

AGREEMENT FOR PROFESSIONAL SERVICES

THIS AGREEMENT is entered into by and between the **COUNTY OF ULSTER**, a municipal corporation and a county of the State of New York, with principal offices at 244 Fair Street, Kingston, New York 12401 (hereinafter referred to as the "**County**") and **ULSTER COUNTY ECONOMIC DEVELOPMENT ALLIANCE, INC.**, a local development corporation formed under the laws of the State of New York, with offices at 244 Fair Street, Kingston, New York 12401 ("**UCEDA**") (each, a "**Party**," together, the "**Parties**").

RECITALS

WHEREAS, the County desires to enter into an agreement for certain economic development services which shall include the administration and oversight of the Ellenville Million Program which was designed to enhance the economic prosperity of the Village of Ellenville and the Town of Wawarsing based on recommendations from the Ellenville Million Committee.; and

WHEREAS, UCEDA was formed under Section 1411 of the Not-For-Profit Corporation Law of the State of New York (the "LDC Act") which authorizes the establishment of not-for-profit local development corporations operated exclusively for the charitable or public purposes of relieving and reducing unemployment, promoting and providing for additional and maximum employment, bettering and maintaining job opportunities, instructing or training individuals to improve or develop their capabilities for such jobs, carrying on scientific research for the purpose of aiding a community or geographical area by attracting new industry to the community or area or by encouraging the development of, or retention of, an industry to the community or area or by encouraging the development of, or retention of, an industry in the community or area, and lessening the burdens of government and acting in the public interest; and

WHEREAS, the County has agreed to engage UCEDA, and UCEDA has agreed to contract with the County, to administer and oversee the Ellenville Million Program in accordance with the terms and conditions set forth in this Agreement.

NOW THEREFORE, in consideration of the promises and covenants set forth below, the County and UCEDA hereby agree as follows:

ARTICLE 1 – SCOPE OF SERVICES

UCEDA agrees to perform the services identified in "Schedule A," the "Scope of Services" (hereinafter, the "Services"), which is attached hereto and is hereby made a part of this Agreement. UCEDA agrees to perform the Services in accordance with the terms and conditions of this Agreement. It is specifically agreed to by UCEDA that the County will not compensate UCEDA for any services not included in Schedule A without prior authorization, evidenced only by a written Change Order, Amendment or Addendum to this Agreement, which is executed by the County.

ARTICLE 2 - TERM OF AGREEMENT

UCEDA agrees to perform the Services **beginning September 1, 2015 and ending August 31, 2017.**

ARTICLE 3 - COMPENSATION

For satisfactory performance of the Services, or as such Services may be modified mutually by a written Change Order, Amendment, or Addendum to this Agreement, the County agrees to compensate UCEDA in accordance with "Schedule B, FEES, EXPENSES AND SUBMISSIONS FOR PAYMENT" which is attached hereto and is hereby made a part of this Agreement. As directed in Schedule B, UCEDA shall submit to the County invoices for the Services rendered. Each invoice shall be prepared in such form and supported by such documentation as the County may reasonably require. The County will pay the proper amounts due to UCEDA within sixty (60) days of receipt of UCEDA's invoice with supporting

documentation, and upon approval by the County. The County will notify UCEDA in writing of its reasons, if any, for objecting to all or any portion of UCEDA's invoice and/or supporting documentation.

A not to exceed contract of **ONE MILLION AND 00/100 (\$1,000,000.00) DOLLARS** has been established for the Services to be rendered by UCEDA. Costs in excess of the above-noted amount may not be incurred without the prior written authorization of the County, and evidenced only by a written Change Order, Amendment or Addendum to this Agreement. It is specifically agreed to by UCEDA that the County shall not be responsible for any additional costs, or costs in excess of the above-noted cost, if authorization by the County is not given in writing prior to the performance of the services giving rise to such excess or additional costs.

ARTICLE 4 - INDEPENDENT CONTRACTOR

In performing the Services and incurring expenses under this Agreement, UCEDA shall operate as and have the status of an independent contractor, and shall not act as or be an agent of the County. As an independent contractor, UCEDA shall be solely responsible for determining the means and methods of performing the Services and shall have complete charge and responsibility for UCEDA's personnel engaged in the performance of the same.

ARTICLE 5 - ASSIGNMENT

UCEDA shall not assign any of its rights, interests, or obligations under this Agreement, or assign any of the Services to be performed by it under this Agreement, without the prior express written consent of the County.

ARTICLE 6 – SUBCONTRACTING

UCEDA agrees to include the following provisions in any and all subcontract agreements for Services to be performed pursuant to this Agreement:

- A. That the work performed by the subcontractor must be in accordance with the terms and conditions of this Agreement between the County and UCEDA, including but not limited to the insurance requirements set forth in Schedule C; and
- B. That nothing contained in the subcontractor agreement shall impair the rights of the County; and
- C. That nothing contained in the subcontractor agreement, or under this Agreement between the County and UCEDA, shall create any contractual relation in law or equity, between the subcontractor and the County; and
- D. That the subcontractor specifically agrees to be bound by the Confidentiality provision as set forth in Article 8 of this Agreement between the County and UCEDA.

UCEDA agrees that it is fully responsible to the County for the acts and omissions of its subcontractors, and of persons either directly or indirectly employed by them, to the same extent as it is for the acts and omissions of persons employed by UCEDA. UCEDA shall not in any way be relieved of any responsibility under this Agreement by any subcontract.

ARTICLE 7 - PERFORMANCE

UCEDA shall perform the Services using its own equipment and facilities wherever and whenever possible. In performing the Services, UCEDA shall assign qualified personnel and perform such Services in accordance with the professional standards and with the skill, diligence and quality control/quality assurance measures expected of a reputable company performing Services of a similar nature. UCEDA is hereby given notice that the County shall be relying upon the accuracy, competence, and completeness of UCEDA's performance in using the results achieved by UCEDA's performance of these Services. UCEDA shall at all times comply with all applicable Federal, New York State and local laws, ordinances, statutes, rules and regulations.

ARTICLE 8 - CONFIDENTIALITY

For purposes of this Article:

- A. The term "Confidential Information" as used herein, means all material and information, whether written or oral, received by UCEDA from or through the County or any other person connected with the County, or developed, produced, or obtained by UCEDA in connection with its performance of Services under this Agreement. Confidential Information shall include, but not be limited to: samples, substances and other materials, conversations, correspondence, records, notes, reports, plans, drawings, specifications and other documents in draft or final form, including any documentation or data relating to the results of any investigation, testing, sampling in laboratory or other analysis, and all conclusions, interpretations, recommendations, and/or comments relating thereto.

UCEDA shall keep all Confidential Information in a secure location within UCEDA's offices. The County shall have the right, but not the obligation, to enter UCEDA's offices in order to inspect the arrangements of UCEDA for keeping Confidential Information secure. The County's inspection, or its failure to inspect, shall not relieve UCEDA of its responsibilities pursuant to this Article 8.

UCEDA shall hold Confidential Information in trust and confidence, and shall not disclose Confidential Information, or any portion thereof, to anyone other than the County, without the prior written consent of the Executive or the Purchasing Director, and shall not use Confidential Information, or any portion thereof, for any purpose whatsoever except in connection with its performance of the Services under this Agreement.

UCEDA shall notify the County immediately upon its receipt of any request by anyone other than the County for, or any inquiry related to, Confidential Information. UCEDA is not prohibited from disclosing portions of Confidential Information if, and to the extent that: (i) such portions have become generally available to the public other than by an act or omission of UCEDA, or (ii) disclosure of such portions is required by subpoena, warrant or court order; provided, however, that in the event anyone other than the County requests all or a portion of Confidential Information, UCEDA shall oppose such request and cooperate with the County in obtaining a protective order or other appropriate remedy, unless and until the County, in writing, waives compliance with the provisions of this Article 8, or determines that disclosure is legally required. In the event that such protective order or other remedy is not obtained, or the County waives compliance with this Article 8, or determines that such disclosure is legally required, UCEDA shall disclose only such portions of Confidential Information that, in the opinion of the County, UCEDA is legally required to disclose, and UCEDA shall use its best efforts to obtain from the party to whom Confidential Information is disclosed, written assurance that confidential treatment will be given to any such Confidential Information disclosed, to the extent permitted by law.

Prior to the performance of any of the Services in connection with this Agreement, UCEDA shall obtain from each of its subcontractors, a confidentiality agreement running to the benefit of the County, substantively identical to this Article 8. Further, at any time, if requested by the County, UCEDA shall obtain such an agreement from the officers, directors, agents, representatives, or employees of UCEDA and/or any of its subcontractors.

ARTICLE 9 – OWNERSHIP OF CONFIDENTIAL INFORMATION

Notwithstanding any other provision herein to the contrary:

- A. All Confidential Information, as defined in Article 8, including all copies thereof, is the exclusive property of the County regardless of whether or not it is delivered to the County. UCEDA shall deliver Confidential Information and all copies thereof to the County upon request.
- B. To the extent that copies of Confidential Information are authorized by the County to be retained by UCEDA, such information shall be retained in a secure location in UCEDA's office for a period of six (6) years after completion of the Services, or termination of this Agreement, whichever later occurs, and thereafter disposed of at the County's direction.

ARTICLE 10 – INTELLECTUAL PROPERTY

All "Intellectual Property" (meaning all graphics, fonts, computer code (with the exception of open source code),

photographs, brochures, videos, web pages, trademarks, databases, names and logos, or the copyright in any portion of the of the works issued by the County or developed or produced for the County shall at all times be proprietary to the County, and shall be the exclusive property of the County. Upon termination of this Agreement, UCEDA's right or license to use the intellectual property shall terminate.

UCEDA warrants it has full authority to sell, assign and transfer the rights to the Intellectual Property, free and clear of any material encumbrances, liens or claims against the Intellectual Property.

UCEDA agrees, at its own expense, to defend, indemnify and hold harmless the County from and against any losses, damages, expenses, liabilities and costs (including without limitation, legal fees) incurred by the County as a result of any claims brought against the County by third parties arising from any infringement or misappropriation of any Intellectual Property right arising out of or relating to the County's use of UCEDA's Services.

ARTICLE 11 - BOOKS AND RECORDS

UCEDA agrees to maintain separate and accurate books, records, documents and other evidence, and to employ accounting procedures and practices that sufficiently and properly reflect all direct and indirect costs of any nature expended in the performance of this Agreement.

ARTICLE 12 - RETENTION OF RECORDS

UCEDA agrees to retain all books, records, and other documents relevant to this Agreement for six (6) years after the final payment or termination of this Agreement, whichever later occurs. The County, any New York State and/or Federal auditors, and any other persons duly authorized by the County, shall have full access and the right to examine any of said materials during said period.

ARTICLE 13 – AUDITING AND REPORTS

All forms or invoices presented for payment to be made hereunder, and the books, records, and accounts upon which said forms or invoices are based, are subject to audit by the County. UCEDA shall submit any and all documentation and justification in support of expenditures or fees under this Agreement as may be required by the County, so that it may evaluate the reasonableness of the charges, and UCEDA shall make its records available to the County upon request. All books, forms, records, reports, cancelled checks, and any and all similar material may be subject to periodic inspection, review, and audit by the County, the State of New York, the Federal Government and/or other persons duly authorized by the County. Such audits may include examination and review of the source and application of all funds, whether from the County, the State of New York, the Federal Government, private sources, or otherwise. UCEDA shall not be entitled to any interim or final payment under this Agreement if any audit requirements and/or requests have not been satisfactorily met.

ARTICLE 14 – NO DISCRIMINATION

As required by Article 9 of the New York State Executive Law (also known as the Human Rights Law) and all other State and Federal statutory and constitutional non-discrimination provisions, including the Civil Rights Act, UCEDA will not discriminate against any employee or applicant for employment because of race, creed, color, sex, national origin, sexual orientation, age, disability, genetic predisposition, carrier status, military status, domestic violence victim status, or marital status.

ARTICLE 15 - INSURANCE

For provision of the Services set forth herein and as may be hereinafter amended, UCEDA shall maintain or cause to be maintained, in full force and effect during the term of this Agreement, at its expense, insurance with stated minimum coverage as set forth in "Schedule C", which is attached hereto and is hereby made a part of this Agreement. Such policies are to be in the broadest form available on usual commercial terms and shall be written by insurers who have been fully informed as to the nature of Services to be performed by UCEDA pursuant to this Agreement. Such insurers shall be of recognized financial standing, satisfactory to the County. The County shall be named as an additional insured on all commercial general liability policies with the understanding that any obligations imposed upon the insured (including, without limitation, the obligation to pay premiums) shall be the sole obligation of UCEDA and not those of the County.

Notwithstanding anything to the contrary in this Agreement, UCEDA irrevocably waives all claims against the County for all losses, damages, claims or expenses resulting from risks commercially insurable under the insurance described in Schedule C and this Article 15. The provision of insurance by UCEDA shall not in any way limit UCEDA's liability under this Agreement.

At the time UCEDA submits two (2) original executed copies of this Agreement, UCEDA shall include certificates of insurance evidencing its compliance with these requirements and those set forth in Schedule C.

Each policy of insurance shall contain clauses to the effect that (i) such insurance shall be primary, without right of contribution of any other insurance carried by or on behalf of the County, with respect to its interests, (ii) it shall not be cancelled or materially amended, without thirty (30) days prior written notice to the County (except in the case of cancellation for non-payment of premium, which requires fifteen (15) days prior written notice), directed to the County's Insurance Department and the Department Head, and (iii) the County shall have the option to pay any necessary premiums to keep such insurance in effect, and charge the cost back to UCEDA.

To the extent it is commercially available, each policy of insurance shall be provided on an "occurrence" basis. If any insurance is not so commercially available on an "occurrence" basis, it shall be provided on a "claims made" basis, and all such "claims made" policies shall provide that:

- A. Policy retroactive dates coincide with or precede UCEDA's start of the performance of Services (including subsequent policies purchased as renewals or replacements); and
- B. UCEDA shall maintain similar insurance for a minimum of three (3) years following final acceptance of the Services; and
- C. If the insurance is terminated for any reason, UCEDA agrees to purchase for the County, an unlimited, extended reporting provision to report claims arising from the Services performed under this Agreement; and
- D. Immediate notice shall be given to the County, of circumstances or incidents that might give rise to future claims with respect to the Services performed under this Agreement.

ARTICLE 16 - INDEMNIFICATION

UCEDA agrees to defend, indemnify and hold harmless the County, including its officers, employees and agents, against all claims, losses, damages, liabilities, costs or expenses (including without limitation, reasonable attorney fees and costs of litigation and/or settlement), whether incurred as a result of a claim by a third party or any other person or entity, arising out of the Services performed by UCEDA, its employees, representatives, subcontractors, assignees, or agents pursuant to this Agreement, which the County, or its officers, employees, or agents may suffer by reason of any negligence, fault, act, or omission of UCEDA, its employees, representatives, subcontractors, assignees, or agents. UCEDA agrees to investigate, handle, respond to, provide defense for, and defend any such claims, demands, or suits at its sole expense, and agrees to bear all other costs and expenses related thereto, even if such claims, demands, or suits are groundless, false, or fraudulent.

In the event that any claim is made or any action is brought against the County arising out of the negligence, fault, act or omission of UCEDA or an employee, representative, subcontractor, assignee, or agent of UCEDA, either within or without the scope of the respective employment, representation, subcontract, assignment or agency, or arising out of UCEDA's negligence, fault, act, or omission, then the County shall have the right to withhold further payments hereunder for the purpose of set-off in sufficient sums to cover said claim or action. The rights and remedies of the County provided for in this clause shall not be exclusive and are in addition to any other rights and remedies provided by law, in equity, or pursuant to this Agreement.

ARTICLE 17 - RESPONSIBILITY TO CORRECT DEFICIENCIES

It shall be UCEDA's responsibility to correct, in a timely fashion and at UCEDA's sole expense, any deficiencies in its Services resulting from UCEDA's failure to act in accordance with the standards set forth in Article 7 (Performance) and Schedule A, provided such deficiencies are reported to UCEDA within one hundred twenty (120) days after completion and final acceptance of the Services. If UCEDA fails to correct such deficiencies in a timely and proper manner, the County may elect to have others perform such corrections, and the County may charge any related cost of such corrections to

UCEDA and/or set-off such amount against any sums otherwise due to UCEDA. These remedies, if effected, shall not constitute the sole or exclusive remedies afforded to the County for such deficiencies, nor shall they constitute a waiver of the County's right to claim damages or otherwise refuse payment, or to take any other action provided for by law, in equity, or pursuant to this Agreement.

ARTICLE 18 – FORCE MAJEURE

Neither Party hereto shall be considered in default in the performance of its obligations hereunder, to the extent that performance of any such obligation is prevented and/or delayed by any cause, existing or future, beyond the control of such Party, and which by that Party's exercise of due diligence and foresight could not reasonably have been avoided.

Upon removal of such cause, the Party affected shall resume its performance as soon as reasonably possible. UCEDA's financial inability to perform shall not be deemed to be an event of Force Majeure regardless of the source causing such financial inability. If UCEDA is so delayed in the timely performance of the Services, UCEDA's sole and exclusive remedy is to request that a Change Order, Amendment or Addendum to this Agreement be issued by the County and signed by the County, permitting an extension of time to perform the Services in an amount equal to the time lost due to such delay. Such request shall be based upon written notice only, stating the specific nature of the claim, delivered to the Department Head promptly, but in no event later than thirty (30) days after the initial occurrence of the event giving rise to such claim. An extension of time to perform the Services may only be granted by a written Change Order, Amendment or Addendum to this Agreement, signed by the County. In no event shall the County be liable to UCEDA or to its subcontractors, agents, assignees, or any other person or entity for damages arising out of, or resulting from, any such delays.

ARTICLE 19 - TERMINATION

The Agreement may be terminated by either Party upon thirty (30) days written notice to the other Party. Upon termination, UCEDA will turn over all files, lists, or other work product requested by the County, provided that all Services performed by UCEDA have been invoiced and said invoices have been paid in full.

ARTICLE 20 - NO ARBITRATION

Any and all disputes involving this Agreement, including the breach or alleged breach thereof, may not be submitted to arbitration unless specifically agreed to in writing by the County, but must instead only be heard in the Supreme Court of the State of New York, with venue in Ulster County, or if appropriate, in the Federal District Court, with venue in the Northern District of New York, Albany Division.

ARTICLE 21 - GOVERNING LAW

This Agreement shall be governed by the laws of the State of New York, except where the Federal Supremacy Clause requires otherwise. UCEDA shall render all Services under this Agreement in accordance with applicable provisions of all Federal, State, and local laws, rules and regulations as are in effect at the time such Services are rendered.

ARTICLE 22 - WAIVER AND SEVERABILITY

The failure of either Party to enforce at any time, any provision of this Agreement, does not constitute a waiver of such provision in any way or waive the right of either Party at any time to avail itself of such remedies as it may have for any breach or breaches of such provision. None of the conditions of this Agreement shall be considered waived by the County unless such waiver is explicitly given in writing by the County. No such waiver shall be a waiver of any past or future default, breach, or modification of any of the terms or conditions of this Agreement, unless expressly stipulated in such waiver as executed by the Executive or the Purchasing Director.

The invalidity or invalid application of any provision of this Agreement shall not affect the validity of any other provision, or the application of any other provision of this Agreement.

ARTICLE 23 - GENERAL RELEASE

Acceptance by UCEDA or its assignees, of the final payment under this Agreement, whether by voucher, judgment of any court of competent jurisdiction, administrative or other means, shall constitute and operate as a general release to the County from any and all claims of UCEDA arising out of the performance of this Agreement.

ARTICLE 24 - NO CLAIM AGAINST OFFICERS, AGENTS OR EMPLOYEES

No claim whatsoever shall be made by UCEDA against any officer, agent, or employee of the County, for or on account of any act or omission in connection with this Agreement.

ARTICLE 25 - ENTIRE AGREEMENT

The rights and obligations of the Parties and their respective agents, successors and assignees shall be subject to and governed by this Agreement, including Schedules A, B, and C, which supersedes any other understandings or writings between or among the Parties to this Agreement.

ARTICLE 26- SURVIVING OBLIGATIONS

UCEDA's obligations, and those of UCEDA's employees, representatives, agents, subcontractors, successors and assignees, assumed pursuant to Article 7 (Performance), Article 8 (Confidentiality), Article 9 (Ownership of Confidential Information), Article 10 (Intellectual Property), Article 12 (Retention of Records), Article 16 (Indemnification), and Article 17 (Responsibility to Correct Deficiencies), shall survive completion of the Services and/or the expiration or termination of this Agreement.

ARTICLE 27 - NOTICES

Except as expressly provided otherwise in this Agreement, all notices given to any of the Parties pursuant to or in connection with this Agreement shall be in writing, shall be delivered by hand, by certified or registered mail, return receipt requested, or by Federal Express, Express Mail, or other nationally recognized overnight carrier. Except where otherwise specifically defined within this Agreement, notices shall be effective when received. Notice addresses are as follows:

UCEDA:
Ulster County Economic Development Alliance, Inc.
Attn: President
244 Fair Street, 6th Floor
Kingston, New York 12401

COUNTY:
County Of Ulster
Attn: Director of Purchasing
244 Fair Street
Kingston, NY 12401

Either Party may, by written notice to the other Party given in accordance with the foregoing, change its address for notices.

ARTICLE 28 - MODIFICATION

No changes, amendments, or modifications of any of the terms and/or conditions of this Agreement shall be valid unless reduced to writing and signed by the Parties to this Agreement. Changes to Schedule A, the Scope of Services, in this Agreement shall not be binding, and no payment shall be due in connection therewith, unless prior to the performance of any such Services, the County, executes an Addendum, Amendment or Change Order to this Agreement. The aforesaid Addendum, Amendment or Change Order shall specifically set forth the scope of such extra or additional services, the amount of compensation, and the extension of time for performance, if any, for any such extra or additional services. Unless otherwise specifically provided for therein, the provisions of this Agreement shall apply with full force and effect to the terms and conditions contained in such Addendum, Amendment or Change Order.

ARTICLE 29 - HEADINGS AND DEFINED TERMS

The Article headings used in this Agreement are for reference and convenience only, and shall not in any way limit or amplify the terms, conditions, and provisions hereof. All capitalized terms, acronyms, and/or abbreviations shall have the meanings ascribed to them by this Agreement.

IN WITNESS WHEREOF, the Parties hereto have caused their duly authorized representatives to enter into this Agreement as of the dates set forth below, effective as of the beginning date set forth in Article 2 above.

ULSTER COUNTY PLANNING DEPARTMENT

ULSTER COUNTY ECONOMIC
DEVELOPMENT ALLIANCE, INC.

By: _____
NAME: Dennis Doyle
TITLE: Director

By: _____
NAME: _____
TITLE: DATE: _____
DATE: _____

ULSTER COUNTY

By: _____
NAME: Marc Rider
TITLE: Director of Purchasing
DATE: _____

SCHEDULE A
SCOPE OF SERVICES

- I. UCEDA shall administer and oversee the Ellenville Million Program which was designed to enhance the economic prosperity of the Village of Ellenville and the Town of Wawarsing based on recommendations from the Ellenville Million Committee.
- II. The Ellenville Million Program consists of nine (9) project areas as recommended by the Ellenville Million Committee. UCEDA shall administer and oversee the nine projects areas in a manner that will best promote economic development in the Village of Ellenville and the Town of Wawarsing.
- III. UCEDA shall, review and approve plans and budgets for each project area. UCEDA shall require each project plan include a summary of the project components, an expenditure plan that identifies funding sources and uses for all funds involved, expected outcomes; including job creation data if applicable, timeline for completion and other information that UCEDA deems appropriate to ensure that the project is successfully implemented. UCEDA shall submit copies of all approved plans and budgets to the Ulster County Planning Department *and the UC Legislature.*
- IV. UCEDA shall enter into an appropriate contractual relationship with all entities implementing projects. UCEDA shall reimburse entities for expenses which have been approved in their plan, incurred and have been paid for. UCEDA may make advanced payments of up to 20% of a projects contract amount based on the submission and approval by UCEDA of a Statement of Need. UCEDA shall hold the final 20% of each projects contract amount as retainage and shall only release this amount upon full completion of the project and submission of a project closeout report. UCEDA shall require the project closeout report document the accomplishments of the project and include an accounting of all funds for the project.
- V. UCEDA shall contract for projects in the following areas:
 - a. Water and Sewer Infrastructure Improvements: This project will include sewer and water infrastructure improvements in the Village of Ellenville and the Town of Wawarsing so that additional water and sewer capacity will be available to businesses seeking to locate in Ellenville and Wawarsing. Project components may include engineering and environmental services as part of a required local match and/or may be used to leverage funds from other federal or state sources.
 - b. "Soft Landing" Fund: This fund shall be available to provide grants for developers and new business enterprises within the Village of Ellenville and the Town of Wawarsing. UCEDA shall create this fund and establish rules for its use, which shall include but not be limited to the requirement that new jobs shall be created in the Village of Ellenville and/or the Town of Wawarsing. "Clawback" provisions shall be included in the fund's rules, to ensure that all requirements of the fund are complied with.
 - c. Tourism and Marketing Campaign: UCEDA will issue a Request for Proposals (RFP) to develop and implement a tourism marketing campaign to promote the Village of Ellenville and the Town of Wawarsing's recreational opportunities such as parks and rail trails, as well as historic sites, such as the Shadowland Theatre and the Village of Ellenville's walkable downtown.
 - d. Improvements to Outdoor Recreational Opportunities: This project will improve and expand outdoor recreational opportunities such as rail trails and parks in the Village of Ellenville and the Town of Wawarsing.
 - e. Historic Preservation Projects at the Shadowland Theater in the Village of Ellenville: This project will include necessary repairs and maintenance at the historic Shadowland Theater in the Village of Ellenville.
 - f. Capital Preservation and Improvement Projects at the Hunt Memorial Building in the Village of Ellenville: This project will include capital preservation and improvement projects to restore the Hunt Memorial Building in the Village of Ellenville, to develop a centrally located community, tourism and cultural center.
 - g. Main Street Improvement Project: This project will include improvement projects for the historic downtown district. These projects can include, but not be limited to, new street lighting and façade upgrades.

- h. Project Management, Grant Writing and/or Similar Services: This project will provide project management, grant writing and/or similar services as needed to leverage additional support for economic development projects.
 - i. Improve Access to High Speed Broadband Project: This project will include improvements to the availability of high speed internet access in the Village of Ellenville and the Town of Wawarsing.
- VI. Funds remaining after the final disbursements of the above listed project areas shall be reallocated to other project areas, as needed, subject to the approval of UCEDA.
- VII. UCEDA shall submit to the County a final report identifying the projects undertaken in each of the nine areas and a final budget outlining all costs associated with the program.

SCHEDULE B
FEES, EXPENSES, AND SUBMISSIONS FOR PAYMENT

1. UCEDA's fee for Services to be provided pursuant to this Agreement shall not exceed **ONE MILLION AND 00/100 (\$1,000,000.00) DOLLARS**. Funds shall be distributed in accordance with the following budget. Funds remaining after the completion of a project area may be redistributed in accordance with Schedule A of this Agreement.

Project Area	Cost
Water and Sewer Improvement Projects	\$150,000
"Soft Landing Fund"	\$175,000
Improvement to Outdoor Recreational Opportunities	\$150,000
Historical Preservation Projects at the Shadowland Theater	\$75,000
Capital Preservation and Improvement Projects at the Hunt Memorial Building	\$100,000
Main Street Improvement Projects	\$25,000
Project management and grants writing assistance	\$75,000 *
Improved Access to High Speed Internet	\$150,000
Tourism and Marketing Campaign	\$100,000
Total	\$1,000,000

*see exception to billing requirements in section 2 below.

2. UCEDA shall invoice the County for all or part of each Project Area above upon submission of a completed and approved project plan, including required contract with the entity responsible for implementation and budget. Reimbursement requests for project management and grant writing assistance shall include time sheets for all services rendered.
3. The County shall retain 20% of the not-to-exceed sum until submission and approval of UCEDA'S final report.
4. UCEDA shall submit its final invoice under this Agreement no later than thirty (30) days after the end date contained in Article 2 of this Agreement.
5. UCEDA's invoices must contain, or have attached, sufficient supporting detail, as reasonably required by the Ulster County, to verify the claim.
6. UCEDA agrees to meet any additional invoicing requirements that the County may from time to time require, with reasonable notice to UCEDA.

SCHEDULE C
UCDC STANDARD CONTRACT INSURANCE REQUIREMENTS

CONDITIONS OF INSURANCE

Unless otherwise authorized by the County, strict adherence to this schedule is required. Any deviation without prior authorization from the County will result in a delay in the finalization of this Agreement.

UCEDA shall submit copies of any or all required insurance policies as and when requested by the County.

CERTIFICATES OF INSURANCE

UCEDA shall file with the County, prior to commencing work under this Agreement, all proper Certificates of Insurance.

The Certificates of Insurance shall include:

- a. Name and address of Insured
- b. Issue date of certificate
- c. Insurance company name
- d. Type of coverage in effect
- e. Policy number
- f. Inception and expiration dates of policies included on the certificate
- g. Limits of liability for all policies included on the certificate
- h. "Certificate Holder" shall be the Ulster County Economic Development Alliance, P.O. Box 1800, Kingston, New York 12402-1800.

If UCEDA's insurance policies should be non-renewed or canceled, or should expire during the life of this Agreement, the County shall be provided with a new certificate indicating the replacement policy information as requested above. The County requires thirty (30) days prior written notice of cancellation [fifteen (15) days for non-payment of premium] from the Insurer, its agents or representatives.

WORKERS' COMPENSATION AND DISABILITY INSURANCE

UCEDA shall take out and maintain during the life of this Agreement, Workers' Compensation (WC) Insurance and Disability Benefits (DB) Insurance, for all of its employees employed at the site of the project, and shall provide Certificates of Insurance evidencing this coverage to the County.

If UCEDA is not required to carry such insurance, UCEDA must submit form CE-200 attesting to the fact that it is exempt from providing WC and/or DB Insurance coverage for all of its employees.

The manner of proof related to WC and DB Insurance is controlled by New York State Laws, Rules and Regulations. "ACORD" forms are not acceptable proof of WC and/or DB Insurance.

WORKERS' COMPENSATION REQUIREMENTS

To assist the State of New York and municipal entities in enforcing WCL Section 57, a business entity (UCEDA) seeking to enter into a contract with UCDC must provide one of the following forms to the municipal entity it is entering into a contract with. UCEDA should contact their insurance agent to obtain acceptable proof of WC coverage:

- Form C-105.2 – "Certificate of NYS Workers' Compensation Insurance" or
- Form U-26.3 – "Certificate of Workers' Compensation Insurance" issued by the New York State Insurance Fund or
- Form SI-12 – "Affidavit Certifying that Compensation has Been Secured" issued by the Self-Insurance Office of the Workers' Compensation Board if UCEDA is self-insured or

- Form GSI-105.2 – “Certificate of Participation in Workers’ Compensation Group Self-Insurance” issued by the Self-Insurance administrator of the group or
- Form GSI-12 – “Certificate of Group Workers’ Compensation Group Self-Insurance” issued by the Self-Insurance Office of the Workers’ Compensation Board if UCEDA is self-insured.

If UCEDA is not required to carry WC coverage, it must submit Form CE-200, “Certificate of Attestation of Exemption from New York State Workers’ Compensation and/or Disability Benefits Insurance Coverage.” This form and the instructions for completing it are available at <http://www.wcb.ny.gov>

DISABILITY BENEFITS REQUIREMENTS

To assist the State of New York and municipal entities in enforcing WCL Section 220(8), a business entity (UCEDA) seeking to enter into a contract with UCDC must provide one of the following forms to the municipal entity it is entering into a contract with. UCEDA should contact their insurance agent to obtain acceptable proof of DB Insurance Coverage:

- Form DB-120.1 – “Certificate of Insurance Coverage Under the NYS Disability Benefits Law” or
- Form DB-155 – “Compliance with Disability Benefits Law” issued by the Self-Insurance Office of the Workers’ Compensation Board if UCEDA is self-insured.

If UCEDA is not required to carry DB Insurance coverage, it must submit Form CE-200, “Certificate of Attestation of Exemption from New York State Workers’ Compensation and/or Disability Benefits Insurance Coverage.” This form and the instructions for completing it are available at <http://www.wcb.ny.gov>

COMMERCIAL GENERAL LIABILITY INSURANCE:

UCEDA shall take out and maintain during the life of this Agreement, such bodily injury liability and property damage liability insurance as shall protect it and the County from claims for damages for bodily injury including accidental death, as well as from claims for property damage that may arise from operations under this Agreement, whether such operations be by UCEDA, by any subcontractor, or by anyone directly or indirectly employed by either of them.

It shall be the responsibility of UCEDA to maintain such insurance in amounts sufficient to fully protect itself and the County, but in no instance shall amounts be less than the minimum acceptable levels of coverage set forth below:

- Bodily Injury Liability Insurance in an amount not less than **ONE MILLION AND 00/100 (\$1,000,000.00) DOLLARS** for each occurrence, and in an amount not less than **ONE MILLION AND 00/100 (\$1,000,000.00) DOLLARS** general aggregate.
- Property Damage Liability Insurance in an amount not less than **ONE MILLION AND 00/100 (\$1,000,000.00) DOLLARS** for each occurrence and in an amount of not less than **ONE MILLION AND 00/100 (\$1,000,000.00) DOLLARS** general aggregate.

Other Conditions of Commercial General Liability Insurance:

- a. Coverage shall be written on Commercial General Liability form.
- b. Coverage shall include:
 1. Contractual Liability
 2. Independent Contractors
 3. Products and Completed Operations
- c. “Additional Insured” status shall be granted to “Ulster County Economic Development Alliance, P.O. Box 1800, Kingston, New York, 12402-1800”, shown on the Commercial General Liability policy, further stating that this insurance shall be primary and non-contributory with any other valid and collectable insurance.

AUTOMOBILE LIABILITY INSURANCE

Automobile Bodily Injury Liability and Property Damage Liability Insurance shall be provided by UCEDA, with a minimum Combined Single Limit (CSL) of **ONE MILLION AND 00/100 (\$1,000,000.00) DOLLARS**.

Coverage shall include:

- a. All owned vehicles
- b. Hired car and non-ownership liability coverage
- c. Statutory No-Fault coverage

PROFESSIONAL LIABILITY INSURANCE (e.g. MALPRACTICE INSURANCE)

☐ If this box is checked, Professional Liability Insurance shall be provided by UCEDA in an amount not less than **ONE MILLION AND 00/100 (\$1,000,000.00) DOLLARS.**