CONTRACT FOR GOODS AND SERVICES

BY AND BETWEEN

METROPOLITAN AREA PLANNING COUNCIL

AND

MHQ, INC.

This AGREEMENT, dated September 19, 2018, is made and entered into by and between the Metropolitan Area Planning Council ["MAPC"], a public body politic and corporate, established by Chapter 40B, Sections 24 through 29 of the Massachusetts General Laws, with its principal office at 60 Temple Place, Boston, Massachusetts 02111, acting as the collective purchasing agent for the Greater Boston Police Council, Inc. ["GBPC"] and its Members ["Buyers"] pursuant to Chapter 7, Section 22B of the Massachusetts General Laws and without liability to MAPC, and MHQ, Inc. with its principal office at 401 Elm Street Marlborough, Massachusetts

Witnesseth that the parties AGREE as follows:

Article I

General Description of the Work

1. Pursuant to the Terms and Conditions of this AGREEMENT, including any Additional and Special Terms and Conditions listed in Exhibit C, the Request for Proposals ["RFP"] - RFP No. GBPC 2019 Vehicles attached in Exhibit B; and the Vendor’s Price Proposal and Technical Proposal attached in Exhibit F, MAPC hereby engages the Vendor to provide the following goods and/or services to the Buyers: Public Service Vehicles and Equipment.

Article II

Services of the Vendor

2. The Vendor will provide the goods and/or services as described in the RFP cited in Article 1 (above).

3. The Vendor shall report, and be responsible, to MAPC or its designee as set forth on Exhibit A.

4. There shall be no amendment to this AGREEMENT without the written approval of MAPC. MAPC shall be under no obligation to pay for any goods provided or services performed by the Vendor.

5. The Vendor represents and warrants to MAPC as follows:

   i. That it and all its personnel (whether employees, agents or independent Vendors) are qualified and duly licensed as required by law and/or local municipal code to provide services and/or goods required by this AGREEMENT.
ii. That it further agrees to perform services, including manufacturing, in a professional manner adhering to a reasonable standard of care and in accordance with all applicable State or Federal laws, rules and regulations.

iii. That it will obtain any and all permits, bonds, insurances and other items required for the proper and legal performance of the work.

iv. That it is not a party to any AGREEMENT, contract or understanding, which would in any way restrict or prohibit it from undertaking or performing its obligations hereunder in accordance with the terms and conditions of this AGREEMENT.

Article III

Performance of the Vendor

6. In the performance of service under this AGREEMENT, the Vendor acts at all times as an independent contractor. There is no relationship of employment or agency between MAPC, on the one hand, and the Vendor on the other, and neither party shall have nor exercise any control or direction over the method by which the other performs its work or functions aside from such control or directions as provided in this AGREEMENT which the parties view as consistent with their independent Vendor relationship.

7. The Vendor agrees to be responsible for and warrantee the work of its subcontractors listed in Exhibit D and to ensure their compliance with all legal, quality and performance requirements of the Request for Proposals ["RFP"] – RFP No. attached in Exhibit B; and the Vendor’s Price Proposal and Technical Proposal attached in Exhibit F. The Vendor may not use subcontractors not named in Exhibit D without the prior written consent of MAPC, which will not unreasonably be withheld.

Article IV

Time of Performance

8. Time shall be of the essence in relation to Vendor’s performance under this AGREEMENT. Vendor shall complete performance as promised in its quote that accompanies the Buyer’s purchase order or other document confirming its authorization to the Vendor to proceed. Reasonable extensions shall be granted by the Buyer at the written request of the Vendor, provided the justifying circumstances are documented by and are beyond the reasonable control of Vendor and without fault of Vendor. In the event of such an extension, all other terms and conditions of this AGREEMENT, except the dates of commencement and completion of performance, shall remain in full force and effect between the parties unless modified in writing.

9. In the absence of such an extension, liquidated damages shall be due the Buyer in the amount of 0.1% (one-tenth of one percent) of the face value of the Vendor’s quoted or modified purchase price for each day performance exceeds the promised date(s). Such liquidated damages may be acknowledged in Vendor’s final invoice or taken by Buyer as a deduction to such final invoice.

10. Any dispute in the amount of liquidated damages shall be submitted to arbitration by either Buyer or Vendor through the American Arbitration Association within 10 (ten) business days of written notice given by the party declaring impasse. Vendor and Buyer agree to fully comply with the arbitrator’s decision within a reasonable time.
Article V

Revisions in the Work to Be Performed

11. If during the Vendor’s Time of Performance, Buyer requires revisions or other changes to be made in the scope or character of the work to be performed, Buyer will promptly notify Vendor in writing. For any changes to the scope of work, Vendor shall provide Buyer with a written quote of change in price and/or change in time of performance and shall proceed with such changes only upon written consent of Buyer, which shall be construed as a modification to Buyer’s original purchase order.

12. Buyer will neither unreasonably request revisions nor unreasonably withhold final acceptance of delivered products.

Article VI

Term of Agreement

13. The term of this AGREEMENT shall commence upon execution and will continue until September 30, 2019, or until otherwise terminated as provided by this AGREEMENT or the RFP.

14. MAPC reserves the right at its sole discretion to extend the contract for up to two (2) additional one-year terms ending September 30, 2020 and September 30, 2021 respectively.

15. In the event new contracts have not been procured and awarded before the end of a second contract extension, MAPC reserves the right at its sole discretion to extend the contract for an additional period of time until new contracts have been procured and awarded. However, in no instance shall any contract term, including extensions, exceed three (3) years in total.

16. The Vendor agrees to perform promptly upon execution of this AGREEMENT and will diligently and faithfully perform in accordance with the provisions hereof.

Article VII

Orders, Fees, Invoices, and Payments

17. Orders, fees, invoices, and payment shall be processed and paid as specified in Section 10-Terms & Conditions of the RFP.

i. The parties agree that MAPC will only process invoicing for items or services specifically priced within the Vendor’s Price Proposal as submitted to MAPC. MAPC will reject any price quotes or invoices that include any items or services that are not specifically priced in the Price Proposal. In such instance, MAPC may require the Vendor to submit a corrected quote or invoice, or to clearly identify those items not included in the MAPC contract, to be labeled as “not on MAPC contract”.
Article VIII

Assignment

18. Neither party shall assign, transfer or otherwise dispose of this AGREEMENT or any of its rights hereunder or otherwise delegate any of its duties hereunder without the prior written consent of the other party. Any such attempted assignment or other disposition without such consent shall be null and void and of no force and effect.

Article IX

Indemnification

19. The Vendor agrees to indemnify and save MAPC, GBPC, and the Buyers harmless from any and all manner of suits, claims, or demands arising out of any errors, omissions or negligence by the Vendor (including all its employees or agents) in performing under this AGREEMENT, or any breach of the terms of this AGREEMENT, which constitute an obligation of the Vendor. The Vendor shall reimburse MAPC, GBPC, and the Buyers for any and all costs, damages, and expenses including reasonable attorney's fees which MAPC, GBPC, and the Buyers pays, or becomes obligated to pay, by reason of such activities or breach. The provisions of this Section shall be in addition to and shall not be construed as a limitation on any other legal rights of MAPC, GBPC, and the Buyers expressed or not expressed in the RFP and with respect to this AGREEMENT.

Article X

Insurance

20. Before performing under this AGREEMENT, the Vendor shall obtain, and shall maintain throughout the term of this AGREEMENT, insurance at limits specified in the RFP and provide written documentation of such in the form specified in the RFP.

21. The Vendor shall give MAPC 20 days (twenty) written notice and copies of documentation in the event of any change or cancellation of coverage.

Article XI

Termination of Agreement

22. Either MAPC or the Vendor may terminate this AGREEMENT for cause upon written notice given by the non-defaulting party. For the purposes of this provision, "cause" shall include the failure of a party to fulfill its material duties hereunder in a timely and satisfactory manner.

23. MAPC shall have the right to terminate this AGREEMENT for its convenience upon fourteen (14) calendar days of written notice.

24. Following termination of this AGREEMENT, the parties shall be relieved of all further obligations hereunder except that:

25. MAPC shall not be liable for payments for the services and/or expenses or lost profits of the Vendor in the event of termination.
26. The **Vendor** shall remain liable for any damages, expenses or liabilities arising under this AGREEMENT (including its indemnity obligations) with respect to work performed pursuant to the AGREEMENT.

**Article XII**

**Entirety of Agreement**

27. This AGREEMENT, together with its Exhibits, the **RFP** referenced above and its Addenda, the required supplemental documents and any additional exhibits, constitute the entire AGREEMENT between **MAPC** and the **Vendor** with respect to the matters set forth therein and may not be changed (amended, modified or terms waived) except by a writing signed by both parties. Any notices required or allowed shall be sent by receipt-verified mail, email, fax or courier to the persons designated in Exhibit A.

28. The provisions of the **RFP** and the **Vendor’s Proposal** are incorporated herein by reference. In the event of any conflict among the Contract Documents, the documents shall be construed according to the following priorities:

- **Highest Priority**: Amendments to Contract (if any)
- **Second Priority**: Contract
- **Third Priority**: Addenda to the RFP (if any)
- **Fourth Priority**: RFP
- **Fifth Priority**: Vendor’s Proposal

**Article XIII**

**Severability**

29. In the event any provision of this AGREEMENT is found by a court of appropriate jurisdiction to be unlawful or invalid, the remainder of the AGREEMENT shall remain and continue in full force and effect.

**Article XIV**

**Governing Law and Jurisdiction**

30. This AGREEMENT shall be governed by, construed and enforced in accordance with laws of the Commonwealth of Massachusetts. **MAPC, Vendors, and Buyers** agree to submit their respective jurisdiction and venue to the state and federal courts in the Commonwealth of Massachusetts to resolve any disputes or disagreements that may arise under any provision of this AGREEMENT.
Article XV

Notice

31. Except as otherwise expressly provided in this AGREEMENT, any decision or action by MAPC relating to this AGREEMENT, its operation, or termination, shall be made only by MAPC or its designated representative identified in Exhibit A.

IN WITNESS WHEREOF, the parties have caused this AGREEMENT to be executed by their duly authorized officers on the date written below.

For MAPC by or on behalf of the Greater Boston Police Council and its Members:

[Signature]
Signature
Marc Draisan
Name
Executive Director
Title

[Date]

For the VENDOR:

[Signature]
Signature
David Eycleshymer
Name
Vice President
Title

[Date]

* Affix Corporate Seal (or mark “n/a”)
## EXHIBIT A

Notice Addressees

<table>
<thead>
<tr>
<th>For MAPC:</th>
<th>For the VENDOR: MHQ, Inc.</th>
</tr>
</thead>
<tbody>
<tr>
<td>Name</td>
<td>David Eycleshymer</td>
</tr>
<tr>
<td>Executive Director</td>
<td>Name</td>
</tr>
<tr>
<td>Title</td>
<td>Vice President</td>
</tr>
<tr>
<td><strong>MAPC</strong></td>
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</tr>
<tr>
<td>Organization</td>
<td><strong>MHQ, Inc.</strong></td>
</tr>
<tr>
<td><strong>60 Temple Place</strong></td>
<td>Organization</td>
</tr>
<tr>
<td>Street Address</td>
<td><strong>401 Elm Street</strong></td>
</tr>
<tr>
<td><strong>Boston, MA 02111</strong></td>
<td>* Street Address</td>
</tr>
<tr>
<td>City, State, ZIP</td>
<td><strong>Marlborough, MA, 01752</strong></td>
</tr>
<tr>
<td><strong>617.933.0700</strong></td>
<td>City, State, ZIP</td>
</tr>
<tr>
<td>Phone</td>
<td><strong>508-573-2614</strong></td>
</tr>
<tr>
<td><strong>617.482.7185</strong></td>
<td>* Phone</td>
</tr>
<tr>
<td>Fax</td>
<td><strong>508-573-2714</strong></td>
</tr>
<tr>
<td><a href="mailto:mdraisen@mapc.org">mdraisen@mapc.org</a></td>
<td>* Fax</td>
</tr>
<tr>
<td>email</td>
<td><a href="mailto:deycleshymer@mhq.com">deycleshymer@mhq.com</a></td>
</tr>
<tr>
<td></td>
<td>* email</td>
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</table>
**CERTIFICATE OF LIABILITY INSURANCE**

**DATE:** 10/1/2018

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

IMPORTANT: If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must have ADDITIONAL INSURED provisions or be endorsed. If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

**PRODUCER**
Herity Insurance Group
51 Pullman Street
Worcester MA 01606

**CONTACT**
NAME: Brian Robillard
PHONE: 508-756-5159
FAX: 508-751-5747
E-MAIL: certificates@heritygroup.com

**INSURED**
MHQ, Inc., et al
401 Elm Street
Marlborough MA 01752-4566

**INSURER(S) AFFORDING COVERAGE**

<table>
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<tr>
<th>NAIC #</th>
<th>INSURER A</th>
<th>Lloyds</th>
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**COVERAGES**

**CERTIFICATE NUMBER:** 316862912

**REVISION NUMBER:**

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERMIT, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

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<td>CLAIMS-MADE</td>
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**DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required):**

Property/Equipment Floater for Tools - Policy 630-8K959488 - $600,000 Limit, Special form including Theft, Replacement Cost, $5,000 Deductible.

BPP - Blanket Business Personal Property Limit including Leased and Rented Equipment - $11,445,545, Special form including Theft, Replacement Cost, $5,000 Deductible.

Pollution Liability - Policy# G4687633 001 Chubb Group of Insurance Companies - $1,000,000/$1,000,000, Subject to $10,000 Deductible

Auto Only Limit: 1,000,000

See Attached...

**CERTIFICATE HOLDER**

MAPC and GBPC

**CANCELLATION**

SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.

**AUTHORIZED REPRESENTATIVE**

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**Garage Liability**
Each Accident Other Than Auto Only: 1,000,000/3,000,000

Garage Keepers Liability

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<td>112-114 Goldstar, Worcester, MA</td>
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<td>1-19 Industrial Park, East, Oxford, MA</td>
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<tr>
<td>8</td>
<td>6 Viking Road, Webster, MA</td>
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**Supplemental Names**
Automotive Management Inc.
Harr Imports Inc dba Harr Toyota Scion DBA HARR Loan Express
EJR Real Estate Trust
MHQ Truck Equipment
MHQ Municipal Vehciles of CT MHQ Supply Inc
EJR Associates Limited Partnership
The Harr Motor Company DBA Loan Express DBA Harr Imports, Inc.
Charles K. Ribakoff, IL

Certificate holder is included as Additional Insured as respects General Liability, Auto Liability and Excess Liability, on a primary and non-contributory basis for ongoing and completed operations, where required by written contract, subject to the forms, conditions, and provisions of the policies. A Waiver of Subrogation applies on the General Liability and Auto Liability when required by written contract.

MAPC (Metropolitan Area Planning Council) and GBPC (Greater Boston Police Council) shall be named as additional insured at the time of and for the duration of contract.