

**JCOPE**  
**CONTRACT NUMBER**           C2100001            
**HOGAN LOVELLS US LLP**

This AGREEMENT is made by and between the Joint Commission on Public Ethics, with an office located at JCOPE, 540 Broadway, Albany, New York, 12207 (“JCOPE”), and Hogan Lovells US LLP, a law firm having an office located at 390 Madison Avenue, New York, New York 10017 (“the Firm”).

WHEREAS, the JCOPE requires counsel in connection with the response to a subpoena issued on May 11, 2021 (the “Subpoena”), including related research, document review, and appearances (the “OAG-related Services”);

WHEREAS, JCOPE requires additional services to conduct an internal inquiry into related legal and procedural operations of the JCOPE, including interviews, review of policies and practices, research, and a report and recommendation, as appropriate (the “Internal Inquiry Services”); and

WHEREAS, the JCOPE has determined that it is necessary to enter into an Agreement for the provision of such services.

NOW, THEREFORE, in consideration of the mutual covenants and considerations herein set forth, the parties hereto agree as follows:

1. The Firm is hereby retained by the JCOPE to provide the above-described legal services (collectively the “Legal Services”). With regard to the Legal Services, the Firm’s client will be JCOPE and not the State of New York, or any of its other departments or agencies. JCOPE acknowledged and agrees that it is a separate entity from the State of New York and its other departments or agencies for conflicts of interest purposes and that the Firm’s representation of JCOPE does not give rise to an attorney-client relationship for conflicts of interest purposes with the State of New York or its other departments or agencies. The Firm’s present engagement will only be for the purposes of the Legal Services.
2. The Firm shall provide the Legal Services hereunder in accordance with this Agreement and in consultation with appropriate personnel of the JCOPE.
3. The JCOPE shall pay the Firm for all professional services provided under this Agreement in accordance with the Outside Counsel Billing Criteria and Policy attached hereto as Exhibit B and made a part hereof, at the hourly rates set forth in the Cost Proposal attached hereto as Exhibit C and made a part hereof. The fees for such professional services, inclusive of disbursements, for the OAG-related Services shall not exceed the amount of \$149,999. Separately, the fees for such professional services, inclusive of disbursements, for the Internal Inquiry Services shall not exceed the amount of \$149,999.
4. This Agreement constitutes the entire agreement of the parties and all previous communications between the parties, whether written or oral, with reference to the

subject matter of this Agreement are hereby superseded. In the event of any inconsistency or conflict among the documents comprising this Agreement, such inconsistency or conflict shall be resolved by giving precedence to the documents in the following order:

- a. Appendix A, Standard Clauses for New York State Contracts
  - b. This Agreement
  - c. Exhibit A, Scope of Work
  - d. Exhibit B, Outside Counsel Billing Criteria and Policy
  - e. Exhibit C, Cost Proposal
  - f. Hogan Lovells Engagement Letter and General Terms of Representation, dated June 24, 2021
5. Payments to the Firm shall be made upon submission of the Firm's invoices indicating the legal services rendered, the name of the matter involved, the Firm personnel providing services to the JCOPE, their billing rates, and the number of hours expended by each in providing services hereunder, in accordance with the rates shown on Exhibit C. Such time expended shall be billed in the increment of one-tenth (1/10) hour. Such invoices shall be submitted by the Firm to:
- Joint Commission on Public Ethics  
Sanford N. Berland  
540 Broadway  
Albany, New York 12207
6. All payments to the Firm shall be made in the normal course of business of the State of New York and shall be sent to: Hogan Lovells US LLP, 390 Madison Ave, New York, New York 10017.
7. Upon request, the Firm shall provide JCOPE with a copy of all applicable written materials prepared by the Firm in the performance of legal services hereunder.
8. The Firm shall devote such time as may be necessary to provide legal services described herein, subject to the Outside Counsel Billing Criteria and Policy, but shall not be prevented from providing its services to any other client not in conflict with this Agreement.
9. The relationship of the Firm to the JCOPE arising out of this Agreement shall be that of attorney and client.
10. Unless modified as provided herein, the term of this Agreement began on June 23, 2021 and will continue until March 31, 2023. This Agreement may be extended upon the mutual written consent of the parties for an additional one-year term. This Agreement may be terminated by the JCOPE: (1) at any time upon receipt of thirty (30) days prior written notice given by the JCOPE; (2) for the unavailability of funds; (3) for cause due to the Firm; or (4) in the event that the Firm's State Finance Law sections 139-j and 139-k certifications are found to be intentionally false or intentionally incomplete or if

applicable, the Firm's certifications on the ST220CA form are found to be false or incomplete.

11. Additional Grounds for Termination for Non Responsibility as a State Contractor.
  - 11.1. The Firm shall at all times during the term remain responsible. The Firm agrees, if requested by JCOPE, to present evidence of its continuing legal authority to do business in New York State, integrity, experience, ability, prior performance, and organizational and financial capacity.
  - 11.2. Upon written notice to the Firm, and a reasonable opportunity to be heard with appropriate JCOPE officials or staff, the contract may be terminated by JCOPE at the Firm's expense where the Firm is determined by JCOPE to be non-responsible. In such event, JCOPE may complete the contractual requirements in any manner it may deem advisable and pursue available legal or equitable remedies for breach.
  - 11.3. JCOPE, in its sole discretion, reserves the right to suspend any or all activities under this contract, at any time, when it discovers information that calls into question the responsibility of the Firm. In the event of such suspension, the Firm will be given written notice outlining the particulars of such suspension. Upon issuance of such notice, the Firm must comply with the terms of the suspension order. Contract activity may resume at such time as JCOPE issues a written notice authorizing a resumption of performance under the contract.
12. Opinions prepared by retained attorneys or law firms construing the statutes or constitution of the State of New York do not constitute the opinion of the State unless the prior written approval of the Attorney General is obtained. Requests for such approval shall be submitted to the Solicitor General, Appeals and Opinions Bureau, Department of Law, State Capitol, Albany, New York.
  - 12.1 The retained attorney or law firm will represent the State of New York in judicial litigation related to the services to be provided under this Agreement only when such services are specifically requested by the JCOPE's Office of General Counsel and approved by the Attorney General. Such approval must be requested separately for each matter to be litigated and must be received prior to the commencement of services therefor.
13. In the performance of its obligations hereunder, the Firm shall (1) comply with all applicable laws, rules and regulations pertaining to the rendering of the services; (2) maintain all licenses required under applicable law; and (3) maintain adequate Professional Liability Insurance at its own cost. The Firm shall maintain Workers Compensation and Disability Benefits Coverage for the life of this Agreement for the benefit of employees required to be covered by the New York State Workers Compensation Law and the New York State Disability Benefits Law. The Firm shall furnish the JCOPE with copies of the appropriate license(s), and evidence of the insurance coverage provided in this paragraph as the JCOPE may reasonably require.

14. This Agreement is not intended to shift risk normally borne by the Firm to the JCOPE, or by the JCOPE to the Firm, and each Party will bear responsibility for its own conduct to the extent provided by applicable law. This Agreement is not intended to create liability in the JCOPE for the Firm's conduct or in the Firm for the JCOPE's conduct.

The Firm agrees that Courtney Devon Taylor, a partner of the Firm, shall have primary supervisory responsibility for the legal services performed hereunder. Such partner or his or her designee, identified in writing, shall be the contact person with the JCOPE's General Counsel and other JCOPE personnel during the term of this Agreement.

15. The Firm is a large international legal practice with multiple offices around the world. Because of the Firm's size and geographic scope, as well as the breadth and diversity of its practice, other present or future clients of the Firm inevitably will have contacts with the JCOPE. Accordingly, to prevent any misunderstanding and to preserve the Firm's ability to represent the JCOPE and its other clients, the JCOPE and the Firm agree as follows with respect to certain conflict of interest issues:
- a) The JCOPE agrees that the Firm is free to represent other clients (including future clients) in matters that involve the JCOPE or are adverse to the JCOPE as long as those matters are not the same as or substantially related to matters in which the Firm represents the JCOPE, or have represented the JCOPE. "Matter" refers to transactions, negotiations, proceedings or other representations involving specific parties. Such unrelated matters may include, but are not limited to:
    - i. Agreements, licenses, mergers and acquisitions, joint ventures, loans and financings, and securities offerings;
    - ii. Bankruptcies, reorganizations, receiverships or insolvencies (including proceedings under the US Bankruptcy Code or state insolvency proceedings) and non-judicial debt restructurings, including representation of committees or debtors-in possession, liquidators or other insolvency professionals in domestic or international matters in which the JCOPE and another client or clients are creditors or other parties in interest;
    - iii. Patents, copyrights, trademarks, trade secrets or other intellectual property; real estate; and government contract and procurement matters including bid protests;
    - iv. Representation and advocacy with respect to legislative issues, policy issues, or regulatory issues, including rulemakings, administrative proceedings and enforcement proceedings;
    - v. Third-party discovery requests (including subpoenas) to be served on the JCOPE, and discovery requests (including subpoenas) that have been served by the JCOPE on others.

Notwithstanding the provisions in section 8(a), the Firm agrees that during the time the Firm is providing legal services to the JCOPE, the Firm may continue to

represent other clients in any matter as long as it (i) is not substantially related to the legal services provide to the JCOPE; (ii) does not involve the Firm appearing as counsel before the JCOPE without express consent; and (iii) does not involve the Firm appearing in litigation directly adverse to the JCOPE.

- b) In addition, the JCOPE consents to the Firm's representation of multiple bidders, or of lenders or other financing sources to any other bidder, in any proposed merger, acquisition, joint venture or other transaction so long as there are ethical firewalls in place and the Firm teams representing different clients comprise different attorneys. Should the JCOPE rescind or revoke this consent after the Firm and another client have relied on it to start representing that client, the JCOPE agrees now that the Firm may withdraw from its representation of the JCOPE and continue representing the other client in the transaction in which the JCOPE is involved.
- c) The JCOPE also agrees that, if the Firm represent the JCOPE in a matter adverse to, or across the table from, another person or entity, the Firm may also represent such person or entity on matters not substantially related to our work for the JCOPE.
- d) The advance waivers above are an integral part of this agreement and an essential condition in the Firm's representation of the JCOPE. If at a later time the JCOPE withdraws or modifies this advance waiver in any respect, the JCOPE agrees that the Firm has the right to withdraw from its representation of the JCOPE pursuant to these General Terms of Representation to the extent permitted by the applicable Rules of Professional Conduct.
- e) The Firm takes very seriously its obligation to maintain the confidentiality of documents or information it receives from its clients that are protected by confidentiality obligations ("Confidential Information"). This advance consent does not affect the Firm's continuing obligation to maintain the confidences of the JCOPE and the Firm's other clients. Unless the Firm receives the JCOPE's authorization, the Firm will not use, retain, or disclose Confidential Information belonging to the JCOPE except in furtherance of the Firm's services to the JCOPE or pursuant to the Firm's legal and professional obligations. Unless the Firm receives authorization, it will not disclose to the JCOPE or use on the JCOPE's behalf any Confidential Information belonging to other clients.
- f) The Firm's professional obligations require it to perform a conflicts check and not to commence work on a matter if the Firm finds conflicts of interest that would preclude the Firm from doing so. The Firm's professional obligations to the JCOPE and to the Firm's other clients will require the Firm to run a new conflicts check if there is any change in the parties or the nature of the work the Firm is doing for the JCOPE. The Firm must also run a new conflicts check before undertaking any new matters for the JCOPE.
- g) The lawyers practicing in the Firm's offices in various jurisdictions are governed by Rules of Professional Conduct that are prescribed by the proper authorities in each jurisdiction. Although the rules of the various jurisdictions often are similar, they are not identical. Only the rules in force in the specific jurisdictions in which the Firm's

lawyers representing the JCOPE are practicing apply to those lawyers, subject to any permitted modifications of those rules reflected in these General Terms of Representation.

- h) From time to time, the Firm identifies clients in marketing materials. These materials may include print and online descriptions of the Firm's services, brochures, presentations to other clients, industry surveys and rankings, transactions lists in professional publications, recruiting material, and media outreach. The JCOPE agrees that the Firm may use its name and a brief description of the work the Firm does for the JCOPE in these materials, provided that no confidential information about the JCOPE or the Firm's work for the JCOPE is revealed.
16. The Firm acknowledges that this Agreement is subject to the New York State Freedom of Information Law ("FOIL") as set forth in Article 6 of the New York State Public Officers Law and that only attorney-client privileged information and the Firm's proprietary information that satisfies the requirements of section 87(2)(d) of the Public Officers Law shall be excepted from disclosure thereunder. Subject to FOIL, the Firm's proprietary information may include all non-public information relating to its legal services. The Firm has labeled those portions of its proposal and the Agreement that it deems proprietary. The Firm's proprietary information, which includes trade secret information owned by the Firm, shall remain unpublished, except where publication or disclosure is required pursuant to FOIL or other applicable law.
17. The Firm shall comply with the provisions of the New York State Information Security Breach and Notification Act (General Business Law Section 899-aa and State Technology Law Section 208).
18. New York State Finance Law Section (163)(4)(g) imposes certain reporting requirements on contractors doing business with New York State. In furtherance of these reporting requirements, the Firm agrees to complete and submit an initial planned employment data report (Form A), and complete and submit annually, the annual employment report (Form B).
19. Any notice to either party hereunder must be in writing, signed by the party giving it, and shall be served either personally or by registered mail return receipt requested addressed as follows:

**TO THE JCOPE:**

Sanford N. Berland  
540 Broadway  
Albany, New York 12207

**TO THE FIRM:**

Courtney Devon Taylor  
Hogan Lovells US LLP  
390 Madison Avenue

New York, NY 10017

or to such other address as may be hereafter designated by notice. All notices become effective only when received by the addressee.

20. The laws of New York will govern this Agreement, without regard for New York's choice of law statute. The parties agree to bring any action to construe, interpret or enforce this Agreement in a Court of competent jurisdiction in the State of New York. The Firm agrees to submit itself to such court's jurisdiction. The parties shall use their best efforts to resolve any disputes arising under this Agreement, including disputes as to the Firm's fees, which shall be amicably resolved by the parties. If the parties are unable to amicably resolve any dispute within thirty (30) days, then either party may seek legal or equitable redress.
21. The parties agree that this Agreement may be amended from time to time for various reasons, including but not limited to changes in the law that subsequently impact the Firm's availability to provide certain services or at agreed upon fees. The Firm will abide by the JCOPE's amendment process.

*The remainder of this page is intentionally left blank.*

IN WITNESS WHEREOF, the parties hereto have executed this agreement on the dates written below.

CONTRACT NUMBER C2100001

FIRM'S CERTIFICATION:

In addition to acceptance of this agreement, I certify that all information provided to the JCOPE is complete, true and accurate.

Hogan Lovells US LLP


  
\_\_\_\_\_  
Courtney Devon Taylor  
Partner

1/18/22  
\_\_\_\_\_  
Date

AGENCY CERTIFICATION:

I certify that original copies of this signature page will be attached to all other exact copies of this agreement.

JCOPE

  
\_\_\_\_\_  
Monica Stamm  
General Counsel

1/19/2022  
\_\_\_\_\_  
Date

<p><b>APPROVED</b> DEPT. OF AUDIT &amp; CONTROL</p> <p>Feb 14 2022 Brian Fuller</p> <p>FOR THE STATE COMPTROLLER</p>
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APPENDIX A

STANDARD CLAUSES FOR NEW YORK STATE CONTRACTS

PLEASE RETAIN THIS DOCUMENT  
FOR FUTURE REFERENCE.

TABLE OF CONTENTS

	<b>Page</b>
<b>1. Executory Clause</b>	<b>3</b>
<b>2. Non-Assignment Clause</b>	<b>3</b>
<b>3. Comptroller's Approval</b>	<b>3</b>
<b>4. Workers' Compensation Benefits</b>	<b>3</b>
<b>5. Non-Discrimination Requirements</b>	<b>3</b>
<b>6. Wage and Hours Provisions</b>	<b>3-4</b>
<b>7. Non-Collusive Bidding Certification</b>	<b>4</b>
<b>8. International Boycott Prohibition</b>	<b>4</b>
<b>9. Set-Off Rights</b>	<b>4</b>
<b>10. Records</b>	<b>4</b>
<b>11. Identifying Information and Privacy Notification</b>	<b>4</b>
<b>12. Equal Employment Opportunities For Minorities and Women</b>	<b>4-5</b>
<b>13. Conflicting Terms</b>	<b>5</b>
<b>14. Governing Law</b>	<b>5</b>
<b>15. Late Payment</b>	<b>5</b>
<b>16. No Arbitration</b>	<b>5</b>
<b>17. Service of Process</b>	<b>5</b>
<b>18. Prohibition on Purchase of Tropical Hardwoods</b>	<b>5-6</b>
<b>19. MacBride Fair Employment Principles</b>	<b>6</b>
<b>20. Omnibus Procurement Act of 1992</b>	<b>6</b>
<b>21. Reciprocity and Sanctions Provisions</b>	<b>6</b>
<b>22. Compliance with Breach Notification and Data Security Laws</b>	<b>6</b>
<b>23. Compliance with Consultant Disclosure Law</b>	<b>6</b>
<b>24. Procurement Lobbying</b>	<b>7</b>
<b>25. Certification of Registration to Collect Sales and Compensating Use Tax by Certain State Contractors, Affiliates and Subcontractors</b>	<b>7</b>
<b>26. Iran Divestment Act</b>	<b>7</b>
<b>27. Admissibility of Contract</b>	<b>7</b>

## **STANDARD CLAUSES FOR NYS CONTRACTS**

The parties to the attached contract, license, lease, amendment or other agreement of any kind (hereinafter, "the contract" or "this contract") agree to be bound by the following clauses which are hereby made a part of the contract (the word "Contractor" herein refers to any party other than the State, whether a contractor, licenser, licensee, lessor, lessee or any other party):

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

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

**3. COMPTROLLER'S APPROVAL.** In accordance with Section 112 of the State Finance Law (or, if this contract is with the State University or City University of New York, Section 355 or Section 6218 of the Education Law), if this contract exceeds \$50,000 (or the minimum thresholds agreed to by the Office of the State Comptroller for certain S.U.N.Y. and C.U.N.Y. contracts), or if this is an amendment for any amount to a contract which, as so amended, exceeds said statutory amount, or if, by this contract, the State agrees to give something other than money when the value or reasonably estimated value of such consideration exceeds \$25,000, it shall not be valid, effective or binding upon the State until it has been approved by the State Comptroller and filed in his office. Comptroller's approval of contracts let by the Office of General Services is required when such contracts exceed \$85,000 (State Finance Law § 163.6-a). However, such pre-approval shall not be required for any contract established as a centralized contract through the Office of General Services or for a purchase order or other transaction issued under such centralized contract.

**4. WORKERS' COMPENSATION BENEFITS.** In accordance with Section 142 of the State Finance Law, this contract shall be void and of no force and effect unless the

Contractor shall provide and maintain coverage during the life of this contract for the benefit of such employees as are required to be covered by the provisions of the Workers' Compensation Law.

**5. NON-DISCRIMINATION REQUIREMENTS.** To the extent required by Article 15 of the Executive Law (also known as the Human Rights Law) and all other State and Federal statutory and constitutional non-discrimination provisions, the Contractor will not discriminate against any employee or applicant for employment, 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 of New York, Contractor agrees that neither it nor its subcontractors shall, by reason of race, creed, color, disability, sex, or national origin: (a) discriminate in hiring against any New York State citizen who is qualified and available to perform the work; or (b) discriminate against or intimidate any employee hired for the performance of work under this contract. If this is a building service contract as defined in Section 230 of the Labor Law, then, in accordance with Section 239 thereof, Contractor agrees that neither it nor its subcontractors shall by reason of race, creed, color, national origin, age, sex or disability: (a) discriminate in hiring against any New York State citizen who is qualified and available to perform the work; or (b) discriminate against or intimidate any employee hired for the performance of work under this contract. Contractor is subject to fines of \$50.00 per person per day for any violation of Section 220-e or Section 239 as well as possible termination of this contract and forfeiture of all moneys due hereunder for a second or subsequent violation.

**6. WAGE AND HOURS PROVISIONS.** If this is a public work contract covered by Article 8 of the Labor Law or a building service contract covered by Article 9 thereof, neither Contractor's employees nor the employees of its subcontractors may be required or permitted to work more than the number of hours or days stated in said statutes, except as otherwise provided in the Labor Law and as set forth in prevailing wage and supplement schedules issued by the State Labor Department. Furthermore, Contractor and its subcontractors must pay at least the prevailing wage rate and pay or provide the prevailing supplements, including the premium rates for overtime pay, as determined by the State Labor Department in accordance with the Labor Law. Additionally, effective April 28, 2008, if this is a public work contract covered by Article 8 of the Labor Law, the Contractor understands and agrees that the filing of payrolls in a manner consistent with Subdivision 3-

a of Section 220 of the Labor Law shall be a condition precedent to payment by the State of any State approved sums due and owing for work done upon the project.

**7. NON-COLLUSIVE BIDDING CERTIFICATION.** In accordance with Section 139-d of the State Finance Law, if this contract was awarded based upon the submission of bids, Contractor affirms, under penalty of perjury, that its bid was arrived at independently and without collusion aimed at restricting competition. Contractor further affirms that, at the time Contractor submitted its bid, an authorized and responsible person executed and delivered to the State a non-collusive bidding certification on Contractor's behalf.

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

**9. SET-OFF RIGHTS.** The State shall have all of its common law, equitable and statutory rights of set-off. These rights shall include, but not be limited to, the State's option to withhold for the purposes of set-off any moneys due to the Contractor under this contract up to any amounts due and owing to the State with regard to this contract, any other contract with any State department or agency, including any contract for a term commencing prior to the term of this contract, plus any amounts due and owing to the State for any other reason including, without limitation, tax delinquencies, fee delinquencies or monetary penalties relative thereto. The State shall exercise its set-off rights in accordance with normal State practices including, in cases of set-off pursuant to an audit, the finalization of such audit by the State agency, its representatives, or the State Comptroller.

**10. RECORDS.** The Contractor shall establish and maintain complete and accurate books, records, documents, accounts and other evidence directly pertinent to performance under this contract (hereinafter, collectively, the "Records"). The Records must be kept for the balance of the calendar year in which they were made and for six (6) additional years thereafter. The State Comptroller, the Attorney General and any other person or entity authorized to conduct an examination, as well as the

agency or agencies involved in this contract, shall have access to the Records during normal business hours at an office of the Contractor within the State of New York or, if no such office is available, at a mutually agreeable and reasonable venue within the State, for the term specified above for the purposes of inspection, auditing and copying. The State shall take reasonable steps to protect from public disclosure any of the Records which are exempt from disclosure under Section 87 of the Public Officers Law (the "Statute") provided that: (i) the Contractor shall timely inform an appropriate State official, in writing, that said records should not be disclosed; and (ii) said records shall be sufficiently identified; and (iii) designation of said records as exempt under the Statute is reasonable. Nothing contained herein shall diminish, or in any way adversely affect, the State's right to discovery in any pending or future litigation.

**11. IDENTIFYING INFORMATION AND PRIVACY NOTIFICATION.** (a) Identification Number(s). Every invoice or New York State Claim for Payment submitted to a New York State agency by a payee, for payment for the sale of goods or services or for transactions (e.g., leases, easements, licenses, etc.) related to real or personal property must include the payee's identification number. The number is any or all of the following: (i) the payee's Federal employer identification number, (ii) the payee's Federal social security number, and/or (iii) the payee's Vendor Identification Number assigned by the Statewide Financial System. Failure to include such number or numbers may delay payment. Where the payee does not have such number or numbers, the payee, on its invoice or Claim for Payment, must give the reason or reasons why the payee does not have such number or numbers.

(b) Privacy Notification. (1) The authority to request the above personal information from a seller of goods or services or a lessor of real or personal property, and the authority to maintain such information, is found in Section 5 of the State Tax Law. Disclosure of this information by the seller or lessor to the State is mandatory. The principal purpose for which the information is collected is to enable the State to identify individuals, businesses and others who have been delinquent in filing tax returns or may have understated their tax liabilities and to generally identify persons affected by the taxes administered by the Commissioner of Taxation and Finance. The information will be used for tax administration purposes and for any other purpose authorized by law. (2) The personal information is requested by the purchasing unit of the agency contracting to purchase the goods or services or lease the real or personal property covered by this contract or lease. The information is maintained in the Statewide Financial System by the Vendor Management Unit within the Bureau of State Expenditures, Office of the State Comptroller, 110 State Street, Albany, New York 12236.

**12. EQUAL EMPLOYMENT OPPORTUNITIES FOR MINORITIES AND WOMEN.** In accordance with Section 312 of the Executive Law and 5 NYCRR 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 State contract, all qualified applicants will be afforded equal employment opportunities without discrimination because of race, creed, color, national origin, sex, age, disability or marital status.

Contractor will include the provisions of "a," "b," and "c" above, in every subcontract over \$25,000.00 for the construction, demolition, replacement, major repair, renovation, planning or design of real property and improvements thereon (the "Work") except where the Work is for the beneficial use of the Contractor. Section 312 does not apply to: (i) work, goods or services unrelated to this contract; or (ii) employment outside New York State. The State shall consider compliance by a contractor or subcontractor with the requirements of any federal law concerning equal employment opportunity which effectuates the purpose of this 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.

**13. CONFLICTING TERMS.** In the event of a conflict between the terms of the contract (including any and all attachments thereto and amendments thereof) and the terms of this Appendix A, the terms of this Appendix A shall control.

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

**15. LATE PAYMENT.** Timeliness of payment and any interest to be paid to Contractor for late payment shall be governed by Article 11-A of the State Finance Law to the extent required by law.

**16. NO ARBITRATION.** Disputes involving this contract, including the breach or alleged breach thereof, may not be submitted to binding arbitration (except where statutorily authorized), but must, instead, be heard in a court of competent jurisdiction of the State of New York.

**17. SERVICE OF PROCESS.** In addition to the methods of service allowed by the State Civil Practice Law & Rules ("CPLR"), Contractor hereby consents to service of process upon it by registered or certified mail, return receipt requested. Service hereunder shall be complete upon Contractor's actual receipt of process or upon the State's receipt of the return thereof by the United States Postal Service as refused or undeliverable. Contractor must promptly notify the State, in writing, of each and every change of address to which service of process can be made. Service by the State to the last known address shall be sufficient. Contractor will have thirty (30) calendar days after service hereunder is complete in which to respond.

**18. PROHIBITION ON PURCHASE OF TROPICAL HARDWOODS.** The Contractor certifies and warrants that all wood products to be used under this contract award will be in accordance with, but not limited to, the specifications and provisions of Section 165 of the State Finance Law, (Use of Tropical Hardwoods) which prohibits purchase and use of tropical hardwoods, unless specifically exempted, by the State or any governmental agency or political subdivision or public benefit corporation. Qualification for an exemption under this law will be the responsibility of the contractor to establish to meet with the approval of the State.

In addition, when any portion of this contract involving the use of woods, whether supply or installation, is to be performed by

any subcontractor, the prime Contractor will indicate and certify in the submitted bid proposal that the subcontractor has been informed and is in compliance with specifications and provisions regarding use of tropical hardwoods as detailed in § 165 State Finance Law. Any such use must meet with the approval of the State; otherwise, the bid may not be considered responsive. Under bidder certifications, proof of qualification for exemption will be the responsibility of the Contractor to meet with the approval of the State.

**19. MACBRIDE FAIR EMPLOYMENT PRINCIPLES.** 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.

**20. OMNIBUS PROCUREMENT ACT OF 1992.** It is the policy of New York State to maximize opportunities for the participation of New York State business enterprises, including minority- and women-owned business enterprises as bidders, subcontractors and suppliers on its procurement contracts.

Information on the availability of New York State subcontractors and suppliers is available from:

NYS Department of Economic Development  
Division for Small Business  
Albany, New York 12245  
Telephone: 518-292-5100  
Fax: 518-292-5884  
email: [opa@esd.ny.gov](mailto:opa@esd.ny.gov)

A directory of certified minority- and women-owned business enterprises is available from:

NYS Department of Economic Development  
Division of Minority and Women's Business Development  
633 Third Avenue  
New York, NY 10017  
212-803-2414  
email: [mwb certification@esd.ny.gov](mailto:mwb certification@esd.ny.gov)  
<https://ny.newnycontracts.com/FrontEnd/VendorSearchPublic.asp>

The Omnibus Procurement Act of 1992 (Chapter 844 of the Laws of 1992, codified in State Finance Law § 139-i and Public Authorities Law § 2879(3)(n)-(p)) requires that by signing this bid proposal or contract, as applicable, Contractors certify that whenever the total bid amount is greater than \$1 million:

(a) The Contractor has made reasonable efforts to encourage the participation of New York State Business Enterprises as suppliers and subcontractors, including certified minority- and

women-owned business enterprises, on this project, and has retained the documentation of these efforts to be provided upon request to the State;

(b) The Contractor has complied with the Federal Equal Opportunity Act of 1972 (P.L. 92-261), as amended;

(c) The Contractor agrees to make reasonable efforts to provide notification to New York State residents of employment opportunities on this project through listing any such positions with the Job Service Division of the New York State Department of Labor, or providing such notification in such manner as is consistent with existing collective bargaining contracts or agreements. The Contractor agrees to document these efforts and to provide said documentation to the State upon request; and

(d) The Contractor acknowledges notice that the State may seek to obtain offset credits from foreign countries as a result of this contract and agrees to cooperate with the State in these efforts.

**21. RECIPROCITY AND SANCTIONS PROVISIONS.** Bidders are hereby notified that if their principal place of business is located in a country, nation, province, state or political subdivision that penalizes New York State vendors, and if the goods or services they offer will be substantially produced or performed outside New York State, the Omnibus Procurement Act 1994 and 2000 amendments (Chapter 684 and Chapter 383, respectively, codified in State Finance Law § 165(6) and Public Authorities Law § 2879(5)) require that they be denied contracts which they would otherwise obtain. NOTE: As of October 2019, the list of discriminatory jurisdictions subject to this provision includes the states of South Carolina, Alaska, West Virginia, Wyoming, Louisiana and Hawaii.

**22. 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.

**23. COMPLIANCE WITH CONSULTANT DISCLOSURE LAW.** If this is a contract for consulting services, defined for purposes of this requirement to include analysis, evaluation, research, training, data processing, computer programming, engineering, environmental, health, and mental health services, accounting, auditing, paralegal, legal or similar services, then, in accordance with Section 163 (4)(g) of the State Finance Law (as amended by Chapter 10 of the Laws of 2006), the Contractor shall timely, accurately and properly comply with the requirement to submit an annual employment report for the contract to the agency that awarded the contract, the Department of Civil Service and the State Comptroller.

**24. PROCUREMENT LOBBYING.** To the extent this agreement is a "procurement contract" as defined by State Finance Law §§ 139-j and 139-k, by signing this agreement the contractor certifies and affirms that all disclosures made in accordance with State Finance Law §§ 139-j and 139-k are complete, true and accurate. In the event such certification is found to be intentionally false or intentionally incomplete, the State may terminate the agreement by providing written notification to the Contractor in accordance with the terms of the agreement.

**25. CERTIFICATION OF REGISTRATION TO COLLECT SALES AND COMPENSATING USE TAX BY CERTAIN STATE CONTRACTORS, AFFILIATES AND SUBCONTRACTORS.**

To the extent this agreement is a contract as defined by Tax Law § 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.

**26. IRAN DIVESTMENT ACT.** By entering into this Agreement, Contractor certifies in accordance with State Finance Law § 165-a that it is not on the "Entities Determined to be Non-Responsive Bidders/Offerers pursuant to the New York State Iran Divestment Act of 2012" ("Prohibited Entities List") posted at: <https://ogs.ny.gov/list-entities-determined-be-non-responsive-biddersofferers-pursuant-nys-iran-divestment-act-2012>

Contractor further certifies that it will not utilize on this Contract any subcontractor that is identified on the Prohibited Entities List. Contractor agrees that should it seek to renew or extend this Contract, it must provide the same certification at the time the Contract is renewed or extended. Contractor also agrees that any proposed Assignee of this Contract will be required to certify that it is not on the Prohibited Entities List before the contract assignment will be approved by the State.

During the term of the Contract, should the state agency receive information that a person (as defined in State Finance Law § 165-a) is in violation of the above-referenced certifications, the state agency will review such information and offer the person an opportunity to respond. If the person fails to demonstrate that it has ceased its engagement in the investment activity which is in violation of the Act within 90 days after the determination of such violation, then the state agency shall take such action as may be appropriate and provided for by law, rule, or contract, including, but not limited to, imposing sanctions, seeking compliance, recovering damages, or declaring the Contractor in default.

The state agency reserves the right to reject any bid, request for assignment, renewal or extension for an entity that appears on the Prohibited Entities List prior to the award, assignment, renewal or extension of a contract, and to pursue a responsibility review with respect to any entity that is awarded a contract and appears on the Prohibited Entities list after contract award.

**27. 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 State Comptroller, if such approval was required, regardless of whether the original of said contract is in existence.



**EXHIBIT A**

**JCOPE**  
**CONTRACT NUMBER C2100001**  
**Hogan Lovells US**

**SCOPE OF WORK**

The Firm will represent the JCOPE in connection with its response to a subpoena issued on May 11, 2021, including related research, document review and appearances. Separately, the Firm will conduct an internal inquiry into related legal and procedural operations of the JCOPE, including interviews, review of policies and practices, research, and a report and recommendation, as appropriate.

**EXHIBIT B**  
**OUTSIDE COUNSEL BILLING CRITERIA AND POLICY**

I. Policy

These criteria have been established to enhance the working relationship between the JCOPE's Office of General Counsel attorneys and the Firm. The Firm shall review these criteria and direct any questions to the Office of General Counsel for clarification.

II. Guidelines for Billing and Fees

The JCOPE shall pay for the Firm's services at rates that are agreed to by both parties.

All hourly rates will be binding for the term of the Agreement. All billings must be calculated in units of one-tenth of an hour. Travel time shall be billed at a rate of one half of the hourly rate otherwise applicable for the individual traveling. However, no other Client shall be billed while the individual is in travel status for the JCOPE. The Firm agrees that all hourly rates shall include all fixed overhead costs including but not limited to expenses for word processing, secretarial or clerical work, research costs (i.e. Lexis or Westlaw charges) or reference librarians. Any billings for actual expenses incurred by the Firm (i.e. disbursements) must be substantiated and documented.

III. Work Assignment

The Firm shall keep the JCOPE's Office of General Counsel informed of the nature, scope and time frame for all assignments undertaken by the Firm prior to the commencement of the assignment. The Firm shall not research or prepare legal analyses or other written work products with a projected value of One Thousand Dollars (\$1,000.00) or greater without the prior written consent of the Office of General Counsel. For projects under One Thousand Dollars (1,000.00), verbal consent of the Office of General Counsel will suffice, but in no instance shall projects be commenced without the knowledge of General Counsel. When a written work product is prepared, a final copy or, if no final copy is yet available, a current draft of such written work product, shall be provided to the Office of General Counsel prior to the Firm's submission of any bill that includes work time expended on its preparation. In addition, a copy of such written work product shall be provided to the Office of General Counsel at or prior to the time it is shared with or transmitted to any JCOPE officials or employees.

IV. Calculations of Costs in Estimating Work and Case Assignments

A. *Staff allocation*

The Firm agrees to assign personnel who are qualified and experienced in the area of law/substantive matter. Likewise, the JCOPE shall not be billed at a partner's hourly rate when one of the Firm's associates could have reasonably worked on and/or properly handled an issue. In all cases, work should be assigned to the least costly qualified person in the Firm available to handle the task. The Firm agrees that each of its associates, paralegals, interns or legal assistants assigned to the JCOPE's work shall make a clear contribution, although nothing in this section or elsewhere should be construed to require

creation of written work product where the Firm, in its professional judgment, would not otherwise do so. The JCOPE and the Firm agree that whenever possible, associates and legal assistants shall be utilized to replace partners' time and reduce total billings. However, both parties also recognize that the utilization of a lawyer with expertise in a particular area of law will eliminate the necessity of extensive research. The JCOPE and the Firm agree that no additional staff will be added to a work assignment prior to consultation with the JCOPE's Office of General Counsel. The Firm should seek to limit, to the extent possible, the number of internal conferences and meetings between members of the Firm that are billed to the JCOPE. Additionally, the Firm shall obtain approval, in advance, from the JCOPE where more than one member of the Firm attends a particular outside meeting, court appearance or other such matter.

*B. Overtime Billing*

The Firm shall not bill for overtime since it is expected that any work assigned will be conducted during normal business hours.

*C. Changes in Staff*

In the event the Firm is forced to make a staff change of anyone assigned to a JCOPE case or matter, the Firm will not bill the JCOPE for any time expended by the new staff of the Firm becoming acquainted with such area of law or matter.

*D. Fax Charges and E-mail*

The Firm is directed to use e-mail as the preferred mode of communication. Any attachments to e-mail documents should be formatted in Microsoft Word, Excel or Power Point. The Firm is directed not to duplicate costs by mailing a document that has been emailed unless specifically requested by the JCOPE's Office of General Counsel.

The JCOPE agrees to pay actual telephone line charges for faxes sent. The JCOPE will not pay both phone line charges and a flat fee in connection with out-going faxes. The JCOPE will not pay for maintenance, paper or operator costs, because such items should be included in the Firm's cost of doing business.

*E. Telephone Charges*

The Firm agrees not to bill the JCOPE for any local telephone calls and further agrees it will bill The JCOPE for any long distance calls at the rate the Firm has been billed.

*F. Electronic Research*

The Firm agrees that computer legal research tools such as Lexis-Nexis or Westlaw, shall be used judiciously to minimize costs to the JCOPE. The Firm acknowledges and agrees that it was selected because of its expertise in the subject area. Paralegal or attorney time spent performing computerized legal research shall be at the same rates as the Firm's hourly charges for professional services.

*G. Next Day Mail Charges*

The JCOPE agrees to pay for any documented next day mail service, courier or other delivery fees that are incurred by the Firm, but only provided such transmission of documents is necessary.

*H. Document Duplication Fees*

The Firm agrees that it will prudently direct the duplication of documents. The JCOPE authorizes the Firm to employ less expensive, commercial copy vendors when practicable. The JCOPE agrees to reimburse special expenditures for such copying at the cost it was invoiced. The Firm is instructed to send only one set of documents to the JCOPE's Office of General Counsel, as that office will be responsible for making any additional copies.

*I. Travel*

The JCOPE will authorize any required travel by the Firm. The JCOPE will reimburse for actual, necessary and reasonable travel expenses that have been incurred. Reasonable travel expenses shall be defined as coach class airfare, reasonable taxi charges and other ground transportation expenses, and hotel accommodations, in accordance with rates set forth for travel reimbursement by the Office of the New York State Comptroller, available at <http://www.osc.state.ny.us/agencies/travel/reimbrate.htm>. The JCOPE does not agree to accept charges incurred by the Firm for meals, movies, personal telephone charges, entertainment or garment cleaning. Mileage will not be paid in excess of the amount allotted by the Internal Revenue Service for income tax purposes. In those situations where the Firm is also attending meetings or working on a non-JCOPE related matter, it shall prorate all travel charges and apportion equitably the costs of such travel and other incidental charges among clients.

*J. Professional Services*

The Firm must obtain permission from the JCOPE prior to retaining any professional services that may be necessary to perform its duties under the terms of this Agreement.

*K. Non Billable Charges*

In addition to billing restrictions above, the Firm agrees not to bill the JCOPE any overhead costs of doing business, including apportioned rent or utility costs, charges for conference rooms, filing space, the use of library facilities and meals.

The Firm further agrees not to bill the JCOPE for any of the following:

- (1.) any form of labeling;
- (2.) organization, filing and warehousing of the JCOPE's documents internally within the Firm;
- (3.) consolidation of documents, i.e., binders; and
- (4.) word processing or other mechanical means of document preparation.

V. Monthly Statements

Each matter handled by the Firm will be itemized and explained individually with the fees

and disbursements for each type of activity contained in the bill. Each such monthly bill shall include:

- (i) a caption containing the matter name;
- (ii) the name, job title and billing rate of each professional who worked on the matter during the past calendar month, as well as each individual's total hours and total fees;
- (iii) Identification of the professional in the Firm who performed the service, including but not limited to the date and the amount of time expended, calculated to the nearest tenth of an hour. The JCOPE will not accept bills that only provide per person daily totals of time. All references in bills to meetings, telephone calls, internal discussions etc. shall specifically identify the subject matter of the meeting, etc;
- (iv) Incidental Charges are to be listed separately from fees and each such charge shall be separately listed, e.g. long distance telephone charges and document copying charges and described with reasonable specificity. Any time expended by the Firm in preparing the billing, reviewing or discussing billing related issues with the JCOPE may not be billed to the JCOPE.

#### VI. Audit Procedures

The JCOPE, the Office of the Attorney General, and the Office of the New York State Comptroller retain the right to audit legal bills related to this matter for a period of six years from the date of the last billing. The JCOPE reserves the right to examine all underlying billing documentation, including but not limited to original receipts and time records.

**EXHIBIT C**  
**COST PROPOSAL**

**BLENDED RATES**  
**(includes all discounts)**

<b><u>TITLES</u></b>	<b><u>RATE</u></b>
Partner	\$860
Associates	\$860
Paralegals	\$200 - \$515