

**Town of North Hempstead  
Purchasing Division  
Request for Sealed Responses  
*Transportation for Seniors*  
TNH035-2014  
Released on November 21, 2014**



**INVITATION:**

**RESPONSES MUST BE RECEIVED PRIOR TO 11:00 AM ,  
DECEMBER 3, 2014 IN THE DEPARTMENT OF ADMINISTRATIVE  
SERVICES, PURCHASING DIVISION, STATING THE LOWEST PRICES  
FOR WHICH YOU CAN FURNISH THE ARTICLES DESCRIBED HEREIN;  
AND WILL BE PUBLICLY OPENED AT 11:00 AM ON SAID  
DATE IN THE TOWN PURCHASING OFFICE.**

**PURCHASING DIVISION**

**contracts@northhempsteadny.gov**

**220 PLANDOME ROAD  
MANHASSET, NY 11030**

**Tel 516-869-2913, Fax 516-869-2919**

**Please print:**

\_\_\_\_\_ **Name**

\_\_\_\_\_ **Telephone**

\_\_\_\_\_ **Fax**

\_\_\_\_\_ **Email**

## **SECTION I, INTRODUCTION**

The Town of North Hempstead (the “Town”) through its Department of Services for the Aging (the “Agency”) provides for senior busing transportation (the “Program”). The goal of the program is to enhance transportation services to facilities, programs and events throughout Town of North Hempstead for its aging residents (age 60 and over), at no cost to the senior. The Program furthers this goal by providing transportation for food shopping and to nutrition sites, all within the geographic boundaries of the Town. With this response, the Town will be seeking to continue the Program.

The purpose of this solicitation is to locate and evaluate potential providers of certain transportation Bus services for the Program. Responders must comply with the remainder of this solicitation and the requirements.

Please note that where indicated in this response, the term “assistive devices” shall mean any device that is designed, made, or adapted to assist a person to perform a particular task. For example, canes, crutches, walkers and collapsible wheelchairs are all assistive devices.

## **SECTION II, SERVICE REQUIREMENTS**

The successful responder(s) will be responsible for the safe transportation of senior citizens (Town residents who are aged 60 and older) enabling them to utilize Bus services to Town-wide programs under the direction of the Town’s Department of Services for the Aging.

### ***Round Trip Bus Runs/Routes:***

**1-** The successful responder(s) will provide round-trip bus runs/routes from Town residences/homes to designated locations throughout North Hempstead including senior and social centers, various nutrition sites, Town facilities housing senior citizen programming and events, and designated locations in the Town providing services geared for the Town’s senior citizens (see runs/routes exhibit C attached).

**2-** The successful responder(s) will provide busing services Monday through Friday, September through June on a regular basis, to designated destinations within the Town. The bus will pick up all residents at their residences/homes and drive them to designated facilities located in the Town. Bus runs/routes will remain the same each week with the exception of Holidays, poor road conditions due to inclement weather and unforeseen conflicts of schedules. In addition, over the summer months, most runs/routes are suspended due to summer scheduling breaks at most facilities. Summer events including FunDay Monday, at North Hempstead Beach Park, 175 West Shore Road, Port Washington will require bus runs/routes from designated bus stops within in the Town to the Park. FunDay Monday runs for eight (8) consecutive weeks (on Mondays) beginning in July and ending in August. In the event of a rainout, FunDay Monday will be postponed to that Thursday. Responder(s) must be prepared for the same run/routes on Thursday if inclement weather prevents FunDay Monday programming.

Should a resident require the assistance of an aide, the aide will travel with the resident. Should the resident use an assistive device such as a wheelchair or walker, either collapsible or bound, the agency will determine an appropriate means of transporting the device without unnecessary delay or hardship to the passenger. Responders will not use buses that are difficult for aging residents to enter and exit.

Note, however, that a responder may be called upon to provide service other than the predetermined runs/routes on an as-needed basis, subject to the responder's availability.

**3-** The Town will award contracts based on the above-listed runs/routes, therefore proposals may provide pricing based on individual runs/routes, or preferably for all services.

**4-** The contract will be valid from the commencement date listed in the contract (which is estimated to be January 1, 2015) and will extend for a term ending December 31, 2016. The term may be extended by the Town for (1) one or (2) two additional periods of (1) one year with the same terms and conditions, including price.

**The responder(s) will submit a response(s) for the cost per trip.**

## **SECTION III, GENERAL CONDITIONS**

### **Model Contract**

Each successful responder will be required to enter into the Model Contract with the Town, which Model Contract is included in the solicitation as Section VIII. The Model Contract will include (in addition to the terms contained in the Model Contract) the terms and conditions listed in this solicitation, the state and federal clauses attached as Exhibits A and B and all other contents of this solicitation.

### **General Response Terms and Conditions**

*All responses are subject to the following terms and conditions.*

- All responses must be for services listed in this response unless otherwise instructed.
- Responses are to include all vehicles and necessary peripheral equipment to provide safe and timely services.
- Materials and supplies necessary to meet services but not included in responders proposal will be provided at the responders expense unless otherwise agreed upon.
- If the responder certifies that the response is made without any established agreements with other responders, then it is in all respects fair and without collusion or fraud.

### **Interpretation of Response Documents**

- If any responder is unsure of, or has any reservations about, the precise and true meaning of any written material contained within this solicitation, or finds apparent discrepancies therein, or possible omissions therefrom, he shall promptly submit to the Commissioner of the Department of Administrative Services, a written request, fully describing the material in question, for an interpretation, explanation or revision thereto. The response to each request for clarification will be made only by an Addendum to this solicitation. When issued, each addendum will be emailed to each person or firm that so requests them. Neither the Town nor the Commissioner of Administrative Services may be held responsible or liable for any other explanations or interpretations of this solicitation.

### **Addendum to Response Documents**

- Any addendum issued shall become an integral part of this solicitation and shall be incorporated in the responder's proposal. All addenda shall be acknowledged in the Proposal, by entering the title, date and signature of the person signing the Proposal.

### **Modifications to Response Documents**

- Proposals shall not take exception to, or request modifications for, any item of work described in this solicitation. Proposals shall not contain any recapitulation of the work to be performed. Oral proposals will not be considered.

### **Surety:**

- In the event that an award is made, the Town reserves the right to request successful responders to post within one week a performance bond of one hundred percent of the amount of the award for security reasons. It shall be understood that the whole or any part of the response may be used by the Town of North Hempstead, to supply for any default on the part of the responder. Such bonds must meet all the requirements of the Town Attorney.

### **Award:**

- The Town, prior to award, reserves the right to investigate whether the responder meets all qualifications, or facilities set forth herein and whether they are ample and sufficient to insure the proper performance in the event of an award. The responders must be prepared, if requested by the Town, to present evidence of experience, ability and financial standings. In addition, they must prepare a statement of plans and equipment capable of meeting service needs on which he or she is responding.
- Upon request of the Town, a successful responder shall file certification including: relative authorization, delivery, service and guarantees. If it is found that the conditions of the response (as stated above) are not complied with, then the Town may reject the response.
- It is distinctly understood, however, that it is no obligation of the Town to make any examinations before award. It shall further be understood that if such an examination is

made, it in no way relieves the responder from fulfilling all requirements and conditions of the response.

- Awards will be based on the criteria established and shown in Section V herein.
- The Town reserves the right to judgment, to reject any and all responses in whole or in part to the technical defects, irregularities and omissions in order to serve the best interests of the Town.
- Unless otherwise indicated herein, the Town reserves the right to make awards by items, classes or by groups of items, part of the whole.

**Guarantees by Responder:**

*-The Responder hereby guarantees:*

- To keep the Town, its agents and employees from liability of any nature from the use of any copyrighted composition, secret process, patented or unpatented invention, article or application furnished or used in the performance hereof which the responder is not patentee or assignee or licensee.
- To keep its products against defective material or workmanship and to repair or replace any damages occurred in transit.
- To supply adequate protection from damage for all work and to repair damages of any kind, for which his or her employees are responsible, to the building or equipment, to his own work or to the work of other vendors.
- To pay all permits, licenses and fees, as well as give all notices and comply with all laws and ordinances of the City, Village or Town in which the installation is to be made, and of the County of Nassau and the State of New York.
- To carry proper insurance to protect the Town from loss in case of accident, fire or theft. Insurance requirements are listed in this solicitation. A certificate of insurance must be provided by each responder. Insurance requirements are shown in the Model Contract.
- To keep fully informed of all municipal ordinances and regulations, State and National laws in any manner affecting the work or goods herein specified. Any extra work contracted by the responder, shall at all times observe and comply with said ordinances, laws and regulations, including all provisions of the workman's compensation and labor laws. They shall indemnify and keep harmless the Town of North Hempstead, its officers and agents against any claim or liability arising from it based on violation of any such laws, ordinances or regulations. Indemnification requirements are shown in the Model Contract.

**Town Conduct:**

- The Town of North Hempstead has adopted a Code of Ethics compliant with the New York State General Municipal Law. In all aspects of the solicitation and receipt of responses with regard to this solicitation, the review of such response, the award of contracts to selected responders and the administration and management of contracts, the Town will abide by the provisions of the Code. Vendors may receive a copy of the Code by contacting the individual listed in Section IV below or may view the Code at <http://ecode360.com/NO0081>.

**Tax Exemption:**

- Purchases by the Town of North Hempstead, a political subdivision of the State of New York, are exempt from Federal and State or Excise taxes. Accordingly, responders shall not include these taxes in the response price. Exemption certificates shall be furnished upon request.

**Disadvantaged Business Enterprise (DBE) Requirements:**

- Contracts awarded in response to this solicitation will be funded by a grant from the New York State Department of Transportation (NYSDOT), which grant is funded with monies received from the United States Federal Transit Administration. NYSDOT has set a DBE participation goal of 3.1% in all of its federally-funded grant programs. As a subrecipient of federal funds, the Town is required to make “good faith efforts” to encourage DBE participation in its federal-funded projects, The Town is also required to assure that its contractors, in the event that subcontractors are retained, also make such “good faith efforts” to achieve DBE participation in subcontracting opportunities.

As such, respondents, if awarded a contract, must agree to facilitate participation of DBEs in its subcontracting opportunities and assure that any of its subcontractors facilitate DBE participation in its subcontracting opportunities. Requirements with regard to DBE participation are included in the required federal clauses included in Exhibit B attached to this solicitation.

**Waiver of Immunity:**

- The Responder hereby agrees to the provisions of Sections 139a and 139b of the New York State Finance Law which require that upon the refusal of a person, when called before a grand jury, head of a State department, temporary State commission or other State agency, or the organized crime task force in the Department of Law, head of a Municipal Department or other Municipal Agency, which is empowered to compel the attendance of witnesses and examine them under oath, to testify in an investigation, concerning any transaction or contract had with the State, any political subdivision thereof, a public authority or with any public department, agency or official of the State or of any political subdivision thereof or of a public authority, to sign a waiver of immunity against subsequent criminal prosecution or to answer any relevant question concerning such transaction or contract.
  1. Such person, and any firm, partnership or corporation of which he is a member, partner, director or officer shall be disqualified from thereafter selling to or submitting responses to or receiving awards from or entering into any contracts with the Town or any public department, agency or official thereof, for goods, work or services, for a period of five years after such refusal; and

2. Any and all contracts made with the Town or any public department, agency or official thereof, since the effective date of this law, by such person, and by any firm, partnership or corporation of which he is a member, partner, director or officer may be canceled or terminated by the Town without incurring any penalty or damages on account of such cancellation or termination, but any moneys owing, by the Town for goods delivered or work done prior to the cancellation or termination shall be paid.

**Specifications:**

- Responses submitted hereunder shall be in accordance with detailed specifications set forth herein. If services offered differ from provisions contained in specifications or in response sheets, then such differences must be explained in detail in writing and must be submitted along with the response. Such responses will receive careful consideration; however such services must abide by specifications set forth in the response form.

**Trade Customs:**

- There shall be no inferences to trade customs, terms, discounts or conditions on sale applicable, which are not specifically expressed in the specifications and proposals on which the award is based or contrary to the state finance law.

**Assignment:**

- The Responder represents that it will not assign the contract arising from the award of this solicitation without the prior written consent of the Town.

**Equal Employment Opportunities for Minorities, Women and Military Personnel:**

- The Town of North Hempstead recognizes the need to take affirmative action to ensure that Minority Women owned business enterprises and minority and women employees and principals are given the opportunity to participate in the performance of contracts of the Town of North Hempstead. This opportunity for full participation in our free enterprise system by persons traditionally, socially, economically disadvantaged is essential to obtain social and economic equality.  
The Town of North Hempstead promotes the participation of each individual and business firms in contracts of this Office. The Town also prohibits discrimination on military status.

**Nondiscrimination Clause:**

*During the performance of this contract, the responder agrees as follows:*

- The hiring of employees for performance of work under this contract or any subcontract hereunder assures all individuals right to employment without discrimination. No responder, subcontractor to the responder or any person acting in behalf of a responder or

subcontractor has any reason to discriminate against any citizen of the State of New York, based on race, creed, color, disability, sex, marital status or national origin. As long as such a person is qualified and available to perform the work to which the employee relates, he or she is equally qualified for their job of desire.

- Any violation of the provisions outlined in this contract or any act of discrimination against an individual will be charged against the responder. Under this contract, a penalty of five (\$5) dollars for each person per calendar day for whom the responder discriminated against may be deducted from the amount payable to the responder by the Town of North Hempstead.
- This contract may be canceled or terminated by the Town of North Hempstead and all monies due or to become hereunder may be forfeited.

### **Protest Policy:**

- A responder may file a protest regarding this solicitation solely for the following allegations: that an action of the Town relating to this solicitation was arbitrary and capricious or that such action violated and applicable law, rule or regulation.
- A protest must be filed with the Commissioner of Administrative Services at 220 Plandome Road, Manhasset, New York 11030.
- The protest must be filed no later than five (5) calendar days after the action being protested occurred. In no event may a protest be filed after the date and time for the receipt of proposals stated in this solicitation
- Upon receipt of a protest, the Commissioner of Administrative Services shall
  - o Open a file with regard to the protest
  - o Investigate the circumstances of the action protested
  - o Within ten (10) days of receipt of the protest, respond to the protestor with the Commissioner's decision as to whether to take action in response to the protest
- If the Commissioner finds that the protest is founded, the Commissioner may take the following actions:
  - o If the date for the receipt of responses has passed, cancel the solicitation or reopen the solicitation for further responses after amendment of the solicitation to remedy the situation from which the protest arose.
  - o If the date for the receipt of responses has not passed, amend the solicitation to remedy the situation from which the protest arose.
- If the protestor disagrees with the determination of the Commissioner, the protestor may appeal the Commissioner's decision to the Town Attorney, 220 Plandome Road, Manhasset, New York 11030.
  - o Such appeal shall be filed with the Town Attorney no later than ten (10) days after the date of the Commissioner's response to the protest.
  - o Upon receipt of the appeal, the Town Attorney shall review the Commissioner's protest file.
  - o Within ten (10) days of the receipt of the protest, the Town Attorney shall either deny or grant the appeal.
  - o If the appeal is granted, the Town Attorney may take the following actions:
    - If the date for the receipt of responses has passed, direct that the Commissioner cancel the solicitation or direct the Commissioner to reopen

the solicitation for further responses after amendment of the solicitation to remedy the situation from which the protest arose.

- If the date for the receipt of responses has not passed, direct the Commissioner amend the solicitation to remedy the situation from which the protest arose.
  - The Town Attorney's determination shall be final.
- The filing of a protest shall not stay the procurement process, unless the Commissioner of Administrative Services specifically finds that the interests of the Town are best served by staying the procurement process.

## **SECTION IV, RESPONSE REQUIREMENTS**

All responses to this solicitation must be received by the Town by 11:00 A.M. on December 3, 2014. Solicitations received after that date and time will not be considered and will be returned unopened.

In order to be considered responsive, all responses must contain the following materials:

1. Narrative response demonstrating compliance with the requirements stated in this solicitation, including, but not limited to, a statement that the responder agrees to comply with the terms of the Model Contract attached in Section VIII and the State and Federal Clauses included in Exhibits A and B.
2. Completed Responder's Qualification Statement included as Section VI herein
3. Completed Cost Proposal in Section VII herein

Each responder's Cost Proposal contained in Section VII should be contained in a separate sealed envelope separate from the Responder's narrative response and Qualifications Statement

The completed proposal should be sent to the following address in a sealed envelope marked "Solicitation: Taxi Services":

Maria Gomes, Procurement Supervisor  
Town of North Hempstead  
220 Plandome Road  
Manhasset, New York 11030

## **SECTION V, EVALUATION CRITERIA**

All responses submitted in response to this solicitation will be evaluated by members of the Town. The Town will use the following criteria in evaluating each proposal:

1. Responder's compliance with the requirements listed in this solicitation, based on the Responder's technical proposal (thirty percent (30%) of total score)
2. Responder's demonstrated ability to provide timely services (fifteen percent (15%) of total score)
3. Responder's experience in providing the type of service described in this solicitation (fifteen percent (15%) of total score)
4. Responder's cost proposal (forty percent (40%) of total score)

## SECTION VI. RESPONDER'S QUALIFICATION STATEMENT

### INSTRUCTIONS:

The Responder's Qualifications Statement consists of the following documents:

1. Statement of Understanding;
2. Disclosure Form;
3. Noncollusive Proposal Certification;
4. Certification of Insurance (*to be completed by an authorized insurance agent*);  
and
5. Acknowledgement of Receipt of Addenda Form.

Please complete **ALL FIVE** forms and submit with the Response/Proposal.

**THE TOWN RETAINS THE ABSOLUTE RIGHT TO REJECT ANY RESPONSE/PROPOSAL THAT FAILS TO INCLUDE COMPLETE AND ACCURATE ORIGINALS OF ALL FOUR FORMS INCLUDING ALL APPROPRIATE ACKNOWLEDGMENT(S) AND BEARING THE SIGNATURE OF A NOTARY PUBLIC.**

**STATEMENT OF UNDERSTANDING**

By signing in the space provided below, the undersigned certifies, under penalty of perjury, as follows:

1. I am duly authorized to submit this Proposal on behalf of the below listed sole proprietorship/company/partnership/corporation.
2. That he/she has read and understands all terms and conditions pursuant to this solicitation.
3. That he/she has the capacity to and will abide by all terms and conditions pursuant to this solicitation.
4. That he/she agrees to accept payment in accordance with the requirements of the solicitation; and
5. That he/she agrees that the proposed submitted to the Town shall be irrevocable and that he/she will, if his/her proposal is accepted, enter into a retainer agreement with the Town of North Hempstead pursuant to the terms and conditions set forth in the solicitation.
6. That he/she certified that his/her sole proprietorship/company/partnership/corporation will carry all types of insurance specified in the contract.

The undersigned further stipulates that the information in this Proposal is, to the best of its knowledge, true and accurate.

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Name of Responder

\_\_\_\_\_  
Title of Person Signing

Sworn to and subscribed on  
this \_\_\_ day of \_\_\_\_\_, 20\_\_

\_\_\_\_\_  
(Notary Public)

## DISCLOSURE FORM

*The signatory of this questionnaire certifies under oath the truth and correctness of all Statements and of all answers to interrogatories hereinafter made.*

### **Provide answers to each of the following and supporting documentation, where necessary:**

1. **Adverse Equal Opportunity Determinations:** Identify all adverse determinations against your Company/Corporation/Partnership, or its employees or persons acting on its behalf, with respect to actions, proceedings, claims or complaints concerning violations of state, Federal or municipal equal opportunity laws or regulations.
  
2. **Convictions and Unscrupulous Practice:** Has your Company/Corporation/Partnership, or any of its employees present or past, or anyone acting on its behalf, ever been cited for unscrupulous practice, or been convicted of any crime or offense arising directly or indirectly from the conduct of your Company/Corporation/Partnership's business, or has any of your Company/Corporation/Partnership's officers, director or persons exercising substantial policy discretion ever been convicted of any crime or offense involving business/financial misconduct or fraud? If so, describe the convictions and surrounding circumstances in detail.
  
3. **Pending or Threatened Actions/Suits:** Describe any past or present action, suit, proceeding or investigation pending or threatened against your Company/Corporation/Partnership including, without limitation, any proceeding known to be contemplated by government authorities, private parties, or current or former clients.
  
4. **Criminal Misconduct:** Has your Company/Corporation/Partnership, or any of its employees, or anyone acting on its behalf, been indicted or otherwise charged in connection with any criminal matter arising directly or indirectly from the conduct of your Company/Corporation/Partnership's business which is still pending, or has any of the Company/Corporation/Partnership's officers, directors or persons exercising substantial policy discretion been indicted or otherwise charged in connection with any criminal matter involving business or financial misconduct or fraud which is still pending? If so, describe the indictments or charges and surrounding circumstances in detail.
  
5. **Conflicts of Interest:** disclose any of the following, and describe any procedures your Company/Corporation/Partnership has, or would adopt, to assure the Town that a conflict of interest would not exist in the future):

(a) Any material financial relationships that your Company/Corporation/Partnership or any Company/Corporation/Partnership employee has that may create a conflict of interest or the appearance of a conflict of interest in contracting with or representing the Town.

(b) Any family relationship that any employee of your Company/Corporation/Partnership has with a member, employee, or official of the Town or that may create a conflict of interest or the appearance of a conflict of interest in contracting with or representing the Town.

(c) Any other matter that your Company/Corporation/Partnership believes may create a conflict of interest or the appearance of a conflict of interest in contracting with or representing the Town.

6. **Financial Disclosure:** Submit with this Disclosure Statement Form, any one of the following three items:

- (a) a financial statement, prepared on an accrual basis, in a form which clearly indicates: Proposer's (1) assets, liabilities and net worth; (2) date of financial statement; and (3) name of firm preparing statement.
- (b) a letter of credit reference from a recognized bank or financial institution; or
- (c) a certified copy of a credit report from a recognized credit bureau, such as Dun and Bradstreet or TRW.

**THE TOWN RETAINS THE ABSOLUTE RIGHT TO REJECT ANY PROPOSAL THAT FAILS TO INCLUDE COMPLETE DISCLOSURE STATEMENT FORM.**

Dated at \_\_\_\_\_, this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_\_.

\_\_\_\_\_  
(Signature, if Individual)

By: \_\_\_\_\_ (Seal, if corporation)  
(Signature)

Print Name: \_\_\_\_\_  
(Legal Business Name of Company/Partnership/Corporation)

Print Title: \_\_\_\_\_

**[MANDATORY AFFIDAVIT(S) AND ACKNOWLEDGMENT APPEARS ON FOLLOWING PAGE]**

-----**(Affidavit for Individual)**-----

\_\_\_\_\_ being duly sworn, deposes and says, under penalty of perjury, that: a) he/she is an authorized representative of the Responder/Proposer; b) he/she has read all statements and answers to this DISCLOSURE STATEMENT FORM, including the attached letter of credit/certified copy of credit report or financial statement submitted pursuant to interrogatory number 7 Financial Disclosure; c) the attached letter of credit/certified copy of credit report or financial statement, taken from his/her books, is a true and accurate statement of his/her financial condition as of the date thereof; and b) all of the foregoing qualification information is true, complete, and accurate.

-----**(Affidavit for Partnership)**-----

\_\_\_\_\_ being duly sworn, deposes and says, under penalty of perjury, that: a) he/she is a member of the partnership of \_\_\_\_\_, b) he/she has read all statements and answers this DISCLOSURE STATEMENT FORM, including the attached letter of credit/certified copy of credit report or financial statement submitted pursuant to interrogatory number 7 Financial Disclosure; c) he/she is familiar with the books of said partnership showing its financial condition; c) the attached letter of credit/certified copy of credit report or financial statement, taken from the books of said partnership, is a true and accurate statement of the financial condition of the partnership as of the date thereof; and d) all of the foregoing qualification information is true, complete and accurate.

-----**(Affidavit for Corporation)**-----

\_\_\_\_\_ being duly sworn, deposes and says, under penalty of perjury, that: a) he/she is \_\_\_\_\_ of \_\_\_\_\_ (Full Legal Name of Corporation); b) he/she has read all statements and answers this DISCLOSURE STATEMENT FORM, including the attached letter of credit/certified copy of credit report or financial statement submitted pursuant to interrogatory number 7 Financial Disclosure; c) he/she is familiar with the books of said corporation showing its financial condition; c) the attached letter of credit/certified copy of credit report or financial statement, taken from the books of said corporation, is a true and accurate statement of the financial condition of said corporation as of the date thereof; and d) that all of the foregoing qualification information is true, complete and accurate.

-----**(Acknowledgement)**-----

\_\_\_\_\_ being duly sworn, deposes and says, under penalty of perjury, that he/she is \_\_\_\_\_ of \_\_\_\_\_ (Name of Responder) that he/she is duly authorized to make the foregoing affidavit and that he/she makes it on behalf of ( ) himself/herself: ( ) said partnership; ( ) said corporation.

Sworn to before me this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_\_, in the County of \_\_\_\_\_, State of \_\_\_\_\_.

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

My commission expires:

(Notary Public)

**NONCOLLUSIVE PROPOSAL CERTIFICATION**

By submission of this proposal, each proposer and each person signing on behalf of any proposer certifies, and in the case of a joint response each party thereto certifies as to its own organization, under penalty of perjury, that to the best of knowledge and belief:

- (1) The prices in this proposal have been arrived at independently without collusion, consultation, communication, or agreement, for the purpose of restricting competition, as to any matter relating to such prices with any other proposer or with any competitor;
- (2) Unless otherwise required by law, the prices which have been quoted in this proposal have not been knowingly disclosed by the proposer and will not knowingly be disclosed by the proposer prior to opening, directly or indirectly, to any other proposer or to any competitor; and
- (3) No attempt has been made or will be made by the proposer to induce any other person, partnership or corporation to submit or not to submit a proposal for the purpose of restricting competition.

I, hereby certify under the penalties of perjury that the foregoing statement is true.

By:

Proposer's Signature	Date
Print Name	Title
Legal Name of Individual or Business Name of Company/Partnership/Corporation	Proposer's Federal Tax Identification # (Do Not Use SS#)
Address	Email Address

**[MANDATORY ACKNOWLEDGMENT APPEARS ON FOLLOWING PAGE]**



**INSURANCE CERTIFICATION**

**TO BE COMPLETED BY AN AUTHORIZED INSURANCE AGENT**

**INSTRUCTIONS:**

Please complete this Insurance Certification and attach copies of proof of insurance as follows:

- (a) **Commercial General Liability/Automobile Liability:** ACCORD-25 FORM.
- (b) **Worker's Compensation:** Certificates or affidavits approved by the State Workers' Compensation Board pursuant to State Workers' Compensation Law § 57 (2) evidencing proof of workers' compensation insurance *or* proof of Responder not being required to secure same.
- (c) **Disability Benefits Insurance:** Certificates or affidavits approved by the State Workers' Compensation Board pursuant to State Workers' Compensation Law § 220 evidencing proof of disability benefits insurance *or* proof of Responder not being required to secure same.
- (d) **Professional Liability Insurance**

*This form and all supporting documentation must be submitted with this Proposal even if said information is on-file with the Town in connection with another response, project or contract.*

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(Name and Address of Responder)

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Name of RFP: \_\_\_\_\_ RFP Number: \_\_\_\_\_

(1) Commercial General Liability with completed operations (plus X.C.U. when applicable), to which the Town of North Hempstead has been added as additional insured, and Automobile Liability: \$ 2,000,000.00 Combined single limit (bodily and personal injury/property damage).

Insurance Carrier: \_\_\_\_\_ Policy Number(s): \_\_\_\_\_

(2) Worker's Compensation:

Insurance Carrier: \_\_\_\_\_ Policy Number(s): \_\_\_\_\_

(3) Disability Benefits Insurance:

Insurance Carrier: \_\_\_\_\_ Policy Number(s): \_\_\_\_\_

(4) Professional Liability Insurance:

Insurance Carrier: \_\_\_\_\_ Policy Number(s): \_\_\_\_\_

(5) The above insurance is effective with New York State admitted insurance companies, and is A rated or equivalent to A rated.

(6) Policy cancellation or non-renewal shall be effective only upon thirty (30) days prior notice by certified mail to:

*Town of North Hempstead, Office of the Town Attorney, 220 Plandome Road, P.O.B. 3000, Manhasset, New York 11030*

Authorized Insurance Agent's Signature and Title:

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Name, Insurance Affiliation and Address:

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Dated \_\_\_\_\_

Town of North Hempstead  
 Request for Proposals  
**TNH035-2014- Transportation for Seniors**

**ACKNOWLEDGEMENT OF RECEIPT OF ADDENDA FORM**

The responder hereby acknowledges that he/she has received and that he/she has considered in the preparation of his/her responses, all requirements in the following Addenda to this Response/Proposal/Contract:

**Note:** This acknowledgement shall be signed by the person executing the Statement of Understanding. Insert additional pages, as necessary.

ADDENDUM NUMBER	DATE OF ADDENDUM	ACKNOWLEDGEMENT

<input type="checkbox"/> <b><u>NO ADDENDUM</u> WAS RECEIVED IN CONNECTION WITH THIS PROPOSAL.</b> <b>ACKNOWLEDGEMENT:</b>
--

***IMPORTANT NOTICE:***  
**THIS FORM MUST BE COMPLETED AND SUBMITTED BY ALL PROPOSERS. IF NO ADDENDA ARE RECEIVED, CHECK THE “NO ADDENDUM” BOX ABOVE AND SIGN THE ACKNOWLEDGMENT.**

**THE TOWN RETAINS THE ABSOLUTE RIGHT TO REJECT AND PROPOSAL THAT FAILS TO INCLUDE THIS ACKNOWLEDGEMENT OF RECEIPT OF ADDENDA FORM**

**SECTION VII  
COST PROPOSAL**

**Proposed Cost Per Trip: \$** \_\_\_\_\_

The undersigned further stipulates that the information in this attachment and the proposer's fee proposal is, to the best of its knowledge, true and accurate.

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Name of Proposer

Sworn to and subscribed on

this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_

\_\_\_\_\_  
Title of Person Signing

\_\_\_\_\_  
(Notary Public)

**SECTION VIII  
MODEL CONTRACT**

**THIS AGREEMENT** made as of this \_\_\_\_ day of \_\_\_\_\_, 2013 (together with all schedules, appendices, attachments and exhibits attached hereto, if any, collectively referred to as the “Agreement”), by and between the **TOWN OF NORTH HEMPSTEAD** (the “Town”), a municipal corporation duly organized and validly existing under the laws of the State of New York (the “State”), with its principal office located at 220 Plandome Road, Manhasset, New York 11030, and \_\_\_\_\_, (known as the “Contractor”), having its principal place of business at \_\_\_\_\_ (the Town and the Contractor are hereinafter jointly referred to as the “Parties,” and each is, severally, a “Party”).

**WITNESSETH:**

**WHEREAS**, the Town requires transportation services for senior residents of the Town; and,

**WHEREAS**, pursuant to a resolution of the Town Board duly adopted at its meeting held on \_\_\_\_\_, the Town Board awarded a contract to the Contractor to provide transportation services and authorized execution of an agreement to effectuate the foregoing.

**NOW, THEREFORE**, in consideration of the mutual terms, conditions, covenants and agreements contained in this Agreement, the parties agree as follows:

**1. The Services**

The Contractor shall provide Town residents with transportation services in accordance with Exhibit A (a copy of Town solicitation No. TNH\_\_-2014) and Exhibit B (the Contractor’s response to the solicitation), which exhibits are attached hereto and made a part hereof (the “Services”). In the event of conflict between the terms contained in Exhibit and those found in the enumerated Section 1 through 19 of this Agreement, the terms of Sections 1 through 19 shall control. In the event of a conflict between the terms contained in Sections 1 through 19 of this Agreement and Exhibits A and B contained in Exhibit A, Exhibits A and B contained in Exhibit A shall control.

**2. Term**

The term of this Agreement shall commence upon January 1, 2015 and expire December 31, 2016. Thereafter, the Town shall have the option to renew the Agreement twice, with the same terms and conditions, including price, for one additional year each time, for a possible total term of four years, subject to the Town’s right of early termination as outlined in Section

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4 of the Agreement. The option shall be considered exercised by the Town upon mailing written notice to the Consultant.

**3. Contract Amount**

- (a) In consideration of the Contractor's performance of the Services, the Town agrees to pay Contractor an amount not to exceed rate provided in the bid response (the "Contract Amount"), as set forth in Exhibit B.
- (b) Procedure for Submission of a Claim. Payments of the Contract Amount shall be made to the Contractor in arrears and shall be expressly contingent upon: (I) the Contractor submitting a claim (the "Claim") in a form satisfactory to the Town, and (ii) review, approval and audit of the Claim by the Town and/or the Comptroller. Drawdowns for the payment of eligible expenses shall be made against the activities specified herein and in accordance with applicable performance requirements, documentation submission requirements, and the Approved Budget. All Claims shall be submitted in duplicate to:

Commissioner of the Department of Services for the Aging  
Town of North Hempstead  
470 Old Westbury Road  
Roslyn Heights, New York 11577

- (c) Form of Claim. All claim forms shall: (I) state with reasonable specificity the Services provided and the payment requested as consideration for such Services; (ii) certify that the Services rendered and the payment requested are in accordance with the terms of this Agreement; and (iii) be accompanied by documentation satisfactory to the Town supporting the amount claimed, including any documentation that Town, state, and/or federal department or agency may require for reimbursement under the Grant.
- (d) Timing of Payment Claims. The Contractor shall submit claims on a monthly basis. Any Claims submitted in violation of this Section shall not be payable by the Town, and the Contractor hereby expressly waives any and all rights thereto.
- (d) No Duplication of Payments. Payments for the Services shall not duplicate payment for any Services or other work performed or to be performed under any other agreement made between the Contractor and any funding source, including, but not limited to, funds received from the Town and revenues derived from activity fees.

**4. Termination**

The Town reserves the absolute right to terminate the Services of the Contractor at any time by service of a written notice sent by certified mail to the address set forth above. The Town will be responsible for payment of any portion of the Services completed prior to termination and satisfactory to the Town's Comptroller.

**5. Amendments**

This Agreement may only be amended or modified by written agreement duly executed by the Parties.

**6. Independent Contractor**

The Contractor is an independent contractor of the Town. The Contractor shall not, nor shall any officer, director, employee, servant, agent or independent contractor of the Contractor (a "Contractor's Agent"), be (i) deemed a Town employee, (ii) commit the Town to any obligation, or (iii) hold itself, himself, or herself out as a Town employee or Person with the authority to commit the Town to any obligation. As used in this Agreement the word "Person" means any individual person, entity (including partnerships, corporations and limited liability companies), and government or political subdivision thereof.

**7. Reporting**

The Contractor will provide the Town's Commissioner of Services for the Aging with monthly reports identifying the names, addresses, pickup and drop-off times, the number of residents transported per vehicle to the food shopping location or to their homes, and the number of residents who fail to respond and use the service.

**8. Records**

- (a) The Contractor shall, at its sole expense, maintain full, complete and accurate books and records, documents, accounts and other evidence of accounts, whether maintained electronically or manually ("Records") pertinent to performance under this Agreement. Records shall be maintained in accordance with Generally Accepted Accounting Principles and, if the Contractor is a non-profit entity and receives Federal funds, must comply with the accounting guidelines set forth in the Federal Office of Management & Budget Circular A-122, "Cost Principles for Non-Profit Organizations." The Contractor shall maintain the Records for a period of six (6) years following the later of termination of or final payment under this Agreement.

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Such Records shall at all times be available for audit and inspection by the Comptroller, the Supervisor of the Town of North Hempstead (hereinafter, "Supervisor"), any other governmental authority with jurisdiction over the provision of Services and/or the payment therefore, and any of their duly designated representatives.

- (b) The Contractor shall, at its sole expense, obtain the services of a recognized accounting firm to prepare and provide an annual audited financial statement to the Town Comptroller's office within ten (10) days after issuance of such statement. Failure to provide such statement within one hundred twenty (120) days of end of fiscal year may be considered a material breach of contract.
- © The Contractor shall cause each of its subcontractors to furnish all information and reports required hereunder and will permit access to its books, records and accounts by the Town and its agents, for purposes of investigation to ascertain compliance with the rules, regulations and provisions stated herein.

**9. Indemnification**

- (a) To the fullest extent permitted by law, the Contractor:
  - (I) shall be solely responsible for and shall indemnify and hold harmless the Town and its officers, employees, agents and servants (the "Indemnified Parties") from and against any and all liabilities, losses, costs, expenses (including, without limitation, attorneys' fees and disbursements) and damages ("Losses"), arising out of or in connection with any acts or omissions of the Contractor or any of its officers, directors, employees, servants, agents or independent contractors (individually "Contractor Agent") taken pursuant to or authorized by this Agreement regardless of whether due to negligence, fault, or default, including Losses in connection with any threatened investigation, litigation or other proceeding or preparing a defense to or prosecuting the same, except, however, that the Contractor shall not be held liable when an occurrence results solely from the negligence of the Town;
  - (ii) shall, upon the Town's demand and at the Town's direction, promptly and diligently defend, at the Contractor's sole own risk and expense, any and all suits, actions, or proceedings which may be brought or instituted against one or more Indemnified Parties and the Contractor shall pay and satisfy any judgment, decree, loss or settlement in connection therewith; and

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- (iii) shall and shall cause the Contractor Agents to cooperate with the Town in connection with the investigation, defense or prosecution of any action, suit or proceeding arising out of or in connection with this Agreement.
- (b) The obligations of the Contractor pursuant to Section 9(a) hereof shall not be limited by reason of enumeration of any insurance coverage provided under this Agreement.
- © Nothing in this Section 9 or elsewhere in this Agreement shall create or give to third parties any claim or right of action against the Town beyond that which legally exist regardless of the provisions of this Agreement.
- (d) The provisions of this Section 9 shall survive the termination of this Agreement.

**10. Insurance**

Contractor agrees to procure and maintain the following insurance policies, during the term of this Agreement, with a carrier holding an “A” rating from AM Best Company or its equivalent, and furnish certificates of insurance evidencing its procuring of said policies:

- (a) Commercial general liability insurance covering the liability of the Consultant, and indemnifying and holding harmless the Town, its agents, employees and representatives from any and all loss and/or damage arising out of the performance of this Agreement with a combined single limit (bodily injury/property damage) of One Million Dollars (\$1,000,000). The Town shall be named as additional insured on said policy;
- (b) Automotive liability insurance with a combined single limit of One Million Dollars (\$1,000,000.00);
- (c) Workers’ compensation insurance or proof of its not being required to secure same, as evidenced by certificates or affidavits approved by the State Workers’ Compensation Board pursuant to State Workers’ Compensation Law § 57(2); and
- (d) Disability benefits insurance or proof of its not being required to secure same, as evidenced by certificates or affidavits approved by the State Workers’ Compensation Board pursuant to State Workers’ Compensation Law § 220(8).

The Town shall be entitled to thirty (30) days advance written notice of the cancellation or termination of any and all policies listed above at (a) through (c).

**11. Confidentiality**

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- (a) The Contractor acknowledges that in the performance of the Services, it may have access to and receive disclosure of certain confidential information relating to the Town or participants in its programs (“Confidential Information”). In addition to all requirements established by law, the Contractor agrees and promises that it shall:
  - A. protect and preserve the confidential and proprietary nature of the Confidential Information;
  - A. not disclose, give, sell or otherwise transfer or make available, directly or indirectly, any Confidential Information to any third party for any purpose, except as permitted pursuant to this Agreement or directed in writing by Town in advance of such disclosure. Nothing herein shall preclude Contractor from disclosing Confidential Information pursuant to the requirements of law as prescribed from time to time or as required by a court or tribunal of competent jurisdiction, however Contractor shall notify Town immediately upon receiving notification of a subpoena, court order or other similar process.
  - B. not use or make copies of the Confidential Information unless it is necessary for the performance of the Services or permitted pursuant to this Agreement;
  - C. limit the dissemination of the Confidential Information within its own organization to such individuals whose duties justify the need to know the Confidential Information and then only upon the clear understanding by such individuals of their obligations to maintain the confidential and proprietary nature of the Confidential Information according to the terms of this Agreement; and
  - D. return all Confidential Information and any copies or work product derived from Confidential Information immediately upon the request of the Town.
- (b) All tapes, reports, mailing packages or other material relating to or derived from the Confidential Information shall remain the property of the Town.

**12. Compliance With Laws**

The Contractor shall comply with and conform to any Federal, State, Town, municipal or local laws or regulations, and shall procure at its own expense any license or permit, and shall pay any and all license fees or charges. As used in this Agreement the word “Law” means any and all statutes, rules, regulations, orders, ordinances, writs, injunctions, official resolutions, official interpretations, or decrees, as the same may be amended from

time to time, enacted, adopted, promulgated, released, or issued, by or on behalf of any government or political subdivision.

**13. Limitations on Actions and Special Proceedings Against the Town**

No action or special proceeding shall lie or be prosecuted or maintained against the Town upon any claims arising out of or in connection with this Agreement unless:

- (a) Notice. At least thirty (30) days prior to seeking relief the Contractor shall have presented the demand or claim(s) upon which such action or special proceeding is based in writing to the Supervisor for adjustment and the Town shall have neglected or refused to make an adjustment or payment on the demand or claim for thirty (30) days after presentment. The Contractor shall send or deliver copies of the documents presented to the Supervisor under this Section 12 to the Town Attorney (at the address specified above for the Town) on the same day that documents are sent or delivered to the Supervisor. The complaint or necessary moving papers of the Contractor shall allege that the above-described actions and inactions preceded the Contractor's action or special proceeding against the Town.
- (b) Time Limitation. Such action or special proceeding is commenced within the earlier of (I) one (1) year of the first to occur of (A) final payment under or the termination of this Agreement, and (B) the accrual of the cause of action, or (ii) the time specified in any other provision of this Agreement.

**14. Assignment; Amendment; Waiver; Subcontracting**

- (a) This Agreement and the rights and obligations hereunder may not be in whole or part (I) assigned, transferred or disposed of, (ii) amended, (iii) waived, or (iv) subcontracted, without the prior written consent of the Supervisor and any purported assignment, other disposal or modification without such prior written consent shall be null and void. The failure of a party hereunder to assert any of its rights under this Agreement, including the right to demand strict performance, shall not constitute a waiver of such rights.
- (b) It shall be a condition to the consent of the Supervisor to any assignment or subcontract that the Person to or with whom or which such assignment or subcontract is made agrees in writing that, except as provided in the following sentence with respect to amounts payable by the Town, such person shall be bound by the terms and conditions of this Agreement as though an original party hereto. Unless the action being approved is an assignment of every right and

obligation of the Contractor under this Agreement (I) the Contractor shall remain responsible for the full performance of its obligations under this Agreement, and (ii) no amounts payable by the Town under this Agreement shall be or become payable by the Town to any Person other than the Contractor.

**15. Consent to Jurisdiction and Venue; Governing Law**

- (a) Unless otherwise specified in this Agreement or required by Law, all claims or actions with respect to this Agreement shall be resolved exclusively by a court of competent jurisdiction located in Nassau County, New York, and the parties expressly waive any objections to the same on any grounds, including venue and *forum non conveniens*.
- (b) This Agreement is intended as a contract under, and shall be governed and construed in accordance with, the Laws of New York State, without regard to the conflict of laws provisions thereof.

**16. Entire Agreement**

This Agreement represents the full and entire understanding and agreement between the parties hereto with regard to the subject matter hereof and supersedes all prior agreements (whether written or oral) of the parties relating to the subject matter of this Agreement.

**17. Executory Clause**

Notwithstanding any other provision of this Agreement:

- (a) Approval and Execution. The Town shall have no liability under this Agreement (including any extension or other modification of this Agreement) to any Person unless (I) all relevant and required Town approvals have been obtained, including, if required, approval by the Town Board, and (ii) this Agreement has been executed by the Supervisor.
- (b) Availability of Funds. The Town shall have no liability under this Agreement (including any extension or other modification of this Agreement) to any Person beyond funds appropriated or otherwise lawfully available for this Agreement.

**18. Headings**

The headings of the Sections of this Agreement are for purposes of identification only and are not intended to limit the terms hereof or proscribe the rights and responsibilities of the Town or the Consultant provided for herein.

**19. Representation on Authority of Parties/Signatories**

- (a) The undersigned representative of the Town hereby represents and warrants that the undersigned is an officer, director or agent of the Town with full legal rights, power and authority to sign this Agreement on behalf of the Town and to bind the Town with respect to the obligations enforceable against the Town in accordance with its terms.
  
- (b) The undersigned representative of the Consultant hereby represents and warrants that the undersigned is an officer, director or agent of the Consultant with full legal rights, power and authority to sign this Agreement on behalf of the Consultant and to bind the Consultant with respect to the obligations enforceable against the Consultant in accordance with its terms.

**IN WITNESS WHEREOF**, the Parties have set their hands as of the day and year first above written.

**TOWN OF NORTH HEMPSTEAD**

By: \_\_\_\_\_  
Judi Bosworth, Supervisor

**(Contractor)**

By: \_\_\_\_\_  
Title:

**ACKNOWLEDGMENTS**

State of New York)  
  )ss.:  
County of Nassau)

On the \_\_\_\_ day of \_\_\_\_\_ in the year 2014, before me, the undersigned, personally appeared **Judi Bosworth**, personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that she executed the same in her capacity, and that by her signature on the instrument, the individual, or the person upon behalf of which the individual acted, executed the instrument.

\_\_\_\_\_  
Notary Public

State of New York)  
  )ss.:  
County of Nassau)

On the \_\_\_\_ day of \_\_\_\_\_ in the year 2014, before me, the undersigned, personally appeared \_\_\_\_\_, personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that he executed the same in his capacity, and that by his signature on the instrument, the individual, or the person upon behalf of which the individual acted, executed the instrument.

\_\_\_\_\_  
Notary Public

- Contract Exhibits:  
Exhibit A – Copy of Solicitation  
Exhibit B – Copy of Responder’s Proposal

**EXHIBIT A: STATE CLAUSES**

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, licensor, licensee, lessor, lessee or any other party):

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

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

**3. COMPTROLLER'S APPROVAL.** In accordance with Section 112 of the State Finance Law (or, if this contract is with the State University or City University of New York, Section 355 or Section 6218 of the Education Law), if this contract exceeds \$50,000 (or the minimum thresholds agreed to by the Office of the State Comptroller for certain S.U.N.Y. and C.U.N.Y. contracts), or if this is an amendment for any amount to a contract which, as so amended, exceeds said statutory amount, or if, by this contract, the State agrees to give something other than money when the value or reasonably estimated value of such consideration exceeds \$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),

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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 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

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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

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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 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

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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](mailto: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: [mwbcertification@esd.ny.gov](mailto:mwbcertification@esd.ny.gov)  
<https://ny.newnycontracts.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

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(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.**

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.

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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.

**EXHIBIT B: FEDERAL CLAUSES**