



PIGGYBACK CONTRACT FOR POLICE RADAR/LIDAR SPEED ENFORCEMENT & ACCIDENT SCENE RECONSTRUCTION BY AND BETWEEN NEW YORK STATE OFFICE OF GENERAL SERVICES AND MPH INDUSTRIES, INC.

New York State Contract #

PC70504

Master Contract #

24823

THIS CONTRACT for establishment of a "piggyback" contract is made between the People of the State of New York, acting by and through the Commissioner of General Services (hereinafter "State" or "OGS") whose principal place of business is the 36th Floor, Corning Tower, The Governor Nelson A. Rockefeller Empire State Plaza, Albany, New York 12242, pursuant to authority granted under New York State Finance Law §163(10)(e), and MPH Industries, Inc. (hereinafter "Contractor" or "Vendor" or "Offerer"), with its principal place of business at 316 E. 9th Street, Owensboro, KY 42303. OGS and Contractor are hereby individually referred to as a "Party" and collectively referred to as "Parties."

Whereas, in accordance with New York State Finance Law §163(10)(e), the Commissioner of OGS (hereinafter "Commissioner") may authorize purchases required by New York State agencies or other authorized purchasers by approving the use of a contract let by any department, agency or instrumentality of the United States government and/or any department, agency, office, political subdivision or instrumentality of any state or states (hereinafter "Issuing Agency");

Whereas, The State of Washington as the Lead State, acting by and through the Washington State Department of Enterprise Services ("Enterprise Services"), and in collaboration with NASPO ValuePoint, the cooperative purchasing division of the National Association of State Procurement Officials, Inc. (hereinafter "NASPO ValuePoint"), has recently let a certain Contract Number #24823 with Contractor for Police Radar/Lidar Speed Enforcement & Accident Scene Reconstruction (hereinafter "Master Contract");

Whereas, OGS is a member of NASPO ValuePoint and is therefore authorized to utilize NASPO ValuePoint contracts;

Whereas, OGS Procurement Services (hereinafter "OGS" or "Procurement Services"), on behalf of the Commissioner, finds it necessary and desirable to enter into a contract (hereinafter "Piggyback Contract" or "Contract"), with Contractor for the purchase of specified products or services under the terms and conditions established pursuant to the Master Contract; and

Whereas, OGS provided notification of its intention to enter into this Piggyback Contract with Contractor by placing a notice in the January 29, 2024 edition of the New York State Contract Reporter.

Now Therefore, by completing and signing this Piggyback Contract, Contractor is willing and able to enter into a contract and authorizes OGS to process the Piggyback Contract and provide notification to Authorized Users regarding the availability of this Piggyback Contract.

## 1. INTRODUCTION

### 1.1 OVERVIEW AND SCOPE

This document sets forth the terms and conditions governing acquisitions under this Piggyback Contract for use by Authorized Users. All the terms, conditions, covenants and representations contained herein and in the Master Contract, except as modified by this Piggyback Contract, are hereby incorporated by reference and deemed to be a part of this Piggyback Contract as if fully set forth at length herein. The terms and conditions of this Piggyback Contract shall supersede any conflicting terms and conditions set forth in the Master Contract.

The Master Contract is expressly amended as noted in Section 2.1, *Contract Documents and Conflict of Terms*, below. The scope of this Piggyback Contract includes only the Police Radar/Lidar Speed Enforcement & Accident Scene Reconstruction Category(s) and Group(s), and the Products therein, awarded to Contractor and approved for inclusion in Exhibit B – *Included Goods and/or Services and Pricing* of the Master Contract.

For informational purposes, the general scope of the underlying solicitation ("Competitive Solicitation No. 24823") according to which the Master Contract Category(s) and Group(s), and the Products therein, were awarded and may be updated, was for new Police Radar/Lidar Speed Enforcement & Accident Scene Reconstruction Products in three (3) Groups in Category One and one (1) Group in Category Two as follows:

**Category One.** Includes pre-established groupings based on the Standard of Quality (SOQ) expected for each line item in applicable SOQ Manufacturer section. The SOQs can be found in their respective group tabs in *Attachment C – Bid Price* of Competitive Solicitation No. 24823. Offeror may propose the SOQ for any line item in any Group. Alternatively, an equal or better product may be accepted for any line item in any Group. Each group will have a different maximum amount of Contracts depending on the number of SOQ Manufacturer Sections or Product Type; see below for detailed award breakdown by Group:

**Group A – Speed Enforcement.** All products proposed in Category One--Group A, must be shown on the National Highway Traffic Safety Administration's (NHTSA) Conforming Products List (CPL). This category is for vehicle-mounted and hand-held radar and lidar speed measuring devices and software. Up to two (2) awards per SOQ Manufacturer Section with a total of up to ten (10) awards.

**Group B – Speed Advisory Systems.** This category is for pole and trailer-mounted radar and lidar speed advisory systems and software. Up to two (2) awards per SOQ Manufacturer Section with a total of up to six (6) awards.

**Group C – Accident and Crime Scene Re-Construction.** This category is for lidar measuring equipment and software used for crime and accident scene re-construction. Up to two (2) awards per SOQ Manufacturer Section with a total of up to twelve (12) awards.

**Category Two.** Includes Open Submission Products which do not include a SOQ. Offerors may propose any products in any Group that meet the product description and the law enforcement endorsement requirement. (see Attachment A-1, Question 30 of Competitive Solicitation No. 24823).

**Group A – Speed Enforcement.** This category is for vehicle-mounted and hand-held radar and lidar speed measuring devices and software. Up to two (2) awards per Product Type with a total of up to ten (10) awards.

### 1.2 ESTIMATED QUANTITIES

This Piggyback Contract will be an estimated quantity Contract. No specific quantities are represented or guaranteed, and the State provides no guarantee of individual Authorized User participation. The Contractor must furnish all quantities actually ordered at or below the Contract prices. The individual value of this Piggyback Contract is indeterminate and will depend upon the number of Contracts issued and the competitiveness of the pricing offered.] Authorized Users will be encouraged to purchase from Contractors who offer the Products and pricing that best meet their needs in the most practical and economical manner. See Appendix B *Estimated/Specific Quantity Contracts*.

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Numerous factors could cause the actual quantities of Products purchased under this Piggyback Contract to vary substantially from any estimates. Such factors include, but are not limited to, the following:

- This Piggyback Contract may be a non-exclusive contract;
- There is no guarantee of quantities to be purchased, nor is there any guarantee that demand will continue in any manner consistent with previous purchases;
- The individual value of this Piggyback Contract is indeterminate and will depend upon actual Authorized User demand and actual quantities ordered during the contract period;
- The State reserves the right to terminate this Piggyback Contract for cause or convenience prior to the end of the term pursuant to the terms and conditions of this Piggyback Contract;
- Contract pricing that is lower than anticipated could result in a higher quantity of purchases by Authorized Users than anticipated; and
- Contract pricing that is higher than anticipated could result in a lower quantity of purchases by Authorized Users than anticipated.

By execution of this Piggyback Contract Contractor acknowledges the foregoing and agrees that actual good faith purchasing volumes during the term of this Piggyback Contract could vary substantially from any estimates provided in this Piggyback Contract or previous purchases.

### 1.3 NYS COMPTROLLER APPROVAL

In accordance with Section 112 of the State Finance Law, this Contract shall not be valid, effective or binding upon the State until such Contract has been approved by the Office of the New York State Comptroller ("OSC"). Purchase orders or other procurement transactions issued under such Contract(s) may also be subject to OSC approval.

## 2. CONTRACT TERMS AND CONDITIONS

This section sets forth the terms and conditions of the Contract.

### 2.1 CONTRACT DOCUMENTS AND CONFLICT OF TERMS

This Piggyback Contract shall incorporate the following appendices and attachments as fully as if set forth herein at length. Only documents expressly enumerated below shall be deemed a part of this Piggyback Contract, and references contained in those documents to additional Contractor documents not enumerated below shall be of no force and effect. Conflicts between these documents shall be resolved in the following descending order of precedence.

- A. Appendix A – *Standard Clauses for NYS Contracts* (June 2023);
- B. Appendix C – *Federal Funding Agency Mandatory Terms and Conditions* (October 2023);
- C. Piggyback Contract (This Document);
- D. Appendix B – *General Specifications* (April 2016);
- E. Attachment 1 – *Pricing*; (Master Contract Price List)
- F. Attachment 2 – *Insurance Requirements*;
- G. Attachment 3 – *Report of Contract Usage*;
- H. Attachment 4 – *Contractor and Reseller/Distributor Information*; and
- I. Master Contract #24823 for **MPH Industries, Inc.**

### 2.2 CONTRACT TERM AND EXTENSIONS

The term of this Piggyback Contract shall begin on the date of approval by OSC, pursuant to Section 1.3 *NYS Comptroller Approval*, and shall end upon the expiration or termination of the Master Contract, subject to OGS' right to terminate this Piggyback Contract as provided herein. The term of this Piggyback Contract shall be deemed extended whenever the term of the Master Contract is extended, without the need for the Parties to execute an extension or amendment to this Piggyback Contract.

### 2.3 PRICE

The price for Product shall either be at the agreed-upon discounts and service rates listed in Attachment 1 – *Pricing*, or at a price that is more advantageous to the Authorized User.

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Any discounts, pricing or Products offered on the OGS Piggyback Contract or included on an Authorized User invoice must be set forth within the Master Contract Price list or in another Master Contract document and shall be disclosed to and agreed upon in advance by Authorized User.

Price shall include all customs, duties, and charges, and be net, F.O.B. destination any point in New York State as designated by the ordering Authorized User.

In the alternative, shipping costs from the shipping point may be added to the invoice for the product, with a copy of the freight bill. Shipping costs are to be prepaid by Contractor and such orders are to be shipped on an F.O.B. destination basis. Contractor shall provide the Authorized User with an estimate of shipping charges prior to placement of an order. All such orders shall be shipped by the most economical method for the proper delivery of the product unless special instructions are stated on the Purchase Order by the Authorized User.

### **2.4 PRICE AND PRODUCT UPDATES**

The Attachment 1 – Pricing set forth in the Contract may be updated from time to time, without a Contract amendment, to reflect Contractor discount or price changes, and the addition/deletion of Products, that have been approved for the Master Contract pricelist. Contractor must notify OGS when the Master Contract holder has approved a Master Contract pricelist update, and provide OGS with an electronic copy of the approval and the approved updated pricelist or discount structure, as applicable. Updates to Attachment 1 - Pricing shall not be effective until posted on the OGS website for this Contract.

### **2.5 BEST PRICING OFFER**

During the Contract term, if the Commissioner becomes aware that the Contractor is selling substantially the same or a smaller quantity of a Product outside of this Contract upon the same or similar terms and conditions as that of this Contract at a lower price to a federal, state or local governmental entity, the price under this Contract, after consultation with the Contractor, may be reduced to a lower price on a prospective basis at the discretion of the Commissioner. The Commissioner reserves the right to request information to verify pricing for the purposes of this clause.

Any prompt payment terms (cash discounts) or quantity (volume) discounts which are included in the Master Contract will also be included in this Piggyback Contract.

### **2.6 CATALOGS AND PRICE SHEETS**

Catalogs and price lists shall be provided in accordance with the terms of the Master Contract. Upon request, Contractor shall also assist Authorized Users in the use of such documents.

### **2.7 ORDERING**

Purchase Orders shall be made in accordance with the terms set forth in Appendix B *Purchase Orders*. Authorized Users may submit orders over the phone, and, if available, may submit orders electronically via web-based ordering, e-mail, or facsimile at any time. Orders submitted shall be deemed received by Contractor on the date submitted.

All orders shall reference Contract number, requisition, and/or Purchase Order number (if applicable). Upon Contractor's receipt of an order, confirmation is to be provided to the Authorized User electronically or via facsimile. Order confirmation should be sufficiently detailed, and include, at a minimum, purchase price, date of order, delivery information (if applicable), Authorized User name, and sales representative (if applicable).

### **2.8 PURCHASING CARD ORDERS**

If the Contractor accepts orders using the State's Purchasing Card (see Appendix B *Purchasing Card*), also referred to as the Procurement Card, the Contractor shall not charge or bill the Authorized User for any additional charges related to the use of the Purchasing Card, including but not limited to processing charges, surcharges, or other fees.

### **2.9 MINIMUM ORDER**

If the Master Contract contains minimum order quantities or values, Contractor may elect to honor orders for less than the minimum order.

If the Master Contract does not contain minimum order quantities or values, then there are no minimum order quantities under this Piggyback Contract.

### **2.10 INVOICING AND PAYMENT**

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Invoicing and payment shall be made in accordance with the terms set forth in Appendix B *Contract Invoicing*.

The Contractor is required to provide the Authorized User with one invoice for each Purchase Order at the time of delivery. The invoice must include detailed line-item information to allow Authorized Users to verify that pricing at point of receipt matches the Contract price on the original date of order. At a minimum, the following fields must be included on each invoice:

- Contractor Name
- Contractor Billing Address
- Contractor Federal ID Number
- NYS Vendor ID Number
- Account Number
- NYS Contract Number
- Name of Authorized User indicated on the Purchase Order
- NYS Agency Unit ID (if applicable)
- Authorized User's Purchase Order Number
- Order Date
- Invoice Date
- Invoice Number
- Invoice Amount
- Product Descriptions
- Unit Price
- Quantity
- Unit of Measure
- Dates of Service (if applicable)

Cost centers or branch offices within an Authorized User may require separate invoicing as specified by each Authorized User. The Contractor's billing system shall be flexible enough to meet the needs of varying ordering systems in use by different Authorized Users. Visit the following link for further guidance for vendors on invoicing: <https://bsc.ogs.ny.gov/nys-vendors>.

### **2.11 PROMPT PAYMENTS**

Appendix B *Prompt Payments*, applies to this Piggyback Contract. The parties acknowledge that Article 11-A of the State Finance Law requires payments to small businesses to be made within 15 days if the conditions set forth therein are met.

The Federal Prompt Payment Act (or any other law governing payment terms incorporated in the Master Contract) does not apply to the Piggyback Contract regardless of customer.

### **2.12 PRODUCT RETURNS AND EXCHANGES**

In addition to the provisions of Appendix B *Title and Risk of Loss, Product Substitution, and Rejected Product*, Products returned or exchanged due to quality problems, duplicated shipments, outdated Product, incorrect Product shipped, Contractor errors otherwise not specified, or Products returned or exchanged due to Authorized User errors, shall be replaced with specified Products or the Authorized User shall be credited or refunded for the full purchase price.

Products shall be replaced within 10 business days of written notification to the Contractor of the Authorized User's intent to return or exchange the Product. Contractor can charge only a restocking fee for Product returned or exchanged due to Authorized User error that is determined not to be suitable for resale; the restocking fee cannot exceed the net price of the returned or exchanged Product.

Any credit or refund shall be applied against the next bill/invoice submitted by the Contractor to the Authorized User. If no credit or refund, or only a partial credit or refund, is made in such fashion, the Contractor shall pay to the Authorized User the amount of such credit or refund or portion thereof still outstanding, within 30 calendar days of demand.

### **2.13 CONTRACT ADMINISTRATION**

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The Contractor shall provide a sufficient number of Customer Service employees who are knowledgeable and responsive to Authorized User needs and who can effectively service the Contract. Contractor shall also provide an Emergency Contact in the event of an emergency occurring after business hours or on weekend/holidays.

Contractor shall provide a dedicated Contract Administrator to support the updating and management of the Contract on a timely basis. Information regarding the Customer Service, Emergency Contact, and Contract Administrator shall be set forth on the Contract Award Notification (CAN) and on the Contractor Information page for this Contract, which will be posted on the OGS website. Contractor must notify OGS within five Business Days if its Contract Administrator, Emergency Contact, or Customer Service employees change, and provide an interim contact person until the position is filled. Changes shall be submitted electronically via e-mail to the OGS Contract Management Specialist.

### **2.14 NYS FINANCIAL SYSTEM (SFS)**

New York State is currently operating on an Enterprise Resource Planning (ERP) system, Oracle PeopleSoft software, referred to as the Statewide Financial System (SFS). SFS supports requisition-to-payment processing and financial management functions.

The State may be implementing additional PeopleSoft modules in the near future. Further information regarding business processes, interfaces, and file layouts currently in place may be found at: <http://www.sfs.ny.gov> and <https://web.osc.state.ny.us/agencies/guide/MyWebHelp>.

### **2.15 CONTRACTOR'S INSURANCE REQUIREMENTS**

The Contractor shall maintain in force at all times during the terms of the Contract, policies of insurance pursuant to the requirements outlined in Attachment 2 – *Insurance Requirements*.

### **2.16 REPORT OF CONTRACT USAGE**

Contractor shall submit Attachment 3 – *Report of Contract Usage* including total sales to Authorized Users of this Contract by Contractor, and all authorized resellers, dealers and distributors, if any, no later than 15 days after the close of each semi-annual calendar period. Sales for January 1st through June 30th would be due by July 15th. Sales for July 1st through December 31st would be due by January 15th.

The report is to be submitted electronically via e-mail in Microsoft Excel to OGS Procurement Services, to the attention of the OGS Contract Manager listed on the front page of the Contract Award Notification and shall reference the Contract Group Number, Award Number, Contract Number, Sales Period, and Contractor's name.

The report in Attachment 3 – *Report of Contract Usage* contains the minimum information required. Additional related sales information, such as detailed user purchases may be required by OGS and must be supplied upon request. Failure to submit reports on a timely basis may result in Contract cancellation and designation of Contractor as non-responsible.

This Contract may be terminated if, on the one-year anniversary date of the Contract Award, and annually thereafter, the reports required to be filed under this Section show that the Contractor has made no sales to any Authorized User under the Contract for the prior year. The Contract may also be terminated for failure to file the reports required under this Section. Termination of the Contract under this Section is in addition to Appendix B *Termination*, and shall take effect upon written notification to the Contractor.

Contractor shall also make the report or the information therein available to Enterprise Services and/or NASPO ValuePoint upon request in accordance with the Master Contract.

### **2.17 CONTRACTOR REQUIREMENTS AND PROCEDURES FOR PARTICIPATION BY NEW YORK STATE CERTIFIED MINORITY- AND WOMEN-OWNED BUSINESS ENTERPRISES AND EQUAL EMPLOYMENT OPPORTUNITIES FOR MINORITY GROUP MEMBERS AND WOMEN**

#### **I. New York State Law**

Pursuant to New York State Executive Law Article 15-A and Parts 140-145 of Title 5 of the New York Codes, Rules and Regulations ("NYCRR"), the New York State Office of General Services ("OGS") is required to promote opportunities for the maximum feasible participation of New York State-certified Minority- and Women-Owned Business Enterprises ("MWBEs") and the employment of minority group members and women in the performance of OGS contracts.

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**II. General Provisions**

- A. OGS is required to implement the provisions of New York State Executive Law Article 15-A and 5 NYCRR Parts 140-145 ("MWBE Regulations") for all State contracts as defined therein, with a value (1) in excess of \$25,000 for labor, services, equipment, materials, or any combination of the foregoing or (2) in excess of \$100,000 for real property renovations and construction.
- B. The Contractor agrees, in addition to any other nondiscrimination provision of the Contract and at no additional cost to OGS, to fully comply and cooperate with OGS in the implementation of New York State Executive Law Article 15-A and the regulations promulgated thereunder. These requirements include equal employment opportunities for minority group members and women ("EEO") and contracting opportunities for MWBEs. Contractor's demonstration of "good faith efforts" pursuant to 5 NYCRR § 142.8 shall be a part of these requirements. These provisions shall be deemed supplementary to, and not in lieu of, the nondiscrimination provisions required by New York State Executive Law Article 15 (the "Human Rights Law") or other applicable federal, State, or local laws.
- C. Failure to comply with all of the requirements herein may result in a finding of non-responsiveness, a finding of non-responsibility, breach of contract, withholding of funds, suspension or termination of the Contract, and/or such other actions or enforcement proceedings as allowed by the Contract and applicable law.

**III. Equal Employment Opportunity (EEO)**

- A. The provisions of Article 15-A of the Executive Law and the rules and regulations promulgated thereunder pertaining to equal employment opportunities for minority group members and women shall apply to all Contractors, and any subcontractors, awarded a subcontract over \$25,000 for labor, services, including legal, financial and other professional services, travel, supplies, equipment, materials, or any combination of the foregoing, to be performed for, or rendered or furnished to, the contracting State agency (the "Work") except where the Work is for the beneficial use of the Contractor.
  - 1. Contractor and subcontractors shall undertake or continue existing EEO programs to ensure that minority group members and women are afforded equal employment opportunities without discrimination because of race, creed, color, national origin, sex, age, disability, or marital status. For these purposes, EEO shall apply in the areas of recruitment, employment, job assignment, promotion, upgrading, demotion, transfer, layoff or termination, and rates of pay or other forms of compensation. This requirement does not apply to: (i) the performance of work or the provision of services or any other activity that is unrelated, separate, or distinct from the Contract; or (ii) employment outside New York State.
  - 2. By entering into this Contract, Contractor certifies that the text set forth in clause 12 of Appendix A, attached hereto and made a part hereof, is Contractor's equal employment opportunity policy. In addition, Contractor agrees to comply with the Non-Discrimination Requirements set forth in clause 5 of Appendix A.
- B. Form EEO 100 – Staffing Plan  

To ensure compliance with this section, the Contractor agrees to submit, or has submitted with the Bid, a staffing plan on Form EEO 100 to OGS to document the composition of the proposed workforce to be utilized in the performance of the Contract by the specified categories listed, including ethnic background, gender, and federal occupational categories.
- C. NYS Contract System Workforce Utilization Reporting Module (Commodities & Services)
  - 1. The Contractor shall complete and shall require each of its subcontractors to complete a Workforce Audit on a quarterly basis throughout the term of this Contract, by the 10th day of April, July, October, and January. To report the actual workforce utilized in the performance of the Contract by the specified categories listed including ethnic background, gender, and Federal occupational categories. Contractor shall coordinate with its subcontractors to ensure that all workers associated with this Contract are properly counted and reported. To prepare the report, Contractor and its subcontractors

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shall use the NYS Contract System Workforce Audit Module found at the following website:  
<https://ny.newnycontracts.com>.

2. Separate audits shall be completed by Contractor and all subcontractors utilized on this contract and the Contractor is responsible for ensuring timely submission of the Workforce Audit by their subcontractors.
3. In limited instances, the Contractor or subcontractor may not be able to separate out the workforce utilized in the performance of the Contract from its total workforce. When a separation can be made, the Contractor or subcontractor shall complete the Workforce Audit and indicate that the information provided relates to the actual workforce utilized on the Contract. When the workforce to be utilized on the Contract cannot be separated out from the Contractor's or subcontractor's total workforce, the Contractor or subcontractor shall complete the Workforce Audit and indicate that the information provided is the Contractor's or subcontractor's total workforce during the subject time frame, not limited to work specifically performed under the Contract.

- D. Contractor shall comply with the provisions of the Human Rights Law and all other State and federal statutory and constitutional non-discrimination provisions. Contractor and subcontractors shall not discriminate against any employee or applicant for employment because of race, creed (religion), color, sex, national origin, sexual orientation, military status, age, disability, predisposing genetic characteristic, marital status, or domestic violence victim status, and shall also follow the requirements of the Human Rights Law with regard to non-discrimination on the basis of prior criminal conviction and prior arrest.

**IV. Contract Goals**

- A. For purposes of this procurement, OGS conducted a comprehensive search and determined that the Contract does not offer sufficient opportunities to set goals for participation by MWBEs as subcontractors, service providers, or suppliers to Contractor. Contractor is, however, encouraged to make every good faith effort to promote and assist the participation of MWBEs on this Contract for the provision of services and materials. The directory of New York State Certified MWBEs can be viewed at: <https://ny.newnycontracts.com/>. Additionally, following Contract execution, Contractor is encouraged to contact the Division of Minority and Women's Business Development ((518) 292-5250; (212) 803-2414; or (716) 846-8200) to discuss additional methods of maximizing participation by MWBEs on the Contract.

**B. Good Faith Efforts**

Pursuant to 5 NYCRR § 142.8, evidence of good faith efforts shall include, but not be limited to, the following:

1. A list of the general circulation, trade, and MWBE-oriented publications and dates of publications in which the Contractor solicited the participation of certified MWBEs as subcontractors/suppliers, copies of such solicitations, and any responses thereto.
2. A list of the certified MWBEs appearing in the Empire State Development ("ESD") MWBE directory that were solicited for this Contract. Provide proof of dates or copies of the solicitations and copies of the responses made by the certified MWBEs. Describe specific reasons that responding certified MWBEs were not selected.
3. Descriptions of the Contract documents/plans/specifications made available to certified MWBEs by the Contractor when soliciting their participation and steps taken to structure the scope of work for the purpose of subcontracting with, or obtaining supplies from, certified MWBEs.
4. A description of the negotiations between the Contractor and certified MWBEs for the purposes of complying with the MWBE goals of this Contract.
5. Dates of any pre-bid, pre-award, or other meetings attended by Contractor, if any, scheduled by OGS with certified MWBEs whom OGS determined were capable of fulfilling the MWBE goals set in the Contract.
6. Other information deemed relevant to the request.

**V. Fraud**

Any suspicion of fraud, waste, or abuse involving the contracting or certification of MWBEs shall be immediately reported to ESD's Division of Minority and Women's Business Development at (855) 373-4692.

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**ALL FORMS ARE AVAILABLE AT:** <https://ogs.ny.gov/MWBE>. Vendor must scroll down to the section titled COMMODITY & SERVICE CONTRACTS and use the appropriate forms under this section only.

**2.18 PARTICIPATION OPPORTUNITIES FOR NEW YORK STATE CERTIFIED SERVICE-DISABLED VETERAN OWNED BUSINESSES**

Article 3 of the New York State Veterans' Services Law provides for more meaningful participation in public procurement by certified Service-Disabled Veteran-Owned Businesses ("SDVOBs"), thereby further integrating such businesses into New York State's economy. OGS recognizes the need to promote the employment of service-disabled veterans and to ensure that certified service-disabled veteran-owned businesses have opportunities for maximum feasible participation in the performance of OGS contracts.

In recognition of the service and sacrifices made by service-disabled veterans and in recognition of their economic activity in doing business in New York State, Bidders/Contractors are strongly encouraged and expected to consider SDVOBs in the fulfillment of the requirements of the Contract. Such participation may be as subcontractors or suppliers, as protégés, or in other partnering or supporting roles.

For purposes of this procurement, OGS conducted a comprehensive search and determined that the Contract does not offer sufficient opportunities to set specific goals for participation by SDVOBs as subcontractors, service providers, and suppliers to Contractor. Nevertheless, Bidder/Contractor is encouraged to make good faith efforts to promote and assist in the participation of SDVOBs on the Contract for the provision of services and materials. The directory of New York State Certified SDVOBs can be viewed at: <https://ogs.ny.gov/Veterans/>.

Bidder/Contractor is encouraged to contact the Office of General Services' Division of Service-Disabled Veteran's Business Development at 518-474-2015 or [VeteranDevelopment@ogs.ny.gov](mailto:VeteranDevelopment@ogs.ny.gov) to discuss methods of maximizing participation by SDVOBs on the Contract.

ALL FORMS ARE AVAILABLE AT: <https://ogs.ny.gov/Veterans/>.

**2.19 USE OF RECYCLED OR REMANUFACTURED MATERIALS**

New York State supports and encourages Contractors to use recycled, remanufactured or recovered materials in the manufacture of Products and packaging to the maximum extent practicable without jeopardizing the performance or intended end use of the Product or packaging unless such use is precluded due to health or safety requirements or Product specifications contained herein. Refurbished or remanufactured components or Products are required to be restored to original performance and regulatory standards and functions and are required to meet all other requirements of this Piggyback Contract. Warranties on refurbished or remanufactured components or Products must be identical to the manufacturer's new equipment warranty or industry's normal warranty when remanufacturer does not offer new equipment. See Appendix B *Remanufactured, Recycled, Recyclable or Recovered Materials*.

**2.20 BULK DELIVERY AND ALTERNATE PACKAGING**

New York State encourages the use of innovative packaging that reduces the weight of packaging and the generation of packaging waste. A contractor is encouraged to use reusable materials and containers and to utilize packaging configurations that take advantage of storage containers designed to be part of the Product for the shipment of multi-unit purchases. New York State recognizes that these packaging methods are in the development stage and may not be currently available. Authorized Users are urged to inquire about these programs at the time of purchase and determine the best solution for their needs.

**2.21 SURPLUS/TAKE-BACK/RECYCLING**

- A. A State agency is reminded of its obligation to comply with the NY State Finance Law §167, Transfer and Disposal of Personal Property, and §168, The Management of Surplus Computer Equipment, regarding transfer and disposal of surplus personal property before utilizing take-back, recycling, or other options for disposition of equipment that is still in operable condition.
- B. If Contractor offers a take-back/recycling program, then Contractor shall provide a record of disposition to each Authorized User who participates in the take-back/recycling program for units transferred for disposition. Contractor shall provide documentation that the units were disposed of in an environmentally sound manner in compliance with applicable local, state and federal laws. See Section C below for specific requirements governing electronic equipment recycling.

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- C. The NYS Department of Environmental Conservation (“DEC”) Electronic Equipment Recycling and Reuse Act (“Act”) (Environmental Conservation Law, Article 27, Title 26, Electronic Equipment Recycling and Reuse), requires manufacturers to establish a convenient system for the collection, handling, and recycling or reuse of electronic waste. If Contractor is a manufacturer of electronic equipment covered by the Act, Contractor agrees to comply with the requirements of the Act. More information regarding the Act can be found on the DEC website at: <http://www.dec.ny.gov/chemical/65583.html>.
- D. If a Contractor offers a take-back/recycling program or offers an electronic equipment recycling program pursuant to the Act, and an Authorized User participates in same, then the Authorized User shall ensure the destruction of all data from any hard drives surrendered with the machines/covered electronic equipment. Contractor shall not require an Authorized User to surrender the hard drive, as an Authorized User may wish to retain the hard drive for security purposes. Contractor shall advise the Authorized User in advance if the retention of the hard drive results in additional fees or reduction in trade-in value. It is recommended that an Authorized User use a procedure for ensuring the destruction of confidential data stored on hard drives or other storage media that meets or exceeds the National Institute of Standards and Technology (“NIST”) Guidelines for Media Sanitation as found in NIST Special Publication 800-88.

### **2.22 ENVIRONMENTAL SUSTAINABILITY AND NYS EXECUTIVE ORDER NUMBER 22**

New York State is committed to environmental sustainability and seeks to minimize the environmental impact of any Products that the State Procures. Executive Order No. 22 Leading By Example: Directing State Agencies to Adopt a Sustainability and Decarbonization Program (“EO 22”), requires State Agencies, authorities, and public benefit corporations (“Affected Entities”) to follow GreenNY procurement specifications for commodities, services and technology. The GreenNY specifications consider a wide range of factors including avoidance of toxic substances, pollution reduction and prevention, sustainable manufacturing, reduction of greenhouse gas emissions, packaging, and water conservation. Resources are available on the OGS website at <https://ogs.ny.gov/greenny-purchasing-requirements-and-tools> for procurement managers and Contractors to learn about which Contracts provide environmentally preferable Products.

A list of currently approved specifications is located on the OGS website at <https://ogs.ny.gov/greenny/approved-greenny-specifications>.

Contractor(s) shall note Products that meet GreenNY Specifications on Contract Usage Reports (see Section 2.16 *Report of Contract Usage*), in the format requested by OGS. OGS reserves the right to require that Contractors provide supporting documentation to demonstrate how identified Products meet the applicable GreenNY Specification(s).

### **2.23 CONSUMER PRODUCTS CONTAINING MERCURY**

Contractor shall comply with the requirements of Title 21 of Article 27 of the NYS Environmental Conservation Law regarding restrictions on the sale, purchasing, labeling and management of any products containing elemental mercury under this Piggyback Contract.

### **2.24 DIESEL EMISSION REDUCTION ACT**

Pursuant to N.Y. Environmental Conservation Law § 19-0323 (the “Law”), it is a requirement that heavy duty diesel vehicles in excess of 8,500 pounds use the best available retrofit technology (“BART”) and ultra-low sulfur diesel fuel (“ULSD”). The requirement of the Law applies to all vehicles owned, operated by or on behalf of, or leased by State Agencies and State or regional public authorities. It also requires that such vehicles owned, operated by or on behalf of, or leased by State Agencies and State or regional public authorities with more than half of its governing body appointed by the Governor utilize BART.

The Law may be applicable to vehicles used by Contractors “on behalf of” State Agencies and public authorities and require certain reports from Contractors. All heavy duty diesel vehicles must have BART by the deadline provided in the Law. The Law also provides a list of exempted vehicles. Regulations set forth in 6 NYCRR Parts 248 and 249 provide further guidance. The Contractor hereby certifies and warrants that all heavy duty vehicles, as defined in the Law, to be used under this Contract, will comply with the specifications and provisions of the Law, and 6 NYCRR Parts 248 and 249.

### **2.25 PROHIBITION ON CONTRACTING FOR CERTAIN TELECOMMUNICATIONS AND VIDEO SURVEILLANCE SERVICES OR EQUIPMENT**

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In accordance with Section 889 of the National Defense Authorization Act (NDAA) for fiscal year 2019, under any Contract or subcontract resulting from this Solicitation, Bidder or resultant Contractor or Subcontractor shall not provide to the State or Authorized User any equipment, system, or service that uses covered telecommunications equipment or services, as defined by the NDAA, as a substantial or essential component of any system, or as critical technology as part of any system, unless an exception applies or the covered telecommunications equipment or services are covered by a waiver, as set forth in the NDAA and the rules and regulations promulgated thereunder.

### **2.26 OVERLAPPING CONTRACT PRODUCTS**

Products/services available under this Piggyback Contract may also be available from other New York State contracts. Authorized Users will be advised to select the most cost-effective procurement alternative that meets their program requirements, and to document the basis for this selection in the procurement record.

### **2.27 PREFERRED SOURCE PRODUCTS**

Section 162 of the State Finance Law requires that Authorized Users afford first priority to the Products of Preferred Source suppliers such as Corcraft (the marketplace name for the NYS Department of Corrections and Community Supervision, Division of Industries), New York State Preferred Source Program for People who are Blind (NYSPSP), and New York State Industries for the Disabled (NYSID), and others determined by law, when such Products meet the form, function and utility of the Authorized User. Some Products in this Piggyback Contract may be available from one or more Preferred Sources. An Authorized User must determine if a particular Product is approved for a Preferred Source and follow the requirements of State Finance Law § 162(3) or (4)(b), respectively, before engaging the Contractor.

### **2.28 NEW YORK STATE VENDOR RESPONSIBILITY**

The Contractor shall at all times during the Piggyback Contract term remain responsible. The Contractor agrees, if requested by the Commissioner of OGS, to present evidence of its continuing legal authority to do business in New York State, integrity, experience, ability, prior performance, and organizational and financial capacity.

The Commissioner of OGS, in his or her sole discretion, reserves the right to suspend any or all activities under this Piggyback Contract, at any time, when he or she discovers information that calls into question the responsibility of the Contractor. In the event of such suspension, the Contractor will be given written notice outlining the particulars of such suspension. Upon issuance of such notice, the Contractor must comply with the terms of the suspension order. Activity under the Piggyback Contract may resume at such time as the Commissioner of OGS issues a written notice authorizing a resumption of performance under the Piggyback Contract.

The Contractor agrees that if it is found by the State that Contractor's responses to the Questionnaire were intentionally false or intentionally incomplete, on such finding, the Commissioner may terminate the Piggyback Contract.

Upon written notice to the Contractor, and a reasonable opportunity to be heard with appropriate OGS officials or staff, the Piggyback Contract may be terminated by the Commissioner of OGS at the Contractor's expense where the Contractor is determined by the Commissioner of OGS to be non-responsible. In such event, the Commissioner of OGS may complete the contractual requirements in any manner he or she may deem advisable and pursue available legal or equitable remedies for breach.

In no case shall such termination of the Piggyback Contract by the State be deemed a breach thereof, nor shall the State be liable for any damages for lost profits or otherwise, which may be sustained by the Contractor as a result of such termination.

### **2.29 "OGS OR LESS" GUIDELINES**

Purchases of the Products included in the Piggyback Contract are subject to the "OGS or Less" provisions of State Finance Law § 163(3)(a)(v). This means that State Agencies can purchase Products from sources other than the Contractor provided that such Products are substantially similar in form, function or utility to the Products herein and are (1) lower in price and/or (2) available under terms which are more economically efficient to the State Agency (e.g. delivery terms, warranty terms, etc.).

Agencies are reminded that they must provide the State Contractor an opportunity to match the non-Contract savings at least two business days prior to purchase. In addition, purchases made under "OGS or Less" flexibility must meet all requirements of law including, but not limited to, advertising in the New York State Contract Reporter, prior approval of the

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Office of the State Comptroller and competitive bidding of requirements exceeding the discretionary threshold. State Agencies should refer to Procurement Council Guidelines for additional information.

### **2.30 NON-STATE AGENCIES PARTICIPATION IN CENTRALIZED CONTRACTS**

New York State political subdivisions and others authorized by New York State law may participate in Centralized Contracts. These include, but are not limited to, local governments, public authorities, public school and fire districts, public and nonprofit libraries, and certain other nonpublic/nonprofit organizations. See Appendix B *Participation in Centralized Contracts*. For Purchase Orders issued by the Port Authority of New York and New Jersey (or any other authorized entity that may have delivery locations adjacent to New York State), the terms of the *Price* clause shall be modified to include delivery to locations adjacent to New York State.

Upon request, all eligible non-State agencies must furnish Contractors with the proper tax exemption certificates and documentation certifying eligibility to use State contracts. A list of categories of eligible entities is available on the OGS web site (<https://online.ogs.ny.gov/purchase/snt/othersuse.asp>). Questions regarding an organization's eligibility to purchase from New York State Contracts may also be directed to NYS Procurement Services Customer Services at 518-474-6717.

### **2.31 RESELLERS**

#### **A. Definitions**

"Reseller" shall refer to alternate distribution sources (distributors or dealers) for a manufacturer that are authorized and designated by said manufacturer, subject to approval by New York State.

#### **B. Conditions of Reseller Participation**

Resellers must be approved in advance by the State as a condition of eligibility under the Contract. The State also reserves the right to rescind any such participation or request that Contractor name additional Resellers, in the best interests of the State, at the State's sole discretion, at any time. Contractor shall have the right to qualify Resellers and their participation under this Contract by product line, contracting program (e.g., government/educational sales), geographic region, size/sales volume, technical training or other criteria ("qualifying criteria"), provided that:

1. such qualifying criteria are uniformly applied to all potential Resellers based upon Contractor's established, neutrally applied commercial/governmental program criteria, and not to a particular procurement;
2. all general categories of qualifying criteria must be disclosed by the Contractor to the State, in advance, at the beginning of the Contract term;
3. those qualifying criteria met by the Reseller must be identified in Reseller designations Attachment 4 - *Contractor and Reseller/Distributor Information* at the time that Reseller approval is requested; and,
4. Immediate advance notice is provided to OGS in the event that a change in Reseller's status occurs during the Contract term.

All Resellers who have been approved in accordance with the foregoing paragraph shall be eligible to quote lower pricing for procurements under this Contract which meet their qualifying criteria. Contractor warrants and represents that it shall not, directly or indirectly, by agreement, communication or any other means, restrict any Reseller's participation or ability to quote a particular order.

#### **C. Designation of Resellers**

When Resellers are submitted for approval, Contractor must provide the State, in advance, with all necessary ordering information, billing addresses and Federal Identification numbers in the format requested in Attachment 4 - *Contractor and Reseller/Distributor Information*; Contractor shall also specify whether orders must be placed directly with Contractor, or may be placed directly with designated Resellers.

#### **D. Responsibility for Reporting/Performance**

Contractor shall be fully liable for a Reseller's performance and compliance with all Contract terms and conditions. Product purchased through a Reseller must be reported by Contractor in the required quarterly sales reports to the State as a condition of payment. In addition to inclusion of Reseller volume in the Contractor's sales reporting obligation to the State, at the request of an Authorized User, the Reseller shall provide the Authorized User with reports of the individual Authorized User's Contract activity with the Reseller.

#### **E. Applicability of Contract Terms**

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Product ordered directly through Resellers shall be limited to Products previously approved for inclusion under this Contract and shall be subject to all terms and conditions of this Contract as a condition of Reseller participation.

### 2.32 NEW ACCOUNTS

Contractor may ask State Agencies and other Authorized Users to provide information in order to facilitate the opening of a customer account, including documentation of eligibility to use New York State Contracts, agency code, name, address, and contact person. State Agencies shall not be required to provide credit references.

### 2.33 CONTRACT MODIFICATIONS

#### A. Piggyback Contract Modifications

Any modifications to this Piggyback Contract, must be made by an instrument in writing executed by the Parties, and subject to approval by OSC.

#### B. Master Contract Modifications

Contractor shall submit copies of any modifications to the Master Contract terms and conditions to OGS for review prior to enactment. Subject to approval by OSC, if required, OGS may accept a modification to the Master Contract in full. If the Master Contract modification requires a modification to this Contract, it shall be made in accordance with Paragraph A above. See Section 2.4 *Price and Product Updates* above, for modifications to the Master Contract pricelist.

#### C. Authorized Users

An Authorized User shall not have the authority to accept any requests for modifications to the Piggyback Contract, which must be handled as outlined in Paragraph A of this section. However, in accordance with Appendix B *Modification of Contract Terms*, in a specific transaction an Authorized User shall have the authority to accept an offer from Contractor for more advantageous terms and pricing than those provided under this Piggyback Contract.

### 2.34 CONTRACT DOCUMENTS; ELECTRONIC FORMAT

OGS encourages Contractor to submit all documents to OGS in an electronic format, including electronic copies of documents with original signatures. Documents requested by OGS should be submitted in the format specified by OGS. Contractor is responsible for retaining the original documents with original signatures that have been scanned and submitted electronically for the term of the contract and any extensions thereof, and for a period of six (6) years after the term of the contract has ended. Contractor shall submit such documents with original signatures to OGS upon request. If Contractor seeks to assign the contract during the term, Contractor shall provide all documents relating to the bid and contract that it has retained to the successor Contractor (assignee) upon OGS consent to the assignment.

### 2.35 STATE SECURITY POLICIES

#### A. Definitions

**Authorized User Agreement** - Shall mean the Purchase Order and/or such other documents memorializing the Contractor's obligations with respect to a given transaction resulting from an RFQ issued by an Authorized User.

**Business Day** – Monday through Friday from 8:00 AM – 5:00 PM ET, excluding New York State or Federal holidays.

**Data** - Any information, Analytic Derivatives, formula, algorithms, or other content that the Authorized User may provide to the Contractor pursuant to this Contract. Data includes, but is not limited to, any of the foregoing that the Authorized User and/or Contractor (i) uploads to the Cloud Service, and/or (ii) creates and/or modifies using the Cloud Solution.

**Data Breach** - Refers to unauthorized access to Data or equipment which is used to transmit, store, or act upon such Data by any person, including employees, officers, partners or subcontractors of Contractor, who have not been authorized to access such Data.

**ITS-ISO** – Information Technology Services – Information Security Officer

**Security Incident** - A violation or imminent threat of violation of computer security policies, acceptable use policies, or standard security practices. See NIST 800-61 or its successor for additional information.

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For Authorized Users subject to NYS security policies/standards, it is strongly suggested that the Authorized User review statewide policies and guidelines available at: Policies | Office of Information Technology Services (ny.gov). The Contractor and its personnel shall review and comply with all State security policies, procedures and directives currently existing or implemented during the term of the Piggyback Contract, including ITS Policy NYS-P03-002 Information Security Policy (or successor policy(ies)). The Contractor and its personnel shall also review and comply with any additional policies, procedures, or directives provided in the Authorized User Agreement. Authorized Users shall provide the Contractor with any updated policies when available.

### **2.36 REPORTING SECURITY INCIDENTS**

Unless otherwise specified in the Authorized User Agreement, Contractor shall report any Security Incidents to the Authorized User in the manner prescribed in ITS Policy NYS-P03-002 Information Security Policy and associated standards ITS Policy NYS-S13-005 Cyber Incident Response Standard (or successor policy(ies)).

### **2.37 DATA BREACH- REQUIRED CONTRACTOR ACTIONS**

Unless otherwise provided by law or in the Authorized User Agreement, in the event of an actual or potential Data Breach, the Contractor shall:

- I. notify the ITS Enterprise Information Security Office and any potentially affected Authorized User(s), or their designated contact person(s), by telephone as soon as possible, but in no event more than four (4) hours from the time the Contractor either has knowledge of a Data Breach, or has knowledge of a potential Data Breach;
- II. consult with and receive authorization from the Authorized User(s) as to the content of any notice to affected parties prior to notifying any affected parties to whom notice of the Data Breach is required, either by statute or by the Authorized User;
- III. coordinate all communication regarding the Data Breach with the ITS EISO and Authorized User(s);
- IV. cooperate with the Authorized User and ITS EISO in attempting (a) to determine the scope and cause of the breach; and (b) to prevent the future recurrence of such security breaches; and
- V. take corrective action in the timeframe required by the Authorized User. If Contractor is unable complete the corrective action within the required timeframe, in addition to the remedies provided in Appendix B, Section 48, Remedies for Breach, the Authorized User may contract with a third party to provide the required services until corrective actions and services resume in a manner acceptable to the Authorized User, or until the Authorized User has completed a new procurement for a replacement service system. The Contractor will be responsible for the cost of these services during this period.

Nothing herein shall in any way (a) impair the authority of the New York State Office of the Attorney General from bringing an action against Contractor to enforce the provisions of the New York State Information Security Breach Notification Act (ISBNA), or (b) limit Contractor's liability for any violations of the ISBNA or any other applicable statutes, rules or regulations.

### **2.38 DATA OWNERSHIP**

The Authorized User shall own all right, title, and interest in Data provided and/or created during the provided services.

The Authorized User shall have access to its Data at all times, including when an account is suspended or terminated. The Authorized User shall have the ability to import or export Data in piecemeal or in its entirety at the Authorized User's discretion, without interference from the Contractor. This includes the ability for the Authorized User to import or export Data to/from other Contractors.

The Contractor shall not copy or transfer Data unless authorized by the Authorized User. In such an event, the Data shall be copied and/or transferred in accordance with the provisions of this Section. Contractor shall not access any Data for any purpose other than fulfilling the service. At no time shall any Data or processes (e.g. workflow, applications, etc.), which either are owned or used by the Authorized User be copied, disclosed, or retained by the Contractor or any party related to the Contractor.

### **2.39 DATA LOCATION AND RELATED RESTRICTIONS**

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All Data shall remain in the Continental United States (CONUS). Any Data transmitted, stored, or acted upon, must be located solely in Data Centers in CONUS. Services which directly or indirectly access Data may only be performed from locations within CONUS.

All helpdesk, online, and support services which access any Data must be performed from within CONUS. At no time will any Follow the Sun support (workflow being done by staff in different time zones) be allowed to access Data directly or indirectly from outside CONUS.

### **2.40 TRANSFERRING OF DATA**

The Contractor shall not transfer Data unless directed to do so in writing by the Authorized User.

At the request of the Authorized User and at no additional cost to the Authorized User, the Contractor will provide the services required to transfer Data from existing Databases to physical storage devices or other forms of storage as required by the Authorized User.

The Authorized User may require several Cloud providers to share or transfer Data for a period of time. This requirement will be provided for in the Authorized User Agreement or shall be assumed to be limited to a six month duration.

At the end of this Piggyback Contract and/or Authorized User Agreement, Contractor may be required to transfer Data to a new Contractor. This transfer must be carried out as specified by the Authorized User Agreement. This transfer may include, but is not limited to, conversion of all Data into or from an industry standard format(s) including comma/delimited files, txt files, or Microsoft standard file formats. Such transfer of data shall be done at no charge to the Authorized User.

In the event of a breach or termination for breach of this Piggyback Contract or any purchases made under it, costs of all transfers of Data shall be borne by the Contractor.

### **2.41 ENCRYPTION**

All Data must be encrypted at all times unless specifically outlined otherwise in the Authorized User Agreement. At a minimum, encryption must be carried out at the most current Federal Information Processing Standards (FIPS) 46-1 (or successor policy(ies)), with key access restricted to the Authorized User only, unless with the express written permission of the Authorized User. The Authorized User Agreement shall specify any additional encryption requirements and the respective duties of the Contractor and Authorized User.

### **2.42 REQUESTS FOR DATA BY THIRD PARTIES**

Unless prohibited by law, Contractor shall notify the Authorized User in writing within 12 hours of any request for Data (including requestor, nature of Data requested, and timeframe of response) by a person or entity other than the Authorized User, and the Contractor shall secure written acknowledgement of such notification from the Authorized User before responding to the request for Data.

Unless compelled by law, the Contractor shall not release Data without the Authorized User's prior written approval.

### **2.43 UPGRADES, SYSTEM MAINTENANCE, AND CHANGES**

The Contractor shall give a minimum of five (5) Business Days advance written notice to the designated Authorized User(s) contact of any upgrades or system changes that will impact services as provided pursuant to this Piggyback Contract.

### **2.44 TERMINATION OR SUSPENSION OF SERVICE**

During any period of suspension of service, the Contractor shall not take any action to destroy and/or withhold any Data. In the event of termination of this Piggyback Contract or Authorized User Agreement, in whole or in part, the Contractor shall implement an orderly return of Data in a format and timeframe agreed upon by the Authorized User. The Contractor must certify all Data has been removed from its system and removed from backups within any agreed upon timeframes. At a minimum, Contractor shall not take any action to destroy and/or withhold any Authorized User Data for a period of:

- 30 calendar days after the effective date of termination, if the termination is for convenience; or
- 60 calendar days after the effective date of termination, if the termination is for cause.

Additional time prior to erasure may be agreed upon in writing by the Authorized User and Contractor.

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**2.45 SECURE DATA DISPOSAL**

When requested by the Authorized User for any reason, the Contractor shall destroy Data in all of its forms, including all back-ups or storage media containing the data. Data shall be permanently deleted and shall not be recoverable, according to ITS Policy S13-003 Sanitization/Secure Disposal or successor and S14-003 Information Security Controls or successor or other relevant policies and procedures per the Authorized User Agreement. Certificates of destruction, in a form acceptable to the Authorized User, shall be provided by the Contractor to the Authorized User.

**2.46 EMBEDDED SOFTWARE/FIRMWARE; UPDATES**

Contractor shall provide at no charge all updates to any embedded software or firmware in the Product offered to customers generally.

**2.47 INSTRUCTION MANUALS**

At the time of delivery, Contractor shall provide a complete instruction manual for the Product and for each component supplied, as applicable, to the Authorized User.

**3. GENERAL PROVISIONS**

**3.1 NOTICES**

Unless otherwise provided in the Contract, notices, demands, designations, certificates, requests, offers, consents, approvals, and other instruments ("Notices") given pursuant to this Contract shall be in writing to the Parties' respective representative and shall be validly given when e-mailed, mailed by registered or certified mail, or hand delivered.

The Parties may, from time to time, specify any address for purpose of notices under this Contract by giving fifteen (15) days written notice to the other party. The Parties agree to mutually designate individuals as their respective representatives for purposes of this Contract. Contact information for the designated individuals will be set forth on the Contract Award Notification (CAN) and on the Contractor Information page for this Contract, which will be posted on the OGS website.

**3.2 CAPTIONS**

The captions contained in this Piggyback Contract are intended for convenience and reference purposes only and shall in no way be deemed to define or limit any provision thereof.

**3.3 SEVERABILITY**

If any provision of this Piggyback Contract is deemed invalid or unenforceable, such determination shall have no effect on the balance of the Piggyback Contract, which shall be enforced and interpreted as if such provision was never included in the Piggyback Contract.

**3.4 COUNTERPARTS**

This Piggyback Contract may be executed in one or more counterparts, each of which shall be deemed to be an original, but all of which together shall constitute the same Contract. Any signature page of any such counterpart may be attached or appended to any counterpart to complete a fully executed counterpart of this Contract, and shall bind such party.

**3.5 ENTIRE AGREEMENT**


This Piggyback Contract and the referenced appendices and attachments constitute the entire agreement between the Parties hereto and no statement, promise, condition, understanding, inducement or representation, oral or written, expressed or implied, which is not contained herein shall be binding or valid, and the Piggyback Contract shall not be changed, modified or altered in any manner except as provided in Section 2.32 of this Piggyback Contract, *Contract Modifications*.

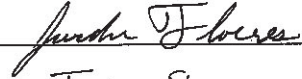
**GROUP 38207 Award PGB-23348 – POLICE RADAR/LIDAR SPEED ENFORCEMENT & ACCIDENT SCENE RECONSTRUCTION**

**IN WITNESS WHEREOF**, the Parties have executed this Piggyback Contract as of the date of last written below. The Parties further hereby certify that original copies of this executed and approved signature page will be affixed, upon final approval, to exact copies of this Piggyback Contract being executed simultaneously herewith. The acknowledgment must be fully and properly executed by an authorized person. By signing you certify your express authority to sign on behalf of yourself, your company, or other entity and full knowledge and acceptance of this Piggyback Contract, Appendix A *Standard Clauses For New York State Contracts* (June 2023), Appendix B *General Specifications* (April 2016), and State Finance Law §139-j and §139-k (Procurement Lobbying), and that all information provided is complete, true and accurate. By signing, Contractor affirms that it understands and agrees to comply with the OGS procedures relative to permissible contacts as required by State Finance Law §139-j (3) and §139-j (6) (b).

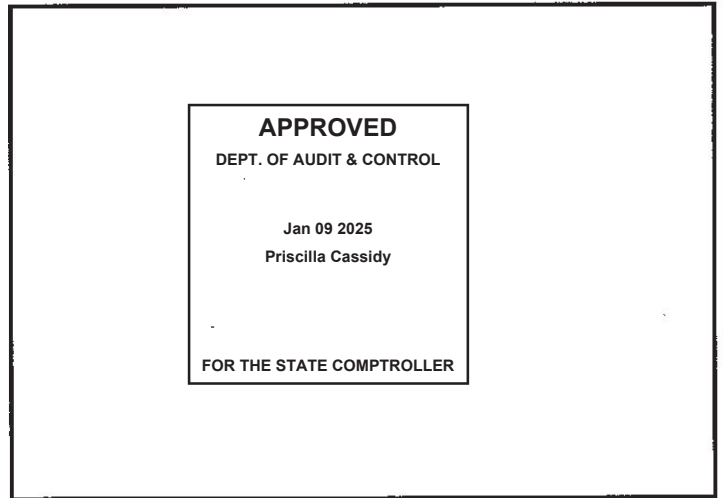
**CONTRACTOR: MPH Industries, Inc.**

**THE PEOPLE OF THE STATE OF NEW YORK,  
ACTING BY AND THROUGH THE COMMISSIONER  
OF GENERAL SERVICES**

Signature:   
 Printed Name: Chris N. Abel  
 Title: President  
 Date: 10-30-2024  
 Company Name: MPH Industries, Inc.  
 Federal ID: 61-1205274  
 NYS Vendor ID: 1000045048

Signature:   
 Printed Name: Jordan Flores  
 Title: Team Leader  
 Date: 11/21/2024  
Office of General Services

**NEW YORK STATE OFFICE OF THE STATE  
COMPTROLLER**



INDIVIDUAL, CORPORATION, PARTNERSHIP, OR LLC ACKNOWLEDGMENT

STATE OF Kansas }

: ss:

COUNTY OF Johnson }

On the 30th day of October in the year 2024, before me personally appeared Chris N. Abel, known to me to be the person who executed the foregoing instrument, who, being duly sworn by me did depose and say that he maintains an office at

10901 W 84th Terrace, Suite 100, Lenexa, KS 66214

and further that:

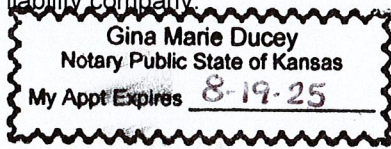
**[Check One]**

If an individual): he executed the foregoing instrument in his/her name and on his/her own behalf.

If a corporation): he is the President of MPH Industries, Inc., the corporation described in said instrument; that, by authority of the Board of Directors of said corporation, he is authorized to execute the foregoing instrument on behalf of the corporation for purposes set forth therein; and that, pursuant to that authority, he executed the foregoing instrument in the name of and on behalf of said corporation as the act and deed of said corporation.

If a partnership): he is the \_\_\_\_\_ of \_\_\_\_\_, the partnership described in said instrument; that, by the terms of said partnership, he is authorized to execute the foregoing instrument on behalf of the partnership for purposes set forth therein; and that, pursuant to that authority, he executed the foregoing instrument in the name of and on behalf of said partnership as the act and deed of said partnership.

If a limited liability company): he is a duly authorized member of \_\_\_\_\_, LLC, the limited liability company described in said instrument; that, he is authorized to execute the foregoing instrument on behalf of the limited liability company for purposes set forth therein; and that, pursuant to that authority, he executed the foregoing instrument in the name of and on behalf of said limited liability company as the act and deed of said limited liability company.



Gina Marie Ducey  
Signature of Notary Public

Notary Public Registration No. 1187793 State Kansas