NEW YORK CITY ECONOMIC DEVELOPMENT CORPORATION
ON-CALL CIVIL AND RESIDENT ENGINEER RETAINER
PROFESSIONAL SERVICES CONSULTANT CONTRACT
FOR THE PROVISION OF CIVIL AND RESIDENT ENGINEERING SERVICES
NYCEDC CONTRACT NO. 93180003
PROJECT CODE NO. 9318

CONSULTANT CONTRACT

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PART I **SPECIFIC TERMS AND CONDITIONS**

PART II **GENERAL TERMS AND CONDITIONS**

PART III **APPENDICES**

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PART I
SPECIFIC TERMS AND CONDITIONS

New York City Economic Development Corporation (the "Corporation" or "NYCEDC") and the Consultant identified below, in consideration of the mutual covenants contained in this Contract (as defined below) and other valuable and good consideration, do hereby agree to all of the terms and conditions set forth in (i) these Specific Terms and Conditions (Part I) set forth immediately below, (ii) the General Terms and Conditions (Part II) annexed hereto and made a part hereof and (iii) the Appendices (Part III) annexed hereto and made a part hereof. Capitalized terms shall have the meaning set forth in Appendix A (Definitions) unless otherwise defined in this Contract or the context otherwise requires.

1. The Contract

1.1 **Contract:** These Specific Terms and Conditions (Part I), the General Terms and Conditions (Part II) and the Appendices (Part III)
1.2 **NYCEDC Contract No.** 93180003
1.3 **Contract Date:** The date of the Contract is as of 5/1/2022
1.4 **Commencement Date:** 5/1/2022
1.5 **Term:** Five (5) years with two (2) one-year extensions exercisable at NYCEDC's sole discretion
1.6 **Maximum Contract Price:** $15,000,000
1.7 **Project:** On-Call Civil and Resident Engineer Retainer
1.8 **Project Site:** Various
1.9 **Allowable Additional Costs:** The Allowable Additional Costs are defined in Appendix B (Scope of Services) and the amount set forth in Appendix C (Payments)
1.10 **Retainage:** Percentage to be paid in accordance with Appendix C
1.11 **Retainage Payment Date:** See Appendix C
1.12 **M/WBE Participation Goal:** 75%

2. Parties

2.1 **The Corporation:** New York City Economic Development Corporation, a not-for-profit corporation, organized under the laws of the State of New York.
2.2 **Director:** Elizabeth T. Arnaiz, Executive Vice President, Capital Program

2.3 **The Consultant:** Techno Consult, Inc., a New Jersey corporation authorized to do business in New York, having an office at:

Address: 14 Penn Plaza, Suite 2220
New York, NY 10122

Federal Tax ID #: 87(2)(b)

2.4 **Principal:** Khalid Mallick

2.5 **Person in Charge:** Khalid Mallick

3. **Notice Parties and Addresses**

3.1 **Notices to the Corporation:**

New York City Economic Development Corporation
One Liberty Plaza, 14th Floor
New York, NY 10006
Attn: General Counsel

with a copy to:

New York City Economic Development Corporation
One Liberty Plaza, 14th Floor
New York, NY 10006
Attn: Elizabeth T. Arnaiz, Executive Vice President, Capital Program

3.2 **Notices to the Consultant:**

Techno Consult, Inc.
14 Penn Plaza, Suite 2220
New York, NY 10122
Attn: Khalid Mallick

4. **Funding Source.** The payments to be made to the Consultant by the Corporation pursuant to this Contract will be made from funds identified below and in accordance with the provisions of Appendix I and may include funds in accordance with the provisions of Appendix J (Applicable Agreements) and Appendix K (Applicable Requirements). The Consultant agrees to comply with the provisions of each of such Appendices.

4.1 **Type of Funds:** To be determined pursuant to each Project assignment
4.2 **Funding Agencies:** To be determined pursuant to each Project assignment
4.3 **Applicable Statutes:** To be determined pursuant to each Project assignment
4.4 **Applicable Agreements:** To be determined pursuant to each Project assignment

This Contract may be executed in counterparts, all of which counterparts, when taken together, shall be deemed a fully executed instrument.

IN WITNESS WHEREOF, the parties hereto have caused this Contract to be duly executed as of the Contract Date herein above written.

NEW YORK CITY ECONOMIC DEVELOPMENT CORPORATION

By: _____
Elizabeth Arnaiz (Jun 30, 2022 09:28 PDT)

Name: Elizabeth Arnaiz

Title: EVP

TECHNO CONSULT, INC.

By: _____

Name: Khalid Mallick, PE

Title: President

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PART II
GENERAL TERMS AND CONDITIONS

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PART II
GENERAL TERMS AND CONDITIONS

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PART II
GENERAL TERMS AND CONDITIONS

The Corporation and the Consultant agree as follows:

ARTICLE 1
PERFORMANCE OF SERVICES

1.1 Services. The Corporation hereby retains and engages the Consultant and the Consultant agrees to perform the Services as described in **Appendix B** (Scope of Services), attached hereto.

1.2 Time for Performance of Services/Term/Delays and Force Majeure.

1.2.1 The Consultant shall commence the Services upon or promptly after the Commencement Date and shall complete the Services and each phase of the Services within the time or times stated for Final Completion as set forth in **Appendix B**, and in accordance with any directive given and Progress Schedule approved by the Corporation, unless this Contract is earlier terminated pursuant to Article 3 hereof.

1.2.2 This Contract shall be for the Term as set forth in Part I, Section 1.5 unless sooner terminated pursuant to Article 3 hereof.

1.2.3 If the Consultant has been delayed and as a result will be unable to complete performance fully and satisfactorily within the time fixed therefor, the Consultant may be granted an extension of time fixed for performance equal to the period the Consultant was actually and necessarily delayed upon submission of evidence of the causes of the delay, subjectto the written approval of the Director in his or her sole discretion. The decision of the Directoras to the granting of the extension and its length shall be binding upon the Consultant.

1.2.4 Subject to the Corporation's determination and approval, the Corporation may extend the time or times for performance of the Services where such performance has been substantially obstructed, hindered or delayed by reason of acts of Force Majeure. The Consultant shall have no claim against the Corporation or the City for any loss or damage sustained by the Consultant nor for any extra compensation in the form of an increase in the Maximum Contract Price, or otherwise, through such delay, hindrance or obstruction.

1.3 Complete Work and Timing and Sequence/Meetings. It is the intent of the parties that the provisions of this Contract shall not be construed so as to limit the Services, but that the Services shall include all acts necessary to fully and finally complete the work described in **Appendix B**

hereof. The Consultant shall schedule and perform the Services in a manner so as to permit their completion diligently and expeditiously. The Principal, the Person in Charge and such other Representatives of the Consultant as may be required under the circumstances shall be available to meet with the Director or her or his designee as often as necessary to effectively perform the Services, and as often as may be specified in **Appendix B**.

1.4 Authority of Director/Performance of Services.

1.4.1 The Services to be performed by the Consultant shall at all times be subject to the review, direction and control of the Director, whose decision shall be final and binding upon the Consultant. The Director shall have the right to determine the amount, quality, acceptability and fitness of the Services and her or his approval shall be a condition precedent to the right of the Consultant to receive any compensation under this Contract. The Director shall act reasonably in exercising her or his authority under this Contract. The Director and any other person or agent duly authorized to act for and on behalf of the Corporation shall not, by virtue of such authority or action, be liable in any manner to the Consultant.

1.4.2 The Consultant shall perform all of the Services in a prudent and professional manner and in accordance with standards and practices as are customary for such Services in the New York City Metropolitan Statistical Area.

1.5 Changes to the Services.

1.5.1 The Consultant shall not make any changes in the Services without prior written authorization from the Director. The Consultant shall revise or correct any Work Product submitted in accordance with this Contract until accepted by the Director and accepted by all agencies whose approval is required by law, without additional compensation or time extension. Any changes to the performance of the Services or the Work Product which are necessary due to improper performance of the Services, a defect of design, unworkability of details or other fault or error of the Consultant shall be made by the Consultant, also without additional compensation or time extension.

1.5.2 The Director shall have the right to alter the Services, provided however, that if the Consultant believes that any work or services that it has been directed to perform as a result of such alteration is beyond the Scope of Services and constitutes Extra Work, the Consultant shall so Notify the Director within three (3) days of such directive. The Director shall determine whether such altered Services are (i) within the Scope of Services; or (ii) Extra Work requiring an amendment to the Scope of Services and the Contract. The Director's determination shall be final, binding and conclusive.

1.5.3 The Director reserves the right to reduce the Scope of Services under this Contract by Notice to the Consultant specifying the nature and extent of such reduction. The Consultant shall be compensated for all Services satisfactorily performed prior to the reduction and for Services satisfactorily performed thereafter. If said reduction results in a credit for the Corporation, such credit shall be immediately due and owing to Corporation, and the Consultant shall either pay such credit to the Corporation or the Corporation may withhold the credit amount from any future payments by the Corporation to the Consultant, at the exclusive option of the Corporation.

1.6 Equipment.

1.6.1 The Consultant, at its own expense, shall secure all supplies, materials and equipment required to perform and complete the Services.

1.6.2 The Consultant, at its sole cost and expense, shall bear the risk of loss for any supplies, materials and equipment used to perform the Services whether such loss arises by reason of fire, theft, vandalism, negligence or any other cause whatsoever. Consultant, at its sole cost and expense, shall promptly replace or repair all such lost, stolen or damaged supplies, materials and equipment.

1.6.3 The Consultant, at its sole cost and expense, shall maintain all of its supplies, materials and equipment in good working and serviceable order so as to enable the Consultant to perform the Services in a first-class and professional manner.

1.6.4 The Consultant shall be solely responsible for the means and methods and the safety and protection of all its employees and shall assume all liability for injuries, including death, that may occur to such employees due to the act, omission, negligence, fault or default of the Consultant.

1.7 Services Subject to City Contract, Indemnification and Third Party Beneficiary. This Contract is a subcontract under the City Contract. The Consultant acknowledges that it has reviewed the City Contract and agrees to comply with the City Contract with respect to the Services and not to violate, or through its acts or failure to act cause the Corporation to violate, the City Contract. The Consultant agrees to defend, indemnify and hold harmless the Corporation from any claim, liability or judgment to which the Corporation may be subject because of any such action or failure to act. The City shall be a third party beneficiary of this Contract and shall have a direct cause of action against the Consultant in the event that any claimbe made or any cause of action be brought against the Corporation or City or if the Consultant breaches this Contract.

1.8 Acts to be Performed by the Corporation. The Corporation shall perform the following acts in connection with this Contract:

1.8.1 The Corporation shall make available to the Consultant all relevant technical data (subject to the provisions of Part II, Section 5.3 herein) in regard to the Contract which is in the possession of the Corporation.

1.8.2 The Corporation shall designate a Project Manager to serve as a liaison between the Corporation and the Consultant.

ARTICLE 2
COMPENSATION

2.1 Payments.

2.1.1 Subject to, and in accordance with this Article 2, the Corporation shall pay to the Consultant, and the Consultant agrees to accept, in full consideration for the Services, and for all expenses of the Consultant in connection therewith, including Subcontractors' Costs and

Allowable Additional Costs, an amount not to exceed the Maximum Contract Price, payable as provided for in this Section 2.1 and in **Appendix C**.

2.1.2 Requisitions shall be in a form reasonably acceptable to the Corporation and shall be supported by any appropriate or necessary documentation or other evidence relating to the amounts set forth in the Requisition, as the Corporation may reasonably require including, but not limited to invoices, receipts and vouchers from Subcontractors and suppliers, information related to M/WBEs required under Section 9.5 and, where applicable, the time sheets and/or certified payroll reports of the Consultant's staff and its Principal.

2.1.3 Each Requisition submitted to the Corporation by the Consultant shall constitute a representation that, except as specifically set forth in the Requisition, as of the date of the Requisition, all representations and warranties made by the Consultant in Article 7 are true, complete and accurate as if made as of the date of the submission of the Requisition.

2.1.4 The Director shall review the Requisitions and the Work Product. If, in her or his judgment, the Services have been satisfactorily performed in accordance with this Contract, the Director will approve the Requisition. All payments to the Consultant will be made in accordance with this Article 2.

2.1.5 Subject to Section 3.5, Final Payment will be due only upon Final Completion.

2.1.6 The Consultant, with the Director's prior approval, may exceed the Maximum Payment allocated to a particular Portion of the Services if the Consultant by Notice determines that the Maximum Payment initially allocated to the Portion is insufficient to adequately perform the Portion of the Services and if the Consultant demonstrates to the Director a savings with respect to another Portion of the Services which is at least equal to the amount of such excess. However, notwithstanding the above, in no event shall the Corporation pay the Consultant more than the Maximum Contract Price.

2.1.7 All Requisitions must be submitted to the Corporation's Accounts Payable Department.

2.2 Miscellaneous Payment Provisions.

2.2.1 In addition to its rights under Section 9.10, if the Corporation shall have reasonable grounds for believing that:

(i) the Consultant will be unable to perform the Services or any Portion thereof fully and satisfactorily in accordance with any Progress Schedule, or

(ii) a meritorious claim exists or will exist against the Corporation, the Consultant or the City arising out of the act, omission or negligence of the Consultant or the Consultant's breach of any provision of this Contract,

then the Corporation may withhold payment of any amount otherwise due and payable to the Consultant hereunder. Any amount so withheld may be retained by the Corporation for such period

as it may deem advisable to protect the Corporation and the City against any loss and may, after Notice to the Consultant, be applied in satisfaction of any claim herein described.

2.2.2 The Corporation shall not be deemed to have released the Consultant from any claim or liability, or to have waived any cause of action arising from any breach of this Contract by virtue of making payments to the Consultant.

2.2.3 Upon acceptance by the Consultant of the Final Payment to be paid pursuant to this Contract, the Consultant agrees that it shall be deemed to have fully released the Corporation and the City from any and all claims, demands and causes of action whatsoever which the Consultant has or may have against the Corporation or the City in connection with this Contract and, upon the request of the Corporation, shall execute a release to such effect.

2.2.4 All payments to the Consultant under this Contract shall be subject to allapplicable Legal Requirements.

2.3 Electronic Funds Transfers. All payments due under this Contract in excess of $100,000 shall be made by Electronic Funds Transfer ("EFT"). Upon execution of this Contract, and in no event later than its submission of its first Requisition, the Consultant shall complete and submit to the Corporation the "EFT Vendor Payment Enrollment Form" annexed to **Appendix C**. The Consultant shall update such information to the extent necessary for EFT payments to be made. The Corporation shall not be obligated to make any payment in excess of $100,000 unless such information is provided and shall be entitled to rely solely on the information provided by the Consultant. Payments to the Corporation shall be made by check unless the Corporation Notifies the Consultant to make payments by EFT.

ARTICLE 3
SUSPENSION OR TERMINATION

3.1 Delay, Postponement or Suspension of Work.

3.1.1 The Corporation shall have the right to delay, postpone or suspend the Services, or any Portion thereof, immediately or upon a specified date, for a period of not more than ninety (90) days, upon Notice to the Consultant, for any reason deemed by the Corporation to be in its interest. The Consultant and all of its Subcontractors and Representatives shall cease all Services, or any specified Portion thereof, immediately or as of the date specified in the Notice.

3.1.2 Any such delay, postponement or suspension shall not give rise to any cause of action for damages against the Corporation or the City, but the Term specified in Part I of this Contract and the Consultant's time for performance of the Services shall be extended for the period of the delay, postponement or suspension.

3.1.3 In the event of any delays, postponements or suspensions, the Consultant shall resume the Services upon the date specified in the Notice or upon such other date as the Corporation may thereafter specify by Notice.

3.2 Termination for Convenience. The Corporation shall have the right to terminate the Services, or any Portion thereof, immediately or upon a specified date, upon Notice to the Consultant and for any reason deemed by the Corporation to be in its interest.

3.3 Defaults and Termination for Cause.

3.3.1 In addition to any other right that the Corporation may have, upon the occurrence of an Event of Default, the Corporation shall have the right to declare the Consultant in default and terminate this Contract, in whole or in part, for cause, by giving Notice to the Consultant of the cause and the date of such termination.

3.3.2 An Event of Default shall be deemed to have occurred if any of the following events has occurred, each an "Event of Default":

(i) The Consultant fails to assign workers, order materials or enter into subcontracts in a manner sufficient to permit completion of the Services, or any Portion thereof,within the time limits of the Progress Schedule or in accordance with any Progress Schedule approved by the Corporation;

(ii) The Consultant fails to complete the Services, or any Portion thereof, within the time limits provided in this Contract or any Progress Schedule approved by the Corporation;

(iii) The Consultant materially violates any term, covenant or provision of this Contract;

(iv) The Consultant materially fails to comply with any Applicable Requirements or any Applicable Agreements;

(v) Any representation or warranty made by the Consultant in Article 7 or in any other Article in this Contract shall prove to be untrue or be breached;

(vi) The Consultant becomes insolvent, files for bankruptcy or is adjudged a debtor in possession;

(vii) The Consultant voluntarily, or by operation of law, assigns, transfers, conveys or otherwise disposes of its interest in this Contract or its right to receive funds hereunderwithout the prior written consent of the Corporation;

(viii) The Consultant fails to comply with the M/WBE Requirements in Article 9; or

(ix) The Consultant or any of its officers, directors, partners, members, five (5%) percent shareholders, principals or other persons substantially involved in its activities, commits any of the acts or omissions specified as the grounds for debarment in the City's *Procurement Policy Board Rules*.

3.4 Effects of Termination for Convenience or for Cause.

3.4.1 The Contract, or such portion of the Contract described in the Notice of termination, shall terminate as of the termination date set forth in the Notice given pursuant to Section 3.3.1, or immediately if no date is specified.

3.4.2 Upon receipt of a Notice of termination for cause or for convenience, the Consultant shall cease any or all Services, immediately or on the date specified, in accordance with the terms of the Notice.

3.4.3 Termination, whether for convenience or for cause, shall not give rise to any cause of action for damages against the Corporation or the City.

3.4.4 Within ten (10) days after the effective date of termination, the Consultant shall surrender and turn over to the Corporation all Work Product and any other materials related to this Contract requested by the Corporation including, without limitation, all materials, equipment and supplies purchased by the Consultant on behalf of the Corporation in connection with this Contract.

3.5 Payment Upon Termination.

3.5.1 Upon termination with or without cause, the Consultant shall promptly present to the Corporation a verified statement of all costs actually incurred prior to the date of termination, together with all documents in the Consultant's possession related thereto that the Corporation may demand in order to verify such statement of costs including, without limitation, canceled checks, subcontracts, and paid receipts and bills from Subcontractors. The Corporation will review the statement of costs and review or audit any supporting documentation provided by or in the Consultant's possession. The Corporation will Notify the Consultant of the results of such review or audit and the amount approved for payment.

3.5.2 If the termination was without cause, the Consultant shall receive such equitable compensation for such Services as shall, in the judgment of Director, have been satisfactorily performed by the Consultant up to the date of the termination, such compensation to be fixed by the Corporation after consultation with the Consultant, subject to any rights of audit provided herein. Such payment will be processed by the Corporation after Consultant provides all information and documentation required hereunder. Such payment shall constitute full and Final Payment to the Consultant.

3.5.3 If the termination was for cause, the Consultant shall receive such equitable compensation for such Services as shall, in the judgment of Director, have been satisfactorily performed by the Consultant up to the date of the termination, such compensation to be fixed by the Corporation, subject to any rights of audit provided herein, and subject to set-off by the Corporation for any additional expenses the Corporation incurs to complete the Project satisfactorily, including the expenses of engaging another consultant and the costs set forth in Section 9.10(ii). The sum of (i) such additional expenses incurred to the Corporation for the completion of the Project, and (ii) payments made to the Consultant prior to the termination of the Contract shall hereafter be referred to as the "Contract Completion Costs."

(i) If the Contract Completion Costs exceed the Maximum Contract Price, Consultant shall pay such difference to the Corporation, as described in Section 3.5.4 below.

(ii) If the Contract Completion Costs are less than the Maximum Contract Price, provided that the Consultant has provided all information and documentation required by this Section, the Corporation will pay to the Consultant, an amount equal to the lesser of (a) the difference between the Maximum Contract Price and the Contract Completion Costs, or (b) such amount, when added to sums previously paid to Consultant, equitably compensates Consultant for Services satisfactorily performed up to the date of termination. Such payment will be made as further described in Section 3.5.4 below.

3.5.4 If the termination was for cause, the Corporation will, upon full completion of the Project, deliver a written notice to the Consultant advising the Consultant that the Project has been completed and setting forth the Contract Completion Costs. If the Contract Completion Costs exceed the Maximum Contract Price, the Consultant shall promptly pay such difference to the Corporation upon receipt of such notice. If the Contract Completion Costs are less than the Maximum Contract Price, then, subject to (i) the Consultant's providing to the Corporation all information and documentation required by this Section, and (ii) any other applicable provisions of this Contract including, without limitation, Sections 3.5.5 and 3.5.6 hereof, the Corporation will pay the Consultant the amount described in Section 3.5.3(ii). Such payment shall constitute full and Final Payment to the Consultant.

3.5.5 The Corporation need not wait until the completion of the Services to seek the enforcement of its rights against the Consultant if there has been a termination for cause, but no monies shall be due or payable to the Consultant terminated for cause until the Services are completed.

3.5.6 The provisions of this Section 3.5 shall be in addition to any other rights the Corporation may have under this Contract, any Applicable Requirement, any Applicable Agreement, or otherwise, in law or in equity.

3.6 No Release. Termination of this Contract, whether by expiration of its Term or otherwise, shall not release the Consultant from any liability to the Corporation or from the Consultant's indemnification and other obligations under this Contract that have not been specifically terminated pursuant to this Article of the Contract.

ARTICLE 4
PERSONNEL AND SUBCONTRACTORS

4.1 Personnel.

4.1.1 The Consultant shall employ at its own expense all personnel and retain all Subcontractors as may be required to perform the Services, and shall be solely responsible for their work, compensation, direction and conduct during the performance of this Contract. The personnel of the Consultant and any Subcontractor shall cooperate fully with the personnel of the Corporation including, without limitation, the Director, and, in the event any personnel of the Consultant or

any Subcontractor fails to cooperate, the Consultant shall relieve them of their duties of performance under this Contract.

4.1.2 The Consultant shall submit to the Director, prior to performance of Services by such personnel, resumes of the Consultant's personnel and those of its Subcontractors' personnel who will perform the Services. The experience and training of such personnel is a material inducement for the Corporation to enter into this Contract and make payment for the Services. The Consultant and its Subcontractors are expected to use such personnel to perform the Services. If the Consultant or a Subcontractor proposes to substitute any other personnel for those heretofore identified, it shall assign persons with equivalent or better experience and training and shall submit the resumes of such proposed substitute personnel to the Director andobtain the Director's prior approval of the substitution. Notwithstanding anything contained herein to the contrary, all personnel furnished by the Consultant as required under this Contractshall be employees of the Consultant or approved Subcontractors of the Consultant and not employees or subcontractors of the Corporation or the City.

4.2 Subcontractors.

4.2.1 The Consultant is authorized to enter into subcontracts for specialized professional services as required for performance of the Services subject to the prior written approval of the Director as to the Subcontractor, the scope of services, compensation, and the Principal or other member(s) of the Consultant's staff responsible for supervising the performance of the Subcontractor's activities. The Consultant, and not the Corporation, is responsible for the Subcontractor's work, acts and omissions.

4.2.2 The Consultant shall pay any Subcontractors approved by the Corporation for work that has been satisfactorily performed no later than thirty (30) days from the date of Consultant's receipt of payments from the Corporation.

4.2.3 The Consultant is solely responsible for the payments to the Subcontractors. Upon receipt of evidence of Consultant default hereunder with respect to its obligations to make payments to its Subcontractors, the Corporation reserves the right, after three (3) calendar days prior Notice, to retain any money due the Consultant and pay directly for labor, materials, equipment, Services and all other obligations of the Consultant and to deduct the amount of any such direct payments from any payments or amounts then due or thereafter to become due to the Consultant.

4.2.4 The Consultant shall inform all Subcontractors fully of the terms and conditions of this Contract. All subcontracts shall provide that:

(i) there is no privity of contract between the Subcontractor and the Corporation or the City;

(ii) neither the Corporation nor the City will incur any liability by virtue of any act, omission, negligence, or obligation of the Subcontractor or the Consultant;

(iii) the Subcontractor shall indemnify, defend and hold harmless the Corporation and the City, their agents, employees, members, directors, officials and officers against any and all claims, judgments or liabilities to which they may be subject

(including, without limitation, any and all claims for injuries to persons (including death) and damage to property) because of any negligence or any fault or default of the Subcontractor, its agents, employees or subcontractors or the breach of the Subcontractor's obligations under the subcontract;

(iv) the Subcontractor's Requisitions shall conform to the same requirements and include the representations, warranties and agreements set forth in Sections 2.1.2 and 2.1 3;

(v) the "Events of Default" set forth in Section 3.3.2 as grounds for termination for cause shall be "Events of Default" and grounds for termination of the Subcontractor for cause;

(vi) the subcontract may be assigned without the written consent of the Subcontractor to the City, NYCEDC or any other corporation, agency or instrumentality having authority to accept the assignment; and

(vii) all work and services performed under the subcontract shall strictly comply with the requirements of this Contract.

If the Consultant fails to include the provisions set forth in this Section 4.2.4 in any subcontract, the Consultant hereby agrees to indemnify, defend and hold harmless the Corporation and the City and their Representatives against any and all claims, damages, awards, judgments, liabilities, expenses, fines, penalties, costs and/or fees incurred by or imposed upon the Corporation and the City and their Representatives, including reasonable fees, as a result of said failure.

4.2.5 The Consultant shall provide the Corporation with a list of all Subcontractors employed for the performance of the Services whose subcontract amount totals $25,000 or more. The Consultant will furnish each such Subcontractor whose Subcontract amount totals less than $100,000 with the Corporation's internal qualification and background investigation forms. The Consultant will furnish each such subcontractor whose subcontract amount totals $100,000 or more with the Mayor's Office of Contracts Investigations Forms. These forms will be provided by the Corporation to the Consultant. The Consultant shall cause each such Subcontractor to fill out and complete the forms in a timely fashion but in no event later than the commencement of the Services performed by such Subcontractor pursuant to its subcontract.

4.3 Person in Charge. The Consultant has designated a Person-in-Charge who will have primary responsibility to perform and/or supervise and coordinate the performance of the Services. Substitution of said person shall be made only with the prior written approval of the Director. Failure to make such person(s) available to the extent necessary to perform the Services skillfully and promptly shall be a material violation of the terms of this Contract.

ARTICLE 5
DOCUMENTS AND MATERIALS

5.1 Approval. All Work Product to be prepared or furnished by the Consultant pursuant to this Contract or publicizing the work of the Consultant hereunder must be:

(i) approved in writing by the Director before any Work Product or publication as to the work of the Consultant shall be considered accepted and before any distribution;

(ii) revised by the Consultant in accordance with the directions of the Director prior to approval; and

(iii) prepared so as not to violate any provisions of law including, without limitation, the City Charter and the Administrative Code of the City.

5.2 Work Product.

5.2.1 All Work Product is the exclusive property of the Corporation. The Corporation may use any Work Product prepared by the Consultant in such manner, for such purposes, and as often as the Corporation may deem advisable, in whole, in part or in modified form, in all formats now known or hereafter to become known, without further employment of or additional compensation to the Consultant.

5.2.2 The Consultant shall not use, transmit, display, publish or otherwise license such Work Product without the Corporation's prior written consent.

5.2.3 The Work Product shall be considered "work-made-for-hire" within the meaning and purview of Section 101 of the United States Copyright Act, 17 U.S.C. § 101, and the Corporation is the copyright owner thereof and of all aspects, elements and components thereof in which copyright protection might subsist. To the extent that the Work Product does not qualify as a "work-made-for-hire", the Consultant hereby irrevocably transfers, assigns and conveys exclusive copyright ownership in and to the Work Product to the Corporation, free and clear of any liens, claims or other encumbrances. The Consultant shall retain no copyright or other intellectual property interest in the Work Product.

5.2.4 To the extent that the Work Product does not qualify as a "work-made-for hire", Consultant acknowledges the existence, if any, of its statutory moral rights as those rights are described in 17 U.S.C. § 106A(a), and knowingly executes this Contract on the following terms: (i) this waiver applies to the Work Product and to any promotional materials connected with the Work Product; (ii) the Consultant hereby expressly and forever waives any and all rights under 17 U.S.C. § 106A, and any rights arising under U.S. federal or state law or under the laws of any other country that conveys rights of the same nature as those conveyed by 17 U.S.C. § 106A, or any other type of moral right or *droit moral*.

5.2.5 The Consultant represents and warrants that, except for material which is in the public domain and non-original material that meets the requirements of §5.2.6, the Work Product:

(i) shall be wholly original material not published elsewhere;

(ii) shall not violate any copyright, trademark or other applicable law; and

(iii) shall not, to the best of Consultant's knowledge, constitute a defamation or invasion of the right of privacy or publicity, or an infringement of any kind, of any rights of any third party.

5.2.6 The Consultant represents and warrants that to the extent that the Work Product incorporates non-original material, the Consultant shall obtain and provide the Corporation with copies of all necessary permissions and clearances, in writing, for the use of such non-original material under this Contract. Since some licenses for materials may be for a limited duration, the Consultant shall provide and/or specify the following to the Corporation with respect to all non-original materials included in its Work Product:

(i) all information as to any durational limitations on use;

(ii) any requirement that a notice be displayed in connection with display, including the specific owner of the rights to be credited, and any limitation on the use under theConsultant's license; and

(iii) a statement certified by the Principal verifying the foregoing in the form annexed hereto as **Appendix D**.

Consultant will update the foregoing information and promptly provide such updates to the Corporation during the Contract Term.

5.2.7 The Consultant acknowledges that the Corporation or the City may, in their sole discretion, register copyright in the Work Product with the U.S. Copyright Office or any other government agency authorized to grant registrations to copyright. The Consultant will cooperate in this effort, and agrees to provide any further documentation necessary to accomplish this.

5.2.8 The Consultant agrees that the Corporation and the City may use the Consultant's name and the names, biographies and likenesses of its members, in advertising and promotion related to the Work Product, and in any and all ancillary products related to the Services regardless of the format in which such use occurs.

5.2.9 Prior to acceptance of any Work Product by the Director, upon the Director's request and within a reasonable time following delivery of the Work Product, the Consultant shall submit revised Work Product incorporating any revisions, changes or alterations reasonably requested by the Director. If the original Work Product or the revised Work Product is not acceptable to the Director, the Corporation shall have the right to use the Work Product, to prepare or finalize the Work Product or to commission a third party to do so without further employment of or compensation to the Consultant.

5.2.10 The Consultant acknowledges that the decision to accept the Work Product for use, incorporation, transmission, display or publication is within the sole discretion of the Director.

5.2.11 Consultant agrees that it will cooperate in providing any other documentation necessary to effectuate the intent of this Section of the Contract.

5.2.12 The Consultant shall not make any unauthorized use of copyrighted, trademarked or other protected materials or intellectual property and agrees to defend, indemnify and hold harmless the Corporation and the City and their respective officers, officials, agents, members, directors, and employees against any damage or liability arising out of the Consultant's infringement or unauthorized use of any such material or property.

5.3 Confidential Information.

5.3.1 The Consultant shall hold all Confidential Information provided by the Corporation in the strictest confidence. Consultant agrees to:

(i) use the Confidential Information solely for evaluation and the performance of the Services under this Contract;

(ii) not disclose the Confidential Information outside of its Subcontractors who have agreed in advance in writing to be bound by the terms of this Section 5.3 and its employees and to limit dissemination to only those Subcontractors and employees who have a need to knowit in order to accomplish the Services;

(iii) execute any confidentiality agreements required by any governmental or other entities or individuals which provide any information, records, data, materials, documents orelectronic files to Consultant for use in performance of the Services; and

(iv) not disclose the Confidential Information for three (3) years following Final Completion.

5.3.2 Consultant represents that it has adequate safeguards and procedures to protect the confidentiality of records and information and to limit dissemination only to authorized employees as necessary for the performance of the Services. All Confidential Information provided to Consultant shall remain the property of the Corporation.

5.3.3 Consultant agrees that money damages would not be a sufficient remedy in the event of any breach of this Section 5.3 and that, in addition to all other remedies which may be available, the Corporation shall be entitled to specific performance and injunctive or other equitable relief as a remedy for any such breach. Consultant shall defend, hold harmless and indemnify the Corporation for any and all claims, losses, expenses and/or damages arising out of breach of this Section 5.3 or unauthorized use of the Confidential Information.

ARTICLE 6
INDEMNIFICATION, CLAIMS AND INSURANCE

6.1 Indemnification of the Corporation and the City.

6.1.1 To the fullest extent permitted by Law, the Consultant shall defend, indemnify, and hold harmless the Corporation and the City, including their officials and employees, against any and all claims (even if the allegations of the claim are without merit), judgments for damages on account of any injuries or death to any person or damage to any property, and costs and expenses to which the Corporation or the City, their officials or employees, may be subject to or which they may suffer or incur allegedly arising out of any of the operations of the Consultant and/or its

subcontractors under this Agreement to the extent resulting from any negligent act of commission or omission, any intentional tortious act, and/or the failure to comply with Law or any of the requirements of this Agreement. Insofar as the facts or Law relating to any of the foregoing would preclude the Corporation or the City, their officials or employees from being completely indemnified by the Consultant, the Corporation and the City and their officials and employees shall be partially indemnified by the Consultant to the fullest extent permitted by Law.

6.1.2 Infringement Indemnification. To the fullest extent permitted by Law, the Consultant shall defend, indemnify, and hold harmless the Corporation and the City, including their officials and employees, against any and all claims (even if the allegations of the claim are without merit), judgments for damages, and costs and expenses to which the Corporation or the City or its officials or employees, may be subject to or which they may suffer or incur allegedly arising out of any infringement, violation, or unauthorized use of any copyright, trade secret, trademark or patent or any other property or personal right of any third party by the Consultant and/or its employees, agents, contractors or subcontractors in the performance of this Agreement. To the fullest extent permitted by Law, the Consultant shall defend, indemnify, and hold harmless the Corporation and the City, their officials and employees regardless of whether or not the alleged infringement, violation, or unauthorized use arises out of compliance with the Agreement's scope of services/scope of work. Insofar as the facts or Law relating to any of the foregoing would preclude the Corporation or the City, their officials and employees from being completely indemnified by the Consultant, the Corporation and the City and their officials and employees shall be partially indemnified by the Consultant to the fullest extent permitted by Law.

6.1.3 Indemnification Obligations Not Limited By Insurance Obligation. The Consultant's obligation to indemnify, defend and hold harmless the Corporation and the City and their officials and employees shall neither be (i) limited in any way by the Consultant's obligations to obtain and maintain insurance under this Agreement, nor (ii) adversely affected by any failure on the part of the Corporation or the City or their officials or employees to avail themselves of the benefits of such insurance.

6.2 Claims or Actions Against the Corporation.

6.2.1 The Consultant shall look solely to the funds appropriated by the Corporation for this Contract for the satisfaction of any claim or cause of action the Consultant may have against the Corporation in connection with this Contract or the failure of the Corporation to perform any of its obligations hereunder. In no event shall the Corporation's aggregate liability hereunder in connection herewith or related to the performance of the Services exceed the Maximum Contract Price.

6.2.2 Upon acceptance by the Consultant of the Final Payment to be paid pursuant to this Contract, the Consultant agrees that it shall be deemed to have released the Corporation from any and all claims, causes of action, and liability to the Consultant, its Representatives, successors and assigns, in connection with this Contract or the performance of the Services.

6.2.3 No member, director, employee, servant, officer, agent or other person authorized to act on behalf of the Corporation shall have any personal liability in connection with this Contract or any failure of the Corporation to perform its obligations hereunder.

6.2.4 No person or entity shall have any right against the Director or any member, director, employee, servant or officer, agent of the City or the Corporation or other person authorized to act on their behalf or any claim against the City or the Corporation by reason of the failure or refusal to withhold money pursuant to Section 2.2.1 hereof.

6.2.5 The Consultant agrees that no cause of action against the Corporation in connection with this Contract or the Services shall lie or be maintained by the Consultant, its successors or assigns unless such action is commenced within six months after (i) the termination of this Contract, or (ii) the accrual of the cause of action, whichever is earlier.

6.2.6 If any claim is made or any action brought relating to this Contract or the Services, whether or not the Consultant is a party, the Consultant shall diligently render to the Corporation any and all assistance that the Corporation may require of the Consultant, without compensation.

6.2.7 The provisions of this Section shall not waive, limit or in any way prejudice any other right of the Corporation or the City.

6.3 Insurance.

6.3.1 At all times during the performance of the work or Services in connection with this Contract or for such other time periods as the Corporation may require, the Consultant, at its sole cost and expense, shall purchase and maintain the insurance described in this Section 6.3 and the annexed **Appendix E**, as may be applicable and as may be required by the Corporation.

6.3.2 Consultant shall purchase and maintain insurance with insurance companies that:

(i) are acceptable to the Corporation;

(ii) are rated A-:VII or better by A.M. Best Company; and

(iii) are authorized to issue such insurance by the New York State Department of Insurance.

6.3.3 The insurance policies purchased and maintained by the Consultant shall:

(i) be in form and substance satisfactory to the Corporation;

(ii) have the minimum policy limits set forth in **Appendix E**;

(iii) list all individuals and entities identified in **Appendix E** as Additional Insureds except in the case of any workers' compensation, automobile liability (unless provided for automatically under ISO Form CA 00 01) and professional liability policies required to be maintained hereunder;

(iv) include a waiver of the right of subrogation with respect to the Additional Insureds on (1) all policies that provide additional insured coverage to the Additional Insureds and (2) the Workers' Compensation policy; and

(v) contain the provisions set forth in **Appendix E**.

6.3.4 Coverage for the individuals and entities identified in **Appendix E** as Additional Insureds shall be included as such on the general liability policy via endorsements for both ongoing

operations and products and completed operations. If applicable, Subcontractors may not use blanket additional insured endorsements to provide coverage to Additional Insureds "by written contract" other than ISO CG 20 38 and ISO CG 20 37 or endorsements just as broad which shall not require any contract or agreement between the Additional Insureds and the Subcontractors.

6.3.5 The Consultant shall make and maintain timely premium payments for all policies required hereunder.

6.3.6 The Consultant shall require that each of its Subcontractors, prior to the commencement of their work, purchase and maintain, or be covered by, at no cost or expense to the Corporation or the City, the same types and amounts of insurance and meet all of the same requirements as required of the Consultant as set forth in this Article 6 and **Appendix E**. The Consultant hereby covenants and warrants that (1) its Subcontractors shall purchase and maintain the policies required by this Section and in **Appendix E** in the amounts and for the periods required by this Section and in **Appendix E**, (2) it shall contractually require its Subcontractors to add the Additional Insureds as set forth inthis Article 6 and **Appendix E** and as specifically outlined in Section 6.3.4, and (3) it shall review and ensure that its Subcontractors are in compliance with the requirements in this Article 6 and **Appendix E** and provide the required documentation as needed to the Corporation evidencing such compliance.

6.3.7 Prior to the commencement of the Services the Consultant shall forward to the Corporation's Contract Administration and Procurement Department at least three (3) certificates of insurance for each policy required for compliance with this Contract and a signed Contractor Insurance Cover Sheet, for itself and its Subcontractors substantially as set forth in **Appendix E**. The Consultant shall also provide a certificate of insurance to each of the Additional Insureds with a copy of any endorsements providing coverage to the Additional Insureds as required in this Section 6.3. For such forms that include a place to designate the certificate holder, the certificate holder shall be listed as: New York City Economic Development Corporation, Attn: Contracts, One Liberty Plaza, 12th Floor, New York, New York 10006.

6.3.8 As required by N.Y. Workers' Compensation Law §§ 57 and 220(8), the Consultant shall submit proof of workers' compensation insurance, disability benefits insurance, and the payment of family leave benefits (or proof of a legal exemption) to the Corporation in a form acceptable to the New York State Workers' Compensation Board. ACORD forms are not acceptable proof of such insurance. The following forms are acceptable:

(i) Form C-105.2, Certificate of Workers' Compensation Insurance;

(ii) Form U-26.3, State Insurance Fund Certificate of Workers' Compensation Insurance;

(iii) Form SI-12, Certificate of Workers' Compensation Self-Insurance;

(iv) Form GSI-105.2, Certificate of Participation in Worker's Compensation Group Self-Insurance;

(v) Form DB-120.1, Certificate of Disability Benefits Insurance;

(vi) Form DB-155, Certificate of Disability Benefits Self-Insurance;

(vii) Form CE-200 – Affidavit of Exemption;

(viii) Other forms approved by the New York State Workers' Compensation Board.

6.3.9 The Consultant shall provide the Corporation and the Additional Insureds written confirmation of the renewal of any policy required hereunder no less than five (5) days prior to the expiration of any such policy.

6.3.10 Unless otherwise agreed to in writing by the Corporation, the types of insurance to be purchased and maintained by the Consultant and its Subcontractors are as follows:

(i) Workers' Compensation, Disability Benefits, and Employer's Liability Insurance. The Consultant shall purchase and maintain and shall require each of its Subcontractors to purchase and maintain workers' compensation, disability benefits insurance in statutory amounts, and employer's liability insurance in the amounts set forth in **Appendix E**, for all of its employees engaged in the Services. The failure of the Consultant to comply with this Section 6.3.10(i) shall make this Contract voidable at the option of the Corporation.

(ii) Commercial General Liability Insurance. The Consultant shall purchase and maintain commercial general liability insurance to protect the Corporation, the City and the Additional Insureds, the Consultant and its Subcontractors against any and all claims for property damage, bodily injury, including death, and personal and advertising injury arising out of the Services performed by the Consultant and its Subcontractors, and any work incidental thereto. The commercial general liability insurance policy must also include products and completed operations coverage, which shall include a provision that coverage will extend for a period equivalent to the statute of repose applicable to the Consultant's work or six (6) years for any Services involving renovation, maintenance, construction, or maintenance, whichever is longer, from the date of final completion and acceptance by the Corporation of all of the Services. The policy must be on a "per occurrence" and per project aggregate basis. The commercial general liability policy shall be in a form at least as broad in coverage as the most recent edition of ISO Form CG 00 01 in effect as of the date hereof and shall not contain any modifications to the severability of interests, contractual liability, and employer's liability coverages included therein. The policy must include coverage for NY Labor Law. The policy must include cross-liability coverage providing severability of interests so that, except with respect to the limits of insurance, and any rights or duties specifically assigned to the first named insured, coverage will respond as if separate policies were in force for each insured. If at any time the commercial general liability policy should be canceled, terminated, or modified so that the insurance is not in effect as above required, then the Consultant shall suspend performance of the Services if the Corporation shall so direct. If the Contract is so suspended, no extension of time shall be due on account thereof. If the Contract is not suspended, whether or not because of omission of the Corporation to order suspension, then the Corporation may, at its sole option, obtain insurance affording coverage equal to that required hereunder, the cost of such insurance to be payable by the Consultant to the Corporation.

(iii) Automobile Liability Insurance. If the Consultant and its employees use any automobiles (whether personal, owned, non-owned rented, and/or hired automobiles) in connection with the work or Services under this Contract, then the Consultant shall purchase and maintain automobile liability insurance covering all automobiles used in connection with the work or Services. Coverage shall be at least as broad as the latest edition of ISO Form CA 00 01. If Consultant and/or its employees only use owned non-commercial personal vehicles for operations under this Agreement, Consultant and/or its employees must purchase and maintain either (1) hired & non-owned automobile liability insurance covering Consultant and its employees or (2) personal automobile insurance covering commercial use of the vehicle.

(iv) Umbrella/Excess Liability Insurance. If the Consultant purchases or maintains umbrella/excess liability insurance, such insurance should specifically schedule the Consultant's commercial general liability, automobile liability and employer's liability as primary coverages, to protect the Corporation, the City, the Additional Insureds, the Consultant and its Subcontractors from any and all claims in excess of the underlying policy limits for such primary coverages on a "follow form" basis and separately include the Corporation, the City and the Additional Insureds as additional insureds on a primary and non-contributory basis and endorsed in order to ensure vertical erosion of limits. The certificate of insurance must indicate that such insurance afforded by this Section 6.3.10(iv) is on a "per occurrence" basis.

(v) Professional/Errors & Omissions. The Consultant (including, at a minimum, the architect, engineer, interior designer, landscape architect, land surveyor, LEED consultant, environmental monitor, remedial designer, and other parties involved in design and other soft cost activities or requiring a license to practice their profession) shall purchase and maintain professional liability/errors & omissions covering the indemnification obligations and Services to be provided under this Contract. The policy shall cover the liability assumed by the Consultant under this Contract arising out of the negligent performance of professional services or caused by an error, omission, or negligent act (including any resulting bodily injury, property damage, and emotional distress) of the Consultant and its Subcontractors or anyone employed (including independent contractors) by the Consultant, including coverage for failure to render services or to perform the function intended. Such policies shall provide coverage for fees, expenses, and defense costs. All Subcontractors of the Consultant providing professional services under this Contract for which professional liability insurance/errors and omissions insurance is reasonably commercially available shall also maintain such insurance. The policy shall have a professional services definition that encompasses all work contemplated under this Contract, must not have exclusions for faulty workmanship, contractual liability and warranty/guaranty, and should include protective indemnity and rectification/mitigation coverages with the same aforementioned professional services definition throughout. If policy is claims-made, it must meet the requirements of Article 6.3.14. Coverage must be maintained for a period from prior to the start of Services until three (3) years or for the statute of repose applicable to the Consultant's work, after the completion of services under this Contract.

(vi) If applicable, any additional policies as may be described in **Appendix E**.

6.3.11 As a condition precedent to payment of any amounts owing to the Consultant by the Corporation, the Consultant shall, unless otherwise expressly agreed to in writing by the Corporation, provide to the Corporation the certificates of insurance and endorsements to policies applicable to the Additional Insureds required under this Contract and shall on demand provide true copies of policies showing compliance with the insurance requirements set forth in this Article 6 and **Appendix E**.

6.3.12 The policies to be maintained by the Consultant hereunder that are subject to the Additional Insured requirements set forth in Section 6.3.3(iii) above shall constitute the primary coverage for claims arising out of this Contract, and shall state that insurance, if any, carried by the Corporation, the City or the Additional Insureds will not be called upon to contribute to a loss that would otherwise be paid by the Consultant's insurer. The Consultant shall comply with the provisions of all policies required pursuant to this Contract, and shall give the insurer, the Corporation, the City and the Additional Insureds due and timely Notice of all claims, accidents and losses promptly upon its acquiring knowledge of the same.

6.3.13 The insurance provisions of this Article 6 shall be in addition to any rights that the Corporation, the City and the Additional Insureds may have under any hold harmless and indemnification provisions of this Contract and any other right provided by this Contract or by law. The Consultant shall not violate or permit to be violated any term or condition of the policies.

6.3.14 Claims-made policies will be accepted for the Professional/Errors & Omissions and Media Liability policies subject to a retroactive date prior to the effective date of the Contract. The Consultant shall purchase an extended reporting period coverage of not less than three (3) years or for the statute of repose applicable to the Consultant's work after the completion of services under this Contract effective on cancellation or termination of such policy, unless a new policy is secured with a retroactive coverage for full prior acts.

6.3.15 The Commercial General Liability, Umbrella and/or Excess Liability polices must be endorsed to show that these primary, umbrella and/or excess policies are to be considered non-contributory and separately, the general liability policy must be primary to any policy available to any of the Additional Insureds. In addition, the Commercial General Liability Umbrella and/or Excess Liability policies must provide that (i) the Additional Insured protection afforded under the Consultant's policies shall be primary and not on an excess or contributing basis with any policies which may be available to the Corporation, and (ii) that the Consultant's policies, primary and excess, must be exhausted before implicating any Corporation policy available. The Umbrella and/or Excess liability policies must provide drop down coverage if the underlying primary policies are not responsive to any claims or losses.

6.3.16 In order to ensure vertical erosion of liability limits provided by the Consultant under this Contract, the Consultant agrees to permit the Corporation's staff and/or the Corporation's insurance consultants to review the Consultant's liability policy language for all liability policies and to endorse those policies to clarify the hierarchy of policies in the event of a claim.

6.3.17 The limits of coverage for all types of insurance required under **Appendix E** shall be the greater of (i) the minimum limits set forth in **Appendix E** or (ii) the limits provided to the Consultant and its Subcontractors under all primary, excess and/or umbrella policies covering operations under this Contract.

6.3.18 There shall be no self-insurance program or self-insured retention with regard to any insurance required under this Article 6 unless approved in writing by the Corporation. Under no circumstances shall Corporation be responsible for the payment of any deductible or self-insured retention (or any other aspect of a self-insurance program). Further, Consultant shall ensure that any such self-insurance program provides Additional Insureds with all rights that would be provided by traditional insurance under this Article 6, including but not limited to the defense and indemnification obligations that insurers are required to undertake in liability policies.

ARTICLE 7
REPRESENTATIONS AND WARRANTIES

The Consultant represents and warrants that:

7.1 The Consultant is duly organized, validly existing and in good standing under the laws of its jurisdiction of formation, and has all requisite power and authority to authorize, execute, deliver and perform this Contract in accordance with its terms. The Consultant is authorized to do business in the City of New York.

7.2 The authorization, execution and delivery of this Contract, and compliance with the provisions hereof, do not and will not conflict with or constitute a violation of or default under any statute, indenture, mortgage, deed of trust or other agreement or instrument to which the Consultant is bound, or, to the knowledge of the Consultant, any order, rule or regulation of any court or governmental agency or body having jurisdiction over the Consultant or any of its activities or properties.

7.3 The Consultant has not been asked to pay, and has neither offered to pay, nor paid, any illegal consideration, whether monetary or otherwise, in connection with the procurement of this Contract.

7.4 The Consultant has not employed any person to solicit or procure this Contract, and has not made and shall not make, except to full-time employees of the Consultant, any payment or any agreement for the payment of any commission, percentage, brokerage, contingent fee or any other compensation in connection with the procurement of this Contract.

7.5 The Consultant has not acquired nor will it acquire any interest of any nature, direct or indirect (including any interest in land in an area related to the Services or any interest in any corporation, partnership, or other entity with any such interest), which would conflict in any manner or degree with the performance of the Services. The Consultant further represents and covenants that in the performance of this Contract no person having any such conflicting interest shall be employed by the Consultant.

7.6 The Consultant is not in arrears to the City upon any debt, contract or taxes and is not a defaulter, as surety or otherwise, upon any obligation to the City, and has not been declared not

responsible, or disqualified, by any agency of the City, nor is there any proceeding pending relating to the responsibility or qualification of the Consultant to receive public contracts. The Consultant represents that it has paid all applicable New York City income, excise and other taxes for all years it has conducted business activities in New York City.

7.7 All questionnaires and/or disclosure forms delivered by the Consultant and its Representatives to the Corporation to date are, to the best of the Consultant's knowledge, true and correct in all material respects; no material change has occurred in the circumstances of the Consultant, or any of its principals or affiliated persons or entities since the respective dates upon which such disclosure forms were executed that would otherwise require disclosure on such forms; and such disclosure forms do not contain any untrue statement of a material fact or omit to state a material fact necessary in order to make any statement contained in such form not misleading.

ARTICLE 8
APPLICABLE LAWS, RULES AND REGULATIONS

8.1 New York Law Governs; New York Courts. The Contract shall be governed by and construed in accordance with the laws of the State of New York. Any and all claims asserted by or against the Corporation arising under this Contract or related hereto shall be heard and determined either in the Federal Courts, located in the City or in the New York State Courts located in the City and County of New York. To effect this agreement and intent, the Consultant agrees as follows:

8.1.1 If the Corporation initiates any action against the Consultant in Federal Court or in New York State Court, service of process may be made on the Consultant in person, wherever the Consultant may be found, or by registered mail addressed to the Consultant at its address as set forth in this Contract, or to such other address as the Consultant shall have provided to the Corporation in writing.

8.1.2 With respect to any action between the Corporation and the Consultant in New York State Court, the Consultant hereby expressly waives and relinquishes any rights it might otherwise have (i) to move to dismiss on grounds of forum non conveniens, and (ii) to move for a change of venue to a New York State Court outside New York County.

8.1.3 With respect to any action between the Corporation and the Consultant in Federal Court located in the City, the Consultant expressly waives and relinquishes any right it might otherwise have to move to transfer the action to a Federal Court outside the City.

8.1.4 If the Consultant commences any action against the Corporation in a court located other than in the City and State of New York, then, upon request of the Corporation, the Consultant shall either consent to a transfer of the action to a court of competent jurisdiction located in the City and State of New York or, if the court where the action is pending will not or cannot transfer the action, the Consultant shall consent to dismiss such action without prejudice and may thereafter reinstitute the action in a court of competent jurisdiction in the City.

8.2 Modification Required by Law. The parties agree that each and every provision of federal or state or local law, rule, regulation or order, required to be inserted in this Contract, is deemed by this reference to be so inserted in its correct form, and upon the application of either party, this

Contract shall be amended by the express insertion of any such provision not so inserted or so inserted incorrectly so as to comply strictly with the law, without prejudice to the rights of either party.

8.3 Compliance with the Law. The Consultant agrees that all acts to be performed by it in connection with this Contract shall be performed in strict conformity with all Legal Requirements, including without limitation, Applicable Requirements and Applicable Agreements. Failure by the Consultant to abide by such Legal Requirements shall be a material default under this Contract.

8.4 Equal Employment Opportunity/Employment Reports.

8.4.1 The Consultant shall comply with the applicable provisions of the Equal Employment and Affirmative Action Compliance for Non-Construction Contracts Addendum (the "Executive Order No. 50 (1980) Supply and Service Rider" or "E.O. 50") attached hereto as **Appendix F** and made a part hereof. **Appendix F** shall be attached to and made a part of any subcontract entered into by the Consultant pursuant to this Contract that exceeds $100,000.

8.4.2 The Consultant covenants that it shall complete and submit and shall require all Subcontractors to complete and submit Employment Reports (as required by E.O. 50) to the Corporation which can be found at www.nycedc.com in the section identified in **Appendix G**. If the Consultant cannot access or download these forms, the Corporation may, upon request, send the Consultant the required forms.

8.4.3 The Consultant and any subcontractor that provide any on-site construction activity shall complete and submit the Payroll Report to the Corporation in the form annexed to this Contract as **Appendix C**.

8.4.4 The Consultant shall give consideration to employing City residents who are economically disadvantaged or are eligible under any applicable Legal Requirements including, without limitation, the Workforce Investment Act of 1998, and who have qualifications and skills commensurate with the requirements for the position available. To the greatest extent feasible, the Consultant shall give opportunities for training and employment to lower income persons in the Project area.

8.4.5 The provisions of this Section 8.4 shall be deemed supplementary to, and not in lieu of, or in substitution for, the applicable provisions of the New York State Labor Law relating to non-discrimination, and other applicable Legal Requirements.

8.5 Minimum Wages. Except for any employees whose prevailing wage is required to be fixed pursuant to Section 220, et seq. and Section 230, et seq. of the New York State Labor Law,which employees shall be paid such prevailing wage, all persons employed by the Consultant or any subcontractor in the manufacture or furnishing of the supplies, materials, or equipment, or the furnishing of work, labor or services, used in the performance of this Contract, shall be paid, without subsequent deduction or rebate unless expressly authorized by law, not less than the minimum hourly rate required by law, unless a higher amount is required pursuant to any other provision of this Contract.

8.6 No Tropical Hardwoods. Tropical hardwoods, as defined in Section 165 of the New York State Finance Law, shall not be used in the performance of this Contract except as expressly permitted by the foregoing provision of law.

8.7 Sales and Use Tax.

8.7.1 The Consultant acknowledges that the Corporation and the City are exempt from sales and use taxes imposed by Article 28 of the New York State Tax Law for purchases of tangible personal property, to the extent that such property is used to alter, maintain or improve, and becomes an integral component part of real property. This exemption does not apply to tools, machinery, equipment or other property leased by the Corporation's contractors and subcontractors or to supplies, materials or other property that are consumed in the construction or for any reason not incorporated into real property.

8.7.2 The Consultant shall inform its Subcontractors of this exemption and shall advise its Subcontractors to exclude sales and use taxes from their bids, as applicable.

8.8 Whistleblowers.

8.8.1 In accordance with Section 12-113 of the New York City Administrative Code (the "Administrative Code"),

8.8.1.1 The Consultant shall not take an adverse personnel action with respect to an officer or employee in retaliation for such officer or employee making a report of information concerning conduct which such officer or employee knows or reasonably believes to involve corruption, criminal activity, conflict of interest, gross mismanagement or abuse of authority by any officer or employee of the Consultant or any of its Subcontractors to (i) the Corporation, (ii) the City's Department of Investigation, (iii) a member of the New York City Council, the City's Public Advocate or the Comptroller, or (iv) the City Chief Procurement Officer, DSBS Chief Contracting Officer ("DSBS ACCO") or DSBS Commissioner.

8.8.1.2 If any of the Consultant's officers or employees believes that s/he or has been the subject of an adverse personnel action in violation of paragraph 8.8.1.1 above, s/he shall be entitled to bring a cause of action against the Consultant to recover all relief necessary to make him or her whole. Such relief may include but is not limited to: (i) an injunction to restrain continued retaliation, (ii) reinstatement to the position such employee would have had but for the retaliation or to an equivalent position, (iii) reinstatement of full fringe benefits and seniority rights, (iv) payment of two times back pay, plus interest, and (v) compensation for any special damages sustained as a result of the retaliation, including litigation costs and reasonable attorney's fees. An officer or employee described in this paragraph may bring an action in any court of competent jurisdiction for such relief. An officer or employee who brings a cause of action pursuant to this paragraph shall notify the DSBS ACCO or DSBS Commissioner of such action; provided, however, that failure to provide such notice shall not be a jurisdictional defect, and shall not be a defense to an action brought pursuant to this paragraph. This paragraph shall not be deemed to create a right of action against the City, any public agency or other public entity, or the Corporation, nor shall any such public agency, entity or corporation be made a party to an action brought pursuant to this subdivision.

8.8.2 In accordance with Section 6-132 of the Administrative Code, the Consultant shall post a notice in the form annexed hereto at Exhibit L.

8.8.3 For purposes of this Section, "adverse personnel action" includes dismissal, demotion, suspension, disciplinary action, negative performance evaluation, any action resulting in loss of staff, office space, equipment or other benefit, failure to appoint, failure to promote, or any transfer or assignment or failure to transfer or assign against the wishes of the affected officer or employee.

8.9 MacBride Principles. The Consultant stipulates and agrees to comply with the MacBride Principles.

8.10 Iran Divestment Act. The Contractor shall comply with Section 165-a of the New York State Finance Law.

8.11 Paid Sick Leave Law. The Consultant shall comply with Title 20, Chapter 8 of the New York City Administrative Code related to paid sick leave for Consultant's employees.

8.12 Doing Business Data Form Requirements.

8.12.1 Local Law No. 34 of 2007 amended the City's Campaign Finance Law and required the City to establish a database containing the names of any "person" that has "business with the city", as such terms are defined in LL 34. The Consultant shall comply with all requirements of LL 34 applicable to this Contract.

8.12.2 The Consultant shall complete and submit a Doing Business Data Form which can be found at www.nycedc.com. If the Consultant cannot access or download these forms, the Corporation may, upon request, send the Consultant the required forms.

8.12.3 The Consultant's failure to complete and submit a Doing Business Data Form and/or its submission of a form that is not accurate or complete may result in appropriate sanctions.

ARTICLE 9
M/WBE REQUIREMENTS

9.1 M/WBE Program. Local Law No. 129 of 2005 added and Local Law 1 of 2013 amended Section 6-129 of the Administrative Code of the City of New York (hereinafter "Section 6-129"). Section 6-129 establishes a program for participation in City procurement by minority-owned business enterprises ("MBEs") and women-owned business enterprises ("WBEs", together with "MBEs" collectively referred to as "M/WBEs"), certified in accordance with Section 1304 of the City Charter. As stated in the Section 6-129, the intent of the program is to address the impact of discrimination on the City's procurement process, and to promote the public interest in avoiding fraud and favoritism in the procurement process, increasing competition for City business and lowering contract costs. The Corporation endorses these goals and has adopted an M/WBE Program to further participation by MBEs and WBEs in the provision of the Services. All

Consultants shall comply with all requirements of the Corporation's M/WBE Program applicable to this Contract.

9.2 Minority- and Women-Owned Business Enterprises. M/WBE firms must be certified by DSBS to credit such firms' participation toward attainment of the Participation Goals. Such certification must occur prior to the firms' commencement of work.

9.3 Participation Goal.

9.3.1 The Participation Goal for this Contract is set forth in Part I, Section 1.12. The Participation Goal represents a percentage of the total dollar value of the Contract that may be achieved by awarding subcontracts to firms certified with DSBS as MBEs or WBEs, and/or by crediting the participation of the Consultant.

9.3.2 The Participation Goal is a material term of the Contract and the Consultant shall be subject to the Participation Goal.

9.3.3 A consultant that is an M/WBE shall be permitted to count its own participation toward fulfillment of the Participation Goal, provided that the value of the Consultant's participation shall be determined by subtracting from the total value of the Contract any amounts that the Consultant pays to direct Subcontractors. The value of an M/WBE Consultant's participation shall be determined by subtracting from the total value of the Contract any amounts that the Consultant will pay to direct Subcontractors. If the Consultant is not an M/WBE, it must meet the Participation Goal through the awarding of subcontracts to firms certified with DSBS as MBEs or WBEs.

9.3.4 A Consultant that is a Qualified Joint Venture shall be permitted to count a percentage of its own M/WBE participation toward fulfillment of the Participation Goal. The value of the Qualified Joint Venture's participation shall be determined by first subtracting from the total value of the Contract, any amounts that the Qualified Joint Venture will pay to direct Subcontractors. Thereafter, the M/WBE percentage of the Qualified Joint Venture shall be applied to the remaining value of the Contract to determine the overall Participation Goal.

9.4 M/WBE Narrative /Subcontractors Participation Plan.

9.4.1 The M/WBE Narrative Form, Subcontractors Participation Plan and applicable forms for this Contract are attached hereto as **Appendix L**. If this is a retainer, the Consultant shall submit a Subcontractor Participation Plan on a task by task basis as required.

9.4.2 In the event that the Corporation does not approve a Subcontractor proposed by the Consultant, the Consultant shall have a reasonable time to propose alternate Subcontractors.

9.5 M/WBE Compliance Reports.

9.5.1 The Consultant shall provide the Corporation with written statements ("M/WBE Compliance Reports"), certified under penalty of perjury, reporting the status of the Consultant's compliance with its M/WBE Subcontractor Participation Plan as set forth in this Section 9.5.

9.5.2 The Consultant shall submit a M/WBE Compliance Report to the Corporation:

(i) with each Requisition for payment; and/or

(ii) on a periodic basis as the Corporation may require.

9.5.3 Each M/WBE Compliance Report shall set forth the following for the period covered by the report:

(i) the total amount paid to Subcontractors (including Subcontractors that are not MBEs or WBEs);

(ii) the names, addresses and contact numbers of each MBE or WBE hired as a Subcontractor pursuant to such plan as well as the dates and amounts paid to each MBE or WBE.

9.5.4 In addition to the foregoing, the Consultant shall submit a final, cumulative M/WBE Compliance Report to the Corporation with its Requisition for Final Payment. The Consultant shall set forth in such final report the information required by Section 9.5.3 in connection with all Services rendered by the Consultant and its Subcontractors during the entire Contract Term.

9.6 Subcontractor Payment Tracking. NYCEDC requires contractors and consultants to track subcontractor award and payment information online through the Compliance Tracking System (CTS). Prime Contractors and Consultants are responsible for entering contact and award information on all subcontractors associated with the project, and ensuring that any direct subcontractors do the same for second-tier subcontractors they are using on the project. When Prime Consultants/Contractors receive payments from NYCEDC, they will receive a system-generated notification prompting them to access CTS and enter information on how much of that payment was retained and the amounts paid to each subcontractor, along with dates of payment. Prime Consultants/Contractors have seven days from receipt of this notification to enter the required information in the CTS. In addition, any changes to subcontractors and award amounts must be tracked in this system.

The compliance tracking system can be accessed by following this link: https://nycedc.mwdbe.com/

9.7 Change Orders. If the Consultant requests a change order having a value that exceeds ten percent (10%) of the Contract, the Corporation will establish an M/WBE participation goal for the work to be performed pursuant to the change order.

9.8 Modification of the Consultant's Subcontractors Participation Plan.

9.8.1 The Consultant may request modification of its Subcontractors Participation Plan after the award of the Contract. The Corporation may grant such request if it determines that the Consultant has established, with appropriate documentary and other evidence, that the Consultant has made all reasonable, good faith efforts to meet the Participation Goal set for the Contract.

9.8.2 Good Faith Efforts. Good faith efforts should be documented by Consultant requesting a modification and such documentation provided to the Corporation upon the

Corporation's request. In determining whether the Consultant has made all reasonable good faith efforts to meet the Participation Goal, the Corporation will consider, along with any other relevant factors, evidence submitted by the Consultant showing that the Consultant has, without limitation, conducted the following:

9.8.2.1 Direct Outreach. The Consultant provided timely notice to M/WBEs of specific opportunities to participate in the Contract;

9.8.2.2 NYCEDC Assistance. The Consultant submitted timely requests for assistance to the Corporation's M/WBE liaison officer and provides the Corporation with a description of how the Corporation's recommendations were acted upon and an explanation of how action upon such recommendations did not lead to the desired level of participation of M/WBEs;

9.8.2.3 Advertised Opportunities. The Consultant advertised opportunities to participate in the Contract in general circulation media, trade and professional association publications, small business media and publications of M/WBE organizations;

9.8.2.4 Follow Up with M/WBEs. The Consultant sent timely written notices to advise M/WBEs that their interest in the Contract was solicited;

9.8.2.5 Substitution of Work. The Consultant made efforts to identify portions of the Contract Work that could be substituted for portions originally designated for the participation by M/WBEs in the M/WBE Subcontractors Participation Plan and for which the Consultant claims an inability to retain M/WBEs;

9.8.2.6 Meeting with M/WBEs. The Consultant held meetings with M/WBEs prior to the date their proposals were due, for the purpose of explaining in detail the scope and requirements of the work for which their proposals were solicited;

9.8.2.7 Negotiated with M/WBEs. The Consultant made efforts to negotiate with M/WBEs as relevant to perform specific subcontracts, or acts as suppliers or service providers; and

9.8.2.8 Interested Subcontractor List. The Consultant made efforts to contact interested M/WBEs listed on the Website's Interested Subcontractor list.

9.8.3 The Corporation's M/WBE Director and Chief Contracting Officer will provide written notice to the Consultant of the determination on whether the Consultant has made all reasonable good faith efforts to meet the Participation Goal.

9.9 Compliance Audits. This Contract may be audited by the Corporation, DSBS and the City Comptroller to determine the Consultant's compliance with the requirements of the Corporation's M/WBE Program and the Consultant's M/WBE Subcontractors Participation Plan.

9.10 Enforcement. In the event the Corporation determines that the Consultant or its Subcontractors have violated the requirements of the Corporation's M/WBE Program or the M/WBE Subcontractors Participation Plan including, without limitation, a determination that the

Consultant has made payments to or awarded work to M/WBE Subcontractors in amounts less than the amounts specified in the Consultant's M/WBE Subcontractor Participation Plan (unless the Corporation has permitted the Consultant to modify the Consultant's M/WBE Subcontractors Participation Plan in accordance with Section 9.8), the Corporation may:

(i) terminate the Contract;

(ii) assess actual and consequential damages for and/or exercise its right to setoff any additional expenses the Corporation incurs to complete the Project satisfactorily in accordance with the Corporation's M/WBE Program and in order to meet the Participation Goal including, without limitation, the actual and administrative costs of:

(a) meeting the Participation Goal through additional procurements;

(b) payments made to any other consultant retained to complete the Services; and

(c) investigation and enforcement; or

(iii) assert any other right or remedy it has under the Contract.

9.11 Liquidated Damages for Failure to Fulfill Approved Participation Goals. If the Consultant fails to fulfill its Participation Goals set forth in its Subcontractors Participation Plan or the Participation Goals as modified by the Corporation pursuant to Section 9.8, the Corporation may assess liquidated damages in the amount of ten percent (10%) of the difference between the dollar amount of work required to be awarded to M/WBEs to meet the Participation Goal and the dollar amount the Consultant actually awarded and paid to M/WBEs. In view of the difficulty of accurately ascertaining the loss which the Corporation will suffer by reason of the Consultant's failure to meet the Participation Goals, the foregoing amount is hereby fixed and agreed as the liquidated damages that the Corporation will suffer by reason of such failure, and not as a penalty. The Corporation may deduct and retain out of any monies which may become due under this Contract the amount of any such liquidated damages; and in case the amount which may become due under this Contract shall be less than the amount of the liquidated damages suffered by the Corporation, the Consultant shall be liable to pay the difference.

9.12 Statements. Statements made in any instrument submitted to the Corporation in connection with the Corporation's M/WBE Program shall be submitted under penalty of perjury and any false or misleading statement or omission shall be grounds for the application of any applicable criminal and/or civil penalties for perjury.

9.13 Evaluations. The Consultant's record in implementing its M/WBE Subcontractor Participation Plan shall be a factor in the evaluation of its performance.

ARTICLE 10
MISCELLANEOUS

10.1 Consultant as Independent Contractor. Notwithstanding anything contained herein to the contrary including, without limitation, the provisions of Section 5.2 hereof, it is specifically understood and agreed that in the performance of the terms, covenants and conditions of this Contract, the Consultant and its Representatives shall not be deemed to be acting as agents,

servants or employees of the Corporation or the City by virtue of this Contract or by virtue of any approval, permit, license, grant, right, or other authorization given by the City or the Corporation or any of their Representatives in connection with this Contract, but shall be deemed to be independent contractors performing work or professional services for the Corporation, and shall be deemed solely responsible for all acts taken by them pursuant to this Contract.

10.2 Assignment. This Contract is intended to secure the Services of the Consultant or a competent Representative or Representatives of the Consultant approved by the Director. The Consultant shall not assign, convey, subcontract, or transfer this Contract or the Consultant's rights hereunder without the written consent of the Director, which consent shall be manifested by Notice. The Corporation shall have the right to assign, convey, subcontract or transfer this Contract or the Corporation's rights hereunder without the written consent of the Consultant to the City or any other corporation, agency or instrumentality having authority to accept the assignment.

10.3 Right to Inspect. The Corporation, the City Comptroller, the Inspectors and any other individual or entity authorized under any Legal Requirement shall have the right on reasonable Notice to inspect the operations and records of the Consultant and its Subcontractors relating to this Contract.

10.4 Maintenance of Records. In order to facilitate any audit provided herein, the Consultant agrees to maintain accurate, readily auditable records and accounts with supporting documentation in accordance with generally accepted accounting principles of the Services performed by it, its employees, and its Subcontractors under this Contract and of all financial accounts and transactions maintained or undertaken in connection with this Contract, including, but not limited to, time cards and records reflecting the nature of the work performed and time consumed, bank statements, cancelled checks, bills and receipts, Requisitions, and deposit slips, and to make such records available for inspection and audit in the City by the Corporation, the City, the Inspectors and any other individual or entity authorized under any Applicable Statute or Applicable Agreement upon reasonable Notice. Said records shall be maintained for a period of six (6) years after termination of this Contract.

10.5 Modification in Writing. No modification, amendment, waiver or release of any provision of this Contract or of any right, obligation, claim or cause of action arising hereunder shall be valid or binding for any purpose unless in writing and duly executed by the party against whom the same is asserted.

10.6 Captions. The tables of contents and captions of this Contract are for convenience of reference only and in no way define, limit or describe the scope or intent of the Contract or inany way affect this Contract.

10.7 Completeness. This Contract contains all the terms and conditions agreed upon by the parties hereto, and no other agreement, oral or otherwise, regarding the subject matter of this Contract shall be deemed to exist or to bind either of the parties hereto.

10.8 Severability. If any clause, provision or section of this Agreement be ruled invalid by any court of competent jurisdiction, the invalidity of such clause, provision or section shall not affect any of the remaining provisions hereof.

10.9 Notices.

10.9.1 Each Notice, demand, request or other communication in connection with this Contract shall be either: (i) served in person, with delivery of service acknowledged in writing by the party receiving the same; (ii) sent by nationally known overnight delivery service or telefax; or (iii) deposited in the U.S. mails, first class mail, postage prepaid, and addressed to the respective address herein set forth in Part I, Section 3 or to such other address as may be specified by Notice sent in accordance herewith.

10.9.2 Every Notice hereunder shall be deemed to have been given: (i) at the date of receipt by the respective party in the case of personal delivery, overnight delivery or telefax and (ii) five (5) business days after the date of deposit in the first class U.S. mails.

10.10 Non-Waiver. Failure of the Corporation or its Representatives to enforce or otherwise require the performance of any of the terms and conditions of this Contract, at the time or in the manner that said terms and conditions are set forth herein, shall not be deemed a waiver of any such terms or conditions by the Corporation and the same may be selectively enforced or raised as a basis of a claim or cause of action at the option of the Corporation.

10.11 Refusal to Testify.

10.11.1 The Consultant agrees to cooperate fully and faithfully with any investigation, audit or inquiry conducted by a State or City governmental agency or authority that is empowered, directly or by designation, to compel the attendance of witnesses and to examine witnesses under oath, or conducted by the Inspector General of a governmental agency that is a party in interest to the transaction, submitted bid, submitted proposal, contract, lease, permit, or license that is the subject of the investigation, audit or inquiry.

10.11.2 If:

(i) any person who has been advised that her or his statement, and any information from such statement, will not be used against her or him in any subsequent criminal proceeding refuses to testify before a grand jury or other governmental agency or authority empowered directly or by designation to compel the attendance of witnesses and to examine witnesses under oath concerning the award of, or performance under, any transaction, agreement, lease, permit, contract, or license entered into with the City, the State, or any political subdivision or public authority thereof, or the PANYNJ, or the Corporation, or any local development corporation within the City, or any public benefit corporation organized under the laws of the State of New York, or

(ii) any person refuses to testify for a reason other than the assertion of her or his privilege against self- incrimination in an investigation, audit or inquiry conducted by a City or State governmental agency or authority empowered directly or by designation to compel the attendance of witnesses and to take testimony under oath, or by the Inspector General of the governmental agency that is a party in interest in, and is seeking testimony concerning the awardof, or performance under, any transaction, agreement, lease, permit, contract, or license entered into with the City,

the State, or any political subdivision thereof, or the Corporation, or any local development corporation within the City,

then the commissioner or agency head (each of which is hereinafter referred to as the "Commissioner") whose agency is a party in interest to the transaction, submitted bid, submitted proposal, contract, lease, permit, or license involved in such investigation, audit or inquiry shall convene a hearing, upon not less than five (5) days written notice to the parties involved, to determine if any penalties should attach for the failure of a person to testify.

10.11.3 If any non-governmental party to the hearing requests an adjournment, the Commissioner who convened the hearing or the Corporation may, upon the Commissioner granting the adjournment, suspend any contract, lease, permit, or license pending the final determination pursuant to subsection 10.11.5 below without the City or the Corporation incurring any penalty or damages for delay or otherwise.

10.11.4 The Corporation or the City may impose the following penalties after a final determination by the Commissioner that penalties should attach for the failure of a person to testify:

(i) the disqualification for a period not to exceed five (5) years from the date of an adverse determination of any person, or any entity of which such person was a member at the time the testimony was sought, from submitting bids for, or transacting business with, or entering into or obtaining any contract, lease, permit or license with or from the City or the Corporation, as the case may be; and/or

(ii) the cancellation or termination of any and all such existing City or Corporation contracts, leases, permits or licenses that the refusal to testify concerns and that havenot been assigned as permitted under this Contract, nor the proceeds of which pledged, to an unaffiliated and unrelated institutional lender for fair value prior to the issuance of the notice scheduling the hearing, without the City or the Corporation incurring any penalty or damages on account of such cancellation or termination; monies lawfully due for goods delivered, work done, rentals, or fees accrued prior to the cancellation or termination shall be paid by the City or the Corporation, as the case may be.

10.11.5 The Commissioner shall consider and address, in reaching her or his determination, and the Corporation and the Commissioner shall consider and address, in assessing an appropriate penalty, the factors in subparagraphs (i) and (ii) below. The Commissioner and the Corporation may also consider, if relevant and appropriate, the criteria established in subparagraphs (iii) and (iv) below in addition to any other information which may be relevant and appropriate:

(i) The entity's good faith endeavors or lack thereof to cooperate fully and faithfully with any governmental investigation or audit, including, but not limited to, the discipline, discharge, or disassociation of any person failing to testify, the production of accurate and complete books and records, and the forthcoming testimony of all other members, agents, assignees or fiduciaries whose testimony is sought.

(ii) The relationship of the person who refused to testify to any entity that is a party to the hearing, including, but not limited to, whether the person whose

testimony is soughthas an ownership interest in the entity and/or the degree of authority and responsibility the person has within the entity.

(iii) The nexus of the testimony sought to the subject entity and its contracts, leases, permits or licenses with the City or the Corporation.

(iv) The effect a penalty may have on an unaffiliated and unrelated party or entity that has a significant interest in an entity (subject to penalties under subsection 10.11.4 above), provided that the party or entity has given actual notice to the Commissioner upon the acquisition of the interest, or at the hearing called for in subsection 10.11.2(2) above gives notice and proves that such interest was previously acquired. Under either circumstance the party or entity must present evidence at the hearing demonstrating the potential adverse impact a penalty will have on such person or entity.

10.11.6 The term "license" or "permit" as used herein shall be defined as a license, permit, franchise or concession not granted as a matter of right.

10.11.7 The term "entity" as used herein shall mean any firm, partnership, corporation, association, joint venture or person that receives monies, benefits, licenses, leases or permits from or through the City or otherwise transacts business with the City.

10.11.8 The term "member" as used herein shall mean any person associated with another person or entity as a partner, director, officer, principal or employee.

10.11.9 The term "person" as used herein shall mean any natural person doing business alone or associated with another person or entity as a partner, director, officer, principal or employee.

10.12 No Political Activity. The Consultant agrees that there shall be no political activity or any activity to further the election or defeat of any candidate for public, political or party office as a part of or in connection with this Contract, nor shall any of the funds provided under this Contract be used for such purposes.

NEW YORK CITY ECONOMIC DEVELOPMENT CORPORATION
ON-CALL CIVIL AND RESIDENT ENGINEER RETAINER
PROFESSIONAL SERVICES CONSULTANT CONTRACT
FOR THE PROVISION OF CIVIL AND RESIDENT ENGINEERING SERVICES
NYCEDC CONTRACT NO. 93180003
PROJECT CODE NO. 9318

PART III
APPENDICES

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APPENDIX A

DEFINITIONS

The defined terms listed below shall have the following corresponding meanings in the annexed Contract (as defined herein) unless otherwise defined or the context otherwise requires. The singular shall include the plural and vice versa as the context may dictate. The gender used in the annexed Contract shall be deemed to refer to the masculine, feminine, or neuter gender, as the context or the identity of the persons being referred to may require.

Additional Insured	All individuals and entities listed in Appendix E
Applicable Agreements	Various governing agreements related to the Funds, the Project and/or this Contract, including, without limitation, any specific "Applicable Agreements" identified in Part I, and any other governing agreement or MOU with the City, State and/or federal governments, or any agency thereof
Applicable Requirements	Any and all federal, state and local laws, statutes, rules, regulations and orders applicable to this Contract, the Funds or the Project, including, without limitation, any specific "Applicable Requirements" identified in Part I
City	The City of New York
City Contract	The Amended and Restated Contract between the City and the Corporation, dated as of June 30, 2021 and the Amended and Restated Maritime Contract between the City and the Corporation, dated as of June 30, 2021, as applicable, as each may be amended, restated and/or revised from time to time
City Comptroller	Comptroller of the City or his or her designee
Commencement Date	The date upon which the Consultant shall commence the Services as stated in Part I, Section 1.4

Confidential Information	Any and all information, records, data, materials, documents, electronic files or Work Product provided by NYCEDC and/or the City or any of its agencies to the Consultant except that which (i) shall have otherwise become publicly available through no fault of Consultant or its Representatives; (ii) becomes available to the Consultant on a nonconfidential basis from a source other than NYCEDC, the City or any of its agencies; or (iii) is known by the Consultant prior to its receipt from NYCEDC, the City or any of its agencies without any obligations of confidentiality with respect thereto
Consultant	The entity or person contracted by the Corporation to perform the Services pursuant to this Contract, as identified in Part I, Section 2.3
Consultant's Underlying Intellectual Property	The Consultant's analytical concepts, approaches, methodologies, or formats developed by the Consultant's staff, and to other materials not prepared for delivery to the Corporation and also including any derivatives, improvements, enhancements or extensions of the Consultant's Underlying Intellectual Property conceived, reduced to practice, or developed during the term of this Contract that are not uniquely applicable to the Corporation
Contract	The Contract between the Consultant and the Corporation to which this Appendix A is annexed, as defined in Part I, Section 1.1
Contract Completion Costs	As defined in Part II, Section 3.5.3
Contract Date	The date of this Contract, as stated in Part I, Section 1.3
Corporation	New York City Economic Development Corporation, a not-for-profit corporation organized pursuant to laws ofthe State of New York
CPL	Contractor Pollution Liability Insurance
DBEs	Disadvantaged Business Enterprises
Director	The person set forth in Part I, Section 2.2, or such other person as may be subsequently designated by the Corporation

Disability Benefit	A type of insurance to be purchased and maintained by the Consultant and its Subcontractors, in statutory amounts, for all of its employees engaged in the Services
DCAS	New York City Department of Citywide Administrative Services
DCP	New York City Department of City Planning
DEP	New York City Department of Environmental Protection
Division	Division of Labor Services of DSBS
DOB	New York City Department of Buildings
Doing Business Data Form	The form available at https://edc.nyc/vendor-resources to be completed by the Consultant and submitted to the Corporation pursuant to LL 34
DOT	New York City Department of Transportation
DPR	New York City Department of Parks and Recreation
DSBS	New York City Department of Small Business Services
DSNY	New York City Department of Sanitation
Electronic Funds Transfer (EFT)	Any transfer of funds, other than a transaction originated by check, draft or similar paper instrument, that is initiated through an electronic terminal, telephonic instrument or computer or magnetic tape so as to order, instruct or authorized a financial institution to debit or credit an account
E.O. 50	Executive Order No. 50 (1980), as amended or revised from time to time
Employment Reports	The reports described in Appendix G and available at https://edc.nyc/vendor-resources to be completed and submitted to theCorporation pursuant to E.O. 50
Event of Default	As described in Part II, Section 3.3.2
Extra Work	A significant alteration to the work or Services that the Consultant has been directed to perform by the Director as described in Part II, Section 1.5.2
FDNY	New York City Fire Department

Federal Courts	United States Federal Courts located in New York City
Fee and Cost Schedule	Schedule listing names of Consultant's staff, hourly rates and estimated number of days to be spent providing Services, appended to Appendix C when payment for Services or a Portion of the Services is on an hourly rate basis
FHWA	United States Federal Highway Administration
Final Completion	The performance of all Services contemplated in this Contract to the satisfaction of the Director
Final Payment	The last payment by the Corporation to the Consultant under the Contract upon Final Completion or as provided in Part II, Sections 3.5.2 and 3.5.4
Force Majeure	Any of the following acts and events that occur without the negligence or fault, and beyond the reasonable control, of Consultant and that of any of its successors, heirs, assigns, and/or Representatives and of which Consultant has given the Corporation express written notice within three (3) days after the commencement of the alleged cause of the delay, hindrance, or obstruction: governmental preemption in connection with a national emergency, war or act of war, insurrection, riot, act of public enemy, terrorist acts, labor disputes, accidents, mechanical failure and acts of God (including fire, flood or abnormal adverse weather conditions not reasonably anticipatable)
FTA	United States Federal Transit Administration
Funding Agencies	All federal, State or local agencies or entities that are the source of the Funds including, without limitation, any specific "Funding Agencies" identified in Part I
Funds	All funds from the federal, State or local sources to be applied to payments for Services under this Contract including, without limitation, any specific "Funds" identified in Part I
IDA	New York City Industrial Development Agency, a corporate governmental agency constituting a body corporate and politic and a public benefit corporation organized pursuant to Article 18-A of the General Municipal Law of the State of New York

Inspectors	All individuals or entities specifically identified as "Inspectors" in Part I, Section 4.3, if any
Insurer	Any insurance company retained by the Consultant pursuant to Part II, Section 6.3.2
Joint Venture	An association, of limited scope and duration, between two or more persons who have entered into an agreement to perform and/or provide services required by a contract, in which each such person contributes property, capital, effort, skill and/or knowledge, and in which each such person is entitled to share in the profits of the venture in reasonable proportion to the economic value of its contribution
Landmarks Preservation Commission (LPC)	The City of New York Landmarks Preservation Commission
Legal Requirements	All applicable laws, rules, regulations, ordinances, codes and orders of all federal, state and local governmental authorities, agencies, departments or bureaus having jurisdiction over and which affect the work and/or Services under this Contract including, without limitation, all Applicable Agreements and all Applicable Requirements
Local Law 34 (LL 34)	Local Law No. 34 of 2007, as it may be amended or superseded
MacBride Principles	Those principles relating to nondiscrimination in employment and freedom of workplace opportunities that requires employers doing business in Northern Ireland to comply with specific terms set forth in Section 6-115.1 of the City's Administrative Code
Maximum Contract Price	The maximum amount that may be paid for the Services under the Contract, as stated in Part I, Section 1.6
Maximum Payment	The maximum amount payable for each portion of the Services during a billing period
MBEs	Minority-owned Business Enterprises
M/WBE Compliance Reports	As described in Part II, Section 9.5
M/WBEs	MBEs and WBEs, collectively
MOU	Memorandum of Understanding

New York State Courts	Courts of the State of New York in the City and County of New York
Notice	Any written notice, demand, request, instruction, advice, directive or other communication in connection with this Contract to be delivered to a party designated in Part I, Section 3, for the receipt of notice in the manner set forth in Part II, Section 10.9.1
Notice to Proceed	Written Notice from the Corporation to the Consultant to proceed with the Services or any portion thereof
Notify	To give a Notice pursuant to Part II, Section 10.9.1
NYCEDC	The Corporation
NYCTA	New York City Transit Authority
NYPD	New York City Police Department
NYSDEC	New York State Department of Environmental Conservation
NYSDOH	New York State Department of Health
NYSDOS	New York State Department of State
NYSDOT	New York State Department of Transportation
NYSHPO	New York State Historic Preservation Office
OMB	New York City Office of Management and Budget
OPRHP	New York State Office of Parks, Recreation and Historic Preservation
PANYNJ	The Port Authority of New York and New Jersey
Participation Goal	The Corporation's goal for M/WBE participation related to the Contract, as defined in Part II, Section 9.3.
Payment Schedule	Schedule listing Maximum Payment for each Portion of the Services, appended to Appendix C when payment for Services or a Portion of the Services is on a Tasks completed basis

Payroll Report	Forms that the Consultant and any Subcontractors that provide any on-site construction activity must complete
Percentage of Completion	An amount equal to the percentage of completion of each Portion of the Services
Person In Charge	As identified in Part I, Section 2.5, the member(s) of the Consultant's professional staff who will have primary responsibility to perform and/or supervise and coordinate the performance of the Services
PLL	Pollution Legal Liability Insurance Policy
Portion	Each portion, task or phase of the Services as described in Appendix B and/or Appendix C
Principal	The most senior officer, or member of the Consultant's staff responsible for the performance of Services as identified in Part I, Section 2.4
Progress Reports	Reports which Consultant is obligated to prepare that show the status of the Services in accordance with the Progress Schedule
Progress Schedule	Any schedule issued or approved by the Corporation for the performance of the Services, including, without limitation, Project or Services milestones, deadlines or delivery dates
Project	As identified in Part I, Section 1.7, and described in detail in Appendix B
Project Manager	A person designated by the Corporation to serve as a liaison between the Corporation and the Consultant
Project Site	The location of the Project as identified in Part I, Section 1.8 and described in detail in Appendix B
Public Design Commission (PDC)	New York City Public Design Commission (formerly, The Art Commission)
Qualified Joint Venture (QJV)	A Joint Venture between one or more MBEs and/or WBEs and another person, in which the percentage of profit to which the certified firm or firms is entitled for participation in the Contract, as set forth in the joint venture agreement, is at least 25% of the total profit

RAP	Remedial action plan
Representatives	The employees, agents, servants, officers, directors, members, independent contractors and subcontractors of a person or entity
Requisition	A request for payment, to be submitted by Consultant not more than once per month, setting forth in detail, for the billing period for which partial payment is requested, the amount requested and Services performed during the billing period
Retainage	Any sum withheld from any payment to the Consultant including, without limitation, those set forth in Part II, Sections 1.5.3, 2.2.1 and 4.2.3
Retainage Payment Date	The date by which any Retainage identified in Part I, Section 1.10 will be paid to the Consultant, as identified in Part I, Section 1.11, subject to the provisions of Part II, Article 2 and Part III, Appendix C
Scope of Services	The Services to be provided by the Consultant in connection with this Contract, as set forth in Appendix B
Services	All of the services to be provided to the Corporation by the Consultant pursuant to the Contract, as described in greater detail in Appendix B
Specific Terms and Conditions	Part I of this Contract
State	State of New York
Subcontractor	Any person or entity including, without limitation, contractors, consultants, subconsultants, vendors and subcontractors of such persons or entities, employed or retained by the Consultant in accordance with the Contract to provide any services, work, materials, equipment or supplies in connection with the Services
Subcontractors' Costs	The compensation payable by the Consultant to any subcontractor(s) of the Consultant pursuant to a contract(s) entered into pursuant to Part II, Section 4.2
Term	The duration of this Contract, as stated in Part I, Section 1.5
USACOE	United States Army Corps of Engineers

USDOT	United States Department of Transportation
UST	Underground storage tanks
WBEs	Women-owned Business Enterprises
Worker's Compensation	A type of insurance to be purchased and maintained by the Consultant and its Subcontractors, in statutory amounts, for all of its employees engaged in the Services
Work-Made-For-Hire	As defined in Section 101 of the United States Copyright Act, 17 U.S.C. § 101
Work Product	All reports, plans, studies, surveys, data, databases, programs, processes, systems, drawings, tracings, blueprints, photographs, computer drawings, schematics, specifications, log books, correspondence, models, studies, permits approvals, designs, deliverables, samples, presentation materials, analyses, punch lists, submissions, filings, applications, schedules, documents and materials, including, without limitation, those related to inspections, tests and test results, in all formats now known or hereinafter known, prepared or furnished by the Consultant pursuant to this Contract, provided however that Work Product shall not include any Consultant's Underlying Intellectual Property

APPENDIX B

SCOPE OF SERVICES

I. DEFINITIONS

A. **In General.** All definitions set forth in the Contract to which this Appendix B is attached shall have the same meaning herein unless otherwise defined in Appendix A or as the context otherwise requires.

B. **Additional Definitions.** The following terms shall have the following corresponding meanings:

Additional Services	All services not included in this Scope of Services, which may be negotiated with the Consultant and will require an amendment to the Contract.
Agencies	DOT, DCP, DDC, DEP, DPR, FDNY, NYCTA, NYPD, NYSDEC, NYSDOT, PDC, and any other agencies, bureaus, departments, offices, or other discrete entities of The City of New York, the State of New York, or the United States that have jurisdiction over any activities carried out in respect of the Services and/or the Project pursuant to this Contract.
Allowable Additional Costs	Out-of-pocket expenses which may include the cost of printing, special mailings (such as overnight delivery and messenger services), Services-related long distance telephone and facsimile charges, costs associates with potential EIS and/or ULURP services, artistic renderings of the principal elevation of the building, additional meetings as specified in the Scope of Services, and any other out-of-pocket expenses, approved in advance by the Director in writing, on a direct cost basis (with no additional provisions or overhead fee). Allowable Additional Costs shall not include travel to and from the Project Site, meals and those costs considered to be overhead such as normal mailing, local telephone and facsimile charges, in-house copying, secretarial, clerical and typist time and the purchase of office or graphic supplies. Allowable Additional Costs shall also not include printing related to coordination within the Design Team and/or between subconsultants, and agency reviews.
Applicable Statutes	Any and all federal, state and local laws, statutes, rules, regulations and orders applicable to this Contract, the Funds or the Project.
Approvals	Any and all approvals to be obtained by the Consultant or its Subconsultants from all applicable Agencies, Utilities and Interested Parties in connection with and required for proper completion of the Services including, without limitation, written evidence of the receipt thereof.

As-Built Records	A set of documents (including, but not limited to, drawings, specifications, equipment data sheets, operations and maintenance manuals and/or schedules, guarantees and warranties) generally prepared by or obtained by the Consultant, which include any revisions to the Contract Documents, to indicate how the Work was actually constructed. As-built drawings must be signed and sealed per applicable NYC agency requirements.
Assignment Proposal	A proposal submitted by one or more pre-qualified consultants in response to a specific Project Assignment.
Biddable Documents	The Contract Documents that will be issued for bid.
BIM	Building Informational Modeling
Borough(s)	The Borough in which a specific project is located, as identified in any Project Assignment issued pursuant to this Contract.
Certificate to Proceed ("CP")	A specific approval from OMB to certify that funding for a specific Project or Project Assignment is in place
Certificates of Approval	Certificates that are required by any governmental agencies having jurisdiction over the Services, the Project, and/or the Project Assignment.
Client Agency(ies)	Entity(ies) for which the Corporation may be managing, implementing, and/or constructing the Project Assignment.
Commissioning Authority	A certified professional with knowledge in design, construction, and operation of systems who leads the commissioning process.
Community Board	The Community Board in which the Project is located
Community Groups	Any group of persons, whether or not a legally organized entity under the laws of New York State or any other sovereign state, and whether or not organized on a formal or informal basis, that may assert an interest in the Project.
Construction Contract	Any contract entered into by the Corporation to perform construction in connection with a specific Project as identified in any Project Assignment issued pursuant to this Contract.
Construction Contractor	Any contractor retained by the Corporation to provide construction services in connection with a specific Project as identified in any Assignment issued pursuant to this Contract, including, without limitation, any subcontractors of such contractors. Construction contractor can also be known as a General Contractor ("GC").
Construction Manager ("CM")	The construction management firm engaged by the Corporation to perform construction management and preconstruction review services.

Consultant	One or more consulting contractors selected to be awarded a contract through the public RFP process to provide the Corporation with on-call civil engineering, resident engineering, owner's representative, and inspection services
Consultant Team	Collectively, the Consultant, the members of the Consultant's staff and/or the Subconsultants engaged by the Consultant to perform the Services under this Contract or under any Project Assignment, as identified in Part II, Section C of this Appendix B or, in the case of a specific project, as identified in any Project Assignment issued pursuant to this Contract
Contract Administrator	A person designated by the Corporation to serve as the liaison between the Corporation and the Consultants on Contract and Assignment issues.
Contract Documents	Any trade contracts for Project Work, together with any related drawings, specifications, schematics or other documents created by the Consultant, the CM and/or the Corporation including, but not limited to, the following documents: 1. the plans and drawings; 2. the specifications; 3. the procurement documents; 4. all addenda issued prior to the receipt of bids and/or proposals; 5. the form of Construction Contract; 6. all provisions required by law to be included in the Construction Contract; 7. forms for the notice of awards, and the bid, performance and payment bonds; 8. the "General Conditions" provisions; and 9. all other supplementary or special provisions or conditions.
Contract Executive	A person on the Consultant's staff to serve as the liaison between the Consultant and the Corporation on contract issues. The Contract Executive must have the capacity to negotiate fees and assign personnel on behalf of the Consultant.
CSI	Construction Specifications Institute
DDC	New York City Department of Design and Construction.

Design Documents	Any documentation created during the design and construction phases of a specific Project by the Design Team, including design modifications during the construction phase which includes, but is not limited to, the following: 1. Conceptual Design Documents; 2. Schematic Design Documents; 3. Preliminary Design Documents; 4. Final Design/Contract Documents; and 5. Contract Document Modifications
Design Team	Collectively, the Consultant and any Subconsultants hired by the Consultant to provide the architectural, engineering, design and/or related services for the Project
Executive Committee	An entity that provides oversights to the Corporation's operations which include the approval of contract awards and modifications.
Final Certificate of Occupancy	Certificate issued by the New York City Department of Buildings when completed work matches the submitted plans for new buildings or major alterations.
Final Design	The approved design prepared by the Design Team for a specific project, as identified in any Project Assignment issued pursuant to this Contract.
General Contractor	A general contractor, main contractor or prime contractor responsible for the day-to-day oversight of a construction site, management of vendors and trades, and the communication of information to all involved parties throughout the course of a project.
Interested Parties	All applicable Agencies, Utilities, Community Groups and/or all other specified individuals and entities that use, are working near or may be directly affected by a specific Project Assignment issued pursuant to this Contract.
LL 11	Local Law 11 of 1998, which requires periodic inspection of the exterior walls and appurtenances of buildings greater than six stories in height.
LL 86	Local Law 86 of 2005, which requires a percentage of capital projects over $2,000,000 funded after January 1, 2007 to be in compliance with the energy consumption and savings to qualify for the required Leadership in Energy and Environmental Design ("LEED") defined by the United States Green Building Council ("USGBC")
LL 96	Local Law 96 of 2013, which describes the City's adoption of the best available flood maps.
Notice to Proceed	Written notice from the Corporation to the Consultant to proceed with the Services or any portion thereof.

Office of the Borough President	The Office of the Borough President for the borough of the Project
Post-Construction	The duration of time after Final Completion until the expiration of the Warranty Period.
Post-Construction Services	Services to be performed after significant completion (to be determined by the Corporation) of the construction project. Tasks may include, but are not limited to, assisting the Construction Contractor and/or the Corporation in project close-out, filing for permits, approvals, and/or LEED certifications.
Pre-Construction Services	Services to be performed during the design phase which may include, but are not limited to, Conceptual Design, Schematic Design, Preliminary Design, and Construction Document/Bid Package Preparation
Preliminary Design Documents	Contract drawings in sufficient detail to allow the Interested Parties to visualize the intended Contract Documents
Procurement Documents	Invitations to Bid ("IFBs"), Requests for Proposals ("RFPs"), bid forms, proposal forms, and related documents necessary to procure and execute Subcontracts or Construction Contracts
Project Assignment	The specific Services to be performed by the Consultant pursuant to an amendment to this Contract during the Contract Term, including, without limitation: 1. Notice from the Corporation to Consultant that directs the Consultant to provide certain Services for the specific project(s) listed therein and includes, without limitation, the following: a. description of the Tasks required; b. the Project Area and/or Site; c. the Maximum Payment and Staff and Fee Schedules therefor; d. the Interested Parties; e. the Project Team; f. the Design Team; g. the Additional Insureds; h. the Commencement Date and the estimated or required completion time; i. any special provisions or requirements applicable to the Project Assignment including, without limitation, specific Outside Funding Sources, Applicable Statutes, Applicable Agreements and Legal Requirements; and j. such other information specific to the Project Assignment(s) and required for the proper completion of the Services listed therein; or 2. The specific Project Assignment(s) listed in such Notice

Project Assignment Manager	A person on the Consultant's staff designated as the point of contact between the Consultant and the Corporation's Contract Administrator on specific Project Assignment issues. The Project Assignment Manager may be the same person as the Contract Executive.
Project Budget	The budget to be prepared by the Consultant and approved and/or allocated by the Corporation for each Project Assignment pursuant to this Contract
Project Estimate	Cost estimate prepared by one or more members of the Project Team to estimate the financial commitment required to design and/or construct a specific project, in accordance with current Association for the Advancement of Cost Engineering ("AACE"), American Society of Professional Estimators, and/or American Society of Civil Engineers ("ASCE") standards.
Project Manager	A person designated by the Corporation to manage all aspects of each Project and/or Project Assignment, including, but not limited to: budget, schedule, and payment
Project Site	The location(s) of a specific project being undertaken by the Corporation for which the Consultant's Services are retained, as identified in any Project Assignment issued pursuant to this Contract
Project Team	The parties with a special interest and/or responsibility for the Project as defined in Appendix B, Part II, Section C or, in the case of a specific project, as identified in the Project Assignment for such project.
Punch List	The comprehensive list of construction items that does not conform to the Contract Documents and needs to be completed or corrected.
Reporting Period	The one (1) month period commencing on the Commencement Date for a specific project identified in a Project Assignment pursuant to this Contract, and each month thereafter during the term of the Project Assignment, for which period the Consultant shall report to the Corporation on the status of the Project Assignment
Request for Information ("RFI")	Official request submitted to the Corporation seeking information related to the Contract Documents
Special Inspection	Inspection of selected materials, equipment, installation, fabrication, erection or placement of components and connections, to ensure compliance with approved construction documents and referenced standards as required by Chapter 17 of the 2008 NYC Building Code and the DOB Special Inspections Rules, as specified in Section 101-06 of the Rules of the City of New York, Title 1, Subchapter A of Chapter 100 on Special Inspectors and Special Inspection Agencies.

Special Inspector	A qualified individual employed by a certified Special Inspection Agency retained by the Corporation under an independent contract to provide Special Inspection services for the specific Project and/or Project Assignment.
Stakeholder	All Corporation members and all applicable Agencies, Utilities, Community Groups and/or all other individuals and entities that are involved in or affected by the Project.
Subconsultant	Any architect, engineer, licensed professional, expert or advisor hired by the Consultant to perform any portion of the Services.
Subcontract	Any agreement entered into by either the Consultant or the Corporation with any Subcontractor to perform services or work in connection with a specific project identified by a Project Assignment pursuant to this Contract
Substantial Completion	The stage in the progress of the Work when the Work, or a portion thereof, is sufficiently complete in accordance with the Contract Documents, as determined by the Corporation, to enable the Corporation (and/or Owner) to occupy or utilize the Work for its intended use.
Surveys	Technical Surveys (as hereinafter defined), maps and analyses of existing conditions within a specific project identified by a Project Assignment pursuant to the Contract.
Task Order(s)	As generally described in Parts III, IV, and V of this Appendix B and to be more specifically set forth in each Project Assignment
Task(s)	A portion of the Services to be provided to the Corporation by the Consultant pursuant to this Contract, as described in greater detail in Appendix B, Part IV, Section B.
Technical Surveys	Topographic and utility Surveys
Utilities	Any and all private or public utility companies having legal rights to maintain or operate equipment and infrastructure within the site of a specific project identified by a Project Assignment pursuant to the Contract or affected by or otherwise interested in such project
VE	Value Engineering
VE Studies	Value Engineering studies that may be required by OMB at the end of Schematic Design and/or Preliminary Design phases. Following the S.A.V.E. International guidelines, it typically consists of a one-day orientation/site visit, a one-week workshop, and an implementation meeting.
Warranty Period	A period of one year following substantial completion of the Project.

Work	Any design and/or construction services performed or to be performed by the Consultant and/or Construction Contractor in connection with a specific project, as identified in any Project Assignment issued pursuant to this Contract
Work Plan	Work plan submitted by Consultant to the Corporation detailing Services to be provided by the Consultant as outlined in the Project Assignment

II. INTRODUCTION

A. Project Objectives

The Corporation intends to procure contracts with selected Consultants who are capable of providing on-call civil engineering ("CE") design, resident engineering ("RE"), owner's representative ("OR") and other related services. Each Consultant shall perform CE, RE, OR and/or other related Services as specified in and in accordance with a Task Order assigned to the Consultant in connection with specific capital project(s) throughout New York City on an as-needed basis ("Project Assignment"), as directed by the Corporation during the Contract Term and as set forth in this Appendix B (the "Services"). Capital projects undertaken by the Corporation may include, but are not limited to, the following types of construction and rehabilitation projects:

- Waterfront Properties: marinas, piers, bulkheads
- Public Open Spaces: parks, plazas, playgrounds
- Infrastructure: utilities, sewers, water mains
- Transportation: roadways, streetscapes, water taxi
- Buildings: libraries, cultural and healthcare facilities, operations and maintenance sheds, comfort stations
- Miscellaneous: emergency repair, remediation, survey
- Emergency- and disaster-related work

The Project Assignment may include Services during any of the following Project phases:

- Design / Pre-Construction
- Construction
- Post-Construction

It is also anticipated that the Corporation will award Project Assignments for specific projects from among the firms retained by the Corporation for such Services. Project Assignments will be procured using procurement methods permitted under the City Contracts (please see Section III of this Appendix B). To eliminate potential conflict of interest and to provide the Corporation with the most objective work products, the CE service provider, the OR service provider, and the RE service provider for the same capital project shall NOT be the same Consultant. The Corporation also reserves the right to award

Project Assignments for only portions of CE or RE Scopes of work listed within this Appendix B.

The CE Consultant shall consider the project scope and program, along with physical site characteristics, interests of the community, the requirements of Agencies and Utilities, and other design objectives to provide the Project Team with alternative solutions during the Conceptual Design and Schematic Design phases (see Tasks 4 and 5, respectively).

Preliminary Design (Task 6) shall be based on development of the chosen design solutions. Once the deliverables from Preliminary Design have been accepted, the CE Consultant shall proceed into Final Design (Task 7) to prepare final Construction Documents for bid.

The Corporation may choose to engage the Consultant during the Design/Pre-Construction phase to provide RE Services that would guide the project toward construction. The RE Consultant will review deliverables at the end of various design phases to review constructability, monitor project budget and schedule, and facilitate the bid process. During construction, the RE Consultant shall supervise construction work to be performed by a Construction Manager ("CM"), a General Contractor ("GC"), and/or subcontractor(s) to the CM and/or GC.

Prior to any construction activity, the Corporation may require the Consultant to prepare a written maintenance agreement to be entered into by the appropriate Interested Parties to cover future maintenance costs for any special amenities included in the design (e.g., signage, special lighting, special paving, landscape, irrigation, remediation, etc.).

B. Funding

Funding sources may consist solely of, or a combination of City Capital, State and/or Federal funds. The anticipated construction budget allocation for each Project Assignment shall be released when proposals are requested.

C. Project Teams

1. Project Team

Each specific Project Assignment will list the Corporation, the Client Agencies, Utilities, Community Groups, and Interested Parties participating as members of the Project Team. As determined by the Corporation, the Project Team may also include the CE Consultant Team, the RE Consultant Team or OR Consultant Team, and a GC or CM.

2. Design Team

The Consultant will lead a group of qualified Subconsultants to form the Design Team and provide all design and coordination services for the Project. Qualifications of all team members must be provided in the Assignment Proposal.

It is anticipated that the Project Assignments for specific projects may require the Consultant to procure and identify a Consultant Team to perform the Services unique to the Project Assignment as required. The members of the Consultant Team for this Contract may include staff members and/or Subconsultants.

D. Project Assignment Requirements

The Corporation may assign the Project Assignments either directly or by an RFP process. Each Project Assignment will start with a Task Order issued by the Corporation's Contract Administrator.

Each Project Assignment will have terms and conditions specific to the Project to be undertaken pursuant to the Project Assignment. The Consultant must adhere to all Legal Requirements including, without limitation, all Outside Funding Requirements related to the procurement, administration and implementation of the Project including, without limitation, the requirements related to M/WBEs.

III. PROJECT ASSIGNMENT

A. NYCEDC shall initiate each Task Order by emailing a Consultant(s) a general description of the portion of the Services to be provide as part of such task Order and requesting the Consultant(s) to submit an electronic written Assignment Proposal within a specified timeframe.

NYCEDC may elect to solicit proposals from several Consultants for any given Task Order using one of the following methods:

1. A "Mini-RFP" process where multiple Consultants are given the same set of documents and are asked to submit individual Assignment Proposals for NYCEDC's review and selection;
2. Rotation and/or assignment to a particular Consultant based on NYCEDC's need to distribute Task Orders among Consultants; or
3. A "Sole Source" assignment where a specific Consultant may be assigned the project based on:
    - **a.** previous project association;
    - **b.** familiarity of project site and/or type; and/or
    - **c.** a combination of above justifications

B. Project Assignments utilizing federal funds will be made in accordance with the applicable Funding Agencies' requirements.

C. The Assignment Proposal shall consist of, but not be limited to:

1. A proposed scope of work based on the Portion of the Services to be provided as part of such Project Assignment;
2. A total lump sum cost proposal broken down by specific task;
3. a projected schedule with turnaround for each Task;
4. title and resume of key Consultant and Subconsultant staff members;
5. a summary page of the proposed Maximum Payment for each Task; and
6. an estimate of hours and costs for each proposed staff for the Tasks listed.

D. The maximum value for each Project Assignment shall be established by the Corporation through negotiation with the Consultant, following a review of the fee proposal submitted by the Consultant. The fee proposal may be listed by tasks, items, time and material, subcontracts, or any other formats as requested by the Corporation.

E. Task Orders will be prepared by the Corporation for each Project Assignment for the approval processes. The Task Order shall specify the scope of services, the location(s) of the project, an estimated project schedule, and the maximum value for the Project Assignment.

F. The Consultant shall report to the Corporation's Project Manager assigned to each Project Assignment.

G. When, during the duration of the Project Assignment, it appears to the Consultant that the maximum value of the Project Assignment will be exceeded—whether due to additional scope, unexpected schedule delays, and/or increase of material quantities/cost prior to the completion of the Project Assignment—the Consultant shall immediately inform the Corporation. The Consultant is at risk of providing additional services for no cost without the express written approval of the Corporation. After review and negotiation, the Corporation may choose to amend the Task Order to complete the Project Assignment or terminate the Project Assignment once the original maximum value is reached.

H. When, during the duration of the Project Assignment, it appears to the Consultant that modifications to the proposed staffing list are required for the successful completion of the Project Assignment, the Consultant shall immediately inform the Corporation for adjustments. In the case of staff substitutions, the Consultant must submit the replacement(s) resume(s) to the Corporation for approval prior to any modifications. No Subconsultant or staff changes may occur without the express written approval of the Corporation.

I. When, during the duration of the Project Assignment, adjustment is required to modify the hourly rate for member(s) on the Consultant Team to ensure completion of the Project Assignment, the Consultant shall immediately inform the Corporation of the modification(s). Services provided prior to the written approval from the Corporation shall be invoiced at the originally proposed rate(s).

J. Strict adherence to the schedule established in the Task Order must be maintained. The Consultant may be required to provide Services for various projects simultaneously to satisfactorily complete the Services described in the various Task Orders.

K. At any time after the Project Assignment, the Corporation may determine that the Consultant is unable to satisfactorily perform the work as scheduled. In such occasion, the Corporation reserves the right to rescind or modify a Project Assignment, or reassign a portion of the Project Assignment to another Consultant(s) to complete the Project Assignment.

L. The Consultant shall provide its own office supplies and equipment, except for special equipment, if any, listed in the Assignment Proposal or permitted under Allowable Additional Costs.

IV. SCOPE OF SERVICES

A. GENERAL ADMINISTRATIVE REQUIREMENTS

1. The Consultant shall provide close and ongoing coordination with NYCEDC, the Client Agency, any consultant employed by NYCEDC for the Project, and other entities as identified by the Project Team throughout the design and construction of the Project.
2. The Consultant shall fully coordinate the identification of all current and future planning, design and construction projects by the City such as water main projects, street lighting projects, fire and police communication projects, as well as projects of a significant nature by parties other than the City (private utilities, authorities, governmental and non-governmental agencies and abutting property owners) and shall recommend programming alternatives and staging as required.
3. The design must comply with all Federal, State, and local laws, codes, rules, regulations, ordinances, guidelines and standards.
4. Contract Documents, including drawings and specifications, shall not violate the Charter of the City of New York or any provisions of the New York City Administrative Code.
5. The Consultant shall obtain and compile all pertinent specifications, standards and constraints mandated for the Project or the Services by any interested Agencies. All plans and specifications prepared as part of the Services shall conform to the standards, specifications, codes and regulations of any interested Agencies. The Consultant shall immediately alert NYCEDC as to any deviations therefrom.
6. The design shall follow the latest version of the NYC Climate Resiliency Design Guidelines as issued by the Mayor's Office of Resiliency available at https://www1.nyc.gov/site/orr/index.page.
7. It shall be the Consultant's responsibility to secure all required data for the informed planning and proper coordination of the Services.
8. The Consultant shall plan and design the work related to the Services with reference to and in conformity with information and data as to existing and legal lines and grades, subsurface structures and conditions and facilities, such as may be furnished by NYCEDC or obtained from Agencies, Utilities and other sources, as well as such information as may be obtained through site inspection and Surveys.
9. The Consultant shall coordinate the proposed program for the Project with the Project Team, Agencies, Utilities and all other parties as may be as required for the efficient completion of the Project, and shall identify and resolve all requirements, conditions and issues as presented by said parties.
10. The Consultant shall coordinate the programming and designs with adjacent properties and corresponding open spaces.
11. When, during the duration of the Project, it appears to the Consultant that modifications to the proposed staffing list are required for the successful completion of the Project or Project Assignment, the Consultant shall immediately inform the Corporation in

writing. In the case of a staff substitution, the Consultant shall submit the replacement staff member's resume to the Corporation for approval prior to any staffing modification. No staff or Subconsultant changes can take place without the express written approval of the Corporation.

12. The Consultant shall initiate, schedule and coordinate all meetings required in the performance of the Services or as requested by NYCEDC. The Consultant shall attend and facilitate regular progress meetings.

13. The Consultant shall provide necessary data and presentation materials for all meetings. The Consultant is responsible for the preparation of presentation materials and participation and/or presentation at meetings with Interested Parties whose approvals are required, as directed by NYCEDC. Such events may include, but are not limited to, presentations to PDC, participation in VE Studies (if required by OMB) and attendance at Community Board meetings, community scoping meetings and public hearings.

14. The Consultant shall prepare meeting minutes for all meetings. The minutes are to be formatted per requirements agreed to or provided by NYCEDC and shall include columns labeled "Action Required by" and "Due Date," noting the firm/agency and person required to perform an action and the date that the action must be performed for each item listed. The minutes are to be forwarded to the Project Team for review no later than three (3) working days after the meeting. The Project Team's comments are to be incorporated into the final minutes which are to be distributed by the Consultant to all members of the Project Team within three (3) working days after receiving comments.

15. The Consultant shall coordinate its Services and attend meetings with appropriate Agencies for the review of proposed Contract Documents and shall incorporate Agency comments into the aforementioned documents.

16. The Consultant shall revise and correct, without additional compensation, any and all reports and documents, including any surveys and project designs, until same shall receive final acceptance by NYCEDC and by all other Interested Parties whose approval is required. The Consultant shall initiate all actions for incremental review of proposed designs, including all follow up meetings, as required, to expeditiously resolve all questions and concerns and to obtain required approvals.

17. The Consultant shall continue to advance the Project during design review periods.

18. The Consultant shall prepare, submit, assemble and reproduce any and all design documents and other work products as reasonably required by NYCEDC. If requested by NYCEDC, the Consultant shall prepare reports with respect to its findings, including, but not limited to, evaluation reports that provide analysis of existing conditions, issues and recommendations and cost estimates for the implementation of recommendations.

19. The Consultant shall perform constructability, biddability, and operability review(s) of the Project that will be carried out by NYCEDC and/or its consultants. The Consultant shall incorporate comments into the Contract Documents.

20. The Consultant shall prepare a regulatory permits and approvals matrix ("Permits and Approvals Matrix"), in a format approved by NYCEDC. The Consultant shall maintain

the matrix beginning at the Project kick-off through the Post-Construction. The Consultant shall coordinate and make all submissions required for Agency approvals to applicable Agencies on a timely basis or as directed by NYCEDC. The number of copies and form of each submission shall be determined by the reviewing Agency.

21. The Consultant shall review and develop a code compliance chart (the "Code Compliance Chart"). The Consultant shall review the Contract Document submittals and advise the Project Team through a design review memo of any issues relating to compliance with all applicable codes, including DOB and FDNY. The Consultant shall identify any variances required by the design. All paperwork and applications to relevant agencies shall be coordinated and submitted by the Consultant.

22. The Consultant shall list all necessary application forms for a public assembly permit and fire protection plan that may be required. The Consultant shall also identify fire protection and life safety issues and work with the Project Team to develop effective and compliant approaches and solutions for these code issues.

23. The Consultant shall deliver a project that can obtain a Final Certificate of Occupancy (as applicable).

24. The Consultant shall obtain and compile all pertinent specifications, standards, codes and constraints mandated for the Project by any Agencies, Utilities, or other Interested Parties in a detailed work plan ("the Work Plan"). All plans and specifications prepared as part of the Services shall conform to the standards, codes, constraints and specifications identified. The Work Plan shall include, but not be limited to, the following:

- **a.** A detailed listing of all Tasks and sub-tasks, including approvals, submittals and milestones required in connection with the Project;
- **b.** The time necessary to complete the various Tasks and sub-tasks, including approvals and submittals and milestones;
- **c.** Projected completion/target dates for all required Services;
- **d.** The interrelationship and dependency of the various elements of the Work Plan; and
- **e.** A detailed Project schedule, including the Project's current status and any reasons for delay.

25. The Consultant shall prepare monthly payment requisitions for the Design Team in accordance with the requirements of this contract and review and approve Subcontractor submissions for payment to assure accuracy and appropriate documentation referencing to each Task to substantiate billings.

26. The Consultant shall submit Monthly Progress Reports to NYCEDC starting from one month after the Commencement Date, and continuing every month thereafter (each such one-month period immediately preceding the Monthly Progress Report being a "Reporting Period"). The Monthly Progress Reports shall include an analysis of the Project's progress as it relates to the Project Assignment and approved Work Plan. The Monthly Progress Report and supporting documentation shall be submitted to NYCEDC for approval no later than two (2) working days following the close of each

Reporting Period. Each such Monthly Progress Report shall include, but not be limited to, the following:

a. A narrative description of the Services performed during the Reporting Period;

b. Actual time used for each Task and sub-task in relation to the Work Plan prepared;

c. The reasons for any delays in the targeted completion dates;

d. An updated project schedule with any changes in completion/target dates for the required Services;

e. The need and justification for any extensions of time;

f. A narrative description of the Services projected for the next Reporting Period;

g. A revised Work Plan which reflects the Project Assignment's current status at the end of the Reporting Period;

h. Activities requiring decision or action by NYCEDC and other Agencies or groups;

i. An updated Permits and Approvals Matrix; and

j. A projected budget for the next Reporting Period

27. All demolition and removal work must be coordinated with other construction, parking and business activities in and around the Project Site, including obtaining appropriate permits and approvals.

28. The design shall minimize utility relocations and street reconstruction.

29. The Consultant shall provide renderings to illustrate the project, as reasonably required. The renderings shall not include proprietary content. The renderings shall become property of NYCEDC.

30. In the event that the Consultant recommends a patented article, the Consultant shall notify NYCEDC in writing of such designated article.

31. The Consultant shall provide, at no additional cost to NYCEDC, professional services to design, document and process corrective measures for errors or omissions caused by the Consultant.

32. The Consultant shall not make any changes in the Scope of Services as outlined herein without prior written authorization from NYCEDC.

B. SPECIFIC TASKS

The Tasks in this Section are typical for each Project Assignment. They are divided between CE, OR and RE Tasks. As previously stated herein, to eliminate potential conflict of interest and to provide NYCEDC with the most objective work products, the CE service provider and the RE service provider for the same capital project shall not be the same Consultant. NYCEDC also reserves the right to award Project Assignments for only portions of CE, RE or OR scopes of work listed within this Appendix B.

1. CE Tasks

For CE Project Assignments, the Consultant shall generally perform the following Tasks in the sequence described below. The requirement and sequence of the CE Tasks may be altered at NYCEDC's sole discretion.

Task	1	Technical Surveys and Data Gathering
Task	2	Environmental Review
Task	3	Community Engagement
Task	4	Conceptual Design*
Task	5	Schematic Design*
Task	6	Preliminary Design*
Task	7	Final Design*
Task	8	Operations/Maintenance Manual
Task	9	Review and Analysis of Bids
Task	10	Construction Administration and Shop Drawing Review
Task	11	Public Art*
Task	12	Project Close-out

* Requires NYCEDC approval/acceptance.

The Consultant shall comply with the following requirements in respect of each CE Task:

a. TASK 1: TECHNICAL SURVEYS AND DATA GATHERING

The Consultant shall prepare the following surveys and reports upon receipt of the Notice to Proceed:

1. Data Gathering

a) The Consultant shall inspect the Project Site and become familiar with the general and specific nature of the Project Site, including immediate surroundings, general conditions and current activity, so as to identify any existing conditions that may have an impact on the successful completion of the final design. During this inspection, the Consultant shall make a complete photographic record of the Project Site in order to illustrate the general nature and character of the site, as well as to illustrate typical and special conditions. The photographs shall be in color and presented in a three-inch by five-inch (3" X 5") format, at 300 dots per inch ("D.P.I."). The photographs shall be annotated and compiled into a digital format to provide a permanent record of the existing conditions.

b) The Consultant shall assemble and review all available reports, designs, surveys, maps and public and private plans, documents and other applicable records relative to the Project that are obtained from Agencies or other entities as required to execute the Services in an efficient and thorough manner. Where required, or as directed by NYCEDC, the Consultant shall

conduct interviews with personnel of any affected or interested Agency, Utilities or other group to obtain relevant data for the Project.

c) The Consultant shall obtain, become familiar with and incorporate into the final design all applicable design directives, standard details, administrative procedural bulletins and guidelines available from any interested Agencies.

d) The Consultant shall field verify that the field conditions of recent investigations have not changed.

e) The Consultant shall identify any additional information, not contained in the existing documentation but that is needed to fully assess existing conditions and capacity of the Project.

f) The Consultant shall prepare a report summarizing the information gathered during this Task, including survey drawings and photographs, into an Existing Conditions Report and submit to NYCEDC. The Consultant shall submit one electronic copy of the report to NYCEDC. The Consultant shall resubmit the report until NYCEDC acceptance. The Consultant shall update this report after demolition, as necessary, and resubmit.

2. Topographic Survey

The Consultant shall prepare a topographic survey of the Project Site ("Topographic Survey") which shall be prepared within the following parameters except where commonly accepted industry standards, to be approved by NYCEDC, may apply:

a) The Consultant shall submit for approval the names and experience of all persons and Subcontractors proposed for use in connection with the Topographic Survey prior to the start of that work.

b) The Topographic Survey shall be referenced by station and offset to a centerline baseline, which has been established/coordinated/tied into existing borough monument lines, in accordance with current Agency standards. All elevations shall be referenced to established borough benchmarks, or to benchmarks set from established borough benchmarks through the use of independent bench runs. The reference points, including bench runs and all tie-ins to the centerline baseline, shall be clearly documented so that they may be re-established at any time during the course of the work by the Consultant, or in the future by any other surveyor.

c) Datum plane and coordinate system shall be North American Datum of 1981 (NAD 83) and North American Vertical Datum of 1988 (NAVD88) as required by Local Law 96. Datum plane and coordinate system shall also reference the conversion necessary to the datum plane and coordinate system in use by the applicable Office of the Borough President.

d) The Topographic Survey shall locate all physical features within the Project Site needed to produce a comprehensive design.

e) Horizontal locations shall be taken to the nearest tenth (1/10) of a foot.

f) Vertical locations (elevations) shall be taken to the nearest hundredth (1/100) of a foot (or as specified by NYCEDC) longitudinally at fifty (50) foot stations, as measured along the centerline baseline, and at all street intersections, breaks in grade, building lines at intersections and other locations required to fully define the existing topography; transversely, elevations shall be taken at the building lines, top and bottom of curbs, centerline of street and front and back edges of sidewalk.

g) Spot elevations shall be taken at all street surface hardware locations, steps/platforms, building entrances, first floors, garage floors, back of sidewalk at all entranceways, ground elevations at building entrances, traffic islands, parking aprons, intersections (as required), corner (with crosswalk) sidewalk quadrants, storm/combined sewer inverts, at points giving the clearance from the roadway to the underside of overhead structures, and as otherwise required for design purposes.

h) All City-owned street hardware, including manhole covers and frames, inlets, catch basins, gratings, frames, curb pieces, traffic signs, streetlights, meters and benches, shall be located by station and offset. The condition of each shall be noted.

i) All trees located within the Project Site shall be located by station and offset. The size in caliper inches and condition of each shall be noted, and the results presented in the Contract Documents and for permits and approvals, as needed.

j) All cellar doors located within the Project Site shall be located by station and offset. Each shall be visually inspected. The condition of each shall be noted.

k) The Topographic Survey shall include the full right-of-way, easements and property lines as applicable and extend beyond the site as necessary.

l) All measurements shall be in the United States Standard of Measurements except as follows: legal mapped dimensions, base line dimensions and stationing shall be shown in United States Standard of Measurements with metric equivalents shown in parentheses.

m) All field notes shall be legible, dated and compiled in a digital document at 300 D.P.I., in a format approved by NYCEDC.

n) The Consultant shall submit to NYCEDC original survey notes, summary of survey procedures/instruments employed, survey control data, discussion of survey accuracy, summary or survey control data, survey tie ins, computer digitizer tapes and survey computations, which shall become the property of NYCEDC.

o) The Consultant shall identify and provide NYCEDC with copies of all survey source material.

p) The Topographic Survey, working profiles and cross sections shall be plotted within the framework of current Agency parameters.

q) All original topographic information shall be dated, signed and certified to by a New York State Licensed Surveyor. The license seal of the surveyor and/or registered professional engineer shall be shown on all plans, tracing and tabulation sheets.

r) The Consultant shall field verify the documents submitted by the surveyor and reconcile all discrepancies.

s) The Consultant shall submit a draft report for review and comment by NYCEDC and other parties as appropriate. After incorporation of all comments and revisions, the Consultant shall submit the Topographical Survey in final form with all final documents to NYCEDC. The Consultant shall update the Topographic Survey after demolition, as necessary, and resubmit.

3. Metes and Bounds Survey

a) The Consultant shall prepare a survey based on its review of existing documentation that identifies the Project's metes and bounds and of adjacent affected areas (the "Metes and Bounds Survey"). The limits of the area of the data gathering and analysis shall be reviewed and approved by NYCEDC prior to the start of this sub-task.

b) The Consultant shall submit a draft Metes and Bounds Survey and report to NYCEDC for review and comment prior to finalizing as a permanent record. One (1) electronic copy of the permanent record shall be submitted to NYCEDC, and printed formats as requested by NYCEDC.

c) The Metes and Bounds Survey shall also identify all easements within the Project Site.

4. Utility Survey

a) The Consultant shall prepare and plot a utility survey (the "Utility Survey") for the entire Project Site and adjacent areas, as defined by NYCEDC. Where possible, recent existing surveys may supersede the need for a new survey and/or can be updated or enhanced and drawn compatible so as to create a complete set of Utility Survey drawings at one scale. The Utility Survey shall be in a form acceptable to NYCEDC and shall be prepared within the framework of the following parameters except where commonly accepted industry standards, to be approved by NYCEDC, may apply.

b) The Utility Survey shall identify and locate all existing surface and subsurface utilities, facilities and systems (both public and private) within the Project Site, adjacent streets, roadways and areas and upland street intersections needed to produce a comprehensive final design. The Utility Survey shall identify, but not be limited to, the identification and location of the following:

- Storm, sanitary, combined and interceptor sewers (including outfalls) showing size, elevation, age and material;
- Water mains, gas mains and steam mains showing material, age and size;

- Electric, data, cable and telephone conduits;
- Fire and police communications conduits and protection facilities;
- Subway tunnels, station areas, access stairs and ventilator structures;
- Utility chambers and vaults;
- Basin and inlet connections;
- Vehicular, pedestrian and utility tunnels and bridges;
- Traffic Signals, light poles, utility poles and overhead utility and electric facilities;
- Railroad and trolley tracks, rails, ties and other foundations;
- Highway support structures;
- Other surface and subsurface facilities and appurtenances, as required.

c) The Consultant shall review all data obtained from the Agencies, Utilities and others, and shall coordinate/reconcile such data with the topographic surveys.

d) The Consultant shall reconcile all discrepancies in the location and identification of all subsurface elements between the topographic surveys and the utility records.

e) The limits of the Utility Survey shall be the same as those described above.

f) All field notes shall be legible, dated and compiled in a digital document at 300 D.P.I. and in a format approved by NYCEDC.

g) The Consultant shall submit to NYCEDC original survey notes, together with all public and private utility drawings, plans and plates, which shall become the property of NYCEDC.

h) The Consultant shall plot the Utility Survey within the framework of current Agency parameters.

i) All original utility information shall be dated, signed and certified to by a New York State Licensed Surveyor. The license seal of the surveyor and/or registered professional engineer shall be shown on all plans, tracing and tabulation sheets.

j) The Consultant shall prepare a brief narrative report of the findings of the Utility Survey, which together with the utility drawings and any other necessary or appropriate supporting documents shall constitute the Utility Survey. The report shall contain a discussion of any/all existing surface and subsurface utilities, facilities and systems that may impact proposed site improvements.

k) The Consultant shall submit a draft report for review and comment by NYCEDC and others as appropriate. After incorporation of all comments and revisions, the Consultant shall submit the Utility Survey in final form with all final documents to NYCEDC. The Consultant shall update the Utility Survey after demolition, as necessary, and resubmit.

5. Sewer Investigation

a) The Consultant shall prepare a video inspection of sewers to document the condition of existing sewers, inventory existing DEP structures (condition, size and type of catch basins, manholes, etc.) and identify substandard structures that should be replaced within the Project Site, upland street intersections and other nearby areas, as needed to produce a comprehensive final design.

b) The Consultant shall submit a draft report for review and comment by NYCEDC and others as appropriate. After incorporation of all comments and revisions, the Consultant shall submit the Sewer Investigation in final form with all final documents to NYCEDC.

6. Vault Survey

a) The Consultant shall prepare and deliver a vault survey (the "Vault Survey") to determine the depth of each vault within the Project Site from sidewalk level to the top of the vault roof, as well as the extent of the vault from the building line.

b) A vault, whether active, inactive or abandoned, shall be defined as any space or enclosure below the sidewalk or roadway area that either is, or has been directly or indirectly connected, at any time in the building's history to the contiguous building structure subject to the following constraints:

- Each store vault, which may have been generated at any time in the building's history from the sub-division of a building vault, shall be considered one vault;
- Sub-cellar or sub-basement vaults shall be considered separate vaults;
- Areaways, either directly or indirectly open at the sidewalk elevation or covered by an open grating or sealed roof sidewalks of any kind, that have an area of not greater than twenty (20) square feet shall be considered equivalent to a vault;
- Areaways, either directly or indirectly connected to a building's cellar or basement, or are enclosed at the sidewalk elevation with only a sidewalk cellar door, shall not be considered a vault;
- Underground vaults, chambers or enclosures owned and operated by private Utilities shall not be considered a vault except as herein defined;
- To determine, precisely, the existence and nature of building vaults the Consultant shall research, inspect and re-inspect as necessary all properties and/or buildings on the Project Site.

c) The Consultant shall submit a draft report for review and comment by NYCEDC and others as appropriate. After incorporation of all comments and revisions, the Consultant shall submit the Vault Survey in final form with all final documents to NYCEDC.

7. Geotechnical Investigation

a) The Consultant shall prepare and provide a geotechnical investigation (the "Geotechnical Investigation") that shall include all work required to address the design and construction of the Project.

b) The Consultant shall prepare the Geotechnical Investigation in a manner that complies with all applicable Agency requirements, including DOB and the Client Agency.

c) The Consultant shall assemble and review available information on subsurface conditions from previous investigations at or near the Project Site. Where possible, recent existing surveys may supersede the need for a new investigation and/or can be updated or enhanced and drawn compatible so as to create a complete Geotechnical Investigation. The Consultant shall, using the verified topographic survey information as a base, prepare a Geotechnical Investigation plan for the entire Project Site, or for the portion, as determined with NYCEDC, of the Project Site requiring further geotechnical investigation for the purpose of bidding, project control and coordination, indicating the required number and type of borings. The Geotechnical Investigation plan must address all areas of work that require subsurface investigation. The Geotechnical Investigation plan shall be coordinated with the Interested Parties and Utilities and shall be presented to NYCEDC for review and approval. Following review by NYCEDC, the Geotechnical Investigation plan shall be revised accordingly. The Consultant shall make all necessary arrangements to retain a qualified sub-consultant to conduct the Geotechnical Investigation.

d) The Consultant shall administer, coordinate and continuously supervise the work of the boring sub-consultant. The Consultant shall assign a qualified inspector who shall be present at the Project Site at all times during the Geotechnical Investigation. A photographic record shall be made of each core/boring.

e) The Consultant shall retain the services of a qualified soils laboratory sub-consultant to classify the soil in accordance with the Unified Soil Classification System, to perform permeability tests, and to ascertain the elevation of the existing ground water table in accordance with all Legal Requirements.

f) All cores and borings shall become the property of NYCEDC, but shall, at the sole cost and expense of the Consultant, be stored by the Consultant in a secure location for a period of two (2) years from the date of completion of the Contract, following which the title to any cores and borings still in the possession and control of the Consultant shall revert to the Consultant, who may dispose of such cores and borings as the Consultant determines appropriate.

g) Upon completion of the boring logs and test pit data, the Consultant shall evaluate the raw test data and establish subsurface design criteria for the Project. Data obtained from the boring program shall be recorded in a format approved by NYCEDC.

h) The Consultant shall prepare a draft Geotechnical Report, for review and comment by NYCEDC and others as appropriate, incorporating the results and conclusions from the Geotechnical Investigation as they affect the Project. The report shall be stamped and sealed by a licensed New York Professional Engineer ("P.E."), and shall include such information as existing pavement thickness, blow counts, boring logs, soil strata, soil classification, sediment tests, groundwater elevation and soil parameters and the following:

- Characterization of subsurface and groundwater conditions at the Project Site based upon the geology of the area, the result of subsurface investigations and data available from previous investigations;
- Preparation of logs which shall include soil description, blow counts, field testing information, groundwater locations, elevations and any other information necessary or desirable for design purposes; and
- Development of subsurface profiles indicating elevations, groundwater locations, boring locations and soil interfaces, such profiles to be accurate and suitable for preliminary foundation recommendations and pavement designs.

i) The Consultant shall prepare a brief narrative report of findings of the Geotechnical Investigation which, together with the drawings and any other necessary or appropriate supporting documents, shall constitute the Geotechnical Investigation.

j) The Consultant shall submit a draft report for review and comment by NYCEDC and others as appropriate. After incorporation of all comments and revisions, the Consultant shall submit the Geotechnical Report in final form with all final documents to NYCEDC.

8. Hydrologic and Hydraulic Survey

a) The Design Team shall prepare a hydrologic and hydraulic survey and analysis (the "Hydrologic and Hydraulic Survey") and provide a survey of existing conditions and necessary follow-up analysis that shall include all work required to address the design and construction of the Project.

b) The Design Team shall provide hydrology and hydraulics analysis of the existing conditions of the Project Site and adjacent areas, including but not limited to existing site and ground water hydrology, estimating driving forces and boundary conditions, understanding tide forces, runoff and drainage, flood hazard risks and current storm surge conditions.

c) The Consultant shall submit a draft report for review and comment by NYCEDC and others as appropriate. After incorporation of all comments and revisions, the Consultant shall submit the Hydrologic and Hydraulic Survey in final form with all final documents to NYCEDC.

9. Tree Survey

a) Where applicable, the Consultant shall engage the services of an approved Certified Arborist ("CA") who shall perform an inventory and assessment of all trees potentially impacted by the Project operations.

b) All CAs must be certified by the International Society of Arboriculture as a "Certified Arborist" or "Board Certified Master Arborist," or from the American Society of Consulting Arborists as a "Registered Consulting Arborist" during the past three (3) years; and a have minimum of three (3) years of full-time professional experience in the practical use of knowledge involved in tree protection, pruning, installation and establishment, diagnosis and treatment of tree problems, cabling and bracing, climbing, fertilization or other services that directly relate to arboriculture.

c) The CA shall perform an inventory and limited visual assessment of all trees (public and private) within or adjacent to the Project limits and access routes. The tree inventory shall include, but not be limited to, the number of trees, species, diameter at breast height, age class and condition of each tree; proposed pruning type or types; and any recommendations for more advanced assessment by DPR or recommendation for removal if deemed by the CA to be dead, irreversibly diseased or in a hazardous condition. The CA shall enter the tree inventory into a Microsoft Excel spreadsheet provided by DPR. A site survey or similar document indicating the location of each tree with the corresponding tree number shall be included with the spreadsheet. These documents shall be submitted by email to the DPR Director of Borough Forestry or its designated representative and NYCEDC.

d) All CAs must be approved by the DPR Office of Central Forestry. The prospective CA must submit his or her resume, including educational background, employment history, and relevant certifications, to the NYCEDC. DPR reserves the right to periodically evaluate the performance of any previously approved CA. The CA approval status may be revoked if the CA is not performing to DPR standards.

e) The Consultant shall submit a draft report for review and comment by NYCEDC and others as appropriate. After incorporation of all comments and revisions, the Consultant shall submit the Tree Survey in final form with all final documents to NYCEDC.

10. Hazardous Material Survey

The Consultant shall inspect for asbestos, mold, lead and other regulated materials and prepare reports, drawings and specifications for the subsequent remediation activities required by all Legal Requirements. For any hazardous materials found on the project the Consultant shall provide a Hazardous Materials Management Plan, which shall include without limitation:

a) Survey and Identification of the hazardous material(s) to be remediated within the interior and exterior of the Project Site;

b) Procedures and Work Plan: summary of the remedial work; remediation action plan and procedural requirements that includes the removal, control, handling and disposal/manifesting of various hazardous materials in accordance with all sections

of the project specifications, and applicable federal, state and local regulations. The procedures shall also include workplace preparation and procedures, materials and equipment, notifications/permitting/recordkeeping requirements, oversight requirements and any specific applicable rules and laws which regulate the removal of the found hazardous materials;

c) Collecting representative samples of building materials to determine their composition. Specifically, asbestos sampling will be performed by experienced, New York City-certified asbestos investigators and New York State-certified asbestos inspectors. Laboratory analysis of representative asbestos samples of each material shall use polarized light microscopy (PLM) and transmission electron microscopy (TEM) methods at a New York State Department of Labor-accredited laboratory.

d) Checklist of submittals, including pre-job submittals, periodic submittals and project close-out submittals;

e) Final project clean-up and re-occupancy clearance criteria procedures, including certificate of completion certifying the removal of the material(s);

f) The Consultant shall attempt to gain full access to any structures. The Consultant will not be responsible for any repairs to the structure resulting from the performance of the survey, however, temporary roof patches shall be applied to affected areas immediately after sampling. Suspect asbestos-containing materials that are expected to be present in the on-site structures include, but are not limited to: roofing materials, thermal system insulation (pipe and boiler insulation), plaster, sheetrock, joint compound, floor tiles and associated mastics, cove base, ceiling tiles, window caulk/putty and waterproofing. The number of samples collected of each of these materials will be based on DEP, NYS Department of Labor, and US Environmental Protection Agency regulations and guidelines.

g) The Consultant shall submit a draft report for review and comment by NYCEDC and others as appropriate. After incorporation of all comments and revisions, the Consultant shall submit the Hazardous Material Survey in final form with all final documents to NYCEDC.

11. Waterfront Structure Investigation

a) The Consultant shall provide all necessary subsurface and underwater exploration within Project Site for the purpose of developing design criteria and assessing the type of structure to be rehabilitated, built, or repaired, for new structures and substructures for the bulkheads and piers and any other necessary rehabilitation of the existing structures.

b) The Consultant shall prepare and provide boring logs, technical reports, and drawings as may be required. The Consultant shall survey underwater conditions within Project Site with qualified diver assistance as necessary for the preparation of designs. Elements to be inspected shall include platforms, piles, bulkheads, mud lines, and any other elements that affect the design and construction of the waterfront improvements.

c) The Consultant shall perform a water-side visual examination of the bulkhead along

the Project Site, including any piers, and/or platforms. The Consultant shall indicate any portion of the Project Site requiring an additional, more detailed inspection.

d) The Consultant shall obtain copies of all existing and relevant bulkhead/pier surveys and work and use this information in its evaluation.

e) The Consultant shall analyze any structures where grade changes or superimposed loads are proposed to be constructed along the bulkheads/shoreline.

f) The Consultant shall analyze any structures where new loads are proposed to be constructed along or impacting the bulkheads.

g) The Consultant shall investigate repair/modification alternatives and estimate costs for any waterfront bulkhead or structure requiring repair or modification.

h) DEC and/or Army Corps of Engineers approvals will be required for repair or removal of the bulkhead or platform.

i) The Consultant shall perform all the above scope in accordance with NYCEDC Waterfront Facilities Maintenance Management System Inspection Guidelines Manual, found at NYCEDC.com.

j) The Consultant shall submit a draft report (the "Bulkhead Report") incorporating the results and conclusions from the bulkhead inspection and structural analysis as they affect the Project's contemplated design. The Bulkhead Report shall include such information as: type of bulkhead, pile structure or landfill, condition, need for further study, and estimates for repairs. The Bulkhead Report shall be in format approved by NYCEDC.

k) The Consultant shall submit a draft Bulkhead Report to NYCEDC and others as appropriate. After incorporation of all comments and revisions, the Consultant shall submit the Bulkhead Report in final form with all necessary supporting documents to NYCEDC.

12. Bathymetric Survey

a) The survey shall provide information on existing water depths, provide more detail on the nature and composition of the sea/bay floor near the shoreline, and potentially assist in selecting sediment sample locations to characterize variations in the bottom cover, for use and incorporation into the development and analysis of the proposed intervention.

b) The Consultant shall submit to NYCEDC for approval the names and experience portfolios of all persons and Subcontractors proposed for use in connection with the Bathymetric Survey prior to the start of work.

c) The bathymetric maps shall locate all physical features within the Project Site needed to produce a comprehensive design.

d) All measurements shall be in the United States standard measurements except as follows: legal mapped dimensions, base line dimensions and stationing shall be shown in United States standard measurements, with metric equivalents shown in parentheses.

e) All field notes shall be legible, dated, and compiled in a digital document, in a format approved by NYCEDC.

f) The Consultant shall submit to NYCEDC original survey notes, summary of survey procedures/instruments employed, survey control data, discussion of survey accuracy, summary or survey control data, survey tie-ins, computer digitizer tapes and survey computations.

g) The Consultant shall identify and provide NYCEDC with copies of all survey source material.

h) All original topographic information shall be dated, signed and certified by a New York State Licensed Surveyor. The license seal of the surveyor and/or registered Professional Engineer shall be shown on all plans, tracing, and tabulation sheets.

i) All required permits and coordination for access for the Bathymetric Survey are the responsibility of the Consultant.

j) The Consultant shall submit a draft Bathymetric Report to NYCEDC and others as appropriate. After incorporation of all comments and revisions, the Consultant shall submit the Bathymetric Report in final form with all necessary supporting documents to NYCEDC.

a.

b. TASK 2: ENVIRONMENTAL REVIEW

1. The Consultant shall determine the required types of City, State, and/or Federal environmental review required for the Project and shall prepare the appropriate environmental review documents, studies and/or reports, required to implement the Project, including but not limited to an Environmental Assessment Statement.

2. If the prepared Environmental Assessment Statement results in a Positive Declaration, NYCEDC and the Consultant will negotiate the fee for Additional Services for the preparation of an Environmental Impact Statement and all related documents.

3. The Consultant shall prepare, revise, refine and submit an application for the City of New York Urban Land Use Review Procedure ("ULURP"). The Consultant shall develop associated site plans, surveys and other necessary drawings and maps. The Consultant shall attend preliminary and subsequent Agency review meetings; assist in making presentations to the relevant Community Board(s) and other ULURP approving entities.

4. If applicable, the Consultant shall provide Phase I Environmental Site Assessment ("ESA") reports for the Project, as well as subsequent Phase II ESA workplans and reports for soil and groundwater characterization and soil vapors for the Project. As part of the investigation, the Consultant shall prepare a Health and Safety Plan ("HASP"), a Remedial Action Plan ("RAP") which shall delineate and establish the procedures for the proper environmental management of activities related to the Project, and a Construction Health and Safety Plan ("CHASP") which shall delineate and establish the procedures for

the proper environmental management and safety measures to be followed during the site construction activities. As applicable, the Consultant shall coordinate with the NYC Office of Environmental Remediation ("OER"), DEP and/or other entities as necessary for their review and approval of the prepared documents and any associated/required work plans and report documents.

c. TASK 3: COMMUNITY ENGAGEMENT

1. The Consultant shall work with the Corporation and the Agencies to identify relevant Project Site stakeholders. The Consultant shall contact and lead meetings with potential stakeholders. The Consultant's proposal should define the anticipated number of meetings and outreach strategy for the Project.

2. The Consultant shall attend preliminary and subsequent Agency review meetings and assist in making presentations to the relevant Community Board(s) as required.

3. The Consultant shall extensively participate in the community consultation and public outreach efforts regarding the Project as required and/or directed by NYCEDC.

4. The Consultant shall identify methods for effective outreach. These may include discussions and informal meetings with individual stakeholders, workshops, information sessions/open houses, public meetings, site tours, surveys, online platforms, engagement with media outlets, and other types of outreach.

5. In close consultation with the Corporation and the relevant Agencies, the Consultant shall develop a detailed outreach plan and schedule, to be implemented in conjunction with other tasks. Staff from the Consultant Team(s) will be expected to assist in all aspects of outreach, including helping to plan, schedule, facilitate and lead outreach events; gathering and documenting feedback; and facilitating discussions with stakeholders.

6. The Consultant shall create outreach materials to be used with different stakeholder groups. Unless otherwise directed by the Corporation, such materials shall include presentations, basemaps, diagrams, elevations, plans and other visual materials; surveys and other interactive elements.

7. The Consultant shall prepare for and attend meetings with the Agencies and other governmental entities that have an interest in the Project.

8. The Consultant shall prepare memoranda describing stakeholder outreach completed and document any feedback from stakeholders.

d. TASK 4: CONCEPTUAL DESIGN

1. The goal of the Conceptual Design phase is to determine the program and design strategy for the Project.

2. The Consultant shall meet with all Interested Parties as necessary and/or as directed by NYCEDC. The Consultant shall analyze the expressed needs and concerns of the parties contacted and shall address those needs and concerns which, in the opinion of the Consultant, NYCEDC, and the Client Agency, are pertinent to the Project. The Consultant shall develop and pursue a recommended course of action and/or strategy to resolve issues pertinent to the Project and to achieve Project goals.

3. The Consultant shall synthesize the relevant data and make preliminary recommendations for the proposed Project ("Program") to be reviewed and revised until accepted by NYCEDC and the Client Agency. The Program shall serve as a basis of design for the Schematic Design.

4. The Consultant shall review and analyze the data and program requirements collected during program development to serve as a basis for developing three (3) alternative concept designs.

5. The Consultant shall develop three (3) alternative concept designs to provide to NYCEDC and the Client Agency for review, with a wide range of solutions and to respond to code compliance and/or other applicable laws.

6. The Consultant shall consider concerns regarding elements such as appropriateness to the particular location, durability, the potential for vandalism, and maintenance responsibility. The Consultant shall identify and list any elements of the alternative designs that require special maintenance and provide an estimate of anticipated costs to maintain such elements.

7. The Consultant shall include sufficient detail of major project features, site systems, amenities and materials. The Consultant shall present the proposed treatments in a plan view, together with typical cross section views showing the interrelationship between the various elements. Illustrative views, such as perspectives shall demonstrate the interrelationship of the distinctive design elements and the overall effect of the proposed improvements to the urban environment. The Corporation shall approve the format, size and scale for the plans and cross-sectional views.

8. The Consultant shall present the alternative concept designs to the Project Team and any Interested Parties, including applicable Agencies and the community as requested by NYCEDC. Consultant shall include all sketches, diagrams, drawings, renderings and study models as necessary to fully illustrate the program and design strategy of the Project. The submission should be of a sufficient level of detail and elaboration to describe the design intent and interrelationships of all project elements.

9. The Consultant shall determine basic architectural, landscape architectural and engineering design criteria for the Project and develop the design schemes with

respect to the Project requirements, considering overall impact, cost, maintenance, staffing and other relevant considerations.

10. The Consultant shall assess various basic design schemes for the Project with the Project Team and applicable Agencies as soon as feasible in the design process to evaluate the viability of the alternative design schemes.

11. The Project Team, in consultation with the Consultant, shall select and provide approval for one (1) preferred alternative to proceed to Schematic Design.

12. The Consultant shall prepare and provide the following:

- Three (3) Concept Design Documents with plans, sections, and elevations that illustrate the design direction;
- One (1) conceptual cost estimate for each concept design;
- One (1) Electronic copy of all information required to create the Concept Design Documents required;
- Any additional copies required by NYCEDC

13. The Consultant shall obtain written approval from all Stakeholders of the Concept Design prior to proceeding with Schematic Design.

14. The Consultant shall prepare a project-specific Sustainability Management Plan (SMP), which shall include Project Scope, Sustainability Goals, Leadership Roles and Responsibilities, Sustainability Implementation Plan, and Project Phase Actions (Design, Construction, and Operations). The SMP shall be used throughout all project phases as a reference and guiding document, and updated as necessary to reflect project changes.

15. The Consultant shall prepare an Embodied Carbon Analysis and Plan for all possible project materials, including baseline calculations and plan for embodied carbon reduction. The Analysis shall be updated with increasing detail during the Schematic, Preliminary and Final Design phases.

16. The Consultant shall perform a Lifecycle Assessment (LCA) for all possible project materials, including evaluation of conceptual alternatives. The LCA shall be factored into the recommendation for the preferred alternative. The LCA shall be updated with increasing detail during the Schematic, Preliminary and Final Design phases.

17. The Consultant shall perform a Lifecycle Cost Assessment (LCCA) for all project phases, including evaluation of conceptual alternatives. The LCCA shall be factored into the recommendation for the preferred alternative. The LCCA shall be updated with increasing detail during the Schematic, Preliminary and Final Design phases.

e. TASK 5: SCHEMATIC DESIGN

1. The goal of the Schematic Design phase is to define and establish a clear design direction that is appropriate in terms of economics, function, community

standards and aesthetics, and establishes consensus on spatial layout, site planning and operational issues among all Interested Parties.

2. The Consultant shall prepare the Schematic Design for the Project. The Schematic Design documents, once accepted in final form by NYCEDC, shall constitute 30% Contract Documents. The Schematic Design documents shall consist of, but not be limited to, the following:

a) Preparation of all required drawings, schedules, outline specifications and estimates developed to a level of 30% Contract Documents for every project discipline involved;

b) All sketches, diagrams, drawings, renderings and study models necessary to fully illustrate all major elements of the Project. The submission should be of a sufficient level of detail and elaboration to describe the design intent and interrelationships of all project elements both vertically and horizontally;

c) Scaled and dimensional drawings that illustrate the resolution of all program and scope requirements.

3. The Consultant shall review and analyze the data and program requirements collected in the previous Tasks as a basis for developing design schemes.

4. The Consultant shall obtain additional available programmatic information from the Corporation, Agencies and/or other entities, individuals or groups, as directed by NYCEDC.

5. The Consultant shall determine basic architectural, landscape architectural and engineering design criteria for the Project and develop the design scheme(s) with respect to the Project requirements, considering overall impact, cost, maintenance, staffing and other relevant considerations.

6. The Consultant shall present the draft Schematic Design to all Interested Parties, including Agencies and Utilities, as directed by NYCEDC.

7. The Consultant shall record and report all comments provided by the Project Team, and all Agencies having jurisdiction over the Project. The Consultant shall evaluate all comments received and shall adjust the draft Schematic Design to conform to the comments which, in the opinion of the Consultant and/or NYCEDC, are pertinent to the Project. The Consultant shall then submit the revised draft Schematic Design to members of the Project Team and Interested Parties, as directed by NYCEDC, for approval.

8. Upon receipt of approval(s) of the revised draft Schematic Design, the Consultant shall present the Schematic Design to PDC and the relevant Community Board(s), as needed, and obtain their approval. All comments made by PDC and the relevant Community Board(s) shall be incorporated into the subsequent submission and presentation to PDC and relevant Community Board(s). The Consultant shall follow the procedures and formats required by PDC and the Community Board(s). The Consultant is advised and acknowledges that multiple submissions and presentations may be required to

secure approval from PDC.

9. The Consultant shall determine which project elements, if any, will require revocable consent or franchises from all applicable Agencies. The Consultant shall prepare all required documentation and initiate and attend all meetings as required to obtain the revocable consent or franchise approval.

10. The Consultant shall make all initial contacts and obtain all necessary plan approvals for the selected design from all necessary Agencies and Utilities, including design features requiring such approvals.

11. The Consultant shall prepare drawings, narratives, and any other related documents and submit same to the City to petition for any zoning waivers including overrides, as required.

12. The Consultant shall compile the Permits and Approvals Matrix including all required permits and target dates.

13. Upon written request from NYCEDC, the Consultant shall develop a signage/wayfinding program that includes basic identification and program signage as required by the Project scope and coordinated with adjacent and nearby projects. The layout of the signage shall include information provided by NYCEDC (or proposed to NYCEDC by the Consultant), proposed materials, colors, and letter type. All layouts shall be subject to the approval of NYCEDC, the Client Agency, and PDC and shall be revised as required by NYCEDC, the Project Team, and PDC.

14. The Consultant shall provide cost estimating services, independent of cost estimates developed by the Construction Manager, as directed by NYCEDC. The Consultant shall work closely with the cost estimator to prepare a cost estimate for the Schematic Design in CSI or other standard format approved by NYCEDC and the Project Team. The construction cost estimate shall be formatted to match the estimates prepared by the Construction Manager. The Consultant shall also participate in estimate reconciliations with an independent cost estimator and/or the Construction Manager's estimator as directed by NYCEDC. The cost estimate shall be compared with the Project budget as specified herein. If the Schematic Design estimate exceeds the Project budget, the Consultant shall, in consultation with and at no additional cost to NYCEDC, modify the Schematic Design documents as necessary until the Schematic Design estimate is acceptable to NYCEDC.

15. The Consultant shall prepare a draft Schematic Design Report for all proposed elements for review by members of the Project Team as directed by NYCEDC. The draft Schematic Design Report shall include, but not be limited to, a fact sheet (block / lot numbers, applicable codes, zoning district, etc.), executive summary, draft zoning/building code analysis, draft Code Compliance Chart, net and gross areas, draft sustainable design report with LEED scoresheet where applicable, material board, renderings and progress meeting minutes with a clear rationale for design decisions referencing documentation from design meetings, Agency coordination or where otherwise decided. The Consultant

shall resolve and incorporate all comments made by the Project Team to the draft Schematic Design Report as directed by NYCEDC.

16. Upon completion of Schematic Design, the Consultant shall work with the Agency responsible for operations of the Project to determine goals, content, and preferred format of the O&M Manual (as hereinafter defined). The Consultant shall submit the O&M Manual to NYCEDC for approval and acceptance. The O&M Manual shall address operating, security, maintenance requirements and associated budgets for maintaining the Project Site at a conceptual level of care, including overall quantities, costs per unit, the identification of the entity responsible for such maintenance, and a list of proposed supplies, component replacements and staffing requirements.

17. The Consultant shall prepare Schematic Design Documents representative of 30% Contract Documents and provide the following:

a) One (1) half-size set (electronic format);

b) One (1) cost estimate;

c) One (1) outline specifications of all major systems and materials (electronic format);

d) One (1) Permits and Approvals Matrix;

e) One (1) Schematic Design Report;

f) One (1) electronic copy of all the Schematic Design Documents; and

g) Any additional copies required by NYCEDC.

18. The Consultant shall obtain written acceptance of the Services performed under this Task 5 from NYCEDC before proceeding to Task 6 (Preliminary Design).

f. TASK 6: PRELIMINARY DESIGN

1. The goal of the Preliminary Design phase is to clearly identify the design solutions and provide final design decisions based on the approved Schematic Design.

2. The Consultant shall prepare Preliminary Design Documents for the Project following acceptance by NYCEDC of the Schematic Design Documents and after the Consultant has acquired the required written approvals from all appropriate Agencies and Utilities. The Preliminary Design Documents, once accepted in final form by NYCEDC, shall constitute 50% Contract Documents. The Preliminary Design Documents shall consist of, but not be limited to, the following:

a) Preparation of all required drawings, schedules, preliminary specifications and estimates developed to a level of 50% Contract Documents for every project discipline involved;

b) Project design with general and critical dimensions, coordination of major systems and key details at a scale that fully describes the principle features of the project, and all other appropriate information;

c) Designs for all necessary demolition and removal of existing structures and rehabilitation or reinforcement of any existing structures;

d) Drawings that show the locations of all existing features, both surface and subsurface, that will affect the work;

e) The identification and resolution of all zoning and code compliance issues.

3. The Consultant shall identify and list any elements of the Preliminary Design Documents that are potentially proprietary products or require special maintenance and provide an estimate of the anticipated costs to maintain each element.

4. Where applicable, The Consultant shall contact NYCDOT to develop a maintenance and protection of traffic scheme, where necessary. The Consultant will be required to present copies of the Preliminary Design Documents, together with the coordinated draft maintenance and protection of traffic alternatives, to NYCDOT. The fully developed and approved maintenance and protection of traffic scheme and all related materials shall be incorporated into the Preliminary Design Documents.

5. Upon written request from NYCEDC, the Consultant shall provide Services to maximize energy savings and energy performance of the Project beyond regulatory requirements, in coordination with DCAS 80x50 Program.

6. Upon written request from NYCEDC, the Consultant shall produce a professional physical model(s) of the Preliminary Design, as required. Such model shall be considered an Additional Service, the cost for which shall be negotiated between NYCEDC and the Consultant.

7. Upon written approval from NYCEDC, the Consultant shall provide all required documents, drawings and coordination necessary for the construction of a full-scale mockup. The mockup would be constructed at the location designated by NYCEDC.

8. The Consultant shall distribute the Preliminary Design Documents for review and approval by all required Agencies and Interested Parties.

9. The Consultant shall make formal presentations of the Preliminary Design Documents to all applicable Agencies and Utilities as required or as directed by NYCEDC. The Consultant shall make presentations to Community Groups as required. The Consultant shall review and evaluate the comments received from all parties reviewing the Preliminary Design Documents. Where comments pertain to design being performed under the jurisdiction of other Agencies, the Consultant shall make all appropriate requested changes to the design or incorporate additional appurtenant work, and/or incorporate completed designs prepared and furnished by the various Interested Parties, into the Preliminary

Design Documents. Where the requested changes are deemed by the Consultant and NYCEDC to be incompatible with the Project requirements, the Consultant shall meet with the relevant Agencies to discuss and develop alternate solutions until a solution is acceptable to all parties involved.

10. The Consultant shall update the Permits and Approvals Matrix including all required permits and target dates.

11. The Consultant shall provide cost estimating services, independent of cost estimates developed by the Construction Manager, as directed by NYCEDC. The Consultant shall work closely with the cost estimator to prepare a cost estimate for the Preliminary Design in CSI or other standard format approved by NYCEDC and the Project Team. The construction cost estimate shall be formatted to match the estimates prepared by the Construction Manager. The Consultant shall also participate in estimate reconciliations with an independent cost estimator and/or the Construction Manager's estimator as directed by NYCEDC. The cost estimate shall be compared with the Project budget as specified herein. If the Preliminary Design estimate exceeds the Project budget, the Consultant shall, in consultation with and at no additional cost to NYCEDC, modify the Preliminary Design Documents as necessary until the Preliminary Design estimate is acceptable to NYCEDC.

12. The Consultant shall prepare a draft Preliminary Design Report for review by members of the Project Team as directed by NYCEDC. The draft Preliminary Design Report shall include, but not be limited to, a fact sheet (block / lot numbers, applicable codes, zoning district, etc.), executive summary, zoning/building code analysis, Code Compliance Chart, net and gross areas, draft sustainable design report with LEED scoresheet where applicable, material board, renderings, and progress meeting minutes with clear rationale for design decisions referencing documentation from design meetings, Agency coordination, or where otherwise decided. The Consultant shall resolve and incorporate all comments made by the Project Team to the draft Preliminary Design Report as directed by NYCEDC.

13. At the end of the Preliminary Design phase, the Consultant shall: (a) meet with the Agency responsible for operations of the Project to ensure Maintenance Items are addressed; (b) submit the O&M Manual to NYCEDC and all Interested Parties for review; and (c) resolve and incorporate all comments received. The Consultant shall submit the O&M Manual to NYCEDC for approval and acceptance. The O&M Manual shall address operating, security, maintenance requirements and associated budgets for maintaining the Project Site at a conceptual level of care, including overall quantities, costs per unit, the identification of the entity responsible for such maintenance, and a list of proposed supplies, component replacements and staffing requirements.

14. The Consultant shall prepare Preliminary Design Documents representative of 50% Contract Documents and provide the following:

a) One (1) half-size set (electronic format);

b) One (1) cost estimate;

c) One (1) draft specifications of all major systems and materials (electronic format);

d) One (1) Preliminary Design Report;

e) One (1) updated Permit and Approvals Matrix;

f) One (1) draft list of submittals, shop drawings, mockups, and product data;

g) One (1) draft operations and maintenance manual;

h) One (1) electronic copy of all the Preliminary Design Documents; and

i) Any additional copies required by NYCEDC

15. The Consultant shall obtain written acceptance of the Services performed under this Task 6 from NYCEDC before proceeding to Task 7 (Final Design).

g. TASK 7: FINAL DESIGN

1. The goal of the Final Design phase is to deliver a comprehensive and buildable design.

2. The Consultant shall prepare the final design documents (the "Final Design Documents") for the Project following acceptance by NYCEDC of the Preliminary Design Documents and after the Consultant has acquired the required written approvals from all appropriate Agencies and Utilities. The Final Design Documents, once accepted in final form by NYCEDC, shall constitute the final Contract Documents. The Final Design Documents shall consist of, but not be limited to, the following:

a) Preparation of all required drawings, schedules, specifications and estimates developed to a level of 75%, 90% and 100% Contract Documents for every project discipline involved;

b) Completed drawings of all systems fully and clearly drawn, described and dimensioned;

c) A cost estimate (in CSI or other format approved by NYCEDC) of the total construction cost of the Project based upon the final drawings and specifications for all work necessary to complete the Project, including quantities, unit prices and amounts for all items required for construction of the Project.

3. The Consultant shall prepare the Final Design Documents in a manner and form that enables the Corporation and/or its designees to award one or more contracts or early bid packages, as deemed in the best interests of the construction and/or budget, at no additional cost to NYCEDC. The Final Design Documents shall include all final designs, specifications, estimates, and other related documents for each separate contract.

4. The Final Design Documents shall include all equipment, fixtures and/or

appliances that are essential for the Project's intended use. The Final Design Documents may also include moveable equipment and all necessary connections thereto, and all furnishings and finishes. These items shall be fully scheduled in the drawings and specifications.

5. During the Final Design phase, the Consultant shall meet with the Agency responsible for operations of the Project to ensure Maintenance Items are addressed.

6. If requested by NYCEDC, the Consultant shall prepare all LL 11 reports for the next consecutive inspection cycle.

7. Upon written approval from NYCEDC, the Consultant shall provide all required documents, drawings and coordination necessary for the construction of a full-scale mockup(s). The mockup(s) would be constructed at the location designated by NYCEDC.

8. The Consultant shall acquire all required approvals of the Final Design Documents. The Consultant shall submit Final Design Documents, including contract drawings and specifications, to NYCEDC, the Client Agency, any affected Utility, and all required Agencies for review and approval, including PDC if necessary. The Consultant shall make such changes in the plans and specifications as may be reasonably necessary to obtain approval(s) without any additional compensation.

9. The Consultant shall prepare and transmit to NYCEDC the Final Design Documents at 75%, 90% and 100% or as specified in the Project Assignment.

a) The 75% submission shall include Contract Documents developed to a level halfway between the approved Preliminary Design Documents and the Biddable Documents, with all systems and project components dimensioned, specified, coordinated, estimated, and detailed. All submissions to utilities and regulatory agencies shall be complete.

b) The 90% submission shall consist of the Contract Documents substantially complete, fully addressing all comments from the Project Team and Interested Parties.

c) The 100% submission shall constitute Biddable Documents.

10. The Consultant shall consolidate the 100% Final Design Documents into one fully developed and fully coordinated contract package that will contain all information required to construct the Project (the "Biddable Documents"). The Biddable Documents package shall be coordinated in a manner so as to preclude, insofar as possible, the necessity for design changes, adjustments or change orders during construction. It shall be the responsibility of the Consultant to fully coordinate the design of all trade work so that construction conflicts among and within the trades will be avoided . The coordination shall ensure the maintenance of the integrity of the Final Design. Composite drawings shall be produced to show the work of each trade in areas involving the work of more than one trade where necessary for clarity.

11. The Consultant shall update the Code Compliance Chart, ensuring all code requirements are met. The Consultant shall submit the updated Code Compliance Chart and the Permits and Approvals Matrix, including correspondence, approvals, findings, and test results for review and record. A regulatory approvals status report shall also be submitted and shall show actual submittal dates, approvals received, and any unresolved objections issued by the regulatory Agency.

12. All final drawings shall bear all required stamps of approval, including the seal and authorized facsimile of the signature of the Consultant.

13. At the completion of Final Design, the Consultant shall submit the O&M Manual to NYCEDC and all Interested Parties for review and shall resolve and incorporate all comments received. The Consultant shall thereafter submit the O&M Manual to NYCEDC for approval and acceptance. The O&M Manual shall address operating, security, maintenance requirements and associated budgets for maintaining the Project Site at a conceptual level of care, including overall quantities, costs per unit, the identification of the entity responsible for such maintenance, and a list of proposed supplies, component replacements and staffing requirements.

14. The Consultant shall submit the following documents at each Final Document submission milestone:

a) One (1) half-size set (electronic format);

b) One (1) cost estimate;

c) One (1) specifications of all systems and materials (electronic format);

d) One (1) updated Permits and Approvals Matrix and copies of approvals;

e) One (1) list of submittals, shop drawings, mockups, and product data;

f) One (1) operations and maintenance manual;

g) One (1) electronic copy of all information required to create the Final Design Documents required, including but not limited to, BIM, DWG, and PDF files; and

h) Any additional copies required by NYCEDC

h. TASK 8: OPERATIONS AND MAINTENANCE MANUAL

1. To facilitate future maintenance, the Consultant shall identify and list any and all elements of the design requiring maintenance (the "Maintenance Items"). and the Consultant shall prepare a manual for all Maintenance Items (the "O&M Manual"), which shall be organized in an easily comprehensible manner and include, without limitation, the following items:

a) A list of resources for replacement parts;

b) A list, with all appropriate contact information, of the manufacturer and/or source for each maintenance Item;

c) Catalog cuts, samples or other items, as appropriate, that illustrate the characteristics of each Maintenance Item and/or means and method of construction;

d) A list of all applicable warranties to be obtained after construction is complete;

e) As-built and shop drawings as supplied by the contractor ;

f) Information (from the manufacturer and based on the Consultant's experience) regarding the upkeep of Maintenance Items, such as graffiti removal, landscaping guidelines, sealants and schedule of application of sealants, and cleaning methods and schedules;

g) Annual maintenance schedules and estimates of maintenance costs. The estimates of maintenance costs shall be separated into cost categories of (1) a minimum level of maintenance service, (2) good maintenance service, and (3) excellent maintenance service.

2. The O&M Manual shall include code/inspection and/or testing regulations necessary for proper maintenance and operation of the Project.

3. After completion of Schematic Design, the Consultant shall work with the Agency responsible for operations of the Project to determine goals, content, and preferred format of the O&M Manual. The Consultant shall meet with the Agency at the end of the Preliminary Design phase and during the Final Design phase to ensure Maintenance Items are addressed.

4. The Consultant shall interview appropriate personnel from all required Agencies and Interested Parties as may be appropriate to determine maintenance, security and operations requirements and amend the O&M Manual accordingly.

5. The Consultant shall prepare the O&M Manual at the commencement of the Project and submit it to NYCEDC and all Interested Parties for review at the completion of the Preliminary Design, Final Design, and Construction Administration tasks. The Consultant shall resolve and incorporate all comments. At the end of each phase, the Operations Manual must be submitted to and accepted by NYCEDC. At each level of design completion, the Operations Manual shall address operating, security, maintenance requirements and associated budgets for maintaining the Project Site at a conceptual level of care, including overall quantities, costs per unit, the identification of the entity responsible for such maintenance, and a list of proposed supplies, component replacements and staffing requirements.

6. The Consultant shall submit a clearly labeled O&M Manual to NYCEDC for acceptance. Following acceptance, the Consultant shall prepare three (3) final copies (in both hard and electronic formats) of the O&M Manual and deliver same to the Project Team. All text shall be legible when printed on letter sized paper. NYCEDC will obtain a signed receipt of delivery from the Client Agency.

i. TASK 9: REVIEW AND ANALYSIS OF BIDS

1. The Consultant shall assist NYCEDC and the Construction Manager in the review and analysis of the bids, including answering questions from prospective bidders, preparing required addenda to any construction contracts, attending pre-bid conferences, attending contractor de-scoping meetings, attending bid openings, analyzing the received bids and recommending the award of any contract and related matters.

2. The Consultant shall assist NYCEDC and the Construction Manager to ensure that questions from prospective bidders are answered in a uniform and timely fashion.

3. The Design Team and Project Team shall advise each other of any ambiguities or inconsistencies in the proposal/bid documents as reported by the prospective proposers/bidders. The Consultant shall investigate any issues created by such ambiguities and inconsistencies and shall provide NYCEDC with its analysis and recommendations for resolution of such issues. If an addendum to the Construction Contract is deemed to be necessary by NYCEDC, then the Consultant shall prepare and deliver such addendum to NYCEDC within twenty-four (24) hours after NYCEDC's request.

4. The Consultant shall issue a signed and sealed conformed set of drawings and specifications to the Construction Manager at the completion of the bidding process which shall include any information that was issued via addenda during the bidding process, or via any Agency comments.

5. In the event that the lowest proposal/bid of all qualified and responsible submissions for the complete construction of the Project is in excess of the approved final cost estimate, the Consultant, if so required by NYCEDC and at no extra cost, shall revise any or all parts of the Project that NYCEDC deems necessary to bring the total construction cost of the Project within the approved final cost estimate.

j. TASK 10: CONSTRUCTION ADMINISTRATION AND SHOP DRAWING REVIEW

1. The Consultant shall work with the Construction Manager to ensure that construction work conforms to the Contract Documents.

2. The Consultant shall assist the Construction Manager to advance the construction work and shall also attend a pre-construction conference, bi-weekly construction meetings, coordination meetings, pre-closeout conference and other conferences as may be required to resolve issues that may arise during the construction of the Project.

3. The Consultant shall review and revise, if necessary, the list of shop drawings and materials schedule prepared by each contractor, which includes but is not limited to all shop drawings, mock-ups, samples, catalog cuts/test data and/or

certifications which correspond to the Contract Documents. The schedule shall be used to track dates and results upon the award of construction contracts by the Construction Manager.

4. The Consultant shall review the Construction Manager's submittal schedule and shall maintain a record of submittals. In a timely fashion, the Consultant shall review submittals to ensure they conform to the final Contract Documents.

5. The Consultant shall assist the Construction Manager in reviewing and revising, as necessary, the list of shop drawings and samples prepared by each contractor. The Consultant shall advise NYCEDC of the need to select samples of any materials for testing. The Consultant shall expeditiously check shop drawings and samples submitted by contractors. The Consultant shall indicate the required changes for shop drawings or samples that do not conform to the contract drawings or specifications. The Consultant shall inform NYCEDC of any delays in the submission of shop drawings or samples. NYCEDC shall have the right to review the shop drawings and samples prior to acceptance by the Consultant.

6. The Consultant shall review and approve/disapprove all submittals/shop drawings as submitted by Subcontractors within no more than 14 calendar days of the submittal; prepare all supplementary drawings that may be necessary for the enlargement and clarification of the drawings prepared by the Consultant; and examine and approve/disapprove all materials samples.

7. The Consultant shall review the payment requisitions submitted by the Construction Manager to verify that the percentage of payment requested corresponds to the percentage of work complete.

8. As required by NYCEDC, the Consultant shall regularly visit the Project Site, as appropriate to the stage of the Project's construction. The Consultant shall ascertain that the construction work complies with the intended designs. The Consultant shall document in writing and with photographs, as necessary, their observations along with any findings or concerns and submit to NYCEDC.

9. The Consultant shall issue interpretations and clarifications of the Contract Documents, including responding to RFIs, which are consistent with the intent of the Contract Documents for the purposes of facilitating construction or resolving field conditions so that construction may proceed unimpeded. Responses to RFIs shall include a written response and if required, supplemental drawings and specifications within no more than 14 calendar days of the RFI issuance. If so required, the Consultant shall coordinate any work changes with the Construction Manager. Resolving major field conditions may be addressed as an Additional Service, as determined by NYCEDC.

10. The Consultant shall provide, at no additional cost to NYCEDC, professional services to design, document and process corrective measures for errors or omissions caused by the Consultant.

11. The Consultant shall not have control over, or charge of, and shall not be responsible for construction means, methods, techniques, sequences or

procedures, or for safety precautions and programs in connection with the construction work.

12. Construction change orders may be issued only by NYCEDC. The Consultant shall make recommendations in connection with change orders in a uniform and timely fashion, as requested by NYCEDC.

13. Upon consultation with and approval by NYCEDC, the Consultant shall have authority to reject construction work that does not conform to the Contract Documents and/or require inspection or testing of the work. The Consultant's decisions on matters relating to aesthetic effect shall be final if consistent with the intent expressed in the Contract Documents and if approved by NYCEDC.

14. With the Construction Manager, the Consultant will participate in reviewing and updating the Permits and Approvals Matrix.

15. The Consultant shall prepare a comprehensive and accurate warranty register related to systems/equipment which corresponds to the Contract Documents.

16. The Consultant shall assist NYCEDC and the Construction Manager in determining the dates for Substantial Completion and Final Completion, through observations of the Project construction. The Consultant shall provide all items to allow the Construction Manager and NYCEDC to arrive at a determination that the Project has achieved Substantial Completion and Final Completion.

17. The Consultant shall review with NYCEDC the completed construction work to verify that the work conforms to the Contract Documents and to confirm that the Punch List submitted by the Construction Manager have been addressed. When the construction work is complete and conforms to the Contract Documents, the Consultant shall issue a final certificate for payment.

18. Prior to one year after the date of Substantial Completion, the Consultant shall revisit the Project Site, in consultation with the Construction Manager and NYCEDC, to confirm that no defects of materials or workmanship have occurred.

k. TASK 11: PUBLIC ART

1. Under the guidance and approval from NYCEDC, the Client Agency, Community Board, DCLA, and any other identified stakeholders and in accordance with the requirements set forth in Section 224 of the New York City Charter, the Consultant shall procure an artist and administer and/or manage the services of such artist. The artist shall provide all elements necessary for the creation and installation of the artwork including, but not limited to, fabrication, models, shipping, insurance, storage, scaffolding, structural work and anchorage. The artist must coordinate the work of its installation contractor with the phasing of the Project work as directed by the Consultant.

2. The artist must adhere to the project schedule and design milestones, unless otherwise instructed by NYCEDC.

3. The artist's work must be technically integrated with the landscape or architecture designs and must be installed in coordination with the phasing of the construction of the Project.

4. The artist's work must be presented to the PDC for approval in accordance with the PDC design review guidelines for works of art.

5. Services shall include full design development and all approvals required to implement the artist's work which shall be incorporated into the Consultant's Preliminary and Final Designs as part of the required submissions to the Corporation and Interested Parties for review and approval.

l. TASK 12: PROJECT CLOSEOUT

2. The Consultant shall provide the following Services to close-out the Project Assignment:

1. Inspection of the Final Punch List and the inspection and issuance of the Certificate of Substantial Completion.

2. If appropriate, assist the Corporation and its representative in obtaining Temporary Place of Assembly permits ("TPA"), Temporary Certificate of Occupancy ("TCO"), and Certificate of Occupancy ("CO") for the Project Assignment and/or any other document(s) needed to substantiate that the Project is complete.

2. RE Tasks

B. General Description of RE Services

- The Consultant shall be the representative of the Corporation at each Project Site and, subject to review by the Corporation, shall have the power, in the first instance, to inspect the performance of the Work as delineated in the Contract Documents.
- The Consultant agrees that it will endeavor to safeguard the City and the Corporation against defects and deficiencies in the Work and that it will use reasonable care and reasonable powers of observation and detection in determining that the Work conforms to the Contract Documents.
- The Consultant shall assist the Corporation in project-related administrative tasks, including, but not limited to, tracking project budget/schedule; monitoring contractor submittals; and reviewing shop drawings, design modifications, and Change Orders.
- It is the responsibility of the Construction Contractors, and not the responsibility of the Consultant, to determine the "Means and Methods of Construction" as that term is described in the Contract Documents. If the Means and Methods of Construction proposed by the Construction Contractors will, in the reasonable judgment of the Consultant, constitute or create a hazard to the Work, any project site, or to persons or property, or will not produce finished Work in accordance with the terms of the Contract Documents, then the Consultant shall report the same to the Corporation.
- While it shall be the responsibility of the Construction Manager and/or Contractors to accomplish the Work in accordance with the construction schedules set forth in the Construction Contracts, the Consultant shall advise the Corporation if the construction progress falls behind the approved construction schedule. If required by the Corporation, the Consultant shall review and advise the Corporation as to the adequacy of the CM's and/or Construction Contractors' personnel and equipment (and the personnel of any other contractors and subcontractors performing the Work) and the availability of those materials and equipment necessary for the adherence to the construction schedule and make recommendations as to how to address any inadequacies.

C. Description of Specific Services for RE Project Assignments

In furtherance of each Project Assignment, the Consultant shall perform all Tasks and prepare and deliver all Work Product necessary for the performance and completion of each project, as set forth in each individual Project Assignment, including, without limitation, the Services and Tasks specifically listed below and as otherwise directed by the Corporation. The Consultant shall provide, to the satisfaction of the Corporation, RE Services listed in the Project Assignment from the Project Assignment Commencement Date until completion of the Project and the Construction Contractor's operations and final acceptance of the Construction Contractor's work by the Corporation.

During the progress of the Work until the completion and final acceptance of the Work by the Corporation, Consultant may use and occupy a field office on the Project Site as

may be provided for in the Project Assignment, unless otherwise directed by the Corporation in writing.

D. Pre-Construction Phase Services

a. TASK 1: INVESTIGATIVE SERVICES

The Consultant shall provide the following Services as part of this Task:

1. Review the proposed design for constructability, biddability, operability, suitability of materials and cost impact of various alternatives;

2. Provide cost estimating services to complement cost estimates provided by the Design Team for review and comparison by the Corporation;

3. Investigate the Project Site and surface conditions based on available record drawings, utility surveys, soil boring information and actual visual inspection of the Project Site;

4. Prepare an anticipated construction schedule;

5. Assist the Corporation and/or the Design Team in the preparation of Request for Proposal ("RFP") or the Bid Package and assist in the review and analysis of all proposals and/or responses for each Consultant and/or Construction Contract, including, but not limited to, feedback regarding the proposed subcontractors and bid analysis;

6. Coordinate and conduct the pre-construction meeting among all Interested Parties, as directed by the Corporation; and

7. Issue recommendations of award for each Contract.

b. TASK 2: COORDINATION SERVICES

The Consultant shall provide the following Services as part of this Task:

1. Furnish assistance, as requested by the Corporation, to start and advance the Work, including, but not limited to, conferences with all applicable Agencies and Utilities;

2. Assist the Corporation and the Design Team in filing for any required approvals;

3. Ensure that all required permits are obtained and available prior to the start of any Work;

4. Prepare reports as required in a form suitable for transmission to the City's Comptroller and Law Department for claims made during the course of the Work and within one year after completion and final acceptance of the Work by the Corporation;

5. Coordinate Work with any construction activities in the adjacent area including, without limitation, work related to any other project identified in the Project Assignment that may be effected by the Project undertaken pursuant to the Project Assignment; and

6. Walk-through the entire Project Site with the Construction Manager and/or Construction Contractors to identify conditions that may affect the Work or the Project including, without limitation, all inadequacies or impediments. The Consultant shall promptly bring any inadequacies or impediments to the attention of the Corporation.

E. Construction Phase Services

c. TASK 3: GENERAL CONSTRUCTION PHASE SERVICES

The Consultant shall provide the following Services as part of this Task:

1. Provide full-time on-site project representative(s) if required by the Project Assignment;

2. Provide general administrative and management functions to ensure the success of the Project Assignment;

3. Establish organization and lines of authority;

4. Expedite applications to all applicable Agencies and Utilities;

5. Conduct progress meetings with all relevant parties and prepare and deliver minutes and correspondence related thereto;

6. Make recommendations and arrange special testing and other professional services;

7. Verify that the Work complies with Contract Documents;

8. Update the critical path;

9. Manage RFIs and shop drawings;

10. Manage contractors' materials and product samples;

11. Monitor performance of all Construction Manager and/or Construction Contractors and ensure proper sequencing of the Work;

12. Ensure that the Construction Manager and/or Construction Contractors have secured the Project Site at all times;

13. Review and approve invoices from and payment to Construction Manager and/or Construction Contractors;

14. Review applications for schedule extensions and reasons for delay;

15. Obtain all required manufacturers' certificates from the Construction Manager and/or Construction Contractors in accordance with the terms of the Construction Contracts and in conformity with standard practices;

16. Coordinate Work with all applicable Agencies and Utilities;

17. Coordinate construction activities between the Construction Manager and/or Construction Contractors and Project Team members;

18. Prepare replies to all Construction Manager and/or Construction Contractors' letters and complaints;

19. Prepare plans necessary to further implement the drawings or alterations necessary for the Work; and

20. Review each Construction Manager and/or Construction Contractors' safety program and advise the Corporation on all matters related to safety.

d. TASK 4: GEOTECHNICAL ANALYSIS AND MONITORING SERVICES

The Consultant shall provide the following Services as part of this Task:

1. Take geotechnical instrumentation readings and report such readings to the Construction Manager and/or Construction Contractor and Project Team members as directed by the Corporation;

2. Inspect the field condition of the geotechnical instruments, report any damage thereto and notify the Construction Manager and/or Construction Contractor of the same immediately;

3. Perform diving and/or other underwater inspections work and marine engineering-related testings, report results to the Construction Manager and/or Construction Contractor and Project Team members as directed by the Corporation;

4. Inspect the installation of all geotechnical instruments and Construction Manager and/or Construction Contractor operations as required; and

5. Verify the geotechnical findings to the Corporation.

e. TASK 5: DAILY PROGRESS RECORDS

The Consultant shall provide the following Services as part of this Task:

1. Maintain a daily log as a permanent record of the important events that occur during the Construction Phase of each Project, including, without limitation, the following:

a) Weather and ground conditions;

b) Work performed, including the starting and completion of any unit of Work;

c) Construction difficulties encountered and remedial measures employed;

d) Record of significant delays together with cause;

e) Material and equipment delivered to the Project Site;

f) Any Work or material that does not conform to the Contract Documents, as well as actions taken;

g) Description of any disputes;

h) Oral instructions given to any Construction Manager and/or Construction Contractor by the Project Team or the Corporation;

i) Description of any accidents, including any witness' descriptions, particularly where there are personal injuries;

j) Detailed record of materials used and any Work performed in conjunction with Extra Work (as defined in the Construction Contract) or any other work for which a claim for extra compensation may be filed;

k) Description, locations, and depths of materials encountered during site excavation activities, including potential contaminated soil, groundwater, and other regulated materials. Provide field screening and sample collection of potential contaminated materials as needed

l) Records of testing performed on site;

m) Names of visitors and their business connection or official capacity;

n) Summary of telephone calls producing or affecting project decisions;

o) Record of safety inspections, including the names of persons making the inspection; and

p) Record of time and materials for work, where applicable.

2. Keep record of the progress of the Work, materials and equipment used, specific problems encountered and all other pertinent data, sketches, photographs and information relative to the requirements of the Contract Documents and standard specifications.

3. Provide written reports for each Reporting Period during the Contract Term, as directed.

4. Observe the progress and quality of the Work and determine if it is proceeding in accordance with the Contract Documents. Alert the Construction Manager and/or Construction Contractor and the Corporation if the Work is non-conforming or requires inspection or testing.

f. TASK 6: PROJECT FILES

The Consultant shall maintain accurate up-to-date, accessible and thorough records of all documents and correspondence associated with the Project.

g. TASK 7: PROGRESS MEETINGS

The Consultant shall provide the following Services as part of this Task:

1. Attend all meetings;

2. Chair bi-weekly progress meetings;

3. Prepare agendas;

4. Notify attendees; and

5. Prepare and distribute minutes.

h. TASK 8: CONSTRUCTION SCHEDULES

The Consultant shall review the construction schedule prepared by the Construction Manager and/or Construction Contractor and notify the Corporation and the Construction Manager and/or Construction Contractor of any problems. The Consultant shall coordinate each Construction Contractor's activities using the Construction Contractors' schedules and master construction schedule.

i. TASK 9: FIELD INSPECTIONS/QUALITY CONTROL SERVICES

The Consultant shall provide the following Services as part of this Task:

1. Provide the service of a qualified construction inspector(s) to be on the Site at all times during construction as required by the Project Assignment;

2. Review and approve Construction Manager's and/or Construction Contractor's testing plans, guidelines, procedures and forms for all types of installation and construction activities;

3. Verify that all Work is in compliance with the Contract Documents;

4. Cooperate with inspection personnel from all applicable Agencies and Utilities;

5. Keep accurate and detailed records of Construction Manager's and/or Construction Contractor's and Subcontractors' performance;

6. Ensure that Construction Manager and/or Construction Contractor have the latest drawings and other Contract Documents;

7. Witness and verify inspections;

8. Monitor delivery schedules;

9. Spot check the quality control measurements performed by each Construction Manager and/or Construction Contractor for accuracy;

10. Verify compliance by each Construction Manager and/or Construction Contractor; check installation, placement and removal processes;

11. Coordinate the monitoring of all hazardous materials removals;

12. Check layout of structures;

13. Perform detailed inspection work and field tests of all materials and items of Work;

14. Prepare reports of all Project progress as directed by the Corporation; and

15. Verify the layouts of drainage structures, conduits, sewers, pipes, electrical conduits and lighting equipment, fire communications conduits, other miscellaneous infrastructure systems and all other structures at the Project Site.

j. TASK 10: MATERIALS TESTING SERVICES

The Consultant shall provide the following Services as part of this Task:

1. Maintain a record of each test performed by the Construction Contractor and/or Subcontractors;
2. Take record photographs of Work in progress to support test records;
3. Ensure warranties and guarantees are received;
4. Be present at all testings; and
5. Review and approve the results of all construction tests.

k. TASK 11: COMMUNITY RELATIONS SERVICES

The Consultant shall provide the following Services, as directed by the Corporation, as part of this Task:

1. Keep all Interested Parties informed of the current project status;
2. Identify disruptive and potentially disruptive construction techniques that would have a negative impact on the local community, and where feasible, recommend less disruptive alternatives;
3. Meet with the Interested Parties;
4. Attend public meetings and update the community as to the Project Assignment's plans, schedule and progress;
5. Coordinate the scheduling and execution of the Work with Construction Manager and/or Construction Contractor and the Interested Parties;
6. Prepare graphics, reports, and presentations to the Interested Parties, as may be reasonably required by the Corporation; and
7. Foster on-going communication and coordination through regular updates, telephone contacts and field visits with the Interested Parties.

l. TASK 12: SHOP DRAWINGS, MATERIALS AND RFI

The Consultant shall provide the following Services as part of this Task:

1. Review and log all submittals upon receipt and send copies to the Design Team and the Corporation for review;

2. Determine whether shop drawings and samples are in accordance with Contract Documents;

3. Indicate changes necessary to confirm non-conforming shop drawings and materials to the Contract Documents;

4. Maintain, update and periodically submit to the Corporation, as directed, a complete list of shop drawings, which list shall include all shop drawing due dates and dates of issue, receipt, checking and return for correction and resubmission;

5. Check any required drawings for scaffolding, shoring, temporary bracing, temporary sheeting and containment structures; and

6. Perform all the above using a web-based project management software, such as ProCore, Pro Log, or an approved equivalent.

m. TASK 13: COST CONTROL SERVICES

The Consultant shall provide the following Services as part of this Task:

1. Review the Construction Manager and/or Construction Contractors' invoices and vouchers;

2. Verify percentages of Work complete as claimed for payment;

3. Recommend approval, amendment or rejection of invoices;

4. Consult with the Corporation with regard to the necessity for and propriety of requested change orders;

5. Take all field measurements necessary for payment purposes; and

6. Prepare estimates for payment of Extra Work and/or Deleted Work (as defined in the Construction Contracts) which estimates shall include exact records of labor, equipment, overhead and profit and materials relative to Extra Work or Deleted Work for possible future claims.

n. TASK 14: CHANGE ORDERS

The Consultant shall provide the following Services as part of this Task:

1. Follow the Corporation's procedures for all change orders;

2. Prepare and maintain an up-to-date change order log indicating potential, identified and approved or rejected change orders;

3. Prepare cost estimates for each change order as directed by the Corporation;

4. Analyze the impact of each change order on the construction schedule and sequencing of Work and update the schedule accordingly; and

5. Prepare all change order packages for review, approval and processing by the Corporation.

o. TASK 15: AS-BUILT RECORDS

The Consultant shall provide the following Services as part of this Task:

1. Coordinate the preparation of the As-Built Records that are prepared by the Construction Manager and/or Construction Contractor;
2. Review As-Built Records for accuracy of field conditions prior to forwarding to the Design Team; and
3. Expedite Construction Manager and/or Construction Contractors' preparation of As-Built Records and forward them to the Design Team for review, comment, and action.

p. TASK 16: SUBSTANTIAL COMPLETION

The Consultant shall provide the following Services as part of this Task:

1. Perform and/or verify that all Work, documents, testing, Approvals, manuals, As-Built Records, submissions, training, materials and/or other actions necessary for the Corporation to approve the Work as substantially complete have been properly prepared, obtained, performed, processed, submitted and/or completed;
2. Prepare and submit to the Corporation for its review, approval and execution a "Certificate of Substantial Completion," as directed by the Corporation; and
3. Assist in the acquisition of all required Approvals and permit sign-offs, as directed by the Corporation.

F.

G. Post-Construction Phase Services

q. TASK 17: GENERAL POST-CONSTRUCTION PHASE SERVICES

The Consultant shall provide the following Services as part of this Task:

1. Review all Work for final completion;
2. Schedule and conduct final inspection with the Corporation;
3. Submit all warranties and guarantees to the Corporation this should be done before project completion;
4. Perform and or verify that all Work including, without limitation, all outstanding documents, Submissions, Approvals, materials, training, testing and/or other actions necessary for each Project Assignment have been properly prepared, obtained, performed, processed and/or completed this should also be done before project completion;
5. Compile and submit to the Corporation all Work Product including, without limitation, all reports, survey field books, inspection reports, records, record drawings, changes, photos of various stages, correspondence, change orders,

invoices and all other data and documents that may be required for the proper completion of each Project Assignment;

6. Assist with obtaining Temporary Place of Assembly permits ("TPA"s), Temporary Certificate of Occupancy ("TCO"s) and Certificates of Occupancy ("CO"s); this should be done during project completion.

7. Prepare and submit to the Corporation for its review, approval and execution a "Certificate of Final Completion," as directed by the Corporation; and

8. Assist with the acquisition of any final Approvals and permit sign-offs for each Project Assignment.

r. TASK 18: WARRANTY PERIOD SERVICES

The Consultant shall monitor the construction of the completed project to ensure that the project is properly maintained and that any defects are resolved during the 12-month warranty period following the Corporation's final approval and acceptance of the Work.

3. OR Services

a. The Consultant shall be the representative of the Corporation at each Project Site and, subject to review by the Corporation, shall have the power to observe the performance of the Work as delineated in the Contract Documents. The Consultant shall have authority to act on behalf of NYCEDC only to the extent provided in this Appendix B and the Contract Documents, unless otherwise agreed to in writing by NYCEDC.

b. The Consultant agrees that it will endeavor to safeguard the City and the Corporation against defects and deficiencies in the Work and that it will use reasonable care and reasonable powers of observation and detection in determining that the Work conforms to the Contract Documents.

c. The Consultant shall assist the Corporation in project-related administrative tasks and document review, including but not limited to:

1. tracking project budget and schedule;

2. reviewing cost estimates;

3. identifying potential issues and risks and issuing proposals for mitigation;

4. design modifications;

5. monitoring contractor RFIs, submittals and designer responses; and

6. Change Orders.

d. The Consultant shall represent the Corporation at project meetings with the Project Team, and comment with respect to EDC's best interest.

4. Commissioning ("Cx") Agent Tasks

- The Consultant shall provide LEED Version 4 Fundamental Commissioning services and Enhanced Commissioning services. The Consultant shall follow all requirements for these services as established by the U.S. Green Building Council.
- Cx Services shall be performed expeditiously and with reasonable skill and care to ensure the orderly progress of the Project.
- All Cx Services shall be in accordance with the ASHRAE Guideline 0-2013, ASHRAE Standard 202-2013, ASHRAE Guideline 1.1-2007, and NIBS 3-2012 and in accordance with all applicable Legal Requirements.
- The extent of the duties, responsibilities and limitations of authority of the Consultant as a representative of the NYCEDC shall not be modified or extended without the written consent of the NYCEDC, which consent shall not be unreasonably withheld.
- The Consultant shall document all findings and recommendations and report directly to the NYCEDC throughout the process.
- The Consultant shall coordinate and schedule work of the Consultant Team and ensure the sequencing of the Services is efficient and logical.
- The Consultant shall arrange meetings and presentations as requested by NYCEDC and shall provide to NYCEDC necessary data for these meetings. The Consultant shall initiate, and function as coordinator for, all meetings required in the performance of the Services and shall provide necessary data and prepare appropriate presentations for such meetings. The Consultant shall be available to meet with NYCEDC as often as necessary to effectively perform the Services.
- The Consultant shall assist and support the Project Team's efforts for sustainable design and meeting the requirements for LL86. The Consultant shall provide all required Cx submittals as part of U.S. Green Building Council's LEED certification process.
- The Consultant shall maintain an Issues and Benefits Log throughout the Cx process and shall issue biweekly updates to NYCEDC, Design Team, and CM.
- In the event that the Consultant recommends a patented or proprietary article, the Consultant shall notify NYCEDC in writing of such designated article.
- The Consultant shall prepare meeting minutes for all Cx meetings. The minutes are to be formatted per requirements agreed to or provided by NYCEDC. Draft minutes are to be forwarded to NYCEDC for review no later than three (3) working days after the meeting. NYCEDC's comments are to be incorporated into the final minutes which are to be distributed by the Consultant to all members of the Project Team within two (2) working days after NYCEDC's comments have been addressed.
- The Consultant shall provide a Cx schedule detailing the approach to completing the Services. The Cx schedule shall include, but not be limited to, the following:

- A detailed listing of all Tasks, sub-tasks, including approvals, submittals and milestones required in connection with the Project;
- The time necessary to complete the various Tasks, sub-tasks, including approvals and submittals and milestones;
- Projected completion/target dates for all required Services; and
- The interrelationship and dependency of the various elements of the Cx schedule.

- Quarterly Progress Report

The Consultant shall submit quarterly progress reports and any supporting documentation (the "Progress Report") to the NYCEDC. For each Reporting Period, the Consultant shall analyze the Project's progress as it relates to the approved Cx schedule and shall file with the NYCEDC a Progress Report based on this analysis. The Progress Report shall be submitted to the NYCEDC for approval no later than five (5) working days following the close of the Reporting Period. The Progress Report shall include, but not be limited to, the following:

- A narrative description of the Consultant's Services performed during the Reporting Period;
- Actual time used for each Task and sub-task of the Cx schedule in relation to the baseline Cx schedule;
- Identification of risks and proposals for mitigation;
- An updated Cx schedule which reflects the Project's current status at the end of the Reporting Period;
- Changes in completion/target dates for the Services;
- The need and justification for any extensions of time;
- Updated Issues and Benefits log;
- A narrative description of the Services projected for the next Reporting Period; and
- Activities requiring decision or action by the NYCEDC and other groups or Agencies shall be clearly indicated.

a. Pre-Construction Phase Services

1. Upon receipt of a Notice to Proceed from NYCEDC, the Consultant shall participate in a kick-off meeting with the Construction Manager, NYCEDC, and the Design Team. This meeting shall serve to formalize the plans and establish lines of communication among the parties.

2. The Consultant shall attend and actively participate in design progress meetings as required and when requested by the NYCEDC and shall provide continuous Cx coordination and support throughout preconstruction.

3. The Consultant shall perform a thorough document review to become familiar

with the guidelines, requirements and procedures governing the Project.

4. Within two (2) weeks of receiving the owner's project requirements ("OPR") and basis of design ("BoD") from NYCEDC, the Consultant shall review and provide comments to ensure the documents are comprehensive, until all open issues are resolved.

5. The Consultant shall provide document review and comment at 30%, 50%, 75%, and 100% Contract Documents, including but not limited to the following tasks:

   a) Establish and document NYCEDC's criteria for system function, performance, and maintainability and verify and document compliance with these criteria throughout design;

   b) Identify potential system performance problems in the areas of energy efficiency, operation, maintenance and reliability;

   c) Review the project for compliance with LEED credits related to measurement and verification and to commissioning and recommend that control points for diagnostic and energy use monitoring are included;

   d) Review the documents to ensure that any special equipment, pressure gauges, and measuring ports that will be needed to commission the project are specified; and

   e) Ensure that the services required of the contractors are coordinated with the services to be provided by the Consultant.

6. The Consultant shall develop and implement a Cx Plan. This plan shall define the commissioning process for the design development and construction documents phases of the project and shall be communicated to the Project Team as necessary. The Consultant shall revise the plan to incorporate more detail as the project progresses. The Consultant shall prepare a Cx Plan outline for use in bidding.

7. The Consultant shall coordinate controls integration meetings where the Project Team, including NYCEDC, the Consultant, the Construction Manager and the Design Team, (including electrical and mechanical engineers) discuss integration issues between equipment, systems, and disciplines to ensure that integration issues and responsibilities are clearly described in the specifications.

8. The Consultant shall prepare Cx specifications for all commissioned equipment for incorporation into the Contract Documents. These specifications shall express the Design Team's design intent of each system and shall include Cx requirements for the contractor(s) during Construction and Post-Construction phases. The Consultant shall coordinate with the Construction Manager and the Design Team to integrate the Cx specifications into the Contract Documents.

9. Prior to issuing Contract Documents for bids, the Consultant shall certify, in writing, that the Consultant has reviewed the Contract Documents and has found the Project to be constructible in terms of the OPR.

10. The Consultant shall develop construction checklists and acceptance checklists for use in bidding.

11. The Consultant shall prepare sample pre-functional and functional test forms to be included as part of the Contract Documents.

12. The Consultant shall develop system test procedures (the "Cx Test Plan").

13. The Consultant shall prepare an outline of the final Pre-Construction Phase Cx Process Report.

14. At the end of Pre-Construction Services, the Consultant shall review the OPR and BoD to ensure the documents reflect all updates and changes to the Project. The Consultant shall provide all comments to NYCEDC, until all open issues are resolved.

15. At the end of Pre-Construction Services, the Consultant shall provide the following documentation in the form of a Cx Preconstruction Report, in digital format on a USB-drive:

a) Cx Plan;

b) construction specifications for Cx;

c) outline O&M Archive (defined below);

d) construction checklists and acceptance checklists

e) pre-functional and functional test forms;

f) Cx Test Plan;

g) Outline of Cx Process Reports for Construction Phase and Post-Construction Phase;

h) design review comments;

i) Issues and Benefits Log; and

j) Preconstruction Phase Cx Process Report.

b. Construction Phase Services

1. The Consultant shall update the Cx Plan for NYCEDC review and approval. The Cx Plan must identify the members of the Project Team to participate in commissioning, state in detail the scope of the Cx process, the Cx objectives, the responsibilities and requirements of each party involved in the process, a schedule or timeline of events, documentation requirements, monitoring requirements, Cx Test Plan, and O&M training.

2. The Consultant shall review and approve Construction Phase Cx submittals, documentation, and site conditions in coordination with the Design Team and the Construction Manager to ensure that the systems provided will meet specifications and all applicable requirements, particularly regarding environmental quality and energy efficiency. Such documentation will include the Contract Documents, system coordination plans, Construction Manager

Project schedule, contractor submittals, O&M manuals, training programs, warranties, and other documentation related to the commissioned systems. The Consultant shall submit findings to the NYCEDC, promptly and as necessary.

3. The Consultant and the Construction Manager shall hold a Cx kick-off meeting for the purpose of NYCEDC defining the roles and responsibilities of the Project Team members, as well as reviewing the proposed Cx schedule and outline. The Consultant shall utilize information from this meeting to finalize the Cx Plan.

4. The Consultant shall participate in Cx meetings during construction as required by NYCEDC.

5. The Consultant shall update the detailed Cx Test Plan, including detailed plans for pre-functional testing and functional testing for each system and each piece of equipment involved in the Cx process.

6. The Consultant shall prepare all required checklists for the contractors to compile the required documentation for each system. The checklists shall include items furnished to each contractor by the manufacturer(s) of the system(s), such as O&M manuals, warranties and guarantees, which the contractor will be required to submit.

7. The Consultant shall observe pre-functional testing in accordance with the Cx Plan. The Consultant shall coordinate with the Construction Manager to perform the pre-functional performance tests. The Consultant shall witness the air and water testing and balance procedures, all pressure tests of pipe and duct systems before insulation is applied, calibration procedures, and all testing as part of pre-functional testing as outlined in the Cx Plan. The Consultant shall participate in all start-up tests and confirm that pre-functional performance tests and checklists are completed and all deficiencies are resolved. All tests and checks completed during Construction Phase are in preparation for the functional performance test that will be performed during the Acceptance Phase (as defined below).

8. The Consultant shall perform field observations as required, with full reports to note details that might affect equipment and system performance or operation.

9. The Consultant shall perform verification of Integrated System Functionality with O&M staff.

10. At the end of Construction Services, the Consultant shall review the OPR and BoD to ensure the documents reflect all updates and changes to the Project. The Consultant shall provide all comments to NYCEDC, until all open issues are resolved.

11. At the end of Construction Services, the Consultant shall provide the following documentation, in the form of a Cx Construction Report, in digital format on a USB-drive:

a) updated Cx Plan;

b) Cx test plan;

c) system coordination plans;

d) All checklists;

e) inspection reports;

f) system test procedures;

g) Outline of O&M Archive;

h) Cx meeting agendas and minutes;

i) Issues and Benefits Log; and

j) final Construction Phase Cx Process Report;

c. Post-Construction Phase Services

1. Acceptance Phase

1. Progress Reports

a) The Consultant must submit weekly progress reports during the Acceptance Phase until written approval by NYCEDC.

b) The weekly reports shall be submitted with completed test results, deficiencies, and recommendations for rectification.

2. The Consultant shall assist the Construction Manager with coordinating acceptance and turnover to O&M staff.

3. The Consultant shall observe functional testing in accordance with the Cx Test Plan. The objective of the functional performance tests is to demonstrate that the systems and equipment are operating efficiently and according to design intent. The Consultant shall witness all functional performance tests.

4. The Consultant shall prepare the final Cx Process Report for NYCEDC review and approval not more than three weeks after the testing is completed. Such report shall be a detailed and comprehensive document that includes all of the documentation generated during the Cx process.

5. The Consultant shall confirm all required training for building operating staff, contractors, Construction Manager, Design Team, and manufacturer's representatives, as necessary. O&M documentation and training materials shall be assembled by the Consultant and shall be made available for use during the training sessions.

6. The Consultant shall review the record "as-built" drawings to confirm that any deficiencies in such drawings are corrected by the contractor(s).

7. Upon completion of Acceptance Phase tasks and written approval from NYCEDC, the Consultant shall proceed to the Post-Acceptance Phase.

2.

3. Post-Acceptance Phase

8. The Consultant shall coordinate with the Architect and Construction Manager

to compile and archive all documentation regarding O&M into a comprehensive binder (the "Archive"). The Archive shall include the Architect's Maintenance and Operations Manual and organize manuals for all equipment and systems, and shall include but not be limited to recommended methods for the following: (a) maintaining and servicing equipment and/or systems, (b) keeping records of the maintenance, (c) recommissioning systems periodically to assure continued peak performance, (d) maintaining a standard method of recording complaints, and (e) documenting and analyzing predicted performance versus actual performance.

9. The Archive shall ensure that the project is maintained in accordance with the design intent. The Archive is critical to successful building O&M over the life of the structure. The Archive is the primary tool for transmitting to the operators the proper maintenance and servicing of mechanical and electrical systems, as conceived by the Design Team and as built by the contractors. In compiling the Archive, the Consultant shall, based on Cx specifications, identify the contribution required of each member of the Project Team. Contributors may include the Consultant, the Design Team, the Construction Manager, and the contractors. The Consultant shall ensure that the required material from each contributor is incorporated into the Archive in a manner that is well organized, and easily accessible to building operators.

10. The Archive shall be organized into sections according to building systems. A narrative description of the design intent and performance criteria of each building system shall be provided by the Design Team. The following information shall be included in the Archive:

a) Project Statistics:

- List of the building's vital statistics, including names, addresses and telephone numbers of all firms having a role in the design and construction of the project; and
- Copy of the building's Certificate of Occupancy.

b) Mechanical/Electrical Systems Instruction Manuals:

- Heating Ventilating and Air Conditioning system;
- Hydronic distribution system;
- Air handling/distribution system;
- Fire Protection system;
- Electrical Systems, Fire Alarm, Security and UPS systems; and
- Control Systems.

c) Copy of Cx Process Report and USB drive containing the training program.

d) O&M: The Consultant shall collect the following material from the appropriate parties:

- Lighting fixtures and lamp specifications and maintenance protocols;
- Schedule of required inspections of building systems including agency and/or vendor responsible for inspection; and
- Cleaning product specifications and literature.

e) Record drawings: Record "as-built" drawings for the mechanical, electrical and plumbing systems shall be included as part of the Archive. Drawings shall be reduced in size (if required) to fit in the Archive. A copy of the record "as-built" drawings shall also be submitted electronically on a USB drive.

f) General Requirements: Each building system shall be described, including its major components, interconnections, operation and controls, unusual features, and safety precautions. The following data shall be included for each system:

- Detailed description (including diagrams) of each system showing piping, valves, and controls;
- Wiring and control diagrams;
- Control sequences describing start-up, all modes of operation, and shutdown;
- Approved shop drawings;
- Approved product data, including performance curves and rating data;
- Copies of certifications and test reports; and
- Copies of warranties and guarantees.

g) Manufacturer Information: The manufacturer of each component of a building system shall be identified as follows:

- Manufacturer, Model Number, and Serial Number;
- Manufacturer's literature, drawings, illustrations, certified performance charts, technical data; and
- Names, addresses and telephone numbers of local repair and service companies.

h) Each component of a building system shall have maintenance instructions that include the following:

- Lubrication schedule;
- Maintenance and overhaul instructions;
- Recommended spare parts list including source of supply; and
- Name, address and 24-hour telephone number of each contractor

that installed the equipment.

i) Checklists of required documentation for each system, completed by the contractors.

j) Final OPR and BoD: The Consultant shall review the OPR and BoD to ensure the documents reflect all updates and changes to the Project and provide all information required for ongoing Commissioning and Recommissioning. The Consultant shall provide all comments to NYCEDC, until all open issues are resolved.

11. The Consultant shall verify seasonal performance tests four times during the one-year warranty period. Such tests are performed to ensure that the equipment and systems will operate as intended during the heating season, cooling season, one swing season, and design day conditions. It is recommended that the heating and cooling seasonal tests be performed during actual design day conditions. These test shall be scheduled at the completion of construction with the anticipation that they can be adjusted as dates get closer based on current weather conditions.

12. The Consultant shall return to the site and perform a guarantee period review 8 months into the one-year guarantee period. A report of the review shall be provided to NYCEDC by 10 months into the one-year guarantee period. To assemble the report, the Consultant shall:

a) Review current building operation with facility staff and address the condition of outstanding issues related to the original and seasonal Cx;

b) Recommend actions to address problems or concerns they have in operating the building as originally intended;

c) Revise report as needed to incorporate results from the four seasonal performance tests identified above;

d) Provide suggestions for improvements and record these in the O&M Archive;

e) Identify problems that are covered under warranty or under the original construction contract; and

f) Assist staff in developing reports, documents and requests for services to remedy outstanding problems.

13. The Consultant shall compile a Recommissioning Management Archive. This shall contain the following, although some parts may also be in the Archive:

a) Final version of the owner's requirements and design basis narratives, including brief description of each system;

b) As built sequences of operation for all equipment; control drawings;

c) List of time of day schedules and a schedule frequency to review them for relevance and efficiency;

d) Description and rationale for all energy and water saving features and

strategies with operating instructions and caveats about their function and maintenance relative to energy use;

e) Guidelines for establishing and tracking benchmarks for whole building energy use and equipment efficiencies of cooling, heating and service hot water equipment;

f) Seasonal startup and shutdown, manual and restart operation procedures, recommendations regarding seasonal operational issues that affect energy use;

g) Recommendations for recalibration frequency of sensors and actuators by type and use;

h) List of all user adjustable setpoints and reset schedules with a brief discussion of the purpose of each and the range of reasonable adjustments with energy implications;

i) Plans for continuous Cx or recommended frequency for recommissioning, by equipment type with reference to tests conducted during initial commissioning;

j) Schedule frequency to review the various setpoints and reset schedules to ensure they are at current relevant and efficient values;

k) Guidelines for energy accounting including assurance that future renovations and equipment upgrades will not result in decreased energy efficiency and maintaining the owner's requirements;

l) List of diagnostic tools with use descriptions to assist facility staff; and

m) Copy of the Cx Process Report.

14. At the end of Post-Construction Phase Services, the Consultant shall provide the following documentation in the form of a Cx Post-Construction Report, in digital format on a USB-drive:

a) Final Cx Plan;

b) Maintenance Program;

c) Final Cx test plan;

d) System coordination plans;

e) Final inspection reports;

f) System test procedures;

g) the Archive;

h) Final Issues and Benefits Log;

i) Final Cx Process Report; and

j) Recommissioning Management Archive.

C. TIMEFRAME FOR PROJECT ASSIGNMENTS

The Consultant shall commence the Services for each Project Assignment on the Project Assignment Commencement Date and continue with the Services until the Project Assignment Work is completed and accepted by the Corporation, unless otherwise instructed in writing by the Corporation. Notwithstanding the foregoing, the Consultant shall continue to provide to the Corporation such Services as may be required of the Consultant pursuant to this Contract and any Project Assignment for up to one year after completion and the Corporation's final acceptance of the Project Assignment Work including, without limitation, those set forth in Part V, Section C of this Scope of Services related to reports and the warranty period work.

APPENDIX C

PAYMENTS

PAYMENTS BASED ON TASKS COMPLETED

The Maximum Payment for each Portion of the Services shall be the respective amounts set forth in the Payments Schedule annexed hereto as Exhibit 1 to this Appendix C.

Interim payments shall be made to the Consultant. The interim payments will be made no more frequently than once a month in an amount equal to the Percentage of Completion of each Portion of the Services, multiplied by the Maximum Payment for each Portion performed during the billing period, less any Retainage. The Consultant shall also be reimbursed for Allowable Additional Costs as such costs accrue. Except as may be permitted under Part II, Section 2.2.1 of the Contract, Retainage will not be applied against Allowable Additional Costs.

To request an interim payment, the Consultant shall submit to the Corporation's Accounts Payable Department, not more than once per month, a Requisition setting forth in detail, for the period for which partial payment is requested, the following:

(i) the Percentage of Completion for each Portion of the Services performed by the Consultant during the billing period;
(ii) Allowable Additional Costs incurred during the billing period;
(iii) the amount of partial payment requested; and
(iv) a representation and warranty that, except as set forth in the Requisition, the representations and warranties made by the Consultant in Article 7 of the Contract are true and correct as of the date of the Requisition as if made on the date of the Requisition.

An EFT Enrollment Form is attached as Exhibit 2 to this Appendix C and must be completed and returned to the Corporation prior to Consultant's submission of its first Requisition.

In addition, the Consultant shall submit Progress Reports to the Director at least monthly or in accordance with any other schedule approved by the Director, or at the Director's request. Such Progress Reports shall clearly state the reasons for any actual or anticipated delays in completion of the Services.

PAYMENTS BASED ON HOURLY RATES

Interim payments shall be made to the Consultant no more frequently than monthly based on the number of hours members of the Consultant's staff (as shown on the Staff and Fee Schedule annexed hereto as Exhibit 1 to this Appendix C) spent providing the Services, multiplied by the hourly rate and applicable multiplier for each such member of the Consultant's staff on the Staff and Fee Schedule, less any Retainage. The Consultant shall also be reimbursed for Allowable Additional Costs incurred.

On or before the Commencement Date, the Consultant shall provide to the Director an estimate of the number of hours members of the Consultant's staff (as set forth on the Staff and Fee Schedule annexed hereto as Exhibit 1 to this Appendix C) and its Principal are anticipated to spend providing the Services. Such estimate shall be subject to the Director's approval.

To request an interim payment, the Consultant shall submit to the Corporation's Accounts Payable Department, not more than once per month, a Requisition setting forth in detail, for the period for which partial payment is requested, the following:

(i) Services performed by Consultant's Principal and by its professional and technical staff;
(ii) the number of hours worked by each such Principal and its professional and technical staff in connection with the Services performed during the billing period;
(iii) actual salaries incurred during such month;
(iv) Allowable Additional Costs incurred;
(v) Subcontractors' Costs incurred during the billing period;
(vi) the amount of partial payment requested; and
(vii) a representation and warranty that, except as set forth in the Requisition, the representations and warranties made by the Consultant in Article 7 of the Contract are true and correct as of the date of the Requisition as if made on the date of the Requisition.

An EFT Enrollment Form is attached as Exhibit 2 to this Appendix C and must be completed and returned to the Corporation prior to Consultant's submission of its first Requisition.

No multiplier overhead, administrative fee or other mark-up will be paid to the Consultant for Subcontractors' Costs or Allowable Additional Costs. Except as may be permitted under Part II, Section 2.2.1 of the Contract, Retainage will not be applied against Allowable Additional Costs.

In addition, the Consultant shall submit Progress Reports to the Director at least monthly or in accordance with any other schedule approved by the Director, or at the Director's request. Such Progress Reports shall clearly state the reasons for any actual or anticipated delays in completion of the Services.

EXHIBIT 1 TO APPENDIX C

STAFF AND FEE SCHEDULE

NYC / EDC

Cost Proposal

TECHNO

Part 1. Maximum Hourly Rates

	TITLE	MAXIMUM ALLOWABLE HOURLY RATE					OH %	Multiplier	MAXIMUM ALLOWABLE BILLABLE RATE				
		2021	2022	2023	2024	2025			2021	2022	2023	2024	2025
Key Personnel	Project Executive	$ 120.00	$ 124.20	$ 128.55	$ 133.05	$ 137.70	120%	2.42	$290.40	$300.56	$311.08	$321.97	$333.24
	QA/QC & Safety	$ 90.00	$ 93.15	$ 96.41	$ 99.78	$ 103.28	120%	2.42	$217.80	$225.42	$233.31	$241.48	$249.93
	FEMA/FHWA Manager	$ 80.00	$ 82.80	$ 85.70	$ 88.70	$ 91.80	120%	2.42	$193.60	$200.38	$207.39	$214.65	$222.16
	Project Manager	$ 75.00	$ 77.63	$ 80.34	$ 83.15	$ 86.06	120%	2.42	$181.50	$187.85	$194.43	$201.23	$208.28
	Assistant Project Manager	$ 65.00	$ 67.28	$ 69.63	$ 72.07	$ 74.59	120%	2.42	$157.30	$162.81	$168.50	$174.40	$180.51
OR Consultant Team	QA/QC	$ 90.00	$ 93.15	$ 96.41	$ 99.78	$ 103.28	165%	2.91	$262.21	$271.39	$280.89	$290.72	$300.89
	A/E Review	$ 70.00	$ 72.45	$ 74.99	$ 77.61	$ 80.33	120%	2.42	$169.40	$175.33	$181.47	$187.82	$194.39
	Planning	$ 65.00	$ 67.28	$ 69.63	$ 72.07	$ 74.59	120%	2.42	$157.30	$162.81	$168.50	$174.40	$180.51
	Architect	$ 99.67	$ 103.16	$ 106.77	$ 110.51	$ 114.38	165%	2.91	$290.00	$300.15	$310.66	$321.53	$332.78
	Value Engineering	$ 72.50	$ 75.04	$ 77.66	$ 80.38	$ 83.20	102%	2.22	$161.10	$166.73	$172.57	$178.61	$184.86
	Special Inspections/Code Review	$ 55.00	$ 56.93	$ 58.92	$ 60.98	$ 63.11	120%	2.42	$133.10	$137.76	$142.58	$147.57	$152.74
	Design-Build Oversight	$ 90.00	$ 93.15	$ 96.41	$ 99.78	$ 103.28	120%	2.42	$217.80	$225.42	$233.31	$241.48	$249.93
	Contracting Support/Procurement Speciailist	$ 45.00	$ 46.58	$ 48.21	$ 49.89	$ 51.64	120%	2.42	$108.90	$112.71	$116.66	$120.74	$124.97
CE Consultant Team	QA/QC	$ 99.54	$ 103.02	$ 106.63	$ 110.36	$ 114.22	165%	2.91	$290.00	$300.15	$310.66	$321.53	$332.78
	Design Engineer	$ 65.00	$ 67.28	$ 69.63	$ 72.07	$ 74.59	120%	2.42	$157.30	$162.81	$168.50	$174.40	$180.51
	Data Gathering	$ 56.00	$ 57.96	$ 59.99	$ 62.09	$ 64.26	120%	2.42	$135.52	$140.26	$145.17	$150.25	$155.51
	BIM	$ 56.00	$ 57.96	$ 59.99	$ 62.09	$ 64.26	102%	2.22	$124.43	$128.79	$133.29	$137.96	$142.79
	MEP Engineering	$ 65.00	$ 67.28	$ 69.63	$ 72.07	$ 74.59	120%	2.42	$157.30	$162.81	$168.50	$174.40	$180.51
	Bathymetric Survey	$ 85.85	$ 88.85	$ 91.96	$ 95.18	$ 98.51	150%	2.75	$236.09	$244.35	$252.90	$261.75	$270.92
	Value Engineering	$ 72.50	$ 75.04	$ 77.66	$ 80.38	$ 83.20	102%	2.22	$161.10	$166.73	$172.57	$178.61	$184.86
	Hydrologic/Hydraulic	$ 65.00	$ 67.28	$ 69.63	$ 72.07	$ 74.59	165%	2.91	$189.37	$196.00	$202.86	$209.96	$217.31
	Geotechnical Engineer	$ 78.00	$ 80.73	$ 83.56	$ 86.48	$ 89.51	120%	2.42	$188.76	$195.37	$202.20	$209.28	$216.61
	Waterfront Investigation	$ 85.80	$ 88.80	$ 91.91	$ 95.13	$ 98.46	121%	2.43	$208.58	$215.88	$223.44	$231.26	$239.35
	Environmental Engineer	$ 85.71	$ 88.71	$ 91.81	$ 95.03	$ 98.35	118%	2.40	$205.53	$212.73	$220.17	$227.88	$235.85
	Resiliency Review	$ 60.00	$ 62.10	$ 64.27	$ 66.52	$ 68.85	165%	2.91	$174.81	$180.93	$187.26	$193.81	$200.60
	Landscape Architect	$ 60.00	$ 62.10	$ 64.27	$ 66.52	$ 68.85	127%	2.50	$149.82	$155.06	$160.49	$166.11	$171.92
	Architect	$ 85.90	$ 88.91	$ 92.02	$ 95.24	$ 98.57	165%	2.91	$250.27	$259.03	$268.09	$277.47	$287.19
	Structural Engineer	$ 99.54	$ 103.02	$ 106.63	$ 110.36	$ 114.22	165%	2.91	$290.00	$300.15	$310.66	$321.53	$332.78
RE Consultant Team	Administrative Support	$ 27.00	$ 27.95	$ 28.92	$ 29.94	$ 30.98	120%	2.42	$ 65.34	$ 67.63	$ 69.99	$ 72.44	$ 74.98
	Contract Specialist	$ 42.00	$ 43.47	$ 44.99	$ 46.57	$ 48.20	120%	2.42	$101.64	$105.20	$108.88	$112.69	$116.63
	Accounting Support	$ 45.00	$ 46.58	$ 48.21	$ 49.89	$ 51.64	120%	2.42	$108.90	$112.71	$116.66	$120.74	$124.97
Pre-Construction	Project Estimator	$ 56.00	$ 57.96	$ 59.99	$ 62.09	$ 64.26	102%	2.22	$124.43	$128.79	$133.29	$137.96	$142.79
	Project Scheduler	$ 72.50	$ 75.04	$ 77.66	$ 80.38	$ 83.20	102%	2.22	$161.10	$166.73	$172.57	$178.61	$184.86
	Project Coordination	$ 72.50	$ 75.04	$ 77.66	$ 80.38	$ 83.20	102%	2.22	$161.10	$166.73	$172.57	$178.61	$184.86
	Electrical Reviewer	$ 62.00	$ 64.17	$ 66.42	$ 68.74	$ 71.15	120%	2.42	$150.04	$155.29	$160.73	$166.35	$172.17
	Mechanical Reviewer	$ 62.00	$ 64.17	$ 66.42	$ 68.74	$ 71.15	120%	2.42	$150.04	$155.29	$160.73	$166.35	$172.17
	A/E Reviewer	$ 62.00	$ 64.17	$ 66.42	$ 68.74	$ 71.15	120%	2.42	$150.04	$155.29	$160.73	$166.35	$172.17
	ACM & Lead Reviewer	$ 62.00	$ 64.17	$ 66.42	$ 68.74	$ 71.15	120%	2.42	$150.04	$155.29	$160.73	$166.35	$172.17
	Structural Reviewer	$ 72.50	$ 75.04	$ 77.66	$ 80.38	$ 83.20	165%	2.91	$211.23	$218.62	$226.27	$234.19	$242.39
	Draftsman	$ 38.00	$ 39.33	$ 40.71	$ 42.13	$ 43.61	120%	2.42	$ 91.96	$ 95.18	$ 98.51	$101.96	$105.53
Construction	Superintendent	$ 90.00	$ 93.15	$ 96.41	$ 99.78	$ 103.28	120%	2.42	$217.80	$225.42	$233.31	$241.48	$249.93
	Resident Engineers	$ 93.00	$ 96.26	$ 99.62	$ 103.11	$ 106.72	120%	2.42	$225.06	$232.94	$241.09	$249.53	$258.26
	Assistant Resident Engineers	$ 70.00	$ 72.45	$ 74.99	$ 77.61	$ 80.33	120%	2.42	$169.40	$175.33	$181.47	$187.82	$194.39
	Office Engineers	$ 65.00	$ 67.28	$ 69.63	$ 72.07	$ 74.59	120%	2.42	$157.30	$162.81	$168.50	$174.40	$180.51
	Assistant Office Engineers	$ 60.00	$ 62.10	$ 64.27	$ 66.52	$ 68.85	120%	2.42	$145.20	$150.28	$155.54	$160.99	$166.62
	Senior Inspector	$ 61.00	$ 63.14	$ 65.34	$ 67.63	$ 70.00	120%	2.42	$147.62	$152.79	$158.13	$163.67	$169.40
	Inspector	$ 56.00	$ 57.96	$ 59.99	$ 62.09	$ 64.26	120%	2.42	$135.52	$140.26	$145.17	$150.25	$155.51
	Section 3	$ 45.00	$ 46.58	$ 48.21	$ 49.89	$ 51.64	120%	2.42	$108.90	$112.71	$116.66	$120.74	$124.97
	Geotechnical Analysis & Monitoring	$ 78.00	$ 80.73	$ 83.56	$ 86.48	$ 89.51	120%	2.42	$188.76	$195.37	$202.20	$209.28	$216.61
	Construction Community Liaison	$ 52.00	$ 53.82	$ 55.70	$ 57.65	$ 59.67	120%	2.42	$125.84	$130.24	$134.80	$139.52	$144.40
Other	Other (as approved by the Corporation) - Surveying	TBD	TBD	TBD	TBD	TBD	121%	2.43	TBD	TBD	TBD	TBD	TBD
	Other (as approved by the Corporation) - Underwater Inspections & Diving, etc	TBD	TBD	TBD	TBD	TBD	150%	2.75	TBD	TBD	TBD	TBD	TBD
	Other (as approved by the Corporation)	TBD	TBD	TBD	TBD	TBD	120%	2.42	TBD	TBD	TBD	TBD	TBD

Part 2. Overhead Multiplier

Overhead Multiplier	Stated Above

Part 3. Fixed Fee Profit

Fixed Fee for Profit	10%

EXHIBIT 2 TO APPENDIX C

EFT ENROLLMENT FORM

New York City Economic Development Corporation

NEW YORK CITY ECONOMIC DEVELOPMENT CORPORATION

DIRECT DEPOSIT/ELECTRONIC FUNDS TRANSFER (EFT) VENDOR PAYMENT ENROLLMENT FORM

INSTRUCTIONS: Please complete all sections of this Enrollment Form and attach a voided check or a copy of an encoded deposit slip that includes an imprinted vendor's name. See the reverse side for more information and instructions.

Mail to: New York City Economic Development Corporation, One Liberty Plaza, 12th Floor, New York, NY 10006
Attention: Controller, Accounting Dept. or Fax to: 212-312-3914

SECTION I – VENDOR INFORMATION

1. SOCIAL SECURITY NUMBER OR TAXPAYER ID NUMBER: (AS IT APPEARS ON W-9 FORM)

2. VENDOR NAME (AS IT APPEARS ON W-9 FORM); (AS IT APPEARS ON W-9 FORM)

3. VENDOR'S PRIMARY ADDRESS:

4. VENDOR'S EMAIL ADDRESS:

5. CONTACT PERSON NAME:

6. CONTACT PERSON TELEPHONE NUMBER:

SECTION II – FINANCIAL INSTITUTION INFORMATION

1. BANK ACCOUNT NUMBER:

2. ACCOUNT NAME:

3. BANK NAME:

4. BANK BRANCH ADDRESS:

5. ROUTING TRANSIT NUMBER: (LOCATED AT THE BOTTOM OF YOUR CHECK)

6. ACCOUNTING TYPE: (CHECK ONE)
☐ CHECKING ☐ SAVINGS

7. DIRECT DEPOSIT/ACH/EFT COORDINATOR'S NAME:

8. TELEPHONE NUMBER:

SECTION III – VENDOR SIGNATURE

VENDOR SIGNATURE | PRINT NAME | DATE

NEW YORK CITY ECONOMIC DEVELOPMENT CORPORATION

DIRECT DEPOSIT/ELECTRONIC FUNDS TRANSFER (EFT) VENDOR PAYMENT ENROLLMENT FORM

GENERAL INSTRUCTIONS

Please complete all sections of the Direct Deposit EFT Enrollment Application and forward the completed application along with a voided check or a copy of an encoded deposit slip that includes an imprinted vendor's name to:

New York City Economic Development Corporation, One Liberty Plaza, 12th Floor
New York, NY 10006 – Attention: Controller, Accounting Dept or Fax to: 212-312-3914.

SECTION I – VENDOR INFORMATION

1. Enter the vendor's social security number or taxpayer ID number, the 9-digit number reported on W-9 form.
2. Provide the name of the vendor (as it appears on the W-9).
3. Enter the vendor's complete address for EFT correspondence associated with this account.
4. Provide the vendor's E-mail address, if you have one.
5. Indicate the name and telephone number of the vendor's contact person. (If you are enrolling yourself individually, you are the contact person).

SECTION II – FINANCIAL INSTITUTION INFORMATION

1. Indicate the vendor's bank account number.
2. Indicate the vendor's account name.
3. Provide bank's name.
4. Provide the complete address of your bank.
5. Indicate 9-digit routing (ABA) transit number (located at the bottom of your check).
6. Indicate type of account: (Check one box only).
7. List name and telephone number of your bank's Direct Deposit/EFT Coordinator.

SECTION III – VENDOR SIGNATURE

Sign and date where indicated.

EXHIBIT 3 TO APPENDIX C

PAYROLL REPORT FORM

THE CITY OF NEW YORK • OFFICE OF THE COMPTROLLER • BUREAU OF LABOR LAW

CERTIFIED PAYROLL REPORT

EMPLOYER NAME			CHECK IF PROJECT LABOR AGREEEMENT (PLA) ☐	PAYROLL #	WEEK ENDING DATE
EMPLOYER ADDRESS	EMPLOYER EMAIL ADDRESS	EMPLOYER PHONE #	EMPLOYER TAX I.D. #	PROJECT NAME	
NAME OF PRIME CONTRACTOR, BUILDING OWNER OR UTILITY	CONTRACT REGISTRATION #	AGENCY	AGENCY PIN #	PROJECT OR BUILDING ADDRESS	

(1)	(2)	(3)	(4)								(5)	(6)	(7)	(8)			(9)	(10)		
			THIS PROJECT, CONTRACT OR BUILDING											ALL WORK (PUBLIC AND PRIVATE)						
			DAY AND DATE											WAGES			BONA FIDE FRINGE BENEFITS			
WORKER NAME ADDRESS LAST FOUR DIGITS OF SSN	TRADE CLASSIFICATION UNION LOCAL # JOURNEYPERSON OR APPRENTICE (NYS DOL REGISTERED)	TIME	HOURS WORKED EACH DAY								TOTAL HOURS	HOURLY RATE OF PAY	GROSS PAY (THIS PROJECT)	TOTAL GROSS PAY (ALL WORK)	WITHHOLDINGS & DEDUCTIONS	NET PAY	HOURLY CONTRIBUTIONS TO BENEFIT FUNDS OR INDIVIDUAL ACCOUNTS	ALL OTHER BONA FIDE FRINGE BENEFITS EMPLOYER PROJECTED ANNUAL COST	EMPLOYEE PROJECTED ANNUAL HOURS	ANNUALIZED HOURLY RATE
	J ☐ A ☐	ST																		
		OT																		
	J ☐ A ☐	ST																		
		OT																		
	J ☐ A ☐	ST																		
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FALSIFICATION OF THIS STATEMENT IS A PUNISHABLE OFFENSE

This certified payroll report has been prepared in accordance with the instructions for this form. I certify that the above information represents the hours worked by, wages paid to and bona fide fringe benefits provided to all of the workers employed by the above named employer on this project, contract or building during the period shown. I **understand that falsification of this statement is a punishable offense.**

OFFICER OR PRINCIPAL OF EMPLOYER (Print Name) _____ TITLE _____ SIGNATURE _____ DATE _____, 20____

Instructions for the Preparation of a Certified Payroll Report

Each employer must maintain one weekly certified payroll report for each project, contract or building on which it performs work subject to the requirements of New York State Labor Law Articles Eight or Nine, Real Property Tax Law Section 421-a and New York City Administrative Code Sections 6-109 and 19-142. All workers subject to prevailing wage, living wage or minimum average hourly wage requirements employed by the named employer on the project, contract or building during the week indicated must be listed on the certified payroll report.

FOR ALL EMPLOYERS – HEADING AND SIGNATURE LINE:

Employer: Enter the name, office address, email address, office telephone number, and federal employer identification number of the company that employs the workers identified on the certified payroll report.

Payroll #: Enter the employer's sequential number for this weekly certified payroll report—beginning with "1" for the employer's first weekly certified payroll report on the project, contract or building indicated.

Week Ending Date: Enter the date on which the employer's workweek ended, for payroll purposes, which must match the last date in field #4.

Signature Line: The certified payroll report must be signed and affirmed to be true under penalties of perjury by an officer or principal of the named employer. Enter the printed name, title and signature of the officer or principal of the company with the date at the bottom of the form.

FOR PUBLIC CONTRACTS:

Name of Prime Contractor or Building Owner or Utility: Enter the name of the company that has executed the contract with the New York City government agency or public authority.

Contract Registration Number: Enter the New York City contract registration number (begins with the year) or the public authority contract number.

Agency: Enter the name of the New York City government agency or public authority that executed the contrac

Agency PIN #: Enter the New York City government agency PIN# from the contract proposal, if applicable.

Project Name: Enter the descriptive name of the project or contract. If it is a project labor agreeement, Check the PLA Box.

Project or Building Address: Enter the street address of the location where the work was performed during the workweek indicated, or enter "various locations" if more than one location for the workweek.

FOR RPTL 421-a TAX EXEMPT PROPERTIES:

Name of Prime Contractor or Building Owner or Utility: Enter the name of the current property owner of the building indicated. For owner-occupied condominiums, enter "Board of Managers" and the name of the condominium.

Contract Registration Number: Enter the NYC Department of Housing Preservation and Development docket number (begins with TEO).

Agency: Enter "HPD."

Agency PIN #: Enter "421-a."

Project Name: Enter "421-a."

Project or Building Address: Enter the street address of the building where the work was performed during the workweek indicated.

FOR UTILITY STREET EXCAVATIONS:

Name of Prime Contractor or Building Owner or Utility: Enter the name of the utility company contracting for the excavation work.

Contract Registration Number: Enter the NYC Department of Transportation street opening permit number.

Agency: Enter "DOT."

Agency PIN #: Enter "19-142."

Project Name: Enter "19-142."

Project or Building Address: Enter the street names of the nearest intersection to where the excavation work was performed during the workweek indicated, or enter "various locations" if more than one location for the workweek.

FOR ALL EMPLOYERS, BY FIELD NUMBER:

1) **WORKER NAME, ADDRESS, LAST FOUR DIGITS OF SSN:** Enter the legal name, current address and the last four digits of the social security number or individual taxpayer identification number for all workers that performed work on the project, contract or building during the workweek indicated. If there are more than seven workers, use another certified payroll report form for the rest. Employers must keep the full social security number or individual taxpayer identification number on file for each of their workers.

2) **TRADE CLASSIFICATION, UNION LOCAL #, JOURNEYPERSON OR APPRENTICE:** Enter the trade classification that is applicable to the work performed by the worker during the workweek indicated. If the worker is subject to prevailing wage requirements, enter the trade classification and specific title from the Comptroller's prevailing wage schedule, e.g. Electrician "A," Electrician "M" or Electrician – Alarm Technician. If the employer is signatory to a collective bargaining agreement or project labor agreement,

Instructions for the Preparation of a Certified Payroll Report

enter the local number of the labor union for each worker, e.g. "Local 1010." Check next to the letter J if the worker is a Journeyperson. Check next to the letter A if the worker is a registered apprentice with a program approved by the New York State Department of Labor.

3) **TIME**: ST indicates straight time, and OT indicates overtime.

4) **THIS PROJECT, CONTRACT OR BUILDING**: In this section, enter the hours worked and wages paid to each worker only for the project, contract or building indicated.

Day and Date: Below this heading in the first row, enter the days of the week in the sequence of the employer's workweek for payroll purposes, e.g. "MTWTFSS" if the workweek ends on a Sunday, "SSMTWTF" if the workweek ends on a Friday. In the second row, below each letter representing the day of the workweek, insert the corresponding date.

Hours Worked Each Day: Below this heading, at the intersection of the column of the particular day and date and the horizontal row of the worker's name, enter the hours worked each day in the appropriate box either for ST (straight time) and / or OT (overtime). If an employee worked shift time, the ST (straight time) row must be used and adjusted accordingly.

5) **TOTAL HOURS:** Add the hours worked for straight and / or shift time with the hours worked for overtime, and enter separate totals in this column.

6) **HOURLY RATE OF PAY:** Enter the actual hourly rate of pay for each worker. This amount must include all wage supplements paid directly to the worker to satisfy any prevailing or other benefit requirement.

7) **GROSS PAY (THIS PROJECT):** Enter the total gross amount earned by each worker only on the project, contract or building indicated (column (5) multiplied by column (6)). This amount must include all wage supplements paid directly to the worker to satisfy any prevailing or other benefit requirement.

8) **ALL WORK (PUBLIC AND PRIVATE):**

Total Gross Pay (All Work): In this section, enter the total gross amount paid to each worker by the named employer for all work performed in the workweek indicated, whether public or private work, including but not limited to the project, contract or building indicated. This amount must include all wage supplements paid directly to the worker to satisfy any prevailing or other benefit requirement.

Withholdings & Deductions: Enter the total of all withholdings and deductions from each worker's gross pay for federal, state and local income tax, medicare and social security and any other deductions taken from the worker's pay (e.g. union dues, health insurance premium contributions).

Net Pay: Enter the net pay amount which the worker actually receives for all work performed for the named employer in the workweek indicated.

BONA FIDE FRINGE BENEFITS: This section is for use only by employers that provide bona fide fringe benefits to the workers indicated. For workers subject to Minimum Average Hourly Wage (RPTL Section 421-a (16)(c)) requirements only, this includes costs for "employee benefits" such as medicare and social security. The hourly cost of all fringe benefits must be annualized, unless the employer provides an hourly contribution for each hour of work on the project, contract or building indicated to an individual account for the worker. To calculate the annualized hourly cost, divide the employer's total projected annual cost for all fringe benefits provided to that worker by the total projected annual hours of all work—public and private—performed by that worker for the employer.

9) **Hourly Contribution to Benefit Fund or Account:** If the employer provides hourly contributions to benefit funds or individual accounts for each hour of work on the project, contract or building indicated, use this section to enter the employer's total hourly contribution for all fringe benefits provided to that worker. If an employer only provides hourly contributions to benefit funds or individual accounts, there is no need to fill out the next three boxes in field 10.

10) **All Other Bona Fide Fringe Benefits:** If the employer does not provide hourly contributions to benefit funds or individual accounts, use this section. Enter the total projected annual cost to the employer—not including any deductions from the worker's pay—for all fringe benefits provided to the worker in the first box. The projected annual cost for a worker may be calculated by multiplying a recurring monthly cost for that worker by 12. For paid vacation or sick leave, the projected annual cost may be calculated by multiplying the total annual hours of paid leave provided to each worker by the worker's hourly pay rate. Enter the total projected annual hours of all work—public and private—performed by that worker for the employer in the second box. The total projected annual hours of work for a worker may be calculated by multiplying that worker's regular weekly hours by 52. The total projected annual hours for full-time employees that regularly work 40 hours per week is 2,080. The total projected annual hours for full-time employees that regularly work 35 hours per week is 1,820. Enter the annualized hourly fringe benefit rate for the worker in the third box. The annualized hourly fringe benefit rate is calculated by dividing the employer projected annual cost in the first box by the employee projected annual hours in the second box. The employer may have to perform an annual reconciliation of fringe benefits provided to a worker, if the worker's actual hours exceed the projected hours.

APPENDIX D

FORM OF CERTIFIED STATEMENT REGARDING USE OF NON-ORIGINAL MATERIALS

STATE OF)
) ss.:
COUNTY OF)

The undersigned, being first duly sworn, deposes and states as follows:

1. I am the Principal of the Consultant named below in connection with the contract (the "Contract") identified below between the Consultant and New York City Economic Development Corporation ("NYCEDC").

2. I make this affidavit pursuant to Section 5.2.6(iii) of the Contract to verify certain information regarding non-original materials included in the Work Product (as defined in the Contract) furnished by the Consultant to NYCEDC pursuant to the Contract.

3. I hereby certify that the information set forth on the "List of Rights, Limitations and Requirements Regarding the Use and Display of Non-Original Materials Included in Consultant's Work Product" (the "Non-Original Materials List") annexed hereto and made a part hereof, and the licenses, releases, permissions, clearances and other documents (collectively, the "Licenses") annexed thereto, are complete, true and accurate as of the date of this affidavit, and I acknowledge and understand that NYCEDC shall rely thereon in connection with any use and display of such materials.

4. In particular, I hereby certify that the annexed Non-Original Materials List and Licenses set forth (i) all non-original materials included in Consultant's Work Product; (ii) all information as to the source of such materials; (iii) all information as to any durational limitations on use of such materials; (iv) all requirements as to notices that must be displayed in connection with display, including the specific owner of the rights to be credited; and (v) all other limitations on the use and display under the Licenses.

Dated: _____ Signature: _____

Consultant: _____ Printed Name: _____

NYCEDC Contract No.: _____ Title: _____

Sworn to before me this

day of , 20

Notary Public

LIST OF RIGHTS, LIMITATIONS AND REQUIREMENTS REGARDING THE USE AND DISPLAY OF NON-ORIGINAL MATERIALS INCLUDED IN CONSULTANT'S WORK PRODUCT

Non-Original Material	Source	Rights/Limitations/Requirements*

* **ATTACH COPIES OF ALL LICENSES, RELEASES, PERMISSIONS, CLEARANCES AND OTHER RELEVANT DOCUMENTS**

APPENDIX E

INSURANCE REQUIREMENTS

1. **Required Policies and Amounts**
2. **Additional Insureds**
3. **Required Provisions**
4. **Sample Form of Contractor Insurance Cover Sheet, Certificate, and Endorsements**
5. **Bond Requirements**

APPENDIX E

INSURANCE REQUIREMENTS

1. Minimum Required Policies and Amounts

Workers' Compensation and Disability Benefits:	In statutory amounts
Employers' Liability	$1,000,000 or statutory amounts, whichever is greater
Commercial General Liability:	A minimum of $10,000,000 per occurrence, with an annual aggregate of not less than $10,000,000 applying on a per project basis The maximum deductible or self-insured retention ("SIR"), if the latter is approved by Corporation as outlined in Article 6.3.17, for the Commercial General Liability policy shall be $50,000, unless prior approval for a higher amount is approved by Corporation. Any such self-insurance program shall provide the City and the Corporation and any other Additional Insureds with all rights that would be provided by traditional insurance required under Article 6, including but not limited to, the defense obligations that insurers are required to undertake in liability policies.
Automobile Liability:	$5,000,000 combined single limit per occurrence and aggregate
Builders Risk/Installation Floater:	☐ **Not required.**
Professional Liability:[1]	$10,000,000 per claim and in the aggregate

If the Consultant or its Subcontractors use floating equipment, barges or floats, or performs marine-related construction, the Consultant and as applicable, its Subcontractors, shall purchase and maintain additional insurance of the following types and in the following amounts in connection with the performance of the Services:

[1]. Limit should be adjusted based on the project size and exposure, but should be a minimum of $2M.

U.S. Harbor Workers' Long Shoremens' Compensation Act:	In statutory amounts
Marine Protection and Indemnity:	$25,000,000 per occurrence, but if an annual aggregate is applicable to the policy not less than $25,000,000 in the aggregate per year
Maritime Employers Liability	$2,000,000 each occurrence/each employee/aggregate

If the Project is adjacent to or includes an existing railroad or subway line, the Consultant, or its Subcontractors, shall purchase and maintain the following insurance in the following amounts in connection with the performance of the Services by the Consultant and its Subcontractors, and any work incidental thereto:

Railroad Protective Liability:	$2,000,000 per occurrence, but if an annual aggregate is applicable to the policy not less than $6,000,000 in the aggregate or as required by the railroad/subway owner, whichever is higher

If the Consultant or any of its Subcontractors is performing asbestos or other toxic or hazardous materials remediation, removal, abatement, storage or disposal work including, without limitation, related demolition work or other work that disrupts/disturbs the ground or subsurface, the Consultant or its Subcontractors shall purchase and maintain additional insurance of the following types and in the following amounts in connection with the performance of the Services and any work incidental thereto:

Contractor Pollution Liability ("CPL") Policy and, as applicable, Asbestos Abatement Liability Policy, Lead Abatement Contractors Liability Policy, Stop Loss Policy, , Transportation Coverage and Non-Owned Disposal Site Coverage:	$10,000,000 per occurrence for bodily injury or death, and property damage, but if an annual aggregate is applicable to the policy not less than $10,000,000 in the aggregate per year dedicated to this Project, with a term of not less than ten (10) years covering ongoing and products/completed operations and covering the Additional Insureds without regard to privity of contract

Such policies shall be for a term of not less than ten (10) years, on an "occurrence" basis, and any aggregate applicable to such policies shall be dedicated to this Project. In addition, such policies shall include, without limitation, and as applicable, (a) bodily injury and defense coverage for asbestos and lead; (b) coverage for unknown UST's; (c) a definition of "property damage" that includes diminution in value of third-party properties; (d) a statement that such insurance is

primary and over any surety contracts or bonds covering the Services; (e) a statement that the insured's rights will not be prejudiced if there is a failure to give notice due to the insured's belief that the occurrence was not covered; (f) coverage for products brought onto the work site where Services are being performed; (g) a definition of "stop loss" or "cleanup cost cap" that includes monitoring activities; (h) a definition of "cleanup costs" that includes any costs associated with natural resources damages; and (i) a statement that exclusions for modifications of remedial action plans ("RAP") shall not include changes required by regulatory agencies (either via a change in regulations or as a result of governmental entity oversight, increased levels or quantities of pollutants within the boundary of the RAP, discovery of pollutants not identified in the exclusion, and amendments to the RAP because of a change in technological approach) (j) coverage on a suspected release basis with no natural resource damage or non-compliance exclusions. The Consultant shall request that the disposal facility(ies) add the Consultant and the Additional Insureds to the Pollution Legal Liability Insurance policy or policies. If the facility's insurance carrier(s) agree to add such Additional Insureds, copies of applicable Certificates of Insurance, with appropriate endorsements if a Subcontractor is providing the service, received by Consultant shall be provided to the Corporation upon request.

Subcontractors will maintain limits in accordance with the attached Insurance Matrix, subject to all the terms and conditions for each policy included in Article 6 and in this Appendix E.

APPENDIX E

INSURANCE REQUIREMENTS

2. Additional Insureds

For the purposes of this Contract and the requirements of the Insurance Provisions including, without limitation, Section 6.3.3 (iii), the term "Additional Insureds" shall include the following individuals and entities:

New York City Economic Development Corporation
The City of New York

ADD AS APPLICABLE:

Construction Manager
Architect/Engineer
Environmental Consultant
Port Authority of New York and New Jersey
The State of New York
Federal Highway Administration
Federal Transit Administration
Add any other Non-Governmental Interested Parties (*e.g.*, Port Imperial Ferry Corp. D/B/A New York Waterway, Inc.)

and their respective employees, members, officials, and officers and any such other entities and individuals the Corporation may direct from time to time

APPENDIX F

INSURANCE REQUIREMENTS

3. Required Provisions

The policies required under the Insurance Provisions of the Contract shall contain the following provisions, if available:

"A. Notices from the insurer (the "Insurer") to the New York City Economic Development Corporation (the "Corporation") and the City of New York (the "City"), in connection with this policy, shall be addressed to the General Counsel, New York City Economic Development Corporation, at One Liberty Plaza, 14th Floor, New York, New York 10006 (with a copy to the Corporation's Contract Administrator at the same address), and to the Commissioner, New York City Department of Small Business Services, at One Liberty Plaza, 11th Floor, New York, New York 10006 or such other addresses as may be specified by the Corporation**; [IF PANYNJ IS INVOLVED, ADD THE FOLLOWING: Notices from the Insurer to Port Authority of New York and New Jersey ("PANYNJ") in connection with this policy, shall be addressed to the Port Authority of New York and New Jersey, General Manager, Risk Management, 241 Erie Street, Room 301, Jersey City, NJ 07310]**;

B. The Insurer shall accept notice of accident from the Corporation or the City, as soon as practicable after receipt by an official of such Additional Insured (as identified in Appendix F of the Contract between the Corporation and the Consultant to which this policy applies) of notice of such accident as valid and timely notice under this policy;

C. The Insurer shall accept notice of claim from the City as soon as practicable after such claim has been filed with the Comptroller of the City and notice of claim from the Corporation, as soon as practicable after receipt by such party as valid and timely notice under this policy;

D. Notice of accident or claim to the Insurer by the Consultant, the Corporation or the City shall be deemed notice by all under this policy;

E. This policy shall not be canceled, terminated or modified by the Insurer or the Consultant unless thirty (30) days prior written notice is sent by registered mail to the Corporation or the City;

F. The presence of engineers, inspectors or other employees or agents of the Consultant, the Corporation or the City at the site of the Services performed by the Consultant shall not invalidate this policy of insurance; and

G. Violation of any of the terms of any other policy issued by the Insurer to the Consultant or a subcontractor of the Consultant shall not inviolate this policy; and

H. Insurance, if any, carried by the Corporation, the City or the Additional Insureds will not be called upon to contribute to a loss that would otherwise be paid by the Insurer."

[NOTE: IF PANYNJ IS INVOLVED, ADD PARAGRAPH "I" and modify the above accordingly:

II. Unless otherwise agreed by PANYNJ, the liability policy shall be specifically endorsed, to prohibit the Insurer from raising any defense involving in any way jurisdiction of the PANYNJ's Tribunal, immunity of PANYNJ, governmental nature of PANYNJ or the provisions of any statutes respecting suits against PANYNJ without obtaining written express advance permission from the General Counsel of PANYNJ."]

APPENDIX E

INSURANCE REQUIREMENTS

4. Sample Form of Contractor Insurance Cover Sheet, Certificate, and Endorsements

New York City Economic Development Corporation
Contractor Insurance Documentation Cover Sheet & Checklist

This cover sheet should be completed and attached by all existing or prospective NYCEDC Contractors when submitting insurance documentation for review. ***Insurance documents submitted without this cover sheet cannot be reviewed and could delay processing of contracts and invoices.***

Contractor's Name: _____ Contract Number: -

_____

NYCEDC Project Manager:

_____

ALL Certificates of Insurance: *Please acknowledge by checking the box that the following conditions are satisfied and evidenced on all certificates:*

- ☐ Policy effective date is as of or prior to the date of contract execution
- ☐ All limits meet or exceed minimum limits required in the contract*
- ☐ Certificate Holder states: NYCEDC, Attn: Contracts Department, One Liberty Plaza, 12th Floor, New York, NY 10006
- ☐ Named Insured matches entity entering into contract with correct address
- ☐ Insurance Company Ratings comply with contract minimum rating requirement
- ☐ Insurers are licensed to do business in the state of New York

Liability COI Only: Please acknowledge by checking the box that the following conditions are satisfied and evidenced on the certificates:

- ☐ Description of Operations must include the following language:

  The City of New York and the New York City Economic Development Corporation and [insert any other additional insureds as required in the contract] their employees and officers are additional insureds on a primary and non-contributory basis on the Commercial General Liability, Auto Liability and Umbrella Liability [include Pollution Liability if applicable] policies using forms [insert form numbers here]. All policies other than Professional Liability include a waiver of subrogation in favor of The City of New York and the New York City Economic Development Corporation. Coverage is equivalent to or broader than ISO CG 0 01 with no modifications to the contractual or employers' liability coverage and with no exclusion for claims arising from New York Labor Laws.

- ☐ General Liability Aggregate Limit applies on a per project basis
- ☐ Accord 855 included unless no construction/renovation/alterations/fit-out work is being done, check here if N/A: ☐

General Liability (and Pollution Liability, if applicable to the contract) Endorsements (or their equivalents) – *Please acknowledge by checking the box that the following have been provided:*

- ☐ CG 20 10 & CG 20 37 – EITHER MUST NOT REQUIRE A CONTRACT BETWEEN NYCEDC AND THE CONTRACTOR OR MUST SPECIFICALLY NAME THE ADDITIONAL INSUREDS IN SCHEDULE
- ☐ CG 20 38 – CAN BE PROVIDED IN PLACE OF CG 20 10 (above) IF CONTRACT BETWEEN SUBCONTRACTOR AND PRIME CONTRACTUALLY REQUIRES COVERAGE FOR THE ADDITIONAL INSUREDS
- ☐ Primary and Non-Contributory and Waiver of Subrogation Endorsements on the General Liability and Umbrella/Excess policies – EITHER MUST NOT REQUIRE A CONTRACT BETWEEN NYCEDC AND THE CONTRACTOR OR MUST SPECIFICALLY NAME THE ADDITIONAL INSUREDS IN SCHEDULE

Other Coverages – *Please check those that apply (evidence must be provided):*

☐ Workers Compensation / Employer's Liability – Refer to Article 6 of Contract for forms allowed

☐ New York State Disability – Refer to Article 6 of the Contract for forms allowed

☐ Builder's Risk (if applicable) – Refer to Project Assignment

☐ Professional Liability (if applicable) and/or ☐ Media/Privacy Liability (if applicable) – Refer to contract

☐ Site Pollution Liability (if applicable) and/or ☐ Contractor's Pollution Liability (if applicable) – Refer to contract

☐ Maritime Protection & Indemnity (if applicable) and/or ☐ Maritime Hull (if applicable) – Refer to contract

☐ Railroad Protective Liability (if applicable) – Refer to contract and permit from railroad owner for limits required

☐ MCS-90 and CA9948 Pollution coverage included in Auto (if applicable) – Refer to contract

☐ Other Coverage as required by Contract, please describe:
_____

Date of Submission of Checklist:_____
Contractor/Consultant Signature: _____
Name: _____
Title: _____

ACORD

CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY) 11/11/1111

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 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	CONTACT NAME	
Insurance Broker's Name Address	PHONE (A/C, No, Ext):	FAX (A/C, No):
	E-MAIL ADDRESS:	

INSURER(S) AFFORDING COVERAGE		NAIC #
INSURER A:	Commercial General Liability Company	
INSURER B:	Auto Liability Company	
INSURER C:	State Insurance Fund	
INSURER D:	Umbrella Liability Company	
INSURER E:	Professional Liability Company	
INSURER F:	Builders Risk Company	

INSURED: Your Firm's Name, Address

COVERAGES **CERTIFICATE NUMBER:** **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 PERTAIN, 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.

INSR LTR	TYPE OF INSURANCE	ADDL INSR	SUBR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS	
A	GENERAL LIABILITY	Y	Y	Insurance Policy #	11/11/1111	22/22/2222	EACH OCCURRENCE	$ 1,000,000
	X COMMERCIAL GENERAL LIABILITY						DAMAGE TO RENTED PREMISES (Ea occurrence)	$
	CLAIMS-MADE OCCUR						MED EXP (Any one person)	$
	X Additional Insureds - City of New York; New York City Economic Development Corporation; Apple Industrial Development Corp.						PERSONAL & ADV INJURY	$
							GENERAL AGGREGATE	$ 2,000,000
	GEN'L AGGREGATE LIMIT APPLIES PER: POLICY PRO-JECT LOC						PRODUCTS - COMP/OP AGG	$
								$
B	AUTOMOBILE LIABILITY	Y	Y	Insurance Policy #	11/11/1111	22/22/2222	COMBINED SINGLE LIMIT (Ea accident)	$ 1,000,000
	X ANY AUTO						BODILY INJURY (Per person)	$
	ALL OWNED AUTOS / SCHEDULED AUTOS						BODILY INJURY (Per accident)	$
	HIRED AUTOS / NON-OWNED AUTOS						PROPERTY DAMAGE (Per accident)	$
								$
D	X UMBRELLA LIAB / OCCUR	Y	Y	Insurance Policy #	11/11/1111	22/22/2222	EACH OCCURRENCE	$ 10,000,000
	EXCESS LIAB / CLAIMS-MADE						AGGREGATE	$ 10,000,000
	DED / RETENTION $							$
C	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY Y / N			Insurance Policy #			X WC STATU-TORY LIMITS / OTH-ER	
	ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? N/A (Mandatory in NH)			* The greater of statutory amounts or $1,000,000			E.L. EACH ACCIDENT	$ 1,000,000*
	If yes, describe under DESCRIPTION OF OPERATIONS below						E.L. DISEASE - EA EMPLOYEE	$
							E.L. DISEASE - POLICY LIMIT	$
E	Professional Liability (Consultant Contracts Only)						$2,000,000 per claim and in the aggregate (100% of Maximum Contract Price)	
F	Builders Risk (Construction Contracts Only)							
G	Owner's Protective Liability** (Construction Contracts Only)							
	**In very limited situations, the City/NYCEDC/Apple may require Owner's Protective							

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (Attach ACORD 101, Additional Remarks Schedule, if more space is required)

Referenced Project: Contract No. 1000000
Name of Project - Type of Project

MUST LIST EACH ADDITIONAL INSURED AND STATE THAT COMMERCIAL GENERAL LIABILITY AND UMBRELLA /EXCESS LIABILITY SHALL BE ON A PRIMARY AND NON-CONTRIBUTORY BASIS FOR EACH ADDITIONAL INSURED

CERTIFICATE HOLDER	CANCELLATION
New York City Economic Development Corporation One Liberty Plaza, 12th Floor New York, NY 10006 Attention: Contract Administration	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 Signature

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POLICY NUMBER:

COMMERCIAL GENERAL LIABILITY
CG 20 10 04 13

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

ADDITIONAL INSURED - OWNERS, LESSEES OR CONTRACTORS - SCHEDULED PERSON OR ORGANIZATION

This endorsement modifies insurance provided under the following:

COMMERCIAL GENERAL LIABILITY COVERAGE PART

SCHEDULE

Name Of Additional Insured Person(s) Or Organization(s)	Location(s) Of Covered Operations
New York City Economic Development Corporation, City of New York, and their respective members, officers directors, officials, amd employees and any other additional insureds as designated in the contract	Note: For subs, coverage cannot be subject to a written contract betwee EDC and the sub
Information required to complete this Schedule, if not shown above, will be shown in the Declarations.	

A. Section II – Who Is An Insured is amended to include as an additional insured the person(s) or organization(s) shown in the Schedule, but only with respect to liability for "bodily injury", "property damage" or "personal and advertising injury" caused, in whole or in part, by:

1. Your acts or omissions; or
2. The acts or omissions of those acting on your behalf;

in the performance of your ongoing operations for the additional insured(s) at the location(s) designated above.

However:

1. The insurance afforded to such additional insured only applies to the extent permitted by law; and
2. If coverage provided to the additional insured is required by a contract or agreement, the insurance afforded to such additional insured will not be broader than that which you are required by the contract or agreement to provide for such additional insured.

B. With respect to the insurance afforded to these additional insureds, the following additional exclusions apply:

This insurance does not apply to "bodily injury" or "property damage" occurring after:

1. All work, including materials, parts or equipment furnished in connection with such work, on the project (other than service, maintenance or repairs) to be performed by or on behalf of the additional insured(s) at the location of the covered operations has been completed; or
2. That portion of "your work" out of which the injury or damage arises has been put to its intended use by any person or organization other than another contractor or subcontractor engaged in performing operations for a principal as a part of the same project.

© Insurance Services Office, Inc., 2012

POLICY NUMBER:

COMMERCIAL GENERAL LIABILITY
CG 20 37 04 13

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

ADDITIONAL INSURED – OWNERS, LESSEES OR CONTRACTORS – COMPLETED OPERATIONS

This endorsement modifies insurance provided under the following:

COMMERCIAL GENERAL LIABILITY COVERAGE PART
PRODUCTS/COMPLETED OPERATIONS LIABILITY COVERAGE PART

SCHEDULE

Name Of Additional Insured Person(s) Or Organization(s)	Location And Description Of Completed Operations
New York City Economic Development Corporation, City of New York, and their respective members, officials, directors, officers, and employees and any other additional insureds as designated in the contract	Note: For subs, coverage cannot be subject to a written contract between NYCEDC and the sub
Information required to complete this Schedule, if not shown above, will be shown in the Declarations.	

A. Section II – Who Is An Insured is amended to include as an additional insured the person(s) or organization(s) shown in the Schedule, but only with respect to liability for "bodily injury" or "property damage" caused, in whole or in part, by "your work" at the location designated and described in the Schedule of this endorsement performed for that additional insured and included in the "products-completed operations hazard".

However:

1. The insurance afforded to such additional insured only applies to the extent permitted by law; and
2. If coverage provided to the additional insured is required by a contract or agreement, the insurance afforded to such additional insured will not be broader than that which you are required by the contract or agreement to provide for such additional insured.

B. With respect to the insurance afforded to these additional insureds, the following is added to **Section III – Limits Of Insurance:**

If coverage provided to the additional insured is required by a contract or agreement, the most we will pay on behalf of the additional insured is the amount of insurance:

1. Required by the contract or agreement; or
2. Available under the applicable Limits of Insurance shown in the Declarations;

whichever is less.

This endorsement shall not increase the applicable Limits of Insurance shown in the Declarations.

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STATE OF NEW YORK
WORKERS' COMPENSATION BOARD

CERTIFICATE OF INSURANCE COVERAGE UNDER THE NYS DISABILITY BENEFITS LAW

PART 1. To be completed by Disability Benefits Carrier or Licensed Insurance Agent of that Carrier

1a. Legal Name and Address of Insured (Use street address only)

Contractor or Consultant
Street Address
City, State Zip

1b. Business Telephone Number of Insured
123-456-7890

1c. NYS Unemployment Insurance Employer Registration Number of Insured
12345

1d. Federal Employer Identification Number of Insured or Social Security Number
12-3456789

2. Name and Address of the Entity Requesting Proof of Coverage (Entity Being Listed as the Certificate Holder)

New York City Economic Development Corporation
The City of New York
One Liberty Plaza
New York, New York 10006

3a. Name of Insurance Carrier
ABC Insurance Company

3b. Policy Number of entity listed in box "1a":
ABCD1234567

3c. Policy effective period:
xx/xx/xx to xx/xx/xx

4. Policy covers:

a. ☒ All of the employer's employees eligible under the New York Disability Benefits Law

b. ☐ Only the following class or classes of the employer's employees:

Under penalty of perjury, I certify that I am an authorized representative or licensed agent of the insurance carrier referenced above and that the named insured has NYS Disability Benefits insurance coverage as described above.

Date Signed xx/xx/xx By *Signature*
(Signature of insurance carrier's authorized representative or NYS Licensed Insurance Agent of that insurance carrier)

Telephone Number 123-457-7890 Title Title

IMPORTANT: If box "4a" is checked, and this form is signed by the insurance carrier's authorized representative or NYS Licensed Insurance Agent of that carrier, this certificate is COMPLETE. Mail it directly to the certificate holder.
If box "4b" is checked, this certificate is NOT COMPLETE for purposes of Section 220, Subd. 8 of the Disability Benefits Law. It must be mailed for completion to the Workers' Compensation Board, DB Plans Acceptance Unit, 20 Park Street, Albany, New York 12207.

PART 2. To be completed by NYS Workers' Compensation Board (Only if box "4b" of Part 1 has been checked)

State Of New York
Workers' Compensation Board

According to information maintained by the NYS Workers' Compensation Board, the above-named employer has complied with the NYS Disability Benefits Law with respect to all of his/her employees.

Date Signed_____ By_____
(Signature of NYS Workers' Compensation Board Employee)

Telephone Number_____ Title_____

Please Note: Only insurance carriers licensed to write NYS disability benefits insurance policies and NYS licensed insurance agents of those insurance carriers are authorized to issue Form DB-120.1. ***Insurance brokers are NOT authorized to issue this form.***

DB-120.1 (5-06)

SAMPLE

STATE OF NEW YORK
WORKERS' COMPENSATION BOARD

CERTIFICATE OF NYS WORKERS' COMPENSATION INSURANCE COVERAGE

1a. Legal Name & Address of Insured (Use street address only) Contractor or Consultant Street Address City, State Zip Code **Work Location of Insured** *(Only required if coverage is specifically limited to certain locations in New York State, i.e., a Wrap-Up Policy)*	**1b. Business Telephone Number of Insured** 123-456-7890 **1c. NYS Unemployment Insurance Employer Registration Number of Insured** 12345 **1d. Federal Employer Identification Number of Insured or Social Security Number** 12-3456789
2. Name and Address of the Entity Requesting Proof of Coverage (Entity Being Listed as the Certificate Holder) New York City Economic Development Corporation The City of New York One Liberty Plaza New York, NY 10006	**3a. Name of Insurance Carrier** ABC Insurance Company **3b. Policy Number of entity listed in box "1a"** 1234567890 **3c. Policy effective period** xx/xx/xx to xx/xx/xx **3d. The Proprietor, Partners or Executive Officers are** ☐ **included.** (Only check box if all partners/officers included) ☐ **all excluded or certain partners/officers excluded.**

SAMPLE

This certifies that the insurance carrier indicated above in box "3" insures the business referenced above in box "1a" for workers' compensation under the New York State Workers' Compensation Law. (To use this form, New York (NY) must be listed under Item 3A on the INFORMATION PAGE of the workers' compensation insurance policy). The Insurance Carrier or its licensed agent will send this Certificate of Insurance to the entity listed above as the certificate holder in box "2".

The Insurance Carrier will also notify the above certificate holder within 10 days IF a policy is canceled due to nonpayment of premiums or within 30 days IF there are reasons other than nonpayment of premiums that cancel the policy or eliminate the insured from the coverage indicated on this Certificate. (These notices may be sent by regular mail.) Otherwise, this Certificate is valid for one year after this form is approved by the insurance carrier or its licensed agent, or until the policy expiration date listed in box "3c", whichever is earlier.

Please Note: Upon the cancellation of the workers' compensation policy indicated on this form, if the business continues to be named on a permit, license or contract issued by a certificate holder, the business must provide that certificate holder with a new Certificate of Workers' Compensation Coverage or other authorized proof that the business is complying with the mandatory coverage requirements of the New York State Workers' Compensation Law.

Under penalty of perjury, I certify that I am an authorized representative or licensed agent of the insurance carrier referenced above and that the named insured has the coverage as depicted on this form.

Approved by: Jane Doe
(Print name of authorized representative or licensed agent of insurance carrier)

Approved by: Signature xx/xx/xx
(Signature) (Date)

Title: Title

Telephone Number of authorized representative or licensed agent of insurance carrier: 123-456-7890

Please Note: Only insurance carriers and their licensed agents are authorized to issue Form C-105.2. Insurance brokers are NOT authorized to issue it.

C-105.2 (9-07) www.wcb.state.ny.us

APPENDIX F

E.O. 50 SUPPLY & SERVICE RIDER

EQUAL EMPLOYMENT OPPORTUNITY

[Note: for purposes of this rider, the "contractor" means the Consultant identified in this Contract]

This contract is subject to the requirements of Executive Order No. 50 (April 25, 1980) (§10-14) as revised ("E.O.50") and the Rules and Regulations promulgated thereunder. No contract will be awarded unless and until these requirements have been complied with in their entirety. By signing this contract, the contractor agrees that it:

(1) will not discriminate unlawfully against any employee or applicant for employment because of race, creed, color, national origin, sex, age, handicap, marital status, sexual orientation or citizenship status with respect to all employment decisions including, but not limited to, recruitment, hiring, upgrading, demotion, downgrading, transfer, training, rates of pay or other forms of compensation, layoff, termination, and all other terms and conditions of employment;

(2) will not discriminate in the selection of subcontractors on the basis of the owner's, partners' or shareholders' race, color, creed, national origin, sex, age, handicap, marital status or sexual orientation or citizenship status;

(3) will state in all solicitations or advertisements for employees placed by or on behalf of the contractor that all qualified applicants will receive consideration for employment without regard to race, creed, color, national origin, sex, age, handicap, marital status, sexual orientation or citizenship status, or it is an equal employment opportunity employer;

(4) will send to each labor organization or representative of workers with which it has a collective bargaining agreement or other contract or memorandum of understanding, written notification of its equal employment opportunity commitments under E.O. 50 (§10-14) and the rules and regulations promulgated thereunder; and

(5) will furnish before the contract is awarded all information and reports including an Employment Report which are required by E.O. 50 (§10-14), the rules and regulations promulgated thereunder, and orders of the Director of the Division of Labor Services (the "Division"). Copies of all required reports are available upon request from the contracting agency; and

(6) will permit the Division to have access to all relevant books, records and accounts for the purposes of investigation to ascertain compliance with such rules, regulations, and orders.

The contractor understands that in the event of its noncompliance with the nondiscrimination clauses of this contract or with any such rules, regulations, or orders, such noncompliance shall constitute a material breach of the contract and noncompliance with E.O. 50 (§10-14) and the rules

and regulations promulgated thereunder. After a hearing held pursuant to the rules of the Division, the Director may direct the imposition by the contracting agency head of any or all of the following sanctions:

(i) disapproval of the contractor;
(ii) suspension or termination of the contract;
(iii) declaring the contractor in default; or
(iv) in lieu of any of the foregoing sanctions, the Director may impose an employment program.

The Director of the Division may recommend to the contracting agency head that a contractor who has repeatedly failed to comply with E.O 50 (§10-14) and the rules and regulations promulgated thereunder be determined to be nonresponsible.

The contractor agrees to include the provisions of the foregoing paragraphs in every subcontract or purchase order in excess of New York City's small purchase limit established by rule of New York City's Procurement Policy Board to which it becomes a party unless exempted by E.O. 50 (§10-14) and the rules and regulations promulgated thereunder, so that such provisions will be binding upon each subcontractor or vendor. The contractor will take such action with respect to any subcontract or purchase order as may be directed by the Director of the Division of Labor Services as a means of enforcing such provisions including sanctions for noncompliance.

The contractor further agrees that it will refrain from entering into any contract or contract modification subject to E.O. 50 (§10-14) and the rules and regulations promulgated thereunder with a subcontractor who is not in compliance with the requirements of E.O. 50 (§10-14) and the rules and regulations promulgated thereunder.

APPENDIX G

E.O. 50 EMPLOYMENT REPORT FORM

The Consultant shall complete and submit, and if applicable, shall require its Subcontractors to complete and submit, Employment Reports (as required by E.O. 50) to the Corporation which can be found at http://edc.nyc/vendor-resources

If the Consultant cannot access or download these forms, the Corporation will, upon request, send the Consultant the required forms. The text of said section reads as follows:

Non-Construction Consulting Contracts

Non-construction consulting contracts require a Supply & Service employment report. Generally, the "under 50 employees" form should be used by companies with fewer than 50 employees, and the longer "full form" should be used for companies with more than 50 employees. Please refer to the Supply & Service instructions document to learn more about the forms.

Supply & Service Employment Report Instructions
Supply & Service – under 50 employees
Supply & Service – full form

APPENDIX H

E.O. 50 PAYROLL REPORT FORM AND INSTRUCTIONS

APPENDIX I

OUTSIDE FUNDING SOURCE PROVISIONS

1. General Terms.

This Contract will be funded in whole or in part by the Funds identified in Part I, Section 4.1 of this Contract. The receipt of such Funds is conditioned upon the Consultant's compliance with certain mandatory federal, State and City terms and conditions. The Consultant must comply with all applicable mandatory terms and conditions set forth in the Applicable Requirements and Applicable Agreements including, without limitation, those set forth in Part I, Section 4.3, 4.4, this Appendix, Appendix J and in Appendix K. This Appendix shall be annexed to and made a part of any subcontract entered into by the Consultant pursuant to this Contract, and shall be binding on any Subcontractor. To the extent any terms and conditions set forth in this Appendix conflict with any other terms of this Contract, the terms and conditions of this Appendix shall govern. In the event any terms and conditions set forth in this Appendix conflict with the terms and conditions of Appendix J or Appendix K, the more stringent of the conflicting provisions shall govern.

Consultant acknowledges and agrees that the Corporation has the right to delegate the responsibilities of the Director to the City or such agency of the City as may be appropriate.

The Funds have been made available for the Project under the Applicable Requirements and Applicable Agreements including, without limitation, those listed in Part I, Section 4.3 and 4.4, and any other governing statute or agreement related to the Funds, the Project and/or the Contract.

Notwithstanding anything to the contrary in this Contract, the Corporation shall be under no obligation to make such payments except when, and to the extent, such Funds are available. The Corporation shall not be liable to the Consultant in the event any or all of such Funds are not made available.

2. Termination or Suspension Related to Unavailability of Funds.

In addition to any other right to postpone, delay suspend or terminate the Services or the Contract set forth in this Contract, if, pursuant to the Applicable Requirements or Applicable Agreements or otherwise, there shall be a suspension, termination or reduction of the Funds funding this Contract as a result of which Funds are not available for some or all payments under this Contract, the Corporation shall so notify the Consultant and the Consultant shall, and agrees to, cease to perform the activities specified in the notice (permanently or temporarily, as specified in the notice) on the date set forth therein, which may be immediately. The Consultant shall assume no further binding obligations in connection with any Services specified in the notice to be stopped, after the date set forth in the notice, except that such cessation need only be for the period of suspension if the

Services are suspended rather than terminated. The award of Funds funding this Contract may be suspended or terminated if the Consultant materially fails to comply with any term of such award. The award may also be terminated for convenience in accordance with the Applicable Requirements and Applicable Agreements.

APPENDIX J

APPLICABLE AGREEMENTS

INTENTIONALLY BLANK

APPENDIX K

APPLICABLE REQUIREMENTS

UNIFORM FEDERAL CONTRACT PROVISIONS RIDER FOR FEDERALLY FUNDED PROCUREMENT CONTRACTS

(Version 01.20.2021)

[Instructions to Agencies: This Uniform Federal Contract Provisions Rider for Federally Funded Procurement Contracts ("Rider") must be attached to all federally funded procurement contracts (of any dollar amount) that are subject to 2 CFR Part 200 (Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards). This Rider does not apply to subrecipient or subaward agreements. Procurement contracts funded by HUD's CDBG Program, CDBG-DR Program, or by FEMA must also include the program-specific rider.]

A. *Definitions.* As used in this Rider:

(1) "Awarding Entity" means the entity awarding the Contract. The Awarding Entity may be the City or a contractor at any tier.

(2) "City" means the City of New York.

(3) "Commissioner" means the head of the City agency entering into this Contract.

(4) "Construction" means the building, rehabilitation, alteration, conversion, extension, demolition, painting or repair of any improvement to real property.

(5) "Contract" refers to the contract or the agreement between the Awarding Entity and the Contractor.

(6) "Contractor" means the entity performing the services pursuant to a Contract.

(7) "Federal Agency" means the U.S. agency or agencies funding this Contract in whole or in part.

(8) "Government" means the U.S. government.

(9) "Rider" means this Uniform Federal Contract Provisions Rider.

B. *Termination and Remedies for Breach of Contract.* The following provisions concerning remedies for breach of contract and termination apply to Contracts between the City and the City's Contractor.

(1) **Remedies for Breach of Contract.** If the Contractor violates or breaches the Contract, the City may avail itself of any or all of the remedies provided for elsewhere in this Contract. If there are no remedies provided for elsewhere in this Contract, the City may avail itself of any or all of the following remedies.

After declaring the Contractor in default pursuant to the procedures in paragraph (a) of subdivision (2) of this section (B) below, the City may (i) withhold payment for unsatisfactory services, (ii) suspend or terminate the Contract in whole or in part; and/or (iii) have the services under this Contract completed by such means and in such manner, by contract procured with or without competition, or otherwise, as the City may deem advisable in accordance with all applicable Contract provisions and law. After

completion of the services under this Contract, the City shall certify the expense incurred in such completion, which shall include the cost of procuring that contract. Should the expense of such completion, as certified by the City, exceed the total sum which would have been payable under the Contract if it had been completed by the Contractor, any excess shall be promptly paid by the Contractor upon demand by the City. The excess expense of such completion, including any and all related and incidental costs, as so certified by the City may be charged against and deducted out of monies earned by the Contractor.

(2) **Termination**. The City shall have the right to terminate the Contract in whole or in part for cause, for convenience, due to force majeure, or due to reductions in federal funding. If the Contract does not include termination provisions elsewhere, the following termination provisions apply:

a. **Termination for Cause**. The City shall have the right to terminate the Contract, in whole or in part, for cause upon a determination that the Contractor is in default of the Contract. Unless a shorter time is determined by the City to be necessary, the City shall effect termination according to the following procedure:

i. *Notice to Cure*. The City shall give written notice of the conditions of default signed by the Commissioner, setting forth the ground or grounds upon which such default is declared ("Notice to Cure"). The Contractor shall have ten (10) days from receipt of the Notice to Cure or any longer period that is set forth in the Notice to Cure to cure the default. The Commissioner may temporarily suspend services under the Contract pending the outcome of the default proceedings pursuant to this section.

ii. *Opportunity to be Heard*. If the conditions set forth in the Notice to Cure are not cured within the period set forth in the Notice to Cure, the Commissioner may declare the Contractor in default. Before the Commissioner may exercise his or her right to declare the Contractor in default, the Contractor must be given an opportunity to be heard upon not less than five (5) business days' notice. The Commissioner may, in his or her discretion, provide for such opportunity to be in writing or in person. Such opportunity to be heard shall not occur prior to the end of the cure period but notice of such opportunity to be heard may be given prior to the end of the cure period and may be given contemporaneously with the Notice to Cure.

iii. *Notice of Termination*. After an opportunity to be heard, the Commissioner may terminate the Contract, in whole or in part, upon finding the Contractor in default. The Commissioner shall give the Contractor written notice of such termination ("Notice of Termination"), specifying

the applicable provision(s) under which the Contract is terminated and the effective date of termination. If no date is specified in the Notice of Termination, the termination shall be effective either 10 calendar days from the date the notice is personally delivered or 15 calendar days from the date Notice of Termination is sent by another method. The Notice of Termination shall be personally delivered, sent by certified mail return receipt requested, or sent by fax and deposited in a post office box regularly maintained by the United States Postal Service in a postage pre-paid envelope.

iv. *Grounds for Default.* The City shall have the right to declare the Contractor in default:

1. Upon a breach by the Contractor of a material term or condition of this Contract, including unsatisfactory performance of the services;

2. Upon insolvency or the commencement of any proceeding by or against the Contractor, either voluntarily or involuntarily, under the Bankruptcy Code or relating to the insolvency, receivership, liquidation, or composition of the Contractor for the benefit of creditors;

3. If the Contractor refuses or fails to proceed with the services under the Contract when and as directed by the Commissioner;

4. If the Contractor or any of its officers, directors, partners, five percent (5%) or greater shareholders, principals, or other employee or person substantially involved in its activities are indicted or convicted after execution of the Contract under any state or federal law of any of the following:

a. a criminal offense incident to obtaining or attempting to obtain or performing a public or private contract;

b. fraud, embezzlement, theft, bribery, forgery, falsification, or destruction of records, or receiving stolen property;

c. a criminal violation of any state or federal antitrust law;

d. violation of the Racketeer Influence and Corrupt Organization Act, 18 U.S.C. § 1961 et seq., or the Mail Fraud Act, 18 U.S.C. § 1341 et seq., for acts in connection with the submission of bids or proposals for a public or private contract;

e. conspiracy to commit any act or omission that would constitute grounds for conviction or liability under any statute described in subparagraph (d) above; or

f. an offense indicating a lack of business integrity that seriously and directly affects responsibility as a City vendor.

5. If the Contractor or any of its officers, directors, partners, five percent (5%) or greater shareholders, principals, or other employee or person substantially involved in its activities are subject to a judgment of civil liability under any state or federal antitrust law for acts or omissions in connection with the submission of bids or proposals for a public or private contract; or

6. If the Contractor or any of its officers, directors, partners, five percent (5%) or greater shareholders, principals, or other employee or person substantially involved in its activities makes or causes to be made any false, deceptive, or fraudulent material statement, or fail to make a required material statement in any bid, proposal, or application for City or other government work.

v. *Basis of Settlement*. The City shall not incur or pay any further obligation pursuant to this Contract beyond the termination date set by the City in its Notice of Termination. The City shall pay for satisfactory services provided in accordance with this Contract prior to the termination date. In addition, any obligation necessarily incurred by the Contractor on account of this Contract prior to receipt of notice of termination and falling due after the termination date shall be paid by the City in accordance with the terms of this Contract. In no event shall such obligation be construed as including any lease or other occupancy agreement, oral or written, entered into between the Contractor and its landlord.

b. **Termination for Convenience**. The City shall have the right to terminate the Contract for convenience, by providing written notice ("Notice of Termination") according to the following procedure. The Notice of Termination shall specify the applicable provision(s) under which the Contract is terminated and the effective date of termination, which shall be not less than 10 calendar days from the date the notice is personally delivered or 15 days from the date the Notice of Termination is sent by another method. The Notice of Termination shall be personally delivered, sent by certified mail return receipt requested, or sent by fax and deposited in a post office box regularly maintained by the United States Postal Service in a postage pre-paid envelope. The basis of

settlement shall be as provided for in subparagraph (v) of paragraph (a) of subdivision (2) of this section (B), above.

c. **Termination due to Force Majeure**

i. For purposes of this Contract, a force majeure event is an act or event beyond the control and without any fault or negligence of the Contractor ("Force Majeure Event"). Force Majeure Events may include, but are not limited to, fire, flood, earthquake, storm or other natural disaster, civil commotion, war, terrorism, riot, and labor disputes not brought about by any act or omission of the Contractor.

ii. In the event the Contractor cannot comply with the terms of the Contract (including any failure by the Contractor to make progress in the performance of the services) because of a Force Majeure Event, then the Contractor may ask the Commissioner to excuse the nonperformance and/or terminate the Contract. If the Commissioner, in his or her reasonable discretion, determines that the Contractor cannot comply with the terms of the Contract because of a Force Majeure Event, then the Commissioner shall excuse the nonperformance and may terminate the Contract. Such a termination shall be deemed to be without cause.

iii. If the City terminates the Contract due to a Force Majeure Event, the basis of settlement shall be as provided for in subparagraph (v) of paragraph (a) of subdivision (2) of this section (B), above.

d. **Termination due to Reductions in Federal Funding**

i. This Contract is funded in whole or in part by funds secured from the Federal government. Should the Federal government reduce or discontinue such funds, the City shall have, in its sole discretion, the right to terminate this Contract in whole or in part, or to reduce the funding and/or level of services of this Contract caused by such action by the Federal government, including, in the case of the reduction option, but not limited to, the reduction or elimination of programs, services or service components; the reduction or elimination of contract-reimbursable staff or staff-hours, and corresponding reductions in the budget of this Contract and in the total amount payable under this Contract. Any reduction in funds pursuant to this paragraph shall be accompanied by an appropriate reduction in the services performed under this Contract.

ii. In the case of the reduction option referred to in subparagraph (i), above, any such reduction shall be effective as of the date set forth in a written notice thereof to the Contractor, which shall be not less than 30 calendar days from the date of such notice. Prior to sending such notice of reduction, the City shall advise the Contractor that such option is being exercised and afford the Contractor an opportunity to make within seven calendar days any suggestion(s) it may have as to which program(s), service(s), service component(s), staff or staff-hours might be reduced or eliminated, provided, however, that the City shall not be bound to utilize any of the Contractor's suggestions and that the City shall have sole discretion as to how to effectuate the reductions.

iii. If the City reduces funding pursuant to this paragraph (d), the basis of settlement shall be as provided for in subparagraph (v) of paragraph (a) of subdivision (2) of this section (B), above.

C. **Standard Provisions**. The Contractor shall comply with, include in its subcontracts, and cause its subcontractors to comply with the following provisions, as applicable:

(1) *Reporting*. Contractor shall be required to produce and deliver such reports relating to the services performed under the Contract as may be required by the Awarding Entity, City or any other State or Federal governmental agency with jurisdiction.

(2) *Non-Discrimination*. Contractor shall not violate any Federal, State, or City law prohibiting discrimination concerning employment, the provision of services, and, if applicable, housing, funded by this Contract.

(3) *Environmental Protection*. If the Contract is in excess of $150,000, the Contractor shall comply with all applicable standards, orders, or regulations issued under the Clean Air Act (42 U.S.C. § 7401-7671q), Federal Water Pollution Control Act as amended (33 U.S.C. §§ 1251-1387), Section 508 of the Clean Water Act (33 U.S.C. § 1368), Executive Order 11738, and Environmental Protection Agency regulations (provisions of 40 CFR Part 50 and 2 CFR Part 1532 related to the Clean Air Act and Clean Water Act). Violations must be reported to the Federal Agency and the Regional Office of the Environmental Protection Agency (EPA). The Contractor shall include this provision in all subcontracts.

(4) *Energy Efficiency*. The Contractor shall comply with mandatory standards and policies relating to energy efficiency that are contained in the New York State energy conservation plan issued in compliance with the Energy Policy Conservation Act (Pub. L. 94-163).

(5) *Debarment*. The Contractor certifies that neither it nor its principals or affiliates are currently in a state of debarment, suspension, exclusion, disqualification, or other ineligible status as a result of prior performance, failure, fraud, or violation of City or New York State laws. The Contractor further certifies that neither it nor its principals or affiliates are debarred, suspended, excluded, disqualified, or otherwise ineligible for participation in Federal assistance programs. The City reserves the right to terminate this

Contract if knowledge of debarment, suspension, exclusion, disqualification or other ineligibility has been withheld by the Contractor.

(6) *Lobbying.* The Contractor certifies, to the best of its knowledge and belief, that:

(a) No Federal appropriated funds have been paid or will be paid, by or on behalf of it, to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement;

(b) If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, it will complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," (which is available on the HUD website or here: https://www.hudexchange.info/resources/documents/HUD-Form-Sflll.pdf) in accordance with its instructions; and

(c) It will require that the language of this Section (C)(6) be included in the award documents for all subcontracts at all tiers.

(d) This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by 31 U.S.C. § 1352. Any person who fails to file the required certification shall be subject to a civil penalty of not less than $10,000 and not more than $100,000 for each such failure.

(7) *Solid Waste Disposal Act.* Pursuant to 2 CFR § 200.323, Contractor must comply with section 6002 of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act. The requirements of Section 6002 include procuring only items designated in guidelines of the Environmental Protection Agency (EPA) at 40 CFR Part 247 that contain the highest percentage of recovered materials practicable, consistent with maintaining a satisfactory level of competition, where the purchase price of the item exceeds $ 10,000 or the value of the quantity acquired during the preceding fiscal year exceeded $ 10,000; procuring solid waste management services in a manner that maximizes energy and resource recovery; and establishing an affirmative procurement program for procurement of recovered materials identified in the EPA guidelines.

(8) *Prohibition on certain telecommunications and video surveillance services or equipment.*

(a) The Contractor is prohibited from obligating or expending loan or grant funds to:
(1) Procure or obtain;
(2) Extend or renew a contract to procure or obtain; or
(3) Enter into a contract (or extend or renew a contract) to procure or obtain equipment, services, or systems that uses covered

telecommunications equipment or services as a substantial or essential component of any system, or as critical technology as part of any system. As described in Public Law 115–232, section 889, covered telecommunications equipment is telecommunications equipment produced by Huawei Technologies Company or ZTE Corporation (or any subsidiary or affiliate of such entities).

(i) For the purpose of public safety, security of government facilities, physical security surveillance of critical infrastructure, and other national security purposes, video surveillance and telecommunications equipment produced by Hytera Communications Corporation, Hangzhou Hikvision Digital Technology Company, or Dahua Technology Company (or any subsidiary or affiliate of such entities).

(ii) Telecommunications or video surveillance services provided by such entities or using such equipment.

(iii) Telecommunications or video surveillance equipment or services produced or provided by an entity that the Secretary of Defense, in consultation with the Director of the National Intelligence or the Director of the Federal Bureau of Investigation, reasonably believes to be an entity owned or controlled by, or otherwise connected to, the government of a covered foreign country.

(b) In implementing the prohibition under Public Law 115–232, section 889, subsection (f), paragraph (1), heads of executive agencies administering loan, grant, or subsidy programs shall prioritize available funding and technical support to assist affected businesses, institutions and organizations as is reasonably necessary for those affected entities to transition from covered communications equipment and services, to procure replacement equipment and services, and to ensure that communications service to users and customers is sustained.

(c) The Contractor's attention is directed to Public Law 115–232, section 889 for additional information.

(d) The Contractor's attention is directed to § 200.471.

(9) Domestic preferences for procurements.

(a) As appropriate and to the extent consistent with law, the Contractor should, to the greatest extent practicable under a Federal award, provide a preference for the purchase, acquisition, or use of goods, products, or materials produced in the United States (including but not limited to iron, aluminum, steel, cement, and other manufactured products). The requirements of this section must be included in all subawards including all contracts and purchase orders for work or products under this award.

(b) For purposes of this section:
(1) "Produced in the United States" means, for iron and steel products, that all manufacturing processes, from the initial melting stage through the application of coatings, occurred in the United States.

(2) ''Manufactured products'' means items and construction materials composed in whole or in part of nonferrous metals such as aluminum; plastics and polymer-based products such as polyvinyl chloride pipe; aggregates such as concrete; glass, including optical fiber; and lumber.

(10) *Documentation of Costs.* All costs shall be supported by properly executed payrolls, time records, invoices, or vouchers, or other official documentation evidencing in proper detail the nature and propriety of the charges. All checks, payrolls, invoices, contracts, vouchers, orders or other accounting documents, pertaining in whole or in part to the Agreement, shall be clearly identified and regularly accessible.

(11) *Records Retention.* The Contractor shall retain all books, documents, papers, and records relating to the services performed under the Contract in accordance with 2 C.F.R. §200.334.

(12) *Records Access.* The Contractor shall grant access to the City, State or any other pass-through entity, the Federal Agency, Inspectors General, and/or the Comptroller General of the United States, or any of their duly authorized representatives, to any books, documents, papers, and/or records of the Contractor that are pertinent to the Contract for the purpose of making audits, examinations, excerpts, and transcripts. The right also includes timely and reasonable access to the Contractor's personnel for the purpose of interview and discussion related to such documents. The rights of access in this section are not limited to the required retention period but last as long as the records are retained.

(13) *Small Firms, M/WBE Firms, and Labor Surplus Area Firms.* Contractor shall take the following affirmative steps in the letting of subcontracts, if subcontracts are to be let, in order to ensure that minority firms, women's business enterprises, and labor surplus area firms are used when possible:

a. Placing qualified small and minority businesses and women's business enterprises on solicitation lists;

b. Assuring that small and minority businesses, and women's business enterprises are solicited whenever they are potential sources;

c. Dividing total requirements, when economically feasible, into smaller tasks or quantities to permit maximum participation by small and minority businesses, and women's business enterprises;

d. Establishing delivery schedules, where the requirement permits, which encourage participation by small and minority businesses, and women's business enterprises; and

e. Using the services and assistance of the Small Business Administration, and the Minority Business Development Agency of the Department of Commerce.

(14) *Intangible Property.*

a. Pursuant to 2 CFR § 200.315, the Government reserves a royalty-free, non-exclusive, and irrevocable right to obtain, reproduce, publish, or otherwise use, and to authorize others to use, for Government purposes: (a) the copyright in any work developed under the Contract or subcontract; and (b) any rights of copyright to which a Contractor purchases ownership with grant support.

b. Any reports, documents, data, photographs, deliverables, and/or other materials produced pursuant to the Contract ("Copyrightable Materials"), and any and all drafts and/or other preliminary materials in any format related to such items produced pursuant to the contract, shall upon their creation become the exclusive property of the City. The Copyrightable Materials shall be considered "work-made-for-hire" within the meaning and purview of Section 101 of the United States Copyright Act, 17 U.S.C. § 101, and the City shall be the copyright owner thereof and of all aspects, elements and components thereof in which copyright protection might exist. To the extent that the Copyrightable Materials do not qualify as "work-made-for-hire," the Contractor hereby irrevocably transfers, assigns and conveys exclusive copyright ownership in and to the Copyrightable Materials to the City, free and clear of any liens, claims, or other encumbrances. The Contractor shall retain no copyright or intellectual property interest in the Copyrightable Materials. The Copyrightable Materials shall be used by the Contractor for no purpose other than in the performance of this Contract without the prior written permission of the City. The City may grant the Contractor a license to use the Copyrightable Materials on such terms as determined by the City and set forth in the license.

c. The Contractor acknowledges that the City may, in its sole discretion, register copyright in the Copyrightable Materials with the United States Copyright Office or any other government agency authorized to grant copyright registrations. The Contractor shall fully cooperate in this effort, and agrees to provide any and all documentation necessary to accomplish this.

d. The Contractor represents and warrants that the Copyrightable Materials: (i) are wholly original material not published elsewhere (except for material that is in the public domain); (ii) do not violate any copyright law; (iii) do not constitute defamation or invasion of the right of privacy or publicity; and (iv) are not an infringement, of any kind, of the rights of any third party. To the extent that the Copyrightable Materials incorporate any non-original material, the Contractor has obtained all necessary permissions and clearances, in writing, for the use of such non-original material under this Contract, copies

of which shall be provided to the City upon execution of this Contract.

e. The Contractor shall promptly and fully report to the City any discovery or invention arising out of or developed in the course of performance of this Contract and the Contractor shall promptly and fully report to the Government to make a determination as to whether patent protection on such invention shall be sought and how the rights in the invention or discovery, including rights under any patent issued thereon, shall be disposed of and administered in order to protect the public interest.

f. If the Contractor publishes a work dealing with any aspect of performance under this Agreement, or with the results of such performance, the City shall have a royalty-free, non-exclusive irrevocable license to reproduce, publish, or otherwise use such work for City governmental purposes.

D. Special Provisions for Construction Contracts. If this Contract involves Construction work, design for Construction, or Construction services, all such work or services performed by the Contractor and its subcontractors shall be subject to the following requirements in addition to those set forth above in paragraphs (A), (B), and (C):

(1) *Federal Labor Standards.* The Contractor will comply with the following:

a. The Davis-Bacon Act (40 U.S.C. §§ 3141-3148): If required by the federal program legislation, in Construction contracts involving an excess of $2000, and subject to any other federal program limitations, all laborers and mechanics must be paid at a rate not less than those determined by the Secretary of Labor to be prevailing for the City, which rates are to be provided by the City. These wage rates are a federally mandated minimum only, and will be superseded by any State or City requirement mandating higher wage rates. The Contractor also agrees to comply with Department of Labor Regulations pursuant to the Davis-Bacon Act found in 29 CFR Parts 1, 3, 5 and 7 which enforce statutory labor standards provisions.

b. If required by the federal program legislation and subject to any other federal program limitations, Sections 103 and 107 of the Contract Work Hours and Safe Standards Act (40 U.S.C. §§ 3701-3708), which provides that no laborer or mechanic shall be required or permitted to work more than eight hours in a calendar day or in excess of forty hours in any workweek, unless such laborer or mechanic is paid at an overtime rate of 1½ times his/her basic rate of pay for all hours worked in excess of these limits, under any Construction contract costing in excess of $2000. In the event of a violation of this provision, the Contractor shall not only be liable to any affected employee for

his/her unpaid wages, but shall be additionally liable to the United States for liquidated damages.

c. Copeland Anti-Kickback Act: If required by the federal program legislation and subject to any other federal program limitations: (i) the Contractor shall comply with 18 U.S.C. § 874, 40 U.S.C. § 3145, and the requirements of 29 C.F.R. Part 3 as may be applicable, which are incorporated by reference into this Contract; (ii) The Contractor or subcontractor shall insert in any subcontracts the language contained in (i) of this subsection and also a clause requiring the subcontractors to include the language in subsection (i) in any lower tier subcontracts. The Contractor shall be responsible for the compliance by any subcontractor or lower tier subcontractor of this subsection; and (iii) A breach of this subsection may be grounds for termination of the Contract, and for debarment as a contractor or subcontractor as provided in 29 C.F.R. § 5.12.

d. If this Contract involves Construction work, design for Construction, or Construction services, a more complete detailed statement of Federal Labor Standards annexed hereto as FEDERAL EXHIBIT 2. If there is a conflict between the provisions of this Article D and FEDERAL EXHIBIT 2, the stricter standard shall be controlling.

(2) *Equal Employment Opportunity*. Executive Order 11246, as amended, and as supplemented in Department of Labor regulations (41 CFR chapter 60) for Construction contracts or subcontracts in excess of $10,000. The Contractor shall include the notice found at FEDERAL EXHIBIT I in all Construction subcontracts. For the purposes of the Equal Opportunity Construction Contract Specifications and Clause below, the term "Construction Work" means the construction, rehabilitation, alteration, conversion, extension, demolition or repair of buildings, highways, or other changes or improvements to real property, including facilities providing utility services. The term also includes the supervision, inspection, and other onsite functions incidental to the actual construction .

Standard Federal Equal Employment Opportunity Construction Contract Specifications for Contracts and Subcontracts in Excess of $10,000.

1. As used in these specifications:

a. "Covered area" means the geographical area described in the solicitation from which this Contract resulted;

b. "Director" means Director, Office of Federal Contract Compliance Programs, United States Department of Labor, or any person to whom the Director delegates authority;

c. "Employer identification number" means the Federal Social Security number used on the Employer's Quarterly Federal Tax Return, U.S. Treasury Department Form 941.

d. "Minority" includes:

(i) Black (all persons having origins in any of the Black African racial groups not of Hispanic origin);

(ii) Hispanic (all persons of Mexican, Puerto Rican, Cuban, Central or South American or other Spanish Culture or origin, regardless of race);

(iii) Asian and Pacific Islander (all persons having origins in any of the original peoples of the Far East, Southeast Asia, the Indian Subcontinent, or the Pacific Islands); and

(iv) American Indian or Alaskan Native (all persons having origins in any of the original peoples of North America and maintaining identifiable tribal affiliations through membership and participation or community identification).

2. Whenever the Contractor, or any subcontractor at any tier, subcontracts a portion of the work involving any Construction trade, it shall physically include in each subcontract in excess of $10,000 the provisions of these specifications and the Notice which contains the applicable goals for minority and female participation and which is set forth in the solicitations from which this Contract resulted.

3. If the Contractor is participating (pursuant to 41 CFR 60-4.5) in a Hometown Plan approved by the U.S. Department of Labor in the covered area either individually or through an association, its affirmative action obligations on all work in the Plan area (including goals and timetables) shall be in accordance with that Plan for those trades which have unions participating in the Plan. Contractors must be able to demonstrate their participation in and compliance with the provisions of any such Hometown Plan. Each Contractor or subcontractor participating in an approved Plan is individually required to comply with its obligations under the EEO clause, and to make a good faith effort to achieve each goal under the Plan in each trade in which it has employees. The overall good faith performance by other Contractors or subcontractors toward a goal in an approved Plan does not excuse any covered Contractor's or subcontractor's failure to take good faith efforts to achieve the Plan goals and timetables.

4. The Contractor shall implement the specific affirmative action standards provided in paragraphs 7 a through p of these specifications. The goals set forth in the solicitation from which this Contract resulted are expressed as percentages of the total hours of employment and training of minority and female utilization the Contractor should reasonably be able to achieve in each Construction trade in which it has employees in the covered area. Covered Construction Contractors performing Construction Work in geographical areas where they do not have a Federal or federally assisted Construction contract shall apply the minority and female goals established for the geographical areas where the work is being performed. Goals are published periodically in the Federal Register in notice form, and such notices may be obtained from any Office of Federal Contract Compliance Programs office or from Federal procurement contracting officers. The Contractor is expected to make substantially uniform progress in meeting its goals in each craft during the period specified.

5. Neither the provisions of any collective bargaining agreement, nor the failure by a union with whom the Contractor has a collective bargaining agreement, to refer either minorities or women shall excuse the Contractor's obligations under these specifications, Executive Order 11246 as amended, or the regulations promulgated pursuant thereto.

6. In order for the nonworking training hours of apprentices and trainees to be counted in meeting the goals, such apprentices and trainees must be employed by the Contractor during the training period, and the Contractor must have made a commitment to employ the apprentices and trainees at the completion of their training, subject to the

availability of employment opportunities. Trainees must be trained pursuant to training programs approved by the U.S. Department of Labor.

7. The Contractor shall take specific affirmative actions to ensure equal employment opportunity. The evaluation of the Contractor's compliance with these specifications shall be based upon its effort to achieve maximum results from its actions. The Contractor shall document these efforts fully, and shall implement affirmative action steps at least as extensive as the following:

a. Ensure and maintain a working environment free of harassment, intimidation, and coercion at all sites, and in all facilities at which the Contractor's employees are assigned to work. The Contractor, where possible, will assign two or more women to each Construction project. The Contractor shall specifically ensure that all foremen, superintendents, and other on-site supervisory personnel are aware of and carry out the Contractor's obligation to maintain such a working environment, with specific attention to minority or female individuals working at such sites or in such facilities.

b. Establish and maintain a current list of minority and female recruitment sources, provide written notification to minority and female recruitment sources and to community organizations when the Contractor or its unions have employment opportunities available, and maintain a record of the organization's responses.

c. Maintain a current file of the names, addresses and telephone numbers of each minority and female off-the-street applicant and minority or female referral from a union, a recruitment source or community organization and of what action was taken with respect to each such individual. If such individual was sent to the union hiring hall for referral and was not referred back to the Contractor by the union or, if referred, not employed by the Contractor, this shall be documented in the file with the reason therefor, along with whatever additional actions the Contractor may have taken.

d. Provide immediate written notification to the Director when the union or unions with which the Contractor has a collective bargaining agreement has not referred to the Contractor a minority person or woman sent by the Contractor, or when the Contractor has other information that the union referral process has impeded the Contractor's efforts to meet its obligations.

e. Develop on-the-job training opportunities and/or participate in training programs for the area which expressly include minorities and women, including upgrading programs and apprenticeship and trainee programs relevant to the Contractor's employment needs, especially those programs funded or approved by the Department of Labor. The Contractor shall provide notice of these programs to the sources compiled under 7b above.

f. Disseminate the Contractor's EEO policy by providing notice of the policy to unions and training programs and requesting their cooperation in assisting the Contractor in meeting its EEO obligations; by including it in any policy manual and collective bargaining agreement; by publicizing it in the company newspaper, annual report, etc.; by specific review of the policy with all management personnel and with all minority and female employees at least once a year; and by posting the company EEO policy on bulletin boards accessible to all employees at each location where Construction Work is performed.

g. Review, at least annually, the company's EEO policy and affirmative action obligations under these specifications with all employees having any responsibility

for hiring, assignment, layoff, termination or other employment decisions including specific review of these items with on-site supervisory personnel such as Superintendents, General Foremen, etc., prior to the initiation of Construction Work at any job site. A written record shall be made and maintained identifying the time and place of these meetings, persons attending, subject matter discussed, and disposition of the subject matter.

h. Disseminate the Contractor's EEO policy externally by including it in any advertising in the news media, specifically including minority and female news media, and providing written notification to and discussing the Contractor's EEO policy with other Contractors and subcontractors with whom the Contractor does or anticipates doing business.

i. Direct its recruitment efforts, both oral and written, to minority, female and community organizations, to schools with minority and female students and to minority and female recruitment and training organizations serving the Contractor's recruitment area and employment needs. Not later than one month prior to the date for the acceptance of applications for apprenticeship or other training by any recruitment source, the Contractor shall send written notification to organizations such as the above, describing the openings, screening procedures, and tests to be used in the selection process.

j. Encourage present minority and female employees to recruit other minority persons and women and, where reasonable, provide after school, summer and vacation employment to minority and female youth both on the site and in other areas of a Contractor's work force.

k. Validate all tests and other selection requirements where there is an obligation to do so under 41 CFR Part 60-3.

l. Conduct, at least annually, an inventory and evaluation at least of all minority and female personnel for promotional opportunities and encourage these employees to seek or to prepare for, through appropriate training, etc., such opportunities.

m. Ensure that seniority practices, job classifications, work assignments and other personnel practices, do not have a discriminatory effect by continually monitoring all personnel and employment related activities to ensure that the EEO policy and the Contractor's obligations under these specifications are being carried out.

n. Ensure that all facilities and company activities are non-segregated except that separate or single-user toilet and necessary changing facilities shall be provided to assure privacy between the sexes.

o. Document and maintain a record of all solicitations of offers for subcontracts from minority and female Construction contractors and suppliers, including circulation of solicitations to minority and female Contractor associations and other business associations.

p. Conduct a review, at least annually, of all supervisor's adherence to and performance under the Contractor's EEO policies and affirmative action obligations.

8. Contractors are encouraged to participate in voluntary associations which assist in fulfilling one or more of their affirmative action obligations (7a through p). The efforts of a Contractor association, joint Contractor-union, Contractor-community, or other similar group of which the Contractor is a member and participant, may be asserted

as fulfilling any one or more of its obligations under 7a through p of these specifications provided that the Contractor actively participates in the group, makes every effort to assure that the group has a positive impact on the employment of minorities and women in the industry, ensures that the concrete benefits of the Program are reflected in the Contractor's minority and female work force participation, makes a good faith effort to meet its individual goals and timetables, and can provide access to documentation which demonstrates the effectiveness of actions taken on behalf of the Contractor. The obligation to comply, however, is the Contractor's and failure of such a group to fulfill an obligation shall not be a defense for the Contractor's noncompliance.

9. A single goal for minorities and a separate single goal for women have been established. The Contractor, however, is required to provide equal employment opportunity and to take affirmative action for all minority groups, both male and female, and all women, both minority and non-minority. Consequently, the Contractor may be in violation of the Executive Order if a particular group is employed in a substantially disparate manner (for example, even though the Contractor has achieved its goals for women generally, the Contractor may be in violation of the Executive Order if a specific minority group of women is underutilized).

10. The Contractor shall not use the goals and timetables or affirmative action standards to discriminate against any person because of race, color, religion, sex, sexual orientation, gender identity, or national origin.

11. The Contractor shall not enter into any Subcontract with any person or firm debarred from Government contracts pursuant to Executive Order 11246 or suspended or is otherwise excluded from or ineligible for participation in federal assistance programs.

12. The Contractor shall carry out such sanctions and penalties for violation of these specifications and of the Equal Opportunity Clause, including suspension, termination and cancellation of existing subcontracts as may be imposed or ordered pursuant to Executive Order 11246, as amended, and its implementing regulations, by the Office of Federal Contract Compliance Programs. Any Contractor who fails to carry out such sanctions and penalties shall be in violation of these specifications and Executive Order 11246, as amended.

13. The Contractor, in fulfilling its obligations under these specifications, shall implement specific affirmative action steps, at least as extensive as those standards prescribed in paragraph 7 of these specifications, so as to achieve maximum results from its efforts to ensure equal employment opportunity. If the Contractor fails to comply with the requirements of the Executive Order, the implementing regulations, or these specifications, the Director shall proceed in accordance with 41 CFR 60-4.8.

14. The Contractor shall designate a responsible official to monitor all employment related activity to ensure that the company EEO policy is being carried out, to submit reports relating to the provisions hereof as may be required by the Government and to keep records. Records shall at least include for each employee the name, address, telephone numbers, Construction trade, union affiliation if any, employee identification number when assigned, social security number, race, sex, status (e.g., mechanic, apprentice trainee, helper, or laborer), dates of changes in status, hours worked per week in the indicated trade, rate of pay, and locations at which the work was performed. Records shall be maintained in an easily understandable and retrievable form; however, to the degree that existing records satisfy this requirement, Contractors shall not be required to maintain separate records.

15. Nothing herein provided shall be construed as a limitation upon the application of other laws which establish different standards of compliance or upon the application of requirements for hiring of local or other areas residents (e.g., those under the Public Works Employment Act of 1977 and the Community Development Block Grant Program).

(3) **Equal Opportunity Clause** (for contracts for Construction Work) required by 41 CFR § 60-1.4(b).

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

(1) The Contractor will not discriminate against any employee or applicant for employment because of race, color, religion, sex, sexual orientation, gender identity, or national origin. The Contractor will take affirmative action to ensure that applicants are employed, and that employees are treated during employment without regard to their race, color, religion, sex, sexual orientation, gender identity, or national origin. Such action 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 setting forth the provisions of this nondiscrimination clause.

(2) The Contractor 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 race, color, religion, sex, sexual orientation, gender identity, or national origin.

(3) The Contractor will not discharge or in any other manner discriminate against any employee or applicant for employment because such employee or applicant has inquired about, discussed, or disclosed the compensation of the employee or applicant or another employee or applicant. This provision shall not apply to instances in which an employee who has access to the compensation information of other employees or applicants as a part of such employee's essential job functions discloses the compensation of such other employees or applicants to individuals who do not otherwise have access to such information, unless such disclosure is in response to a formal complaint or charge, in furtherance of an investigation, proceeding, hearing, or action, including an investigation conducted by the employer, or is consistent with the Contractor's legal duty to furnish information.

(4) The Contractor will send to each labor union or representative of workers with which he has a collective bargaining agreement or other contract or understanding, a notice to be provided advising the said labor union or workers' representatives of the Contractor's commitments under this section, and shall post copies of the notice in conspicuous places available to employees and applicants for employment.

(5) The Contractor will comply with all provisions of Executive Order 11246 of September 24, 1965, and of the rules, regulations, and relevant orders of the Secretary of Labor.

(6) The Contractor will furnish all information and reports required by Executive Order 11246 of September 24, 1965, and by rules, regulations, and orders of the Secretary of Labor, or pursuant thereto, and will permit access to his books, records, and accounts by

the administering agency and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations, and orders.

(7) In the event of the Contractor's noncompliance with the nondiscrimination clauses of this contract or with any of the said rules, regulations, or orders, this contract may be canceled, terminated, or suspended in whole or in part and the Contractor may be declared ineligible for further Government contracts or federally assisted construction contracts in accordance with procedures authorized in Executive Order 11246 of September 24, 1965, and such other sanctions may be imposed and remedies invoked as provided in Executive Order 11246 of September 24, 1965, or by rule, regulation, or order of the Secretary of Labor, or as otherwise provided by law.

(8) The Contractor will include the portion of the sentence immediately preceding paragraph (1) and the provisions of paragraphs (1) through (8) in every subcontract or purchase order unless exempted by rules, regulations, or orders of the Secretary of Labor issued pursuant to section 204 of Executive Order 11246 of September 24, 1965, so that such provisions will be binding upon each subcontractor or vendor. The Contractor will take such action with respect to any subcontract or purchase order as the administering agency may direct as a means of enforcing such provisions, including sanctions for noncompliance:

Provided, however, that in the event a Contractor becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of such direction by the administering agency, the Contractor may request the United States to enter into such litigation to protect the interests of the United States.

E. **Rights to Inventions. [Special Provisions For Contracts Involving Experimental, Developmental, or Research Work.]**

(1) If this Contract involves the performance of experimental, developmental, or research work by the Contractor or its subcontractors, and the entity performing such work is a Nonprofit Organization or Small Business Firm as defined below, the following provisions apply in addition to those set forth above in paragraphs (a), (b ad (c), unless the Contract specifically states that this provision is superseded:

a. Definitions. The following definitions apply to this section (D).

i. "Invention" means any invention or discovery which is or may be patentable or otherwise protectable under Title 35 of the United States Code, or any novel variety of plant which is or may be protected under the Plant Variety Protection Act (7 U.S.C. § 2321 *et seq.*).

ii. "Subject invention" means any invention of the Contractor conceived or first actually reduced to practice in the performance of work under this Contract, provided that in the case of a variety of plant, the date of determination (as defined in section 41(d) of the Plant Variety Protection Act, 7 U.S.C. 2401(d)) must also occur during the period of Contract performance.

iii. "Practical Application" means to manufacture in the case of a composition or product, to practice in the case of a

process or method, or to operate in the case of a machine or system; and, in each case, under such conditions as to establish that the invention is being utilized and that its benefits are, to the extent permitted by law or government regulations, available to the public on reasonable terms.

iv. "Made" when used in relation to any invention means the conception or first actual reduction to practice of such invention.

v. "Small Business Firm" means a small business concern as defined at section 2 of Pub. L. 85-536 (15 U.S.C. 632) and implementing regulations of the Administrator of the Small Business Administration. For the purpose of this clause, the size standards for small business concerns involved in government procurement and subcontracting at 13 CFR 121.3-8 and 13 CFR 121.3-12, respectively, will be used.

vi. "Nonprofit Organization" means a university or other institution of higher education or an organization of the type described in section 501(c)(3) of the Internal Revenue Code of 1954 (26 U.S.C. 501(c) and exempt from taxation under section 501(a) of the Internal Revenue Code (25 U.S.C. 501(a)) or any nonprofit scientific or educational organization qualified under a state nonprofit organization statute.

vii. "Statutory period" means the one-year period before the effective filing date of a claimed invention during which exceptions to prior art exist per 35 U.S.C. 102(b), as amended by the Leahy-Smith America Invents Act, Public Law 112-29.

viii. The "contractor" means any person, small business firm or nonprofit organization, or as set forth in section 1, paragraph (b)(4) of Executive Order 12591, as amended, any business firm regardless of size, which is a party to a funding agreement.

b. *Allocation of Principal Rights*. The Contractor may retain the entire right, title, and interest throughout the world to each subject invention subject to the provisions of this clause and 35 U.S.C. 203. With respect to any subject invention in which the Contractor retains title, the Federal government shall have a nonexclusive, nontransferable, irrevocable, paid-up license to practice or have practiced for or on behalf of the United States the subject invention throughout the world.

c. *Invention Disclosure ,Election of Title and Filing of Patent Application by Contractor.*

i. The Contractor will disclose each subject invention to the City and the Federal Agency within two months after the inventor discloses it in writing to Contractor personnel responsible for patent matters. Such disclosure shall be in the form of a written report and shall identify the contract under which the invention was made and the inventor(s). It shall be sufficiently complete in technical detail to convey a clear understanding to the extent known at the time of the disclosure, of the nature, purpose, operation, and the physical, chemical, biological or electrical characteristics of the invention. The disclosure shall also identify any publication, on sale or public use of the invention and whether a manuscript describing the invention has been submitted for publication and, if so, whether it has been accepted for publication at the time of disclosure. In addition, after such disclosure, the Contractor will promptly notify the City and the Federal Agency of the acceptance of any manuscript describing the invention for publication or of any on sale or public use planned by the Contractor.

ii. The Contractor will elect in writing whether or not to retain title to any such invention by notifying the City and the Federal Agency within two years of disclosure to the City and the Federal Agency. However, in any case where a patent, a printed publication, public use, sale, or other availability to the public has initiated the one year statutory period wherein valid patent protection can still be obtained in the United States, the period for election of title may be shortened by the Federal Agency to a date that is no more than 60 days prior to the end of the statutory period.

iii. The Contractor will file its initial patent application on a subject invention to which it elects to retain title within one year after election of title or, if earlier, prior to the end of any statutory period wherein valid patent protection can be obtained in the United States after a publication, on sale, or public use. If the Contractor files a provisional application as its initial patent application, it shall file a non-provisional application within 10 months of the filing of the provisional application. The Contractor will file patent applications in additional countries or international patent offices within earlier ten months of the first filed patent application or six months from the date permission is granted by the Commissioner of Patents to file foreign patent

applications where such filing has been prohibited by a Secrecy Order.

iv. For any subject invention with Federal agency and contractor co-inventors, where the Federal agency employing such co-inventor determines that it would be in the interest of the government, pursuant to 35 U.S.C. 207(a)(3), to file an initial patent application on the subject invention, the Federal agency employing such co-inventor, at its discretion and in consultation with the contractor, may file such application at its own expense, provided that the contractor retains the ability to elect title pursuant to 35 U.S.C. 202(a).

v. Requests for extension of the time for disclosure, election, and filing under paragraphs (i), (ii), and (iii) of this clause may, at the discretion of the Federal agency, be granted. When a contractor has requested an extension for filing a non-provisional application after filing a provisional application, a one-year extension will be granted unless the Federal agency notifies the contractor within 60 days of receiving the request.

d. *Conditions When the Government May Obtain Title*

The Contractor will convey to the Federal Agency, upon written request, title to any subject invention --

i. If the Contractor fails to disclose or elect title to the subject invention within the times specified in (c) of this clause, or elects not to retain title., .

ii. In those countries in which the Contractor fails to file patent applications within the times specified in paragraph (c) of this clause; provided, however, that if the Contractor has filed a patent application in a country after the times specified in (c) of this clause, but prior to its receipt of the written request of the Federal Agency, the Contractor shall continue to retain title in that country.

iii. In any country in which the Contractor decides not to continue the prosecution of any non-provisional patent application for, to pay a maintenance annuity or renewal fee on, or to defend in a reexamination or opposition proceeding on, a patent on a subject invention.

e. Minimum Rights to Contractor and Protection of the Contractor Right to File

i. The Contractor will retain a nonexclusive royalty-free license throughout the world in each subject invention to which the Government obtains title, except if the Contractor fails to disclose the invention within the times specified in (c), above. The Contractor's license extends to its domestic subsidiary and affiliates, if any, within the corporate structure of which the Contractor is a party and includes the right to grant sublicenses of the same scope to the extent the Contractor was legally obligated to do so at the time the Contract was awarded. The license is transferable only with the approval of the Federal Agency except when transferred to the successor of that party of the Contractor's business to which the invention pertains.

ii. The Contractor's domestic license may be revoked or modified by the funding Federal Agency to the extent necessary to achieve expeditious practical application of the subject invention pursuant to an application for an exclusive license submitted in accordance with applicable provisions at 37 CFR Part 404 and agency licensing regulations (if any). This license will not be revoked in that field of use or the geographical areas in which the Contractor has achieved practical application and continues to make the benefits of the invention reasonably accessible to the public. The license in any foreign country may be revoked or modified at the discretion of the funding Federal Agency to the extent the Contractor, its licensees, or the domestic subsidiaries or affiliates have failed to achieve practical application in that foreign country.

iii. Before revocation or modification of the license, the funding Federal Agency will furnish the Contractor a written notice of its intention to revoke or modify the license, and the Contractor will be allowed thirty days (or such other time as may be authorized by the funding Federal Agency for good cause shown by the Contractor) after the notice to show cause why the license should not be revoked or modified. The Contractor has the right to appeal, in accordance with applicable regulations in 37 CFR Part 404 and Federal Agency regulations (if any) concerning the licensing of Government-owned inventions, any decision concerning the revocation or modification of the license.

f. Contractor Action to Protect the Government's Interest

i. The Contractor agrees to execute or to have executed and promptly deliver to the Federal Agency all instruments necessary to (i) establish or confirm the

rights the Government has throughout the world in those subject inventions to which the Contractor elects to retain title, and (ii) convey title to the Federal Agency when requested under paragraph (d) above and to enable the Government to obtain patent protection throughout the world in that subject invention.

ii. The Contractor agrees to require, by written agreement, its employees, other than clerical and nontechnical employees, to disclose promptly in writing to personnel identified as responsible for the administration of patent matters and in a format suggested by the Contractor each subject invention made under contract in order that the Contractor can comply with the disclosure provisions of paragraph (c), of this clause, to assign to the Contractor the entire right, title and interest in and to each subject invention made under Contract, and to execute all papers necessary to file patent applications on subject inventions and to establish the Government's rights in the subject inventions. This disclosure format should require, as a minimum, the information required by paragraph (c)(1) of this clause. The Contractor shall instruct such employees through employee agreements or other suitable educational programs on the importance of reporting inventions in sufficient time to permit the filing of patent applications prior to U.S. or foreign statutory bars.

iii. For each subject invention, the contractor will, no less than 60 days prior to the expiration of the statutory deadline, notify the Federal agency of any decision: Not to continue the prosecution of a non-provisional patent application; not to pay a maintenance, annuity or renewal fee; not to defend in a reexamination or opposition proceeding on a patent, in any country; to request, be a party to, or take action in a trial proceeding before the Patent Trial and Appeals Board of the U.S. Patent and Trademark Office, including but not limited to post-grant review, review of a business method patent, inter partes review, and derivation proceeding; or to request, be a party to, or take action in a non-trial submission of art or information at the U.S. Patent and Trademark Office, including but not limited to a pre-issuance submission, a post-issuance submission, and supplemental examination..

iv. The Contractor agrees to include, within the specification of any United States patent applications and any patent issuing thereon covering a subject invention, the following statement, "This invention was made with government support under (identify the

contract) awarded by (identify the Federal Agency). The government has certain rights in the invention."

g. Subcontracts

i. The Contractor will include this clause, suitably modified to identify the parties, in all subcontracts, regardless of tier, for experimental, developmental or research work to be performed by a subcontractor. The subcontractor will retain all rights provided for the Contractor in this clause, and the Contractor will not, as part of the consideration for awarding the subcontract, obtain rights in the subcontractor's subject inventions.

ii. The Contractor will include in all other subcontracts, regardless of tier, for experimental, developmental or research work the patent rights clause required by 2 CFR § 200.315(c) and Appendix II to 2 CFR Part 200.

iii. In the case of subcontracts, at any tier, when the prime award with the Federal Agency was a contract (but not a grant or cooperative agreement), the Agency, subcontractor, and the Contractor agree that the mutual obligations of the parties created by this clause constitute a contract between the subcontractor and the Federal Agency with respect to the matters covered by the clause; provided, however, that nothing in this paragraph is intended to confer any jurisdiction under the Contract Disputes Act in connection with proceedings under paragraph (j) of this clause.

h. *Reporting on Utilization of Subject Inventions.* The Contractor agrees to submit on request periodic reports no more frequently than annually on the utilization of a subject invention or on efforts at obtaining such utilization that are being made by the Contractor or its licensees or assignees. Such reports shall include information regarding the status of development, date of first commercial sale or use, gross royalties received by the Contractor, and such other data and information as the Federal Agency may reasonably specify. The Contractor also agrees to provide additional reports as may be requested by the Federal Agency in connection with any march-in proceeding undertaken by the Federal Agency in accordance with paragraph (j) of this clause. As required by 35 U.S.C. § 202(c)(5), the Federal Agency agrees it will not disclose such information to persons outside the Government without permission of the Contractor.

i. *Preference for United States Industry.* Notwithstanding any other provision of this clause, the Contractor agrees that neither it nor any assignee will grant to any person the exclusive right to use or sell any subject inventions in the United States unless such

person agrees that any products embodying the subject invention or produced through the use of the subject invention will be manufactured substantially in the United States. However, in individual cases, the requirement for such an agreement may be waived by the Federal Agency upon a showing by the Contractor or its assignee that reasonable but unsuccessful efforts have been made to grant licenses on similar terms to potential licensees that would be likely to manufacture substantially in the United States or that under the circumstances domestic manufacture is not commercially feasible.

j. *March-in Rights*. The Contractor agrees that with respect to any subject invention in which it has acquired title, the Federal Agency has the right in accordance with the procedures in 37 CFR § 401.6 and any supplemental regulations of the Federal Agency to require the Contractor, an assignee or exclusive licensee of a subject invention to grant a nonexclusive, partially exclusive, or exclusive license in any field of use to a responsible applicant or applicants, upon terms that are reasonable under the circumstances, and if the Contractor, assignee, or exclusive licensee refuses such a request the Federal Agency has the right to grant such a license itself if the Federal Agency determines that:

   i. Such action is necessary because the Contractor or assignee has not taken, or is not expected to take within a reasonable time, effective steps to achieve practical application of the subject invention in such field of use.

   ii. Such action is necessary to alleviate health or safety needs which are not reasonably satisfied by the Contractor, assignee or their licensees;

   iii. Such action is necessary to meet requirements for public use specified by Federal regulations and such requirements are not reasonably satisfied by the Contractor, assignee or licensees; or

   iv. Such action is necessary because the agreement required by paragraph (i) of this clause has not been obtained or waived or because a licensee of the exclusive right to use or sell any subject invention in the United States is in breach of such agreement.

k. *Special Provisions for Contracts with Nonprofit Organizations*. If the Contractor is a nonprofit organization, it agrees that:

   i. Rights to a subject invention in the United States may not be assigned without the approval of the Federal Agency, except where such assignment is made to an organization which has as one of its primary functions

the management of inventions, provided that such assignee will be subject to the same provisions as the Contractor;

ii. The Contractor will share royalties collected on a subject invention with the inventor, including Federal employee co-inventors (when the Federal Agency deems it appropriate) when the subject invention is assigned in accordance with 35 U.S.C. § 202(e) and 37 CFR § 401.10;

iii. The balance of any royalties or income earned by the Contractor with respect to subject inventions, after payment of expenses (including payments to inventors) incidental to the administration of subject inventions, will be utilized for the support of scientific research or education; and

iv. It will make efforts that are reasonable under the circumstances to attract licensees of subject invention that are Small Business Firms and that it will give a preference to a Small Business Firm when licensing a subject invention if the Contractor determines that the Small Business Firm has a plan or proposal for marketing the invention which, if executed, is equally as likely to bring the invention to practical application as any plans or proposals from applicants that are not Small Business Firms; provided, that the Contractor is also satisfied that the Small Business Firm has the capability and resources to carry out its plan or proposal. The decision whether to give a preference in any specific case will be at the discretion of the Contractor. However, the Contractor agrees that the Federal Aency may review the Contractor's licensing program and decisions regarding Small Business applicants, and the Contractor will negotiate changes to its licensing policies, procedures, or practices with the Federal Agency when the Federal Agency's review discloses that the Contractor could take reasonable steps to implement more effectively the requirements of this paragraph (k)(iv). In accordance with 37 CFR 401.7, the Federal agency or the contractor may request that the Secretary review the contractor's licensing program and decisions regarding small business applicants.

l. *Communication.* The central point of contact at the Federal Agency for communications on matters relating to this clause may be obtained from the City upon request.

FEDERAL EXHIBIT 1

NOTICE TO BIDDERS

NOTICE OF REQUIREMENT FOR AFFIRMATIVE ACTION TO ENSURE EQUAL EMPLOYMENT OPPORTUNITY (EXECUTIVE ORDER 11246, as amended) FOR ALL CONSTRUCTION CONTRACTS AND SUB-CONTRACTS IN EXCESS OF $10,000.

1. The Offeror's or Bidder's attention is called to the "Equal Opportunity Clause" and the "Standard Federal Equal Employment Opportunity Construction Contract Specifications" set forth herein.

2. The goals and timetables for minority and female participation, expressed in percentage terms for the Contractor's aggregate workforce in each trade on all Construction Work in the covered area, are as follows:

Goals and Timetables for Minorities

Trade	Goal (percent)
Electricians	9.0 to 10.2
Carpenters	27.6 to 32.0
Steamfitters	12.2 to 13.5
Metal Lathers	24.6 to 25.6
Painters	28.6 to 26.0
Operating Engineers	25.6 to 26.0
Plumbers	12.0 to 14.5
Iron Workers (structural)	25.9 to 32.0
Elevator Constructors	5.5 to 6.5
Bricklayers	13.4 to 15.5
Asbestos Workers	22.8 to 28.0
Roofers	6.3 to 7.5
Iron Workers (ornamental)	22.4 to 23.0
Cement Masons	23.0 to 27.0
Glazers	16.0 to 20.0
Plasterers	15.8 to 18.0
Teamsters	22.0 to 22.5
Boilermakers	13.0 to 15.5
All Other	16.4 to 17.5

Goals and Timetables for Women

From April 1, 1980 until the present	6.9

These goals are applicable to all the Contractor's Construction Work (whether or not it is Federal or federally assisted) performed in the covered area. If the Contractor performs Construction Work in a geographical area located outside of the covered area, it shall apply the goals established for such geographical area where the work is actually performed. With regard to this second area, the Contractor also is subject to the goals for both its federally involved and nonfederally involved Construction.

The Contractor's compliance with the Executive Order and the regulations in 41 CFR Part 60-4 shall be based on its implementation of the Equal Opportunity Clause, specific affirmative action obligations required by the specifications set forth in 41 CFR 60-4.3(a), and its efforts to meet the goals. The hours of minority and female employment and training must be substantially uniform throughout the length of the contract, and in each trade, and the Contractor shall made a good faith effort to employ minorities and women evenly on each of its projects. The transfer of minority or female employees or trainees from Contractor to Contractor or from project to project for the sole purpose of meeting the Contractor's goals shall be a violation of the contract, the Executive Order and the regulations in 41 CFR Part 60-4. Compliance with the goals will be measured against the total work hours performed.

3. The Contractor shall provide written notification to the Director of the Office of Federal Contract Compliance Programs within 10 working days of award of any Construction subcontract in excess of $10,000 at any tier for Construction Work under the contract resulting from this solicitation. The notification shall list the name, address and telephone number of the subcontractor; employer identification number of the subcontractor; estimated dollar amount of the subcontract; estimated starting and completion dates of the subcontract; and the geographical area in which the contract is to be performed.

4. As used in this Contract, the "covered area" is the City of New York.

EXHIBIT 2
Federal Labor Standards Provisions (Non-Davis Bacon)[1]
Federal Emergency Management Agency
(10/27/2015)

Applicability: The Project or Program to which the construction work covered by this contract pertains is being assisted by the United States of America and the following Federal Labor Standards Provisions are included in this Contract pursuant to the provisions applicable to such Federal assistance.

A. **Compliance with the Copeland "Anti-Kickback" Act.**

1. **Contractor.** The contractor shall comply with 18 U.S.C. § 874, 40 U.S.C. § 3145, and the requirements of 29 C.F.R. pt. 3 as may be applicable, which are incorporated by reference into this contract.

2. **Subcontracts.** The contractor or subcontractor shall insert in any subcontracts the clause in paragraph 1 above and such other clauses as the FEMA may by appropriate instructions require, and also a clause requiring the subcontractors to include these clauses in any lower tier subcontracts. The prime contractor shall be responsible for the compliance by any subcontractor or lower tier subcontractor with all of these contract clauses.

3. **Breach.** A breach of the contract clauses above may be grounds for termination of the contract, and for debarment as a contractor and subcontractor as provided in 29 C.F.R. § 5.12.

B. **Compliance with the Contract Work Hours and Safety Standards Act.** The provisions of this Section B are applicable where the amount of the prime contract exceeds $100,000.

1. **Overtime requirements.** No contractor or subcontractor contracting for any part of the contract work which may require or involve the employment of laborers or mechanics shall require or permit any such laborer or mechanic in any workweek in which he or she is employed on such work to work in excess of forty hours in such workweek unless such laborer or mechanic receives compensation at a rate not less than one and one-halftimes the basic rate of pay for all hours worked in excess of forty hours in such workweek.

2. **Violation; liability for unpaid wages; liquidated damages.** In the event of any violation of the clause set forth in paragraph (1) of this Section B the contractor and any subcontractor responsible therefor shall be liable for the unpaid wages. In

[1] This version of Exhibit 2 applies to contracts funded by FEMA Grant and Cooperative Agreement Programs, including the Public Assistance Program. Do not use this version of Exhibit 2 in connection with FEMA programs that are subject to the Davis-Bacon Act; such programs are the Emergency Management Preparedness Grant Program, the Homeland Security Grant Program, Nonprofit Security Grant Program, Tribal Homeland Security Grant Program, Port Security Grant Program, and Transit Security Grant Program.

addition, such contractor and subcontractor shall be liable to the United States (in the case of work done under contract for the District of Columbia or a territory, to such District or to such territory), for liquidated damages. Such liquidated damages shall be computed with respect to each individual laborer or mechanic, including watchmen and guards, employed in violation of the clause set forth in paragraph (1) of this section, in the sum of $10 for each calendar day on which such individual was required or permitted to work in excess of the standard workweek of forty hours without payment of the overtime wages required by the clause set forth in paragraph (1) of this section.

3. **Withholding for unpaid wages and liquidated damages.** The City of New York shall upon its own action or upon written request of an authorized representative of the Department of Labor withhold or cause to be withheld, from any moneys payable on account of work performed by the contractor or subcontractor under any such contract or any other Federal contract with the same prime contractor, or any other federally-assisted contract subject to the Contract Work Hours and Safety Standards Act, which is held by the same prime contractor, such sums as may be determined to be necessary to satisfy any liabilities of such contractor or subcontractor for unpaid wages and liquidated §damages as provided in the clause set forth in paragraph (2) of this section.

4. **Subcontracts.** The contractor or subcontractor shall insert in any subcontracts the clauses set forth in paragraphs (1) through (4) of this Section B and also a clause requiring the subcontractors to include these clauses in any lower tier subcontracts. The prime contractor shall be responsible for compliance by any subcontractor or lower tier subcontractor with the clauses set forth in paragraphs (1) through (4) of this section B.

C. **Health and Safety.** The provisions of this paragraph C are applicable where the amount of the prime contract exceeds $100,000.

1. No laborer or mechanic shall be required to work in surroundings or under working conditions which are unsanitary, hazardous, or dangerous to his health and safety as determined under construction safety and health standards promulgated by the Secretary of Labor by regulation.

2. The Contractor shall comply with all regulations issued by the Secretary of Labor pursuant to Title 29 Part 1926 and failure to comply may result in imposition of sanctions pursuant to the Contract Work Hours and Safety Standards Act, (Public Law 91-54, 83 Stat 96). 40 USC 3701 et seq.

3. The contractor shall include the provisions of this paragraph in every subcontract so that such provisions will be binding on each subcontractor. The contractor shall take such action with respect to any subcontractor as FEMA or the Secretary of Labor shall direct as a means of enforcing such provisions.

FEDERAL EMERGENCY MANAGEMENT AGENCY ("FEMA") RIDER
(1/20/2021)

For use with contracts funded by the FEMA Grant and Cooperative Agreement Programs, including the Public Assistance Program

(This Rider should not be used with contracts funded by the following FEMA Programs: Emergency Management Preparedness Grant Program, Homeland Security Grant Program, Nonprofit Security Grant Program, Tribal Homeland Security Grant Program, Port Security Grant Program, and Transit Security Grant Program. This Rider should be accompanied by the Uniform Federal Contract Provisions Rider for Federally Funded Procurement Contracts.)

1. Suspension and Debarment. Section C(5) of the Uniform Federal Contract Provisions Rider for Federally Funded Procurement Contracts is supplemented with the following provisions:

   (a) This contract is a covered transaction for purposes of 2 C.F.R. Parts 180 and 3000. As such, the Contractor is required to verify that none of the Contractor, its principals (defined at 2 C.F.R. § 180.995), or its affiliates (defined at 2 C.F.R. § 180.905) are excluded (defined at 2 C.F.R. § 180.940) or disqualified (defined at 2 C.F.R. § 180.935). By entering into this contract, the Contractor certifies that it is in compliance with 2 C.F.R. Parts 180 and 3000.

   (b) The Contractor must comply with 2 C.F.R. Part 180, subpart C and 2 C.F.R. Part 3000, subpart C during the term of this contract and must include a requirement to comply with these regulations in any lower tier covered transaction it enters into.

   (c) The certification in paragraph (a), above, and section C(5) of the Uniform Federal Contract Provisions Rider for Federally Funded Procurement Contracts is a material representation of fact relied upon by the City of New York. If it is later determined that the Contractor did not comply with 2 C.F.R. Part 180, subpart C and 2 C.F.R. Part 3000, subpart C, in addition to remedies available to the City of New York and, if applicable, the State of New York, the Federal Government may pursue available remedies, including but not limited to suspension and/or debarment.

2. Davis-Bacon Act. For the purposes of Section D(1)(a) of the Uniform Federal Contract Provisions Rider, compliance with the Davis-Bacon Act (40 U.S.C. §§ 3141-3148) is not required of the Contractor pursuant to FEMA regulations. However, if this Contract is funded by another federal funding source (e.g., the U.S. Department of Housing and Urban Development CDBG or CDBG-DR programs), compliance with the Davis-Bacon Act is required to the extent required by law and as set forth in the contract documents.

3. Rights to Inventions Made Under a Contract or Agreement. Section E of the Uniform Federal Contract Provisions Rider for Federally Funded Procurement Contracts does not apply to the following FEMA Programs: Public Assistance Program, Hazard Mitigation Grant Program, Fire Management Assistance Grant Program, Crisis Counseling Assistance and Training Grant Program, Disaster Case Management Program, and Federal Assistance to Individuals and Households – Other Needs Assistance Grant Program.

4. Copeland "Anti-Kickback" Act. The Contractor shall comply with provisions of the Copeland "Anti-Kickback" Act (18 U.S.C. § 874) as delineated in the Uniform Federal Contract Provisions Rider, FEMA Exhibit 2, Section (A).

5. Contract Work Hours and Safety Standards Act. The Contractor shall comply with the provisions of the Contract Work Hours and Safety Standards Act as delineated in the Uniform Federal Contract Provisions Rider, FEMA Exhibit 2, Section (B).

6. Access to Records.

   (a) The Contractor agrees to provide the City of New York, the FEMA Administrator, the Comptroller General of the United States, or any of their authorized representatives access to any books, documents, papers, and records of the Contractor which are directly pertinent to this contract for the purposes of making audits, examinations, excerpts, and transcriptions.

   (b) The Contractor agrees to permit any of the foregoing parties to reproduce said documents by any means or to copy excerpts and transcriptions as reasonably needed.

   (c) The Contractor agrees to provide the FEMA Administrator or his/her authorized representative access to construction or other work sites pertaining to the work being completed under the contract.

   (d) In compliance with the Disaster Recovery Act of 2018, the City of New York and the Contractor acknowledge and agree that no language in this contract is intended to prohibit audits or internal reviews by the FEMA Administrator or the Comptroller General of the United States.

7. Logos. The Contractor shall not use DHS seal(s), logos, crests, or reproductions of flags or likenesses of DHS agency officials without specific FEMA pre-approval.

8. Compliance with Law. The Contractor acknowledges that FEMA financial assistance will be used to fund all or a portion of the contract. The Contractor will comply with all applicable federal law, regulations, executive orders, FEMA policies, procedures, and directives.

9. Federal Government not a Party. The Contractor acknowledges and understands that the Federal Government is not a party to this contract and is not subject to any obligations or liabilities to the City, Contractor or any other party pertaining to any matter resulting from the contract.

10. False Claims. The Contractor acknowledges that 31 U.S.C. Chap. 38 applies to the Contractor's actions pertaining to this contract.

CDBG-DR Rider

(Version 01.20.2021)

INSTRUCTIONS TO NYC AGENCIES AND OFFICES

This CDBG-DR Rider contains supplementary general conditions for use with procurement contracts and subrecipient agreements that are funded in whole or in part by the U.S. Department of Housing and Urban Development ("HUD") under Title I of the Housing and Community Development Act of 1974 (Pub. L. 93-383) as amended. For all procurement contracts and subrecipient agreements funded by the Community Development Block Grant Disaster Recovery ("CDBG-DR") Program, ***except those funded by the regular CDBG ("CDBG") Program***, this CDBG-DR Rider must be included as an attachment, expressly made a part of, and incorporated by reference. A different rider with terms specific to the regular CDBG Program should be attached to CDBG funded procurement contracts and subrecipient agreements.

If this rider is attached to a subrecipient agreement, the agency or office must ensure that the subrecipient agreement includes the information specific to the subaward required in 2 CFR § 200.332.

FEDERAL REGISTER NOTICES

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Federal Register Notices applicable to the use of CDBG-DR Funds for Hurricane Sandy disaster recovery are available on the HUD Web site at https://www.hudexchange.info/cdbg-dr/cdbg-dr-laws-regulations-and-federal-register-notices.

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ARTICLE 1. DEFINITIONS

As used in this CDBG-DR Rider:

(a) "Act" means Title 1 of the Housing and Community Development Act of 1974 (Pub. L. 93-383) as amended.

(b) "Agency" means the entity, or entities, executing this Agreement on behalf of the City of New York.

(c) "Agreement" means either the "contract" (as defined by 2 CFR § 200.21) between the City and the Contractor or the agreement between the City and "Subrecipient" as defined by 2 CFR § 200.1 as the context requires.

(d) "City" means the City of New York.

(e) "Construction" means the building, rehabilitation, alteration, conversion, extension, demolition, painting or repair of any improvement to real property.

(f) "Contractor" and/or "Subrecipient" means the entity or entities executing this Agreement, other than the Agency.

(g) "Equipment" means tangible personal property (including information technology systems) having a useful life of more than one year and a per-unit acquisition cost which equals or exceeds $5,000.

(h) "Grant" means Community Development Block Grant Program funds provided to the City of New York by the Federal Department of Housing and Urban Development or a pass-through entity.

(i) "Hometown Plan" means a voluntary areawide plan that was developed by representatives of affected groups (usually labor unions, minority organizations, and contractors), and subsequently approved by the Office of Federal Contract Compliance (OFCC), for purposes of implementing the equal employment opportunity requirements pursuant to Executive Order 11246, as amended.

(j) "HUD" means the Secretary of Housing and Urban Development or a person authorized to act on his or her behalf.

(k) "Program" means the New York City Community Development Block Grant Program approved by HUD as the same may from time to time be amended.

(l) "Real property" means land, including land improvements, structures and appurtenances thereto, but excludes moveable machinery and moveable equipment.

(m) "Subcontractor" means any person, firm or corporation, other than employees of the Contractor or the Subrecipient, or another Subcontractor who is engaged by the Contractor or the Subrecipient to furnish (i) services, (ii) labor or (iii) services and/or labor and materials at the site of the work performed under this Agreement.

ARTICLE 2. HOUSING AND COMMUNITY DEVELOPMENT ACT AND NATIONAL ENVIRONMENTAL POLICY ACT

[Applicable to Contractors and Subrecipients]

This Agreement is subject to Title 1 of the Housing and Community Development Act of 1974 (P.L. 93-383) as amended (The Act) and all rules, regulations and requirements now issued or hereafter issued pursuant to the Act; the Agreement may be suspended and/or terminated without liability to the City if the Grant to the City pursuant to the Act is suspended or terminated, and unless and until the City or Agency receives Community Development funds in an amount that is deemed sufficient to enable it to fund this Agreement, the City or Agency is under no obligation to make any payments to the Contractor or Subrecipient. In this regard, the Agency is under no obligation to make any payments to the Contractor or Subrecipient, and shall not make any such payment, and the Contractor or Subrecipient shall not commence performance, until:

(a) the Agency has received from the City's Office of Management and Budget instructions to proceed, evidencing compliance with the National Environmental Policy Act, as amended, and with regulations of the U.S. Department of Housing and Urban Development, related thereto, found at 24 CFR Part 58, and

(b) the Contractor or Subrecipient has been notified of such instructions by the Agency. Furthermore, the Contractor or Subrecipient and the City mutually agree that the Contractor or Subrecipient shall not advance any funds, from any source without limitation, to pay for costs intended to be paid for under this Agreement prior to the receipt and notification described in this paragraph (a), and the City shall not reimburse the Contractor or Subrecipient for any costs incurred in violation of this provision.

ARTICLE 3. LABOR REQUIREMENTS

[Applicable to Contractors and Subrecipients; must be included in all subcontracts]

(a) ***Section 3.*** This Agreement is subject to Section 3 of the Housing and Urban Development Act of 1968 (P.L. 90-448) and implementing regulations at 24 CFR Part 75, as may be amended during the term of this Agreement. Pursuant to 24 CFR § 75.19, the Contractor or Subrecipient agrees to the following:

1. The work to be performed under this Agreement is subject to the requirements of Section 3 of the Housing and Urban Development Act of 1968, as amended, 12 U.S.C. § 1701 u (Section 3) and 24 CFR Part 75. The purpose of Section 3 is to ensure that economic opportunities, most importantly employment, generated by HUD assistance or HUD-assisted projects covered by Section 3 shallbe directed to low- and very low-income persons, particularly persons who are recipients of government assistance for housing or residents of the community in which Federal assistance is spent.

2. Section 3 Requirements. In addition to any other requirements contained in 24 CFR Part 75, the following shall apply:
   a) Employment and Training

(1) To the greatest extent feasible, and consistent with existing Federal, state, and local laws and regulations, Contractor shall ensure that employment and training opportunities arising in connection with Section 3 projects are provided to Section 3 workers within the metropolitan area (or nonmetropolitan county) in which the project is located.

(2) Where feasible, priority for opportunities and training described in subsection (a)(1) of should be given to:

(i) Section 3 workers residing within the service area or the neighborhood of the project, and

(ii) Participants in YouthBuild programs.

b) Contracting.

(1) To the greatest extent feasible, and consistent with existing Federal, state, and local laws and regulations, recipients covered by this subpart shall ensure contracts for work awarded in connection with Section 3 projects are provided to business concerns that provide economic opportunities to Section 3 workers residing within the metropolitan area (or nonmetropolitan county) in which the project is located.

(2) Where feasible, priority for contracting opportunities described in paragraph (b)(1) of this section should be given to:

(i) Section 3 business concerns that provide economic opportunities to Section 3 workers residing within the service area or the neighborhood of the project, and

(ii) YouthBuild programs.

(b) ***The Davis-Bacon Act (40 U.S.C. §§ 3141* et seq.*).*** In Construction contracts involving an excess of $2000, unless exclusively in connection with the rehabilitation of residential property containing fewer than 8 units, the Contractor shall pay and the Subrecipient shall cause its contractors to pay all laborers and mechanics at a rate not less than those determined by the Secretary of Labor to be prevailing for the City, which rates are to be provided by the Agency. These wage rates are a federally mandated minimum only, and will be superseded by any State or City requirement mandating higher wage rates. The Contractor also agrees to comply with Department of Labor Regulations pursuant to the Davis-Bacon Act found in 29 CFR Parts 1, 3, 5 and 7, which enforce statutory labor standards provisions. **This provision supersedes section D(1)(a) of the Uniform Federal Contract Provisions Rider for Federally Funded Procurement Contracts.**

(c) ***Overtime.*** In Construction contracts involving an excess of $2000, and subject to the exception in 24 CFR section 570.603 (regarding the rehabilitation of residential property containing less than 8 units), Contractor shall comply and the Subrecipient shall cause its contractor to comply with sections 103 and 107 of the Contract Work Hours and Safe Standards Act (40 U.S.C. §§ 3701 *et seq.*), which provides that no laborer or mechanic shall be required or permitted to work more than eight hours in a calendar day or in excess of forty hours in any workweek, unless such laborer or mechanic is paid at an overtime rate of 1½ times his/her basic rate of pay for all hours worked in excess of these limits. In the event of a violation of this provision, the Contractor shall not only be liable to any affected employee for his/her unpaid wages, but shall be additionally liable to the United States for liquidated damages. **This provision supersedes section D(1)(b) of the Uniform Federal Contract Provisions Rider for Federally Funded Procurement Contracts.**

ARTICLE 4. ADDITIONAL FEDERAL CONDITIONS FOR CONSTRUCTION FOR SUBRECIPIENTS

[Applicable to Subrecipients. A similar provision for Contractors is included in the Uniform Federal Contract Provisions Rider for Federally Funded Procurement Contracts at section D(1)(c)-(d), (2) and (3).]

If this Agreement involves Construction work, design for Construction, or Construction services, all such work or services performed by the Subrecipient and its Subcontractors shall be subject to the following requirements:

(a) ***Impermissible Salary Deductions.*** In Construction contracts of any amount, the Subrecipient shall cause its Subcontractor to comply with the Copeland "Anti-Kickback" Act (18 U.S.C. § 874), as supplemented by the regulations contained in 29 CFR Part 3, requiring that all laborers and mechanics shall be paid unconditionally and not less often than once a week, and prohibiting all but "permissible" salary deductions.

(b) ***Federal Labor Standards.*** In Construction contracts of any amount, the Subrecipient shall cause its Subcontractors to comply with the more detailed statement of Federal Labor Standards annexed hereto as FEDERAL EXHIBIT 2.

(c) ***Equal Employment Opportunity.*** In Construction contracts or subcontracts in excess of $10,000, the Subrecipient shall cause its Subcontractors to comply with Executive Order 11246, as amended by Executive Order 11375, and as supplemented in Department of Labor regulations (41 CFR chapter 60). Subrecipient shall include the following Specifications, which are required pursuant to 41 CFR § 60-4.3 in all federally assisted contracts and subcontracts. For the purposes of the Equal Opportunity Construction Contract Specifications and Clause below, the term "Construction Work" means the construction, rehabilitation, alteration, conversion, extension, demolition or repair of buildings, highways, or other changes or improvements to real property, including facilities providing utility services. The term also includes the supervision, inspection, and other onsite functions incidental to the actual construction.

Standard Federal Equal Employment Opportunity Construction Contract Specifications for Contracts and Subcontracts in Excess of $10,000. (Federal Notice Required by 41 CFR § 60-4.3)

1. As used in these specifications:

a. "Covered area" means the geographical area described in the solicitation from which this contract resulted;

b. "Director" means Director, Office of Federal Contract Compliance Programs, United States Department of Labor, or any person to whom the Director delegates authority;

c. "Employer identification number" means the Federal Social Security number used on the Employer's Quarterly Federal Tax Return, U.S. Treasury Department Form 941.

d. "Minority" includes:

(i) Black (all persons having origins in any of the Black African racial groups not of Hispanic origin);

(ii) Hispanic (all persons of Mexican, Puerto Rican, Cuban, Central or South American or other Spanish Culture or origin, regardless of race);

(iii) Asian and Pacific Islander (all persons having origins in any of the original peoples of the Far East, Southeast Asia, the Indian Subcontinent, or the Pacific Islands); and

(iv) American Indian or Alaskan Native (all persons having origins in any of the original peoples of North America and maintaining identifiable tribal affiliations through membership and participation or community identification).

2. Whenever the contractor or any subcontractor at any tier, subcontracts a portion of the work involving any Construction trade, it shall physically include in each subcontract in excess of $10,000 the provisions of these specifications and the Notice which contains the applicable goals for minority and female participation and which is set forth in the solicitations from which this Agreement resulted.

3. If the contractor is participating (pursuant to 41 CFR § 60-4.5) in a Hometown Plan approved by the U.S. Department of Labor in the covered area either individually or through an association, its affirmative action obligations on all work in the Plan area (including goals and timetables) shall be in accordance with that Plan for those trades which have unions participating in the Plan. Contractors must be able to demonstrate their participation in and compliance with the provisions of any such Hometown Plan. Each contractor or subcontractor participating in an approved Plan is individually required to comply with its obligations under the EEO clause, and to make a good faith effort to achieve each goal under the Plan in each trade in which it has employees. The overall good faith performance by other contractors or subcontractors toward a goal in an approved Plan does not excuse any covered contractor's or subcontractor's failure to take good faith efforts to achieve the Plan goals and timetables.

4. The contractor shall implement the specific affirmative action standards provided in paragraphs 7 a through p of these specifications. The goals set forth in the solicitation from which this Agreement resulted are expressed as percentages of the total hours of employment and training of minority and female utilization the contractor should reasonably be able to achieve in each Construction trade in which it has employees in the covered area. Covered Construction contractors performing Construction Work in geographical areas where they do not have a Federal or federally assisted Construction contract shall apply the minority and female goals established for the geographical areas where the work is being performed. Goals are published periodically in the Federal Register in notice form, and such notices may be obtained from any Office of Federal Contract Compliance Programs office or from Federal procurement contracting officers. The contractor is expected to make substantially uniform progress in meeting its goals in each craft during the period specified.

5. Neither the provisions of any collective bargaining agreement, nor the failure by a union with whom the contractor has a collective bargaining agreement, to refer either minorities or women shall excuse the contractor's obligations under these specifications, Executive Order 11246, or the regulations promulgated pursuant thereto.

6. In order for the nonworking training hours of apprentices and trainees to be counted in meeting the goals, such apprentices and trainees must be employed by the contractor during the training period, and the contractor must have made a commitment to employ the apprentices and trainees at the completion of their training, subject to the availability of employment opportunities. Trainees must be trained pursuant to training programs approved by the U.S. Department of Labor.

7. The contractor shall take specific affirmative actions to ensure equal employment opportunity. The evaluation of the contractor's compliance with these specifications shall be based upon its effort to achieve maximum results from its actions. The contractor shall document these efforts fully, and shall implement affirmative action steps at least as extensive as the following:

a. Ensure and maintain a working environment free of harassment, intimidation, and coercion at all sites, and in all facilities at which the contractor's employees are assigned to work. The contractor, where possible, will assign two or more women to each Construction project. The contractor shall specifically ensure that all foremen, superintendents, and other on-site supervisory personnel are aware of and carry out the contractor's obligation to maintain such a working environment, with specific attention to minority or female individuals working at such sites or in such facilities.

b. Establish and maintain a current list of minority and female recruitment sources, provide written notification to minority and female recruitment sources and to community organizations when the contractor or its unions have employment opportunities available, and maintain a record of the organization's responses.

c. Maintain a current file of the names, addresses and telephone numbers of each minority and female off-the-street applicant and minority or female referral from a union, a recruitment source or community organization and of what action was taken with respect to each such individual. If such individual was sent to the union hiring hall for referral and was not referred back to the contractor by the union or, if referred, not employed by the contractor, this shall be documented in the file with the reason therefor, along with whatever additional actions the contractor may have taken.

d. Provide immediate written notification to the Director when the union or unions with which the contractor has a collective bargaining agreement has not referred to the contractor a minority person or woman sent by the contractor, or when the contractor has other information that the union referral process has impeded the contractor's efforts to meet its obligations.

e. Develop on-the-job training opportunities and/or participate in training programs for the area which expressly include minorities and women, including upgrading programs and apprenticeship and trainee programs relevant to the contractor's employment needs, especially those programs funded or approved by the Department of Labor. The contractor shall provide notice of these programs to the sources compiled under 7b above.

f. Disseminate the contractor's EEO policy by providing notice of the policy to unions and training programs and requesting their cooperation in assisting the contractor in meeting its EEO obligations; by including it in any policy manual and collective bargaining agreement; by publicizing it in the company newspaper, annual report, etc.; by specific review of the policy with all management personnel and with all minority and female employees at least once a year; and by posting the company EEO policy on bulletin boards accessible to all employees at each location where Construction Work is performed.

g. Review, at least annually, the company's EEO policy and affirmative action obligations under these specifications with all employees having any responsibility for hiring, assignment, layoff, termination or other employment decisions including specific review of these items with on-site supervisory personnel such as Superintendents, General Foremen, etc., prior to the initiation of Construction Work at any job site. A written record shall be made and maintained identifying the time and place of these meetings, persons attending, subject matter discussed, and disposition of the subject matter.

h. Disseminate the contractor's EEO policy externally by including it in any advertising in the news media, specifically including minority and female news media, and providing written notification to and discussing the contractor's EEO policy with other contractors and subcontractors with whom the contractor does or anticipates doing business.

i. Direct its recruitment efforts, both oral and written, to minority, female and community organizations, to schools with minority and female students and to minority and female recruitment and training organizations serving the contractor's recruitment area and employment needs. Not later than one month prior to the date for the acceptance of applications for apprenticeship or other training by any recruitment source, the contractor shall send written notification to organizations such as the above, describing the openings, screening procedures, and tests to be used in the selection process.

j. Encourage present minority and female employees to recruit other minority persons and women and, where reasonable, provide after school, summer and vacation employment to minority and female youth both on the site and in other areas of a contractor's work force.

k. Validate all tests and other selection requirements where there is an obligation to do so under 41 CFR Part 60-3.

l. Conduct, at least annually, an inventory and evaluation at least of all minority and female personnel for promotional opportunities and encourage these employees to seek or to prepare for, through appropriate training, etc., such opportunities.

m. Ensure that seniority practices, job classifications, work assignments and other personnel practices, do not have a discriminatory effect by continually monitoring all personnel and employment related activities to ensure that the EEO policy and the contractor's obligations under these specifications are being carried out.

n. Ensure that all facilities and company activities are non-segregated except that separate or single-user toilet and necessary changing facilities shall be provided to assure privacy between the sexes.

o. Document and maintain a record of all solicitations of offers for subcontracts from minority and female Construction contractors and suppliers, including circulation of solicitations to minority and female contractor associations and other business associations.

p. Conduct a review, at least annually, of all supervisor's adherence to and performance under the Contractor's EEO policies and affirmative action obligations.

8. Contractors are encouraged to participate in voluntary associations which assist in fulfilling one or more of their affirmative action obligations (7a through p). The efforts of a contractor association, joint contractor-union, contractor-community, or other similar group of which the contractor is a member and participant, may be asserted as fulfilling any one or more of its obligations under 7a through p of these specifications provided that the contractor actively participates in the group, makes every effort to assure that the group has a positive impact on the employment of minorities and women in the industry, ensures that the concrete benefits of the Program are reflected in the

contractor's minority and female work force participation, makes a good faith effort to meet its individual goals and timetables, and can provide access to documentation which demonstrates the effectiveness of actions taken on behalf of the contractor. The obligation to comply, however, is the contractor's and failure of such a group to fulfill an obligation shall not be a defense for the contractor's noncompliance.

9. A single goal for minorities and a separate single goal for women have been established. The contractor, however, is required to provide equal employment opportunity and to take affirmative action for all minority groups, both male and female, and all women, both minority and non-minority. Consequently, the contractor may be in violation of the Executive Order if a particular group is employed in a substantially disparate manner (for example, even though the contractor has achieved its goals for women generally, the contractor may be in violation of the Executive Order if a specific minority group of women is underutilized).

10. The contractor shall not use the goals and timetables or affirmative action standards to discriminate against any person because of race, color, religion, sex, sexual orientation, gender identity, or national origin.

11. The contractor shall not enter into any Subcontract with any person or firm debarred from Government contracts pursuant to Executive Order 11246 or suspended or is otherwise excluded from or ineligible for participation in federal assistance programs.

12. The contractor shall carry out such sanctions and penalties for violation of these specifications and of the Equal Opportunity Clause, including suspension, termination and cancellation of existing subcontracts as may be imposed or ordered pursuant to Executive Order 11246, as amended, and its implementing regulations, by the Office of Federal Contract Compliance Programs. Any contractor who fails to carry out such sanctions and penalties shall be in violation of these specifications and Executive Order 11246, as amended.

13. The contractor, in fulfilling its obligations under these specifications, shall implement specific affirmative action steps, at least as extensive as those standards prescribed in paragraph 7 of these specifications, so as to achieve maximum results from its efforts to ensure equal employment opportunity. If the contractor fails to comply with the requirements of the Executive Order, the implementing regulations, or these specifications, the Director shall proceed in accordance with 41 § CFR 60-4.8.

14. The contractor shall designate a responsible official to monitor all employment related activity to ensure that the company EEO policy is being carried out, to submit reports relating to the provisions hereof as may be required by the Government and to keep records. Records shall at least include for each employee the name, address, telephone numbers, Construction trade, union affiliation if any, employee identification number when assigned, social security number, race, sex, status (e.g., mechanic, apprentice trainee, helper, or laborer), dates of changes in status, hours worked per week in the indicated trade, rate of pay, and locations at which the work was performed. Records shall be maintained in an easily understandable and retrievable form; however, to the degree that existing records satisfy this requirement, contractors shall not be required to maintain separate records.

15. Nothing herein provided shall be construed as a limitation upon the application of other laws which establish different standards of compliance or upon the application of requirements for hiring of local or other areas residents (e.g., those under the Public Works Employment Act of 1977 and the Community Development Block Grant Program).

(B) **Equal Opportunity Clause.** Subrecipient shall include the following provisions, which are required by 41 CFR § 60-1.4(b), in all federally assisted contracts and subcontracts.

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

(1) The Contractor will not discriminate against any employee or applicant for employment because of race, color, religion, sex, sexual orientation, gender identity, or national origin. The Contractor will take affirmative action to ensure that applicants are employed, and that employees are treated during employment without regard to their race, color, religion, sex, sexual orientation, gender identity, or national origin. Such action 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 setting forth the provisions of this nondiscrimination clause.

(2) The Contractor 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 race, color, religion, sex, sexual orientation, gender identity, or national origin.

(3) The Contractor will not discharge or in any other manner discriminate against any employee or applicant for employment because such employee or applicant has inquired about, discussed, or disclosed the compensation of the employee or applicant or another employee or applicant. This provision shall not apply to instances in which an employee who has access to the compensation information of other employees or applicants as a part of such employee's essential job functions discloses the compensation of such other employees or applicants to individuals who do not otherwise have access to such information, unless such disclosure is in response to a formal complaint or charge, in furtherance of an investigation, proceeding, hearing, or action, including an investigation conducted by the employer, or is consistent with the Contractor's legal duty to furnish information.

(4) The Contractor will send to each labor union or representative of workers with which he has a collective bargaining agreement or other contract or understanding, a notice to be provided advising the said labor union or workers' representatives of the Contractor's commitments under this section, and shall post copies of the notice in conspicuous places available to employees and applicants for employment.

(5) The Contractor will comply with all provisions of Executive Order 11246 of September 24, 1965, and of the rules, regulations, and relevant orders of the Secretary of Labor.

(6) The Contractor will furnish all information and reports required by Executive Order 11246 of September 24, 1965, and by rules, regulations, and orders of the Secretary of Labor, or pursuant thereto, and will permit access to his books, records, and accounts by HUD and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations, and orders.

(7) In the event of the Contractor's noncompliance with the nondiscrimination clauses of this contract or with any of the said rules, regulations, or orders, this contract may be canceled, terminated, or suspended in whole or in part and the Contractor may be declared ineligible for further Government contracts or federally assisted construction contracts in accordance with procedures authorized in Executive Order 11246 of September 24, 1965, and such other sanctions may be imposed and remedies invoked as provided in Executive Order 11246 of September 24, 1965, or by rule, regulation, or order of the Secretary of Labor, or as otherwise provided by law.

(8) The Contractor will include the portion of the sentence immediately preceding paragraph (1) and the provisions of paragraphs (1) through (8) in every subcontract or purchase order unless exempted by rules, regulations, or orders of the Secretary of Labor issued pursuant to section 204 of Executive Order 11246 of September 24, 1965, so that such provisions will be binding upon each subcontractor or vendor. The Contractor will take such action with respect to any subcontract or purchase order as HUD may direct as a means of enforcing such provisions, including sanctions for noncompliance:

Provided, however, that in the event a Contractor becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of such direction by HUD, the Contractor may request the United States to enter into such litigation to protect the interests of the United States.

ARTICLE 5. FEDERAL NON-DISCRIMINATION LAWS

[Applicable to Contractors and Subrecipients]

This Agreement is subject to:

(a) Section 109 of the Act, which requires that no person in the United States shall on the grounds of race, color, national origin, religion, or sex be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance made available pursuant to the Act. Section 109 also directs that the prohibitions against discrimination on the basis of age under the Age Discrimination Act and the prohibitions against discrimination on the basis of disability under Section 504 shall apply to programs or activities receiving Federal financial assistance under Title I programs. The Contractor or Subrecipient agrees to comply with provisions of 24 CFR Parts 6, 8, and 146.

(b) Title VIII of the Civil Rights Act of 1968 (P.L. 90-284; 42 U.S.C. §§ 3602-3620), as amended, which prohibits discrimination in the sale or rental of housing and in the

provision of brokerage services based on race, color, religion, sex, national origin, disability, or familial status, and which requires affirmative action in the furtherance of Fair Housing objectives.

(c) Executive Order 11063, as amended by Executive Order 12259, pursuant to regulations issued at 24 CFR Part 107, which prohibits discrimination on the basis of race, color, religion, sex or national origin and requires equal opportunity in housing constructed, operated or provided with federal funds.

(d) Title VI of the Civil Rights Act of 1964 (P.L. 88-352; 42 U.S.C. §§ 2000d *et seq.*) and implementing regulations in 24 CFR Part 1, which states that no person shall, on the ground of race, color or national origin, be excluded from participation in, be denied the benefits of, or otherwise be subject to discrimination under any Program or activity made possible by, or resulting from, this Agreement.

(e) 24 CFR § 5.109, "Equal participation of faith-based organizations in HUD programs and activities."

(f) Consistent with 24 CFR § 570.614, the Contractor or Subrecipient warrants that all services, programs, and/or Construction (including design and alteration) under this Agreement shall be performed in accordance with all federal, state and local laws and regulations regarding accessibility standards for persons with disabilities including, but not limited to, the following: Section 504 of the Rehabilitation Act, the Architectural Barriers Act of 1968 (42 U.S.C. § 4151-4157), the Uniform Federal Accessibility Standards (Appendix A to 24 CFR Part 40 and Appendix A to 41 CFR Part 101-19, subpart 101-19.6), and the Americans with Disabilities Act (42 U.S.C. § 12131;.

The non-discrimination provisions in this Article shall be incorporated in and made a part of all subcontracts executed in connection with this Agreement.

(g) Subrecipients shall comply with all civil-rights related requirements, pursuant to 24 CFR § 570.503(b)(5).

ARTICLE 6. ENVIRONMENTAL PROTECTION; ENERGY EFFICIENCY; HISTORIC PRESERVATION; FLOOD PROTECTION; LEAD-BASED PAINT

[Paragraphs (a) – (e) applicable to Contractors and Subrecipients; paragraph (f) applicable to Subrecipients]

(a) For agreements, subcontracts, and subgrants of amounts in excess of $150,000, the Contractor or Subrecipient shall comply with all applicable standards, orders, or requirements issued under the Clean Air Act (42 U.S.C. § 7401, Federal Water Pollution control Act (33 U.S.C. §§ 1251, et seq.) Section 508 of the Clean Water Act (33 U.S.C. § 1368), Executive Order 11738, and Environmental Protection Agency regulations (provisions of 40 CFR Part 50 and 2 CFR Part 1532 related to the Clean Air Act and Clean Water Act). Violations must be reported to the Federal Agency and the Regional Office of the Environmental Protection Agency (EPA).

(b) The Subrecipient and Contractor shall comply with mandatory standards and policies relating to energy efficiency that are contained in the New York State energy conservation plan issued in compliance with the Energy Policy Conservation Act (Pub. L. 94-163). Further, the Contractor or Subrecipient shall comply with the construction standards concerning energy efficiency set forth in section VI(A)(1)(a)(5) of HUD Docket No. FR-5696-N-01.

(c) This Agreement is subject to laws and authorities listed in 24 CFR § 58.5, including the Historic Preservation Act of 1966 (Section 1 of Pub. L. No. 89-665, as amended by Pub. L. No. 96-515; 54 U.S.C. §§ 100101 and 300101 *et seq.*), the Archeological and Historic Preservation Act of 1974 (P.L. 93-291; 16 U.S.C. §§ 469-469c), Executive Order 11593 and regulations at 36 CFR Part 800. In general, this requires concurrence from the State Historic Preservation Officer for all rehabilitation and demolition of historic properties that are fifty years old or older or that are included on a Federal, state, or local historic property list.

(d) This Agreement is subject to the Lead-Based Paint Poison Prevention provisions found in 24 CFR § 570.608, the Lead-Based Paint Poisoning Prevention Act (42 U.S.C. §§ 4821-4846), the Residential Lead Based Paint Hazard Reduction Act of 1992 (U.S.C. §§ 4851-4856, and 24 CFR Part 35, subparts A, B, J, K, and R. This provision is to be included in all subcontracts, for work in connection with this Agreement, which relate to residential structures.

(e) Pursuant to the provisions in 24 CFR § 570.605, Section 202(a) of the Flood Disaster Protection Act of 1973 (42 U.S.C. § 4106), and the regulations in 44 CFR Parts 59-79 apply to this Agreement.

(f) Subrecipients shall implement procedures and mechanisms to ensure that assisted property owners comply with all flood insurance requirements set forth in Section VI(B)(31) of HUD Docket No. FR-56960-N-01.

ARTICLE 7. UNIFORM RELOCATION ASSISTANCE

[Applicable to Contractors and Subrecipients]

This Agreement is subject to the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (42 U.S.C. §§ 4601-4655) and regulations at 49 CFR Part 24 and 24 CFR section 570.606.

ARTICLE 8. UNIFORM ADMINISTRATIVE REQUIREMENTS (INCLUDING PROCUREMENT STANDARDS), COST PRINCIPLES, AND AUDIT REQUIREMENTS FOR FEDERAL AWARDS

[Subdivision (a) is applicable to Contractors and Subrecipients; subdivision (b) is applicable to Subrecipients only; subdivision (c) is applicable to Contractors only]

(a) Pursuant to 2 CFR § 2400.101 and 24 CFR § 85.1, Subrecipients and Contractors are subject to the Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards at 2 CFR Part 200 (commonly referred to the "Super Circular"), as applicable.

(b) For the procurement of all subcontracts and goods contracts, Subrecipients are required to follow the procurement standards in 2 CFR §§ 200.318-200.327,

(c) Contractors are subject to the Uniform Federal Contract Provisions Rider, attached to this Agreement.

ARTICLE 9. UNEARNED PAYMENTS; INCOME; DOCUMENTATION OF COSTS; ACCOUNTING SYSTEM; FIDELITY BONDS; DISBURSEMENT RESTRICTIONS

[Paragraphs (a), (b), (d), and (e) are applicable to Contractors and Subrecipients; paragraph (c) is applicable to Subrecipients only]

(a) Unearned payments under this Agreement may be suspended or terminated upon refusal to accept any additional conditions that may be imposed by HUD at any time, or if the Grant to the City under the Act is suspended or terminated. Unearned payments received by the Contractor or Subrecipient will be returned to the City.

The Contractor or Subrecipient agrees that if any income is generated from the Community Development Block Grant Program funded activities, Contractor or Subrecipient shall return such income to the City's Community Development Block Grant Program unless expressly authorized by the City. Such funds are subject to all applicable requirements governing the use of Community Development Block Grant funds, including 24 CFR § 570.503(b)(3), which provides that, at the end of the program year, the City may require remittance of all or part of any program income balances (including investments thereof) held by the Subrecipient (except those needed for immediate cash needs, cash balances of a revolving loan fund, cash balances from a lump sum drawdown, or cash or investments held for section 108 security needs). Alternative program requirements concerning the definition of "program income" are set forth in Section VI(A)(17)(a)-(b) of Docket No. FR-56960-N-01, as amended by Section II(5) of Docket No. FR-5710-N-01.

(b) All costs shall be supported by properly executed payrolls, time records, invoices, contracts, or vouchers, or other official documentation evidencing in proper detail the nature and propriety of the charges. All checks, payrolls, invoices, contracts, vouchers, orders or other accounting documents, pertaining in whole or in part to the Agreement, shall be clearly identified and readily accessible.

(c) The Subrecipient shall submit to the Agency a detailed description of its accounting, reporting and internal control systems, including but not limited to the procedures for cash receipts, cash disbursements, payrolls, personnel policies, fixed petty cash controls and other systems which are necessary under the circumstances. The Agency shall evaluate and document all systems and only upon acceptance and approval of the

accounting, reporting and internal control systems by the Agency, shall funds be disbursed to the Subrecipient, other provisions of the Agreement notwithstanding.

(d) If required by the Federal awarding agency or elsewhere in this Agreement, the Agency must receive a statement from the Contractor's or Subrecipient's chief fiscal officer or its insurer assuring that all persons handling funds received or disbursed under this Agreement are covered by fidelity insurance in an amount equal to cash advances from the City. If the bond is cancelled or coverage is substantially reduced, the Contractor or Subrecipient shall promptly notify the Agency of this fact in every case not later than 48 hours. In such event, the Agency shall not disburse any more funds to the Contractor or Subrecipient until it has received assurance that adequate coverage has subsequently been obtained.

(e) No money under this Agreement shall be disbursed by the Agency to any Contractor or Subrecipient except pursuant to a written contract which incorporates the applicable Supplementary General Conditions and unless the Contractor or Subrecipient is in compliance with HUD requirements with regard to accounting and fiscal matters, to the extent they are applicable, and provided that the Agency has completed HUD requirements, including but not limited to environmental certifications pursuant to 24 CFR Part 58.

ARTICLE 10. RECORDS AND AUDITS

[Applicable to Contractors and Subrecipients]

(a) (i) The Subrecipient shall maintain records in accordance with requirements prescribed by or in 2 CFR § 200.334, HUD and/or the City with respect to all matters covered by this Agreement and retained for at least three years after the City makes final payments and all other pending matters concerning this Agreement are closed, subject to the exceptions in 2 CFR § 200.334. (ii) The Contractor shall maintain records in accordance with the requirements elsewhere in this Agreement.

(b) At such times on such forms as HUD and/or the City may require, there shall be furnished to HUD and/or the City such statements, records, reports, data and information, as HUD and/or the City may request pertaining to matters covered by this Agreement. At a minimum, such forms will include the following:

(i) Quarterly Data Collection Report forms for the purpose of including specific Program description, accomplishment, expenditure and beneficiary information in the City's Quarterly Performance Reports.

(ii) Annual Property Register forms for the purpose of tracking the use of CDBG purchased equipment.

(c) At any time during normal business hours and as often as the City, the Agency, HUD, Inspector General, U.S. General Accounting Office, and/or the Comptroller General of the United States may deem necessary, the Contractor or Subrecipient shall make available for examination to the City, HUD, Inspector General, U.S. General Accounting Office and/or representatives of the Comptroller General all of its books, accounts, records, reports, files, and other papers or property with respect to all matters covered by

this Agreement and shall permit the City, HUD and/or representatives of the Comptroller General and the U.S. General Accounting Office to audit, examine, make excerpts of, and make transcriptions from such books, accounts, records, reports, files, and other papers or property and to make audits of all contracts, invoices, materials, payrolls, records or personnel, conditions of employment and other data relating to all matters covered by this Agreement.

ARTICLE 11. SUBCONTRACTORS

[Applicable to Contractors and Subrecipients]

(a) The provisions of this Agreement shall apply to Subcontractors and their officers, agents and employees in all respects as if they were employees of the Contractor or Subrecipient. The Contractor or Subrecipient shall not be discharged from its obligations and liabilities, but shall be liable for all acts and negligence of Subcontractors, and their officers, agents and employees, as if they were employees of the Contractor or Subrecipient.

(b) Employees of the Subcontractor shall be subject to the same provisions as employees of the Contractor or Subrecipient.

(c) The services furnished by Subcontractors shall be subject to the provisions hereof as if furnished directly by the Contractor or Subrecipient, and the Contractor or Subrecipient shall remain responsible therefor.

ARTICLE 12. CONFLICTS; EXHIBITS

[Applicable to Contractors and Subrecipients]

(a) If any provision in this CDBG Rider directly conflicts with any other provision in the Agreement, the provision in CDBG Rider shall be controlling.

(b) Federal Exhibits 1 and 2 are attached to, and made a part of this CDBG Rider.

ARTICLE 13. REVERSION OF ASSETS

[Applicable to Subrecipients]

(a) At the Agreement's expiration, the Subrecipient shall transfer to the City all CDBG funds on hand at the time of expiration and any accounts receivable attributable to the use of CDBG funds.

(b) Any real property under the Subrecipient's control that was acquired or improved in whole or in part with Community Development funds in excess of $25,000 must be used to either (i) meet the national objectives in Section 570.208 for a period of five years after acquisition if the property or completion of the improvements, as applicable, or (ii) disposed in a manner which results in the Program being reimbursed in the amount of the

current fair market value of the property less any portion thereof attributable to expenditures of non-CDBG funds for acquisition of, or improvements to, the property.

(c) Title to all Equipment in excess of $5,000 purchased pursuant to this Agreement with CDBG funds or furnished by the City shall vest in the City and the same shall be conspicuously labeled as such.

ARTICLE 14. SMALL FIRMS, M/WBE FIRMS, AND LABOR SURPLUS AREA FIRMS

[Applicable to Subrecipients. Contractors must follow section C(11) of the Uniform Federal Contract Provisions Rider for Federally Funded Procurement Contracts.]

Subrecipient shall take the following affirmative steps in the letting of subcontracts, if subcontracts are to be let, in order to ensure that minority firms, women's business enterprises, and labor surplus area firms are used when possible:

(a) Placing qualified small and minority businesses and women's business enterprises on solicitation lists;

(b) Assuring that small and minority businesses, and women's business enterprises are solicited whenever they are potential sources;

(c) Dividing total requirements, when economically feasible, into smaller tasks or quantities to permit maximum participation by small and minority businesses, and women's business enterprises;

(d) Establishing delivery schedules, where the requirement permits, which encourage participation by small and minority businesses, and women's business enterprises; and

(e) Using the services and assistance of the Small Business Administration, and the Minority Business Development Agency of the Department of Commerce.

ARTICLE 15. INTANGIBLE PROPERTY

[Applicable to Subrecipients. A similar provision for Contractors is included in the Uniform Federal Contract Provisions Rider for Federally Funded Procurement Contracts at section C(14).]

(a) Pursuant to 2 CFR § 200.315(d), the federal Government reserves a royalty-free, non-exclusive, and irrevocable right to obtain, reproduce, publish, or otherwise use, and to authorize others to use, for Government purposes: (a) the copyright in any work developed under the Agreement or subcontract; and (b) any rights of copyright to which a Subrecipient purchases ownership with grant support.

(b) Any reports, documents, data, photographs, deliverables, and/or other materials produced pursuant to the Agreement ("Copyrightable Materials"), and any and all drafts and/or other preliminary materials in any format related to such items produced pursuant to the

contract, shall upon their creation become the exclusive property of the City. The Copyrightable Materials shall be considered "work-made-for-hire" within the meaning and purview of Section 101 of the United States Copyright Act, 17 U.S.C. § 101, and the City shall be the copyright owner thereof and of all aspects, elements and components thereof in which copyright protection might exist. To the extent that the Copyrightable Materials do not qualify as "work-made-for-hire," the Subrecipient hereby irrevocably transfers, assigns and conveys exclusive copyright ownership in and to the Copyrightable Materials to the City, free and clear of any liens, claims, or other encumbrances. The Subrecipient shall retain no copyright or intellectual property interest in the Copyrightable Materials. The Copyrightable Materials shall be used by the Subrecipient for no purpose other than in the performance of this Agreement without the prior written permission of the City. The City may grant the Subrecipient a license to use the Copyrightable Materials on such terms as determined by the City and set forth in the license.

(c) The Subrecipient acknowledges that the City may, in its sole discretion, register copyright in the Copyrightable Materials with the United States Copyright Office or any other government agency authorized to grant copyright registrations. The Subrecipient shall fully cooperate in this effort, and agrees to provide any and all documentation necessary to accomplish this.

(d) The Subrecipient represents and warrants that the Copyrightable Materials: (i) are wholly original material not published elsewhere (except for material that is in the public domain); (ii) do not violate any copyright law; (iii) do not constitute defamation or invasion of the right of privacy or publicity; and (iv) are not an infringement, of any kind, of the rights of any third party. To the extent that the Copyrightable Materials incorporate any non-original material, the Subrecipient has obtained all necessary permissions and clearances, in writing, for the use of such non-original material under this Contract, copies of which shall be provided to the City upon execution of this Contract.

(e) The Subrecipient shall promptly and fully report to the City any discovery or invention arising out of or developed in the course of performance of this Agreement and the Contractor shall promptly and fully report to the Government to make a determination as to whether patent protection on such invention shall be sought and how the rights in the invention or discovery, including rights under any patent issued thereon, shall be disposed of and administered in order to protect the public interest.

(f) If the Subrecipient publishes a work dealing with any aspect of performance under this Agreement, or with the results of such performance, the City shall have a royalty-free, non-exclusive irrevocable license to reproduce, publish, or otherwise use such work for City governmental purposes.

ARTICLE 16. HATCH ACT; LOBBYING; CONFLICTS OF INTEREST

[Applicable to Subrecipients.]

(a) Hatch Act: The Subrecipient agrees that no funds provided, nor personnel employed under this Agreement, shall be in any way or to any extent engaged in the conduct of political activities in violation of Chapter 15 of Title V of the U.S.C.

(b) Lobbying: The Subrecipient certifies, to the best of its knowledge and belief, that:

1. No Federal appropriated funds have been paid or will be paid, by or on behalf of it, to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement;

2. If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, it will complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," (which is available on the HUD website or here: https://www.hudexchange.info/resources/documents/HUD-Form-Sflll.pdf) in accordance with its instructions; and

3. It will require that the language of this Article 16(b) be included in the award documents for all subawards at all tiers (including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements) and that all sub-subrecipients shall certify and disclose accordingly.

4. This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by 31 U.S.C. § 1352. Any person who fails to file the required certification shall be subject to a civil penalty of not less than $10,000 and not more than $100,000 for each such failure.

(c) Conflict of Interest: The Subrecipient agrees to abide by the provisions of 2 CFR §§ 200.112 and 200.318(c) and 24 CFR § 570.611.

ARTICLE 17. SUSPENSION AND TERMINATION

[Applicable to Subrecipients.]

(a) The City may take enforcement action against a Subrecipient for non-compliance, as described in 2 CFR §§ 200.339 and 200.340(a)(1) & (2), including suspension or termination.

(b) The City may terminate for convenience pursuant to 2 CFR § 200.340(a)(3).

ARTICLE 18. PERFORMANCE REQUIREMENTS AND REMEDIES

[Applicable to Contractors]

The Disaster Relief Appropriations Act, 2013 (Public L. 113-2) of January 29, 2013, requires contracts to contain "performance requirements and penalties." Accordingly, Contractor shall be subject to any performance requirements and remedial provisions and/or liquidated damages set forth in this Agreement. Contractor acknowledges that negative performance evaluations may impair its ability to win future contracts with the City as follows: Under City Procurement Policy Board (PPB) Rules section 4-01, Contractor is subject to performance evaluations at least once annually. The City shall enter such performance evaluations into the VENDEX system. To the extent allowed by the PPB Rules, such performance evaluations shall be considered by the City in:

(1) making a determination of the Contractor's responsibility or non-responsibility in future City procurements, under PPB Rule section 2-08(g)(1)(ii) and

(2) deciding to renew or not to renew the Agreement, under PPB Rule section 4-04(c)(10).

FED. EXHIBIT 1

NOTICE TO BIDDERS

NOTICE OF REQUIREMENT FOR AFFIRMATIVE ACTION TO ENSURE EQUAL EMPLOYMENT OPPORTUNITY (EXECUTIVE ORDER 11246, as amended) FOR ALL HUD COMMUNITY DEVELOPMENT FUNDED CONSTRUCTION CONTRACTS AND SUB-CONTRACTS IN EXCESS OF $10,000.

1. The Offeror's or Bidder's attention is called to the "Equal Opportunity Clause" and the "Standard Federal Equal Employment Opportunity Construction Contract Specifications" set forth above.

2. The goals and timetables for minority and female participation, expressed in percentage terms for the Contractor's aggregate workforce in each trade on all Construction Work in the covered area, are as follows:

Goals and Timetables for Minorities

Trade	Goal (Percent)		
Electricians	9.0	to	10.2
Carpenters	27.6	to	32.0
Steamfitters	12.2	to	13.5
Metal Lathers	24.6	to	25.6
Painters	28.6	to	26.0
Operating Engineers	25.6	to	26.0
Plumbers	12.0	to	14.5
Iron Workers (structural)	25.9	to	32.0
Elevator Constructors	5.5	to	6.5
Bricklayers	13.4	to	15.5
Asbestos Workers	22.8	to	28.0
Roofers	6.3	to	7.5
Iron Workers (ornamental)	22.4	to	23.0
Cement Masons	23.0	to	27.0
Glazers	16.0	to	20.0
Plasterers	15.8	to	18.0
Teamsters	22.0	to	22.5
Boilermakers	13.0	to	15.5
All Other	16.4	to	17.5

Goals and Timetables for Women

From April 1, 1980 until the present	6.9

These goals are applicable to all the Contractor's Construction Work (whether or not it is Federal or federally assisted) performed in the covered area. If the Contractor performs Construction Work in a geographical area located outside of the covered area, it shall apply the goals

established for such geographical area where the work is actually performed. With regard to this second area, the Contractor also is subject to the goals for both its federally involved and non-federally involved Construction.

The Contractor's compliance with the Executive Order and the regulations in 41 CFR Part 60-4 shall be based on its implementation of the Equal Opportunity Clause, specific affirmative action obligations required by the specifications set forth in 41 CFR 60-4.3(a), and its efforts to meet the goals. The hours of minority and female employment and training must be substantially uniform throughout the length of the contract, and in each trade, and the Contractor shall made a good faith effort to employ minorities and women evenly on each of its projects. The transfer of minority or female employees or trainees from Contractor to Contractor or from project to project for the sole purpose of meeting the Contractor's goals shall be a violation of the contract, the Executive Order and the regulations in 41 CFR Part 60-4. Compliance with the goals will be measured against the total work hours performed.

3. The Contractor shall provide written notification to the Director of the Office of Federal Contract Compliance Programs within 10 working days of award of any Construction subcontract in excess of $10,000 at any tier for Construction Work under the contract resulting from this solicitation. The notification shall list the name, address and telephone number of the subcontractor; employer identification number of the subcontractor; estimated dollar amount of the subcontract; estimated starting and completion dates of the subcontract; and the geographical area in which the contract is to be performed.

4. As used in this Agreement, the "covered area" is the City of New York.

EXHIIBIT 2

Federal Labor Standards Provisions

U.S. Department of Housing and Urban Development
Office of Labor Relations

Applicability

The Project or Program to which the construction work covered by this contract pertains is being assisted by the United States of America and the following Federal Labor Standards Provisions are included in this Contract pursuant to the provisions applicable to such Federal assistance.

A. 1. (i) Minimum Wages. All laborers and mechanics employed or working upon the site of the work, will be paid unconditionally and not less often than once a week, and without subsequent deduction or rebate on any account (except such payroll deductions as are permitted by regulations issued by the Secretary of Labor under the Copeland Act (29 CFR Part 3), the full amount of wages and bona fide fringe benefits (or cash equivalents thereof) due at time of payment computed at rates not less than those contained in the wage determination of the Secretary of Labor which is attached hereto and made a part hereof, regardless of any contractual relationship which may be alleged to exist between the contractor and such laborers and mechanics. Contributions made or costs reasonably anticipated for bona fide fringe benefits under Section l(b)(2) of the Davis-Bacon Act on behalf of laborers or mechanics are considered wages paid to such laborers or mechanics, subject to the provisions of 29 CFR 5.5(a)(1)(iv); also, regular contributions made or costs incurred for more than a weekly period (but not less often than quarterly) under plans, funds, or programs, which cover the particular weekly period, are deemed to be constructively made or incurred during such weekly period.

Such laborers and mechanics shall be paid the appropriate wage rate and fringe benefits on the wage determination for the classification of work actually performed, without regard to skill, except as provided in 29 CFR 5.5(a)(4). Laborers or mechanics performing work in more than one classification may be compensated at the rate specified for each classification for the time actually worked therein: Provided, That the employer's payroll records accurately set forth the time spent in each classification in which work is performed. The wage determination (including any additional classification and wage rates conformed under 29 CFR 5.5(a)(1)(ii) and the Davis-Bacon poster (WH-1321) shall be posted at all times by the contractor and its subcontractors at the site of the work in a prominent and accessible, place where it can be easily seen by the workers.

(ii) (a) Any class of laborers or mechanics which is not listed in the wage determination and which is to be employed under the contract shall be classified in conformance with the wage determination. HUD shall approve an additional classification and wage rate and fringe benefits therefor only when the following criteria have been met:

(1) The work to be performed by the classification requested is not performed by a classification in the wage determination; and

(2) The classification is utilized in the area by the construction industry; and

(3) The proposed wage rate, including any bona fide fringe benefits, bears a reasonable relationship to the wage rates contained in the wage determination.

(b) If the contractor and the laborers and mechanics to be employed in the classification (if known), or their representatives, and HUD or its designee agree on the classification and wage rate (including the amount designated for fringe benefits where appropriate), a report of the action taken shall be sent by HUD or its designee to the Administrator of the Wage and Hour Division, Employment Standards Administration, U.S. Department of Labor, Washington, D.C. 20210. The Administrator, or an authorized representative, will approve, modify, or disapprove every additional classification action within 30 days of receipt and so advise HUD or its designee or will notify HUD or its designee within the 30-day period that additional time is necessary. (Approved by the Office of Management and Budget under OMB control number 1215-0140.)

(c) In the event the contractor, the laborers or mechanics to be employed in the classification or their representatives, and HUD or its designee do not agree on the proposed classification and wage rate (including the amount designated for fringe benefits, where appropriate), HUD or its designee shall refer the questions, including the views of all interested parties and the recommendation of HUD or its designee, to the Administrator for determination. The Administrator, or an authorized representative, will issue a determination within 30 days of receipt and so advise HUD or its designee or will notify HUD or its designee within the 30-day period that additional time is necessary. (Approved by the Office of Management and Budget under OMB Control Number 1215-0140.)

(d) The wage rate (including fringe benefits where appropriate) determined pursuant to subparagraphs (1)(ii)(b) or (c) of this paragraph, shall be paid to all workers performing work in the classification under this contract from the first day on which work is performed in the classification.

(iii) Whenever the minimum wage rate prescribed in the contract for a class of laborers or mechanics includes a fringe benefit which is not expressed as an hourly rate, the contractor shall either pay the benefit as stated in the wage determination or shall pay another bona fide fringe benefit or an hourly cash equivalent thereof.

(iv) If the contractor does not make payments to a trustee or other third person, the contractor may consider as part

of the wages of any laborer or mechanic the amount of any costs reasonably anticipated in providing bona fide fringe benefits under a plan or program, Provided, That the Secretary of Labor has found, upon the written request of the contractor, that the applicable standards of the Davis-Bacon Act have been met. The Secretary of Labor may require the contractor to set aside in a separate account assets for the meeting of obligations under the plan or program. (Approved by the Office of Management and Budget under OMB Control Number 1215-0140.)

2. Withholding. HUD or its designee shall upon its own action or upon written request of an authorized representative of the Department of Labor withhold or cause to be withheld from the contractor under this contract or any other Federal contract with the same prime contractor, or any other Federally-assisted contract subject to Davis-Bacon prevailing wage requirements, which is held by the same prime contractor so much of the accrued payments or advances as may be considered necessary to pay laborers and mechanics, including apprentices, trainees and helpers, employed by the contractor or any subcontractor the full amount of wages required by the contract In the event of failure to pay any laborer or mechanic, including any apprentice, trainee or helper, employed or working on the site of the work, all or part of the wages required by the contract, HUD or its designee may, after written notice to the contractor, sponsor, applicant, or owner, take such action as may be necessary to cause the suspension of any further payment, advance, or guarantee of funds until such violations have ceased. HUD or its designee may, after written notice to the contractor, disburse such amounts withheld for and on account of the contractor or subcontractor to the respective employees to whom they are due. The Comptroller General shall make such disbursements in the case of direct Davis-Bacon Act contracts.

3. (i) Payrolls and basic records. Payrolls and basic records relating thereto shall be maintained by the contractor during the course of the work preserved for a period of three years thereafter for all laborers and mechanics working at the site of the work. Such records shall contain the name, address, and social security number of each such worker, his or her correct classification, hourly rates of wages paid (including rates of contributions or costs anticipated for bona fide fringe benefits or cash equivalents thereof of the types described in Section l(b)(2)(B) of the Davis-bacon Act), daily and weekly number of hours worked, deductions made and actual wages paid. Whenever the Secretary of Labor has found under 29 CFR 5.5 (a)(1)(iv) that the wages of any laborer or mechanic include the amount of any costs reasonably anticipated in providing benefits under a plan or program described in Section l(b)(2)(B) of the Davis-Bacon Act, the contractor shall maintain records which show that the commitment to provide such benefits is enforceable, that the plan or program is financially responsible, and that the plan or program has been communicated in writing to the laborers or mechanics affected, and records which show the costs anticipated or the actual cost incurred in providing such benefits. Contractors employing apprentices or trainees under approved programs shall maintain written evidence of the registration of apprenticeship programs and certification of trainee programs, the registration of the apprentices and trainees, and the ratios and wage rates prescribed in the applicable programs. (Approved by the Office of Management and Budget under OMB Control Numbers 1215-0140 and 1215-0017.)

(ii) (a) The contractor shall submit weekly for each week in which any contract work is performed a copy of all payrolls to HUD or its designee if the agency is a party to the contract, but if the agency is not such a party, the contractor will submit the payrolls to the applicant sponsor, or owner, as the case may be, for transmission to HUD or its designee. The payrolls submitted shall set out accurately and completely all of the information required to be maintained under 29 CFR 5.5(a)(3)(i) except that full social security numbers and home addresses shall not be included on weekly transmittals. Instead the payrolls shall only need to include an individually identifying number for each employee (e.g., the last four digits of the employee's social security number). The required weekly payroll information may be submitted in any form desired. Optional Form WH-347 is available for this purpose from the Wage and Hour Division Web site at http://www.dol.gov/esa/whd/forms/wh347instr.htm or its successor site. The prime contractor is responsible for the submission of copies of payrolls by all subcontractors. Contractors and subcontractors shall maintain the full social security number and current address of each covered worker, and shall provide them upon request to HUD or its designee if the agency is a party to the contract, but if the agency is not such a party, the contractor will submit the payrolls to the applicant sponsor, or owner, as the case may be, for transmission to HUD or its designee, the contractor, or the Wage and Hour Division of the Department of Labor for purposes of an investigation or audit of compliance with prevailing wage requirements. It is not a violation of this subparagraph for a prime contractor to require a subcontractor to provide addresses and social security numbers to the prime contractor for its own records, without weekly submission to HUD or its designee. (Approved by the Office of Management and Budget under OMB Control Number 1215-0149.)

(b) Each payroll submitted shall be accompanied by a "Statement of Compliance," signed by the contractor or subcontractor or his or her agent who pays or supervises the payment of the persons employed under the contract and shall certify the following.

(1) That the payroll for the payroll period contains the information required to be provided under 29 CFR 5.5 (a)(3)(ii), the appropriate information is being maintained under 29 CFR 5.5(a)(3)(i), and that such information is correct and complete;

(2) That each laborer or mechanic (including each helper, apprentice, and trainee) employed on the contract during the payroll period has been paid the full weekly wages earned, without rebate, either directly or indirectly, and that no deductions have been made either directly or indirectly from the full wages earned, other than permissible deductions as set forth in 29 CFR Part 3;

(3) That each laborer or mechanic has been paid not less than the applicable wage rates and fringe benefits or cash equivalents for the classification of work performed, as specified in the applicable wage determination incorporated into the contract.

(c) The weekly submission of a properly executed certification set forth on the reverse side of Optional Form WH-347 shall satisfy the requirement for submission of the "Statement of Compliance" required by subparagraph A.3.(ii)(b).

(d) The falsification of any of the above certifications may subject the contractor or subcontractor to civil or criminal prosecution under Section 1001 of Title 18 and Section 231 of Title 31 of the United States Code.

(iii) The contractor or subcontractor shall make the records required under subparagraph A.3.(i) available for inspection, copying, or transcription by authorized representatives of HUD or its designee or the Department of Labor, and shall permit such representatives to interview employees during working hours on the job. If the contractor or subcontractor fails to submit the required records or to make them available, HUD or its designee may, after written notice to the contractor, sponsor, applicant or owner, take such action as may be necessary to cause the suspension of any further payment, advance, or guarantee of funds. Furthermore, failure to submit the required records upon request or to make such records available may be grounds for debarment action pursuant to 29 CFR 5.12.

4. Apprentices and Trainees.

(i) Apprentices. Apprentices will be permitted to work at less than the predetermined rate for the work they performed when they are employed pursuant to and individually registered in a bona fide apprenticeship program registered with the U.S. Department of Labor, Employment and Training Administration, Office of Apprenticeship Training, Employer and Labor Services, or with a State Apprenticeship Agency recognized by the Office, or if a person is employed in his or her first 90 days of probationary employment as an apprentice in such an apprenticeship program, who is not individually registered in the program, but who has been certified by the Office of Apprenticeship Training, Employer and Labor Services or a State Apprenticeship Agency (where appropriate) to be eligible for probationary employment as an apprentice. The allowable ratio of apprentices to journeymen on the job site in any craft classification shall not be greater than the ratio permitted to the contractor as to the entire work force under the registered program. Any worker listed on a payroll at an apprentice wage rate, who is not registered or otherwise employed as stated above, shall be paid not less than the applicable wage rate on the wage determination for the classification of work actually performed. In addition, any apprentice performing work on the job site in excess of the ratio permitted under the registered program shall be paid not less than the applicable wage rate on the wage determination for the work actually performed. Where a contractor is performing construction on a project in a locality other than that in which its program is registered, the ratios and wage rates (expressed in percentages of the journeyman's hourly rate) specified in the contractor's or subcontractor's registered program shall be observed. Every apprentice must be paid at not less than the rate specified in the registered program for the apprentice's level of progress, expressed as a percentage of the journeymen hourly rate specified in the applicable wage determination. Apprentices shall be paid fringe benefits in accordance with the provisions of the apprenticeship program. If the apprenticeship program does not specify fringe benefits, apprentices must be paid the full amount of fringe benefits listed on the wage determination for the applicable classification. If the Administrator determines that a different practice prevails for the applicable apprentice classification, fringes shall be paid in accordance with that determination. In the event the Office of Apprenticeship Training, Employer and Labor Services, or a State Apprenticeship Agency recognized by the Office, withdraws approval of an apprenticeship program, the contractor will no longer be permitted to utilize apprentices at less than the applicable predetermined rate for the work performed until an acceptable program is approved.

(ii) Trainees. Except as provided in 29 CFR 5.16, trainees will not be permitted to work at less than the predetermined rate for the work performed unless they are employed pursuant ',to and individually registered in a program which has received prior approval, evidenced by formal certification by the U.S. Department of Labor, Employment and Training Administration. The ratio of trainees to journeymen on the job site shall not be greater than permitted under the plan approved by the Employment and Training Administration. Every trainee must be paid at not less than the rate specified in the approved program for the trainee's level of progress, expressed as a percentage of the journeyman hourly rate specified in the applicable wage determination. Trainees shall be paid fringe benefits in accordance with the provisions of the trainee program. If the trainee program does not mention fringe benefits, trainees shall be paid the full amount of fringe benefits listed on the wage determination unless the Administrator of the Wage and Hour Division determines that there is an apprenticeship program associated with the corresponding journeyman wage rate on the wage determination which provides for less than full fringe benefits for apprentices. Any employee listed on the payroll at a trainee rate who is not registered and participating in a training plan approved by

the Employment and Training Administration shall be paid not less than the applicable wage rate on the wage determination for the work actually performed. In addition, any trainee performing work on the job site in excess of the ratio permitted under the registered program shall be paid not less than the applicable wage rate on the wage determination for the work actually performed. In the event the Employment and Training Administration withdraws approval of a training program, the contractor will no longer be permitted to utilize trainees at less than the applicable predetermined rate for the work performed until an acceptable program is approved.

(iii) Equal employment opportunity. The utilization of apprentices, trainees and journeymen under 29 CFR Part 5 shall be in conformity with the equal employment opportunity requirements of Executive Order 11246, as amended, and 29 CFR Part 30.

5. Compliance with Copeland Act requirements. The contractor shall comply with the requirements of 29 CFR Part 3 which are incorporated by reference in this contract

6. Subcontracts. The contractor or subcontractor will insert in any subcontracts the clauses contained in subparagraphs 1 through 11 in this paragraph A and such other clauses as HUD or its designee may by appropriate instructions require, and a copy of the applicable prevailing wage decision, and also a clause requiring the subcontractors to include these clauses in any lower tier subcontracts. The prime contractor shall be responsible for the compliance by any subcontractor or lower tier subcontractor with all the contract clauses in this paragraph.

7. Contract termination; debarment. A breach of the contract clauses in 29 CFR 5.5 may be grounds for termination of the contract and for debarment as a contractor and a subcontractor as provided in 29 CFR 5.12.

8. Compliance with Davis-Bacon and Related Act Requirements. All rulings and interpretations of the Davis-Bacon and Related Acts contained in 29 CFR Parts 1, 3, and 5 are herein incorporated by reference in this contract

9. Disputes concerning labor standards. Disputes arising out of the labor standards provisions of this contract shall not be subject to the general disputes clause of this contract. Such disputes shall be resolved in accordance with the procedures of the Department of Labor set forth in 29 CFR Parts 5, 6, and 7. Disputes within the meaning of this clause include disputes between the contractor (or any of its subcontractors) and HUD or its designee, the U.S. Department of Labor, or the employees or their representatives.

10. (i) Certification of Eligibility. By entering into this contract the contractor certifies that neither it (nor he or she) nor any person or firm who has an interest in the contractor's firm is a person or firm ineligible to be awarded Government contracts by virtue of Section 3(a) of the Davis-Bacon Act or 29 CFR 5.12(a)(1) or to be awarded HUD contracts or participate in HUD programs pursuant to 24 CFR Part 24.

(ii) No part of this contract shall be subcontracted to any person or firm ineligible for award of a Government contract by virtue of Section 3(a) of the Davis-Bacon Act or 29 CFR 5.12(a)(1) or to be awarded HUD contracts or participate in HUD programs pursuant to 24 CFR Part 24.

(iii) The penalty for making false statements is prescribed in the U.S. Criminal Code, 18 U.S.C. 1001. Additionally, U.S. Criminal Code, Section 1 01 0, Title 18, U.S.C., "Federal Housing Administration transactions", provides in part: "Whoever, for the purpose of . . . influencing in any way the action of such Administration..... makes, utters or publishes any statement knowing the same to be false..... shall be fined not more than $5,000 or imprisoned not more than two years, or both."

11. Complaints, Proceedings, or Testimony by Employees. No laborer or mechanic to whom the wage, salary, or other labor standards provisions of this Contract are applicable shall be discharged or in any other manner discriminated against by the Contractor or any subcontractor because such employee has filed any complaint or instituted or caused to be instituted any proceeding or has testified or is about to testify in any proceeding under or relating to the labor standards applicable under this Contract to his employer.

B. Contract Work Hours and Safety Standards Act. The provisions of this paragraph B are applicable where the amount of the prime contract exceeds $100,000. As used in this paragraph, the terms "laborers" and "mechanics" include watchmen and guards.

(1) Overtime requirements. No contractor or subcontractor contracting for any part of the contract work which may require or involve the employment of laborers or mechanics shall require or permit any such laborer or mechanic in any workweek in which the individual is employed on such work to work in excess of 40 hours in such workweek unless such laborer or mechanic receives compensation at a rate not less than one and one-half times the basic rate of pay for all hours worked in excess of 40 hours in such workweek.

(2) Violation; liability for unpaid wages; liquidated damages. In the event of any violation of the clause set forth in subparagraph (1) of this paragraph, the contractor and any subcontractor responsible therefor shall be liable for the unpaid wages. In addition, such contractor and subcontractor shall be liable to the United States (in the case of work done under contract for the District of Columbia or a territory, to such District or to such territory), for liquidated damages. Such liquidated damages shall be computed with respect to each individual laborer or mechanic, including watchmen and guards, employed in violation of the clause set forth in subparagraph (1) of this paragraph, in the sum of $10 for each calendar day on which such individual was required or permitted to work in excess of the standard workweek of 40 hours without payment of the overtime wages required by the clause set forth in sub paragraph (1) of this paragraph.

(3) Withholding for unpaid wages and liquidated damages. HUD or its designee shall upon its own action or upon written request of an authorized representative of the Department of Labor withhold or cause to be withheld, from any moneys payable on account of work performed by the contractor or subcontractor under any such contract or any other Federal contract with the same prime contract, or any other Federally-assisted contract subject to the Contract Work Hours and Safety Standards Act which is held by the same prime contractor such sums as may be determined to be necessary to satisfy any liabilities of such contractor or subcontractor for unpaid wages and liquidated damages as provided in the clause set forth in subparagraph (2) of this paragraph.

(4) Subcontracts. The contractor or subcontractor shall insert in any subcontracts the clauses set forth in subparagraph (1) through (4) of this paragraph and also a clause requiring the subcontractors to include these clauses in any lower tier subcontracts. The prime contractor shall be responsible for compliance by any subcontractor or lower tier subcontractor with the clauses set forth in subparagraphs (1) through (4) of this paragraph.

C. Health and Safety. The provisions of this paragraph C are applicable where the amount of the prime contract exceeds $100,000.

(1) No laborer or mechanic shall be required to work in surroundings or under working conditions which are unsanitary, hazardous, or dangerous to his health and safety as determined under construction safety and health standards promulgated by the Secretary of Labor by regulation.

(2) The Contractor shall comply with all regulations issued by the Secretary of Labor pursuant to Title 29 Part 1926 and failure to comply may result in imposition of sanctions pursuant to the Contract Work Hours and Safety Standards Act, (Public Law 91-54, 83 Stat 96). 40 USC 3701 et seq.

(3) The contractor shall include the provisions of this paragraph in every subcontract so that such provisions will be binding on each subcontractor. The contractor shall take such action with respect to any subcontractor as the Secretary of Housing and Urban Development or the Secretary of Labor shall direct as a means of enforcing such provisions.

APPENDIX L

M/WBE NARRATIVE FORM

1.1.11 MWBE Narrative Form Exhibit 4

11

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CONTENTS

PROPOSAL PART IV

MWBE Narrative Form for On-Call Civil and Resident Engineer Retainer

SECTION 11

MBE Narrative 291

M/WBE Narrative Form

NYCEDC is dedicated to furthering the participation of minority- and women-owned businesses in its work. Each RFP Respondent must submit this form together with its proposal to indicate how M/WBE participation will be achieved if it is selected.

Construction Manager/Lead Consultant: Techno Consult, Inc.

Project Number: 9318

A. Establishment of numerical M/WBE contracting utilization goals or targets

The Participation Goal for this contract is set in Section 2.2.7 of the RFP. Please acknowledge your intention to meet this goal by entering in your M/WBE Participation Commitment Percentage below. A commitment percentage that deviates from the Participation Goal will influence the scoring of your proposal.

M/WBE Participation Commitment Percentage*: 75%

*M/WBE Participation Commitment Percentage = Projected Payments to M/WBEs/Total Contract Payments

B. Prequalified list information (Construction Management contracts only)

What is the size of your list of prequalified subcontractors who are prequalified to do work in New York? 7

How many M/WBE's are on your list of prequalified subcontractors who are prequalified to do work in New York? 5

Please fill out table below so that we may determine how well M/WBE are represented on your prequalified list for trades that are key to this project. For project specific RFPs, please refer to the Scope of Services in Appendix B. For CM retainers, please use an exhaustive list of general construction trades and waterfront construction.

	1. Trade	2. No. of Prequalified Contractors/Consultants for Trade	3. No. of Firms in Previous Column (#2) that is M/WBE
Key Trade #1	Landscape Architecture	2	1
Key Trade #2	Geotechnical Engineer	1	1
Key Trade #3	Cost Engineering	1	1
Key Trade #4	Environmental	2	1
Key Trade #5	Land Surveyor	1	1

C. List of Subcontractors/Subconsultants (Retainers, On-Call and certain CM contracts)

Please list all subcontractors/subconsultants who are included as members of the team in the proposal and a sentence on their role. Indicate which ones are M/WBE.

Group PMX- Program management, program controls, and scheduling (MBE); EKLA- Landscape Architecture and Arborist (MWBE), Bidwell Environmental- Environmental Engineering (WBE), TSPE- Land Surveyor (WBE), Marine Solutions- Waterfront Activities (WBE), Arora Associates- Geotechnical (MBE)

D. Strategies and methods that will facilitate participation by M/WBE firms

Please separately attach a narrative that lists the specific strategies that will be taken to fulfill the M/WBE requirements of this contract and the goals established. Your narrative should relate to the project scope. These strategies should be specific and easily verifiable. Note that specific actions committed to in the narrative must be documented sufficiently so that proof of their application can be readily obtained. As this narrative will be a factor in selection, it is critical that consultants fulfill every aspect of the narrative set forth in the response to the RFP. Your narrative should address:

- Firm's personal commitment to diversity and inclusion
- Pre-qualification process
- Outreach strategy on this contract
- Internal roles of team members to assure M/WBE performance. Including (but not limited to) purchasing agent, project managers, project executive, M/WBE and/or economic inclusion managers
- Bidding process & strategy on this contract
- Accountability for first-tier subcontractors/subconsultants

E. Experience & References

EDC as part of the M/WBE evaluation will be looking to past projects with regards to M/WBE performance. Please list five (5) projects that are similar in size and scope to this RFP, the ones that you refer to in your RFP response in Part III Specific Requirements Section I where your firm served as a prime/Construction Manager and where M/WBE goals were set. For every project where the goals were not met, please attach a brief narrative detailing your good faith efforts.

Contract Name & Number	*Description of work*	*M/WBE Goal (%)*	*M/WBE Award (% of M/WBE award $ in relation to total contract $)* *original contract value	*Current or final M/WBE % (M/WBE payments divided by total payments)* *original contract value	*Client Contact (Name, title, email address, phone number)*
Park Avenue/125th	REI	100%	100%	100%	NYCEDC, Yvi McEvilly ymcevilly@edc.nyc, 212.312.3968
Water Street	REI	23%	23%	100%	NYCEDC, Steve Nelson snelson@edc.nyc, 917.796.1028
MED642	REI	23%	24%	24%	NYCDDC, Dushyant Rajput rajputdu@ddc.nyc.gov, 646.879.1211
SEQ200464	REI	12%	17%	17%	NYCDDC, Franco Mesiti mesitif@ddc.nyc.gov, 718.391.1044
HWPEDSF4	REI	19%	19%	15% project in progress	NYCDDC, Howard Jiang jiangho@ddc.nyc.gov, 917.647.2362

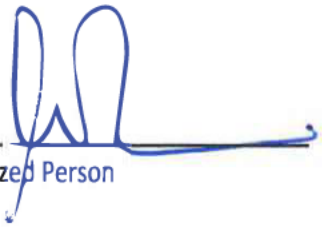
F. Provide the name and contact information of in-house M/WBE contact

Sumana Srinivas

E. Attestation

I acknowledge that all the information provided herein is true and correct. In addition, I confirm the following:

- I have read and understand the M/WBE requirements for this contract.
- I will make and thoroughly document Good Faith Efforts utilized in encouraging M/WBE participation.
- I understand that I must notify NYCEDC of any material changes to the information submitted herein.



Authorized Person

10/12/2021

Date

Khalid Mallick, PE, President

Officer's Name, Title

Narrative

MWBE Narrative:

Techno brings together a team of qualified, strong, and an experienced Team supported by our following MWBE sub consultants:

MWBE Subconsultants Participation Chart

Types of Services	Subconsultant	W/MBE*
Geotechnical Engineering & Inspection	Arora and Associates, P.C.	MBE
Land Surveying & Inspection	Tri State Planning and Land Surveying, P.C.	W/DBE
Scheduling, Cost Estimating and Project Controls	Group PMX, LLC	M/DBE
Environmental and Site Safety Management	Bidwell Environmental, LLC	W/DBE
Landscape Architecture, Public Art and Arborist	Elizabeth Kennedy Landscape Architects, PLLC	W/DBE
Underwater Diving and Inspection	Marine Infrastructure Engineering Solutions, P.C.	WBE

Techno's MWBE Approach:

Techno, a well-known certified MBE/DBE in the NY Metro region, fully understands the importance of engaging and the participation of fellow MWDBE firms in our team. It is our policy and part of our Best Practices to have regular and direct outreach to several local certified MWDBE firms and provide them with growth opportunities by joining our team on prime contracts. On-call contracts like this CE, RE Retainer, provide Techno with the perfect opportunity to bring onboard qualified MWDBE firms which enhances the team by providing a broad spectrum of specialized scope of services, as demonstrated by the chart above, all while providing significant growth and recognition opportunities to MWDBE firms.

With the experience of working on several on-call prime contracts for different city agencies, Techno has established a solid professional working relationship with several MWDBE firms. Some of these firms are a part of our MWDBE group for this contract, for example, Group PMX, Bidwell Environmental, Elizabeth Kennedy Landscape Architects and Tri State Planning and Land Surveying. These MWBE firms have partnered with us before on difficult, complex assignments which have been successfully completed for many City agencies, including NYCEDC.

For this solicitation, Techno also broadened its search for MWDBE partners, utilizing the city's database of certified local MWDBEs. Through this effort, we were able to identify several qualified sub consultants who are now being utilized within our MWBE Participation Plan based upon their specific specialties.

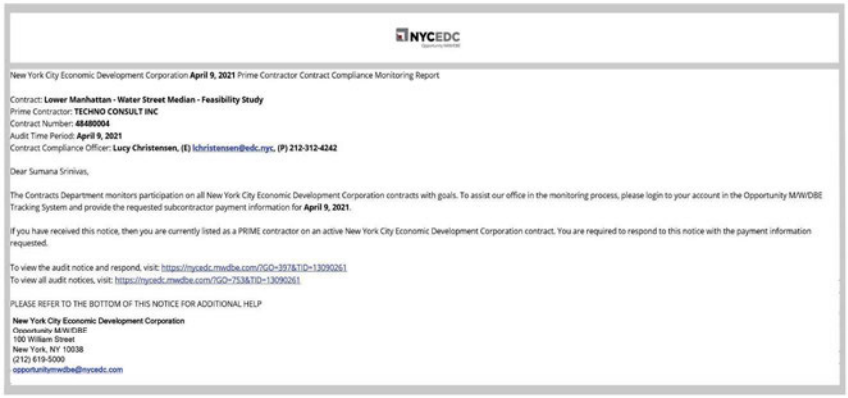
For the preparation of this proposal, Techno conducted direct outreach and timely notification to all our sub consultants including our MWDBE partners for specific opportunities and services anticipated in this contract. Techno also held virtual meetings to communicate with all our MWDBE partners and ensure that they understood the detailed scope requirements of the portions of their work for which their participation in our team was chosen.

Each of our MWDBE partners will have a carefully negotiated and executed sub consultant agreement before the start of the contract work. For this contract, each agreement will contain specific scope and percentage of work for Techno to meet and exceed our MWDBE goals in this contract. For the overall

Retainer, Techno will submit an overall Subcontractor Participation Plan as well as an MWDBE Participation plan on a task by task basis, as required for this contract is as per **Appendix L**. If NYCEDC does not approve a certain MWDBE subcontractor proposed by Techno for a task, we will propose a qualified alternate MWDBE sub consultant.

Techno's MWBE compliance efforts:

During the contract term, Techno will provide NYCEDC with written certified statements (MWDBE Compliance Reports), reporting the status of our compliance with the MWDBE subcontractor Participation Plan. Techno will submit a MWDBE Compliance Report to NYCEDC with each requisition for payment; and/or on a periodic basis as NYCEDC may require.



NYCEDC

New York City Economic Development Corporation **April 9, 2021** Prime Contractor Contract Compliance Monitoring Report

Contract: **Lower Manhattan - Water Street Median - Feasibility Study**
Prime Contractor: **TECHNO CONSULT INC**
Contract Number: **48480004**
Audit Time Period: **April 9, 2021**
Contract Compliance Officer: **Lucy Christensen, (E)** lchristensen@edc.nyc, **(P) 212-312-4242**

Dear Sumana Srinivas,

The Contracts Department monitors participation on all New York City Economic Development Corporation contracts with goals. To assist our office in the monitoring process, please login to your account in the Opportunity M/W/DBE Tracking System and provide the requested subcontractor payment information for **April 9, 2021**.

If you have received this notice, then you are currently listed as a PRIME contractor on an active New York City Economic Development Corporation contract. You are required to respond to this notice with the payment information requested.

To view the audit notice and respond, visit: https://nycedc.mwdbe.com/?GO=307&TID=13090261
To view all audit notices, visit: https://nycedc.mwdbe.com/?GO=753&TID=13090261

PLEASE REFER TO THE BOTTOM OF THIS NOTICE FOR ADDITIONAL HELP

New York City Economic Development Corporation
Opportunity M/W/DBE
100 William Street
New York, NY 10038
(212) 619-5000
opportunitymwdbe@nycedc.com

These Compliance Reports will include the total amounts paid to the respective MWDBE sub consultant on a monthly basis.

In addition, Techno will submit a final, cumulative MWDBE Compliance Report to NYCEDC with its requisition for final payment. Techno will include in this final report the information required under this contract in connection with all services provided our sub consultants during the entire contract term.

In addition to working closely with our sub consultants on a day to day basis as the contract work is executed, Techno will diligently track our subconsultant's award and payment information online through NYCEDC's Compliance Tracking System (CTS). We understand that Techno will be responsible for entering contact and award information on all our sub consultants associated with the project. Any changes to subcontractors and award amounts will be tracked in this system. We also understand that if NYCEDC provides a change in our contract that exceeds the contract value, we will closely work with NYCEDC compliance department to establish a revised MWBE participation goal for the work to be performed in accordance with that change and will do so on a timely basis.

Techno has established vigorous MWDBE sub consultant participation plans on a task by task basis on our on-call contracts in the past and we have experience with the reporting requirements (see the following example). We have been evaluated by several City agencies for compliance on these contracts and have been found to not only meet but exceed our MWDBE compliance goals. We will work very closely with our respective NYCEDC counterparts to ensure that we continue to provide our MWBE participation in this contract in line with our first-rate reputation in this area as we have done so in the past.

Techno's Contract Overlook:

As a certified MBE/DBE, Techno as the prime will fulfill any MBE/DBE requirements the contract may have. However, as an M/DBE, Techno regcognizes the importance of MWDBE outreach and utilizing local MWDBE firms to help them with their growth. Considering our role as an MBE/DBE prime, along with the use of primarily MWDBE subconsultants for this contract, we intend to have a very high percentage of MWDBE utilization. Our continuous goal will be to utilize as many MWDBE subconsultants, as possible, whilst maintaining the integrity and the skillset of the overall team.

NEW YORK CITY HOUSING AUTHORITY

Reset

OTHER ECONOMIC OPPORTUNITIES (OEO) PLAN

THE OEO PLAN MUST BE COMPLETED IN ADDITION TO THE SECTION 3 HIRING PLAN ONLY IF THERE IS NO COMMITMENT TO HIRE SECTION 3 RESIDENTS AND/OR SUBCONTRACT TO SECTION 3 BUSINESS CONCERNS.

NYCHA DEVELOPMENTS WHERE WORK IS TAKING PLACE:	CONTRACT NO:
CONTRACT AMOUNT:	TYPE OF WORK:
COMPANY NAME:	BUSINESS ADDRESS:
BUSINESS PHONE #:	EMAIL:
FEDERAL TAX #:	PROPOSAL DATE:

A. PLAN OFFICER: Name of Principal Company official who will serve as the Section 3 Plan Officer.

Name_____ Company Title _

Phone _ Email _____

B. Justification for Inability to Meet Section 3 Hiring and/or Subcontracting Requirements

Contractor must provide reasonable justification for its inability to hire Section 3 residents and/or subcontract with Section 3 Business Concerns, and its need, therefore, to provide other economic opportunities.

Reason(s) for inability to hire Section 3 residents and/or subcontract with Section 3 Business Concerns:

C. ANALYSIS & PROJECTIONS

In the spaces provided below, please outline your plan to provide other economic opportunities to Section 3 residents and/or Section 3 Business Concerns. Select from the options below. You are encouraged to select more than one option.

1. INDIRECT PARTICIPATION (HIRING SECTION 3 RESIDENTS IN POSITIONS OUTSIDE THE SECTION 3 COVERED CONTRACT)			
JOB TITLE	# OF PROJECTED RESIDENT HIRES	PROJECTED HOURLY WAGE	PROJECTED HOURS/WEEK

2. PAID INTERNSHIP PROGRAM (ALL INTERNS MUST BE PAID AT LEAST THE MINIMUM WAGE FOR AT LEAST 20HRS PER WEEK)		
INTERNSHIP TITLE	INTERNSHIP DESCRIPTION	PROJECTED # OF INTERNS

3. RESIDENT TRAINING PROGRAM				
TYPE OF TRAINING	LENGTH OF TRAINING	CERTIFICATES OR LICENSES PROVIDED	COST PER PERSON	PROJECTED # OF RESIDENTS TRAINED

4. PRE-APPRENTICESHIP TRAINING OPPORTUNITIES			
DESCRIPTION OF TRAINING/TITLE	PROJECTED # OF RESIDENTS TRAINED	PROJECTED HOURLY WAGE	PROJECTED HOURS/WEEK

5. SUPPORT TO SECTION 3 BUSINESS CONCERNS			
BUSINESS SUPPORT OPTIONS	DESCRIPTION OF SUPPORT	PROJECTED # OF S3BC COMPANIES TO RECEIVE SUPPORT	# OF HOURS/VALUE (IN $)
TECHNICAL SUPPORT/CONSULTING SESSIONS (MIN 80 HRS)			
PURCHASE OF SUPPLIES AND MATERIALS (MIN 3% OF CONTRACT AWARD)			
LOANS, SCHOLARSHIPS OR GRANTS (MIN 3% OF CONTRACT AWARD)			

OUTREACH & RECRUITMENT ACTIVITIES

What actions will your company take to recruit Section 3 residents and Section 3 Business Concerns for the Other Economic Opportunities listed?

- Do you commit to working with NYCHA's Office of Resident Economic Empowerment & Sustainability (REES) to source Category 1 & 2 residents including graduates of the NRTA and other REES partners?
- Do you commit to working with property managers to post opportunities?
- What other tools will you use to market these opportunities?
- How else do you plan to inform the community and resident associations of these opportunities?
- What efforts will you make to support Section 3 Business Concerns?

E. VENDOR CERTIFICATION

The vendor certifies to comply with the Section 3 regulations. The vendor's Section 3 Plan Officer agrees to meet with NYCHA residents and staff and provide documentation and reports required by NYCHA to confirm compliance with Section 3 requirements. Failure to comply may be deemed a material breach of this contract and may result in sanctions, termination of this contract and/or unsatisfactory performance evaluation, cautions reported, and affect award of future contracts.

Print Section 3 Plan Officer:

Signature of Section 3 Plan Officer:

Company Title:

Date:

APPENDIX M

DOING BUSINESS DATA FORM

APPENDIX N

WHISTLEBLOWER POSTER

REPORTING INFORMATION TO THE NEW YORK CITY DEPARTMENT OF INVESTIGATION

If you have information of any corrupt or fraudulent activities or unethical conduct relating to a New York City funded project or contract, contact:

Department of Investigation (DOI) Complaint Bureau
212-825-5959

or by mail or in person at:

DEPARTMENT OF INVESTIGATION
80 MAIDEN LANE, 17th FLOOR
NEW YORK, NEW YORK 10038
Attention: COMPLAINT BUREAU

or file a complaint on-line at:
www.nyc.gov/doi

All communications are confidential.

THE LAW PROTECTS EMPLOYEES OF CITY CONTRACTORS WHO REPORT CORRUPTION

- Any employee of a contractor or subcontractor that has a contract with the City or a City contractor of more than $100,000 is protected under the law from retaliation by his or her employer if the employee reports wrongdoing related to the contract to the DOI.
- To be protected by this law, an employee must report information about fraud, false claims, corruption, criminality, conflict of interest, gross mismanagement, or abuse of authority relating to a City contract over $100,000 to DOI or to certain other government officials all of whom must forward the report to DOI.
- Any employee who has made such a report and who believes he or she has been dismissed, demoted, suspended, or otherwise subject to an adverse personnel action because of that report is entitled to bring a lawsuit against the contractor and recover damages.

