipates considerable activity resulting from this RFP and subsequent award; however, no commitment of any kind is made concerning actual quantities to be acquired. NJPA does not guarantee usage. Usage will depend on the actual needs of the NJPA Members and the value of the awarded contract.

3.27 [This section is intentionally blank.]

3.28 Contract Availability: This Contract must be available to all current and potential NJPA Members who choose to utilize this NJPA Contract to include all governmental and public agencies, public and private primary and secondary education agencies, and all non-profit organizations nationally.

3.28.1 With respect to Members within the Commonwealth of Virginia, this RFP is intended to be a “joint procurement agreement” as described in Vir. Code § 2.2-4304(A), and those Virginia Members identified in Appendix C must be allowed to use this Contract as a Joint Purchaser.

3.28.2 For Members within Canada, this RFP is intended to include municipalities and publicly-funded academic institutions, schools boards, health authorities, and social services (MASH sectors). In addition this RFP is intended to include current and potential Members of the Rural Municipalities of Alberta (RMA), and their represented Associations (SARM, SUMA and AMM).

3.29 Proposer's Commitment Period: In order to allow NJPA the opportunity to evaluate each proposal thoroughly, NJPA requires any response to this solicitation be valid and irrevocable for ninety (90) days after the date proposals are opened.

F. EXPECTATIONS FOR EQUIPMENT/PRODUCTS AND SERVICES BEING PROPOSED

3.30 Industry Standards: Except as contained herein, the specifications or solutions for this RFP shall be those accepted guidelines set forth by the FLEET MANAGEMENT SERVICES industry, as they are generally understood and accepted within that industry across the nation. Submitted products/equipment, related services and accessories, and their warranties and assurances are required to meet and/or exceed all current, traditional and anticipated standards, needs, expectations, and requirements of NJPA and its Members.

3.30.1 Deviations from industry standards must be identified by the Proposer and explained how, in their opinion, the equipment/products and services they propose will render equivalent functionality, coverage, performance, and/or related services. Failure to detail all such deviations may comprise sufficient grounds for rejection of the entire proposal.

3.30.2 Technical Descriptions/Specifications. Excessive technical descriptions and specifications that unduly enlarge the proposal response may cause NJPA to reduce the evaluation points awarded on Form G. Proposers must supply sufficient information to:

3.30.2.1 demonstrate the Proposer's knowledge of industry standards and Member agency needs and expectations;

3.30.2.2 Identify the equipment/products and services being proposed as applicable to the needs and expectations of NJPA Member agencies; and

3.30.2.3 differentiate equipment/products and services from other industry manufacturers and providers.

3.31 New Current Model Equipment/Products: Proposals submitted shall be for new, current model equipment/products and services with the exception of certain close-out products allowed to be offered on the Proposer's "Hot List" described herein.

3.32 Compliance with laws and standards: All items supplied on this Contract shall comply with any current applicable safety or regulatory standards or codes.

3.33 Delivered and operational: Products/equipment offered herein are to be proposed based upon being delivered and operational at the NJPA Member's site. Exceptions to "delivered and operational" must be clearly disclosed in the "Total Cost of Acquisition" section of the proposal.

3.34 Warranty: The Proposer warrants that all products, equipment, supplies, and services delivered under this Contract shall be covered by the industry standard or better warranty. All products and equipment should carry a minimum industry standard manufacturer's warranty that includes materials and labor. The Proposer has the primary responsibility to submit product specific warranty as required and accepted by industry standards. Dealer/Distributors agree to assist the purchaser in reaching a solution in a dispute over warranty's terms with the manufacturer. Any manufacturer's warranty that is effective past the expiration of the warranty will be passed on to the NJPA member. Failure to submit a minimum warranty may result in non-award.

3.35 Additional Warrants: The Proposer warrants that all products/equipment and related services furnished hereunder will be free from liens and encumbrances; defects in design, materials, and workmanship; and will conform in all respects to the terms of this RFP including any specifications or

standards. In addition, Proposer/Vendor warrants the products/equipment and related services are suitable for and will perform in accordance with the ordinary use for which they are intended.

G. SOLUTIONS-BASED SOLICITATION

3.36 The NJPA solicitation and contract award process is not based on detailed specifications. Instead, this RFP is a “Solutions-Based Solicitation.” NJPA expects respondents to understand and anticipate the current and future needs of NJPA and its members—within the scope of this RFP—and to propose solutions that are commonly desired or required by law or industry standards. Proposal will be evaluated in part on your demonstrated ability to meet or exceed the needs and requirements of NJPA and our member agencies within the defined scope of this RFP.

3.37 While NJPA does not typically provide product and service specifications, the RFP may contain scope refinements and industry-specific questions. Where specific items are specified, those items should be considered the minimum required, which the proposal can exceed in order to meet Members’ needs. NJPA may award all of the respondent’s proposal or may limit the award to a subset of the proposal.

3

INSTRUCTIONS FOR PREPARING YOUR PROPOSAL

A. INQUIRY PERIOD

4.1 The inquiry period begins on the date of first advertisement and continues until to the Deadline for Submission.” RFP packages will be distributed to potential Vendors during the inquiry period.

B. PRE-PROPOSAL CONFERENCE

4.2 A pre-proposal conference will be held at the date and time specified in the timeline on page one of this RFP. Conference information will be sent to all potential Proposers, and attendance is optional. The purpose of this conference is to allow potential Proposers to ask questions regarding this RFP and NJPA’s competitive contracting process. Only answers issued in writing by NJPA to questions asked before or during the pre-proposal conference are binding on the parties to an awarded contract.

C. IDENTIFICATION OF KEY PERSONNEL

4.3 Awarded Vendors will designate one senior staff member to represent the Vendor to NJPA. This contact person will correspond with members for technical assistance, questions, or concerns that may arise, including instructions regarding different contacts for different geographical areas or product lines.

4.4 These designated individuals should also act as the primary contact for marketing, sales, and any other area deemed essential by the Proposer and NJPA.

D. PROPOSER’S EXCEPTIONS TO TERMS AND CONDITIONS

4.5 Any exceptions, deviations, or contingencies regarding this RFP that a Proposer requests must be documented on Form C, Exceptions To Proposal, Terms, Conditions And Solutions Request.

4.6 Exceptions, deviations or contingencies requested in the Proposer’s response, while possibly necessary in the view of the Proposer, may result in lower scoring or disqualification of a proposal.

E. PROPOSAL FORMAT

4.7 All Proposers must examine the entire RFP package to seek clarification of any item or requirement that may not be clear and to check all responses for accuracy before submitting a proposal.

4.8 All proposals must be properly labeled and sent to “The National Joint Powers Alliance, 202 12th Street NE Staples, MN 56479.”

4.9 All proposals must be physically delivered to NJPA at the above address with all required hard copy documents and signature forms/pages inserted as loose pages at the front of the Vendor’s response. The proposal must include these items.

4.9.1 Hard copy original of completed, signed, and dated Forms C, D, F; hard copy of the signed signature-page only from Forms A and P from this RFP;

4.9.2 Signed hard copies of all addenda issued for the RFP;

4.9.3 Hard copy of Certificate of Insurance verifying the coverage identified in this RFP; and

4.9.4 A complete copy of your response on a flash drive (or other approved electronic means). The electronic copy must contain completed Forms A, B, C, D, F, and P, your statement of products and pricing (including apparent discount), and all appropriate attachments. In order to ensure that your full response is evaluated, you must provide an electronic version of any material that you provide in a hard copy format.

As a public agency, NJPA’s proposals, responses, and awarded contracts are a matter of public record, except for such data that is classified as nonpublic. Accordingly, public data is available for review through a properly submitted public records request. To redact nonpublic information from your proposal (under Minnesota Statute §13.37), you must make your request within thirty (30) days of the contract award or non-award date.

4.10 All Proposal forms must be submitted in English and must be legible. All appropriate forms must be executed by an authorized signatory of the Proposer. Blue ink is preferred for signatures.

4.11 Proposal submissions should be submitted using the electronic forms provided. Proposers that use alternative documents are responsible for ensuring that the content is substantially similar to the NJPA form and that the document is readable by NJPA.

4.12 The Proposer must ensure that the proposal is in the physical possession of NJPA before the submission deadline.

4.12.1 Proposals must be submitted in a sealed envelope or box properly addressed to NJPA and prominently identifying the proposal number, proposal category name, the message **“Hold for Proposal Opening,”** and the deadline for proposal submission. NJPA is not responsible for untimely proposals. Proposals received by the deadline for proposal submission will be opened and the name of each Proposer and other appropriate information will be publicly read.

4.13 Proposers are responsible for checking directly with the NJPA website for any addendums to this RFP. Addendums to this RFP can change the terms and conditions of the RFP, including the proposal submission deadline.

F. QUESTIONS AND ANSWERS ABOUT THIS RFP

4.14 Upon examination of this RFP document, Proposer should promptly notify NJPA of any ambiguity, inconsistency, or error they may discover. Interpretations, corrections, and changes to this RFP will be considered by NJPA through a written addendum. Interpretations, corrections, or changes that are made in any other manner are not binding, and Proposers must not rely on them.

4.15 Submit all questions about this RFP, in writing, referencing FLEET MANAGEMENT SERVICES to James Voelker at NJPA 202 12th Street NE, Staples, MN 56479 or to RFP@njpacoop.org. You may also

call James Voelker at (218) 895-4191. NJPA urges potential Proposers to communicate all concerns well in advance of the submission deadline to avoid misunderstandings. Questions received within seven (7) days before the submission deadline generally cannot be answered. NJPA may, however, field purely procedural questions, questions about NJPA-issued addenda, or questions involving a Proposer withdrawing its response before the RFP submission deadline.

4.16 If NJPA deems that its answer to a question has a material impact on other potential Proposers or on the RFP itself, NJPA will create an addendum to this RFP.

4.17 If NJPA deems that its answer to a question merely clarifies the existing terms and conditions and does not have a material impact on other potential Proposers or the RFP itself, no further documentation of that question is required.

4.18 Addenda are written instruments issued by NJPA that modify or interpret the RFP. All addenda issued by NJPA become a part of the RFP. Addenda will be delivered to all Potential Proposers using the same method of delivery of the original RFP material. NJPA accepts no liability in connection with the delivery of any addenda. Copies of addenda will also be made available on the NJPA website at www.njpacoop.org (under "Current and Pending Solicitations") and from the NJPA offices. All Proposers must acknowledge their receipt of all addenda in their proposal response.

4.19 Any amendment to a submitted proposal must be in writing and must be delivered to NJPA by the RFP submission deadline.

4.20 through 4.21 [These sections are intentionally blank.]

G. MODIFICATION OR WITHDRAWAL OF A SUBMITTED PROPOSAL

4.22 A submitted proposal must not be modified, withdrawn, or cancelled by the Proposer for a period of ninety (90) days following the date proposals were opened. Before the deadline for submission of proposals, any proposal submitted may be modified or withdrawn by notice to the NJPA Procurement Manager. Such notice must be submitted in writing and must include the signature of the Proposer. The notice must be delivered to NJPA before the deadline for submission of proposals and must be so worded as not to reveal the content of the original proposal. The original proposal will not be physically returned to the potential Proposer until after the official proposal opening. Withdrawn proposals may be resubmitted up to the time designated for the receipt of the proposals if they fully conform with the proposal instructions.

H. PROPOSAL OPENING PROCEDURE

4.23 Sealed and properly identified responses for this RFP entitled FLEET MANAGEMENT SERVICES will be received by Chris Robinson, Procurement Manager, at NJPA Offices, 202 12th Street NE, Staples, MN 56479 until the deadline identified on page one of this RFP. All Proposal responses must be submitted in a sealed package. The outside of the package must plainly identify FLEET MANAGEMENT SERVICES and the RFP number. To avoid premature opening, the Proposer must label the Proposal response properly. **NJPA documents the receipt of proposals by immediately time- and date-stamping them.** At the time of the public opening, the NJPA Director of Procurement or a representative from the NJPA Proposal Evaluation Committee will read the Proposer's names aloud and will determine whether each submission has met Level-1 responsiveness.

I. NJPA'S RIGHTS RESERVED

4.24 NJPA may exercise the following rights with regard to the RFP.

4.24.1 Reject any and all proposals received in response to this RFP;

4.24.2 Disqualify any Proposer whose conduct or proposal fails to conform to the requirements of this RFP;

4.24.3 Duplicate without limitation all materials submitted for purposes of RFP evaluation, and duplicate all public information in response to data requests regarding the proposal;

4.24.4 Consider and accept for evaluation a late modification of a proposal if 1) the proposal itself was submitted on time, 2) the modifications were requested by NJPA, and 3) the modifications make the terms of the proposal more favorable to NJPA or its members;

4.24.5 Waive any non-material deviations from the requirements and procedures of this RFP;

4.24.6 Extend the Contract, in increments determined by NJPA, not to exceed a total Contract term of five years;

4.24.7 Cancel the Request for Proposal at any time and for any reason with no cost or penalty to NJPA;

4.24.8 Correct or amend the RFP at any time with no cost or penalty to NJPA. If NJPA corrects or amends any segment of the RFP after submission of proposals and before the announcement of the awarded Vendor, all proposers will be afforded a reasonable opportunity to revise their proposals in order to accommodate the RFP amendment and the new submission dates. NJPA will not be liable for any errors in the RFP or other responses related to the RFP; and

4.24.9 Extend proposal due dates.

5

PRICING

5.1 NJPA requests that potential Proposers respond to this RFP only if they are able to offer a wide array of products and services at lower prices and with better value than what they would ordinarily offer to a single government agency, a school district, or a regional cooperative.

5.2 This RFP requests pricing for an indefinite quantity of products or related services with potential national sales distribution and service. While most RFP categories represent significant sales opportunities, NJPA makes no guarantees about the quantity of products or services that members will purchase. **The estimated annual value of this contract is \$20 Million.**

Vendors are expected to anticipate additional volume through potential government, educational, and not-for-profit agencies that would find value in a national contract awarded by NJPA.

5.3 Regardless of the payment method selected by NJPA or an NJPA member, the total cost associated with any purchase option of the products and services must always be disclosed in the proposal and at the time of purchase.

5.4 All proposers must submit "Primary Pricing" in the form of either "Line-Item Pricing," or "Percentage Discount from Catalog Pricing," or a combination of these pricing strategies. Proposers are also encouraged to offer optional pricing strategies such as "Hot List," "Sourced Products," and "Volume Discounts," as well as financing options such as leasing. All pricing documents should include a clear effective date.

A. LINE-ITEM PRICING

5.5 Line-item pricing is a pricing format in which individual products or services are offered at specific Contract prices. Products or services are individually priced and described by characteristics such as manufacture name, stock or part number, size, or functionality. This method of pricing may offer the least amount of confusion, but Proposers with a large number of items may find this method cumbersome. In

these situations, a percentage discount from catalog or category pricing model may make more sense and may increase the clarity of the contract pricing format.

5.6 All line-item pricing items must be numbered, organized, sectioned (including SKUs, when applicable), and prepared to be easily understood by the Evaluation Committee and members.

5.7 Submit Line-Item Pricing items in an Excel spreadsheet format and include all appropriate identification information necessary to discern the line item from other line items in each Responder's proposal.

5.8 Line-item pricing must be submitted to NJPA in a searchable spreadsheet format (e.g., Microsoft® Excel®) in order to facilitate quickly finding any particular item of interest. For that reason, Proposers are responsible for providing the appropriate product and service identification information along with the pricing information that is typically found on an invoice or price quote for such product or services.

5.9 All products or services typically appearing on an invoice or price quote must be individually priced and identified on the line-item price sheet, including any and all ancillary costs.

5.10 Proposers should provide both a published "List Price" as well as a "Proposed Contract Price" in their pricing matrix. Published List Price will be the standard "quantity of one" price currently available to government and educational customers, excluding cooperative and volume discounts.

B. PERCENTAGE DISCOUNT FROM CATALOG OR CATEGORY

5.11 This pricing model involves a specific percentage discount from a catalog or list price, defined as a published Manufacturer's Suggested Retail Price (MSRP) for the products or services being proposed.

5.12 Individualized percentage discounts can be applied to any number of defined product groupings.

5.13 A percentage discount from MSRP may be applied to all elements identified in MSRP, including all manufacturer options applicable to the products or services.

5.14 When a Proposer elects to use "Percentage Discount from Catalog or Category," Proposer will be responsible for providing and maintaining current published MSRP with NJPA, and this pricing must be included in its proposal and provided throughout the term of any Contract resulting from this RFP.

C. COST PLUS A PERCENTAGE OF COST

5.15 "Cost plus a percentage of cost" as a primary pricing mechanism is not desirable. It is, however, acceptable for pricing sourced goods or services.

D. HOT LIST PRICING

5.16 Where applicable, a Vendor may opt to offer a specific selection of products or services, defined as "Hot List" pricing, at greater discounts than those listed in the standard Contract pricing. All product and service pricing, including the Hot List Pricing, must be submitted electronically in a format that is acceptable to NJPA. Hot List pricing must be submitted in a line-item format. Products and services may be added or removed from the Hot List at any time through an NJPA Price and Product Change Form.

5.17 Hot List program and pricing may also be used to discount and liquidate close-out and discontinued products and services as long as those close-out and discontinued items are clearly labeled as such. Current ordering process and administrative fees apply. This option must be published and made available to all NJPA Members.

E. CEILING PRICE

5.18 Proposal pricing is to be established as a ceiling price. At no time may the proposed products or services be offered under this Contract at prices above this ceiling price without a specific request and approval by NJPA. Contract prices may be reduced at any time, for example, to reflect volume discounts or to meet the needs of an NJPA Member.

5.19 [This section is intentionally blank.]

F. VOLUME PRICE DISCOUNTS / ADDITIONAL QUANTITIES

5.20 through 5.23 [These sections are intentionally blank.]

G. TOTAL COST OF ACQUISITION

5.24 The Total Cost of Acquisition for the equipment/products and related services being proposed, including those payable by NJPA Members to either the Proposer or a third party, is the cost of the proposed equipment/products product/equipment and related services delivered and operational for its intended purpose in the end-user's location. For example, if you are proposing equipment/products FOB Proposer's dock, your proposal should reflect that the contract pricing does not provide for delivery beyond Proposer's dock, nor any set-up activities or costs associated with those delivery or set-up activities. Any additional costs for delivery and set-up should be clearly disclosed. In contrast, a proposal could state that there are no additional costs of acquisition if the product is delivered to and operational at the end-user's location.

H. SOURCED GOOD or OPEN MARKET ITEM

5.25 A Sourced Good or an Open Market Item is a product that a member wants to buy under contract that is not currently available under the Vendor's NJPA contract. This method of procurement can be satisfied through a contract sourcing process. Sourcing options serve to provide a more complete contract solution to meet our members' needs. Sourced items are generally deemed incidental to the total transaction or purchase of contract items.

5.26 NJPA or NJPA Members may request products, equipment, and related services that are within the related scope of this RFP, even if they are not included in an awarded Vendor's line-item price list or catalog. These items are known as Sourced Goods or Open Market Items.

5.27 An awarded Vendor may source such items to the extent that the items are identified as "Sourced Products/Equipment" or "Open Market Items" on any quotation issued in reference to an NJPA awarded contract, and that this information is provided to either NJPA or an NJPA Member. NJPA is not responsible for determining whether a Sourced Good is an incidental portion of the overall purchase or whether a Member is able to consider a Sourced Good a purchase under an NJPA contract.

5.28 "Cost plus a percentage" pricing is an acceptable option in pricing of Sourced Goods.

I. PRODUCT & PRICE CHANGES

5.29 Awarded Vendors may request product or service changes, additions, or deletions at any time throughout the contract term. All requests must be made in written format by completing the NJPA Price and Product Change Request Form (located at the end of this RFP and on the NJPA website), signed by an authorized Vendor representative. All changes are subject to review and approval by NJPA. Submit your requests through email to your assigned Contract Manager and to PandP@njpacoop.org.

5.30 NJPA will determine whether the request is both within the scope of the original RFP and in the best interests of NJPA and NJPA Members. Approved Price and Product Change Request Forms will be returned to the Vendor contact through email.

5.31 The Vendor must 1) complete this change request form and individually list or attach all items subject to change, 2) provide a sufficiently detailed explanation and documentation for the change, and 3) include a complete restatement of pricing document in appropriate format (preferably Excel). The pricing document must identify all products and services being offered and must conform to the following NJPA product and price change naming convention: (Vendor Name) (NJPA Contract #) (effective pricing date); for example, "COMPANY 012411-CPY effective 02-12-2016."

5.32 The new pricing restatement must include *all* products and services offered, even for those items whose pricing remains unchanged, and must include a new effective date on the pricing documents. This requirement reduces confusion by providing a single, current pricing sheet for each vendor and creates a historical record of pricing.

5.33 ADDITIONS. New products and related services may be added to a Contract resulting from this RFP at any time during that Contract term to the extent that those products and related services are within the scope of this RFP. Allowable new products and related services generally include updated models of products and enhanced services that reflect new technology and improved functionality.

5.34 DELETIONS. New products and related services may be deleted from a contract if an item is no longer available.

5.35 PRICE CHANGES. A Vendor may request pricing changes by providing reasonable justification for the change. For example, a request for a 3% increase in a product line that relies heavily on petroleum products may be reasonable if the raw cost of required petroleum products has increased substantially. Conversely, a request for a 3% increase in prices based only on a 3% increase in a cost-of-living index may be considered unreasonable. Although NJPA is sensitive to the possibility of fluctuations in raw material costs, prospective Vendors should make every reasonable attempt to account for normal cost changes by proposing pricing that will be effective throughout the duration of the four-year Contract.

5.35.1 *Price decreases:* NJPA expects Vendors to propose their very best prices and anticipates price reductions that are due to advancement in technology and marketplace efficiencies.

5.35.2 *Price increases:* A Vendor must include reasonable documentation for price-increase requests, along with both current and proposed pricing. Appropriate documentation should be attached to the Price and Product Change Request Form, including letters from suppliers announcing price increases. Price increases must not exceed the industry standard.

5.36 through 5.37 [These sections are intentionally blank.]

5.38 Proposers representing multiple manufacturers, or carrying multiple related product lines may also request the addition of new manufacturers or product lines to their Contract to the extent they remain within the scope of this RFP.

5.39 through 5.43 [These sections are intentionally blank.]

K. SALES TAX

5.44 Sales and other taxes should not be included in the prices quoted. The Vendor will charge state and local sales and other applicable taxes on items for which a valid tax-exemption certification has not been provided. Each NJPA Member is responsible for providing verification of tax-exempt status to the Vendor. When ordering, NJPA Members must indicate that they are tax-exempt entities. Except as set forth herein, no party is responsible for taxes imposed on another party as a result of or arising from the transactions under a Contract resulting from this RFP.

L. SHIPPING

5.45 Shipping costs can constitute a significant portion of the overall cost of procurement. Consequently, significant weight will be given to the quality of a prospective Vendor's shipping program. Shipping charges should reasonably reflect the actual cost of shipping. NJPA understands that Vendors may use other shipping cost methods for simplicity or for transparency. But to the extent that shipping costs are determined to disproportionately increase a Vendor's profit, NJPA may reduce the points awarded in the "Pricing" criteria.

5.46 through 5.47 [These sections are intentionally blank.]

5.48 All shipping and restocking fees must be identified in the price program. Certain industries providing made-to-order products may not allow returns. Proposals will be evaluated not only on the actual costs of shipping, but on the relative flexibility extended to NJPA Members relating to restocking fees, shipping errors, customized shipping requirements, the process for rejecting damaged or delayed shipments, and similar subjects.

5.49 through 5.50 [These sections are intentionally blank.]

5.51 Delivered products must be properly packaged. Damaged products may be rejected. If the damage is not readily apparent at the time of delivery, the Vendor must permit the products to be returned within a reasonable time at no cost to NJPA or NJPA Member. NJPA and NJPA Members reserve the right to inspect the products at a reasonable time subsequent to delivery where circumstances or conditions prevent effective inspection of the products at the time of delivery.

5.52 The Vendor must deliver Contract-conforming products in each shipment and may not substitute products without the express approval from NJPA or the NJPA Member.

5.53 NJPA reserves the right to declare a breach of Contract if the Vendor intentionally delivers substandard or inferior products that are not under Contract and described in its paper or electronic price lists or sourced upon request of any Member under this Contract. In the event of the delivery of nonconforming products, the NJPA Member will notify the Vendor as soon as possible and the Vendor will replace nonconforming products with conforming products that are acceptable to the NJPA member.

5.54 Throughout the term of the Contract, Proposer agrees to pay for return shipment on products that arrive in a defective or inoperable condition. Proposer must arrange for the return shipment of the damaged products.

6

EVALUATION OF PROPOSALS

A. PROPOSAL EVALUATION PROCESS

6.1 The NJPA proposal evaluation committee will evaluate proposals received based on a 1,000 point evaluation system. The committee establishes both the evaluation criteria and designates the relative weight of each criterion by assigning possible scores for each category on Form G of this RFP. The committee may adjust the relative weight of the criteria for each RFP. (For example, if the "Warranty" criterion does not apply to a particular RFP, the points normally awarded under "Warranty" may be used to increase the number of potential points in another evaluation category or categories.) The "Pricing" criterion will contain at least a plurality of points for every RFP.

6.2 NJPA uses a scoring system that gives primary importance to "Pricing." But pricing includes more than just the absolute lowest initial cost of purchasing, for example, a particular product. Other considerations include the total cost of the acquisition and whether the Proposer's offering represents the best value. The

evaluation committee may consider such factors as life-cycle costs, total cost of ownership, quality, and the suitability of an offering in meeting NJPA Members' needs. Pricing points may be awarded based on pricing clarity and ease of use. NJPA may also award points based on whether a response contains exceptions, exclusions, or limitations of liabilities.

6.3 The NJPA Board of Directors will consider making awards to the selected Proposer(s) based on the recommendations of the proposal evaluation committee. To qualify for the final evaluation, a Proposer must have been deemed responsive as a result of the criteria set forth under "Proposer Responsiveness," found just below.

B. PROPOSER RESPONSIVENESS

6.4 All responses are evaluated for Level-One and Level-Two Responsiveness. If a response does not substantially conform to substantially all of the terms and conditions in the solicitation, or if it requires unreasonable exceptions, it may be considered nonresponsive.

6.5 All proposals must contain suitable responses to the questions in the proposal forms. The following requirements must be satisfied in order to meet Level-One Responsiveness, which is typically ascertained on the proposal opening date. If these standards are not met, your response may be disqualified as nonresponsive.

6.6 Level-One Responsiveness means that the response

- 6.6.1** is received before the deadline for submission or it will be returned unopened;
- 6.6.2** is properly addressed and identified as a sealed proposal with a specific RFP number and an opening date and time;
- 6.6.3** contains a pricing document (with apparent discounts) and all other forms fully completed, even if "not applicable" is the answer;
- 6.6.4** includes the original (hard copy) completed, dated, and signed RFP forms C, D, and F. In addition, the response must include the hard-copy signed signature page only from RFP Forms A and P and, if applicable, all signed addenda that have been issued in relation to this RFP;
- 6.6.5** contains an electronic (CD, flash drive, or other suitable) copy of the entire response; and

6.7 Level-Two Responsiveness (including whether the response is within the RFP's scope) is determined while evaluating the remaining items listed under Proposal Evaluation Criteria below. These items are not arranged in order of importance. Each item draws from multiple questions, and a Proposer's responses may affect scoring in multiple evaluation criteria. For example, the answers to Industry-Specific Questions may help determine scoring relative to a Proposer's marketplace success, ability to sell and service nationwide, and financial strength. Any questions not answered without an explanation will likely result in a loss of points and may lead to a nonaward if the proposal evaluation committee cannot effectively review your response.

C. PROPOSAL EVALUATION CRITERIA

6.8 Forms A and P include a series of questions that address the following categories:

- 6.8.1** Company Information and Financial Strength
- 6.8.2** Industry Requirements and Marketplace Success
- 6.8.3** Ability to Sell and Deliver Service Nationwide

- 6.8.4** Marketing Plan
- 6.8.5** Other Cooperative Procurement Contracts
- 6.8.6** Value-Added Attributes
- 6.8.7** Payment Terms and Financing Options
- 6.8.8** Warranty
- 6.8.9** Equipment/Products/Services
- 6.8.10** Pricing and Delivery
- 6.8.11** Industry-Specific Questions

6.9 [This section is intentionally blank.]

D. OTHER CONSIDERATIONS

6.10 In evaluating RFP responses, NJPA has no obligation to consider information that is not provided in the Proposer's response. NJPA may, however, consider additional information outside the Proposer's response. This research may include such sources as the Proposer's website, industry publications, listed references, and user interviews.

6.11 NJPA may organize RFP responses into separate classes or subcategories, depending on the range of responses. For example, NJPA might receive numerous submissions for "Widgets and Related Products and Services." NJPA may organize these responses into subcategories, such as manufacturers of fully operational Widgets, manufacturers of component parts for Widgets, and providers of parts and service for Widgets. NJPA reserves the right to award Proposers in some or all of such subcategories without regard to the evaluation score given to Proposers in another subcategory. This specifically allows NJPA to award Vendors that might not have, for instance, the breadth of products of Proposers in another subcategory, but that nonetheless meet a substantial and articulated need of NJPA Members.

6.12 [This section is intentionally blank.]

6.13 NJPA reserves the right to request and test equipment/products and related services and to seek clarification from Proposers. Before the Contract award, the Proposer must furnish the requested information within three (3) days (or within another agreed-to time frame) or provide an explanation for the delay along with a requested time frame for providing the requested information. Proposers must make reasonable efforts to supply test products promptly. All Proposer products remain the property of the Proposer, and NJPA will return such products after the evaluation process. NJPA may make provisional contract awards, subject to a Proposer's proper response to a request for information or products.

6.14 A Proposer's past performance under previously awarded contracts to schools, governmental agencies, and not-for-profit entities is relevant in evaluating a Proposer's current response. Past performance includes the Proposer's record of conforming to published specifications and to standards of good workmanship, as well as the Proposer's history for reasonable and cooperative behavior and for commitment to Member satisfaction. Incumbency as an awarded Vendor does not, by itself, merit positive consideration for a future Contract award.

6.15 NJPA reserves the right to reject any or all proposals.

E. COST COMPARISON

6.16 NJPA may use a variety of evaluation methods, including cost comparisons of specific products. NJPA reserves the right to use this process when the proposal evaluation committee determines that this will help to make a final determination.

6.17 This direct cost comparison process will award points for being low to high Proposer for each cost evaluation item selected. A “Market Basket” of identical (or substantially similar) equipment/products and related services may be selected by the proposal evaluation committee, and the unit cost will be used as a basis for determining the point value. NJPA will select the “Market Basket” from all appropriate product categories as determined by NJPA.

F. MARKETING PLAN

6.18 A Proposer’s marketing plan is a critical component of the RFP response. An awarded Vendor’s sales force will likely be the primary source of communication with NJPA Members and will directly affect the contract’s success. Marketing success depends on communicating the contract’s value, knowing the contract thoroughly, and communicating the proper use of contracted products and services to the end user. Much of the success and sales reward is a direct result of the commitment to the contract by the awarded Vendor’s sales teams. NJPA reserves the right to deem a Proposer Level-Two nonresponsive or not to award a contract based on an unacceptable or incomplete marketing plan.

6.19 NJPA marketing expectations include the following components.

6.19.1 An awarded Vendor must demonstrate the ability to deploy a national sales force or dealer network. The best RFP responses demonstrate the ability to sell, deliver, and service products through acceptable distribution channels to NJPA members in all 50 states. Proposers’ responses should fully demonstrate their sales and service capabilities, should outline their national sales force network (both numerically geographically), and should describe their method of distribution of the offered products and related services. Service may be independent of the product sales pricing, but NJPA encourages related services to be a part of Proposers’ response. Despite its preference for awarding contracts to Vendors that demonstrate nationwide sales and service, NJPA reserves the right to award contracts that meet specific Member needs locally or regionally.

6.19.2 Proposers are invited to demonstrate their ability to successfully market, promote, and communicate the benefits of an NJPA contract to current and potential Members nationwide. NJPA desires a marketing plan that communicates the value of the contract to as many Members as possible.

6.19.3 Proposers are expected to be receptive to NJPA trainings. Awarded Vendors must provide an appropriate training venue for both management and the sales force. NJPA commits to providing training on all aspects of communicating the value of the awarded contract, including the authority of NJPA to offer the contract to its Members, the value and utility the contract delivers to NJPA Members, the scope of NJPA Membership, the authority of Members to use NJPA procurement contracts, the preferred marketing and sales methods, and the successful use of specific business sector strategies.

6.19.4 Awarded Vendors are expected to demonstrate a commitment to fully embrace the NJPA contract. Proposers should identify both the appropriate levels of sales management and sales force that will need to understand the value of the NJPA contract, as well as the internal procedures needed to deliver the appropriate messaging to NJPA Members. NJPA will provide a general schedule and a variety of methods describing when and how those individuals should be trained.

6.19.5 Proposers should outline their proposed involvement in promoting an NJPA contract through applicable industry trade show exhibits and related customer meetings. Proposers are encouraged to consider participation with NJPA at NJPA-endorsed national trade shows.

6.19.6 Proposers must exhibit the willingness and ability to actively market and develop contract-specific marketing materials including the following items.

6.19.6.1 Complete Marketing Plan. Proposers must submit a marketing plan outlining how they will launch the NJPA contract to current and potential NJPA Members. NJPA requires awarded Vendors to embrace and actively promote the contract in cooperation with the NJPA.

6.19.6.2 Printed Marketing Materials. Awarded Vendors will produce and maintain full color print advertisements in camera-ready electronic format, including company logos and contact information to be used in the NJPA directory and other approved marketing publications.

6.19.6.3 Contract announcements and advertisements. Proposers should outline in the marketing plan their anticipated contract announcements, advertisements in industry periodicals, and other direct or indirect marketing activities promoting the awarded NJPA contract.

6.19.6.4 Proposer's Website. Proposers should identify how an awarded Contract will be displayed and linked on the Proposer's website. An online shopping experience for NJPA Members is desired whenever possible.

6.19.7 An NJPA Vendor contract launch will be scheduled during a reasonable time frame after the award and held at the NJPA office in Staples, MN unless the Vendor and NJPA agree to a different location.

6.20 Proposer shall identify their commitment to develop a sales/communication process to facilitate NJPA membership and establish status of current and potential agencies/members. Proposer should further express their commitment to capturing sufficient member information as is deemed necessary by NJPA.

G. CERTIFICATE OF INSURANCE

6.21 Proposers must provide evidence of liability insurance coverage identified below in the form of a Certificate of Insurance (COI) or an ACORD binder form with their proposal. Upon an award issued under this RFP and before the execution of any commerce relating to such award, the awarded Vendor must provide verification, in the form of a Certificate of Insurance, identifying the coverage required below and identifying NJPA as a "Certificate Holder." The Vendor must maintain such insurance coverage at its own expense throughout the term of any contract resulting from this solicitation.

6.22 Any exceptions or assumptions to the insurance requirements must be identified on Form C of this RFP. Exceptions and assumptions will be considered as part of the evaluation process. Any exceptions or assumptions that Proposers submit must be specific. If a Proposer does not include specific exceptions or assumptions when submitting the proposal, NJPA will typically not consider any additional exceptions or assumptions during the evaluation process. Upon contract award, the awarded Vendor must provide the Certificate of Insurance identifying the coverage as specified.

6.23 Insurance Liability Limits. The awarded Vendor must maintain, for the duration of its contract, \$1.5 million in general liability insurance coverage or general liability insurance in conjunction with an umbrella for a total combined coverage of \$1.5 million. Work on the Contract will not begin until after the awarded Vendor has submitted acceptable evidence of the required insurance coverage. Failure to maintain any required insurance coverage or an acceptable alternative method of insurance will be deemed a breach of contract.

6.23.1 Minimum Scope and Limits of Insurance. An awarded Vendor must provide coverage with limits of liability not less than those stated below. An excess liability policy or umbrella liability policy may be used to meet the minimum liability requirements provided that the coverage is written on a "following form" basis.

6.23.1.1 Commercial General Liability—Occurrence Form

Policy shall include bodily injury, property damage and broad form contractual liability and XCU coverage.

6.23.1.2 Each Occurrence

\$1,500,000

6.24 Insurance Requirements: The limits listed in this RFP are minimum requirements for this Contract and in no way limit any indemnity covenants contained in this Contract. NJPA does not warrant that the minimum limits contained herein are sufficient to protect the Vendor from liabilities that might arise out of the performance of the work under this Contract by the Vendor, its agents, representatives, employees, or subcontractors, and the Vendor is free to purchase additional insurance as may be determined necessary.

6.25 Acceptability of Insurers: Insurance is to be placed with insurers duly licensed or authorized to do business in the State of Minnesota and with an “A.M. Best” rating of not less than A- VII. NJPA does not warrant that the above required minimum insurer rating is sufficient to protect the Vendor from potential insurer solvency.

6.26 Subcontractors: Vendors’ certificate(s) must include all subcontractors as additional insureds under its policies, or the Vendor must furnish to NJPA separate certificates for each subcontractor. All coverage for subcontractors are be subject to the minimum requirements identified above.

H. ORDER PROCESS AND/OR FUNDS FLOW

6.27 NJPA Members typically issue a purchase order directly to a Vendor under a Contract resulting from this RFP. Alternatively, a separate contract may be created to facilitate acquiring products or services offered in response to this RFP. Nothing in this Contract restricts the Member and Vendor from agreeing to add terms or conditions to a purchase order or a separate contract provided that such terms or conditions must not be less favorable to NJPA’s Members.

6.28 [This section is intentionally blank.]

I. ADMINISTRATIVE FEES

6.29 Vendors will pay to NJPA an administrative fee in exchange for NJPA facilitating this Contract with its current and potential Members. NJPA may grant a conditional contract award to a Proposer if the proposed administrative fee is unclear, inadequate, or unduly burdensome for NJPA to administer. Sales under this Contract should not be processed until the parties resolve the administrative fee issue.

6.29.1 The administrative fee is typically calculated as a percentage of the dollar volume of all products and services by NJPA Members under this Contract, including anything represented to NJPA Members as falling under this Contract.

6.29.2 The administrative fee is included in, and not added to, the pricing included in Proposer’s response to the RFP. Awarded Vendors must not charge NJPA Members more than permitted in the then current price list in order to offset the administrative fee.

6.29.3 The administrative fee is designed to cover the costs of NJPA’s involvement in contract management, facilitating marketing efforts, Vendor training, and any order processing tasks relating to the Contract. Administrative fees may also be used for other purposes as allowed by Minnesota law.

6.29.4 The administrative fee under this Contract can be expressed as a percentage of total contract sales or as a per-unit amount. While NJPA does not dictate the particular fee percentage, we require that the Proposer articulate a specific fee in its response. For example, merely stating that “we agree

to pay an administrative fee” is considered nonresponsive. NJPA acknowledges that the administrative fee percentage may differ between vendors, industries, and responses.

6.29.5 NJPA awarded Vendors are responsible for paying the administrative fee at least quarterly and for generating all related reporting. Vendors agree to cooperate with NJPA in auditing these reports to ensure that the administrative fee is paid on all items purchased under the Contract.

6.29.6 Notwithstanding Sections 6.29.1 and 6.29.4 above, for Members within the State of Texas, pursuant to Texas Stat. §2301, the administrative fee to be proposed shall be a flat fee applicable to each purchase order irrespective of the quantity specified in the purchase order. A typical administrative fee in such cases is \$600.00 per purchase order. The fee is to be levied on and paid by the Member.

6.30 through 6.32 [This section is intentionally blank.]

J. VALUE-ADDED ATTRIBUTES

6.33 Desirability of Value-Added Attributes: Value-added attributes in an RFP response will be given positive consideration in NJPA’s evaluation process. Such attributes may increase the benefit of a product or service by improving functionality, performance, maintenance, manufacturing, delivery, energy efficiency, ordering, or other items while remaining within the scope of this RFP.

6.34 Women and Minority Business Enterprise (WMBE), Small Business, and Other Favored Businesses: Some NJPA Members give formal preference to certain types of vendors or contractors. Proposers should document WMBE (or other) status for both their organization and for any affiliates (e.g., supplier networks) involved in fulfilling the terms of this RFP. The ability of a Proposer to provide preferred business entity “credits” to NJPA and NJPA Members under a Contract will be evaluated positively by NJPA and reflected in the “value added” area of the evaluation.

6.35 Environmentally Preferred Purchasing Opportunities: Many NJPA Members consider the environmental impact of the products and services they purchase. “Green” characteristics demonstrated by Proposers will be evaluated positively by NJPA and reflected in the “value added” area of the evaluation. Please identify any green characteristics of any offering in your proposal and identify the sanctioning body determining that characteristic. Where appropriate, please indicate which products have been certified as green and by which certifying agency.

6.36 Online Requisitioning Systems: When applicable, online requisitioning systems will be viewed as a value-added characteristic. Proposers should demonstrate how their system makes online ordering easier for NJPA Members, including how Members could integrate their current e-Procurement or enterprise resource planning (ERP) systems into the Proposer’s ordering process.

6.37 Financing: The ability of the Proposer to provide financing solutions to Members for the products and services being proposed will be viewed as a value-added attribute.

6.38 Technology: Technological advances that appreciably improve the proposed products or services will be considered value-added attributes.

K. WAIVER OF FORMALITIES

6.39 NJPA reserves the right to waive minor formalities (or to accept minor irregularities) in any proposal, when it determines that considering the proposal may be in the best interest of its Members.

A. SUBSEQUENT AGREEMENTS

7.1 Purchase Order. Purchase orders for products and services may be executed between NJPA Members and the awarded Vendor (or Vendor's sub-contractors) under this Contract. NJPA Members and Vendors must indicate on the face of such purchase orders that "This purchase order is issued under NJPA contract #XXXXXX" (insert the relevant contract number). Purchase order flow and procedure will be developed jointly between NJPA and an awarded Vendor after an award is made.

7.2 Governing Law. Purchase orders must be construed in accordance with, and governed by, the laws of a competent jurisdiction with respect to the Member. (See also Section 8.5 of this RFP.) All provisions required by law to be included in the purchase order should be read and enforced as if they were included. If through mistake or otherwise any such provision is not included, then upon application of either party the Contract shall be physically amended to make such inclusion or correction. The venue for any litigation arising out of disputes related to purchase order will be a court of competent jurisdiction with respect to the Member.

7.3 Additional Terms and Conditions. Additional terms and conditions to a purchase order may be proposed by NJPA, NJPA Members, or Vendors. Acceptance of these additional terms and conditions is optional to all parties to the purchase order. One purpose of these additional terms and conditions is to address job- or industry-specific requirements of law such as prevailing wage legislation. Additional terms and conditions may also include specific local policy requirements and standard business practices of the issuing Member or the Vendor. Such additional terms and conditions are not considered valid to the extent that they interfere with the general purpose, intent, or currently established terms and conditions contain in this RFP document. For example, a Vendor and Member may agree to add a "net 30" payment requirement to the purchase order instead of applying a "net 10" requirement. But the added terms and conditions must not be less favorable to the Member unless NJPA, the Member, and the Vendor agree to a Contract amendment or similar modification.

7.4 Specialized Service Requirements. In the event that the NJPA Member desires service requirements or specialized performance requirements (such as e-commerce specifications, specialized delivery requirements, or other specifications and requirements) not addressed in the Contract resulting from this RFP, the NJPA Member and the Vendor may enter into a separate, standalone agreement, apart from a Contract resulting from this RFP. Any proposed service requirements or specialized performance requirements require pre-approval by the Vendor. Any separate agreement developed to address these specialized service or performance requirements is exclusively between the NJPA Member and Vendor. NJPA, its agents, and employees shall not be made a party to any claim for breach of such agreement. Product sourcing is not considered a service. NJPA Members will need to conduct procurements for any specialized services not identified as a part of or within the scope of the awarded Contract.

7.5 Performance Bond. At the request of the Member, a Vendor will provide all performance bonds typically and customarily required in their industry. These bonds will be issued pursuant to the requirements of purchase orders for products and services. If a purchase order is cancelled for lack of a required performance bond by the member agency, NJPA recommends that the current pending purchase order be canceled. Each Member has the final decision on purchase order continuation. Any performance bonding required by the Member, the Member's state laws, or by local policy is to be mutually agreed upon and secured between the Vendor and the Member.

7.6 Asset Management Contracts: Asset Management-type Contracts can be initiated under a Contract resulting from this RFP at any time during the term of this Contract. Such a contract could involve, for example, picking up, storing, repairing, inventorying, salvaging, and delivery products falling within the scope of this Contract. The intention in using Asset Management Contracts is to promote the long-term efficiency of NJPA's contracts by (among other things) extending the use and re-use of products. Asset Management Contracts cannot be created under this Contract unless they are executed within the authorized

term of a Contract resulting from this RFP. The actual term of the Asset Management Contract may, however, extend beyond the expiration date of this Contract.

B. NJPA MEMBER SIGN-UP PROCEDURE

7.7 Awarded Vendors are responsible for familiarizing their sales and service forces with the various forms of NJPA membership documentation and will encourage and assist potential Members in establishing membership with NJPA. NJPA membership is available at no cost, obligation, or liability to the Member or the Vendor.

C. REPORTING OF SALES ACTIVITY

7.8 Awarded Vendors must report at least quarterly the total gross dollar volume of all products and services purchased by NJPA Members as it applies to this RFP and Contract. This report must include the name and address of the purchasing agency, Member number, amount of purchase, and a description of the items purchased.

7.8.1 Zero sales reports: Awarded Vendors must provide a quarterly Contract sales report regardless of the amount of sales.

D. AUDITS

7.9 NJPA relies substantially on the reasonable auditing efforts of both Members and awarded Vendors to ensure that Members are obtaining the products, services, pricing, and other benefits under all NJPA contracts. Nonetheless, the Vendor must retain and make available to NJPA all order and invoicing documentation related to purchases that Members make from the Vendor under the awarded Contract. NJPA must not request such information more than once per calendar year, and NJPA must make such requests in writing with at least fourteen (14) days' notice. NJPA may employ an independent auditor at its own expense or conduct an audit on its own. In either event, the Vendor agrees to cooperate fully with NJPA or its agents in order to ensure compliance with this Contract.

E. HUB PARTNER

7.10 Hub Partner: NJPA Members may request special services through a "Hub Partner" for the purpose of complying with a law, regulation, or rule that an NJPA Member deems to apply in its jurisdiction. Hub Partners may bring value to the proposed transactions through consultancy, through qualifying for disadvantaged business entity credits, or through other means.

7.11 Hub Partner Fees: NJPA Members are responsible for any transaction fees, costs, or expenses that arise under this Contract for special service provided by the Hub Partner. The fees, costs, or expenses levied by the Hub Vendor must be clearly itemized in the transaction documentation. To the extent that the Vendor stands in the chain of title during a transaction resulting from this RFP, the documentation must clearly indicate that the transaction is "Executed for the Benefit of [NJPA Member name]."

F. TRADE-INS

7.12 The value in US Dollars for Trade-ins will be negotiated between NJPA or an NJPA Member, and an Awarded Vendor. That identified "Trade-In" value shall be viewed as a down payment and credited in full against the NJPA purchase price identified in a purchase order issued pursuant to any Awarded NJPA procurement contract. The full value of the trade-in will be consideration.

G. OUT OF STOCK NOTIFICATION

7.13 The Vendor must immediately notify NJPA Members when they order an out-of-stock item. The Vendor must also tell the Member when the item will be available and whether there are equivalent

substitutes. The Member must have the option of accepting the suggested substitute or canceling the item from the order. Under no circumstance may the Vendor make unauthorized substitutions. Unfilled or substituted items must be indicated on the packing list.

H. CONTRACT TERMINATION FOR CAUSE AND WITHOUT CAUSE

7.14 NJPA reserves the right to cancel all or any part of this Contract if the Vendor fails to fulfill any material obligation, term, or condition as described in the following procedure. Before any such termination for cause, the NJPA will provide written notice to the Vendor, an opportunity to respond, and a reasonable opportunity to cure the breach. The following are some examples of material breaches.

7.14.1 The Vendor provides products or services that do not meet reasonable quality standards and that are not remedied under the warranty;

7.14.2 The Vendor fails to ship the products or to provide the services within a reasonable amount of time;

7.14.3 NJPA reasonably believes that the Vendor will not or cannot perform to the requirements or expectations of the Contract, NJPA issues a request for assurance, and the Vendor fails to respond;

7.14.4 The Vendor fails to fulfill any of the material terms and conditions of the Contract;

7.14.5 The Vendor fails to follow the established procedure for purchase orders, invoices, or receipt of funds as established by NJPA and the Vendor;

7.14.6 The Vendor fails to properly report quarterly sales;

7.14.7 The Vendor fails to actively market this Contract within the guidelines provided in this RFP and defined in the NJPA contract launch.

7.15 Upon receipt of the written notice of breach, the Vendor will have ten (10) business days to provide a satisfactory response to NJPA. If the Vendor fails to reasonably address all issues in the written notice, NJPA may terminate the Contract immediately. If NJPA allows the Vendor more time to remedy the breach, such forbearance does not limit NJPA's authority to immediately terminate the Contract for continued breaches for which notice was given to the Vendor. Termination of the Contract for cause does not relieve either party of the financial, product, or service obligations incurred before the termination.

7.16 NJPA may terminate the Contract if the Vendor files for bankruptcy protection or is acquired by an independent third party. The Vendor must disclose to NJPA any litigation, bankruptcy, or suspensions/disbarments that occur during the Contract period. Failure to disclose such information authorizes NJPA to immediately terminate the Contract.

7.17 NJPA may terminate the Contract without cause by giving the Vendor sixty (60) days' written notice of termination. Termination of the Contract without cause does not relieve either party of the financial, product, or service obligations incurred before the termination.

7.18 NJPA may immediately terminate any Contract without further obligation if any NJPA employee significantly involved in initiating, negotiating, securing, drafting, or creating the Contract on behalf of NJPA has colluded with any Proposer for personal gain. NJPA may also immediately cancel a Contract if it finds that gratuities, in the form of entertainment, gifts or otherwise, were offered or given by the Vendor or any agent or representative of the Vendor, to any employee of NJPA. Such terminations are effective upon written notice from NJPA or at a later date designated in the notice. Termination of the Contract does not relieve either party of the financial, product, or service obligations incurred before the termination.

8 GENERAL TERMS AND CONDITIONS

8. ADVERTISING A CONTRACT RESULTING FROM THIS RFP

8.1 Proposer/Vendor must not advertise or publish information concerning this Contract before the award is announced by NJPA. Once the award is made, a Vendor is expected to advertise the awarded Contract to both current and potential NJPA Members.

B. APPLICABLE LAW

8.2 [This section is intentionally blank.]

8.3 NJPA Compliance with Minnesota Procurement Law: NJPA has designed its procurement process to comply with best practices in the State of Minnesota. NJPA's solicitation methods are also created to comply with many of the various requirements that our Members must satisfy in their own procurement processes. But these requirements may differ considerably and may change from time to time. So each NJPA Member must make its own determination whether NJPA's solicitation process satisfies the procurement rules in the Member's jurisdiction.

8.4 Governing law with respect to delivery and acceptance: All applicable portions of the Minnesota Uniform Commercial Code, all other applicable Minnesota laws, and the applicable laws and rules of delivery and inspection of the Federal Acquisition Regulations (FAR) laws will govern NJPA contracts resulting from this solicitation.

8.5 Jurisdiction: Any claims that arise against NJPA pertaining to this RFP, and any resulting contract that develops between NJPA and any other party, must be brought only in courts in Todd County in the State of Minnesota unless otherwise agreed to.

8.5.1 Purchase orders or other agreements created pursuant to a contract resulting from this solicitation must be construed in accordance with, and governed by, the laws of the issuing Member. Any claim arising from such a purchase order or agreement must be filed and venued in a court of competent jurisdiction of the Member unless otherwise agreed to.

8.6 through 8.7 [This section is intentionally blank.]

8.8 Indemnification: Each party is responsible for its own acts and is not responsible for the acts of the other party and the results thereof. NJPA's liability is governed by the Minnesota Tort Claims Act (Minn. Stat. §3.736) and other applicable law.

8.9 Prevailing wage: The Vendor must comply with applicable prevailing wage legislation in effect in the jurisdiction of the NJPA Member. The Vendor must monitor the prevailing wage rates as established by the appropriate federal governmental entity during the term of this Contract and adjust wage rates accordingly.

8.10 Patent and copyright infringement: The Vendor agrees to indemnify and hold harmless NJPA and NJPA Members against any and all suits, claims, judgments, and costs instituted or recovered against the Vendor, NJPA, or NJPA Members by any person on account of the use or sale of any articles by NJPA or NJPA Members if the Vendor supplied such articles in violation of applicable patent or copyright laws.

C. ASSIGNMENT OF CONTRACT

8.11 No right or interest in this Contract may be assigned or transferred by the Vendor without prior written permission by the NJPA. No delegation of any duty of the Vendor under this Contract may be made without prior written permission of the NJPA. NJPA will notify Members by posting approved assignments on the NJPA website (www.njpacoop.org).

8.12 If the original Vendor sells or transfers all assets or the entire portion of the assets used to perform this Contract, a successor-in-interest must perform all obligations under this Contract. NJPA reserves the right to reject the acquiring entity as a Vendor. A change of name agreement will not change the contractual obligations of the Vendor.

D. LIST OF PROPOSERS

8.13 NJPA will not maintain a list of interested proposers, nor will it automatically send RFPs to them. All interested proposers must request the RFP as a result of NJPA's national solicitation advertisements. Because of the wide scope of the potential Members and qualified national suppliers, NJPA has determined this to be the best method of fairly soliciting proposals.

E. CAPTIONS, HEADINGS, AND ILLUSTRATIONS

8.14 The captions, illustrations, headings, and subheadings in this RFP are for convenience and ease of understanding and in no way define or limit the scope or intent of this request.

F. DATA PRACTICES

8.15 All materials submitted in response to this RFP become NJPA's property and become public records (under Minn. Stat. §13.591) after the evaluation process is completed. If the Proposer submits information in response to this RFP that it requests to be classified as nonpublic information (as defined by the Minnesota Government Data Practices Act, Minn. Stat. §13.37), the Proposer must meet the following requirements.

8.15.1 The Proposer must make the request within thirty (30) days of the award/nonaward notification, and include the appropriate statutory justification. Pricing, marketing plans, and financial information is generally not redactable. The NJPA Legal Department will review the request to determine whether the information can be withheld or redacted. If NJPA determines that it must disclose the information upon a proper request for such information, NJPA will inform the Proposer of such determination.

8.15.2 The Proposer must defend any action seeking release of the materials that it believes to be nonpublic information, and it must indemnify and hold harmless NJPA, its agents, and employees, from any judgments or damages awarded against NJPA in favor of the party requesting the materials, and any and all costs connected with that defense. This indemnification survives the term of any contract awarded under this RFP. In submitting a response to this RFP, the Proposer agrees that this indemnification survives as long as NJPA possesses the confidential information.

8.16 [This section is intentionally blank.]

G. ENTIRE AGREEMENT

8.17 This Contract, as defined herein, constitutes the entire agreement between the parties to this Contract. A Contract resulting from this RFP is formed when the NJPA Board of Directors approves and signs the applicable Contract Award & Acceptance document (Form E).

H. FORCE MAJEURE

8.18 Except for payments of sums due, neither party is liable to the other nor deemed in default under this Contract if and to the extent that such party's performance of this Contract is prevented due to force majeure. The term "force majeure" means an occurrence that is beyond the control of the party affected and occurs without its fault or negligence including, but not limited to, the following: acts of God, acts of the public enemy, war, riots, strikes, mobilization, labor disputes, civil disorders, fire, flood, snow,

earthquakes, tornadoes or violent wind, tsunamis, wind shears, squalls, Chinooks, blizzards, hail storms, volcanic eruptions, meteor strikes, famine, sink holes, avalanches, lockouts, injunctions-intervention-acts, terrorist events or failures or refusals to act by government authority and/or other similar occurrences where such party is unable to prevent by exercising reasonable diligence. The force majeure is deemed to commence when the party declaring force majeure notifies the other party of the existence of the force majeure and is deemed to continue as long as the results or effects of the force majeure prevent the party from resuming performance in accordance with a Contract resulting from this RFP. Force majeure does not include late deliveries of products and services caused by congestion at a manufacturer's plant or elsewhere, an oversold condition of the market, inefficiencies, or other similar occurrences. If either party is delayed at any time by force majeure, then the delayed party must (if possible) notify the other party of such delay within forty-eight (48) hours.

8.19 through 8.20 [These sections are intentionally blank.]

I. LICENSES

8.21 The Vendor must maintain a valid status on all required federal, state, and local licenses, bonds, and permits required for the operation of the business that the Vendor conducts with NJPA and NJPA Members.

8.22 All responding Proposers must be licensed (where required) and must have the authority to sell and distribute the offered products and services to NJPA and NJPA Members. Documentation of the required licenses and authorities, if applicable, should be included in the Proposer's response to this RFP.

J. MATERIAL SUPPLIERS AND SUB-CONTRACTORS

8.23 The awarded Vendor must supply the names and addresses of sourcing suppliers and sub-contractors as a part of the purchase order when requested by NJPA or an NJPA Member.

K. NON-WAIVER OF RIGHTS

8.24 No failure of either party to exercise any power given to it hereunder, nor a failure to insist upon strict compliance by the other party with its obligations hereunder, nor a custom or practice of the parties at variance with the terms hereof, nor any payment under a Contract resulting from this RFP constitutes a waiver of either party's right to demand exact compliance with the terms hereof. Failure by NJPA to take action or to assert any right hereunder does not constitute a waiver of such right.

L. PROTESTS OF AWARDS MADE

8.25 And protests must be filed with NJPA's Executive Director and must be resolved in accordance with appropriate Minnesota rules. Protests will only be accepted from Proposers. A protest of an award or nonaward must be filed in writing with NJPA within ten (10) calendar days after the public notice or announcement of the award or nonaward. A protest must include the following items.

8.25.1 The name, address, and telephone number of the protester;

8.25.2 The original signature of the protester or its representative (you must document the authority of the representative);

8.25.3 Identification of the solicitation by RFP number;

8.25.4 Identification of the statute or procedure that is alleged to have been violated;

8.25.5 A precise statement of the relevant facts;

8.25.6 Identification of the issues to be resolved;

8.25.7 The aggrieved party's argument and supporting documentation;

8.25.8 The aggrieved party's statement of potential financial damages; and

8.25.9 A protest bond in the name of NJPA and in the amount of 10% of the aggrieved party's statement of potential financial damages.

M. SUSPENSION OR DISBARMENT STATUS

8.26 If within the past five (5) years, any firm, business, person or Proposer responding to an NJPA solicitation has been lawfully terminated, suspended, or precluded from participating in any public procurement activity with a federal, state, or local government or education agency, the Proposer must include a letter with its response setting forth the name and address of the public procurement unit, the effective date of the suspension or debarment, the duration of the suspension or debarment, and the relevant circumstances relating to the suspension or debarment. Any failure to supply such a letter or to disclose pertinent information may result in the termination of a Contract. By signing the proposal affidavit, the Proposer certifies that no current suspension or debarment exists.

N. AFFIRMATIVE ACTION AND IMMIGRATION STATUS CERTIFICATION

8.27 An Affirmative Action Plan, Certificate of Affirmative Action, or other documentation regarding Affirmative Action may be required by NJPA or NJPA Members relating to a transaction from this RFP. Vendors must comply with any such requirements or requests.

8.28 Immigration Status Certification may be required by NJPA or NJPA Members relating to a transaction from this RFP. Vendors must comply with any such requirements or requests.

O. SEVERABILITY

8.29 In the event that any of the terms of a Contract resulting from this RFP are in conflict with any rule, law, or statutory provision, or are otherwise unenforceable under the laws or regulations of any government or subdivision thereof, such terms will be deemed stricken from the Contract, but such invalidity or unenforceability shall not invalidate any of the other terms of an awarded Contract resulting from this RFP.

P. RELATIONSHIP OF PARTIES

8.30 No Contract resulting from this RFP may be considered a contract of employment. The relationship between NJPA and an awarded Vendor is one of independent contractors, each free to exercise judgment and discretion with regard to the conduct of their respective businesses. The parties neither intend the proposed Contract to create, nor is to be construed as creating, a partnership, joint venture, master-servant, principal-agent, or any other, relationship. Except as provided elsewhere in this RFP, neither party may be held liable for acts of omission or commission of the other party and neither party is authorized or has the power to obligate the other party by contract, agreement, warranty, representation, or otherwise in any manner whatsoever except as may be expressly provided herein.

Q. PROVISIONS FOR NON-FEDERAL ENTITY PROCUREMENTS UNDER FEDERAL AWARDS OR OTHER AWARDS

8.31 Procurements by NJPA or NJPA Members utilizing funds under a federal grant or contract may be subject to specific federal laws, regulations, and requirements in addition to those under state and local laws. Applicable law may include, but is not limited to, the procurement standards of the Uniform Administrative Requirements, Cost Principles and Audit Requirements for Federal Awards, 2 CFR Part 200 (also referred to as the "Uniform Guidance" or "EDGAR"). The terms included in this section express Proposers willingness and ability to comply with certain requirements which may be applicable to specific

NJPA Member purchases using federal grant or contract dollars. NJPA Members may also require Proposers to enter into ancillary agreements, in addition to the NJPA contract's general terms and conditions, to address the Member's specific contractual needs, including contract requirements for a procurement using federal grants or contracts. NJPA reserves the right at any time within a contract term to require an awarded Vendor to reaffirm or resubmit proper documentation relating to these requirements. The numbering and identification contained within this section is only for reference purposes and does not identify any actual Federal designation or location of the rule. Rules are located in 2 CFR Part 200.

8.32 Contracts for more than the simplified acquisition threshold currently set at \$150,000, which is the inflation adjusted amount determined by the Civilian Agency Acquisition Council and the Defense Acquisition Regulations Council (Councils) as authorized by 41 U.S.C. 1908, must address administrative, contractual, or legal remedies in instances where contractors violate or breach contract terms, and provide for such sanctions and penalties as appropriate.

National Joint Powers Alliance reserves all rights and privileges under the applicable laws and regulations with respect to this procurement process in the event of breach of contract by either party.

8.33 Contracts in excess of \$10,000 must address termination for cause and for convenience by the non-Federal entity including the manner by which it will be effected and the basis for settlement.

National Joint Powers Alliance reserves the right to terminate any agreement resulting from this procurement process pursuant to National Joint Powers Alliance RFP sections 7.13 and 7.17. Prior to any termination for cause, the NJPA will provide written notice to the Proposer, opportunity to respond and opportunity to cure. National Joint Powers Alliance reserves the right to terminate any agreement resulting from this procurement process without cause with a required 60-day written notice of termination. Termination of Contract shall not relieve either party of financial, product or service obligations incurred or accrued prior to termination.

8.34 Equal Employment Opportunity. Except as otherwise provided under 41 CFR Part 60, all contracts that meet the definition of "federally assisted construction contract" in 41 CFR Part 60-1.3 must include the equal opportunity clause provided under 41 CFR 60-1.4(b), in accordance with Executive Order 11246, "Equal Employment Opportunity" (30 FR 12319, 12935, 3 CFR Part, 1964-1965 Comp., p. 339), as amended by Executive Order 11375, "Amending Executive Order 11246 Relating to Equal Employment Opportunity," and implementing regulations at 41 CFR part 60, "Office of Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor." This provision is hereby incorporated by reference into all applicable contracts.

The equal opportunity clause is incorporated by reference herein.

8.35 Davis-Bacon Act, as amended (40 U.S.C. 3141-3148). When required by Federal program legislation, all prime construction contracts in excess of \$2,000 awarded by non-Federal entities must include a provision for compliance with the Davis-Bacon Act (40 U.S.C. 3141-3144, and 3146-3148) as supplemented by Department of Labor regulations (29 CFR Part 5, "Labor Standards Provisions Applicable to Contracts Covering Federally Financed and Assisted Construction"). In accordance with the statute, contractors must be required to pay wages to laborers and mechanics at a rate not less than the prevailing wages specified in a wage determination made by the Secretary of Labor. In addition, contractors must be required to pay wages not less than once a week. The non-Federal entity must place a copy of the current prevailing wage determination issued by the Department of Labor in each solicitation. The decision to award a contract or subcontract must be conditioned upon the acceptance of the wage determination. The non-Federal entity must report all suspected or reported violations to the Federal awarding agency. The contracts must also include a provision for compliance with the Copeland "Anti-Kickback" Act (40 U.S.C. 3145), as supplemented by Department of Labor regulations (29 CFR Part 3, "Contractors and Subcontractors on Public Building or Public Work Financed in Whole or in Part by Loans or Grants from the United States"). The Act provides that each contractor or subrecipient must be prohibited from inducing, by any means, any person employed in the construction, completion, or repair of public work, to give up

any part of the compensation to which he or she is otherwise entitled. The non-Federal entity must report all suspected or reported violations to the Federal awarding agency.

Proposer shall be in compliance with all applicable Davis-Bacon Act provisions.

8.36 Contract Work Hours and Safety Standards Act (40 U.S.C. 3701-3708). Where applicable, all contracts awarded by the non-Federal entity in excess of \$100,000 that involve the employment of mechanics or laborers must include a provision for compliance with 40 U.S.C. 3702 and 3704, as supplemented by Department of Labor regulations (29 CFR Part 5). Under 40 U.S.C. 3702 of the Act, each contractor must be required to compute the wages of every mechanic and laborer on the basis of a standard work week of 40 hours. Work in excess of the standard work week is permissible provided that the worker is compensated at a rate of not less than one and a half times the basic rate of pay for all hours worked in excess of 40 hours in the work week. The requirements of 40 U.S.C. 3704 are applicable to construction work and provide that no laborer or mechanic must be required to work in surroundings or under working conditions which are unsanitary, hazardous or dangerous. These requirements do not apply to the purchases of supplies or materials or articles ordinarily available on the open market, or contracts for transportation or transmission of intelligence. This provision is hereby incorporated by reference into all applicable contracts.

Proposer certifies that during the term of an award for all contracts by National Joint Powers Alliance resulting from this procurement process, Proposer shall comply with applicable requirements as referenced above.

8.37 Rights to Inventions Made Under a Contract or Agreement. If the Federal award meets the definition of "funding agreement" under 37 CFR § 401.2 (a) and the recipient or subrecipient wishes to enter into a contract with a small business firm or nonprofit organization regarding the substitution of parties, assignment or performance of experimental, developmental, or research work under that "funding agreement," the recipient or subrecipient must comply with the requirements of 37 CFR Part 401, "Rights to Inventions Made by Nonprofit Organizations and Small Business Firms Under Government Grants, Contracts and Cooperative Agreements," and any implementing regulations issued by the awarding agency.

Proposer certifies that during the term of an award for all contracts by National Joint Powers Alliance resulting from this procurement process, Proposer shall comply with applicable requirements as referenced above.

8.38 Clean Air Act (42 U.S.C. 7401-7671q.) and the Federal Water Pollution Control Act (33 U.S.C. 1251-1387). Contracts and subgrants of amounts in excess of \$150,000 require the non-Federal award to agree to comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act (42 U.S.C. 7401- 7671q) and the Federal Water Pollution Control Act as amended (33 U.S.C. 1251- 1387). Violations shall be reported to the Federal awarding agency and the Regional Office of the Environmental Protection Agency (EPA).

Proposer certifies that during the term of an award for all contracts by National Joint Powers Alliance resulting from this procurement process, Proposer shall comply with applicable requirements as referenced above.

8.39 Debarment and Suspension (Executive Orders 12549 and 12689). A contract award (see 2 CFR 180.220) must not be made to parties listed on the government wide exclusions in the System for Award Management (SAM), in accordance with the OMB guidelines at 2 CFR 180 that implement Executive Orders 12549 (3 CFR part 1986 Comp., p. 189) and 12689 (3 CFR part 1989 Comp., p. 235), "Debarment and Suspension." SAM Exclusions contains the names of parties debarred, suspended, or otherwise excluded by agencies, as well as parties declared ineligible under statutory or regulatory authority other than Executive Order 12549.

Proposer nor its principals shall be presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation by any federal department or agency.

8.40 Byrd Anti-Lobbying Amendment, as amended (31 U.S.C. 1352). Proposers shall file any required certifications. Proposers shall not have used Federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a member of Congress, officer or employee of Congress, or an employee of a member of Congress in connection with obtaining any Federal contract, grant or any other award covered by 31 U.S.C. 1352. Proposers shall disclose any lobbying with non-Federal funds that takes place in connection with obtaining any Federal award. Such disclosures are forwarded from tier to tier up to the non-Federal award.

Proposers shall file all certifications and disclosures required by, and otherwise comply with, the Byrd Anti-Lobbying Amendment (31 USC 1352).

8.41 Record Retention Requirements. To the extent applicable, Proposer shall comply with the record retention requirements detailed in 2 CFR § 200.333. The Vendor further certifies that Vendor will retain all records as required by 2 CFR § 200.333 for a period of three years after grantees or subgrantees submit final expenditure reports or quarterly or annual financial reports, as applicable, and all other pending matters are closed.

8.42 Energy Policy and Conservation Act Compliance. To the extent applicable, Proposer shall comply with the mandatory standards and policies relating to energy efficiency which are contained in the state energy conservation plan issued in compliance with the Energy Policy and Conservation Act.

8.43 Buy American Provisions Compliance. To the extent applicable, Proposer shall comply with all applicable provisions of the Buy American Act. Purchases made in accordance with the Buy American Act shall follow the applicable procurement rules calling for free and open competition.

8.44 Access to Records (2 CFR § 200.336). Proposer agrees that duly authorized representatives of an Agency shall have access to any books, documents, papers and records of Proposer that are directly pertinent to Proposer's discharge of its obligations under the Contract for the purpose of making audits, examinations, excerpts, and transcriptions. The right also includes timely and reasonable access to Proposer's personnel for the purpose of interview and discussion relating to such documents.



PROPOSER QUESTIONNAIRE- General Business Information
*(Products, Pricing, Sector Specific, Services, Terms and Warranty are addressed on **Form P**)*

Proposer Name: _____ Questionnaire completed by: _____

Please identify the person NJPA should correspond with from now through the Award process:

Name: _____ E-Mail address: _____

Please answer the questions below using the Microsoft Word® version of this document. This allows NJPA evaluators to cut and paste your answers into a separate worksheet. Place your answer directly below each question. NJPA prefers a brief but thorough response to each question. Please do not merely attach additional documents to your response without also providing a substantive response. Do not leave answers blank; mark "NA" if the question does not apply to you (preferably with an explanation). Please create a response that is easy to read and understand. For example, you may consider using a different font and color to distinguish your answer from the questions.

Company Information & Financial Strength

- 1) Provide the full legal name, mailing and email addresses, tax identification number, and telephone number for your business.
- 2) Provide a brief history of your company, including your company's core values, business philosophy, and longevity in the FLEET MANAGEMENT SERVICES industry.
- 3) Provide a detailed description of the products and services that you are offering in your proposal.
- 4) What are your company's expectations in the event of an award?
- 5) Demonstrate your financial strength and stability with meaningful data. This could include such items as financial statements, SEC filings, credit and bond ratings, letters of credit, and detailed reference letters.
- 6) What is your US market share for the solutions that you are proposing? What is your Canadian market share, if any?
- 7) Has your business ever petitioned for bankruptcy protection? Please explain in detail.
- 8) How is your organization best described: is it a manufacturer, a distributor/dealer/reseller, or a service provider? Answer whichever question (either a) or b) just below) best applies to your organization.
 - a) If your company is best described as a distributor/dealer/reseller (or similar entity), please provide your written authorization to act as a distributor/dealer/reseller for the manufacturer of the products proposed in this RFP. If applicable, is your dealer network independent or company owned?
 - b) If your company is best described as a manufacturer or service provider, please describe your relationship with your sales and service force and with your dealer network in delivering the products and services proposed in this RFP. Are these individuals your employees, or the employees of a third party?
- 9) If applicable, provide a detailed explanation outlining the licenses and certifications that are both required to be held, and actually held, by your organization (including third parties and subcontractors that you use) in pursuit of the business contemplated by this RFP.
- 10) Provide all "Suspension or Disbarment" information that has applied to your organization during the past ten years.
- 11) Within this RFP category there may be subcategories of solutions. List subcategory titles that best describe your products and services.

Industry Recognition & Marketplace Success

- 12) Describe any relevant industry awards or recognition that your company has received in the past five years.
- 13) Supply three references/testimonials from your customers who are eligible for NJPA membership. At a minimum, please include the entity's name, contact person, and phone number.
- 14) Provide a list of your top five governmental or educational customers (entity name is optional), including entity type, the state the entity is located in, scope of the projects, size of transactions, and dollar volumes from the past three years.
- 15) Indicate separately what percentages of your sales are to the government and education sectors in the past three years?
- 16) List any state or cooperative purchasing contracts that you hold. What is the annual sales volume for each of these contracts over the past three years?
- 17) List any GSA contracts that you hold. What is the annual sales volume for each of these contracts over the past three years?

Proposer's Ability to Sell and Deliver Service Nationwide

- 18) Describe your company's capability to meet NJPA Member's needs across the country. Your response should address at least the following areas.
 - a) Sales force.
 - b) Dealer network or other distribution methods.
 - c) Service force.

Please include details, such as the locations of your network of sales and service providers, the number of workers (full-time equivalents) involved in each sector, whether these workers are your direct employers (or employees of a third party), and any overlap between the sales and service functions.
- 19) Describe in detail the process and procedure of your customer service program, if applicable. Please include your response-time capabilities and commitments, as well as any incentives that help your providers meet your stated service goals or promises.
- 20)
 - a) Identify any geographic areas of the United States that you will NOT be fully serving through the proposed contract.
 - b) Identify any NJPA Member sectors (i.e., government, education, not-for-profit) that you will NOT be fully serving through the proposed contract. Please explain your answer. For example, does your company have only a regional presence, or do other cooperative purchasing contracts limit your ability to promote another contract?
- 21) Define any specific contract requirements or restrictions that would apply to our Members in Hawaii and Alaska and in US Territories.

Marketing Plan

- 22) If you are awarded a contract, how will you train your sales management, dealer network, and direct sales teams (whichever apply) to ensure maximum impact? Please include how you will communicate your NJPA pricing and other contract detail to your sales force nationally.
- 23) Describe your marketing strategy for promoting this contract opportunity. Please include representative samples of your marketing materials in electronic format.
- 24) Describe your use of technology and digital data (e.g., social media, metadata usage) to enhance marketing effectiveness.

- 25) In your view, what is NJPA's role in promoting contracts arising out of this RFP? How will you integrate an NJPA-awarded contract into your sales process?
- 26) Are your products or services available through an e-procurement ordering process? If so, describe your e-procurement system and how governmental and educational customers have used it.

Value-Added Attributes

- 27) Describe any product, equipment, maintenance, or operator training programs that you offer to NJPA Members. Please include details, such as whether training is standard or optional, who provides training, and any costs that apply.
- 28) Describe any technological advances that your proposed products or services offer.
- 29) Describe any "green" initiatives that relate to your company or to your products or services, and include a list of the certifying agency for each.
- 30) Describe any Women or Minority Business Entity (WMBE) or Small Business Entity (SBE) accreditations that your company or hub partners have obtained.
- 31) What unique attributes does your company, your products, or your services offer to NJPA Members? What makes your proposed solutions unique in your industry as it applies to NJPA members?
- 32) Identify your ability and willingness to provide your products and services to NJPA member agencies in Canada.
- 33) NJPA Members may intend to use funds from a federal grant or contract under the Federal Emergency Management Agency (FEMA). In that event, state your ability and willingness to complete, execute, and provide the "Required FEMA Terms and Conditions Certification" form attached as Appendix D to the RFP.

NOTE: Questions regarding Payment Terms, Warranty, Products/Equipment/Services, Pricing and Delivery, and Industry Specific Items are addressed on Form P.

Signature: _____ Date: _____



PROPOSER INFORMATION

Company Name: _____
Address: _____
City/State/Zip: _____
Phone: _____ Fax: _____
Toll-Free Number: _____ E-mail: _____
Website Address: _____

COMPANY PERSONNEL CONTACTS

Authorized signer for your organization

Name: _____
Email: _____ Phone: _____

The person identified here must have proper signing authority to sign the "Proposer's Assurance of Compliance" on behalf of the Proposer.

Who prepared your RFP response?

Name: _____ Title: _____
Email: _____ Phone: _____

Who is your company's primary contact person for this proposal?

Name: _____ Title: _____
Email: _____ Phone: _____

Other important contact information

Name: _____ Title: _____
Email: _____ Phone: _____

Name: _____ Title: _____
Email: _____ Phone: _____

**EXCEPTIONS TO PROPOSAL, TERMS, CONDITIONS,
AND SOLUTIONS REQUEST**



Company Name: _____

Any exceptions to the terms, conditions, specifications, or proposal forms contained in this RFP must be noted in writing and included with the Proposer's response. The Proposer acknowledges that the exceptions listed may or may not be accepted by NJPA or included in the final contract. NJPA will make reasonable efforts to accommodate the listed exceptions and may clarify the exceptions in the appropriate section below.

Section/page	Term, Condition, or Specification	Exception	NJPA ACCEPTS

Proposer's Signature: _____ Date: _____

NJPA's clarification on exceptions listed above:

Contract Award
RFP #060618

FORM D



Formal Offering of Proposal
(To be completed only by the Proposer)

FLEET MANAGEMENT SERVICES

In compliance with the Request for Proposal (RFP) for FLEET MANAGEMENT SERVICES, the undersigned warrants that the Proposer has examined this RFP and, being familiar with all of the instructions, terms and conditions, general and technical specifications, sales and service expectations, and any special terms, agrees to furnish the defined products and related services in full compliance with all terms and conditions of this RFP, any applicable amendments of this RFP, and all Proposer's response documentation. The Proposer further understands that it accepts the full responsibility as the sole source of solutions proposed in this RFP response and that the Proposer accepts responsibility for any subcontractors used to fulfill this proposal.

Company Name: _____ Date: _____

Company Address: _____

City: _____ State: _____ Zip: _____

CAGE Code/DUNS: _____

Contact Person: _____ Title: _____

Authorized Signature: _____
(Name printed or typed)



Contract Acceptance and Award

(To be completed only by NJPA)

NJPA #060618 _____

Proposer's full legal name

Your proposal is hereby accepted, and a Contract is awarded. As an awarded Proposer, you are now bound to provide the defined products and services contained in your proposal offering according to all terms, conditions, and pricing set forth in this RFP, any amendments to this RFP, your response, and any exceptions accepted by NJPA.

The effective start date of the Contract will be _____, 20____ and continue until-_____
(no later than the later of four years from the expiration date of the currently awarded contract or four years from the NJPA Board's contract award date). This contract may be extended for a fifth year at NJPA's discretion.

National Joint Powers Alliance® (NJPA)

NJPA Authorized signature: _____
NJPA Executive Director (Name printed or typed)

Awarded this _____ day of _____, 20____ **NJPA Contract Number #060618**

NJPA Authorized signature: _____
NJPA Board Member (Name printed or typed)

Executed this _____ day of _____, 20____ **NJPA Contract Number #060618**

The Proposer hereby accepts this Contract award, including all accepted exceptions and NJPA clarifications.

Vendor Name _____

Vendor Authorized signature: _____
(Name printed or typed)

Title: _____

Executed this _____ day of _____, 20____ **NJPA Contract Number #060618**

PROPOSER ASSURANCE OF COMPLIANCE



Proposal Affidavit Signature Page

PROPOSER'S AFFIDAVIT

The undersigned, authorized representative of the entity submitting the foregoing proposal (the "Proposer"), swears that the following statements are true to the best of his or her knowledge.

1. The Proposer is submitting its proposal under its true and correct name, the Proposer has been properly originated and legally exists in good standing in its state of residence, the Proposer possesses, or will possess before delivering any products and related services, all applicable licenses necessary for such delivery to NJPA members agencies. The undersigned affirms that he or she is authorized to act on behalf of, and to legally bind the Proposer to the terms in this Contract.
2. The Proposer, or any person representing the Proposer, has not directly or indirectly entered into any agreement or arrangement with any other vendor or supplier, any official or employee of NJPA, or any person, firm, or corporation under contract with NJPA, in an effort to influence the pricing, terms, or conditions relating to this RFP in any way that adversely affects the free and open competition for a Contract award under this RFP.
3. The Proposer has examined and understands the terms, conditions, scope, contract opportunity, specifications request, and other documents in this solicitation and affirms that any and all exceptions have been noted in writing and have been included with the Proposer's RFP response.
4. The Proposer will, if awarded a Contract, provide to NJPA Members the /products and services in accordance with the terms, conditions, and scope of this RFP, with the Proposer-offered specifications, and with the other documents in this solicitation.
5. The Proposer agrees to deliver products and services through valid contracts, purchase orders, or means that are acceptable to NJPA Members. Unless otherwise agreed to, the Proposer must provide only new and first-quality products and related services to NJPA Members under an awarded Contract.
6. The Proposer will comply with all applicable provisions of federal, state, and local laws, regulations, rules, and orders.
7. The Proposer understands that NJPA will reject RFP proposals that are marked "confidential" (or "nonpublic," etc.), either substantially or in their entirety. Under Minnesota Statute §13.591, Subd. 4, all proposals are considered nonpublic data until the evaluation is complete and a Contract is awarded. At that point, proposals generally become public data. Minnesota Statute §13.37 permits only certain narrowly defined data to be considered a "trade secret," and thus nonpublic data under Minnesota's Data Practices Act.
8. The Proposer understands that it is the Proposer's duty to protect information that it considers nonpublic, and it agrees to defend and indemnify NJPA for reasonable measures that NJPA takes to uphold such a data designation.

[The rest of this page has been left intentionally blank. Signature page below]

By signing below, Proposer is acknowledging that he or she has read, understands, and agrees to comply with the terms and conditions specified above.

Company Name: _____

Address: _____

City/State/Zip: _____

Telephone Number: _____

E-mail Address: _____

Authorized Signature: _____

Authorized Name (printed): _____

Title: _____

Date: _____

Notarized

Subscribed and sworn to before me this _____ day of _____, 20_____

Notary Public in and for the County of _____ State of _____

My commission expires: _____

Signature: _____



OVERALL EVALUATION AND CRITERIA

For the Proposed Subject FLEET MANAGEMENT SERVICES

Conformance to RFP Terms and Conditions	50	
Financial Viability and Marketplace Success	75	
Ability to Sell and Deliver Service Nationwide	100	
Marketing Plan	50	
Value-Added Attributes	75	
Warranty	50	
Depth and Breadth of Offered Products and Related Services	200	
Pricing	400	
TOTAL POINTS	1000	

Reviewed by: _____ Its _____

_____ Its _____

Form P



PROPOSER QUESTIONNAIRE

Payment Terms, Warranty, Products and Services, Pricing and Delivery, and Industry-Specific Questions

Proposer Name: _____

Questionnaire completed by: _____

Payment Terms and Financing Options

- 1) What are your payment terms (e.g., net 10, net 30)?
- 2) Do you provide leasing or financing options, especially those options that schools and governmental entities may need to use in order to make certain acquisitions?
- 3) Briefly describe your proposed order process. Please include enough detail to support your ability to report quarterly sales to NJPA. For example, indicate whether your dealer network is included in your response and whether each dealer (or some other entity) will process the NJPA Members' purchase orders.
- 4) Do you accept the P-card procurement and payment process? If so, is there any additional cost to NJPA Members for using this process?

Warranty

- 5) Describe in detail your manufacturer warranty program, including conditions and requirements to qualify, claims procedure, and overall structure. You may include in your response a copy of your warranties, but at a minimum please also answer the following questions.
 - Do your warranties cover all products, parts, and labor?
 - Do your warranties impose usage restrictions or other limitations that adversely affect coverage?
 - Do your warranties cover the expense of technicians' travel time and mileage to perform warranty repairs?
 - Are there any geographic regions of the United States for which you cannot provide a certified technician to perform warranty repairs? How will NJPA Members in these regions be provided service for warranty repair?
 - Will you cover warranty service for items made by other manufacturers that are part of your proposal, or are these warranties issues typically passed on to the original equipment manufacturer?
 - What are your proposed exchange and return programs and policies?
- 6) Describe any service contract options for the items included in your proposal.

Pricing, Delivery, Audits, and Administrative Fee

- 7) Provide a general narrative description of the equipment/products and related services you are offering in your proposal.
- 8) Describe your pricing model (e.g., line-item discounts or product-category discounts). Provide detailed pricing data (including standard or list pricing and the NJPA discounted price) on all of the items that you want NJPA to consider as part of your RFP response. Provide a SKU for each item in your proposal. (Keep in mind that reasonable price and product adjustments can be made during the term of an awarded Contract. See the body of the RFP and the Price and Product Change Request Form for more detail.) Complete the attachment shown below in Excel format and submit as part of your pricing response. The workbook is included as part of the forms package and is titled "Pricing Grid."

Pricing Grid

	Type	Charged / Percentage	Details
Acquisition			
Interest Rate Index Used			
Basis Points(adder)			
Factory Order Vehicles	Domestic		
Factory Order Vehicles	Foreign		
Dealer Stock Vehicles	Domestic		
Dealer Stock Vehicles	Foreign		
% Incentives Passed to Customer			
Federal Tax Incentives			
State Tax Incentives			
Manufacture Incentives			
Maintenance			
Fixed Maintenance			
Occurance Maintenance			
Fees			
Management Fee			
Service Charge			
Lease Termination Fee			
Interim Interest	Yes / No		How is it calculated?
Resale Fee			
Provide fees not listed + rate			

- 9) Please quantify the discount range presented in this response. For example, indicate that the pricing in your response represents is a 50% percent discount from the MSRP or your published list.
- 10) The pricing offered in this proposal is
- _____ a. the same as the Proposer typically offers to an individual municipality, university, or school district.
 - _____ b. the same as the Proposer typically offers to GPOs, cooperative procurement organizations, or state purchasing departments.
 - _____ c. better than the Proposer typically offers to GPOs, cooperative procurement organizations, or state purchasing departments.
 - _____ d. other than what the Proposer typically offers (please describe).
- 11) Describe any quantity or volume discounts or rebate programs that you offer.
- 12) Propose a method of facilitating “sourced” products or related services, which may be referred to as “open market” items or “nonstandard options”. For example, you may supply such items “at cost” or “at cost plus a percentage,” or you may supply a quote for each such request.
- 13) Identify any total cost of acquisition costs that are **NOT** included in the pricing submitted with your response. This cost includes all additional charges that are not directly identified as freight or shipping charges. For example, list

costs for items like installation, set up, mandatory training, or initial inspection. Identify any parties that impose such costs and their relationship to the Proposer.

- 14) If delivery or shipping is an additional cost to the NJPA Member, describe in detail the complete shipping and delivery program.
- 15) Specifically describe those shipping and delivery programs for Alaska, Hawaii, Canada, or any offshore delivery.
- 16) Describe any unique distribution and/or delivery methods or options offered in your proposal.
- 17) Please specifically describe any self-audit process or program that you plan to employ to verify compliance with your proposed Contract with NJPA. This process includes ensuring that NJPA Members obtain the proper pricing, that the Vendor reports all sales under the Contract each quarter, and that the Vendor remits the proper administrative fee to NJPA.
- 18) Identify a proposed administrative fee that you will pay to NJPA for facilitating, managing, and promoting the NJPA Contract in the event that you are awarded a Contract. This fee is typically calculated as a percentage of Vendor's sales under the Contract or as a per-unit fee; it is not a line-item addition to the Member's cost of goods. (See RFP Section 6.29 and following for details.)

Industry-Specific Questions

- 19) Describe your available vehicle maintenance program(s).
- 20) Describe any vehicle (or other) rental program complementary to the service offerings that your company has in place.
- 21) Please provide current battery electric vehicles and plug-in hybrid electric vehicles your company can provide through this contract understanding that future models can be added.
- 22) Describe the process by which your company will ensure that all natural gas vehicles and propane autogas vehicles leased under this contract will mirror OEM maintenance and warranty provisions and that downtime is minimized.

Signature: _____ Date: _____



10 PRE-SUBMISSION CHECKLIST

Check when Completed	Contents of Your Bid Proposal	Hard Copy Required Signed and Dated	Electronic Copy Required - CD or Flash Drive
	Form A: Proposer Questionnaire with all questions answered completely	X - signature page only	X
	Form B: Proposer Information		X
	Form C: Exceptions to Proposal, Terms, Conditions, and Solutions Request	X	X
	Form D: Formal Offering of Proposal	X	X
	Form E. Contract Acceptance and Award		X
	Form F: Proposers Assurance of Compliance	X	X
	Form P: Proposer Questionnaire with all questions answered completely	X-signature page only	X
	Certificate of Insurance with \$1.5 million coverage	X	X
	Copy of all RFP Addendums issued by NJPA	X	X
	Pricing for all Products/Equipment/Services within the RFP being proposed		X
	Entire Proposal submittal including signed documents and forms.		X
	All forms in the Hard Copy Required Signed and Dated should be inserted in the front of the submitted response, unbound.		
	Package containing your proposal labeled and sealed with the following language: "Competitive Proposal Enclosed, Hold for Public Opening XX-XX-XXXX"		
	Response Package mailed and delivered prior to deadline to: NJPA, 202 12th St NE, Staples, MN 56479		

11 NJPA VENDOR PRICE AND PRODUCT CHANGE REQUEST FORM

Section 1. Instructions for Vendor

Requests for product or service changes, additions, or deletions will be considered at any time throughout the awarded contract term. All requests must be made in writing by completing sections 2, 3, and 4 of this NJPA Price and Product Change Request Form and signed by an authorized Vendor representative in section 5. All changes are subject to review by the NJPA Contracts & Compliance Manager and to approval by NJPA's Chief Procurement Officer. Submit request through email to your assigned NJPA Contract Administrator.

NJPA will determine whether the request is 1) within the scope of the original RFP, and 2) in the best interests of NJPA and NJPA Members. Approved Price and Product Change Request Forms will be signed and emailed to the Vendor contact.

The Vendor must complete this change request form and individually list or attach all items or services subject to change, must provide sufficiently detailed explanation and documentation for the change, and must include a complete restatement of pricing documentation in an appropriate format (preferably Microsoft® Excel®). The pricing document must identify all products and services being offered and must conform to the following NJPA product/price change naming convention: (Vendor Name) (NJPA Contract #) (effective pricing date); for example, "Acme Widget Company #012416-AWC eff. 01-01-2017."

NOTE: New pricing restatements must include all products and services offered regardless of whether their prices have changed and must include a new "effective date" on the pricing documents. This requirement reduces confusion by providing a single, current pricing sheet for each Vendor and creates a historical record of pricing.

ADDITIONS. New products and related services may be added to a contract if such additions are within the scope of the original RFP.

DELETIONS. New products and related services may be deleted from a contract if, for example, they are no longer available or have been modified to a point where they are outside the scope of the RFP.

PRICE CHANGES: Vendors may request price changes if they provide sufficient rationale for the change. For example, a Vendor that manufactures products that require substantial petroleum-related material might request a 3% price increase because of a 20% increase in petroleum costs.

Price decreases: NJPA expects Vendors to propose their very best prices and anticipates that price reductions might occur because of improved technologies or marketplace efficiencies.

Price increases: Acceptable price increases typically result from specific Vendor cost increases. The Vendor must include reasonable justification for the price increase and must not, for example, offer merely generalized statements about an increase in a cost-of-living index. Appropriate documentation should be attached to this form, including such items as letters from suppliers announcing price increases.

Refer to the RFP for complete "Pricing" details.

Section 2. Vendor Name and Type of Change Request

CHECK ALL CHANGES THAT APPLY:

AWARDED VENDOR NAME:

NJPA CONTRACT NUMBER:

- ☐ Adding Products/Services
- ☐ Deleting Products/Services
- ☐ Price Increase
- ☐ Price Decrease

Section 3. Detailed Explanation of Need for Changes

List the products and/or services that are changing or being added or deleted from the previous contract price list, along with the percentage change for each item or category. (Attach a separate, detailed document if changing more than 10 items.)

--

Provide a general statement and documentation explaining the reasons for these price and/or product changes.

EXAMPLES: 1) "All pricing for paper products and services are increased 5% because of increased raw material and transportation costs (see attached documentation of fuel and raw materials increase)." 2) "The 6400 series floor polisher is being added to the product list as a new model, replacing the 5400 series. The 6400 series 3% increase reflects technological changes that improve the polisher's efficiency and useful life. The 5400 series is now included in the "Hot List" at a 20% discount from the previous pricing until the remaining inventory is liquidated."

--

If adding products, state how these are within the scope of the original RFP.

--

If changing prices or adding products or services, state how the pricing is consistent with existing NJPA contract pricing.

--

Section 4. Complete Restatement of Pricing Submitted

A COMPLETE restatement of the pricing, including all new and existing products and services is attached and has been emailed to the Vendor's Contract Administrator.

☐ Yes

☐ No

Section 5. Signatures

Vendor Authorized Signature

Date

Print Name and Title of Authorized Signer

Jeremy Schwartz, NJPA Director of Cooperative Contracts and Procurement/CPO

Date



Appendix A

NJPA The National Joint Powers Alliance® (NJPA), on behalf of NJPA and its current and potential Member agencies, which includes all governmental, higher education, K-12 education, not-for-profit, tribal governmental, and all other public agencies located in all fifty states, Canada, and internationally, issues this Request For Proposal (RFP) to result in a national contract solution.

For your reference, the links below include some, but not all, of the entities included in this proposal.

http://www.usa.gov/Agencies/Local_Government/Cities.shtml

<http://nces.ed.gov/globallocator/>

https://www.census.gov/2010census/partners/pdf/FIPS_StateCounty_Code.pdf

<http://nccs.urban.org/sites/all/nccs-archive/html/PubApps/search.php>

<https://www.usa.gov/tribes#item-37647>

<http://www.usa.gov/Agencies/State-and-Territories.shtml>

[Oregon](#)

[Hawaii](#)

[Washington](#)

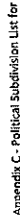


Appendix B - Political Subdivision List
for HI, ID, OR, SC, UT, WA

State	Hawaii	Idaho	Dragon	South Carolina	Utah	Washington
County	Hawaii County Kauai County Maui County City and County of Honolulu Higher Education Hawaii Community College University of Hawaii Hawaii Research Corporation Volcanoes National Park Education (K-12) Hawaii State Schools Kamehameha Schools Special District Hawaii Community Development Authority Hawaii Department of Transportation Hawaii Tourism Authority Natural Energy Laboratory of Hawaii Authority State	Ada County Adams County Bannock County Bear Lake County Bingham County Blaine County Boise County Bonneville County Boundary County Butte County Canyon County Carleton County Cassia County Clark County Clearwater County Custer County Elmore County Franklin County Gem County Gooding County Idaho County Jefferson County Jerome County Latah County Lewell County Lincoln County Madison County Minidoka County Mojave County Owyhee County Payette County Power County Shoshone County Teton County Twin Falls County Valley County	Adair County Adams County Baker County Bannock County Bear Lake County Bingham County Blaine County Boise County Bonneville County Boundary County Butte County Canyon County Carleton County Cassia County Clark County Clearwater County Custer County Elmore County Franklin County Gem County Gooding County Idaho County Jefferson County Jerome County Latah County Lewell County Lincoln County Madison County Minidoka County Mojave County Owyhee County Payette County Power County Shoshone County Teton County Twin Falls County Valley County	Albemarle County Albion County Anderson County Barnwell County Beaufort County Berkley County Calhoun County Camden County Charleston County Cherokee County Chickasaw County Clarendon County Columbia County Dare County Darlington County Dillon County Dorchester County Edgefield County Florence County Georgetown County Greenville County Hampton County Hart County Jasper County Kershaw County Laurens County Lexington County Lenoir County Marion County Marshall County Milledgeville County Monroe County Murray County Newberry County Oconee County Ogeechee County Peach County Richmond County Saluda County Spartanburg County Union County Williamsburg County York County	Beaver County Benet County Boone County Caldwell County Cass County Dakota County Dawson County DeKalb County Duchene County Emery County Fergus County Grand County Harrison County Idaho County Jensen County Kane County Kearney County Kendall County Knox County Lincoln County Logan County Mason County Morrison County Noble County O'Brien County Pike County Polk County Pottawatomie County Reno County Rock County Seminole County Shawnee County Tabor County Trego County Union County Wagoner County Washington County Wichita County Woodbury County	Adams County Asotin County Benton County Blaine County Burien County Columbia County Douglas County Franklin County Grant County Grays Harbor County Island County Jefferson County King County King County Director's Association Kittitas County Klickitat County Lewis County Lincoln County Mason County Okanogan County Pacific County Pend Oreille County Pierce County Pierce County Shaw County Skagit County Snohomish County Spokane County Stevens County Thurston County Tillamook County Walla Walla County Whitman County Yakima County Yakima County Public Services Yakima Valley Conference of Governments

State	Agency	Agency Type	Agency Name
Alabama	Alabama	Fire Department	Alabama Fire Department
Alaska	Alaska	Fire Department	Alaska Fire Department
Arizona	Arizona	Fire Department	Arizona Fire Department
Arkansas	Arkansas	Fire Department	Arkansas Fire Department
California	California	Fire Department	California Fire Department
Colorado	Colorado	Fire Department	Colorado Fire Department
Connecticut	Connecticut	Fire Department	Connecticut Fire Department
Delaware	Delaware	Fire Department	Delaware Fire Department
Florida	Florida	Fire Department	Florida Fire Department
Georgia	Georgia	Fire Department	Georgia Fire Department
Hawaii	Hawaii	Fire Department	Hawaii Fire Department
Idaho	Idaho	Fire Department	Idaho Fire Department
Illinois	Illinois	Fire Department	Illinois Fire Department
Indiana	Indiana	Fire Department	Indiana Fire Department
Iowa	Iowa	Fire Department	Iowa Fire Department
Kansas	Kansas	Fire Department	Kansas Fire Department
Kentucky	Kentucky	Fire Department	Kentucky Fire Department
Louisiana	Louisiana	Fire Department	Louisiana Fire Department
Maine	Maine	Fire Department	Maine Fire Department
Maryland	Maryland	Fire Department	Maryland Fire Department
Massachusetts	Massachusetts	Fire Department	Massachusetts Fire Department
Michigan	Michigan	Fire Department	Michigan Fire Department
Minnesota	Minnesota	Fire Department	Minnesota Fire Department
Mississippi	Mississippi	Fire Department	Mississippi Fire Department
Missouri	Missouri	Fire Department	Missouri Fire Department
Montana	Montana	Fire Department	Montana Fire Department
Nebraska	Nebraska	Fire Department	Nebraska Fire Department
Nevada	Nevada	Fire Department	Nevada Fire Department
New Hampshire	New Hampshire	Fire Department	New Hampshire Fire Department
New Jersey	New Jersey	Fire Department	New Jersey Fire Department
New Mexico	New Mexico	Fire Department	New Mexico Fire Department
New York	New York	Fire Department	New York Fire Department
North Carolina	North Carolina	Fire Department	North Carolina Fire Department
North Dakota	North Dakota	Fire Department	North Dakota Fire Department
Ohio	Ohio	Fire Department	Ohio Fire Department
Oklahoma	Oklahoma	Fire Department	Oklahoma Fire Department
Oregon	Oregon	Fire Department	Oregon Fire Department
Pennsylvania	Pennsylvania	Fire Department	Pennsylvania Fire Department
Rhode Island	Rhode Island	Fire Department	Rhode Island Fire Department
South Carolina	South Carolina	Fire Department	South Carolina Fire Department
South Dakota	South Dakota	Fire Department	South Dakota Fire Department
Tennessee	Tennessee	Fire Department	Tennessee Fire Department
Texas	Texas	Fire Department	Texas Fire Department
Utah	Utah	Fire Department	Utah Fire Department
Vermont	Vermont	Fire Department	Vermont Fire Department
Virginia	Virginia	Fire Department	Virginia Fire Department
Washington	Washington	Fire Department	Washington Fire Department
West Virginia	West Virginia	Fire Department	West Virginia Fire Department
Wisconsin	Wisconsin	Fire Department	Wisconsin Fire Department
Wyoming	Wyoming	Fire Department	Wyoming Fire Department

[illegible]



Township of Green, Ross County

**NATIONAL JOINT POWERS ALLIANCE (NJPA) AWARDED VENDOR
REQUIRED FEMA TERMS AND CONDITIONS CERTIFICATION**

Procurements by National Joint Powers Alliance (NJPA) or NJPA Members utilizing funds under a federal grant or contract funded all or in part by the Federal Emergency Management Agency (FEMA) may be subject to specific federal laws, regulations, and requirements in addition to those under other federal, state and local laws. This may include, but is not limited to, the procurement standards of the Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments, Title 44 of the Code of Federal Regulations, Part 13 (44 CFR Part 13).

The terms included in this section express Vendors willingness and ability to comply with certain requirements which may be applicable to specific NJPA Member purchases using FEMA grant or contract dollars. NJPA Members may also require Proposers to enter into ancillary agreements, in addition to the NJPA contract's general terms and conditions, to address a Member's specific contractual needs, including contract requirements for a procurement using FEMA grants or contracts. NJPA reserves the right at any time within a contract term to require an awarded Vendor to reaffirm or resubmit proper documentation relating to these requirements.

Note: The numbering and identification contained within this section is only for reference purposes and does not identify any actual Federal designation or location of the rule. Rules are located in 44 CFR Part 13.

(A) Pursuant to 44 CFR 13.36(i)(1), NJPA is entitled to exercise all administrative, contractual, or other remedies permitted by law to enforce Vendor's compliance with the terms of the request for proposal and contract award, including but not limited to those remedies set forth at 44 CFR 13.43.

Vendor Agrees (YES or NO)

Initials of Authorized Representative

(B) Pursuant to 44 CFR 13.36(i)(2), NJPA may terminate the contract award for cause or convenience in accordance with the procedures set forth in the request for proposal and contract award and those provided by 44 CFR 13.44.

Vendor Agrees (YES or NO)

Initials of Authorized Representative

(C) Pursuant to 44 CFR 13.36(i)(3)-(6)(12), and (13), Vendor shall comply with the following federal laws during the term of an award for this contract by NJPA:

- a. Executive Order 11246 of September 24, 1965, entitled "Equal Employment Opportunity," as amended by Executive Order 11375 of October 13, 1967, and as supplemented in Department of Labor ("DOL") regulations (41 CFR Ch. 60);
- b. Copeland "Anti-Kickback" Act (18 U.S.C. 874), as supplemented in DOL regulations (29 CFR Part 3);
- c. Davis-Bacon Act (40 U.S.C. 276a-276a-7) as supplemented by DOL regulations (29 CFR Part 5);
- d. Section 103 and 107 of the Contract Work Hours and Safety Standards Act (40 U.S.C. 327-330) as supplemented by DOL regulations (29 CFR Part 5);
- e. Section 306 of the Clean Air Act (42 U.S.C. 1857(h), section 508 of the Clean Water Act (33 U.S.C. 1368), Executive Order 11738, and Environmental Protection Agency regulations (40 CFR part 15); and

f. Mandatory standards and policies relating to energy efficiency which are contained in the state energy conservation plan issued in compliance with the Energy Policy and Conservation Act (Pub. L. 94-163, 89 Stat. 871).

Vendor Agrees (YES or NO)	Initials of Authorized Representative
---------------------------	---------------------------------------

(D) Pursuant to 44 CFR 13.36(i)(7), Vendor shall comply with FEMA requirements and regulations pertaining to reporting, including but not limited to those set forth at 44 CFR 40 and 41.

Vendor Agrees (YES or NO)	Initials of Authorized Representative
---------------------------	---------------------------------------

(E) Pursuant to 44 CFR 13.36(i)(8), Vendor agrees to the following provisions regarding patents:

a. During the term of an award for this contract by NJPA, all rights to inventions and/or discoveries that arise or are developed, in the course of or under this request for proposal and contract award, shall belong to the NJPA Member and be disposed of in accordance with their policy. NJPA and NJPA members, at its own discretion, may file for patents in connection with all rights to any such inventions and/or discoveries.

Vendor Agrees (YES or NO)	Initials of Authorized Representative
---------------------------	---------------------------------------

(F) Pursuant to 44 CFR 13.36(i)(9), Vendor agrees to the following provisions, regarding copyrights:

a. During the term of an award for this contract by NJPA, any copyrightable material or inventions, in accordance with 44 CFR 13.34, FEMA reserves a royalty-free, nonexclusive, and irrevocable license to reproduce, publish or otherwise use, for Federal Government purposes:

- (1) The copyright in any work developed under a grant or contract; and
- (2) Any rights of copyright to which a grantee or a contractor purchases ownership with grant support.

Vendor Agrees (YES or NO)	Initials of Authorized Representative
---------------------------	---------------------------------------

(G) Pursuant to 44 CFR 13.36(i)(10), Vendor shall maintain any books, documents, papers, and records of the Vendor which are directly pertinent to this request for proposal and contract award. At any time during normal business hours and as often as NJPA or NJPA Members deems necessary, Vendor shall permit NJPA or NJPA Member, FEMA, the Comptroller General of United States, or any of their duly authorized representatives to inspect and photocopy such records for the purpose of making audit, examination, excerpts, and transcriptions

Vendor Agrees (YES or NO)	Initials of Authorized Representative
---------------------------	---------------------------------------

(H) Pursuant to 44 CFR 13.36(i)(11), Vendor shall retain all required records for three years after FEMA or NJPA or NJPA Members makes final payments and all other pending matters are closed. In addition, Vendor shall comply with record retention requirements set forth in 44 CFR 13.42

Vendor Agrees (YES or NO)

Initials of Authorized Representative

Vendor agrees to comply with federal, state, and local laws, rules, regulations and ordinances, as applicable. It is further acknowledged that Vendor certifies compliance with provisions, laws, acts, regulations, etc. as noted above.

This certification shall be effective through the term of the Vendor's NJPA awarded contract.

Vendor: _____

Contract number: _____

Category: _____

Maturity date: _____

Address: _____

City, state, zip code: _____

Phone number: _____

Printed name and title of
authorized representative: _____

Signature of authorized
representative: _____

Date: _____

Form C**EXCEPTIONS TO PROPOSAL, TERMS, CONDITIONS,
AND SOLUTIONS REQUEST**Company Name: Enterprise Fleet Management

Any exceptions to the terms, conditions, specifications, or proposal forms contained in this RFP must be noted in writing and included with the Proposer's response. The Proposer acknowledges that the exceptions listed may or may not be accepted by NJPA or included in the final contract. NJPA will make reasonable efforts to accommodate the listed exceptions and may clarify the exceptions in the appropriate section below.

Section/page	Term, Condition, or Specification	Exception	NJPA ACCEPTS
3.17.2.1	5. Installation, operation and maintenance of dedicated charging and fueling stations;	Delete this number 5 in its entirety	August 9, 2018 Sourcewell* accepts
3.23.2	Vendor use of sub-contractors in sourcing or delivering equipment/product/services:	NJPA desires a single source of responsibility for equipment/products and services proposed. Proposers are assumed to have sub-contractor relationships with all organizations and individuals whom are external to the Proposer and are involved in providing or delivering the equipment/products/services being proposed. Suggested Solutions Options include:	August 9, 2018 Sourcewell* accepts
3.24	Geographic Area to be Proposed:	Refer to Enterprise Response #20.	August 9, 2018 Sourcewell* accepts
3.30.1	Deviations from industry standards	Delete this section in its entirety – all industry standard deviations is too broad and cannot be defined	August 9, 2018 Sourcewell* accepts
3.34	Warranty:	Delete this section in its entirety - All warranties made by any supplier, vendor and/or manufacturer of a Vehicle will be assigned by Lessor to Lessee for the applicable Term and Lessee's only remedy, if any, is against the supplier, vendor or manufacturer of the Vehicle.	August 9, 2018 Sourcewell* accepts
3.35	Additional Warrants:	Delete this section in its entirety - All warranties made by any supplier, vendor and/or manufacturer of a Vehicle will be assigned by Lessor to Lessee for the applicable Term and Lessee's only	August 9, 2018 Sourcewell* accepts

		remedy, if any, is against the supplier, vendor or manufacturer of the Vehicle.	
5.31	Price Changes	Delete this section in its entirety and replace with the following language - Lease rates may vary based on factors such as manufacturer pricing, market conditions, interest indexes and vehicle availability.	August 9, 2018 Sourcewell* accepts
5.32	Price Changes	Delete this section in its entirety and replace with the following language - Lease rates may vary based on factors such as manufacturer pricing, market conditions, interest indexes and vehicle availability.	August 9, 2018 Sourcewell* accepts
5.35	Price Changes	Delete this section in its entirety and replace with the following language - Lease rates may vary based on factors such as manufacturer pricing, aftermarket pricing, product pricing, market conditions, interest indexes and availability.	August 9, 2018 Sourcewell* accepts
5.44	SALES TAX	Delete the following two sentences: "Sales and other taxes should not be included in the prices quoted." "Except as set forth herein, no party is responsible for taxes imposed on another party as a result of or arising from the transactions under a Contract resulting from this RFP."	August 9, 2018 Sourcewell* accepts August 9, 2018
5.53	Shipping	Delete this section in its entirety	Sourcewell* accepts
6.19.6.2	Printed Marketing Materials	Some EFM confidential materials may only be submitted after awarded to EFM.	August 9, 2018 Sourcewell* accepts
6.19.6.3	Contract announcements and advertisements.	Some EFM materials may only be submitted after awarded to EFM.	August 9, 2018 Sourcewell* accepts
6.26	Subcontractors:	Delete this section in its entirety – not applicable	August 9, 2018 Sourcewell* accepts
7.A 7.1 – 7.6	POST-AWARD OPERATING ISSUES A. SUBSEQUENT AGREEMENTS	This section is deleted in its entirety. A Master Lease Agreement will be executed between Enterprise FM Trust and NJPA Members.	August 9, 2018 Sourcewell* accepts

7.E 7.10 - 7.11	HUB PARTNER	Utilizing a HUB partner is at the discretion of Enterprise.	August 9, 2018 Sourcewell* accepts
7.F 7.12	TRADE-INS	Delete Trade-Ins section in its entirety and replace with the below language: CONSIGNMENT. Enterprise will sell Lessee's vehicles consigned to Enterprise by a Lessee as requested and with an executed Enterprise Consignment Agreement (attached to this RFP with Enterprise Lease Agreements). Additional forms may be required for California, Arizona and Canada.	August 9, 2018 Sourcewell* accepts
7.H 7.14 - 7.18	CONTRACT TERMINATION FOR CAUSE AND WITHOUT CAUSE	Delete this section in its entirety and replace with the following language - Either party may terminate this Agreement for any reason (convenience) by delivering not less than ninety (90) calendar days prior written notice thereof to the other party. Termination of the Contract without cause does not relieve either party of the financial, product, or service obligations incurred before the termination.	August 9, 2018 Sourcewell* accepts
7.C 7.8	REPORTING OF SALES ACTIVITY	Refer to Sample Reporting-Sourcewell spreadsheet provided by Enterprise on August 6, 2018.	August 9, 2018 Sourcewell* accepts
8.C 8.12	ASSIGNMENT OF CONTRACT	Delete this section 8.12 in its entirety	August 9, 2018 Sourcewell* accepts
8.H 8.18	FORCE MAJEURE	Delete this section 8.18 in its entirety and replace with the following language - Neither Sourcewell nor Enterprise Fleet Management will be held responsible for delay or default caused by fire, riot, acts of God and/or war that are beyond that party's reasonable control. Sourcewell or Enterprise Fleet Management defaulting under this provision must provide the other party prompt written notice of the default.	August 9, 2018 Sourcewell* accepts
8.J 8.23	MATERIAL SUPPLIERS AND SUB-CONTRACTORS	Delete this section 8.23 in its entirety	August 9, 2018 Sourcewell* accepts

8.Q 8.32 – 8.33	Acquisition Threshold and Termination for Cause and for Convenience	Delete these sections 8.32 – 8.33 in their entirety – Not applicable	August 9, 2018 Sourcewell* accepts
8.Q 8.35 – 8.38	Construction Contracts; Employment of Mechanics or Laborers; Clean Air Act and the Federal Water Pollution Control Act	Delete these sections 8.35 – 8.38 in their entirety – Not applicable	August 9, 2018 Sourcewell* accepts
8.Q 8.42 – 8.43	Energy Policy and Conservation Act Compliance and Buy American Provisions Compliance	Delete these sections 8.42 - 8.43 in their entirety – Not applicable	August 9, 2018 Sourcewell* accepts

Proposer's Signature: _____

Date: 8-7-2018

NJPA's clarification on exceptions listed above:

*On June 6, 2018, National Joint Powers Alliance changed its name to Sourcewell.





Formal Offering of Proposal
(To be completed only by the Proposer)

FLEET MANAGEMENT SERVICES

In compliance with the Request for Proposal (RFP) for FLEET MANAGEMENT SERVICES, the undersigned warrants that the Proposer has examined this RFP and, being familiar with all of the instructions, terms and conditions, general and technical specifications, sales and service expectations, and any special terms, agrees to furnish the defined products and related services in full compliance with all terms and conditions of this RFP, any applicable amendments of this RFP, and all Proposer's response documentation. The Proposer further understands that it accepts the full responsibility as the sole source of solutions proposed in this RFP response and that the Proposer accepts responsibility for any subcontractors used to fulfill this proposal.

Company Name: Enterprise Fleet Management Date: 6-5-2018

Company Address: 600 Corporate Park Drive

City: St. Louis

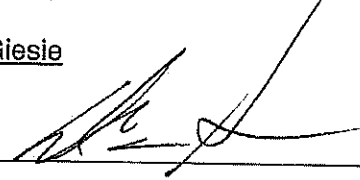
State: Missouri

Zip: 63105

CAGE Code/DUNS: 6Q1F8

Contact Person: Dain Giesie

Title: AVP of Fleet Management

Authorized Signature:  Dain Giesie
(Name printed or typed)

FORM E

CONTRACT ACCEPTANCE AND AWARD



(Top portion of this form will be completed by Sourcewell if the vendor is awarded a contract. The vendor should complete the vendor authorized signatures as part of the RFP response.)

Sourcewell Contract # 060618-EFM

Proposer's full legal name: Enterprise Fleet Management, Inc.

8-27-18

Based on Sourcewell's evaluation of your proposal, you have been awarded a contract. As an awarded vendor, you agree to provide the products and services contained in your proposal and to meet all of the terms and conditions set forth in this RFP, in any amendments to this RFP, and in any exceptions that are accepted by Sourcewell.

The effective date of the Contract will be July 24, 2018 and will expire on July 24, 2022 (no later than the later of four years from the expiration date of the currently awarded contract or four years from the date that the Sourcewell Chief Procurement Officer awards the Contract). This Contract may be extended for a fifth year at Sourcewell's discretion.

Sourcewell Authorized Signatures:

DocuSigned by:

Jeremy Schwartz

78144D820E6E1E3

SOURCEWELL DIRECTOR OF COOPERATIVE CONTRACTS
AND PROCUREMENT/CPO SIGNATURE

DocuSigned by:

Chad Coavette

3F73ED28A54748

SOURCEWELL EXECUTIVE DIRECTOR/CEO SIGNATURE

Jeremy Schwartz

(NAME PRINTED OR TYPED)

Chad Coavette

(NAME PRINTED OR TYPED)

Awarded on 07/23/2018

Sourcewell Contract # 060618-EFM

Vendor Authorized Signatures:

The Vendor hereby accepts this Contract award, including all accepted exceptions and amendments.

Vendor Name Enterprise Fleet Management, Inc. *8-27-18*

Authorized Signatory's Title Assistant Vice President

[Signature]
VENDOR AUTHORIZED SIGNATURE

Ms. Girsie
(NAME PRINTED OR TYPED)

Executed on Aug 14th 2018

Sourcewell Contract # 060618-EFM

PROPOSER ASSURANCE OF COMPLIANCE

Proposal Affidavit Signature Page

PROPOSER'S AFFIDAVIT

The undersigned, authorized representative of the entity submitting the foregoing proposal (the "Proposer"), swears that the following statements are true to the best of his or her knowledge.

1. The Proposer is submitting its proposal under its true and correct name, the Proposer has been properly originated and legally exists in good standing in its state of residence, the Proposer possesses, or will possess before delivering any products and related services, all applicable licenses necessary for such delivery to NJPA members agencies. The undersigned affirms that he or she is authorized to act on behalf of, and to legally bind the Proposer to the terms in this Contract.
2. The Proposer, or any person representing the Proposer, has not directly or indirectly entered into any agreement or arrangement with any other vendor or supplier, any official or employee of NJPA, or any person, firm, or corporation under contract with NJPA, in an effort to influence the pricing, terms, or conditions relating to this RFP in any way that adversely affects the free and open competition for a Contract award under this RFP.
3. The Proposer has examined and understands the terms, conditions, scope, contract opportunity, specifications request, and other documents in this solicitation and affirms that any and all exceptions have been noted in writing and have been included with the Proposer's RFP response.
4. The Proposer will, if awarded a Contract, provide to NJPA Members the /products and services in accordance with the terms, conditions, and scope of this RFP, with the Proposer-offered specifications, and with the other documents in this solicitation.
5. The Proposer agrees to deliver products and services through valid contracts, purchase orders, or means that are acceptable to NJPA Members. Unless otherwise agreed to, the Proposer must provide only new and first-quality products and related services to NJPA Members under an awarded Contract.
6. The Proposer will comply with all applicable provisions of federal, state, and local laws, regulations, rules, and orders.
7. The Proposer understands that NJPA will reject RFP proposals that are marked "confidential" (or "nonpublic," etc.), either substantially or in their entirety. Under Minnesota Statute §13.591, Subd. 4, all proposals are considered nonpublic data until the evaluation is complete and a Contract is awarded. At that point, proposals generally become public data. Minnesota Statute §13.37 permits only certain narrowly defined data to be considered a "trade secret," and thus nonpublic data under Minnesota's Data Practices Act.
8. The Proposer understands that it is the Proposer's duty to protect information that it considers nonpublic, and it agrees to defend and indemnify NJPA for reasonable measures that NJPA takes to uphold such a data designation.

[The rest of this page has been left intentionally blank. Signature page below]



FLEET MANAGEMENT

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By signing below, Proposer is acknowledging that he or she has read, understands, and agrees to comply with the terms and conditions specified above.

Company Name: Enterprise Fleet Management, Inc.

Address: 600 Corporate Park Drive

City/State/Zip: St. Louis, Missouri, 63105

Telephone Number: 877-233-5338

E-mail Address: Dain.E.Giesie@efleets.com

Authorized Signature: _____

Authorized Name (printed): Dain Giesie

Title: AVP of Fleet Management

Date: 6-5-2018

Notarized

Subscribed and sworn to before me this 5th day of June, 2018

Notary Public in and for the County of St. Louis State of Missouri

My commission expires: 4-30-2022

Signature: _____



DENISE A. GODAR
My Commission Expires
April 30, 2022
St. Louis County
Commission #14436199



PROPOSER QUESTIONNAIRE
Payment Terms, Warranty, Products and Services, Pricing and Delivery, and Industry-Specific Questions

Proposer Name: Enterprise Fleet Management

Questionnaire completed by: Dain Giesie, AVP of Fleet Management

Payment Terms and Financing Options

1) What are your payment terms (e.g., net 10, net 30)?

Payment terms are Net 30.

2) Do you provide leasing or financing options, especially those options that schools and governmental entities may need to use in order to make certain acquisitions?

Yes. Enterprise Fleet Management offers a variety of customizable leasing and financing options. We will work with each NJPA member to find the most cost-effective option for each vehicle application and situation.

Open-Ended Lease

Many educational and governmental agencies have difficulties funding a healthy vehicle life cycle. Enterprise Fleet Management features an Open-Ended Lease product to help bridge any funding gaps. Our Open-Ended Lease is characterized by:

- Improved cash flow
- No mileage restrictions or wear-and-tear charges
- Flexible financing options
- Customized terms for use and type of vehicle
- Retention of ownership rights

In most programs, a vehicle would be purchased outright from the capital budget and kept in-fleet until a specified time when it was sold. However, to increase flexibility, our Open-Ended Lease allows for funding of only the time the vehicle is used. This approach allows our customers to pay the minimum amount for the use of the vehicle on a monthly basis, improving cash flow.

The mechanics of this lease involve financing the difference between the vehicle's purchase price and a conservative Reduced Book Value (RBV), which is based upon the anticipated market value in consideration of the vehicle's age and application.

Closed-End Lease

- Fixed monthly costs convenient to budget
- No resale responsibilities
- Predetermined lease term and mileage (can still be customized to each vehicle contract)
- Over-mileage and abnormal wear and tear charges may apply
- Generally used for one- to three-year terms
- Vehicles are turned in at end of lease term

Form P — PROPOSER QUESTIONNAIRE cont.

- **Prepaid Lease:** allows the lessee to take advantage of discounted interest rates by paying all rent up front.
- **Lease to own Finance:** allows the customer to take ownership of the vehicle at the end of the financed/lease term.

Lease Terms

Enterprise Fleet Management can offer lease terms as short as 12 months and as long as 60 months, or at any six-month interval in between. While we do not offer initial lease terms beyond 60 months, our Open-Ended Leases can be structured with a Reduced Book Value at 60 months that can be paid off or extended for an additional 12 or 24 months, or continue month to month until the Reduced Book Value has been completely paid off.

Form P — PROPOSER QUESTIONNAIRE cont.

- 3) Briefly describe your proposed order process. Please include enough detail to support your ability to report quarterly sales to NJPA. For example, indicate whether your dealer network is included in your response and whether each dealer (or some other entity) will process the NJPA Members' purchase orders.**

As the largest purchaser of vehicles in North America, Enterprise has the ability to acquire vehicles from nearly any manufacturer. We can also offer both new and used vehicles from existing inventory.

Enterprise Fleet Management has a dedicated ordering team at our corporate office in St. Louis to place factory orders for each manufacturer. We have developed system tools and a database that allow us to transmit orders from department to department electronically. Our ordering team has access to many of the manufacturer systems, ordering guides, and assigned contacts for any ordering, scheduling, and tracking questions.

The local account manager will perform a cost analysis to make sure we are ordering and cycling vehicles at the proper time. We will also do a side-by-side vehicle comparison to verify that each member agency is using the most cost-efficient vehicles for their needs. We will work with each member to make sure drivers are getting the correct vehicle for their application, and within the boundaries set by the member.

We track orders with the manufacturers throughout the process. Drivers can also check their vehicle status through our website or through the Enterprise mobile app. Once the vehicles arrive, the Account Fleet Coordinator will work with each driver to coordinate the most convenient method of pickup or delivery for the driver team.

Quarterly, we will review deliveries that have been placed and delivered through the NJPA program to ensure compliance and accuracy. We will provide a detailed breakdown to NJPA monthly or quarterly for review depending on preference.

- 4) Do you accept the P-card procurement and payment process? If so, is there any additional cost to NJPA Members for using this process?**

At this time, Enterprise Fleet Management does not accept the P-Card as payment. Enterprise can accept both EFT and ACH payments from our customers.



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Form P — PROPOSER QUESTIONNAIRE cont.

Warranty

- 5) Describe in detail your manufacturer warranty program, including conditions and requirements to qualify, claims procedure, and overall structure. You may include in your response a copy of your warranties, but at a minimum please also answer the following questions.

Warranty repairs are honored by dealerships on behalf of the vehicle manufacturers. When warranty opportunities arise, Enterprise's National Service Department (NSD) weighs in and consults with the customer on the savings and benefits of getting work covered under warranty versus lost downtime to transport the vehicle to another service location if it is not currently at a dealer.

Enterprise maintains a strong working relationship with our manufacturer partners, and at times we will request goodwill assistance based on the nature of the repair, prior maintenance history, and current vehicle age and mileage. Our technicians proactively monitor repair estimates for possible warranty opportunities as well. There is no additional charge for this service.

- **Do your warranties cover all products, parts, and labor?**

Warranties vary by manufacturer, vehicle type, make and model, etc.

- **Do your warranties impose usage restrictions or other limitations that adversely affect coverage?**

Warranty details — including any mileage limits or other restrictions — vary by manufacturer, vehicle type, make and model, etc. We will advise and advocate on behalf of our customers when needed as well. Because we maintain strong relationships with vehicle manufacturers and our dealer partners, we can often work directly with them to help recuperate warranty costs for our customers on a case-by-case basis.

- **Do your warranties cover the expense of technicians' travel time and mileage to perform warranty repairs?**

Most standard vehicle warranties do not cover these expenses.

- **Are there any geographic regions of the United States for which you cannot provide a certified technician to perform warranty repairs? How will NJPA Members in these regions be provided service for warranty repair?**

This will depend on the manufacturer's dealer network.

When needed, Enterprise's NSD will work with the drivers to find an approved shop for warranty services that is close to their location. Because of the vast network of dealers that our company utilizes, we are able to easily manage these situations for our customers.

- **Will you cover warranty service for items made by other manufacturers that are part of your proposal, or are these warranties issues typically passed on to the original equipment manufacturer?**

All warranty coverages are provided by the applicable manufacturer.



FLEET MANAGEMENT

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Form P — PROPOSER QUESTIONNAIRE cont.

- **What are your proposed exchange and return programs and policies?**

In most cases, Enterprise will acquire vehicles that are new from the factory and under the manufacturer warranty. We will also proactively plan with each member to ensure they are ordering the specific vehicles that are needed, including make/model, available options, any additional equipment or up-fitting required, etc.

The local account manager will perform a lifecycle cost analysis to make sure vehicles are being cycled and replaced at the proper time. We will also conduct a side-by-side vehicle comparison to verify that each member agency is using the most cost-efficient vehicles for their needs.

When determining lifecycle costs, we consider all core operating costs, including maintenance, fuel, and depreciation, and look for opportunities to improve. Often, a thorough investigation into later-life maintenance costs and diminishing resale values can offer insight on a more effective lifecycle.

Our local, full-time Fleet Strategy Manager also keeps us abreast of resale market conditions and auction peaks and valleys. We want to ensure that our clients' vehicles are coming off lease just as demand is high in the used car markets. We are always looking to take advantage of peaks to help reduce our clients' total cost of ownership.

6) Describe any service contract options for the items included in your proposal.

Enterprise offers several maintenance programs designed to fit the needs of the member.

Please see Page 12 for details on our maintenance program options.

Form P — PROPOSER QUESTIONNAIRE cont.

Pricing, Delivery, Audits, and Administrative Fee

7) Provide a general narrative description of the equipment/products and related services you are offering in your proposal.

Enterprise Fleet Management leverages our relationships with manufacturers, dealers, maintenance/repair shops, and our company's own built-in infrastructure to provide the best solution for our customers. We work with nearly every manufacturer to source vehicles that are cost-effective, comfortable, and meet the needs of our customers in various industries across the nation. We also have relationships both locally and nationwide for any needed aftermarket equipment or up-fitting services.

Our experience with managing vehicles and our success in the educational / government sectors has allowed Enterprise to lead the industry in this space. When combined with our affiliate Enterprise Holdings, our companies manage a fleet of 1.9 million vehicles, and we use this knowledge and experience to help our fleet customers build best-in-class fleet programs.

Enterprise Fleet Management can provide a wide range of vehicles from nearly any manufacturer, up to and including medium-duty vehicle classes. At this time we do not lease heavy-duty vehicles.

Enterprise Approach

Our goal as a fleet management company is to work with our clients to develop a long-term, sustainable fleet program that will lower their total cost of ownership. We accomplish this through our localized, hands-on approach to account management, industry-leading products and services, technology, and 60 years of experience managing vehicles. As the awarded vendor, Enterprise Fleet Management will work directly with each NJPA member agency to proactively create, implement and manage a cost-effective total transportation solution.

Work Plan

Enterprise will develop a strategic replacement schedule based on each member's current fleet data. After analyzing the fleet (year, make, model, maintenance spend, fuel spend and odometer reading of the vehicles) we will develop a replacement strategy designed to drive down total costs. We take a number of factors into consideration when making our replacement recommendations, such as age of the vehicle, current odometer reading, average maintenance spend, current fuel economy, estimated resale value, etc.

We look at the total cost to hold each depreciating asset in fleet and make recommendations based on the most cost-effective time to replace a vehicle. The Fleet Replacement Schedule is then used to benchmark and forecast future costs of vehicle replacement.

Enterprise will execute the agreed-upon plan by providing a local, dedicated account management team to ensure the success and efficiency of the program, including consultation and creation, implementation and ongoing management. This role is pivotal to the core value proposition that Enterprise Fleet Management provides because it gives our customers a local point of contact for all fleet-related needs.

Enterprise Fleet Management will provide a lowest cost of ownership program by managing a fleet replacement schedule, providing ancillary services that control operating expenses, and monitoring and reviewing the efficiency of the program and relationship. Our goal is to provide a consistently high level of customer satisfaction and to exceed expectations.

Remarketing

Remarketing is one of the single most important components of our program. Subsequently, we pride ourselves on having our fingers on the pulse of the used car market at all times. The used car market is a constantly moving target, and the local Fleet Strategy Manager and Account Manager work closely to pinpoint trends that can impact our clients' resale values.

Examples include over-mileage, market strengthening/softening of a certain vehicle type, seasonal trends, dealer preferences, etc. Regarding the sale of our clients' vehicles, we prefer to sell directly to dealers. While there are times when a car may perform better at an auction, more often than not we find that we can sell that vehicle directly to the dealer for the same money, which allows us to avoid several hundred dollars in fees from the auction and we pass those savings along to our clients.



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Form P — PROPOSER QUESTIONNAIRE cont.

- 8) Describe your pricing model (e.g., line-item discounts or product-category discounts). Provide detailed pricing data (including standard or list pricing and the NJPA discounted price) on all of the items that you want NJPA to consider as part of your RFP response. Provide a SKU for each item in your proposal. (Keep in mind that reasonable price and product adjustments can be made during the term of an awarded Contract. See the body of the RFP and the Price and Product Change Request Form for more detail.) Complete the attachment shown below in Excel format and submit as part of your pricing response. The workbook is included as part of the forms package and is titled "Pricing Grid."

We provide our customers with fleet management services that address all fleet holding costs — from acquisition to disposal. This includes maintenance, fuel, insurance, registration, delivery, and reporting.

Please see the completed pricing grids for the U.S. and Canada on the following pages.

Pricing Grid

	Type	Charged / Percentage	Details
Acquisition			
Interest Rate Index Used			
Basis Points(adder)			
Factory Order Vehicles	Domestic		
Factory Order Vehicles	Foreign		
Dealer Stock Vehicles	Domestic		
Dealer Stock Vehicles	Foreign		
% Incentives Passed to Customer			
Federal Tax Incentives			
State Tax Incentives			
Manufacture Incentives			
Maintenance			
Fixed Maintenance			
Occurance Maintenance			
Fees			
Management Fee			
Service Charge			
Lease Termination Fee	Yes / No		How Is It calculated?
Interlm Interest			
Resale Fee			
Provide fees not listed + rate			



FLEET MANAGEMENT

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Form P — PROPOSER QUESTIONNAIRE cont.

Pricing Grid - U.S.

	Type	Charged / Percentage	Details
Acquisition			
Interest Rate Index Used	3 Year T-Bill		
Basis Points(adder)		+ 350 Basis Points	
Factory Order Vehicles	Domestic		Manufacturer Published Invoice Less Applicable Incentives Less Applicable Advertising plus \$60 acquisition fee plus courtesey delivery fee (variable \$150-\$450 depending on location)
Factory Order Vehicles	Foreign		Manufacturer Published Invoice Less Applicable Incentives Less Applicable Advertising plus \$60 acquisition fee plus courtesey delivery fee (variable \$150-\$450 depending on location)
Dealer Stock Vehicles	Domestic		Dealer Provided Invoice Less Applicable Incentives plus courtesey delivery fee plus \$60 acquisition fee, subject to dealer availability
Dealer Stock Vehicles	Foreign		Dealer Provided Invoice Less Applicable Incentives plus courtesey delivery fee plus \$60 acquisition fee, subject to dealer availability
% Incentives Passed to Customer			
Federal Tax Incentives		100%	of end user eligible Incentives are passed to the member
State Tax Incentives		100%	of end user eligible Incentives are passed to the member
Manufacture Incentives		100%	of end user eligible Incentives are passed to the member
Maintenance			
Fixed Maintenance			Pricing based on vehicle type and anticipated miles driven over term, the pricing can also be modified to include or exclude brakes and tires depending on what is the best interest of the member.
Occurance Maintenance			\$6 per month card fee per vehicle plus cost of service and parts
Fees			
Management Fee		0.10% for Factory Ordered Vehicles / 0.15% for Dealer Stock Vehicles	
Service Charge		\$400	
Lease Termination Fee			\$0 Termination Fee for Equity Leases, refer to Section 3 of Master Lease Agreement for settlement process. Termination Fees for Net Leases are listed in Section 3 of Walkaway Lease Agreement.
Interim Interest	Yes / No		How Is It calculated?
	NO		
Resale Fee			For each Vehicle sold, the End User "Member" shall pay Enterprise a fee of \$395.00 CAD ("Service Fee") plus towing at prevailing rates, applies to member owned/non-leased units
Provide fees not listed + rate			
Fuel Program:		\$2 per month per card	
Physical Damage:		\$1000 deductible, average quoted \$40 per month per vehicle but is based on underwriting and approval	
Accident Management:		\$100 per occurrence	
Maintenance Management:		\$6 per vehicle per month	
Full Maintenance:			Pricing based on vehicle type and anticipated miles driven over term
GeoTab Telematics:		\$26 per month for Base Mode or \$29 per month for Pro Mode + tax + \$49 per unit (one time charge)	
Registration Fees:			All applicable charges related to vehicle registration will be passed to the member, including any service fees that are charged from dealers to process, plus \$25 processing fee

Form P — PROPOSER QUESTIONNAIRE cont.

Pricing Grid - U.S.

	Type	Charged / Percentage	Details
Acquisition			
Interest Rate Index Used	3 Year T-Bill		
Basis Points(adder)		+ 350 Basis Points	
Factory Order Vehicles	Domestic		Manufacturer Published Invoice Less Applicable Incentives Less Applicable Advertising plus \$60 acquisition fee plus courtesy delivery fee (variable \$150-\$450 depending on location)
Factory Order Vehicles	foreign		Manufacturer Published Invoice Less Applicable Incentives Less Applicable Advertising plus \$60 acquisition fee plus courtesy delivery fee (variable \$150-\$450 depending on location)
Dealer Stock Vehicles	Domestic		Dealer Provided Invoice Less Applicable Incentives plus courtesy delivery fee plus \$60 acquisition fee, subject to dealer availability
Dealer Stock Vehicles	Foreign		Dealer Provided Invoice Less Applicable Incentives plus courtesy delivery fee plus \$60 acquisition fee, subject to dealer availability
% Incentives Passed to Customer			
Federal Tax Incentives		100% of end user eligible incentives are passed to the member	
State Tax Incentives		100% of end user eligible incentives are passed to the member	
Manufacture Incentives		100% of end user eligible incentives are passed to the member	
Maintenance			
Fixed Maintenance			Pricing based on vehicle type and anticipated miles driven over term, the pricing can also be modified to include or exclude brakes and tires depending on what is the best interest of the member.
Occurance Maintenance		\$6 per month card fee per vehicle plus cost of service and parts	
Fees			
Management Fee		0.10% for Factory Ordered Vehicles / 0.15% for Dealer Stock Vehicles	
Service Charge		\$400	
Lease Termination Fee		\$0 Termination Fee for Equity Leases, refer to Section 3 of Master Lease Agreement for settlement process.	
		Termination Fees for Net Leases are listed in Section 3 of Walkaway Lease Agreement.	
	Yes / No	How is it calculated?	
Interim Interest	NO		
Resale Fee			For each Vehicle sold, the End User "Member" shall pay Enterprise a fee of \$395.00 CAD ("Service Fee") plus towing at prevailing rates, applies to member owned/non-leased units
Provide fees not listed + rate			
Fuel Program:		\$2 per month per card	
Physical Damage:		\$1000 deductible, average quoted \$40 per month per vehicle but is based on underwriting and approval	
Accident Management:		\$100 per occurrence	
Maintenance Management:		\$6 per vehicle per month	
Full Maintenance:		Pricing based on vehicle type and anticipated miles driven over term	
GeoTab Telematics:		\$26 per month for Base Mode or \$29 per month for Pro Mode + tax + \$49 per unit (one time charge)	
Registration Fees:		All applicable charges related to vehicle registration will be passed to the member, including any service fees that are charged from dealers to process, plus \$25 processing fee	



FLEET MANAGEMENT

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Form P — PROPOSER QUESTIONNAIRE cont.

- 9) Please quantify the discount range presented in this response. For example, indicate that the pricing in your response represents is a 50% percent discount from the MSRP or your published list.

Vehicles are priced at invoice vs. MSRP. Members will receive the Manufacturer or Dealer published invoice less 100% of applicable incentives.

10) The pricing offered in this proposal is

- _____ a. the same as the Proposer typically offers to an individual municipality, university, or school district.
- _____ ☒ b. the same as the Proposer typically offers to GPOs, cooperative procurement organizations, or state purchasing departments.
- _____ c. better than the Proposer typically offers to GPOs, cooperative procurement organizations, or state purchasing departments.
- _____ d. other than what the Proposer typically offers (please describe).

11) Describe any quantity or volume discounts or rebate programs that you offer.

Through a team of incentive analysts at our operations headquarters, partnerships with manufacturers, and relationships with dealers, we work to get the best incentives available for our customers. The team tracks a wide range of retail incentives and enters those in our database, which compares them to the standard fleet, association, and up-fit incentives that may be applicable. Through our relationships with manufacturers and zone representatives, we work to obtain and maximize any special or client-specific incentives available. Manufacturers sometimes provide us with special incentives that are not available through other avenues and we use those as needed.

For ancillary programs such as Full Maintenance and Maintenance Management, additional discounts on parts and labor are passed through to our customers.

Form P — PROPOSER QUESTIONNAIRE cont.

- 12) Propose a method of facilitating “sourced” products or related services, which may be referred to as “open market” items or “nonstandard options”. For example, you may supply such items “at cost” or “at cost plus a percentage,” or you may supply a quote for each such request.**

Enterprise will provide a quote for each sourced product that will include any discounts that Enterprise receives. We do not mark-up any quotes or charge for coordinating supply or installation — this is a part of Enterprise’s standard service. Some geographical limitations may apply.

Enterprise Fleet Management will coordinate the up-fit of any needed aftermarket equipment. We have established relationships with local and national vendors that supply these items and will deliver the equipment in a work-ready state.

Enterprise will plan ahead with vendors to have equipment ready for installation once the ordered vehicles are delivered to ensure that the vehicles are ready for service as soon as possible. Enterprise will negotiate on behalf of the member agency to leverage volume discounts and deliver the lowest possible price on any needed equipment.

The equipment can be billed up front or capitalized as a part of the lease structure, subject to credit worthiness. In both scenarios, the member will own the equipment at the conclusion or termination of the lease.

Enterprise is able to sell customer-owned units as an additional benefit if the end user signs our consignment agreement. We have included a sample consignment agreement.

- 13) Identify any total cost of acquisition costs that are NOT included in the pricing submitted with your response. This cost includes all additional charges that are not directly identified as freight or shipping charges. For example, list costs for items like installation, set up, mandatory training, or initial inspection. Identify any parties that impose such costs and their relationship to the Proposer.**

Costs for registering a vehicle are passed through directly to the end user. All other costs are addressed throughout this response.

- 14) If delivery or shipping is an additional cost to the NJPA Member, describe in detail the complete shipping and delivery program.**

For a majority of our deliveries, vehicles will be sent to the dealer that is closest to the end user so they can pick up the unit directly. We can also coordinate with the dealer or our own employees to deliver the vehicles. Certain charges may apply based on distance to the driver and other factors.

- 15) Specifically describe those shipping and delivery programs for Alaska, Hawaii, Canada, or any offshore delivery.**

Enterprise has a large network of dealerships throughout these regions that can assist with vehicle logistics and delivery. Along with our dealer network, we have a large number of employees within these regions — either through an Enterprise Fleet Management office or an affiliate rental location — who are available to assist with vehicle delivery and pick-up.

Form P — PROPOSER QUESTIONNAIRE cont.

16) Describe any unique distribution and/or delivery methods or options offered in your proposal.

Enterprise employs one of the largest teams of drivers in the industry. This allows us to quickly and easily manage vehicle logistics for our fleet customers.

Because we own and operate 1.9 million units worldwide, together with affiliate Enterprise Holdings, we are constantly picking up, delivering, and moving our own fleets units, which gives us an inherent understanding and ability to navigate these situations quickly and efficiently for our fleet customers.

17) Please specifically describe any self-audit process or program that you plan to employ to verify compliance with your proposed Contract with NJPA. This process includes ensuring that NJPA Members obtain the proper pricing, that the Vendor reports all sales under the Contract each quarter, and that the Vendor remits the proper administrative fee to NJPA.

Enterprise will set a pricing plan up for the NJPA program within our system. This pricing plan will be hard-coded for all NJPA members and cannot be deviated from by any sales or support team member.

Quarterly, we will review deliveries that have been placed and delivered through the NJPA program to ensure compliance and accuracy. We will provide a detailed breakdown to NJPA monthly or quarterly for review depending on preference.

18) Identify a proposed administrative fee that you will pay to NJPA for facilitating, managing, and promoting the NJPA Contract in the event that you are awarded a Contract. This fee is typically calculated as a percentage of Vendor's sales under the Contract or as a per-unit fee; it is not a line-item addition to the Member's cost of goods. (See RFP Section 6.29 and following for details.)

Enterprise will offer NJPA and your members access to our fleet management program and pay NJPA a quarterly marketing fee ("Quarterly Incentive") based upon the volume of Combined New Deliveries generated as defined below.

The Quarterly Incentive will be based on the Combined New Deliveries to Qualified Members, and will be paid quarterly.

Deliveries to Qualified Members (August 1 to July 31)	\$100 per delivery
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Qualified Members are eligible members who utilize the Agreement between NJPA and Enterprise Fleet Management as an approved means to satisfy their proper due diligence and competitive requirements. Enterprise Fleet Management retains the right to offer discounted promotional pricing on a market-by-market basis.



FLEET MANAGEMENT

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Form P — PROPOSER QUESTIONNAIRE cont.

Industry-Specific Questions

19) Describe your available vehicle maintenance program(s).

Full Maintenance

Enterprise's Full Maintenance program covers lessees nationwide and is available for most makes and models. The program is completely managed by Enterprise and will not require any internal approval of repairs or review of monthly invoices. Cost is based on vehicle type and driving pattern.



- Monthly cost is fixed for the term of the vehicle
- Coverage is available up to 100,000 miles
- Covers all routine services recommended by the manufacturer
- Covers all unexpected repairs (not related to damage or neglect)
- 24/7 roadside assistance and towing is included
- Brakes, tires, and loaner vehicles can be included
- Windshield repair, fueling service, and other miscellaneous items are available
- The organization can setup and send automatic service reminders through Enterprise's website

The Enterprise Full Maintenance Program facilitates greater overall cost control for our customers, eliminating unexpected repair costs, the hassle of budgeting for repairs, and expense reporting for the driver. The program is comprehensive and will not change due to inflation.

Maintenance Management

With the Maintenance Management program, Enterprise's team of Automotive Service Excellence (ASE) certified technicians facilitate maintenance and repairs to ensure that proper, quality work is completed at a fair and competitive price. This is our pass-through maintenance program, which allows us to fully manage, track and consult on maintenance services for a flat monthly fee.

Please see Page 11 for further details.

Form P — PROPOSER QUESTIONNAIRE cont.

20) Describe any vehicle (or other) rental program complementary to the service offerings that your company has in place.

Enterprise Fleet Management, together with our affiliate company Enterprise Holdings, is a total transportation solution for many of our customers. With divisions in fleet management, daily rental and business rental, truck rental, vanpooling, car sharing, and car sales, Enterprise is capable of servicing all your transportation needs under one company. More information on these unique business lines can be provided.



Rental Services

Through our affiliate rental brands Enterprise Rent-A-Car and National Car Rental, we can easily set up and manage rentals for our fleet customers. This can be included in our Full Maintenance pricing, or billed as needed with our Maintenance Management program.

21) Please provide current battery electric vehicles and plug-in hybrid electric vehicles your company can provide through this contract understanding that future models can be added.

Enterprise can acquire nearly any commercially available battery electric vehicle or plug-in hybrid vehicle through our dealer network or through factory ordering when available. Our expertise can help your members make smart decisions about when and where to deploy new engine technologies.

Please see pages 37 through 39 for more details on our sustainability programs.

22) Describe the process by which your company will ensure that all natural gas vehicles and propane autogas vehicles leased under this contract will mirror OEM maintenance and warranty provisions and that downtime is minimized.

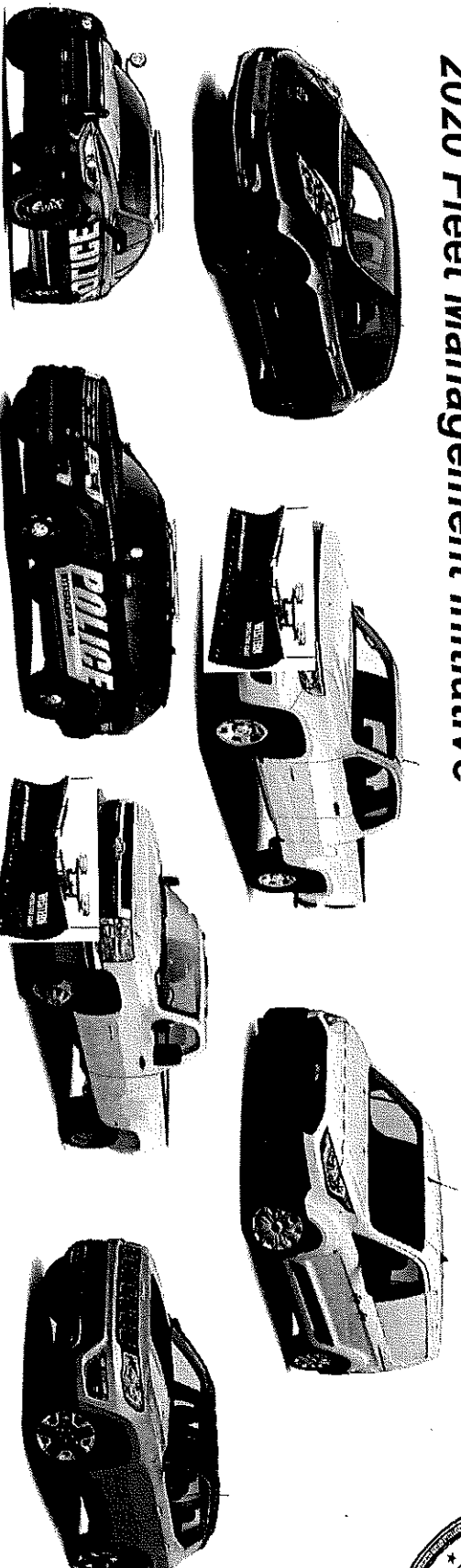
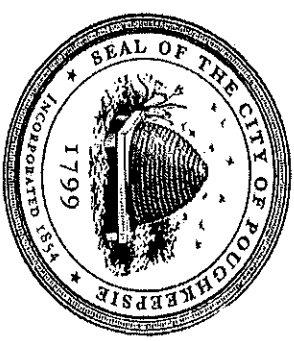
Enterprise follows the manufacturer-specific maintenance schedule in order to maintain vehicle warranty. Our maintenance program can be customized depending on the situation and vehicle usage, including natural gas vehicles and propane vehicles when available.

Signature: [Handwritten Signature] Date: 6-5-2018



City of Poughkeepsie

2020 Fleet Management Initiative



Topics

- Enterprise Fleet Management Proposal
- Fleet Status Quo - age, cost, carbon footprint
- Value Analysis - 2020 Fleet Management Proposal vs Buying

Brian Martinez, PhD, Budget Analyst, Finance Administration
Bill Brady, Commissioner of Finance

PROPOSED 2020 VEHICLE REPLACEMENT



Department	Year	Make	Est. Current Odometer	Assigned Category	New Replacement Category
Police	2006	Ford Crown Victoria	137,628	Full-size Sedan	Mid-Size SUV (Marked)
Police	2007	Ford Crown Victoria	125,955	Full-size Sedan	Mid-Size SUV (Marked)
Police	2007	Ford Crown Victoria	140,073	Full-size Sedan	Mid-Size SUV (Marked)
Police	2010	Ford Crown Victoria	111,196	Full-size Sedan	Mid-Size SUV (Marked)
Police	2010	Ford Crown Victoria	114,420	Full-size Sedan	Mid-Size SUV (Un-Marked)
Police	1999	Chevrolet Lumina	56,645	Mid-size Sedan	Mid-Size Sedan (Un-Marked) <i>Hyb</i>
Police	2003	Chevrolet Malibu	66,122	Mid-size Sedan	Mid-Size Sedan (Un-Marked) <i>Hyb</i>
Police	2003	Chevrolet Malibu	57,349	Mid-size Sedan	Mid-Size Sedan (Unmarked) <i>Hyb</i>
Police	1998	Chevrolet Lumina	90,314	Mid-size Sedan	Mid-Size Sedan (Unmarked) <i>Hyb</i>
Police	2001	Chevrolet Lumina	94,521	Mid-size Sedan	Mid-Size Sedan (Unmarked) <i>Hyb</i>
Parking	2004	Chevrolet Impala	79,000	Full-size Sedan	Compact Sedan <i>Elec Vehicle (EV)</i>
Parking	1997	Saturn ION	74,741	Mid-size Sedan	Compact Sedan <i>(EV)</i>
Water Treatment	2001	GMC 3500 Truck	82,000	1 Ton Pick-Up Truck	1 Ton Pick-Up Truck
Water Treatment	2004	Chevy 2500 Cargo Van	110,000	¾ Ton Cargo Van	Small Cargo Van
DPW	2004	Ford F-150	80,000	½ Ton Pick-Up Truck	Compact Pick-Up Truck
DPW	2004	Ford Explorer 4X4	75,000	Mid-Size SUV 4X4	Compact SUV 4X4

LEASE PROGRAM PRICING (60 months)



Department	Vehicle Type	Vehicle	Qty	Estimated Annual Mileage	Monthly Cost (Lease Rate)*	Annual Lease Cost per Vehicle	Annual Lease Cost by Quantity
Police	Mid-Size SUV (Marked)	2020 Ford Interceptor Utility SUV (Marked) + \$11,875 AME	4	20,000	\$662	\$7,944	\$31,776
Police	Mid-Size SUV (Un-Marked)	2020 Ford Interceptor Utility SUV (Un-Marked) w/ \$4,111 AME	1	15,000	\$758	\$9,096	\$9,096
Police	Mid-Size Sedan (Unmarked)	2020 Ford Fusion Hybrid (Un-Marked) w/ \$2,997 AME	5	15,000	\$603	\$7,236	\$36,180
DPW - Parking Enforcement	Compact Sedan – EV	2020 Nissan LEAF Electric Vehicle (EV) 4dr Hatchback	2	10,000	\$451	\$5,412	\$10,824
Water Treatment	1 Ton Pick-Up Truck	2020 Chevy Silverado 3500HD LT 4x4 Regular Cab 8' box 141" WB DRW + \$10,235 Plow & Salter	1		\$620	\$7,440	\$7,440
Water Treatment	Small Cargo Van	2020 RAM ProMaster Tradesman Cargo Van	1		\$361	\$4,332	\$4,332
DPW	Compact SUV 4x4	2020 Jeep Compass 4X4	1		\$359	\$4,308	\$4,308
DPW	Compact Pick-Up Truck	2020 Chevrolet Colorado Ext. Cab 4X4 + \$4,085 Plow	1		\$432	\$5,184	\$5,184

Total Annual Lease Cost = \$109,140

City of Poughkeepsie - Police - Fleet Profile

Fleet Profile

Key Objectives

* Lower the Age of the Fleet - 65% of the Fleet is currently over 10 Years Old

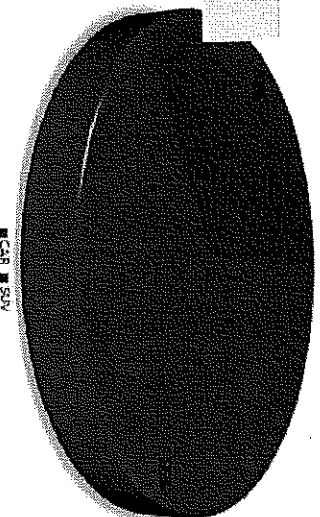
* Goal is to reduce operating cost - New Vehicles have a significantly lower maintenance and fuel cost

* Maintain a manageable vehicle budget - Goal is a sustainable replacement plan that drives down Total Cost of Ownership

Vehicle Types

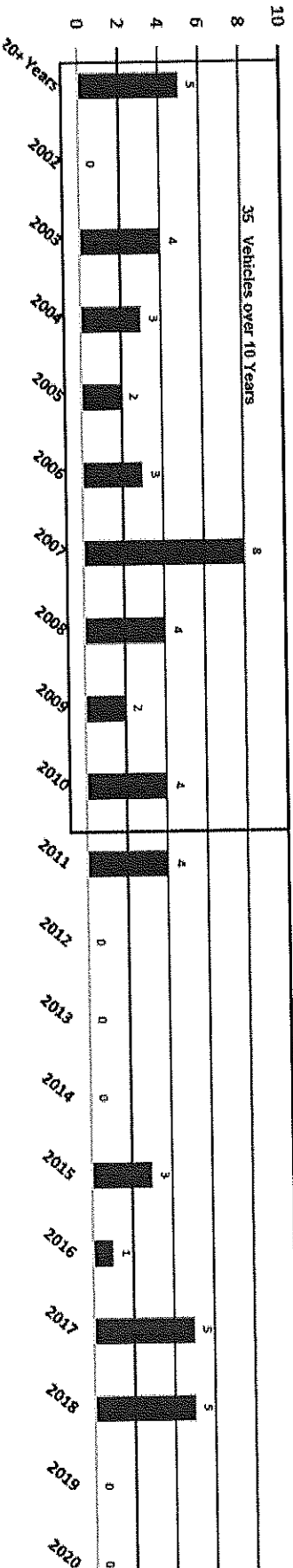
Vehicle Type	# of Type	Average Age (years)	Average Annual Mileage
Mid-size Sedan	4	16.8	14,300
Full-size Sedan	31	13.2	13,900
Mid Size SUV Awd	15	3.5	14,200
Full Size SUV Awd	2	11.2	12,000
Luxury SUV Awd	1	12.7	15,000

2020 plan addresses the most acute problems first.



Totals/Averages	53	10.7	14,000
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Model Year Analysis



MAINTENANCE & REPAIR (M&R) INDUSTRY DATA VS CITY OF POK ACTUALS

How Do Maintenance Costs Vary With Mileage?

Based on Maintenance Performed
Mileage Total Maintenance Costs
per 25k Miles

0-25,000	\$1,400
25,000 - 50,000	\$2,200
50,000 - 75,000	\$2,000
75,000 - 100,000	\$2,900
100,000 - 125,000	\$4,100
125,000 - 150,000	\$4,400
150,000 - 175,000	\$4,800
175,000 - 200,000	\$5,000

Industry Data

Source: [https://www.yourmechanic.com/Article/how-much-do-maintenance-costs-increase-by-mileage-\(2019\)](https://www.yourmechanic.com/Article/how-much-do-maintenance-costs-increase-by-mileage-(2019))

City of Poughkeepsie Data

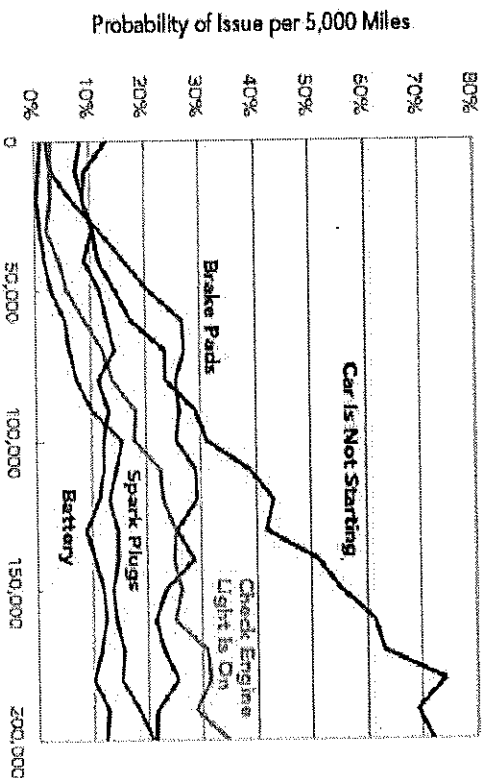
2018/2019 Maintenance and Repairs *				
Use - Category	12 Mo Cost p/Car	5 Yr Cost p/Car **	5 Yr Costs for 16 Cars	
High - Patrol	\$2,134	\$16,276	\$260,410	
Lower - Unmarked	\$820	\$7,484	\$164,739	
High/Low - Average	\$1,690	\$13,307	\$212,916	

* Based on actual M&R for 10 Police vehicles

** Escalation 6% p/yr = inflation + increases in M&R due to aging vehicles

Which Repairs Are Needed the Most? And When?

Based On Frequency of Issues Serviced by Your Mechanic



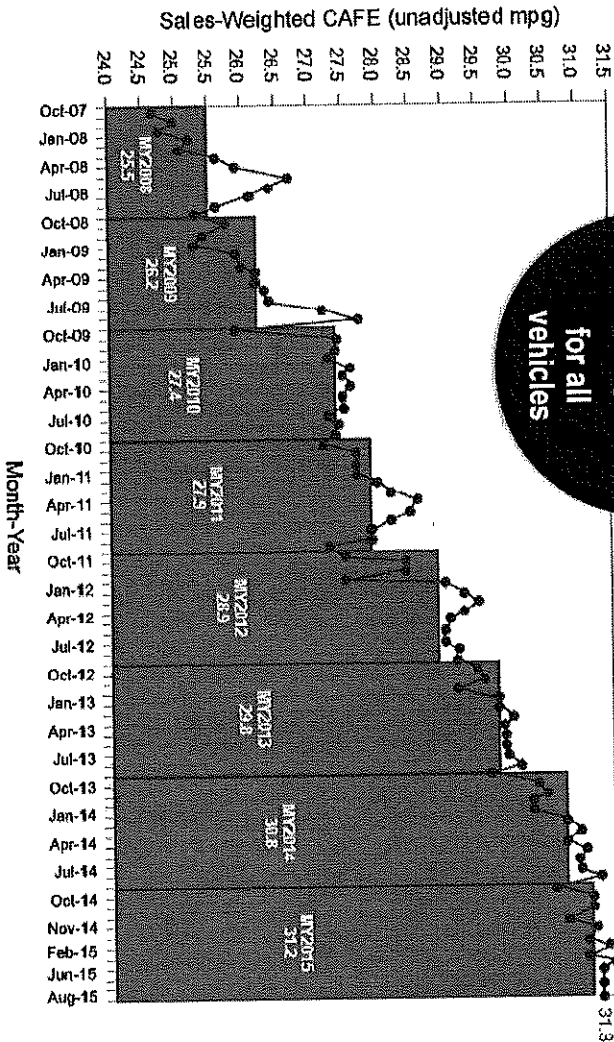
Comparison of Actual Miles and Cost

	Miles	Cost
High Use	125854	\$ 3,200
Lower Use	68240	\$ 1,229
Percent Increase	84%	160%

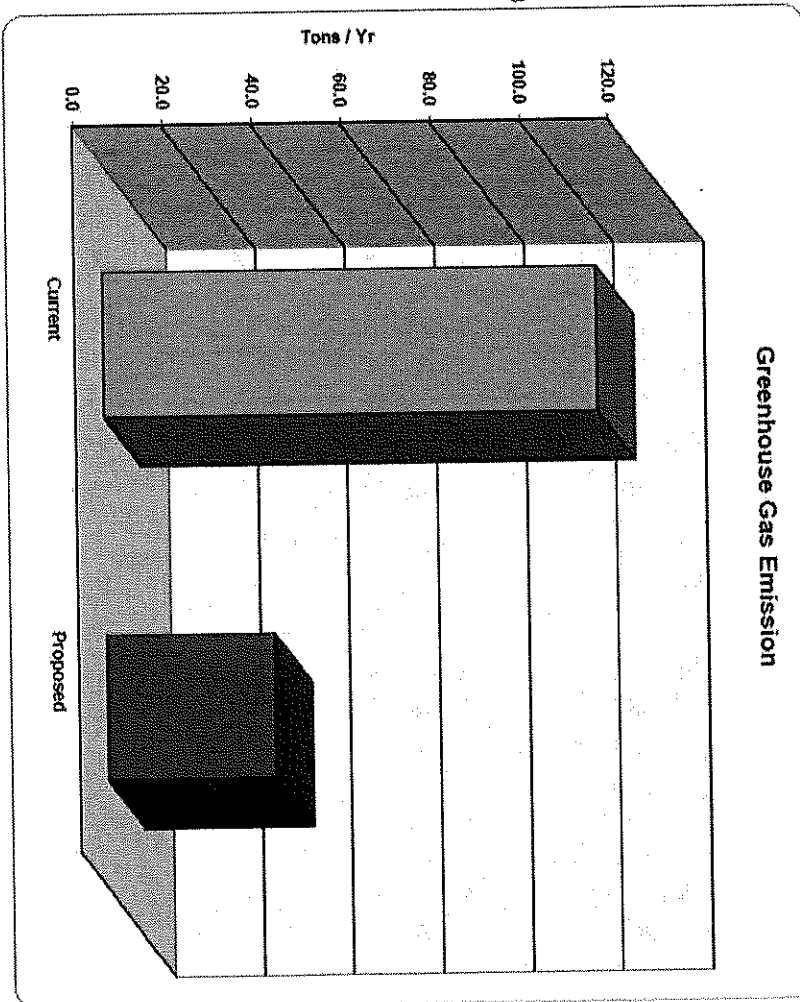
Your Mechanic

FUEL ECONOMY - CAFÉ STANDARDS & CURRENT POK EMISSIONS VS PROPOSED

Since 2007
MPG is up
26%
for all
vehicles



Annual Tons		Current Fleet	
CO2 Emitted		Annual Miles	6,800
Current		Current AVG MPG	12
Proposed		New AVG MPG	35
110.6	37.9		



Source - fueleconomy.gov

FLEET MANAGEMENT VALUE ANALYSIS

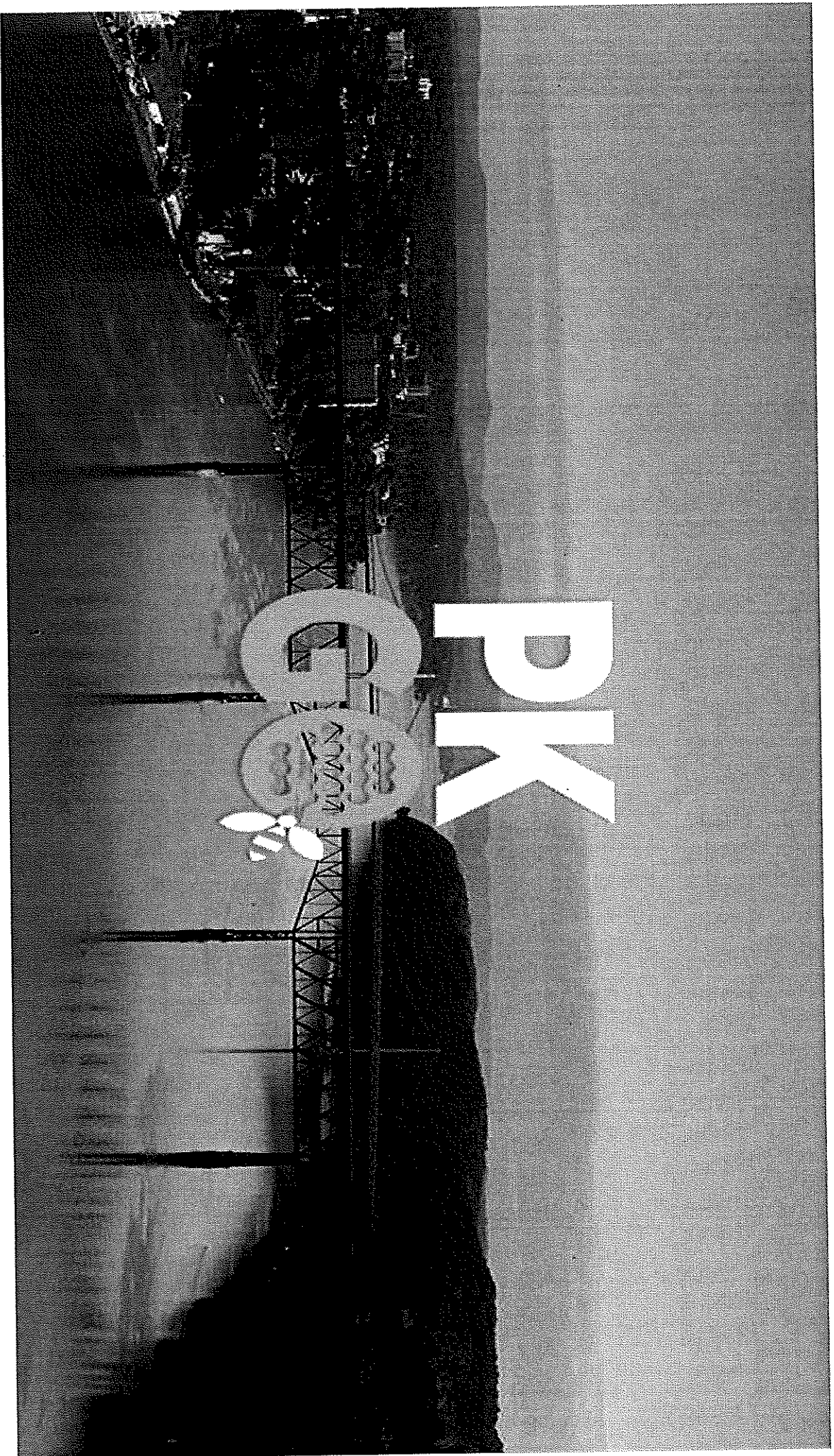
- Analysis: Compare lease (alternative) vs buy. Lease if costs are same or less than buying.
- Alternative: Open end lease equity agreement....
- Sell vehicles at end of lease or earlier IF market conditions are favorable .

Years 1 thru 5: Lease vs Buy Costs for 16 Vehicles in 2020 Plan

	Hold	Lease	Buy (w/Debt*)
Acquisition		\$ 551,500	\$ 584,000
Maint & Repair	\$ 225,000	NA	NA
Gas (Diff Hold vs New)	\$ 32,649	NA	NA
Lease-End Equity	NA	\$(120,000)	
Total Est 5 Yr Costs	\$ 257,649	\$ 431,500	* \$ 645,000

- Total cost of ownership - Fleet Management:
 - 10 yr Costs: Lease = \$863K vs Buy = \$902.6K + \$40K Tech Refresh.
 - Greater decrease in avg age of fleet. Greater stability of M&R costs. Less budgetary spikes.
 - Better public services. Greater vehicle reliability/safety. Stabilize DPW central garage work. Project positive City image.
 - Green value. Periodic MPG improvements. Evs / hybrids show progress towards NY Climate Smart Communities Certification.

Recommendation: Council Approve Proposed 2020 Fleet Management Resolution



**RESOLUTION
(R19-78)**

INTRODUCED BY COUNCILMEMBER CHERRY:

WHEREAS, in 2017 the City of Poughkeepsie discontinued its federal transit public bus system and liquidated most of its federally and state subsidized assets in accordance with an approved disposition plan; and

WHEREAS, the City has prepared a final draw down of monies allocated by the New York State Department of Transportation; and

WHEREAS, the New York State Department of Public Transportation has allocated to the City of Poughkeepsie the sum of Two Hundred Ninety-Seven Thousand, Two Hundred Eight-Four and 00/100 (\$297,284) Dollars for Mass Transportation Capital Projects as outlined in the Schedule A of a proposed Mass Transportation Project Agreement; and

WHEREAS, the New York State Department of Transportation has delivered to the City of Poughkeepsie six copies of said proposed agreement and requires that the same be executed by the Mayor and the City of Poughkeepsie, with his signature duly acknowledged before a notary public; and

WHEREAS, the New York State Department of Transportation requires that a resolution be made by the City of Poughkeepsie Common Council, authorizing the Mayor to execute six copies of the proposed agreement, five such copies to be filed with the New York State Department of Transportation; and

WHEREAS, the New York State Department of Transportation further requires that an original signed certified resolution, together with four copies of the resolution, be filed with the New York State Department of Transportation;

NOW, THEREFORE,

BE IT RESOLVED, that the Mayor of the City of Poughkeepsie is hereby authorized to execute six copies of the proposed Mass Transportation Project Agreement, and to have his signature duly acknowledged before a notary public; and

BE IT FURTHER RESOLVED, that five copies of the fully executed agreement shall be filed with the New York State Department of Transportation, and that one fully executed copy be retained by the City of Poughkeepsie; and

BE IT FURTHER RESOLVED, that the original certified resolution, together with four copies of said resolution, shall be filed with the New York State Department of Transportation.

BE IT FURTHER RESOLVED that the Common Council hereby authorizes the Mayor of the City of Poughkeepsie to pay the first instance of One Hundred Percent (100%) of the federal and non-federal share of the cost of the projects on the schedules, and then bill NYS DOT for reimbursement of the New York State share of such cost.

SECONDED BY COUNCILMEMBER: _____.

MASS TRANSPORTATION CAPITAL PROJECT AGREEMENT

COMPTROLLER'S CONTRACT NO. K007002

This Agreement, effective this ____1st__ day of __October__ 2009, for a term of five (5) years is by and between the
New York State Department of Transportation ("NYSDOT"), having its principal office at 50 Wolf Rd,
Albany, NY 12232, on behalf of New York State ("State"),
and the
City of Poughkeepsie, Dutchess County

with its office at 62 Civic Center Plaza, Poughkeepsie, New York 12601

This agreement identifies the party responsible for administration, and establishes the method or provision for funding, of applicable phases of mass transportation capital project(s) to support public transportation systems, as more fully described by Schedule A annexed to this agreement, or one or more duly executed and approved Supplemental Schedules A to this agreement. The amount of NYSDOT's grant pursuant to this agreement shall be limited to reimbursement of Project Eligible Costs actually incurred, in no event to exceed \$2,972,829 (the "Grant")

WITNESSETH:

WHEREAS, pursuant to State Finance Law '89-c, that establishes the Dedicated Mass Transportation Trust Fund (ADMTTF@), following appropriation by the legislature moneys therein shall be utilized for the design, construction, reconstruction, replacement, purchase, modernization, improvement, reconditioning, preservation and maintenance of mass transit facilities, vehicles and rolling stock; and

WHEREAS, pursuant to appropriation or reappropriation from the DMTTF the legislature authorized certain funding programs for the costs of mass transportation capital projects and facilities undertaken by Grantees, regional public transportation authorities, and mass transit systems;

WHEREAS, pursuant to authorizations therefor, NYSDOT and the Grantee are desirous of progressing the Project(s) under the Dedicated Mass Transportation Trust Fund program of projects;

WHEREAS, the Grantee by duly adopted Resolution approved the Project(s), the Grantee's entry into this Agreement and authorized the appropriate official of the Grantee to execute this Agreement and the applicable Schedule A on behalf of the Grantee (a copy of such Resolution is attached hereto and made a part of this Agreement);

Check if State-administered Federal Aid applicable Q :

WHEREAS, pursuant to Highway Law '80(1) NYSDOT may, in accordance with State appropriations therefor, use federal aid for the purchase of buses or any other passenger equipment, the construction of exclusive or preferential bus passenger loading areas and facilities (including shelters) and for any mass transit purpose as is allowed by federal law respecting such funds; and

WHEREAS, the State has appropriated or reappropriated federal aid monies for the Project(s)

Check if Rebuild and Renew New York Transportation Bond Act of 2005 is applicable Q :

WHEREAS, Article 22 of the Transportation Law authorizes the NYSDOT Commissioner to implement the Rebuild and Renew New York Transportation Bond Act of 2005 which funds the Transit Clean Fuel Vehicle Initiative; and

WHEREAS, pursuant to appropriation or reappropriation from the Rebuild and Renew New York Transportation Bond Act of 2005, the legislature authorized certain funding programs for the costs of mass transportation capital projects and facilities undertaken by municipalities and mass transit systems; and

WHEREAS, the Sponsor attests that the Project has a useful service life of at least 10 years, and

NOW, THEREFORE, the parties agree as follows:

1. *Documents Forming this Agreement.* The agreement consists of the following:

○ Agreement Form - this document titled "Mass Transportation Capital Project Agreement";

○ Schedule A - Project(s) Description, Funding and Development Schedule;

○ Exhibit A - Work Requirements

○ Exhibit B - Grantee Record Keeping Guidelines

○ Exhibit C (if applicable) - FTA Circular C 4220.1F - Third Party Contracting (included by reference)

○ Appendix A - Standard Clauses For All New York State Contracts

○ Appendix A-1 Supplemental Title VI Provisions (Civil Rights Act)

○ Appendix B - U.S. Government Required Clauses

○ Grantee Resolution(s) - duly adopted grantee resolution(s) authorizing the appropriate official of the Grantee to execute this Agreement on behalf of the Grantee and appropriating or otherwise providing the funding required therefor.

○ For State administered Federal Aid projects the Agreement shall also include: the final approved Federal ' 5311 Capital Project Application for the project, and Federal Requirements, as applicable.

○ For Rebuild and Renew New York Transportation Bond Act of 2005 projects the Agreement shall also include: the final approved Bond Application and State Requirements, as applicable.

2. *Work, Maintenance and Operation:* Grantee shall render all services and furnish all materials and equipment necessary to complete the Project described in Schedule A, and shall fund all costs attendant such completion. Grantee shall perform its work in accordance with the Work Requirements set forth in Exhibit A annexed hereto. Upon Project completion, Grantee will operate and maintain the Project at no expense to NYSDOT and, during the useful life of the Project according to federal guidelines, Grantee shall not discontinue operation, or dispose of the Project without the prior written approval of NYSDOT.

3. *State-Aid.* NYSDOT will reimburse the State-Aid portion described in Schedule A in the manner described under below.

3.1.1 *State Aid-Eligible Costs.* State Aid-Eligible

Project costs include costs of design, engineering, acquisition, demolition, construction, repair, reconstruction, renovation, equipment and other directly related Project costs identified for such State aid in Schedule A hereof.

3.1.2 *Participating Items.* NYSDOT shall apply state funds only for that work and those items that are eligible for State participation under the State Finance Law ' 89-c. Included among the participating items are the actual cost of Grantee employee personal services, leave and fringe benefit additives directly related to performing the project. Other participating costs include fees to consultants and professionals retained by the Grantee for planning, designing, managing, and performing the Project.

3.1.3 *Periodic Reimbursement.* Except where the Grantee proceeds or has proceeded without an agreement with NYSDOT, if the Grantee finds it desirable to have reimbursement made periodically, upon the request and certification therefor by the Grantee, NYSDOT may make progress payments based on billings prepared and submitted by the Grantee in accordance with NYSDOT requirements, based on costs incurred as disclosed by the records thereof, as required by the Project, with adjustments to be made after audit by NYSDOT or FTA. The Grantee must certify as part of each grantee payment request that the payment requested does not duplicate reimbursement of costs and services received from other sources or previous payment requests. These payments shall be made as moneys become available therefor.

3.2 *State Administered Federal Aid Eligible Project Costs.* Where the State administers Federal aid to the Grantee as set forth in Schedule A, or one or more supplemental Schedules A, consistent with the provisions of FTA Circular 9040.1F and State policy governing the administration of the FTA Section 5311 Program, eligible reimbursable Federal share of eligible facilities and equipment shall not exceed 80% of the net project cost, except for bicycle facilities projects and facility construction or rehabilitation required to comply with the Americans with Disability Act of 1990 or the Clean Air Act, which may have up to a 90 percent Federal share. For work performed by or through the Grantee, NYSDOT will reimburse federal aid-eligible expenditures in accordance with NYSDOT policy and procedures.

3.3 *Debt Service.* Federal aid or State aid funds shall **not** be used to pay for interest, issuance costs or reserves in connection with the issuance of debt to fund the Project, but may repay principal indebtedness incurred to fund Eligible Project costs, which debt shall then be retired, redeemed or deceased in the amount of

such repayment(s) by the issuer thereof.

3.4 In no event shall this Agreement create any obligation to the Grantee for funding or reimbursement of any amount in excess of the amount stated in Schedule A or duly executed Supplemental Schedules A for the State Share and any applicable Federal aid funded under this Agreement (Schedule A may show State, local or other funds required for the project that are not funded under this Agreement, and are otherwise the responsibility of the Grantee to provide to the Project).

3.5 All items included by the Grantee in the record of costs shall be in conformity with accounting procedures acceptable to NYSDOT (See EXHIBIT B) and the FTA. Such items shall be subject to audit by the State and the FTA.

3.6 If Project-related work is performed by NYSDOT, NYSDOT will be paid for the full costs thereof. To effect such payment the reimbursement to the Grantee provided for in '3 may be reduced by NYSDOT by the amounts thereof.

4. *Supplemental Agreement or Supplemental Schedules.* Supplemental Agreements or Supplemental Schedules under a NYSDOT Supplemental Cover Agreement may be entered by the parties, and must be approved in the manner required for a State contract.

5. *State Recovery of Ineligible Reimbursements.* NYSDOT shall be entitled to recover from the Grantee any moneys paid to the Grantee pursuant to this Agreement which are subsequently determined to be ineligible for State Aid or applicable Federal Aid hereunder.

6. *Failure to Diligently Progress Project or Loss of State or Federal Participation.* If NYSDOT determines that the Grantee has failed to diligently progress the project, or in the event the Grantee withdraws its approval of the project, or the Grantee suspends or delays work on the Project such that it can not be reasonably completed, or takes other action that results in the loss of state participation and/or federal participation, including the loss of State administration of Federal aid to the Grantee, for the costs incurred pursuant to this agreement, the Grantee shall refund to the State all reimbursements received from or through the State. The State may offset any other State aid due to the Grantee by such amount and apply such offset to such repayment obligation of the Grantee.

7. *Grantee Liability.*

7.1 If the Grantee performs work under this agreement with its own forces, it shall be responsible for all damage to person or property arising from any act or negligence performed by or on behalf of the Grantee, its officers, agents, servants or employees, contractors,

subcontractors or others in connection therewith. The Grantee specifically agrees that its agents or employees shall possess the experience, knowledge and character necessary to qualify them individually for the particular duties they perform.

7.2 The Grantee shall indemnify and save harmless the State for all damages and costs arising out of any claims, suits, actions, or proceedings resulting from the negligent performance of work by or on behalf of the Grantee by its officers, agents, servants, employees, contractors, subcontractors or others under this agreement. Negligent performance of service, within the meaning of this section shall include, in addition to negligence founded upon tort, negligence based upon the Grantee's failure to meet professional standards and resulting in obvious or patent errors in the progression of its work.

8. *Project Maintenance and Operation: No Charter or Exclusive School Bus Use.* Upon Project completion the Grantee shall provide for the maintenance and operation of the Project facilities and equipment for the purpose of providing safe and efficient public transportation, and such operation and maintenance shall not be terminated without prior written authorization from NYSDOT. Project equipment shall not be used in charter bus service in competition with private bus operators or for exclusive school bus use, except as provided by NYSDOT and/or FTA rules and regulations.

8.1 *Disposition or Encumbrance of Project.* Grantee will not dispose of or encumber the Project or cause the Project to be withdrawn from mass transportation service during its useful life, as defined in Schedule A, without the prior approval of NYSDOT, which approval is reserved for the purposes of assuring compliance with: NYSDOT or Grantee assurances or certifications to the FTA in connection with any FTA funding of the Project(s) made hereunder; and/or Project restrictions that may apply should the State funding of this agreement be made from the proceeds of debt obligations. For any State administered Project with FTA funding, any such NYSDOT approved disposition shall be consistent with Federal Law and FTA rules, regulations, circulars and guidance relating to disposition or encumbrance of Federally-funded projects.. For any agreement, or portion of any agreement, funded with DMTTF appropriations which are based solely on matching Federal transportation funding, NYSDOT will approve such disposition or encumbrance consistent with the actions taken by the FTA and/or Federal Highway Administration. For any project funded solely with DMTTF funds, NYSDOT actions regarding disposition or encumbrance shall be consistent with State laws, regulations and procedures.

9. *Independent Contractor.* The officers and employees of the Grantee, in accordance with the status of the Grantee as an

independent contractor, covenant and agree that they will conduct themselves consistent with such status, that they will neither hold themselves out as nor claim to be an officer or employee of the State by reason hereof, and that they 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 State, including, but not limited to, Workers Compensation coverage, Unemployment Insurance benefits, Social Security or Retirement membership or credit.

10. *Contract Executory.* It is understood by and between the parties hereto that this Agreement shall be deemed executory only to the extent of the moneys available to the State and no liability on account thereof shall be incurred by the State beyond moneys available for the purposes hereof.

11. *Assignment or Other Disposition of Agreement.* The Grantee agrees not to assign, transfer, convey, sublet or otherwise dispose of this Agreement or any part thereof, or of its right, title or interest therein, or its power to execute such Agreement to any person, company or corporation without previous consent in writing of the Commissioner.

12. *Term of Agreement.* As to the Project and phase(s) described in Schedule(s) A executed herewith, this agreement takes effect as of the date of this Master Agreement as first above written. This agreement takes effect as to the Project and phase(s) established in any duly executed and approved supplemental Schedule(s) A as of the date of such supplemental Schedule(s) A. This agreement shall remain in effect for five years from effective date as first written above so long as the State aid funding authorizations are in effect and funds are made available pursuant to the laws controlling such authorizations and availabilities. However, if such authorizations or availabilities lapse and are not renewed, continued or reenacted, as to funds encumbered or available and to the extent of such encumbrances or availabilities, this agreement shall remain in effect for the duration of such encumbrances or availabilities. Although the liquidity of encumbrances or the availability of funds may be affected by budgetary hiatuses, a federal or State budgetary hiatus will not by itself be construed to lapse this agreement, provided any necessary federal or State appropriations or other funding authorizations therefore are eventually enacted.

13. *NYSDOT Obligations.* NYSDOT's responsibilities and obligations are as specifically set forth in this contract, and neither NYSDOT nor any of its officers or employees shall be responsible or liable, nor shall the Grantee assert, make, or join in any claim or demand against NYSDOT, its officers or employees, for any damages or other relief based on any alleged failure of NYSDOT, its officers or employees, to undertake or perform any act, or for undertaking or performing any act, which is not specifically required or prohibited by this agreement.

14. *Ethics Considerations.* In addition to Grantee's conforming with the any applicable provisions of Public Officers Law '73 (Business or Professional Activities by State Officers and Employees and Party Officers) and General Municipal Law

'806 (Code of Ethics) as related to the expenditure of the grant made hereunder, no member of Grantee's governing body, its officers or employees, or any member of the Board of Directors or staff, nor any member of their families shall benefit financially either directly or indirectly from the grant unless such action is otherwise in accordance with law and is necessary for the accomplishment of the Project. In such event, Grantee shall disclose such relationship to NYSDOT and shall obtain prior written approval therefor from NYSDOT.

15. *NYSDOT Performance Review.* The Commissioner may review the Grantee's performance of this agreement in such manner and at such times as the Commissioner shall determine, and such review may include field visits by NYSDOT representatives to the Project and/or the offices of Grantee. Grantee shall at all times make available its employees, records and facilities to authorized NYSDOT representatives in connection with any such review. Such review shall be for the purpose, among other things, of ascertaining the quality and quantity of Grantee's performance of the Project, its use and operation.

16. *Notice of Governmental Audit.* Grantee shall notify NYSDOT of any audit by any governmental agency of any projects, operations or reports of Grantee within five (5) days of receiving information relating thereto.

17. *Inspection and Audit.* Grantee shall permit the authorized representative of NYSDOT and/or the State Comptroller to inspect and audit all books, records and accounts of Grantee pertaining to the Project under this Agreement. Grantee shall maintain records relating to this Agreement in accordance with the Records requirements of Appendix A.

18. *SEQRA.* Grantee shall comply with the requirements of the State Environmental Quality Review Act ("SEQRA"). Grantee, if a unit of government, shall be the "lead agency" for SEQRA purposes. If Grantee is not a unit of government, a governmental unit with jurisdiction shall be the "lead agency" or, on the application of Grantee and agreement to pay the costs thereof, NYSDOT may elect to be "lead agency".

19. *Required Clauses.* Attached hereto and made a part of this agreement, as if set forth fully herein as Appendix A, Standard Clauses For All New York State Contracts and Appendix B, U.S. Government Required Clauses. For State administered Federal aid projects funded through this Agreement, the Grantee will fulfill and comply with the requirements of the Final Approved Federal '5311 Capital Project Application, inclusive of provisions required in connection with Federal aid.

20. NOTICES

1. All notices permitted or required hereunder shall be in writing and shall be transmitted either:

- (a) via certified or registered United States mail, return receipt requested;

- (b) by facsimile transmission;
- (c) by personal delivery;
- (d) by expedited delivery service; or
- (e) by e-mail.

Such notices shall be addressed as follows or to such different addresses as the parties may from time-to-time designate:

State of New York Department of Transportation

Name: Mr. Kent T. Sopris

Title: Director of Public Transportation

Address: POD 5-4, 50 Wolf Rd, Albany NY 12232

Telephone Number: 518-457-8335

Facsimile Number: 518-485-7563

E-Mail Address: Kent.Sopris@dot.ny.gov

City of Poughkeepsie

Name: Honorable Robert G. Rolison

Title: Mayor

Address: 62 Civic Center Plaza, Poughkeepsie, NY 12601

Telephone Number: (845) 451-4073

Facsimile Number: (845) 451-4201

E-Mail Address: mayor@cityofpoughkeepsie.com

Comptroller's website at www.osc.state.ny.us/epay/index/htm, by e-mail at epunit@osc.state.ny.us, or by telephone at 518-474-4032. Contractor acknowledges that it will not receive payment on any invoices submitted under this Contract if it does not comply with the State Comptroller's electronic payment procedures, except where the Commissioner has expressly authorized payment by paper check as set forth above.

2. Any such notice shall be deemed to have been given either at the time of personal delivery or, in the case of expedited delivery service or certified or registered United States mail, as of the date of first attempted delivery at the address and in the manner provided herein, or in the case of facsimile transmission or email, upon receipt.

3. The parties may, from time to time, specify any new or different address in the United States as their address for purpose of receiving notice under this Agreement by giving fifteen (15) days written notice to the other party sent in accordance herewith. The parties agree to mutually designate individuals as their respective representatives for the purposes of receiving notices under this Agreement. Additional individuals may be designated in writing by the parties for purposes of implementation and administration/billing, resolving issues and problems and/or for dispute resolution.

21. CONTRACT PAYMENTS

Contractor shall provide complete and accurate billing invoices to the Agency in order to receive payment. Billing invoices submitted to the Agency must contain all information and supporting documentation required by the Contract, the Agency and the State Comptroller. Payment for invoices submitted by the Contractor shall only be rendered electronically unless payment by paper check is expressly authorized by the Commissioner, in the Commissioner's sole discretion, due to extenuating circumstances. Such electronic payment shall be made in accordance with ordinary State procedures and practices. The Contractor shall comply with the State Comptroller's procedures to authorize electronic payments. Authorization forms are available at the State

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IN WITNESS WHEREOF, the parties have caused this agreement to be executed by their duly authorized officials as of the date first above written.

GRANTEE: By: _____ Title: _____ Print Name: _____ Date: _____	NYSDOT: By: _____ For Commissioner of Transportation Agency Certification: In addition to the acceptance of this contract I also certify the original copies of this signature page will be attached to all other exact copies of this contract. Date: _____
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APPROVED AS TO FORM: State of New York Attorney General By: _____ Date: _____	APPROVED: Comptroller By: _____ Date: _____ Pursuant to State Finance Law §112.
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CONTRACT: K007002

STATE OF NEW YORK

COUNTY OF

On this _____ day of _____, 20____ before me personally came _____ to me known, who, being by me duly sworn did depose and say that he/she resides at _____; that he/she is the _____ of the _____ described in and which executed the above instrument; and that he/she executed the above instrument pursuant to authority vested in him/her.

Notary Public

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PROJECT AGREEMENT

SCHEDULE A Dated

PROJECT DESCRIPTION, FUNDING AND DEVELOPMENT SCHEDULE

Contractor/Grantee:

City of Poughkeepsie

Comptroller's Contract #: K007002 Contract period: 10/1/2009 to 9/30/2014

AGREEMENT PURPOSE: ☒ Main Agreement ☐ Supplemental Schedule ☐ Administrative Correction

GENERAL PROJECT DESCRIPTION

Poughkeepsie Transit Facility Project

PROJECT LOCATION/JURISDICTION or SERVICE AREA

City of Poughkeepsie, Dutchess County

Project	Award ID:	DOT Rev	Estimated Project Cost	Federal Share	Admin/ Direct - ** %	*State Share %	Local Share %	Source State Approp %	Project End Date	Useful Life
8TRD 31.001 Preventive Maintenance and Fuel for Vehicle Operations	NY-90-X695-00	1	\$609,800	\$487,840	Direct 80 %	\$60,980 10 %	\$60,980 10 %	Omnibus 10 %	12/2017	N/A
8TRD 31.001 Preventive Maintenance and Fuel for Vehicle Operations	NY-90-X621-00	1	\$731,553	\$585,242	Direct 80 %	\$73,156 10 %	\$73,155 10 %	Omnibus 10 %	12/2017	N/A
8TRD 31.001 Preventive Maintenance and Fuel for Vehicle Operations	NY-2017-054-0	0	\$162,706	\$130,165	Direct 80 %	\$16,271 10 %	\$16,270 10 %	Omnibus 10 %	12/2017	N/A
8TRD 42.001 Hub Preventive and Maintenance	NY-90-X646-00	1	\$513,270	\$410,616	Direct 80 %	\$51,327 10 %	\$51,327 10 %	Omnibus 10 %	06/2013	30 Years
8TRD 42.001 Hub Preventive and Maintenance	NY-04-0058-00	1	\$955,500	\$764,400	Direct 80 %	\$95,550 10 %	\$95,550 10 %	Omnibus 10 %	06/2013	30 Years
Agreement Total:			\$2,977,829	\$2,378,263		\$297,284	\$297,282			

* With NYSDOT concurrence, the state shares may be interchanged among PINs within the Schedule and total State Share

** If DOT-PAY is listed under the Admin/Direct column, then the Federal Dollars for that row is not included in the Federal Share of the Agreement.

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EXHIBIT A

Work Requirements for Mass Transportation Capital Project Agreement

The work of the project shall be performed in accordance with the following requirement:

1. Plans, Specifications and Estimates, Contracts, and Construction

- a. The Grantee shall comply with all applicable statutes, permits, ordinances, rules and regulations relative to the development of the project including those for projects which may have a significant effect on the environment (e.g. the National Environmental Policy Act ("NEPA") and State Environmental Quality Review Act, significant effect on agricultural districts (Agriculture and Markets Law, Article 25AA), the preservation of historic structures, the quality of water and potential for flood hazards and losses (Environmental Conservation Law, Articles 8 and 36) and certify such compliance in a form acceptable to NYSDOT.
- b. Contract work with any person, firm, corporation or agency, either governmental or private, to accomplish the Project will be in accordance with applicable State and Federal law.
- c. The Grantee shall design and construct the Project, or cause it to be designed and constructed, in accordance with Federal and State design standards and conditions under the supervision of a professional engineer, or architect or other professional.
- d. All construction work shall be performed with construction materials and construction methods in accordance with contract specifications contained in bid package, contract award package, and any and all approved contract modifications. Construction supervision work shall be performed by the Grantee or by contract.
- e. The record sampling program, independent testing and quality assurance procedures applicable to federal-aid Projects performed by the Grantee shall be in accordance with the Project specifications whether or not such procedures are required for the receipt of Federal-Aid.
- f. Any contract plans and specifications shall be stamped with the seal of a professional engineer licensed in this State and shall be signed by such professional engineer, or shall be signed by such other professional licensed in this State. The plans and specifications shall be filed with NYSDOT. The plans, specifications and estimate package for the project shall be submitted to NYSDOT for review, comment and notice to the Grantee to

- g. proceed to letting construction of the project. The Grantee shall submit plans, specifications, designs, estimates, contract modifications, contract award documents, and other project related documents and information in a manner consistent with the NYSDOT *Design and Construction Oversight Process* for mass transportation capital construction projects.
- h. The contract between the Grantee and its contractor(s) must comply in every way with applicable Federal laws, rules, regulations and , whether or not otherwise required for federal aid for the Project, the Federal-Aid Policy Guide (FPG) NYSDOT shall not be a party to any such third party contract.

2. Procurement: Whether or not otherwise required for federal aid for the Project, the Grantee must adhere to the requirements of Federal Transit Administration Circular FTA C 4220.1D as reproduced below, or as revised, for the solicitation, award and administration of its third party contracts.

3. Contract Letting and Award: As required by law construction contract lettings, construction contract awards, and any and all third party contract awards funded as part of this Project shall be based on a competitive process, and shall require prior approval of NYSDOT in the following manner:

- a. Prior to advertising for bids, one copy each of the proposed construction contract, plans, specifications and all related bidding documents shall be submitted upon request to NYSDOT for its approval prior to such advertisement. The bid invitation and the contract to be let shall contain a statement that the contract will be awarded by the Grantee subject to the approval of NYSDOT.
- b. Advertisement must be placed in newspapers, bulletins, trade journals and/or minority publications *for a minimum of three weeks* to insure free and open competition, unless a different period is approved, in writing, by NYSDOT.
- c. After the bid opening and before award, the following contract award package shall be maintained, and shall be submitted to NYSDOT for their approval upon request:
 - (1) Proof of publication of advertising for bids.
 - (2) Certification of all bids received with tabulation of up to six lowest.
 - (3) Copy of the proposal signed by the bidder selected for award of the contract.
 - (4) If the award is not to be made to the lowest bidder, a statement of explanation.
 - (5) Bid amount broken down by fiscal shares.
 - (6) Competitive bidding statement.
 - (7) Recommendations for award.

EXHIBIT A
Work Requirements for Mass Transportation Capital Project Agreement

- (8) Analysis of low bid, including identification of unbalanced bids.
- (9) Certification of quantities of items bid 25% or greater over the engineer's estimate.
- (10) Non-collusive Bidding Certification.
- (11) Bidder Debarment History Certification.
- (12) For contracts over \$500,000 or as otherwise required:
- (13) Schedule of proposed DBE participation; and
- (14) NYS Uniform Contracting Questionnaire (CCA-1).

The Grantee shall award the contract and file an executed copy thereof with NYSDOT.

4. Contract Modification: The Grantee shall provide, in a manner determined by NYSDOT, any and all contract modification documentation and requests for NYSDOT review and approval. NYSDOT approval of any contract modification is required for the Grantee to receive State funding, and/or State-administered Federal Aid as applicable, for any cost increase contained in such contract modification.

EXHIBIT B

Grantee Record Keeping Guidelines

The following are the record keeping requirements for State reimbursement of participating direct costs on projects:

1. *Progress Billings.* After approval of the Agreement, the Grantee may submit progress billings to NYSDOT for the State funding, and any applicable State-administered Federal share of approved costs shall be supported as follows:

- a) Contracts/Consultant Agreements - Separate invoices or billings are required for each contract, each consultant agreement, and for work performed by Grantee employees. Billings for payments made on contracts or consultant agreements will be made on NYSDOT's Form A, as it may be amended, or other form or manner as acceptable to NYSDOT, and shall be supported by a copy of the applicable payment estimate(s) for contracts or consultant agreements.
- b) Work by Grantee Employees - Billings for Grantee employees will be on NYSDOT's Form A, as it may be amended, or other form or manner as acceptable to NYSDOT, and shall be supported by an Engineer's Payroll Abstract for the period(s) covered by the billings, copies of payroll time sheets for the applicable billing period and copies of paid invoices or supporting documents for all non-personal service cost items in excess of \$250. Only those direct Project costs as defined in applicable regulations can be included in billings. The supporting documents for personal service and non-personal service costs are to include payroll time sheets, engineer's payroll abstract leave and fringe benefit additives, and documented non-personal service costs.
- c) NYSDOT will reimburse Grantee personal service, fringe benefits, non-personal service and related costs which are clearly identifiable to a specific project.

2. *Project Detail Ledgers.* For audit purposes, a Project Detail Ledger is required as the official accounting record of the Grantee to record and accumulate all cost transactions applicable to the Project. All costs recorded on the Project Detail Ledger should be for 100% of such costs without reduction for the non-Federal share, State funding, and for any applicable Federal share.

Every transaction listed on the Project Detail Ledger will be recorded in the same level of detail as the total from each supporting source document (no summarization of source documents amounts). All transactions listed on the detail

ledger will identify the source document for the transaction by referencing contract/estimate numbers, social security numbers (for time sheets and employee reimbursements), vendor or payee numbers for vouchers, etc. The applicable accounting system record date will also be included for each transactions, i.e. - pay period dates for time sheets, or voucher approval or date paid for payments to the consultant, employee reimbursements, etc.

The ledgers for the Project will include totals for all transactions recorded during: (1) each accounting month, (2) the fiscal year of the Grantee, and (3) for the Project life to date.

3. *Source Documents.* The Grantee will retain an official copy of consultant estimates, payroll time sheets, employee travel claims and all other original source documents for transactions listed on the Project Detail Ledger. These will be systematically filed in an order that will facilitate retrieval. All expenditure vouchers or other cost documents must also be traceable through the Grantee's disbursement process to copies of warrants or checks issued and to corresponding documentation maintained in the official accounting records of the Grantee's central finance office.

4. *Audit/Disallowances.* Project costs claimed or previously reimbursed that cannot be supported as outlined herein, are subject to audit disallowance by NYSDOT, the State Comptroller, Federal Transit Administration, and/or the U.S. Department of Transportation, Officer of the Inspector General. Amounts paid to the Grantee by NYSDOT that are subsequently disallowed by the Federal Government are subject to recovery by NYSDOT from the Grantee, or at the option of the State, will be offset or reduced against current or future reimbursement claims on the same or other Project

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APPENDIX A: STANDARD CLAUSES FOR NEW YORK STATE CONTRACTS
January 2014

STANDARD CLAUSES FOR NYS CONTRACTS

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

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

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

3. COMPTROLLER'S APPROVAL. In accordance with Section 112 of the State Finance Law (or, if this contract is with the State University or City University of New York, Section 355 or Section 6218 of the Education Law), if this contract exceeds \$50,000 (or the minimum thresholds agreed to by the Office of the State Comptroller for certain S.U.N.Y. and C.U.N.Y. contracts), or if this is an amendment for any amount to a contract which, as so amended, exceeds said statutory amount, or if, by this contract, the State agrees to give something other than money when the value or reasonably estimated value of such consideration exceeds \$10,000, it shall not be valid, effective or binding upon the State until it has been approved by the State Comptroller and filed in his office. Comptroller's approval of contracts let by the Office of General Services is required when such contracts exceed \$85,000 (State Finance Law Section 163.6-a). However, such pre-approval shall not be required for any contract established as a centralized contract through the Office of General Services or for a purchase order or other transaction issued under such centralized contract.

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

the provisions of the Workers' Compensation Law.

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

6. WAGE AND HOURS PROVISIONS. If this is a public work contract covered by Article 8 of the Labor Law or a building service contract covered by Article 9 thereof, neither Contractor's employees nor the employees of its subcontractors may be required or permitted to work more than the number of hours or days stated in said statutes, except as otherwise provided in the Labor Law and as set forth in prevailing wage and supplement schedules issued by the State Labor Department. Furthermore, Contractor and its subcontractors must pay at least the prevailing wage rate and pay or provide the prevailing supplements, including the premium rates for overtime pay, as determined by the State Labor Department in accordance with the Labor Law. Additionally, effective April 28, 2008, if this is a public work contract covered by Article 8 of the Labor Law, the Contractor understands and agrees that the filing of payrolls in a manner consistent with Subdivision 3-a of Section 220 of the Labor Law shall be a condition precedent to payment by the State of any State approved sums due and owing for work done upon the project.

7. NON-COLLUSIVE BIDDING CERTIFICATION. In accordance with Section 139-d of the State Finance Law, if this contract was awarded based upon the submission of bids, Contractor affirms, under penalty of perjury, that its bid was

APPENDIX A: STANDARD CLAUSES FOR NEW YORK STATE CONTRACTS

January 2014

arrived at independently and without collusion aimed at restricting competition. Contractor further affirms that, at the time Contractor submitted its bid, an authorized and responsible person executed and delivered to the State a non-collusive bidding certification on Contractor's behalf.

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

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

10. RECORDS. The Contractor shall establish and maintain complete and accurate books, records, documents, accounts and other evidence directly pertinent to performance under this contract (hereinafter, collectively, "the Records"). The Records must be kept for the balance of the calendar year in which they were made and for six (6) additional years thereafter. The State Comptroller, the Attorney General and any other person or entity authorized to conduct an examination, as well as the agency or agencies involved in this contract, shall have access to the Records during normal business hours at an office of the Contractor within the State of New York or, if no such office is available, at a mutually agreeable and reasonable venue within the State, for the term specified above for the purposes of inspection, auditing and copying. The State shall take reasonable steps to protect from public disclosure any of the Records which are exempt from disclosure under Section 87 of the Public Officers Law (the "Statute") provided that: (i) the Contractor shall timely

inform an appropriate State official, in writing, that said records should not be disclosed; and (ii) said records shall be sufficiently identified; and (iii) designation of said records as exempt under the Statute is reasonable. Nothing contained herein shall diminish, or in any way adversely affect, the State's right to discovery in any pending or future litigation.

11. IDENTIFYING INFORMATION AND PRIVACY NOTIFICATION.

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

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

12. EQUAL EMPLOYMENT OPPORTUNITIES FOR MINORITIES AND WOMEN.

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

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funds for the acquisition, construction, demolition, replacement, major repair or renovation of real property and improvements thereon for such project, then the following shall apply and by signing this agreement the Contractor certifies and affirms that it is Contractor's equal employment opportunity policy that:

(a) The Contractor will not discriminate against employees or applicants for employment because of race, creed, color, national origin, sex, age, disability or marital status, shall make and document its conscientious and active efforts to employ and utilize minority group members and women in its work force on State contracts and will undertake or continue existing programs of affirmative action to ensure that minority group members and women are afforded equal employment opportunities without discrimination. Affirmative action shall mean recruitment, employment, job assignment, promotion, upgradings, demotion, transfer, layoff, or termination and rates of pay or other forms of compensation;

(b) at the request of the contracting agency, the Contractor shall request each employment agency, labor union, or authorized representative of workers with which it has a collective bargaining or other agreement or understanding, to furnish a written statement that such employment agency, labor union or representative will not discriminate on the basis of race, creed, color, national origin, sex, age, disability or marital status and that such union or representative will affirmatively cooperate in the implementation of the Contractor's obligations herein; and

(c) the Contractor shall state, in all solicitations or advertisements for employees, that, in the performance of the State contract, all qualified applicants will be afforded equal employment opportunities without discrimination because of race, creed, color, national origin, sex, age, disability or marital status.

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

13. CONFLICTING TERMS. In the event of a conflict between the terms of the contract (including any and all

attachments thereto and amendments thereof) and the terms of this Appendix A, the terms of this Appendix A shall control.

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

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

16. NO ARBITRATION. Disputes involving this contract, including the breach or alleged breach thereof, may not be submitted to binding arbitration (except where statutorily authorized), but must, instead, be heard in a court of competent jurisdiction of the State of New York.

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

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

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

19. MACBRIDE FAIR EMPLOYMENT PRINCIPLES (APPLICABLE ONLY IN NON-FEDERAL AID NEW YORK STATE CONTRACTS). In accordance with the MacBride Fair

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

20. OMNIBUS PROCUREMENT ACT OF 1992 (APPLICABLE ONLY IN NON-FEDERAL AID NEW YORK STATE CONTRACTS). It is the policy of New York State to maximize opportunities for the participation of New York State business enterprises, including minority and women-owned business enterprises as bidders, subcontractors and suppliers on its procurement contracts.

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

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

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

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

The Omnibus Procurement Act of 1992 requires that by signing this bid proposal or contract, as applicable, Contractors certify that whenever the total bid amount is greater than \$1 million:

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

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

(c) The Contractor agrees to make reasonable efforts to provide notification to New York State residents of employment opportunities on this project through listing any such positions with the Job Service Division of the New York State Department of Labor, or providing such notification in such manner as is

consistent with existing collective bargaining contracts or agreements. The Contractor agrees to document these efforts and to provide said documentation to the State upon request; and

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

21. RECIPROCITY AND SANCTIONS PROVISIONS. Bidders are hereby notified that if their principal place of business is located in a country, nation, province, state or political subdivision that penalizes New York State vendors, and if the goods or services they offer will be substantially produced or performed outside New York State, the Omnibus Procurement Act 1994 and 2000 amendments (Chapter 684 and Chapter 383, respectively) require that they be denied contracts which they would otherwise obtain. NOTE: As of May 15, 2002, the list of discriminatory jurisdictions subject to this provision includes the states of South Carolina, Alaska, West Virginia, Wyoming, Louisiana and Hawaii. Contact NYS Department of Economic Development for a current list of jurisdictions subject to this provision.

22. COMPLIANCE WITH NEW YORK STATE INFORMATION SECURITY BREACH AND NOTIFICATION ACT. Contractor shall comply with the provisions of the New York State Information Security Breach and Notification Act (General Business Law Section 899-aa; State Technology Law Section 208).

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

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

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

APPENDIX A: STANDARD CLAUSES FOR NEW YORK STATE CONTRACTS

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

26. IRAN DIVESTMENT ACT. By entering into this Agreement, Contractor certifies in accordance with State Finance Law §165-a that it is not on the "Entities Determined to be Non-Responsive Bidders/Offerers pursuant to the New York State Iran Divestment Act of 2012" ("Prohibited Entities List") posted at:
<http://www.ogs.ny.gov/about/regs/docs/ListofEntities.pdf>

Contractor further certifies that it will not utilize on this Contract any subcontractor that is identified on the Prohibited Entities List.

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

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

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

APPENDIX A-1: SUPPLEMENTAL TITLE VI PROVISIONS (CIVIL RIGHTS ACT)

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

- (1) **Compliance with Regulations:** The contractor shall comply with the Regulation relative to nondiscrimination in Federally-assisted programs of the Department of Transportation of the United States, Title 49, Code of Federal Regulations, Part 21, and the Federal Highway Administration (hereinafter "FHWA") Title 23, Code of Federal Regulations, Part 200 as they may be amended from time to time, (hereinafter referred to as the Regulations), which are herein incorporated by reference and made a part of this contract.
- (2) **Nondiscrimination:** The Contractor, with regard to the work performed by it during the contract, shall not discriminate on the grounds of race, color, or national origin, sex, age, and disability/handicap in the selection and retention of subcontractors, including procurements of materials and leases of equipment. The contractor shall not participate either directly or indirectly in the discrimination prohibited by 49 CFR, section 21.5 of the Regulations, including employment practices when the contract covers a program set forth in Appendix B of the Regulations.
- (3) **Solicitations for Subcontractors, Including Procurements of Materials and Equipment:** In all solicitations either by competitive bidding or negotiation made by the contractor for work to be performed under a subcontract, including procurements of materials or leases of equipment, each potential subcontractor or supplier shall be notified by the contractor of the contractor's obligations under this contract and the Regulations relative to nondiscrimination on the grounds of race, color, or national origin, sex, age, and disability/handicap.
- (4) **Information and Reports:** The contractor shall provide all information and reports required by the Regulations or directives issued pursuant thereto, and shall permit access to

its books, records, accounts, other sources of information, and its facilities as may be determined by NYSDOT or the FHWA to be pertinent to ascertain compliance with such Regulations, orders and instructions. Where any information required of a contractor is in the exclusive possession of another who fails or refuses to furnish this information the contractor shall so certify to NYSDOT's Office of Civil Rights or FHWA, as appropriate, and shall set forth what efforts it has made to obtain the information.

- (5) **Sanctions for Noncompliance:** In the event of the contractor's noncompliance with the nondiscrimination provisions of this contract, NYSDOT shall impose such contract sanctions as it or the FHWA may determine to be appropriate, including, but not limited to:
 - (a.) withholding of payments to the contractor under the contract until the contractor complies, and/or
 - (b.) cancellation, termination or suspension of the contract, in whole or in part.
- (6) **Incorporation of Provisions:** The contractor shall include the provisions of paragraphs (1) through (6) in every subcontract, including procurements of materials and leases of equipment, unless exempt by the Regulations, or directives issued pursuant thereto.

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

APPENDIX B: U.S. GOVERNMENT REQUIRED CLAUSES

Fly America Requirements – Applicability – all contracts involving transportation of persons or property, by air between the U.S. and/or places outside the U.S. These requirements do not apply to micro-purchases (\$3,000 or less, except for construction contracts over \$2,000). Contractor shall comply with 49 USC 40118 (the "Fly America" Act) in accordance with General Services Administration regulations 41 CFR 301-10, stating that recipients and subrecipients of Federal funds and their contractors are required to use US Flag air carriers for US Government-financed international air travel and transportation of their personal effects or property, to the extent such service is available, unless travel by foreign air carrier is a matter of necessity, as defined by the Fly America Act. Contractor shall submit, if a foreign air carrier was used, an appropriate certification or memorandum adequately explaining why service by a US flag air carrier was not available or why it was necessary to use a foreign air carrier and shall, in any event, provide a certificate of compliance with the Fly America requirements. Contractor shall include the requirements of this section in all subcontracts that may involve international air transportation.

Buy America Requirements – Applicability – Construction Contracts and Acquisition of Goods or Rolling Stock (valued at more than \$100,000) Contractor shall comply with 49 USC 5323(j) and 49 CFR 661, stating that Federal funds may not be obligated unless steel, iron, and manufactured products used in FTA-funded projects are produced in the United States, unless a waiver has been granted by FTA or the product is subject to a general waiver. General waivers are listed in 49 CFR 661.7, and include software, microcomputer equipment and small purchases (currently less than \$100,000) made with capital, operating, or planning funds. Separate requirements for rolling stock are stated at 5323(j)(2)(C) and 49 CFR 661.11. Rolling stock must be manufactured in the US and have a minimum 60% domestic content. A bidder or offeror shall submit appropriate Buy America certification to the the recipient with all bids on FTA-funded contracts, except those subject to a general waiver. Proposals not accompanied by a completed Buy America certification shall be rejected as nonresponsive. This requirement does not apply to lower tier subcontractors.

Charter Bus Requirements – Applicability – Operational Service Contracts. These requirements do not apply to micro-purchases (\$3,000 or less, except for construction contracts over \$2,000). Contractor shall comply with 49 USC 5323(d) and (g) and 49 CFR 604, which state that recipients and subrecipients of FTA assistance may provide charter service for transportation projects that uses equipment or facilities acquired with Federal assistance authorized under the Federal transit laws (except as permitted by 49 CFR 604), or under 23 U.S.C. 133 or 142, only in compliance with those laws and FTA regulations, "Charter Service," 49 CFR part 604, the terms and conditions of which are incorporated herein by reference.

School Bus Requirements – Applicability – Operational Service Contracts. These requirements do not apply to micro-purchases (\$3,000 or less, except for construction contracts over \$2,000). Pursuant to 69 USC 5323(f) and 49 CFR 605, recipients and subrecipients of FTA assistance shall not engage in school bus operations exclusively for transportation of students and school personnel in competition with private school bus operators unless qualified under specified exemptions. When operating exclusive school bus service under an allowable exemption, recipients and subrecipients shall not use federally funded equipment, vehicles, or facilities.

Cargo Preference - Use of US-Flag Vessels – Applicability – Contracts involving equipment, materials or commodities which may be transported by ocean vessels. These requirements do not apply to micro-purchases (\$3,000 or less, except for construction contracts over \$2,000). Contractor shall: a. use privately owned US-Flag commercial vessels to ship at least 50% of the gross tonnage (computed separately for dry bulk carriers, dry cargo liners, and tankers) involved, whenever shipping any equipment, material, or commodities pursuant to the underlying contract to the extent such vessels are available at fair and reasonable rates for US flag commercial vessels; b. furnish within 20 working days following the loading date of shipments originating within the US or within 30 working days following the loading date of shipments originating outside the US, a legible copy of a rated, "on-board" commercial bill-of-lading in English for each shipment of cargo described herein to the Division of National Cargo, Office of Market Development, Maritime Administration, Washington, DC 20590 and to the recipient (through contractor in the case of a subcontractor's bill-of-lading.) c. include these requirements in all subcontracts issued pursuant to this contract when the subcontract involves the transport of equipment, material, or commodities by ocean vessel.

Seismic Safety – Applicability – Construction of new buildings or additions to existing buildings. These requirements do not apply to micro-purchases (\$3,000 or less, except for construction contracts over \$2,000). Contractor agrees that any new building or addition to an existing building shall be designed and constructed in accordance with the standards required in USDOT Seismic Safety Regulations 49 CFR 41 and shall certify compliance to the extent required by the regulation. Contractor shall also ensure that all work performed under this contract, including work performed by subcontractors, complies with the standards required by 49 CFR 41 and the certification of compliance issued on the project.

Energy Conservation – Applicability – All Contracts except micro-purchases (\$3,000 or less, except for construction contracts over \$2,000) Contractor shall comply with mandatory standards and policies relating to energy efficiency, stated in the state energy conservation plan issued in compliance with the Energy Policy & Conservation Act.

Clean Water – Applicability – All Contracts and Subcontracts over \$100,000 Contractor shall comply with all applicable standards, orders or regulations issued pursuant to the Federal Water Pollution Control Act, as amended, 33 USC 1251 et seq. Contractor shall report each violation to the recipient and understands and agrees that the recipient shall, in turn, report each violation as required to FTA and the appropriate EPA Regional Office. Contractor shall include these requirements in each subcontract exceeding \$100,000 financed in whole or in part with FTA assistance.

Bus Testing – Applicability – Rolling Stock/Turnkey Contractor [manufacturer] shall comply with 49 USC A5323(c), applicable amendments of Map-21, and FTA's implementing regulation 49 CFR 665 and shall perform the following:

- 1) A manufacturer of a new bus model or a bus produced with a major change in components or configuration shall **provide a copy of the final test report** to the recipient prior to the recipient's final acceptance of the first vehicle.
- 2) A manufacturer who releases a report under para. 1 above shall provide notice to the operator of the testing facility that the report is available to the public.
- 3) If the manufacturer represents that the vehicle was previously tested, the vehicle being sold should have the identical configuration and major components as the vehicle in the test report, which must be provided to the recipient prior to the recipient's final acceptance of the first vehicle. If configuration or components are not identical, the manufacturer shall provide a description of the change and the manufacturer's basis for concluding that it is not a major

APPENDIX B: U.S. GOVERNMENT REQUIRED CLAUSES

change requiring additional testing.

4) If the manufacturer represents that the vehicle is "grandfathered" (has been used in mass transit service in the US before Oct. 1, 1988, and is currently being produced without a major change in configuration or components), the manufacturer shall provide the name and address of the recipient of such a vehicle and the details of that vehicle's configuration and major components.

Pre-Award & Post-Delivery Audit Requirements - Applicability – Rolling Stock/Turnkey
Contractor shall comply with 49 USC 5323(l) and FTA's implementing regulation 49 CFR 663 and submit the following certifications:

- 1) Buy America Requirements: Contractor shall complete and submit a declaration certifying either compliance or noncompliance with Buy America. If contractor certifies compliance with Buy America, it shall submit documentation listing:
 - A. Component and subcomponent parts of the rolling stock to be purchased identified by manufacturer of the parts, their country of origin and costs; and
 - B. The location of the final assembly point for the rolling stock, including a description of the activities that will take place at the final assembly point and the cost of final assembly.
 - C. Solicitation Specification Requirements: Contractor shall submit evidence that it will be capable of meeting the bid specifications.
 - D. Federal Motor Vehicle Safety Standards (FMVSS): Contractor shall submit 1) manufacturer's FMVSS self-certification sticker information that the vehicle complies with relevant FMVSS or 2) manufacturer's certified statement that the buses will not be subject to FMVSS regulations.

Lobbying – Applicability - Construction/Architectural and Engineering/Acquisition of Rolling Stock/Professional Service Contract/Operational Service Contract/Turnkey contracts over \$100,000
Byrd Anti-Lobbying Amendment, 31 U.S.C. 1352, as amended by the Lobbying Disclosure Act of 1995, P.L. 104-65 [to be codified at 2 U.S.C. § 1601, et seq.] - Contractors who apply or bid for an award of \$100,000 or more shall file the certification required by 49 CFR part 20, "New Restrictions on Lobbying." Each tier certifies to the tier above that it will not and has not used Federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a member of Congress, officer or employee of Congress, or an employee of a member of Congress in connection with obtaining any Federal contract, grant or any other award covered by 31 U.S.C. 1352. Each tier shall also disclose the name of any registrant under the Lobbying Disclosure Act of 1995 who has made lobbying contacts on its behalf with non-Federal funds with respect to that Federal contract, grant or award covered by 31 U.S.C. 1352. Such disclosures are forwarded from tier to tier up to the recipient.

Access to Records and Reports– Applicability – As shown below. These requirements do not apply to micro-purchases (\$3,000 or less, except for construction contracts over \$2,000)

The following access to records requirements apply to this Contract:

1. Where the purchaser is not a State but a local government and is an FTA recipient or a subgrantee of FTA recipient in accordance with 49 CFR 18.36(l), contractor shall provide the purchaser, the FTA, the US Comptroller General or their authorized representatives access to any books, documents, papers and contractor records which are pertinent to this contract for the purposes of making audits, examinations, excerpts and transcriptions. Contractor shall also, pursuant to 49 CFR 633.17, provide authorized FTA representatives, including any PMO contractor, access to contractor's records and construction sites pertaining to a capital project, defined at 49 USC 5302(a)1, which is receiving FTA assistance through the programs described at 49 USC 5307, 5309 or 5311.
2. Where the purchaser is a State and is an FTA recipient or a subgrantee of FTA recipient in accordance with 49 CFR 633.17, contractor shall provide the purchaser, authorized FTA representatives, including any PMO Contractor, access to contractor's records and construction sites pertaining to a capital project, defined at 49 USC 5302(a)1, which receives FTA assistance through the programs described at 49 USC 5307, 5309 or 5311. By definition, a capital project excludes contracts of less than the simplified acquisition threshold currently set at \$100,000.
3. Where the purchaser enters into a negotiated contract for other than a small purchase or under the simplified acquisition threshold and is an institution of higher education, a hospital or other non-profit organization and is an FTA recipient or a subgrantee of FTA recipient in accordance with 49 CFR 19.48, contractor shall provide the purchaser, the FTA, the US Comptroller General or their authorized representatives, access to any books, documents, papers and record of the contractor which are directly pertinent to this contract for the purposes of making audits, examinations, excerpts and transcriptions.
4. Where a purchaser which is an FTA recipient or a subgrantee of FTA recipient in accordance with 49 USC 5325(a) enters into a contract for a capital project or improvement (defined at 49 USC 5302(a)1) through other than competitive bidding, contractor shall make available records related to the contract to the purchaser, the Secretary of USDOT and the US Comptroller General or any authorized officer or employee of any of them for the purposes of conducting an audit and inspection.
5. Contractor shall permit any of the foregoing parties to reproduce by any means whatsoever or to copy excerpts and transcriptions as reasonably needed.
6. Contractor shall maintain all books, records, accounts and reports required under this contract for a period of not less than three (3) years after the date of termination or expiration of this contract, except in the event of litigation or settlement of claims arising from the performance of this contract, in which case contractor agrees to maintain same until the recipient, FTA Administrator, US Comptroller General, or any of their authorized representatives, have disposed of all such litigation, appeals, claims or exceptions related thereto. Re: 49 CFR 18.39(i)(11).

FTA does not require the inclusion of these requirements in subcontracts.

Federal Changes – Applicability – All Contracts except micro-purchases (\$3,000 or less, except for construction contracts over \$2,000)
Contractor shall comply with all applicable FTA regulations, policies, procedures and directives, including without limitation those listed directly or by reference in the Master Agreement between the recipient and FTA, as they may be amended or promulgated from time to time during the term of the contract. Contractor's failure to comply shall constitute a material breach of the contract.

Bonding Requirements – Applicability – For those construction or facility improvement contracts or subcontracts exceeding \$100,000, FTA may accept the

APPENDIX B: U.S. GOVERNMENT REQUIRED CLAUSES

bonding policy and requirements of the recipient, provided that they meet the minimum requirements for construction contracts as follows:

a. A bid guarantee from each bidder equivalent to five (5) percent of the bid price. The "bid guarantees" shall consist of a firm commitment such as a bid bond, certified check, or other negotiable instrument accompanying a bid as assurance that the bidder will, upon acceptance of his bid, execute such contractual documents as may be required within the time specified.

b. A performance bond on the part to the Contractor for 100 percent of the contract price. A "performance bond" is one executed in connection with a contract to secure fulfillment of all the contractor's obligations under such contract.

c. A payment bond on the part of the contractor for 100 percent of the contract price. A "payment bond" is one executed in connection with a contract to assure payment, as required by law, of all persons supplying labor and material in the execution of the work provided for in the contract. Payment bond amounts required from Contractors are as follows:

- (1) 50% of the contract price if the contract price is not more than \$1 million;
- (2) 40% of the contract price if the contract price is more than \$1 million but not more than \$5 million; or
- (3) \$2.5 million if the contract price is more than \$5 million.

d. A cash deposit, certified check or other negotiable instrument may be accepted by a grantee in lieu of performance and payment bonds, provided the grantee has established a procedure to assure that the interest of FTA is adequately protected. An irrevocable letter of credit would also satisfy the requirement for a bond.

Bid Bond Requirements (Construction)

(a) Bid Security - A Bid Bond must be issued by a fully qualified surety company acceptable to (Recipient) and listed as a company currently authorized under 31 CFR, Part 223 as possessing a Certificate of Authority as described thereunder.

(b) Rights Reserved - In submitting this Bid, it is understood and agreed by bidder that the right is reserved by (Recipient) to reject any and all bids, or part of any bid, and it is agreed that the Bid may not be withdrawn for a period of [ninety (90)] days subsequent to the opening of bids, without the written consent of (Recipient).

It is also understood and agreed that if the undersigned bidder should withdraw any part or all of his bid within [ninety (90)] days after the bid opening without the written consent of (Recipient), shall refuse or be unable to enter into this Contract, as provided above, or refuse or be unable to furnish adequate and acceptable Performance Bonds and Labor and Material Payments Bonds, as provided above, or refuse or be unable to furnish adequate and acceptable insurance, as provided above, he shall forfeit his bid security to the extent of (Recipient's) damages occasioned by such withdrawal, or refusal, or inability to enter into an agreement, or provide adequate security therefor.

It is further understood and agreed that to the extent the defaulting bidder's Bid Bond, Certified Check, Cashier's Check, Treasurer's Check, and/or Official Bank Check (excluding any income generated thereby which has been retained by (Recipient) as provided in [Item x "Bid Security" of the Instructions to Bidders]) shall prove inadequate to fully recompense (Recipient) for the damages occasioned by default, then the undersigned bidder agrees to indemnify (Recipient) and pay over to (Recipient) the difference between the bid security and (Recipient's) total damages, so as to make (Recipient) whole. The undersigned understands that any material alteration of any of the above or any of the material contained on this form, other than that requested, will render the bid unresponsive.

Performance and Payment Bonding Requirements (Construction)

The Contractor shall be required to obtain performance and payment bonds as follows:

(a) Performance bonds

1. The penal amount of performance bonds shall be 100 percent of the original contract price, unless the (Recipient) determines that a lesser amount would be adequate for the protection of the (Recipient).
2. The (Recipient) may require additional performance bond protection when a contract price is increased. The increase in protection shall generally equal 100 percent of the increase in contract price. The (Recipient) may secure additional protection by directing the Contractor to increase the penal amount of the existing bond or to obtain an additional bond.

(b) Payment bonds

1. The penal amount of the payment bonds shall equal:
 - (i) Fifty percent of the contract price if the contract price is not more than \$1 million.
 - (ii) Forty percent of the contract price if the contract price is more than \$1 million but not more than \$5 million; or
 - (iii) Two and one half million if the contract price is more than \$5 million.
2. If the original contract price is \$5 million or less, the (Recipient) may require additional protection as required by subparagraph 1 if the contract price is increased.

Performance and Payment Bonding Requirements (Non-Construction)

The Contractor may be required to obtain performance and payment bonds when necessary to protect the (Recipient's) interest.

(a) The following situations may warrant a performance bond:

1. (Recipient) property or funds are to be provided to the contractor for use in performing the contract or as partial compensation (as in retention of salvaged material).
2. A contractor sells assets to or merges with another concern, and the (Recipient), after recognizing the latter concern as the successor in interest, desires assurance that it is financially capable.

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3. Substantial progress payments are made before delivery of end items starts.
4. Contracts are for dismantling, demolition, or removal of improvements.

(b) When it is determined that a performance bond is required, the Contractor shall be required to obtain performance bonds as follows:

1. The penal amount of performance bonds shall be 100 percent of the original contract price, unless the (Recipient) determines that a lesser amount would be adequate for the protection of the (Recipient).

2. The (Recipient) may require additional performance bond protection when a contract price is increased. The increase in protection shall generally equal 100 percent of the increase in contract price.

The (Recipient) may secure additional protection by directing the Contractor to increase the penal amount of the existing bond or to obtain an additional bond.

(c) A payment bond is required only when a performance bond is required, and if the use of payment bond is in the (Recipient's) interest.

(d) When it is determined that a payment bond is required, the Contractor shall be required to obtain payment bonds as follows:

1. The penal amount of payment bonds shall equal:

- (i) Fifty percent of the contract price if the contract price is not more than \$1 million;
- (ii) Forty percent of the contract price if the contract price is more than \$1 million but not more than \$5 million; or
- (iii) Two and one half million if the contract price is increased.

Advance Payment Bonding Requirements

The Contractor may be required to obtain an advance payment bond if the contract contains an advance payment provision and a performance bond is not furnished. The (recipient) shall determine the amount of the advance payment bond necessary to protect the (Recipient).

Patent Infringement Bonding Requirements (Patent Indemnity)

The Contractor may be required to obtain a patent indemnity bond if a performance bond is not furnished and the financial responsibility of the Contractor is unknown or doubtful. The (recipient) shall determine the amount of the patent indemnity to protect the (Recipient).

Warranty of the Work and Maintenance Bonds

1. The Contractor warrants to (Recipient), the Architect and/or Engineer that all materials and equipment furnished under this Contract will be of highest quality and new unless otherwise specified by (Recipient), free from faults and defects and in conformance with the Contract Documents. All work not so conforming to these standards shall be considered defective. If required by the [Project Manager], the Contractor shall furnish satisfactory evidence as to the kind and quality of materials and equipment.

2. The Work furnished must be of first quality and the workmanship must be the best obtainable in the various trades. The Work must be of safe, substantial and durable construction in all respects. The Contractor hereby guarantees the Work against defective materials or faulty workmanship for a minimum period of one (1) year after Final Payment by (Recipient) and shall replace or repair any defective materials or equipment or faulty workmanship during the period of the guarantee at no cost to (Recipient). As additional security for these guarantees, the Contractor shall, prior to the release of Final Payment [as provided in Item X below], furnish separate Maintenance (or Guarantee) Bonds in form acceptable to (Recipient) written by the same corporate surety that provides the Performance Bond and Labor and Material Payment Bond for this Contract. These bonds shall secure the Contractor's obligation to replace or repair defective materials and faulty workmanship for a minimum period of one (1) year after Final Payment and shall be written in an amount equal to ONE HUNDRED PERCENT (100%) of the CONTRACT SUM, as adjusted (if at all).

Clean Air – Applicability – All contracts over \$100,000

1) Contractor shall comply with all applicable standards, orders or regulations pursuant to the Clean Air Act, 42 USC 7401 et seq. Contractor shall report each violation to the recipient and understands and agrees that the recipient will, in turn, report each violation as required to FTA and the appropriate EPA Regional Office.

2) Contractor shall include these requirements in each subcontract exceeding \$100,000 financed in whole or in part with FTA assistance.

Recycled Products – Applicability – All contracts for items designated by the EPA, when the purchaser or contractor procures \$10,000 or more of one of these items during the current or previous fiscal year using Federal funds. The contractor agrees to comply with all the requirements of Section 6002 of the Resource Conservation and Recovery Act (RCRA), as amended (42 U.S.C. 6962), including but not limited to the regulatory provisions of 40 CFR Part 247, and Executive Order 12873, as they apply to the procurement of the items designated in Subpart B of 40 CFR Part 247.

Davis-Bacon and Copeland Anti-Kickback Acts – Applicability – Construction contracts and subcontracts, including actual construction, alteration and/or repair, including decorating and painting, over \$2,000

(1) Minimum wages - (i) All laborers and mechanics employed or working upon the site of the work (or under the United States Housing Act of 1937 or under the Housing Act of 1949 in the construction or development of the project), will be paid unconditionally and not less often than once a week, and without subsequent deduction or rebate on any account (except such payroll deductions as are permitted by regulations issued by the Secretary of Labor under the Copeland Act (29 CFR part 3)), the full amount of wages and bona fide fringe benefits (or cash equivalents thereof) due at time of payment computed at the rates not less than those contained in the wage determination of the Secretary of Labor which is attached hereto and made a part hereof, regardless of any contractual relationship which may be alleged to exist between the contractor and such laborers and mechanics. Contributions made or costs reasonably anticipated for bona fide fringe benefits under section 1(b)(2) of the Davis-Bacon Act on behalf of laborers or mechanics are considered wages paid to such laborers or mechanics, subject to the provisions of paragraph (1)(iv) of this section; also, regular contributions made or costs incurred for more than a weekly period (but not less often than quarterly) under plans, funds, or programs which cover the particular weekly period, are deemed to be constructively made or incurred during such weekly period. Such laborers and mechanics shall be paid the appropriate wage rate and fringe benefits on the wage determination for the classification of work actually performed, without regard to skill, except as provided in 29 CFR Part 5.5(a)(4). Laborers or mechanics performing work in more than one classification may be compensated at the rate specified for each classification for the time actually worked therein: Provided, That the

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employer's payroll records accurately set forth the time spent in each classification in which work is performed. The wage determination (including any additional classifications and wage rates conformed under paragraph (1)(ii) of this section) and the Davis-Bacon poster (WH-1321) shall be posted at all times by the contractor and its subcontractors at the site of the work in a prominent and accessible place where it can be easily seen by the workers. (ii)(A) The contracting officer shall require that any class of laborers or mechanics, including helpers, which is not listed in the wage determination and which is to be employed under the contract shall be classified in conformance with the wage determination. The contracting officer shall approve an additional classification and wage rate and fringe benefits therefore only when the following criteria have been met:

(1) Except with respect to helpers as defined as 29 CFR 5.2(n)(4), the work to be performed by the classification requested is not performed by a classification in the wage determination; and (2) The classification is utilized in the area by the construction industry; and (3) The proposed wage rate, including any bona fide fringe benefits, bears a reasonable relationship to the wage rates contained in the wage determination; and (4) With respect to helpers as defined in 29 CFR 5.2(n)(4), such a classification prevails in the area in which the work is performed. (B) If the contractor and the laborers and mechanics to be employed in the classification (if known), or their representatives, and the contracting officer agree on the classification and wage rate (including the amount designated for fringe benefits where appropriate), a report of the action taken shall be sent by the contracting officer to the Administrator of the Wage and Hour Division, Employment Standards Administration, U.S. Department of Labor, Washington, DC 20210. The Administrator, or an authorized representative, will approve, modify, or disapprove every additional classification action within 30 days of receipt and so advise the contracting officer or will notify the contracting officer within the 30-day period that additional time is necessary. (C) In the event the contractor, the laborers or mechanics to be employed in the classification or their representatives, and the contracting officer do not agree on the proposed classification and wage rate (including the amount designated for fringe benefits, where appropriate), the contracting officer shall refer the questions, including the views of all interested parties and the recommendation of the contracting officer, to the Administrator for determination. The Administrator, or an authorized representative, will issue a determination within 30 days of receipt and so advise the contracting officer or will notify the contracting officer within the 30-day period that additional time is necessary. (D) The wage rate (including fringe benefits where appropriate) determined pursuant to paragraphs (a)(1)(ii) (B) or (C) of this section, shall be paid to all workers performing work in the classification under this contract from the first day on which work is performed in the classification. (iii) Whenever the minimum wage rate prescribed in the contract for a class of laborers or mechanics includes a fringe benefit which is not expressed as an hourly rate, the contractor shall either pay the benefit as stated in the wage determination or shall pay another bona fide fringe benefit or an hourly cash equivalent thereof. (iv) If the contractor does not make payments to a trustee or other third person, the contractor may consider as part of the wages of any laborer or mechanic the amount of any costs reasonably anticipated in providing bona fide fringe benefits under a plan or program. Provided, That the Secretary of Labor has found, upon the written request of the contractor, that the applicable standards of the Davis-Bacon Act have been met. The Secretary of Labor may require the contractor to set aside in a separate account assets for the meeting of obligations under the plan or program. (v)(A) The contracting officer shall require that any class of laborers or mechanics which is not listed in the wage determination and which is to be employed under the contract shall be classified in conformance with the wage determination. The contracting officer shall approve an additional classification and wage rate and fringe benefits therefor only when the following criteria have been met: (1) The work to be performed by the classification requested is not performed by a classification in the wage determination; and (2) The classification is utilized in the area by the construction industry; and (3) The proposed wage rate, including any bona fide fringe benefits, bears a reasonable relationship to the wage rates contained in the wage determination.

(B) If the contractor and the laborers and mechanics to be employed in the classification (if known), or their representatives, and the contracting officer agree on the classification and wage rate (including the amount designated for fringe benefits where appropriate), a report of the action taken shall be sent by the contracting officer to the Administrator of the Wage and Hour Division, Employment Standards Administration, Washington, DC 20210. The Administrator, or an authorized representative, will approve, modify, or disapprove every additional classification action within 30 days of receipt and so advise the contracting officer or will notify the contracting officer within the 30-day period that additional time is necessary. (C) In the event the contractor, the laborers or mechanics to be employed in the classification or their representatives, and the contracting officer do not agree on the proposed classification and wage rate (including the amount designated for fringe benefits, where appropriate), the contracting officer shall refer the questions, including the views of all interested parties and the recommendation of the contracting officer, to the Administrator for determination. The Administrator, or an authorized representative, will issue a determination within 30 days of receipt and so advise the contracting officer or will notify the contracting officer within the 30-day period that additional time is necessary. (D) The wage rate (including fringe benefits where appropriate) determined pursuant to paragraphs (a)(1)(v) (B) or (C) of this section, shall be paid to all workers performing work in the classification under this contract from the first day on which work is performed in the classification.

(2) Withholding - The recipient shall upon its own action or upon written request of an authorized representative of the Department of Labor withhold or cause to be withheld from the contractor under this contract or any other Federal contract with the same prime contractor, or any other federally-assisted contract subject to Davis-Bacon prevailing wage requirements, which is held by the same prime contractor, so much of the accrued payments or advances as may be considered necessary to pay laborers and mechanics, including apprentices, trainees, and helpers, employed by the contractor or any subcontractor the full amount of wages required by the contract. In the event of failure to pay any laborer or mechanic, including any apprentice, trainee, or helper, employed or working on the site of the work (or under the United States Housing Act of 1937 or under the Housing Act of 1949 in the construction or development of the project), all or part of the wages required by the contract, the grantee may, after written notice to the contractor, sponsor, applicant, or owner, take such action as may be necessary to cause the suspension of any further payment, advance, or guarantee of funds until such violations have ceased.

(3) Payrolls and basic records - (i) Payrolls and basic records relating thereto shall be maintained by the contractor during the course of the work and preserved for a period of three years thereafter for all laborers and mechanics working at the site of the work (or under the United States Housing Act of 1937, or under the Housing Act of 1949, in the construction or development of the project). Such records shall contain the name, address, and social security number of each such worker, his or her correct classification, hourly rates of wages paid (including rates of contributions or costs anticipated for bona fide fringe benefits or cash equivalents thereof of the types described in section 1(b)(2)(B) of the Davis-Bacon Act), daily and weekly number of hours worked, deductions made and actual wages paid. Whenever the Secretary of Labor has found under 29 CFR 5.5(a)(1)(iv) that the wages of any laborer or mechanic include the amount of any costs reasonably anticipated in providing benefits under a plan or program described in section 1(b)(2)(B) of the Davis-Bacon Act, the contractor shall maintain records which show that the commitment to provide such benefits is enforceable, that the plan or program is financially responsible, and that the plan or program has been communicated in writing to the laborers or mechanics affected, and records which show the costs anticipated and the actual cost incurred in providing such benefits. Contractors employing apprentices or trainees under approved programs shall maintain written evidence of the registration of apprenticeship programs and certification of trainee programs, the registration of the apprentices and trainees, and the ratios and wage rates prescribed in the applicable programs.

(ii)(A) The contractor shall submit weekly for each week in which any contract work is performed a copy of all payrolls to the recipient for transmission to the Federal Transit Administration. The payrolls submitted shall set out accurately and completely all of the information required to be maintained under section 5.5(a)(3)(i) of Regulations, 29 CFR part 5. This information may be submitted in any form desired. Optional Form WH-347 is available for this purpose and may be purchased from the Superintendent of Documents (Federal Stock Number 029-005-00014-1), U.S. Government Printing Office, Washington, DC 20402. The prime contractor is responsible for the submission of copies of payrolls by all subcontractors. (B) Each payroll submitted shall be accompanied

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by a "Statement of Compliance," signed by the contractor or subcontractor or his or her agent who pays or supervises the payment of the persons employed under the contract and shall certify the following: (1) That the payroll for the payroll period contains the information required to be maintained under section 5.5(a)(3)(i) of Regulations, 29 CFR part 5 and that such information is correct and complete; (2) That each laborer or mechanic (including each helper, apprentice, and trainee) employed on the contract during the payroll period has been paid the full weekly wages earned, without rebate, either directly or indirectly, and that no deductions have been made either directly or indirectly from the full wages earned, other than permissible deductions as set forth in Regulations, 29 CFR part 3; (3) That each laborer or mechanic has been paid not less than the applicable wage rates and fringe benefits or cash equivalents for the classification of work performed, as specified in the applicable wage determination incorporated into the contract. (C) The weekly submission of a properly executed certification set forth on the reverse side of Optional Form WH-347 shall satisfy the requirement for submission of the "Statement of Compliance" required by paragraph (a)(3)(ii)(B) of this section.

(D) The falsification of any of the above certifications may subject the contractor or subcontractor to civil or criminal prosecution under section 1001 of title 18 and section 231 of title 31 of the United States Code. (iii) The contractor or subcontractor shall make the records required under paragraph (a)(3)(i) of this section available for inspection, copying, or transcription by authorized representatives of the Federal Transit Administration or the Department of Labor, and shall permit such representatives to interview employees during working hours on the job. If the contractor or subcontractor fails to submit the required records or to make them available, the Federal agency may, after written notice to the contractor, sponsor, applicant, or owner, take such action as may be necessary to cause the suspension of any further payment, advance, or guarantee of funds. Furthermore, failure to submit the required records upon request or to make such records available may be grounds for debarment action pursuant to 29 CFR 5.12.

(4) Apprentices and trainees - (i) Apprentices - Apprentices will be permitted to work at less than the predetermined rate for the work they performed when they are employed pursuant to and individually registered in a bona fide apprenticeship program registered with the U.S. Department of Labor, Employment and Training Administration, Bureau of Apprenticeship and Training, or with a State Apprenticeship Agency recognized by the Bureau, or if a person is employed in his or her first 90 days of probationary employment as an apprentice in such an apprenticeship program, who is not individually registered in the program, but who has been certified by the Bureau of Apprenticeship and Training or a State Apprenticeship Agency (where appropriate) to be eligible for probationary employment as an apprentice. The allowable ratio of apprentices to journeymen on the job site in any craft classification shall not be greater than the ratio permitted to the contractor as to the entire work force under the registered program. Any worker listed on a payroll at an apprentice wage rate, who is not registered or otherwise employed as stated above, shall be paid not less than the applicable wage rate on the wage determination for the classification of work actually performed. In addition, any apprentice performing work on the job site in excess of the ratio permitted under the registered program shall be paid not less than the applicable wage rate on the wage determination for the work actually performed. Where a contractor is performing construction on a project in a locality other than that in which its program is registered, the ratios and wage rates (expressed in percentages of the journeyman's hourly rate) specified in the contractor's or subcontractor's registered program shall be observed. Every apprentice must be paid at not less than the rate specified in the registered program for the apprentice's level of progress, expressed as a percentage of the journeymen hourly rate specified in the applicable wage determination. Apprentices shall be paid fringe benefits in accordance with the provisions of the apprenticeship program. If the apprenticeship program does not specify fringe benefits, apprentices must be paid the full amount of fringe benefits listed on the wage determination for the applicable classification. If the Administrator of the Wage and Hour Division of the U.S. Department of Labor determines that a different practice prevails for the applicable apprentice classification, fringes shall be paid in accordance with that determination. In the event the Bureau of Apprenticeship and Training, or a State Apprenticeship Agency recognized by the Bureau, withdraws approval of an apprenticeship program, the contractor will no longer be permitted to utilize apprentices at less than the applicable predetermined rate for the work performed until an acceptable program is approved. (ii) Trainees - Except as provided in 29 CFR 5.16, trainees will not be permitted to work at less than the predetermined rate for the work performed unless they are employed pursuant to and individually registered in a program which has received prior approval, evidenced by formal certification by the U.S. Department of Labor, Employment and Training Administration. The ratio of trainees to journeymen on the job site shall not be greater than permitted under the plan approved by the Employment and Training Administration. Every trainee must be paid at not less than the rate specified in the approved program for the trainee's level of progress, expressed as a percentage of the journeyman hourly rate specified in the applicable wage determination. Trainees shall be paid fringe benefits in accordance with the provisions of the trainee program. If the trainee program does not mention fringe benefits, trainees shall be paid the full amount of fringe benefits listed on the wage determination unless the Administrator of the Wage and Hour Division determines that there is an apprenticeship program associated with the corresponding journeyman wage rate on the wage determination which provides for less than full fringe benefits for apprentices. Any employee listed on the payroll at a trainee rate who is not registered and participating in a training plan approved by the Employment and Training Administration shall be paid not less than the applicable wage rate on the wage determination for the classification of work actually performed. In addition, any trainee performing work on the job site in excess of the ratio permitted under the registered program shall be paid not less than the applicable wage rate on the wage determination for the work actually performed. In the event the Employment and Training Administration withdraws approval of a training program, the contractor will no longer be permitted to utilize trainees at less than the applicable predetermined rate for the work performed until an acceptable program is approved.

(iii) Equal employment opportunity - The utilization of apprentices, trainees and journeymen under this part shall be in conformity with the equal employment opportunity requirements of Executive Order 11246, as amended, and 29 CFR part 30.

(5) Compliance with Copeland Act requirements - The contractor shall comply with the requirements of 29 CFR part 3, which are incorporated by reference in this contract.

(6) Subcontracts - The contractor or subcontractor shall insert in any subcontracts the clauses contained in 29 CFR 5.5(a)(1) through (10) and such other clauses as the Federal Transit Administration may by appropriate instructions require, and also a clause requiring the subcontractors to include these clauses in any lower tier subcontracts. The prime contractor shall be responsible for the compliance by any subcontractor or lower tier subcontractor with all the contract clauses in 29 CFR 5.5.

(7) Contract termination: debarment - A breach of the contract clauses in 29 CFR 5.5 may be grounds for termination of the contract, and for debarment as a contractor and a subcontractor as provided in 29 CFR 5.12.

(8) Compliance with Davis-Bacon and Related Act requirements - All rulings and interpretations of the Davis-Bacon and Related Acts contained in 29 CFR parts 1, 3, and 5 are herein incorporated by reference in this contract.

(9) Disputes concerning labor standards - Disputes arising out of the labor standards provisions of this contract shall not be subject to the general disputes clause of this contract. Such disputes shall be resolved in accordance with the procedures of the Department of Labor set forth in 29 CFR parts 5, 6, and 7. Disputes within the meaning of this clause include disputes between the contractor (or any of its subcontractors) and the contracting agency, the U.S. Department of Labor, or the employees or their representatives.

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(10) Certification of Eligibility - (i) By entering into this contract, contractor certifies that neither it (nor he or she) nor any person or firm who has an interest in contractor's firm is a person or firm ineligible to be awarded Government contracts by virtue of section 3(a) of the Davis-Bacon Act or 29 CFR 5.12(a)(1). (ii) No part of this contract shall be subcontracted to any person or firm ineligible for award of a Government contract by virtue of section 3(a) of the Davis-Bacon Act or 29 CFR 5.12(a)(1). (iii) The penalty for making false statements is prescribed in 18 USC 1001.

Contract Work Hours & Safety Standards Act - Applicability - Contracts over \$100,000

(1) Overtime requirements - No contractor or subcontractor contracting for any part of the contract work which may require or involve the employment of laborers or mechanics shall require or permit any such laborer or mechanic in any workweek in which he or she is employed on such work to work in excess of 40 hours in such workweek unless such laborer or mechanic receives compensation at a rate not less than one and one-half times the basic rate of pay for all hours worked in excess of 40 hours in such workweek.

(2) Violation; liability for unpaid wages; liquidated damages - In the event of any violation of the clause set forth in para. (1) of this section, contractor and any subcontractor responsible therefore shall be liable for the unpaid wages. In addition, such contractor and subcontractor shall be liable for liquidated damages. Such liquidated damages shall be computed with respect to each individual laborer or mechanic, including watchmen and guards, employed in violation of the clause set forth in para. (1) of this section, in the sum of \$10 for each calendar day on which such individual was required or permitted to work in excess of the standard workweek of 40 hours without payment of the overtime wages required by the clause set forth in para. (1) of this section.

(3) Withholding for unpaid wages and liquidated damages - the recipient shall upon its own action or upon written request of USDOL withhold or cause to be withheld, from any moneys payable on account of work performed by contractor or subcontractor under any such contract or any other Federal contract with the same prime contractor, or any other federally-assisted contract subject to the Contract Work Hours & Safety Standards Act, which is held by the same prime contractor, such sums as may be determined to be necessary to satisfy any liabilities of such contractor or subcontractor for unpaid wages and liquidated damages as provided in the clause set forth in para. (2) of this section.

(4) Subcontracts - Contractor or subcontractor shall insert in any subcontracts the clauses set forth in this section and also a clause requiring the subcontractors to include these clauses in any lower tier subcontracts. Prime contractor shall be responsible for compliance by any subcontractor or lower tier subcontractor with the clauses set forth in this section.

No Government Obligation to Third Parties - Applicability - All contracts except micro-purchases (\$3,000 or less, except for construction contracts over \$2,000)

(1) The recipient and contractor acknowledge and agree that, notwithstanding any concurrence by the US Government in or approval of the solicitation or award of the underlying contract, absent the express written consent by the US Government, the US Government is not a party to this contract and shall not be subject to any obligations or liabilities to the recipient, the contractor, or any other party (whether or not a party to that contract) pertaining to any matter resulting from the underlying contract.

(2) Contractor agrees to include the above clause in each subcontract financed in whole or in part with FTA assistance. It is further agreed that the clause shall not be modified, except to identify the subcontractor who will be subject to its provisions.

Program Fraud and False or Fraudulent Statements or Related Acts - Applicability - All contracts except micro-purchases (\$3,000 or less, except for construction contracts over \$2,000)

(1) Contractor acknowledges that the provisions of the Program Fraud Civil Remedies Act of 1986, as amended, 31 USC 3801 et seq. and USDOT regulations, "Program Fraud Civil Remedies," 49 CFR 31, apply to its actions pertaining to this project. Upon execution of the underlying contract, contractor certifies or affirms the truthfulness and accuracy of any statement it has made, it makes, it may make, or causes to be made, pertaining to the underlying contract or FTA assisted project for which this contract work is being performed. In addition to other penalties that may be applicable, contractor further acknowledges that if it makes, or causes to be made, a false, fictitious, or fraudulent claim, statement, submittal, or certification, the US Government reserves the right to impose the penalties of the Program Fraud Civil Remedies Act (1986) on contractor to the extent the US Government deems appropriate.

(2) If contractor makes, or causes to be made, a false, fictitious, or fraudulent claim, statement, submittal, or certification to the US Government under a contract connected with a project that is financed in whole or in part with FTA assistance under the authority of 49 USC 5307, the Government reserves the right to impose the penalties of 18 USC 1001 and 49 USC 5307(n)(1) on contractor, to the extent the US Government deems appropriate.

(3) Contractor shall include the above two clauses in each subcontract financed in whole or in part with FTA assistance. The clauses shall not be modified, except to identify the subcontractor who will be subject to the provisions.

Termination - Applicability - All Contracts over \$10,000, except contracts with nonprofit organizations and institutions of higher learning, where the threshold is \$100,000

a. Termination for Convenience (General Provision) the recipient may terminate this contract, in whole or in part, at any time by written notice to contractor when it is in the recipient's best interest. Contractor shall be paid its costs, including contract close-out costs, and profit on work performed up to the time of termination. Contractor shall promptly submit its termination claim to the recipient. If contractor is in possession of any of the recipient's property, contractor shall account for same, and dispose of it as the recipient directs.

b. Termination for Default [Breach or Cause] (General Provision) If contractor does not deliver items in accordance with the contract delivery schedule, or if the contract is for services, and contractor fails to perform in the manner called for in the contract, or if contractor fails to comply with any other provisions of the contract, the recipient may terminate this contract for default. Termination shall be effected by serving a notice of termination to contractor setting forth the manner in which contractor is in default. Contractor shall only be paid the contract price for supplies delivered and accepted, or for services performed in accordance with the manner of performance set forth in the contract.

If it is later determined by the recipient that contractor had an excusable reason for not performing, such as a strike, fire, or flood, events which are not the fault of or are beyond the control of contractor, the recipient, after setting up a new delivery or performance schedule, may allow contractor to continue work, or treat the termination as a termination for convenience.

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c. Opportunity to Cure (General Provision) the recipient in its sole discretion may, in the case of a termination for breach or default, allow contractor an appropriately short period of time in which to cure the defect. In such case, the notice of termination shall state the time period in which cure is permitted and other appropriate conditions

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

d. Waiver of Remedies for any Breach In the event that the recipient elects to waive its remedies for any breach by contractor of any covenant, term or condition of this Contract, such waiver by the recipient shall not limit its remedies for any succeeding breach of that or of any other term, covenant, or condition of this Contract.

e. Termination for Convenience (Professional or Transit Service Contracts) the recipient, by written notice, may terminate this contract, in whole or in part, when it is in the recipient's interest. If the contract is terminated, the recipient shall be liable only for payment under the payment provisions of this contract for services rendered before the effective date of termination.

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

g. Termination for Default (Transportation Services) If contractor fails to pick up the commodities or to perform the services, including delivery services, within the time specified in this contract or any extension or if contractor fails to comply with any other provisions of this contract, the recipient may terminate this contract for default. The recipient shall terminate by delivering to contractor a notice of termination specifying the nature of default. Contractor shall only be paid the contract price for services performed in accordance with the manner of performance set forth in this contract. If this contract is terminated while contractor has possession of the recipient goods, contractor shall, as directed by the recipient, protect and preserve the goods until surrendered to the recipient or its agent. Contractor and the recipient shall agree on payment for the preservation and protection of goods. Failure to agree on an amount shall be resolved under the Dispute clause. If, after termination for failure to fulfill contract obligations, it is determined that contractor was not in default, the rights and obligations of the parties shall be the same as if termination had been issued for the recipient's convenience.

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

Contractor's right to proceed shall not be terminated nor shall contractor be charged with damages under this clause if:

1. Delay in completing the work arises from unforeseeable causes beyond the control and without the fault or negligence of contractor. Examples of such causes include: acts of God, acts of the recipient, acts of another contractor in the performance of a contract with the recipient, epidemics, quarantine restrictions, strikes, freight embargoes; and

2. Contractor, within 10 days from the beginning of any delay, notifies the recipient in writing of the causes of delay. If in the recipient's judgment, delay is excusable, the time for completing the work shall be extended. The recipient's judgment shall be final and conclusive on the parties, but subject to appeal under the Disputes clauses.

If, after termination of contractor's right to proceed, it is determined that contractor was not in default, or that the delay was excusable, the rights and obligations of the parties will be the same as if termination had been issued for the recipient's convenience.

i. Termination for Convenience or Default (Architect & Engineering) the recipient may terminate this contract in whole or in part, for the recipient's convenience or because of contractor's failure to fulfill contract obligations. The recipient shall terminate by delivering to contractor a notice of termination specifying the nature, extent, and effective date of termination. Upon receipt of the notice, contractor shall (1) immediately discontinue all services affected (unless the notice directs otherwise), and (2) deliver to the recipient all data, drawings, specifications, reports, estimates, summaries, and other information and materials accumulated in performing this contract, whether completed or in process. If termination is for the recipient's convenience, it shall make an equitable adjustment in the contract price but shall allow no anticipated profit on unperformed services. If termination is for contractor's failure to fulfill contract obligations, the recipient may complete the work by contract or otherwise and contractor shall be liable for any additional cost incurred by the recipient.

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

j. Termination for Convenience or Default (Cost-Type Contracts) the recipient may terminate this contract, or any portion of it, by serving a notice or termination on contractor. The notice shall state whether termination is for convenience of the recipient or for default of contractor. If termination is for default, the notice shall state the manner in which contractor has failed to perform the requirements of the contract. Contractor shall account for any property in its possession paid for from funds received from the recipient, or property supplied to contractor by the recipient. If termination is for default, the recipient may fix the fee, if the contract provides for a fee, to be paid to contractor in proportion to the value, if any, of work performed up to the time of termination. Contractor shall promptly submit its termination claim to the recipient and the parties shall negotiate the termination settlement to be paid to contractor. If termination is for the recipient's convenience, contractor shall be paid its contract close-out costs, and a fee, if the contract provided for payment of a fee, in

APPENDIX B: U.S. GOVERNMENT REQUIRED CLAUSES

proportion to the work performed up to the time of termination.
If, after serving a notice of termination for default, the recipient determines that contractor has an excusable reason for not performing, such as strike, fire, flood, events which are not the fault of and are beyond the control of contractor, the recipient, after setting up a new work schedule, may allow contractor to continue work, or treat the termination as a termination for convenience.

Government-wide Debarment and Suspension (Nonprocurement) – Applicability – Contracts over \$25,000

This contract is a covered transaction for purposes of 49 CFR Part 29. As such, the contractor is required to verify that none of the contractors, its principals, as defined at 49 CFR 29.995, or affiliates, as defined at 49 CFR 29.905, are excluded or disqualified as defined at 49 CFR 29.940 and 29.945.
The contractor is required to comply with 49 CFR 29, Subpart C and must include the requirement to comply with 49 CFR 29, Subpart C in any lower tier covered transaction it enters into.

By signing and submitting its bid or proposal, the bidder or proposer certifies as follows:
The certification in this clause is a material representation of fact relied upon by the recipient. If it is later determined that the bidder or proposer knowingly rendered an erroneous certification, in addition to remedies available to the recipient, the Federal Government may pursue available remedies, including but not limited to suspension and/or debarment. The bidder or proposer agrees to comply with the requirements of 49 CFR 29, Subpart C while this offer is valid and throughout the period of any contract that may arise from this offer. The bidder or proposer further agrees to include a provision requiring such compliance in its lower tier covered transactions.

Contracts Involving Federal Privacy Act Requirements – Applicability - When a grantee maintains files on drug and alcohol enforcement activities for FTA, and those files are organized so that information could be retrieved by personal identifier, the Privacy Act requirements apply to all contracts except micro-purchases (\$3,000 or less, except for construction contracts over \$2,000)

The following requirements apply to the Contractor and its employees that administer any system of records on behalf of the Federal Government under any contract:

(1) The Contractor agrees to comply with, and assures the compliance of its employees with, the information restrictions and other applicable requirements of the Privacy Act of 1974, 5 U.S.C. § 552a. Among other things, the Contractor agrees to obtain the express consent of the Federal Government before the Contractor or its employees operate a system of records on behalf of the Federal Government. The Contractor understands that the requirements of the Privacy Act, including the civil and criminal penalties for violation of that Act, apply to those individuals involved, and that failure to comply with the terms of the Privacy Act may result in termination of the underlying contract.

(2) The Contractor also agrees to include these requirements in each subcontract to administer any system of records on behalf of the Federal Government financed in whole or in part with Federal assistance provided by FTA.

Civil Rights Requirements– Applicability – All contracts except micro-purchases (\$3,000 or less, except for construction contracts over \$2,000) The following requirements apply to the underlying contract:

(1) Nondiscrimination - In accordance with Title VI of the Civil Rights Act, as amended, 42 USC 2000d, Sec. 303 of the Age Discrimination Act (1975), as amended, 42 USC 6102, Sec. 202 of the Americans with Disabilities Act (1990), 42 USC 12132, and 49 USC 5332, contractor shall not discriminate against any employee or applicant for employment because of race, color, religion, national origin, sex, age, or disability. Contractor shall also comply with applicable Federal implementing regulations and other requirements FTA may issue.

(2) Equal Employment Opportunity - The following equal employment opportunity requirements apply to the underlying contract:

(a) Race, Color, Religion, National Origin, Sex - In accordance with Title VII of the Civil Rights Act, as amended, 42 USC 2000e, and 49 USC 5332, contractor shall comply with all applicable equal employment opportunity requirements of USDOL, "Office of Federal Contract Compliance Programs, Equal Employment Opportunity, USDOL," 41 CFR 60 et seq., (implementing Executive Order No. 11246, "Equal Employment Opportunity," as amended by Executive Order No. 11375, "Amending Executive Order 11246 Relating to Equal Employment Opportunity," 42 USC 2000e), and any applicable Federal statutes, executive orders, regulations, and policies that may in the future affect construction activities undertaken in the course of the project. Contractor shall take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to their race, color, religion, national origin, sex, or age. Such action shall include, but not be limited to, the following: employment, upgrading, demotion or transfer, recruitment or recruitment advertising, layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. In addition, contractor shall comply with any implementing requirements FTA may issue.

(b) Age - In accordance with Sec. 4 of the Age Discrimination in Employment Act (1967), as amended, 29 USC 623 and 49 USC 5332, contractor shall refrain from discrimination against present and prospective employees for reason of age. Contractor shall also comply with any implementing requirements FTA may issue.

(c) Disabilities - In accordance with Sec. 102 of the Americans with Disabilities Act (ADA), as amended, 42 USC 12112, contractor shall comply with the requirements of US Equal Employment Opportunity Commission (EEOC), Regulations to Implement Equal Employment Provisions of the Americans with Disabilities Act, 29 CFR 1630, pertaining to employment of persons with disabilities. Contractor shall also comply with any implementing requirements FTA may issue.

(3) Contractor shall include these requirements in each subcontract financed in whole or in part with FTA assistance, modified only if necessary to identify the affected parties.

Breaches and Dispute Resolution – Applicability – All contracts over \$100,000

Disputes arising in the performance of this contract which are not resolved by agreement of the parties shall be decided in writing by the recipient's authorized representative. This decision shall be final and conclusive unless within ten days from the date of receipt of its copy, contractor mails or otherwise furnishes a written appeal to the recipient's CEO. In connection with such appeal, contractor shall be afforded an opportunity to be heard and to offer evidence in support of its position. The decision of the recipient's CEO shall be binding upon contractor and contractor shall abide by the decision.

APPENDIX B: U.S. GOVERNMENT REQUIRED CLAUSES

Performance During Dispute - Unless otherwise directed by the recipient, contractor shall continue performance under this contract while matters in dispute are being resolved.

Claims for Damages - Should either party to the contract suffer injury or damage to person or property because of any act or omission of the party or of any of his employees, agents or others for whose acts he is legally liable, a claim for damages therefore shall be made in writing to such other party within ten days after the first observance of such injury or damage.

Remedies - Unless this contract provides otherwise, all claims, counterclaims, disputes and other matters in question between the recipient and contractor arising out of or relating to this agreement or its breach will be decided by arbitration if the parties mutually agree, or in a court of competent jurisdiction within the residing State.

Rights and Remedies - Duties and obligations imposed by the contract documents and the rights and remedies available thereunder shall be in addition to and not a limitation of any duties, obligations, rights and remedies otherwise imposed or available by law. No action or failure to act by the recipient or contractor shall constitute a waiver of any right or duty afforded any of them under the contract, nor shall any such action or failure to act constitute an approval of or acquiescence in any breach thereunder, except as may be specifically agreed in writing.

Patent and Rights Data - Applicability - Research projects in which FTA finances the purpose of the grant is to finance the development of a product or information. These patent and data rights requirements do not apply to capital projects or operating projects, even though a small portion of the sales price may cover the cost of product development or writing the user's manual or to micro-purchases (\$3,000 or less, except for construction contracts over \$2,000)

Contracts Involving Experimental, Developmental, Or Research Work.

A. Rights in Data - This following requirements apply to each contract involving experimental, developmental or research work: (1) The term "subject data" used in this clause means recorded information, whether or not copyrighted, that is delivered or specified to be delivered under the contract. The term includes graphic or pictorial delineation in media such as drawings or photographs; text in specifications or related performance or design-type documents; machine forms such as punched cards, magnetic tape, or computer memory printouts; and information retained in computer memory. Examples include, but are not limited to: computer software, engineering drawings and associated lists, specifications, standards, process sheets, manuals, technical reports, catalog item identifications, and related information. The term "subject data" does not include financial reports, cost analyses, and similar information incidental to contract administration.

(2) The following restrictions apply to all subject data first produced in the performance of the contract to which this Attachment has been added: (a) Except for its own internal use, the Purchaser or Contractor may not publish or reproduce subject data in whole or in part, or in any manner or form, nor may the Purchaser or Contractor authorize others to do so, without the written consent of the Federal Government, until such time as the Federal Government may have either released or approved the release of such data to the public; this restriction on publication, however, does not apply to any contract with an academic institution. (b) In accordance with 49 C.F.R. § 18.34 and 49 C.F.R. § 19.36, the Federal Government reserves a royalty-free, non-exclusive and irrevocable license to reproduce, publish, or otherwise use, and to authorize others to use, for "Federal Government purposes," any subject data or copyright described in subsections (2)(b)1 and (2)(b)2 of this clause below. As used in the previous sentence, "for Federal Government purposes," means use only for the direct purposes of the Federal Government. Without the copyright owner's consent, the Federal Government may not extend its Federal license to any other party. 1. Any subject data developed under that contract, whether or not a copyright has been obtained; and 2. Any rights of copyright purchased by the Purchaser or Contractor using Federal assistance in whole or in part provided by FTA. (c) When FTA awards Federal assistance for experimental, developmental, or research work, it is FTA's general intention to increase transportation knowledge available to the public, rather than to restrict the benefits resulting from the work to participants in that work. Therefore, unless FTA determines otherwise, the Purchaser and the Contractor performing experimental, developmental, or research work required by the underlying contract to which this Attachment is added agrees to permit FTA to make available to the public, either FTA's license in the copyright to any subject data developed in the course of that contract, or a copy of the subject data first produced under the contract for which a copyright has not been obtained. If the experimental, developmental, or research work, which is the subject of the underlying contract, is not completed for any reason whatsoever, all data developed under that contract shall become subject data as defined in subsection (a) of this clause and shall be delivered as the Federal Government may direct. This subsection (c), however, does not apply to adaptations of automatic data processing equipment or programs for the Purchaser or Contractor's use whose costs are financed in whole or in part with Federal assistance provided by FTA for transportation capital projects. (d) Unless prohibited by state law, upon request by the Federal Government, the Purchaser and the Contractor agree to indemnify, save, and hold harmless the Federal Government, its officers, agents, and employees acting within the scope of their official duties against any liability, including costs and expenses, resulting from any willful or intentional violation by the Purchaser or Contractor of proprietary rights, copyrights, or right of privacy, arising out of the publication, translation, reproduction, delivery, use, or disposition of any data furnished under that contract. Neither the Purchaser nor the Contractor shall be required to indemnify the Federal Government for any such liability arising out of the wrongful act of any employee, official, or agents of the Federal Government. (e) Nothing contained in this clause on rights in data shall imply a license to the Federal Government under any patent. (f) Data developed by the Purchaser or affecting the scope of any license or other right otherwise granted to the Federal Government under any patent. (g) Data developed by the Purchaser or Contractor and financed entirely without using Federal assistance provided by the Federal Government that has been incorporated into work required by the underlying contract to which this Attachment has been added is exempt from the requirements of subsections (b), (c), and (d) of this clause, provided that the Purchaser or Contractor identifies that data in writing at the time of delivery of the contract work. (g) Unless FTA determines otherwise, the Contractor agrees to include these requirements in each subcontract for experimental, developmental, or research work financed in whole or in part with Federal assistance provided by FTA. (3) Unless the Federal Government later makes a contrary determination in writing, irrespective of the Contractor's status (i.e., a large business, small business, state government or state instrumentality, local government, nonprofit organization, institution of higher education, individual, etc.), the Purchaser and the Contractor agree to take the necessary actions to provide, through FTA, those rights in that invention due the Federal Government as described in U.S. Department of Commerce regulations, "Rights to Inventions Made by Nonprofit Organizations and Small Business Firms Under Government Grants, Contracts and Cooperative Agreements," 37 C.F.R. Part 401. (4) The Contractor also agrees to include these requirements in each subcontract for experimental, developmental, or research work financed in whole or in part with Federal assistance provided by FTA.

B. Patent Rights - The following requirements apply to each contract involving experimental, developmental, or research work:

(1) General - If any invention, improvement, or discovery is conceived or first actually reduced to practice in the course of or under the contract to which this Attachment has been added, and that invention, improvement, or discovery is patentable under the laws of the United States of America or any foreign country, the Purchaser and Contractor agree to take actions necessary to provide immediate notice and a detailed report to the party at a higher tier until FTA is ultimately notified.

APPENDIX B: U.S. GOVERNMENT REQUIRED CLAUSES

(2) Unless the Federal Government later makes a contrary determination in writing, irrespective of the Contractor's status (a large business, small business, state government or state instrumentality, local government, nonprofit organization, institution of higher education, individual), the Purchaser and the Contractor agree to take the necessary actions to provide, through FTA, those rights in that invention due the Federal Government as described in U.S. Department of Commerce regulations, "Rights to Inventions Made by Nonprofit Organizations and Small Business Firms Under Government Grants, Contracts and Cooperative Agreements," 37 C.F.R. Part 401.

(3) The Contractor also agrees to include the requirements of this clause in each subcontract for experimental, developmental, or research work financed in whole or in part with Federal assistance provided by FTA.

Transit Employee Protective Provisions – Applicability – Contracts for transit operations except micro-purchases (\$3,000 or less, except for construction contracts over \$2,000)

(1) Contractor shall comply with applicable transit employee protective requirements as follows:

(a) Transit Employee Protective Requirements for Projects Authorized by 49 USC 5311 in Nonurbanized Areas - If the contract involves transit operations financed in whole or in part with FTA assistance authorized by 49 USC 5311, the contractor shall comply with the terms and conditions of the Special Warranty for the Nonurbanized Area Program that is most current, and any alternative comparable arrangement specified by U.S. DOL for application to the project, in accordance with U.S. DOL guidelines, "Section 5333(b), Federal Transit Law," 29 C.F.R. Part 215, and any revision thereto. [New amendments to U.S. DOL guidelines, "Section 5333(b), Federal Transit Law," 29 C.F.R. Part 215, were published at 73 Fed. Reg. 47046 et. Seq., August 13, 2008.]

(2) Contractor shall also include any applicable requirements in each subcontract involving transit operations financed in whole or in part with FTA assistance.

Disadvantaged Business Enterprise (DBE) – Applicability – Contracts over \$3,000 awarded on the basis of a bid or proposal offering to use DBEs

a. This contract is subject to the requirements of Section 1101(b) of Map-21, 23 U.S.C. § 101 note, Title 49, Code of Federal Regulations, Part 26, and 49 U.S.C. § 5332 Participation by Disadvantaged Business Enterprises in Department of Transportation Financial Assistance Programs. The national goal for participation of Disadvantaged Business Enterprises (DBE) is 10%. The recipient's overall goal for DBE participation is listed elsewhere. If a separate contract goal for DBE participation has been established for this procurement, it is listed elsewhere.

b. The contractor shall not discriminate on the basis of race, color, national origin, or sex in the performance of this contract. The contractor shall carry out applicable requirements of 49 CFR Part 26 in the award and administration of this contract. Failure by the contractor to carry out these requirements is a material breach of this contract, which may result in the termination of this contract or such other remedy as the municipal corporation deems appropriate. Each subcontract the contractor signs with a subcontractor must include the assurance in this paragraph (see 49 CFR 26.13(b)).

c. If a separate contract goal has been established, Bidders/offerors are required to document sufficient DBE participation to meet these goals or, alternatively, document adequate good faith efforts to do so, as provided for in 49 CFR 26.53.

d. If no separate contract goal has been established, the successful bidder/offeror will be required to report its DBE participation obtained through race-neutral means throughout the period of performance. e. The contractor is required to pay its subcontractors performing work related to this contract for satisfactory performance of that work no later than 30 days after the contractor's receipt of payment for that work from the recipient. In addition, the contractor may not hold retainage from its subcontractors or must return any retainage payments to those subcontractors within 30 days after the subcontractor's work related to this contract is satisfactorily completed or must return any retainage payments to those subcontractors within 30 days after incremental acceptance of the subcontractor's work by the recipient and contractor's receipt of the partial retainage payment related to the subcontractor's work.

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

Incorporation of Federal Transit Administration (FTA) Terms – Applicability – All contracts except micro-purchases (\$3,000 or less, except for construction contracts over \$2,000)

The preceding provisions include, in part, certain Standard Terms & Conditions required by USDOT, whether or not expressly stated in the preceding contract provisions. All USDOT-required contractual provisions, as stated in FTA Circular 4220.1F, are hereby incorporated by reference. Anything to the contrary herein notwithstanding, all FTA mandated terms shall be deemed to control in the event of a conflict with other provisions contained in this Agreement. The contractor shall not perform any act, fail to perform any act, or refuse to comply with any request that would cause the recipient to be in violation of FTA terms and conditions.

Drug & Alcohol Abuse and Testing – Applicability – Operational service contracts except micro-purchases (\$3,000 or less, except for construction contracts over \$2,000)

The Contractor agrees to comply with the following Federal substance abuse regulations: a. Drug-Free Workplace. U.S. DOT regulations, "Drug-Free Workplace Requirements (Grants)," 49 C.F.R. Part 32, that implements the Drug-Free Workplace Act of 1988, 41 U.S.C. §§ 701 et seq. b. Alcohol Misuse and Prohibited Drug Use. FTA Regulations, "Prevention of Alcohol Misuse and Prohibited Drug Use in Transit Operations," 49 CFR Part 655, to the extent applicable.

Other Federal & Contract Requirements (not clauses) **(Recommended for inclusion in solicitation/contract language)**

Other Federal Requirements

Full and Open Competition – In accordance with 49 U.S.C. § 5325(h) all procurement transactions shall be conducted in a manner that provides full and open competition.

Prohibition Against Exclusionary or Discriminatory Specifications – Apart from inconsistent requirements imposed by Federal statute or regulations, the contractor shall comply with the requirements of 49 USC 5323(h)(2) by refraining from using any FTA assistance to support procurements using exclusionary or discriminatory specifications.

Conformance with ITS National Architecture – Contractor shall conform, to the extent applicable, to the National Intelligent Transportation Standards architecture as required by Map-21 and follow the provisions of FTA Notice, "FTA National Architecture Policy on Transit Projects," 66 Fed. Reg. 1455 et seq., January 8, 2001, and any other implementing directives FTA may issue at a later date, except to the extent FTA determines otherwise in writing.

Access Requirements for Persons with Disabilities – Contractor shall comply with Federal policy that the elderly and persons with disabilities have the same rights as other persons to use mass transportation services and facilities and that special efforts shall be made in planning and designing those services and facilities to implement that policy. Contractor shall also comply with all applicable requirements of Sec. 504 of the Rehabilitation Act (1973), as amended, 29 USC 794, which prohibits discrimination on the basis of handicaps, and the Americans with Disabilities Act of 1990 (ADA), as amended, 42 USC 12101 et seq., which requires that accessible facilities and services be made available to persons with disabilities, including any subsequent amendments thereto.

Notification of Federal Participation – To the extent required by law, in the announcement of any third party contract award for goods and services (including construction services) having an aggregate value of \$500,000 or more, contractor shall specify the amount of Federal assistance to be used in financing that acquisition of goods and services and to express that amount of Federal assistance as a percentage of the total cost of the third party contract.

Interest of Members or Delegates to Congress – No members of, or delegates to, the US Congress shall be admitted to any share or part of this contract nor to any benefit arising therefrom.

Ineligible Contractors and Subcontractors – Any name appearing upon the Comptroller General's list of ineligible contractors for federally-assisted contracts shall be ineligible to act as a subcontractor for contractor pursuant to this contract. If contractor is on the Comptroller General's list of ineligible contractors for federally financed or assisted construction, the recipient shall cancel, terminate or suspend this contract.

Other Contract Requirements

To the extent not inconsistent with the foregoing Federal requirements, this contract shall also include those standard clauses attached hereto, and shall comply with the recipient's Procurement Guidelines, available upon request from the recipient.

Compliance With Federal Regulations – Any contract entered pursuant to this solicitation shall contain the following provisions: All USDOT-required contractual provisions, as set forth in FTA Circular 4220.1F, are incorporated by reference. Anything to the contrary herein notwithstanding, FTA mandated terms shall control in the event of a conflict with other provisions contained in this Agreement. Contractor shall not perform any act, fail to perform any act, or refuse to comply with any grantee request that would cause the recipient to be in violation of FTA terms and conditions. Contractor shall comply with all applicable FTA regulations, policies, procedures and directives, including, without limitation, those listed directly or incorporated by reference in the Master Agreement between the recipient and FTA, as may be amended or promulgated from time to time during the term of this contract. Contractor's failure to so comply shall constitute a material breach of this contract.

Real Property – Any contract entered into shall contain the following provisions: Contractor shall at all times comply with all applicable statutes and USDOT regulations, policies, procedures and directives governing the acquisition, use and disposal of real property, including, but not limited to, 29 CFR 18.31, 49 CFR 24 Subpart B, FTA Circular 5010.1D, and FTA Master Agreement, as they may be amended or promulgated during the term of this contract. Contractor's failure to so comply shall constitute a material breach of this contract.

Access to Services for Persons with Limited English Proficiency – To the extent applicable and except to the extent that FTA determines otherwise in writing, the Recipient agrees to comply with the policies of Executive Order No. 13166, "Improving Access to Services for Persons with Limited English Proficiency," 42 U.S.C. § 2000d 1 note, and with the provisions of U.S. DOT Notice, "DOT Guidance to Recipients on Special Language Services to Limited English Proficient (LEP) Beneficiaries," 70 Fed. Reg. 74087, December 14, 2005.

Environmental Justice – The Recipient agrees to comply with the policies of Executive Order No. 12898, "Federal Actions to Address Environmental Justice in Minority Populations and Low Income Populations," 42 U.S.C. § 4321 note, except to the extent that the Federal Government determines otherwise in writing.

Environmental Protections – Compliance is required with any applicable Federal laws imposing environmental and resource conservation requirements for the project. Some, but not all, of the major Federal laws that may affect the project include: the National Environmental Policy Act of 1969; the Clean Air Act; the Resource Conservation and Recovery Act; the comprehensive Environmental response, Compensation and Liability Act; as well as environmental provisions with Title 23 U.S.C., and 49 U.C. chapter 53. The U.S. BPA, FHWA and other federal agencies may issue other federal regulations and directives that may affect the project. Compliance is required with any applicable Federal laws and regulations in effect now or that become effective in the future.

Geographic Information and Related Spatial Data – Any project activities involving spatial data or geographic information systems activities financed with Federal assistance are required to be consistent with the National Spatial Data Infrastructure promulgated by the Federal Geographic Data Committee, except to the extent that FTA determines otherwise in writing.

Federal Single Audit Requirements For State Administered Federally Aid Funded Projects Only
Non Federal entities that expend \$500,000 or more in a year in Federal awards from all sources are required to comply with the Federal Single Audit Act provisions contained in U.S. Office of Management and Budget (OMB) Circular No. A 133, Audits of States, Local Governments, and Non Profit Organizations. Non Federal entities that expend Federal awards from a single source may provide a program specific audit, as defined in the Circular. Non Federal entities that expend less than \$500,000 in a year in Federal awards from all sources are exempt from Federal audit requirements for that year, except as noted in '3052.215(a), but records must be available for review or audit by appropriate officials of the Federal and State agencies.

Catalog of Federal Domestic Assistance (CFDA) Identification Number
The municipal project sponsor is required to identify in its accounts all Federal awards received and expended, and the Federal programs under which they were received. Federal program and award identification shall include, as applicable, the CFDA title and number, award number and year, name of the Federal agency, and name of the pass through entity.

The CFDA number for the Federal Transit Administration Nonurbanized Area Formula (Section 5311) is 20.509. A Recipient covered by the Single Audit Act Amendments of 1996 and the OMB Circular A-133, "Audits of States, Local Governments, and Non-Profit Organizations," agrees to separately identify the expenditures for Federal awards under the Recovery Act on the Schedule of Expenditures of Federal Awards (SEFA) and the Data Collection Form (SF-SAC) required by OMB Circular A-133. The Recipient agrees to accomplish this by identifying expenditures for Federal awards made under Recovery Act separately on the SEFA, and as separate rows under Item 9 of Part III on the SF-SAC by CFDA number, and inclusion of the prefix "ARRA" in identifying the name of the Federal program on the SEFA and as the first characters in Item 9d of Part III on the SF-SAC

City of Poughkeepsie 2020-2024 Capital Project

Page Nbr	Project Nbr	New	Carryover	Project Title (Amounts in \$ 000's)										Account Nbr(s):
	20-26		X	Mansion Street Bridge at Pershing Ave										
Department Engineering				(Define the project and improvements.)										
Project Description				Reconstruction of bridge that spans Mansion St and Pershing Ave across Fallkill Creek. Bridge has substandard railings and was identified as a scour critical bridge having foundations that are prone to damage during high water events. High water damage contributes to failure of concrete foundation systems over time. Reconstruction supports continuance of local traffic. Scheduled to be funded in 2020 by the Statewide Transportation Improvement Program (STIP) included in a comprehensive list of all projects in New York State proposed to receive Federal funding. The STIP was developed by the NY State Department of Transportation (NYSDOT) and assumes the availability of approximately \$12.5 billion in federal aid to address highway safety, bridge and highway infrastructure.										
Impact on Operating Budget				Impact Explanation List additional costs/cost avoidance to operate new project.										
Will	Annual Cost -/Savings +	\$	-	Project completion decreases likelihood of unplanned emergent costs due to age related and weather events.										
Will Not	Revenue	\$	-											
	Net Impact	\$	-											
Project Costs				2019	2020	2021	2022	2023	2024	Outyears	Total			
Planning		\$	271.0	\$	-	\$	-	\$	-	\$	271.0	\$ 3,615.1		
Engineering/Design		\$	271.0	\$	-	\$	-	\$	-	\$	271.0	\$ -		
Construction		\$	-	\$	-	\$	3,000.0	\$	-	\$	3,000.0	\$ -		
Inspections		\$	-	\$	-	\$	500.0	\$	-	\$	500.0	\$ -		
Other-Right of Way, Land		\$	60.0	\$	151.0	\$	-	\$	-	\$	211.0	\$ -		
Total Costs		\$	602.0	\$	151.0	\$	3,500.0	\$	-	\$	4,253.0	\$ 4,253.0		
Source(s) of Funds				2019	2020	2021	2022	2023	2024	2025 to completion	Total Needed to Complete			
General Fund		\$	-	\$	-	\$	-	\$	-	\$	-	\$ -		
GOs Issued		\$	-	\$	-	\$	-	\$	-	\$	-	\$ -		
GOs Unissued		\$	-	\$	-	\$	-	\$	-	\$	-	\$ -		
Grant - Federal 80%		\$	481.6	\$	120.8	\$	2,800.0	\$	-	\$	3,402.4	\$ -		
Grant - State 5%		\$	30.1	\$	7.6	\$	175.0	\$	-	\$	212.7	\$ -		
Grant -		\$	-	\$	-	\$	-	\$	-	\$	-	\$ -		
Other		\$	-	\$	-	\$	-	\$	-	\$	-	\$ -		
Unfunded 15% of Total		\$	90.3	\$	22.7	\$	525.0	\$	-	\$	638.0	\$ -		
Total Sources		\$	602.0	\$	151.0	\$	3,500.0	\$	-	\$	4,253.0	\$ -		

POC:	R DuPitka
Telephone:	

POC:	
Telephone:	

Other Info: location, dependent projects, etc.
Pursuant to Title 23 U.S.C. and 49 U.S.C. Chapter 53, the city has applied to the federal Highway Administration to fund 80% of the project, State Marchiselli grant 5%. City of Poughkeepsie costs = \$637.95K or 15% of \$4,253K.

Project Schedule	Start	Finish
Design/Permits		
Construction		
Finish		
Other		
Total Project Schedule (est.)		TBD

**RESOLUTION FIXING THE COMPENSATION FOR THE OFFICE OF THE MAYOR
(R19-79)**

INTRODUCED BY COUNCILMEMBER CHERRY

WHEREAS, pursuant to Section 3.01 of the Charter, the Common Council is empowered to fix the compensation for the mayor, with due consideration given to the recommendations, as may be made, by the Salary Review Commission, but in no event shall such compensation be less than \$72,000 annually; and

WHEREAS, pursuant to Section 4.02 of the Charter, the Salary Review Commission is directed to review and recommend the salary for elected officials, and to deliver a report by January 1, 2019; and

WHEREAS, on February 19, 2019 the Salary Review Commission presented the Common Council with its report and recommendation; and

NOW, THEREFORE,

BE IT RESOLVED, after due consideration of the recommendations made by the Salary Review Commission, the Common Council hereby fixes the compensation for the office of the mayor at the following:

Mayor: \$90,000 annually

SECONDED BY _____.

EXTRACT OF MINUTES
[Mansion Street Bridge]

A regular meeting of the Common Council of the City of Poughkeepsie, Dutchess County, New York was convened in public session at the Council Chambers, City Hall, Poughkeepsie, New York on November 18, 2019 at 6:30 o'clock p.m., local time.

The meeting was called to order by _____, and, upon roll being called, the following members were:

PRESENT:

Council Chair Ann Finney
Councilmember Sarah Brannen
Councilmember Natasha Cherry
Councilmember Yvonne Flowers
Councilmember Lorraine Johnson
Councilmember Randall A. Johnson II
Councilmember Matthew McNamara
Councilmember Christopher D. Petsas
Councilmember Sarah A. Salem

ABSENT:

The following persons were ALSO PRESENT:

Commissioner of Finance William Brady

The following resolution was offered by Councilmember_____, seconded by Councilmember_____, to wit;

BOND RESOLUTION DATED NOVEMBER 18, 2019

A RESOLUTION AUTHORIZING THE RECONSTRUCTION OF THE MANSION STREET BRIDGE AND AUTHORIZING THE ISSUANCE OF SERIAL BONDS OF THE CITY OF POUGHKEEPSIE, DUTCHESS COUNTY, NEW YORK IN AN AGGREGATE PRINCIPAL AMOUNT NOT TO EXCEED \$4,338,060 PURSUANT TO THE LOCAL FINANCE LAW TO FINANCE THE COST THEREOF, AND DELEGATING CERTAIN POWERS IN CONNECTION THEREWITH TO THE COMMISSIONER OF FINANCE

BE IT RESOLVED, by the Common Council of the City of Poughkeepsie, Dutchess County, New York (the "City") (by the favorable vote of not less than two-thirds of all of the members of the Common Council) as follows:

SECTION 1. The reconstruction of the Mansion Street bridge that spans mansion Street and Pershing Avenue across Fallkill Creek, including related improvements, is hereby authorized at

an estimated maximum cost of \$4,338,060, and said amount is hereby appropriated therefor. It is hereby determined that said purpose is an object or purpose described in subdivision 10 of paragraph a of Section 11 of the Local Finance Law, and that the period of probable usefulness of said purpose is twenty years.

SECTION 2. The City has determined that the aforesaid purpose constitutes a Type II Action as defined under the State Environmental Quality Review Regulations, 6 NYCRR Part 617, which has been determined under SEQR not to have a significant impact on the environment.

SECTION 3. The City plans to finance the total cost of said purpose by the issuance of serial bonds of the City in an amount not to exceed \$4,338,060, hereby authorized to be issued therefor pursuant to the Local Finance Law. The City expects to redeem a portion of the obligations from the proceeds of State and Federal grants in the amount of \$3,402,400.

SECTION 4. Current funds are not required to be provided prior to the issuance of the bonds authorized by this resolution or any notes issued in anticipation of said bonds.

SECTION 5. The proceeds of the bonds herein authorized and any bond anticipation notes issued in anticipation of said bonds may be applied to reimburse the City for expenditures made after the effective date of this resolution for the purpose for which said bonds are authorized. This resolution shall constitute a statement of official intent for purposes of Section 1.150-2 of the Treasury Regulations.

SECTION 6. Each of the bonds authorized by this resolution and any bond anticipation notes issued in anticipation of said bonds, shall contain the recital of validity prescribed by Section 52.00 of the Local Finance Law. The faith and credit of the City are hereby irrevocably pledged for the payment of the principal of and interest on said bonds as the same respectively become due and payable. An annual appropriation shall be made in each year sufficient to pay the principal of and interest on said bonds becoming due and payable in such year. There shall annually be levied on all the taxable real property of the City a tax sufficient to pay the principal of and interest on said bonds as the same become due and payable.

SECTION 7. Subject to the terms and contents of this resolution and the Local Finance Law, and pursuant to the provisions of Sections 30.00, 50.00 and 56.00 to 63.00, inclusive, of said Law, the power to authorize bond anticipation notes in anticipation of the issuance of the serial bonds authorized by this resolution and the renewals of said notes and the power to prescribe the terms, form and contents of said serial bonds and said bond anticipation notes (including without limitation the date, denominations, maturities, interest payment dates, consolidation with other issues, and redemption rights), the power to determine to issue said bonds providing for substantially level or declining debt service, and the power to sell and deliver said serial bonds and any bond anticipation notes issued in anticipation of the issuance of such bonds, is hereby delegated to the Commissioner of Finance, the Chief Fiscal Officer of the City. The Commissioner of Finance is hereby authorized to sign any serial bonds issued pursuant to this resolution and any bond anticipation notes issued in anticipation of the issuance of said serial bonds, and the Chamberlain is hereby authorized to affix the corporate seal of the City to any of said serial bonds or any bond anticipation notes and to attest such seal.

SECTION 8. The Commissioner of Finance is further authorized to take such actions and execute such documents as may be necessary to ensure the continued status of the interest on the

bonds authorized by this resolution, and any notes issued in anticipation thereof, as excludable from gross income for federal income tax purposes pursuant to Section 103 of the Internal Revenue Code of 1986, as amended (the "Code") and, to the extent applicable, to designate the bonds authorized by this resolution and any notes issued in anticipation thereof as "qualified tax-exempt bonds" for purposes of Section 265(b)(3)(B)(i) of the Code.

SECTION 9. The validity of said serial bonds or of any bond anticipation notes issued in anticipation of the sale of said serial bonds may be contested only if:

(1) Such obligations are authorized for an object or purpose for which the City is not authorized to expend money; or

(2) The provisions of law which should be complied with at the date of the publication of this resolution are not substantially complied with; and an action, suit or proceeding contesting such validity is commenced within twenty days after the date of such publication; or

(3) Such obligations are authorized in violation of the provisions of the Constitution of New York.

SECTION 10. The Chamberlain is hereby authorized and directed to publish this resolution, or a summary thereof, together with a notice in substantially the form provided by Section 81.00 of the Local Finance Law, in the Poughkeepsie Journal, a newspaper having a general circulation in the City and hereby designated as the official newspaper of the City for such publication.

SECTION 11. This resolution shall take effect immediately.

The question of the adoption of the foregoing resolution was duly put to vote on a roll call, which resulted as follows:

Council Chair Ann Finney	VOTING ____
Councilmember Sarah Brannen	VOTING ____
Councilmember Natasha Cherry	VOTING ____
Councilmember Yvonne Flowers	VOTING ____
Councilmember Lorraine Johnson	VOTING ____
Councilmember Randall A. Johnson II	VOTING ____
Councilmember Matthew McNamara	VOTING ____
Councilmember Christopher D. Petsas	VOTING ____
Councilmember Sarah A. Salem	VOTING ____

The foregoing resolution was thereupon declared duly adopted.

Submitted to Council: Council Action: Roll call vote taken: Yes <u>X</u> No ____ Ayes ____ Nays ____ Abstain ____ Absent ____ Approved by Mayor on _____ Mayor's Signature _____ Robert G. Rolison	I hereby certify the foregoing to be a true and correct copy of a Resolution duly adopted at a regular meeting of the Common Council held _____, 2019 _____ City Chamberlain
--	--

CERTIFICATE OF RECORDING OFFICER

The undersigned hereby certifies that:

(1) She is the duly qualified and acting Chamberlain of the City of Poughkeepsie, Dutchess County, New York (hereinafter called the "City") and the custodian of the records of the City, including the minutes of the proceedings of the Common Council, and is duly authorized to execute this certificate.

(2) Attached hereto is a true and correct copy of a resolution duly adopted at a meeting of the Common Council held on the 18th day of November, 2019 and entitled:

BOND RESOLUTION DATED NOVEMBER 18, 2019

A RESOLUTION AUTHORIZING THE RECONSTRUCTION OF THE MANSION STREET BRIDGE AND AUTHORIZING THE ISSUANCE OF SERIAL BONDS OF THE CITY OF POUGHKEEPSIE, DUTCHESS COUNTY, NEW YORK IN AN AGGREGATE PRINCIPAL AMOUNT NOT TO EXCEED \$4,338,060 PURSUANT TO THE LOCAL FINANCE LAW TO FINANCE THE COST THEREOF, AND DELEGATING CERTAIN POWERS IN CONNECTION THEREWITH TO THE COMMISSIONER OF FINANCE

(3) Said meeting was duly convened and held and said resolution was duly adopted in all respects in accordance with law and the regulations of the City. To the extent required by law or said regulations, due and proper notice of said meeting was given. A legal quorum of members of the Common Council was present throughout said meeting, and a legally sufficient number of members (two-thirds of the Common Council) voted in the proper manner for the adoption of the resolution. All other requirements and proceedings under law, said regulations or otherwise incident to said meeting and the adoption of the resolution, including any publication, if required by law, have been duly fulfilled, carried out and otherwise observed.

(4) The seal appearing below constitutes the official seal of the City and was duly affixed by the undersigned at the time this certificate was signed.

IN WITNESS WHEREOF, the undersigned has hereunto set her hand this ____ day of _____, 2019.

-SEAL-

Deanne Flynn
City Chamberlain

Executive Summary—Not a part of the Resolution

This New Bond Resolution for **Mansion Street Bridge reconstruction** includes:

<u>Purpose</u>	<u>Capital Budget Items</u>	<u>PPU (Max. Period for Financing)</u>	<u>Maximum Estimated Cost</u>	<u>Other Funds</u>	<u>Bonds Authorized</u>
Section 1:	Reconstruction of Mansion Street Bridge	20 years	\$4,338,060	*	\$4,338,060

*Statewide Transportation Improvement Program Listed Federal Highway Administration Grant:
PIN 876196; City Match 20%
Total STIP Project Cost (excluding COI): \$4,253,000
80% Maximum Grant \$3,402,400

November 4, 2019

From: Commissioner of Finance, William Brady

Subject: Communication to Common Council - Improvements to Water/Sewer Utility Administration

Problem: The delivery of water utility operations in the United States is characterized by aging infrastructure, dated public management practices, changing customer expectations, and the need for water conservation awareness and mandates. The current situation in the City of Poughkeepsie mirrors the status quo in neighboring communities and states.

Scope:

- Approximately 1,011 meters are in need of replacement.
- Approximately 1,000 meters have technology and communications faults.
- Billing requires printing and mailing over 7,000 bills every quarter.
- Billing inquiries can only be done via telephone and follow-ups by the city with customers are done via email or mail.
- City codes require upfront cash from customers to upgrade old meters or to repair existing meters. This practice may dis-incentivize homeowners and businesses to modernize water equipment.
- Faulty equipment contributes to inaccurate billing using estimates in lieu of actual readings.

Purpose: The City of Poughkeepsie will build upon findings from a recent study to pursue development of a plan to modernize the City's water administration. Planning goals: manage operations more efficiently, reduce cost, improve reliability. A water administration plan could include:

- Using SaaS (Software as a Service) strategies and tools:
 - Identification of missing revenue due to data issues with records and meter end points;
 - Improve work order management for meter and service orders;
 - Improve customer care using a web service and mobile applications to offer 24/7 customer access through a portal, and make afterhours emergency calls available with service metrics;
 - Offer paperless billing options, multiple ways to pay bills, customer messaging;
 - Increase assuredness of expenditures and revenues through real time analytics.
- Find efficiencies that recapture capital investments over time, and shift the burden of modernization away from homeowners and businesses.
 - Review City's administrative code to continue to facilitate the rehabilitation of blighted properties.

Inspection Photographs

Photo Number: 1

Photo Filename: 17P5173518.JPG

Attachment Description:
Concrete Arch, End Right
Side, Looking End Right

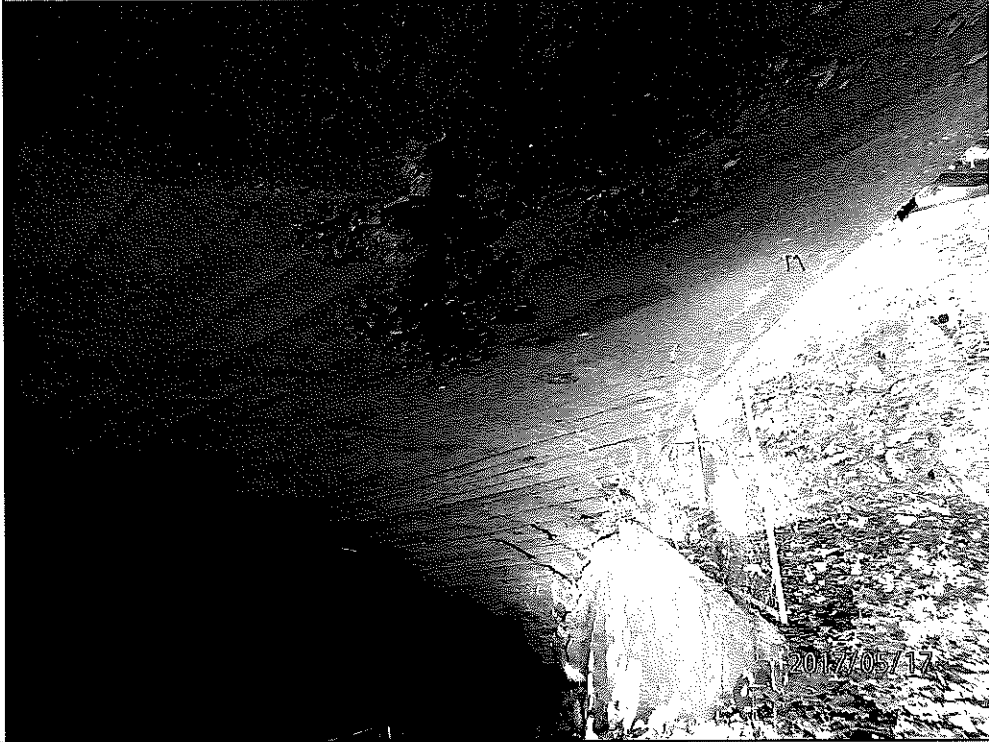


Photo Number: 2

Photo Filename: 17P5173551.JPG

Attachment Description:
Concrete Arch at Begin
Abutment, Looking Begin
Exposed deteriorated
reinforcement in
concrete arch.



Photo Number: 3

Photo Filename: 17P5173541.JPG

Attachment Description:
Concrete Arch, 1st
Construction Joint, Looking
End

Water seepage and
efflorescence from
leaking bridge
deck above.

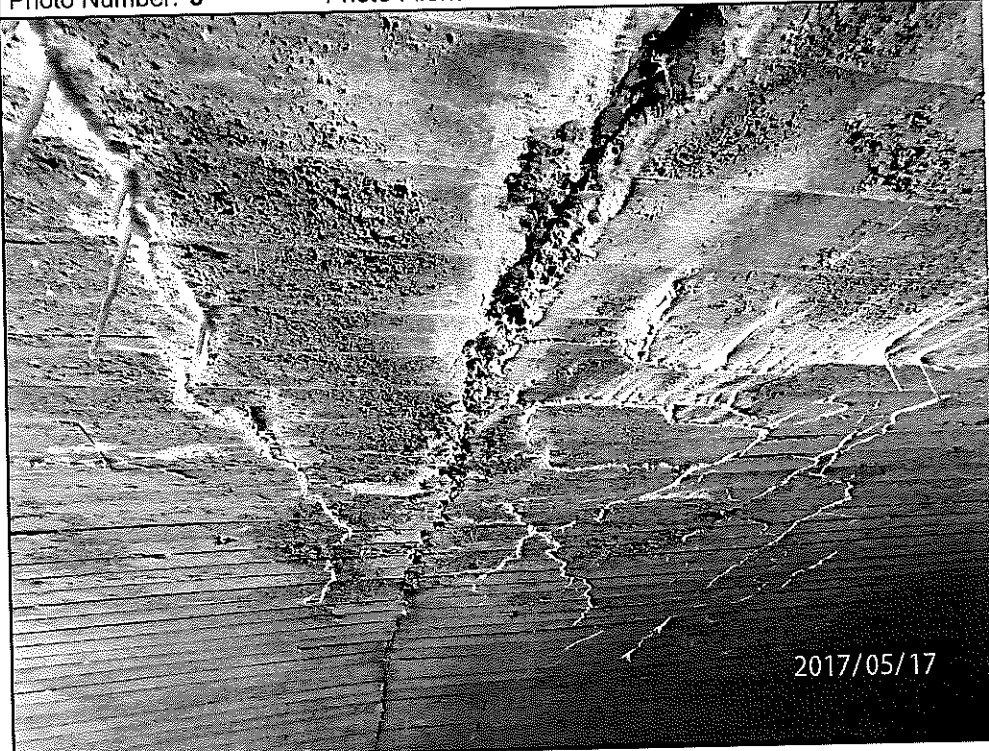


Photo Number: 4

Photo Filename: 17P5173545.JPG

Attachment Description:
Begin Abutment at 1st
Construction Joint, Looking
Begin Left



Photo Number: 5

Photo Filename: 17P5173566.JPG

Attachment Description:
Begin Abutment at Right
Side, Looking Right

View of abutment
erosion due to creek
flows.



Photo Number: 6

Photo Filename: 17P5173599.JPG

Attachment Description:
End Abutment near Right
Side, Looking End

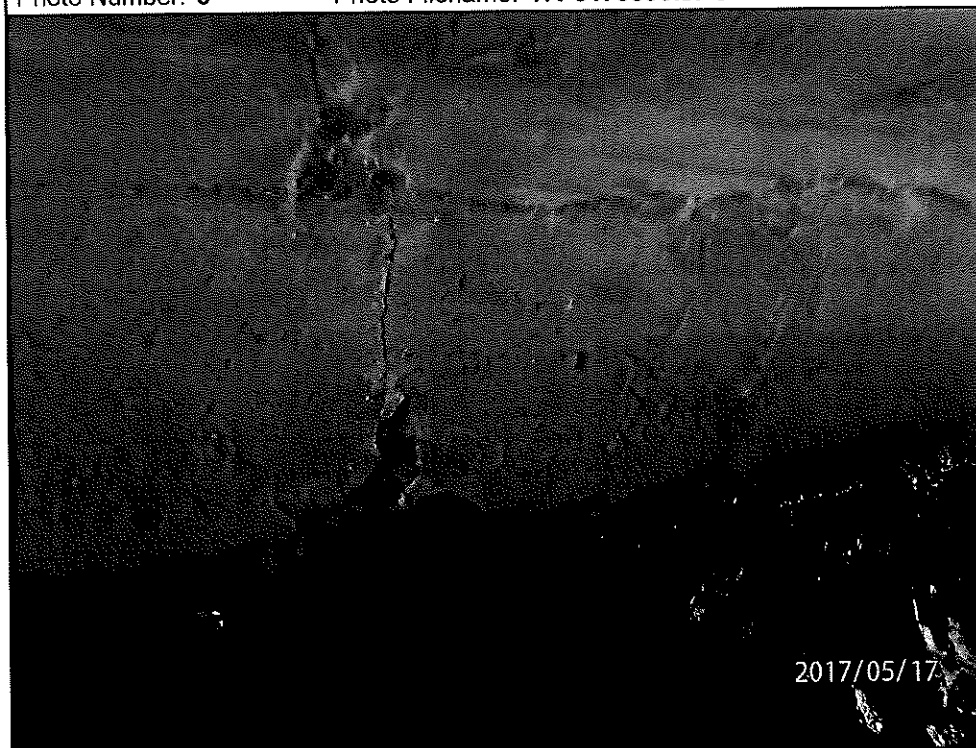


Photo Number: 7

Photo Filename: 17P5173611.JPG

Attachment Description:
End Abutment at Right
Side, Looking End Right



Photo Number: 8

Photo Filename: 17P5173569.JPG

Attachment Description:
Begin Abutment Footing at
Right Side, Looking Right

View of abutment
erosion.



Photo Number: 9

Photo Filename: 17P5173564.JPG

Attachment Description:
Begin Abutment at the
Begin Left, Looking Begin
Existing storm drain
outlet

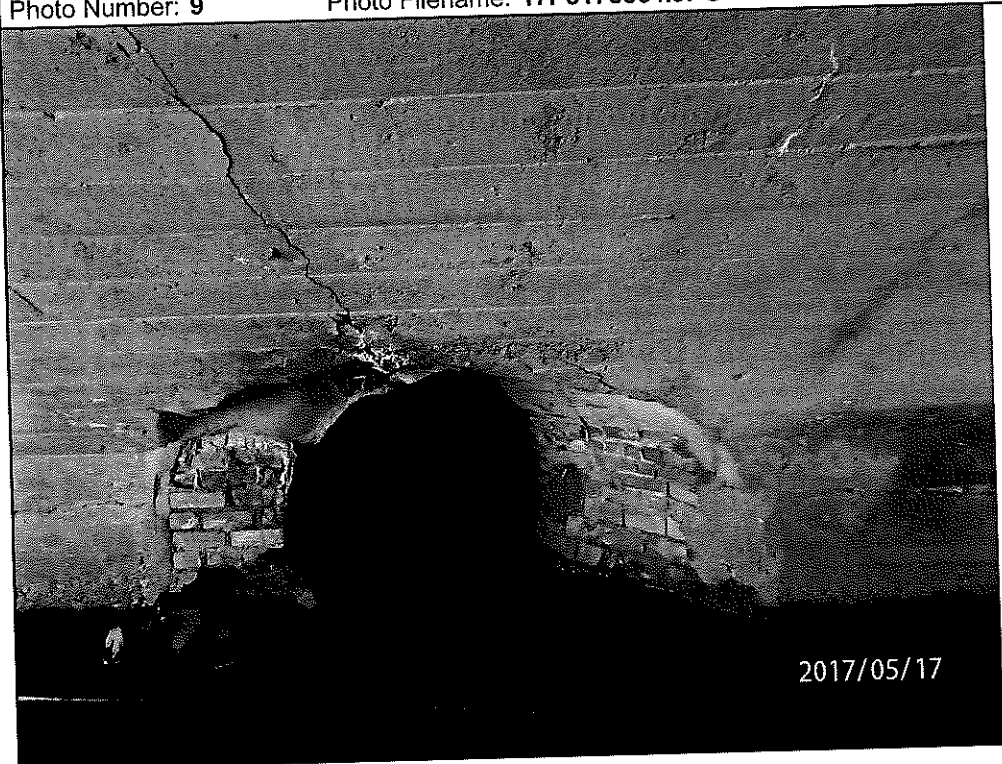


Photo Number: 10

Photo Filename: 17P5173605.JPG

Attachment Description:
End Abutment near Mid-
Span, Looking End

Abutments being
undermined by creek
flows.



Photo Number: 11

Photo Filename: 17P5173580.JPG

Attachment Description:
Metal Bridge Railing, Right
Railing, Looking End Left

Note deteriorated
bridge fascia and
non-standard railing.



Photo Number: 12

Photo Filename: 17P5173527.JPG

Attachment Description:
Left Side Railing, Looking
End

Non-standard bridge
rail treatment.



Photo Number: 13

Photo Filename: 17P5173530.JPG

Attachment Description:
Right Side Railing, Looking
End



Photo Number: 14

Photo Filename: 17P5173513.JPG

Attachment Description:
Begin Right Wingwall,
Looking Begin

Deteriorated wing
walls and end of bridge
with subsequent erosion



Photo Number: 15

Photo Filename: 17P5173574.JPG

Attachment Description:
End Right Wingwall,
Looking End



Photo Number: 16

Photo Filename: 17P5173614.JPG

Attachment Description:
End Right Wingwall,
Looking Left



Photo Number: 17

Photo Filename: 17P5173572.JPG

Attachment Description:
Right Spandrel Wall,
Looking Left

Deteriorated masonry
spandrel wall.



PLEASE PRINT OR TYPE FORM CLEARLY

NOTE: Claim must be filed with and served to the City Chamberlain in triplicate (3 copies) within 90 days after the claim arises. Use additional sheets if necessary.

NOTICE OF CLAIM
AGAINST
THE CITY OF POUGHKEEPSIE, NEW YORK

TODAY'S DATE: 10/17/19

NAME AND ADDRESS OF EACH CLAIMANT:

Kenyante Frank 10/17/19 13 Gifford Ave Apt. 2

TELEPHONE NUMBER: 718-974-2834

NAME AND ADDRESS OF ATTORNEY (IF ANY):

DESCRIBE WHAT HAPPENED AND AMOUNT CLAIMED (PLEASE STATE DATE, TIME, LOCATION, AND MANNER IN WHICH CLAIM AROSE):

On 7/16/2019 I was parked waiting on a friend when a medical vehicle drove next to me around 2:30pm and dented in and scraped my driver side front end.

ITEMS DAMAGED OR INJURIES SUSTAINED:

\$2000 in damages

Kenyante Frank
Signature of Claimant

Kenyante Frank
Signature of Claimant

STATE OF NEW YORK, COUNTY OF Dutchess s.s.:

Kenyante Frank being duly sworn, say(s) that he/she is/are the claimant(s) named in the foregoing claim, that he/she has/have read the same and know(s) the contents thereof; that the same is true to his/her own knowledge, except as to the matters alleged upon information and belief and as to those items, he/she believes it to be true.

Kenyante Frank
Signature of Claimant

Kenyante Frank
Signature of Claimant

Sworn to before me this 17 day of October 2019

[Signature]
Notary Public

NICHOLAS J LAFFIN
Notary Public - State of New York
NO. 01LA6391403
Qualified in Dutchess County
My Commission Expires May 6, 2023

NOTE: After submitting this form to the City Chamberlain, please direct any inquiries to the Corporation Counsel at (845) 451-4065, Monday to Friday, 8:30 a.m. - 4:00 p.m.



Incident Report



Print Date/Time: 08/21/2019 12:13
Login ID: germanod

City of Poughkeepsie Police
ORI Number: NY0130200

Incident: 2019-00026972

Incident Date/Time: 7/16/2019 2:22:00 PM
Location: 46 S BRIDGE ST
POUGHKEEPSIE NY 12601
Phone Number: (845)902-8778
Report Required: No
Prior Hazards: No
LE Case Number:

Incident Type: MVA
Venue: C-Poughkeepsie
Source: Telephone
Priority: 2
Status: In Progress
Nature of Call: CLIPPED A VEH / WHITE VAN

Unit/Personnel

Unit	Personnel
PD16	5888-BRAREN
PD17	5617-MORRONE

Person(s)

No.	Role	Name	Address	Phone	Race	Sex	DOB
	Caller	DICZAMBIO, KYLE		(845)902-8778			

Vehicle(s)

Role	Type	Year	Make	Model	Color	License	State
Accident Vehicle						AX6015	NY
Accident Vehicle						HWN6199	NY

Disposition(s)

Disposition	Count
Blotter only	1

Property

Date	Code	Type	Make	Model	Description	Tag No.	Item No.
------	------	------	------	-------	-------------	---------	----------



For Customer Support refer to the appropriate platform below:

OrderPoint
800-934-9698
Orderpoint.support@lexisnexis.com

Accurint for Insurance
866-277-8407
Accurint.support@lexisnexis.com

Lexis.com
Law Firm accounts
800-543-6862

PAGE COUNT: 3

CLIENT : 107040
DIVISION : NEWYORKAN22C
ADJUSTER : A132878
CLAIM : 19-4147873

TRANSACTION # : 801283993
DATE : 08/26/2019

DATE OF LOSS : 07/16/2019 TIME OF LOSS :
STREET : 46 SOUTH BRIDGE STREET
CITY : POUGHKEEPSIE
COUNTY : DUTCHESS
STATE : NY

INVESTIGATING AGENCY : POUGHKEEPSIE CITY PD
REPORT NUMBER : 1926972
REPORT TYPE : Auto Accident
PARTY 1 : KENYANTE FRANK
PARTY 2 :
PARTY 3 :

CAR : MAKE : YEAR :
TAG :

DRIVER LICENSE :
ADDITIONAL INFO :

POLICY #:
POLICY STATE:
LOSS KIND:

NOTE :

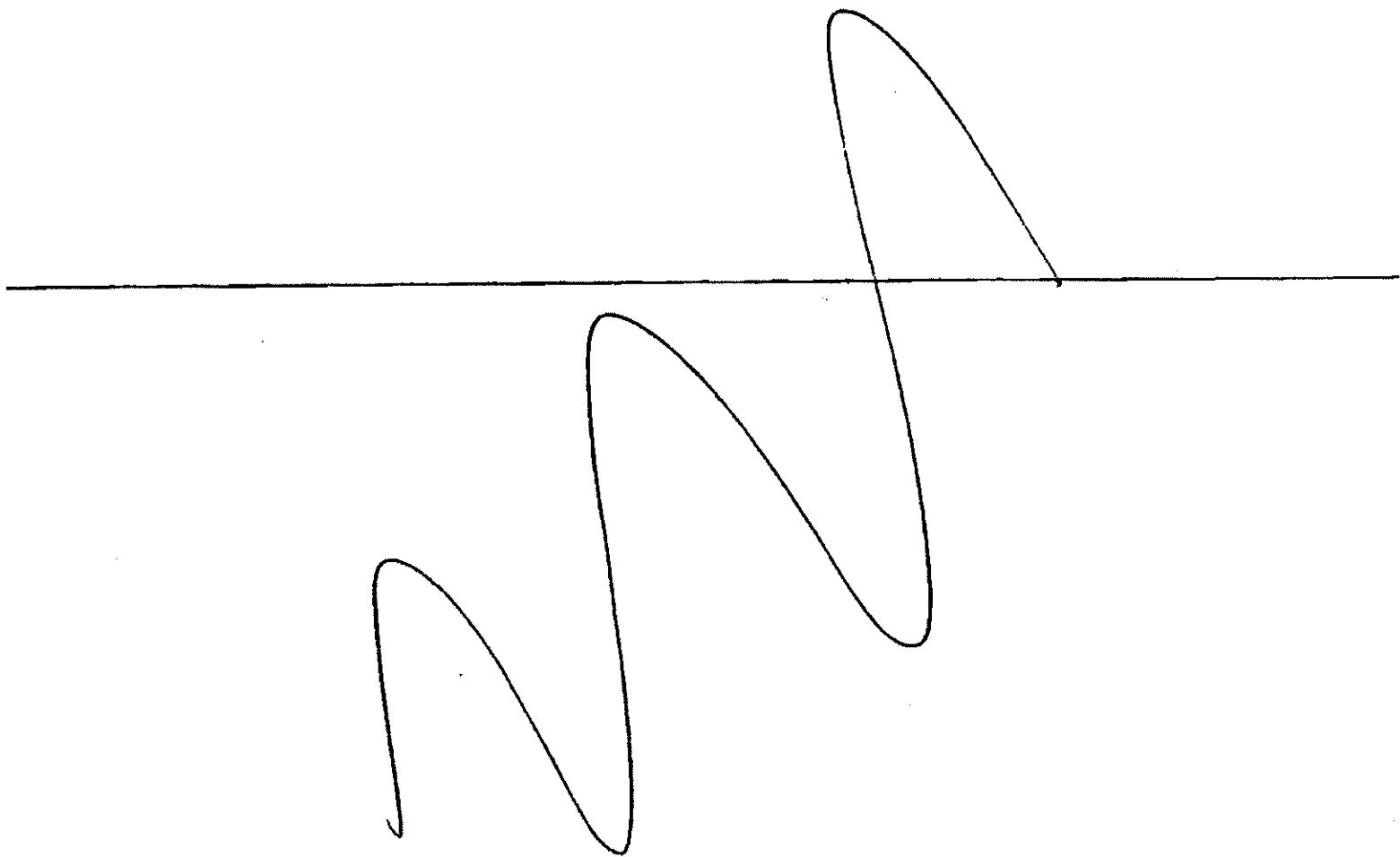
THANK YOU FOR YOUR ORDER!

CAD Narrative

Page: 2 of 2

07/16/2019 : 14:42:19 howleyc Narrative: NISSAN PARKED REAR BUMPER OF THE BUS HIT THE FRONT DRIVER SIDE BUMPER OF THE NISSAN

07/16/2019 : 14:40:03 howleyc Narrative: NY CID'S 119 950 781 / 482 111 126



-----X
THE ESTATE OF LORRAINE A. KRUK,

Claimant,

-against-

THE CITY OF POUGHKEEPSIE,

Respondent.
-----X

NOTICE OF CLAIM

TO: Hon. Robert G. Rolison
Mayor
City of Poughkeepsie
62 Civic Center Plaza
PO Box 300
Poughkeepsie NY 12602

CITY OF POUGHKEEPSIE
CITY CHAMBERLAIN
2019 OCT 25 PM 3:05

PLEASE TAKE NOTICE that the claimant(s) hereby make claim against for damages sustained because of personal injuries.

1. Claimant died a resident of Dutchess County having resided at 31 Spruce Street, Poughkeepsie, New York 12601.

2. Claimant's attorneys are Rutberg Breslow Personal Injury Law, 3344 Route 9 North, Poughkeepsie NY 12601.

3. The claim arose in front of 31 Spruce Street, Poughkeepsie, New York 12601 on August 22, 2019 at approximately 5:00 p.m.

4. The nature of the claim and manner in which it arose are as follows:
Upon information and belief, claimant's decedent fell from concrete steps (**Exhibit "A"**) and landed in street. Steps were not level, of variable rise, uneven to adjacent curb material, condition created by respondent and worsened due to negligent maintenance.

5. The nature of the injuries as presently known are as follows:
Upon information and belief Lorraine A. Kruk sustained open skull fracture with major

traumatic brain injury rendering claimant severely disabled and leading to her death.

6. Not more than 90 days has elapsed since the subject incident occurred.

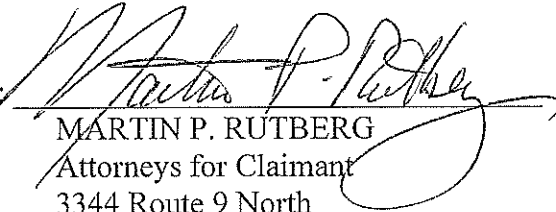
Claimant(s) intend to commence an action if you do not adjust and pay this claim within the time provided by statute.

DATED: Poughkeepsie, New York
October 15, 2019

Yours, etc.

RUTBERG BRESLOW PERSONAL INJURY
LAW

By:



MARTIN P. RUTBERG

Attorneys for Claimant

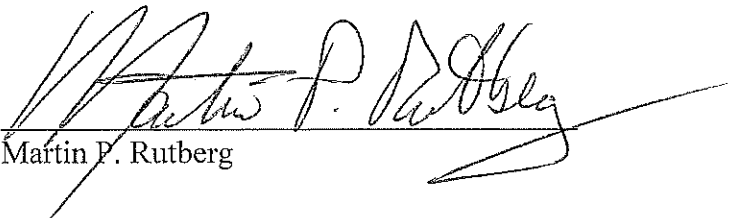
3344 Route 9 North

Poughkeepsie, NY 12601

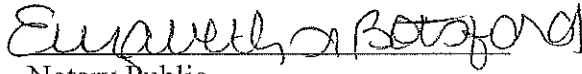
Tel.: (845) 486-0300

STATE OF NEW YORK)
) ss:
COUNTY OF DUTCHESS)

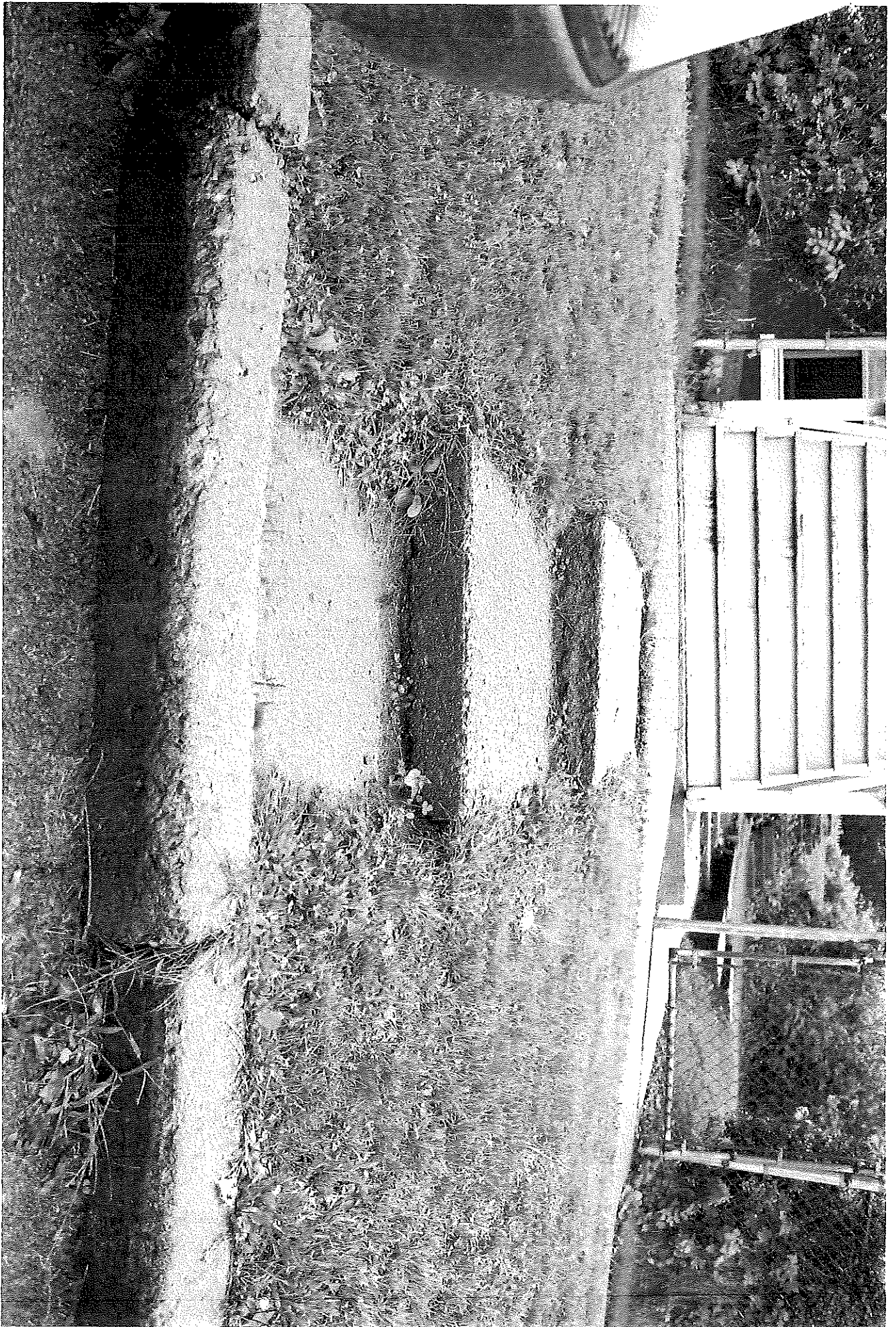
Martin P. Rutberg, being duly sworn, deposes and says that deponent is the attorney for the Estate of Lorraine Kruk; that he has read the foregoing Notice of Claim and knows the contents thereof; the same is true to deponent's own knowledge, except as to the matters therein stated to be alleged on information and belief, and that as to those matters deponent believes it to be true.

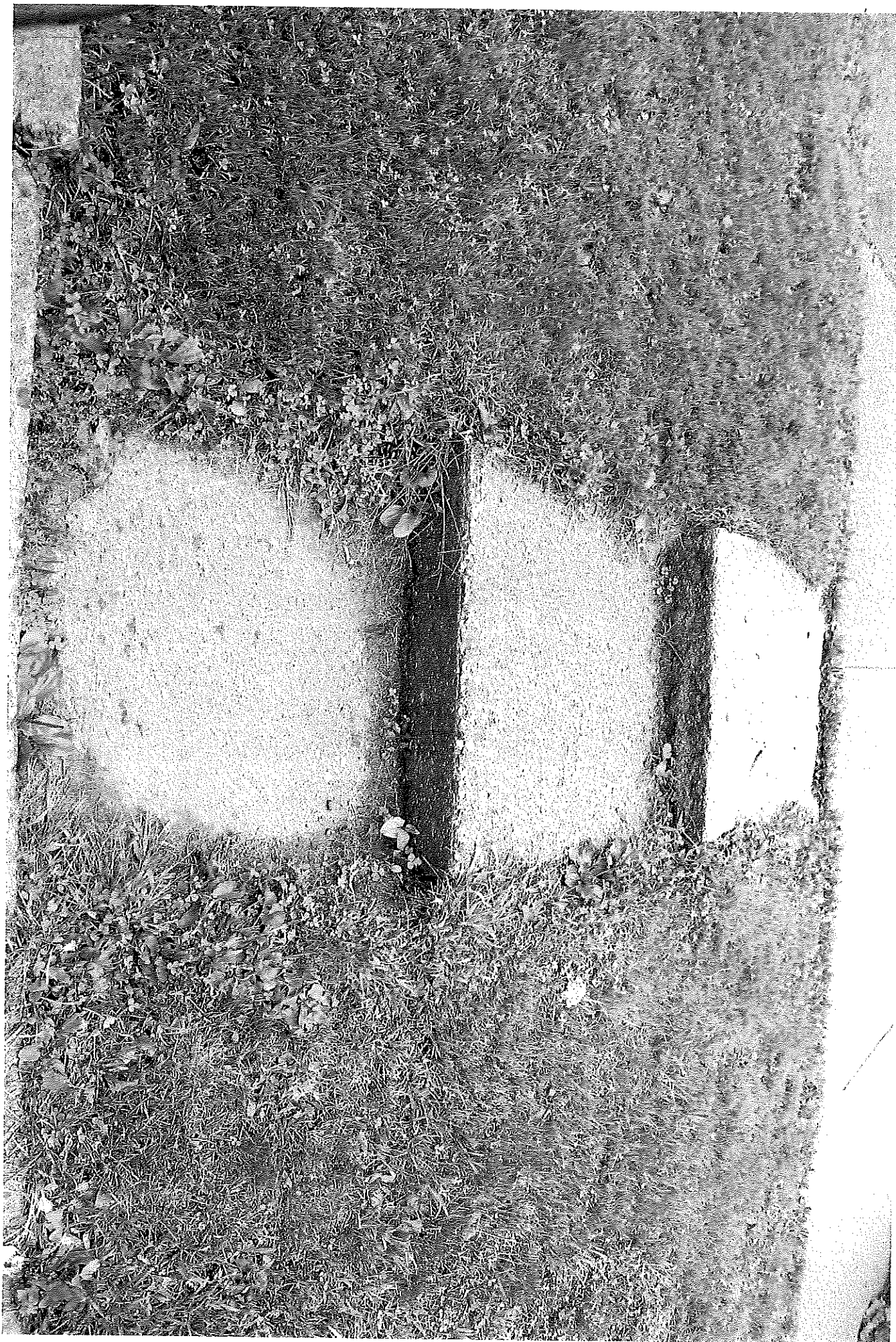

Martin P. Rutberg

Sworn to before me this
15th day of October, 2019


Notary Public

Elizabeth A. Botsford
Notary Public, State of New York
No. 01B06108907
Qualified in Dutchess County
Commission Expires April 19, 2020





Google Maps 31 Spruce St



Image capture: Apr 2012 © 2019 Google

Poughkeepsie, New York



Street View - Apr 2012

SOBO & SOBO

PERSONAL INJURY ATTORNEYS

ONE DOLSON AVENUE
MIDDLETOWN, N.Y. 10940
PHONE: (855) 468-7626 (SOBO)
FAX: (845) 343-0929

OFFICES IN:
MIDDLETOWN, N.Y.
NEWBURGH, N.Y.
POUGHKEEPSIE, N.Y.
SPRING VALLEY, N.Y.
NEW YORK, N.Y.

October 18, 2019

Via First Class Mail

Via Certified Mail – Return Receipt Requested

7017 1070 0000 7014 5750

ROB ROLISON, MAYOR
CITY OF POUGHKEEPSIE
62 Civic Center Plaza
Poughkeepsie, New York 12601

Re: Our Client: Shaniece Brown
D/A: October 1, 2019

RECEIVED

OCT 23 2019

OFFICE OF THE MAYOR
CITY OF POUGHKEEPSIE

Dear Sir/Madam:

Enclosed for service please find a Verified Notice of Claim with respect to the above matter.

Please feel free to contact this office if you have any questions or concerns.

Best regards,

Carol Mazzie

Paralegal
Enc.

CITY OF POUGHKEEPSIE
CITY CHAMBERLAIN
OCT 23 PM 1:14

VERIFIED NOTICE OF CLAIM

In the Matter of the Claim of:
SHANIECE BROWN,

Claimant,

-against-

**KAITLIN M. HORAN,
CITY OF POUGHKEEPSIE POLICE DEPARTMENT
and CITY OF POUGHKEEPSIE,**

Respondents.

All sent this Notice of Claim by Certified Mail, Return Receipt Requested

To:

KAITLAN M. HORAN
c/o CITY OF POUGHKEEPSIE
POLICE DEPARTMENT
62 Civic Center Plaza
Poughkeepsie, New York 12601

CITY OF POUGHKEEPSIE
POLICE DEPARTMENT
62 Civic Center Plaza
Poughkeepsie, New York 12601

ROB ROLISON, MAYOR
CITY OF POUGHKEEPSIE
62 Civic Center Plaza
Poughkeepsie, New York 12601

2019 OCT 23 PM 1:15
CITY OF POUGHKEEPSIE
CITY CHAMBERLAIN

PLEASE TAKE NOTICE that the undersigned Claimant has hereby served this Notice of Claim upon Respondents pursuant to applicable provisions of the General Municipal Law of the State of New York as follows:

1. *The name and post-office address of Claimant and Claimant's attorneys are:*

CLAIMANTS:

Shaniece Brown
22 Fox Terrace, Apt. 1
Poughkeepsie, New York 12603

CLAIMANTS' ATTORNEYS:

SOBO & SOBO, L.L.P.
One Dolson Avenue
Middletown, New York 10940
(845) 343-7626

2. *The nature of the Claim:* negligence, carelessness, recklessness, willful, wanton and/or gross negligence in the use, operation, driving and control of a motor vehicle.

3. *The Date, Time and Place Where the Claim Occurred:* The claim arose on or about Tuesday, October 1, 2019 at approximately 7:47 a.m. on Church Street at the intersection with South White Street, in the City of Poughkeepsie, County of Dutchess, State of New York. Annexed hereto at **Exhibit 1** is a true copy of the Police Accident Report along with Claimant's written demand that an Amended Police Accident Report be issued under the circumstances.

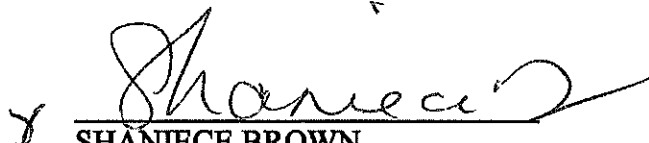
4. *The Manner in Which the Claim Occurred:* Claimant was lawfully operating and controlling her four door sedan (a 2015 Honda bearing NYS Plate # HUP6125) when her motor vehicle was wrongfully struck a City of Poughkeepsie Police Department patrol car (a 2018 Ford bearing Plate NYS # 184) which was being used, driven, operated and controlled by the Respondent, Kaitlin M. Horan, during the course of her work as a Police Officer for the City of Poughkeepsie Police Department, or City of Poughkeepsie.

5. *Basis of Claim, General Contentions:* Upon information and belief, the Respondents, be it directly, indirectly, vicariously, and/or pursuant to the legal doctrine of respondeat superior, was/were negligent, careless, reckless, willful, wanton and/or grossly negligent, in causing a certain marked patrol car which was being used, driven, operated and controlled by Respondent, Kaitlin M. Horan, a City of Poughkeepsie Police Department Officer, to enter the aforesaid intersection against a steady red traffic light, and without the right of way, without suitable warnings, and in having caused said patrol car come into physical contact with the aforesaid motor vehicle which was being lawfully used, driven, operated and controlled by Claimant; in failing to yield the right of way; in disregarding a red traffic light; in failing to yield the right of way to Claimant; in failing to suitably forewarn others on the road of Respondent's pending entrance into the intersection; in causing the accident; in failing to take those steps necessary to avoid causing the accident; in placing Claimant and others in immanent peril and threat of personal injury and harm; in failing to use that degree of caution, prudence, and care which was reasonable and proper under the controlling circumstances; in failing to take appropriate measures to avoid a collision; in failing to keep the motor vehicle under proper control; in failing to operate the motor vehicle in a manner and at a speed that was reasonable and proper under the prevailing traffic conditions; in failing to properly operate the braking and acceleration devices of the motor vehicle under the circumstances of the roadway where the accident occurred; in failing to keep a proper lookout; in failing to stop and/or slow down; in violating the rules of the road; in failing to observe that degree of caution, prudence and care which was reasonable and proper under the controlling circumstances; in acting with reckless disregard for the safety of others; in failing to keep alert and attentive; violating the Vehicle & Traffic Law §1111; 1120; 1122; 1128; 1143; 1180; 1212 and/or 1226; and Respondents may have been negligent, careless, reckless, willful, wanton and/or grossly negligent in ways yet to be discovered.

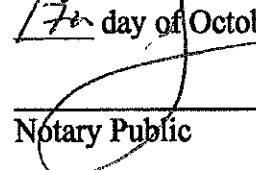
6. *Damages Claimed:* Due to the culpable conduct and acts and/or omissions by Respondents, be it directly, indirectly, and/or vicariously, and in whole or part, that Claimant was caused to suffer personal injury which constitutes a "serious injury" as defined by the Insurance Law of New York, and property damage. Claimant's personal injuries include, but are not limited to, internal damage to the head; neck; upper, mid and lower back; right shoulder; right hip; left knee and left foot; said personal injuries required hospital and medical care, treatment and attention which is ongoing; and said accident has caused Claimant to incur out-of-pocket costs and expenses and lost earnings; and perhaps other and further damages, which is ongoing and which are continuing.

PLEASE TAKE NOTICE that the Claimant will commence a civil action for damages against Respondents unless this Claim is satisfied within the applicable time provided by law measured from the date this matter is presented to you.

Dated: October 17, 2019
Newburgh, New York


SHANIECE BROWN

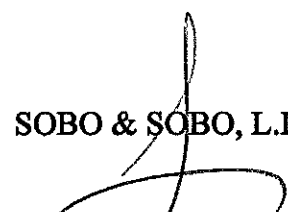
Duly sworn to before me this the
17th day of October, 2019


Notary Public

Dated: October 17, 2019
Newburgh, New York

STUART WAYNE MOSBACHER
NOTARY PUBLIC, STATE OF NEW YORK
NO. 02MD498740
QUALIFIED IN THE COUNTIES OF
~~PUTNAM & BUTCHERS & CHARGES~~
COMMISSION EXPIRES JULY 2, 2021

23


SOBO & SOBO, L.L.P.

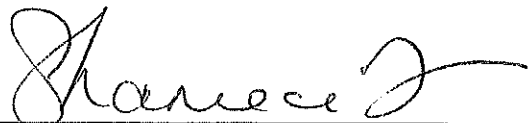
STUART W. MOSBACHER, ESQ.
Attorneys for Claimant
Sobo & Sobo, L.L.P.
One Dolson Avenue
Middletown, New York 10940
(845) 343-7626

INDIVIDUAL VERIFICATION

STATE OF NEW YORK }
CITY OF NEWBURGH }.ss:
COUNTY OF ORANGE }

That I, SHANIECE BROWN, the undersigned, being duly sworn, do hereby say the following; I am the CLAIMANT in the matter at bar; on the below date, I read, reviewed and came to understand the accompanying document entitled "*NOTICE OF INTENTION TO MAKE CLAIM*" which was prepared on our behalf by retained legal counsel, and I do know the contents thereof, and to the best of my knowledge, information and belief, the content of said document is truthful and accurate, except those matters therein which are stated to be alleged on information and belief, and as to such claims and matters, I believe them to be true as well.

Dated: October 17, 2019
Newburgh, New York

x 
SHANIECE BROWN

Duly sworn to before me this the
17th day of October, 2019

Notary Public

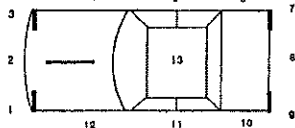
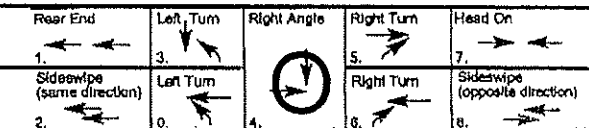
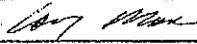
STUART WAYNE MOSBACHER
NOTARY PUBLIC, STATE OF NEW YORK
NO. 02M04953740
QUALIFIED IN THE COUNTIES OF
ULSTER & DUTCHESS & ORANGE
COMMISSION EXPIRES JULY 2, 2023

POLICE ACCIDENT REPORT

MV-104A (6/04)

Local Codes
2019-37221
Q3DST4B2DF0Z

AMENDED REPORT

1	Accident Date Month 10 Day 1 Year 2019	Day of Week Tuesday	Military Time 07:47	No. of Vehicles 2	No. Injured 2	No. Killed 0	Not Investigated at Scene ☐	Left Scene ☐	Police Photos ☒ Yes ☐ No	20			
	VEHICLE 1				☒ VEHICLE 2 ☐ BICYCLIST ☐ PEDESTRIAN ☐ OTHER PEDESTRIAN								
2	VEHICLE 1- Driver License ID Number 810570256			State of Lic. NY	VEHICLE 2- Driver License ID Number 854078777			State of Lic. NY			21		
	Driver Name - exactly as printed on license HORAN, KAITLIN M			Driver Name - exactly as printed on license BROWN, SHANIECE N							7		
	Address (Include Number and Street) 62 CIVIC CENTER PLAZA			Apt. No.	Address (Include Number and Street) 22 FOX TERRACE APT 1			Apt. No.			22		
3	City or Town POUGHKEEPSIE			State NY	City or Town POUGHKEEPSIE			State NY	Zip Code 12603				
2	Date of Birth Month 2 Day 4 Year 1986			Sex F	Unlicensed ☐	No. of Occupants 01	Public Property Damaged ☐						
	Name - exactly as printed on registration POUGHKEEPSIE, CITY			Sex	Date of Birth Month Day Year	Name - exactly as printed on registration BROWN, SHANIECE N			Sex F	Date of Birth Month 3 Day 2 Year 1983	23		
4	Address (Include Number and Street) 26 HOWARD STREET			Apt. No.	Haz. Mat. Code -	Released ☐	Address (Include Number and Street) 22 FOX TERRACE APT 1			Apt. No.	Haz. Mat. Code -	Released ☐	24
	City or Town POUGHKEEPSIE			State NY	City or Town POUGHKEEPSIE			State NY	Zip Code 12603		5		
6	Plate Number 184	State of Reg. NY	Vehicle Year & Make 2018 FORD	Vehicle Type 4DSD	Ins. Code 238	Plate Number HUP6125	State of Reg. NY	Vehicle Year & Make 2015 HOND	Vehicle Type 4DSD	Ins. Code 337			
	Ticket/Arrest Number(s)					Ticket/Arrest Number(s)					25		
6	Violation Section(s)					Violation Section(s)					1		
7	Check if involved vehicle is: ☐ more than 95 inches wide; ☐ more than 34 feet long; ☐ operated with an overweight permit; ☐ operated with an overdimension permit.					Check if involved vehicle is: ☐ more than 95 inches wide; ☐ more than 34 feet long; ☐ operated with an overweight permit; ☐ operated with an overdimension permit.					26		
2	VEHICLE 1 DAMAGE CODES Box 1 - Point of Impact Box 2 - Most Damage Enter up to three more damage codes					VEHICLE 2 DAMAGE CODES Box 1 - Point of Impact Box 2 - Most Damage Enter up to three more damage codes					1		
	Vehicle By: CITY OF POK Towed To: CITY GARAGE					Vehicle By: REDLS Towed To: REDLS							
	VEHICLE DAMAGE CODING: 1-13 SEE DIAGRAM ON RIGHT. 14. UNDERCARRIAGE 17. DEMOLISHED 15. TRAILER 18. NO DAMAGE 16. OVERTURNED 19. OTHER												
	Reference Marker					Coordinates (if available) Latitude/Northing Longitude/Easting							
	Place Where Accident Occurred: County DUTCHESS ☒ City ☐ Village ☐ Town of POUGHKEEPSIE Road on which accident occurred CHURCH STREET (Route Number or Street Name) at 1) Intersecting street SOUTH WHITE STREET (Route Number or Street Name) or 2) _____ of _____ (Milepost, Nearest Intersecting Route Number or Street Name)					Circle the diagram below that describes the accident, or draw your own diagram in space #9. Number the vehicles. 					27		
	Cost of repairs to any one vehicle will be more than \$1000. ☐ Unknown/Unable to determine ☒ Yes ☐ No										28		
	Accident Description/Officer's notes VEHICLE ONE, A MARKED CITY OF POUGHKEEPSIE POLICE PATROL CAR WAS TRAVELLING EAST ON CHURCH STREET IN THE MIDDLE LANE WITH THE EMERGENCY LIGHTS AND SIREN ENGAGED EN ROUTE TO A CALL. VEHICLE TWO WHICH WAS SOUTHBOUND ON SOUTH WHITE STREET DID NOT YIELD TO VEHICLE ONE WHICH BRAKED AND SWERVED TO THE RIGHT TO AVOID THE COLLISION BUT WAS UNABLE TO DO SO. VEHICLE ONE SUSTAINED HEAVY DAMAGE TO THE FRONT END WHILE VEHICLE TWO HAD SUBSTANTIAL DAMAGE TO										29		
	ALL INVOLVED					Names of all involved HORAN, KAITLIN M BROWN, SHANIECE N					30		
	Officer's Rank and Signature PATROLMAN 					Badge/ID No. 53 NCIC No. 01302 Precinct/Post Troop/Zone 27 Station/Beat Sector Egan, Michael Date/Time Reviewed 10/8/2019 01:20							

POLICE ACCIDENT REPORT

MV-104A (6/04)

Local Codes
2019-37221
Q3DST4B2DF0Z

☐ AMENDED REPORT

1	Accident Date Month: 10 Day: 1 Year: 2019	Day of Week Tuesday	Military Time 07:47	No. of Vehicles 2	No. Injured 2	No. Killed 0	Not Investigated at Scene ☐	Left Scene ☐	Police Photos ☒ Yes ☐ No	20																																																																																																			
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Accident Description/Officer's notes: THE RIGHT FRONT FENDER AREA. OPERATOR OF VEHICLE ONE SUSTAINED A LARGE VISIBLE CONTUSION TO HER FOREHEAD, A BRUISED KNEE, AND COMPLAINED OF WRIST PAIN. OPERATOR OF VEHICLE TWO DID NOT HAVE VISIBLE INJURY BUT COMPLAINED OF SUBSTANTIAL PAIN ALL OVER HER BODY. BOTH WERE TRANSPORTED TO VASSAR BROTHERS MEDICAL CENTER FOR TREATMENT. OFFICER SIMMONS TOOK DOCUMENTARY PHOTOGRAPHS OF THE SCENE.											28																																																																																																		
ALL INVOLVED <table border="1" style="width:100%; border-collapse: collapse;"> <thead> <tr> <th></th> <th>8</th> <th>9</th> <th>10</th> <th>11</th> <th>12</th> <th>13</th> <th>14</th> <th>15</th> <th>16</th> <th>17 BY</th> <th>TO 18</th> <th>Names of all Involved</th> <th>Date of Death Only</th> </tr> </thead> <tbody> <tr><td>A</td><td></td><td></td><td></td><td></td><td></td><td></td><td></td><td></td><td></td><td></td><td></td><td></td><td></td></tr> <tr><td>B</td><td></td><td></td><td></td><td></td><td></td><td></td><td></td><td></td><td></td><td></td><td></td><td></td><td></td></tr> <tr><td>C</td><td></td><td></td><td></td><td></td><td></td><td></td><td></td><td></td><td></td><td></td><td></td><td></td><td></td></tr> <tr><td>D</td><td></td><td></td><td></td><td></td><td></td><td></td><td></td><td></td><td></td><td></td><td></td><td></td><td></td></tr> <tr><td>E</td><td></td><td></td><td></td><td></td><td></td><td></td><td></td><td></td><td></td><td></td><td></td><td></td><td></td></tr> <tr><td>F</td><td></td><td></td><td></td><td></td><td></td><td></td><td></td><td></td><td></td><td></td><td></td><td></td><td></td></tr> </tbody> </table>												8	9	10	11	12	13	14	15	16	17 BY	TO 18	Names of all Involved	Date of Death Only	A														B														C														D														E														F														29
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Officer's Rank and Signature: PATROLMAN <i>Cory V Marone</i> Print Name in Full: CORY V MARONE											30																																																																																																		
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 USE COVER SHEET
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Accident Date Month: 10, Day: 1, Year: 2019		Day of Week Tuesday	Military Time 07:47	No. of Vehicles 2	No. Injured 2	No. Killed 0	Not Investigated at Scene ☐ Left Scene ☐		Police Photos ☒ Yes ☐ No	20						
VEHICLE 1					☒ VEHICLE 2 ☐ BICYCLIST ☐ PEDESTRIAN ☐ OTHER PEDESTRIAN						-					
VEHICLE 1- Driver License ID Number: 810570256				State of Lic. NY		VEHICLE 2- Driver License ID Number: 854078777				State of Lic. NY		21				
Driver Name - exactly as printed on license: HORAN, KAITLIN M				Driver Name - exactly as printed on license: BROWN, SHANIECE N								7				
Address (Include Number and Street): 62 CIVIC CENTER PLAZA				Apt. No.		Address (Include Number and Street): 22 FOX TERRACE APT 1				Apt. No.		22				
City or Town: POUGHKEEPSIE, State: NY, Zip Code: 12602				City or Town: POUGHKEEPSIE, State: NY, Zip Code: 12603								-				
Date of Birth: Month 2, Day 4, Year 1986		Sex: F	Unlicensed: ☐	No. of Occupants: 01	Public Property Damaged: ☐		Date of Birth: Month 3, Day 2, Year 1983		Sex: F	Unlicensed: ☐	No. of Occupants: 01	Public Property Damaged: ☐		23		
Name - exactly as printed on registration: POUGHKEEPSIE, CITY				Sex: F		Date of Birth: Month 3, Day 2, Year 1983		Name - exactly as printed on registration: BROWN, SHANIECE N				Sex: F		3		
Address (Include Number and Street): 26 HOWARD STREET				Apt. No.		Haz. Mat. Code: -		Released: ☐		Address (Include Number and Street): 22 FOX TERRACE APT 1				Apt. No.		24
City or Town: POUGHKEEPSIE, State: NY, Zip Code: 12601				City or Town: POUGHKEEPSIE, State: NY, Zip Code: 12603								5				
Plate Number: 184		State of Reg.: NY	Vehicle Year & Make: 2018 FORD	Vehicle Type: 4DSD	Ins. Code: 238		Plate Number: HUP6125		State of Reg.: NY	Vehicle Year & Make: 2015 HOND	Vehicle Type: 4DSD	Ins. Code: 337		25		
Ticket/Arrest Number(s)				Ticket/Arrest Number(s)								1				
Violation Section(s): 1				Violation Section(s): 1								1				
Check if involved vehicle is: ☐ more than 95 inches wide; ☐ more than 34 feet long; ☐ operated with an overweight permit; ☐ operated with an overdimension permit.				Check if involved vehicle is: ☐ more than 95 inches wide; ☐ more than 34 feet long; ☐ operated with an overweight permit; ☐ operated with an overdimension permit.				Circle the diagram below that describes the accident, or draw your own diagram in space #9. Number the vehicles.				26				
VEHICLE 1 DAMAGE CODES Box 1 - Point of Impact: 1 2 Box 2 - Most Damage: 2 1 2 Enter up to three more damage codes: 3 4 5				VEHICLE 2 DAMAGE CODES Box 1 - Point of Impact: 1 4 Box 2 - Most Damage: 4 1 4 Enter up to three more damage codes: 3 5 4								1				
Vehicle By: CITY OF POK Towed To: CITY GARAGE VEHICLE DAMAGE CODING: 1-13 SEE DIAGRAM ON RIGHT. 14. UNDERCARRIAGE 17. DEMOLISHED 15. TRAILER 18. NO DAMAGE 16. OVERTURNED 19. OTHER				Vehicle By: REDLS Towed To: REDLS				ACCIDENT DIAGRAM 9.				27				
Reference Marker: Coordinates (if available): Latitude/Northing: Longitude/Easting:				Place Where Accident Occurred: County: DUTCHESS ☒ City ☐ Village ☐ Town of POUGHKEEPSIE Road on which accident occurred: CHURCH STREET (Route Number or Street Name) at 1) intersecting street: SOUTH WHITE STREET (Route Number or Street Name) or 2) N S E W of (Route Number or Street Name) feet miles (Milepost, Nearest Intersecting Route Number or Street Name)								28				
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ALL INVOLVED

	8	9	10	11	12	13	14	15	16	17 BY	TO 18	Names of all involved	Date of Death Only					
A	1	1	4	1	33	F	01	10	6	9993	1306	HORAN, KAITLIN M						
B	2	1	4	1	36	F	12	12	6	9993	1306	BROWN, SHANIECE N						
C																		
D																		
E																		
F																		
Officer's Rank and Signature							Badge/ID No.		NCIC No.		Precinct/Post Troop/Zone		Station/Beat Sector		Reviewing Officer		Date/Time Reviewed	
PATROLMAN <i>[Signature]</i>																		
Print Name in Full							53		01302		27		EGAN, MICHAEL		10/8/2019 01:20			

New York State Department of Motor Vehicles
POLICE ACCIDENT REPORT

MV-104A (6/04)

Local Codes

2019-37221

Q3DST4B2DF0Z

☐ AMENDED REPORT

1	Accident Date Month 10 Day 1 Year 2019		Day of Week Tuesday	Military Time 07:47	No. of Vehicles 2	No. Injured 2	No. Killed 0	Not Investigated at Scene ☐	Left Scene ☐	Police Photos ☒ Yes ☐ No	19																																																																																											
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3	VEHICLE 1 Driver License ID Number: [REDACTED] State of NY: [REDACTED] Driver Name (exactly as printed on license): [REDACTED] Address (Include Number and Street): [REDACTED] Apt. No.: [REDACTED] City or Town: [REDACTED] State: [REDACTED] Zip Code: [REDACTED] Date of Birth: [REDACTED] Sex: [REDACTED] Unlicensed: ☐ Name exactly as printed on registration: [REDACTED] Sex: [REDACTED] Date of Birth: [REDACTED] Address (Include Number and Street): [REDACTED] Apt. No.: [REDACTED] City or Town: [REDACTED] State: [REDACTED] Zip Code: [REDACTED] Plate Number: [REDACTED] State of Reg: [REDACTED] Vehicle Year & Make: [REDACTED] Vehicle Type: [REDACTED] Ins. Code: [REDACTED] T-Label Number(s): [REDACTED]										21																																																																																											
4	VEHICLE 2 Driver License ID Number: [REDACTED] State of NY: [REDACTED] Driver Name (exactly as printed on license): [REDACTED] Address (Include Number and Street): [REDACTED] Apt. No.: [REDACTED] City or Town: [REDACTED] State: [REDACTED] Zip Code: [REDACTED] Date of Birth: [REDACTED] Sex: [REDACTED] Unlicensed: ☐										22																																																																																											
5	Name exactly as printed on registration: [REDACTED] Sex: [REDACTED] Date of Birth: [REDACTED] Address (Include Number and Street): [REDACTED] Apt. No.: [REDACTED] City or Town: [REDACTED] State: [REDACTED] Zip Code: [REDACTED] Plate Number: [REDACTED] State of Reg: [REDACTED] Vehicle Year & Make: [REDACTED] Vehicle Type: [REDACTED] Ins. Code: [REDACTED] T-Label Number(s): [REDACTED]										23																																																																																											
6	Check if involved vehicle: V ☐ more than 16 inches wide E ☐ more than 34 feet long H ☐ operated with an overweight permit I ☐ operated with an overdimension permit C ☐ VEHICLE DAMAGE CODES: Box 1: Front of Impact [REDACTED] Box 2: Most Damage [REDACTED] Enter up to three more damage codes: [REDACTED] Vehicle By: [REDACTED] Towed To: [REDACTED]										24																																																																																											
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8	Circle the diagram below that describes the accident, or draw your own diagram in space #9. Number the vehicles. 										26																																																																																											
9	ACCIDENT DIAGRAM 9. Cost of repairs to any one vehicle will be more than \$1000. ☐ Unknown/Unable to determine ☐ Yes ☐ No										27																																																																																											
10	Reference Marker: [REDACTED] Coordinates (if available): Latitude/Northing: [REDACTED] Longitude/Easting: [REDACTED]										28																																																																																											
11	Place Where Accident Occurred: County DUTCHESS ☐ City ☐ Village ☐ Town of [REDACTED] Road on which accident occurred: [REDACTED] (Route Number or Street Name) at 1) Intersecting street: [REDACTED] (Route Number or Street Name) or 2) [REDACTED] feet [REDACTED] miles ☐ N ☐ S of [REDACTED] (Milepost, Nearest Intersecting Route Number or Street Name)										29																																																																																											
12	Accident Description/Officer's notes: THE RIGHT FRONT FENDER AREA. OPERATOR OF VEHICLE ONE SUSTAINED A LARGE VISIBLE CONTUSION TO HER FOREHEAD, A BRUISED KNEE, AND COMPLAINED OF WRIST PAIN. OPERATOR OF VEHICLE TWO DID NOT HAVE VISIBLE INJURY BUT COMPLAINED OF SUBSTANTIAL PAIN ALL OVER HER BODY. BOTH WERE TRANSPORTED TO VASSAR BROTHERS MEDICAL CENTER FOR TREATMENT. OFFICER SIMMONS TOOK DOCUMENTARY PHOTOGRAPHS OF THE SCENE.										30																																																																																											
13	ALL INVOLVED <table border="1"> <thead> <tr> <th>8</th> <th>9</th> <th>10</th> <th>11</th> <th>12</th> <th>13</th> <th>14</th> <th>15</th> <th>16</th> <th>17 BY</th> <th>TO 18</th> <th>Names of all involved</th> <th>Date of Death Only</th> </tr> </thead> <tbody> <tr><td>A</td><td></td><td></td><td></td><td></td><td></td><td></td><td></td><td></td><td></td><td></td><td></td><td></td></tr> <tr><td>B</td><td></td><td></td><td></td><td></td><td></td><td></td><td></td><td></td><td></td><td></td><td></td><td></td></tr> <tr><td>C</td><td></td><td></td><td></td><td></td><td></td><td></td><td></td><td></td><td></td><td></td><td></td><td></td></tr> <tr><td>D</td><td></td><td></td><td></td><td></td><td></td><td></td><td></td><td></td><td></td><td></td><td></td><td></td></tr> <tr><td>E</td><td></td><td></td><td></td><td></td><td></td><td></td><td></td><td></td><td></td><td></td><td></td><td></td></tr> <tr><td>F</td><td></td><td></td><td></td><td></td><td></td><td></td><td></td><td></td><td></td><td></td><td></td><td></td></tr> </tbody> </table>										8	9	10	11	12	13	14	15	16	17 BY	TO 18	Names of all involved	Date of Death Only	A													B													C													D													E													F													
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14	Officer's Rank and Signature: PATROLMAN [Signature] Print Name in Full: CORY V MARONE Badge/ID No.: 53 NCIC No.: 01302 Precinct/Post Troop/Zone: 27 Station/Beat Sector: [REDACTED] Reviewing Officer: EGAN, MICHAEL Date/Time Reviewed: 10/8/2019 01:20																																																																																																					

USE
COVER
SHEET
N

MV-104A(6/04)

10/10/19

Attn: OFFICER Cory Marone Badge #53
Reviewing OFFICER: Michael Eagan

I Shanice Brown would like to provide my Statement for the accident that occurred on 10/1/19, being that I was not interviewed at the scene and my statement was not included in the Police Accident Report,

- On 10/1/19 around 7:46 am I was driving on South White St approaching the Church St intersection with a green light in my favor headed home towards Fox Terrace from dropping my son off at school. After almost making it completely across the intersection my vehicle was struck on my passenger front side by a paunchy police vehicle. The police car did not have on any sirens or any overhead lights, and ran
" and light there were 2

Witnesses who were there
at the time of the accident
whos statements were also
not ~~being~~ taken. I would
greatly appreciate if the
Police Accident Report could
be revised including my Statement
and witnesses Statements.

Please give me a call at your
earliest convenience at (845) 214-3111

Thank you

Shanier

PLEASE PRINT OR TYPE FORM CLEARLY

NOTE: Claim must be filed with and served to the City Chamberlain in triplicate (3 copies) within 90 days after the claim arises. Use additional sheets if necessary.

NOTICE OF CLAIM
AGAINST
THE CITY OF POUGHKEEPSIE, NEW YORK

TODAY'S DATE: 10/01/19

NAME AND ADDRESS OF EACH CLAIMANT Shedrick D Day
22 montgomery st 10f
Poughkeepsie, NY 12601

TELEPHONE NUMBER: 845/380/5636

NAME AND ADDRESS OF ATTORNEY (IF ANY):

None

CITY OF POUGHKEEPSIE
CITY CHAMBERLAIN
OCT 23 PM 12:40

DESCRIBE WHAT HAPPENED AND AMOUNT CLAIMED (PLEASE STATE DATE, TIME, LOCATION, AND MANNER IN WHICH CLAIM AROSE):

On 10/1/2019 around 1030am heading east on main st cross intersection of main and Hamilton st i hit three man holes

ITEMS DAMAGED OR INJURIES SUSTAINED:

Broken rear lower control arm

Shedrick D Day

Signature of Claimant

Shedrick D Day

Signature of Claimant

STATE OF NEW YORK, COUNTY OF Dutchess s.s.:

Shedrick D. Day being duly sworn, say(s) that he is/are the claimant(s) named in the foregoing claim, that he has/have read the same and know(s) the contents thereof; that the same is true to his/her own knowledge, except as to the matters alleged upon information and belief and as to those items, he believes it to be true.

Shedrick D Day
Signature of Claimant

Signature of Claimant

Sworn to before me this 23rd day of October, 2019

Carol Nichol
Notary Public

CAROL NICHOLSON
NOTARY PUBLIC, State of New York
No. 04NI6182576
Qualified in Dutchess County
Commission Expires 2/28/2020

NOTE: After submitting this form to the City Chamberlain, please direct any inquires to the Corporation Counsel at (845) 451-4065, Monday to Friday, 8:30 a.m. - 4:00 p.m.

ARK AUTO REPAIR AND ALIGNMENT
80 MONTGOMERY ST
POUGHKEEPSIE NY 12601
FACILITY # 3140200
PHONE # 845 454 8740

Address:

Day Phone: 845-380-5636

Fax:

Date: October 01, 2019

Time: 12:29 PM

Service Tech: Gordon

VID: IN4AL3AP5DC108004

Mileage:

Vehicle: 2013 Nissan-Datsun Altima Sedan L4-2.5L (QR25DE)

Description	Part #/Labor Rate	Qty	Price/Time	Extended
customer brought vehicle in complaining of the rear "stabilizer bars" making noise when he is driving.				
when he manuevers around bumps or pot-holes. please check and advise SOURCE:GOOGLE				
UPON INSPECTION AND DIAG. REAR-LOWER CONTROL ARM		1	159.68	159.68
WHILE DIAG ADVISING				
Control Arm				
Replace				
Rear Suspension				
Lower Control Arm				
One Side (B)	Labor 95.00 / hr	1	1.75	166.25
	Labor Total			166.25
	Parts Total			159.68
	Sub-Total			325.93
	Labor Tax	8.125%		13.51
	Parts Tax	8.125%		12.97
	Tax Total			26.48
	Total			\$ 352.41

**All parts and Labor have a 3 Month or 5,000 mile warranty
Warranty for Labor Claims is for 90 Days**

Date _____

y 352.41
 - \$200.00 - \$100.00
 152.41
 152.41
 W. A. Price
 RENT EXT.
 (10/01/19 to
 12:25pm