



# UNION COUNTY UTILITIES AUTHORITY

1499 US Highway One, Rahway, New Jersey 07065

(732) 382-9400

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RESOLUTION NO.: 35-2017

DATE: May 17, 2017

## RESOLUTION OF THE UNION COUNTY UTILITIES AUTHORITY AWARDING A CONTRACT FOR THE FURNISHING OF PROPRIETARY SOFTWARE AND RELATED SERVICES REQUIRED BY THE AUTHORITY'S DIVISION OF SOLID WASTE ENFORCEMENT.

APPROVED AS TO FORM:

Joseph C. Bodek, RMC  
Clerk of the Authority

APPROVED AS TO SUFFICIENCY OF FUNDS

YES  NO  NONE REQUIRED  
UNION COUNTY UTILITIES AUTHORITY

By:

By:

	PRESENT	ABSENT	AYE	NAY	ABSTAIN	MOTION	SECOND
<i>Badri, Treasurer</i>	✓		✓				
<i>Criscione</i>	✓		✓				
<i>Eastman</i>	✓		✓			✓	
<i>Jackus</i>	✓		✓				
<i>Kahn</i>	✓		✓				
<i>Kennedy, Secretary</i>	✓		✓				✓
<i>Pelletiere</i>	✓		✓				
<i>Scutari, Vice Chairwoman</i>		✓					
<i>People, Chairman</i>	✓		✓				
<i>Lombardo, Alternate No. 1</i>	✓		✓				
<i>McManus, Alternate No. 2</i>		✓					

**RESOLUTION OF THE UNION COUNTY UTILITIES AUTHORITY AWARDING A CONTRACT FOR THE FURNISHING OF PROPRIETARY SOFTWARE AND RELATED SERVICES REQUIRED BY THE AUTHORITY'S DIVISION OF SOLID WASTE ENFORCEMENT.**

**WHEREAS**, pursuant to the Solid Waste Management Act, N.J.S.A. 13:1E-1 et seq. (the "SWMA"), each county within the State of New Jersey is designated a solid waste management district with responsibility for the development of a solid waste management plan setting forth the solid waste disposal strategy to be applied in the district; and

**WHEREAS**, the Board of Chosen Freeholders of the County of Union (the "County") has adopted the Union County District Solid Waste Management Plan, as amended from time to time (the "County Plan"); and

**WHEREAS**, the County has designated the Union County Utilities Authority (the "Authority") as the agency responsible for implementing the County Plan; and

**WHEREAS**, in order to carry out the stated purposes and goals for which the Authority was created, as well as the powers granted by the Municipal and County Utilities Authorities Law, N.J.S.A. 40:14B-1 et seq., and pursuant to N.J.S.A. 40A:11-1 et seq., the Authority requires, from time-to-time, the provision of goods and services relating to and in furtherance of its activities; and

**WHEREAS**, the Local Public Contracts Law provides an alternative to the competitive bidding processes under certain circumstances by utilizing a contracting procedure referred to as Competitive Contracting; and

**WHEREAS**, pursuant to the recommendation of the Authority's Division of Solid Waste Enforcement, in consultation with the Authority's General Counsel and the Authority's Qualified Purchasing Agent, the Authority wishes to utilize the competitive contracting procedures set forth in N.J.S.A. 40A:11-4.1 to secure proposals for the provision of proprietary software designed to address the ongoing needs of the Authority's Division of Solid Waste Enforcement.

**WHEREAS**, pursuant to the recommendation of the Authority's Division of Solid Waste Enforcement, in consultation with the Authority's General Counsel and the Authority's Qualified Purchasing Agent, and in accordance with the provisions of N.J.S.A. 40A:11-4.1, et seq., on March 15, 2017 the Authority's Board of Commissioners authorized the use of a competitive contracting process to secure proposals for the provision of proprietary software designed to address the ongoing needs of the Authority's Division of Solid Waste Enforcement; and

**WHEREAS**, following the Authority's March 23, 2017 issuance of a Request for Proposals ("RFP"), on April 13, 2017 the Authority opened the proposal received and the proposal was subsequently reviewed and evaluated by an evaluation committee ("Committee") consisting of the Authority's Deputy Clerk, Chief Enforcement Officer, Clerk/Purchasing Agent and Union County's Director of Digital, Web and Social Media Services; and the Authority's General Counsel as advisor to the evaluation team; and

**WHEREAS**, following the Committee's evaluation of the proposals and as set forth in its Report, the Committee has recommended that a contract be awarded to All Covered, a division of Konica Minolta Business Solutions, USA Inc.

**NOW, THEREFORE, BE IT RESOLVED** by the Board of Commissioners of the Union County Utilities Authority in accordance with N.J.S.A. 40A:11-4.1, et seq. that the Board hereby awards a contract to All Covered, a division of Konica Minolta Business Solutions, USA Inc., 100 Williams Drive, Ramsey, New Jersey 07446 (“All Covered”), for the provision of proprietary software designed to address the ongoing needs of the Authority’s Division of Solid Waste Enforcement and related services including maintenance and support, cloud storage/hosting, and the provision of appropriate SQL licenses and SSL certificate, as follows:

1. All Covered is awarded a contract, in substantially the same form as the draft contract attached hereto, in an amount not to exceed \$186,062.00 for the time period beginning July 1, 2017 and ending December 31, 2018; and
2. The Chairman and Executive Director, in consultation with the Authority’s General Counsel, are hereby authorized to execute the final form of contract subsequent to this award; and
3. This contract is awarded as part of a fair and open process in accordance with the provisions of N.J.S.A. 19:44A-20.5 et seq.; and
4. The Authority shall publish an appropriate notice of contract award in accordance with N.J.S.A. 40A:11-4.5(g).
5. This Resolution shall take effect immediately.

## C O N T R A C T

### **For the Design, Development and Furnishing of Computer Software for the Ongoing Needs of the UCUA's Division of Solid Waste Enforcement and Related Services**

This Contract is made and entered into by and between:

Union County Utilities Authority ("UCUA")  
1499 Route 1&9 North  
Rahway, NJ 07065

and

All Covered, a Division of Konica Minolta Business Solutions U.S.A., Inc. ("Vendor")  
100 Williams Drive  
Ramsey, NJ 07446

(hereinafter referred to collectively as the "Parties" or either one of them as "Party").

NOW, THEREFORE, the Parties agree as follows:

### **ARTICLE 1**

#### **Recitals**

- 1.01.** The UCUA issued a Request for Proposals on March 23, 2017 "for the design, development and furnishing of computer software for the ongoing needs of the Authority's Division of Solid Waste Enforcement and related services" (hereinafter "RFP").
- 1.02.** On or about April 13, 2017, the Vendor responded to the RFP with a written Proposal expressing interest in performing the requested work (hereinafter "Vendor's Proposal").
- 1.03.** The Vendor was the Successful Respondent in connection with the RFP.
- 1.04.** On or about May 17, 2017, the UCUA resolved to award the Contract to perform the requested work to the Vendor.

### **ARTICLE 2**

#### **Contract Documents**

- 2.01.** *The Components of the Contract.* The Contract between the UCUA and the Vendor consists of the following documents, which are to be read and construed in the following order of precedence:
- 2.01.01. This Contract,
  - 2.01.02. The RFP and all addenda, amendments, and answers to written inquiries issued by the UCUA in connection therewith including but not limited to the Minutes of the

March 30, 2017 Pre-submission Conference, and the April 10, 2017 Responses to Questions Raised by Prospective Respondents to the UCUA's RFP, and

2.01.03. The following parts of the Vendor's Proposal:

- 2.01.03.01. All Covered's Response to the RFP under cover dated April 13, 2017, by Jay Sklarow, ITSC (hereinafter "All Covered's Response"),
- 2.01.03.02. All Covered Application Development: ASP.Net Custom Development, Software Development as a Service, Tracker Application Development dated 4/11/2017, Jay Sklarow, Senior IT Services Consultant (177 pages) (hereinafter "All Covered's Main Proposal"),
- 2.01.03.03. All Covered Care-Hosted Services Proposal and Schedule of Services for the UCUA dated April 11, 2017 (15 pages) (hereinafter "All Covered's Cloud Service"),
- 2.01.03.04. All Covered's Quote for SSL Certificate (3 pages) (hereinafter "All Covered's Quote for SSL"), and
- 2.01.03.05. All Covered quote for Microsoft SQL Server software (1 page) (hereinafter "All Covered's Quote for SQL").

**2.02.** *Terms.* Hereinafter the term "Contract" shall refer to all of the documents listed above in § 2.01 collectively. When the term "this Contract" is used, it is intended to refer only to this document (§ 2.01.01 above) and not the remaining documents. Each separate document listed above in § 2.01 individually may be referred to generally as a "component(s)" of the Contract.

**2.03.** *Harmony and Ambiguities.* The various components of the Contract shall be read in harmony whenever possible. If attempts to harmonize fail, then bona fide conflicts, ambiguities, or discrepancies between two components of the Contract shall be resolved in favor of the component that is listed above the other in § 2.01. Information contained or identified in one component of the Contract but not in another shall not be construed as a conflict or inconsistency for that reason alone.

### **ARTICLE 3** **Scope of Work**

**3.01.** *Work.* The Vendor's Scope of Work under the Contract is defined as all of the labor, design services, products, materials, hardware, software, other equipment, terms and conditions, Vendor's representations, Vendor's promises, and Vendor's obligations set forth in the Contract and/or required to perform the Contract, including but not limited to the provisions set forth under "Project Scope" in Section 2 of the RFP, subject to the limitations in paragraph 3.02 below.

**3.02.** *Maintenance and Cloud.* The maintenance and support and cloud storage components of the Contract shall be limited in time to a term of twelve months starting on or

about the completion of the software development component of the Contract, currently anticipated to be on or before January 1, 2018. The UCUA may extend the term or renew but only in its sole discretion, and in accordance with New Jersey law, and the UCUA cannot agree to a longer term and shall not be obligated to accept any renewal terms under the Contract.

**3.03.** *Price.* Vendor shall perform the Scope of Work under the Contract for a total amount not to exceed \$186,062.00. The total price may be less than the "not to exceed" amount depending on the level of support and maintenance needed.

3.03.01. Six (6) month software development period at a cost of \$20,700/month (totaling \$124,200).

3.03.02. Twelve (12) month maintenance and support period at a cost not to exceed \$38,400.00. Maintenance and Support fees shall be billed and payable at a rate of \$160/hour based upon the actual support and maintenance services requested by the UCUA and performed by Vendor, expected to average 15 hours per month and not to exceed an average of 20 hours per month.

3.03.03. Twelve months of Hosting Services (cloud storage) fee not to exceed \$19,764.

3.03.04. One-time SQL licensing fee of \$1,833.00.

3.03.05. One-time fee of \$1,865.00 for the purchase of a 3-year SSL (Secure Sockets Layer) Certificate.

**3.04.** *Payment.* The Vendor shall supply all labor, products, materials, and equipment needed to perform the Contract at its own cost. Vouchers (on forms approved by the UCUA) and itemized billing Statements for the constituent components of the Contract shall be submitted on a monthly basis to the UCUA's Comptroller, along with a copy for the Executive Director on or before 4:00 PM on the first Wednesday of the month or 14 days prior to the UCUA's Board of Commissioners Meeting (whichever is later). Failure to submit such documents in a timely manner may result in a delay in processing applicable payments. The UCUA shall not pay for any fees or costs that arise in whole or in part due to an error or omission by the Vendor.

**3.05.** *Ability to Perform Contract.* Vendor warrants and represents that it has, or has available to it, the skills, experience, facilities, and financial resources to perform the Contract in a satisfactory manner and within the required time frame. Vendor agrees to employ and pay from its own funds all persons or entities that Vendor needs to meet the requirements of the Contract.

**3.06.** *Statements of Proposal.* The proposals made by the Vendor in Vendor's Proposal are hereby made terms and conditions of the Contract and are included within the Vendor's Scope of Work.

**3.07.** *Subcontracting.* Vendor may subcontract some of its duties and/or tasks under the Contract to independent contractors where the Vendor deems appropriate, subject to the following limitations:

- 3.07.01. The Vendor remains responsible and answerable to the UCUA for its subcontractors at all times including any actions, omissions, or decisions made by its subcontractors. Any error or omission by the subcontractor shall be deemed an error or omission by the Vendor;
- 3.07.02. The subcontractors must agree to abide by the Contract, and to assume toward the Vendor all obligations and responsibilities that the Vendor assumes toward the UCUA; and
- 3.07.03. No part of the Contract may be subcontracted without the prior, written approval of the UCUA.

**3.08.** *Intellectual Property.* Vendor agrees that the UCUA shall have all right, title, and interest in all designs, technologies, data, code, content, creative ideas, discoveries, inventions, and improvements (individually and collectively "Inventions") conceived and/or developed as a result of, or in connection with, the performance of the Contract, regardless of whether the Inventions were conceived, developed, and/or reduced to practice for the first time before or after the entry of this Contract (hereinafter referred to as "IP"). To the extent necessary to ensure this result, the Vendor agrees to assign to the UCUA all of its right, title, and interest in said IP including the right to seek patent, trademark, and/or copyright protection over any part of same, and Vendor shall cooperate with the UCUA in the event that the UCUA wishes to make such applications. Vendor's IP shall be deemed "works for hire" and inure to the exclusive benefit and ownership of the UCUA. Vendor warrants and represents to the UCUA that the sale or use of the IP does not infringe upon any intellectual property rights of any third party, and shall indemnify, defend, and hold harmless the UCUA, its Commissioners, officers, directors, agents, and employees from any such claims. During the course of performance of the Contract, Vendor shall identify any intellectual property, including background intellectual property, which: (i) the Vendor expects to incorporate into the Work, (ii) is protected by patent or copyright or the subject of an application for patent or copyright protection, and (iii) the Vendor has not previously identified in Vendor's Proposal. Vendor shall pay all license fees and royalties and assume all costs incident to the use in the performance of the Contract any invention, design, process, product or device which is the subject of patent rights or copyrights held by others.

**3.09.** *Record of Work.* The Vendor shall maintain records and keep information in such a manner as to provide an accurate, intelligible, and comprehensive record of the Vendor's performance of the Contract for the UCUA's inspection and use at any time. All plans, notes, reports, opinions, calculations, code, designs, and all other records, whether in paper or digital form, pertaining to the performance of the Contract, whether prepared by Vendor or acquired by Vendor in the course of performance, shall be the sole property of the UCUA. With regard to the software code that the Vendor is obligated to provide hereunder, the Vendor shall take care to provide the UCUA with the code in a manner that enables the UCUA to fully access, patch and modify the software with or without the Vendor's assistance.

**ARTICLE 4**  
**UCUA and Vendor**

**4.01.** *Changes in Scope of Work.* The UCUA is entitled to make any changes it wishes to the Scope of Work at any time without breaching the Contract thereby.

**4.02.** *Indemnification.* Vendor shall indemnify, defend and hold harmless the UCUA, its Commissioners, officers, directors, agents and employees from and against any and all losses, claims, actions, damages, liability and expenses, including, but not limited to, those in connection with loss of life, bodily and personal injury or damage to personal property and intellectual property, to the extent they are occasioned, in whole or in part, by Vendor's negligent acts or omissions, or the negligent acts or omissions of Vendor's agents, officers, subcontractors, employees or servants, in the performance of Contract.

**4.03.** *Insurance.* Vendor shall maintain the following types, coverages, and minimum limits of insurance:

4.03.01. Comprehensive Liability, Property/Casualty (\$2 million aggregate/\$1million per occurrence) (or less if Umbrella coverage is present);

4.03.02. Workers Compensation (statutory limits); and

4.03.03. Professional Malpractice and/or Errors and Omission, whichever applies (\$2 million aggregate/\$1 million per occurrence)

**4.04.** *Additional Insured.* The Vendor shall ensure that the UCUA is named on all insurance policies above as an additional insured to the extent possible.

**4.05.** *Restrictive Covenant.* The UCUA agrees that for the term of this Agreement and for twelve (12) months thereafter, the UCUA will not solicit or attempt to induce employees of the Vendor to reduce their working schedule or terminate their employment with the Vendor. Vendor's exclusive remedy for a breach, or alleged breach, of this provision is to apply for injunctive relief. Vendor shall not be entitled to damages.

**4.06.** *Independent Covenant.* The Restrictive Covenant above exists independently of, and is not contingent upon, any other promises in this Contract.

**ARTICLE 5**  
**Default, Termination, and Suspension**

**5.01.** *Default.* The UCUA may declare the Vendor to be in default of the Contract as a result of any one or more of the following events:

5.01.01. Vendor fails to perform the Work in accordance with the Contract, including but not limited to,

5.01.01.01. failure to supply sufficient skilled workers or suitable products or equipment to accomplish the Contract;



- 5.01.01.02. failure to adhere to the design and/or performance specifications for work called for in the Contract;
  - 5.01.01.03. failure to adhere to the progress schedule in the Contract;
  - 5.01.01.04. failure to make payments to approved subcontractors;
  - 5.01.01.05. failure to adequately transfer to the UCUA the code to the software that the Vendor is obligated to supply hereunder;
  - 5.01.01.06. failure to maintain its required insurance or failure to prevent a lapse in insurance coverage for any period of time;
  - 5.01.01.07. failure to defend, hold harmless, and indemnify the UCUA as provided for in the Contract; and
  - 5.01.01.08. any material breach of the Vendor's obligations under the Contract.
- 5.01.02. Vendor becomes insolvent as evidence by either:
- 5.01.02.01. The filing of a legal action including bankruptcy protection under any chapter of the federal bankruptcy code, an action for the benefit of creditors, receivership, liquidation, insolvency, reorganization, or similar proceeding instituted by or against the Vendor, which proceeding has not been dismissed within thirty (30) days;
  - 5.01.02.02. Any action or answer by the Vendor approving of, consenting to, or acquiescing in, any such proceeding as mentioned in the sub-paragraph above, or the failure of the Vendor to defend against the relief sought in any such proceeding as mentioned in the sub-paragraph above; or
  - 5.01.02.03. The Vendor ceases to pay its debts as they mature;
- 5.01.03. The Vendor's services are effectively terminated by circumstances beyond the control of the UCUA.

**5.02.** *Termination for Cause.* In the event that the UCUA declares the Vendor in default of the Contract, the UCUA may, in its sole discretion, either: (i) provide the Vendor with a period within which to either cure its default or have its services under the Contract terminated "for cause"; or (ii) notify the Vendor that its services on the Contract are terminated effective either immediately or on a specified date, without providing the Vendor with an opportunity or right to cure the default. If terminated for cause, the UCUA shall have, and may exercise, the right to take possession of the Vendor's records, tangible and intangible property, and equipment as is necessary to preserve the UCUA's Intellectual Property rights, which are set forth in the Contract.

**5.03.** *Other Consequences of Termination for Cause.* When terminated for cause, the Vendor shall not be entitled to receive any further payment until the UCUA arranges to and

achieves final completion of the Scope of Work called for in the Contract. If the unpaid balance due to the Vendor exceeds all claims, costs, losses and damages sustained by the UCUA arising out of or resulting from completing the Scope of Work, such excess will be paid to the Vendor. However, if such claims, costs, losses and damages exceed such unpaid balance, the Vendor shall pay the difference to the UCUA. Where the Vendor is terminated for cause, the termination will not affect any rights or remedies of the UCUA against the Vendor then existing or which may thereafter accrue.

**5.04.** *Termination for Convenience.* Upon seven days' written notice to the Vendor, the UCUA may, without cause and without prejudice to any other right or remedy of the UCUA, elect to terminate the Contract. In such case, the Vendor shall be entitled to be paid (without duplication of any items) by the UCUA for:

- 5.04.01. completed and acceptable work, product, deliverables, and equipment;
- 5.04.02. reasonable expenses sustained prior to the effective date of termination in connection with uncompleted work;
- 5.04.03. reasonable claims or damages incurred in the settlement of terminated contracts with subcontractors or suppliers, and vendors excluding any portion of such claims arising from, or damages sustained as a result of, the Vendor either paying, agreeing to pay, or being required to pay subcontractors or suppliers for the types of claims or damages that the Vendor has waived against the UCUA; and
- 5.04.04. any other reasonable expenses directly attributable to termination.

**5.05.** *Automatic Conversion to "Termination for Convenience".* If the UCUA terminates the Vendor for cause in accordance with this Article, but the UCUA is later found by a court, arbitrator, or other tribunal to have terminated the Vendor without the requisite "cause", the termination shall be automatically converted to, and deemed to have been, one "for convenience" and the Vendor 's remedies shall be strictly limited to those provided for herein in the event of "termination for convenience", subject to off-sets due to claims upon which the UCUA has prevailed against the Vendor. The Vendor shall not be entitled to any other damages that could have been recovered but for the application of this automatic conversion.

**5.06.** *Suspension.* The UCUA may suspend the Contract in its sole discretion without breaching the Contract. If the suspension lasts longer than 90 days, the Vendor may serve upon the UCUA a "Notice of Intent to Terminate the Contract for Convenience" if the Contract remains suspended for ten calendar days after service of the Notice. The Vendor's right in the event of termination hereunder is the same as if the Vendor is terminated by the UCUA "for convenience" in accordance with this Article.

## **ARTICLE 6**

### **Construction of the Agreement**

**6.01.** *Severability.* If any of the provisions of this Contract are determined to be invalid under any applicable state or federal laws, such invalidity shall not affect or impair the validity

of the other provisions, which shall be considered severable, and shall remain in full force and effect. In the event that one or more provisions of this Contract are held to be unenforceable under applicable law, the Parties agree to renegotiate such provision in good faith. In the event that the Parties cannot reach a mutually agreeable and enforceable replacement for such provision, then (i) such provision shall be excluded from this Contract, (ii) the balance of the Contract shall be interpreted as if such provision were so excluded, and (iii) the balance of the Contract shall be enforceable in accordance with its terms.

**6.02.** *Jury Trial Waiver.* To the extent permitted by applicable law, the Parties knowingly, voluntarily and intentionally waives any right that they may have to a trial by jury with respect to any litigation based on, or arising out of, under, or in connection with this Contract, or any course of conduct, course of dealing, statements (whether verbal or written) or actions of any party with respect hereto, or the performance or validity thereof.

**6.03.** *No Assignment.* The Vendor may not assign the Contract in whole or in part without the expressed, written consent of the UCUA.

**6.04.** *Applicable Law & Venue.* The Contract, including but not limited to questions relating to its legal effect, interpretation, construction, or breach by either Party, shall be governed by and interpreted in accordance with the laws of the State of New Jersey. Any legal action brought by either Party against the other arising under this Contract shall be venued exclusively in the Superior Court of New Jersey, Union County, unless a Party wishes to bring, and can satisfy the jurisdictional requirements for maintaining, an action in the United States District Court for the District of New Jersey ("DNJ"), in which case the federal action shall be venued either in the Newark Vicinage or Trenton Vicinage of the DNJ. No action shall be brought in any other venue other than those permitted in this provision, notwithstanding any allegation as to where the cause of action arose or any other rules relating to venue to the contrary. Any alternative dispute resolution proceeding allowed or required by the Contract or by the law must be venued in Union County, New Jersey or in another location acceptable to the UCUA.

**6.05.** *Limitation on Certain Remedies.* Regarding any claim arising from an alleged or actual breach of the Contract, any tort (including negligence), or otherwise, and in addition to any and all other statutory or common law immunities applicable to the UCUA, the UCUA will not be liable to the Vendor for: (i) any special, consequential, incidental, indirect, or penal damages, including, but not limited to, loss of anticipated profit, loss of revenue, damage to goodwill, damage to other business assets, injury to economic advantage, loss of other business opportunities, loss of rental value for contractor-owned equipment, damages to associated equipment, cost of capital, or interest, or (ii) litigation expenses arising out of or in connection with the breach, including attorneys' fees, expert fees, and court costs.

**6.06.** *Modifications in Writing.* This Contract may be modified only by a written agreement signed by the Parties and otherwise authorized in accordance with New Jersey law.

**6.07.** *Counterparts.* This Contract, and any future amendment hereto, may be executed in counterparts, which, taken together, shall constitute the original.

**6.08.** *No Waiver.* Unless otherwise provided for elsewhere in this Contract, the failure of a Party to insist upon strict adherence to any term of this Contract on one or more occasions shall neither be considered a waiver nor deprive that Party of any right thereafter to insist upon strict adherence to that term or any other term of this Contract on future occasions. Any waiver of a term of this Contract must be in writing and signed by the Party to be charged therewith.

**6.09.** *UCUA Representations And Warranties.* The UCUA represents and warrants that this Contract has been duly authorized by its Board and, when executed by the UCUA's Chairman or Vice Chairman and Executive Director, shall be valid and binding upon the UCUA and shall be in full force and effect.

**6.10.** *Equal Employment Opportunity/Affirmative Action.* See Exhibit A, which is attached hereto and made a part hereof.

**6.11.** *Americans With Disabilities Act Compliance.* See Exhibit B, which is attached hereto and made a part hereof.

**6.12.** *Award.* This Contract has been awarded in accordance with the competitive contracting provisions of the Local Public Contracts Law, N.J.S.A. 40A:11-4.1 *et seq.*, and the "New Jersey Local Unit Pay to Play" Law, N.J.S.A. 19:44A-20.4 *et seq.*

**\*\* Authorized Signatures on the Following Pages \*\***

**IN WITNESS WHEREOF**, the UCUA has caused these presents to be duly executed and the Consultants have caused these presents to be duly executed, as of the day and year first above written.

**ATTEST:**

**UNION COUNTY UTILITIES AUTHORITY**

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

By: \_\_\_\_\_  
CLIFTON PEOPLE, JR  
Chairman

(SEAL)

By: \_\_\_\_\_  
DANIEL P. SULLIVAN  
Executive Director

Approved as to Form:

**All Covered, a Division of Konica Minolta  
Business Solutions U.S.A., Inc.**

\_\_\_\_\_, Esq.,  
*Counsel for All Covered*

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

Name: \_\_\_\_\_

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

STATE OF NEW JERSEY )  
 ) SS:  
COUNTY OF \_\_\_\_\_ )

I CERTIFY that on \_\_\_\_\_, 2017, \_\_\_\_\_  
personally came before me and this person acknowledged under oath, to my satisfaction that:

- (a) this person is the \_\_\_\_\_ of All Covered, a Division of Konica Minolta Business Solutions U.S.A., Inc. (“All Covered”), the entity named in this Agreement;
- (b) this person signed and delivered the attached instrument on behalf of All Covered as its voluntary act, duly authorized by the governing body of All Covered as provided for herein;

**Sworn to and Subscribed before me**

this \_\_\_\_\_ day of \_\_\_\_\_, 2017.

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

Exhibit A

MANDATORY EQUAL EMPLOYMENT OPPORTUNITY LANGUAGE  
N.J.S.A. 10:5-31 *et seq.* (P.L. 1975, c. 127), N.J.A.C. 17:27  
GOODS, PROFESSIONAL SERVICE AND GENERAL SERVICE CONTRACTS

During the performance of this contract, the contractor agrees as follows:

The contractor or subcontractor, where applicable, will not discriminate against any employee or applicant for employment because of age, race, creed, color, national origin, ancestry, marital status, affectional or sexual orientation, gender identity or expression, disability, nationality or sex. Except with respect to affectional or sexual orientation and gender identity or expression, the contractor will ensure that equal employment opportunity is afforded to such applicants in recruitment and employment, and that employees are treated during employment, without regard to their age, race, creed, color, national origin, ancestry, marital status, affectional or sexual orientation, gender identity or expression, disability, nationality or sex. Such equal employment opportunity shall include, but not be limited to the following: employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided by the Public Agency Compliance Officer setting forth provisions of this nondiscrimination clause.

The contractor or subcontractor, where applicable will, in all solicitations or advertisements for employees placed by or on behalf of the contractor, state that all qualified applicants will receive consideration for employment without regard to age, race, creed, color, national origin, ancestry, marital status, affectional or sexual orientation, gender identity or expression, disability, nationality or sex.

The contractor or subcontractor will send to each labor union, with which it has a collective bargaining agreement, a notice, to be provided by the agency contracting officer, advising the labor union of the contractor's commitments under this chapter and shall post copies of the notice in conspicuous places available to employees and applicants for employment.

The contractor or subcontractor, where applicable, agrees to comply with any regulations promulgated by the Treasurer pursuant to N.J.S.A. 10:5-31 *et seq.*, as amended and supplemented from time to time and the Americans with Disabilities Act.

The contractor or subcontractor agrees to make good faith efforts to meet targeted county employment goals established in accordance with N.J.A.C. 17:27-5.2.

**Exhibit A (continued)**

The contractor or subcontractor agrees to inform in writing its appropriate recruitment agencies including, but not limited to, employment agencies, placement bureaus, colleges, universities, and labor unions, that it does not discriminate on the basis of age, race, creed, color, national origin, ancestry, marital status, affectional or sexual orientation, gender identity or expression, disability, nationality or sex, and that it will discontinue the use of any recruitment agency which engages in direct or indirect discriminatory practices.

The contractor or subcontractor agrees to revise any of its testing procedures, if necessary, to assure that all personnel testing conforms with the principles of job-related testing, as established by the statutes and court decisions of the State of New Jersey and as established by applicable Federal law and applicable Federal Court decisions.

In conforming with the targeted employment goals, the contractor or subcontractor agrees to review all procedures relating to transfer, upgrading, downgrading and layoff to ensure that all such actions are taken without regard to age, race, creed, color, national origin, ancestry, marital status, affectional or sexual orientation, gender identity or expression, disability, nationality or sex, consistent with the statutes and court decisions of the State of New Jersey, and applicable Federal law and applicable Federal court decisions.

The contractor shall submit to the public agency, after notification of award but prior to execution of a goods and services contract, one of the following three documents:

Letter of Federal Affirmative Action Plan Approval;

Certificate of Employee Information Report; or

Employee Information Report Form AA302 (electronically provided by the Division and distributed to the public agency through the Division's website at [www.state.nj.us/treasury/contract\\_compliance](http://www.state.nj.us/treasury/contract_compliance))

The contractor and its subcontractors shall furnish such reports or other documents to the Division of Purchase & Property, CCAU, EEO Monitoring Program as may be requested by the office from time to time in order to carry out the purposes of these regulations, and public agencies shall furnish such information as may be requested by the Division of Purchase & Property, CCAU, EEO Monitoring Program for conducting a compliance investigation pursuant to N.J.A.C. 17:27-1.1 et seq.



## EXHIBIT B

### AMERICANS WITH DISABILITIES ACT OF 1990 EQUAL OPPORTUNITY FOR INDIVIDUALS WITH DISABILITY

The Contractor and the UCUA do hereby agree that the provisions of Title 11 of the Americans With Disabilities Act of 1990 (the "Act") (42 U.S.C. S12101 *et seq.*), which prohibits discrimination on the basis of disability by public entities in all services, programs and activities provided or made available by public entities, and the rules and regulation promulgated pursuant thereunto, are made a part of this contract. In providing any aid, benefit, or service on behalf of the UCUA pursuant to this contract, the contractor agrees that the performance shall be in strict compliance with the Act. In the event the contractor, its agents, servants, employees, or subcontractors violate or are alleged to have violated the Act during the performance of this contract, the contractor shall defend the UCUA in any action or administrative proceeding commenced pursuant to this Act. The contractor shall indemnify, protect, and save harmless the UCUA, its agents, servants, and employees from and against any and all suits, claims, losses, demands, or damages of whatever kind or nature arising out of the alleged violation. The contractor shall, at its own expense, appear, defend, and pay any and, all charges for legal services and any and all costs and other expenses arising from such action or administrative proceeding or incurred in connection therewith. In any and all complaints brought pursuant to the UCUA's grievance procedure, the contractor agrees to abide by any decision of the UCUA, which is rendered pursuant to, said grievance procedure. If any action or administrative proceeding result in an award of damages against the UCUA or if the UCUA incurs any expense to cure a violation of the ADA which has been brought pursuant to its grievance procedure the contractor shall satisfy and discharge the same at its own expense.

The UCUA shall, as soon as practicable after a claim has been made against it, give written notice thereof to the contractor along with full and complete particulars of the claim. If any action or administrative proceeding is brought against the UCUA or any of its agents, servants, and employees, the UCUA shall expeditiously forward or have forwarded to the contractor every demand, complaint, notice, summons, pleading, or other process received by the UCUA or its representatives.

It is expressly agreed and understood that any approval by the UCUA of the services provided by the contractor pursuant to this contract will not relieve the contractor of the obligation to comply with the Act and to defend, indemnify, protect, and save harmless the UCUA pursuant to this paragraph.

It is further agreed and understood that the UCUA assumes no obligation to indemnify or save harmless the contractor, its agents, servants, employees and subcontractors for any claim which may arise out of their performance of this Agreement. Furthermore, the contractor expressly understands and agrees that the provisions of this indemnification clause shall in no way limit the contractor's obligations assumed in this Agreement, nor shall they be construed to relieve the contractor from any liability, nor preclude the UCUA from taking any other actions available to it under any other provisions of this Agreement or otherwise at law.