

RFP #2022-1  
**REQUEST FOR PROPOSALS**  
COMPREHENSIVE PLAN AND UPDATE OF LAND USE LAWS  
PROFESSIONAL CONSULTANT SERVICES (CPULUL)

SEALED submissions are subject to the standard instructions set forth on the attached sheets. Any modifications must be specifically accepted by the Town of Clermont.

Released February 10, 2022

\_\_\_\_\_  
Respondent

\_\_\_\_\_  
Doing Business As

\_\_\_\_\_  
Address

\_\_\_\_\_  
Title

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Telephone

\_\_\_\_\_  
Email

Sealed proposals will be received by the Town Clerk of the Town of Clermont at the Clermont Town Hall, 1795 Route 9, Clermont, New York 12526, **until March 24, 2022 at 12:00 p.m.**

NOTE:

1. Respondents are to complete all requested data in the upper right corner of this page and must return this page with their proposal.
2. No proposal shall be accepted from, or contracts awarded to, any person/company who is in arrears to the Town of Clermont upon debt, or contract or who has been within the prior five (5) years, a defaulter as surety or otherwise upon obligations to the Town of Clermont.
3. Submissions are to be submitted in a sealed envelope and clearly marked "**RFP 2022-1 - PROFESSIONAL CONSULTANT SERVICES**\_" on the outside of the envelope, including all outer packaging, such as, DHL, FedEx, UPS, etc.

## **REQUEST FOR PROPOSALS FOR PROFESSIONAL SERVICES**

The Town of Clermont (“Town”) is seeking proposals for a generalized scope of services from qualified professional planning consultants/firms (“Consultant”) for the preparation of a Town Comprehensive Plan and Update of Land Use Laws (CPULUL), in accordance with the requirements of Consolidated Laws of New York State Chapter 62 Article 16.

### **FORMAT OF SUBMISSION**

1. Submit one (1) printed and signed “original” and five (5) printed copies and one (1) USB drive in pdf format.
2. Provide a general description of the type of organization (i.e. corporation, partnership, consultant, etc.); number of years in business; size of firm; personnel qualifications and experience.
3. Include resumes and relevant experience of all personnel to be assigned to the project, including any subcontractors and hourly rates.
4. Submit details on proposed project approach and fees, any additional services to be provided, and identify estimated timelines and deliverables.
5. Identify any resources and/or assistance you will require from the Town of Clermont. Existing town resources include:
  - data from the 2020 Decennial Census <https://data.census.gov/cedsci/profile?g=0600000US3602116177>
  - 2020 Clermont Parks Improvement Plan <https://clermontny.org/clermont-park/park-committee-documents/>
  - Clermont Comprehensive Plan <https://clermontny.org/wp-content/uploads/2018/07/Clermont-Comprehensive-Plan-2002.pdf>
  - Clermont Zoning and Building Documents <https://clermontny.org/document-category/zoning-building-documents/>
  - Clermont Hamlet Vision Plan <https://www.dropbox.com/s/m4z1xpqpnbx6jdw/Clermont%20Hamlet%20Vision%20Plan%20%28Complete%29.pdf?dl=0>
6. Provide information on the circumstances and status of any disciplinary action taken or pending against the firm during the past five years with State regulatory bodies or professional organizations.
7. If your firm has engaged in a recent peer review (i.e. industry publication or article) please include a copy.
8. In addition to the above requirements, may include additional factors or strengths that would assist in assessing their ability to meet the Town’s needs and any examples of relevant past work.
9. All submissions shall remain firm for a period not less than forty-five (45) days from the proposal (RFP) due date, unless such period is extended in writing and agreeable to both parties.
10. Respondents are strongly encouraged to verify the scope of services prior to submitting their proposal. The Town reserves the right at all times to increase or decrease the project scope as deemed in its best interest.
11. Provide full details of any exceptions. The Town retains the right to accept or reject any or all exceptions.

12. Provide references for equal scope projects performed during the past five (5) years.
13. All Respondents should provide a letter of interest, detailing overall qualifications and demonstrating a thorough understanding of the engagement. Include resumes for all personnel, including subcontractors, who will be directly involved in providing the requested services, describing their professional qualifications and past experience related to health, equity, agricultural, environmental and riparian protection, sustainability, community outreach and strategic planning.
14. Provide a description of similar work performed in the past five years and minimum of three (3) most recent professional references. Respondent may offer a detailed scope of work to be performed for the aforementioned tasks with a projected timetable and deliverables for each task.
15. Provide a description of any innovative methods for communication to reach those with limited English proficiency, non-traditional work hours, or inability to attend public meetings in person.

## **QUALIFICATIONS**

Interested consultants/firms shall have extensive experience and knowledge in the fields of municipal planning and zoning including, but not limited to, land use, agriculture, housing, equity, transportation, rural economic development, health, environmental and riparian protection, resiliency, sustainability, alternative energy resources, and community outreach.

The submission should include the following information:

- Size of firm, including available technical staff.
- Geographical location from where services will be provided.
- Number of staff to be employed on the project (full-time and part-time).
- Include description of all services and estimated deliverables.
- References for projects performed for other municipalities of similar size.

If the respondent is a joint venture, the qualification of each firm comprising the joint venture should be separately identified and the firm that is to serve as the principal should be identified. Complete information on qualifications and experience should be provided for all joint venture partners and/or subcontractors.

The Town may make such investigations as the Town deems necessary to determine the abilities and qualifications of the respondent to perform the work. The respondent shall furnish to the Town all such information and data for this purpose as the Town may request. The Town reserves the right to reject any proposal if the evidence submitted by, or investigation of, such respondent fails to satisfy the Town that such respondent is properly qualified to carry out the obligations of the proposal and to complete the work in accordance with the requirements set forth herein.

## **INTERVIEWS**

Upon evaluation of all submissions received, qualified candidates/firms may be invited to interview with various Town officials or committee members, prior to award of contract. Interviews may be requested at Town's own discretion.

## **AWARD SELECTION**

The CPULUL Committee will develop a list of firms in order of preference of the firms considered most highly qualified to perform the services that will be submitted to the Town Board. The Town reserves the right to reject any submittal and to waive minor irregularities. The Town may request additional information for qualifications. The Town retains the right to select a consultant within our budget or reject all consultants.

All candidates will be evaluated upon, but not limited to, the following criteria (100 points):

1. Project Understanding, original approach and familiarity with innovative comprehensive planning concepts (35 points)
2. Capabilities and previous experience in comparable projects and specialized experience and technical competence of the consultant (20 points)
3. Demonstrated ability to utilize public engagement in development of plans (15 points)
4. Personnel assigned to the project demonstrating the consultant's capacity to complete the requested service on time and within budget (15 points)
5. Logistics and familiarity with the project area (10 points)
6. Proposed Budget (5 points)

## **APPLICABLE LAWS AND REGULATIONS**

All applicable Federal, State and municipal laws and rules and regulations shall apply to this RFP and, and shall be deemed to be incorporated herein.

## **NON-DISCRIMINATION**

The Town hereby notifies all respondents submitting an RFP that it will ensure that in any contract entered into pursuant to this RFP, minority group members and women will be afforded full opportunity to submit RFPs and will not be discriminated against on the grounds of race, sex, creed, color, religion, national origin, sexual orientation, gender, age, disability, marital or domestic partner in consideration for award. Further, by submission of a RFP, each Respondent and each person signing on behalf of any Respondent 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 its knowledge and belief that:

1. It does not, and will not for the term of the contract, discriminate on the grounds of race, sex, creed, color, religion, national origin, sexual orientation, gender, age, disability, marital or domestic partner in the selection and retention of subcontractors.
2. It does not, and will not for the term of the contract, participate directly or indirectly in discrimination prohibited by federal, state, and local laws and regulations, including but not limited to employment practices.
3. It will, for the term of the contract, notify each potential supplier and subcontractor associated with the contract of the Respondent's obligations and commitment to non-discrimination on the grounds of race, sex, creed, color, religion, national origin, sexual orientation, gender, age, disability, marital or domestic partner.

## **SPECIALIZED RFP AND NOT A COMPETITIVE BID**

This RFP is for services requiring special or technical skill, training or expertise. The services requested are not "purchase contracts" or "contracts for public works," as those phrases are used in municipal competitive bidding statutes.

## **TERMINATION**

In the event that the selected Consultant does not perform the work in accordance with the specifications and/or scope of services and in a timely and professional manner, the Town reserves the right to terminate the contract upon (10) days' written notice.

**FEE PROPOSAL**

**Provide hourly rates per discipline:**

Consultant: \$ \_\_\_\_\_/hour

Assistant: \$ \_\_\_\_\_/hour

Administrative: \$ \_\_\_\_\_/hour

Other: \$ \_\_\_\_\_/hour

*Attach all rates and disciplines that shall apply on separate paper.*

**Provide costs for reimbursable expenses, such as, but not limited to, meetings, reports, travel, deliverables:**

Meetings: \$ \_\_\_\_\_/hour

Travel: \$ \_\_\_\_\_/mile

Reports: \$ \_\_\_\_\_/service

*Attach all reimbursable expenses that shall apply on separate paper.*

**Provide information regarding number of years in business, size of firm, and location.**

Number of years in business:\_\_\_Number of employees:\_\_\_\_(full time)\_\_\_\_(part time)

*The Respondent hereby certifies that any and all defects, errors, inconsistencies or omissions where identified in the Proposal Documents, of which he/she is aware, either directly or by notification from any subcontractor, are listed herewith in this Form.*

Name \_\_\_\_\_

Title \_\_\_\_\_

Signature \_\_\_\_\_

Date \_\_\_\_\_

## **TERMS & CONDITIONS OF SUBMISSION OF RFP**

### **Guarantee**

All submissions shall remain firm for a period not less than forty-five (45) days from the proposals (RFP) due date and may not be withdrawn, unless such period is extended in writing and agreeable to both parties.

### **Payment and Performance Bonds**

Bonds are not required to be submitted.

### **Deadline**

Submissions not sealed and/or received later than the due time and date will not be considered. No exceptions.

### **Submissions**

Proposals are to be submitted in a sealed envelope and clearly marked “**RFP 2022-1 - PROFESSIONAL CONSULTANT SERVICES**” on the outside of the envelope or package, including all outer packaging, such as, DHL, FedEx, UPS, etc. All prices and notations must be printed in ink or typewritten. No erasures are permitted.

Proposals are to be in the office of the Town Clerk of the Town of Clermont at the Clermont Town Hall, 1795 Route 9, Clermont, New York 12526, prior to date and time specified.

### **Right to Accept / Reject**

AFTER REVIEW OF ALL FACTORS, TERMS AND CONDITIONS, INCLUDING PRICE, THE TOWN OF CLERMONT RESERVES THE RIGHT TO REJECT ANY AND ALL PROPOSALS, OR ANY PART THEREOF, OR WAIVE DEFECTS IN SAME, OR ACCEPT ANY PROPOSAL DEEMED TO BE IN THE BEST INTEREST OF THE TOWN.

### **Power of Rejection**

The Town Supervisor shall have the power to reject all proposals and to advertise again.

### **REQUESTS FOR INFORMATION (RFI) / ADDENDA**

Direct all requests via email to:

Town of Clermont, Mary Howard, AICP, Comprehensive Plan and Land Use Laws (CPULUL) Committee Chairwoman, E-mail [mthdwh8000@yahoo.com](mailto:mthdwh8000@yahoo.com)

NOTE: Verbal requests for information will NOT be accepted.

All requests must be received via email prior to 12:00 PM on March 14, 2022.

Response will be in the form of an addendum that will be posted approximately 12:00 PM on March 17, 2022 to the Town of Clermont website: <https://clermontny.org/category/community/announcements-news-events/>

It is the responsibility of each Respondent to retrieve addenda from the website. Any contact about this RFP between a Respondent and any other Town official and/or Town of Clermont employee, other than as set forth above, may be grounds for disqualification of that Respondent. No questions or clarifications shall be answered by phone, in person or in any other manner than specified above. Addenda will not be mailed, e-mailed or faxed out.

### **Prices**

Price proposals where requested shall remain firm for a period not less than (90) days from the proposal (RFP)

due date and may not be withdrawn, unless such period is extended in writing and agreeable to both parties.

**The Consultant/Firm “Contractor”**

The Contractor for the work described shall be thoroughly familiar with the requirements of all specifications. The submission of any proposal/qualifications shall be construed as evidence that the Contractor has examined the actual job conditions, requirements, and specifications. Any claim for labor, equipment or materials required, or difficulties encountered, which could have been foreseen had such an examination been carefully made, will not be recognized.

**Assignment of Contract**

No contract may be assigned or transferred without the prior written consent of the Town of Clermont.



**TOWN OF CLERMONT  
REQUEST FOR PROPOSALS  
Comprehensive Plan and Update of Land Use Law**

**SCOPE – GENERAL INFORMATION**

**1. PURPOSE**

The Town of Clermont (“Town”) is accepting proposals from qualified professional planning consultants/firms (“consultant”) for the preparation of a Town Comprehensive Plan and Update of Land Use Laws (CPULUL), in accordance with the requirements of New York State Town Law.

Interested consultants/firms shall have extensive experience and knowledge in the fields of municipal planning and zoning including, but not limited to, land use, urban design, housing, transportation, economic development, environmental and coastal protection, sustainability and community outreach. The Town is willing to consider proposals that incorporate new, innovative and state of the art approaches to comprehensive planning and land use law.

**2. OVERVIEW**

The Town of Clermont (pop. 2058, 2020 US Decennial Census) is located in Columbia County. The community is known for its rural character, historic links and natural resources to both its full time and seasonal residents. It is served by three school districts, Germantown, Red Hook and Pine Plains; four post offices, Germantown, Tivoli, Elizaville and Red Hook; and two area codes for land lines, 518 and 845. Situated in Columbia County but bordering Dutchess County residents travel along US Route 9 and NYS Route 9G north to Hudson and Albany and south to Rhinebeck, Kingston and Poughkeepsie to access retail, medical and employment opportunities.

Per the 2019 ACS, the Median household Income is \$89,205 yet the Poverty Level of the town still hovers just over 9%. Almost 15% of the town’s workforce is employed by local, state or federal government and 56% are employed by private companies. The average commute is over 37 minutes. With 914 housing units, the 2019 ACS stated that there were 124 vacant units. Since January 2020 anecdotal data suggests this number has been greatly reduced as seasonal homes were adapted to year-round use during the COVID-19 pandemic.

The current Comprehensive Plan for Clermont was adopted in 2002 and is available for review on the Town of Clermont webpage at: <https://clermontny.org/document-category/cpmprehensive-plan/>. It has been reviewed on an annual basis by the Clermont Town Board with no updates. The current Zonig Law is available at <https://clermontny.org/document-category/zoning-building-documents/> along with other land use and building permit regulatory documents.

In 2006, the Town completed the Clermont Hamlet Vision Plan to address the district surrounding the central portion of the town. It is available for review at <https://www.dropbox.com/s/m4z1xpqpnbx6jdw/Clermont%20Hamlet%20Vision%20Plan%20%28Complete%29.pdf?dl=0>. In 2020, an Ad Hoc Parks Planning Committee completed the Clermont Parks Improvement Plan which is available for review at <https://clermontny.org/clermont-park/park-committee->

[documents/](#) . The Parks Committee has since become a permanent committee of volunteers and is working to establish a not-for-profit to further promote the parks and assist with fundraising efforts. The Town also is participating in a Climate Smart committee task force to seek Climate Smart Certification with New York State Department of Conservation. Further information regarding the certification process is available here <https://climatesmart.ny.gov/actions-certification/actions/> .

For the next CPULUL, the Town would like to further build by researching new and emerging planning issues, and undertaking a collaborative visioning process to set priorities for future equitable and healthy land use and zoning improvements for the next decade and beyond.

The planning process will be guided by Clermont Comprehensive Plan and Update of Land Use Laws Committee (“CPULUL Committee”), comprised of volunteers from the Town Board, Planning Board, Zoning Board of Appeals, and community residents and business owners responsible for its implementation. The CPULUL Committee Chairwoman will serve as the primary liaison between the consultant and other Town contacts. The CPULUL Committee Chairwoman will be responsible for providing all necessary background materials to the consultant, facilitating meetings with Town officials/outside agencies/community at large, and reviewing and offering feedback on consultant deliverables.

### 3. GENERAL SCOPE OF SERVICES

The work program and final scope of the project, including deliverables, is anticipated to be clarified once a consultant/firm is selected, however, the project will include at a minimum the following components and all other tasks necessary to meet the statutory requirements:

- a) Project Initiation Meeting: The CPULUL Committee and the Consultant shall hold an initial meeting to discuss project scope and schedule, roles and responsibilities, State Environmental Quality Review Act (SEQRA) requirements, methods of public engagement and number of public meetings. A summary of points discussed will be recorded by the consultant to plainly describe the agreements/understandings reached by the parties. Such meeting summary is subject to review and approval by the CPULUL Committee.
- b) Data Update and Assessment: Update and add relevant data including, but not limited to, demographic, land use, economic, housing, transportation, facilities, utilities, preservation, and historic resources, and other similar data. All relevant mapping shall be updated. In addition, all necessary and pertinent documents since the 2002 Comprehensive Plan including studies and plans by the Town of Clermont, zoning amendments, capital improvement plans, regional and state plans and any relevant changes in state laws, policies and procedures will be reviewed and included, where appropriate. The CPULUL committee members are willing to assist with data collection as needed, up to and including, sharing data from recently completed research for the Clermont Parks Improvement Plan.
- c) Composition of Outreach Plan and Schedule: A robust, diverse, and equitable community participation process is anticipated. In coordination and consultation with the CPULUL Committee, the consultant will create and manage a creative and interactive public participation process plan, within the project time-frame and budget, which shall include innovative means and methods that raises community awareness, excitement and engagement, and build consensus on the long-term vision for the community. The Consultant, CPULUL Committee and other appropriate parties shall prepare a plan designed to encourage full community participation in the planning process and implementation. The composition will include a list of key organizations, individuals and other entities to engage, the

visioning process to be used, roles and responsibilities, logistics for coordinating the effort, and proposed scheduled for public engagement activities. Outreach meetings will be scheduled to maximize attendance of all interested parties, including immigrants and minorities.

- d) Community Outreach: Each outreach session, as outlined above, will be summarized in written form and other appropriate means, such as website and social media. Summaries will also be shared with the CPULUL Committee. The CPULUL Committee is committed to actively assisting in all aspects of community outreach, including, but not limited to publicizing outreach events and assisting with facilitation.
- e) Comprehensive Plan Document: The Comprehensive Plan document shall be concise and easy to comprehend. The goals and objectives that are recommended through this process should be evaluated for costs, and matched with timelines and potential funding opportunities to produce an actionable document. It should guide the priorities for the Town Board and Town's Planning and Zoning Board of Appeals for the next decade and beyond. The interrelationship among various planning topics shall be demonstrated. Maps and design graphics shall be produced to illustrate key concepts within the document. The document shall comply with NYS Town Law 272-a.
- f) Local Land Use Laws Document: The Local Land Use Laws document shall be substantially re-written in a concise and easy to comprehend manner. The document shall comply with NYS Town Law. Based upon the Comprehensive Plan document, it shall incorporate any and all legal instruments available to achieve the community's vision for its future land use. The use of graphics to demonstrate key points is encouraged.

#### **4. PUBLIC PARTICIPATION**

The Town of Clermont considers public participation essential to a successful Comprehensive Plan. The Plan process shall be structured to efficiently maximize citizen involvement and participation. The selected Respondent shall be responsible for designing a public engagement strategy, to include an online platform, which incorporates effective and innovative participation techniques and encourages participation throughout the development of the Comprehensive Plan. Participation by residents, businesses, agencies, organizations, all Town departments, and public officials, is a must throughout the planning process. The selected consultant team must have strong leadership and creativity to provide clear direction in participation techniques that result in inclusive and timely decisions. The selected consultant will be expected to attend and/or be available for public hearings before the Town Board with respect the review and adoption of the Comprehensive Plan.

#### **5. SCHEDULE AND MANAGEMENT**

The CPULUL update process will commence immediately after consultant selection and contract execution. The data assessment and visioning portion of the CPULUL, including public participation, shall be substantially complete by May 30, 2023. Following this, the final draft CPULUL document will be prepared in time to be forwarded to the Town Board by October 1, 2023. The consultant will be required to attend meetings of final plan of adoption by the Town Board. Final approval and adoption of the CPULUL by both the Planning Commission and Town Board shall be completed no later than October 1, 2023.

#### **6. BUDGET**

Total budget in the amount of \$50,000-\$100,000 will be made available for consulting services. This includes budget for conducting telephonic and digital surveys, creating and managing a project webpage, and other methods of public engagement, as deemed appropriate. CPULUL Committee will assist with publicizing workshops and milestones in the process.

## **7. DELIVERABLES**

The consultant shall produce the following deliverables at the completion of the project:

- 1) A digital copy of the final Comprehensive Plan document,
- 2) 3 hard copies of the final Comprehensive Plan document
- 3) A digital copy of the final Land Use Laws Update
- 4) 3 hard copies of the final Land Use Laws Update.
- 5) Digital files of all maps
- 6) Digital files of GIS datasets utilized for all maps

## **8. SUBMITTAL REQUIREMENTS**

Respondents must submit their responses meeting the criteria as described under all sections, including all other information as requested in the RFP.

All questions relating the RFP must be submitted via email to CPULUL Chairwoman Mary Howard, AICP at [mthdwh8000@yahoo.com](mailto:mthdwh8000@yahoo.com) by the date and time specified above.

## SELECTION PROCESS

### 1. DEADLINE FOR PROPOSALS

**Deadline for Proposals: All physical proposals must be received by the Town Clerk, no later than 12:00 p.m. on March 24, 2022. Any proposal received after that time will be rejected.**

### 2. REVIEW PROCESS

The Town will review candidate qualifications and rank them using the following general factors, as well as other information contained in the respective proposals:

A. All proposals will be reviewed to determine compliance with the requirements as specified in the RFP. Only proposals which, in the opinion of the Town Board, meet the requirements of the RFP will be further evaluated.

B. Proposals, which pass preliminary review, will be evaluated on how well the proposal meets the needs of the Town as described in the Respondent's response to the RFP. It is important that the responses be clear and complete, so that the Town can adequately understand all aspects of the Proposal.

C. The Town will select those it deems to be the top proposals for further review. The Respondent's submitting the top proposals may be asked to make a personal presentation to the Town, which presentations will be evaluated as well. Further, as part of the presentation, the Town reserves the right to request additional information from those Respondents making personal presentations.

D. A final decision to enter into Agreement will be made by the Town Board of the Town of Clermont, who will authorize the Town Supervisor to execute the Agreement, and any other instruments related thereto, with the final selected Respondent, subject to review and approval of the Town Attorney.

E. The award of an Agreement by the Town Board to the successful Respondent will be sent to the successful Respondent. The award of an Agreement will bind the Respondent to furnish the service in accordance with the terms and provisions set forth herein, responses to questions, the Respondent's Proposal, and other representations made, as well as all other terms and conditions of the Agreement in its final form.

## **SUCCESSFUL BID GENERAL TERMS AND CONDITIONS**

### **1. OSHA**

The Respondent will certify all equipment complies with all regulations and conditions stipulated under the Williams-Steiger Occupational Safety and Health Act of 1971, as amended. The successful Respondent will further certify that all items furnished under this project will conform and comply with Federal and State of New York OSHA standards. The successful Respondent will agree to indemnify and hold harmless the Town of Clermont for any and all damages that may be assessed against the Town.

### **2. Insurance Coverage**

- a. The successful Respondent shall, at its sole expense, acquire, and continuously maintain during the period in which the Respondent is performing services to the Town, and shall provide the Town with acceptable proof of the following minimum insurance coverage for the Respondent and the Respondent's subcontractors: Commercial General Liability \$2,000,000 each occurrence/\$2,000,000 aggregate; Business Automobile Liability \$1,000,000 combined single limit; Professional Liability \$2,000,000 per occurrence; New York State Workers Compensation and Disability.
- b. The Respondent shall furnish the above insurance to the Town, and shall also name the Town as an additional insured in said policies.
- c. Insurance Covering Special Hazards: The following special hazards shall be covered by a rider, and/or riders, to the policy, and/or policies, herein elsewhere required to be furnished by the CONSULTANT, or by separate policies of insurance, in amounts as follows: Automobiles and Automobile Trucks – limits shall be the same as required under General Liability Insurance as hereinbefore specified.
- d. Defense of Action or Suits: The Respondent shall indemnify, defend and save harmless the Town, its officers, officials, employees, volunteers and agents against all injuries, losses damages and compensation arising out of or resulting from Respondent's performance, operation, carrying out, execution or conducting any aspect of this Agreement, or associated activities or business, whether by violation of statute, law, ordinance, regulation, order or decree or common law liability. The Respondent shall, from the commencement of the term of the Agreement until completion, termination, revocation, cancellation, or expiration thereof, maintain the insurance hereinbefore stated in the amounts hereinbefore stated for the protection of the Respondent and the Town, and shall furnish duplicates of the insurance policies to the Town, stamped by the insurer "Premium Paid." These policies shall be written by an insurance company or companies with an A.M. Best Company rating of "A-" or better or otherwise be acceptable to the Town.
- e. If, at any time, any of the said insurance policies shall, in the reasonable judgment of the Town, be or become unsatisfactory to the Town as to form or substance, or if a company issuing any such policies shall become unsatisfactory to the Town, and notification is given to Respondent in writing of same, Respondent shall promptly procure a new insurance policy, submit the same to the Town for approval, and submit a certificate thereof as hereinabove provided. Upon failure of Respondent to procure, furnish, deliver and maintain such insurance policies as above provided, this Agreement may, if such policy or policies are not secured within thirty (30) days after written notice to cure is given to Respondent, at the election of the Town, be forthwith declared cancelled, revoked or terminate, and the security deposit, letter of credit, bond or other monetary undertaking made by Respondent to the Town, securing the faithful performance of the Respondent under, and its compliance with, this Agreement, if any, shall thereupon be

retained by the Town as liquidated damages. Failure of Respondent to procure and/or maintain any required insurance policies shall not relieve Respondent from any responsibility or liability under the Agreement, nor shall the insurance requirements be construed to conflict with the obligations of Respondent concerning defense and indemnification. All required insurance policies must be in full force and effect and continued so during the Term of the Agreement.

- f. The total amount of insurance coverage set forth above may be increased by the Town during the term of this Agreement, or any renewal option Term hereof, if reasonably deemed in the best interest of the Town.

### **3. Indemnification and Hold Harmless**

In addition to any policies of insurance procured and maintained pursuant to this Agreement, the Respondent, for itself and its members, shareholders, managers, officers, directors, employees and agents, agrees to defend, save, indemnify and hold harmless the Town, and all of its agents, officials, officers, servants and employees, by reason of any claim, suit, action or causes of action, lawsuit or legal proceeding, regardless of origin or nature, arising out of the Respondent's performance, operation, carrying-out, execution or conducting of any aspect of this Agreement, or associated activities or business, whether by violation of statute, law, ordinance, regulation, order or decree or common law liability, and whether or not a negligent act or omission is claimed, and the Respondent agrees to pay the Town for defending such suit, all costs, expenses and reasonable attorney's fees incurred therein, or, at the option of the Town, shall, at the Respondent's own expense, defend any and all such actions.

### **4. Non-Collusion**

No proposal will be accepted without a Non-Collusive Bidding Certification on the form attached hereto, as required pursuant to §103-d of the New York State General Municipal Law.

### **5. Federal, State and Local Laws**

All applicable Federal, State and local laws, rules and regulations of all authorities having jurisdiction over the locality of the project shall apply to the contract and are deemed to be included herein.

### **6. Breach and Default**

- a. Should Respondent, or any of its owners, partners, members, principals, or controlling shareholders, be convicted of a felony, the Town may terminate, revoke and/or cancel this Agreement by notice, in writing, immediately effective on mailing, as though it were the time provided for the expiration of the Term hereof.
- b. Should the Town, in the discretion of the Town Board, determine that Respondent is not operating, carrying-out or performing the Agreement in compliance with any the terms and provisions hereof, the Town Board shall give the Respondent ten (10) days' notice to cure, in writing, specifying in what manner the Respondent is not operating, carrying-out or performing, and/or the problems or conditions to be cured or corrected, which notice shall be delivered and/or sent to the Respondent, either via hand-delivery by any practical means, and/or USPS First Class Mail to the Respondent's principal place of business (set forth in the first paragraph of this Agreement). In the event the Respondent's deficiency, inadequacy, lack of and/or failure in operating, carrying-out or performing under the Agreement, and/or the problems or conditions, are/is not corrected or cured within said ten (10) day cure period, the Town Board may adopt a Resolution to revoke, terminate and/or cancel the Agreement. In the event said Resolution is adopted by the Board, a certified copy of the Resolution shall be delivered and/or sent to the Respondent, either via hand- delivery by any practical means, and/or USPS First Class Mail to the

Respondent's principal place of business (set forth in the first paragraph of this Agreement), and the Agreement shall thereupon be revoked, cancelled and/or terminated, without further notice, as though it were the time provided for the expiration of the Term hereof. In the event that this Agreement is revoked, cancelled and/or terminated as aforesaid, all rights and privileges of the Respondent herein shall be forfeited without any claims for damages, compensation, refund of its investment, expenses or costs of improvements, if any, or any other claim whatsoever against the Town.

#### **7. Conflict of Interest**

No officer or employee or member of any elective or appointive board, commission or committee of the Town, whether temporary or permanent, shall have or acquire any financial interest gained from a successful proposal, direct or indirect, in any project, matter, contract or business within his/her jurisdiction or the jurisdiction of the board, commission, or committee of which he/she is a member. Nor shall the officer/ employee/ member have any financial interest, direct or indirect, in any contract or proposed contract for materials or services to be furnished or used in connection with any project, matter or thing which comes under his/her jurisdiction or the jurisdiction of the board, commission, committee of which he/she is a member.

#### **8. Notice and Waiver**

Where provision is made herein for notice to be given in writing, unless otherwise prescribed herein, the same shall be delivered and/or sent to the Respondent, either via hand-delivery by any practical means, and/or USPS First Class Mail to the Respondent's principal place of business (set forth in the first paragraph of this Agreement); and delivered and/or sent to the Town via the same manner at, or to, Town Hall.

#### **9. Performance**

The Respondent agrees to perform well and truly, and to faithfully observe and comply with any and all covenants, conditions, agreements, terms, promises and provisions prescribed herein. The Respondent further agrees to defend and indemnify, and save and keep harmless, the Town, and its officers, officials, agents, volunteers, and employees, from and against all liability, liens, judgments, costs, claims, damages, costs and expenses of whatsoever kind, which may in any way be suffered by the Town, or its officers, officials, agents, volunteers, or employees, or which may accrue against or be charged to, or recovered from, the Town or its officers, officials, agents, volunteers, or employees, by reason or in consequence of the performance, execution or operation of, or as a result or in consequence of the privileges granted under, the Agreement, or for or on account of any act or thing done or suffered or omitted to be done under the authority, or supposed authority, of such grant. Notwithstanding any other provision to the contrary, Respondent shall not be responsible for the acts or omissions of the Town, its agents, officials, officers, volunteers, and/or employees.

#### **10. Independent Contractor**

The Respondent shall be an independent contractor, and neither it, nor its staff or employees, shall, under any circumstances, be considered employees, servants, or agents of the Town, and the Town shall, at no time, be legally liable or responsible for any negligence, carelessness, or recklessness on the part of said Respondent, or its servants, employees, or agents, resulting in either personal injury or property damage to any individual, business entity or firm or corporation.

#### **11. Equal Employment Opportunity**

The Town of Clermont, in accordance with the provisions of Title VI of the U.S. Civil Rights Act of 1964, and the regulations of the U.S. Department of Commerce (15 CFR, Part 8) issued pursuant to such Act, hereby notifies all prospective Consultants that it will affirmatively ensure that, in any Agreement entered into pursuant to this RFP, women or minority business enterprises will be afforded full opportunity to participate in response to this RFP, and will not be discriminated against on the grounds of race, color, creed, sex, age or national origin in consideration for the Town's selection of a proposal.



**12. Americans With Disabilities Act (ADA)**

The Town of Clermont does not discriminate upon the basis of any individual’s disability status. This nondiscrimination policy involves every aspect of the Town’s functions, including persons’ access to, participation, employment, or treatment in, any of its programs or activities. Anyone requiring reasonable accommodation for the public meetings specified herein (i.e., information sessions, if any, and opening of Proposals) should the Town Hall, at least twenty- four (24) hours in advance of the activity, to request accommodations.

**13. Confidentiality**

The Respondent is warned that the contents of the proposal shall become public, and by submitting a proposal, in response to this RFP, the Respondent is acknowledging and consenting to the release of said information to the public at large.

**14. Town Rules, Policies and Procedures Applicable**

The Respondent agrees to abide by, and inform its employees, contractors, and agents of, the Town of Clermont rules, regulations and policies including, without limitation, the Town’s Sexual Harassment Policy, and shall sign any appropriate documentation regarding the receipt and review of same by the Respondent, and anyone working for or on its behalf in performance of this Agreement.

**15. Scope of Work**

The Candidate/Respondent declares that the scope of the work and/or specifications has been thoroughly reviewed and any questions resolved, and further declares that the site has been inspected if requested for in the specification.

**16. Exception to Specifications**

No protest regarding the validity or appropriateness of the specifications or of the Invitation will be considered, unless the protest is filed in writing with the Purchasing Agent, prior to the closing date for the proposals. All proposals rendered shall be considered meeting the attached specifications unless exceptions are noted on a separate page dated and signed by the Respondent.

**17. Unless Otherwise Noted**

It will be assumed that all terms and conditions and specifications will be complied with and will be considered as part of the submission.

**18. Tax Exempt**

The Town of Clermont is exempt from all State and Federal taxes.

**19. Standard Clauses Incorporated Herein**

All standard clauses on the attached are hereby incorporated herein and made a part of the General Terms and Conditions of this RFP.

**20. Miscellaneous Provisions**

- a. The failure of the Town to insist upon the strict performance of any of the provisions, terms, promises, conditions, and covenants herein shall not be deemed a waiver of any rights, privileges, or remedies that the Town may have, and shall not be deemed a waiver of any subsequent breach, violation, or default of any such provisions, terms, promises, conditions, or covenants herein contained. This Agreement may not be changed, modified, revised, cancelled, or terminated orally.
  
- b. If any term, provision, covenant, promise or condition of this Agreement, or the application thereof to any person or circumstance, shall, to any extent, be invalid or unenforceable, the remainder of this

Agreement shall not be affected thereby, and each remaining term, provision, covenant, promise and condition of this Agreement shall be valid and remain in full force and effect.

- c. Nothing herein contained shall be deemed or construed so as to create an automatic renewal of the Term of this Agreement.
- d. If the Town, in the discretion of the Town Board, determines that the Respondent is not operating, carrying-out or performing the Agreement in compliance with any the terms and provisions hereof, then the Town may, at any time, issue new Requests for Proposals to the general public.
- e. This Agreement shall be governed by, and construed in accordance with, the laws of the State of New York.

STANDARD CLAUSES FOR TOWN OF CLERMONT CONTRACT

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 municipality, whether a contractor, licenser, licensee, lessor, lessee or any other party):

1. 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.

2. 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, nor subject any individual to harassment, because of age, race, creed, color, national origin, sexual orientation, gender identity or expression, military status, sex, disability, predisposing genetic characteristics, familial status, marital status, or domestic violence victim status or because the individual has opposed any practices forbidden under the Human Rights Law or has filed a complaint, testified, or assisted in any proceeding under the Human Rights Law. 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

3. 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.

4. 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.

5. 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.

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

7. 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.

8. IDENTIFYING INFORMATION AND PRIVACY

NOTIFICATION. (a) Identification Number(s). Every invoice submitted to the Town of Clermont 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.

(a) Privacy Notification. (1) The authority to request the above personal information from a seller of goods or services or a lessor of real or personal property, and the authority to maintain such information, is found in Section 5 of the State Tax Law. Disclosure of this information by the seller or lessor to the State is mandatory. The principal purpose for which the information is collected is to enable the State to identify individuals,

businesses and others who have been delinquent in filing tax returns or may have understated their tax liabilities and to generally identify persons affected by the taxes administered by the Commissioner of Taxation and Finance. The information will be used for tax administration purposes and for any other purpose authorized by law. (2) The personal information is requested by the purchasing unit of the agency contracting to purchase the goods or services or lease the real or personal property covered by this contract or lease.

9. EQUAL EMPLOYMENT OPPORTUNITIES FOR MINORITIES AND WOMEN. In accordance with Section 312 of the Executive Law and 5 NYCRR Part 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 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 clause. The contracting agency shall determine whether the imposition of the requirements of the provisions hereof duplicate or conflict with any such federal law and if such duplication or conflict exists, the contracting agency shall waive the applicability of Section 312 to the extent of such duplication or conflict. Contractor will comply with all duly

promulgated and lawful rules and regulations of the Department of Economic Development's Division of Minority and Women's Business Development pertaining hereto.

10. 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.

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

12. 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.

13. 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.

14. 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 municipality, in writing, of each and every change of address to which service of process can be made. Service by the municipality to the last known address shall be sufficient. Contractor will have thirty (30) calendar days after service hereunder is complete in which to respond.

15. 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.

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

17. COMPLIANCE WITH BREACH NOTIFICATION AND DATA SECURITY LAWS. Contractor shall comply with the provisions of the New York State Information Security Breach and Notification Act (General

Business Law § 899-aa and State Technology Law § 208) and commencing March 21, 2020 shall also comply with General Business Law § 899-bb.

18. 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 § 5-a, if the contractor fails to make the certification required by Tax Law § 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.

19. 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 Respondents/Offerers pursuant to the New York State Iran Divestment Act of 2012” (“Prohibited Entities List”) posted at: <https://ogs.ny.gov/list-entities-determined-be-non-responsive-Respondentsofferers-pursuant-nys-iran-divestment-act-2012> 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 municipality receive information that a person (as defined in State Finance Law § 165-a) is in violation of the above-referenced certifications, the municipality 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 municipality 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 municipality 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.

20. ADMISSIBILITY OF REPRODUCTION OF CONTRACT Notwithstanding the best evidence rule or any other legal principle or rule of evidence to the contrary, the Contractor acknowledges and agrees that it waives any and all objections to the admissibility into evidence at any court proceeding or to the use at any examination before trial of an electronic reproduction of this contract, in the form approved by the municipality, if such approval was required, regardless of whether the original of said contract is in existence.

21. GOVERNING LAW. The laws of the United States and the State of New York govern the RFP and the Contract.

## NON-COLLUSIVE BIDDING CERTIFICATION

### STATEMENT ATTACHED TO AND FORMING A PART OF ALL PROPOSALS RECEIVED BY THE TOWN OF CLERMONT PURSUANT TO GML § 103-d

- A. By submission of this bid, each bidder and each person signing on behalf of any bidder certifies, and in the case of a joint bid 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 bid 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 bidder or with any competitor;
  2. Unless otherwise required by law, the prices which have been quoted in this bid have not been knowingly disclosed by the bidder and will not knowingly be disclosed by the bidder prior to opening, directly or indirectly, to any other bidder or to any competitor; and
  3. No attempt has been made or will be made by the bidder to induce any other person, partnership or corporation to submit or not to submit a bid for the purpose of restricting competition.
- B. A proposal shall not be considered for award, nor shall any award be made where the above (b) A bid shall not be considered for award nor shall any award be made where (A)(1)(2) and (3) above have not been complied with; provided however, that if in any case the bidder cannot make the foregoing certification, the bidder shall so state and shall furnish with the bid a signed statement which sets forth in detail the reasons therefor. Where (A)(1)(2) and (3) above have not been complied with, the bid shall not be considered for award nor shall any award be made unless the head of the purchasing unit of the political subdivision, public department, agency or official thereof to which the bid is made, or his designee, determines that such disclosure was not made for the purpose of restricting competition.

The fact that a bidder: (a) has published price lists, rates, or tariffs covering items being procured, (b) has informed prospective customers of proposed or pending publication of new or revised price lists for such items, or (c) has sold the same items to other customers at the same prices being bid, does not constitute, without more, a disclosure within the meaning of Section A above.

2. Any bid hereafter made to any political subdivision of the state or any public department, agency or official thereof by a corporate bidder for work or services performed or to be performed or goods sold or to be sold, where competitive bidding is required by statute, rule, regulation, or local law, and where such bid contains the certification referred to in subdivision one of this section, shall be deemed to have been authorized by the board of directors of the bidder, and such authorization shall be deemed to include the signing and submission of the bid and the inclusion therein of the certificate as to non-collusion as the act and deed of the corporation.



This statement is subscribed by the Respondent, or person signing on behalf of the Respondent, and affirmed as true under penalties of perjury.

\_\_\_\_\_  
(print legal name of entity)

By: \_\_\_\_\_  
(print name and title/position above)

Sworn to before me this \_\_\_\_\_ day

of \_\_\_\_\_, 2022

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