

THIS LICENSE AGREEMENT (the "Agreement") made this 6 day of June, 2023 by and between:

THE COUNTY OF WESTCHESTER, a municipal corporation of the State of New York, having an office and place of business in the Michaelian Office Building, 148 Martine Avenue, White Plains, New York, 10601 (the "County")

and

GREATER HUDSON VALLEY COUNCIL INC., BOY SCOUTS OF AMERICA, a not-for-profit corporation of the State of New York, having its office at 18 Westage Drive, Space 19, Fishkill, NY 12524 (the "Licensee").

WITNESSETH:

WHEREAS, the Licensee is a youth organization that promotes the moral, physical, mental and social wellbeing of youth through various services and recreational activities; and

WHEREAS, the Licensee desires to use a scout cabin and land located and described in Sheet 13 of the Bronx River Parkway Map as a portion of parcels 21, 22 and 99 in the City of Yonkers, New York (the "Property"); and

WHEREAS, the County is willing to allow such use of the Property for the benefit of the public and for the benefit and support of youth services and youth recreational activities

NOW, THEREFORE, the parties hereto in consideration of the terms and conditions herein contained do agree as follows:

1. Description: The County hereby grants to the Licensee and the Licensee hereby accepts from the County a license to use the Property as shown on the sketch attached hereto and made a part hereof as Schedule "A" ("Licensed Premises"). The Licensed Premises shall be used by the Licensee solely for youth services and recreational activities, subject to all the terms, conditions and covenants herein.

2. **Term:** The term of this License shall be for five (5) years commencing on January 1, 2023 and terminating on December 31, 2027 (the "Term") unless terminated sooner as hereinafter provided. At the sole option of the County, the term of this License may be extended for an additional five (5) years from January 1, 2028 through December 31, 2032.

3. **Consideration for License:** In consideration for the use of the Licensed Premises, the Licensee shall pay the County an annual license fee of Two Hundred (\$200.00) Dollars. In the event the County exercises its option to extend the License, the parties shall negotiate a license fee.

The first annual license fee payment shall be due within sixth (60) days of execution of this Agreement. Each subsequent annual license fee payments shall be due on or before the first day of January of each year during the term of the Agreement to the County at the office of the Commissioner of Parks, 450 Saw Mill River Road, Ardsley, New York 10502 or at such other place designated by written notice from the County.

In addition to said license fee, Licensee shall be solely responsible for and shall pay and discharge, as an additional license fee, when due and payable, any and all real property assessments, water meter and sewer rents, utility charges and all other charges which may become due and payable with respect to the Licensed Premises during the Term.

4. **Maintenance and Repair.** The Licensee, at its sole cost and expense, shall keep the Licensed Premises, Property and the fixtures and equipment thereon clean, safe and in good order and shall make all required repairs, it being understood and agreed that such maintenance shall be performed in accordance with the requirements of Schedule "B" attached hereto and made a part hereof, all to the complete satisfaction of the Commissioner of Parks or his authorized designee (the "Commissioner").

5. **Alterations.** Licensee shall not make any alterations, additions or improvements to the Licensed Premises without the prior written approval of the Commissioner. All such

alterations, additions and improvements shall be made at the Licensee's sole cost and expense and shall become the property of the County immediately upon their annexation to the Licensed Premises.

6. **Inspection.** The Commissioner or his authorized representative shall be entitled to enter the Licensed Premises at any time for the purpose of inspecting, observing and monitoring any aspect of the Licensee's operations. The Licensee shall also permit inspection, observation and monitoring of same by any federal, state, county or municipal officer having jurisdiction. The Licensee, at its sole cost and expense, shall promptly remedy any and all violations issued as a result of such inspection.

7. **Flammables.** The Licensee shall not use or store any explosives, toxic materials or flammables on or about the Licensed Premises.

8. **Personnel.** The Licensee shall manage the operations under this License personally or shall employ a manager to supervise and manage said operations. The Licensee shall employ a sufficient number of trained, knowledgeable personnel to insure the safe and proper operation under this License. The Licensee shall provide, and its employees shall wear, appropriate employee identification and/or uniforms.

The operation of the Licensee shall be conducted in an orderly and proper manner so as not to annoy, disturb, offend or interfere with others using the Property. The Licensee shall immediately remove the cause of any objection made by the Commissioner regarding the demeanor, conduct and appearance of any of Licensee's employees, invitees or business guests.

9. **Condemnation.** In the event that the Licensed Premises, or such a substantial part thereof so as to render impossible the operation of this License, are taken by eminent domain, this License shall terminate on the date upon which title vests in the condemnor and neither party shall have any liability to the other on account of such termination.

10. Fire Damage, Destruction. In the event that, due to damage by fire or other casualty, the County elects to discontinue the operation of this License, this License shall terminate and the County shall have no liability to the Licensee hereunder provided, however, that should such damage result from any act or omission of the Licensee, then this License shall continue in full force and effect and the Licensee, at its sole cost and expense, shall repair the damage. Upon the failure of the Licensee to make such repairs, the County may repair such damage at the Licensee's cost and expense.

11. Termination. (a) Either party, upon thirty (30) days written notice to the other party, may terminate this License, without cause, when it deems such termination to be in its best interest.

(b) In the event that the Licensee defaults in the performance of any term, condition or covenant herein contained, the County, at its option and in addition to any other remedy it may have to seek damages, judicial enforcement or any other lawful remedy, may terminate this License upon ten (10) days notice to the Licensee; provided, however, that the Licensee may defeat such notice by curing the default complained of within such notice period, or, if any such default is not curable within such notice period, by promptly commencing to cure the default and diligently pursuing all necessary and appropriate action to effect such cure. Upon a second default by the Licensee, the County, at its option and in addition to any other remedy it may have to seek damages, judicial enforcement or any other lawful remedy, may terminate this License upon written notice.

12. Compliance with Laws: Licensee shall comply with all statutes, ordinances, rules, orders, regulations, codes and requirements of the Federal, State, County and municipal governments and of the Westchester County Department of Public Works including, without limitation, those applicable to the prevention and abatement of nuisances and other grievances in or upon the Licensed Premises, and shall also comply with all sanitary rules and regulations of the State and County Health Departments.

13. No Sales: Licensee shall not sell, offer for sale, nor permit the sale of any food, commodity, ware or merchandise of any kind, nature or description on the Licensed Premises without the prior written consent of the Commissioner.

14. Advertising: Licensee shall not erect nor allow the erection of any advertising signs in or on the Licensed Premises without obtaining the prior written approval of the Commissioner.

15. Security: Licensee shall be responsible for the security of the Licensed Premises.

16. Surrender of Premises: Upon expiration or termination of this License, the Licensee shall surrender possession of the Licensed Premises to the County in good condition, normal wear and tear excepted.

17. Insurance and Indemnification: The Licensee agrees to procure and maintain insurance naming the County as additional insured, as provided and described in Schedule "A", entitled "Standard Insurance Provisions", which is attached hereto and made a part hereof. In addition to, and not in limitation of the insurance provisions contained in Schedule "A", the Licensee agrees:

(a) that except for the amount, if any, of damage contributed to, caused by, or resulting from the sole negligence of the County, the Licensee shall indemnify and hold harmless the County, its officers, employees, agents, and elected officials from and against any and all liability, damage, claims, demands, costs, judgments, fees, attorney's fees or loss arising directly or indirectly out of the performance or failure to perform hereunder by the Licensee or third parties under the direction or control of the Licensee; and

(b) to provide defense for and defend, at its sole expense, any and all claims, demands or causes of action directly or indirectly arising out of this Agreement and to bear all other costs and expenses related thereto; and

(c) in the event the Licensee does not provide the above defense and indemnification to the County, and such refusal or denial to provide the above defense and indemnification is found to be in breach of this provision, then the Licensee shall reimburse the County's reasonable attorney's fees incurred in connection with the defense of any action, and in connection with enforcing this provision of the Agreement.

18. Notices: All notices of any nature referred to in this Agreement shall be in writing and sent by registered or certified mail, postage pre-paid, to the respective addresses set forth below or to such other addresses as the respective parties hereto may designate in writing:

To the County:

Commissioner of Parks, Recreation and Conservation
County of Westchester
450 Saw Mill River Road
Ardsley, New York 10502

with a copy to:

County Attorney
Michaelian Office Building, 6th Floor
148 Martine Avenue
White Plains, New York 10601

To the Licensee:

Greater Hudson Valley Council Inc., Boy Scouts of America
18 Westage Drive, Space 19
Fishkill, NY 12524

with a copy to:

Ms. Celeste Hughes
47 Lincoln Circle
Tuckahoe, New York 10707

19. Assignment: The Licensee shall not assign, sublet, subcontract or otherwise dispose of this License, or any right, duty or interest herein, without the prior written consent of the Commissioner, nor shall this License be transferred by operation of law, it being the purpose and spirit of this instrument to grant this License and privilege personally and solely to the Licensee named herein. No assignment, subcontracting, subletting or other such disposition of this

License, either with or without such consent of the Commissioner, shall serve to relieve the Licensee of its obligations hereunder.

20. **No Lease:** It is expressly understood and agreed that no building, structure, equipment or space is leased to the Licensee, and no greater privilege for the use and occupancy of the Licensed Premises is granted by the County, except as expressly set forth herein. The Licensee's privilege to use and occupy the Licensed Premises shall continue only so long as the Licensee shall comply with each and every term and condition of this License and the County does not elect to terminate this License earlier.

21. **Risk of Operation:** The Licensee assumes all risks in the operation of this License.

22. **Non-Discrimination:** The Licensee expressly agrees that neither it nor any contractor, subcontractor, employee, or any other person acting on its behalf shall discriminate against or intimidate any employee or other individual on the basis of race, creed, religion, color, gender, age, national origin, ethnicity, alienage or citizenship status, disability, marital status, sexual orientation, familial status, genetic predisposition or carrier status during the term of or in connection with this License, as those terms may be defined in Chapter 700 of the Laws of Westchester County.

23. **Schedules:** Attached hereto and forming parts hereof are the schedules listed below. Simultaneous with its execution of this Agreement, the Licensee shall provide the County with a completed copy of each schedule. The Licensee agrees that the terms of each of these schedules has been accepted and agreed-to by the Licensee by virtue of its execution of this Agreement, and the Licensee represents and warrants that it has completed each of these schedules accurately and completely.

- 1.) Schedule "D" — "Business Enterprises Owned and Controlled by Women or Persons of Color"

Pursuant to Section 308.01 of the Laws of Westchester County, it is the goal of the County to use its best efforts to encourage, promote and increase the participation of business enterprises owned and controlled by women or persons of color in contracts and projects funded by all departments of the County.

2.) **Schedule "E" — "Required Disclosure of Relationships to County"**

In the event that any information provided in Schedule "E" must be changed during the term of this Agreement, the Licensee agrees to notify the County in writing within ten (10) business and provide an updated version of the schedule.

3.) **Schedule "F" — "Criminal Background Disclosure"**

This schedule is required pursuant to Executive Order No. 1-2008.

24. Remedies Cumulative: The failure of the County to insist, in any one or more instances, upon strict performance of any term or condition herein contained shall not be deemed a waiver or relinquishment for the future of such term or condition, but the same shall remain in full force and effect. Acceptance by the County of payment of any fee due hereunder with knowledge of a breach of any term or condition hereof, shall not be deemed a waiver of any such breach and no waiver by the County of any provision hereof shall be implied.

25. Entire Agreement: This License and its attachments constitute the entire agreement between the parties with respect to the subject matter hereof and shall supersede all previous negotiations, commitments and writings. It shall not be released, discharged, changed or modified except by an instrument in writing signed by a duly authorized representative of each of the parties.

26. Choice of Law/Venue: This License and any disputes hereunder shall be governed by the laws of the State of New York. Westchester County, New York shall be the venue for any legal disputes arising under this License.

27. Approval: This License shall not be enforceable until signed by both parties and approved by the Office of the County Attorney.

[Intentionally Left Blank.
Signatures to Follow.]

IN WITNESS WHEREOF, the parties hereto have executed this Agreement on the day and year first above written.

THE COUNTY OF WESTCHESTER

By: 

Kathleen M. O'Connor
Commissioner of Parks, Recreation &
Conservation

**GREATER HUDSON VALLEY COUNCIL,
INC., BOY SCOUTS OF AMERICA**

By: 

(Name and title)

Richard Stockton
Scout Executive / CEO

Approved by the Westchester County Board of Acquisition and Contract on the 9th day of February, 2023.

Approved:

 8/10/2023

Associate County Attorney
The County of Westchester

S/Noc/PRC/Great Hudson Valley Council Inc. Boy Scouts License 2023-2027.doc

LICENSEE'S ACKNOWLEDGEMENT

STATE OF NEW YORK)

) ss.:

COUNTY OF WESTCHESTER) Dutchess (u)

On this 6th day of June, 2023, before me personally came
Richard Stockton, to me known, and known to me to be the
Scout Executive / CEO of Greater Hudson Valley Council, Inc.
the municipal corporation described in and which executed the within instrument, who being by
me duly sworn did depose and say that he, the said Scout Executive / CEO
resides at 23 Lavvie Dr. Essex Jct, VT 05452 and that he is
Scout Executive / CEO of said municipal corporation.

Lauren M. Salatino
Notary Public County

LAUREN M. SALATINO
Notary Public, State of New York
Registration no. 01SA6361481
Qualified in Dutchess County
Commission Expires July 10, 2025

CERTIFICATE OF AUTHORITY

I, Daniel Conniff,
(Officer other than officer signing contract)

certify that I am the Vice President of
(Title)
the Greater Hudson Valley Council, BSA
(the "Licensee")

a municipal corporation duly organized and in good standing under the (Law under which organized, e.g., the New York Business Corporate Law) named in the foregoing agreement; that

Richard Stockton

(Person executing agreement)

who signed said agreement on behalf of the Licensee was, at the time of execution

Scout Executive / CEO

(Title of such person)

of the Licensee and that said agreement was duly signed for and on behalf of said Licensee by authority of its governing board, thereunto duly authorized and that such authority is in full force and effect at the date hereof.

[Signature]

(Signature)

STATE OF NEW YORK)

ss.:

COUNTY OF WESTCHESTER Dutchess @

On this 6th day of June, 2023, before me personally came
Daniel Conniff, whose signature appears above, to me known, and
known to me to be the Vice President of Greater Hudson
(Title)

Valley Council Inc., the Licensee described in and which executed
the above certificate, who being by me duly sworn did depose and say that he/she, the said

Vice President of said Licensee resides at 30 Ailyn Way Stormville, NY
12582, and that he/she signed his/her name hereto
by order of the governing board of said Licensee.

Lauren M. Salatino

Notary Public

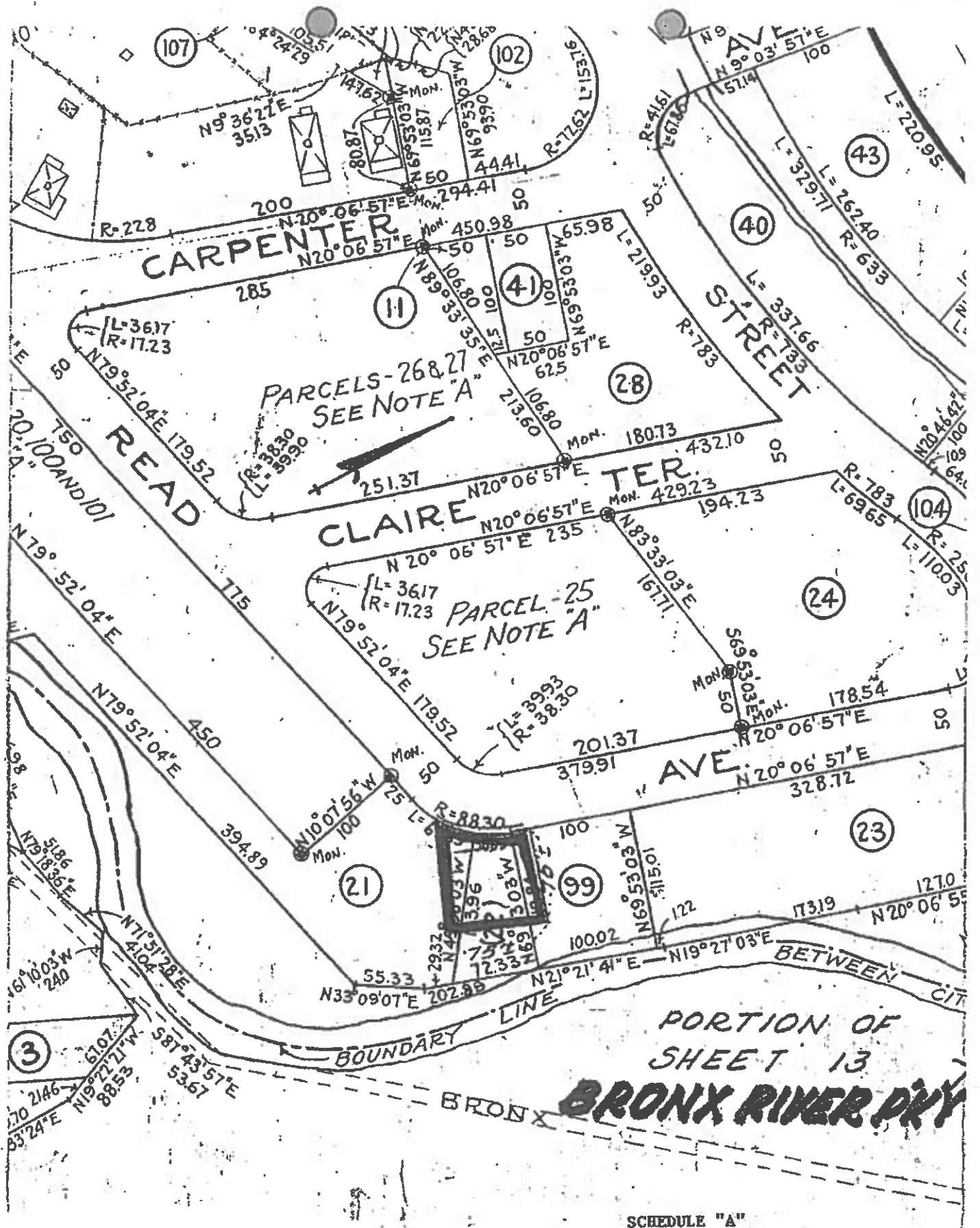
County

LAUREN M SALATINO
Notary Public, State of New York
Registration no. 01SA6361481
Qualified in Dutchess County
Commission Expires July 10, 2025

SCHEDULE "A"

LICENSED PREMISES

[to be attached]



SCHEDULE "A"

SCHEDULE "B"

MAINTENANCE SCHEDULE

The following tasks are required for the maintenance and operation of a safe and aesthetically pleasing park facility;

Mowing

Grass will be cut weekly from April through October. Litter must be picked up prior to cutting grass.

Trimming

String trimming of site amenities will occur weekly from April through October.

Garbage/Litter Control

Litter will be picked up and garbage cans emptied a minimum of once a week or more dependent upon use.

Leaf Collection/ Removal

Leaves will be removed from all turf areas in the autumn and removed from the site.

Vandalism

All acts of vandalism/graffiti will be repaired and removed in a timely manner.

Snow Removal

Walkways will be plowed of snow once it accumulates greater than a 1/2 inch. A sand/salt mixture will be spread to alleviate icing conditions on parking lots and walkways.

Building

All gutters shall be kept clear and free of debris.

The building will be secured at all times with all doors and windows locked when Licensee is not in or on the Licensed Premises

SCHEDULE "C"

STANDARD INSURANCE PROVISIONS

(Licensee)

1. Prior to commencing work, and throughout the term of the Agreement, the Licensee shall obtain at its own cost and expense the required insurance as delineated below from insurance companies licensed in the State of New York, carrying a Best's financial rating of A or better. Licensee shall provide evidence of such insurance to the County of Westchester ("County"), either by providing a copy of policies and/or certificates as may be required and approved by the Director of Risk Management of the County ("Director"). The policies or certificates thereof shall provide that ten (10) days prior to cancellation or material change in the policy, notices of same shall be given to the Director either by overnight mail or personal delivery for all of the following stated insurance policies. All notices shall name the Licensee and identify the Agreement.

If at any time any of the policies required herein shall be or become unsatisfactory to the Director, as to form or substance, or if a company issuing any such policy shall be or become unsatisfactory to the Director, the Licensee shall upon notice to that effect from the County, promptly obtain a new policy, and submit the policy or the certificate as requested by the Director to the Office of Risk Management of the County for approval by the Director. Upon failure of the Licensee to furnish, deliver and maintain such insurance, the Agreement, at the election of the County, may be declared suspended, discontinued or terminated.

Failure of the Licensee to take out, maintain, or the taking out or maintenance of any required insurance, shall not relieve the Licensee from any liability under the Agreement, nor shall the insurance requirements be construed to conflict with or otherwise limit the contractual obligations of the Licensee concerning indemnification.

All property losses shall be made payable to the "County of Westchester" and adjusted with the appropriate County personnel.

In the event that claims, for which the County may be liable, in excess of the insured amounts provided herein are filed by reason of Licensee's negligent acts or omissions under the Agreement or by virtue of the provisions of the labor law or other statute or any other reason, the amount of excess of such claims or any portion thereof, may be withheld from payment due or to become due the Licensee until such time as the Licensee shall furnish such additional security covering such claims in form satisfactory to the Director.

In the event of any loss, if the Licensee maintains broader coverage and/or higher limits than the minimums identified herein, the County shall be entitled to the broader coverage and/or higher limits maintained by the Licensee. Any available insurance proceeds

in excess of the specified minimum limits of insurance and coverage shall be available to the County.

2 The Licensee shall provide proof of the following coverage (if additional coverage is required for a specific agreement, those requirements will be described in the Agreement):

- a) Workers' Compensation and Employer's Liability. Certificate form C-105.2 or State Fund Insurance Company form U-26.3 is required for proof of compliance with the New York State Workers' Compensation Law. State Workers' Compensation Board form DB-120.1 is required for proof of compliance with the New York State Disability Benefits Law. Location of operation shall be "All locations in Westchester County, New York."

Where an applicant claims to not be required to carry either a Workers' Compensation Policy or Disability Benefits Policy, or both, the employer must complete NYS form CE-200, available to download at: <http://www.wcb.ny.gov>.

If the employer is self-insured for Workers' Compensation, he/she should present a certificate from the New York State Worker's Compensation Board evidencing that fact (Either SI-12, Certificate of Workers' Compensation Self-Insurance, or GSI-105.2, Certificate of Participation in Workers' Compensation Group Self-Insurance).

- b) Commercial General Liability Insurance with a combined single limit of \$1,000,000 (c.s.1) per occurrence and a \$2,000,000 aggregate limit naming the "County of Westchester" as an additional insured on a primary and non-contributory basis. This insurance shall include the following coverages:

- (i) Premises - Operations.
- (ii) Broad Form Contractual.
- (iii) Products (Food) and Completed Operations.
- (iv) Independent Contractor and Sub-contractor

- c) Commercial Umbrella/Excess Insurance: \$2,000,000 each Occurrence and Aggregate naming the "County of Westchester" as additional insured, written on a "follow the form" basis.

NOTE: Additional insured status shall be provided by standard or other endorsement that extends coverage to the County of Westchester for both on-going and completed operations.

- d) Automobile Liability Insurance with a minimum limit of liability per occurrence of \$1,000,000 for bodily injury and a minimum limit of \$100,000 per occurrence for property damage or a combined single limit of \$1,000,000 unless otherwise indicated in the contract specifications. This insurance shall include for bodily injury and property damage the following coverages and name the "County of Westchester" as additional insured:

- (i) Owned automobiles.
- (ii) Hired automobiles.
- (iii) Non-owned automobiles.

3. All policies of the Licensee shall be endorsed to contain the following clauses:

(a) Insurers shall have no right to recovery or subrogation against the County (including its employees and other agents and agencies), it being the intention of the parties that the insurance policies so effected shall protect both parties and be primary coverage for any and all losses covered by the above-described insurance.

(b) The clause "other insurance provisions" in a policy in which the County is named as an insured, shall not apply to the County.

(c) The insurance companies issuing the policy or policies shall have no recourse against the County (including its agents and agencies as aforesaid) for payment of any premiums or for assessments under any form of policy.

(d) Any and all deductibles in the above described insurance policies shall be assumed by and be for the account of, and at the sole risk of, the Licensee.

SCHEDULE "D"

QUESTIONNAIRE REGARDING BUSINESS ENTERPRISES OWNED AND CONTROLLED BY WOMEN OR PERSONS OF COLOR

As part of the County's program to encourage the meaningful and significant participation of business enterprises owned and controlled by persons of color or women in County contracts, and in furtherance of Section 308.01 of the Laws of Westchester County, completion of this form is required.

A "business enterprise owned and controlled by women or persons of color" means a business enterprise, including a sole proprietorship, limited liability partnership, partnership, limited liability company, or corporation, that either:

- 1.) meets the following requirements:
 - a. is at least 51% owned by one or more persons of color or women;
 - b. is an enterprise in which such ownership by persons of color or women is real, substantial and continuing;
 - c. is an enterprise in which such ownership interest by persons of color or women has and exercises the authority to control and operate, independently, the day-to-day business decisions of the enterprise; and
 - d. is an enterprise authorized to do business in this state which is independently owned and operated.
- 2.) is a business enterprise certified as a minority business enterprise ("MBE") or women business enterprise ("WBE") pursuant to Article 15-a of the New York State Executive Law and the implementing regulations, 9 New York Code of Rules and Regulations subtitle N Part 540 et seq., **OR**
- 3.) is a business enterprise certified as a small disadvantaged business concern pursuant to the Small Business Act, 15 U.S.C. 631 et seq., and the relevant provisions of the Code of Federal Regulations as amended.

Please note that the term "persons of color", as used in this form, means a United States citizen or permanent resident alien who is and can demonstrate membership of one of the following groups:

- (a) Black persons having origins in any of the Black African racial groups;
- (b) Hispanic persons of Mexican, Puerto Rican, Dominican, Cuban, Central or South American descent of either Indian or Hispanic origin regardless of race;
- (c) Native American or Alaskan native persons having origins in any of the original peoples of North America; or
- (d) Asian or Pacific Islander persons having origins in any of the Far East countries, South East Asia, the Indian subcontinent or the Pacific Islands.

1. Are you a business enterprise owned and controlled by women or persons of color in accordance with the standards listed above?

☒ No

☐ Yes

Please note: If you answered "yes" based upon certification by New York State and/or the Federal government, official documentation of the certification must be attached.

2. If you answered "Yes" above, please check off below whether your business enterprise is owned and controlled by women, persons of color, or both.

☐ Women

☐ Persons of Color (*please check off below all that apply*)

☐ Black persons having origins in any of the Black African racial groups

☐ Hispanic persons of Mexican, Puerto Rican, Dominican, Cuban, Central or South American descent of either Indian or Hispanic origin regardless of race

☐ Native American or Alaskan native persons having origins in any of the original peoples of North America

☐ Asian or Pacific Islander persons having origins in any of the Far East countries, South East Asia, the Indian sub-continent or the Pacific Islands

[NO FURTHER TEXT ON THIS PAGE]

SCHEDULE "E"

REQUIRED DISCLOSURE OF RELATIONSHIPS TO COUNTY

- 1.) Are any of the employees that the Contractor will use to carry out this contract also a County officer or employee, or the spouse, child, or dependent of a County officer or employee?

Yes _____ No X

If yes, please provide details (attach extra pages, if necessary): _____

- 2.) Are any of the owners of the Contractor or their spouses a County officer or employee?

Yes _____ No X

If yes, please provide details (attach extra pages, if necessary): _____

- 3.) Do any County officers or employees have an **interest**¹ in the Contractor or in any approved subcontractor that will be used for this contract?

Yes _____ No X

If yes, please provide details (attach extra pages, if necessary): _____

[NO FURTHER TEXT ON THIS PAGE]

¹ "Interest" means a direct or indirect pecuniary or material benefit accruing to a County officer or employee, his/her spouse, child or dependent, whether as the result of a contract with the County or otherwise. For the purpose of this form, a County officer or employee shall be deemed to have an "interest" in the contract of:

- 1.) His/her spouse, children and dependents, except a contract of employment with the County;
- 2.) A firm, partnership or association of which such officer or employee is a member or employee;
- 3.) A corporation of which such officer or employee is an officer, director or employee; and
- 4.) A corporation of which more than five (5) percent of the outstanding capital stock is owned by any of the aforesaid parties.

SCHEDULE "F"

CRIMINAL BACKGROUND DISCLOSURE

INSTRUCTIONS

Pursuant to Executive Order 1-2008, the County is required to maintain a record of criminal background disclosure from all persons providing work or services in connection with any County contract, including leases of County-owned real property and licenses:

- a.) If any of the persons providing work or services to the County in relation to a County contract are not subject to constant monitoring by County staff while performing tasks and/or while such persons are present on County property pursuant to the County contract; and
- b.) If any of the persons providing work or services to the County in relation to a County contract may, in the course of providing those services, have access to sensitive data (for example SSNs and other personal/secure data); facilities (secure facilities and/or communication equipment); and/or vulnerable populations (for example, children, seniors, and the infirm).

In those situations, the persons who must provide a criminal background disclosure ("Persons Subject to Disclosure") include the following:

- a.) Consultants, Contractors, Licensees, Lessees of County-owned real property, their principals, agents, employees, volunteers or any other person acting on behalf of said Contractor, Consultant, Licensee, or Lessee who is at least sixteen (16) years old, including but not limited to Subconsultants, Subcontractors, Sublessees, or Sublicensees who are providing services to the County, and
- b.) Any family member or other person, who is at least sixteen (16) years old, residing in the household of a County employee who lives in housing provided by the County located on County property.

Under Executive Order 1-2008, it is the duty of every County Consultant, Contractor, Licensee, or Lessee to inquire of each and every Person Subject to Disclosure and disclose whether they have been convicted of a crime or whether they are subject to pending criminal charges, and to submit this form with that information.¹ Accordingly, the attached Criminal Background Disclosure Form and Certification must be completed and agreed-to as part of this Agreement.

Please note that under no circumstances shall the existence of a language barrier serve as a basis for the waiver of or an exception from the disclosure requirements of Executive Order 1-2008. If translation services are required by the Consultant, Contractor, Licensee, or Lessee to fulfill this obligation, it shall be at the sole cost and expense of the Consultant, Contractor, Licensee, or Lessee.

¹ For these disclosures, a "crime" or "pending criminal charge" includes all felonies and misdemeanors as defined under the New York State Penal Law or the equivalent under Federal law or the laws of any other State.

Please also note that the conviction of a crime(s) and/or being subject to a pending criminal charge(s) will not automatically result in a denial of a person's right to work on a County contract, right to be on County property, or license, but may, if the County determines that the prior conviction(s) or pending criminal charge(s) create an unacceptable risk. However, if a person fails to list or falsifies any part of his/her conviction history or any pending criminal charge(s) for any reason, he/she may be prohibited from working or being on County property without any risk assessment. If it is later determined that a Person Subject to Disclosure failed to disclose a criminal conviction or pending criminal charge for any reason, his/her right to work on a County contract, be on County property, or license may be terminated at any time.

Please further note that, pursuant to Executive Order 1-2008, and subject to the applicable provisions of New York Correction Law §§ 752 and 753, the County has the right to bar a Person Subject to Disclosure from providing work or services to the County or from being on County property if any such person has:

- a.) A conviction of a crime(s);
- b.) A pending criminal proceeding for a crime(s); or
- c.) Refused to answer questions concerning his/her criminal background

Please finally note that any failure by a County Consultant, Contractor, Licensee, or Lessee to comply with the disclosure requirements of Executive Order 1-2008 may be considered by the County to be a material breach and shall be grounds for immediate termination by the County of the related County contract.

Exemptions

Executive Order 1-2008 exempts from the aforementioned disclosure requirements Persons Subject to Disclosure:

- a.) for whom the County has already conducted a background check and issued a security clearance that is in full force and effect; and
- b.) for whom another state or federal agency having appropriate jurisdiction has conducted a security and/or background clearance or has implemented other protocols or criteria for this purpose that apply to the subject matter of a County contract that is in full force and effect.

If you are claiming an exemption for one or more Persons Subject to Disclosure, you must notify the Procuring Officer². The Procuring Officer will then determine whether the Person(s) Subject to Disclosure are actually exempt, and provide written notification of his/her determination. If the Procuring Officer determines that a Person Subject to Disclosure is not exempt, the Procuring Officer will notify you of that determination, and you will have to include disclosures for that person on your Criminal Background Disclosure Form and Certification.

² Procuring Officer" shall mean the head of the department or the individual or individuals authorized by the head(s) of the department(s) undertaking the procurement and with respect to those matters delegated to the Bureau of Purchase and Supply pursuant to Section 161.11(1)(a) of the Laws of Westchester County, the Purchasing Agent.

Subconsultants, Subcontractors, Sublessees, or Sublicensees

Under Executive Order 1-2008, it is your duty to ensure that any and all approved subconsultants, subcontractors, sublessees, or sublicensees complete and submit the attached Criminal Background Disclosure Form and Certification for all of their respective Persons Subject to Disclosure. This must be done before such a subconsultant, subcontractor, sublessees, or sublicensees can be approved to perform work on a contract.

New Persons Subject to Disclosure

Under Executive Order 1-2008, you have a **CONTINUING OBLIGATION** to maintain the accuracy of the Criminal Background Disclosure Form and Certification (and any accompanying documentation) for the duration of this contract, including any amendments or extensions thereto. Accordingly, it is your duty to complete and submit an updated Criminal Background Disclosure Form and Certification whenever there is a new Person Subject to Disclosure for this contract. **NO NEW PERSON SUBJECT TO DISCLOSURE SHALL PERFORM WORK OR SERVICES OR ENTER ONTO COUNTY PREMISES UNTIL THE UPDATED CRIMINAL BACKGROUND DISCLOSURE FORM AND CERTIFICATION IS FILED WITH THE PROCURING OFFICER.** You shall also provide the County with any other updates that may be necessary to comply with the disclosures required by Executive Order 1-2008.

PLEASE CONTINUE TO THE

Criminal Background Disclosure Form and Certification

BEGINNING ON THE NEXT PAGE

CRIMINAL BACKGROUND DISCLOSURE

FORM AND CERTIFICATION

If this form is being completed by a subconsultant, subcontractor, sublessee, or sublicensee, please consider all references in this form to "consultant, contractor, lessee, or licensee" to mean "subconsultant, subcontractor, sublessee, or sublicensee" and check here: **HS**

By executing this Agreement, I, as the signatory for the Contractor, certify that I am a principal or a representative of the Consultant, Contractor, Lessee, or Licensee and I am authorized to agree to and provide this completed Criminal Background Disclosure Form and Certification. I certify that each Person Subject to Disclosure has been asked the following questions:

- **Have you or your company ever been convicted of a crime (all felonies and misdemeanors as defined under the New York State Penal Law or the equivalent under Federal law or the laws of any other State) including, but not limited to, conviction for commission of fraud, embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements or receiving stolen property?**
- **Are you or your company subject to any pending criminal charges (all felonies and misdemeanors as defined under the New York State Penal Law or the equivalent under Federal law or the laws of any other State)?**

I certify that the names and titles of Persons Subject to Disclosure who refused to answer **either** of the questions above are as follows:

If none, check this box: ☒

1. _____

2. _____

3. _____

(If more space is needed, please attach separate pages labeled "REFUSED to Answer - Continued.")

I certify that the names and titles of Persons Subject to Disclosure who answered "Yes" to **either** of the questions above are as follows:

If none, check this box: ☒

1. _____

2. _____

(If more space is needed, please attach separate pages labeled "YES Answers - Continued")

Each Person Subject to Disclosure listed above who has either **been convicted of a crime(s)** and/or **is subject to a pending criminal charge(s)** must answer additional questions. Those questions are below.

A Person Subject to Disclosure who has been convicted of a crime(s) must respond to the following (please attach separate pages with responses for each person, with their name and title):

- 1.) Describe the reason for being on County property if applicable, identify the specific duties and responsibilities on this project which you intend to perform for the County, including but not limited to, access to sensitive data and facilities and access to vulnerable populations.
- 2.) Please list all criminal convictions along with a brief description of the crime(s) (including all felonies and misdemeanors as defined under the New York State Penal Law or the equivalent under Federal law or the laws of any other State).
- 3.) Please provide the date and place of each conviction.
- 4.) Please provide your age at the time of each crime for which you were convicted.
- 5.) Please provide the legal disposition of each case.
- 6.) Please provide any information either produced by yourself or someone on your behalf in regards to your rehabilitation and good conduct.

A Person Subject to Disclosure who is subject to a pending criminal charge(s) must respond to the following (please attach separate pages with responses for each person, with their name and title):

- 1.) Describe the reason for being on County property and if applicable, identify the specific duties and responsibilities on this project which you intend to perform for the County, including but not limited to, access to sensitive data and facilities and access to vulnerable populations.
- 2.) Please identify all pending criminal charges (all felonies and misdemeanors as defined under the New York State Penal Law or the equivalent under Federal law or the laws of any other State).
- 3.) Please briefly describe the nature of the pending charges and the date upon which it is alleged that a crime was committed.

I hereby certify that all of the information provided herein (and in any and all attachments) is true and accurate and that all disclosures required by Executive Order 1-2008 and this Criminal Background Disclosure Form and Certification have been completed. By executing this Agreement, I hereby affirm that all of the facts, statements and answers contained herein (and in any and all attachments) are true and correct. I understand that providing false or incomplete information or withholding by omission or intention pertinent information will be cause for refusing further consideration of my being utilized under this contract.

It is understood and agreed that no Person Subject to Disclosure shall perform work or services or enter onto County property until this required Criminal Background Disclosure Form and Certification is filed with the Procuring Officer.

It is understood and agreed that to the extent that new Persons Subject to Disclosure are proposed to perform work or provide services under this contract after filing of this Criminal Background Disclosure Form and Certification with the Procuring Officer, such new Persons Subject to Disclosure shall not perform work or provide services or enter into County property until an updated Criminal Background Disclosure Form and Certification has been filed with the Procuring Officer.

It is further understood and agreed that the consultant, contractor, lessee, or licensee has a continuing obligation to maintain the accuracy of the Criminal Background Disclosure Form and Certification for the duration of this contract, including any amendments or extensions thereto, and shall provide any updates to the information to the County as necessary to comply with the requirements of Executive Order 1-2008.

[NO FURTHER TEXT ON THIS PAGE]