**THE CITY OF NEW YORK**
**OFFICE OF TECHNOLOGY**
**& INNOVATION ("OTI")**

# INVITATION FOR BIDS
# and
# AGREEMENT
# for
# TEMPORARY TECHNICAL SERVICES FOR THE MAYOR'S OFFICE OF MEDIA AND ENTERTAINMENT

## DATE OF ISSUE: October 16, 2026
## EPIN: 85827B0001

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**AUTHORIZED DEPARTMENT CONTACT**
**Bidders are advised that the Department's authorized contact for ALL matters concerning this Invitation for Bids (IFB) is:**


**Authorized Agency Contact: Nikita Podlednov**

New York City Office of Technology and Innovation
15 MetroTech Center, 18th Floor
Brooklyn, NY 11201
Tel.: (718) 403-4185
Email: npodlednov@oti.nyc.gov


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The New York City Comptroller is charged with the audit of contracts in New York City. Any person who believes that there has been unfairness, favoritism or impropriety in the bid process should inform the Comptroller, Office of Contract Administration, 1 Centre Street, Room 835, New York, New York 10007 (212-669-3870).

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## SECTION I: TIMETABLE, NOTICE TO BIDDERS, AND CHECKLIST

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**BIDDERS:**

**PLEASE LEAVE INVITATION FOR BIDS INTACT. COMPLETE THE AGREEMENT (SECTION III), INCLUDING ALL ATTACHMENTS, AND THE BID PACKAGE (SECTION IV).**

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## SECTION I.A - TIMETABLE

**Agency Contact Person: Nikita Podlednov**
**Telephone #: (718) 403-4185**
**Email Address: npodlednow@oti.nyc.gov**

All questions regarding this Invitation for Bids (IFB) should be submitted ONLY to the above Authorized Agency Contact Person. All questions must be made in writing and submitted in the PASSPort system. All answers to questions, and any addenda to the IFB, will be made available to all prospective bidders. All documents are available to download in the PASSPort system.

**Last Date to Submit Questions**: **November 2, 2026** **Time: 2:00 PM (EST)**

**Bid Due**
Date: **November 17, 2026** Time: **2:00 PM (EST)**

**Location to Submit Bids: in PASSPort**

**Bid Opening Date and Hour: November 17, 2026, 2:30 PM (EST)**
**Bid Opening Location: Microsoft Teams**
Link: https://teams.microsoft.com/meet/228766010907160?p=VCxdP8BNdCsV07HL9Y
Meeting ID: 228 766 010 907 160
Passcode: WN9TS7Ar
Dial in by phone: +1 917-410-4077, 268631824# United States, New York City
Phone conference ID: 268 631 824#

**Pre-Bid Conference Information: October 23, 2026, 10:30 AM (EST)**

Pre-bid conference Is: **[ X ]** Optional **[ ]** None will be held
**[ ]** Highly Recommended **[ ]** Mandatory

**Pre-Bid Conference Location: Microsoft Teams**
Link: https://teams.microsoft.com/meet/248073378307927?p=MimWt9gjIQxwHjE3hh
Meeting ID:248 073 378 307 927
Passcode: pG3dY6c4
Dial in by phone +1 917-410-4077, 840415724# United States, New York City
Phone conference ID: 840 415 724#

## SECTION I.B -NOTICE TO BIDDERS AND CHECKLIST

**CERTIFICATION REQUIRED BY SECTION 312A OF THE CITY CHARTER**

___X__ The Agency has determined that the contract(s) to be awarded through this Invitation for Bids will not result in the displacement of any New York City employee within this Agency. See attached Displacement Determination Form

_____ The Agency has determined that the contract(s) to be awarded through this Invitation for Bids will result in the displacement of New York City employee(s) within this Agency. See attached Displacement Determination Form

_____ The contract to be awarded through this Invitation for Bids is a task order contract that does not simultaneously result in the award of a first task order; a displacement determination will be made in conjunction with the issuance of each task order pursuant to such task order contract. Determinations for any subsequent task orders will be made in conjunction with such subsequent task orders.

_____ _____

Agency Chief Contracting Officer/ Designee Date

## PARTICIPATION BY MINORITY-OWNED AND WOMEN-OWNED BUSINESS ENTERPRISES IN CITY PROCUREMENT

Section 6-129 of the Administrative Code of the City of New York ("Section 6-129") establishes the program for participation in City procurement ("M/WBE Program") by minority-owned business enterprises ("MBEs") and women-owned business enterprises ("WBEs"), certified in accordance with Section 1304 of the New York City Charter. As stated in Section 6-129, the intent of the program is to address the impact of discrimination on the City's procurement process, and to promote the public interest in avoiding fraud and favoritism in the procurement process, thereby increasing competition for City business and lowering contract costs. The contract provisions contained herein are pursuant to Section 6-129, and the rules of the Department of Small Business Services ("DSBS") promulgated thereunder.

If this Contract is subject to the M/WBE Program established by Section 6-129, the specific requirements of MBE and/or WBE participation for this Contract are set forth in Schedule B of the Contract (entitled the "M/WBE Utilization Plan") and are detailed below. Contracts solicited through the Procurement and Sourcing Solutions Portal (PASSPort) will contain a Schedule B in the format outlined in the Schedule B – M/WBE Utilization Plan & PASSPort rider, included in Item 8 below. The provisions of this notice will apply to contracts subject to the M/WBE Program established by Section 6-129 regardless of solicitation source.

The Contractor must comply with all applicable MBE and WBE requirements for this Contract.

(A) The Total Participation Goals and the M/WBE Participation Goals:

(1) The Total Participation Goals are the percentage of the Contract amount that OTI expects to be performed by one or more M/WBE contractors.

(2) If the M/WBE Utilization Plan is applicable, OTI has determined the Total Participation Goals and the M/WBE Participation Goals for this Contract, and stated them in Part I of the M/WBE Utilization Plan. These goals may be satisfied by the award of this Contract to Prime Contractors that are M/WBE firms, to partnerships and Qualified Joint Ventures that include M/WBE firms, or to subcontractors that are M/WBE firms.

(3) The M/WBE Participation Goals are the percentage of the Contract amount that OTI expects to be performed by specified minority-owned business enterprises (if any).

(B) The M/WBE Utilization Plan, Schedule B (included in Item 8)

(1) If OTI has determined that the M/WBE Utilization Plan is applicable to the Contract, the bidder must either:

(a) complete Part II of the M/WBE Utilization Plan and submit all pages of Parts I and II of the M/WBE Utilization Plan with the bid, or;

(b) obtain a waiver using the "Request for Waiver of Target Percentage" (Part III of the M/WBE Utilization Plan).

(2) If the M/WBE Utilization Plan is applicable to the Contract, and the bidder does not include either (a) Part I and II of the M/WBE Utilization Plan or (b) an approved Waiver of Target Percentage (Part III) as part of its bid, OTI shall reject the bid as nonresponsive.

(3) If the bidder makes an error on a M/WBE Utilization Plan submitted with the bid, and if the error is of the kind described in the OTI Notice to All Prospective Contractors regarding Participation by Minority-Owned and Women-Owned Business Enterprises in City Procurement, OTI will notify the bidder, and the bidder will have four calendar days to submit a corrected M/WBE Utilization Plan to OTI.

(C) Obtaining Assistance in Completing the M/WBE Utilization Plan

(1) The Buyer Services Unit of the Department of Small Business Services ("DSBS") is available to help potential bidders complete Schedule B.

(2) The telephone number and email address for DSBS's M/WBE information unit is (212) 513-6356 and buyer@sbs.nyc.gov.

(3) Directories of certified MBEs and WBEs are available on DSBS's website at

https://www.nyc.gov/site/sbs/businesses/contracting-opportunities.page

The bidder may also contact the Department of Small Business Services (DSBS) at (212) 513-6311 or (212) 513-6456, or go to DSBS's offices at 110 William Street, 7th Floor, New York, NY 10038.

(D). Requesting a Waiver: To be considered, a "Request for Waiver of Target Percentage" must be submitted to OTI.

(1). Purpose of a Waiver Request: If a bidder believes it cannot or will not meet either the Target Percentage or the individual M/WBE Participation Goals, the bidder must request and receive a waiver of the M/WBE Utilization Plan from OTI.

(2). M/WBE Waiver Request Form: The M/WBE Waiver Request form is Part III of the M/WBE Utilization Plan, Schedule B.

(E). Timing of an M/WBE Waiver Request

(1) OTI must receive the waiver request at least seven calendar days before bids are due, or the bidder's waiver request cannot be considered. The bidder is advised to get a time-and-date-stamped receipt when submitting the waiver request.

(2). OTI will forward the waiver application to the Mayor's Office of Contract Services (MOCS) at least 7 days prior to the bid due date.

(3) MOCS will make a decision and inform the Agency, and the Agency will inform the bidder of the decision, at least 48 hours before the bid due date.

(4) A waiver, if granted, may be complete or partial.

(5) If the bidder receives a waiver of the M/WBE Utilization Plan, the signed waiver must be included with the bid.

(6) If the waiver is partial, the bidder must complete the remaining parts of the M/WBE Utilization Plan.

(7) If the bidder requests a waiver of the M/WBE Utilization Plan but is not granted one, the bidder must complete the M/WBE Utilization Plan.

(F). If the bidder misses time deadline above, OTI cannot consider the waiver request, and the bidder must meet the M/WBE Utilization Plan Goals.

(G). OTI's response to a bidder's waiver request is specific to that bidder. The response does not apply to other bidders. It is possible for one bidder's waiver request to be approved, and another bidder's waiver request to be rejected, depending on the specifics given in the waiver request.

**IRAN DIVESTMENT**

The Iran Divestment Act of 2012, effective April 12, 2012, is codified at State Finance Law Section 165-a and General Municipal Law Section 103-g. The Iran Divestment Act, with certain exceptions, prohibits the City of New York from entering into contracts with persons engaged in investment activities in the energy sector of Iran. Each bidder is required to certify at the time it submits its bid that it is not on a list of entities engaged in energy sector investment activities in Iran created by the Commissioner of the New York State Office of General Services pursuant to State Finance Law. Bidders are required to complete the attached Iran Divestment Rider and Certification, included as Attachment A to the Bid Document, and return it with its bid.

**ELECTRONIC FUNDS TRANSFER (EFT)**

A. In accordance with Section 6-107.1 of the New York City Administrative Code, 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, Contractor shall designate one financial institution or other authorized payment agent and shall complete the "EFT Vendor Payment Enrollment Form" in order to provide the Commissioner of Finance with information necessary for 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 herein to payments on contracts entered into pursuant to §315 of the City Charter. In addition, the Commissioner of the Department of Finance and the Comptroller may jointly issue standards pursuant to which the contracting agency may waive the requirements hereunder 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 interest of the City. The EFT Vendor Payment Enrollment Form is included as Attachment B to the Agreement (SECTION III).

## WHISTLEBLOWER PROTECTION EXPANSION ACT RIDER

This contract includes a provision concerning the protection of employees for whistleblowing activity, pursuant to New York City Local Law Nos. 30-2012 and 33-2012, effective October 18, 2012 and September 18, 2012, respectively. The provisions apply to contracts with a value in excess of $100,000.

Local Law No. 33-2012, the Whistleblower Protection Expansion Act ("WPEA"), prohibits a contractor or its subcontractor from taking an adverse personnel action against an employee or officer for whistleblower activity in connection with a City contract; requires that certain City contracts include a provision to that effect; and provides that a contractor or subcontractor may be subject to penalties and injunctive relief if a court finds that it retaliated in violation of the WPEA. The WPEA is codified at Section 12-113 of the New York City Administrative Code.

Local Law No. 30-2012 requires a contractor to prominently post information explaining how its employees can report allegations of fraud, false claims, criminality, or corruption in connection with a City contract to City officials and the rights and remedies afforded to employees for whistleblowing activity. Local Law No. 30-2012 is codified at Section 6-132 of the New York City Administrative Code. The Whistleblower Protection Expansion Act Rider is included as Attachment C to the Agreement (SECTION III).

## PAID SAFE AND SICK LEAVE LAW

The Paid Safe and Sick Leave Law requires covered employees who annually perform more than 80 hours of work in New York City to be provided with sick time. The Paid Sick Leave Rider is included as Attachment E to the Agreement (SECTION III).

## PAYEE INFORMATION PORTAL

The Payee Information Portal (PIP) is a website that allows City vendors to manage their City account information, check payment status, view 1099 data, and research the details of their financial transactions with the City. For access to existing vendor account information, the vendor must be enrolled and have activated its account on the PIP website. If you have not already enrolled, please follow the instructions for existing vendors on the PIP homepage at http://nyc.gov/pip. Additional assistance with PIP may be received by emailing the Financial Information Services Agency Help Desk at pip@fisa.nyc.gov.

## PROCUREMENT AND SOURCING SOLUTIONS PORTAL

The Procurement and Sourcing Solutions Portal (PASSPort) is New York City's end-to-end procurement platform, designed to streamline every stage of the contracting process—from vendor enrollment and solicitations (known as RFx) where agencies invite vendors to submit bids or proposals, to contract awards, contract registration, contract management, and payments. If you have not already enrolled, please follow the instructions for existing vendors on the PASSPort homepage at https://www.nyc.gov/site/mocs/passport/about-passport.page.

## SUBCONTRACTOR TRACKING

The City has implemented a web-based subcontractor reporting system as part of PASSPort. The Contractor will be required to list in PASSPort all of the subcontractors that it knows it will use or is already using in the performance of the contract to be awarded. For each subcontractor listed, the Contractor will be required to provide the following information: maximum contract value; description of subcontractor work; start and end date of the subcontract; and identification of the subcontractor's industry. Identification of subcontractors in PASSPort along with the above information is required to obtain subcontractor approval under PPB Rule § 4-13. All subcontractors must be approved by the Agency prior to commencing work under the subcontract. The Contractor will be required to report in PASSPort the payments made to each subcontractor within 30 days of making the payment. If any of the required information changes throughout the term of the contract, the Contractor will be required to revise the information in PASSPort. Failure of the Contractor to list a subcontractor and/or to report subcontractor payments in a timely fashion may result in the Agency declaring the Contractor in default of the Contract and may subject the 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 within the time frames set forth herein or in the notice from the City.

**PROCUREMENT POLICY BOARD (PPB)**

This bid is subject to the Rules of the Procurement Policy Board of the City of New York ("PPB Rules"), as amended from time to time. In the event of a conflict between said rules and a provision of any of the IFB documents, then the PPB Rules shall take precedence. PPB Rules: https://www.nyc.gov/assets/mocs/downloads/Regulations/PPB/PPBRules.pdf

**DEPARTMENT OF SMALL BUSINESS**

The Department of Small Business forms and instructions for Employment Reports can be downloaded at: https://www.nyc.gov/site/sbs/businesses/contract-compliance.page

## SECTION II: BID PROCEDURES AND REQUIREMENTS

### 1. Description and Location of Work

The description and location of the work for which bids are requested are in the Bid Specifications, which are included as Appendix B to the Agreement.

### 2. Time and Place for Receipt of Bids

a. The Procurement and Sourcing Solutions Portal **(PASSPort)** gives the time, date, and manner in which OTI must receive the sealed bids. Bids may be submitted early.

b. OTI will accept electronic bids through the **PASSPort** system only.

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### 3. Definitions

The definitions set forth in Chapter 1, Section 1-01, (e) of the Procurement Policy Board ("PPB") Rules shall apply to this Invitation for Bids.

### 4. Invitation for Bids and Contract Documents

**a.** Except for titles, sub-titles, headings, running headlines, table of contents and indices (all of which are printed herein merely for convenience) the following, except for such portions thereof as may be specifically excluded, shall be deemed to be part of the Contract and the Invitation for Bids.

1. The Timetable, Notice to Bidders and Checklist;
2. The Bid Procedures and Requirements;
3. The Cover Agreement;
4. The Appendices;
5. The Attachments;
6. The Bid Package
7. All addenda issued by the Commissioner prior to the receipt of all bids;
8. All provisions required by law to be inserted in the Contract whether actually inserted or not;
9. Notice of Award.
10. Notice to Proceed with Work (Commence Work Order Letter).

**b.** For particulars as to this procurement, including quantity and quality for the purchase, extent of the work or labor to be performed, delivery and performance schedule, and any other special instructions, prospective bidders are referred to the Invitation for Bids documents. A copy of such documents can be obtained in PASSPort.

**c.** Additional Copies - Additional copies of the Invitation for Bids documents may be obtained

subject to the conditions set forth in the advertisement for bids.

**d.** Return of Bids- All Invitation for Bids documents must be returned to the City upon request.

**5. Pre-Bid Conference**

**a.** Details concerning any mandatory or optional pre-bid conference may be found in Section I of the Invitation for Bids.

**b.** Nothing stated at the pre-bid conference shall change the terms or conditions of the Invitation for Bids unless a change is made by written amendment as provided in Section 7, below.

**c.** Failure to attend a mandatory pre-bid conference shall constitute grounds for the rejection of your bid.

**d.** Please notify the Agency Contact of the number of representatives from your firm that will attend the conference at least five (5) City working days before the date of the pre-bid conference.

**6. Agency Contact**

Any questions or correspondence relating to this bid solicitation shall be addressed to the person indicated in Section I of the Invitation for Bids.

**7. Examination of Proposed Contract**

**a.** Prospective bidders must examine the bid documents carefully and, before bidding, must submit to the Agency Contact Person a written request for an interpretation or correction of every ambiguity, inconsistency or error therein that should have been discovered by a reasonably prudent bidder. Any such interpretation or correction deemed necessary, as well as any additional Agreement provisions the Agency may decide to include, will be issued in writing by the Agency as an addendum to the bid. Such addendum shall become a part of the bid documents and the Agreement, and shall be binding on all bidders, whether or not actual notice of such addendum can be shown.

**b.** Only the written interpretation or any correction given by the Commissioner shall be binding, and prospective bidders are warned that no other Officer, agent or employee of the City is authorized to give information concerning, or to explain or interpret, the contract.

**8. Form of Bid**

Each bid must be submitted in PASSPort in accordance with the directions provided by the City, including the submission of all required documents and certifications. The submission

package must be completed in PASSPort via the Questionnaire, Documents, and the Item tabs. Bidders must provide the information required in the Job Descriptions section, including the hourly wage rates for each title. The Bidder's overhead and profit percentage must be the same for all titles.

**9. Bidder's Oath**

**a.** The bid shall be properly signed by an authorized representative of the bidder, and the bid shall be verified by the written oath of that same authorized representative that the several matters stated and information furnished therein are in all respects true.

**b.** A materially false statement willfully or fraudulently made in connection with the bid or any of the forms completed and submitted with the bid may result in the termination of any contract between the City and the bidder. As a result, the bidder may be barred from participating in future City contracts and be subject to possible criminal prosecution.

**10. Site Visit**

Where the Invitation for Bids involves performance of services on City facilities, all bidders are expected to inspect the site where services are to be performed and to satisfy themselves as to all general and local conditions that may affect the cost of performance of the Contract. In no event will a failure to inspect a site constitute grounds for withdrawal of a bid after opening or for a claim after award of the Contract.

**11. Irrevocability of Bid**

The prices set forth in the bid cannot be revoked and shall be effective until the award of the contract, unless the bid is withdrawn as provided for in Sections 15 and 18, below.

**12. Acknowledgment of Addenda**

The receipt of any amendment or addenda to the Contract documents shall be acknowledged by the bidder in its bid submission. The ACCO shall authorize the issuance of any amendment.

**13. Bid Samples and Descriptive Literature**

Bid samples and descriptive literature shall not be submitted by the bidder, unless expressly requested elsewhere in the Contract or Contract documents. Any unsolicited bid samples or descriptive literature which are submitted shall not be examined or tested and shall not be deemed to vary any of the provisions of this Contract.

**14. Proprietary Information/Trade Secrets**

The bidder shall identify those portions of its bid that it deems to be confidential, proprietary information, or trade secrets, and provide justification that such materials should not be disclosed by the City. All materials the bidder desires to remain confidential shall be clearly indicated by stamping the pages on which such information appears, at the top and bottom thereof, with the word "Confidential". Such materials stamped "Confidential" must be easily separable from the non-confidential sections of the bid. All materials so indicated shall be reviewed by the Agency and any decision not to honor a request for confidentiality shall be communicated in writing to the bidder. For unsuccessful bids, all such confidential materials shall be returned to the bidder. However, prices, makes and models or catalog numbers of the items offered, deliveries, and terms of payment shall be publicly available after bid opening regardless of any designation of confidentiality made by the bidder.

**15. Pre-Opening Modification or Withdrawal of Bids**

**a.** Bids may be modified or withdrawn by written notice received, in the office designated in Section I of the Invitation for Bids, before the time and date set for the bid opening.

**b.** If a bid is withdrawn in accordance with this Section, the bid security, if any, shall be returned to the bidder.

**16. Bid Evaluation and Award**

**a.** In accordance with the New York City Charter, the PPB Rules and the terms and conditions of this Invitation for Bids, this Contract shall be awarded, if at all, on the basis of best value as defined in the State Finance Law Section 163. State Finance Law Section 163(1)(j) defines best value as that bid or offer that optimizes quality, cost, and efficiency.

**b.** Accordingly, the Contract will be awarded on the basis of best value to the City, which will be determined to be the lowest responsive and responsible bidder, provided however, that the Mayor may, pursuant to Charter Section 313(b)(2), direct the Agency to award the Contract to other than the low bidder in the best interests of the City by demonstrating, in writing, that another bid optimizes quality, cost and efficiency and is thus the best value to the City. An award to other than the low bidder may only be made to a bidder whose bid is within ten percent (10%) of the lowest responsive and responsible bid.

**c.** Restrictions. No negotiations with any bidder shall be allowed to take place except under the circumstances and in the manner set forth in Section 21 below. Nothing in this Section shall be deemed to permit an award to a bidder submitting a higher quality item than that designated in the Invitation for Bids if that bid is not also the most favorable bid.

**17. Late Bids, Late Withdrawals and Late Modifications**

**a.** Any bid received at the place designated in the solicitation after the time and date set for receipt of bids is late and shall not be considered. Any request for withdrawal or

modification received at the place designated in the solicitation after the time and date set for receipt of bids is late and shall not be considered.

**b.** The exception to this provision is that a late modification of a successful bid that makes the bid terms more favorable to the City shall be considered at any time it is received.

**18. Withdrawal of Bids**

**a.** Except as provided for in Section 15 above, a bidder may not withdraw its bid before the expiration of forty-five (45) days after the date of the opening of bids; thereafter, a bidder may withdraw its bid only in writing and in advance of an actual award.

**b.** If within sixty (60) days after the execution of the contract, the Commissioner fails to fix the date for commencement of work by written notice to the bidder, the bidder, at its option, may ask to be relieved of its obligation to perform the work called for by written notice to the Commissioner. If such notice is given, the bidder waives all claims in connection with this Contract.

**19. Mistake in Bids**

**a.** Mistake Discovered Before Bid Opening. A bidder may correct mistakes discovered before the time and date set for bid opening by withdrawing or correcting the bid as provided in Section 15, above.

**b.** Confirmation of Bid. When the Contracting Officer knows or has reason to conclude after bids have been publicly opened that a mistake has been made, such officer shall request from the bidder written verification of the bid. If the bidder alleges a mistake, the bid may be corrected or withdrawn upon the approval of the Agency Chief Contracting Officer if the following conditions are met:

i. Minor Informalities. Minor informalities are matters of form, rather than substance, evident from the bid document, or insignificant mistakes that can be waived or corrected without prejudice to other bidders; that is, when the effect on price, quantity, quality, delivery, or contractual conditions is negligible. The Contracting Officer may waive such informalities or allow the bidder to correct them depending on which is in the best interest of the City. Examples include the failure of a bidder to:
(A) return the number of signed bids required by the IFB, or
(B) acknowledge receipt of an addendum to the IFB, but only if it is clear from the bid that the bidder received the addendum and intended to be bound by its terms, or the addendum had a negligible effect on price, quantity, quality, or delivery.

ii. Mistakes Where Intended Correct Bid is Evident. If the mistake and the intended

correct bid are clearly evident, the bid shall be corrected to the intended correct bid and may not be withdrawn. Examples of mistakes that may be clearly evident are typographical errors, errors in extending unit prices, transposition errors, and arithmetical errors.

iii. Mistakes Where Intended Correct Bid is Not Evident. Mistakes may not be corrected after bid opening. A bidder may be permitted to withdraw a low bid where a unilateral error or mistake has been discovered in the bid and the Contracting Officer makes the following determination, which shall be approved by the ACCO:

(A) the mistake was known to the agency prior to supplier selection or within three days after the opening of the bid, whichever period is shorter;

(B) the price bid was based on an error of such magnitude that enforcement would be unconscionable;

(C) the bid was submitted in good faith and the bidder submits credible evidence that the mistake was a clerical error as opposed to a judgment error;

(D) the error in the bid is due to an unintentional and substantial arithmetic error or unintentional omission of a substantial quantity of work, labor, material, goods, or services made directly in the computation of the bid, which unintentional arithmetic error or unintentional omission can be clearly shown by objective evidence drawn from inspection of the original work paper, documents, or materials used in the preparation of the bid sought to be withdrawn; and

(E) it is possible to place the City in the same condition that had existed prior to the receipt of the bid.

iv. Upon the approval of the ACCO, the bid may be withdrawn, and the bid bond or other security, if any, returned to the bidder. Thereafter, the Agency may, in its discretion, award the Contract to the next lowest bidder or resolicit a contract pursuant to the PPB Rules. Under no circumstances shall a bid be amended or revised to rectify the error or mistake.

**c.** Mistakes Discovered After Vendor Selection. Mistakes shall not be corrected after vendor selection except where the ACCO, subject to the approval of the City Chief Procurement Officer, makes a written determination that it would be unconscionable not to allow the mistake to be corrected.

**20. Low Tie Bids**

**a.** When two or more low responsive bids from responsible bidders are identical in price, meeting all the requirements and criteria set forth in the Invitation for Bids, the ACCO will break the tie in the following manner and order of priority:

i. Award to a certified New York City small, minority or woman-owned business entity bidder;
ii. Award to a New York City bidder;
iii. Award to a certified New York State small, minority or woman-owned business bidder;
iv. Award to a New York State bidder.

**b.** If two or more bidders still remain equally eligible after application of paragraph (a) above, award shall be made by a drawing by lot limited to those bidders. The bidders involved shall be invited to attend the drawing. A witness shall be present to verify the drawing and shall certify the results on the bid tabulation sheet.

## 21. Rejection of Bids/Negotiation with Lowest Bidder

**a.** Rejection of Individual Bids. The ACCO may reject a bid if:

i. The bidder fails to furnish any of the information required pursuant to Sections 24 or 28 hereof; or if;
ii. The bidder is determined to be not responsible pursuant to the PPB Rules; or if;
iii. The bid is determined to be non-responsive pursuant to the PPB Rules; or if;
iv. The bid, in the opinion of the ACCO, contains unbalanced bid prices and is thus non-responsive, unless the bidder can show that the prices are not unbalanced for the probable required quantity of such items.

**b.** Rejection of All Bids. The Agency, upon written approval by the ACCO, may reject all bids and may elect to resolicit by bids in accordance with the PPB Rules or by other method authorized by such Rules.

**c.** Negotiation with the Apparent Lowest Responsive and Responsible Bidder. Upon determination of the apparent lowest responsive and responsible bidder, and prior to award, the ACCO may elect to open negotiations with the selected vendor in an effort to improve the bid to the City with respect to price only, as specified in the PPB Rules §3-02(o)(2).

## 22. Right to Appeal Determinations of Non-Responsiveness or Non-Responsibility and Right to Protest Solicitations and Award

The bidder has the right to appeal a determination of non-responsiveness or non-responsibility. and a vendor has the right to protest a procurement action, pursuant to Sections 2-07, 2-08 and 2-10, respectively, of the PPB Rules.

## 23. Affirmative Action and Equal Employment Opportunity

This Invitation for Bids is subject to applicable provisions of Federal, State and local laws and executive orders requiring affirmative action and equal employment opportunity.

## 24. VENDEX Questionnaire

**a.** New York City Administrative Code Section 6-116.2 and the PPB Rules require that if a bid is two hundred fifty thousand dollars ($250,000) or more, or if a bid, when added to the sum total value of all contracts, concessions and franchises the bidder has received from the City within the past twelve (12) months, in addition to any subcontracts the bidder has entered into with a City contractor within the past twelve (12) months, equals or exceeds two hundred fifty thousand dollars ($250,000), then the bidder must submit information in PASSPort. Information and instructions for PASSPort may be found at https://www.nyc.gov/site/mocs/passport/about-passport.page. The bidder's information must be completed and submitted in PASSPort before any award can be made, or before an approval is given for a proposed subcontractor. Information provided in PASSPort is subject to review by the City's Department of Investigation. Non-compliance with these submission requirements may result in the rejection of the bid, withdrawal of approval of a proposed subcontractor, subsequent withdrawal of approval for the use of an approved subcontractor, or the cancellation of the Contract after its award. PASSPort disclosures are valid for three years from the date of e-signature. Any questions concerning PASSPort must be submitted to MOCS at passport@mocs.nyc.gov.

**b.** PASSPort Fees. Pursuant to PPB Rules Section 2-08(f)(2), the Contractor will be charged a fee for the administration of the PASSPort system, including the Vendor Name Check process if a Vendor Name Check is required to be conducted by the City Department of Investigation. The contractor shall also be required to pay the applicable required fees for any of its subcontractors for which Vendor Name Check reviews are required. The fee(s) will be deducted from payments made to the Contractor under the Contract. For contracts with an estimated value of less than or equal to one million dollars ($1,000,000), the fee will be one hundred and seventy-five dollars ($175). For contracts with an estimated value of greater than one million dollars ($1,000,000), the fee will be three hundred and fifty dollars ($350).

## 25. Complaints About the Bid Process

The New York City Comptroller is charged with the audit of contracts in New York City. Any vendor who believes that there has been unfairness, favoritism or impropriety in the bid process should inform the Comptroller, Office of Contract Administration, One Centre Street, Room 1005, New York, New York, 10007; telephone number (212) 669-2323; email address contract@comptroller.nyc.gov

## 26. Bidder Responsibilities and Qualifications

**a.** Before or after making an award of Contract, the Agency reserves the right to inspect the premises where services are to be performed.

**b.** The Agency may require any bidder or prospective bidder to furnish all books of account, records, vouchers, statements or other information concerning the bidder's financial status for examination as may be required by the Agency to ascertain the bidder's responsibility and capability to perform the Contract. The bidder or prospective bidder shall also furnish evidence that it has secured the necessary licenses, permits or certificates that are required by any legislative or regulatory body having jurisdiction, to carry on the business of furnishing the services on which the bid was submitted. If required, a bidder must also submit a sworn statement setting forth such information as the Agency may require concerning present and proposed personnel and qualifications of its working organizations, prior experience and performance record.

**c.** Oral Examination on Qualifications – In addition thereto, and when directed by the Agency, the bidder, or a responsible officer, agent or employee of the bidder, must submit to an oral examination to be conducted by the Agency in relation to its proposed tentative plan and schedule of operations, and such other matters as the Agency may deem necessary in order to determine the bidder's ability and responsibility to perform the work in accordance with the Contract. Each person so examined must sign and verify a stenographic transcript of such examination noting thereon such corrections as such person may desire to make.

**d.** If the bidder fails or refuses to supply any of the documents or information set forth in paragraph (b) hereof or fails to comply with any of the requirements thereof, or if, upon examination of such evidence or other inspection of the plant or premises, it is found that the bidder does not comply with the requirements set forth in this Contract, the Agency may reject the bid. Should the non-compliance be discovered after the award is made, the Commissioner shall have the right to cancel and terminate this Contract and/or declare the Contractor in default, in addition to any other remedies provided by contract or at law or equity.

## 27. Department of Small Business Services, Division of Labor Services

**a.** Who must file a complete Employment Report. In accordance with New York City Charter Chapter 56, Executive Order No. 50 (1980), and its implementing rules, the filing of a completed Employment Report is a requirement of doing business with the City of New York if you meet all of the following conditions:

i. you have been identified as the lowest bidder for a supply or service contract or your proposal for supplies or services has been accepted;
ii. the contract value exceeds $100,000; and

iii. your firm employs 50 or more people.

Please note that suppliers, subcontractors or vendors performing on the Contract who meet conditions 2 and 3 must also file an Employment Report.

If you are the awarded vendor, you will be required to submit an Employment Report.

**b.** Who must file a "Less Than 50 Employees Certificate"

i. If your company or any of its facilities performing on the Contract has fewer than 50 employees, although the contract value exceeds $100,000, you need only submit a "Less Than 50 Employees Certificate".

ii. If there is a subcontractor, supplier or vendor to the prime contractor and any of its facilities performing on the Contract that has fewer than 50 employees, although the subcontract value exceeds $100,000, it need only submit the "Less Than 50 Employees Certificate".

**c.** The Department of Small Business forms and instructions for Employment Reports can be downloaded at:

http://www1.nyc.gov/site/sbs/businesses/contract-compliance.page

**28. Sales, Excise and Federal Transportation Taxes**

Unless this Contract indicates otherwise, the City is exempt from the payment of federal, New York State, and local taxes. Bid prices shall exclude such taxes and shall be so construed.

**29. Estimates of Quantity**

**a.** Bidders are advised that the City's estimate of quantities of the various items of Service is approximate only, given solely to be used as a uniform basis for the comparison of bids, and is not to be considered a part of this Contract. The quantities actually required to complete the contract work may be more or less than so estimated, and if so, no action for damages or for loss of profits shall accrue to the contractor by reason thereof.

**b.** Unit prices for bid items shall not vary notwithstanding any increase or reduction in the amount of services to be performed and no claims for damages shall be made or allowed by reason of such increase or reduction.

**30. Prompt Payment**

**a.** The Prompt Payment provisions of the PPB Rules in effect at the time of this solicitation will be applicable to payments made under this Contract. The provisions require the

payment to contractors of interest on payments made after the required payment date except as set forth in the PPB Rules.

**b.** The contractor must submit a proper invoice to receive payment, except where the contract provides that the contractor will be paid at predetermined intervals without having to submit an invoice for each scheduled payment.

**c.** Determinations of interest due will be made in accordance with the provisions of the PPB Rules.

## 31. MacBride Principles Provisions

ARTICLE I. MacBride Principle - Notice to All Prospective Contractors

**a.** Local Law No. 34 of 1991 became effective on September 10, 1991 and added section 6-115.1 to the Administrative Code of the City of New York. The local law provides for certain restrictions on City contracts to express the opposition of the people of the City of New York to employment discrimination practices in Northern Ireland and to encourage companies doing business in Northern Ireland to promote freedom of workplace opportunity.

**b.** Pursuant to Section 6-115.1, prospective contractors for contracts to provide goods or services involving an expenditure of an amount greater than ten thousand dollars, or for construction involving an amount greater than fifteen thousand dollars, are asked to sign a rider in which they covenant and represent, as a material condition of their contract, that any business operations in Northern Ireland conducted by the contractor and any individual or legal entity in which the contractor holds a ten percent or greater ownership interest and any individual or legal entity that holds a ten percent or greater ownership interest in the contractor will be conducted in accordance with the MacBride Principles of nondiscrimination in employment.

**c.** Prospective contractors are not required to agree to these conditions. However, in the case of contracts let by competitive sealed bidding, whenever the lowest responsible bidder has not agreed to stipulate to the conditions set forth in this notice and another bidder who has agreed to stipulate to such conditions has submitted a bid within five percent of the lowest responsible bid for a contract to supply goods, services or construction of comparable quality, the contracting entity shall refer such bids to the Mayor, the Speaker or other officials, as appropriate, who may determine, in accordance with applicable law and rules, that it is in the best interest of the City that the contract be awarded to other than the lowest responsible bidder pursuant to Section 313(b)(2) of the City Charter.

**d.** In the case of contracts let by other than competitive sealed bidding, if a prospective contractor does not agree to these conditions, no agency, elected official or the Council

shall award the contract to that bidder unless the entity seeking to use the goods, services or construction certifies in writing that the contract is necessary for the entity to perform its functions and there is no other responsible contractor who will supply goods, services or construction of comparable quality at a comparable price.

PART A

In accordance with section 6-115.1 of the Administrative Code of the City of New York, the contractor stipulates that such contractor and any individual or legal entity in which the contractor holds a ten percent or greater ownership interest and any individual or legal entity that holds a ten percent or greater ownership interest in the contractor either (a) have no business operations in Northern Ireland, or (b) take 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.

PART B

For purposes of this section, the following terms shall have the following meanings:

**a.** "MacBride Principles" means those principles relating to nondiscrimination in employment and freedom of workplace opportunity which require employers doing business in Northern Ireland to:

i. Increase the representation of individuals from underrepresented religious groups' work force, including managerial, supervisory, administrative, clerical and technical jobs;
ii. Take steps to promote adequate security for the protection of employees from underrepresented religious groups both at the workplace and while traveling to and from work;
iii. Ban provocative religious or political emblems from the workplace;
iv. Publicly advertise all job openings and make special recruitment efforts to attract applicants from underrepresented religious groups;
v. Establish layoff, recall and termination procedures which do not in practice favor a particular religious group;
vi. Abolish all job reservations, apprenticeship restrictions and different employment criteria that discriminate on the basis of religion;
vii. Develop training programs that will prepare substantial numbers of current employees from underrepresented religious groups for skilled jobs, including the expansion of existing programming and the creation of new programs to train, upgrade and improve the skills of workers from underrepresented religious groups;
viii. Establish procedures to assess, identify and actively recruit employees from underrepresented religious groups with potential for further advancement;

and

ix. Appoint a senior management staff member to oversee affirmative action efforts and develop a timetable to ensure their full implementation.

ARTICLE II. Enforcement of Article I (MacBride Principles Provisions)

The contractor agrees that the covenants and representations in Article I above are material conditions to this contract. In the event the contracting entity receives information that the contractor who made the stipulation required by this section is in violation thereof, the contracting entity shall review such information and give the contractor an opportunity to respond. If the contracting entity finds that a violation has occurred, the entity shall have the right to declare the contractor in default and or terminate this contract for cause and procure the supplies, services or work from another source in any manner the entity deems proper. In the event of such termination, the contractor shall pay to the entity, or the entity in its sole discretion may withhold from any amounts otherwise payable to the contractor, the difference between the contract price for the uncompleted portion of this contract and the cost of the contracting entity of completing performance of this contract itself or by engaging another contractor shall be liable for such difference in price for the entire amount of supplies required by the contracting entity for the uncompleted term of its contract. In case of a construction contract, the contracting entity shall also have the right to hold the contractor, and/or may see debarment or suspension of its contractor. The rights and remedies of the entity hereunder shall be in addition to, and not lieu of any rights and remedies the entity has pursuant to this contract or by operation of law.

# SECTION III: COVER AGREEMENT

## ARTICLE 1. DEFINITIONS

As used throughout this Agreement, the following terms shall have the meaning set forth below:

a. "Administrator" or "Commissioner" or “Agency Head” means the Commissioner of the Office of Technology and Innovation.

b. "Agency Chief Contracting Officer" or “ACCO” means the position delegated authority by the Commissioner to organize and supervise the procurement activity of subordinate Agency staff in conjunction with the CCPO.

c. "City" means The City of New York, and its agencies as defined in Section 1150 of the City Charter.

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 ACCO.

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

f. "Contract" or “Agreement” means the following, except for such portions thereof as may be specifically excluded:

    1. The Timetable, Notice to Bidders and Checklist;
    2. The Bid Procedures and Requirements;
    3. The Cover Agreement;
    4. The Appendices;
    5. The Attachments;
    6. The Bid Package
    7. All addenda issued by the Commissioner prior to the receipt of all bids;
    8. All provisions required by law to be inserted in the Contract whether y inserted or not;
    9. Notice of Award.
    10. Notice to Proceed with Work (Commence Work Order Letter).

g. The Contractor shall also be referred to as "it" whether such Contractor be an individual, partnership or corporation.

h. "Department" and "Agency" mean the Office of Technology and Innovation.

i. "Law" or "Laws" include but are not limited to the Constitutions of the United States and the State of New York, the New York City Charter, the New York City Administrative Code (“Admin. Code”), any Local Law of the City of New York, any State or Federal Law, and any City, State or Federal rule or regulation or judicial or executive order having the force or law.

j. “Procurement Policy Board” or “PPB” means the board established pursuant to Charter §311 whose function it is to establish comprehensive and consistent procurement policies and rules which shall have broad application throughout the City. The PPB Rules are set forth in Title 9 of the Rules of the City of New York (“RCNY”), §1-01 et seq.

## ARTICLE 2. SCOPE OF WORK

The Contractor agrees to perform all services described in the specifications attached hereto in Appendix B.4.2.

## ARTICLE 3. PERIOD OF PERFORMANCE

The period of performance of the Contract shall be for three (3) years following the date of official notification to proceed, after registration of the Contract pursuant to Charter section 328. The Contract will include two (2) two-year options to renew at the City's sole discretion. In the event of a renewal, the City assumes that Contract Year Three rates will apply to each renewal period.

## ARTICLE 4. PAYMENT

4.1 The City agrees to pay and the Contractor agrees to accept, as full payment for the complete and satisfactory performance of the services required herein, an amount not to exceed $_____, such amount being based upon the Contractor's Bid for the work or services required as set forth in the Proposal for Bid, and in the case where such bid is a unit price, upon the quantity, volume, amount or period of work or services on materials estimated by the Department to be required multiplied by such Unit Bid Price. Any such estimated quantity, volume, amount or period of work or services or materials is an estimate based upon experience. The Department shall neither be required to order any quantity or amount or period thereof, nor shall it be limited to any such estimate, but the quantity or amount or period ordered and paid for shall be that which is actually required by the Department and provided by the Contractor.

4.2 The Contractor shall submit numbered invoices for payment on a monthly basis, unless otherwise agreed. Such invoices shall set forth the services for which payment is requested, and approval thereof by the Department shall be a prerequisite to set-off as may be set forth in this Agreement and in this Agreement and in the specifications attached hereto.

4.3 Omitted.

4.4 If the Contractor intends to increase the hourly wage rate for a title(s), then the following shall apply: Pricing will remain firm during the initial year of the Agreement term after which unit price(s) for categories itemized in the Agreement may be increased annually, beginning 12 months after the start date of the Agreement. The unit price(s) of products(s) or service(s) may be subject to a maximum increase equal to the percent increase in the latest copy of the National Consumer Price Index for All Urban Consumers (CPI-U), as published by the U.S. Department of Labor, Bureau of Labor Statistics. The Contractor is solely responsible for requesting a price increase and providing justification for such price increase. The Contractor must send the request in writing, on company letterhead to the MOME contact named in the Agreement. The request must substantiate the requested change in price, include the price adjustment calculations, and must be signed by an officer and/or duly authorized representative of the company. MOME has the right to accept or reject the price increase request. Price adjustments will only be effective

upon written approval by MOME and will not be applied retroactively. Price change requests, if approved, will affect future services only. Any order that has already been placed will reflect the then-current price. For the avoidance of doubt, the Contractor's overhead and profit percentage shall remain the same throughout the duration of the Term and shall not be increased.

## ARTICLE 5. INTENTIONALLY OMITTED

## ARTICLE 6. BONDS, INSURANCE AND LIQUIDATED DAMAGES

6.1 General Requirements for Insurance Coverage and Policies:

A. Types of Insurance: the insurance requirements in this IFB are regarded as a material term of the Agreement. The Contractor must maintain the types of insurance at the coverage levels indicated in Schedule A below. Such insurance shall be maintained from the date the Contractor is required to provide Proof of Insurance pursuant to this Article 6 through the date of completion of all required Work.

B. No policy shall have a self-insured retention above $50,000 unless expressly authorized in writing by the Commissioner.

6.2 Liquidated Damages

Liquidated damages for failure to perform the work in compliance with the terms of this Agreement may be assessed by the Department against the Contractor in accordance with Appendix A and APPENDIX B.5.2 – LIQUIDATED DAMAGES. Neither the failure to assess liquidated damages nor the granting of any time extension shall operate as a waiver or release of any claim the City may have against the Contractor for either actual or liquidated damages.

## ARTICLE 7. PROVISIONS RELATING TO LABOR

7.1 Supervision by Contractor

A. The Contractor shall give its personal supervision to the work or have a competent manager, foreman or supervisor, satisfactory to the Commissioner, assigned to the work at all times during performance of the Contract, with authority to act for the Contractor.

B. In the performance of the Contract, the Contractor shall utilize competent and qualified persons. All such persons are the employees of the Contractor and not of the City and the Contractor shall be responsible for their acts, personal conduct and work.

C. All services shall be performed in a skillful and workmanlike manner. The Commissioner may require, and the Contractor must agree to, the removal from the work of any of the Contractor's personnel or of its subcontractor's personnel deemed incompetent, careless or otherwise objectionable by the Commissioner.

7.2 Prohibited Acts

The Contractor shall not employ any labor, or utilize materials or means which, during the course of this Agreement and the Contract, may in any way tend to cause or result in strikes, work stoppages, delays, suspension of work or similar troubles by any workman employed by the Contractor, or by any of the trades working in or about the buildings or any premises where work is being performed under this Agreement or the Contract, or by contractors or their subcontractors pursuant to other agreements or contracts, or on any other building or premises owned or operate by the City of New York, its agencies, departments, boards or authorities. Any violation by the Contractors of these requirements shall be considered as proper and sufficient cause for declaring the Contractor to be in default.

7.3 Notice of Labor Disputes

Whenever the Contractor has knowledge that any actual or potential labor dispute is delaying or threatens to delay the timely performance of this Contract, the Contractor shall immediately give notice to the Department, including all relevant information with respect thereto.

7.4 Minimum Wage and Working Conditions

A. Intentionally Omitted

B. No part of work, labor or services will be performed or rendered by the Contractor in any plants, factories, buildings or surrounding or working under conditions which are unsanitary or hazardous or dangerous to the health and safety of employees engaged in the performance of this Contract. Compliance with the safety, sanitary and factory inspection laws of the State in which the work is to be performed shall be prima facie evidence of compliance with this paragraph.

C. For any breach or violation of any of the provisions of Paragraph 7.4.B., above, the Contractor shall be liable to the City for liquidated damages, which may be recovered in suits brought by the Corporation Counsel of the City of New York in name of the City, in addition to damages for any other breach of this Contract, in a sum equal to the amount of any underpayment of wages due to any employee engaged in the performance of this Contract. In addition, the Administrator shall have the right to cancel this Contract for violation of this clause and to enter into other contracts for the completion of this Contract, charging any additional cost to the Contractor. All sums withheld or recovered as deductions, rebates, or refunds underpayment of wages in violation of the provisions of this clause, shall be without interest, on order of the City Commissioner of Labor, directly to the employees who have been paid less than minimum rates of pay as set forth herein and/or from whose account such sums were withheld or recovered, provided that no claims by employees for such payments shall be entertained unless made within one

year from the date of actual notice to the Contractor of the withholding or recovery of such sums by the City.

## ARTICLE 8. CONFIDENTIALITY AND SECURITY

The confidentiality and security requirements for the Contractor are set forth in Appendix A and in Attachment SCY.

## ARTICLE 9. INTENTIONALLY OMITTED

## ARTICLE 10. COVENANTS OF THE CONTRACTOR

10.1 Intentionally Omitted

10.2 Subcontracting

A. The Contractor agrees to enter into any subcontracts in accordance with Section 3.02 of Appendix A.

B. The Contractor shall not in any way be relieved of any responsibility under this Contract by any subcontract.

10.3 License for Use

If the Contractor publishes a work dealing with any aspect of performance under this Agreement, or of the results and accomplishment attained in such performance, the Department shall have a royalty free, non-exclusive and irrevocable license to reproduce, publish or otherwise use and authorize others to use the publication.

## ARTICLE 11. EXECUTORY CONTRACT

The Contract shall be deemed executory only to the extent of the monies appropriated and available for the purpose of the Contract, and no liability on account thereof shall be incurred by the City or the Department beyond the amount of such monies. It is understood that neither the Contract nor any representation by any public employee or officer, creates any legal or moral obligation to request appropriations or make available monies for the purpose of the Contract.

## ARTICLE 12. EXTENSION OF TIME FOR PERFORMANCE

12.1 Upon written application by the Contractor, the Agency Chief Contracting Officer may grant an extension of time for performance of the Contract. Said application, must state, at a minimum, in detail, each cause for delay, the date on which the cause of the alleged delay occurred, and the total number of days of delay attributable to such cause.

12.2 The ruling of the Agency Chief Contracting Officer shall be final and binding as to the allowance of an extension and the number of days allowed.

## ARTICLE 13. ENTIRE AGREEMENT

Other than any provisions required by law to be inserted in the Contract whether actually inserted or not, this written Agreement and the Contract, including any attachments or references which have been incorporated therein, contain all the terms and conditions agreed upon by the parties thereto, and no other agreement, written, oral or otherwise regarding the subject matter of this Agreement and the Contract shall be deemed to exist or to bind any of the parties thereto, or to vary any of the terms and conditions contained therein. If any provision(s), paragraph(s) or subparagraph(s) of this Article, this Agreement or the Contract is held unenforceable for any reason, each and all other provision(s) shall nevertheless remain in full force and effect. During the term of the Agreement, any conflicts between the various documents shall be resolved in the following order of precedence:

1. Notice of Award.
2. The Cover Agreement;
3. Schedule I;
4. Appendix B;
5. Appendix A;
6. The Attachments;
7. The Bid Package
8. The Bid Procedures and Requirements;
9. The Timetable, Notice to Bidders and Checklist;
10. All addenda issued by the Commissioner prior to the receipt of all bids;

**TEMPORARY TECHNICAL SERVICES FOR THE MAYOR'S OFFICE OF MEDIA AND ENTERTAINMENT**

| | |
|---|---|
| **BID BOND/SECURITY**<br><br>The Contractor shall obtain a bid bond or bid security in the amount indicated to the right. For Bid Bond Form see Item 3 in Section IV. | Not applicable |
| **PERFORMANCE BONDS**<br><br>The Contractor shall obtain performance security in the amount indicated to the right. | Not applicable |
| **PAYMENT BONDS**<br><br>The Contractor shall obtain payment security in the amount indicated to the right. | Not applicable |
| **ARTICLE 6**<br>**LIQUIDATED DAMAGES**<br><br>Liquidated damages for failure to perform the work in compliance with the terms of this shall be assessed by the Department against the Contractor. The Contractor shall pay to the City as indicated to the right. | $25 for each hour or part thereof without the appearance of a temporary employee, beginning 24 hours after Notification by MOME, for up to 24 hours.<br><br>$25 for each hour or part thereof without the appearance of replacement personnel, beginning two (2) hours after Notification by MOME, for up to 24 hours. |
| **INSURANCE**<br>(Per Minimum Limits and Special Conditions above) | |
| **M/WBE GOALS**<br><br>The Contractor shall adhere to the goal(s) indicated to the right. | [ X ] YES [ ] NO<br><br>**If "YES," the Total Participation Goal**<br><br>Percentage = 30 % of the Total Contract Value |
| **APPRENTICESHIP PROGRAM** | Not applicable. |

| | |
|---|---|
| The Contractor shall comply with the Apprenticeship Program requirement, as indicated to the right. See Item 10 in Section IV. | |

## SECTION IV - BID PACKAGE

BID SUBMISSION REQUIREMENTS

**In addition to the Agreement and all its attachments, the following documents are to be completed and submitted with the bid:**

**Item 1: Bid Form.** The bidder is required to sign the bid in ink. All corrections must be initialed.

**Item 2: Bid Sheets.** Bid Sheets, which can be downloaded from PASSPort, must be printed, completed and signed by an authorized person representing the bidder, the corporate seal must be affixed, and the form must be notarized. The Bid Sheet is located in the Documents section in the View RFx tab. Bidders must download blank Excel file, complete each sheet of the form as instructed therein and upload the completed Price Proposal Template in the Documents tab of the RFx response. The proposer must also enter the Total Year 1 through 3 value from the Bid Sheet into the Item grid in PASSPort. **The bidder is required to sign the bid in ink. All corrections must be initialed**. **I**n the event of a discrepancy between the unit price and the extended price, the unit price shall prevail.

**Item 3: Bid Security** (if required in Schedule I of the Agreement). **The bidder is advised that Bid Security and Payment/Performance Bonds are not required for this Contract.**

**Item 4: Affirmation. The Affirmation is not required with the Bid Package, as it is included as part of Appendix A to the Agreement.**

**Item 5: Minimum Qualification Requirements**

**Item 6: Certification of Minimum Qualifications**

**Item 7: Experience Questionnaire**

**Item 8: M/WBE Utilization Plan and Notice to All Prospective Contractors**

**Item 9: Acknowledgement of Addenda**

**Item 10: Certification as to Legal Authority**

**Failure to submit the above items, or any portion thereof, may result in the disqualification of the bid.**

## ITEM 1: BID FORM

**THE CITY OF NEW YORK**
**OFFICE OF TECHNOLOGY AND INNOVATION**
**EPIN:**

## TEMPORARY TECHNICAL SERVICES FOR THE MAYOR'S OFFICE OF MEDIA AND ENTERTAINMENT

**Name of Bidder: _____**

**Date of Bid Opening: _____**

**Bidder is: Individual__ Partnership__ Corporation __ Other: _____**
**(Check one, whichever applies)**

**Federal Tax ID: _____**

**Place of Business of Bidder: _____**

**Bidder's Telephone Number and Fax Number: _____**

**Residence of Bidder (If Individual): _____**

**(If bidder is a partnership, fill in the following blanks:)**

| NAME OF PARTNERS | RESIDENCE OF PARTNERS |
|---|---|
| _____ | _____ |
| _____ | _____ |

**(If bidder is a corporation, fill in the following blanks:)**

**Organized under the laws of the State of _____**

**Name and Home Address of the President: _____**

**_____**

**Name and Home Address of the Secretary: _____**

**_____**

**Name and Home Address of the Treasurer: _____**

**_____**

## BID FORM

_____

The above-named bidder affirms and declares:

1. The said bidder is of lawful age and the only one interested in this bid; and no person, firm or corporation other than hereinbefore named has any interest in this bid, or in the Contract proposed to be taken.

2. By submission of this bid, each bidder and each person signing on behalf of any bidder certifies, and in the case of a joint bid each party thereto certifies as to its own organization, under penalty of perjury, that to the best of its knowledge and belief: (1) the prices in this bid have been arrived at independently without collusion, consultation, communication or agreement, for the purpose of restricting competition, as to any matter relating to such prices with any other bidder or with any competitor; (2) unless otherwise required by law, the prices quoted in this bid have not been knowingly disclosed by the bidder and will not knowingly be disclosed by the bidder prior to opening, directly or indirectly, to any other bidder or to any competitor; and (3) No attempt has been made or will be made by the bidder to induce any other person, partnership or corporation to submit or not to submit a bid for the purpose of restricting competition.

3. No councilman or other officer or employee or person whose salary is payable in whole or in part from the City Treasury is directly or indirectly interested in this bid, or in the supplies, materials, equipment, work or labor to which it relates, or in any of the profits thereof.

4. The bidder is not in arrears to the City of New York upon debt or contract or taxes, and is not a defaulter, as surety or otherwise, upon any obligation of the City of New York, and has not been declared not responsible, or disqualified, by any agency of the City of New York or State of New York, nor is there any proceeding pending relating to the responsibility or qualification of the bidder to receive public contracts except as set forth on the Affirmation included in this Invitation for Bids. The bidder hereby affirms that it has paid all applicable City income, excise and other taxes for all years it has conducted business activities in New York City.

5 The bidder, as an individual, or as a member, partner, director or officer of the bidder, if the same be a firm, partnership or corporation, executes this document expressly warranting and representing that should this bid be accepted by the City and the Contract awarded to him, he and his subcontractors engaged in the performance: (1) will comply with the provisions of Section 6-108 of the Administrative Code of the City of New York and the non-discrimination provisions of Section 220a of the New York State Labor Law, as more expressly and in detail set forth in the Agreement; (2) will comply with Section 6-109 of the Administrative Code of the City of New York in relation to minimum wages and other stipulations as more expressly and in detail set forth in the Agreement; (3) have complied with the provisions of the aforesaid laws since their respective effective dates, and (4) will post notices to be furnished by the City, setting forth the requirements of the aforesaid laws in prominent and conspicuous places in each and every plant, factory, building and structure where employees engaged in the performance of the Contract can readily view it, and will continue to keep such notices posted until the supplies, materials and equipment, or work labor and services required to be furnished or rendered by the Contractor have been finally accepted by the City. In the event of any breach or violation of the foregoing, the Contractor may be subject to damages, liquidated or otherwise, cancellation of the Contract and suspension

as a bidder for a period of three years. (The words, "the bidder", "he", "his", and "him" where used herein means the individual bidder, firm, partnership or corporation executing this bid).

6. Compliance Report
The bidder, as an individual, or as a member, partner, director, or officer of the bidder, if the same be a firm, partnership, or corporation, (1) represents that his attention has been specifically drawn to Executive Order No. 50, dated, April 25, 1980, on Equal Employment Compliance of the contract, and (2) warrants that he will comply with the provisions of Executive Order No. 50. The Employment Report must be submitted before the award of the Contract.

The bidder, as an individual, or as a member, partner, director, or officer of the bidder, if the same be a firm, partnership, or corporation, executes this document expressly warranting that he will comply with:

(1) the provision of the contract on providing records, Chapter 8.

7. By submission of this bid, the bidder certifies that it now has and will continue to have the financial capability to fully perform the work required for this contract. Any award of this contract will be made in reliance upon such certification. Upon request therefore, the bidder will submit written verification of such financial capability in a form that is acceptable to the Department.

8. In accordance with Section 165 of the State Finance Law, the bidder agrees that tropical hardwoods, as defined in Section 165 of the State Finance Law, shall not be utilized in the performance of this Contract, except as the same are permitted by the foregoing provision of law.

9. The bidder has visited and examined the site of the work and has carefully examined the Contract in the form approved by the Corporation Counsel, and will execute the Contract and perform all its items, covenants and conditions, and will provide, furnish and deliver all the work, materials, supplies, tools and appliances for all labor and materials necessary or required for the hereinafter named work, all in strict conformity with the Contract, for the price set forth herein.

## BID FORM

_____

The above-named bidder affirms and declares:

---

**AFFIDAVIT WHERE BIDDER IS AN INDIVIDUAL**

**STATE OF NEW YORK, COUNTY OF_____ ss:**
**_____ being duly sworn says:**
**I am the person described in and who executed the foregoing bid, and the several matters therein stated are in all respects true.**

**_____**
**(Signature of the person who signed the Bid)**
**Subscribed and sworn to before me this**
**_____ day of_____, _____**

**_____**
**Notary Public**

---

**AFFIDAVIT WHERE BIDDER IS A PARTNERSHIP**

**STATE OF NEW YORK, COUNTY OF_____ ss:**
**_____ being duly sworn says:**
**I am a member of _____ the firm described in and which executed the foregoing bid. I subscribed the name of the firm thereto on behalf of the firm, and the several matters therein stated are in all respects true.**

**_____**
**(Signature of Partner who signed the Bid)**
**Subscribed and sworn to before me this**
**_____ day of_____, _____**

**_____**
**Notary Public**

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**AFFIDAVIT WHERE BIDDER IS A CORPORATION**

**STATE OF NEW YORK, COUNTY OF_____:**
**_____ being duly sworn says:**
**I am the _____ of the above-named corporation whose name is subscribed to and which executed the foregoing bid. I reside at _____**
**I have knowledge of the several matters therein stated, and they are in all respects true.**

**_____**
**(Signature of Corporate Officer who signed the Bid)**
**Subscribed and sworn to before me this**

**_____ day of_____, _____**

**_____**
**Notary Public**

## ITEM 2: BID SHEETS

Complete and submit the Bid Sheets, which are provided with this Invitation for Bids as a Microsoft Excel spreadsheet that can be downloaded from PASSPort. The Bid Sheet is located in the Documents section in the View RFx tab. Bidders must download blank Excel file, complete each sheet of the form as instructed therein and upload the completed Price Proposal Template in the Documents tab of the RFx response. The proposer must also enter the Total Year 1 through 3 value from the Bid Sheet into the Item grid in PASSPort.

**NOTE**: The City is exempt from the payment of sales and excise taxes, and if a price for goods or materials is required as part of this solicitation, the price bid shall be net, exclusive of taxes, and shall be so construed.

**ITEM 3 AND ITEM 4 NOT REQUIRED FOR THIS CONTRACT**

## ITEM 5: MINIMUM QUALIFICATION REQUIREMENTS

The following are the minimum qualifications for bidders:

A. Bidder must have at least three (3) years demonstrated experience in providing services comparable to those described in this solicitation. Such experience must be supported by providing the required information in the **Experience Questionnaire (Item 5**) including the **Project List (Question 15 in Item 5)**.
B. Bidders must complete and include with their bid submission the customer reference forms in the **Minimum Qualification Requirements – Customer References (below in this Item 3)**, providing a minimum of three (3) verifiable customer references for which the bidder has provided temporary personnel, including, but not limited to, production, post-production and broadcast operations, within the past three (3) years and who can verify the quality and scope of services performed. Include contact names, titles, phone numbers and contract periods, as well as the exact nature of the services provided.

***Bidders that fail to meet these minimum qualifications will be deemed non-responsive***.

**MINIMUM QUALIFICATION REQUIREMENTS - THREE (3) VERIFIABLE CUSTOMER REFERENCES**

To demonstrate compliance with the Minimum Qualification Requirements described in the Bid Document, please identify on this page a minimum of three (3) verifiable customer references, including the name(s) of the organization, the contract name and title, location(s), telephone number, email address, contract period and information about services provided. The references should be for three of your largest and most recent customers; if possible, include customers representing the Federal or any State or City government, or a quasi-public corporation. If a bidder is unable to furnish verifiable references, its bid may be rejected.

**Reference 1:**
Firm Name: _____

Address: _____

Customer Contract Name & Title: _____

Customer Contact Phone #: _____

Customer Contact Email: _____

Contract Period: _____

Work Performed: _____

**Reference 2:**
Firm Name: _____

Address: _____

Customer Contract Name & Title: _____

Customer Contact Phone #: _____

Customer Contact Email: _____

Contract Period: _____

Work Performed: _____

**Reference 3:**
Firm Name: _____

Address: _____

Customer Contract Name & Title: _____

Customer Contact Phone #: _____

Customer Contact Email: _____

Contract Period: _____

Work Performed: _____

## ITEM 6: CERTIFICATION OF MINIMUM QUALIFICATIONS

1. Bidder has had at least three (3) years' experience in providing temporary personnel in work categories similar to those described in this solicitation.
   a. Yes _____
   b. No _____
2. The bidder has provided a list of at least three (3) references in Item 3 for which services (following the requirements stated in Item 3) have been supplied within the past three (3) years and who can verify the quality and scope of services performed.
   a. Yes _____
   b. No _____

## ITEM 7: EXPERIENCE QUESTIONNAIRE

To demonstrate compliance with the Minimum Qualification Requirements described in the Bid Document, please provide the following information:

1. Applicant (Firm/Individual): _____
2. Address, City & State, Zip: _____
3. Federal Tax ID: _____
4. Number of Years in Business: _____
5. State the general nature of the service you desire to bid upon: _____
6. Number of years at present address: _____
7. If incorporated, state date and state of incorporation: _____

   (If not a domestic corporation, attach a copy of the Certificate of Authority issued by the Secretary of State of the State of New York pursuant to the Business Corporation Law.)

8. List names and addresses of all officers of the corporation (add more rows if needed or include as additional names in addendum):

   Name: _____
   Address: _____
   Title: _____

9. Are you a partnership? _____ (insert yes or no). If yes, list the names and addresses of all partners (add more rows if needed or include additional names in addendum):

   _____
   _____
   _____

10. If you are doing business under a trade name, give the state and county in which the certificate is filed:

    _____ _____
    State County
    (If the certificate is filed outside New York City, attach a certified copy of the certificate.)
11. Average number of employees: _____
12. Do you share working premises with any other firm(s): _____ (insert yes or no). If yes, give the name of the other firm(s): _____

13. Have you ever bid on City of New York business under another name: _____ (insert yes or no). If yes, list below the name(s):

    _____

14. What is the relevant experience of the principal individuals of your organization?

| Individual's Name | Present Position or Office | Years of Experience | Magnitude & Type of Work |
|---|---|---|---|
| _____ | _____ | _____ | _____ |
| _____ | _____ | _____ | _____ |
| _____ | _____ | _____ | _____ |
| _____ | _____ | _____ | _____ |
| _____ | _____ | _____ | _____ |

15. WHAT PROJECTS HAS YOUR ORGANIZATION COMPLETED WITHIN THE LAST THREE (3) YEARS

| Project Identification & Nature of Contract | Name & Address of Owner | Contract Amount ($000) | Date Started | Original Scheduled Completion Date | Actual Completion Date | If not completed by Original Scheduled Completion Date, give the reason |
|---|---|---|---|---|---|---|
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16. WHAT PROJECTS DOES YOUR ORGANIZATION CURRENTLY HAVE UNDER CONTRACT

| Project Identification & Nature of Contract | Name & Address of Owner | Contract Amount ($000) | Date Started | Contract Time | % Contract Time Elapsed as of this date | % Work Completed as of this date | If % of Elapsed Time is in excess of Work Completed, give the reason |
|---|---|---|---|---|---|---|---|
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17. Bank References (Name, Address, Contact and Phone Number):

_____

_____

The undersigned hereby certifies the truth and accuracy of all figures and answers contained in this application and hereby authorizes OTI to make any necessary examination of the books of account, records and vouchers of the bidder to determine its responsibility.

_____
Signature of Applicant

_____
Title

STATE OF ( )
SS.:
COUNTY OF ( )
Sworn to before me

This _____ day of_____, 20___

_____
Notary Public or Commissioner of Deeds

**ITEM 8: NOTICE TO ALL PROSPECTIVE CONTRACTORS AND M/WBE UTILIZATION PLAN**

## PARTICIPATION BY MINORITY-OWNED AND WOMEN-OWNED BUSINESS ENTERPRISES IN CITY PROCUREMENT

### ARTICLE I. M/WBE PROGRAM

**Section 6-129 of the Administrative Code of the City of New York ("Section 6-129") establishes the program for participation in City procurement ("M/WBE Program") by minority-owned business enterprises ("MBEs") and women-owned business enterprises ("WBEs"), certified in accordance with Section 1304 of the New York City Charter. As stated in Section 6-129, the intent of the program is to address the impact of discrimination on the City's procurement process, and to promote the public interest in avoiding fraud and favoritism in the procurement process, increasing competition for City business, and lowering contract costs. The contract provisions contained herein are pursuant to Section 6-129, and the rules of the Department of Small Business Services ("DSBS") promulgated thereunder.**

**If this Contract is subject to the M/WBE Program established by Section 6-129, the specific requirements of MBE and/or WBE participation for this Contract are set forth in Schedule B of the Contract (entitled the "M/WBE Utilization Plan," immediately following this notice) and are detailed below.**

**The Contractor must comply with all applicable MBE and WBE requirements for this Contract.**

**All provisions of Section 6-129 are hereby incorporated in the Contract by reference and all terms used herein that are not defined herein shall have the meanings given such terms in Section 6-129.**

**References to MBEs or WBEs shall also include such businesses certified pursuant to the executive law where credit is required by section 311 of the New York City Charter or other provision of law.**

**Article I, Part A, below, sets forth provisions related to the participation goals for construction, standard and professional services contracts.**

**Article I, Part B, below, sets forth miscellaneous provisions related to the M/WBE Program.**

### PART A

### PARTICIPATION GOALS FOR CONSTRUCTION, STANDARD AND PROFESSIONAL SERVICES CONTRACTS OR TASK ORDERS

1. The **MBE and/or WBE Participation Goals** established for this Contract or Task Orders issued pursuant to this Contract, ("**Participation Goals**"), as applicable, are set forth on Schedule B, Part 1 to this Contract (see Page 1, Line 1 Total Participation Goals) or will be set forth on Schedule B, Part 1 to Task Orders issued pursuant to this Contract, as applicable.

**The Participation Goals represent a percentage of the total dollar value of the Contract or Task Order, as applicable, that may be achieved by awarding subcontracts to firms certified with DSBS as MBEs and/or WBEs, and/or by crediting the participation of prime contractors and/or qualified joint ventures as provided in Section 3 below, unless the goals have been waived or modified by Agency in accordance with Section 6-129 and Part A, Sections 10 and 11 below, respectively.**

2. If **Participation Goals** have been established for this Contract or Task Orders issued pursuant to this Contract, Contractor agrees or shall agree as a material term of the Contract that Contractor shall be subject to the **Participation Goals**, unless the goals are waived or modified by Agency in accordance with Section 6-129 and Part A, Sections 10 and 11 below, respectively.

3. If **Participation Goals** have been established for this Contract or Task Order issued pursuant to this Contract, a Contractor that is an MBE and/or WBE shall be permitted to count its own participation toward fulfillment of the relevant **Participation Goal**, provided that in accordance with Section 6-129 the value of Contractor's participation shall be determined by subtracting from the total value of the Contract or Task Order, as applicable, any amounts that the Contractor pays to direct subcontractors (as defined in Section 6-129(c)(13)), and provided further that a Contractor that is certified as both an MBE and a WBE may count its own participation either toward the goal for MBEs or the goal for WBEs, but not both.

**A Contractor that is a qualified joint venture (as defined in Section 6-129(c)(30)) shall be permitted to count a percentage of its own participation toward fulfillment of the relevant Participation Goal. In accordance with Section 6-129, the value of Contractor's participation shall be determined by subtracting from the total value of the Contract or Task Order, as applicable, any amounts that Contractor pays to direct subcontractors, and then multiplying the remainder by the percentage to be applied to total profit to determine the amount to which an MBE or WBE is entitled pursuant to the joint venture agreement, provided that where a participant in a joint venture is certified as both an MBE and a WBE, such amount shall be counted either toward the goal for MBEs or the goal for WBEs, but not both.**

4. A. If **Participation Goals** have been established for this Contract, a prospective contractor shall be required to submit with its bid or proposal, as applicable, a completed Schedule B, M/WBE Utilization Plan, Part 2 (see Pages 1-2) indicating: (a) whether the contractor is an MBE or WBE, or qualified joint venture; (b) the percentage of work it intends to award to direct subcontractors; (c) in cases where the contractor intends to award direct subcontracts, a description of the type and dollar value of work designated for participation by MBEs and/or WBEs, and the time frames in which such work is scheduled to begin and end; as well as the name, addresses, and telephone numbers of the M/WBE subcontractors if required by the solicitation; and (d) the prospective contractor's required certification and affirmations. In the event that this M/WBE Utilization Plan indicates that the bidder or proposer, as applicable, does not intend to meet the **Participation Goals**, the bid or proposal, as applicable, shall be deemed non-responsive, unless Agency has granted the bidder or proposer, as applicable, a pre-award waiver of the **Participation Goals** in accordance with Section 6-129 and Part A, Section 10 below.

B. (i) If this Contract is for a master services agreement or other requirements type contract that will result in the issuance of Task Orders that will be individually registered ("Master Services Agreement") and is subject to M/WBE Participation Goals, a prospective contractor shall be required to submit with its bid or proposal, as applicable, a completed Schedule B, M/WBE Participation Requirements for Master Services Agreements That Will Require Individually Registered Task Orders, Part 2 (page 2) indicating the prospective contractor's certification and required affirmations to make all reasonable good faith efforts to

meet participation goals established on each individual Task Order issued pursuant to this Contract, or if a partial waiver is obtained or such goals are modified by the Agency, to meet the modified Participation Goals by soliciting and obtaining the participation of certified MBE and/or WBE firms. In the event that the Schedule B indicates that the bidder or proposer, as applicable, does not intend to meet the Participation Goals that may be established on Task Orders issued pursuant to this Contract, the bid or proposal, as applicable, shall be deemed non-responsive.

(ii) Participation Goals on a Master Services Agreement will be established for individual Task Orders issued after the Master Services Agreement is awarded. If Participation Goals have been established on a Task Order, a contractor shall be required to submit a Schedule B – M/WBE Utilization Plan For Independently Registered Task Orders That Are Issued Pursuant to Master Services Agreements, Part 2 (see Pages 1-2) indicating: (a) whether the contractor is an MBE or WBE, or qualified joint venture; (b) the percentage of work it intends to award to direct subcontractors; (c) in cases where the contractor intends to award direct subcontracts, a description of the type and dollar value of work designated for participation by MBEs and/or WBEs, and the time frames in which such work is scheduled to begin and end; as well as the name, addresses, and telephone numbers of the M/WBE subcontractors if required by the solicitation; and (d) the prospective contractor's required certification and affirmations. The contractor must engage in good faith efforts to meet the Participation Goals as established for the Task Order unless Agency has granted the contractor a pre-award waiver of the Participation Goals in accordance with Section 6-129 and Part A, Section 10 below.

C. THE BIDDER/PROPOSER MUST COMPLETE THE SCHEDULE B INCLUDED HEREIN (SCHEDULE B, PART 2). A SCHEDULE B SUBMITTED BY THE BIDDER/PROPOSER WHICH DOES NOT INCLUDE THE VENDOR CERTIFICATION AND REQUIRED AFFIRMATIONS WILL BE DEEMED TO BE NON-RESPONSIVE, UNLESS A FULL WAIVER OF THE PARTICIPATION GOALS IS GRANTED
(SCHEDULE B, PART 3). IN THE EVENT THAT THE CITY DETERMINES THAT THE BIDDER/PROPOSER HAS SUBMITTED A SCHEDULE B WHERE THE VENDOR CERTIFICATION AND REQUIRED AFFIRMATIONS ARE COMPLETED BUT OTHER ASPECTS OF THE SCHEDULE B ARE NOT COMPLETE, OR CONTAIN A COPY OR COMPUTATION ERROR THAT IS AT ODDS WITH THE VENDOR CERTIFICATION AND AFFIRMATIONS, THE BIDDER/PROPOSER WILL BE NOTIFIED BY THE AGENCY AND WILL BE GIVEN FOUR (4) CALENDAR DAYS FROM RECEIPT OF NOTIFICATION TO CURE THE SPECIFIED DEFICIENCIES AND RETURN A COMPLETED SCHEDULE B TO THE AGENCY. FAILURE TO DO SO WILL RESULT IN A DETERMINATION THAT THE BID/PROPOSAL IS NON-RESPONSIVE. RECEIPT OF NOTIFICATION IS DEFINED AS THE DATE NOTICE IS E-MAILED OR FAXED (IF THE BIDDER/PROPOSER HAS PROVIDED AN E-MAIL ADDRESS OR FAX NUMBER), OR NO LATER THAN FIVE (5) CALENDAR DAYS FROM THE DATE OF MAILING OR UPON DELIVERY, IF DELIVERED.

5. Where an M/WBE Utilization Plan has been submitted, the Contractor shall, within 30 days of issuance by Agency of a notice to proceed, submit a list of proposed persons or entities to which it intends to award subcontracts within the subsequent 12 months. In the case of multi-year contracts, such list shall also be submitted every year thereafter. The Agency may also require the Contractor to report periodically about the contracts awarded by its direct subcontractors to indirect subcontractors (as defined in Section 6-129(c)(22)). PLEASE NOTE: If this Contract is a public works project subject to GML §101(5) (i.e., a contract valued at or below $3M for projects in New York City) or if the Contract is subject to a project labor agreement in accordance with Labor Law §222, and the bidder is required to identify at the time of bid submission its intended subcontractors for the Wicks trades (plumbing and gas fitting; steam heating, hot water heating, ventilating and air conditioning (HVAC); and electric wiring), the Contractor must identify all those to which it intends to award construction subcontracts for any portion of the Wicks trade work at the time of bid

submission, regardless of what point in the life of the contract such subcontracts will occur. In identifying intended subcontractors in the bid submission, bidders may satisfy any Participation Goals established for this Contract by proposing one or more subcontractors that are MBEs and/or WBEs for any portion of the Wicks trade work. In the event that the Contractor's selection of a subcontractor is disapproved, the Contractor shall have a reasonable time to propose alternate subcontractors.

6. MBE and WBE firms must be certified by DSBS in order for the Contractor to credit such firms' participation toward the attainment of the **Participation Goals**. Such certification must occur prior to the firms' commencement of work. A list of city-certified MBE and WBE firms may be obtained from the DSBS website at www.nyc.gov/buycertified, by emailing DSBS at buyer@sbs.nyc.gov, by calling (212) 513-6451, or by visiting or writing DSBS at One Liberty Plaza ., New York, New York, 10006, 11th floor. Eligible firms that have not yet been certified may contact DSBS in order to seek certification by visiting www.nyc.gov/getcertified, emailing MWBE@sbs.nyc.gov, or calling the DSBS certification helpline at (212) 513-6311. A firm that is certified as both an MBE and a WBE may be counted either toward the goal for MBEs or the goal for WBEs, but not both. No credit shall be given for participation by a graduate MBE or graduate WBE, as defined in Section 6-129(c)(20).

7. Where an **M/WBE** Utilization Plan has been submitted, the Contractor shall, with each voucher for payment, and/or periodically as Agency may require, submit statements, certified under penalty of perjury, which shall include, but not be limited to,: the total amount the Contractor paid to its direct subcontractors, and, where applicable pursuant to Section 6-129(j), the total amount direct subcontractors paid to indirect subcontractors; the names, addresses and contact numbers of each MBE or WBE hired as a subcontractor by the Contractor, and, where applicable, hired by any of the Contractor's direct subcontractors; and the dates and amounts paid to each MBE or WBE. The Contractor shall also submit, along with its voucher for final payment: the total amount it paid to subcontractors, and, where applicable pursuant to Section 6-129(j), the total amount its direct subcontractors paid directly to their indirect subcontractors; and a final list, certified under penalty of perjury, which shall include the name, address and contact information of each subcontractor that is an MBE or WBE, the work performed by, and the dates and amounts paid to each.

8. If payments made to, or work performed by, MBEs or WBEs are less than the amount specified in the Contractor's **M/WBE** Utilization Plan, Agency shall take appropriate action, in accordance with Section 6-129 and Article II below, unless the Contractor has obtained a modification of its **M/WBE** Utilization Plan in accordance with Section 6-129 and Part A, Section 11 below.

9. Where an **M/WBE** Utilization Plan has been submitted, and the Contractor requests a change order the value of which exceeds the greater of 10 percent of the Contract or Task Order, as applicable, or $500,000, Agency shall review the scope of work for the Contract or Task Order, as applicable, and the scale and types of work involved in the change order, and determine whether the **Participation Goals** should be modified.

10. Pre-award waiver of **the Participation Goals**. (a) A bidder or proposer, or contractor with respect to a Task Order, may seek a pre-award full or partial waiver of the Participation Goals in accordance with Section 6-129, which requests that Agency change one or more **Participation Goals** on the grounds that the **Participation Goals** are unreasonable in light of the availability of certified firms to perform the services required, or by demonstrating that it has legitimate business reasons for proposing a lower level of subcontracting in its M/WBE Utilization Plan.

(b) To apply for a full or partial waiver of the **Participation Goals**, a bidder, proposer, or contractor, as applicable, must complete Part 3 of Schedule B **and submit such request no later than seven (7) calendar**

**days prior to the date and time the bids, proposals, or Task Orders are due, in writing to the Agency Contact Person listed in Schedule B, Part 1**. **Full or partial waiver requests that are received later than seven (7) calendar days prior to the date and time the bids, proposals, or Task Orders are due may be rejected as untimely**. Bidders, proposers, or contractors, as applicable, who have submitted timely requests will receive an Agency response by no later than two (2) calendar days prior to the due date for bids, proposals, or Task Orders; provided, however, that if that date would fall on a weekend or holiday, an Agency response will be provided by close-of-business on the business day before such weekend or holiday date.

(c) If the Agency determines that the **Participation Goals** are unreasonable in light of the availability of certified firms to perform the services required, it shall revise the solicitation and extend the deadline for bids and proposals, or revise the Task Order, as applicable.

(d) Agency may grant a full or partial waiver of the **Participation Goals** to a bidder, proposer or contractor, as applicable, who demonstrates—before submission of the bid, proposal or Task Order, as applicable—that it has legitimate business reasons for proposing the level of subcontracting in its **M/WBE** Utilization Plan. In making its determination, Agency shall consider factors that shall include, but not be limited to, whether the bidder, proposer or contractor, as applicable, has the capacity and the bona fide intention to perform the Contract without any subcontracting, or to perform the Contract without awarding the amount of subcontracts represented by the **Participation Goals**. In making such determination, Agency may consider whether the **M/WBE** Utilization Plan is consistent with past subcontracting practices of the bidder, proposer or contractor, as applicable, whether the bidder, proposer or contractor, as applicable, has made efforts to form a joint venture with a certified firm, and whether the bidder, proposer, or contractor, as applicable, has made good faith efforts to identify other portions of the Contract that it intends to subcontract.

11. Modification of M/WBE Utilization Plan. (a) A Contractor may request a modification of its M/WBE Utilization Plan after award of this Contract. PLEASE NOTE: If this Contract is a public works project subject to GML §101(5) (i.e., a contract valued at or below $3M for projects in New York City) or if the Contract is subject to a project labor agreement in accordance with Labor Law §222, and the bidder is required to identify at the time of bid submission its intended subcontractors for the Wicks trades (plumbing and gas fitting; steam heating, hot water heating, ventilating and air conditioning (HVAC); and electric wiring), the Contractor may request a Modification of its M/WBE Utilization Plan as part of its bid submission. The Agency may grant a request for Modification of a Contractor's M/WBE Utilization Plan if it determines that the Contractor has established, with appropriate documentary and other evidence, that it made reasonable, good faith efforts to meet the Participation Goals. In making such determination, Agency shall consider evidence of the following efforts, as applicable, along with any other relevant factors:

(i) The Contractor advertised opportunities to participate in the Contract, where appropriate, in general circulation media, trade and professional association publications and small business media, and publications of minority and women's business organizations;

(ii) The Contractor provided notice of specific opportunities to participate in the Contract, in a timely manner, to minority and women's business organizations;

(iii) The Contractor sent written notices, by certified mail or facsimile, in a timely manner, to advise MBEs or WBEs that their interest in the Contract was solicited;

(iv) The Contractor made efforts to identify portions of the work that could be substituted for portions originally designated for participation by MBEs and/or WBEs in the

**M/WBE** Utilization Plan, and for which the Contractor claims an inability to retain MBEs or WBEs;

(v) The Contractor held meetings with MBEs and/or WBEs prior to the date their bids or proposals were due, for the purpose of explaining in detail the scope and requirements of the work for which their bids or proposals were solicited;

(vi) The Contractor made efforts to negotiate with MBEs and/or WBEs as relevant to perform specific subcontracts, or act as suppliers or service providers.

(vii) Timely written requests for assistance made by the Contractor to Agency's M/WBE liaison officer and to DSBS;

(viii) Description of how recommendations made by DSBS and Agency were acted upon and an explanation of why action upon such recommendations did not lead to the desired level of participation of MBEs and/or WBEs.

Agency's M/WBE officer shall provide written notice to the Contractor of the determination.

(b) The Agency may modify the Participation Goals when the scope of the work has been changed by the Agency in a manner that affects the scale and types of work that the Contractor indicated in its M/WBE Utilization Plan would be awarded to subcontractors.

12. If the Contractor was required to identify in its bid or proposal the MBEs and/or WBEs they intended to use in connection with the performance of the Contract or Task Order, substitutions to the identified firms may only be made with the approval of the Agency, which shall only be given when the Contractor has proposed to use a firm that would satisfy the **Participation Goals** to the same extent as the firm previously identified, unless the Agency determines that the Contractor has established, with appropriate documentary and other evidence, that it made reasonable, good faith efforts. In making such determination, the Agency shall require evidence of the efforts listed in Section 11(a) above, as applicable, along with any other relevant factors.

13. If this Contract is for an indefinite quantity of construction, standard or professional services or is a requirements type contract and the Contractor has submitted an **M/WBE** Utilization Plan and has committed to subcontract work to MBEs and/or WBEs in order to meet the **Participation Goals**, the Contractor will not be deemed in violation of the M/WBE Program requirements for this Contract with regard to any work which was intended to be subcontracted to an MBE and/or WBE to the extent that the Agency has determined that such work is not needed.

14. If **Participation Goals** have been established for this Contract or a Task Order issued pursuant to this Contract, at least once annually during the term of the Contract or Task Order, as applicable, Agency shall review the Contractor's progress toward attainment of its **M/WBE** Utilization Plan, including but not limited to, by reviewing the percentage of work the Contractor has actually awarded to MBE and/or WBE subcontractors and the payments the Contractor made to such subcontractors.

15. If **Participation Goals** have been established for this Contract or a Task Order issued pursuant to this Contract, Agency shall evaluate and assess the Contractor's performance in meeting those goals, and such evaluation and assessment shall become part of the Contractor's overall contract performance evaluation.

## PART B

## MISCELLANEOUS

1. The Contractor shall take notice that, if this solicitation requires the establishment of a **M/WBE** Utilization Plan, the resulting contract may be audited by DSBS to determine compliance with Section 6-129. See §6-129(e)(10). Furthermore, such resulting contract may also be examined by the City's Comptroller to assess compliance with the **M/WBE** Utilization Plan.

2. Pursuant to DSBS rules, construction contracts that include a requirement for a **M/WBE** Utilization Plan shall not be subject to the law governing Locally Based Enterprises set forth in Section 6-108.1 of the Administrative Code of the City of New York.

3. DSBS is available to assist contractors and potential contractors in determining the availability of MBEs and/or WBEs to participate as subcontractors, and in identifying opportunities that are appropriate for participation by MBEs and/or WBEs in contracts.

4. Prospective contractors are encouraged to enter into qualified joint venture agreements with MBEs and/or WBEs as defined by Section 6-129(c)(30).

5. By submitting a bid or proposal the Contractor hereby acknowledges its understanding of the M/WBE Program requirements set forth herein and the pertinent provisions of Section 6-129, and any rules promulgated thereunder, and if awarded this Contract, the Contractor hereby agrees to comply with the M/WBE Program requirements of this Contract and pertinent provisions of Section 6-129, and any rules promulgated thereunder, all of which shall be deemed to be material terms of this Contract. The Contractor hereby agrees to make all reasonable, good faith efforts to solicit and obtain the participation of MBEs and/or WBEs to meet the required **Participation Goals**.

## ARTICLE II. ENFORCEMENT

1. If Agency determines that a bidder or proposer, as applicable, has, in relation to this procurement, violated Section 6-129 or the DSBS rules promulgated pursuant to Section 6-129, Agency may disqualify such bidder or proposer, as applicable, from competing for this Contract and the Agency may revoke such bidder's or proposer's prequalification status, if applicable.

2. Whenever Agency believes that the Contractor or a subcontractor is not in compliance with Section 6-129 or the DSBS rules promulgated pursuant to Section 6-129, or any provision of this Contract that implements Section 6-129, including, but not limited to any **M/WBE** Utilization Plan, Agency shall send a written notice to the Contractor describing the alleged noncompliance and offering the Contractor an opportunity to be heard. Agency shall then conduct an investigation to determine whether such Contractor or subcontractor is in compliance.

3. In the event that the Contractor has been found to have violated Section 6-129, the DSBS rules promulgated pursuant to Section 6-129, or any provision of this Contract that implements Section 6-129, including, but not limited to, any **M/WBE** Utilization Plan, Agency may determine that one of the following actions should be taken:

(a) entering into an agreement with the Contractor allowing the Contractor to cure the

violation;

(b) revoking the Contractor's pre-qualification to bid or make proposals for future contracts;

(c) making a finding that the Contractor is in default of the Contract;

(d) terminating the Contract;

(e) declaring the Contractor to be in breach of Contract;

(f) withholding payment or reimbursement;

(g) determining not to renew the Contract;

(h) assessing actual and consequential damages;

(i) assessing liquidated damages or reducing fees, provided that liquidated damages may be based on amounts representing costs of delays in carrying out the purposes of the M/WBE Program, or in meeting the purposes of the Contract, the costs of meeting utilization goals through additional procurements, the administrative costs of investigation and enforcement, or other factors set forth in the Contract;

(j) exercising rights under the Contract to procure goods, services or construction from another contractor and charge the cost of such contract to the Contractor that has been found to be in noncompliance; or

(k) taking any other appropriate remedy.

4. If an **M/WBE** Utilization Plan has been submitted, and pursuant to this Article II, Section 3, the Contractor has been found to have failed to fulfill its **Participation Goals** contained in its **M/WBE** Utilization Plan or the **Participation Goals** as modified by Agency pursuant to Article I, Part A, Section 11, Agency may assess liquidated damages in the amount of ten percent (10%) of the difference between the dollar amount of work required to be awarded to MBE and/or WBE firms to meet the **Participation Goals** and the dollar amount the Contractor actually awarded and paid, and/or credited, to MBE and/or WBE firms. In view of the difficulty of accurately ascertaining the loss which the City will suffer by reason of Contractor's failure to meet the **Participation Goals**, the foregoing amount is hereby fixed and agreed as the liquidated damages that the City will suffer by reason of such failure, and not as a penalty. Agency may deduct and retain out of any monies which may become due under this Contract the amount of any such liquidated damages; and in case the amount which may become due under this Contract shall be less than the amount of liquidated damages suffered by the City, the Contractor shall be liable to pay the difference.

5. Whenever Agency has reason to believe that an MBE and/or WBE is not qualified for certification, or is participating in a contract in a manner that does not serve a commercially useful function (as defined in Section 6-129(c)(8)), or has violated any provision of Section 6-129, Agency shall notify the Commissioner of DSBS who shall determine whether the certification of such business enterprise should be revoked.

6. Statements made in any instrument submitted to Agency pursuant to Section 6-129 shall be submitted

under penalty of perjury and any false or misleading statement or omission shall be grounds for the application of any applicable criminal and/or civil penalties for perjury. The making of a false or fraudulent statement by an MBE and/or WBE in any instrument submitted pursuant to Section 6-129 shall, in addition, be grounds for revocation of its certification.

7. The Contractor's record in implementing its **M/WBE** Utilization Plan shall be a factor in the evaluation of its performance. Whenever Agency determines that a Contractor's compliance with an **M/WBE** Utilization Plan has been unsatisfactory, Agency shall, after consultation with the City Chief Procurement Officer, file an advice of caution form for inclusion in VENDEX as caution data.

# SCHEDULE B – M/WBE Utilization Plan & PASSPort

## Modified July 2022

The M/WBE Requirements tab along with the information provided in the Subcontractors and Joint Ventures tab of the RFx encompasses a Prime Vendor's M/WBE Utilization Plan.

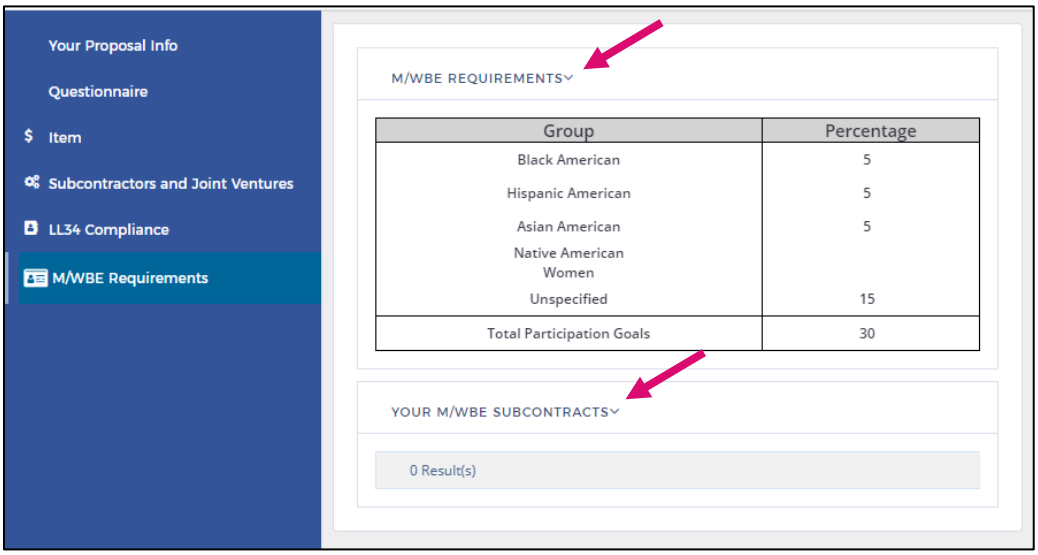
## Part 1: M/WBE Participation Goals

The M/WBE Participation Goals are found in the M/WBE Requirements tab of your RFx (Solicitation) response in PASSPort. Please follow the instructions below to **review** an RFx's M/WBE Participation Goals in PASSPort. Please refer to the Local Law 1 Notice to All Prospective Contractors for additional information about the M/WBE program related to this solicitation.

1. Log in to PASSPort and click the **pencil icon** to access the RFx.

2. Click the **Manage Responses** tab of the RFx and click the **pencil icon** to access your in progress response.

3. Click the **M/WBE Requirements** tab. The M/WBE Requirements section will outline the goals for the RFx. The Your M/WBE Subcontracts section will list all subcontracting work that you've identified for certified M/WBEs. (Please see Part 2 for instructions on how to add subcontracting information in PASSPort.)



## Part 2: M/WBE Participation Plan

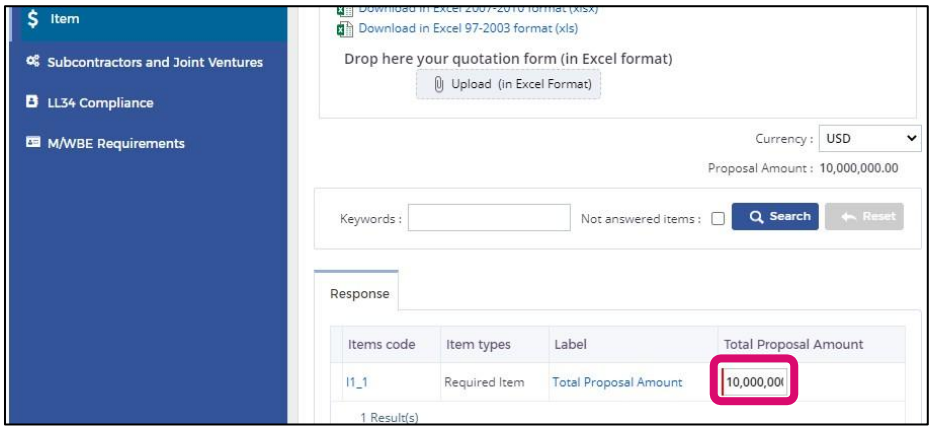
The M/WBE Participation Goals are found in both the M/WBE Requirements tab and the Subcontractors and Joint Ventures tab of your RFx (Solicitation) response in PASSPort. Please follow the instructions below to review an RFx's M/WBE Participation Goals and **enter** information in PASSPort to meet these goals. Please refer to the Local Law 1 Notice to All Prospective Contractors for additional information about the M/WBE program related to this solicitation.

1. Log in to PASSPort and click the **pencil icon** to access the RFx.

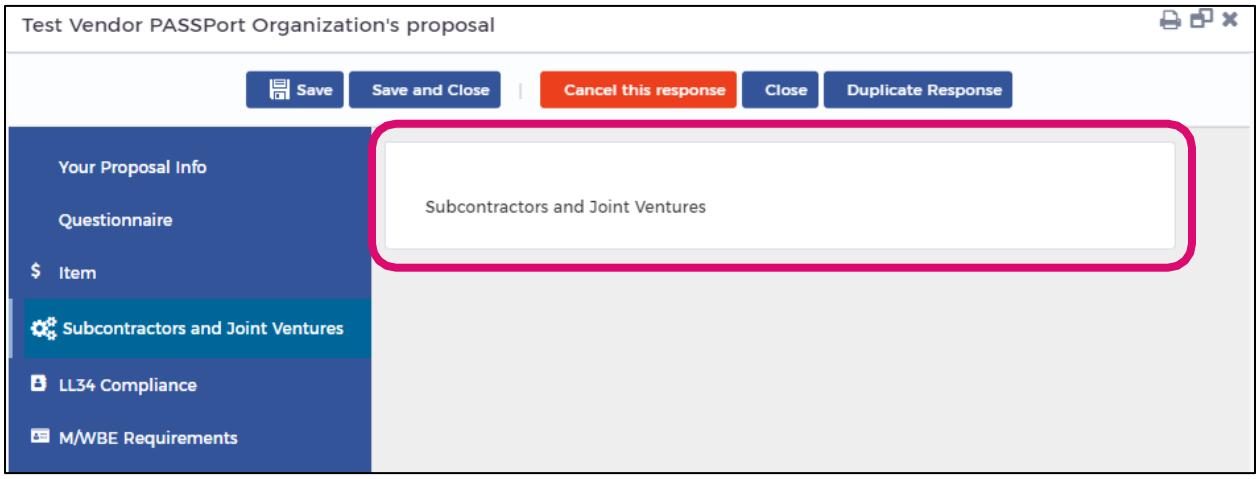
2. Click the **Manage Responses** tab of the RFx and click the **pencil icon** to access your in progress response.

3. Complete all the required sections in the Your Proposal Info, Questionnaire, Item, LL34 Compliance (if required) and all other relevant tabs in your Response.

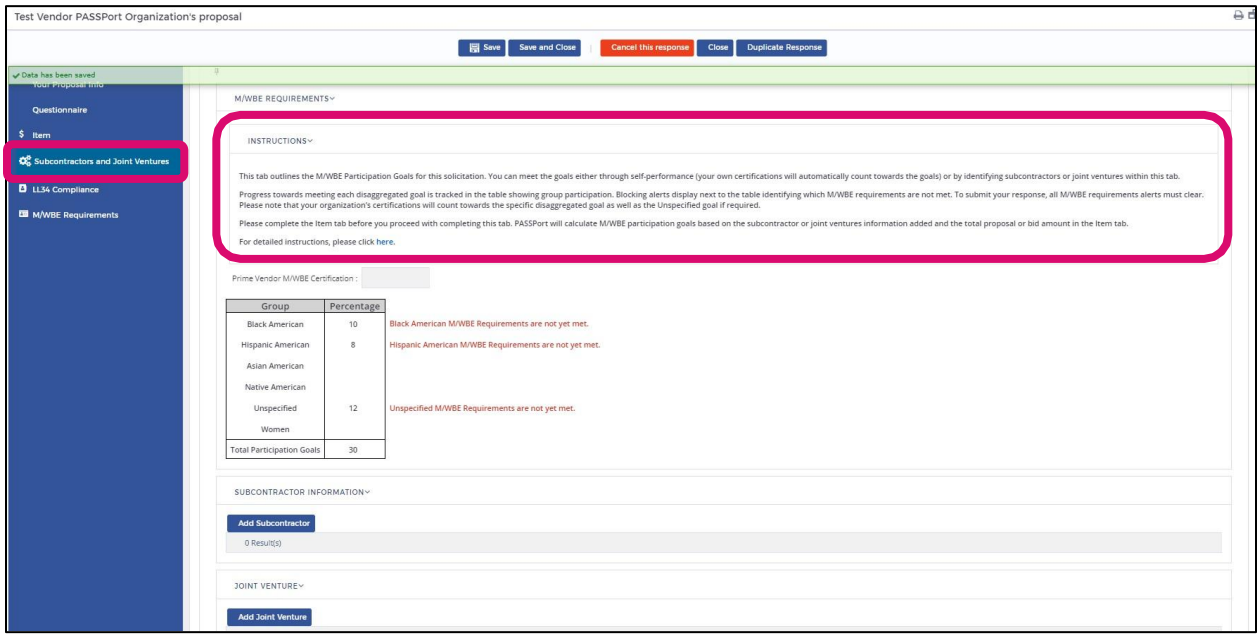
4. Be sure to complete the **Item** tab before the Subcontractors and Joint Ventures tab. Enter the **Proposal Amount** (or Bid Amount) and click **Save**.



5. To identify your M/WBE subcontractors and joint ventures, click the **Subcontractors and Joint Ventures** tab and click the white box with the Subcontractors and Joint Venture text.

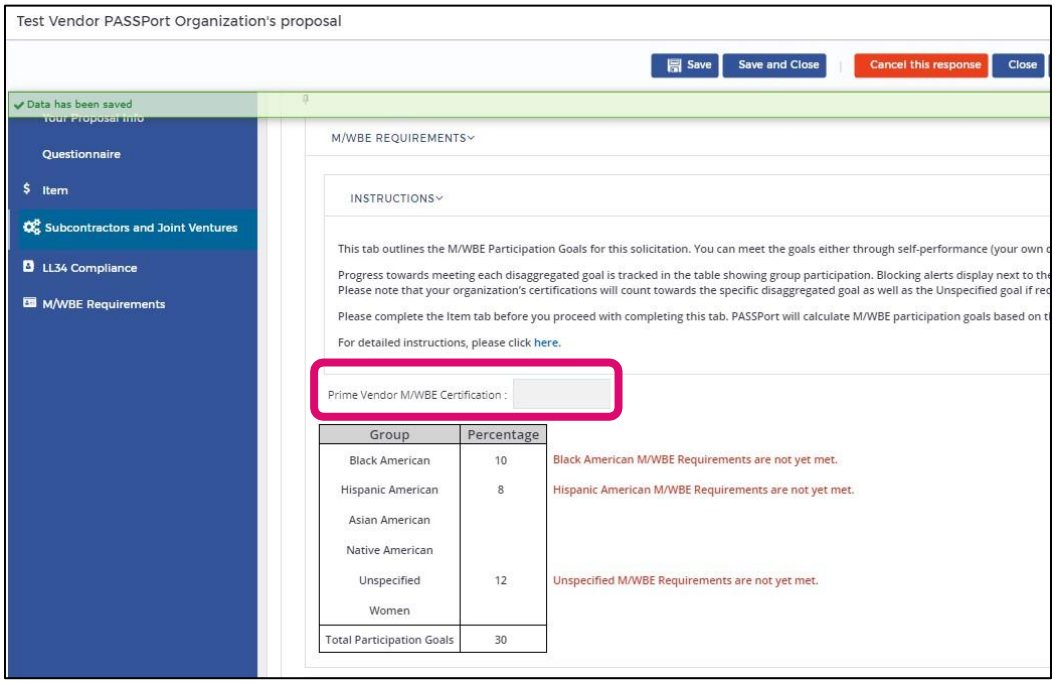



6. Read the instructions in the M/WBE Requirements section of this tab.

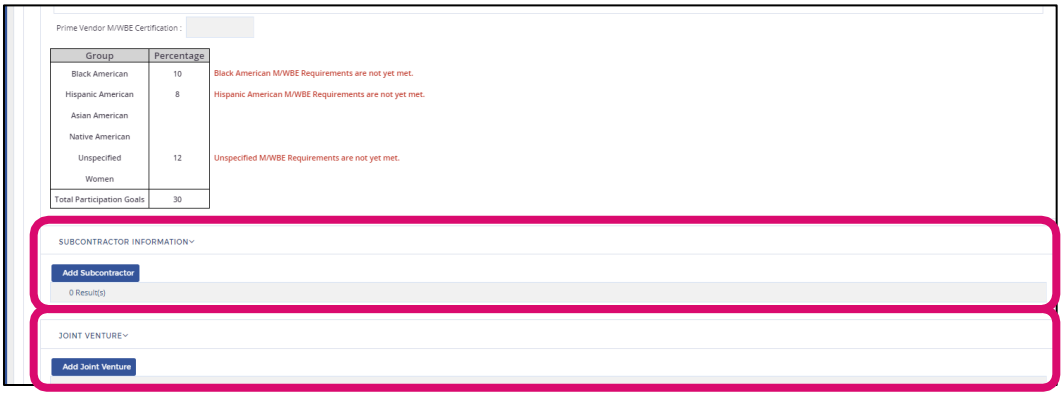


7. Your own organization's M/WBE certifications count towards the Total Participation Goals and automatically display in the field directly below the Instructions labeled as **Prime Vendor M/WBE Certification**. Any M/WBE participation goals that remain unmet are highlighted with red text alerts displaying to the right of the M/WBE Participation Goals table.

   In this example, the Prime Vendor does not have any M/WBE Certifications displaying (the field is blank) and thus still needs to meet the requirements as indicated.



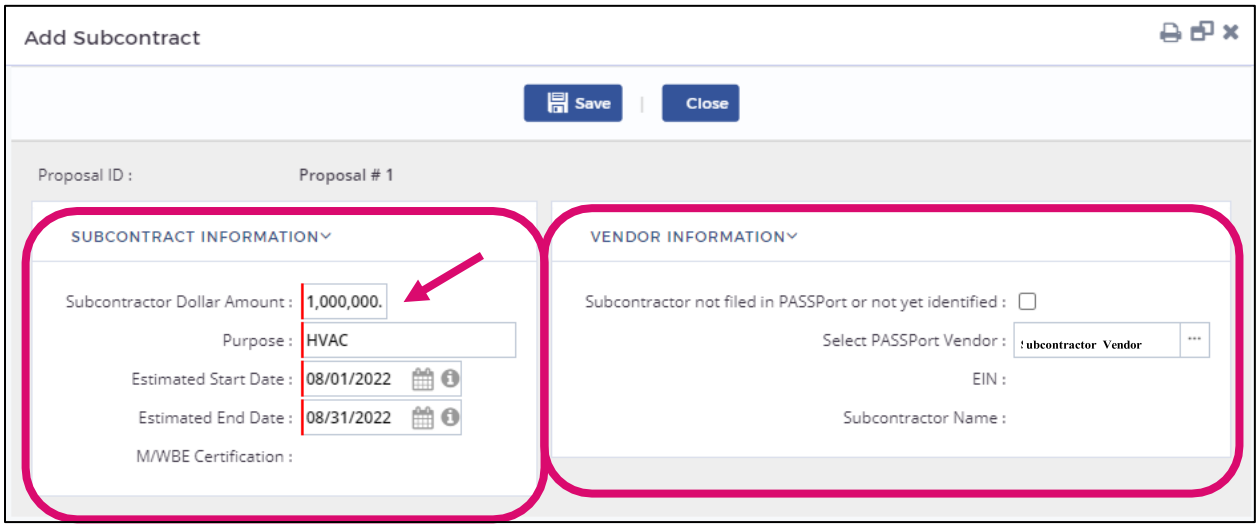

8. Any participation goal(s) your organization cannot meet through its own certification(s), must be met by identifying subcontractors and/or joint ventures with the required certifications in the **Subcontractor Information** and **Joint Venture** sections of the Subcontractors and Joint Ventures tab.



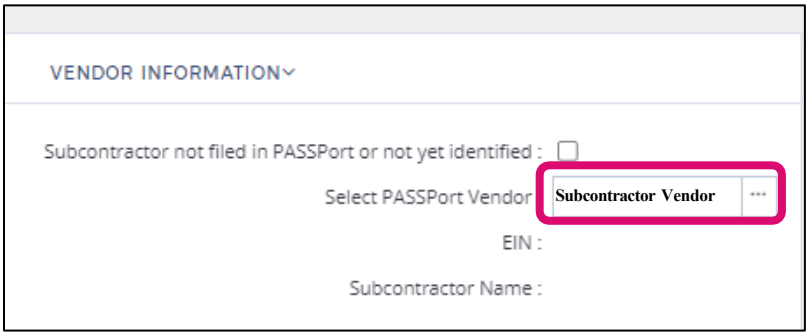

9. To add a subcontractor, click the **Add Subcontractor** button.

10. In the Add Subcontract window, complete all the fields in both the **Subcontract Information** and **Vendor Information** sections.
    Note, the **Subcontractor Dollar Amount** value entered will be calculated against the total Proposal Amount in the Item tab to determine the percentage towards your M/WBE Goal Participation for this RFx.

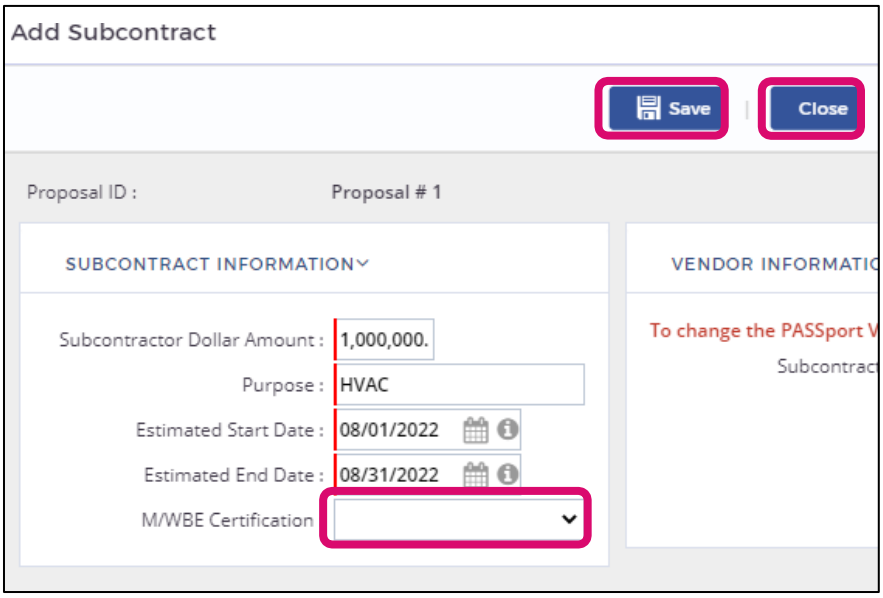
    In this example, $1 million is allocated to the **Subcontractor Dollar Amount** which is 10% of the Proposal Amount (in the Item tab) and can count towards a Participation Goal if the subcontractor is M/WBE Certified in one of the specified goals.




11. To identify a specific M/WBE certified PASSPort Vendor, type the subcontracting vendor name in the **Select PASSPort Vendor** field or click the ellipsis to search for and select the vendor. Click **Save**.



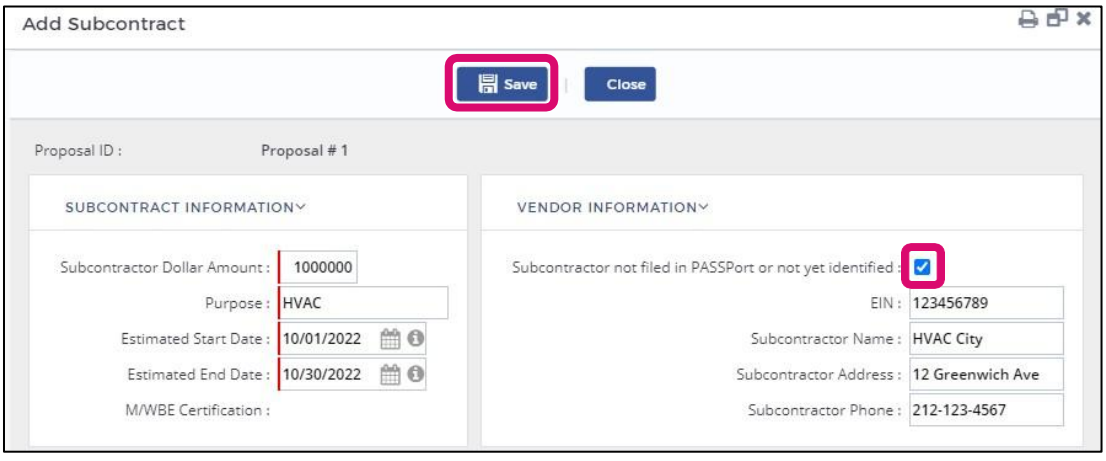
12. Choose the relevant **M/WBE Certification** from the drop-down in the Subcontract Information section of the Add Subcontract screen. Click **Save** and then click **Close** to return to the Subcontractors and Joint Ventures tab.



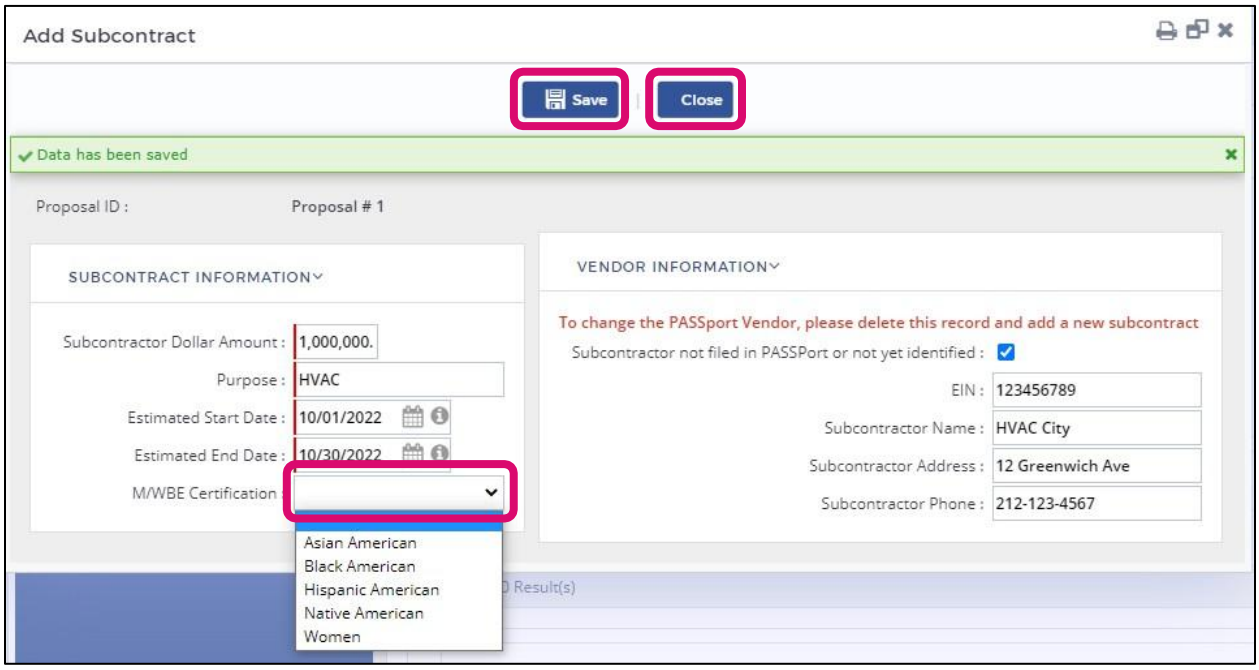

13. If the **Subcontractor is not Filed in PASSPort or not yet identified** (to be determined), click the corresponding checkbox in the Add Subcontract pop-up window. Be sure to complete all relevant fields in each section and click **Save**. The example below reflects scenarios 1 or 2.

    Scenarios to click this checkbox:

    **1**: If the subcontractor has a PASSPort account, but their PASSPort Vendor Status is not Filed.
    **2**: If the subcontractor does not have a PASSPort account.
    **3**: A specific subcontractor was not yet identified by your organization, and this serves as a placeholder to meet a specific participation goal.

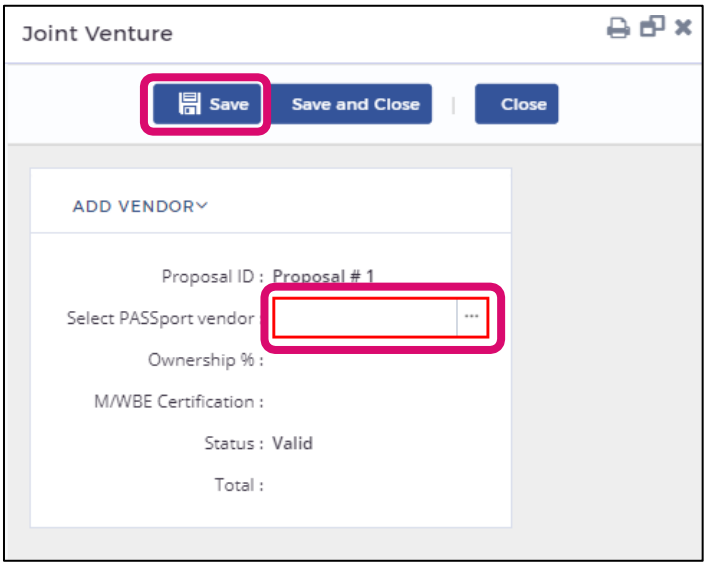


14. Choose the applicable **M/WBE Certification** from the drop-down to meet the corresponding Participation Goal for the subcontractor. Click **Save** and then **Close** to return to the Subcontractors and Joint Ventures tab.

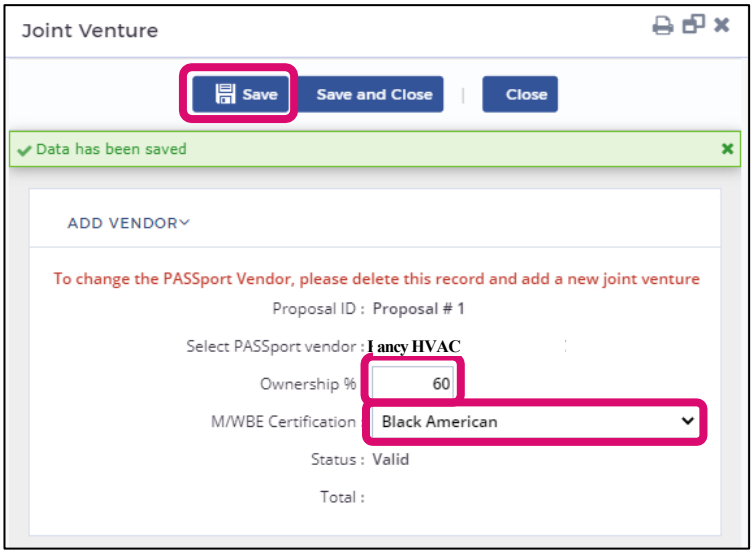



15. If you are submitting on behalf of a joint venture, click **Add Joint Venture** in the Subcontractors and Joint Ventures tab.

16. To identify a specific M/WBE certified PASSPort Vendor, type the vendor name of the joint venture partner entity in the **Select PASSPort Vendor** field or click the **ellipsis** to search for and select the vendor. Click **Save**.

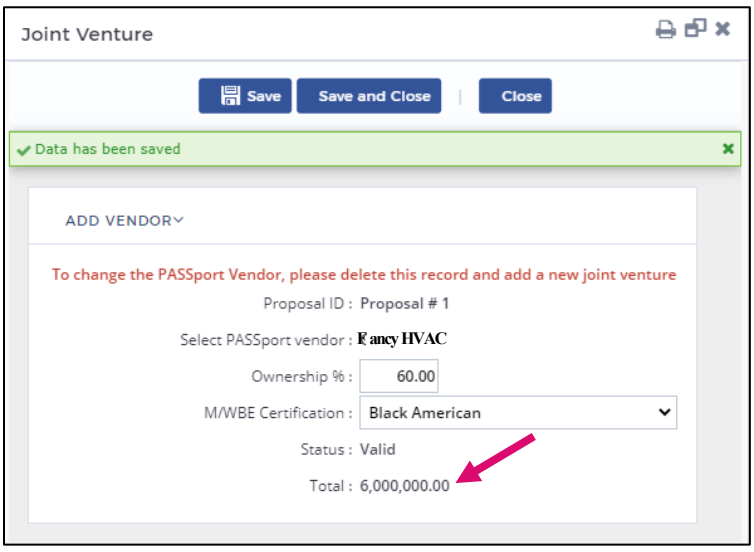


17. Complete the **remaining fields** in the Add Vendor section of the Joint Venture pop-up and click **Save**.

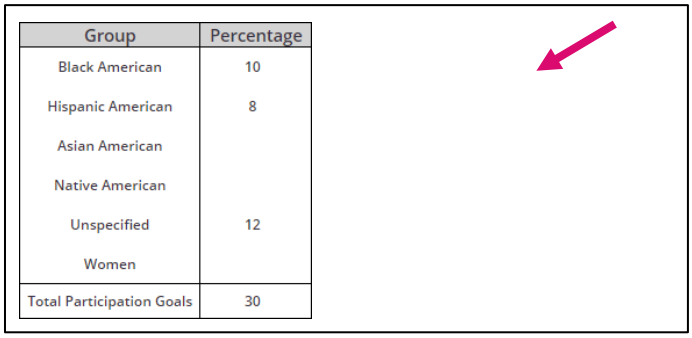



18. PASSPort automatically populates the **Total** amount covered by the joint venture based on the Ownership % entered compared to the Proposal Amount (see Item tab).

    In this example, the joint venture partner entity selected has 60% ownership which calculates here to equal $6 million in total of the full $10 million Proposal Amount.



19. Once participation goals are met and all alerts are addressed, the alerts will disappear from the tab.



| Group | Percentage |
|---|---|
| Black American | 10 |
| Hispanic American | 8 |
| Asian American | |
| Native American | |
| Unspecified | 12 |
| Women | |
| Total Participation Goals | 30 |

For vendors with **multiple M/WBE certifications,** please note that only one certification can be entered at a time. To add an additional certification, please repeat the Add Subcontractor or Add Joint Venture steps to meet additional participation goals.

If any information entered requires updating in an added Subcontractor or Joint Venture record, delete the record by clicking the **trash icon** and add it again with the updated information.

## Part 3: Submitting a Request for Waiver of M/WBE Participation Requirement

Please review the instructions to submit a request for waiver of the M/WBE participation requirement. A copy of the blank form (3 pages) can be found at the end of this document with the linked Vendor Contract History Excel template on the first page of the form.

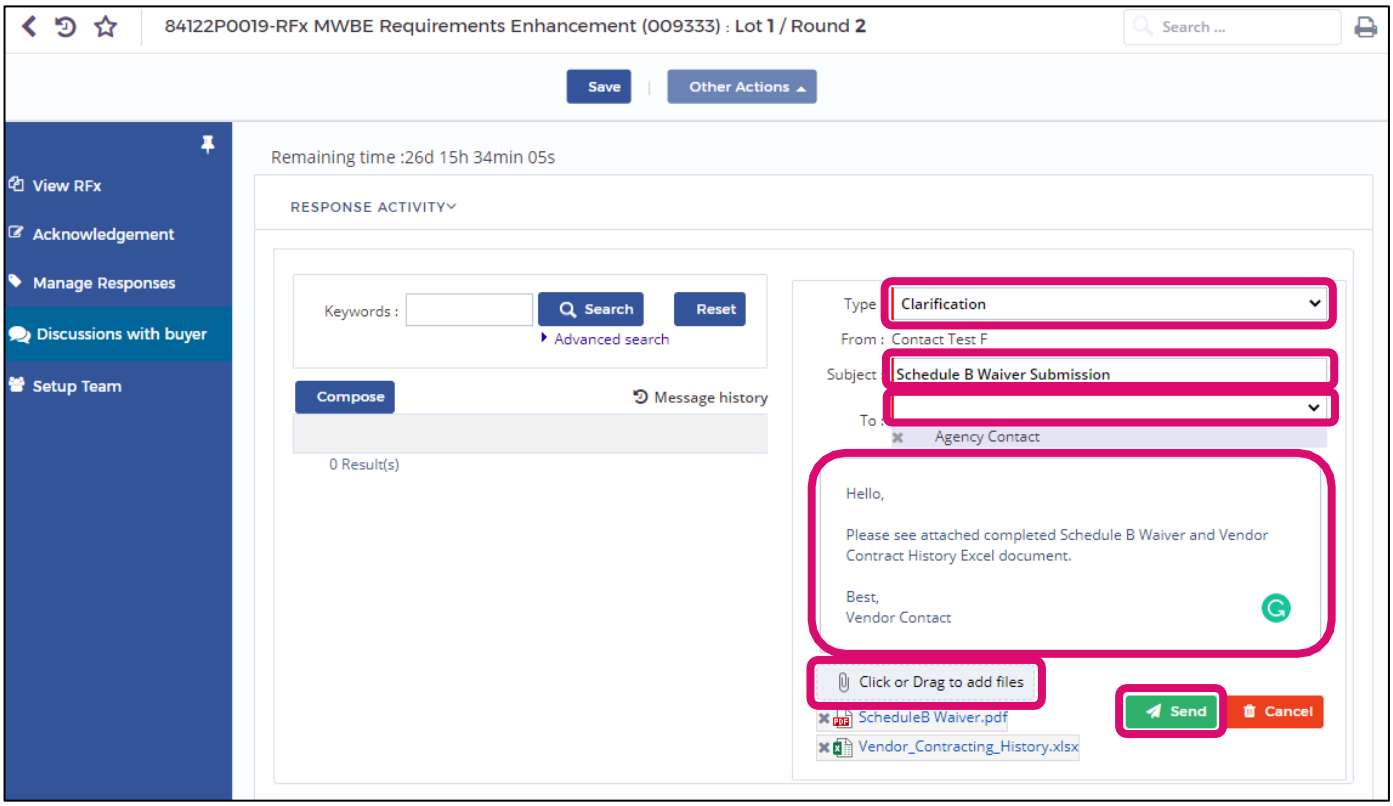
Follow these steps to submit a Waiver Request to the Agency:

1. Log in to PASSPort and click the **pencil icon** to access the RFx.
2. From the View RFx tab, download the Schedule B form and complete Part 3.
3. Navigate to the **Discussion with Buyer** tab and click the Compose button to start a draft message to the Agency.

Note: Be sure to Acknowledge the RFx prior to completing step 9.

4. Click the **Type** drop-down and select **Clarification**.
5. Type a subject in the **Subject** field such as “Schedule B Waiver Submission”.
6. Select Agency Contact from the **To** field drop-down.
7. Type your message in the **text area**.
8. Attach the completed Schedule B – Part 3 form and the completed Vendor Contract History Excel document by clicking the **Click or Drag to add files** button.

9. Click the **Send** button to submit your message and its attachments to the Agency Contact.
10. The Agency will review the waiver and the result of the Agency's waiver determination will be reflected in PASSPort in both the M/WBE Requirements tab and the Subcontractor and Joint Ventures tab of your RFx response. For additional information, refer to **the Local Law 1 Notice to All Prospective Contractors**.



NYC Mayor's Office of Contract Services

# SCHEDULE B – Part 3

## Request for Waiver of M/WBE Participation Requirement

### Contract Overview

Tax ID#_____ FMS Vendor ID#_____

Business Name_____ Contact Name_____

Email_____ Telephone_____

Contracting Agency_____

PASSPort PIN#_____ Bid/Proposal Due Date_____

### M/WBE Participation Goals for Services

**Defined by AGENCY in bid/ solicitation documents**

Percent of the total contract value to be subcontracted to M/WBE vendors for services and/or credited to an M/WBE Qualified Joint Venture.

Unspecified 17.0 %

Black American 9.00 %

Hispanic American 4.00 %

Native American _____ %

Asian American _____ %

Women _____ %

**Total Participation Goals** 30.0 %

**Proposed by VENDOR seeking waiver**

Percent of the total contract value anticipated in good faith by the bidder/ proposer to be subcontracted to M/WBE businesses for services. Or if M/WBE Qualified Joint Venture, percent of total contract value anticipated to be credited to M/WBE vendor(s).

Unspecified _____ %

Black American _____ %

Hispanic American _____ %

Native American _____ %

Asian American _____ %

Women _____ %

**Total Participation Goals** _____ %

### Basis for Waiver Request: Check appropriate box & explain in detail below (attach additional pages if needed)

☐ Vendor does not subcontract services, and has the capacity and good faith intention to perform all such work itself with its own employees.

☐ Vendor subcontracts some of this type of work but at a lower % than bid/solicitation describes, and has the capacity and good faith intention to do so on this contract. Identify your subcontracting plan in the vendor certification section below.

☐ Vendor has other legitimate business reasons for proposing the M/WBE Participation Goal requested here. Explain under separate cover.

### Vendor Contract History

Using the **linked Excel template**, list all contracts (for City and Non-City work) performed within the last 3 years and provide the requested information for each contract.

From the list of all contracts, provide reference information below for the 5 most relevant contracts in size, scale and scope (performed for New York City or any other entity) to the bid or proposal for which you are submitting this waiver request. Provide the requested information for each subcontract awarded during the life of the listed reference contract.

Please make sure to highlight the 5 reference contracts provided below among the comprehensive list of all your contract awards within the attached Excel template.

### Reference 1

Agency/Organization_____ Contract #_____

Reference Contact_____ Telephone_____ Email_____

Contract Start Date _____ Contract End Date_____ Total Contract Value $_____

**Prime Contract description**

Did the vendor perform as a Prime Contractor or as a Subcontractor? ☐ Prime Contractor ☐ Subcontractor

Was the Prime Contract subject to any Goals? ☐ City M/WBE Goals ☐ State Goals ☐ Federal Goals ☐ No Applicable Goals

Did the Prime Contractor meet Goal requirements? ☐ Yes ☐ No ☐ N/A

**If the Prime Contractor did not meet Goal requirements or contract is still ongoing, please explain**

**If you performed as the Prime Contractor, please provide a description and value of all work subcontracted to other vendors.**

_____ $_____

_____ $_____

_____ $_____

_____ $_____

_____ $_____

_____ $_____

_____ $_____

_____ $_____

Percentage of total contract value subcontracted to other vendors _____ %

**If you performed as the Subcontractor, please provide a description and value of work areas you self-performed.**

_____ $_____

## Reference 2

Agency/Organization _____ Contract # _____

Reference Contact _____ Telephone _____ Email _____

Contract Start Date _____ Contract End Date _____ Total Contract Value $ _____

**Prime Contract description**

Did the vendor perform as a Prime Contractor or as a Subcontractor? ☐ Prime Contractor ☐ Subcontractor

Was the Prime Contract subject to any Goals? ☐ City M/WBE Goals ☐ State Goals ☐ Federal Goals ☐ No Applicable Goals

Did the Prime Contractor meet Goal requirements? ☐ Yes ☐ No ☐ N/A

**If the Prime Contractor did not meet Goal requirements or contract is still ongoing, please explain**

**If you performed as the Prime Contractor, please provide a description and value of all work subcontracted to other vendors.**

_____ $ _____

_____ $ _____

_____ $ _____

_____ $ _____

_____ $ _____

_____ $ _____

_____ $ _____

_____ $ _____

_____ $ _____

Percentage of total contract value subcontracted to other vendors _____ %

**If you performed as the Subcontractor, please provide a description and value of work areas you self-performed.**

_____ $ _____

## Reference 3

Agency/Organization _____ Contract # _____

Reference Contact _____ Telephone _____ Email _____

Contract Start Date _____ Contract End Date _____ Total Contract Value $ _____

**Prime Contract description**

Did the vendor perform as a Prime Contractor or as a Subcontractor? ☐ Prime Contractor ☐ Subcontractor

Was the Prime Contract subject to any Goals? ☐ City M/WBE Goals ☐ State Goals ☐ Federal Goals ☐ No Applicable Goals

Did the Prime Contractor meet Goal requirements? ☐ Yes ☐ No ☐ N/A

**If the Prime Contractor did not meet Goal requirements or contract is still ongoing, please explain**

**If you performed as the Prime Contractor, please provide a description and value of all work subcontracted to other vendors.**

_____ $ _____

_____ $ _____

_____ $ _____

_____ $ _____

_____ $ _____

_____ $ _____

_____ $ _____

_____ $ _____

_____ $ _____

Percentage of total contract value subcontracted to other vendors _____ %

**If you performed as the Subcontractor, please provide a description and value of work areas you self-performed.**

_____ $ _____

## Reference 4

Agency/Organization _____ Contract # _____ Reference
Contact _____ Telephone _____ Email _____ Contract
Start Date _____ Contract End Date _____ Total Contract Value $ _____

**Prime Contract description**

Did the vendor perform as a Prime Contractor or as a Subcontractor? ☐ Prime Contractor ☐ Subcontractor
Was the Prime Contract subject to any Goals? ☐ City M/WBE Goals ☐ State Goals ☐ Federal Goals ☐ No Applicable Goals
Did the Prime Contractor meet Goal requirements? ☐ Yes ☐ No ☐ N/A

**If the Prime Contractor did not meet Goal requirements or contract is still ongoing, please explain**

**If you performed as the Prime Contractor, please provide a description and value of all work subcontracted to other vendors.**

_____ $ _____
_____ $ _____
_____ $ _____
_____ $ _____
_____ $ _____
_____ $ _____

Percentage of total contract value subcontracted to other vendors _____ %

**If you performed as the Subcontractor, please provide a description and value of work areas you self-performed.**

_____ $ _____

## Reference 5

Agency/Organization _____ Contract # _____ Reference
Contact _____ Telephone _____ Email _____ Contract
Start Date _____ Contract End Date _____ Total Contract Value $ _____

**Prime Contract description**

Did the vendor perform as a Prime Contractor or as a Subcontractor? ☐ Prime Contractor ☐ Subcontractor
Was the Prime Contract subject to any Goals? ☐ City M/WBE Goals ☐ State Goals ☐ Federal Goals ☐ No Applicable Goals
Did the Prime Contractor meet Goal requirements? ☐ Yes ☐ No ☐ N/A

**If the Prime Contractor did not meet Goal requirements or contract is still ongoing, please explain**

**If you performed as the Prime Contractor, please provide a description and value of all work subcontracted to other vendors.**

_____ $ _____
_____ $ _____
_____ $ _____
_____ $ _____
_____ $ _____
_____ $ _____

Percentage of total contract value subcontracted to other vendors _____ %

**If you performed as the Subcontractor, please provide a description and value of work areas you self-performed.**

_____ $_____

## Vendor Certification

**Identify/list all the work areas you intend on subcontracting on the current anticipated contract for which you are submitting this waiver request.**

*I hereby affirm that the information supplied in support of this waiver request is true and correct, and that this request is made in good faith. I further affirm that the work that I did not list as work that will be subcontracted on this contract for which I am submitting this waiver request is work that I have performed on past contracts and will not subcontract if awarded this contract.*

Signature_____ Date_____

Print Name_____ Title_____

### Approvals (for Agency completion only)

ACCO Signature_____ Date_____

CCPO Signature_____ Date_____

**Waiver Determination**

☐ Full Waiver Approved

☐ Waiver Denied

☐ Partial Waiver Approved with Revised Participation Goals

Unspecified ____ %

Black American ____ %

Hispanic American ____ %

Native American ____ %

Asian American ____ %

Women ____ %

**Total Revised Goals** ____ %

## ITEM 9: ACKNOWLEDGEMENT OF ADDENDA

Complete Part I or Part II, whichever is applicable, and submit with your proposal:

PART I: LISTED BELOW ARE THE DATES OF ISSUE FOR EACH ADDENDUM RECEIVED IN CONNECTION WITH THIS IFB:

ADDENDUM # 1, DATED_____ , 20__

ADDENDUM # 2, DATED_____ , 20__

ADDENDUM # 3, DATED_____ , 20__

ADDENDUM # 4, DATED_____ , 20__

ADDENDUM # 5, DATED_____ , 20__

ADDENDUM # 6, DATED_____ , 20__

PART II: NO ADDENDUM WAS RECEIVED IN CONNECTION WITH THIS IFB.

DATE__/__/__

BIDDER (NAME)_____

BIDDER (SIGNATURE)_____

## ITEM 10: CERTIFICATION AS TO LEGAL AUTHORITY

Please submit with your proposal.

**OFFICE OF TECHNOLOGY & INNOVATION**
**15 MetroTech Center, 18th Floor**
**Brooklyn, NY 11201**

**INVITATION FOR BIDS**

**TEMPORARY TECHNICAL SERVICES FOR THE MAYOR'S OFFICE OF MEDIA AND ENTERTAINMENT**

**E-PIN:**

APPROVED AS TO FORM
CERTIFIED AS TO LEGAL AUTHORITY

_____
Acting Corporation Counsel

Dated: _____

## APPENDIX A: GENERAL PROVISIONS GOVERNING CONTRACTS FOR CONSULTANTS, PROFESSIONAL, TECHNICAL, HUMAN AND CLIENT SERVICES

### 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 of 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.

1. 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.

2. 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 13.05 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 13.06 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 13.07 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 13.08 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 13.09 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 13.10 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 13.11 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 13.12 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.

**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: REQUIRED INSURANCE

| Article 7 -- Insurance | |
|---|---|
| **Types of Insurance (per Article 7 in its entirety, including listed paragraph)** | **Minimum Limits and Special Conditions** |
| ■ Workers' Compensation §7.02<br>■ Disability Benefits Insurance §7.02<br>■ Employers' Liability §7.02 | Statutory amounts. |
| ■ Commercial General Liability §7.03(A) | $1,000,000.00 per occurrence<br>$1,000,000.00 personal & advertising injury (unless waived in writing by the Department)<br>$2,000,000.00 aggregate<br>$0 products/completed operations<br>Additional Insureds:<br>1. City of New York, including its officials and employees, and<br>2. _____<br>3. _____ |
| ☐ Commercial Auto Liability §7.03(B) | $1,000,000.00 per accident combined single limit<br>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 |

| | |
|---|---|
| | $_____ Computer Fraud<br><br>$_____ Funds Transfer Fraud<br><br>$_____ Client Coverage<br><br>$_____Forgery or Alteration<br><br>$_____Inside the Premises (theft of money and securities)<br><br>$_____ Inside the Premises (robbery or safe burglary of other property)<br><br>$_____ Outside the Premises<br><br>$_____ Money Orders and Counterfeit Money<br><br>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<br><br>• _____ | **$100 per day**<br><br>**$_____** |

## 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 _____**

## ADDENDUM TO APPENDIX A JANUARY 2018 FINAL

This Addendum modifies Appendix A January 2018 Final, General Provisions Governing Contracts for Consultants, Professional, Technical, Human, and Client Services ("Appendix A"), as set forth below.

Subsection B of Section 5.08 (Confidentiality) of Appendix A is deleted in its entirety and replaced with the following:

**Section 5.08 Confidentiality**

* * *

B. Where in connection with the services under this Agreement the Contractor, or its employees, subcontractors, or agents, will have access to, acquire, disclose, or use any data that includes private information (as defined in Admin. Code § 10-501(b)), the Contractor shall provide written notice to the Department within three days of the earlier of discovery by the Contractor or notification to Contractor of any breach of security (as defined in Admin. Code § 10-501(c)). Such notice shall inform the Department of the nature and scope of the breach of security.

1. Upon such discovery or notification of such breach of security, the Contractor shall take reasonable steps to determine the cause(s) of such breach and to remediate the cause(s) of such breach, shall provide written notice to the Department of such steps, and shall cooperate with any investigation conducted by the City of such breach. Such cooperation includes, but is not limited to, promptly responding to the City's reasonable inquiries and providing prompt access to in human and machine readable format all evidentiary artifacts associated with such breach of security, such as relevant records, logs, files, data reporting, and other materials.

2. In the event of such breach of security, the Contractor shall cooperate and coordinate with the City regarding any notifications determined by the City to be made to individuals affected by such breach.

3. 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 such notifications to individuals affected by the breach of security and/or other actions mandated by any Law, or administrative or judicial order, to address such breach of security, and to cover the costs of any fines or disallowances imposed by the State or federal government as a result of such breach. 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 identity theft monitoring services for individuals affected by such 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 preventive 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.

## 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:**<br>**New York City Department of Investigation (DOI)**<br>**80 Maiden Lane, 17th floor New York, New York 10038**<br>**Attention: COMPLAINT BUREAU**<br><br>**OR FILE A COMPLAINT ON-LINE AT:**<br>**www.nyc.gov/doi**<br><br>**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

## APPENDIX B: BID SPECIFICATIONS

**Conditions and detailed specifications for temporary technical services for the Mayor's Office of Media and Entertainment**

All requirements set forth in this "conditions and detailed specifications" are collectively referred to in the Invitation for Bids and the Agreement either as "Specifications" or "Detailed Specifications."

### APPENDIX B.1 - DEFINITIONS

For the purposes of this Appendix B, the following definitions will apply:

"Business Hour" means any hour within Regular Business Hours.

"City" means The City of New York, its employees, servants and contractors. Unless otherwise specified, responsibilities of the City under this Contract will be exercised by the Department (as herein defined).

"Commissioner" means the Commissioner of the Office of Technology and Innovation.

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

"Contractor" means the successful bidder (*i.e.,* the bidder awarded a contract as a result of this Invitation for Bids).

"Department" means the New York City Office of Technology and Innovation.

"Holiday" means any holiday observed by the City on the date on which such holiday is observed by the City. Such Holidays are subject to change by the City and are presently: New Year's Day, Martin Luther King Jr. Birthday (Observed), President's Day, Memorial Day, Independence Day, Labor Day, Columbus Day, Election Day, Veteran's Day, Thanksgiving Day, and Christmas Day.

"Notification" means a telephone call from an authorized MOME representative informing the Contractor of a requirement, followed by an email to an authorized representative of the Contractor informing the Contractor of said requirement. Notification occurs at the time stamped on the email.

"Overtime" means pay for all hours worked beyond forty (40) hours in the workweek. Overtime is not paid for holiday, weekend or night work, unless that work is done beyond forty (40) hours in the workweek. The overtime rate is one-and-a-half times the hourly rate in the Bid Sheets.

"Regular Business Hours" or "Business Day" means 8:00 a.m. through 5:00 p.m., Monday through Friday, excluding Holidays.

"Service" or "Services" or "Work" means the responsibilities the Contractor agrees to assume and perform pursuant to the terms of this Contract.

"Service Contract", "Agreement" or "Contract" means this entire document when completed, signed, notarized, agreed upon by both parties and registered by the Comptroller's Office.

## APPENDIX B.2 - INTRODUCTION

The Office of Innovation and Technology ("OTI"), on behalf of the Mayor's Office of Media and Entertainment ("MOME" or "the Agency"), is seeking an appropriately qualified vendor ("Contractor") to provide temporary personnel services as requested by MOME on an as-needed basis.

MOME's mission is to support and strengthen New York City's creative economy and make it accessible to all. MOME comprises four divisions:

1. Creative Sectors Programs: advances industry and workforce development across NYC's creative sectors.
2. Film Office: coordinates on-location film, television, and commercial production throughout the five boroughs.
3. NYC Media: operates a noncommercial broadcast television station, several cable television channels, and a radio station. The network features programming about NYC lifestyle, culture, government, and history.
4. Press Credentials Office: issues press cards to journalists for certain events.

MOME may reject a candidate based on:

- the results of a background check;
- MOME's determination that the candidate did not meet the requirements in the Job Description or meet the Preferred Qualifications; or
- failure to provide all documentation requested by MOME.

## APPENDIX B.3 - PRICING

In the Bid Sheets, which can be downloaded from PASSPort, the bidder shall provide hourly rates for labor for Contract Year One through Three. The Bid Sheet is located in the Documents section in the View RFx tab. Bidders must download blank Excel file, complete each sheet of the form as instructed therein and upload the completed Price Proposal Template in the Documents tab of the RFx response. The proposer must also enter the Total Year 1 through 3 value from the Bid Sheet into the Item grid in PASSPort.

The City makes no representation as to the quantity of items or Services that may be purchased from or provided under the contract resulting from this solicitation. The estimated amounts of units listed in this Invitation for Bids are a reasonable approximation of the amounts of units that may be ordered under this contract, but they are set forth for comparison purposes only. Under no circumstances will the City be compelled or required to order any particular quantity of units or types of units nor will it be limited by the quantities listed. Total usage of units and types of units ordered will be determined by the amounts and types actually required during the course of this contract.

## APPENDIX B.4 - CONDITIONS FOR MOME WORK

Upon receipt of the Notice to Proceed, Contractor must provide an escalation procedure with names, email addresses, phone numbers and beeper numbers of key personnel who can be contacted during emergencies.

### Appendix B.4.1 Commencement of Contract

If requested in writing by the Contractor within one week from its receipt of OTI's notice, the Contractor may delay its commencement of performance of the work under the awarded contract for up to two weeks from the receipt of OTI's Notice to Proceed, or until such other time as the City in its sole discretion may agree. Contractor's right to be paid for the work shall commence at the same time that Contractor's performance of the work commences.

### Appendix B.4.2 Scope Of Services

During the term of the Contract, the Contractor shall provide services in accordance with the terms and conditions set forth below:

A. MOME will request temporary personnel by means of written requests to the Contractor that specify the title(s), number of positions, and the number of anticipated days and hours (to the extent known). MOME will issue its written request on email or by phone to the contact person provided by the Contractor or through another method as agreed upon by MOME and the Contractor. The Contractor will then provide several qualified candidates for MOME to interview and select from among.

B. The Contractor shall develop and implement an effective quality assurance plan for recruitment of high-quality temporary personnel, including an extensive interview process. In addition, reference checks and industry-standard background checks must be conducted by the Contractor after MOME has selected a candidate from among the ones that the Contractor has provided. (These reference checks and background checks can be waived in some circumstances upon MOME's request, including but not limited to circumstances when time is limited.) The Contractor shall provide, if requested by MOME, the resumes of any personnel that the Contractor identifies to perform services under the Agreement.

C. The personnel performing the services under the Contract will be employees or independent contractors of the Contractor and will not be employees or independent contractors of the Requesting Agency or the City. The Contractor shall be solely responsible for their acts, personal conduct, and quality of work performance, and shall also be solely responsible for payment of wages and compensation, providing fringe benefits, if any, insurance, the withholding of taxes and such other appropriate charges to the employee's earnings, and all other human resources issues. In addition, the Contractor shall be solely responsible to these personnel for all other terms and conditions of employment, if any. The Contractor's policies with respect to conduct, work performance, and attendance shall be in accordance with reasonable and lawful labor practices.

## Appendix B.4.3 Terms of Service

A. The City does not guarantee a minimum number of total hours for the contract or for any assignment. Payment will be based on the unit price for the actual hours of service performed.

B. Unless otherwise requested by MOME, all temporary personnel shall have a maximum eight-hour daily work shift (including a one-hour unpaid mealtime). Temporary personnel may be required to work on Saturday, Sunday or holidays (a list of City holidays is contained in Appendix B.5) or Overtime as the need arises. MOME reserves the right to change the hours of work for individual assignments. MOME shall not pay the Contractor for unauthorized early arrivals or late departures of temporary personnel.

C. MOME maintains the right to disapprove the assignment of any temporary personnel assigned by Contractor. With or without cause, for any lawful reason, MOME may request that any temporary personnel supplied by the Contractor be removed from the assignment by notifying the Contractor by telephone that MOME desires such removal. The Contractor shall remove such temporary personnel upon notification and replacement shall be supplied within two (2) hours of the request Notification from MOME. If any temporary personnel are deemed unsatisfactory by MOME during the first three and one-half hours of employment, and the Contractor is notified within this period, MOME shall not be responsible for payment of any part of the hours during which the unsatisfactory temporary personnel were utilized by MOME.

D. MOME, at its sole discretion, may request a replacement of temporary personnel, or terminate or modify an individual's assignment, with 24 hours' notice to the Contractor. It is the obligation of the Contractor to notify its employee of same. MOME reserves the right to alter an assignment and/or work location in keeping with the individual's job description.

E. The Contractor shall warrant that it has determined that the candidates presented to MOME meet normal and reasonable business standards for the requested titles. In addition, the Contractor shall verify that all candidates can prove their identities and have the right to obtain employment in the United States prior to their placement with the City of New York.

F. Retired or former employees of the City may be subject to various laws governing conflicts of interest of which the Contractor should be aware in proposing such candidates for assignments under this Agreement. It is the responsibility of the Contractor to be aware of, and not participate in the violation of, any legal restrictions (i.e., under Chapter 68 of the City Charter) applicable to the employment of current or former City employees.

G. In the event that the City desires to hire, on a permanent or regular part-time basis, any or all of the personnel supplied by the Contractor, the Contractor agrees to release said person(s) at no charge or penalty to the City.

## Appendix B.4.4 Record Keeping and Invoicing

**Reporting**

The Contractor shall submit monthly reports regarding temporary personnel placements, including, but not limited to, the number of requests by job category, the number of placements by job category, and the dates and hours worked.

**Timesheets**

The Contractor will provide timesheets for temporary personnel to sign in and sign out when working for MOME. The Contractor will be responsible for the correct calculation of hours worked by temporary personnel. Failure of the Contractor to review and correct timesheets in conformance with MOME's timekeeping policies may result in adjustments of said timesheets by MOME. MOME shall not be responsible for any overpayments made to individuals due to Contractor error. Timesheets must include the name of the individual, dates of service, the assignment, the job title as specified in the contract, hourly rate, number of hours worked, and the service period covered by the timesheets; and must be signed by the Contractor's and MOME's authorized representatives and by the individual to whom the timesheet pertains. Contractor will submit timesheets to MOME and to OTI's Accounts Payable unit. If discrepancies occur between invoices received by OTI and the timesheets, said invoices shall not be paid until the discrepancies are resolved. Payment will not be made for any work that is not authorized by MOME.

**Invoices and Payments**

The Contractor shall submit monthly invoices to:

Audits and Accounts
Office of Technology and Innovation
15 MetroTech Center, 18th Floor
Brooklyn, NY 11201

All invoices presented for payment shall include the following information:

- The Contractor's name, address (the same as appears on the W–9 submission), contact name, and phone number
- The Contractor's tax ID number
- The contract number
- The invoice number and date of invoice
- The invoice service period and date of delivery
- An itemized list of temporary services being invoiced, a daily or weekly description of services rendered, job title, rate, dates of work, hours worked, and location of work, as well as the total charges invoiced
- Approved time sheets for individuals who performed hourly services during the invoice period
- Remittance address, if different than the invoice address, and only if the remittance address appears on the W-9 submission

### Appendix B.4.5 Personnel Authorized to Request Work

Requests for temporary personnel must originate from duly authorized MOME employees. MOME will provide the Contractor with a list of all MOME employees who are authorized to request services within 30 days of the Notice to Proceed. If the Contractor receives requests from any other individual, the request shall not be honored. If the Contractor has any doubt about the validity of the individual making the request, it shall contact MOME's designated contact person for this Agreement for verification.

## APPENDIX B.5 - CONTRACT REQUIREMENTS

### Appendix B.5.1 Labor

a) The City will not pay for travel.

b) A management contact must be available to OTI twenty-four (24) hours a day, seven (7) days a week.

### Appendix B.5.2 Liquidated Damages

Liquidated Damages may be assessed against the Contractor, at the sole discretion of OTI, if the Contractor fails to respond to a request within the time specified in the Scope of Services. In view of the difficulty of accurately ascertaining the exact loss which the City will suffer by reason of delay in the completion of the Work, the amount assessed is fixed and agreed to as liquidated damages that the City will suffer by reason of such delay, and not as a penalty.

If the Contractor fails to provide qualified temporary personnel within twenty-four (24) hours of Notification by MOME, or replacement personnel within two (2) hours of Notification by MOME, then MOME, at its discretion, will assess liquidated damages in the amount of $25.00 per hour, for each hour or part thereof that a temporary employee does not appear as requested, for up to twenty-four (24) hours.

### Appendix B.5.3 Hourly Rates

The hourly rates shall include all labor, travel time, overhead, benefits, payroll taxes, contingencies, profit, etc., as well as any material, equipment, and supplies that are necessary to perform the work. The Contractor is not entitled to impose any other charges or be reimbursed by the City for any expenses incurred by the Contractor in providing such services.

### Appendix B.5.4 Bid Items and Method of Bidding

Estimated costs and quantities of each bid item are utilized only for acquiring a Total Bid Price. The actual number of items may be different and will be based on actual work orders issued by OTI. This contract also does not guarantee or obligate the Department to issue a required number of work-orders. The Contractor is cautioned that payment will not be made for any work that is not authorized by the Department.

**NOTE:** The City is exempt from the payment of sales and excise taxes and if a price for goods or materials is required as part of this solicitation, the price bid shall be net, exclusive of taxes, and shall be so construed.

## Appendix B.5.5 Bid Contract Price

**Bid Security and Payment/Performance Bonds are not required for this Contract.**

## APPENDIX B.6 – JOB DESCRIPTIONS

The Contractor shall provide temporary personnel who match the job descriptions for the 63 titles (or their equivalents) listed in the table below to support MOME's operations. The Contractor shall ensure that the candidates meet the qualifications for the requested title(s) and provide the number of qualified candidates requested by MOME within the timeframe required by MOME. (See section B.4.2 above for information on reference checks and background checks. MOME does not require the Contractor to have the temporary employees sign the Contractor's own non-disclosure agreement.) MOME may require the Contractor to provide temporary personnel who also meet the Preferred Qualifications in the table below. For titles with no Preferred Qualifications listed in the table below, MOME shall have the option of providing the Contractor with Preferred Qualifications for those titles during the term of the Agreement and requiring the Contractor to identify temporary personnel who have the Preferred Qualifications.

The services to be provided will include work on a variety of short-term, long-term, and emergency projects, and may require work on Saturdays, Sundays, and holidays. MOME may need to engage temporary personnel to:

a. perform work that has an unpredictable or irregular schedule (such as filming City Council hearings)
b. provide project-based support for a defined period (such as coordinating intake of submissions for the Public School Film Festival)
c. meet seasonal needs during peak periods (such as renewal season in the Press Credentials Office)
d. cover for a regular employee who is on leave
e. provide coverage while MOME recruits for a vacant position
f. provide other temporary assistance that is necessary and appropriate

MOME does not guarantee a minimum quantity of personnel or a minimum number of hours under the Agreement.

| Title | Job Description (duties not limited to details below) | Preferred Qualifications |
|---|---|---|
| Administrative Assistant | The Administrative Assistant provides essential clerical and organizational support for the efficient operation of an agency office. Responsibilities include managing communications, maintaining records, coordinating meetings, drafting reports, and supporting agency staff with day-to-day tasks. This role requires strong attention to detail, proficiency with office software, and the ability to work independently. Duties include: (1) answer telephones and respond to routine inquiries,( 2) prepare and format documents, reports, memos, and correspondences, (3) maintain and update databases, (4) schedule and coordinate meetings, appointments, and travel arrangements, (5) monitor and order office supplies as needed, ( 6) assist in tracking departmental records, (7) support other staff members with administrative needs as assigned, (8) handle sensitive information with discretion and confidentiality. | High school diploma or equivalent (GED). At least 3 years of experience in an administrative or clerical support role. Proficiency with Microsoft Office Suite. Strong written and verbal communication skills. Ability to manage multiple tasks with accuracy and efficiency. Familiarity with standard office practices. |
| Administrator | The Administrator will provide high-level administrative and operational support for effective management of internal operations, public programs, projects, or departmental functions. This role involves coordination of daily office activities and support in executing strategic goals. The Administrator must possess strong organizational, communication, and leadership skills. | Bachelor's degree. At least 3 years of administrative or management experience, preferably in a government or nonprofit setting. Knowledge of agency operations and municipal procedures. Proficiency with Microsoft Office. Excellent verbal and written communication skills. Demonstrated ability to manage multiple priorities. |

| Title | Job Description (duties not limited to details below) | Preferred Qualifications |
|---|---|---|
| Advisor | The Advisor provides expert guidance, analysis, and recommendations to support strategic decision-making and program effectiveness. This role works closely with senior leadership and external stakeholders to develop policy initiatives, evaluate operational performance, and help implement agency priorities. The Advisor must be skilled in both high-level strategy and practical implementation. Serves as a trusted consultant to agency leadership on key initiatives, projects, or policy areas. Conducts research and analysis to inform decision-making and improve program outcomes. Drafts briefings, reports, and presentations on emerging issues, policy proposals, or performance metrics. Monitors developments in relevant sectors and recommends responses or innovations. Facilitates cross-functional coordination among internal teams and external partners. Supports the development and evaluation of pilot programs, new initiatives, or operational reforms. Identifies risks and opportunities and helps align activities with strategic goals. | Bachelor's degree in related field. Minimum of 10 years of experience in advisory, policy, consulting, or government roles. Strong research, writing, and analytical skills. Ability to synthesize complex information and communicate clearly to senior leaders. Experience working with diverse stakeholders and managing competing priorities. Subject matter expertise in the agency's area of focus. |
| Archivist | The Archivist is responsible for the acquisition, organization, and accessibility of historical records and documents, as well as researching, appraising, and acquiring new materials into the archives, obtaining proper documentation, and identifying proper storage. Organizes archival materials. Coordinates the digitization of archival materials to enhance accessibility and promote long-term preservation of digital assets. Works with producers and editors to research and acquire materials meeting the goals of each project. Works with external stakeholders to obtain license rights. Works with legal to obtain clearance for use by the agency. | Bachelor's degree in History, Library Science, Archival Studies, or a related field. Minimum of 3 years of experience in archival work. Proficiency with archival management systems and familiarity with digitization processes and digital preservation standards. Understanding of archival principles, standards, and best practices. Strong written and verbal communication skills, with the ability to interact effectively with diverse audiences. High level of accuracy and attention to detail in all aspects of archival work. |

| Title | Job Description (duties not limited to details below) | Preferred Qualifications |
|---|---|---|
| Assistant Project Manager | The Assistant Project Manager is responsible for supporting the planning, execution, and completion of high-value projects within the organization. This role involves collaborating with cross-functional teams, managing project documentation, and ensuring that projects are delivered on time, within scope, and within budget. Assists in developing comprehensive project plans, including timelines, budgets, and resource allocation. Facilitates communication among project stakeholders; produces alignment on goals and deliverables. Maintains accurate and up-to-date project documentation, including contracts, reports, and meeting minutes. Identifies potential project risks and develops mitigation strategies. Monitors project progress for adherence to quality standards and compliance with regulations. Prepares and presents regular project status reports to senior management and stakeholders. | Bachelor's degree. Minimum of 3 years of experience in project coordination or management. Excellent verbal and written communication skills, with the ability to interact effectively with diverse teams. Strong organizational and time-management skills to handle multiple projects simultaneously. Demonstrated ability to identify issues proactively and implement effective solutions. |
| Audio Engineer | The Audio Engineer is responsible for the operation and maintenance of audio equipment for high-quality sound recording, mixing, and playback for various productions. This role requires a professional with a strong understanding of audio technology, excellent problem-solving skills, and the ability to work collaboratively. Set up and operate audio equipment, including microphones, mixing consoles, and recording devices to ensure optimal sound quality during recordings and live events as needed. Mix and edit audio tracks to achieve desired sound effects and quality, ensuring consistency and clarity. Regularly inspect and maintain audio equipment to ensure functionality and prevent malfunctions. Work closely with producers, directors, and other team members to understand audio requirements and deliver high-quality sound outputs. Quickly identify and resolve audio issues during live events or recordings to minimize disruptions. Maintain accurate records of audio equipment usage, maintenance schedules, and any issues encountered. | Minimum 3 years experience. Proven experience in audio engineering, audio technology and production. |

| Title | Job Description (duties not limited to details below) | Preferred Qualifications |
|---|---|---|
| Broadcast Engineer | The Broadcast Engineer is responsible for the technical quality and reliability of television broadcasts. This role involves maintaining and operating broadcast equipment and troubleshooting technical issues. Equipment Maintenance: Maintain and repair broadcast equipment, including cameras, audio systems, and transmission gear. Broadcast Operations: Operate and monitor equipment during live and recorded broadcasts to achieve optimal performance. Troubleshooting: Quickly identify and resolve technical issues to minimize downtime during broadcasts. System Upgrades: Implement and test upgrades to broadcast systems to enhance performance and reliability. Compliance: Review operations so that they comply with Federal Communications Commission (FCC) regulations and other industry standards. Documentation: Maintain accurate records of equipment maintenance, system configurations, and compliance checks. | Bachelor's degree in Broadcast Engineering, Electrical Engineering, or a related field. Minimum of 3 years of experience in broadcast engineering or a related field. Proficient in operating and maintaining broadcast equipment; strong understanding of signal flow and broadcast systems. Strong analytical skills with the ability to troubleshoot and resolve technical issues under pressure. |
| Camera Operator | The Camera Operator will be responsible for capturing high-quality video footage for various productions, including events, interviews, meetings and press conferences. Sets up and adjusts camera equipment, including tripods, lenses, and lighting. Collaborates with directors and producers to understand and execute the visual style of the production. Creates proper framing, focus, and exposure of shots. Monitors audio levels for clear audio capture. Maintains and troubleshoots camera equipment for optimal performance. Adheres to safety protocols. | Minimum 3 years experience. Proven experience operating professional video cameras in a production environment. Strong understanding of camera settings, lenses, and lighting techniques. Ability to work collaboratively in a team-oriented environment. Excellent attention to detail and ability to follow directions. Flexibility to work varied hours, including evenings and weekends, as required. |

| Title | Job Description (duties not limited to details below) | Preferred Qualifications |
|---|---|---|
| Content Writer, Documentary | The Content Writer will be responsible for researching, developing, and writing compelling scripts and narrative content for documentary projects produced for television and film. The role involves working closely with producers, directors, researchers, and archival teams to craft engaging, fact-based storytelling that aligns with creative vision and production requirements. Conducts in-depth research on assigned topics, including historical, cultural, social, and political subjects. Develops original documentary scripts, treatments, outlines, and interview questions. Translates complex, factual material into accessible, emotionally engaging narratives for diverse audiences. Collaborates with producers, directors, and editorial teams to refine scripts and storylines in accordance with production schedules and editorial guidelines. Reviews and integrates archival materials, interviews, and footage into written content. Ensures factual accuracy, proper attribution, and compliance with legal and editorial standards. Adapts written content for multiple formats, including broadcast television, streaming platforms, and online media. Participates in story meetings, pitch sessions, and editorial reviews. Revises content in response to feedback from stakeholders and editorial leadership. | Bachelor's degree in Journalism, Communications, Film/Media Studies, Creative Writing, or a related field. Minimum of 3 years professional experience writing for television, film, or digital documentary productions. Demonstrated ability to craft clear, compelling, and accurate nonfiction narratives. Strong research skills, with experience analyzing primary and secondary sources. Proficient in writing for diverse audiences and platforms. Familiarity with documentary production processes and post-production workflows. Excellent organizational and time-management skills, with the ability to meet tight deadlines. Knowledge of copyright, fair use, and journalistic standards preferred. Experience writing for government, public media, or educational institutions preferred. Familiarity with NYC's cultural, historical, and social issues preferred. |

| Title | Job Description (duties not limited to details below) | Preferred Qualifications |
|---|---|---|
| Coordinator | The Coordinator is responsible for supporting the planning, execution, and monitoring of projects and programs within the organization. This role involves collaborating with various departments, managing administrative tasks, and promoting effective communication among stakeholders to achieve organizational objectives. Assists in the development and implementation of projects by coordinating schedules, resources, and information. Serves as a liaison between departments, creating clear and timely communication regarding project updates and requirements. Maintains accurate records of project activities, including meeting minutes, reports, and correspondence. Organizes meetings, appointments, and events, so that all logistical aspects are managed effectively. Identifies and addresses issues that may arise during project execution, proposing solutions to keep projects on track. Prepares and distributes regular reports on project status, timelines, and outcomes to stakeholders. | Bachelor's degree in Business Administration, Communications, or a related field. Minimum of 3 years of experience in a coordination or administrative role. Proficiency with Microsoft Office Suite. Strong organizational and time-management skills, with the ability to handle multiple tasks simultaneously. Excellent verbal and written communication skills, with attention to detail. Ability to work collaboratively with diverse teams and adapt to changing priorities. |
| Data Analyst | The Data Analyst supports data-driven decision-making within the agency by collecting, analyzing, interpreting, and reporting data relevant to public programs, operations, or policy initiatives. This role supports transparency, performance measurement, and strategic planning. The ideal candidate will have strong analytical skills, a detail-oriented mindset, and the ability to communicate findings to both technical and non-technical audiences. Collects, cleans, and organizes data sets from internal and external sources. Performs quantitative and qualitative analyses to support program evaluation, performance monitoring, or operational efficiency. Develops and maintains dashboards, reports, and data visualizations. Identifies trends, patterns, and anomalies in data to support evidence-based decision-making. Collaborates with stakeholders to define data requirements and monitor data integrity. Prepares presentations, summaries, and written reports that translate data findings into actionable insights. | Bachelor's degree. Minimum of 3 years of professional experience in a data analysis or research role. Proficiency with Excel and at least one data analysis or statistical programming language Experience creating visualizations. Strong problem-solving and analytical skills. Excellent written and verbal communication abilities. Understanding of public policy, program evaluation, or operational analysis. |

| Title | Job Description (duties not limited to details below) | Preferred Qualifications |
|---|---|---|
| Digital Content Producer/Writer | The Digital Content Producer/Writer is responsible for creating, editing, and managing engaging content across various digital platforms, including websites, social media, and email newsletters. This role requires a versatile writer with a strong understanding of audience engagement as well as multimedia content production. Content Creation: Develops compelling written content, including articles, blog posts, social media updates, and email newsletters. Multimedia Integration: Collaborates with design and video teams to incorporate multimedia elements into content. Content Strategy: Assists in planning and executing content strategies to align with goals. Collaboration: Works closely with cross-functional teams. | Minimum of 3 years of experience in digital content creation and writing. Proficiency with content management systems. Strong portfolio demonstrating a range of writing styles and content types. Ability to write for diverse audiences and adapt tone and style accordingly. Experience in documentary, educational, lifestyle or culture programs. |
| Director of Finance | The Director of Finance is responsible for financial management, planning, and fiscal integrity. This role oversees budgeting, financial reporting, and strategic financial planning. The Director provides leadership in developing and implementing financial policies and supports the agency's mission by aligning financial strategies with operational goals. Leads the development and implementation of the agency's annual budget, financial forecasts, and multi-year financial plans. Prepares and presents detailed financial reports to executive leadership. Provides strategic recommendations to support program development, capital planning, and risk management. Oversees contract and grant financial management, including cost allocation, drawdowns, and financial tracking. Serves as a liaison with city budget offices, funding agencies, and oversight bodies. | Bachelor's degree in Accounting, Finance, Business Administration, Public Administration, or a related field. Minimum of 10 years of progressive financial management experience, including 5+ years in a senior or executive leadership role. Strong knowledge of governmental budgeting practices and financial compliance requirements. Demonstrated experience in strategic financial planning, forecasting, and reporting. Proficiency with financial software systems and tools, including Excel. Experience in NYC government finance, OMB processes, or nonprofit/government organizations. Experience managing public budgets, grants, or capital projects. |

| Title | Job Description (duties not limited to details below) | Preferred Qualifications |
|---|---|---|
| Documentary Filmmaker | The Documentary Filmmaker is responsible for overseeing the creative, editorial, and technical aspects of documentary production for television and film projects. This role involves developing concepts, directing both location and studio shoots, supervising post-production, and ensuring that the final product meets editorial, aesthetic, and technical standards. The filmmaker will collaborate closely with producers, writers, editors, researchers, and government representatives to create engaging, accurate, and visually compelling nonfiction storytelling. Develops and refines documentary concepts, treatments, and production plans in coordination with producers and stakeholders. Directs documentary film shoots, including interviews, B-roll, and archival integration. Oversees and manages production crews, equipment, talent, and locations. Collaborates with content writers, researchers, and editors to ensure that narratives are factually sound and visually engaging. Supervises post-production, including video editing, sound design, color correction, and graphic integrations. Reviews and approves rough cuts, fine cuts, and final versions in line with creative and editorial guidelines. Reviews government, legal, and ethical standards, including rights clearances, licensing, and fair use provisions. Manages project timelines, deliverables, and budgets in collaboration with management. | Bachelor's degree in Film Production, Media Studies, Journalism, Communications, or a related field. Minimum of 3 years professional experience directing and producing documentary content for television, film, or digital media. Proven track record of delivering broadcast or streaming documentaries from development through post-production. Strong storytelling skills with an ability to translate complex topics into visually and emotionally compelling narratives. Proficient in camera operation, lighting, sound, and production management principles. Experience working with archival footage, interviews, reenactments, and multimedia elements. Excellent leadership, communication, and organizational skills. |
| Engineering Manager | The Broadcast Engineering Manager will oversee the technical operation and maintenance of broadcast systems to ensure high-quality and uninterrupted transmission of content. This role requires a seasoned professional with extensive experience in broadcast engineering, leadership skills, and a deep understanding of broadcast technologies. Technical Oversight: Manages and supervises the operation and maintenance of broadcast equipment and systems, including video servers, routers, and transmission equipment. Team Leadership: Leads and mentors a team of broadcast engineers, providing guidance and support to promote optimal performance. Project Management: Plans and executes technical projects, coordinating with other departments to meet deadlines and budgets. Troubleshooting: Identifies and resolves technical issues promptly to minimize downtime and optimize continuous broadcast operations. Compliance: Evaluates broadcast operations to comply with industry standards and regulatory requirements. Documentation: Maintains accurate | Bachelor's degree in Broadcast Engineering, Electrical Engineering, or a related field. Minimum of 10 years of experience in broadcast engineering, with at least 5 years in a managerial role. Proficiency with broadcast systems, including video and audio equipment, signal processing, and transmission technologies. Strong leadership and team management skills, with the ability to motivate and guide a diverse team. Excellent troubleshooting skills and the ability to think critically under pressure. Effective verbal and written communication skills, |

| Title | Job Description (duties not limited to details below) | Preferred Qualifications |
|---|---|---|
| | records of equipment configurations, maintenance schedules, and system modifications. | with the ability to interact with various stakeholders. Understanding of FCC regulations and industry standards related to broadcast operations. Familiarity with IP-based broadcast systems and automation technologies. |
| Event Coordinator | The Event Coordinator is responsible for planning, organizing, and executing public events, meetings, and community outreach activities for the agency. This role creates smooth logistics, follows city regulations, and creates effective stakeholder engagement to support the agency's mission and enhance public participation. | High school diploma or equivalent; Associate's or Bachelor's degree preferred. At least 3 years of experience coordinating events. Strong organizational, multitasking, and communication skills. Proficiency with Microsoft Office. Ability to work flexible hours, including evenings and weekends. |

| Title | Job Description (duties not limited to details below) | Preferred Qualifications |
|---|---|---|
| Facilities Manager | The Facilities Manager is responsible for the day-to-day management, maintenance, and safety of office spaces, TV broadcast, and physical infrastructure. This role monitors facilities so they are functional and compliant with relevant regulations, and meet operational standards to support the agency's mission. The Facilities Manager oversees building systems, coordinates with custodial and maintenance teams, coordinates repairs, and manages vendor relationships. Oversees maintenance, repair, and operations of all agency facilities and building systems (HVAC, plumbing, electrical, fire safety, etc.). Coordinates custodial, maintenance, and contractors for facility improvements, cleanliness, safety, and functionality. Develops and implement preventive maintenance schedules and facility improvement plans. Monitors city, state, and federal safety, health, accessibility, and environmental regulations. Coordinates vendor contracts, service agreements, and procurement for facilities-related services and supplies. Responds to emergencies, facility-related incidents, and service requests in a timely and efficient manner. Maintains accurate records of inspections, licenses, maintenance logs, and regulatory documentation. Collaborates with agency leadership on space planning, renovations, and capital improvements. | Bachelor's degree in related field. Minimum of 10 years of facilities or building management experience, including supervisory responsibilities. Working knowledge of building systems and maintenance best practices. Familiarity with applicable building codes, OSHA standards, and NYC-specific compliance regulations. Proficiency with Microsoft Office Suite. Strong organizational and problem-solving skills. |
| Field Manager, Film | The Field Manager is responsible for overseeing field staff who conduct on-site monitoring of film and television production shoots throughout NYC. This role reviews production activities to determine whether they are conducted in accordance with NYC permits, public safety regulations, and community guidelines. The Field Supervisor coordinates field operations, trains personnel, promotes compliance protocols, and serves as a liaison between field staff and leadership. Supervises and coordinates schedules for a team of field inspectors conducting site visits at permitted film productions. Serves as an escalation point for complex field situations, complaints, or non-compliance incidents. Reviews field reports, photos, and documentation for accuracy, completeness, and proper enforcement. Monitors workload and staffing needs; adjusts assignments as necessary for adequate coverage. Provides coaching, training, and performance feedback to field staff. | High school diploma or equivalent; college degree in Public Administration, Communications, Film, or related field preferred. Minimum of 3 years of supervisory or field operations experience. Familiarity with NYC filming permit processes and on-location production logistics. Strong leadership, problem-solving, and interpersonal skills. Proficient with Microsoft Office Suite. |

| Title | Job Description (duties not limited to details below) | Preferred Qualifications |
|---|---|---|
| Film and Video Media Specialist | The Film and Video Media Specialist is responsible for the creation, editing, and distribution of multimedia content across various platforms. This role involves collaborating with cross-functional teams to produce high-quality video content that aligns with the organization's branding and communication strategies. Plans, shoots, and edits video content for promotional, educational, and informational purposes. Uses editing software to assemble recorded footage, apply effects, and create a final product which meets quality standards. Coordinates with stakeholders to understand project requirements, set timelines, and deliver content on schedule. Maintains and manages video production equipment so that all tools are in working order. Distribute video content across various channels, including social media, websites, and internal platforms. Monitors the performance of video content and provides insights for improvement. | Bachelor's degree in Film, Media Production, Communications, or a related field. Minimum of 3 years of experience in video production and editing. Proficiency with video editing software such as Adobe Premiere Pro, Final Cut Pro, or similar tools. Strong storytelling skills and a keen eye for visual composition. Excellent verbal and written communication skills, with the ability to collaborate effectively with diverse teams. Ability to manage multiple projects simultaneously. |
| Marketing Strategist | The Marketing Strategist develops and implements strategic marketing initiatives that promote the agency's programs, services, and mission to the public. This role is responsible for shaping targeted campaigns and driving engagement across traditional and digital platforms. The Strategist will create messaging that reflects agency values and complies with public sector communication standards. Designs and executes marketing campaigns that increase awareness of agency initiatives, events, and services. Develops and maintains a comprehensive marketing strategy aligned with the agency's objectives. Creates compelling content for print, web, social media, and email communications. Collaborates with internal departments and external partners to support outreach and engagement goals. Stays current with industry trends and public sector best practices in marketing and outreach. Supports branding efforts and manages consistency across all communications channels. Coordinates with designers and public relations. | Bachelor's degree in Marketing, Communications, Public Relations, or a related field. Minimum of 3 years of experience in marketing strategy, preferably in government, nonprofit, or mission-driven sectors. Strong understanding of digital marketing, social media, and community engagement strategies. Excellent written, verbal, and visual communication skills. Familiarity with NYC communities, demographics, and public service. |

| Title | Job Description (duties not limited to details below) | Preferred Qualifications |
|---|---|---|
| Press Credentials Media Analyst | The Press Credentials Media Analyst is responsible for reviewing and evaluating applications for official press credentials, ensuring that all applicants meet established eligibility criteria and standards. This role involves analyzing media activity, verifying journalistic work and supporting the fair and transparent issuance of credentials. The Analyst also ensures that credentialing processes align with legal and ethical standards. Reviews and evaluates press credential applications for accuracy, completeness, and compliance with official criteria. Verifies applicants' media affiliation, journalistic output, and qualifications through research and analysis of published content and professional history. Maintains accurate records and databases of approved, denied, and pending applications. Drafts correspondences. Responds to inquiries. Supports coordination with legal counsel or oversight bodies in case of appeals, disputes, or special considerations. | Bachelor's degree in Journalism, Communications, Public Policy, Political Science, or a related field. Minimum of 3 years of experience in media, journalism, government communications, public affairs, or a compliance-related role. Strong research and analytical skills with attention to detail. Excellent written and verbal communication skills. Ability to work with confidential information and maintain impartiality and professionalism. Familiarity with media ethics, press freedom standards, and public information laws. |
| Office Manager | The Office Manager is responsible for overseeing and coordinating office operations to promote efficiency and follow company policies. This role involves managing administrative tasks, greeting the public and maintaining a productive and organized workplace environment. Oversees and coordinates office administrative procedures, reviewing, evaluating, and implementing new procedures as necessary. Manages office supplies inventory, anticipating needs, placing orders, and monitoring for timely delivery. Monitors the office environment for safety, and addresses any maintenance or facility-related issues promptly. Serves as a point of contact for internal and external communications, handling inquiries and disseminating information as needed. Plans and coordinates office events, meetings, and conferences, including logistics and catering arrangements. Promotes compliance with company policies and procedures. | Bachelor's degree. Minimum of 3 years of experience in office management or a similar administrative role. Strong organizational and multitasking abilities; excellent written and verbal communication skills; Proficiency with Microsoft Office Suite. Detail-oriented, proactive, and capable of working independently and as part of a team. |

| Title | Job Description (duties not limited to details below) | Preferred Qualifications |
|---|---|---|
| Operations Manager | The Operations Manager is responsible for overseeing day-to-day administrative, logistical, and operational functions. Promotes efficient resource use, compliance with policies, and achievement of organizational objectives. The Operations Manager works closely with senior leadership to implement strategies, manage personnel, and streamline workflows and achieve operational performance. Oversees and coordinates daily operations across assigned units or programs. Supervises staff involved in administrative, logistical operations. Monitors workflows, performance, and compliance with internal procedures and external regulations. Coordinates budgeting and procurement with finance and administrative teams. Serves as a liaison with internal departments, vendors, and external partners to promote operational alignment and responsiveness. Supports emergency response operations and continuity planning, as required. | Bachelor's degree. Minimum of 3 years of experience in operations, logistics, or administrative management, including 2+ years in a supervisory capacity. Strong project management and organizational skills. Proficient in Microsoft Office Suite. Excellent interpersonal, communication, and leadership abilities. Knowledge of public sector practice. |
| Production Coordinator | The Production Coordinator provides operational and logistical support for film, television, and commercial productions operating under City permits. Working under the direction of senior staff, the Coordinator facilitates communication between production companies and City agencies, and helps maintain smooth and responsible production activity across NYC neighborhoods. Serves as a liaison between production companies and relevant city agencies to coordinate logistical needs and compliance. Assists with processing and tracking film permit applications, schedules, and related documentation. Enters information into databases. | Bachelor's degree in Film, Communications, Public Administration or a related field. At least 3 years of experience in film production coordination, permitting, or related operational work. Strong understanding of film production logistics and City permitting processes. Excellent written and verbal communication skills. Highly organized with strong attention to detail and the ability to manage multiple tasks. Proficiency with Microsoft Office Suite. |

| Title | Job Description (duties not limited to details below) | Preferred Qualifications |
|---|---|---|
| Production Supervisor | The Production Supervisor will oversee daily operations of the production team, creating efficient workflows and ensuring adherence to quality standards. This role requires a proactive leader with experience in production management, strong organizational skills, and the ability to coordinate cross-functional teams in a dynamic environment. Supervises and coordinates the activities of the production team to meet project deadlines and quality standards. Develops and implements production schedules, adjusting as necessary to accommodate project changes. Monitors production processes and workflows, identifying areas for improvement and implementing solutions. Promotes compliance with safety regulations and company policies. Collaborates with other departments to optimize production efficiency and resource allocation. Maintains accurate records of production metrics and prepares reports for management review. | Minimum of 5 years of experience in a production supervisory role. Strong understanding of production processes and quality control standards. Excellent leadership, communication, and problem-solving skills. Proficiency with production management software and tools. |
| Program Administrative Assistant | The Program Administrative Assistant provides essential administrative support to program teams, ensuring smooth operation of daily activities. This role is a combination of clerical tasks, coordination, and communication. Performs general office duties such as managing correspondence, scheduling meetings, and maintaining files. Assists in the planning and execution of program activities, including preparing materials and coordinating logistics. Serves as a point of contact for internal and external stakeholders, providing information and addressing inquiries. Maintains and updates program databases, monitoring accuracy and preserving confidentiality of information. Assists in the preparation of reports and presentations, compiling data and summarizing findings. Coordinates events and meetings, including venue arrangements, catering, and participant communications. Assists with budget tracking, processing invoices, and managing program-related expenses. | Bachelor's degree or equivalent experience. Minimum of 3 years in an administrative or program support role. Proficiency with Microsoft Office Suite; strong organizational and multitasking abilities; excellent written and verbal communication skills. Detail-oriented, proactive, and capable of working independently and as part of a team. |

| Title | Job Description (duties not limited to details below) | Preferred Qualifications |
|---|---|---|
| Program Manager | The Program Manager oversees and coordinates multiple projects that align with strategic objectives and must be completed on time, within scope, and on budget. This role involves managing cross-functional teams, optimizing processes, and driving continuous improvement initiatives. Develops and implements program strategies that align with organizational goals. Manages the execution of multiple projects, monitoring quality standards and deadlines. Maintains regular communication with stakeholders, providing updates and addressing concerns. Identifies potential risks and develops mitigation strategies for program success. Reviews program budgets. Implements best practices and process improvements to enhance program efficiency. | Bachelor's degree. Minimum of 3 years of experience in program or project management. Strong leadership, communication, and organizational skills. |
| Project Manager | The Project Manager is responsible for leading and overseeing projects from initiation to completion, making sure they are delivered on time, within scope, and within budget. This role involves coordinating cross-functional teams, managing resources, and maintaining effective communication with stakeholders to achieve project objectives. Develops comprehensive project plans outlining scope, objectives, timelines, and resource requirements. Leads and coordinates cross-functional teams, assigning tasks and promoting accountability. Monitors project budgets. Identifies potential risks and develops mitigation strategies to minimize impact. Maintains clear and consistent communication with all stakeholders, providing regular updates on project status. | Bachelor's degree. Minimum of 3 years of experience in project management, with a proven track record of successful project delivery. Excellent verbal and written communication skills, with the ability to engage effectively with diverse teams and stakeholders. Strong analytical and problem-solving abilities to address project challenges proactively. |

| Title | Job Description (duties not limited to details below) | Preferred Qualifications |
|---|---|---|
| Radio/TV Engineer | The Radio/TV Engineer is responsible for the installation, maintenance, and operation of broadcast equipment and systems, to create high-quality and uninterrupted transmission of radio and television content. This role requires a seasoned professional with extensive experience in broadcast engineering, a strong understanding of RF systems, and the ability to troubleshoot complex technical issues. System Installation and Maintenance: installs, configures, and maintains broadcast equipment, including transmitters, receivers, antennas, and studio equipment. Signal Monitoring: monitors and analyzes broadcast signals and compliance with industry standards and regulatory requirements. Troubleshooting: diagnoses and resolves technical issues related to broadcast equipment and systems promptly to minimize downtime. Equipment Calibration: calibrates and aligns broadcast equipment to maintain optimal performance and signal quality. Documentation: maintains accurate records of equipment configurations, maintenance schedules, and system modifications. Compliance: evaluates all broadcast operations to ensure that they comply with Federal Communications Commission (FCC) regulations and other industry standards. Collaboration: works closely with other engineering teams, production staff, and management to support broadcast operations and projects. | Bachelor's degree in Broadcast Engineering, Electrical Engineering, or a related field. At least 3 years of relevant experience. Proficient in operating and maintaining broadcast equipment; strong understanding of RF systems and signal propagation. Strong analytical skills with the ability to troubleshoot and resolve complex technical issues under pressure. Excellent verbal and written communication skills, with the ability to interact effectively with various stakeholders. |
| Senior Camera Operator | The Senior Camera Operator will be responsible for capturing high-quality video footage for various productions, including events, interviews, meetings and press conferences. This role requires a skilled professional with experience in operating professional camera equipment. Sets up and adjusts camera equipment, including tripods, lenses, and lighting. Collaborates with directors and producers to understand and execute the visual style of the production. Creates proper framing, focus, and exposure of shots. Monitors audio levels to create clear audio capture. Maintains and troubleshoots camera equipment for optimal performance. Adheres to safety protocols. | Minimum 3 years experience. Proven experience operating professional video cameras in a production environment. Strong understanding of camera settings, lenses, and lighting techniques. Ability to work collaboratively in a team-oriented environment. Excellent attention to detail and ability to follow directions. Flexibility to work varied hours, including evenings and weekends as required. Familiarity with post-production processes and software. Knowledge of NYC's government operations, diverse communities and cultures. Uses own equipment as needed. |

| Title | Job Description (duties not limited to details below) | Preferred Qualifications |
|---|---|---|
| Senior Manager | The Senior Manager is responsible for leading and overseeing a specific department or function within the organization. This role involves strategic planning, team leadership, and reviewing departmental objectives to align them with the company's overall goals. The Senior Manager will collaborate with other senior leaders to drive performance, innovation, and operational success. Develops and implements departmental strategies that align with organizational goals. Promotes efficient and effective operations within the department, identifying areas for improvement and implementing best practices. Manages operations. Serves as a liaison between the department, other parts of the organization, and external stakeholders with clear and consistent communication. Identifies potential risks and develops mitigation strategies to minimize impact on departmental and organizational objectives. | Bachelor's degree in Business Administration, Management, or a related field. Minimum of 5 years experience in a managerial role, with a proven track record of success in leading teams and driving organizational goals. Strong leadership, communication, and interpersonal skills. Proficient in strategic planning. |
| Senior Video Editor | The Senior Video Editor leads the editing and post-production of video content. This role requires a creative professional with extensive experience in video editing, a strong understanding of storytelling, and the ability to manage multiple projects. Edits and assembles raw footage into polished video content for various platforms. Collaborates with producers, directors, and other stakeholders to understand project goals and deliver compelling narratives. Incorporates graphics, sound, and visual effects to enhance video quality. Edits video content to adheres to brand guidelines and accessibility standards. Maintains organized project files and archives for future reference. | Bachelor's degree in Film, Media, Communications, or a related field. Minimum of 5 years of professional experience in video editing. Proficiency with video editing software such as Adobe Premiere Pro, Final Cut Pro, or similar. Strong understanding of storytelling, pacing, and visual aesthetics. Experience with motion graphics and animation tools like Adobe After Effects is a plus. Excellent communication and organizational skills. Ability to work independently and collaboratively. |
| Site Coordinator | The Site Coordinator monitors film and TV production sites to evaluate production adherence to permit conditions and City regulations, and promotes compliance with policies and permits, as well as effective communication between stakeholders. This role is the primary on-site contact and reviews logistical, administrative, and operational activities. Responds promptly to issues or emergencies, escalating when necessary. | High school diploma or equivalent; Associate's or Bachelor's degree preferred. Minimum of 3 years experience in site or program coordination, compliance, or related roles. Strong organizational, interpersonal, and problem-solving skills. Ability to manage multiple tasks and work independently. Knowledge of NYC neighborhoods. |

| Title | Job Description (duties not limited to details below) | Preferred Qualifications |
|---|---|---|
| | | Experience with film and TV production. |
| Social Media Coordinator | The Social Media Coordinator is responsible for managing and increasing the agency's social media presence across multiple platforms, in order to enhance public engagement, promote programs and initiatives, and support transparent communication with diverse NYC communities. This role involves content creation, audience interaction, analytics tracking, and coordination with communications and program teams. Stays current on social media trends, tools, and best practices, particularly in the public sector. Develops, schedules, and publishes engaging content on social media platforms. Monitors social media channels. Assists in planning and promoting campaigns, events, and public information initiatives via social media. Promotes content that aligns with agency branding. | Bachelor's degree in Communications, Marketing, Public Relations, or a related field. Minimum of 3 years of experience managing social media accounts. Strong writing, editing, and digital storytelling skills. Familiarity with social media management tools. Ability to analyze data and create performance reports. Knowledge of community engagement strategies preferred. |
| Strategist | The Strategist is responsible for developing, analyzing, and implementing strategic initiatives that align with the agency's mission, priorities, and long-term goals. This role involves policy research, program planning, stakeholder engagement, and performance measurement to support public initiatives. The Strategist works closely with senior leadership and cross-functional teams. Designs and executes strategic plans to support agency objectives and public service goals. Conducts research and analysis on policies, programs, and operational trends to inform decision-making. Identifies emerging issues, risks, and opportunities and proposes data-driven recommendations. Develops reports, briefings, and presentations for executive leadership, oversight bodies, or public stakeholders. Collaborates with internal departments and external partners to align strategy with program execution. Facilitates planning sessions, workshops, and stakeholder engagements. | Bachelor's degree in a related field. Minimum of 5 years of experience in strategic planning, policy development, program evaluation, or a related role. Strong analytical, research, and problem-solving skills. Excellent verbal and written communication skills, with experience in presenting to senior leadership. Ability to manage multiple projects and deadlines in a fast-paced environment. Experience working in or with government agencies, nonprofit organizations, or public-private partnerships. Familiarity with NYC government operations, data tools, and community engagement practices. |

| Title | Job Description (duties not limited to details below) | Preferred Qualifications |
|---|---|---|
| On-Air Talent | On-Air Talent is the agency's public-facing voice and personality. This role may involve anchoring live and recorded programming; conducting interviews; narrating public service announcements, arts and culture programming, and documentary programming; and representing the agency's initiatives to a diverse NYC audience. Serves as an on-camera host, presenter, or radio personality for live and pre-recorded government media content, including news updates, public service programs, and special events coverage. Collaborates with producers, directors, and communications teams to develop editorial content that aligns with agency priorities and public service mandates. Writes and/or edits scripts, promotional content, and segment intros/outros as needed. Narrates public service announcements, informational videos, and government campaigns. | At least 5 years of professional on-camera and/or on-air experience in television, radio, digital media, or public information broadcasting, preferably within a government, nonprofit, or public affairs environment. Bachelor's degree in a related field. Proven experience hosting live broadcasts, conducting interviews, and delivering scripted and unscripted content. Strong writing, editorial judgment, and public speaking skills. Knowledge of broadcast production equipment, teleprompters, and digital recording platforms is a plus. Experience with media management systems and government accessibility guidelines (e.g., captioning, multilingual services) is a plus. |
| Video Editor | The Video Editor will be responsible for assembling recorded footage into a finished project. This role requires a keen eye for detail and the ability to work collaboratively with various departments. Edits raw footage into polished videos suitable for internal and external distribution. Collaborates with content creators, producers, and other stakeholders to understand project requirements. Incorporates graphics, sound, and effects to enhance video quality. Edits videos to meet brand guidelines and quality standards. Manages multiple projects simultaneously, adhering to tight deadlines. | At least 3 years experience as a Video Editor, with a strong portfolio showcasing previous work. Proficiency with video editing software such as Adobe Premiere Pro, Final Cut Pro, or similar. Familiarity with motion graphics and animation tools (Adobe After Effects or equivalent) is a plus. Strong understanding of storytelling, pacing, and visual aesthetics. Excellent communication and organizational skills. Ability to work independently and collaboratively. |

| Title | Job Description (duties not limited to details below) | Preferred Qualifications |
|---|---|---|
| Video Editor/Producer | The Video Editor/Producer will be responsible for the end-to-end creation of video content. This role requires a creative professional with extensive experience in video production and editing, a strong understanding of storytelling, and the ability to manage multiple projects. Conceptualizes, plans, and executes video projects from pre-production through post-production. Collaborates with internal stakeholders to understand project goals and deliver compelling narratives. Directs on-camera talent and crew members during shoots. Edits and assembles raw footage into polished video content for various platforms. Incorporates graphics, sound, and visual effects to enhance video quality. Reviews video content so that it adheres to brand guidelines and accessibility standards. Manages multiple projects simultaneously, meeting tight deadlines without compromising quality. Maintains organized project files and archives for future reference. | Bachelor's degree in Film, Media, Communications, or a related field. Minimum of 5 years of professional experience in video production and editing. Proficiency with video editing software such as Adobe Premiere Pro, Final Cut Pro, or similar. Strong understanding of storytelling, pacing, and visual aesthetics. Experience with motion graphics and animation tools (Adobe After Effects or equivalent) is a plus. Excellent communication and organizational skills. Ability to work independently and collaboratively. |
| Video Producer | The Video Producer will oversee the end-to-end production of video content. This role requires a creative professional with experience in video production, a strong understanding of storytelling, and the ability to manage multiple projects. Conceptualizes, plans, and executes video projects from pre-production through post-production. Collaborates with internal stakeholders to understand project goals and deliver compelling narratives. Coordinates all aspects of video production, including scripting, scheduling, budgeting, and logistics. Directs on-camera talent and crew members during shoots. Edits and assembles raw footage into polished video content for various platforms. Incorporates graphics, sound, and visual effects to enhance video quality. Produces video content that adheres to brand guidelines and accessibility standards. Manages multiple projects simultaneously, meeting tight deadlines without compromising quality. Maintains organized project files and archives for future reference. | Bachelor's degree in Film, Media, Communications, or a related field. Minimum of 3 years of professional experience in video production. Proficiency with video editing software: Adobe Premiere Pro, Final Cut Pro, or similar. Strong understanding of storytelling, pacing, and visual aesthetics. Experience with motion graphics and animation tools (Adobe After Effects or equivalent) is a plus. Excellent communication and organizational skills. Ability to work independently and collaboratively. |
| Ushers, Lobby Attendants, and Event Assistants | Assist patrons at entertainment events by performing duties, such as collecting admission tickets and passes from patrons, assisting in finding seats, searching for lost articles, and locating rest rooms and telephones. Set up events including arranging chairs, tables and promotional materials. Clean-up and takedown of events. Assist in transporting items, supplies and promotional items to events. | Experience in assisting at public events. Excellent communication and organizational skills. Ability to work independently and collaboratively. |

| Title | Job Description (duties not limited to details below) | Preferred Qualifications |
|---|---|---|
| Makeup Artists, Theatrical and Performance | Apply makeup to performers to reflect period, setting, and situation. | Minimum of 3 years experience working with high-profile clients in professional settings. Ability to work independently and collaboratively. |
| Radio, Cellular, and Tower Equipment Installers and Repairers | Repair, install or maintain mobile or stationary radio transmitting, broadcasting, and receiving equipment, and two-way radio communications systems used in cellular telecommunications, mobile broadband, ship-to-shore, aircraft-to-ground communications, and radio equipment in service and emergency vehicles. May test and analyze network coverage. | Bachelor's degree in related field. Minimum of 5 years of experience working with radio, broadcast communications and telecommunications systems. Excellent communication and organizational skills. Ability to work independently and collaboratively. |
| Telecommunications Equipment Installers and Repairers, Except Line Installers | Install, set up, rearrange, or remove switching, distribution, routing, and dialing equipment used in central offices or headends. Service or repair telephone, cable television, Internet, and other communications equipment on customers' property. May install communications equipment or communications wiring in buildings. | Bachelor's degree in related field. Minimum of 5 years of experience working with telecommunications equipment. Excellent communication and organizational skills. Ability to work independently and collaboratively. |
| Instructional Coordinators | Develop instructional material, coordinate educational content, and incorporate current technology in specialized fields that provide guidelines to educators and instructors for developing curricula and conducting courses. Includes educational consultants and specialists and instructional material directors. | Bachelor's degree in related field. Minimum of 5 years of experience creating and delivering instructional materials. Excellent communication and organizational skills. Ability to work independently and collaboratively. |
| Writers and Authors | Originate and prepare scripts, stories, advertisements, and other written material. | Bachelor's degree in related field. Minimum of 5 years of experience in writing scripts, stories and other content. Excellent communication and organizational skills. Ability to work independently and collaboratively. |
| Art Directors | Formulate design concepts and presentation approaches for visual communications media, such as print, broadcasting, and advertising. Give direction to workers engaged in artwork or layout design. | Bachelor's degree in related field. Minimum of 5 years of experience as an art director. Excellent communication and organizational skills. Ability to work independently and collaboratively. |

| Title | Job Description (duties not limited to details below) | Preferred Qualifications |
|---|---|---|
| Fine Artists, Including Painters, Sculptors, and Illustrators | Create original artwork using any of a wide variety of media and techniques. | Bachelor's degree in related field. Minimum of 5 years of experience in creating original artwork for clients. Excellent communication and organizational skills. Ability to work independently and collaboratively. |
| Multimedia Artists and Animators | Create special effects, animation, or other visual images using film, video, computers, or other electronic tools and media for use in products or creations such as computer games, movies, music videos, and commercials. | Bachelor's degree in related field. Minimum of 5 years of experience. Advanced proficiency with software used for animations, editing and production. Excellent communication and organizational skills. Ability to work independently and collaboratively. |
| Graphic Designers | Design or create graphics to meet specific commercial or promotional needs, such as packaging, displays, or logos. May use a variety of media to achieve artistic or decorative effects. | Bachelor's degree in related field. Minimum of 5 years of experience in graphic design. Ability to manage multiple projects and deadlines in a fast-paced environment. Proficiency with Adobe Premiere and other design tools. Excellent communication and organizational skills. Ability to work independently and collaboratively. |
| Producers and Directors | Produce or direct stage, television, radio, video, or motion picture productions for entertainment, information, or instruction. Responsible for creative decisions, such as interpretation of script, choice of actors or guests, set design, sound, special effects, and choreography. | Bachelor's degree in related field. Minimum of 5 years of experience. Excellent communication and organizational skills. Ability to work independently and collaboratively. |
| Public Relations Specialists | Promote or create an intended public image for individuals, groups, or organizations. May write or select material for release to various communications media. | Bachelor's degree in related field. Minimum of 5 years of experience in public relations and marketing. Demonstrated writing skills and experience writing public-facing materials. Experience with branding and crafting images and messaging. Understanding of local government, relationships within entities in |

| Title | Job Description (duties not limited to details below) | Preferred Qualifications |
|---|---|---|
| | | the City and goals of the agency. Excellent communication and organizational skills. Ability to work independently and collaboratively. |
| Human Resources Specialists | Perform human resources activities. Includes employment specialists who screen, recruit, interview, and place workers. | Bachelor's degree in related field. Minimum of 5 years of experience in human resources. Experience working in or with government agencies, nonprofit organizations, or public-private partnerships. Excellent communication and organizational skills. Ability to work independently and collaboratively. |
| Fundraisers | Organize activities to raise funds or otherwise solicit and gather monetary donations or other gifts for an organization. Design and produce promotional materials. Raise awareness of the organization's work, goals, and financial needs. | Bachelor's degree in related field. Minimum of 5 years of experience. Ability to manage multiple projects and deadlines in a fast-paced environment. Experience working in or with government agencies, nonprofit organizations, or public-private partnerships. Familiarity with NYC government operations and data tools. Excellent communication and organizational skills. Ability to work independently and collaboratively. |
| Training and Development Specialists | Design and conduct training and development programs to improve individual and organizational performance. Analyze training needs. | Bachelor's degree in a related field. Minimum 5 years of experience. |
| Budget Analysts | Examine budget estimates for completeness, accuracy, and conformance with procedures and regulations. Analyze budgeting and accounting reports. | Bachelor's degree in related field. Minimum of 5 years of experience. Ability to manage multiple projects and deadlines in a fast-paced environment. Experience working in or with government agencies, nonprofit organizations, or public-private partnerships. Familiarity with NYC government operations and |

| Title | Job Description (duties not limited to details below) | Preferred Qualifications |
|---|---|---|
| | | data tools. Excellent communication and organizational skills. Ability to work independently and collaboratively. Excellent communication and organizational skills. Ability to work independently and collaboratively. |
| Historians | Research, analyze, record, and interpret the past as recorded in sources, such as government and institutional records, newspapers and other periodicals, photographs, interviews, films, electronic media, and unpublished manuscripts, such as personal diaries and letters. | Bachelor's degree in related field. Minimum of 5 years of experience. Excellent communication and organizational skills. Ability to work independently and collaboratively. |
| Audio and Video Equipment Technicians | Set up and/or operate audio and video equipment including microphones, sound speakers, video screens, projectors, video monitors, recording equipment, connecting wires and cables, sound and mixing boards for concerts, sports events, meetings, conventions, presentations, and news conferences. Set up and/or operate spotlights and other custom lighting systems. | Bachelor's degree in related field. Minimum of 5 years of experience. Excellent communication and organizational skills. Ability to work independently and collaboratively. |
| First-Line Supervisors of Office and Administrative Support Workers | Directly supervise and coordinate the activities of clerical and administrative support workers. | Bachelor's degree in related field. Minimum of 3 years of experience. Excellent communication and organizational skills. Ability to work independently and collaboratively. |
| Fundraising Managers | Plan, direct, or coordinate activities to solicit and maintain funds for special projects or nonprofit organizations. | Bachelor's degree in related field. Minimum of 5 years of experience. Excellent communication and organizational skills. Ability to work independently and collaboratively. |
| Management Analysts | Conduct organizational studies and evaluations, design systems and procedures, conduct work simplification and measurement studies, and prepare operations and procedures manuals to assist management in operating more efficiently and effectively. Includes program analysts and management consultants. | Bachelor's degree in related field. Minimum of 5 years of experience. Excellent verbal and written communication skills. Experience presenting to senior leadership. Ability to manage multiple projects and deadlines in a fast-paced environment. Experience working in or with government agencies, nonprofit organizations, or public- |

| Title | Job Description (duties not limited to details below) | Preferred Qualifications |
|---|---|---|
| | | private partnerships. Familiarity with NYC government operations, data tools, and community engagement practices. Excellent communication and organizational skills. Ability to work independently and collaboratively. |
| Photographers | Photograph people, landscapes, merchandise, or other subjects, using digital or film cameras and equipment. Develop negatives or use computer software to produce finished images and prints. Includes scientific photographers, aerial photographers, and photojournalists. | Bachelor's degree in related field. Minimum of 5 years of experience. Excellent communication and organizational skills. Ability to work independently and collaboratively. |
| Master Control Operator | Set up, operate, and maintain electronic equipment used to transmit radio and television programs. Control audio equipment to regulate volume level and quality of sound during radio and television broadcasts. Operate transmitter to broadcast radio or television programs. | Bachelor's degree in related field. Minimum of 3 years of experience. Excellent communication and organizational skills. Ability to work independently and collaboratively. |
| Office Clerks, General | Clerical duties may include a combination of answering telephones, bookkeeping, typing or word processing, stenography, office machine operation, and filing. | Bachelor's degree in related field. Minimum of 2 years of experience. Excellent communication and organizational skills. Ability to work independently and collaboratively. |
| Associate Producer | The Associate Producer will produce video content that aligns with the Agency's objectives. This role requires a creative professional with experience in video production, a strong understanding of storytelling, and the ability to manage multiple projects. Conceptualize, plan, and execute video projects. Collaborate with internal stakeholders to understand project goals and deliver compelling narratives. Coordinate aspects of video production, including scripting, scheduling, budgeting, and logistics. Produce video content that adheres to brand guidelines and accessibility standards. Manage multiple projects simultaneously, meeting tight deadlines without compromising quality. Maintain organized project files and archives for future reference. | Bachelor's degree in Film, Media, Communications, or a related field. Minimum of 3 years of professional experience in video production. Proficiency in video editing software such as Adobe Premiere, Final Cut Pro, or similar. Strong understanding of storytelling, pacing, and visual aesthetics. Experience with motion graphics and animation tools like Adobe After Effects or equivalent is a plus. Excellent communication and organizational skills. Ability to work independently and collaboratively. |

| Title | Job Description (duties not limited to details below) | Preferred Qualifications |
|---|---|---|
| Field Representative | Visit film/TV production locations on public property throughout the five boroughs to ensure compliance with the film permit rules, the code of conduct, and permit conditions. Confirm that public notices are posted correctly. Ensure that the production is maintaining public safety and that there is access to public areas for pedestrian and vehicular traffic when necessary. Write set visit reports for each production location visited. Address violations of rules and permits. Provide information and advice to productions including problem resolution, and recommend changes to meet community requests.<br>Advise productions on efficient placement of vehicles and large equipment. Maintain and utilize the database system for tracking the day-to-day locations of all NYC productions. | Experience on TV/Film sets and working with production companies. Knowledge of New York City neighborhoods. Excellent written and oral communication skills. Ability to manage confidential matters. Strong organizational skills. Careful attention to detail and follow-through. Ability to read and understand rules and apply them to real-life situations on film sets. |

## ATTACHMENT A: IRAN DIVESTMENT RIDER AND CERTIFICATION

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:

(a) 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

(b) 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.

VENDOR NAME: _____ PIN:

**PROPOSER'S CERTIFICATION OF COMPLIANCE WITH IRAN DIVESTMENT ACT**

Pursuant to General Municipal Law §103-g, which generally prohibits the City from entering into contracts with persons engaged in investment activities in the energy sector of Iran, the bidder/proposer submits the following certification:

[*Please Check One*]

**PROPOSER'S CERTIFICATION**

☐ By submission of this bid or proposal, each bidder/proposer and each person signing on behalf of any bidder/proposer certifies, and in the case of a joint bid each party thereto certifies as to its own organization, under penalty of perjury, that to the best of its knowledge and belief, that each bidder/proposer is not on the list created pursuant to paragraph (b) of subdivision 3 of Section 165-a of the State Finance Law.

☐ I am unable to certify that my name and the name of the bidder/proposer does not appear on the list created pursuant to paragraph (b) of subdivision 3 of Section 165-a of the State Finance Law. I have attached a signed statement setting forth in detail why I cannot so certify.

Dated: _____, New York
_____ , 20 __

_____
SIGNATURE

_____
PRINTED NAME
TITLE

Sworn to before me this
_____ day of____, 20___

_____
Notary Public

Dated:

## ATTACHMENT B: ELECTRONIC FUNDS TRANSFER

A. In accordance with Section 6-107.1 of the New York City Administrative Code, 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, Contractor shall designate one financial institution or other authorized payment agent and shall complete the "EFT Vendor Payment Enrollment Form" (attached below) in order to provide the Commissioner of Finance with information necessary for 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 herein to payments on contracts entered into pursuant to §315 of the City Charter. In addition, the Commissioner of the Department of Finance and the Comptroller may jointly issue standards pursuant to which the contracting agency may waive the requirements hereunder 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 interest of the City.

CITY OF NEW YORK • DEPARTMENT OF FINANCE • TREASURY DIVISION

# DIRECT DEPOSIT/ELECTRONIC FUNDS TRANSFER (EFT) VENDOR PAYMENT ENROLLMENT FORM

**Mail to:** NYC Department of Finance, Treasury Division, 66 John Street, 12th Floor, New York, NY 10038 - Attention: EFT, or
**Fax to:** EFT at 212-487-3027 or 212-487-3026

☐ ENROLLMENT ☐ MODIFICATION

**INSTRUCTIONS:** Please check only one of the two boxes above. Check the Enrollment box to sign up for EFT. Check the Modification box if you are currently enrolled and are making changes to the Vendor and/or Financial Institution information you have already submitted.

The person completing this form must be an individual who can authorize changes related to SECTION II - FINANCIAL INSTITUTION INFORMATION. **The Person signing this form in Section III must be the same Contact Person in Section I.**

Please complete all sections of this Enrollment Form and attach a voided check, a copy of an encoded deposit slip that includes an imprinted vendor's name, the first page of a bank statement OR a letter signed by your bank representative, confirming account name, account number, and ABA routing number for ACH payments.

**Note: Your application cannot be processed without this documentation.** See the reverse side for more information and instructions.

## SECTION I - VENDOR INFORMATION

1. SOCIAL SECURITY NUMBER OR TAXPAYER ID NUMBER: (AS IT APPEARS ON W-9 FORM)

2. VENDOR NAME (AS IT APPEARS ON W-9 FORM):

3. VENDOR'S ADDRESS (FOR EFT ENROLLMENT PURPOSES):

4. VENDOR'S EMAIL ADDRESS:

5. CONTACT PERSON'S NAME:

6. CONTACT TELEPHONE NUMBER:

## SECTION II - FINANCIAL INSTITUTION INFORMATION

1. BANK ACCOUNT NUMBER:

2. ACCOUNT NAME:

3. BANK NAME:

4. BANK BRANCH ADDRESS:

5. BANK 9-DIGIT ROUTING NUMBER: (LOCATED AT THE BOTTOM OF CHECK)

6. ACCOUNT TYPE - MUST BE EITHER CHECKING OR SAVINGS: (CHECK ONE BOX ONLY) ☐ CHECKING ☐ SAVINGS

7. DIRECT DEPOSIT/ACH/EFT COORDINATOR'S NAME:

8. TELEPHONE NUMBER:

## SECTION III - VENDOR SIGNATURE AND AUTHORIZATION

I, hereby confirm my authority, as an authorized signer of the above-referenced bank account, to issue these instructions to credit and/or debit the bank account. I authorize the City of New York to Direct Deposit all entitled payments to the account specified above and to initiate (if necessary) debit entries or adjustments for any credit (i) made in error, (ii) of an incorrect amount, (iii) that were duplicates of a correct payment. I understand that this authorization will remain in effect until a written authorization requesting cancellation is submitted to the tax number(s) above.

1. VENDOR SIGNATURE - MUST BE THE SAME CONTACT PERSON FROM SECTION I

2. DATE - MM/DD/YYYY

TREA-0913 Rev. 10.03.13

## ATTACHMENT C: WHISTLEBLOWER PROTECTION EXPANSION ACT NOTICE

### WHISTLEBLOWER PROTECTION EXPANSION ACT RIDER

1. In accordance with Local Law Nos. 30-2012 and 33-2012, codified at sections 6-132 and 12-113 of the New York City Administrative Code, respectively,

(a) 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 Contract 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.

(b) 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 subparagraph (a) of paragraph 1 of this rider, 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.

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

(i) 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 Contract; and
(ii) the rights and remedies afforded to its employees under New York City Administrative Code sections 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 Contract.

(d) For the purposes of this rider, "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.

(e) This rider is applicable to all of Contractor's subcontractors having subcontracts with a value in excess of $100,000; accordingly, Contractor shall include this rider in all subcontracts with a value a value in excess of $100,000.

2. Paragraph 1 is not applicable to this Contract if it is valued at $100,000 or less. Subparagraphs (a), (b), (d), and (e) of paragraph 1 are not applicable to this Contract if it was solicited pursuant to a finding of an emergency. Subparagraph (c) of paragraph 1 is neither applicable to this Contract if it was solicited prior to October 18, 2012 nor if it is a renewal of a contract executed prior to October 18, 2012.

## REPORTING INFORMATION TO THE

NEW YORK CITY DEPARTMENT OF INVESTIGATION

If you have information of any corrupt or fraudulent activities or unethical conduct relating to a New York City funded project or contract, contact:

**Department of Investigation (DOI) Complaint Bureau**

**212-825-5959**

**or by mail or in person at:**

**DEPARTMENT OF INVESTIGATION**
**80 MAIDEN LANE, 17th FLOOR**
**NEW YORK, NEW YORK 10038**
**Attention: COMPLAINT BUREAU**

**or file a complaint on-line at:**
**www.nyc.gov/doi**

*All communications are confidential.*

## THE LAW PROTECTS EMPLOYEES OF CITY CONTRACTORS WHO REPORT CORRUPTION

- Any employee of a contractor or subcontractor that has a contract with the City or a City contractor of more than $100,000 is protected under the law from retaliation by his or her employer if the employee reports wrongdoing related to the contract to the DOI.
- To be protected by this law, an employee must report information about fraud, false claims, corruption, criminality, conflict of interest, gross mismanagement, or abuse of authority relating to a City contract over $100,000 to DOI or to certain other government officials all of whom must forward the report to DOI.
- Any employee who has made such a report and who believes he or she has been dismissed, demoted, suspended, or otherwise subject to an adverse personnel action because of that report is entitled to bring a lawsuit against the contractor and recover damages.


Get the Worms Out
of the Big Apple.

## ATTACHMENT D: INTENTIONALLY OMITTED

## ATTACHMENT E: PAID SAFE AND SICK LEAVE RIDER

## NYC EARNED SAFE AND SICK TIME ACT CONTRACT RIDER

(To supersede Section 4.06 of the January 2018 Appendix A and Section 35.5 of the March 2017 Standard Construction Contract and to be attached to other City contracts and solicitations)

A. *Introduction and General Provisions.*

1. The Earned Safe and Sick Time Act ("ESSTA"), codified at Title 20, Chapter 8 of the New York City Administrative Code, also known as the "Paid Safe and Sick Leave Law," requires covered employees (as defined in Admin. Code § 20-912) in New York City ("City") to be provided with paid safe and sick time. Contractors of the City or of other governmental entities may be required to provide safe and sick time pursuant to the ESSTA. The ESSTA is enforced by the City's Department of Consumer and Worker Protection ("DCWP"), which has promulgated 6 RCNY §§ 7-101 and 201 *et seq*. ("DCWP Rules").

2. The Contractor agrees to comply in all respects with the ESSTA and the DCWP 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 ESSTA in performance of this agreement may result in its termination.

3. The Contractor must notify (with a copy to DCWP at ComplianceMonitoring@dcwp.nyc.gov) the Agency Chief Contracting Officer of the City Agency or other entity with whom it is contracting in writing within 10 days of receipt of a complaint (whether oral or written) or notice of investigation regarding the ESSTA involving the performance of this agreement. Additionally, the Contractor must cooperate with DCWP's guidance and must comply with DCWP's subpoenas, requests for information, and other document demands as set forth in the ESSTA and the DCWP Rules. More information is available at https://www1.nyc.gov/site/dca/about/paid-sick-leave-what-employers-need-to-know.page.

4. Upon conclusion of a DCWP investigation, Contractor will receive a findings letter detailing any employee relief and civil penalties owed. Pursuant to the findings, Contractor will have the opportunity to settle any violations and cure the breach of this agreement caused by failure to comply with the ESSTA either i) without a trial by entering into a consent order or ii) appearing before an impartial judge at the City's administrative tribunal. In addition to and notwithstanding any other rights and remedies available to the City, non-payment of relief and penalties owed pursuant to a consent order or final adjudication within 30 days of such consent order or final adjudication may result in the termination of this agreement without further opportunity to settle or cure the violations.

5. The ESSTA is briefly summarized below for the convenience of the Contractor. The Contractor is advised to review the ESSTA and the DCWP Rules in their entirety. The Contractor may go to www.nyc.gov/PaidSickLeave for 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 ESSTA and the DCWP Rules. The Contractor acknowledges that it is responsible for compliance with the ESSTA and the DCWP Rules notwithstanding any inconsistent language contained herein.

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

1. An employee who works within the City must be provided paid safe and sick time.[1] Employers with one hundred or more employees are required to provide 56 hours of safe and sick time for an employee each calendar year. Employers with fewer than one hundred employees are required to provide 40 hours of sick leave each calendar year. Employers must provide a minimum of one hour of safe and sick time for every 30 hours worked by an employee and compensation for such safe and sick time must be provided at the greater of the employee's regular hourly rate or the minimum wage at the time the paid safe or sick time is taken. Employers are not discouraged or prohibited from providing more generous safe and sick time policies than what the ESSTA requires.

2. Employees have the right to determine how much safe and sick time they will use, provided that an employer may set a reasonable minimum increment for the use of safe and sick time not to exceed four hours per day. For the use of safe time or sick time beyond the set minimum increment, an employer may set fixed periods of up to thirty minutes beyond the minimum increment. In addition, an employee may carry over up to 40 or 56 hours of unused safe and sick time to the following calendar year, provided that no employer is required to carry over unused paid safe and sick time if the employee is paid for such unused safe and sick time and the employer provides the employee with at least the legally required amount of paid safe and sick time for such employee for the immediately subsequent calendar year on the first day of such calendar year.

3. An employee entitled to safe and sick time pursuant to the ESSTA may use safe and 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, the child or parent of an employee's spouse or domestic partner, any other individual related by blood to the employee, and any other individual whose close association with the employee is the equivalent of a family relationship) who has a mental illness, physical illness, injury or health condition or who has a need for medical diagnosis or preventive medical care;

[1] Pursuant to the ESSTA, if fewer than five employees work for the same employer, and the employer had a net income of less than one million dollars during the previous tax year, such employer has the option of providing such employees uncompensated safe and sick time.

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

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

e. when the employee or a family member has been the victim of a family offense matter, sexual offense, stalking, or human trafficking:

1. to obtain services from a domestic violence shelter, rape crisis center, or other shelter or services program for relief from a family offense matter, sexual offense, stalking, or human trafficking;
2. to participate in safety planning, temporarily or permanently relocate, or take other actions to increase the safety of the employee or employee's family members from future family offense matters, sexual offenses, stalking, or human trafficking;
3. to meet with a civil attorney or other social service provider to obtain information and advice on, and prepare for or participate in any criminal or civil proceeding, including but not limited to, matters related to a family offense matter, sexual offense, stalking, human trafficking, custody, visitation, matrimonial issues, orders of protection, immigration, housing, discrimination in employment, housing or consumer credit;
4. to file a complaint or domestic incident report with law enforcement;
5. to meet with a district attorney's office;
6. to enroll children in a new school; or
7. to take other actions necessary to maintain, improve, or restore the physical, psychological, or economic, health or safety of the employee or the employee's family member or to protect those who associate or work with the employee.

4. An employer must not require an employee, as a condition of taking safe and sick time, to search for a replacement. However, where the employee's need for safe and sick time is foreseeable, an employer may require an employee to provide reasonable notice of the need to use safe and sick time. For an absence of more than three consecutive work days, an employer may require reasonable documentation that the use of safe and sick time was needed for a reason listed in Admin. Code § 20-914; and/or written confirmation that an employee used safe and sick time pursuant to the ESSTA. However, an employer may not require documentation specifying the nature of a medical condition, require disclosure of the details of a medical condition, or require disclosure of the details of a family offense matter, sexual offense, stalking, or human trafficking, as a condition of providing safe and sick time. Health information and information concerning family offenses, sexual offenses, stalking or human trafficking obtained solely due to an

employee's use of safe and sick time pursuant to the ESSTA must be treated by the employer as confidential. An employer must reimburse an employee for all reasonable costs or expenses incurred in obtaining such documentation for the employer.

5. An employer must provide to all employees a written policy explaining its method of calculating sick time, policies regarding the use of safe and sick time (including any permissible discretionary conditions on use), and policies regarding carry-over of unused time at the end of the year, among other topics. It must provide the policy to employees 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 safe and sick time to an employee because of non-compliance with such a policy.

6. An employer must provide a pay statement or other form of written documentation that informs the employee of the amount of safe/sick time accrued and used during the relevant pay period and the total balance of the employee's accrued safe/sick time available for use.

7. Safe and 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 safe and sick time was used.

C. *Exemptions and Exceptions*. Notwithstanding the above, the ESSTA 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, if the provisions of the ESSTA are expressly waived in such agreement and such agreement provides a benefit comparable to that provided by the ESSTA for such employee;

3. 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 their own schedule, has the ability to reject or accept any assignment referred to them, and is paid an average hourly wage that is at least four times the federal minimum wage;

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

5. 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

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

D. *Retaliation Prohibited.* An employer shall not take any adverse action against an employee that penalizes the employee for, or is reasonably likely to deter the employee from or interfere with the employee exercising or attempting in good faith to exercise any right provided by the ESSTA. In addition, an employer shall not interfere with any investigation, proceeding, or hearing pursuant to the ESSTA.

E. *Notice of Rights.*

1. An employer must provide its employees with written notice of their rights pursuant to the ESSTA. Such notice must be in English and the primary language spoken by an employee, provided that DCWP has made available a translation into such language. Downloadable notices are available on DCWP's website at https://www1.nyc.gov/site/dca/about/Paid-Safe-Sick-Leave-Notice-of-Employee-Rights.page. The notice must be provided to the employees by a method that reasonably ensures personal receipt by the employee.

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 ESSTA for a period of at least three years, and must allow DCWP to access such records in furtherance of an investigation related to an alleged violation of the ESSTA.

G. *Enforcement and Penalties.*

1. Upon receiving a complaint alleging a violation of the ESSTA, DCWP must investigate such complaint. DCWP may also open an investigation to determine compliance with the ESSTA on its own initiative. Upon notification of a complaint or an investigation by DCWP, the employer must provide DCWP with a written response and any such other information as DCWP may request. If DCWP believes that a violation of the ESSTA has occurred, it has the right to issue a notice of violation to the employer .

2. DCWP 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, but is not limited to, treble damages for the wages that should have been paid; statutory damages for unlawful retaliation; and damages, including statutory damages, full compensation for wages and benefits lost, and reinstatement, for unlawful discharge. In addition, DCWP may impose on an employer found to have violated the ESSTA 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. When an employer has a policy or practice of not providing or refusing to allow the use of safe and sick time to its employees, DCWP may seek penalties and relief on a per employee basis.

3. Pursuant to Admin. Code § 20-924.2, (a) where reasonable cause exists to believe that an employer is engaged in a pattern or practice of violations of the ESSTA, the Corporation Counsel may commence a civil action on behalf of the City in a court of competent jurisdiction by filing a complaint setting forth facts relating to such pattern or practice and requesting relief, which may include injunctive relief, civil penalties and any other appropriate relief. Nothing in § 20-924.2 prohibits DCWP from exercising its authority under section 20-924 or the Charter, provided that a civil action pursuant to § 20-924.2 shall not have previously been commenced.

H. *More Generous Polices and Other Legal Requirements.* Nothing in the ESSTA is intended to discourage, prohibit, diminish, or impair the adoption or retention of a more generous safe and 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 safe and sick time. The ESSTA provides minimum requirements pertaining to safe and 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 safe and sick leave or time, whether paid or unpaid, or that extends other protections to employees. The ESSTA may not be construed as creating or imposing any requirement in conflict with any federal or state law, rule or regulation.

## ATTACHMENT F: DISPLACEMENT DETERMINATION FORM

Displacement Determination Form – Pursuant to City Charter § 312(a)
***(for PSRs or equivalent pre-procurement documents)***

**If you have any questions about Local Law 63 or about completing this form, please contact the Mayor's Office of Contract Services at LL63@mocs.nyc.gov.**

***This form must be used to certify whether or not there is displacement in the instant contracting action, as defined in City Charter § 312(a) (as amended by Local Law 63 of 2011). You can either certify that there is no displacement by completing Part 1 of this form, or you can certify that there is displacement by completing Part 2 of this form. If the contract that you are awarding is a task order contract that does not simultaneously result in the award of a first task order, then you must check the box on the bottom of this page; displacement determinations will be made in conjunction with the issuance of task orders pursuant to the subject contract.***

**Procurement Description: Temporary Personnel Services**

**EPIN:** 85827B0001

**Your Name:** Nikita Podlednov

**Phone:** 718-403-4185 **Email:** npodlednov@oti.nyc.gov

Please specifically identify the core service being procured.

Plan ID#: FY27NOTI149

The Office of Innovation and Technology ("OTI"), on behalf of the Mayor's Office of Media and Entertainment ("MOME" or "the Agency"), is seeking an appropriately qualified vendor ("Contractor") to provide temporary personnel services as requested by MOME on an as-needed basis.

☐ If the contract to be awarded through this solicitation is a task order contract (multiple or single award and multiple or single agency) that does not simultaneously result in the award of a first task order, then displacement determinations will be made in conjunction with the issuance of task orders pursuant to the subject contract. (Check this box *only* if you are completing this form for a task order contract that will *not* simultaneously result in the award of the first task order. If you check this box, do not fill out the remainder of this form.)

If the contract to be awarded through this solicitation *does* simultaneously result in the award of a first task order, then the displacement determination for that first task order must be done prior to issuance of the solicitation and you must complete the remainder of this form.

**Part 1: Certification of No Displacement**

☒ **The Agency has determined that the contract resulting from this procurement action *will not* result in the displacement of any City employee within this Agency, as defined by Charter § 312(a).**

The basis upon which the Agency has made this determination:

Do any civil service and/or job titles within this Agency currently perform the services solicited and/or services of a substantially similar nature or purpose? Yes ☒ No ☐
If so, list the names of such titles and the extent to which Agency employees within such titles currently perform such services.

Camera Operator, Audio Engineer, Broadcast Engineer, Office Manager, Production Coordinator, Video Editor, Producer, Master Control Operator, Media Analyst, Graphic Designer, Field Representative

Do the solicited services expand, supplement, or replace existing services? Yes ☒
No ☐
Include a detailed description comparing the solicited services with such existing services.

This contract does not replace/displace any City employees. It fills gaps where we have spot needs and for temporary, short-term projects. Due to the nature of television production, our charter mandate to cover all council hearings, our 24/7 operation, and the need to cover events as they happen, the tasks filled by this contract are temporary, project oriented and part-time in nature. They are not appropriate or suitable to be performed with full-time, permanent employees.

Is there capacity within the Agency to perform the solicited services? Yes ☒ No ☐
If not, provide a detailed description specifying the ways in which the Agency lacks such capacity.

This contract does not replace/displace any City employees. It fills gaps where we have spot needs and for temporary, short-term projects. Due to the nature of television production, our charter mandate to cover all council hearings, our 24/7 operation, and the need to cover events as they happen, the tasks filled by this contract are temporary, project oriented and part-time in nature. They are not appropriate or suitable to be performed with full-time, permanent employees.

For the term of the proposed contract, list the projected headcount of employees within such titles or employees who perform such services and/or services of a substantially similar nature or purpose.

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☒ Check this box to confirm that none of the below events have occurred within the Agency in the three-year period preceding the date the Agency intends to issue the invitation for bids, request for proposal, or other solicitation, or renew or extend an existing contract.

- The displacement of a City employee within the agency who performs or has performed the services sought by the proposed contract and/or services of a substantially similar nature or purpose; or
- The announcement of spending reductions in connection with a budgetary program, including but not limited to a Program to Eliminate the Gap, that could result or has resulted in the displacement of a City employee within the Agency who performs or has performed the services sought by the proposed contract and/or services of a substantially similar nature or purpose; or
- Any other statement by an Agency or by the Mayor of a specific anticipated employment action that could result or has resulted in the displacement of a City employee within the Agency who performs or has performed the services sought by the proposed contract and/or services of a substantially similar nature or purpose.

List any other bases for the Agency's determination that the contract resulting from this procurement action will not result in the displacement of any City employee within this Agency.

This contract does not replace/displace any City employees. It fills gaps where we have spot needs and for temporary, short-term projects. Due to the nature of television production, our charter mandate to cover all council hearings, our 24/7 operation, and the need to cover events as they happen, the tasks filled by this contract are temporary, project oriented and part-time in nature. They are not appropriate or suitable to be performed with full-time, permanent employees.

**Part 2: Certification of Displacement**

☐ **The agency has determined that displacement, as defined by Charter § 312(a), has or will occur as a result of this contracting action. The agency has performed the required cost-benefit analysis, as described in Charter § 312(a).**

# ATTACHMENT G: NYC SERVICE CONTRACTORS PREVAILING WAGE AND LIVING WAGE SCHEDULE

**OFFICE OF THE COMPTROLLER, CITY OF NEW YORK**
**NYC SERVICE CONTRACTORS PREVAILING WAGE AND LIVING WAGE SCHEDULE**

## NYC ADMINISTRATIVE CODE § 6-109

A City service contractor or subcontractor that provides homecare services, day care services, head start services or services to persons with cerebral palsy must pay its covered employees no less than the living wage and must provide its covered employees healthcare benefits or must supplement their hourly wage rate by an amount no less than the health benefits supplement rate.

A City service contractor or subcontractor that provides building services, food services or temporary office services must pay its covered employees no less than the living wage or the prevailing wage, whichever is greater. Where the living wage is greater than the prevailing wage, the city service contractor or subcontractor must either provide its covered employees healthcare benefits or must supplement their hourly wage rate by an amount no less than the health benefits supplement rate. Where the prevailing wage is greater than the living wage, the city service contractor or subcontractor must provide its employees the prevailing wage and supplements.

In accordance with NYC Administrative Code § 6-109, the Comptroller of the City of New York has promulgated this schedule of wages and supplemental benefits for the above services on New York City contracts for non-emergency work in excess of the small purchase limit set by the Procurement Policy Board. This schedule is required to be annexed to and form part of the contract pursuant to § 6-109.

This schedule is a compilation of separate determinations of the prevailing rate of wage and supplements made by the Comptroller for each trade classification listed herein pursuant to NYC Administrative Code section § 6-109. The source of the wage and supplement rates, whether a collective bargaining agreement, survey data or other, is listed at the end of each classification.

Agency Chief Contracting Officers should contact the Bureau of Labor Law's Classification Unit with any questions concerning trade classifications, prevailing or living wage rates or practices with respect to procurement on City service contracts. Contractors are advised to review this schedule before bidding on City service contracts. Contractors with questions concerning trade classifications, prevailing or living wage rates or practices with respect to City service contracts in the procurement stage must contact the contracting agency responsible for the procurement.

Any error as to compensation under the prevailing or living wage law or other information as to trade classification, made by the contracting agency in the contract documents or in any other communication, will not preclude a finding against the contractor of prevailing wage violation.

Any questions concerning trade classifications, prevailing or living wage rates or practices on City service contracts that have already been awarded may be directed to the Bureau of Labor Law's Classification Unit by calling (212) 669-4443. All callers must have the agency name and contract registration number available when calling with questions on City service contracts. Please direct all other compliance issues to: laborlaw@comptroller.nyc.gov or Bureau of Labor Law, Attn: Paul Brumlik, Office of the Comptroller, 1 Centre Street, Room 651, New York, N.Y. 10007.

NYC Administrative Code § 6-109 requires contractors and subcontractors to post on the site of the work a current copy of this schedule of wages and supplemental benefits.

This schedule is applicable to work performed during the effective period, unless otherwise noted. Changes to this schedule are published on our web site comptroller.nyc.gov/wages. Contractors

must pay the wages and supplements in effect when the City service employee performs the work. Preliminary schedules for future one-year periods appear in the City Record on or about June 1 each succeeding year. Final schedules appear on or about July 1 in the City Record and on our web site comptroller.nyc.gov/wages.

Contractors are solely responsible for maintaining original payroll records delineating, among other things, the hours worked by each employee within a given classification.

In order to meet their obligation to provide prevailing supplemental benefits to each covered employee, employers must either:

1) Provide bona fide fringe benefits which cost the employer no less than the prevailing supplemental benefits rate; or
2) Supplement the employee's hourly wage by an amount no less than the prevailing supplemental benefits rate; or
3) Provide a combination of bona fide fringe benefits and wage supplements which cost the employer no less than the prevailing supplemental benefits rate in total.

The New York State Minimum Wage Act, Labor Law § 652 et seq., may require a higher wage than the living wage set forth in this schedule. Although prevailing wage laws do not require employers to provide bona fide fringe benefits (as opposed to wage supplements) to their employees, other laws may. For example, the Employee Retirement Income Security Act, 29 U.S.C. § 1001 et seq., the Patient Protection and Affordable Care Act, 42 U.S.C. § 18001 et seq., and the New York City Paid Sick Leave Law, N.Y.C. Admin. Code § 20-911 et seq., require certain employers to provide certain benefits to their employees. Labor agreements to which employers are a party may also require certain benefits. The Comptroller's Office does not enforce these laws or agreements.

Employers must provide prevailing supplemental benefits at the straight time rate for each hour worked unless otherwise noted in the classification.

For more information, please refer to the Comptroller's Prevailing Wage/Living Wage and Minimum Average Hourly Wage Law Regulations in Title 44 of the Rules of the City of New York, Chapters 2 and 3, available at comptroller.nyc.gov/wages.

Paul Brumlik
Director of Classifications
Bureau of Labor Law

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## BUILDING CLEANER AND MAINTAINER (NON-RESIDENTIAL)

**For the above building service classification, see the Building Service Employee Schedule: Labor Law Article 9, Real Property Tax Law 421-a, NYC Administrative Code 6-130.**

## BUILDING CLEANER AND MAINTAINER (RESIDENTIAL)

**For the above building service classification, see the Building Service Employee Schedule: Labor Law Article 9, Real Property Tax Law 421-a, NYC Administrative Code 6-130.**

## CLEANER (PARKING GARAGE)

**For the above building service classification, see the Building Service Employee Schedule: Labor Law Article 9, Real Property Tax Law 421-a, NYC Administrative Code 6-130.**

## DAY CARE SERVICES

### Day Care Services

**'Day Care Services' means provision of day care services through the city's center-based day care program administered under contract with the city's Administration for Children's Services. No other day care programs shall be covered, including family-based day care programs administered by city-contracted day care centers.**

**Effective Period: 7/1/2026 - 6/30/2027**
**Wage Rate per Hour: $10.00**
**Supplemental Benefit Rate per Hour: $1.50**

**(NYC Administrative Code §6-109)**

## FOOD SERVICE EMPLOYEES

### Cook

**Effective Period: 7/1/2026 - 6/30/2027**
**Wage Rate per Hour: $24.68**
**Supplemental Benefit Rate per Hour: $2.78**

### Cafeteria Attendant

**Effective Period: 7/1/2026 - 6/30/2027**
**Wage Rate per Hour: $22.59**
**Supplemental Benefit Rate per Hour: $2.78**

### Counter Attendant

**Effective Period: 7/1/2026 - 6/30/2027**
**Wage Rate per Hour: $18.90**
**Supplemental Benefit Rate per Hour: $2.78**

### Kitchen Helper / Dishwasher

**Effective Period: 7/1/2026 - 6/30/2027**
**Wage Rate per Hour: $19.36**
**Supplemental Benefit Rate per Hour: $2.78**

### Overtime

**Time and one half the regular hourly rate after 40 straight time hours in any work week.**

**(Based on data from NYS Department of Labor Occupational Employment Statistics and US Department of Labor Bureau of Labor Statistics)**

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## HEAD START SERVICES

### Head Start Services

**'Head Start Services' means provision of head start services through the city's center-based head start program administered under contract with the city's Administration for Children's Services. No other head start programs shall be covered.**

**Effective Period: 7/1/2026 - 6/30/2027**
**Wage Rate per Hour: $10.00**
**Supplemental Benefit Rate per Hour: $1.50**

**(NYC Administrative Code §6-109)**

# HOMECARE SERVICES

## Home Care Services

**'Homecare Services' means the provision of homecare services under the city's Medicaid Personal Care/Home Attendant or Housekeeping Programs, including but not limited to the In-Home Services for the Elderly Programs administered by the Department for the Aging.**
**For homecare services provided under the Personal Care Services program, the wage and supplemental benefit rate above shall apply only as long as the state and federal government maintain their combined aggregate proportionate share of funding and approved rates for homecare services in effect as of the date of the enactment of this section.**
**For contractors or subcontractors providing homecare services, the supplemental benefit rate may be waived by the terms of a bona fide collective bargaining agreement with respect to employees who have never worked a minimum of eighty (80) hours per month for two consecutive months for that covered employer, but such provision may not be waived for any employee once a minimum of eighty (80) hours for two consecutive months has been achieved.**

**Effective Period: 7/1/2026 - 6/30/2027**
**Wage Rate per Hour: $10.00**
**Supplemental Benefit Rate per Hour: $1.50**

**(NYC Administrative Code §6-109)**

# LANDSCAPING AND GROUNDSKEEPING WORKER

**For the above building service classification, see the Building Service Employee Schedule: Labor Law Article 9, Real Property Tax Law 421-a, NYC Administrative Code 6-130.**

# SECURITY GUARD (ARMED)

**For the above building service classification, see the Building Service Employee Schedule: Labor Law Article 9, Real Property Tax Law 421-a, NYC Administrative Code 6-130.**

## SECURITY GUARD (UNARMED)

**For the above building service classification, see the Building Service Employee Schedule: Labor Law Article 9, Real Property Tax Law 421-a, NYC Administrative Code 6-130.**

## SERVICES TO PERSONS WITH CEREBRAL PALSY

### Services To Person With Cerebral Palsy

**'Services to Persons with Cerebral Palsy' means provision of services which enable persons with cerebral palsy and related disabilities to lead independent and productive lives through an agency that provides health care, education, employment, housing and technology resources to such persons under contract with the city or the department of education.**

**Effective Period: 7/1/2026 - 6/30/2027**
**Wage Rate per Hour: $10.00**
**Supplemental Benefit Rate per Hour: $1.50**

**(NYC Administrative Code §6-109)**

## TEMPORARY OFFICE SERVICES

### Administrative Assistant

**Provides high-level administrative support requiring analytical skills such as conducting research, preparing statistical reports and handling information requests, in addition to performing clerical functions such as preparing correspondence, receiving visitors, arranging conference calls and scheduling meetings. May also train and supervise lower-level clerical staff.**

**Effective Period: 7/1/2026 - 6/30/2027**
**Wage Rate per Hour: $44.68**
**Supplemental Benefit Rate per Hour: $6.49**

### Cashier

**Effective Period: 7/1/2026 - 6/30/2027**
**Wage Rate per Hour: $19.42**
**Supplemental Benefit Rate per Hour: $6.49**

### Computer Assistant

**Effective Period: 7/1/2026 - 6/30/2027**
**Wage Rate per Hour: $40.66**
**Supplemental Benefit Rate per Hour: $6.49**

## Data Entry Operator

**Effective Period: 7/1/2026 - 6/30/2027**
**Wage Rate per Hour: $23.69**
**Supplemental Benefit Rate per Hour: $6.49**

## File Clerk

**Performs a wide variety of clerical duties including answering telephones, bookkeeping, typing or data entry, office machine operation and filing.**

**Effective Period: 7/1/2026 - 6/30/2027**
**Wage Rate per Hour: $24.06**
**Supplemental Benefit Rate per Hour: $6.49**

## Paralegal and Legal Assistant

**Effective Period: 7/1/2026 - 6/30/2027**
**Wage Rate per Hour: $40.97**
**Supplemental Benefit Rate per Hour: $6.49**

## Receptionist

**Effective Period: 7/1/2026 - 6/30/2027**
**Wage Rate per Hour: $23.12**
**Supplemental Benefit Rate per Hour: $6.49**

## Secretary

**Performs clerical functions such as drafting correspondence, scheduling appointments and providing information to callers, in addition to performing duties of File Clerk.**

**Effective Period: 7/1/2026 - 6/30/2027**
**Wage Rate per Hour: $26.21**
**Supplemental Benefit Rate per Hour: $6.49**

## Word Processor

**Effective Period: 7/1/2026 - 6/30/2027**
**Wage Rate per Hour: $28.75**
**Supplemental Benefit Rate per Hour: $6.49**

## Overtime

**Time and one half the regular hourly rate after 40 straight time hours in any work week.**

**(Based on data from NYS Department of Labor Occupational Employment Statistics and US Department of Labor Bureau of Labor Statistics or NYC Administrative Code §6-109)**

## WINDOW CLEANER

**For the above building service classification, see the Building Service Employee Schedule: Labor Law Article 9, Real Property Tax Law 421-a, NYC Administrative Code 6-130.**

# ATTACHMENT SCY: SECURITY REQUIREMENTS

**DEFINITIONS**

(a) "**Agreement**" means the Agreement between the Contractor and the City, annexed hereto.

(b) "**Authorized Person**" has the meaning given below in Section 16(a).

(c) "**Authorized Subcontractor**" has the meaning given below in Section 16(a).

(d) "**City**" means the City of New York and/or a county, borough, or other office, position, administration, department, division, bureau, board or commission, or a corporation, institution or agency of government, including Cyber Command, the expenses of which are paid in whole or in part from the City of New York's treasury, or an entity created under New York law specifically for the benefit of the City or to serve persons present in the City of New York and that has 1 or more members or directors of which are appointed by the mayor or City Council (e.g., the New York City Board of Elections).

(e) "**City Data**" means (1) Data characterizing the City or its behavior; (2) Data created, generated, stored or maintained by, at the direction of, or for the benefit of the City; and (3) any copies or derivatives of such Data. "**Data**" means any information representation(s) of information, knowledge, facts, ideas, concepts or similar including any texts, instructions, documents, databases, diagrams, graphics, drawings, images, sounds, or biometrics that are accessed, communicated, created, generated, stored (in temporary or permanent form), filed, produced or reproduced, processed, referenced, or transmitted, in any form or media.

(f) "**City Technology Assets**" means all City Facilities, City Systems, City telecommunications, electronic data created, processed, accessed, transferred, stored, or disposed of by City Systems, and such systems' peripheral equipment, networks, or magnetic data, and any electronic data created, processed, accessed, transferred, stored, or disposed of by such systems. "**City Systems**" means any system owned, maintained or operated by or on behalf of the City that connects to a City network, enables operational functions of the City, or creates, processes, accesses, transfers, stores, or disposes of City Data.

(g) "**Commissioner**" or "**Agency Head**" means the head of a City entity.

(h) "**Contractor**" means a person or entity engaged by the City of New York to perform tasks pursuant to the Agreement.

(i) "**Cyber Command**" means the Office of Cyber Command, established within the New York City Office of Technology and Innovation ("**OTI**"), that is empowered to ensure compliance with Policies and Standards, mitigate cyber threats, mandate deployment of technical and administrative controls, review cyber related spending, and collaborate with federal and state government agencies and private sector organizations.

(j) "**DoITT**" means the Department of Information Technology and Telecommunications.

(k) "**Facility(ies)**" means a physical structure, such as a data center or other building.

(l) "**Person**" means an officer, agent or employee of the Contractor or a subcontractor of the Contractor.

(m) "**Policies and Standards**" means the Citywide Information Security Policies and Standards, Cyber Command Policies and Standards, or any policies and procedures by OTI, available at https://www1.nyc.gov/content/oti/pages/vendor-resources/cybersecurity-requirements-for-vendors-contractors, as they may be amended or placed on a successor site by the City.

(n) "**Process**" means to perform any act, omission or operation on or with respect to data, such as collecting, recording, organizing, storing, adapting, altering, retrieving, accessing, deleting, blocking, erasing, destroying, combining, reviewing, using, transmitting, disseminating or otherwise making data available.

(o) "**Project**" means any type of work to be performed pursuant to the Agreement.

(p) "**Contractor Systems**" means the Facilities, systems, networks and IT environments that are used to Process any City Data, deliver any services or to otherwise meet any of Contractor's obligations under the Agreement.

(q) "**Security Incident**" means an event that compromises the security, confidentiality, availability or integrity of City Data, City Technology Assets or Contractor Systems, including by compromising the physical, technical, administrative or organizational safeguards implemented by Contractor to protect the security, confidentiality, availability or integrity of City Data, City Technology Assets or Contractor Systems. Examples of a Security Incident include, but are not limited to, the unauthorized acquisition or use of unencrypted City Data (or encrypted City Data and the decryption key), intrusions, virus or malware, ransomware infections, social engineering, missing/stolen hardware, a breach of access credentials, DDOS and DoS attacks

(r) "**Security Investigation**" means a criminal history and background investigation in accordance with the requirements set forth herein. The City reserves the right to modify the scope of requisite investigations upon provision of reasonable notice to the Contractor.

(s) "**User Responsibility Policy**" or "**URP**" means the User Responsibilities Policy available at https://www1.nyc.gov/assets/oti/downloads/pdf/vendor-resources/user-responsibilities.pdf, as it may be amended or placed on a successor site by the City.

**CITYWIDE INFORMATION SECURITY POLICY**

The Contractor shall comply with the Policies and Standards, and terms of the Agreement. In addition, the Contractor shall ensure that all Authorized Subcontractors and Authorized Persons who may have access to any City Data or City Technology Assets in the course of carrying out their responsibilities or job functions comply with the Policies and Standards.

**USER RESPONSIBILITY POLICY**

The Contractor will be provided with online access to, or a copy of, the User Responsibility Policy. The Contractor shall require each Authorized Person (as defined below in Section 16(a)) who may have access to any City Technology Assets to sign a written acknowledgement and agreement to comply with its terms prior to his or her assignment to perform any Services. The Contractor shall provide a signed copy of the

URP acknowledgement for each Authorized Person to the City project manager, or a person designated by the City, within fifteen days (15) days after the Authorized Person is assigned to perform Services.

**SECURITY INVESTIGATION**

(t) The City may, prior to or during the course of the Agreement, request that the Contractor require a Person, or Persons, associated with the Services to undergo a Security Investigation before being granted access, or continued access, to Facilities, City Data, City Technology Assets or Contractor Systems. The City may require the Contractor and associated Persons to undergo federal, state and local background checks, where authorized by applicable law, that conform to industry standards, including criminal history and/or background investigation. Persons assigned to the Project by or through the Contractor shall be required to submit Identifying Information to the City, and may, to the extent authorized by applicable law, be required to submit fingerprints. The Contractor and associated Persons agree to be subject to a background screening and checks, which may include the following:

(i) Employment Verification;
(ii) Education Verification;
(iii) Reference Verification;
(iv) Criminal Record Check;
(v) Civil Court Records Check;
(vi) Professional License Check;
(vii) Credit History Check;
(viii) International Background Check; and
(ix) Terrorist Watch List Check.

(u) If Security Investigations are requested or required by the City prior to the commencement of work by the Person, the Contractor is required to submit the results of the Security Investigation for each Person that it proposes to assign to perform services sufficiently in advance to ensure that all security clearance procedures are complete without delaying the Contractor's work performance. The City shall not be liable for payments or damages of any kind if the Contractor's work is delayed or the Contractor is required to assign different individuals on account of the City's reasonable delay or refusal to grant an individual a security clearance under the Agreement.

(v) The Contractor shall assume, without any reimbursement by the City, all costs incurred in connection with the investigations.

(w) Where an emergency or other circumstance occurs which renders immediate compliance impractical, the City may, in its sole judgment, defer a Person's compliance and grant temporary access, pending the results of the Security Investigation. Such deferment shall not be construed as a waiver of the City's right subsequently to require that a Security Investigation be performed.

(x) The City reserves the right, in its sole discretion, to refuse access to City Data or City Technology Assets: **(i)** to any individual who refuses to comply with the security or non-disclosure procedures required by Cyber Command or **(ii)** where the Cyber Command determines that the individual may present a risk to its security interests.

**COMPLIANCE WITH OTHER SECURITY POLICIES AND PROCEDURES**

In addition to the Policies and Standards and the User Responsibility Policy, the Contractor shall comply with, and ensure that all Authorized Subcontractors and Authorized Persons comply with, all applicable Facility, data processing and other security policies and procedures of the Cyber Command in effect for the duration of the Agreement, including, but not limited to, processing, handling and storage of Restricted and Sensitive Information, Internet usage, office equipment usage and timekeeping procedures. This may include being required to sign in and out and enter time worked into a timekeeping system provided by the City.

**NOTIFICATION OF TERMINATION, REASSIGNMENT OR CESSATION OF ACCESS**

The Contractor shall promptly notify Cyber Command and the City liaison assigned to the Services, in writing, when any Person previously engaged by the Contractor to gain access to any Facilities, City Data, City Technology Assets or Contractor Systems is no longer authorized by the Contractor to do so, and the Contractor shall make reasonable efforts to prevent any such Person from accessing any Facilities, City Data or City Technology Assets from the point in time that such individual's authorization ceases.

**NON-DISCLOSURE AGREEMENT**

If reasonably requested by the City, the Contractor shall require its Authorized Subcontractors and Authorized Persons who either work in direct support of the Services or who may reasonably be anticipated to unintentionally receive City Data to execute a Non-Disclosure Agreement in a form acceptable to the City.

**CONTRACTOR-PROVIDED EQUIPMENT**

The Contractor shall ensure that any products, services and other deliverables it provides to the City are compliant with the Policies and Standards.

The Contractor shall use industry standards to ensure that it does not introduce any viruses or any other form of malicious code to City systems.

**COOPERATION WITH ACCREDITATION**

The Contractor shall cooperate with and facilitate the successful completion of any security accreditation tasks and processes relevant to the services and/or deliverables it provides. The Contractor shall complete said security accreditation tasks and processes within thirty (30) business days unless granted an extension by Cyber Command.

**VENDOR SECURITY QUESTIONNAIRE**

The Contractor shall complete and respond to all security questionnaires from the City within thirty (30) business days.

**CONTRACTOR'S POLICIES**

Upon request, the Contractor shall provide a copy of its information security policies relevant to the Agreement.

**CITY AUDIT(S)**

The City reserves the right to audit the IT infrastructure and information security controls and processes of the Contractor and to perform relevant tests to ensure that it is compliant with the Policies and Standards at any time. The Contractor will permit the City to perform an IT audit, including an audit of physical security of any of the Contractor's premises applicable to the services provided pursuant to the Agreement and will cooperate and furnish all requested materials in a timely manner. Cyber Command reserves the right to monitor the security posture of the Contractor throughout the course of the Agreement.

**SOFTWARE SECURITY ASSURANCE (SSA) APPROVAL**

The Contractor agrees to submit all devices, applications, systems, software and infrastructure used to support City systems, pursuant to the Agreement, to security testing in compliance with the City's Software Security Assurance process. The Contractor understands and acknowledges that failure to meet the SSA process requirements can result in termination of the Agreement.

**REQUIREMENTS FOR SYSTEMS PROVIDING CRITICAL FUNCTIONS**

(y) If Contractor maintains systems that provide critical City capabilities and/or functions, Contractor shall provide the City with reports verifying that all patches and configurations are up to date, as well as forecast all required changes for the next twelve (12) months.

(z) The Contractor shall ensure that all necessary capabilities and equipment potentially required to service critical technology in the event of an incident is locally available.

**USE AND PROTECTION OF CITY DATA/INDEPENDENT REVIEW(S)/AUDIT(S)**

(aa) The Contractor shall hold City Data in the strictest confidence, and shall not disclose any City Data to any person or entity other than a subcontractor that has been approved by the City in writing (each, an "**Authorized Subcontractor**") or an employee of the Contractor or an Authorized Subcontractor who needs to know the City Data in order to perform the Contractor's obligations under the Agreement (each, an "**Authorized Person**").

(bb) The Contractor shall ensure that each Authorized Subcontractor is subject to an enforceable written obligation to comply with the terms and conditions in this Attachment SCY. Within ten (10) days of the City's request, the Contractor shall provide the City with a copy of its contract with any Authorized Subcontractor.

(cc) The Contractor shall be liable for the full or partial breach of any of the terms of this Attachment SCY by: **(A)** any of its subcontractors, whether or not an Authorized Subcontractor, or **(B)** any Person, whether or not an Authorized Person.

(dd) The Contractor shall protect the privacy and security of City Data in accordance with the Agreement, industry best practices and all applicable laws, regulations and standards, including the Policies and Standards. Contractor shall implement, maintain and use appropriate administrative, technical and physical controls to ensure the security, confidentiality, integrity, and availability of City Data, including, without limitation, to prevent the unauthorized, unlawful, or accidental use, destruction, alteration, disclosure, access, modification, or loss of City Data.

(ee) The Contractor shall engage a third-party internationally recognized auditor to perform periodic audits, scans, and tests as follows:

(i) At least once per year and after any Security Incident that occurs during the Term:

(1) a SSAE 18/SSAE 16/SOC-1, Type II audit and a SOC-2, Type II audit of Contractor's controls and practices relevant to security, availability, Processing integrity, confidentiality and privacy of City Data;
(2) an audit pursuant to Contractor's information security program and practices;
(3) a network-level vulnerability assessment of all Contractor Systems used to deliver Services under the Agreement or to Process City Data; and
(4) a formal penetration test of all Contractor Systems used to deliver services under the Agreement or to Process Contract Data.

(ii) The Contractor shall provide Cyber Command with a copy of all unredacted reports generated for each audit, scan, and test within 10 days after its completion. Each report must: **(A)** indicate whether any material vulnerabilities, weaknesses, gaps, deficiencies, or breaches were discovered; and **(B)** if so, describe the nature of each vulnerability, weakness, gap, deficiency, or breach. The Contractor shall, at its own cost and expense, promptly remediate each vulnerability, weakness, gap, deficiency, or breach that is identified in a report.

(ff) The Contractor shall provide Cyber Command with copies of reports from any cybersecurity audit performed, within twelve (12) months of execution of the Agreement, by the Contractor or by a third-party auditor and any cybersecurity audit performed after execution of the Agreement within ten (10) days after the audit's completion.

**NONCOMPLIANCE SELF REPORTING REQUIREMENT**

The Contractor shall notify Cyber Command of any changes to the infrastructure of all information systems that would affect City Data or result in noncompliance with any federal or state law, Policies and Standards, or terms of the Agreement. Notification of each change shall be made to Cyber Command no later than thirty (30) business days after the change has occurred. For noncompliance, the Contractor shall submit to Cyber Command a document that includes the following:

(i) Date of discovery;
(ii) How the noncompliance was identified;
(iii) Nature of the noncompliance;
(iv) Scope of noncompliance; and
(v) Corrective actions with associated timelines.

**VULNERABILITY REPORTING AND NOTIFICATION REQUIREMENT**

The Contractor shall inform Cyber Command of any identified vulnerabilities in information systems no later than ten (10) businesses days after receiving notification. The Contractor shall provide a report to Cyber Command that includes a

detailed description of the identified vulnerabilities and a remedial plan with associated timelines informing the City and Cyber Command of all actions the Contractor has taken or plans to take to rectify the vulnerabilities.

**SUGGESTIONS**

The Contractor may surface issues, suggest options, and make recommendations to the City with regard to the Policies and Standards where appropriate.

**LIAISON**

At the beginning of the term of the Agreement, the Contractor shall identify and provide contact information for the Person who has been assigned overall responsibility for information security within its organization.

**NO EXPORTING OF CITY DATA OUTSIDE UNITED STATES**

The Contractor may not export City Data outside the United States except with the express written permission of the Commissioner or Agency Head of the City entity, or their designee, to which the City Data belongs, and then only for the City Data specified in that permission.

**INTEGRITY OF PUBLIC CITY DATA**

The Contractor must use industry best practices to ensure that the value and state of all public City Data is maintained and that the public City Data is protected from unauthorized modification.

**REMOTE ACCESS METHODS**

The Contractor must obtain written permission from the City for each method of remote access it wishes to use to access City Technology Assets.

**WHAT TO DO IN CASE OF A SECURITY INCIDENT**

(a) Contractor shall implement, maintain, test and update a Security Incident response plan. In the event of an actual or suspected Security Incident, Contractor shall:

(i) notify the NYC Cyber Command Citywide Security Operations Center ("**Cyber Command Citywide SOC**") by telephone at (718) 403-6761 within 24 hours.

(ii) notify the Cyber Command Citywide SOC within 48 hours by written notice to SOC@cyber.nyc.govmailto:, summarizing, in reasonable detail, the nature and scope of the Security Incident (including a description of all impacted City Data and City Technology Assets) and the corrective action already taken or planned by Contractor, which shall be timely supplemented to the level of detail reasonably requested by the City, inclusive of relevant investigation or forensic reports.

(iii) promptly, at its own cost and expense, take all reasonable and necessary actions to confirm, contain and end the Security Incident, mitigate its impact to the City, and prevent recurrence.

(iv) not delete any impacted virtual/cloud instances or re-image any impacted systems without prior

consultation and agreement with Cyber Command.

(v) cooperate with the City in the investigation of the Security Incident, including promptly responding to the City's reasonable inquiries and providing prompt access to all evidentiary artifacts associated with or relevant to the Security Incident, such as relevant records, logs, files, data reporting, and other materials.

(vi) permit the City, in its sole discretion, to immediately suspend or terminate Contractor's right to create, process, access, transfer, store, or dispose of City Data or operate City Technology Assets.

(vii) not inform any third party that the Security Incident involves City Technology Assets or Data without first obtaining the City's prior written consent, except to the extent required by law or by third parties engaged by the Contractor to remediate the Security Incident.

(viii) collaborate with the City in determining whether to provide notice of the Security Incident to any person, governmental entity, the media, or other party, and the content of any such notice. The City will make the final determination as to whether notice will be provided and to whom, the content of the notice, and which Party will be the signatory to the notice.

(ix) bear the responsibility and all related costs for any Security Incident to the extent that the City is not at fault or caused by a vulnerability in the Contractor's product(s) or system(s), including the cost of any associated remedial actions or mitigation steps, consumer notification and related responses, credit monitoring, notification, regulatory investigations, fines, penalties, enforcement actions and settlements.

(x) promptly notify the City of any investigations of its data use, privacy or cybersecurity practices, or a Security Incident by a governmental, regulatory or self-regulatory body.

**NOTIFICATION TO CYBER COMMAND**

With the exception of the notification requirements applicable to a Security Incident as reflected in Section 24 of this Attachment, Contractor shall submit all notices, including any reporting documents, audit materials and other security documentation, to Cyber Command by email at compliance@cyber.nyc.gov.

**MATERIAL BREACH**

Violations of any part of this Attachment or any of the Policies and Standards shall constitute a material breach of the Agreement.

**HEADINGS**

Headings are inserted only as a matter of convenience and for reference and in no way define, limit, augment or describe the scope or intent of this Attachment.

**[END OF ATTACHMENT SCY]**