February 10, 2026 **ADDENDUM # 3**

RE: Justice Involved Supportive Housing Open Ended RFP
EPIN: 81622P0004

Pursuant to Sections 3-02(i) and 3-16(o)(2) of the Procurement Policy Board (PPB) Rules, the New York City Department of Health and Mental Hygiene (the NYC Health Department) is issuing **Addendum #3** to the Justice Involved Supportive Housing Open Ended RFP, EPIN 81622P0004. This Addendum contains the following information:

I. The NYC Health Department anticipates that the closing date for this Open-ended RFP will be December 31, 2026
II. Answer to a question received by the NYC Health Department
III. Revised RFP document
IV. Revised General Information and Regulatory Requirements document
V. Inclusion of Appendix A (GENERAL PROVISIONS GOVERNING CONTRACTS FOR CONSULTANTS, PROFESSIONAL, TECHNICAL, HUMAN, AND CLIENT SERVICES)
VI. Notice regarding the Office of Program Review and Evaluation 1100 Series document.

I. The NYC Health Department anticipates that the Justice Involved Supportive Housing Open Ended RFP will close on December 31, 2026. Proposals will be evaluated as they are received. Proposers are encouraged to submit their proposals before December 31, 2026.

II. Below is the answer to a question that the NYC Health Department recently received about this RFP:

Question: The RFP indicates that rental assistance for congregate models come from HPD through a separate award. Could you connect me with the right folks at HPD to learn more, including when/how to engage HPD, and what available funding looks like so we can incorporate it into our budget modelling and real estate search.

Answer: Proposers may access further information about rental assistance from the following HPD resources: nyc-15-15-welcome-packet.pdf and nyc-15-15-application.pdf.

III. The NYC Health Department is hereby issuing a fully revised RFP document. This RFP document includes changes made in prior Addenda that are still in effect, changes to the unit rates, and changes to various service expectations. Deletions are crossed out, and additions are in bold red type. Potential proposers are directed to read the document included in this addendum as "Attachment A". This replaces the following documents:

a. Justice-Involved Supportive Housing (JISH) RFP 22327.pdf
b. Addendum 2 22327.pdf
c. Previously Issued Addendum Questions and Answers.pdf

IV. The NYC Health Department is hereby issuing a revised "General Information and Regulatory Requirements" document. Potential proposers are directed to read the document included in this addendum as "Attachment B" This replaces the following documents:

a. General Information and Regulatory Requirements 22327.pdf
b. Addendum #1 Labor Peace Documents (PLEASE READ) 22327.pdf.

V. The NYC Health Department is hereby including the City's "Appendix A" for general provisions governing contracts to the RFP document portfolio, included in this addendum as "Attachment C".

VI. The document entitled "Office of Program Review and Evaluation 1100 Series Standards 22327.pdf" is no longer in effect.

Attachment A

Request for Proposal Document as of February 10, 2026

Request for Proposals

Justice Involved Supportive Housing (JISH)
EPIN: 81622P0004

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1. Basic Information and Proposal Submission Instructions

Proposal Due Date	This is an open-ended RFP. Therefore, proposals will be accepted and reviewed on an ongoing basis until the City's needs are met. **NOTICE: The NYC Health Department anticipates that the closing date for this open-ended RFP will be December 31, 2026. Proposals will be evaluated as they are received. Proposers are advised to submit their proposals before December 31, 2026.**
Anticipated Contract Term	• **Scattered Site:** DOHMH anticipates that the term of each scattered site contract resulting from this RFP will be 9 years in duration, contingent on the availability of funding. • **Congregate:** DOHMH anticipates that the term of each congregate contract resulting from this RFP will be 9 years in duration, contingent on the availability of funding. In the event that a proposer needs to obtain financing to secure a site that can only be obtained through a long-term agreement, the contract term will be coterminous with the financing provisions, but shall not exceed 30 years, and shall be contingent on the availability of funding.
Agency Contact	~~Dara R. Lebwohl~~ **Richard Cheung** RFP@health.nyc.gov (indicate JISH in subject line)
Anticipated Funding and Payment Structure	DOHMH anticipates that the total anticipated procurement amount will be ~~$93,762,132~~ **$43,200,000** DOHMH reserves the right to increase the procurement amount should additional funds become available. Funding levels are based on the number of contracted units. Units are defined as follows: 1. Scattered Site: a **scattered site** unit is defined as a studio apartment **or** a one-bedroom apartment~~, or a bedroom within a two-bedroom apartment. (In all instances, each tenant must have their own bedroom)~~ 2. Congregate: ~~a unit is defined as a single-occupancy apartment. Congregate units may not be shared with other individuals~~ **a congregate unit is defined as a single-occupancy apartment—such as a studio, efficiency, or one-bedroom—located in a single-site building that will be newly constructed or is substantially being rehabbed with all units having at least a kitchenette and a bathroom**

	The anticipated funding for each housing type is as follows: i. Scattered Site: **a)** Operations (rental assistance): ~~Designated~~ **Anticipated** operating costs (as of **11/1/25** ~~1/1/23~~) will be based on unit size as follows: a) Studio: $**2,646** ~~2,179~~ Monthly (inclusive of utilities) b) 1 Bedroom: $**2,762** ~~2,218~~ Monthly (inclusive of utilities) ~~c) 2 Bedroom: $2,527 Monthly (inclusive of utilities)~~ **b)** For the purpose of budget development, proposers should assume that **rental funding can** ~~Designated operating costs may~~ be increased up to two (2) percent each year from the initial operating date. **c)** Tenant contribution will be assumed at $215 per household and an expected collection rate of 75% annually. Rates are inclusive of utilities **d)** Supportive Services: $**20,669** ~~10,000~~ per unit per year **e) Anticipated operating costs for scattered site programs may not exceed the annual City- administered rental assistance rates, known as CityFHEPs (Fighting Homelessness and Eviction Prevention Supplement) less the $215 per head of household rent contribution at an expected collection of 75% annually and are inclusive of utilities.** ii. Congregate: a) Operations (rental assistance): Rental assistance to support the projects will be funded outside this RFP, through a separate process administered by the NYC Department of Housing Preservation and Development (HPD). Demonstration of a preliminary award determination from this RFP will be required for eligibility for HPD rental assistance. **For more information please refer to the following HPD resources: nyc-15-15-welcome-packet.pdf and nyc-15-15-application.pdf.** b) Supportive Services: $**25,596** ~~17,500~~ per unit per year The anticipated payment structure will be performance-based; the contractors will be paid the unit rates indicated above. ~~All price and budget proposals should be prepared in accordance with The City of New York's Health and Human Service Cost Policy and Procedures Manual (Cost Manual). For the purpose of responding to this solicitation, proposers may budget up to an Accepted Indirect Cost Rate or use the 10% de minimis Indirect Cost Rate~~

	All price and budget proposals should be prepared in accordance with The City of New York's Health and Human Service Cost Policies and Procedures Manual (Cost Manual). For the purpose of responding to this solicitation, proposers should budget their Accepted Indirect Cost Rate or use the 10% de minimis Indirect Cost Rate if they do not have an Accepted Indirect Cost Rate. DOHMH anticipates that the total number of JISH housing units awarded through this RFP will be ~~380~~ **up to 190, contingent upon availability of funding**. DOHMH reserves the right to allocate the number of units in each housing type as appropriate and necessary to meet the City's need and demand, and in alignment with the capacity of the supportive housing system. DOHMH also reserves the right to award additional units should additional funding become available.
Subcontractor Requirements	• Subcontractors may be used with DOHMH's prior approval. • Subcontractors will be required to have a valid Vendor Number in the New York City Financial Management System (FMS). Subcontractors that do not have an FMS Vendor Number may obtain one by completing the Payee Information Portal (PIP) activation process. • Any subcontract valued over $20,000 requires that the subcontractor be prequalified in PASSPort. • The Contractor must enter all subcontracts, and all payments to subcontractors, into **PASSPort** ~~PIP~~.
Use of PASSPort and Prequalification	• ~~To respond to this RFP and all other Human/Client Services RFPs, organizations must have an account and an Approved HHS Accelerator PQL qualification status in PASSPort. Proposals and Prequalification applications will ONLY be accepted through PASSPort.~~ • ~~If you do not have a PASSPort account or Approved PASSPort HHS Accelerator PQL Application, please visit nyc.gov/passport to get started.~~ • ~~If you have any questions about your HHS Accelerator PQL status or for assistance with creating a PASSPort account, please contact help@mocs.nyc.gov~~ • **All proposals must be submitted through the PASSPort system.** • **To respond to this RFP and all other Human/Client Services RFPs, organizations must have an account and an Approved HHS Accelerator PQL qualification status in PASSPort. Proposals and prequalification applications will ONLY be accepted through PASSPort.** • **If you do not have a PASSPort account or Approved PASSPort HHS Accelerator PQL Application, please visit nyc.gov/passport to get started.** • **If you have any questions about your HHS Accelerator PQL status or for assistance with creating a PASSPort account, please contact the**

	MOCS Service Desk through the contact form: https://www.nyc.gov/site/mocs/contact/help.page
Questions Regarding this RFP	• Questions regarding this RFP must be transmitted in writing to the Agency Contact Person at RFP@health.nyc.gov. • Answers to substantive questions received in writing about this RFP will be addressed in written Addenda to this RFP; such Addenda will be released through the PASSPort. • **Technical issues related to the PASSPort system should be reported directly to the Mayor's Office of Contract Services (MOCS) Service Desk: https://www.nyc.gov/site/mocs/about/help.page Instructions to create an account for the MOCS Service Desk Portal are available at the bottom of the MOCS Help Page.** • **Proposers are asked to send the Agency Contact Person the MOCS Service Desk Ticket Number and summary of the issue for agency awareness.**

Section 2 – Program Background

In June 2014, New York City Mayor Bill de Blasio convened a Task Force on Behavioral Health and the Criminal Justice System in order to chart a path toward ensuring that the public safety and public health systems work together to implement smart, effective strategies with a goal of improving outcomes for individuals with behavioral health needs who also have involvement with the criminal justice system. A key recommendation from this Task Force was to create a scattered-site supportive housing program focused on homeless individuals with behavioral health needs who have histories of cycling through the criminal justice system. In October 2015, DOHMH started the Justice Involved Supportive Housing program (JISH) with 120 beds of scattered site housing.

The JISH model incorporated rapid housing and intensive service delivery during the tenants' first year in housing and more typical supportive housing services beyond that. The aim of this model was to address the needs of individuals cycling through the shelter and jail system in a compassionate and cost-effective manner.

When JISH was originally implemented in 2015, potential tenants were identified using a data match from the NYC Department of Corrections and NYC Department of Homeless Services to identify individuals with the highest rates of jail and shelter usage. Of the approximately 1,200 individuals identified, 200 were randomly selected by the Mayor's Office of Criminal Justice. The NYC Department of Health and Mental Hygiene (DOHMH) directed three community based JISH housing contractors to reach out to jails and shelters to find these individuals, offer them housing, and place them into an apartment. The HRA 2010e application was not required.[1]

JISH, as a scattered site model, has seen numerous successes. **The most recent NYC Health Department data demonstrates how JISH continues to have a positive impact on JISH residents: data for FY25 (July 1, 2024 – June 30, 2025) reflects the following successes: 50% of current JISH residents have lived in their housing for 6-10 years, and 87% of JISH residents had no arrests in the same timeframe.** ~~in the last quarter of FY18 (April – June 2018), almost half of those with reported substance use were engaged in substance use treatment or other supportive service, and NYC DOHMH data show that 60% of those with mental health issues were engaged in mental health services. Fewer than 5% of tenants had an emergency room visit or hospitalization that same quarter.~~

Given the success of the scattered site JISH program, DOHMH seeks to expand the quantity of scattered site units and apply the JISH model to congregate housing. The additional option of congregate supportive housing for this population will offer a greater sense of community, on-site assistance to develop independent living skills needed to successfully remain housed, and accessibility to support staff in times of crisis. ~~The additional scattered site programs and the new congregate JISH programs will adhere to the current JISH program standards, which include case management services that provide, at least weekly contact with tenants.~~

This Request for Proposal is intended to procure and make available permanent supportive housing units for adults (18+); initially, DOHMH anticipates that the population would be comprised mainly of individuals who are frequently cycling through jail and shelter who have a mental illness and/or substance use disorder. DOHMH anticipates that the population matches may expand to include individuals who, in addition to having frequent contact with the criminal justice system and the

[1] The HRA 2010e is the supportive housing application that must be submitted electronically by an approved contractor to the Human Resources Administration's Placement, Assessment and Client Tracking (PACT) Unit. Approved contractors include any NYC shelter, hospital staff, Tenantial treatment program staff or mental health professionals. Individuals who are experiencing homelessness will work with an approved contractor to complete the HRA2010e, and once approved, will be placed in a supportive housing unit.

homeless system, have also had frequent contact with the mental health treatment system. Permanent supportive housing units would be allocated through two separate competition pools as follows:

- **Scattered Site**: scattered site units to be developed across New York City to expand the availability of this housing option, in apartment buildings spread throughout a neighborhood or community ~~that are designated for specific populations~~, accompanied by supportive services ~~(in increments of 12~~. DOHMH does not anticipate awarding ~~more than 24~~ **less than 30** units per contractor. **Proposers may request additional units beyond 30, in increments of 10 preferred, to support the social service staffing structure and service ratios.**

- **Congregate**: congregate units to offer an additional supportive housing option for this population ~~in increments of 15~~. DOHMH does not anticipate awarding **less** ~~more~~ than 30 units per contractor. **Proposers may request additional units beyond 30, in increments of 10 preferred, to support the social service staffing structure and service ratios.** These buildings will house a mix of individuals from the community and those who are formerly homeless.

DOHMH reserves the right to allocate the number of units to scattered site or to congregate, as appropriate and necessary to meet the City's need and demand, and in alignment with the capacity of the supportive housing system.

Proposers may propose for one or both housing types. However, proposers must submit a separate proposal in the ~~HHS Accelerator~~ **PASSPort** system for each housing type.

Proposers for **scattered site** contracts would have current, successful experience providing supportive housing services in a scattered site setting. Proposers must ~~propose supportive housing units in increments of 12 units and~~ have in place relationships with brokers or landlords to enable rapid apartment finding. ~~DOHMH does not anticipate awarding more than 24 units to a contractor, but reserves the right to do so in the best interest of the City.~~

Proposers for **congregate** ~~contracts~~**programs** would have experience operating congregate supportive housing. Award determinations will be preliminary; final contract awards will be based on site control, as evidenced by a deed, purchase and sale agreement, ground lease, option, or (for City-owned property) site authorization or site negotiation letter. Preliminary award determinations will expire within two (2) years if site control is not obtained and the City has the right to withdraw the preliminary award at that time. In addition, the City will require proof of rental assistance for the property prior to issuing the final award for services. The City also reserves the right to request additional information to evidence site control. Preliminary awards may be rescinded prior to the expiration of two (2) years, if, in the opinion of the City, site control and/or proof of rental assistance cannot be obtained and there is a competing viable proposal with site control. ~~Proposers must propose for JISH supportive housing congregate units in increments of either 15 or 30 units.~~ For proposers who currently have 15/15 housing awards, the proposed number of units to be used for JISH tenants must not be more than 50% of the total awarded DOHMH funded units. In all cases, JISH units should not be more than 30% of the entire units in the building.

Subcontracting is permitted under the resulting contracts with DOHMH's prior approval.

The Goals of the JISH Program

1. To provide rapid access to supportive housing units in some combination of scattered or congregate housing for individuals with recent and frequent contact with the criminal justice system, the homeless services systems, and the mental health treatment systems who have a mental illness or substance use disorder.

2. To provide case management services in order to link tenants to **physical** health and behavioral health services, as well as other resources in order to prevent further use of jail, shelter, or other emergency services. Services will be easily accessible and will occur in JISH apartment units, program sites, and in the community.
3. To provide case management to successfully maintain housing, link and engage with service providers, and support positive integration of individuals into the community in order to decrease homelessness and criminogenic behaviors.

Target Population

The populations targeted for this procurement are single adults **(18+)** with **2 or more encounters with** the ~~highest recent utilization of~~ New York City jails and NYC's homeless systems **within the previous 4 years,** who have a mental illness and/or substance use disorder. However, DOHMH reserves the right to expand to additional populations should additional funding become available.

DOHMH anticipates that potential tenants will be identified using **a combination of appropriate data matching, outreach and collaboration with health, justice system and city government partners. The City would coordinate the referral process, and DOHMH would make placements to Contractors** ~~appropriate data matching and intensive outreach processes. The City would coordinate the data matching process, and DOHMH would refer individuals to Contractors~~.

Prospective tenants would be eligible for benefits (such as Public Assistance or Supplemental Security Income), and/or have the ability to pay 30% of their income in rent.

Section 3 – Program Expectations and Proposal Instructions

A. Relevant Experience (10 percent)

1. Program Expectations**– applies to both Scattered Site and Congregate Contractors**

~~a. The Contractor would have a minimum of five (5) years in the past eight (8) years of successful experience operating supportive housing programs in New York City.~~

- ~~Scattered Site proposers would have a minimum of 5 years in the past 8 years of such experience operating *scattered site* supportive housing programs in New York City.~~
- ~~Congregate proposers would have a minimum of 5 years in the past 8 years of such experience operating *congregate* supportive housing programs in New York City.~~

a. The Contractor would have one of the following:

- **a minimum of five (5) years in the past eight (8) years of successful experience operating a supportive housing program in New York City, *or***
- **a minimum five (5) years in the past eight (8) years of successful experience providing social services in a permanent supportive housing setting for persons with SMI/SUD in New York City. The social service provider would be the primary social service provider in the housing program.**

b. The Contractor would have a minimum of five (5) years of successful experience providing services to justice involved individuals. Greater consideration would be given to proposers with experience providing housing services to justice involved individuals.

c. The Contractor would have a minimum of five (5) years of successful relevant experience conducting outreach to difficult-to-locate individuals**, working collaboratively with community-based organizations—especially those serving justice-impacted populations—and carrying out diligent searches and in vivo engagement.** Greater consideration would be given to proposers with **experience with direct experience engaging justice-involved individuals.** ~~conducting outreach to justice involved individuals~~.

d. The Contractor would have a minimum of five (5) years of successful experience delivering intake and assessment services for individuals with substance use or mental health disorders. ~~Greater consideration would be given to proposers with successful experience operating Frequent User Service Enhancement (FUSE).~~

e. The Contractor would have a minimum of five (5) years of successful experience in all of the following contract management functions:

- collecting data;
- following evidence-based and/or evidence-informed practice requirements;
- reporting on outcomes;

- developing quality assurance plans and implementing an evaluation protocol to ensure the quality and effectiveness of contracted services;
- managing contract budgets.

2. **Proposal Instructions**

Complete the Relevant Experience section of the JISH RFx Questionnaire in PASSPort.

3. Evaluation

This section will be evaluated based on the proposer's demonstrated successful relevant experience based on the criteria listed in this section. It is worth a maximum of **10 percent** in the Proposal Evaluation.

B. Referral and Intake (14 percent)

1. Program Expectations – applies to both Scattered Site and Congregate Contractors

a. ~~DOHMH would refer individuals to the Contractor from a data matched list ("referral list") consisting of the individuals with frequent contact with the criminal justice system and the homeless services systems. These individuals might be located through jails, courts, or other facilities operated by the City's justice system, shelters or street outreach, or the mental health treatment system. The city reserves the right to utilize other data matching criteria as the needs of the target population evolve. DOHMH will advise the contractor of the referral source (e.g., jail, shelter, street homeless outreach). The Contractor would be required to accept and assess all referred individuals; DOHMH shall make the final decisions regarding placements.~~ **Referral sources will be identified by the NYC Health Department and include entities that serve individuals with frequent contact with the criminal justice and homeless services systems. These individuals may be identified through jails, courts, or other City-operated justice facilities, as well as through shelters, street outreach teams, or the mental health treatment system. The City reserves the right to apply additional criteria as the needs of the target population evolve. The NYC Health Department will inform the Contractor of each referral source (e.g., jail, shelter, or street outreach program). The Contractor will be required to accept and assess all referred individuals, while final placement decisions will rest with the NYC Health Department.**

b. Within two (2) business days of receiving a referral from DOHMH, the Contractor would begin the outreach process. The Contractor would have face-to-face contact with the individual within one (1) week of the referral. If a face-to-face meeting is not possible, the Contractor would use of phone or video conferences, or outreach within jail, shelter, or other settings.

c. The Contractor would coordinate with the original referral sources (e.g., jail, shelter, street homeless outreach) to obtain information on the referred individual's physical and behavioral health needs, independent living skills, support systems, legal history, eligibility for benefits (such as Public Assistance or Supplemental Security Income)

and/or the ability to pay 30% of their income in rent, and other information as needed to inform determination of placement into scattered site or congregate setting, as well as initial service plan goals.

d. The Contractor would utilize a tool to screen the individual for Mental Illness or Substance Use Disorder. Recommended tools include The Modified Simple Screening Instrument for Substance Abuse (MSSI-SA) and/or the Modified Mini Screen (MMS) to assess for the presence of a psychiatric disorder.
e. The Contractor would determine during the screening process whether the referred individual would be suited to independent living within a congregate or scattered site apartment using a tool to assess independent living skills.
f. Before accepting the tenant into the housing program, the Contractor would collaborate with the individual and the referral source to determine whether they are best suited for scattered site or congregate supportive housing. The Contractor would either accept the individual into their contracted setting within two (2) business days of screening the individual as documented in the NYC DOHMH data system, or refer back to DOHMH with all associated documentation and justification in order to recommend the individual be referred to another JISH program, e.g. a program who has been awarded scattered site units can recommend that an individual be referred to a congregate setting, and vice versa.
g. Should the Contractor determine that the individual is not suited to either congregate or scattered site housing, they would contact DOHMH within two (2) business days of screening, and the individual referral would be re-assessed by NYC DOHMH for JISH eligibility. DOHMH would inform the referral source (e.g., jail, shelter, street homeless outreach) if the person will not be suited to JISH housing.
~~h.~~ Within 30 days of the referral, if the Contractor cannot find the individual or if the individual refuses services, the Contractor would inform DOHMH. ~~DOHMH will return the individual to the referral list, and DOHMH would refer the next available individual from the referral list to the Contractor.~~
i. If the individual is determined to be a "match" for the Contractor's housing type, the Contractor would be prepared to move the individual into the apartment directly upon release from jail or directly from shelter or street. The Contractor would orient the individual to the apartment building and to community resources such as grocery stores, laundry facilities, public transportation, and pharmacies. The Contractor would provide staff, program, and agency contact information to new tenants as part the orientation.
j. For those individuals who are being released from jail, the Contractor would have systems in place to meet and escort individuals who are being discharged in the late afternoon or early evening to their apartment. The Contractor would be prepared to engage in outreach and house accepted individuals who are released even without notice. Contractors should work with the discharge staff in the jails to ensure the individual has Contractor contact information, and a plan for unexpected discharges late in the evening or on the weekend.
k. For those individuals located in the Department of Homeless Services (DHS) system, the Contractor would collaborate with shelter and/or outreach staff and provide outreach

and in-person visits to the shelter or other locations where the individual receives services.

l. For those individuals who are located in the mental health treatment system or other settings such as Support and Connection Centers or other alternative to hospitalization or incarceration settings, the Contractor would collaborate with DOHMH staff and provide outreach and in-person visits to the facility or other locations where the individual is located.

m. The Contractor would consider the individual's medical conditions and/or disabilities and the need for reasonable accommodations up to the standard of Americans with Disabilities Act (ADA) compliance when placing the tenant in living arrangements.

n. **Contractor may use transitional settings, for a period not to exceed 28 days, when a permanent unit is not immediately available.** ~~Contractor may use non-permanent housing settings during the screening phase, or when direct placement into the apartment is not possible based on initial screening.~~

o. During the screening and intake processes and beyond, the Contractor would be prepared to address issues such as mistrust, engagement challenges, and other issues that might arise due to long-term exposure to systemic racial inequities of the individuals.

p. DOHMH reserves the right to modify eligibility and referral criteria based on changing community needs and the needs of the target population.

q. In order to augment program expertise, the Contractor may subcontract for services with DOHMH's prior approval. The Contractor would develop a plan for the use and monitoring of subcontractors.

2. **Proposal Instructions**

Complete the Referral and Intake section of the JISH RFx Questionnaire in PASSPort.

3. Evaluation

This section will be evaluated based on the quality of the proposed approach to Referral and Intake based on the criteria listed in this section. It is worth a maximum of **14 percent** in the Proposal Evaluation.

C. Comprehensive Assessment and Service Planning (14 percent)

1. Program Expectations- Comprehensive Assessment and Service Planning: applies to both Scattered Site and Congregate Contractors

a. **The Contractor will prioritize initial engagement with each new tenant, ensuring face-to-face contact within two (2) business days of move-in. Services will be most intensive during the first 90 days to promote engagement and support housing stability.** ~~The contractor would focus on initial engagement with each new tenant and have a face to face contact with new tenants within two (2) business days after move-in.~~

~~The level of service provision within the first 30-60 days would be most intensive in order to engage tenants and prevent attrition.~~

b. The Contractor will be onsite during move-in to ensure that each unit is clean, fully equipped with functioning utilities and necessary furniture, and that the tenant has sufficient food for the first two days, supporting a smooth and stable transition into their new home.

c. Within **30**~~45~~ days of move-in, the Contractor would, in conjunction with each tenant, complete a comprehensive needs assessment and individualized support service plan focused on the strengths and needs. The assessment and service plan would be designed to assist the tenants to maintain housing, maintain healthy lives, increase their financial stability and decrease criminogenic behavior. Elements of assessment and service plan should include, but not be limited to, physical health (including HIV/STI), mental health, substance use, dental health, tobacco use, criminal justice involvement, assessment of criminogenic risk, education, employment, domestic violence and trauma.

d. **The Contractor will develop an initial tenant-directed service plan, which will be updated at least quarterly during the first year of tenancy. The plan will include clearly defined objectives and measurable goals focused on promoting housing stability, enhancing financial security, and supporting progress toward recovery.**~~he Contractor would be required to complete an initial tenant directed service plan, updated at least quarterly, that includes clearly stated objectives and goals related to housing stability, financial security and progress towards recovery.~~

2. **Program Expectations- Comprehensive Assessment and Service Planning *for Congregate Contractors Only***

a. Congregate contractors would develop and implement a plan **detailing** ~~of~~ how program staff would engage JISH tenants, **support their transition** ~~assist with the adjustment~~ to independent living, and how they would **facilitate their integration** **into** the supported housing community**. The plan will ensure that tenants are fully** ~~and be~~ included in all program services while **actively** minimizing any ~~the~~ stigma ~~tization~~ **associated** ~~that may accompany individuals~~ with a history of justice involvement **or** ~~and~~ homelessness.

3. Program Expectations- Comprehensive Assessment and Service Planning *for Scattered Site Contractors Only*

a. **Scattered site contractors will develop and implement a plan outlining how program staff will engage JISH tenants, support their adjustment to independent living, and facilitate a successful transition into the neighborhood. The plan will also ensure tenants are fully supported while minimizing any stigma associated with a history of justice involvement or homelessness.**~~cattered site contractors would develop and implement a plan of how program staff would engage JISH tenants, assist with the adjustment to independent living, and ensure a successful transition into the neighborhood while minimizing the stigmatization that may accompany individuals with a history of justice involvement and homelessness.~~

4. Proposal Instructions

Complete the Comprehensive Assessment and Service Planning section of the JISH RFx Questionnaire in PASSPort.

5. Evaluation

This section will be evaluated based on the quality of the proposed approach to Comprehensive Assessment and Service Planning based on the criteria listed in this section. It is worth a maximum of **14 percent** in the Proposal Evaluation.

D. Service Provision (14 percent)

1. Program Expectations- Service Provision: applies to both Scattered Site and Congregate Contractors

a. The Contractor would provide case management and supportive services that are easily accessible for all tenants in scattered site units, and on-site for all tenants in congregate units. **On-site services should include community building groups and activities that promote integration and are open to all tenants.**

b. The services would at minimum be strengths-based, culturally and linguistically competent and sensitive to how societal injustices and health inequities impact individuals involved in the justice system

c. The Contractor would utilize an outreach and engagement approach that encourages tenants to engage and participate in supportive housing services. The contractor would engage with the tenant as often as is needed, particularly in the first 6 months after admission. The Contractor would remain connected with the tenant on a continuous basis when the tenant enters into different services. The Contractor would continue to outreach and attempt to engage a tenant even when the tenant appears to be actively avoiding/refusing services. All attempts to connect with tenants are to be documented.

d. **At a minimum, the case manager will meet with each tenant in person at least once per week. At least two of these visits per month will occur in the tenant's apartment to provide in-home support and observe the living environment. Case manager contact may be reduced to no fewer than two visits per month for tenants who have demonstrated stability, including no criminal justice involvement for at least one year and consistent engagement in behavioral health services. If a tenant experiences periods of destabilization, the frequency of visits will increase as needed to provide additional support and ensure continued progress. All substantial contacts, including in-person visits, phone calls, and other meaningful interactions, will be thoroughly documented in the tenant's case record to ensure accountability and continuity of care. Providers will have methods for assessing the tenant's need to determine level of care needed.** ~~At a minimum, the case manager would meet with the tenant in person at least once per week. At least two (2) visits per month would take place in the tenant's apartment. If the tenant achieves his/her service plan goals within the first year, face to face contact may be reduced to once per month in the tenant's apartment beginning in the second year. Case managers would document all substantial contact with the tenant in the case record.~~

e. The Contractor would base their services in evidence-based and/or evidence-informed practices to address needs of tenants and support skill building to sustain recovery. Evidence-informed models include but are not limited to:
    i. Motivational Interviewing
    ii. Person-Centered Planning
    iii. Recovery-Oriented and Trauma-Informed Case Management
    iv. Cognitive Behavioral Therapy

    The contractor is encouraged to include additional evidence-informed/evidence-based practices to meet the needs of their engagement and service provision to justice involved individuals.

f. The Contractor would provide health and wellness services and education, as needed, and provide activities for all tenants including, but not limited to, tobacco cessation, healthy eating, exercise, recreation**al activity support,** and Wellness Self-Management.
g. The Contractor would provide conflict resolution, crisis intervention and crisis de-escalation to all tenants as needed with a goal of minimizing use of emergency services such as 911. Contractors would assist tenants to mitigate conflicts with roommates and neighbors and to assist tenants to use their apartments according to the specifications of the lease. Contractors would be knowledgeable in how to use the array of crisis intervention services available in New York City.
h. The Contractor would provide harm reduction services for tenants, as needed, focusing on the avoidance of high-risk behaviors, including substance use and disease prevention. Harm reduction services would include: safe injection, use of naloxone to prevent death from opioid overdose, safe sex practices, needle exchange, health education, and infectious disease prevention and rapid HIV/AIDS testing. The Contractor would adopt a person-centered, non-judgmental and flexible approach whereby sobriety is encouraged and supported.
i. The contractor would assist each tenant to manage the navigation of re-entry services (such as parole, probation, ongoing criminal or civil legal issues) and to address situations/behaviors that may lead to further interactions with the justice system. The contractor would actively work with discharge planners if the tenant is incarcerated or hospitalized while in their housing.
j. The Contractor would provide opportunities for direct tenant involvement, contribution and leadership into ongoing program implementation and management, through participation in monthly community meetings, advisory boards, or other means.
k. The Contractor would promote the rehabilitation and recovery of tenants by:
    ~~i. Supporting their involvement in local community groups such as tenant associations, block associations, faith-based organizations, community gardens, and/or community boards~~
    i. Facilitating individual and group meetings, participation in recreational groups, and participation in manualized group interventions**. Group offerings may include peer support groups, mental health recovery groups, trauma-informed groups, substance use recovery groups, and justice-involvement or reentry support groups, designed to enhance coping skills, social connection, housing stability, and community reintegration.**
    ii. Ensuring tenants understand their tenancy agreement and obligations.

iii. Assisting in obtaining and maintaining all applicable government benefits

iv. **Providing a range of financial literacy and budgeting supports designed to promote economic stability for tenants with mental health challenges and justice involvement. Services will include one-on-one financial coaching, workshops on budgeting, saving, credit management, and debt reduction, and supported banking services to facilitate safe account management. Tenants will receive guidance on managing income, benefits, fines, and restitution, and may participate in employment-linked financial education programs or peer-led financial support groups to reinforce skills and accountability. Technology-assisted budgeting tools will be available to help track spending and savings goals. All services will be integrated with case management and supportive housing services, trauma-informed, and tailored to the unique financial needs of each tenant, with the goal of enhancing financial security, independence, and long-term stability.** ~~Providing assistance with budgeting and promoting financial literacy~~

v. Supporting the tenant understanding of their physical and behavioral health conditions including adherence to medications and physician recommendations, and preventive care.

vi. Providing assistance for tenants to learn daily and independent living skills as appropriate, such as food preparation, cleaning the house, sharing household responsibilities.

vii. Supporting their involvement in local community groups such as tenant associations, block associations, faith-based organizations, community gardens, and/or community boards.

l. The Contractor would refer tenants to services that will support the achievement of their service plan goals including, but not limited to, educational opportunities, job readiness programs, vocational training, employment placement and retention supports, and legal assistance.

m. The Contractor would develop and implement a plan for making referrals and establishing linkages with a wide variety of service contractors in order to meet the needs of each individual tenant. Each plan would include how the referral process would accommodate the tenant's language, transportation and insurance specifications, as well as any other factors important to the tenant's engagement in the service.

n. The Contractor would make every effort to preserve the tenant's housing in the event of re-incarceration, hospitalization, or relapse. **Units should remain available to tenants for at least 90 days if incarcerated and providers must be in contact with tenant and with permission tenants' legal counsel.**

o. The Contractor would assess tenant level independent living skills and move tenants who no longer need supportive services to independent, non-programmatic housing as appropriate. Contractor would plan for such a move as tenants become financially self-sufficient. ~~DOHMH approval is required before moving an individual out of supportive housing.~~

2. Proposal Instructions

Complete the Service Provision section of the JISH RFx Questionnaire in PASSPort.

3. Evaluation

This section will be evaluated based on the quality of the proposed approach to Service Provision based on the criteria listed in this section. It is worth a maximum of **14 percent** in the Proposal Evaluation.

E. Program Operations (14 percent)

1. Program Expectations- Program Operations: applies to both Scattered Site and Congregate Contractors

a. The Contractor would ensure that each tenant receives a lease/occupancy agreement that is written in easily understandable language and would maintain a copy of such document as part of the tenant's file.
b. The Contractor would work with the tenant to prevent eviction. The Contractor would identify alternative housing and ensure that due process procedures and New York City's landlord/tenant law would be followed. In the event of a possible eviction, the Contractor is required to notify DOHMH no later than thirty days before initiating any legal proceedings and agree to work with the DOHMH or other City entities that may address issues or behaviors leading to eviction.
c. The Contractor would follow the **NYC Health Department Program Guidelines** ~~DOHMH Office of Program Review and Evaluation Guidance~~ for diligent search of missing tenants, including specified outreach to tenant and collateral contacts, and outreach to Department of Homeless Services, street outreach, City hospitals (H+H) and City and State ~~correctional~~ **criminal justice** systems.
d. The Contractors would develop a positive and effective means of transitioning tenants to independent or other long-term permanent housing as appropriate.
e. The Contractor would ensure that apartments meet New York City building and fire codes and have a current Certificate of Occupancy that is appropriate for the number of tenants to be served. To ensure environmental health and safety, the Contractor would develop and implement procedures for conducting apartment inspections every 6 months~~. as per the Office of Program Review and Evaluation 1100 Series Standards (see Attachment G).~~
f. The Contractor would ensure that each apartment would have kitchen facilities or access to kitchen facilities, bathroom, and storage for tenant clothing and personal items. Contractor would provide furnishings including bed, dresser, air conditioners, lamps in all rooms without overhead lighting, that are new. If an apartment has a living room or common area, Contractor would provide a sofa. Contractor would also provide move-in kits including such items as kitchenware, window coverings, and linens.
g. The Contractor would make minor renovations and/or assist the tenant in filing a reasonable accommodation request as needed to make the apartment(s) accessible as per the ADA based on the individual needs of the tenant.

2. Program Expectations- Program Operations *for Scattered Site Contractors Only*

a. For scattered site, a unit is defined as a studio apartment **or** a one-bedroom **apartment**~~apartment, or a bedroom within a two-bedroom apartment~~. The Contractor would rent units that are ~~preferabl~~ studio or one-bedroom apartments, which **have** ~~offer tenants access to~~ individual bathrooms, kitchens and storage space for clothing and other personal items, and which comply with section 1.f. above~~. Contingent on tenant preference and the availability of appropriate housing in the community, two-bedroom apartments in which tenants share bathrooms and kitchens are also permissible. However, when a two-bedroom apartment is used, each tenant must have their own separate bedroom with a bed, a dresser, storage space for clothing and other personal items, and a bedroom door with a lock.~~ Groups of apartments may be rented in a single building (preferably no more than 20% of the units in a single building) for purposes of siting these programs.

b. When the Contractor is the lease holder, they will provide the tenant with a sub-lease that is in accordance with NYC rental laws, and an occupancy agreement that is easily understandable and does not add stipulations regarding use of the apartment that are not included in the lease. The contractor is responsible for ensuring rent payments are made on-time to the landlord.

~~c. If the tenant is the direct lease holder, the landlord will give the tenant the lease; the Contractor may also be a co- signatory and would be responsible for the monthly rent payments to the landlord. The Contractor will also hold a occupancy agreement with the tenant and provide the tenant with support in managing the landlord~~

c. The contractor would locate apartments in neighborhoods that are near public transportation and accessible to other amenities like shopping, laundry, healthcare, meet Federal Housing Quality Standards and that have gross rents that do not exceed the U.S. Department of Housing and Urban Development (HUD) fair market values.

d. The Contractor would have pre-existing relationships with landlord or brokers to assist in rapid apartment finding.

e. The contractor would **be ready to** accept referrals within two months of contract registration.

3. <u>Program Expectations- Program Operations *for Congregate Contractors Only*</u>

a. For congregate, a unit is defined as a as a single-occupancy apartment. Congregate units may not be shared with other individuals. The other requirements under Section 3, E.1.f. (above) also apply.

b. Contractors would need to provide evidence of site control, such as a deed, purchase and sale agreement, ground lease, option, or (for City-owned property) site authorization or site negotiation letter. Proposers may include these documents in their proposal if they are available; if they are not available, proposers should provide a statement indicating that upon notification of a preliminary award determination, evidence of site control will be provided to DOHMH.

c. When the Contractor is not the building owner or facility manager, the Contractor will work with the building owner or facility manager to ensure that tenants have a lease in accordance with NYC rental laws. The Contractor will provide the tenant with the support and information needed to assist them in making monthly rent payments.

d. The Contractor would provide services in buildings that integrate housing for low income community residents and persons who are formerly homeless and have been identified as having a mental illness or a substance abuse disorder.~~(60% special needs and 40% low income).~~ The JISH residents will be included within the population of

residents who are formerly homeless. The City reserves the right to approve the actual number of units based on the needs of the JISH program.

e. Contractors will propose units that are new to the supportive housing portfolio and are either new construction or have undergone substantial **rehabilitation or are vacant community units.**
f. The Contractor would have a stable source of rental assistance and capital funding for the site. The proposer would indicate in their proposal the proposed source of rental assistance and capital funding for the project.
g. The Contractor would ensure that the building siting is near public transportation and accessible to other amenities like shopping, laundry, health care and other necessary services.
h. The Contractor would have a designated area where tenants may have use of computers and participate in recreational activities.
i. The Contractor would have on-site staffing twenty-four (24) hours, seven (7) days a week, inclusive of front desk staff.
j. Contractors proposing for a congregate building would be expected to have a plan for a smoke-free environment.

4. **Proposal Instructions**

Complete the Program Operations section of the JISH RFx Questionnaire in PASSPort.

5. **Evaluation**

This section will be evaluated based on the quality of the proposed approach to Program Operations based on the criteria listed in this section. It is worth a maximum of **14 percent** in the Proposal Evaluation.

F. Organizational Capacity and Staffing (14 percent)

1. Program Expectations- Organizational Capacity and Staffing: applies to both Scattered Site and Congregate Contractors

a. The Contractor would have a well-developed managerial and financial structure to coordinate the work of this contract. This would include the establishment of internal controls, employment of staff responsible for managing the financial aspects of the work, maintaining a separate bank account for this contract, and the capability to accurately and timely submit invoices for payment.
b. The Contractor would develop and implement an appropriate staffing plan with all of the following characteristics:
    i. Contains sufficient staff who have appropriate qualifications and training for the target populations, and salaries commensurate with these qualifications;
    ii. Hire staff who are culturally and linguistically diverse
    iii. Ensures an appropriate case management ratio;

iv. Provides for case management and community building activities during evenings and on weekends to accommodate the work, training and/or treatment requirements of tenants;
v. Incorporates an on-call system for all tenants to access supportive service staff twenty-four (24) hours/seven (7) days a week, and would ensure coverage when new tenants are released from jail unexpectedly.
vi. Includes qualified peers, persons with lived experience with mental illness, substance use recovery and/or justice involvement, and tenants employed as housing support staff across their housing portfolio.
vii. Ensures a minimum of weekly supervision of case management staff to provide appropriate delivery of services and implementation of the evidenced based practices.
viii. Contains the following Key Staff:
    a) Program Supervisor:
        i. Congregate programs would have 1 FTE Program Supervisor for every 30 JISH tenants (.5 FTE for every 15 JISH tenants).
        ii. Scattered Site Programs would have 1 FTE Program Supervisor for every **30** ~~24~~ JISH tenants (.5 FTE for every ~~12~~ **15** JISH tenants).
    b) Case Managers:
        i. Congregate programs would have a case management ratio of 1 case manager for **10** ~~15~~ JISH tenants.
        ii. Scattered site programs would have a case management ratio of 1 case manager for **10** ~~12~~ JISH tenants.

c. The Contractor would ensure that at minimum:
    i. JISH direct service staff (including case managers) would:
        a) be experienced working with a justice-involved population
        b) **Include staff with lived experience of mental health challenges and/or justice involvement and demonstrate a recovery-oriented perspective.** ~~include staff with lived mental health and/or justice experience and demonstrate a recovery-oriented perspective~~
        c) complete the Academy for Justice-Informed Practice training within two years prior to hire, or within 6 months following hire [2]

    ii. Program directors and program supervisors overseeing case managers would:
        a) have a graduate degree in social work or a related human service field,
        b) have experience serving the target population
        c) It is highly recommended that program directors will have had the Justice Academy training, or complete within 6 months of program inception.

    iii. That all staff are hired possessing the core competencies necessary to provide the services outlined in the RFP and would ensure all staff have the skills and training to

[2] The Academy for Justice-Informed Practice (the Academy) is a workforce training initiative targeting a wide array of professionals working with individuals with behavioral health needs and criminal justice involvement in New York City. https://www.cucs.org/training/

provide the required evidence-informed and/or evidence-based practices, including but not limited to motivational interviewing, cognitive behavioral therapy, person centered planning, risk assessment, and trauma informed case management. The Contractor would supplement staff experience by participating in City funded available trainings and be required to demonstrate evidence of participation.

d. Contractor would be responsible for providing orientation or other training to ensure all staff are trained in agency policies and procedures.
e. The Contractor would ensure that all staff is trained in harm reduction and housing-first service approaches. This includes basic knowledge of the following: safe injection, safe sex practices, addiction treatment and recovery, naloxone, the stages of change model, **and engagement interventions at each level,** trauma and relapse prevention, street drugs and their effects, symptoms of overdose and withdrawal.
f. The Contractor would ensure staff have the skills and knowledge to:
    i. Provide individual and group meetings, recreational groups, manualized group interventions
    ii. Assist tenants in obtaining and maintaining all government benefits
    iii. Assist tenants in managing legal matters and clearing records
    iv. Assist tenants in managing adherence to physical and behavioral health medication
    v. **Support tenants in developing independent living skills, including meal preparation, maintaining a clean and safe living environment, facilitating cooperative agreements with roommates on bill payments and household responsibilities (if applicable), and building financial literacy, money management, and other essential life skills.** ~~Provide assistance to tenants in learning independent living skills (e.g. preparing food, maintaining a clean-living environment, facilitating cooperative apartment mate agreements on bill payments if applicable, division of household responsibility, financial literacy, money management and other matters)~~
    vi. **Deliver conflict resolution, crisis intervention, and de-escalation services within the community to ensure tenant safety and promote a supportive living environment**. ~~Provide conflict resolution, crisis intervention and crisis de-escalation within the community~~
    vii. Supply referrals to additional supports including facilitating housing placement (for tenants who would like to move on to a more independent setting)
    viii. Track Key Program Indicators **identified by DOHMH.** ~~of Linkage to Primary Care, Independent Living Skills, and Financial Independence.~~
g. The Contractor would ensure that all staff have an understanding of co-occurring disorders, criminogenic behaviors and understand the supports and interventions effective in recovery-oriented practices.
h. The Contractor would ensure that all staff, including security and non-programmatic staff, have a basic understanding of the needs of the tenants being served and are trained in the models being used for the specific population.
i. Proposers for Scattered Site housing have in place relationships with brokers or landlords to enable rapid apartment finding.

j. If subcontractors will be used, the Contractor would develop and implement a subcontracting plan that includes sufficient time for DOHMH review and approval of proposed subcontractors, and adequate supervision of subcontracted work.

k. The Contractor would have systems in place, including staff and technology systems, to meet the rent-up timelines.

   ~~i.~~ Scattered Site: The Contractor would obtain full occupancy within six months of the startup date. ~~and three (3) months for programs with (twenty) 20 units or less.~~

   ~~ii.~~ Congregate: The Contractor would obtain full occupancy within six months of receiving a Temporary Certificate of Occupancy (TCO). ~~for programs with more than twenty (20) units and three (3) months for programs with (twenty) 20 units or less.~~

2. <u>Proposal Instructions:</u>

a. Complete the Organizational Capacity and Staffing section of the JISH RFx Questionnaire in PASSPort.

b. Upload the following documents into PASSPort:

- **Organization Chart showing where this program fits into the overall structure**
- **Staffing Plan**
- **Resumes or job descriptions for the following Key Staff: Program Supervisors and Case Managers**
- **Training Plan**
- **Latest Financial Audit by an independent CPA, CPA's review report, or latest signed Financial Report, as follows:**

<u>For-Profit Proposers</u>

Most recent financial audit prepared by an independent CPA. If a Financial Audit prepared by an independent CPA is not available, provide one of the following:

a. latest independent CPA's review report, or
b. latest independent CPA's compilation, or
c. latest signed Financial Report that includes both:
   - **A letter on the proposer's letterhead, signed by the president (or equivalent executive officer) or the chief financial officer, which describes why a Financial Audit prepared by an independent CPA audit is not available; <u>and</u>**
   - **A current financial statement including a balance sheet, income statement, and cash flow statement, along with two most recent U.S. federal tax returns. The financial statement must be signed by the president (or equivalent executive officer) or the chief financial officer who shall certify that the statements are true and correct to the best of their knowledge.**

<u>Non-Profit Proposers</u>

a. Proposers with annual gross revenues $250,000 or less must submit their most recent 990 filing.

b. Proposers with annual gross revenues greater than $250,000 to $1,000,000 must submit their most recent financial review prepared by an independent CPA not affiliated with the organization.

- **Proposers with annual gross revenues greater than $1,000,000 must submit their most recent financial audit prepared by an independent CPA not affiliated with the organization.**

3. Evaluation

This section will be evaluated based on the extent to which the proposer demonstrates Organizational Capacity and the quality of the approach to Staffing based on the criteria listed in this section. It is worth a maximum of **14 percent** in the Proposal Evaluation.

G. Program Evaluation and Reporting (10 percent)

1. Program Expectations: applies to both Scattered Site and Congregate Contractors:

a. The Contractor would track, record and report information to the City as required, utilizing their own and City identified systems including, but not limited to, tenant demographics, income source, place discharged to, and outcome data, including occupancy rate, housing retention/stability, hospitalizations, incarceration and health outcomes.

~~b. The Contractor will submit data to DOHMH on each resident on a monthly basis in the following domains:~~

- ~~Administrative~~
- ~~Resident Housing Status~~
- ~~Demographics~~
- ~~Criminal Justice Involvement~~
- ~~Health and Wellness~~
- ~~Economic Self Sufficiency~~
- ~~Employment~~

b. The Contractor aims for a target of 90% retention rate for those tenants who have been housed for 1 year or longer, not including those who move on to independent living.

c. The Contractor will establish baseline data in order to track linkage to primary and behavioral health care providers, hospitalization rates, shelter stays, incarceration, and employment, and track data ongoing.

d. The contractor will meet the key program indicator goals which will be set to increase upon baseline data~~. Initial key program indicators will include outcomes to demonstrate that tenants are:~~

~~a. Linked to a primary care physician~~
~~b. Maintain their apartments stably by not being in rent arrears~~
~~c. Moving out to non-supported independent housing~~
~~d. Reducing contacts with the criminal justice system~~

DOHMH reserves the right to modify program indicators and program indicator goals during the course of the contract.

e. The contractor will meet the minimum timelines to see tenants after referrals, as specified in Section 3.B. above.
f. The contractor will meet the minimum requirement of seeing tenants once weekly, as specified in Section 3.D. above.
g. The Contractor would provide outreach, referrals and linkages to tenants who have moved on from the program to non-supported independent housing or other placements by maintaining contact with such tenants for a period of one year following their departure from the program. At a minimum, contact with the tenant would be made at three months, six months and one year after departure.

2. Proposal Instructions:

Complete the Program Evaluation and Reporting section of the JISH RFx Questionnaire in PASSPort.

3. Evaluation: Program Evaluation and Reporting

This section will be evaluated based on the quality of the proposed approach to Program Evaluation and Reporting based on the criteria listed in this section. It is worth a maximum of **10 percent** in the Proposal Evaluation.

H. Budget Management (10 percent)

1. Program Expectations: applies to both Scattered Site and Congregate Contractors:

a. DOHMH anticipates that the Contractor will be paid unit rates as follows for each contracted unit:

i. Scattered Site:

a) Operations (rental assistance): Anticipated operating costs (as of 11/1/25) will be based on unit size as follows:

- **Studio: $2,646 Monthly (inclusive of utilities)**
- **1 Bedroom: $2,762 Monthly (inclusive of utilities)**

b) For the purpose of budget development, proposers should assume that rental funding can be increased up to two (2) percent each year from the initial operating date.

c) Tenant contribution will be assumed at $215 per household and an expected collection rate of 75% annually. Rates are inclusive of utilities.

d) Supportive Services: $20,669 per unit per year.

e) Anticipated operating costs for scattered site programs may not exceed the annual City- administered rental assistance rates, known as CityFHEPs (Fighting Homelessness and Eviction Prevention Supplement) less the $215 per head of household rent contribution at an expected collection of 75% annually and are inclusive of utilities.

ii. Congregate:

a) Operations (rental assistance): Rental assistance to support the projects will be funded outside this RFP, through a separate process administered by the NYC Department of Housing Preservation and Development (HPD). Demonstration of a preliminary award determination from this RFP will be required for eligibility for HPD rental assistance. For more information please refer to the following HPD resources: nyc-15-15-welcome-packet.pdf and nyc-15-15-application.pdf.

b) Supportive Services: $25,596 per year.

~~i. Scattered Site:~~

~~a) Operations (rental assistance): Anticipated operating costs will be based on unit size as follows:~~

~~1. Studio: $1,544 Monthly (inclusive of utilities)~~
~~2. 1 Bedroom: $1,506 Monthly (inclusive of utilities)~~
~~3. 2 Bedroom: $1,737 Monthly (inclusive of utilities)~~

~~b) For the purpose of budget development, proposers should assume the following:~~

~~i. Beginning in FY21, and annually thereafter, funding will be increased pursuant to a "rent escalator" valued at 2% of U.S. Department Housing and Urban Development (HUD) FY16 Fair Market Rate (FMR) for a one-bedroom unit.~~

~~b) Tenant contribution will be assumed at $215 per household and an expected collection rate of 75% annually. Rates are inclusive of utilities.~~

~~c) Supportive Services: $10,000 per unit per year~~

~~ii. Congregate:~~

~~a) Operations (rental assistance): Rental assistance to support the projects will be funded outside this RFP, through a separate process administered by the NYC Department of Housing Preservation and Development (HPD). Demonstration of a preliminary award determination from this RFP will be required for eligibility for HPD rental assistance.~~

~~b) Supportive Services: $17,500 per unit per year~~

b. **All price and budget proposals should be prepared in accordance with The City of New York's Health and Human Service Cost Policies and Procedures Manual (Cost Manual). For the purpose of responding to this solicitation, proposers should budget their Accepted Indirect Cost Rate or use the 10% de minimis Indirect Cost Rate if they do not have an Accepted Indirect Cost Rate.** ~~All price and budget proposals should be prepared in accordance with The City of New York's Health and Human Service Cost Policy and Procedures Manual (Cost Manual). For the purpose of responding to this solicitation, proposers may budget up to an Accepted Indirect Cost Rate or use the 10% de minimis Indirect Cost Rate~~

c. The Contractors would be responsible for ensuring that the tenant is eligible for benefits (such as Public Assistance or Supplemental Security Income), and/or have the ability to pay 30% of their income in rent.

d. The contractor would **submit a line item budget** ~~propose a budget (Attachment C)~~ **utilizing the "Annual Proposed Budget 22327.xls" form in PASSPort,** which includes annual costs to provide services for the proposed program, emergency tenant needs, and startup costs for the program equal to three months of the Contract Year 1 budget. This line item budget is for informational purposes only; the Contractor would be paid according to the unit rates indicated above.
e. The Contractor is expected to maintain occupancy rates of 90%; failure to maintain this rate may result in liquidated damages as follows: 10% of annual budget.
f. The Contractor would effectively manage its budget to enable the effective delivery of services described in this RFP.
g. The Contractor would adopt strict fiscal controls to ensure finances are managed appropriately, including proper separation of duties, sound financial controls, and ensuring that financial transactions are authorized and documented appropriately.
h. Anticipating operating costs for scattered site programs may not exceed the annual City-administered rental assistance rates, known as CityFHEPs (Fighting Homelessness and Eviction Prevention Supplement) less the $215 per head of household rent contribution at an expected collection of 75% annually, and are inclusive of utilities.

2. Proposal Instructions:

a. Complete the Budget Management section of the JISH RFx Questionnaire in PASSPort.
b. In addition, please complete and upload the Annual Proposed Budget form into the "Item" tab PASSPort **and enter your Total Annual Proposed Budget amount.**

3. Evaluation: Budget Management

This section will be evaluated based on the quality of the proposed approach to Budget Management based on the criteria listed in this section. It is worth a maximum of **10 percent** in the Proposal Evaluation.

~~Section 4 – List of Attachments~~

~~*All attachments for this RFP can be found in the RFx Documents section in the PASSPort system.~~

1. ~~General Information and Regulatory Requirements~~
2. ~~JISH RFP Document~~
3. ~~Annual Proposed Budget~~
4. ~~PASSPort Instructions to Vendors Responding to the RFx~~
5. ~~Previously Issued Addendum – Questions and Answers~~
6. ~~Office of Program Review and Evaluation 1100 Series Standards~~

Section 4 – Basis for Contract Award and Procedures

A. Proposal Evaluation

All proposals received by DOHMH will be reviewed to determine whether they are responsive or non-responsive to the requirements of this RFP. Proposals that are determined by DOHMH to be non-responsive will be rejected. The DOHMH evaluation committee(s) will review and rate each responsive proposal. DOHMH reserves the right to conduct site visits and/or interviews and/or to request that proposers make presentations and/or demonstrations, as DOHMH deems applicable and appropriate. Although discussions may be conducted with proposers submitting acceptable proposals, DOHMH reserves the right to award contracts on the basis of initial proposals received, without discussions; therefore, the proposer's initial proposal should contain its best programmatic and price terms.

This is an open-ended RFP; therefore, all proposals will be accepted through **PASSPort** ~~HHS Accelerator~~ and reviewed on an on-going basis until the need is met.

B. Contract Award

Proposals will be reviewed and evaluated as they are received by DOHMH. Contracts will be awarded to the responsive and responsible proposers whose proposals are determined to be advantageous to the City, taking into consideration the factors or criteria which are set forth in this RFP.

For Congregate, *preliminary* awards will be recommended for proposers whose proposals are technically viable (average technical score **equivalent to** ~~of~~ **70%** or higher) and an average technical score **equivalent to 70% or higher** ~~of at least 12~~ in the following 3 criteria: "Referral and Intake," "Service Provision," and "Organizational Capacity and Staffing,") until the need is met.

For Scattered Site, awards will be recommended for proposers whose proposals are technically viable (average technical score **equivalent to** ~~of~~ **70%** or higher) and an average technical score **equivalent to 70% or higher** ~~of at least 12~~ in the following 3 criteria: "Referral and Intake," "Service Provision," and "Organizational Capacity and Staffing") until the need is met.

However, for both competitions:

- In the event that a proposer is eligible for more than one contract award, the DOHMH reserves the right to determine, based on the best interests of the City, how many contracts would be awarded and the number of units that would be awarded in each contract.
- DOHMH reserves the right, prior to contract award, to determine the length of the initial contract term and each option to renew, if any, which may be determined by funding and/or leasing arrangements.
- DOHMH reserves the right, prior to contract registration and during the term of the contract, to change the reimbursement rates, program service size, or program type depending on the needs of the system.

Contract Awards shall be subject to:

- Determination of Contractor responsibility.

- For Congregate Awards Only: Submission of a Certificate of Occupancy or a Temporary Certificate of Occupancy.
- For Congregate awards only: a preliminary award determinations will be made to viable proposers if the proposal does not contain evidence of site control. Final awards will be based on site control, as evidenced by a deed, purchase and sale agreement, ground lease, option, or (for City-owned property) site authorization letter or site negotiation letter. Preliminary award determinations may expire within two years of such determination if site control is not obtained, and the City has the right to withdraw the preliminary award determination at that time. In addition, the City will require proof of rental assistance for the property prior to issuing the final award for services. The City also reserves the right to request additional information to evidence site control. Preliminary award determinations may be rescinded prior to the expiration of two years, if, in the opinion of the City, site control and/or proof of rental assistance cannot be obtained and there is a competing viable proposal with site control.

Attachment B

General Information and Regulatory Requirements

GENERAL INFORMATION AND REGULATORY REQUIREMENTS

HHS Accelerator PQL Requirement Contract award will only be made to vendors that have an approved PASSPort HHS Accelerator PQL qualification status at the time that proposals are due.

Responsible Proposer Requirement The contract award will be made to the responsible proposer whose proposal is determined to be most advantageous to the City, taking into consideration the price and other such criterial that are set forth in the RFP.

Complaints. The New York City Comptroller is charged with the audit of contracts in New York City. Any proposer who believes that there has been unfairness, favoritism or impropriety in the proposal process should inform the Comptroller, Office of Contract Administration, 1 Centre Street, Room 727, New York, NY 10007; contract@comptroller.nyc.gov, or at (212) 669-2323. In addition, the New York City Department of Investigation should be informed of such complaints at its Investigations Division, 80 Maiden Lane, New York, NY 10038; the telephone number is (212) 825-5959.

Applicable Laws. This Request for Proposals and the resulting contract award(s), if any, unless otherwise stated, are subject to all applicable provisions of New York State Law, the New York City Administrative Code, New York City Charter and New York City Procurement Policy Board (PPB) Rules. A copy of the PPB Rules may be obtained by contacting the PPB at (212) 788-0010 or at: https://www.nyc.gov/site/mocs/regulations/ppb.page

General Contract Provisions. Contracts shall be subject to New York City's general contract provisions, in substantially the form that they appear in "Appendix A—General Provisions Governing Contracts for Consultants, Professional and Technical Services" or, if the Agency utilizes other than the formal Appendix A, in substantially the form that they appear in the Agency's general contract provisions. A copy of the applicable document is available through the Authorized Agency Contact Person.

Contract Award Contract award will be subject to the provisions of the New York City MacBride Principles Law. Contract award will also be subject to applicable provisions of federal, state and other local laws and executive orders requiring affirmative action and equal employment opportunity. Contract award is subject to completion if the Procurement and Sourcing Solutions Portal (PASSPort) online disclosure process and review of the information contained therein by the New York City Department of Investigation.

Proposer Appeal Rights. Pursuant to New York City's Procurement Policy Board Rules, proposers have the right to appeal Agency non-responsiveness determinations and Agency non-responsibility determinations and to protest an Agency's determination regarding the solicitation or award of a contract.

Multi-Year Contracts. Multi-year contracts are subject to modification or cancellation if adequate funds are not appropriated to the Agency to support continuation of performance in any City fiscal year succeeding the first fiscal year and/or if the contractor's performance is not satisfactory. The Agency will notify the contractor as soon as is practicable that the funds are, or are not, available for the continuation of the multi-year contract for each succeeding City fiscal year. In the event of cancellation, the contractor will be reimbursed for those costs, if any, which are so provided for in the contract.

Prompt Payment Policy. Pursuant to the New York City's Procurement Policy Board Rules, it is the policy of the City to process contract payments efficiently and expeditiously.

Prices Irrevocable. Prices proposed by the proposer shall be irrevocable until contract award, unless the proposal is withdrawn. Offers may may be withdrawn only after the expiration of 90 days (or such longer period as is specified in the solicitation) after opening of proposals, in writing received by the agency prior to award. This shall not limit the discretion of the Agency to request proposers to revise proposed prices through the submission of best and final offers and/or the conduct of negotiations. The agency reserves the right to request a cost breakdown of the proposed price.

Confidential, Proprietary Information or Trade Secrets. Proposers should give specific attention to the identification of those portions of their proposals that they deem to be confidential, proprietary information or trade secrets and provide any justification of why such materials, upon request, should not be disclosed by the City. Such information must be easily separable from the non-confidential sections of the proposal. All information not so identified may be disclosed by the City.

RFP Postponement/Cancellation. The Agency reserves the right to postpone or cancel this RFP, in whole or in part, and to reject all proposals.

Proposer Costs. Proposers will not be reimbursed for any costs incurred to prepare proposals.

Electronic Funds Transfer Local Law 43 of 2007 requires all vendors with City contracts for more than $25,000 to enroll in the Direct Deposit payment program.

Compliance with Local Law 34 of 2007 Pursuant to Local Law 34 of 2007, amending the City's Campaign Finance Law, the City is required to establish a computerized database containing the names of any "person" that has "business dealings with the city" as such terms are defined in the Local Law.

Whistleblower Protection Expansion Act Rider Local Law Nos. 30 and 33 of 2012, codified at sections 6-132 and 12-113 of the New York City Administrative Code, the Whistleblower Protection Expansion Act, protect employees of certain City contractors from adverse personnel action based on whistleblower activity relating to a City contract and require contractors to post a notice informing employees of their rights. Please read Section 4.07 of Appendix A, the Whistleblower Protection Expansion Act Rider carefully

Compliance with the Iran Divestment Act Pursuant to State Finance Law Section 165-a and General Municipal Law Section 103-g, the City is prohibited from entering into contracts with persons engaged in investment activities in the energy sector of Iran. Each proposer is required to complete the Iran Divestment Act affirmation within the Affirmation section of the Questionnaire in PASSPort, certifying that it is not on a list of entities engaged in investments activities in Iran created by the Commissioner of the NYS Office of General Services. If a proposer appears on that list, the Agency/Department will be able to award a contract to such proposer only in situations where the proposer is takings steps to cease its investments in Iran or where the proposer is a necessary sole source. Please refer to the Iran Divestment Act affirmation within the Affirmation section of the Questionnaire in PASSPort for information on the Iran Divestment Act required for this solicitation and instructions on how to respond. Additionally, proposers may also visit https://ogs.ny.gov/iran-divestment-act-2012 for additional information concerning the list of entities.

Subcontractor Compliance Notice The selected vendor will be required to utilize the City's web based system to identify all subcontractors in order to obtain subcontractor approval pursuant to PPB Rule section 4-13, and will also be required to enter all subcontractor payment information and other related information in such system during the contract term.
Please read Section 3.02 of Appendix A, as it relates to competitive solicitations.

Vendex/PASSPort Fees. Pursuant to PPB Rule 2-08(f)(2), for any contract or subcontract that is subject to the Vendor Name Check process, the City Chief Procurement Officer may charge a fee for the administration of the Vendex/PASSPort system, including the Vendor Name Check Process, in the amount of $175 for contracts of an estimated value less than or equal to $1,000,000 and $350 for contracts of an estimated value greater than $1,000,000. Such fee will be charged against payments made to the vendor on the contract at issue. The timing of the contract award shall not be affected by a fee incurred but not yet paid by the vendor. A prime vendor is responsible for the payment of fees for any subcontractors of the vendor for which Vendor Name Check requests are made. Nothing contained in the PPB Rules shall prohibit a prime vendor from recovering from its subcontractors the amount of such fees attributable to those subcontractors. The VENDEX administrative fee may be waived at the discretion of the City Chief Procurement Officer if it is determined that such waiver is in the City's best interest.

Paid Safe and Sick Leave Law Contract Rider The Earned Safe and Sick Time Act ("ESSTA"), also known as the Paid Safe and Sick Leave Law, requires covered employees in New York City to be provided with paid safe and sick time. Contractors of the City of New York [or of other governmental entities] may be required to provide safe and sick time pursuant to the ESSTA. The NYC Earned Safe And Sick Time Act Contract Rider will be included in any contract awarded from this RFP and will incorporate the ESSTA as a material term of such a contract.

Nondiscrimination The contractor shall provide services to all persons regardless of actual or perceived race, color, creed, national origin, alien or citizenship status, gender (including gender identity), sexual orientation, disability, marital status, arrest or conviction record, status as a victim of domestic violence, lawful occupation, and family status.

Americans with Disabilities Act (ADA) Program facilities should be easily accessible to people with disabilities and should meet all requirements of the ADA. If not, DOP/CEO-approved alternative measures such as access to other suitable space should be used to make activities accessible to persons with disabilities.

New York State Food Purchasing Guidelines Pursuant to Local Law 50 of 2011, New York State Food Purchasing Guidelines shall apply to any solicitation valued at more than $100,000 for food or food-related services (e.g., catering), and to any solicitation for social services through which more than $100,000 of food would be purchased annually in fulfillment of the contract. Please review these guidelines, and refer to the list of New York State food products promulgated by the NYS Department of Agriculture and Markets available at https://www.nyc.gov/assets/mocs/downloads/Regulations/food-policy-standards/NYSFoodList.pdf

Recruitment and Hiring of Staff/Arrest Notification On August 4, 2011, as part of the Young Men's Initiative, Executive Order 151 was issued, stating with respect to any employment governed by Article 23 -A of the NYS Correction Law, with few exceptions, City agencies are prohibited from asking questions regarding an applicant's prior criminal convictions on any preliminary employment applications! or asking any questions about an applicant's prior criminal convictions before or during the first interview. In keeping with the objectives of EO 151 Contractors selected as a result of this RFP will likewise generally be prohibited from asking questions regarding an applicant's prior criminal convictions on any preliminary employment applications, and from asking any questions about an applicant's prior criminal convictions before or during the first interview. In addition, Contractors will be required to comply with Article 23 -A, including the requirement that determinations of hiring based on prior criminal convictions must be limited to a conviction that bears a direct relationship to the duties and responsibilities of the position sought, or where their hiring would pose an unreasonable risk to property or to the safety of individuals or the general public. The contractor shall report any conviction or subsequent arrest of any staff member (paid or volunteer) of which it becomes aware to the Agency.

Labor Peace Agreements (Local Law 87 of 2021) The contractor(s) selected from this solicitation will be required to comply with all applicable requirements under Ad. Code Section 6-145 and any rules promulgated pursuant thereto, and this requirement will constitute a material term of the contract. Failure to comply with the requirement of Ad. Code Section 6-145 may constitute a material breach by the contractor of the terms of the city service contract. Such failure shall be determined by the agency. If the city service contractor and/or subcontractor receives a written notice of such breach and fails to cure such breach within 30 days of such notice or a longer time period established pursuant to the terms of the city service contract, the city shall have the right to pursue any rights or remedies available under the terms of the city service contract or under applicable law, including termination of the contract. The LPA certification is included with this solicitation for informational purposes only; proposers do not need to complete and submit with their proposals. Proposers selected for award will be required to complete the LPA certification.

SUPPLEMENTARY INFORMATION

IRAN DIVESTMENT ACT COMPLIANCE RIDER FOR
NEW YORK CITY CONTRACTORS

The Iran Divestment Act of 2012, effective as of April 12, 2012, is codified at State Finance Law ("SFL") §165-a and General Municipal Law ("GML") §103-g. The Iran Divestment Act, with certain exceptions, prohibits municipalities, including the City, from entering into contracts with persons engaged in investment activities in the energy sector of Iran. Pursuant to the terms set forth in SFL §165-a and GML §103-g, a person engages in investment activities in the energy sector of Iran if:

(a) the person provides goods or services of twenty million dollars or more in the energy sector of Iran, including a person that provides oil or liquefied natural gas tankers, or products used to construct or maintain pipelines used to transport oil or liquefied natural gas, for the energy sector of Iran; or

(b) The person is a financial institution that extends twenty million dollars or more in credit to another person, for forty-five days or more, if that person will use the credit to provide goods or services in the energy sector in Iran and is identified on a list created pursuant to paragraph (b) of subdivision three of Section 165-a of the State Finance Law and maintained by the Commissioner of the Office of General Services.

A bid or proposal shall not be considered for award nor shall any award be made where the bidder or proposer fails to submit a signed and verified bidder's certification.

Each bidder or proposer must certify that it is not on the list of entities engaged in investment activities in Iran created pursuant to paragraph (b) of subdivision 3 of Section 165-a of the State Finance Law. In any case where the bidder or proposer cannot certify that they are not on such list, the bidder or proposer shall so state and shall furnish with the bid or proposal a signed statement which sets forth in detail the reasons why such statement cannot be made. The City of New York may award a bid to a bidder who cannot make the certification on a case by case basis if:

(1) The investment activities in Iran were made before the effective date of this section (i.e., April 12, 2012), the investment activities in Iran have not been expanded or renewed after the effective date of this section and the person has adopted, publicized and is implementing a formal plan to cease the investment activities in Iran and to refrain from engaging in any new investments in Iran: or

(2) The City makes a determination that the goods or services are necessary for the City to perform its functions and that, absent such an exemption, the City would be unable to obtain the goods or services for which the contract is offered. Such determination shall be made in writing and shall be a public document.

NOTICE TO PROPOSERS

Please be advised that the City of New York has issued a new Human Services Standard Contract. The new Contract, which is incorporated in this Request for Proposals, includes changes that reflect amendments to the New York Executive Law and Not-for-Profit Corporation Law by the Non-Profit Revitalization Act of 2013 ("NPRA"). Significant changes include the following:

SECTION 1.01 DEFINITIONS

New definitions for "key employee," "improper related party transaction," "related party," and "related party transaction" have been added to reflect new definitions in section 102(a) of the Not-for-Profit Corporation Law.

SECTION 4.07 RECOUPMENT OF DISALLOWANCE, IMPROPERLY INCURRED COSTS, AND OVERPAYMENTS

A change allows the City to recoup amounts incurred on any improper Related Party Transaction, as defined in section 1.01.

SECTION 5.01 RECORDS TO BE MAINTAINED

New records have been added to the list of records not-for-profit corporations are required to maintain and/or provide for inspection, including: the contractor's conflicts of interest policy, the contractor's whistleblower policy (if required by law), the documentation required for approval of related-party transactions, and a related party's disclosure statement.

SECTION 5.06 ADDITIONAL AUDIT AND FINANCIAL REPORTING REQUIREMENTS

The audit requirements have been changed to reflect changes in Executive Law section 172-b.

SECTION 6.05 BOARD OF DIRECTORS

The provisions relating to Boards of Directors previously in section 2.02(D)-(H) of Appendix B have been moved into this contract. Consistent with the NPRA, subdivision (B) now specifies that board members cannot be present during deliberation of certain personnel matters.

SECTION 6.06 CONFLICTS OF INTEREST POLICY

A new section has been added requiring contractors to maintain a conflict of interest policy if required by Not-for-Profit Corporation Law section 715-a(a).

Please refer to the contract itself for a full understanding and the actual text of the changes that were made. The text of the Contract is the controlling document should there be any discrepancies between this notice and the Contract.

PAID SICK LEAVE LAW CONTRACT RIDER

Introduction and General Provisions

The Earned Sick Time Act, also known as the Paid Sick Leave Law ("PSLL"), requires covered employees who annually perform more than 80 hours of work in New York City to be provided with paid sick time.[1] Contractors of the City of New York or of other governmental entities may be required to provide sick time pursuant to the PSLL.

The PSLL became effective on April 1, 2014, and is codified at Title 20, Chapter 8, of the New York City Administrative Code. It is administered by the City's Department of Consumer Affairs ("DCA"); DCA's rules promulgated under the PSLL are codified at Chapter 7 of Title 6 of the Rules of the City of New York ("Rules").

Contractor agrees to comply in all respects with the PSLL and the Rules, and as amended, if applicable, in the performance of this agreement. Contractor further acknowledges that such compliance is a material term of this agreement and that failure to comply with the PSLL in performance of this agreement may result in its termination.

Contractor must notify the Agency Chief Contracting Officer of the City agency or other entity with whom it is contracting in writing within ten (10) days of receipt of a complaint (whether oral or written) regarding the PSLL involving the performance of this agreement. Additionally, Contractor must cooperate with DCA's education efforts and must comply with DCA's subpoenas and other document demands as set forth in the PSLL and Rules.

The PSLL is summarized below for the convenience of Contractor. Contractor is advised to review the PSLL and Rules in their entirety. On the website www.nyc.gov/PaidSickLeave there are links to the PSLL and the associated Rules as well as additional resources for employers, such as Frequently Asked Questions, timekeeping tools and model forms, and an event calendar of upcoming presentations and webinars at which Contractor can get more information about how to comply with the PSLL. Contractor acknowledges that it is responsible for compliance with the PSLL notwithstanding any inconsistent language contained herein.

Pursuant to the PSLL and the Rules:

Applicability, Accrual, and Use

An employee who works within the City of New York for more than eighty hours in any consecutive 12-month period designated by the employer as its "calendar year" pursuant to the PSLL ("Year") must be provided sick time. Employers must provide a minimum of one hour of sick time for every 30 hours worked by an employee and compensation for such sick time must

[1] Pursuant to the PSLL, if fewer than five employees work for the same employer, as determined pursuant to New York City Administrative Code §20-912(g), such employer has the option of providing such employees uncompensated sick time.

be provided at the greater of the employee's regular hourly rate or the minimum wage. Employers are not required to provide more than forty hours of sick time to an employee in any Year.

An employee has the right to determine how much sick time he or she will use, provided that employers may set a reasonable minimum increment for the use of sick time not to exceed four hours per day. In addition, an employee may carry over up to forty hours of unused sick time to the following Year, provided that no employer is required to allow the use of more than forty hours of sick time in a Year or carry over unused paid sick time if the employee is paid for such unused sick time and the employer provides the employee with at least the legally required amount of paid sick time for such employee for the immediately subsequent Year on the first day of such Year.

An employee entitled to sick time pursuant to the PSLL may use sick time for any of the following:

- such employee's mental illness, physical illness, injury, or health condition or the care of such illness, injury, or condition or such employee's need for medical diagnosis or preventive medical care;
- such employee's care of a family member (an employee's child, spouse, domestic partner, parent, sibling, grandchild or grandparent, or the child or parent of an employee's spouse or domestic partner) who has a mental illness, physical illness, injury or health condition or who has a need for medical diagnosis or preventive medical care;
- closure of such employee's place of business by order of a public official due to a public health emergency; or
- such employee's need to care for a child whose school or childcare provider has been closed due to a public health emergency.

An employer must not require an employee, as a condition of taking sick time, to search for a replacement. However, an employer may require an employee to provide: reasonable notice of the need to use sick time; reasonable documentation that the use of sick time was needed for a reason above if for an absence of more than three consecutive work days; and/or written confirmation that an employee used sick time pursuant to the PSLL. However, an employer may not require documentation specifying the nature of a medical condition or otherwise require disclosure of the details of a medical condition as a condition of providing sick time and health information obtained solely due to an employee's use of sick time pursuant to the PSLL must be treated by the employer as confidential.

If an employer chooses to impose any permissible discretionary requirement as a condition of using sick time, it must provide to all employees a written policy containing those requirements, using a delivery method that reasonably ensures that employees receive the policy. If such employer has not provided its written policy, it may not deny sick time to an employee because of non-compliance with such a policy.

Sick time to which an employee is entitled must be paid no later than the payday for the next regular payroll period beginning after the sick time was used.

Exemptions and Exceptions

Notwithstanding the above, the PSLL does not apply to any of the following:

- an independent contractor who does not meet the definition of employee under section 190(2) of the New York State Labor Law;
- an employee covered by a valid collective bargaining agreement in effect on April 1, 2014 until the termination of such agreement;
- an employee in the construction or grocery industry covered by a valid collective bargaining agreement if the provisions of the PSLL are expressly waived in such collective bargaining agreement;
- an employee covered by another valid collective bargaining agreement if such provisions are expressly waived in such agreement and such agreement provides a benefit comparable to that provided by the PSLL for such employee;
- an audiologist, occupational therapist, physical therapist, or speech language pathologist who is licensed by the New York State Department of Education and who calls in for work assignments at will, determines his or her own schedule, has the ability to reject or accept any assignment referred to him or her, and is paid an average hourly wage that is at least four times the federal minimum wage;
- an employee in a work study program under Section 2753 of Chapter 42 of the United States Code;
- an employee whose work is compensated by a qualified scholarship program as that term is defined in the Internal Revenue Code, Section 117 of Chapter 20 of the United States Code; or
- a participant in a Work Experience Program (WEP) under section 336-c of the New York State Social Services Law.

Retaliation Prohibited

An employer may not threaten or engage in retaliation against an employee for exercising or attempting in good faith to exercise any right provided by the PSLL. In addition, an employer may not interfere with any investigation, proceeding, or hearing pursuant to the PSLL.

Notice of Rights

An employer must provide its employees with written notice of their rights pursuant to the PSLL. Such notice must be in English and the primary language spoken by an employee, provided that DCA has made available a translation into such language. Downloadable notices are available on DCA's website at http://www.nyc.gov/html/dca/html/law/PaidSickLeave.shtml.

Any person or entity that willfully violates these notice requirements is subject to a civil penalty in an amount not to exceed fifty dollars for each employee who was not given appropriate notice.

Records

An employer must retain records documenting its compliance with the PSLL for a period of at least three years, and must allow DCA to access such records in furtherance of an investigation related to an alleged violation of the PSLL.

Enforcement and Penalties

Upon receiving a complaint alleging a violation of the PSLL, DCA has the right to investigate such complaint and attempt to resolve it through mediation. Within 30 days of written notification of a complaint by DCA, or sooner in certain circumstances, the employer must provide DCA with a written response and such other information as DCA may request. If DCA believes that a violation of the PSLL has occurred, it has the right to issue a notice of violation to the employer.

DCA has the power to grant an employee or former employee all appropriate relief as set forth in New York City Administrative Code 20-924(d). Such relief may include, among other remedies, treble damages for the wages that should have been paid, damages for unlawful retaliation, and damages and reinstatement for unlawful discharge. In addition, DCA may impose on an employer found to have violated the PSLL civil penalties not to exceed $500 for a first violation, $750 for a second violation within two years of the first violation, and $1,000 for each succeeding violation within two years of the previous violation.

More Generous Polices and Other Legal Requirements

Nothing in the PSLL is intended to discourage, prohibit, diminish, or impair the adoption or retention of a more generous sick time policy, or the obligation of an employer to comply with any contract, collective bargaining agreement, employment benefit plan or other agreement providing more generous sick time. The PSLL provides minimum requirements pertaining to sick time and does not preempt, limit or otherwise affect the applicability of any other law, regulation, rule, requirement, policy or standard that provides for greater accrual or use by employees of sick leave or time, whether paid or unpaid, or that extends other protections to employees. The PSLL may not be construed as creating or imposing any requirement in conflict with any federal or state law, rule or regulation.

RIDER TO CITY SERVICE CONTRACTS PURSUANT TO NYC ADMIN. CODE § 6-145 LABOR PEACE AGREEMENTS FOR HUMAN SERVICES CONTRACTS

Sec. 1 DEFINITIONS.

A. **Building service employee.** The term "building service employee" means any person, the majority of whose employment consists of performing work in connection with the care or maintenance of a building or property, including but not limited to a watchperson, guard, doorperson, building cleaner, porter, handyperson, janitor, gardener, groundskeeper, stationary fireman, elevator operator and starter, or window cleaner.

B. **City service subcontractor.** The term "city service subcontractor" means any person, including, but not limited to, a temporary services, staffing or employment agency or other similar entity, that pursuant to an agreement with the contractor, performs any of the services to be rendered pursuant to this contract, except that the term "city service subcontractor" shall not include any person who enters into a contract with the contractor the principal purpose of which is to provide supplies, or administrative services, technical support services, or any other similar services to the contractor that do not directly relate to the performance of the human services to be rendered pursuant to this contract. A person shall be deemed a city service subcontractor for the duration of the period during which such person performs such services under this contract.

C. **Covered employee.** The term "covered employee" means an employee of a covered employer who directly renders human services in performance of this contract, except that the term "covered employee" shall not include any building service employee.

D. **Covered employer.** The term "covered employer" means the contractor or a city service subcontractor, as applicable.

E. **Human services.** The term "human services" means social services contracted for by an agency on behalf of third party clients including but not limited to day care, foster care, home care, health or medical services, housing and shelter assistance, preventive services, youth services, the operation of senior centers, employment training and assistance, vocational and educational programs, legal services and recreation programs.

F. **Labor organization.** The term "labor organization" has the same meaning as set forth in subdivision (5) of section 152 of title 29 of the United States Code.

G. **Labor peace agreement.** The term "labor peace agreement" means an agreement between a covered employer and a labor organization that seeks to represent employees who perform one or more classes of work to be performed pursuant to this contract, where such agreement: (1) requires that the covered employer and the labor organization and its members agree to the uninterrupted delivery of services to be rendered pursuant to this contract and to refrain from actions intended to or having the effect of interrupting such services; and (2) includes any other terms agreed to by the parties, which may relate to, but need not be limited to: (i) alternate procedures related to recognizing the labor organization for bargaining purposes, (ii) public statements, (iii) workplace access, and (iv) the provision of employee contact information.. For the purposes of this rider, the term "labor peace agreement" may include a collective bargaining agreement that is in effect.

Sec. 2 RESPONSIBILITIES OF THE CONTRACTOR

A. The contractor shall comply with all applicable requirements under Admin. Code § 6-145 and any rules promulgated pursuant thereto. Such requirements constitute a material term of this contract. The contractor's failure to comply with the requirements of Admin. Code § 6-145 may constitute a material

breach by the contractor of the terms of this contract, and such failure shall be determined by the contracting agency.

B. The contractor shall submit the Labor Peace Agreement Certification pursuant to Admin. Code § 6-145(c), as well as the Labor Peace Agreement Attestation pursuant to NYC Admin. Code § 6-145(b), attached hereto.

C. If the contractor and/or city service subcontractor receives written notice of such a breach and fails to cure such breach within 30 days of such notice, the City shall have the right to pursue any rights or remedies available under the terms of this contract or under applicable law, including termination of the contract.

D. If the contractor fails to perform in accordance with any of the requirements of this section and there is a continued need for the service, the contracting agency may (i) obtain from another source the required service as specified in this contract, or any part thereof; (ii) may charge the non-performing contractor for any difference in price resulting from the alternative arrangements; (iii) may assess any administrative charge established by the contracting agency; and (iv) may, as appropriate, invoke such other remedies as are available under the contract and applicable law.

Sec. 3 LABOR PEACE AGREEMENT CERTIFICATION

A. Prior to the award or renewal of this contract, the bidder or proposer seeking award or the contractor seeking renewal shall have provided the awarding contracting agency a certification, in the form attached to this rider, containing the following information:

(1) The name, address and telephone number of the chief executive officer of the bidder or proposer seeking award, or the contractor seeking renewal, as applicable;

(2) A statement that, if the contract is awarded or renewed, the bidder or proposer seeking award, or the contractor seeking renewal, as applicable, agrees to comply with the requirements of Admin. Code § 6-145, and with all applicable federal, state and local laws; and

(3) A record of any instances during the preceding five years in which the bidder or proposer seeking award, or the contractor seeking renewal, as applicable, has been found by a court or government agency to have violated federal, state or local laws regulating labor relations, in which any government body initiated a judicial action, administrative proceeding or investigation of the bidder, proposer, or contractor in regard to such laws.

B. The certification shall be signed under penalty of perjury by an officer of the bidder, proposer, or contractor and shall be annexed to and form a part of the contract.

C. The contractor shall each year throughout the term of the contract submit to the contracting agency an updated version of the certification required under Admin. Code § 6-145(c), and identify any changes from the previous certification. During the term of this contract, the contractor shall make such certification during the 30-day period following each anniversary of the effective date of this contract.

Sec. 4 LABOR PEACE AGREEMENTS ATTESTATION

A. No later than 90 days after the award or renewal of this contract the contractor shall either:

(1) submit an attestation to the contracting agency, in the form attached to this rider, signed by one or more labor organizations, as applicable, stating that the contractor has entered into or is in the process of negotiating one or more labor peace agreements with such labor organizations as have provided notice pursuant to section (4)(C)(1) of this rider, and identify: (i) the classes of covered employees covered by the labor peace agreements, (ii) the classes of covered employees not currently represented by a labor organization and that no labor organization has sought to represent,

and (iii) the classes of covered employees for which labor peace agreement negotiations have not yet concluded; or

(2) submit an attestation to the contracting agency stating that the contractor's covered employees are not currently represented by a labor organization and that no labor organization has sought to represent such covered employees by providing notice pursuant to section (4)(C)(1) of this rider.

B. Where a labor organization seeks to represent the covered employees of the contractor after the expiration of the 90-day period following the award or renewal date of this contract, and the labor organization has provided notice to the contracting agency and the contractor pursuant to section (4)(C) of this rider regarding such interest, the contractor shall then submit an attestation signed by the labor organization to the contracting agency no later than 90 days after the date of notice stating that it has entered into a labor peace agreement with such labor organization or that labor peace agreement negotiations have not yet concluded.

C. For the purposes of this section:

(1) notice to the contractor by a labor organization shall be made in writing by a duly authorized representative of the labor organization to either (i) the chief executive officer of the contractor; or (ii) the business address or e-mail address provided for in section 14.04 of Appendix A of this contract; and

(2) notice to the contracting agency shall be made in writing by a duly authorized representative of the labor organization to the contracting agency at the physical address or e-mail address provided for in section 14.04 of Appendix A of this contract.

D. In evaluating any violation of this section or any other provision of this rider or Admin. Code § 6-145, the city shall consider any relevant conduct of a labor organization, the size of the contractor's business, the contractor's good faith efforts to comply with the terms of this rider and Admin. Code § 6-145, the gravity of the violation, the history of previous violations, and the failure to comply with recordkeeping, reporting or other requirements. In considering whether the contractor has exercised good faith efforts in attempting to comply with obligations related to the submission of attestations in compliance with this section, the city shall consider the contractor's documented efforts to negotiate with labor organizations.

E. Notwithstanding any other provision of this rider, where a class of a contractor's covered employees are covered by a collective bargaining agreement with a labor organization, such contractor is neither required to include any statements in an attestation in regards to labor peace agreements or negotiations relating thereto with any other labor organization with respect to such class of covered employees, nor required to seek such other labor organization's signature on any attestation with respect to such class of covered employees.

Sec. 5 SUBCONTRACTORS

A. The contractor shall cause its city service subcontractors to comply with Admin. Code § 6-145, as applicable, and include the following provisions and the attached Labor Peace Agreement Attestation in each of its subcontracts with such city service subcontractors, and shall be responsible for collecting subcontractor attestations and providing them to the contracting agency:

Labor Peace Agreements

A. No later than 90 days after the approval by the contracting agency of a city service subcontractor, such city service subcontractor, shall either:

(1) submit an attestation to the contracting agency, through the city service contractor, signed by one or more labor organizations, as applicable, stating that the city service subcontractor has entered into or is in the process of negotiating one or more labor peace agreements with such labor organizations as have provided notice pursuant to subsection (C)(1), and identify: (i) the classes of covered employees covered by the labor peace agreements, (ii) the classes of covered employees not currently represented by a labor organization and that no labor organization has sought to represent, and (iii) the classes of covered employees for which labor peace agreement negotiations have not yet concluded; or

(2) submit an attestation to the contracting agency, through the city service contractor, stating that the city service subcontractor's covered employees are not currently represented by a labor organization and that no labor organization has sought to represent such covered employees by providing notice pursuant to subsection (C)(1).

B. Where a labor organization seeks to represent the covered employees of the city service subcontractor after the 90-day period following the approval of the city service subcontractor, and a labor organization has provided notice to the contracting agency and city service subcontractor pursuant to subsection (C) regarding such interest, the city service subcontractor shall then submit an attestation signed by the labor organization to the contracting agency no later than 90 days after the date of notice stating that it has entered into a labor peace agreement with such labor organization or that labor peace agreement negotiations have not yet concluded.

C. For the purposes of this section:

(1) notice to the city service subcontractor by a labor organization shall be made in writing by a duly authorized representative of the labor organization to either (i) the chief executive officer of such city service subcontractor; or (ii) the business address or e-mail address set forth pursuant to the notice provisions of this city service subcontract; and

(2) notice to the contracting agency shall be made in writing by a duly authorized representative of the labor organization to the contracting agency at the address or e-mail address provided for in section 14.04 of Appendix A of the agreement between the city service contractor and the contracting agency under which this city service subcontract is being performed.

D. In evaluating any violation of this section, the city service contractor shall consider any relevant conduct of a labor organization, the size of the city service subcontractor's business, the city service subcontractor's good faith efforts to comply with the terms of this section and Admin. Code § 6-145, the gravity of the violation, the history of previous violations, and the failure to comply with recordkeeping, reporting or other requirements. In considering whether the city service subcontractor has exercised good faith efforts in attempting to comply with obligations related to the submission of attestations in compliance with this section, the city service contractor shall consider the city service subcontractor's documented efforts to negotiate with labor organizations.

E. Notwithstanding any other provision of this section, where a class of a city service subcontractor's covered employees are covered by a collective bargaining agreement with a labor organization, such city service subcontractor is neither required to include any statements in an attestation in regards to labor peace agreements or negotiations relating thereto with any other labor organization with respect to such class of covered employees, nor required to seek such other labor organization's signature on any attestation with respect to such class of covered employees.

F. The definitions in section 1 to the "Rider to City Service Contracts pursuant to Admin. Code § 6-145 Labor Peace Agreements for Human Services Contracts" to the agreement between the city service contractor and the contracting agency under which this city services subcontract is being performed shall apply to this terms used in section, unless another meaning is clear from context.

Sec. 6 AWARD DATE

A. For the purposes of this rider, the date of an award shall be deemed to be the date upon which a contract is signed by both the contractor and the contracting agency.

B. For the purposes of this rider, the date of a renewal shall be deemed to be the date upon which a contract renewal is signed by both the contractor and the contracting agency.

Labor Peace Agreement Certification

Certification Prior to Contract Award or Renewal

Pursuant to NYC Admin. Code § 6-145(c)

Contract Name:_____ **E-PIN#:** _____

This certification is (select one): ☐ **The first such certification under for contract award/renewal.**

☐ **a subsequent (yearly) certification. If so, provide date of first certification:** _____

I,_____ ***(print),*** **the undersigned,**

am a duly authorized officer of_____ ***(vendor name)***

Chief Executive Officer (CEO) of the city service contractor, bidder or proposer seeking award or the city service contractor seeking renewal of a city service contract, as applicable:

Check if updated from a previous certification

CEO Name:_____ ☐

Address:_____ ☐

Telephone:_____ Email:_____ ☐

If the city service contract is awarded or renewed (as applicable), I, the undersigned, agree to comply with the requirements of NYC Admin. Code § 6-145, and with all applicable federal, state and local laws.

Labor Relations findings: Instances during the preceding five years in which the bidder or proposer seeking award, or the city service contractor seeking renewal, as applicable, has been found by a court or government agency to have violated federal, state or local laws regulating labor relations, in which any government body initiated a judicial action, administrative proceeding or investigation of the bidder, proposer, or city service contractor in regard to such labor relations laws.

In lieu of manually entering the labor relation findings in the spaces provided below, a city service contractor, bidder or proposer seeking awardor a city service contractor seeking renewal of a city service contract may, by completing the check box below, affirm that such contractor has fully submitted and certified its PASSPort questionnaires pursuant to Subdivision (b) of Section 6-116.2 of the New York City Administrative Code, including the Vendor Questionnaire and Principal Questionnaires, and that such questionnaires and any material uploaded to the PASSPort system associated with such questionnaires contain records of all labor relations findings and are accurate as of the date that this Labor Peace Agreement Certification is executed: ☐

If a city service contractor elects to enter labor relations findings information manually, enter such information below. Add pages as necessary. If not applicable write "N/A."

Violation:_____ Date of Action:_____ Charging Agency: _____

Summary: _____

_____

_____ ***Check if updated from a previous certification*** ☐

Violation:_____ Date of Action:_____ Charging Agency: _____

Summary: _____

_____

_____ ***Check if updated from a previous certification*** ☐

I_____ *(print)* **swear or affirm, under penalty of perjury, that the above information is accurate as of the date noted below.**

Signed:_____ Date: _____

State:_____ County:_____ S.S.

Sworn or affirmed before me on: _____

[Stamp]

Notary Public: _____

THE CITY OF NEW YORK

Local Law 87 of 2021 FAQs Regarding Effective Date
February 4, 2022

The City of New York issues this document to provide answers to frequently asked questions (FAQs) related to the effective date of Local Law 87 of 2021 and what contracts and renewals are subject to Local Law 87. The City will also be issuing at a later date a separate document containing FAQs regarding the City's contract terms implementing the local law. These contract terms are contained in the "LPA Rider."

1. **What prime contracts do the requirements of Local Law 87 apply to?**

   The requirements of Local Law 87 apply to "City Service Contracts," which are non-emergency human services contracts (including discretionary awards) or renewals over $100,000 that are signed by both parties on or after November 16, 2021; for which the contractor was not notified in writing of their selection for the award of such contract or renewal prior to November 16, 2021; and for which services did not begin (under either the award or renewal, as described in question three) prior to November 16, 2021. Contract amendments do not trigger the applicability of Local Law 87. Local Law 87 applies only to prime contract awards and renewals that meet the criteria above; however, with respect to contracts and renewals that are subject to the criteria above, any such services performed pursuant to contract amendment to such a contract will be subject to Local Law 87.

2. **Does Local Law 87 apply to contracts for which the contractor was formally notified in writing prior to November 16, 2021 that they would receive a contract award?**

   No. Local Law 87 does not apply to a contract for which a contractor has been notified in writing prior to November 16, 2021 that such contractor will be receiving a contract. For example, contractors identified prior to November 16, 2021 in Schedule C to the New York City Annual Expense Budget to receive discretionary fund contracts are not subject to Local Law 87.

3. **Does Local Law 87 apply to contracts for which services began prior to November 16, 2021, the effective date of Local Law 87?**

   No. Local Law 87 does not apply to contracts for which performance of the services under the contract began prior to November 16, 2021 or, in the case of a contract renewal, performance of the services covered by the renewal term began prior to November 16, 2021.

4. **If my base contract was signed prior to November 16, 2021, the effective date of Local Law 87, and a renewal term scheduled to begin on or after November 16, 2021 is authorized under such contract, will my contract be renewed if I do not agree to include the terms of the LPA Rider in the renewal contract?**

   No. Even though the LPA Rider was not included in the base contract, the City may not proceed with the renewal unless the LPA Rider is included in the contract renewal.

5. **If a contractor has signed a contract or contract renewal that contains an LPA Rider but Local Law 87 does not apply to the contract or contract renewal for one of the reasons discussed in the above FAQs (1-3), does the LPA Rider apply to the contract or contract renewal?**

   No. Under those circumstances, the City waives the terms set forth in the LPA Rider and such terms are deemed to be not a term or condition of the contract or contract renewal. Under such circumstances, the contractor is not required to take any further action pursuant to the terms of the LPA Rider. If the contractor believes that the LPA Rider has been included in its contract or renewal and that such contract or renewal should not be subject to the LPA Rider pursuant to the terms of these FAQs, and the contractor has not received notification from the City indicating that such terms have been waived, the contractor should request confirmation from the Agency whether the LPA Rider applies or has been waived.

THE CITY OF NEW YORK

Local Law 87 of 2021 FAQs Regarding Implementation
March 25, 2022

A. Overview

On February 4, 2022, the City of New York released a document providing answers to frequently asked questions ("FAQs") related to Local Law 87 of 2021, codified in Administrative Code § 6-145, and the City's contract terms implementing the local law. The February 4, 2022 FAQ document, which primarily related to the effective date of Local Law 87, remains in effect. This document constitutes a second FAQ that provides additional clarity regarding the mechanics of the Local Law. Throughout this FAQ document, references to what Local Law 87 requires also indicate what the City's contract terms require. These contract terms are contained in the "LPA Rider." As explained in greater detail below, the local law has provisions related to required certifications and required attestations:

Local Law 87 requires an applicable contractor working under a New York City human services contract to provide a certification regarding its legal compliance history prior to contract award or renewal, and update such certification annually during the term of the contract. The contractor is also required to certify that it will comply with the terms of the contract related to Local Law 87.

Local Law 87 also requires that an applicable contractor or subcontractor working under such contract provide an attestation regarding the class or classes of employees covered by this law. Such attestation shall, as applicable, state that:

> (1) The contractor/subcontractor has entered into Labor Peace Agreements ("LPAs") with labor organizations;

(2) The contractor/subcontractor has not received notice from a labor organization seeking to represent such employees; or
(3) The contractor/subcontractor is engaging in LPA negotiations with labor organizations that have not yet concluded.

Local Law 87 requires that such attestation be provided 90 days after contract award or renewal, or 90 days after subcontractor approval, as applicable. The attestation process may be initiated again during the term of the contract or subcontract where a labor organization notifies the contractor or subcontractor, as applicable, that such labor organization seeks to represent such employees.

B. Applicability and Definitions

1. What subcontractors does Local Law 87 apply to?

Local Law 87 applies to a subcontractor, including but not limited to, a temporary services staffing or employment agency or other similar entity that, pursuant to an agreement with a City Service Contractor, performs services the principal purpose of which is the provision of human services pursuant to the City Service Contract. Local Law 87 applies only to first-level subcontractors; Local Law 87 does not apply to subcontractors of subcontractors. Local Law 87 does not apply to persons who enter into a contract with a City Service Contractor for which the principal purpose of the subcontract is to provide supplies, or administrative services, technical support services, or any other similar services to the City Service Contractor that do not directly relate to the performance of the human services to be rendered pursuant to such City Service Contract.

2. What is the definition of "administrative services" and "technical support services" mentioned in Question B.1 of this FAQ?

"Administrative services" and "technical support services" are services that support the operations of a City Service Contractor, such as human resources and information technology services, rather than directly addressing the needs of, or delivering services for, clients. As noted in question B.1, above, the requirements of Local Law 87 do not apply where a person enters into a contract with a City Service Contractor the principal purpose of which is to provide supplies, administrative services, technical support services, or any other similar services to the City Service Contractor that do not directly relate to the performance of the human services to be rendered pursuant to such City Service Contract.

3. What is a Labor Peace Agreement (LPA)?

An LPA refers to an agreement between an employer and a labor organization that represents or seeks to represent its employees, where such agreement requires that the employer, the labor organization, and the labor organization's members agree to the uninterrupted delivery of services

provided for in a City Service Contract and agree to refrain from actions intended to or having the effect of interrupting such services. Collective bargaining agreements ("CBAs") may also constitute LPAs for the purposes of Local Law 87, as further discussed in Questions C.8 and C.11 of the Certification and Attestation section of this FAQ.

LPAs may also include other terms agreed upon by the parties, such as terms relating to: (i) alternate procedures related to recognizing the labor organization for bargaining purposes, (ii) public statements, (iii) workplace access, (iv) the provision of employee contact information; and (v) a process for the productive resolution of disputes. These topics are illustrative and are not intended to specify or limit the terms that may be included in an LPA in order to achieve the goals of ensuring the uninterrupted delivery of services and avoidance of actions intended to or having the effect of interrupting such services.

4. What classes of employees are covered by Local Law 87?

The classes of employees covered by Local Law 87 are those employees of a City Service Contractor or City Service Subcontractor who directly render human services in performance of a City Service Contract. Therefore, an LPA that applies only to employees directly rendering human services in performance of a City Service Contract would constitute an LPA for the purpose of the attestation procedure.

Supervisory employees, volunteers, and individuals performing work as independent contractors are not covered under Local Law 87. Building service employees are also not covered by Local Law 87. Building service workers are workers who spend a majority of their work time performing work in connection with the care or maintenance of a building or property, and include but are not limited to, a watchperson, guard, doorperson, building cleaner, porter, handyperson, janitor, gardener, groundskeeper, stationary fireman, elevator operator and starter, or window cleaner.

C. Certification and Attestation

1. When do "award" or "renewal" occur for the purposes of determining when certifications and attestations are required under this law?

For the purposes of determining when certifications and attestations are required under Local Law 87, "award" or "renewal" occurs on the date that the contract or renewal has been signed by both the City Service Contractor and the contracting agency. Please note that this standard for determining "award" or "renewal" applies for Local Law 87 compliance purposes, when it has already been determined that Local Law 87 applies to the contract. This standard for determining "award" is not applicable for the purpose of determining which contract awards or renewals are

subject to Local Law 87. The topic of determining which contract awards or renewals are subject to Local Law 87 is discussed in the February 4, 2022 FAQ, mentioned above.

2. **When does the certification need to be signed and submitted?**

   The certification must be signed before the contractor signs the contract or renewal and provided to the contracting agency as part of the contract when the signed contract or renewal is submitted to the contracting agency. The certification must be included in the contract or renewal and updated during the 30-day period following each anniversary of the effective date of the contact or renewal.

3. **Do City Service Subcontractors need to sign certifications under Local Law 87?**

   No. While City Service Subcontractors are obligated to comply with the attestation procedure under Local Law 87, City Service Subcontractors are not required to sign certifications.

4. **In the case of a retroactive or delayed contract, where a City Service Contract is signed after performance has begun, is the City Service Contractor responsible for the obligations associated with Local Law 87 compliance for the period prior to signature?**

   No. A City Service Contractor's or City Service Subcontractor's responsibilities relating to certifications and attestations, as applicable, are triggered by contract signature or subcontractor approval, as applicable.

   For City Service Contracts, certification is required prior to award or renewal, and thereafter, on an annual basis during the 30-day period following each anniversary of the effective date of such City Service Contract, such certification must be updated. The certification requirement is not triggered by the beginning of contract performance.

   For City Service Contracts and City Service Subcontracts, attestation requirements are triggered by contract award or renewal (i.e., the date of signature) or by subcontractor approval, as applicable. This obligation is not triggered by the beginning of contract performance. For City Service Contracts, attestation is required no later than 90 days after award or renewal, as applicable, and then each time a labor organization notifies the City Service Contractor in writing of an interest in their representation of covered workers. With respect to a City Service Subcontract, attestation is required no later than 90 days after the subcontractor approval date, and then upon a labor organization notifying the contractor in writing of the labor organization's interest in representing covered workers.

5. **With respect to the certification, should a City Service Contractor include the business address or personal address of their Chief Executive Officer ("CEO")?**

   The Certification requires the business address of the CEO. The personal address of the CEO is not required.

6. **What must a City Service Contractor do to comply with Local Law 87's requirement related to disclosure of violations of federal, state, or local laws regulating labor relations?**

   Except as otherwise provided in section seven below, a City Service Contractor must include all the information required under Admin. Code § 6-145(c) on each certification that it submits. Such information includes, but is not limited to, a record of any instances during the preceding five years in which (a) such City Service Contractor has been found by a court or government agency to have violated federal, state, or local laws or rules regulating labor relations; and (b) such finding results from a judicial action, administrative proceeding, or investigation of such City Service Contractor in regard to such laws or rules that was initiated by a government body.

   For the purposes of Local Law 87 certifications, labor relation laws that trigger disclosure include Local Law 87 itself, laws that establish minimum workplace standards, laws that govern employers' obligations regarding employee health and safety, labor laws that require the provision of information or notices to employees, the National Labor Relations Act, the Labor Management Relations Act, and any other laws that govern collective bargaining.

7. **If a City Service Contractor has filed accurate and up-to-date PASSPort questionnaires, does that City Service Contractor need to submit a certification?**

   Even if a City Service Contractor has an accurate and up-to-date PASSPort questionnaire on file with the City, such City Service Contractor must still submit a certification pursuant to Admin. Code § 6-145(c). However, in lieu of disclosing its violation history, as required by Admin. Code § 6-145(c)(1)(c), such City Service Contractor may instead check the box on the certification form indicating that the City Service Contractor certifies that the City Service Contractor's electronic PASSPort questionnaires and all supplemental information submitted pursuant to Admin. Code § 6-116.2 are accurate and up to date as of the date of the Local Law 87 certification, and contain all of the information required under Admin. Code § 6-145(c)(1)(c), as described in question six of this Certification and Attestation section, above.

   Use of this PASSPort checkbox option does not relieve a City Service Contractor of the obligation of completing all other aspects of the certification not related to the disclosure of violation history pursuant to Admin. Code § 6-145(c)(1)(c).

8. How will a contractor know when a labor organization "seeks to represent" a group of workers for Local Law 87 purposes?

For the purposes of triggering Local Law 87's requirements, a labor organization "seeks to represent" covered employees of a City Service Contractor performing one or more classes of labor under a City Service Contract when a duly authorized representative of the labor organization transmits a writing indicating an interest in entering into an LPA.

The writing must be sent to either: (i) the chief executive officer of the contractor; or (ii) the business address or e-mail address provided for in section 14.04 of Appendix A of the City Service Contract.

For City Service Subcontractors, notice must be provided to either (i) the chief executive officer of such City Service Subcontractor; or (ii) the business address or e-mail address set forth pursuant to the notice provisions of the City Service Subcontract.

Where such notice is provided to a City Service Subcontractor, the labor organization must also inform the corresponding City Service Contractor at one of the two addresses listed above.

Each notice must reference Local Law 87 and explicitly state that the labor organization seeks to represent covered employees of the City Service Contract or City Service Subcontractor, as applicable.

Where a labor organization seeks to represent covered employees after the 90-day post award or renewal period, the labor organization must also send a copy of such notice to the contracting agency, as well, at the business address or e-mail address provided for in section 14.04 of Appendix A of the City Service Contract.

For the purpose of Local Law 87's attestation procedure, as further provided in question 11, below, a CBA may constitute an LPA with respect to the labor organization party to the CBA or the class of employees covered by such CBA. Therefore, a City Service Contractor or City Service Subcontractor with a "qualifying CBA," as such term is defined in Question C.11, below, should sign the attestation that they have an LPA for that group of workers, treating the labor organization as having sought to represent those workers.

9. What are the timeframes in which a labor organization's efforts to represent the employees of a City Service Contractor or City Service Subcontractor trigger the attestation requirement?

With respect to a City Service Contractor, a labor organization may trigger the attestation procedure at any point after contract signature and before the conclusion of the contract.

With respect to a City Service Subcontractor, a labor organization may trigger the attestation procedure at any point after subcontractor approval and before the conclusion of the subcontract.

10. Does Local Law 87 require a covered employer that has executed an LPA with a labor organization to collectively bargain with that labor organization?

No, Local Law 87 does not affect whether or not a covered employer is legally obligated to bargain collectively with a labor organization. The execution of an LPA, on its own, does not require an employer to bargain collectively with the labor organization with which it has executed the LPA.

11. How is the attestation procedure different for City Service Contractors and Subcontractors that are already unionized?

An effective CBA will constitute an LPA for the purpose of the attestation procedure with respect to the class of employees covered by such CBA, if it contains provisions requiring the uninterrupted delivery of services to be rendered pursuant to the City Service Contract and prohibiting actions intended to or having the effect of interrupting such services ("qualifying CBA"). However, a CBA must still be recorded on an attestation form when a qualifying CBA is in place, pursuant to the procedure set forth in Local Law 87. Where a qualifying CBA is already in place for a class of covered employees, a City Service Contractor or City Service Subcontractor is not required to follow the attestation procedure upon receipt of notice from another labor organization seeking to represent the same class of employees covered by the CBA.

12. Is a City Service Contractor or City Service Subcontractor required to follow attestation procedure with multiple labor organizations seeking to represent the same covered employees?

Yes. A City Service Contractor or City Service Subcontractor is required to follow the attestation procedure with any labor organization seeking to represent covered employees working under the contract or subcontract. There is one notable exception to this requirement: where a qualifying CBA is already in place for a class of covered employees, a City Service Contractor or City

Service Subcontractor is not required to follow the attestation procedure upon receipt of notice from another labor organization seeking to represent a class of employees covered by the CBA.

13. What happens if a City Service Contractor or City Service Subcontractor attempts to comply with the obligations related to the submission of attestations but such efforts are not successful?

An agency will consider a City Service Contractor's or City Service Subcontractor's good faith efforts in evaluating whether a Contractor or Subcontractor has complied with the requirements of Local Law 87. An agency will not find the Contractor or Subcontractor to be in breach of contract or violation of Local Law 87 for a failure to submit a signed attestation if the agency determines that the Contractor or Subcontractor has demonstrated that the Contractor or Subcontractor attempted to present an accurate attestation to a labor organization in a timely manner and otherwise exercised good faith efforts in order to obtain a fully executed attestation, but nonetheless was unsuccessful.

In evaluating whether such City Service Contractor or City Service Subcontractor has exercised good faith efforts, the City shall consider the City Service Contractor's or City Service Subcontractor's efforts to obtain execution of an attestation by labor organizations that seek to represent the City Service Contractor's or City Service Subcontractor's covered employees, and all relevant facts and circumstances. For example, if a labor organization seeking to represent the covered employees of a City Service Contractor or City Service Subcontractor fails to respond to a Contractor or Subcontractor's good faith attempts to initiate negotiations toward an LPA in order to obtain the signature of the labor organization on an attestation, that Contractor or Subcontractor would not breach the attestation requirements of Local Law 87.

14. Are enforcement actions under Local Law 87 subject to the Contract Dispute Resolution Board procedures?

No. Enforcement procedures initiated by a contracting agency pursuant to Admin. Code § 6-145(f) are not subject to the procedures set forth under Procurement Policy Board Rule § 4-09. Any City Service Contractor or City Service Subcontractor affected by such order, determination, or other disposition may seek review of such order, determination or other disposition solely in the form of a challenge, filed within four months of the date of the contracting agency's order, determination, or other disposition, in a court of competent jurisdiction of the state of New York, county of New York, pursuant to article 78 of the civil practice law and rules.

Attachment C

GENERAL PROVISIONS GOVERNING CONTRACTS FOR CONSULTANTS, PROFESSIONAL, TECHNICAL, HUMAN, AND CLIENT SERVICES ("Appendix A January 2018 Final")

APPENDIX A

GENERAL PROVISIONS GOVERNING CONTRACTS FOR CONSULTANTS, PROFESSIONAL, TECHNICAL, HUMAN, AND CLIENT SERVICES

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ARTICLE 1 - DEFINITIONS

Section 1.01 Definitions

The following words and expressions, or pronouns used in their stead, shall, wherever they appear in this Agreement, be construed as follows, unless a different meaning is clear from the context:

A. "Agency Chief Contracting Officer" or "ACCO" means the position delegated authority by the Agency Head to organize and supervise the procurement activity of subordinate Agency staff in conjunction with the City Chief Procurement Officer.

B. "Agreement" means the various documents, including this Appendix A, that constitute the contract between the Contractor and the City.

C. "City" means the City of New York.

D. "City Chief Procurement Officer" or "CCPO" means the position delegated authority by the Mayor to coordinate and oversee the procurement activity of Mayoral agency staff, including the ACCOs.

E. "Commissioner" or "Agency Head" means the head of the Department or his or her duly authorized representative. The term "duly authorized representative" shall include any person or persons acting within the limits of his or her authority.

F. "Comptroller" means the Comptroller of the City of New York.

G. "Contractor" means the entity entering into this Agreement with the City.

H. "Days" means calendar days unless otherwise specifically noted to mean business days.

I. "Department" or "Agency" means the City agency or office through which the City has entered into this Agreement.

J. "Law" or "Laws" means the New York City Charter ("Charter"), the New York City Administrative Code ("Admin. Code"), a local rule of the City of New York, the Constitutions of the United States and the State of New York, a statute of the United States or of the State of New York and any ordinance, rule or regulation having the force of law and adopted pursuant thereto, as amended, and common law.

K. "Procurement Policy Board" or "PPB" means the board established pursuant to Charter § 311 whose function is to establish comprehensive and consistent procurement policies and rules that have broad application throughout the City.

L. "PPB Rules" means the rules of the Procurement Policy Board as set forth in Title 9 of the Rules of the City of New York ("RCNY"), § 1-01 *et seq*.

M. "SBS" means the New York City Department of Small Business Services.

N. "State" means the State of New York.

ARTICLE 2 – REPRESENTATIONS, WARRANTIES, CERTIFICATIONS, AND DISCLOSURES

Section 2.01 Procurement of Agreement

A. The Contractor represents and warrants that, with respect to securing or soliciting this Agreement, the Contractor is in compliance with the requirements of the New York State Lobbying Law (Legislative Law §§ 1-a *et seq*.). The Contractor makes such representation and warranty to induce the City to enter into this Agreement and the City relies upon such representation and warranty in the execution of this Agreement.

B. For any breach or violation of the representation and warranty set forth in Paragraph A above, the Commissioner shall have the right to annul this Agreement without liability, entitling the City to recover all monies paid to the Contractor; and the Contractor shall not make claim for, or be entitled to recover, any sum or sums due under this Agreement. The rights and remedies of the City provided in this Section 2.01(B) are not exclusive and are in addition to all other rights and remedies allowed by Law or under this Agreement.

Section 2.02 Conflicts of Interest

A. The Contractor represents and warrants that neither it nor any of its directors, officers, members, partners or employees, has any interest nor shall they acquire any interest, directly or indirectly, which conflicts in any manner or degree with the performance of this Agreement. The Contractor further represents and warrants that no person having such interest or possible interest shall be employed by or connected with the Contractor in the performance of this Agreement.

B. Consistent with Charter § 2604 and other related provisions of the Charter, the Admin. Code and the New York State Penal Law, no elected official or other officer or employee of the City, nor any person whose salary is payable, in whole or in part, from the City Treasury, shall participate in any decision relating to this Agreement which affects his or her personal interest or the interest of any corporation, partnership or other entity in which he or she is, directly or indirectly, interested; nor shall any such official, officer, employee, or person have any interest in, or in the proceeds of, this Agreement. This Section 2.02(B) shall not prevent directors, officers, members, partners, or employees of the Contractor from participating in decisions relating to this Agreement where their sole personal interest is in the Contractor.

C. The Contractor shall not employ a person or permit a person to serve as a member of the Board of Directors or as an officer of the Contractor if such employment or service would violate Chapter 68 of the Charter.

Section 2.03 Certification Relating to Fair Practices

A. The Contractor and each person signing on its behalf certifies, under penalties of perjury, that to the best of its, his or her knowledge and belief:

1. The prices and other material terms set forth in this Agreement have been arrived at independently, without collusion, consultation, communication, or agreement with any other bidder or proposer or with any competitor as to any matter relating to such prices or terms for the purpose of restricting competition;

2. Unless otherwise required by Law or where a schedule of rates or prices is uniformly established by a government agency through regulation, policy, or directive, the prices and other material terms set forth in this Agreement that have been quoted in this Agreement and on the bid or proposal submitted by the Contractor have not been knowingly disclosed by the Contractor, directly or indirectly, to any other bidder or proposer or to any competitor prior to the bid or proposal opening; and

3. No attempt has been made or will be made by the Contractor to induce any other person or entity to submit or not to submit a bid or proposal for the purpose of restricting competition.

B. The fact that the Contractor (i) has published price lists, rates, or tariffs covering items being procured, (ii) has informed prospective customers of proposed or pending publication of new or revised price lists for such items, or (iii) has sold the same items to other customers at the same prices and/or terms being bid or proposed, does not constitute, without more, a disclosure within the meaning of this Section 2.03.

Section 2.04 Disclosures Relating to Vendor Responsibility

The Contractor represents and warrants that it has duly executed and filed all disclosures as applicable, in accordance with Admin. Code § 6-116.2, PPB Rule § 2-08, and the policies and procedures of the Mayor's Office of Contract Services. The Contractor acknowledges that the Department's reliance on the completeness and veracity of the information stated therein is a material condition to the execution of this Agreement, and the Contractor represents and warrants that the information it and its principals have provided is accurate and complete.

Section 2.05 Disclosure Relating to Bankruptcy and Reorganization

If the Contractor files for bankruptcy or reorganization under Chapter Seven or Chapter Eleven of the United States Bankruptcy Code, the Contractor shall disclose such action to the Department within seven days of filing.

Section 2.06 Authority to Execute Agreement

The Contractor represents and warrants that: (i) its execution, delivery and performance of this Agreement have been duly authorized by all necessary corporate action on its part; (ii) it has all necessary power and authority to execute, deliver and perform its obligations under this Agreement; and (iii) once executed and delivered, this Agreement will constitute its legal, valid and binding obligation, enforceable in accordance with its terms.

ARTICLE 3 - ASSIGNMENT AND SUBCONTRACTING

Section 3.01 Assignment

A. The Contractor shall not assign, transfer, convey, or otherwise dispose of this Agreement, or the right to execute it, or the right, title, or interest in or to it or any part of it, or assign, by power of attorney or otherwise, any of the monies due or to become due under this Agreement, without the prior written consent of the Commissioner. The giving of any such consent to a particular assignment shall not dispense with the necessity of such consent to any further or other assignments. Any such assignment, transfer, conveyance, or other disposition without such written consent shall be void.

B. Before entering into any such assignment, transfer, conveyance, or other disposal of this Agreement, the Contractor shall submit a written request for approval to the Department giving the name and address of the proposed assignee. The proposed assignee's disclosure that is required by PPB Rule § 2-08(e) must be submitted within 30 Days after the ACCO has granted preliminary written approval of the proposed assignee, if required. Upon the request of the Department, the Contractor shall provide any other information demonstrating that the proposed assignee has the necessary facilities, skill, integrity, past experience, and financial resources to perform the specified services in accordance with the terms and conditions of this Agreement. The Department shall make a final determination in writing approving or disapproving the assignee after receiving all requested information.

C. Failure to obtain the prior written consent to such an assignment, transfer, conveyance, or other disposition may result in the revocation and annulment of this Agreement, at the option of the Commissioner. The City shall thereupon be relieved and discharged from any further liability and obligation to the Contractor, its assignees, or transferees, who shall forfeit all monies earned under this Agreement, except so much as may be necessary to pay the Contractor's employees.

D. The provisions of this Section 3.01 shall not hinder, prevent, or affect an assignment by the Contractor for the benefit of its creditors made pursuant to the Laws of the State.

E. This Agreement may be assigned, in whole or in part, by the City to any corporation, agency, or instrumentality having authority to accept such assignment. The City shall provide the Contractor with written notice of any such assignment.

Section 3.02 Subcontracting

A. In accordance with PPB Rule § 4-13, all subcontractors must be approved by the Department prior to commencing work under a subcontract.

1. *Approval when subcontract is $20,000 or less.* The Department hereby grants approval for all subcontractors providing services covered by this Agreement pursuant to a subcontract in an amount that does not exceed $20,000.00. The Contractor must submit monthly reports to the Department listing all such subcontractors and shall list the subcontractor in the City's Payee Information Portal (www.nyc.gov/pip).

2. Approval when subcontract is greater than $20,000.

a. The Contractor shall not enter into any subcontract for an amount greater than $20,000.00 without the prior approval by the Department of the subcontractor.

b. Prior to entering into any subcontract for an amount greater than $20,000.00, the Contractor shall submit a written request for the approval of the proposed subcontractor to the Department giving the name and address of the proposed subcontractor, the portion of the work and materials that it is to perform and furnish, and the estimated cost of the subcontract. If the subcontractor is providing professional services under this Agreement for which professional liability insurance or errors and omissions insurance is reasonably commercially available, the Contractor shall submit proof of professional liability insurance in the amount required by Article 7. In addition, the Contractor shall list the proposed subcontractor in the City's Payee Information Portal (www.nyc.gov/pip) and provide the following information: maximum subcontract value, description of subcontractor work, start and end date of the subcontract, and the subcontractor's industry.[1]

c. Upon receipt the information required above, the Department in its discretion may grant or deny preliminary approval for the Contractor to contract with the subcontractor.

[1] Assistance establishing a Payee Information Portal account and using the system may be obtained by emailing the Financial Information Services Agency Help Desk at pip@fisa.nyc.gov.

d. The Department shall notify the Contractor within 30 Days whether preliminary approval has been granted. If preliminary approval is granted, the Contractor shall provide such documentation as may be requested by the Department to show that the proposed subcontractor has the necessary facilities, skill, integrity, past experience and financial resources to perform the required work, including, the proposed subcontract and/or any of the items listed in PPB Rule 4-13(d)(3).

e. Upon receipt of all relevant documentation, the Department shall notify the Contractor in writing whether the proposed subcontractor is approved. If the proposed subcontractor is not approved, the Contractor may submit another proposed subcontractor unless the Contractor decides to do the work. No subcontractor shall be permitted to perform work unless approved by the Department.

f. For proposed subcontracts that do not exceed $25,000.00, the Department's approval shall be deemed granted if the Department does not issue a written approval or disapproval within 45 Days of the Department's receipt of the written request for approval or, if PPB Rule 2-08(e) is applicable, within 45 Days of the Department's acknowledged receipt of fully completed disclosures for the subcontractor.

B. All subcontracts must be in writing. All subcontracts shall contain provisions specifying that:

1. The work performed by the subcontractor must be in accordance with the terms of the Agreement between the City and the Contractor;

2. Nothing contained in the agreement between the Contractor and the subcontractor shall impair the rights of the City;

3. Nothing contained in the agreement between the Contractor and the subcontractor, or under the Agreement between the City and the Contractor, shall create any contractual relation between the subcontractor and the City; and

4. The subcontractor specifically agrees to be bound by Section 4.05(D) and Article 5 of this Appendix A and specifically agrees that the City may enforce such provisions directly against the subcontractor as if the City were a party to the subcontract.

C. The Contractor agrees that it is as fully responsible to the Department for the acts and omissions of its subcontractors and of persons either directly or indirectly employed by such subcontractors as it is for the acts and omissions of any person directly employed by it.

D. For determining the value of a subcontract, all subcontracts with the same subcontractor shall be aggregated.

E. The Department may revoke the approval of a subcontractor granted or deemed granted pursuant to Section 3.02(A) if revocation is deemed to be in the interest of the City in writing on no less than 10 Days' notice unless a shorter period is warranted by considerations of health, safety, integrity issues, or other similar factors. Upon the effective date of such revocation, the Contractor shall cause the subcontractor to cease all work under the Agreement. The City shall not incur any further obligation for services performed by such subcontractor pursuant to this Agreement beyond the effective date of the revocation. The City shall pay for services provided by the subcontractor in accordance with this Agreement prior to the effective date of revocation.

F. The Department's approval of a subcontractor shall not relieve the Contractor of any of its responsibilities, duties, and liabilities under this Agreement. At the request of the Department, the Contractor shall provide the Department a copy of any subcontract.

G. Individual employer-employee contracts are not subcontracts subject to the requirements of this Section 3.02.

H. The Contractor shall report in the City's Payee Information Portal payments made to each subcontractor within 30 days of making the payment. If any of the information provided in accordance with Section 3.02(A)(2)(b) changes during the term of this Agreement, the Contractor shall update the information in such Portal accordingly. Failure of the Contractor to list a subcontractor and/or to report subcontractor payments in a timely fashion may result in the Department declaring the Contractor in default of the Agreement and will subject Contractor to liquidated damages in the amount of $100 per day for each day that the Contractor fails to identify a subcontractor along with the required information about the subcontractor and/or fails to report payments to a subcontractor, beyond the time frames set forth herein or in the notice from the City.

ARTICLE 4 - LABOR PROVISIONS

Section 4.01 Independent Contractor Status

The Contractor and the City agree that the Contractor is an independent contractor and not an employee, subsidiary, affiliate, division, department, agency, office, or unit of the City. Accordingly, the Contractor and its employees, officers, and agents shall not, by reason of this Agreement or any performance pursuant to or in connection with this Agreement, assert the existence of any relationship or status on the part of the Contractor, with respect to the City, that differs from or is inconsistent with that of an independent contractor.

Section 4.02 Employees and Subcontractors

All persons who are employed by the Contractor and all the Contractor's subcontractors (including without limitation, consultants and independent contractors) that are retained to perform services under or in connection with this Agreement are neither employees of the City nor under contract with the City. The Contractor, and not the City, is responsible for their work, direction, compensation, and personal conduct while the Contractor is engaged under this Agreement. Nothing in this Agreement, and no entity or person's performance pursuant to or in connection with this Agreement, shall create any relationship between the City and the Contractor's employees, agents, subcontractors, or subcontractor's employees or agents (including without limitation, a contractual relationship, employer-employee relationship, or quasi-employer/quasi-employee relationship) or impose any liability or duty on the City (i) for or on account of the acts, omissions, liabilities, rights or obligations of the Contractor, its employees or agents, its subcontractors, or its subcontractor's employees or agents (including without limitation, obligations set forth in any collective bargaining agreement); or (ii) for taxes of any nature; or (iii) for any right or benefit applicable to an official or employee of the City or to any officer, agent, or employee of the Contractor or any other entity (including without limitation, Workers' Compensation coverage, Employers' Liability coverage, Disability Benefits coverage, Unemployment Insurance benefits, Social Security coverage, employee health and welfare benefits or employee retirement benefits, membership or credit). The Contractor and its employees, officers, and agents shall not, by reason of this Agreement or any performance pursuant to or in connection with this Agreement, (i) hold themselves out as, or claim to be, officials or employees of the City, including any department, agency, office, or unit of the City, or (ii) make or support in any way on behalf of or for the benefit of the Contractor, its employees, officers, or agents any demand, application, or claim upon or against the City for any right or benefit applicable to an official or employee of the City or to any officer, agent, or employee of the Contractor or any other entity. Except as specifically stated in this Agreement, nothing in the Agreement and no performance pursuant to or in connection with the Agreement shall impose any liability or duty on the City to any person or entity whatsoever.

Section 4.03 Removal of Individuals Performing Work

The Contractor shall not have anyone perform work under this Agreement who is not competent, faithful, and skilled in the work for which he or she shall be employed. Whenever the Commissioner shall inform the Contractor, in writing, that any individual is, in his or her opinion, incompetent, unfaithful, or unskilled, such individual shall no longer perform work under this Agreement. Prior to making a determination to direct a Contractor that an individual shall no longer perform work under this Agreement, the Commissioner shall provide the Contractor an opportunity to be heard on no less than five Days' written notice. The Commissioner may direct the Contractor to prohibit the individual from performing work under the Agreement pending the opportunity to be heard and the Commissioner's determination.

Section 4.04 Minimum Wage; Living Wage

A. Except for those employees whose minimum wage is required to be fixed in accordance with N.Y. Labor Law §§ 220 or 230 or by Admin. Code § 6-109, all persons employed by the Contractor in the performance of this Agreement shall be paid, without subsequent deduction or rebate, unless expressly authorized by Law, not less than the minimum wage as prescribed by Law. Any breach of this Section 4.04 shall be deemed a material breach of this Agreement.

B. If this Agreement involves the provision of homecare services, day care services, head start services, services to persons with cerebral palsy, building services, food services, or temporary services, as those services are defined in Admin. Code § 6-109 ("Section 6-109"), in accordance with Section 6-109, the Contractor agrees as follows:

1. The Contractor shall comply with the requirements of Section 6-109, including, where applicable, the payment of either a prevailing wage or a living wage, as those terms are defined in Section 6-109.

2. The Contractor shall not retaliate, discharge, demote, suspend, take adverse employment action in the terms and conditions of employment or otherwise discriminate against any employee for reporting or asserting a violation of Section 6-109, for seeking or communicating information regarding rights conferred by Section 6-109, for exercising any other rights protected under Section 6-109, or for participating in any investigatory or court proceeding relating to Section 6-109. This protection shall also apply to any employee or his or her representative who in good faith alleges a violation of Section 6-109, or who seeks or communicates information regarding rights conferred by Section 6-109 in circumstances where he or she in good faith believes it applies.

3. The Contractor shall maintain original payroll records for each of its covered employees reflecting the days and hours worked on contracts, projects, or assignments that are subject to the requirements of Section 6-109, and the wages paid and benefits provided for such hours worked. The Contractor shall maintain these records for the duration of the term of this Agreement and shall retain them for a period of four years after completion of this Agreement. For contracts involving building services, food services, or temporary services, the Contractor shall submit copies of payroll records, certified by the Contractor under penalty of perjury to be true and accurate, to the Department with every requisition for payment. For contracts involving homecare, day care, head start or services to persons with cerebral palsy, the Contractor shall submit either certified payroll records or categorical information about the wages, benefits, and job classifications of covered employees of the Contractor, and of any subcontractors, which shall be the substantial equivalent of the information required in Section 6-109(2)(a)(iii).

4. The Contractor and all subcontractors shall pay all covered employees by check and shall provide employees check stubs or other documentation at least once each month containing information sufficient to document compliance with the requirements of the Living Wage Law concerning living wages, prevailing wages, supplements, and health benefits. In addition, if this Agreement is for an amount greater than $1,000,000.00, checks issued by the Contractor to covered employees shall be generated by a payroll service or automated payroll system (an in-house system may be used if approved by the Department). For any subcontract for an amount greater than $750,000.00, checks issued by a subcontractor to covered employees shall be generated by a payroll service or automated payroll system (an in-house system may be used if approved by the Department).

5. The Department will provide written notices to the Contractor, prepared by the Comptroller, detailing the wages, benefits, and other protections to which covered employees are entitled under Section 6-109. Such notices will be provided in English, Spanish and other languages spoken by ten percent or more of a covered employer's covered employees. Throughout the term of this Agreement, the Contractor shall post in a prominent and accessible place at every work site and provide each covered employee a copy of the written notices provided by the Department. The Contractor shall provide the notices to its subcontractors and require them to be posted and provided to each covered employee.

6. The Contractor shall ensure that its subcontractors comply with the requirements of Section 6-109, and shall provide written notification to its subcontractors of those requirements. All subcontracts made by the Contractor shall be in writing and shall include provisions relating to the wages, supplements, and health benefits required by Section 6-109. No work may be performed by a subcontractor employing covered employees prior to the Contractor entering into a written subcontract with the subcontractor.

7. Each year throughout the term of the Agreement and whenever requesting the Department's approval of a subcontractor, the Contractor shall submit to the Department an updated certification, as required by Section 6-109 and in the form of the certification attached to this Agreement, identifying any changes to the current certification.

8. Failure to comply with the requirements of Section 6-109 may, in the discretion of the Department, constitute a material breach by the Contractor of the terms of this Agreement. If the Contractor and/or subcontractor receives written notice of such a breach and fails to cure such breach within 30 Days, the City shall have the right to pursue any rights or remedies available under this Agreement or under applicable law, including termination of the Agreement. If the Contractor fails to perform in accordance with any of the requirements of Section 6-109 and fails to cure such failure in accordance with the preceding sentence, and there is a continued need for the service, the City may obtain from another source the required service as specified in the original Agreement, or

any part thereof, and may charge the Contractor for any difference in price resulting from the alternative arrangements, and may, as appropriate, invoke such other sanctions as are available under the Agreement and applicable law. In addition, the Contractor agrees to pay for all costs incurred by the City in enforcing the requirements of Section 6-109, including the cost of any investigation conducted by or on behalf of the Department or the Comptroller, where the City discovers that the Contractor or its subcontractor(s) failed to comply with the requirements of this Section 4.04(B) or of Section 6-109. The Contractor also agrees, that should it fail or refuse to pay for any such investigation, the Department is hereby authorized to deduct from a Contractor‘s account an amount equal to the cost of such investigation.

Section 4.05 Non-Discrimination in Employment

A. General Prohibition. To the extent required by law, the Contractor shall not unlawfully discriminate against any employee or applicant for employment because of actual or perceived age, religion, religious practice, creed, sex, gender, gender identity or gender expression, sexual orientation, status as a victim of domestic violence, stalking, and sex offenses, familial status, partnership status, marital status, caregiver status, pregnancy, childbirth or related medical condition, disability, presence of a service animal, predisposing genetic characteristics, race, color, national origin (including ancestry), alienage, citizenship status, political activities or recreational activities as defined in N.Y. Labor Law 201-d, arrest or conviction record, credit history, military status, uniformed service, unemployment status, salary history, or any other protected class of individuals as defined by City, State or Federal laws, rules or regulations. The Contractor shall comply with all statutory and regulatory obligations to provide reasonable accommodations to individuals with disabilities, due to pregnancy, childbirth, or a related medical condition, due to status as a victim of domestic violence, stalking, or sex offenses, or due to religion.

B. N.Y. Labor Law § 220-e. If this Agreement is for the construction, alteration or repair of any public building or public work or for the manufacture, sale, or distribution of materials, equipment, or supplies, the Contractor agrees, as required by N.Y. Labor Law § 220-e, that:

1. In the hiring of employees for the performance of work under this Agreement or any subcontract hereunder, neither the Contractor, subcontractor, nor any person acting on behalf of such Contractor or subcontractor, shall by reason of race, creed, color, disability, sex or national origin discriminate against any citizen of the State of New York who is qualified and available to perform the work to which the employment relates;

2. Neither the Contractor, subcontractor, nor any person on his or her behalf shall, in any manner, discriminate against or intimidate any employee hired for the performance of work under this Agreement on account of race, creed, color, disability, sex or national origin;

3. There may be deducted from the amount payable to the Contractor by the City under this Agreement a penalty of $50.00 for each person for each calendar day during which such person was discriminated against or intimidated in violation of the provisions of this Agreement; and

4. This Agreement may be terminated by the City, and all monies due or to become due hereunder may be forfeited, for a second or any subsequent violation of the terms or conditions of this Section 4.05.

The provisions of this Section 4.05(B) shall be limited to operations performed within the territorial limits of the State of New York.

C. Admin. Code § 6-108. If this Agreement is for the construction, alteration or repair of buildings or the construction or repair of streets or highways, or for the manufacture, sale, or distribution of materials, equipment or supplies, the Contractor agrees, as required by Admin. Code § 6-108, that:

1. It shall be unlawful for any person engaged in the construction, alteration or repair of buildings or engaged in the construction or repair of streets or highways pursuant to a contract with the City or engaged in the manufacture, sale or distribution of materials, equipment or supplies pursuant to a contract with the City to refuse to employ or to refuse to continue in any employment any person on account of the race, color or creed of such person.

2. It shall be unlawful for any person or any servant, agent or employee of any person, described in Section 4.05(C)(1) above, to ask, indicate or transmit, orally or in writing, directly or indirectly, the race, color, creed or religious affiliation of any person employed or seeking employment from such person, firm or corporation.

Breach of the foregoing provisions shall be deemed a breach of a material provision of this Agreement.

Any person, or the employee, manager or owner of or officer of such firm or corporation who shall violate any of the provisions of this Section 4.05(C) shall, upon conviction thereof, be punished by a fine of not more than $100.00 or by imprisonment for not more than 30 Days, or both.

D. E.O. 50 -- Equal Employment Opportunity

1. This Agreement is subject to the requirements of City Executive Order No. 50 (1980) ("E.O. 50"), as revised, and the rules set forth at 66 RCNY §§ 10-01 *et seq.* No agreement will be awarded unless and until these requirements have been complied with in their entirety. The Contractor agrees that it:

a. Will not discriminate unlawfully against any employee or applicant for employment because of race, creed, color, national origin, sex, age, disability,

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;

b. Will not discriminate unlawfully in the selection of subcontractors on the basis of the owners', partners' or shareholders' race, color, creed, national origin, sex, age, disability, marital status, sexual orientation, or citizenship status;

c. 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 unlawful discrimination based on race, color, creed, national origin, sex, age, disability, marital status, sexual orientation or citizenship status, and that it is an equal employment opportunity employer;

d. 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 and the rules and regulations promulgated thereunder;

e. Will furnish before this Agreement is awarded all information and reports including an Employment Report which are required by E.O. 50, the rules and regulations promulgated thereunder, and orders of the SBS, Division of Labor Services ("DLS"); and

f. Will permit DLS to have access to all relevant books, records, and accounts for the purposes of investigation to ascertain compliance with such rules, regulations, and orders.

2. The Contractor understands that in the event of its noncompliance with the nondiscrimination clauses of this Agreement or with any of such rules, regulations, or orders, such noncompliance shall constitute a material breach of this Agreement and noncompliance with E.O. 50 and the rules and regulations promulgated thereunder. After a hearing held pursuant to the rules of DLS, the Director of DLS may direct the Commissioner to impose any or all of the following sanctions:

a. Disapproval of the Contractor; and/or

b. Suspension or termination of the Agreement; and/or

c. Declaring the Contractor in default; and/or

d. In lieu of any of the foregoing sanctions, imposition of an employment program.

3. Failure to comply with E.O. 50 and the rules and regulations promulgated thereunder in one or more instances may result in the Department declaring the Contractor to be non-responsible.

4. The Contractor agrees to include the provisions of the foregoing Sections 4.05(D)(1)-(3) in every subcontract or purchase order in excess of $100,000.00 to which it becomes a party unless exempted by E.O. 50 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 DLS as a means of enforcing such provisions including sanctions for noncompliance. A supplier of unfinished products to the Contractor needed to produce the item contracted for shall not be considered a subcontractor or vendor for purposes of this Section 4.05(D)(4).

5. The Contractor further agrees that it will refrain from entering into any subcontract or modification thereof subject to E.O. 50 and the rules and regulations promulgated thereunder with a subcontractor who is not in compliance with the requirements of E.O. 50 and the rules and regulations promulgated thereunder. A supplier of unfinished products to the Contractor needed to produce the item contracted for shall not be considered a subcontractor for purposes of this Section 4.05(D)(5).

6. Nothing contained in this Section 4.05(D) shall be construed to bar any religious or denominational institution or organization, or any organization operated for charitable or educational purposes, that is operated, supervised or controlled by or in connection with a religious organization, from lawfully limiting employment or lawfully giving preference to persons of the same religion or denomination or from lawfully making such selection as is calculated by such organization to promote the religious principles for which it is established or maintained.

Section 4.06 Paid Sick Leave Law

A. *Introduction and General Provisions.*

1. The Earned Sick Time Act, also known as the Paid Sick Leave Law ("PSLL"), requires covered employees who annually perform more than 80 hours of work in New York City to be provided with paid sick time.[2] Contractors of the City or of other governmental entities may be required to provide sick time pursuant to the PSLL.

[2] Pursuant to the PSLL, if fewer than five employees work for the same employer, as determined pursuant Admin. Code § 20-912(g), such employer has the option of providing such employees uncompensated sick time.

2. The PSLL became effective on April 1, 2014, and is codified at Title 20, Chapter 8, of the Admin. Code. It is administered by the City's Department of Consumer Affairs ("DCA"). DCA's rules promulgated under the PSLL are codified at Chapter 7 of Title 6 of the Rules of the City of New York ("Rules").

3. The Contractor agrees to comply in all respects with the PSLL and the Rules, and as amended, if applicable, in the performance of this Agreement. The Contractor further acknowledges that such compliance is a material term of this Agreement and that failure to comply with the PSLL in performance of this Agreement may result in its termination.

4. The Contractor must notify the ACCO in writing within 10 Days of receipt of a complaint (whether oral or written) regarding the PSLL involving the performance of this Agreement. Additionally, the Contractor must cooperate with DCA's education efforts and must comply with DCA's subpoenas and other document demands as set forth in the PSLL and Rules.

5. The PSLL is summarized below for the convenience of the Contractor. The Contractor is advised to review the PSLL and Rules in their entirety. On the website www.nyc.gov/PaidSickLeave there are links to the PSLL and the associated Rules as well as additional resources for employers, such as Frequently Asked Questions, timekeeping tools and model forms, and an event calendar of upcoming presentations and webinars at which the Contractor can get more information about how to comply with the PSLL. The Contractor acknowledges that it is responsible for compliance with the PSLL notwithstanding any inconsistent language contained herein.

B. *Pursuant to the PSLL and the Rules: Applicability, Accrual, and Use.*

1. An employee who works within the City of New York for more than eighty hours in any consecutive 12-month period designated by the employer as its "calendar year" pursuant to the PSLL ("Year") must be provided sick time. Employers must provide a minimum of one hour of sick time for every 30 hours worked by an employee and compensation for such sick time must be provided at the greater of the employee's regular hourly rate or the minimum wage. Employers are not required to provide more than 40 hours of sick time to an employee in any Year.

2. An employee has the right to determine how much sick time he or she will use, provided that employers may set a reasonable minimum increment for the use of sick time not to exceed four hours per Day. In addition, an employee may carry over up to 40 hours of unused sick time to the following Year, provided that no employer is required to allow the use of more than 40 hours of sick time in a Year or carry over unused paid sick time if the employee is paid for such unused sick time and the employer provides the employee with at least the legally required amount of paid sick time for such employee for the immediately subsequent Year on the first Day of such Year.

3. An employee entitled to sick time pursuant to the PSLL may use sick time for any of the following:

a. such employee's mental illness, physical illness, injury, or health condition or the care of such illness, injury, or condition or such employee's need for medical diagnosis or preventive medical care;

b. such employee's care of a family member (an employee's child, spouse, domestic partner, parent, sibling, grandchild, or grandparent, or the child or parent of an employee's spouse or domestic partner) who has a mental illness, physical illness, injury or health condition or who has a need for medical diagnosis or preventive medical care;

c. closure of such employee's place of business by order of a public official due to a public health emergency; or

d. such employee's need to care for a child whose school or childcare provider has been closed due to a public health emergency.

4. An employer must not require an employee, as a condition of taking sick time, to search for a replacement. However, an employer may require an employee to provide: reasonable notice of the need to use sick time; reasonable documentation that the use of sick time was needed for a reason above if for an absence of more than three consecutive work days; and/or written confirmation that an employee used sick time pursuant to the PSLL. However, an employer may not require documentation specifying the nature of a medical condition or otherwise require disclosure of the details of a medical condition as a condition of providing sick time and health information obtained solely due to an employee's use of sick time pursuant to the PSLL must be treated by the employer as confidential.

5. If an employer chooses to impose any permissible discretionary requirement as a condition of using sick time, it must provide to all employees a written policy containing those requirements, using a delivery method that reasonably ensures that employees receive the policy. If such employer has not provided its written policy, it may not deny sick time to an employee because of non-compliance with such a policy.

6. Sick time to which an employee is entitled must be paid no later than the payday for the next regular payroll period beginning after the sick time was used.

C. *Exemptions and Exceptions*. Notwithstanding the above, the PSLL does not apply to any of the following:

1. an independent contractor who does not meet the definition of employee under N.Y. Labor Law § 190(2);

2. an employee covered by a valid collective bargaining agreement in effect on April 1, 2014, until the termination of such agreement;

3. an employee in the construction or grocery industry covered by a valid collective bargaining agreement if the provisions of the PSLL are expressly waived in such collective bargaining agreement;

4. an employee covered by another valid collective bargaining agreement if such provisions are expressly waived in such agreement and such agreement provides a benefit comparable to that provided by the PSLL for such employee;

5. an audiologist, occupational therapist, physical therapist, or speech language pathologist who is licensed by the New York State Department of Education and who calls in for work assignments at will, determines his or her own schedule, has the ability to reject or accept any assignment referred to him or her, and is paid an average hourly wage that is at least four times the federal minimum wage;

6. an employee in a work study program under Section 2753 of Chapter 42 of the United States Code;

7. an employee whose work is compensated by a qualified scholarship program as that term is defined in the Internal Revenue Code, Section 117 of Chapter 20 of the United States Code; or

8. a participant in a Work Experience Program (WEP) under N.Y. Social Services Law § 336-c.

D. *Retaliation Prohibited.* An employer may not threaten or engage in retaliation against an employee for exercising or attempting in good faith to exercise any right provided by the PSLL. In addition, an employer may not interfere with any investigation, proceeding, or hearing pursuant to the PSLL.

E. *Notice of Rights.*

1. An employer must provide its employees with written notice of their rights pursuant to the PSLL. Such notice must be in English and the primary language spoken by an employee, provided that DCA has made available a translation into such language. Downloadable notices are available on DCA's website at http://www.nyc.gov/html/dca/html/law/PaidSickLeave.shtml.

2. Any person or entity that willfully violates these notice requirements is subject to a civil penalty in an amount not to exceed $50.00 for each employee who was not given appropriate notice.

F. *Records*. An employer must retain records documenting its compliance with the PSLL for a period of at least three years, and must allow DCA to access such records in furtherance of an investigation related to an alleged violation of the PSLL.

G. *Enforcement and Penalties.*

1. Upon receiving a complaint alleging a violation of the PSLL, DCA has the right to investigate such complaint and attempt to resolve it through mediation. Within 30 Days of written notification of a complaint by DCA, or sooner in certain circumstances, the employer must provide DCA with a written response and such other information as DCA may request. If DCA believes that a violation of the PSLL has occurred, it has the right to issue a notice of violation to the employer.

2. DCA has the power to grant an employee or former employee all appropriate relief as set forth in Admin. Code § 20-924(d). Such relief may include, among other remedies, treble damages for the wages that should have been paid, damages for unlawful retaliation, and damages and reinstatement for unlawful discharge. In addition, DCA may impose on an employer found to have violated the PSLL civil penalties not to exceed $500.00 for a first violation, $750.00 for a second violation within two years of the first violation, and $1,000.00 for each succeeding violation within two years of the previous violation.

H. *More Generous Polices and Other Legal Requirements.* Nothing in the PSLL is intended to discourage, prohibit, diminish, or impair the adoption or retention of a more generous sick time policy, or the obligation of an employer to comply with any contract, collective bargaining agreement, employment benefit plan or other agreement providing more generous sick time. The PSLL provides minimum requirements pertaining to sick time and does not preempt, limit, or otherwise affect the applicability of any other law, regulation, rule, requirement, policy or standard that provides for greater accrual or use by employees of sick leave or time, whether paid or unpaid, or that extends other protections to employees. The PSLL may not be construed as creating or imposing any requirement in conflict with any federal or state law, rule, or regulation.

Section 4.07 Whistleblower Protection Expansion Act

A. In accordance with Local Laws 30 and 33 of 2012, codified at Admin. Code §§ 6-132 and 12-113, respectively,

1. Contractor 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 relating to this Agreement to (i) the Commissioner of the Department of Investigation, (ii) a member of

the New York City Council, the Public Advocate, or the Comptroller, or (iii) the City Chief Procurement Officer, ACCO, Agency head, or Commissioner.

2. If any of Contractor's officers or employees believes that he or she has been the subject of an adverse personnel action in violation of this Section 4.07, he or she shall be entitled to bring a cause of action against Contractor 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.

3. Contractor shall post a notice provided by the City (attached hereto) in a prominent and accessible place on any site where work pursuant to the Agreement is performed that contains information about:

a. how its employees can report to the New York City Department of Investigation allegations of fraud, false claims, criminality or corruption arising out of or in connection with the Agreement; and

b. the rights and remedies afforded to its employees under Admin. Code §§ 7-805 (the New York City False Claims Act) and 12-113 (the Whistleblower Protection Expansion Act) for lawful acts taken in connection with the reporting of allegations of fraud, false claims, criminality or corruption in connection with the Agreement.

4. For the purposes of this Section 4.07, "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.

5. This Section 4.07 is applicable to all of Contractor's subcontractors having subcontracts with a value in excess of $100,000.00; accordingly, Contractor shall include this Section 4.07 in all subcontracts with a value in excess of $100,000.00.

B. Section 4.07 is not applicable to this Agreement if it is valued at $100,000.00 or less. Sections 4.07(A)(1), (2), (4), and (5) are not applicable to this Agreement if it was solicited pursuant to a finding of an emergency. Section 4.07(A)(3) is neither applicable to this Agreement if it was solicited prior to October 18, 2012 nor if it is a renewal of a contract executed prior to October 18, 2012.

ARTICLE 5 - RECORDS, AUDITS, REPORTS, AND INVESTIGATIONS

Section 5.01 Books and Records

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

Section 5.02 Retention of Records

The Contractor agrees to retain all books, records, documents, other evidence relevant to this Agreement, including those required pursuant to Section 5.01, for six years after the final payment or expiration or termination of this Agreement, or for a period otherwise prescribed by Law, whichever is later. In addition, if any litigation, claim, or audit concerning this Agreement has commenced before the expiration of the six-year period, the books, records, documents, and other evidence must be retained until the completion of such litigation, claim, or audit. Any books, records, documents, and other evidence that are created in an electronic format in the regular course of business may be retained in an electronic format. Any books, records, documents, or other evidence that are created in the regular course of business as a paper copy may be retained in an electronic format provided that they satisfy the requirements of N.Y. Civil Practice Law and Rules ("CPLR") 4539(b), including the requirement that the reproduction is created in a manner "which does not permit additions, deletions, or changes without leaving a record of such additions, deletions, or changes." Furthermore, the Contractor agrees to waive any objection to the admissibility of any such books, records, documents, or other evidence on the grounds that such documents do not satisfy CPLR 4539(b).

Section 5.03 Inspection

A. At any time during the Agreement or during the record retention period set forth in Section 5.02, the City, including the Department and the Department's Office of the Inspector General, as well as City, State, and federal auditors and any other persons duly authorized by the City shall, upon reasonable notice, have full access to and the right to examine and copy all books, records, documents, and other evidence maintained or retained by or on behalf of the Contractor pursuant to this Article 5. Notwithstanding any provision herein regarding notice of inspection, all books, records, documents, and other evidence of the Contractor kept pursuant to this Agreement shall be subject to immediate inspection, review, and copying by the Department's Office of the Inspector General, the Comptroller, and/or federal auditors without prior notice and at no additional cost to the City. The Contractor shall make such books, records documents, and other evidence available for inspection in the City of New York or shall reimburse the City for expenses associated with the out-of-City inspection.

B. The Department shall have the right to have representatives of the Department or of the City, State or federal government present to observe the services being performed. If

observation of particular services or activity would constitute a waiver of a legal privilege or violate the Law or an ethical obligation under the New York Rules of Professional Conduct for attorneys, National Association of Social Workers Code of Ethics or other similar code governing the provision of a profession's services in New York State, the Contractor shall promptly inform the Department or other entity seeking to observe such work or activity. Such restriction shall not act to prevent government representatives from inspecting the provision of services in a manner that allows the representatives to ensure that services are being performed in accordance with this Agreement.

C. The Contractor shall not be entitled to final payment until the Contractor has complied with any request for inspection or access given under this Section 5.03.

Section 5.04 Audit

A. This Agreement and all books, records, documents, and other evidence required to be maintained or retained pursuant to this Agreement, including all vouchers or invoices presented for payment and the books, records, and other documents upon which such vouchers or invoices are based (e.g., reports, cancelled checks, accounts, and all other similar material), are subject to audit by (i) the City, including the Comptroller, the Department, and the Department's Office of the Inspector General, (ii) the State, (iii) the federal government, and (iv) other persons duly authorized by the City. Such audits may include examination and review of the source and application of all funds whether from the City, the State, the federal government, private sources, or otherwise.

B. Audits by the City, including the Comptroller, the Department, and the Department's Office of the Inspector General, are performed pursuant to the powers and responsibilities conferred by the Charter and the Admin. Code, as well as all orders, rules, and regulations promulgated pursuant to the Charter and Admin. Code.

C. The Contractor shall submit any and all documentation and justification in support of expenditures or fees under this Agreement as may be required by the Department and by the Comptroller in the exercise of his/her powers under Law.

D. The Contractor shall not be entitled to final payment until the Contractor has complied with the requirements of this Section 5.04.

Section 5.05 No Removal of Records from Premises

Where performance of this Agreement involves use by the Contractor of any City books, records, documents, or data (in hard copy, or electronic or other format now known or developed in the future) at City facilities or offices, the Contractor shall not remove any such items or material (in the format in which it originally existed, or in any other converted or derived format) from such facility or office without the prior written approval of the Department's designated official. Upon the request by the Department at any time during the Agreement or after the

Agreement has expired or terminated, the Contractor shall return to the Department any City books, records, documents, or data that has been removed from City premises.

Section 5.06 Electronic Records

As used in this Appendix A, the terms "books," "records," "documents," and "other evidence" refer to electronic versions as well as hard copy versions.

Section 5.07 Investigations Clause

A. The Contractor agrees to cooperate fully and faithfully with any investigation, audit or inquiry conducted by a State or City 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.

B.

1. If any person who has been advised that his or her statement, and any information from such statement, will not be used against him or her 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, or State, or any political subdivision or public authority thereof, or the Port Authority of New York and New Jersey, or any local development corporation within the City, or any public benefit corporation organized under the Laws of the State, or;

2. If any person refuses to testify for a reason other than the assertion of his or her 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 award of, or performance under, any transaction, agreement, lease, permit, contract, or license entered into with the City, the State, or any political subdivision thereof or any local development corporation within the City, then;

C.

6. The Commissioner or Agency Head whose agency is a party in interest to the transaction, submitted bid, submitted proposal, contract, lease, permit, or license 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.

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

D. The penalties that may attach after a final determination by the Commissioner or Agency Head may include but shall not exceed:

1. The disqualification for a period not to exceed five years from the date of an adverse determination for 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; and/or

2. The cancellation or termination of any and all such existing City contracts, leases, permits or licenses that the refusal to testify concerns and that have not been assigned as permitted under this Agreement, 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 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.

E. The Commissioner or Agency Head shall consider and address in reaching his or her determination and in assessing an appropriate penalty the factors in Paragraphs (1) and (2) below. He or she may also consider, if relevant and appropriate, the criteria established in Paragraphs (3) and (4) below, in addition to any other information that may be relevant and appropriate:

1. The party'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.

2. 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 sought has an ownership interest in the entity and/or the degree of authority and responsibility the person has within the entity.

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

4. 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 Paragraph D above, provided that the party or entity has given actual notice to the Commissioner or Agency Head upon the acquisition of the interest, or at the hearing called for in Paragraph (C)(1) 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.

F. Definitions

1. The term "license" or "permit" as used in this Section shall be defined as a license, permit, franchise, or concession not granted as a matter of right.

2. The term "person" as used in this Section shall be defined as any natural person doing business alone or associated with another person or entity as a partner, director, officer, principal or employee.

3. The term "entity" as used in this Section shall be defined as any firm, partnership, corporation, association, or person that receives monies, benefits, licenses, leases, or permits from or through the City, or otherwise transacts business with the City.

4. The term "member" as used in this Section shall be defined as any person associated with another person or entity as a partner, director, officer, principal, or employee.

G. In addition to and notwithstanding any other provision of this Agreement, the Commissioner or Agency Head may in his or her sole discretion terminate this Agreement upon not less than three (3) Days written notice in the event the Contractor fails to promptly report in writing to the City Commissioner of Investigation any solicitation of money, goods, requests for future employment or other benefits or thing of value, by or on behalf of any employee of the City or other person or entity for any purpose that may be related to the procurement or obtaining of this Agreement by the Contractor, or affecting the performance of this Agreement.

Section 5.08 Confidentiality

A. The Contractor agrees to hold confidential, both during and after the completion or termination of this Agreement, all of the reports, information, or data, furnished to, or prepared, assembled or used by, the Contractor under this Agreement. The Contractor agrees to maintain the confidentiality of such reports, information, or data by using a reasonable degree of care, and using at least the same degree of care that the Contractor uses to preserve the confidentiality of its own confidential information. The Contractor agrees that such reports, information, or data shall not be made available to any person or entity without the prior written approval of the Department. The obligation under this Section 5.08 to hold reports, information or data confidential shall not apply where the Contractor is legally required to disclose such reports, information or data, by virtue of a subpoena, court order or otherwise ("disclosure

demand"), provided that the Contractor complies with the following: (1) the Contractor shall provide advance notice to the Commissioner, in writing or by e-mail, that it received a disclosure demand for to disclose such reports, information or data and (2) if requested by the Department, the Contractor shall not disclose such reports, information, or data until the City has exhausted its legal rights, if any, to prevent disclosure of all or a portion of such reports, information or data. The previous sentence shall not apply if the Contractor is prohibited by law from disclosing to the Department the disclosure demand for such reports, information or data.

B. The Contractor shall provide notice to the Department within three days of the discovery by the Contractor of any breach of security, as defined in Admin. Code § 10-501(b), of any data, encrypted or otherwise, in use by the Contractor that contains social security numbers or other personal identifying information as defined in Admin. Code § 10-501 ("Personal Identifying Information"), where such breach of security arises out of the acts or omissions of the Contractor or its employees, subcontractors, or agents. Upon the discovery of such security breach, the Contractor shall take reasonable steps to remediate the cause or causes of such breach, and shall provide notice to the Department of such steps. In the event of such breach of security, without limiting any other right of the City, the City shall have the right to withhold further payments under this Agreement for the purpose of set-off in sufficient sums to cover the costs of notifications and/or other actions mandated by any Law, or administrative or judicial order, to address the breach, and including any fines or disallowances imposed by the State or federal government as a result of the disclosure. The City shall also have the right to withhold further payments hereunder for the purpose of set-off in sufficient sums to cover the costs of credit monitoring services for the victims of such a breach of security by a national credit reporting agency, and/or any other commercially reasonable preventive measure. The Department shall provide the Contractor with written notice and an opportunity to comment on such measures prior to implementation. Alternatively, at the City's discretion, or if monies remaining to be earned or paid under this Agreement are insufficient to cover the costs detailed above, the Contractor shall pay directly for the costs, detailed above, if any.

C. The Contractor shall restrict access to confidential information to persons who have a legitimate work related purpose to access such information. The Contractor agrees that it will instruct its officers, employees, and agents to maintain the confidentiality of any and all information required to be kept confidential by this Agreement.

D. The Contractor, and its officers, employees, and agents shall notify the Department, at any time either during or after completion or termination of this Agreement, of any intended statement to the press or any intended issuing of any material for publication in any media of communication (print, news, television, radio, Internet, etc.) regarding the services provided or the data collected pursuant to this Agreement at least 24 hours prior to any statement to the press or at least five business days prior to the submission of the material for publication, or such shorter periods as are reasonable under the circumstances. The Contractor may not issue any statement or submit any material for publication that includes confidential information as prohibited by this Section 5.08.

E. At the request of the Department, the Contractor shall return to the Department any and all confidential information in the possession of the Contractor or its subcontractors. If the Contractor or its subcontractors are legally required to retain any confidential information, the Contractor shall notify the Department in writing and set forth the confidential information that it intends to retain and the reasons why it is legally required to retain such information. The Contractor shall confer with the Department, in good faith, regarding any issues that arise from the Contractor retaining such confidential information. If the Department does not request such information or the Law does not require otherwise, such information shall be maintained in accordance with the requirements set forth in Section 5.02.

F. A breach of this Section 5.08 shall constitute a material breach of this Agreement for which the Department may terminate this Agreement pursuant to Article 10. The Department reserves any and all other rights and remedies in the event of unauthorized disclosure.

ARTICLE 6 - COPYRIGHTS, PATENTS, INVENTIONS, AND ANTITRUST

Section 6.01 Copyrights and Ownership of Work Product

A. Any reports, documents, data, photographs, deliverables, and/or other materials produced pursuant to this Agreement, and any and all drafts and/or other preliminary materials in any format related to such items produced pursuant to this Agreement, shall upon their creation become the exclusive property of the City.

B. Any reports, documents, data, photographs, deliverables, and/or other materials provided pursuant to this Agreement ("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 Agreement without the prior written permission of the City. The Department may grant the Contractor a license to use the Copyrightable Materials on such terms as determined by the Department 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 Agreement, copies of which shall be provided to the City upon execution of this Agreement.

E. If the services under this Agreement are supported by a federal grant of funds, the federal and State government reserves a royalty-free, non-exclusive irrevocable license to reproduce, publish, or otherwise use and to authorize others to use, for federal or State government purposes, the copyright in any Copyrightable Materials developed under this Agreement.

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.

Section 6.02 Patents and Inventions

The Contractor shall promptly and fully report to the Department any discovery or invention arising out of or developed in the course of performance of this Agreement. If the services under this Agreement are supported by a federal grant of funds, the Contractor shall promptly and fully report to the federal government for the federal 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.

Section 6.03 Pre-existing Rights

In no case shall Sections 6.01 and 6.02 apply to, or prevent the Contractor from asserting or protecting its rights in any discovery, invention, report, document, data, photograph, deliverable, or other material in connection with or produced pursuant to this Agreement that existed prior to or was developed or discovered independently from the activities directly related to this Agreement.

Section 6.04 Antitrust

The Contractor hereby assigns, sells, and transfers to the City all right, title, and interest in and to any claims and causes of action arising under the antitrust laws of the State or of the United States relating to the particular goods or services procured by the City under this Agreement.

ARTICLE 7 - INSURANCE

Section 7.01 Agreement to Insure

The Contractor shall maintain the following types of insurance if and as indicated in Schedule A (with the minimum limits and special conditions specified in Schedule A) throughout the term of this Agreement, including any applicable guaranty period. All insurance shall meet the requirements set forth in this Article 7. Wherever this Article 7 requires that insurance coverage be "at least as broad" as a specified form (including all ISO forms), there is no obligation that the form itself be used, provided that the Contractor can demonstrate that the alternative form or endorsement contained in its policy provides coverage at least as broad as the specified form.

Section 7.02 Workers' Compensation, Disability Benefits, and Employers' Liability Insurance

A. The Contractor shall maintain workers' compensation insurance, employers' liability insurance, and disability benefits insurance, in accordance with Law on behalf of, or in regard to, all employees providing services under this Agreement

B. Within 10 Days of award of this Agreement or as otherwise specified by the Department, and as required by N.Y. Workers' Compensation Law §§ 57 and 220(8), the Contractor shall submit proof of Contractor's workers' compensation insurance and disability benefits insurance (or proof of a legal exemption) to the Department 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:

1. Form C-105.2, *Certificate of Workers' Compensation Insurance*;

2. Form U-26.3, *State Insurance Fund Certificate of Workers' Compensation Insurance*;

3. Form SI-12, *Certificate of Workers' Compensation Self-Insurance*;

4. Form GSI-105.2, *Certificate of Participation in Worker's Compensation Group Self-Insurance*;

5. Form DB-120.1, *Certificate of Disability Benefits Insurance*;

6. Form DB-155, *Certificate of Disability Benefits Self-Insurance*;

7. Form CE-200 – *Affidavit of Exemption*;

8. Other forms approved by the New York State Workers' Compensation Board; or

9. Other proof of insurance in a form acceptable to the City.

Section 7.03 Other Insurance

A. *Commercial General Liability Insurance.* The Contractor shall maintain commercial general liability insurance in the amounts specified in Schedule A covering operations under this Agreement. Coverage must be at least as broad as the coverage provided by the most recently issued ISO Form CG 00 01, primary and non-contributory, and "occurrence" based rather than "claims-made." Such coverage shall list the City, together with its officials and employees, and any other entity that may be listed on Schedule A as an additional insured with coverage at least as broad as the most recently issued ISO Form CG 20 10 or CG 20 26 and, if construction is performed as part of the services, ISO Form CG 20 37.

B. *Commercial Automobile Liability Insurance.* If indicated in Schedule A and/or if vehicles are used in the provision of services under this Agreement, the Contractor shall maintain commercial automobile liability insurance for liability arising out of ownership, maintenance or use of any owned, non-owned, or hired vehicles to be used in connection with this Agreement. Coverage shall be at least as broad as the most recently issued ISO Form CA 00 01. If vehicles are used for transporting hazardous materials, the commercial automobile liability insurance shall be endorsed to provide pollution liability broadened coverage for covered vehicles (endorsement CA 99 48) as well as proof of MCS-90.

C. *Professional Liability Insurance.*

1. If indicated in Schedule A, the Contractor shall maintain and submit evidence of professional liability insurance or errors and omissions insurance appropriate to the type(s) of such services to be provided under this Agreement. The policy or policies shall cover the liability assumed by the Contractor under this Agreement arising out of the negligent performance of professional services or caused by an error, omission, or negligent act of the Contractor or anyone employed by the Contractor.

2. All subcontractors of the Contractor providing professional services under this Agreement for which professional liability insurance or errors and omissions insurance is reasonably commercially available shall also maintain such insurance in the amount specified in Schedule A. At the time of the request for subcontractor approval, the Contractor shall provide to the Department, evidence of such professional liability insurance on a form acceptable to the Department.

3. Claims-made policies will be accepted for professional liability insurance. All such policies shall have an extended reporting period option or automatic coverage of not less than two years. If available as an option, the Contractor shall purchase extended reporting period coverage effective on cancellation or termination of such insurance unless a new policy is secured with a retroactive date, including at least the last policy year.

D. *Crime Insurance.* If indicated in Schedule A, the Contractor shall maintain crime insurance during the term of the Agreement in the minimum amounts listed in Schedule A. Such insurance shall include coverage, without limitation, for any and all acts of employee theft including employee theft of client property, forgery or alteration, inside the premises (theft of money and securities), inside the premises (robbery or safe burglary of other property), outside the premises, computer fraud, funds transfer fraud, and money orders and counterfeit money. The policy shall name the Contractor as named insured and shall list the City as loss payee as its interests may appear.

E. *Cyber Liability Insurance.* If indicated in Schedule A, the Contractor shall maintain cyber liability insurance covering losses arising from operations under this Agreement in the amounts listed in Schedule A. The City shall approve the policy (including exclusions therein), coverage amounts, deductibles or self-insured retentions, and premiums, as well as the types of losses covered, which may include but not be limited to: notification costs, security monitoring costs, losses resulting from identity theft, and other injury to third parties. If additional insured status is commercially available under the Contractor's cyber liability insurance, the insurance shall cover the City, together with its respective officials and employees, as additional insured.

F. *Other Insurance.* The Contractor shall provide such other types of insurance in the amounts specified in Schedule A.

Section 7.04 General Requirements for Insurance Coverage and Policies

A. Unless otherwise stated, all insurance required by Section 7.03 of this Agreement must:

1. be provided by companies that may lawfully issue such policies;

2. have an A.M. Best rating of at least A- / VII, a Standard & Poor's rating of at least A, a Moody's Investors Service rating of at least A3, a Fitch Ratings rating of at least A- or a similar rating by any other nationally recognized statistical rating organization acceptable to the New York City Law Department unless prior written approval is obtained from the New York City Law Department; and

3. be primary (and non-contributing) to any insurance or self-insurance maintained by the City (not applicable to professional liability insurance/errors and omissions insurance) and any other entity listed as an additional insured in Schedule A.

B. The Contractor shall be solely responsible for the payment of all premiums for all required insurance policies and all deductibles or self-insured retentions to which such policies are subject, whether or not the City is an insured under the policy.

C. There shall be no self-insurance program, including a self-insurance retention, exceeding $10,000.00, with regard to any insurance required under Section 7.03 unless approved in writing by the Commissioner. Any such self-insurance program shall provide the City and any other additional insured listed on Schedule A with all rights that would be provided by traditional insurance required under this Article 7, including but not limited to the defense obligations that insurers are required to undertake in liability policies.

D. The limits of coverage for all types of insurance for the City, including its officials and employees, and any other additional insured listed on Schedule A that must be provided to such additional insured(s) shall be the greater of (i) the minimum limits set forth in Schedule A or (ii) the limits provided to the Contractor as named insured under all primary, excess, and umbrella policies of that type of coverage.

Section 7.05 Proof of Insurance

A. For each policy required under Section 7.03 and Schedule A of this Agreement, the Contractor shall file proof of insurance and, where applicable, proof that the City, including its officials and employees, is an additional insured with the Department within ten Days of award of this Agreement. The following proof is acceptable:

1. A certificate of insurance accompanied by a completed certification of insurance broker or agent (included in Schedule A of this Agreement) and any endorsements by which the City, including its officials and employees, have been made an additional insured; or

2. A copy of the insurance policy, including declarations and endorsements, certified by an authorized representative of the issuing insurance carrier.

B. Proof of insurance confirming renewals of insurance required under Section 7.03 must be submitted to the Department prior to the expiration date of the coverage. Such proof must meet the requirements of Section 7.05(A).

C. The Contractor shall provide the City with a copy of any policy required under this Article 7 upon the demand for such policy by the Commissioner or the New York City Law Department.

D. Acceptance by the Commissioner of a certificate or a policy does not excuse the Contractor from maintaining policies consistent with all provisions of this Article 7 (and ensuring that subcontractors maintain such policies) or from any liability arising from its failure to do so.

E. If the Contractor receives notice, from an insurance company or other person, that any insurance policy required under this Article 7 shall expire or be cancelled or terminated for any reason, the Contractor shall immediately forward a copy of such notice to both the address referred to in Section 14.04 and Schedule A and to the New York City Comptroller, Attn: Office

of Contract Administration, Municipal Building, One Centre Street, Room 1005, New York, New York 10007.

Section 7.06 Miscellaneous

A. Whenever notice of loss, damage, occurrence, accident, claim, or suit is required under a policy required by Section 7.03 and Schedule A, the Contractor shall provide the insurer with timely notice thereof on behalf of the City. Such notice shall be given even where the Contractor may not be covered under such policy if this Agreement requires that the City be an additional insured (for example, where one of Contractor's employees was injured). Such notice shall expressly specify that "this notice is being given on behalf of the City of New York, including its officials and employees, as additional insured" (such notice shall also include the name of any other entity listed as an additional insured on Schedule A) and contain the following information to the extent known: the number of the insurance policy; the name of the named insured; the date and location of the damage, occurrence, or accident; the identity of the persons or things injured, damaged, or lost; and the title of the claim or suit, if applicable. The Contractor shall simultaneously send a copy of such notice to the City of New York c/o Insurance Claims Specialist, Affirmative Litigation Division, New York City Law Department, 100 Church Street, New York, New York 10007. If the Contractor fails to comply with the requirements of this paragraph, the Contractor shall indemnify the City, together with its officials and employees, and any other entity listed as an additional insured on Schedule A for all losses, judgments, settlements and expenses, including reasonable attorneys' fees, arising from an insurer's disclaimer of coverage citing late notice by or on behalf of the City together with its officials and employees, and any other entity listed as an additional insured on Schedule A.

B. The Contractor's failure to maintain any of the insurance required by this Article 7 and Schedule A shall constitute a material breach of this Agreement. Such breach shall not be waived or otherwise excused by any action or inaction by the City at any time.

C. Insurance coverage in the minimum amounts required in this Article 7 shall not relieve the Contractor or its subcontractors of any liability under this Agreement, nor shall it preclude the City from exercising any rights or taking such other actions as are available to it under any other provisions of this Agreement or Law.

D. With respect to insurance required by Section 7.03 and Schedule A (but not including professional liability/errors and omissions insurance), the Contractor waives all rights against the City, including its officials and employees, and any other entity listed as an additional insured on Schedule A for any damages or losses that are covered under any insurance required under this Article 7 (whether or not such insurance is actually procured or claims are paid thereunder) or any other insurance applicable to the operations of the Contractor and/or its subcontractors in the performance of this Agreement.

E. In the event the Contractor requires any subcontractor to maintain insurance with regard to any operations under this Agreement and requires such subcontractor to list the Contractor as an additional insured under such insurance, the Contractor shall ensure that such

entity also list the City, including its officials and employees, and any other entity listed as an additional insured on Schedule A as an additional insured. With respect to commercial general liability insurance, such coverage must be at least as broad as the most recently issued ISO form CG 20 26.

ARTICLE 8 - PROTECTION OF PERSONS AND PROPERTY AND INDEMNIFICATION

Section 8.01 Reasonable Precautions

The Contractor shall take all reasonable precautions to protect all persons and the property of the City and of others from injury, damage, or loss resulting from the Contractor's and/or its subcontractors' operations under this Agreement.

Section 8.02 Protection of City Property

The Contractor assumes the risk of, and shall be responsible for, any loss or damage to City property, including property and equipment leased by the City, used in the performance of this Agreement, where such loss or damage is caused by negligence, any tortious act, or failure to comply with the provisions of this Agreement or of Law by the Contractor, its officers, employees, agents or subcontractors.

Section 8.03 Indemnification

To the fullest extent permitted by Law, the Contractor shall defend, indemnify, and hold harmless the City, including its 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 City or its officials or employees, may be subject to or which they may suffer or incur allegedly arising out of any of the operations of the Contractor 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 City or its officials or employees from being completely indemnified by the Contractor, the City and its officials and employees shall be partially indemnified by the Contractor to the fullest extent permitted by Law.

Section 8.04 Infringement Indemnification

To the fullest extent permitted by Law, the Contractor shall defend, indemnify, and hold harmless the City, including its 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 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 Contractor and/or its employees, agents, or subcontractors in the performance of this Agreement. To the fullest extent permitted by Law, the Contractor shall defend, indemnify, and hold harmless the City and its 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 City and its officials and employees from being completely indemnified by the Contractor, the City and its officials and employees shall be partially indemnified by the Contractor to the fullest extent permitted by Law.

Section 8.05 Indemnification Obligations Not Limited By Insurance Obligation

The Contractor's obligation to indemnify, defend and hold harmless the City and its officials and employees shall neither be (i) limited in any way by the Contractor's obligations to obtain and maintain insurance under this Agreement, nor (ii) adversely affected by any failure on the part of the City or its officials or employees to avail themselves of the benefits of such insurance.

Section 8.06 Actions By or Against Third Parties

A. If any claim is made or any action brought in any way relating to Agreement other than an action between the City and the Contractor, the Contractor shall diligently render to the City without additional compensation all assistance that the City may reasonably require of the Contractor.

B. The Contractor shall report to the Department in writing within five business days of the initiation by or against the Contractor of any legal action or proceeding relating to this Agreement.

Section 8.07 Withholding of Payments

A. If any claim is made or any action is brought against the City for which the Contractor may be required to indemnify the City pursuant to this Agreement, the City shall have the right to withhold further payments under this Agreement for the purpose of set-off in sufficient sums to cover the said claim or action.

B. If any City property is lost or damaged as set forth in Section 8.02, except for normal wear and tear, the City shall have the right to withhold payments under this Agreement for the purpose of set-off in sufficient sums to cover such loss or damage.

C. The City shall not, however, impose a set-off in the event that an insurance company that provided insurance pursuant to Section 7.03 above has accepted the City's tender of the claim or action without a reservation of rights.

D. The Department may, at its option, withhold for purposes of set-off any monies due to the Contractor under this Agreement up to the amount of any disallowances or questioned costs resulting from any audits of the Contractor or to the amount of any overpayment to the Contractor with regard to this Agreement.

E. The rights and remedies of the City provided for in this Section 8.07 are not exclusive and are in addition to any other rights and remedies provided by Law or this Agreement.

Section 8.08 No Third Party Rights

The provisions of this Agreement shall not be deemed to create any right of action in favor of third parties against the Contractor or the City or their respective officials and employees.

ARTICLE 9 - CONTRACT CHANGES

Section 9.01 Contract Changes

Changes to this Agreement may be made only as duly authorized by the ACCO or his or her designee and in accordance with the PPB Rules. Any amendment or change to this Agreement shall not be valid unless made in writing and signed by authorized representatives of both parties. The Contractor deviates from the requirements of this Agreement without a duly approved and executed change order document or written contract modification or amendment at its own risk.

Section 9.02 Changes Through Fault of Contractor

If any change is required in the data, documents, deliverables, or other services to be provided under this Agreement because of negligence or error of the Contractor, no additional compensation shall be paid to the Contractor for making such change, and the Contractor is obligated to make such change without additional compensation.

ARTICLE 10 - TERMINATION, DEFAULT, REDUCTIONS IN FUNDING, AND LIQUIDATED DAMAGES

Section 10.01 Termination by the City Without Cause

A. The City shall have the right to terminate this Agreement, in whole or in part, without cause, in accordance with the provisions of Section 10.05.

B. In its sole discretion, the City shall have the right to terminate this Agreement, in whole or in part, upon the request of the Contractor to withdraw from the Contract, in accordance with the provisions of Section 10.05.

C. If the City terminates this Agreement pursuant to this Section 10.01, the following provisions apply. The City shall not incur or pay any further obligation pursuant to this Agreement beyond the termination date set by the City pursuant to Section 10.05. The City shall pay for services provided in accordance with this Agreement prior to the termination date. In addition, any obligation necessarily incurred by the Contractor on account of this Agreement 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 Agreement. 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.

Section 10.02 Reductions in Federal, State, and/or City Funding

A. This Agreement is funded in whole or in part by funds secured from the federal, State and/or City governments. Should there be a reduction or discontinuance of such funds by action of the federal, State and/or City governments, the City shall have, in its sole discretion, the right to terminate this Agreement in whole or in part, or to reduce the funding and/or level of services of this Agreement caused by such action by the federal, State and/or City governments, 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 Agreement and in the total amount payable under this Agreement. Any reduction in funds pursuant to this Section 10.02(A) shall be accompanied by an appropriate reduction in the services performed under this Agreement.

B. In the case of the reduction option referred to in Section 10.02(A), 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 Days from the date of such notice. Prior to sending such notice of reduction, the Department shall advise the Contractor that such option is being exercised and afford the Contractor an opportunity to make within seven 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 Department shall not be bound to utilize any of the Contractor's suggestions and that the Department shall have sole discretion as to how to effectuate the reductions.

C. If the City reduces funding pursuant to this Section 10.02, the following provisions apply. The City shall pay for services provided in accordance with this Agreement prior to the reduction date. In addition, any obligation necessarily incurred by the Contractor on account of this Agreement prior to receipt of notice of reduction and falling due after the reduction date shall be paid by the City in accordance with the terms of this Agreement. 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.

D. To the extent that the reduction in public funds is a result of the State determining that the Contractor may receive medical assistance funds pursuant to title eleven of article five of

the Social Services Law to fund the services contained within the scope of a program under this Agreement, then the notice and effective date provisions of this Section 10.02 shall not apply, and the Department may reduce such public funds authorized under this Agreement by informing the Contractor of the amount of the reduction and revising attachments to this Agreement as appropriate.

Section 10.03 Contractor Default

A. 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 Agreement, 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 Agreement when and as directed by the Commissioner;

4. If the Contractor or any of its officers, directors, partners, five percent or greater shareholders, principals, or other employee or person substantially involved in its activities are indicted or convicted after execution of the Agreement 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 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 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.

B. The right to declare the Contractor in default shall be exercised by sending the Contractor a 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 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 Agreement pending the outcome of the default proceedings pursuant to this Section 10.03.

C. 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 pursuant to this Section 10.03. Before the Commissioner may exercise his or her right to declare the Contractor in default, the Commissioner shall give the Contractor an opportunity to be heard upon not less than five 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.

D. After the opportunity to be heard, the Commissioner may terminate the Agreement, in whole or in part, upon finding the Contractor in default pursuant to this Section 10.03, in accordance with the provisions of Section 10.05.

E. The Commissioner, after declaring the Contractor in default, may have the services under the Agreement completed by such means and in such manner, by contract with or without public letting, or otherwise, as he or she may deem advisable in accordance with applicable PPB Rules. After such completion, the Commissioner shall certify the expense incurred in such completion, which shall include the cost of re-letting. Should the expense of such completion, as certified by the Commissioner, exceed the total sum which would have been payable under the Agreement 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 Commissioner, and any liquidated damages assessed against the Contractor, may be charged against and deducted out of monies earned by the Contractor.

Section 10.04 Force Majeure

A. For purposes of this Agreement, a force majeure event is an act or event beyond the control and without any fault or negligence of the Contractor ("Force Majeure Event"). Such 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.

B. In the event the Contractor cannot comply with the terms of the Agreement (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 Agreement. If the Commissioner, in his or her reasonable discretion, determines that the Contractor cannot comply with the terms of the Agreement because of a Force Majeure Event, then the Commissioner shall excuse the nonperformance and may terminate the Agreement. Such a termination shall be deemed to be without cause.

C. If the City terminates the Agreement pursuant to this Section 10.04, the following provisions apply. The City shall not incur or pay any further obligation pursuant to this Agreement beyond the termination date. The City shall pay for services provided in accordance with this Agreement prior to the termination date. Any obligation necessarily incurred by the Contractor on account of this Agreement 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 Agreement. 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.

Section 10.05 Procedures for Termination

A. The Department and/or the City shall give the Contractor written notice of any termination of this Agreement. Such notice shall specify the applicable provision(s) under which the Agreement is terminated and the effective date of the termination. Except as otherwise provided in this Agreement, the notice shall comply with the provisions of this Section 10.05 and Section 14.04. For termination without cause, the effective date of the termination shall not be less than ten Days from the date the notice is personally delivered, or 15 Days from the date the notice is either sent by certified mail, return receipt requested, delivered by overnight or same day courier service in a properly addressed envelope with confirmation, or sent by email and, unless the receipt of the email is acknowledged by the recipient by email, deposited in a post office box regularly maintained by the United States Postal Service in a properly addressed postage pre-paid envelope. In the case of termination for default, the effective date of the termination shall be as set forth above for a termination without cause or such earlier date as the Commissioner may determine. If the City terminates the Agreement in part, the Contractor shall continue the performance of the Agreement to the extent not terminated.

B. Upon termination or expiration of this Agreement, the Contractor shall comply with the City close-out procedures, including but not limited to:

1. Accounting for and refunding to the Department, within 45 Days, any unexpended funds which have been advanced to the Contractor pursuant to this Agreement;

2. Furnishing within 45 Days an inventory to the Department of all equipment, appurtenances and property purchased through or provided under this Agreement and carrying out any Department or City directive concerning the disposition of such equipment, appurtenances and property;

3. Turning over to the Department or its designees all books, records, documents and material specifically relating to this Agreement that the Department has requested be turned over;

4. Submitting to the Department, within 90 Days, a final statement and report relating to the Agreement. The report shall be made by a certified public accountant or a licensed public accountant, unless the Department waives, in writing, the requirement that a certified public accountant or licensed public accountant make such report; and

5. Providing reasonable assistance to the Department in the transition, if any, to a new contractor.

Section 10.06 Miscellaneous Provisions

A. The Commissioner, in addition to any other powers set forth in this Agreement or by operation of Law, may suspend, in whole or in part, any part of the services to be provided under this Agreement whenever in his or her judgment such suspension is required in the best interest of the City. If the Commissioner suspends this Agreement pursuant to this Section 10.06, the City shall not incur or pay any further obligation pursuant to this Agreement beyond the suspension date until such suspension is lifted. The City shall pay for services provided in accordance with this Agreement prior to the suspension date. In addition, any obligation necessarily incurred by the Contractor on account of this Agreement prior to receipt of notice of suspension and falling due during the suspension period shall be paid by the City in accordance with the terms of this Agreement.

B. Notwithstanding any other provisions of this Agreement, the Contractor shall not be relieved of liability to the City for damages sustained by the City by virtue of the Contractor's breach of the Agreement, and the City may withhold payments to the Contractor for the purpose of set-off in the amount of damages due to the City from the Contractor.

C. The rights and remedies of the City provided in this Article 10 shall not be exclusive and are in addition to all other rights and remedies provided by Law or under this Agreement.

Section 10.07 Liquidated Damages

If Schedule A or any other part of this Agreement includes liquidated damages for failure to comply with a provision of this Agreement, the sum indicated is fixed and agreed as the liquidated damages that the City will suffer by reason of such noncompliance and not as a penalty.

ARTICLE 11 - PROMPT PAYMENT AND ELECTRONIC FUNDS TRANSFER

Section 11.01 Prompt Payment

A. The prompt payment provisions of PPB Rule § 4-06 are applicable to payments made under this Agreement. With some exceptions, the provisions generally require the payment to the Contractor of interest on payments made after the required payment date, as set forth in the PPB Rules.

B. The Contractor shall submit a proper invoice to receive payment, except where the Agreement provides that the Contractor will be paid at predetermined intervals without having to submit an invoice for each scheduled payment.

C. Determination of interest due will be made in accordance with the PPB Rules and the applicable rate of interest shall be the rate in effect at the time of payment.

Section 11.02 Electronic Funds Transfer

A. In accordance with Admin. Code § 6-107.1, the Contractor agrees to accept payments under this Agreement from the City by electronic funds transfer. An electronic funds transfer is any transfer of funds, other than a transaction originated by check, draft, or similar paper instrument, which is initiated through an electronic terminal, telephonic instrument or computer or magnetic tape so as to order, instruct, or authorize a financial institution to debit or credit an account. Prior to the first payment made under this Agreement, the Contractor shall designate one financial institution or other authorized payment agent and shall complete the "EFT Vendor Payment Enrollment Form" available from the Agency or at http://www.nyc.gov/dof in order to provide the commissioner of the Department of Finance with information necessary for the Contractor to receive electronic funds transfer payments through the designated financial institution or authorized payment agent. The crediting of the amount of a payment to the appropriate account on the books of a financial institution or other authorized payment agent designated by the Contractor shall constitute full satisfaction by the City for the amount of the payment under this Agreement. The account information supplied by the Contractor to facilitate the electronic funds transfer shall remain confidential to the fullest extent provided by Law.

B. The Agency Head may waive the application of the requirements of this Section 11.02 to payments on contracts entered into pursuant to Charter § 315. In addition, the

commissioner of the Department of Finance and the Comptroller may jointly issue standards pursuant to which the Department may waive the requirements of this Section 11.02 for payments in the following circumstances: (i) for individuals or classes of individuals for whom compliance imposes a hardship; (ii) for classifications or types of checks; or (iii) in other circumstances as may be necessary in the best interest of the City.

C. This Section 11.02 is applicable to contracts valued at $25,000.00 and above.

ARTICLE 12 - CLAIMS

Section 12.01 Choice of Law

This Agreement shall be deemed to be executed in the City and State of New York, regardless of the domicile of the Contractor, and shall be governed by and construed in accordance with the Laws of the State of New York (notwithstanding New York choice of law or conflict of law principles) and the Laws of the United States, where applicable.

Section 12.02 Jurisdiction and Venue

Subject to Section 12.03, the parties agree that any and all claims asserted by or against the City arising under or related to this Agreement shall solely be heard and determined either in the courts of the United States located in the City or in the courts of the State located in the City and County of New York. The parties shall consent to the dismissal and/or transfer of any claims asserted in any other venue or forum to the proper venue or forum. If the Contractor initiates any action in breach of this Section 12.02, the Contractor shall be responsible for and shall promptly reimburse the City for any attorneys' fees incurred by the City in removing the action to a proper court consistent with this Section 12.02.

Section 12.03 Resolution of Disputes

A. Except as provided in Subparagraphs (A)(1) and (A)(2) below, all disputes between the City and the Contractor that arise under, or by virtue of, this Agreement shall be finally resolved in accordance with the provisions of this Section 12.03 and PPB Rule § 4-09. This procedure shall be the exclusive means of resolving any such disputes.

1. This Section 12.03 shall not apply to disputes concerning matters dealt with in other sections of the PPB Rules or to disputes involving patents, copyrights, trademarks, or trade secrets (as interpreted by the courts of New York State) relating to proprietary rights in computer software, or to termination other than for cause.

2. For construction and construction-related services this Section 12.03 shall apply only to disputes about the scope of work delineated by the Agreement, the interpretation of Agreement documents, the amount to be paid for extra work or disputed work performed in connection with the Agreement, the conformity of the Contractor's

work to the Agreement, and the acceptability and quality of the Contractor's work; such disputes arise when the City Engineer, City Resident Engineer, City Engineering Audit Officer, or other designee of the Agency Head makes a determination with which the Contractor disagrees. For construction, this Section 12.03 shall not apply to termination of the Agreement for cause or other than for cause.

B. All determinations required by this Section 12.03 shall be clearly stated, with a reasoned explanation for the determination based on the information and evidence presented to the party making the determination. Failure to make such determination within the time required by this Section 12.03 shall be deemed a non-determination without prejudice that will allow application to the next level.

C. During such time as any dispute is being presented, heard, and considered pursuant to this Section 12.03, the Agreement terms shall remain in full force and effect and, unless otherwise directed by the ACCO or Engineer, the Contractor shall continue to perform work in accordance with the Agreement and as directed by the ACCO or City Engineer, City Resident Engineer, City Engineering Audit Officer, or other designee of the Agency Head. Failure of the Contractor to continue the work as directed shall constitute a waiver by the Contractor of any and all claims being presented pursuant to this Section 12.03 and a material breach of contract.

D. Presentation of Dispute to Agency Head.

1. Notice of Dispute and Agency Response. The Contractor shall present its dispute in writing ("Notice of Dispute") to the Agency Head within the time specified herein, or, if no time is specified, within 30 Days of receiving written notice of the determination or action that is the subject of the dispute. This notice requirement shall not be read to replace any other notice requirements contained in the Agreement. The Notice of Dispute shall include all the facts, evidence, documents, or other basis upon which the Contractor relies in support of its position, as well as a detailed computation demonstrating how any amount of money claimed by the Contractor in the dispute was arrived at. Within 30 Days after receipt of the complete Notice of Dispute, the ACCO or, in the case of construction or construction-related services, the City Engineer, City Resident Engineer, City Engineering Audit Officer, or other designee of the Agency Head, shall submit to the Agency Head all materials he or she deems pertinent to the dispute. Following initial submissions to the Agency Head, either party may demand of the other the production of any document or other material the demanding party believes may be relevant to the dispute. The requested party shall produce all relevant materials that are not otherwise protected by a legal privilege recognized by the courts of New York State. Any question of relevancy shall be determined by the Agency Head whose decision shall be final. Willful failure of the Contractor to produce any requested material whose relevancy the Contractor has not disputed, or whose relevancy has been affirmatively determined, shall constitute a waiver by the Contractor of its claim.

2. Agency Head Inquiry. The Agency Head shall examine the material and may, in his or her discretion, convene an informal conference with the Contractor and the ACCO and, in the case of construction or construction-related services, the City Engineer, City Resident Engineer, City Engineering Audit Officer, or other designee of the Agency Head, to resolve the issue by mutual consent prior to reaching a determination. The Agency Head may seek such technical or other expertise as he or she shall deem appropriate, including the use of neutral mediators, and require any such additional material from either or both parties as he or she deems fit. The Agency Head's ability to render, and the effect of, a decision hereunder shall not be impaired by any negotiations in connection with the dispute presented, whether or not the Agency Head participated therein. The Agency Head may or, at the request of any party to the dispute, shall compel the participation of any other contractor with a contract related to the work of this Agreement and that contractor shall be bound by the decision of the Agency Head. Any contractor thus brought into the dispute resolution proceeding shall have the same rights and obligations under this Section 12.03 as the Contractor initiating the dispute.

3. Agency Head Determination. Within 30 Days after the receipt of all materials and information, or such longer time as may be agreed to by the parties, the Agency Head shall make his or her determination and shall deliver or send a copy of such determination to the Contractor and ACCO and, in the case of construction or construction-related services, the City Engineer, City Resident Engineer, City Engineering Audit Officer, or other designee of the Agency Head, together with a statement concerning how the decision may be appealed.

4. Finality of Agency Head Decision. The Agency Head's decision shall be final and binding on all parties, unless presented to the Contract Dispute Resolution Board ("CDRB") pursuant to this Section 12.03. The City may not take a petition to the CDRB. However, should the Contractor take such a petition, the City may seek, and the CDRB may render, a determination less favorable to the Contractor and more favorable to the City than the decision of the Agency Head.

E. Presentation of Dispute to the Comptroller. Before any dispute may be brought by the Contractor to the CDRB, the Contractor must first present its claim to the Comptroller for his or her review, investigation, and possible adjustment.

1. Time, Form, and Content of Notice. Within 30 Days of receipt of a decision by the Agency Head, the Contractor shall submit to the Comptroller and to the Agency Head a Notice of Claim regarding its dispute with the Agency. The Notice of Claim shall consist of (i) a brief statement of the substance of the dispute, the amount of money, if any, claimed and the reason(s) the Contractor contends the dispute was wrongly decided by the Agency Head; (ii) a copy of the decision of the Agency Head; and (iii) a copy of all materials submitted by the Contractor to the Agency, including the Notice of Dispute. The Contractor may not present to the Comptroller any material not presented to the Agency Head, except at the request of the Comptroller.

2. Agency Response. Within 30 Days of receipt of the Notice of Claim, the Agency shall make available to the Comptroller a copy of all material submitted by the Agency to the Agency Head in connection with the dispute. The Agency may not present to the Comptroller any material not presented to the Agency Head, except at the request of the Comptroller.

3. Comptroller Investigation. The Comptroller may investigate the claim in dispute and, in the course of such investigation, may exercise all powers provided in Admin. Code §§ 7-201 and 7-203. In addition, the Comptroller may demand of either party, and such party shall provide, whatever additional material the Comptroller deems pertinent to the claim, including original business records of the Contractor. Willful failure of the Contractor to produce within 15 Days any material requested by the Comptroller shall constitute a waiver by the Contractor of its claim. The Comptroller may also schedule an informal conference to be attended by the Contractor, Agency representatives, and any other personnel desired by the Comptroller.

4. Opportunity of Comptroller to Compromise or Adjust Claim. The Comptroller shall have 45 Days from his or her receipt of all materials referred to in Paragraph (E)(3) above to investigate the disputed claim. The period for investigation and compromise may be further extended by agreement between the Contractor and the Comptroller, to a maximum of 90 Days from the Comptroller's receipt of all the materials. The Contractor may not present its petition to the CDRB until the period for investigation and compromise delineated in this Paragraph has expired. In compromising or adjusting any claim hereunder, the Comptroller may not revise or disregard the terms of the Agreement.

F. Contract Dispute Resolution Board. There shall be a Contract Dispute Resolution Board composed of:

1. the chief administrative law judge of the Office of Administrative Trials and Hearings ("OATH") or his or her designated OATH administrative law judge, who shall act as chairperson, and may adopt operational procedures and issue such orders consistent with this Section 12.03 as may be necessary in the execution of the CDRB's functions, including, but not limited to, granting extensions of time to present or respond to submissions;

2. the City Chief Procurement Officer ("CCPO") or his or her designee; any designee shall have the requisite background to consider and resolve the merits of the dispute and shall not have participated personally and substantially in the particular matter that is the subject of the dispute or report to anyone who so participated; and

3. a person with appropriate expertise who is not an employee of the City. This person shall be selected by the presiding administrative law judge from a prequalified panel of individuals, established, and administered by OATH, with appropriate background to act as decision-makers in a dispute. Such individuals may not

have a contract or dispute with the City or be an officer or employee of any company or organization that does, or regularly represent persons, companies, or organizations having disputes with the City.

G. Petition to CDRB. In the event the claim has not been settled or adjusted by the Comptroller within the period provided in this Section 12.03, the Contractor, within thirty (30) Days thereafter, may petition the CDRB to review the Agency Head determination.

1. Form and Content of Petition by the Contractor. The Contractor shall present its dispute to the CDRB in the form of a petition, which shall include (i) a brief statement of the substance of the dispute, the amount of money, if any, claimed, and the reason(s) the Contractor contends that the dispute was wrongly decided by the Agency Head; (ii) a copy of the decision of the Agency Head; (iii) copies of all materials submitted by the Contractor to the Agency; (iv) a copy of the decision of the Comptroller, if any, and (v) copies of all correspondence with, and material submitted by the Contractor to, the Comptroller's Office. The Contractor shall concurrently submit four complete sets of the petition: one to the Corporation Counsel (Attn: Commercial and Real Estate Litigation Division), and three to the CDRB at OATH's offices, with proof of service on the Corporation Counsel. In addition, the Contractor shall submit a copy of the statement of the substance of the dispute, cited in (i) above, to both the Agency Head and the Comptroller.

2. Agency Response. Within 30 Days of receipt of the petition by the Corporation Counsel, the Agency shall respond to the statement of the Contractor and make available to the CDRB all material it submitted to the Agency Head and Comptroller. Three complete copies of the Agency response shall be submitted to the CDRB at OATH's offices and one to the Contractor. Extensions of time for submittal of the Agency response shall be given as necessary upon a showing of good cause or, upon the consent of the parties, for an initial period of up to 30 Days.

3. Further Proceedings. The CDRB shall permit the Contractor to present its case by submission of memoranda, briefs, and oral argument. The CDRB shall also permit the Agency to present its case in response to the Contractor by submission of memoranda, briefs, and oral argument. If requested by the Corporation Counsel, the Comptroller shall provide reasonable assistance in the preparation of the Agency's case. Neither the Contractor nor the Agency may support its case with any documentation or other material that was not considered by the Comptroller, unless requested by the CDRB. The CDRB, in its discretion, may seek such technical or other expert advice as it shall deem appropriate and may seek, on it own or upon application of a party, any such additional material from any party as it deems fit. The CDRB, in its discretion, may combine more than one dispute between the parties for concurrent resolution.

4. CDRB Determination. Within 45 Days of the conclusion of all submissions and oral arguments, the CDRB shall render a decision resolving the dispute. In an unusually complex case, the CDRB may render its decision in a longer period of

time, not to exceed 90 Days, and shall so advise the parties at the commencement of this period. The CDRB's decision must be consistent with the terms of this Agreement. Decisions of the CDRB shall only resolve matters before the CDRB and shall not have precedential effect with respect to matters not before the CDRB.

5. Notification of CDRB Decision. The CDRB shall send a copy of its decision to the Contractor, the ACCO, the Corporation Counsel, the Comptroller, the CCPO, and, in the case of construction or construction-related services, the City Engineer, City Resident Engineer, City Engineering Audit Officer, or other designee of the Agency Head. A decision in favor of the Contractor shall be subject to the prompt payment provisions of the PPB Rules. The required payment date shall be 30 Days after the date the parties are formally notified of the CDRB's decision.

6. Finality of CDRB Decision. The CDRB's decision shall be final and binding on all parties. Any party may seek review of the CDRB's decision solely in the form of a challenge, filed within four months of the date of the CDRB's decision, in a court of competent jurisdiction of the State of New York, County of New York pursuant to Article 78 of the Civil Practice Law and Rules. Such review by the court shall be limited to the question of whether or not the CDRB's decision was made in violation of lawful procedure, was affected by an error of Law, or was arbitrary and capricious or an abuse of discretion. No evidence or information shall be introduced or relied upon in such proceeding that was not presented to the CDRB in accordance with PPB Rules § 4-09.

H. Any termination, cancellation, or alleged breach of the Agreement prior to or during the pendency of any proceedings pursuant to this Section 12.03 shall not affect or impair the ability of the Agency Head or CDRB to make a binding and final decision pursuant to this Section 12.03.

Section 12.04 Claims and Actions

A. Any claim, that is not subject to dispute resolution under the PPB Rules or this Agreement, against the City for damages for breach of contract shall not be made or asserted in any action, unless the Contractor shall have strictly complied with all requirements relating to the giving of notice and of information with respect to such claims, as provided in this Agreement.

B. No action shall be instituted or maintained on any such claims unless such action shall be commenced within six months after the final payment under this Agreement, or within six months of the termination or expiration of this Agreement, or within six months after the accrual of the cause of action, whichever first occurs.

Section 12.05 No Claim Against Officials, Agents, or Employees

No claim shall be made by the Contractor against any official, agent, or employee of the City in their personal capacity for, or on account of, anything done or omitted in connection with this Agreement.

Section 12.06 General Release

The acceptance by the Contractor or its assignees of the final payment under this Agreement, whether by check, wire transfer, or other means, and whether pursuant to invoice, voucher, judgment of any court of competent jurisdiction or any other administrative means, shall constitute and operate as a release of the City from any and all claims of and liability to the Contractor, of which the Contractor was aware or should reasonably have been aware, arising out of the performance of this Agreement based on actions of the City prior to such acceptance of final payment, excepting any disputes that are the subject of pending dispute resolution procedures.

Section 12.07 No Waiver

Waiver by either the Department or the Contractor of a breach of any provision of this Agreement shall not be deemed to be a waiver of any other or subsequent breach and shall not be construed to be a modification of the terms of the Agreement unless and until the same shall be agreed to in writing by the parties as set forth in Section 9.01.

ARTICLE 13 - APPLICABLE LAWS

Section 13.01 PPB Rules

This Agreement is subject to the PPB Rules. If there is a conflict between the PPB Rules and a provision of this Agreement, the PPB Rules shall take precedence.

Section 13.02 All Legal Provisions Deemed Included

Each and every provision required by Law to be inserted in this Agreement is hereby deemed to be a part of this Agreement, whether actually inserted or not.

Section 13.03 Severability / Unlawful Provisions Deemed Stricken

If this Agreement contains any unlawful provision not an essential part of the Agreement and which shall not appear to have been a controlling or material inducement to the making of this Agreement, the unlawful provision shall be deemed of no effect and shall, upon notice by either party, be deemed stricken from the Agreement without affecting the binding force of the remainder.

Section 13.04 Compliance With Laws

The Contractor shall perform all services under this Agreement in accordance with all applicable Laws as are in effect at the time such services are performed.

Section 13.05 Unlawful Discrimination in the Provision of Services

A. *Discrimination in Public Accommodations.* With respect to services provided under this Agreement, the Contractor shall not unlawfully discriminate against any person because of actual or perceived age, religion, creed, sex, gender, gender identity or gender expression, sexual orientation, partnership status, marital status, disability, presence of a service animal, race, color, national origin, alienage, citizenship status, or military status, or any other class of individuals protected from discrimination in public accommodations by City, State or Federal laws, rules or regulations. The Contractor shall comply with all statutory and regulatory obligations to provide reasonable accommodations to individuals with disabilities.

B. *Discrimination in Housing Accommodations.* With respect to services provided under this Agreement, the Contractor shall not unlawfully discriminate against any person because of actual or perceived age, religion, creed, sex, gender, gender identity or gender expression, sexual orientation, status as a victim of domestic violence, stalking, and sex offenses, partnership status, marital status, presence of children, disability, presence of a service or emotional support animal, race, color, national origin, alienage or citizenship status, lawful occupation, or lawful source of income (including income derived from social security, or any form of federal, state, or local public government assistance or housing assistance including Section 8 vouchers), or any other class of individuals protected from discrimination in housing accommodations by City, State or Federal laws, rules or regulations. The Contractor shall comply with all statutory and regulatory obligations to provide reasonable accommodations to individuals with disabilities.

C. *Admin. Code § 6-123.* In accordance with Admin. Code § 6-123, the Contractor will not engage in any unlawful discriminatory practice as defined in and pursuant to the terms of Title 8 of the Admin. Code. The Contractor shall include a provision in any agreement with a first-level subcontractor performing services under this Agreement for an amount in excess of $50,000.00 that such subcontractor shall not engage in any such unlawful discriminatory practice.

D. *Immigration status.* In connection with the services provided under this Agreement, the Contractor shall not inquire about the immigration status of a recipient or potential recipient of such services unless (i) it is necessary for the determination of program, service or benefit eligibility or the provision of City services or (ii) the Contractor is required by law to inquire about such person's immigration status.

Section 13.06 Americans with Disabilities Act (ADA)

A. This Agreement is subject to the provisions of Subtitle A of Title II of the Americans with Disabilities Act of 1990, 42 U.S.C. §§ 12131 *et seq.* ("ADA") and regulations promulgated pursuant thereto, see 28 CFR Part 35. The Contractor shall not discriminate against an individual with a disability, as defined in the ADA, in providing services, programs, or activities pursuant to this Agreement. If directed to do so by the Department to ensure the

Contractor's compliance with the ADA during the term of this Agreement, the Contractor shall prepare a plan ("Compliance Plan") which lists its program site(s) and describes in detail, how it intends to make the services, programs and activities set forth in the scope of services herein readily accessible and usable by individuals with disabilities at such site(s). If the program site is not readily accessible and usable by individuals with disabilities, contractor shall also include in the Compliance Plan, a description of reasonable alternative means and methods that result in making the services, programs or activities provided under this Agreement, readily accessible to and usable by individuals with disabilities, including but not limited to people with visual, auditory or mobility disabilities. The Contractor shall submit the Compliance Plan to the ACCO for review within ten Days after being directed to do so and shall abide by the Compliance Plan and implement any action detailed in the Compliance Plan to make the services, programs, or activities accessible and usable by the disabled.

B. The Contractor's failure to either submit a Compliance Plan as required herein or implement an approved Compliance Plan may be deemed a material breach of this Agreement and result in the City terminating this Agreement.

Section 13.07 Voter Registration

A. *Participating Agencies.* Pursuant to Charter § 1057-a, if this Agreement is made by and through a participating City agency and the Contractor has regular contact with the public in the daily administration of its business, the Contractor must comply with the requirements of this Section 13.06. The participating City agencies are: the Administration for Children's Services; the City Clerk; the Civilian Complaint Review Board; the Commission on Human Rights; Community Boards; SBS; the Department of Citywide Administrative Services; the Department of Consumer Affairs; the Department of Correction; the Department of Environmental Protection; the Department of Finance; the Department of Health and Mental Hygiene; the Department of Homeless Services; the Department of Housing Preservation and Development; the Department of Parks and Recreation; the Department of Probation; the Taxi and Limousine Commission; the Department of Transportation; and the Department of Youth and Community Development.

B. *Distribution of Voter Registration Forms.* In accordance with Charter § 1057-a, the Contractor, if it has regular contact with the public in the daily administration of its business under this Agreement, hereby agrees as follows:

1. The Contractor shall provide and distribute voter registration forms to all persons together with written applications for services, renewal, or recertification for services and change of address relating to such services. Such voter registration forms shall be provided to the Contractor by the City. The Contractor should be prepared to provide forms written in Spanish or Chinese, and shall obtain a sufficient supply of such forms from the City.

2. The Contractor shall also include a voter registration form with any Contractor communication sent through the United States mail for the purpose of

supplying clients with materials for application, renewal, or recertification for services and change of address relating to such services. If forms written in Spanish or Chinese are not provided in such mailing, the Contractor shall provide such forms upon the Department's request.

3. The Contractor shall, subject to approval by the Department, incorporate an opportunity to request a voter registration application into any application for services, renewal, or recertification for services and change of address relating to such services provided on computer terminals, the World Wide Web or the Internet. Any person indicating that they wish to be sent a voter registration form via computer terminals, the World Wide Web or the Internet shall be sent such a form by the Contractor or be directed, in a manner subject to approval by the Department, to a link on that system where such a form may be downloaded.

4. The Contractor shall, at the earliest practicable or next regularly scheduled printing of its own forms, subject to approval by the Department, physically incorporate the voter registration forms with its own application forms in a manner that permits the voter registration portion to be detached therefrom. Until such time when the Contractor amends its form, the Contractor should affix or include a postage-paid City Board of Elections voter registration form to or with its application, renewal, recertification, and change of address forms.

5. The Contractor shall prominently display in its public office, subject to approval by the Department, promotional materials designed and approved by the City or State Board of Elections.

6. For the purposes of Paragraph A of this Section 13.06, the word "Contractor" shall be deemed to include subcontractors having regular contact with the public in the daily administration of their business.

7. The provisions of Paragraph A of this Section 13.06 shall not apply to services that must be provided to prevent actual or potential danger to life, health, or safety of any individual or of the public.

C. *Assistance in Completing Voter Registration Forms*. In accordance with Charter § 1057-a, the Contractor hereby agrees as follows:

1. In the event the Department provides assistance in completing distributed voter registration forms, the Contractor shall also provide such assistance, in the manner and to the extent specified by the Department.

2. In the event the Department receives and transmits completed registration forms from applicants who wish to have the forms transmitted to the City Board of Elections, the Contractor shall similarly provide such service, in the manner and to the extent specified by the Department.

3. If, in connection with the provision of services under this Agreement, the Contractor intends to provide assistance in completing distributed voter registration forms or to receive and transmit completed registration forms from applicants who wish to have the forms transmitted to the City Board of Elections, the Contractor shall do so only by prior arrangement with the Department.

4. The provision of Paragraph B services by the Contractor may be subject to Department protocols, including protocols regarding confidentiality.

D. *Required Statements*. In accordance with Charter § 1057-a, the Contractor hereby agrees as follows:

1. The Contractor shall advise all persons seeking voter registration forms and information, in writing together with other written materials provided by the Contractor or by appropriate publicity, that the Contractor's or government services are not conditioned on being registered to vote.

2. No statement shall be made and no action shall be taken by the Contractor or an employee of the Contractor to discourage an applicant from registering to vote or to encourage or discourage an applicant from enrolling in any particular political party.

3. The Contractor shall communicate to applicants that the completion of voter registration forms is voluntary.

4. The Contractor and the Contractor's employees shall not:

a. seek to influence an applicant's political preference or party designation;

b. display any political preference or party allegiance;

c. make any statement to an applicant or take any action the purpose or effect of which is to discourage the applicant from registering to vote; or

d. make any statement to an applicant or take any action the purpose or effect of which is to lead the applicant to believe that a decision to register or not to register has any bearing on the availability of services or benefits.

E. The Contractor, as defined above and in this Agreement, agrees that the covenants and representations in this Section 13.06 are material conditions of this Agreement.

F. The provisions of this Section 13.06 do not apply where the services under this Agreement are supported by a federal or State grant of funds and the source of funds prohibits the use of federal or State funds for the purposes of this Section.

Section 13.08 Political Activity

The Contractor's provision of services under this Agreement shall not include any partisan political activity or any activity to further the election or defeat of any candidate for public, political, or party office, nor shall any of the funds provided under this Agreement be used for such purposes.

Section 13.09 Religious Activity

There shall be no religious worship, instruction, or proselytizing as part of or in connection with the Contractor's provision of services under this Agreement, nor shall any of the funds provided under this Agreement be used for such purposes.

Section 13.10 Participation in an International Boycott

A. The Contractor agrees that neither the Contractor nor any substantially-owned affiliated company is participating or shall participate in an international boycott in violation of the provisions of the federal Export Administration Act of 1979, as amended, 50 U.S.C. Appendix. §§ 2401 *et seq*., or the regulations of the United States Department of Commerce promulgated thereunder.

B. Upon the final determination by the Commerce Department or any other agency of the United States as to, or conviction of, the Contractor or a substantially-owned affiliated company thereof, of participation in an international boycott in violation of the provisions of the Export Administration Act of 1979, as amended, or the regulations promulgated thereunder, the Comptroller may, at his or her option, render forfeit and void this Agreement.

C. The Contractor shall comply in all respects, with the provisions of Admin. Code § 6-114 and the rules issued by the Comptroller thereunder.

Section 13.11 MacBride Principles

A. In accordance with and to the extent required by Admin. Code § 6-115.1, the Contractor stipulates that the Contractor and any individual or legal entity in which the Contractor holds a ten percent (10%) or greater ownership interest and any individual or legal entity that holds a ten percent (10%) or greater ownership interest in the Contractor either (a) have no business operations in Northern Ireland, or (b) shall take lawful steps in good faith to conduct any business operations they have in Northern Ireland in accordance with the MacBride Principles, and shall permit independent monitoring of their compliance with such principles.

B. The Contractor agrees that the covenants and representations in Paragraph A above are material conditions to this Agreement.

C. This Section does not apply if the Contractor is a not-for-profit corporation.

Section 13.12 Access to Public Health Insurance Coverage Information

A. Participating Agencies. Pursuant to Charter § 1069, if this Agreement is with a participating City agency and the Contractor is one to whom this Section 13.11 applies as provided in Paragraph B of this Section 13.11, the Contractor hereby agrees to fulfill the obligations in Paragraph C of this Section 13.11. The participating City agencies are: the Administration for Children's Services; the City Clerk; the Commission on Human Rights; the Department for the Aging; the Department of Corrections; the Department of Homeless Services; the Department of Housing Preservation and Development; the Department of Juvenile Justice; the Department of Health and Mental Hygiene; the Department of Probation; the Department of Social Services/Human Resources Administration; the Taxi and Limousine Commission; the Department of Youth and Community Development; the Office to Combat Domestic Violence; and the Office of Immigrant Affairs.

B. Applicability to Certain Contractors. This Section 13.11 shall be applicable to a Contractor operating pursuant to an Agreement which (i) is in excess of $250,000.00 and (ii) requires such Contractor to supply individuals with a written application for, or written renewal or recertification of services, or request for change of address form in the daily administration of its contractual obligation to such participating City agency. "Contractors" to whom this Section 13.11 applies shall be deemed to include subcontractors if the subcontract requires the subcontractor to supply individuals with a written application for, or written renewal or recertification of services, or request for change of address form in the daily administration of the subcontractor's contractual obligation.

C. Distribution of Public Health Insurance Pamphlet. In accordance with Charter § 1069, when the participating City agency supplies the Contractor with the public health insurance program options pamphlet published by the Department of Health and Mental Hygiene pursuant to Section 17-183 of the Admin. Code (hereinafter "pamphlet"), the Contractor hereby agrees as follows:

1. The Contractor will distribute the pamphlet to all persons requesting a written application for services, renewal or recertification of services or request for a change of address relating to the provision of services.

2. The Contractor will include a pamphlet with any Contractor communication sent through the United States mail for the purpose of supplying an individual with a written application for services, renewal or recertification of services or with a request for a change of address form relating to the provision of services.

3. The Contractor will provide an opportunity for an individual requesting a written application for services, renewal or recertification for services or change of address form relating to the provision of services via the Internet to request a pamphlet, and will provide such pamphlet by United States mail or an Internet address where such

pamphlet may be viewed or downloaded, to any person who indicates via the Internet that they wish to be sent a pamphlet.

4. The Contractor will ensure that its employees do not make any statement to an applicant for services or client or take any action the purpose or effect of which is to lead the applicant or client to believe that a decision to request public health insurance or a pamphlet has any bearing on their eligibility to receive or the availability of services or benefits.

5. The Contractor will comply with: (i) any procedures established by the participating City agency to implement Charter § 1069; (ii) any determination of the commissioner or head of the participating City agency (which is concurred in by the commissioner of the Department of Health and Mental Hygiene) to exclude a program, in whole or in part, from the requirements of Charter § 1069; and (iii) any determination of the commissioner or head of the participating City agency (which is concurred in by the commissioner of the Department of Health and Mental Hygiene) as to which Workforce Investment Act of 1998 offices providing workforce development services shall be required to fulfill the obligations under Charter § 1069.

D. Non-applicability to Certain Services. The provisions of this Section 13.11 shall not apply to services that must be provided to prevent actual or potential danger to the life, health or safety of any individual or to the public.

Section 13.13 Distribution of Personal Identification Materials

A. Participating Agencies. Pursuant to City Executive Order No. 150 of 2011 ("E.O. 150"), if this Agreement is with a participating City agency and the Contractor has regular contact with the public in the daily administration of its business, the Contractor must comply with the requirements of this Section 13.12. The participating City agencies are: Administration for Children's Services, Department of Consumer Affairs, Department of Correction, Department of Health and Mental Hygiene, Department of Homeless Services, Department of Housing Preservation and Development, Human Resources Administration, Department of Parks and Recreation, Department of Probation, and Department of Youth and Community Development.

B. Policy. As expressed in E.O. 150, it is the policy of the City to provide information to individuals about how they can obtain the various forms of City, State, and Federal government-issued identification and, where appropriate, to assist them with the process for applying for such identification.

C. Distribution of Materials. If the Contractor has regular contact with the public in the daily administration of its business, the Contractor hereby agrees to provide and distribute materials and information related to whether and how to obtain various forms of City, State, and Federal government-issued identification as the Agency directs in accordance with the Agency's plans developed pursuant to E.O. 150.

ARTICLE 14 - MISCELLANEOUS PROVISIONS

Section 14.01 Conditions Precedent

A. This Agreement shall be neither binding nor effective unless and until it is registered pursuant to Charter § 328.

B. The requirements of this Section 14.01 shall be in addition to, and not in lieu of, any approval or authorization otherwise required for this Agreement to be effective and for the expenditure of City funds.

Section 14.02 Merger

This written Agreement contains all the terms and conditions agreed upon by the parties, and no other agreement, oral or otherwise, regarding the subject matter of this Agreement shall be deemed to exist or to bind either of the parties, or to modify any of the terms contained in this Agreement, other than a written change, amendment or modification duly executed by both parties pursuant to Article 9 of this Appendix A.

Section 14.03 Headings

Headings are inserted only as a matter of convenience and therefore are not a part of and do not affect the substance of this Agreement.

Section 14.04 Notice

A. The Contractor and the Department hereby designate the business addresses and email addresses specified in Schedule A (and if not specified in Schedule A, as specified at the beginning of this Agreement) as the places where all notices, directions, or communications from one such party to the other party shall be delivered, or to which they shall be mailed. Either party may change its notice address at any time by an instrument in writing executed and acknowledged by the party making such change and delivered to the other party in the manner as specified below.

B. Any notice, direction, or communication from either party to the other shall be in writing and shall be deemed to have been given when (i) delivered personally; (ii) sent by certified mail, return receipt requested; (iii) delivered by overnight or same day courier service in a properly addressed envelope with confirmation; or (iv) sent by email and, unless receipt of the e-mail is acknowledged by the recipient by email, deposited in a post office box regularly maintained by the United States Postal Service in a properly addressed, postage pre-paid envelope.

C. Nothing in this Section 14.04 shall be deemed to serve as a waiver of any requirements for the service of notice or process in the institution of an action or proceeding as provided by Law, including the New York Civil Practice Law and Rules.

Appendix A January 2018 Final

AFFIRMATION

The undersigned proposer or bidder affirms and declares that said proposer or bidder is not in arrears to the City of New York upon debt, contract or taxes and is not a defaulter, as surety or otherwise, upon obligation to the City of New York, and has not been declared not responsible, or disqualified, by any agency of the City of New York, nor is there any proceeding pending relating to the responsibility or qualification of the proposer or bidder to receive public contract except _____.

Full name of Proposer or Bidder *[below]*

_____

Address_____

City_____ State_____ Zip Code_____

CHECK ONE BOX AND INCLUDE APPROPRIATE NUMBER:

- A - ☐ Individual or Sole Proprietorships
  SOCIAL SECURITY NUMBER _____

- B - ☐ Partnership, Joint Venture or other unincorporated organization
  EMPLOYER IDENTIFICATION NUMBER _____

- C - ☐ Corporation
  EMPLOYER IDENTIFICATION NUMBER _____

By_____

Signature

_____

Title

If a corporation place seal here

Must be signed by an officer or duly authorized representative.

* Under the Federal Privacy Act, the furnishing of Social Security numbers by bidders or proposers on City contracts is voluntary. Failure to provide a Social Security number will not result in a bidder's/proposer's disqualification. Social Security numbers will be used to identify bidders, proposers, or vendors to ensure their compliance with laws, to assist the City in enforcement of laws, as well as to provide the City a means of identifying businesses seeking City contracts.

SCHEDULE A

Article 7 -- Insurance	
Types of Insurance (per Article 7 in its entirety, including listed paragraph)	**Minimum Limits and Special Conditions**
■ Workers' Compensation §7.02 ■ Disability Benefits Insurance §7.02 ■ Employers' Liability §7.02	Statutory amounts.
■ Commercial General Liability §7.03(A)	$1,000,000.00 per occurrence $1,000,000.00 personal & advertising injury (unless waived in writing by the Department) $2,000,000.00 aggregate $0 products/completed operations Additional Insureds: 1. City of New York, including its officials and employees, and 2. _____ 3. _____
☐ Commercial Auto Liability §7.03(B)	$1,000,000.00 per accident combined single limit If vehicles are used for transporting hazardous materials, the Contractor shall provide pollution liability broadened coverage for covered vehicles (endorsement CA 99 48) as well as proof of MCS 90
☐ Professional Liability/Errors & Omissions §7.03(C)	$1,000,000.00 per claim
☐ Crime Insurance §7.03(D)	$_____ Employee Theft/Dishonesty

	$_____ Computer Fraud $_____ Funds Transfer Fraud $_____ Client Coverage $_____Forgery or Alteration $_____Inside the Premises (theft of money and securities) $_____ Inside the Premises (robbery or safe burglary of other property) $_____ Outside the Premises $_____ Money Orders and Counterfeit Money City of New York is a loss payee as its interests may appear
☐ Cyber Liability Insurance §7.03(E)	*[If there is a significant cyber risk, please consult with the Law Department about specific insurance requirements.]*
☐ [OTHER]	*[If other type(s) of insurance need to be required under the Contract, the Contracting Agency should (a) check the box and fill in the type of insurance in left-hand column, and (b) in this right-hand column, specify appropriate limit(s) and appropriate Named Insured and Additional Insured(s).]*
☐ [OTHER]	*[If other type(s) of insurance need to be required under the Contract, the Contracting Agency should (a) check the box and fill in the type of insurance in left-hand column, and (b) in this right-hand column, specify appropriate limit(s) and appropriate Named Insured and Additional Insured(s).]*
Section 10.07 – Liquidated Damages	
• Violation of Section 3.02(H), reporting subcontractors in the City's Payee Information Portal	**$100 per day**
• _____	**$_____**
Section 14.04 – Notice	

Department's Mailing Address and Email Address for Notices	
Contractor's Mailing Address and Email Address for Notices	

CERTIFICATES OF INSURANCE

Instructions to New York City Agencies, Departments, and Offices

All certificates of insurance (except certificates of insurance solely evidencing Workers' Compensation Insurance, Employer's Liability Insurance, and/or Disability Benefits Insurance) must be accompanied by one of the following:

(1) the Certification by Insurance Broker or Agent on the following page setting forth the required information and signatures;

-- OR --

(2) copies of all policies as certified by an authorized representative of the issuing insurance carrier that are referenced in such certificate of insurance. If any policy is not available at the time of submission, certified binders may be submitted until such time as the policy is available, at which time a certified copy of the policy shall be submitted.

CITY OF NEW YORK
CERTIFICATION BY INSURANCE BROKER OR AGENT

The undersigned insurance broker or agent represents to the City of New York that the attached Certificate of Insurance is accurate in all material respects.

_____
[Name of broker or agent (typewritten)]

_____
[Address of broker or agent (typewritten)]

_____
[Email address of broker or agent (typewritten)]

_____
[Phone number/Fax number of broker or agent (typewritten)]

_____
[Signature of authorized official, broker, or agent]

_____
[Name and title of authorized official, broker, or agent (typewritten)]

State of …….)
) ss.:
County of …….)

Sworn to before me this _____ day of _____ 20___

_____
NOTARY PUBLIC FOR THE STATE OF _____

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WHISTLEBLOWER PROTECTION EXPANSION ACT POSTER

REPORT

CORRUPTION, FRAUD, UNETHICAL CONDUCT

RELATING TO A NYC-FUNDED CONTRACT OR PROJECT

CALL THE NYC DEPARTMENT OF INVESTIGATION

212-825-5959

DOI CAN ALSO BE REACHED BY MAIL OR IN PERSON AT: **New York City Department of Investigation (DOI)** **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**	**Or scan the QR Code above to make a complaint**

THE LAW PROTECTS EMPLOYEES OF CITY CONTRACTORS WHO REPORT CORRUPTION

- Any employee of a City contractor, or subcontractor of the City, or a City contractor with a contract valued at 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 to DOI − or to certain other specified government officials − information about fraud, false claims, corruption, criminality, conflict of interest, gross mismanagement, or abuse of authority relating to a City contract valued at more than $100,000.
- Any employee who makes 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