THE CITY OF NEW YORK

DEPARTMENT OF DESIGN AND CONSTRUCTION

DIVISION OF PUBLIC BUILDINGS

30-30 THOMSON AVENUE
LONG ISLAND CITY, NEW YORK 11101

CONTRACT FOR SPECIAL INSPECTIONS AND LABORATORY TESTING SERVICES

PROJECT: _____

FMS ID: _____

REGISTRATION NUMBER: _____

E-PIN: _____

CONSULTANT: _____
_____
_____

THIS AGREEMENT, made and entered into this __ day of _____, __, by and between the City of New York (the "City") acting by and through the Commissioner of the Department of Design and Construction (the "Commissioner") and _____ (the "Consultant"), located at _____.

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WITNESSETH:

WHEREAS, the City desires to have special inspections and laboratory testing services performed for the construction project described in Exhibit A (the "Project"), and

WHEREAS, the Consultant has been selected based upon and in consideration of its representation that it can perform the required services set forth herein in a timely and expeditious manner,

NOW, THEREFORE, in consideration of the mutual covenants and conditions herein contained, the parties hereto agree as follows:

ARTICLE 1 – DEFINITIONS

1.1 "Agreement" means the various documents that constitute the contract between the Consultant and the City, including (1) the Request for Proposals for the Contract ("RFP"), (2) the Consultant's Proposal for the Contract, and (3) the Exhibits set forth below. In the event of any conflict between the RFP and the Consultant's Proposal, the RFP shall prevail.

Exhibit A Contract Information
Exhibit B Staffing Plan and Minimum Requirements per Title
Exhibit C Scope of Services for the Project
Exhibit D Schedule of Unit Prices for Testing and Laboratory Services
Exhibit E Special Testing Equipment
Exhibit F Schedule of Unit Prices for Progress Inspections
Exhibit G Personnel Qualification Certificate
Exhibit H Fee Proposal
Exhibit I Appendix A: General Provisions Governing Contracts for Consultants, Professional, Technical, Human and Client Services

1.2 "Agency" means a city, county, borough or other office, position, department, division, bureau, board or commission, or a corporation, institution or agency of government, the expenses of which are paid in whole or in part from the City treasury.

1.3 "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.

1.4 "Architect/Engineer of Record" means the entity under separate contract with the department to provide design services for the project, including the preparation of construction documents.

1.5 "City" means the City of New York.

1.6 “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.

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

1.8 "Commissioner's Representative" means the Project Manager designated by the Commissioner or any successor or alternate representative designated by the Commissioner.

1.9 "Comptroller" means the Comptroller of the City of New York, his/her successors, or duly authorized representatives.

1.10 “Consultant” or “Contractor” means the entity entering into this Agreement with the Department.

1.11 "Contract" or "Contract Documents" means the Agreement referred to in Paragraph 1.1 of this Article.

1.12 "Department" or "DDC" means the Department of Design and Construction of the City of New York acting by and through the Commissioner thereof, or his/her duly authorized representative.

1.13 "Department of Buildings" or "DOB" means the Department of Buildings of the City of New York acting by and through the Commissioner thereof, or his/her duly authorized representative.

1.14 “Days” means calendar days unless otherwise specifically noted to mean business days.

1.15 "Drawings" means all graphic or written illustrations, descriptions, explanations, directions, requirements and standards of performance applied to the construction work.

1.16 "Government Entity" means the United States, the State and City of New York, and any and every agency, department, court, commission, or other instrumentality or political subdivision of government of any kind whatsoever, now existing or hereafter created.

1.17 “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.

1.18 "Mayor" means the Mayor of the City of New York, his/her successors or duly authorized

representatives.

1.19 "Modification" means any written amendment of this Agreement signed by both the Department and the Consultant.

1.20 “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 which have broad application throughout the City.

1.21 “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.

1.22 “Project” means the Project described in Exhibit A, as applicable.

1.23 "Resident Engineer" means the representative of the Commissioner duly designated by the Commissioner to be his/her representative at the site of the Work.

1.24 "Safety Standards" means all laws, union rules and trade or industry custom or codes of any kind whatsoever, in effect from the date of this Agreement through Final Acceptance of the construction work, pertaining to worker safety and accident prevention applicable to the Project and/or the construction work (including, but not limited to, rules, regulations and standards adopted pursuant to the Occupational Safety and Health Act of 1970, as amended from time to time).

1.25 "Shop Drawing" means any and all drawings, diagrams, layouts, explanations, illustrations, manufacturer's drawings or other written or graphic materials which illustrate any portion of the construction work.

1.26 "Site(s)" means the area(s) upon or in which the construction work is carried on, and such other areas adjacent thereto as may be designated by the Commissioner.

1.27 "Specifications" means all of the directions, requirements and standards of performance applied to the construction work.

1.28 “State” means the State of New York.

1.29 "Subconsultant" or “Subcontractor” means any person, firm, or corporation, other than employees of the Consultant, who or which contracts with the Consultant or the Consultant’s subconsultants to furnish, or actually furnishes services, labor, or labor and materials, or labor and equipment hereunder. All Subconsultants are subject to the prior written approval of the Commissioner.

ARTICLE 2 – GENERAL PROVISIONS

2.1 General Provisions governing the Contract, including insurance coverage the Consultant and its subconsultants are required to provide, are set forth in Appendix A. Appendix A is included as an Exhibit to the Contract.

2.2 If the Contract award exceeds $1,000,000, the Consultant must comply with the HireNYC

Rider. The Hire NYC Rider is included as an Exhibit to the Contract.

ARTICLE 3 – AGREEMENT TO SERVE

The City hereby retains the Consultant to perform the services hereinafter described, on the terms and conditions specified herein, and the Consultant agrees to so serve. The Consultant agrees to provide, to the satisfaction of the Commissioner, all special inspections and laboratory testing services necessary and required, for the Project. The services to be provided by the Consultant are set forth in Article 6 and Exhibit C. The Consultant hereby certifies that it has the necessary experience, expertise, staff and resources to fulfill its obligations under this Contract competently and efficiently.

ARTICLE 4 – TIME PROVISIONS

4.1 Term of the Contract: The Contract shall commence as of the date set forth in the Notice to Proceed and shall remain in effect for the period set forth in Exhibit A.

ARTICLE 5 – CONSULTANT'S PERSONNEL

5.1 General: The Consultant agrees, throughout the term of the Contract, to provide personnel for the performance of all required special inspections and laboratory testing services for the Project, as set forth in Article 6 and Exhibit C. The Consultant shall provide such personnel through its own employees and/or through its Subconsultants, as set forth in Exhibit A, unless otherwise approved by the Commissioner.

5.1.1 Subcontracting: Provisions regarding subcontracting are set forth in Article 5.6.

5.1.2 The Consultant hereby represents and confirms that the Consultant and its subconsultants, and their agents, officers, employees, representatives, etc. possess the education, knowledge, registrations, licenses, certifications and character necessary to qualify them individually to perform the particular duties and services required pursuant to this Contract. All personnel assigned to perform services and duties under this Contract shall, at a minimum, meet all of the requirements of the DOB and all other governing departments, agencies, entities, etc. with jurisdiction over the particular service being performed.

5.1.3 It is the intent of this Contract to secure the services of the Consultant and its personnel. The Consultant covenants that its personnel shall devote their professional time, services and skill to the performance of this Contract, and that their services shall be available at all times when required for such purposes. In addition, the Consultant covenants that the services required hereunder shall be direct product of the skill and professional experience of the Consultant and its personnel.

5.1.4 The Consultant represents and warrants that in recognition of the critical nature of timely completion of the services, it has and shall maintain expertise in performing its obligations hereunder, and it has and shall maintain sufficient resources, facilities, capacity and number of personnel to ensure that all of its obligations will be performed by qualified personnel in workmanlike manner, and in accordance with the highest standards of the industry.

5.1.5 The Consultant shall ensure that the personnel employed or utilized by its subconsultants are fully qualified by education and training, as required by the NYC Building Code, and that such personnel possess all certifications, licenses etc., as necessary to perform the services for which the subconsultant was engaged.

5.2 Minimum Requirements: Minimum requirements are set forth below.

5.2.1 Consultant: The Consultant, in its Proposal for the Contract, demonstrated compliance with the criteria set forth below. The Consultant shall maintain the registration and accreditation described below for the duration of the contract.

(a) Registration: The Consultant has registered with the Department of Buildings (DOB) as a Special Inspection Agency for all special inspection categories and classes.
(b) Accreditation: The Consultant has been accredited as a Class 1 Special Inspection Agency by the International Accreditation Service (IAS), or by an equivalent accreditation agency accrediting to the standards set forth in DOB rules and AASHTO for ASTM E329-07, ASTM C1077, ASTM D3666, ASTM D3740, and ASTM C1093 or by a federal agency.

5.2.2 Testing Laboratory: The Consultant, in its Proposal for the Contract, identified the laboratory set forth in Exhibit A and demonstrated that such laboratory is in compliance with the criteria set forth below. The laboratory shall maintain such license and accreditation described below for the duration of the contract. Any proposed replacement for the laboratory set forth in Exhibit A must be approved by the Commissioner and must demonstrate compliance with the criteria set forth below.

(a) License: The laboratory has been licensed by the DOB as a "Concrete Testing Laboratory", in accordance with the requirements of the N.Y.C Building Code.
(b) Accreditation: The laboratory has been accredited by (1) AASHTO re:source (formerly AMRL), (2) the National Voluntary Laboratory Accreditation Program (NVLAP), or (3) American Association of Laboratory Accreditation (A2LA).

5.2.3 Personnel: Individuals provided by the Consultant for required titles of personnel shall: (a) at a minimum, meet all qualification requirements of the NYC Building Code, as well as all requirements of any other governing departments, agencies, entities, etc. with jurisdiction over the particular service being performed, and (b) must satisfy the minimum requirements for the title in question, as set forth in Exhibit B. The Consultant shall provide the names, qualifications, certifications and detailed resumes or other documentation acceptable to the Commissioner to demonstrate that each individual provided complies with the minimum requirements per title. In exceptional circumstances, the Commissioner, in his/her sole and absolute discretion, may modify the requirements per title.

Certifications and qualifications shall be renewed when required. Updated information for all personnel performing services hereunder shall be promptly sent to DDC to keep current all such information. The submissions must show that each individual meets the minimum requirements for the title in question, as set forth in Exhibit B, as well as the minimum qualification requirements

established by the DOB for the particular services such individual will perform. Individual interviews may be conducted by DDC of all personnel prior to, or during, their assignment.

5.2.4 The Consultant is required to complete Exhibit G, Personnel Qualification Certification, certifying that all personnel performing services meet all qualification requirements of the NYC Building Code, as well as all other qualifications required by other agencies with jurisdiction over the services performed. This certification shall be updated whenever the staff of the Consultant changes and shall be submitted with each Requisition for Payment.

5.2.5 All personnel employed or utilized in the performance of services under this Contract by the Consultant shall cooperate with DDC's Resident Engineer (RE). The Consultant's personnel shall be actively involved in the performance of the services and shall be accessible to the RE for meetings with respect to the services.

5.3 Contract Executive: The name of the individual identified by the Consultant in its Proposal as the Contract Executive, as well as his/her qualifications, are set forth in Exhibit B. The Consultant specifically agrees to assign to the Contract for its entire duration the individual identified in Exhibit B as the Contract Executive, unless otherwise approved by the Commissioner. Failure by the Consultant to provide such individual identified in Exhibit B as the Contract Executive shall be grounds for termination for cause. No substitutions for the Contract Executive shall be permitted unless approved by the Commissioner. Any proposed replacement for the Contract Executive must possess qualifications substantially similar to those of the individual being replaced and are subject to prior written approval by the Commissioner.

5.3.1 The Contract Executive shall serve as the Consultant's principal representative with respect to its obligations under this Contract and must be a principal or an officer of the Consultant. Such Contract Executive shall have the authority to make decisions and shall be responsible for the following: (1) attending kick-off meetings for the Project, (2) attending meetings at the site, if required, (3) submitting and signing proposed Staffing Plan; (4) coordinating the activities of personnel performing services; (5) submitting and signing requisitions for payment, and (6) providing, on an as needed basis, executive or management expertise and oversight.

5.4 Staffing Requirements: Staffing Requirements for personnel have been established by the Commissioner and are set forth in Exhibit B. Such Staffing Requirements specify the titles of personnel the Consultant will be required to provide, through its own employees and/or through its Subconsultants. If an additional title(s) of personnel is required for a specific Project, the Commissioner shall establish the following: (1) additional required title(s), and (2) minimum requirements per title. The Commissioner reserves the right to reject any proposed individual for the title in question in accordance with Article 7.2.7. Key Personnel listed in Exhibit B must be employees of the Consultant, except the Contract Executive must be an officer or principal of the Consultant as set forth in Article 5.3.1.

5.4.1 Minimum Requirements Per Title: Individuals provided by the Consultant for required titles of personnel must satisfy the minimum requirements for the title in question, as set forth in Exhibit B.

5.4.2 Direct Salary Rates: Direct Salary Rates apply only if Exhibit C specifies that the method of payment for the performance of services by the Consultant shall be on a time card basis.

In such case, the Direct Salary Rates and Multiplier for Overhead and Profit, set forth in Exhibit A, shall be used to calculate payment to the Consultant in accordance with Article 7. The Direct Salary Rates shall have no application if Exhibit C specifies that the method of payment for the performance of services shall be on a Unit Price basis.

5.5 Services on a Time Card Basis - Staffing Plan: In the event the Exhibit C specifies that the method of payment for the performance of services, or any portion thereof, shall be on a time card basis, the Consultant shall provide personnel in accordance with the final approved Staffing Plan. Prior to finalization, the Staffing Plan is subject to review and approval by the Commissioner in accordance with the process described below. The Staffing Plan submitted by the Consultant as part of its Proposal for the Contract is set forth in Exhibit B.

5.5.1 Contents: Such Staffing Plan shall include the items set forth below. Such Staffing Plan shall include only those personnel necessary for the provision of the required services. Such Staffing Plan must be dated and signed by the Contract Executive.

(a) Personnel: Required titles and specific individual for each title
(b) Direct Salary Rate per hour for each specified individual (except for any principal) as determined by the Commissioner in accordance with Article 7.
(c) Total estimated hours and amount per title of personnel
(d) Total estimated amount for all required titles of personnel

5.5.2 Payment Limitations: Payment to the Consultant for the performance of services on a time card basis is subject to the limitations set forth below.

(a) Inclusion in Staffing Plan: The Consultant shall not be entitled to payment for any individual not included in the approved Staffing Plan. The specific individuals identified in the approved Staffing Plan shall be considered Assigned Employees for the purpose of the Consultant's entitlement to payment for services performed by such individuals.
(b) Principal: The Consultant shall not be entitled to payment for a principal's time performing oversight or management duties. This prohibition on payment for a principal's time shall not apply if the following criteria are met: (1) the principal is qualified to perform services in accordance with one of the titles set forth in Exhibit B, and (2) the principal is included in the approved Staffing Plan for such title.

5.5.3 Review and Approval of Staffing Plan: The Commissioner shall review the Consultant's proposed Staffing Plan and shall direct revisions to the same if necessary prior to final approval thereof. As part of such review, the Commissioner shall determine: (1) whether each proposed individual meets the minimum requirements for the applicable title, and (2) the direct salary rate per hour to be paid for each specific individual, in accordance with Article 7. The Consultant shall revise the proposed Staffing Plan as directed, until such plan is approved in writing by the Commissioner.

5.5.4 Replacement of Personnel: No substitutions for approved personnel shall be permitted unless approved by the Commissioner. Any proposed replacement for approved personnel must possess qualifications substantially similar to those of the personnel being replaced

and are subject to the prior written approval of the Commissioner. In addition, at the Commissioner's request at any time, the Consultant shall remove any personnel and substitute another employee of the Consultant reasonably satisfactory to the Commissioner. The Commissioner may request such substitution at any time, in his/her sole discretion.

5.5.5 Revisions to Staffing Plan: The Commissioner may, at any time, direct revisions to the Staffing Plan, including without limitation, increasing or decreasing the specified personnel, based upon the scope of the required services. The Consultant shall increase or decrease the specified personnel, as directed by the Commissioner.

5.6 Subconsultants: The Consultant shall engage such Subconsultants as may be necessary for the performance of all required services for the Project. The Consultant shall be responsible for the performance of services by its Subconsultant(s), including maintenance of schedules, coordination of their work and resolution of all differences between them.

5.6.1 General Provisions: General Provisions regarding subcontracting, including the requirements for approval, are set forth in Appendix A. Appendix A is included as an Exhibit to the Contract.

5.6.2 Exhibit A: The Subconsultants listed in Exhibit A were identified by the Consultant in its Proposal for the Contract. Failure by the Consultant to provide the Subconsultants listed in Exhibit A shall be grounds for termination for cause.

5.6.3 Replacement Subconsultants: No substitution for any Subconsultant shall be permitted unless approved in advance in writing by the Commissioner. Such approval will only be granted in the case of extenuating circumstances. Any proposed replacement Subconsultant must possess qualifications and experience substantially similar to those of the Subconsultant being replaced and is subject to the prior written approval of the Commissioner. In addition, at the Commissioner's request at any time, the Consultant shall remove any Subconsultant and substitute another Subconsultant reasonably satisfactory to the Commissioner. The Commissioner may request such substitution at any time, if, in the Commissioner’s sole opinion, the Commissioner determines that any Subconsultant may be unable to satisfactorily provide the required services in a timely fashion.

5.6.4 Payment: Expenses incurred by the Consultant in connection with furnishing Subconsultants for the performance of required services hereunder are deemed included in the payments by the City to the Consultant, as set forth in Article 7. The Consultant shall pay its Subconsultants the full amount due them from their proportionate share of the requisition, as paid by the City. The Consultant shall make such payment not later than seven (7) calendar days after receipt of payment by the City.

5.6.5 Subcontracts: The Consultant shall inform all Subconsultants engaged in performing services hereunder fully and completely of all terms and conditions of this Contract relating either directly or indirectly to the services to be performed. The Consultant shall stipulate in all subcontracts with its Subconsultants that all services performed and materials furnished thereunder shall strictly comply with the requirements of this Contract. If requested by the Commissioner, the Consultant shall furnish copies of subcontracts with its Subconsultants.

5.7 Relations with Construction Contractors:

5.7.1 Consultant's personnel shall make every effort to establish and maintain proper business like and cooperative relations with the general contractor and its representatives.

5.7.2 It is understood that it is the responsibility of the general contractor working at each site to submit to DDC all communications, shop drawings, samples, descriptive data, reports and proposals, unless by specific requirements or directions they are to be otherwise submitted. In the absence of a DDC representative at a site, all dealings shall be with the general contractor, not its sub-contractors.

5.7.3 The Consultant shall not discuss any differences or disagreements between DDC and the Consultant with, or in the presence of any entity, other than DDC and the Consultant, nor shall correspondence relating to any such differences or disagreements be sent to any entity, except DDC and the Consultant.

5.8 The Consultant shall pay all costs, of any nature whatsoever, including without limitation, the costs of regenerating reports, etc., for re-performance of services necessitated by the performance of services by unqualified persons. The Consultant shall pay all costs, of any nature whatsoever, for removal and replacement of work necessitated by services performed by unqualified persons.

ARTICLE 6 – SCOPE OF SERVICES

6.1 General: The Consultant shall provide, to the satisfaction of the Commissioner, all inspection and testing services required by the NYC Building Code for Project specified in Exhibit A. Inspection and testing services shall include special inspections, progress inspections, laboratory testing services, as well as all necessary and usual components in connection with such services, including, without limitation, observation, measurement, sampling, testing, and preparation of reports that provide analysis, interpretations, and recommendations. The Consultant's services shall be provided throughout the term of the Contract, as set forth in Article 4.

6.1.1 Compliance: The Consultant's services shall be provided in accordance with the following: (1) all terms and conditions set forth in this Contract, (2) all Local, State and Federal Laws, Rules and Regulations applicable to the work, (3) standard references, (4) project requirements, and (5) relevant national technical standards such as ASTM, AWS, ASME and ANSI. The Consultant shall be responsible for all costs in connection with such compliance, unless otherwise expressly provided herein.

6.1.2 Conflicts of Interest: The Consultant shall fully and fairly represent the interest of DDC in the performance of services under this Contract without conflict of interest or breach of confidentiality. Prior to the commencement of services hereunder, the Consultant shall notify DDC in writing whether or not it has performed, or is currently performing work for any contractor, subcontractor, or material supplier which has performed or is performing work related to this project and/or any consultant or contractor working on this project. Throughout this Contract, the Consultant shall notify DDC in writing of its intent to perform work on any City project(s) which

are not part of this contract. The Consultant shall include these provisions in all subcontracts for services performed by subcontractors or subconsultants.

6.1.3 Project: The Consultant shall perform Special Inspections and Laboratory Testing Services for the Project, as described in greater detail in Exhibit A. The Project involves the performance of construction work by an entity under a separate contract with the City. The Project is assigned to a DDC Program Unit, which administers the project through construction.

6.1.4 Standard References: Whenever reference is made to the furnishing of equipment or testing thereof to conform to the standards of any technical society, organization or body, it shall be construed to mean the latest standard, code, specification adopted and published as of the date on which the Consultant submitted its Fee Proposal, even though reference has been made to an earlier standard.

6.1.5 Certificates of Approval: The Consultant shall be responsible for and shall obtain all final approvals for special inspections and/or tests performed under this Contract in the form of such certificates that are required by all governmental agencies having jurisdiction over the work of the Contract. All such certificates shall be forwarded to the Commissioner through the Resident Engineer before final acceptance of the work of the Contract.

6.1.6 Documents Provided by DDC: Any documents provided by DDC, including, without limitation, contract drawings, specifications, shop drawings, shall remain the property of DDC.

6.1.7 Standard Forms: Within thirty (30) days of commencement of this Contract, all forms proposed to be used by the Consultant to meet all requirements of this Contract, shall be submitted to DDC for approval.

6.1.8 Printing: For all required documents, deliverables and/or reports, the Consultant shall, as a non-reimbursable service, provide copies as directed by DDC.

6.2 Reporting: The Consultant shall provide the reporting services described below. All such services are Non-Reimbursable Services, as set forth in Article 6.5.

6.2.1 The Consultant shall provide estimates, status reports, and updates to complete the required services for the Project.

6.2.2 The Consultant shall provide regular status reports to DDC as follows:

(a) Monthly Project Status Report: Such report shall include, without limitation, the following items:

- Project Name
- Project Number
- Completion Date and Percent complete
- Deficiencies found with Name(s) of the Person(s) notified, and the date(s) of such Notification(s)

- TR-1's (and TR-8's when implemented) issued, to whom issued, and date issued.
- Significant issues and problems
- Comments

(b) Monthly Cost Projection and Billing Status Report: Such report shall include, without limitation, the following items:

- Total projected cost to complete the Project
- Current status of the billings to date (paid, pending, etc.).

6.2.3 All reports shall be provided by the Consultant in printed form, as well as in electronic format using the most current version of Excel. The printed form and the electronic format are subject to prior approval by DDC.

6.3 Quality Assurance Protocol: For all services provided hereunder, the Consultant shall adhere to its Quality Assurance Protocol (QAP). The Consultant's QAP is subject to review and approval by the Commissioner. The Consultant shall submit its QAP as directed by the Commissioner. The QAP shall establish the Consultant's Quality Assurance (QA) policy, management structure and procedures for document control and monitoring that will ensure the reliability and validity of data submitted by the Consultant. The QAP must include documentation of: (a) Conformity with all ASTM E543 requirements for Non-Destructive Testing (in the form of a notarized statement of compliance), (b) Use of AWS procedures, and (c) Personnel certifications (with recertification for Level II and Level III).

6.3.1 The Consultant's QAP shall establish document control and routine monitoring procedures that address the items set forth below. Failure to implement QAP for any of the items below will result in a permanent deduction(s) from the amount due and owing for the Project.

(a) Field sampling procedures
(b) Documentation of field sampling activities
(c) Recording data
(d) Chain-of-custody process
(e) Sample labeling
(f) Sample handling
(g) Sampling quality control requirements (e.g., field equipment and trip blanks and field duplicates)
(h) Analytical methods requirements
(i) Instruments/equipment testing, inspection and maintenance requirements
(j) Instrument calibration and frequency
(k) Data review, verification, and validation
(l) Draft and Final Testing Reports
(m) Corrective action process

6.3.2 Subconsultants: The Consultant shall ensure that all Subconsultants, subcontractors, and laboratories performing services hereunder adhere to a QAP which is substantially similar to the Consultant's QAP.

6.3.3 Project Work Documentation: The Consultant, its certified testing laboratory and any other approved subconsultant(s), must maintain and provide to the Commissioner upon completion of the Project, documents and records associated with the services provided. Such documents shall include, without limitation, the following:

(a) Field notebooks or field data sheets
(b) Field equipment calibration / maintenance logs
(c) Chain-of-custody records
(d) Field Standard Operating Procedures (SOP's)
(e) Laboratory QA manuals
(f) Laboratory SOP's
(g) Laboratory procedures
(h) Laboratory data reports
(i) Instrument printouts
(j) Laboratory equipment maintenance logs
(k) Laboratory calibration records
(l) Results of inspections conducted by regulatory agencies
(m) Corrective action documentation

6.4 Reimbursable Services: The Consultant may be directed by the Commissioner to provide Reimbursable Services for the Project. If so directed, the Consultant shall provide such Reimbursable Services through entities approved by the Commissioner. Payment for Reimbursable Services shall be in accordance with the terms set forth in Article 7.

6.4.1 No Reimbursable Services shall be provided by the Consultant, or reimbursed hereunder, unless expressly authorized in a written directive from the Commissioner. For Reimbursable Services in excess of $150, such written authorization must be provided in advance of the expenditure.

6.4.2 Reimbursable Services shall be such services determined by the Commissioner to be necessary for the Project, and may include, without limitation, the services set forth below.

(a) Long Distance Travel. In the event the Consultant is directed in advance in writing by the Commissioner to provide services which require long distance travel, the Consultant shall be reimbursed for expenses incurred in connection with such long distance travel. Long distance travel means travel which is in excess of 75 miles from whichever of the following is closer to the destination: (1) Columbus Circle, or (2) the Consultant's home office. Consultants and/or Subconsultants that are not located in New York City or its vicinity shall not be entitled to reimbursement for transportation expenses.
(b) Rental of special testing equipment specified in Exhibit E, including the cost of operator labor.
(c) Rental of special equipment for inspection and/or testing required for the Project, other

than equipment specified in Article 6.5, or equipment specified in Exhibits D and F.

(d) Reproduction and/or printing of documents, deliverables and/or records in excess requirements set forth in this Article, except that any printing performed in the office of the Consultant or its Subconsultant is a non-reimbursable service.

(e) Any other services, determined by the Commissioner to be necessary for the Project.

6.4.3 The Consultant shall utilize the method of procurement directed by the Commissioner. If so directed, the Consultant shall conduct a competitive bid and/or proposal process for the specified Reimbursable Service. In general, such competitive process will be required if the cost of the specified Reimbursable Service exceeds $20,000.

6.4.4 The Consultant shall utilize the form of payment directed by the Commissioner. Payment for Reimbursable Services shall be in accordance with one of the following methods: (a) lump sum; (b) unit price, or (c) actual cost; except for long distance travel, as set forth in Article 7.

6.4.5 In the event the Consultant is directed, as a Reimbursable Service, to purchase any items and/or equipment, such items and/or equipment shall, unless otherwise directed by the Commissioner, be the sole property of the City upon delivery to the designated location. The Consultant shall prepare and maintain an accurate inventory of all items and/or equipment which it is directed to purchase pursuant to the Allowance for Reimbursable Services. Such inventory shall be provided to the City upon request. Upon completion of the required work, as directed by the Commissioner, the Consultant shall turn such items and/or equipment over to the City.

6.5 Non-Reimbursable Services: Throughout the Project, the Consultant shall be responsible for providing the non-reimbursable services set forth below. All costs for such services are deemed included in payments to the Consultant, as set forth in Article 7.

6.5.1 Transportation: The Consultant shall provide transportation for all personnel performing services, including without limitation: (a) expenses for ordinary transportation (i.e., other than long distance travel, as set forth above), (b) expenses for time spent by personnel commuting or traveling, and (c) expenses for parking and tolls.

6.5.2 Printing: The Consultant shall provide printing of documents, deliverables and/or reports in accordance with the requirements set forth in this Article.

6.5.3 Office: The Consultant shall provide all necessary office supplies and/or tools, including computers

6.5.4 Equipment: The Consultant shall provide the equipment set forth below. Such equipment is required for all personnel performing services.

(a) Communications equipment and service, including without limitation cellular telephones. Cellular telephones shall have the ability to take photographs and transmit images to the Project Manager and DDC Representative. The telephone numbers of all such personnel shall be submitted to the Commissioner.

(b) Hand tools, sample media, containers and other supplies for collecting samples.

(c) Equipment for required inspection and testing services, except as otherwise

expressly provided in Exhibits D, E and F.

(1) Measuring and detection instruments, including without limitation, 0-6" digital calipers, 0-1" digital micrometer, 100-foot tape measure, 72" folding ruler, water level indicator, magnet, engineer's scale, drafting triangle, as well as a 25-foot tape measure, 2-foot smart level capable of calculating ground slopes in percentage, pull/push scale capable of measuring in pounds, and a digital Illuminance light meter capable of measuring foot candles and/or lux.
(2) Digital camera capable of recording images in indoor/outdoor applications.
(3) AWS approved welding kit (required for welding inspectors only)

(d) Safety and/or Personal Protective Equipment required under City, State and/or Federal laws. Personal Protective Equipment shall include without limitation, hard hats, safety vests, foot protection, hearing protection and eye protection.
(e) Health and Safety plans or other documents required under City, State and/or Federal law for the Consultant's performance of sampling services hereunder.
(f) Fees for any and all permits and/ or licenses required by Federal, State, and/or local regulatory agencies.
(g) Computer hardware and software necessary to draft and submit ADA Compliance Reports pursuant if required in Exhibit C.

6.6 Ownership of Documents: As set forth in the General Provisions (Appendix 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.

During the term of this Contract and at any time within the retention period set forth in the General Provisions, the Consultant shall, upon demand, promptly deliver such material, records or documents to the Commissioner, or make such records available to the Commissioner or his/her authorized representative for review and reproduction at such place as may be designated by the Commissioner. Thereafter, the City may utilize such material, records or documents in whole or in part or in modified form and in such manner or for such purposes or as many times as it may deem advisable without employment of or additional compensation to the Consultant. Should such documents prepared under this Contract be re-used by the City for other than the Project originally created, it is understood that the Consultant bears no responsibility whatsoever for such re-use except in those instances where he is re-employed for re-use of the documents.

6.7 Assistance to Commissioner: Should any claim be made or any action brought against the Commissioner or the City of New York relating to the services rendered for the Project under this Agreement, the Consultant shall diligently render to the City without additional compensation any and all assistance, which may be requested by the Commissioner.

ARTICLE 7 – PAYMENT TERMS AND CONDITIONS

7.1 General

7.1.1 Total Payments: Total payments for all services performed and all expenses incurred pursuant to this Contract shall not exceed the amount set forth in Exhibit A.

7.1.2 Allowances: In the event the allowance amounts set forth in Exhibit A are not sufficient to perform the required services, as determined by the Commissioner, the City will increase the amounts of such allowances, subject to the limitation set forth in Article 7.1.3 below. Notwithstanding the specific amounts allocated for allowances, as set forth in Exhibit A, the Commissioner may, by issuance of a "No Cost Change Order" to the Contractor, reallocate such specific allowance amounts within this Article 7.

7.1.3 M/WBE Noncompetitive Small Purchase Method: In compliance with PPB Rule 3-08, the total value of this Agreement, inclusive of all change orders, overruns, amendments, renewals, and extensions shall not exceed $1,500.000.

7.1.4 Executory Only: This Agreement shall be deemed executory only to the extent of the moneys appropriated and available for the purpose of the Agreement and no liability or account thereof shall be incurred beyond the amount of such moneys. It is therefore understood that neither this Agreement nor any representation by any public employee or officer creates any legal or moral obligation to request, appropriate or make available moneys for the purpose of this Agreement.

7.2 Payment for Services on a Time Card Basis

7.2.1 General: The method of payment for the Project is specified in Exhibit C. Payment for special inspections, as well as ADA inspection services, shall be on a time card basis. In such case, Exhibit A will specify an Allowance for Services on a Time Card Basis. Such allowance is established for payment to the Consultant for the performance of special inspections by those individuals who have been assigned to the project and are identified in the Staffing Plan approved by the Commissioner.

7.2.2 Limitations: Payment for services on a time card basis is subject to the limitations set forth below.

(a) Staffing Plan: The Consultant shall not be entitled to payment for any individual not included in the approved Staffing Plan. A Staffing Plan must be approved by the Commissioner prior to commencement of the Consultant's services. Such Staffing Plan must specify the specific individuals for the performance of special inspections and the Direct Salary Rate per hour for each specified individual as determined by the Commissioner. The specific individuals set forth in the Staffing Plan shall be considered Assigned Employees for the purpose of payment hereunder.

(b) Contract Executive: The Consultant shall not be entitled to payment for the services of the Contract Executive. Compensation for the services of the Contract Executive is deemed included in payments to the Consultant, as provided for in this Article 7.

(c) Principals: The Consultant shall not be entitled to payment for a principal's time performing oversight or management duties. This prohibition on payment for a principal's time shall not apply if the following criteria are met: (1) the Consultant has been directed to perform services on a time card basis, (2) the principal is qualified to perform services in accordance with one of the titles set forth in Exhibit B, and (3) the principal is included in the approved Staffing Plan for such title.

7.2.3 Amount of Payment: For any week during which an Assigned Employee performs services for the project on a time card basis, payment to the Consultant for such employee's services for that week shall be calculated as follows: Multiply the amount set forth in subparagraph (a) by the number set forth in subparagraph (b), and then multiply the result by the Multiplier for Overhead and Profit set forth in Exhibit A; provided, however, the Multiplier shall **NOT** apply to any increase in the Assigned Employee's Direct Salary Rate per hour for services performed during other than regular business hours.

(a) Assigned Employee's Direct Salary Rate per hour, determined and approved in writing by the Commissioner in accordance with the provisions set forth below. In the event the Consultant receives written authorization from the Commissioner to have an Assigned Employee perform services during other than regular business hours, the employee's Direct Salary Rate per hour may be subject to an increase, as provided below.

(b) Total number of hours set forth on time sheets completed by the Assigned Employee for the week in question during which the Assigned Employee actually performed services for the Project on a time card basis. This total number of hours shall **NOT** include the following: (1) any hours the Assigned Employee spent commuting and/or traveling; (2) any non-billable hours, as defined below; (3) any hours during which the Assigned Employee performed services for any other project; (4) any hours the Assigned Employee spent performing services for the Project for which the Consultant is not entitled to compensation, and (5) any non-regular business hours, unless otherwise authorized in advance, in writing by the Commissioner.

(c) Non-billable hours shall be defined as any hours set forth on time sheets completed by the Assigned Employee which have been allocated to any category or function other than services performed hereunder. Non-billable hours shall include without limitation: (1) compensated absence time, including without limitation vacation time, sick time, personal time and holidays; (2) performance of administrative tasks, or (3) any other time keeping category consistent with standard accounting practices.

(d) When federal funding regulations do not allow for the use of a multiplier, the Commissioner and the Consultant may negotiate a fixed lump sum price or all-inclusive staffing expense rates, as appropriate, upon terms that are mutually acceptable. If all-inclusive staffing expense rates are used, such rates shall not be subject to mark-up of any kind, including, without limitation, for overhead and profit.

7.2.4 Equitable Reduction: The amount of payment to the Consultant for services performed for the Project by an Assigned Employee, calculated as set forth above, shall be subject to an equitable reduction if, for the week during which an Assigned Employee performed services for the Project, the total number of hours for which the Assigned Employee was actually paid by the Consultant for that week, less any non-billable hours, is less than the total number of hours actually billed by the Consultant to all entities for the Assigned Employee's services for that week, including the number of hours billed for the Project. In such event, the amount of payment to the Consultant for services performed by an Assigned Employee for the week in question, calculated as set forth above, shall be reduced by multiplying such amount by the following: the fractional number resulting from the division of the number set forth in paragraph (a) below by the number set forth in paragraph (b).

(a) Total number of hours for which the Assigned Employee was actually paid by the

Consultant for the week in question, less any non-billable hours, as defined above.

(b) Total number of hours actually billed by the Consultant to all entities for the Assigned Employee's services for the week in question, including the number of hours billed for the Project.

7.2.5 Direct Salary Rate Per Hour: Direct Salary Rates per hour for each Assigned Employee shall be determined and approved in writing by the Commissioner in accordance with the terms and conditions set forth below. Upon approval by the Commissioner, the Direct Salary Rate per hour for each Assigned Employee shall be included in the Staffing Plan.

(a) Actual Annual Direct Salary Rate per Hour: For each Assigned Employee, the Consultant shall submit such employee's actual annual direct salary, as defined below. In addition, the Consultant shall submit any records or documentation requested by the Commissioner to verify the Assigned Employee's actual annual direct salary rate, including without limitation, the Consultant's payroll register for the past twelve (12) months.

(1) Actual Annual Direct Salary: An Assigned Employee's actual annual direct salary shall be the salary amount directly payable to such employee on an annual basis and shall **NOT INCLUDE** any amount for the following costs or payments: (1) any payments for services performed during other than regular business hours (i.e., premium for Night Differential and/or Overtime); (2) any employer payments mandated by law, including without limitation, Social Security and Medicare taxes, insurance (Worker's Compensation, Employers Liability, Unemployment); (3) any employer contributions to retirement plans, including without limitation pension and/or deferred compensation plans, and (4) any costs for any other fringe and/or supplemental benefits.

(2) Computation: To compute an Assigned Employee's actual annual direct salary on an hourly basis, the Assigned Employee's actual annual direct salary, as defined in subparagraph (1) above, shall be divided by 2080.

(b) Determination of Direct Salary Rate: For each Assigned Employee, the Commissioner shall determine and approve in writing the Direct Salary Rate per hour to be paid for such employee.

(1) Once determined and approved by the Commissioner in accordance with paragraph (b) above, the Assigned Employee's Direct Salary Rate per hour shall not be eligible for any increase whatsoever, except for the increase described in Article 7.2.6 below. Any such increase must be approved in writing by the Commissioner.

(2) The Direct Salary Rate per hour for an Assigned Employee, determined and approved in accordance with this section, may be adjusted in accordance with Article 7.2.7 below, in the event the Consultant receives written authorization from the Commissioner in the particular instance to have the Assigned Employee perform services during other than regular business hours.

7.2.7 Night Differential / Overtime: The Commissioner may authorize the Consultant in advance in writing to have an Assigned Employee perform services during other than regular business hours. In the event of such authorization, the Consultant shall be entitled to payment of a premium or increase in the Assigned Employee's Direct Salary Rate per hour for such services, subject to the limitations set forth below:

(a) The Consultant's policy is subject to approval by the Commissioner in accordance with Article 5.
(b) The premium for Night Differential shall not exceed ten (10%) percent of the Assigned Employee's Direct Salary Rate per hour, and the premium for Overtime shall not exceed fifty (50%) percent of such Direct Salary Rate.
(c) The Consultant shall not be entitled to payment of any premium unless the total amount of such premium is actually paid in full by the Consultant to the Assigned Employee, as evidenced by the Consultant's payroll register.
(d) The premium payment shall not be subject to any multiplier whatsoever.

7.2.8 Multiplier: The Multiplier for Overhead and Profit set forth in Exhibit A shall be deemed to include profit, as well as any and all expenses for overhead incurred by the Consultant and/or its Subconsultant(s) in connection with providing services on a time card basis for the Project. The Multiplier shall include, without limitation, the items set forth below.

(a) All expenses for compensation for personnel identified in the approved Staffing Plan that are in excess of the Direct Salary Rates for such personnel payable hereunder. Compensation for such personnel shall include, without limitation: (1) wages and/or salaries that are in excess of the Direct Salary Rates payable hereunder; (2) all payments mandated by law, including without limitation, Social Security and Medicare taxes, insurance (Worker's Compensation, Employers Liability, Unemployment); (3) employer contributions, if any, to retirement plans, including without limitation pension and/or deferred compensation plans; (4) all payments for compensated absence time, including without limitation vacation time, sick time, personal time and holidays, and (5) costs for any and all other fringe and/or supplemental benefits.
(b) All expenses related to administration, management and oversight, including, without limitation, any time spent by principals performing such duties
(c) All expenses related to overhead of any kind whatsoever
(d) Any anticipated profit

7.2.9 Requisitions: For any week(s) for which the Consultant is requesting payment for services performed by an Assigned Employee on a time card basis, the Consultant shall submit the documentation set forth in this Article 7.

7.3 Payment for Services on a Unit Price Basis

7.3.1 General: The method of Payment for the Project is specified in Exhibit C. Payment for various types of services shall be on a unit price basis, in accordance with unit prices set forth in Exhibits D and F. In such case, Exhibit A will specify an Allowance for Services on a Unit Price

Basis. The services to be provided on a unit price basis, as well as the expenses deemed included in the unit prices for such specified services, are set forth in Exhibits D and F.

7.3.2 No Mark-up: The Consultant shall not be entitled to any mark-up on the unit prices set forth in Exhibits D and F for specified services.

7.3.3 Requisitions: For payment for laboratory testing services, the Consultant shall submit the documentation set forth in this Article 7.

7.3.4 Non-Regular Business Hours: In the event the Consultant performs services on a unit price basis during non-regular business hours, the Unit Prices set forth in Exhibits D and F shall not be subject to an increase for such services.

7.4 Payment for Reimbursable Services

7.4.1 General: In the event the Commissioner directs the Consultant to provide Reimbursable Services, the provisions set forth below shall apply. In such case, Exhibit A will specify an Allowance for Reimbursable Services. Such allowance is established for payment for Reimbursable Services, as set forth in Article 6. In providing Reimbursable Services, the Consultant shall comply with all terms and conditions set forth in Article 6 and Exhibit C, including utilization of the method of procurement and form of payment directed by the Commissioner. If so directed, the Consultant shall conduct a competitive bid and/or proposal process for the specified Reimbursable Service. In general, such competitive process will be required if the cost of the specified Reimbursable Service exceeds $20,000.

7.4.2 Payment: Payment for Reimbursable Services (except for long distance travel) shall be as set forth below.

(a) If payment is on a lump sum basis, payment shall be based upon the percentage of completion.
(b) If payment is on a unit price basis, payment shall be based upon the number of completed units.
(c) If payment is based on actual cost, payment shall be the actual and reasonable cost, as indicated by receipted bills or any other data required by the Commissioner.

7.4.3 Long Distance Travel: Payment for long distance travel, as set forth in Article 6, shall be in accordance with the normal travel allowances of the City of New York for its own employees as provided in Comptroller's "Directive #6, Travel, Meals, Lodging and Miscellaneous Agency Expenses."

7.4.4 Mark Up: The Consultant shall be entitled to a mark-up of 5% for overhead and profit on payments for Reimbursable Services hereunder; provided, however, the Consultant shall **NOT** be entitled to any mark-up with respect to (1) long distance travel expenses, (2) filing fees, (3) printing costs, and (4) rental of special testing equipment specified in Exhibit E.

7.4.5 Requisitions: For payment for Reimbursable Services, the Consultant shall submit the documentation set forth in this Article 7.

7.5 Requisitions for Payment: Requisitions for payment may be submitted as the work progresses, but not more often than once a month. Requisitions shall be in the authorized form and shall set forth the services performed by the Consultant and the total amount of partial payment requested for the Project. The total amount of partial payment requested shall be broken down into various categories, depending on the required services and the method of payment as specified in Exhibit C. Such payment categories may include the following: (1) Payment for Services on a Time Card Basis, (2) Payment for Services Based on Unit Prices, and (3) Payment for Reimbursable Services. The Consultant shall submit each requisition for payment electronically.

7.5.1 Each requisition for payment shall be accompanied by the documentation set forth below.

(a) The Consultant shall submit the following for the Project

(1) Statement of the services completed during the payment period
(2) Copy of the Resident Engineer's written acceptance of the services provided
(3) Total amount of payment requested for Services on a Time Card Basis
(4) Total amount of payment requested for Services on a Unit Price Basis
(5) Total amount of payment requested for Reimbursable Services
(6) Total amount of payment requested for all services completed during the payment period

(b) Services on a Time Card Basis: For any period for which the Consultant is requesting payment for services on a time card basis, the Consultant shall submit the documentation set forth below:

(1) Name and title of the Assigned Employee, as defined above.
(2) Commissioner approval of the Assigned Employee, either approved Staffing Plan or documentation approving the Assigned Employee as a replacement.
(3) Assigned Employee's Direct Salary Rate determined and approved by the Commissioner and included in the Staffing Plan.
(4) Statement indicating the Multiplier for Overhead and Profit set forth in Exhibit A.
(5) Number of hours worked each day by the Assigned Employee for the week(s) in question during which the Assigned Employee actually performed services for the Project on a time card basis. The number of hours per day shall be broken down to indicate the number of regular business hours and the number of non-regular business hours. The Multiplier shall not apply to any increase in the Assigned Employee's Direct Salary Rate per hour for authorized services performed during other than regular business hours.
(6) Detailed time sheets completed by the Assigned Employee for the week(s) in question. Such detailed time sheets shall reflect all hours of service by the Assigned Employee, including without limitation: (1) actual hours during which the employee performed services for this Project on a time card basis; (2) actual hours during which the employee performed services for other projects; (3) non-billable hours, as defined above; (4) actual hours, if any, during which the Assigned Employee performed services for this Project for

which the Consultant is not entitled to compensation, and (5) any non-regular business hours.

(7) Copy of the Consultant's payroll register for the week(s) in question reflecting the amount actually paid by the Consultant to the Assigned Employee for that week.

(8) Applicable only if services were performed during other than regular business hours: (i) copy of authorization by Commissioner for such services, and (ii) copy of Commissioner's approval of the Consultant's policy regarding payment of a premium for services performed during other than regular business hours

(c) Payment for Services Based on Unit Prices: For any period for which the Consultant is requesting payment for services on a unit price basis, the Consultant shall submit the documentation set forth below. Payment for such services shall be in accordance with the unit prices set forth in Exhibits D and F.

(1) Cover sheet summarizing the types of services provided on a unit price basis.

(2) For each type of services provided, specify the applicable Exhibit, the item number, the applicable unit price for the item and number of units completed during the payment period

(3) Total amount for all services completed during the payment period

(4) Copies of all required reports, including backup documentation

(5) Copy of the Resident Engineer's written acceptance of the services provided

(d) Payment for Reimbursable Services: For any period for which the Consultant is requesting payment for Reimbursable Services, the Consultant shall submit the documentation set forth below:

(1) Description of the Reimbursable Service the Consultant was directed to provide.

(2) If payment is on a lump sum basis, a report on the progress of the work, indicating the percentage of completion of all required services.

(3) If payment is on a unit price basis, a report indicating the number of completed units.

(4) If payment is based on actual cost, receipted bills or any other data required by the Commissioner.

7.5.2 Satisfactory Progress: All payments hereunder are contingent upon the Consultant's satisfactory performance of the required services. The Commissioner is authorized to make deductions for any services performed hereunder which he/she determines to be unsatisfactory. In the event payment is made for services which are subsequently determined to be unsatisfactory, the Consultant shall be obligated to perform corrective services. The Consultant shall not be entitled to any compensation whatsoever for the performance of corrective services.

EXHIBIT A

CONTRACT INFORMATION

- Project: _____

- Total Not to Exceed Amount: $_____
  (Total of the Allowances listed below)

  - Allowance for Services on a Time Card Basis: $_____

  - Allowance for Services on a Unit Price Basis: $_____

  - Allowance for Reimbursable Services: $_____

- Multiplier for Overhead and Profit: _____

- Term of Contract: The Contract shall commence as of the date set forth in the Notice to Proceed and shall remain in effect until Final Acceptance of all required construction work for the Project and completion of all required services hereunder.

  - Approximate time frame for Final Acceptance of all required construction work for Project and completion of all required services is _____ consecutive calendar days (CCDs)

- Insurance Requirements: The amounts of insurance required, subject to Article 7 of Appendix A, are set forth below in Schedule A. General Provisions governing the Contract, including insurance coverage the CM and its Subconsultants are required to provide, are set forth in Appendix A, which is included as an Exhibit to the Contract. Insurance Requirements are set forth in Article 7 of Appendix A.

- Subconsultant(s): _____

- Testing Laboratory: _____

SCHEDULE A

Article 7 -- Insurance[1]	
Types of Insurance (per Article 7 in its entirety, including listed paragraph)	**Minimum Limits and Special Conditions**
■ Workers' Compensation §7.02 ■ Disability Benefits Insurance §7.02 ■ Employers' Liability §7.02	Statutory amounts.
■ Commercial General Liability §7.03(A)	$1,000,000.00 per occurrence $1,000,000.00 personal & advertising injury (unless waived in writing by the Department) $2,000,000.00 aggregate $0 products/completed operations Additional Insureds: 1.City of New York, including its officials and employees 2.Brooklyn Public Library, including its officials, officers, agents and employees
■ Commercial Auto Liability §7.03(B) If vehicles are used in the provision of services under this Agreement, then the Consultant shall maintain Commercial Automobile Liability insurance in the amount specified.	$1,000,000.00 per accident combined single limit If vehicles are used for transporting hazardous materials, the Contractor shall provide pollution liability broadened coverage for covered vehicles (endorsement CA 99 48) as well as proof of MCS 90
■ Professional Liability/Errors & Omissions §7.03(C)	$1,000,000.00 per claim
□ Crime Insurance §7.03(D)	NA $_____ Employee Theft/Dishonesty $_____ Computer Fraud $_____ Funds Transfer Fraud $_____ Client Coverage $_____Forgery or Alteration $_____Inside the Premises (theft of money and securities) $_____ Inside the Premises (robbery or safe burglary of other property) $_____ Outside the Premises

[1] All section and article references in this Schedule A are to sections and/or articles of Appendix A.

	$_____ Money Orders and Counterfeit Money City of New York is a loss payee as its interests may appear
□ Cyber Liability Insurance §7.03(E)	*NA*
Section 10.07 – Liquidated Damages	
• Violation of Section 3.02(H), reporting subcontractors in the City's Payee Information Portal	**$100 per day**
•	**$_____**
Section 14.04 – Notice	
Department's Mailing Address	Agency Head 30-30 Thomson Avenue Long Island City, Queens 11101
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 _____

EXHIBIT B

STAFFING REQUIREMENTS: STAFFING PLAN AND MINIMUM REQUIREMENTS PER TITLE

STAFFING PLAN: The Respondent shall submit one Staffing Plan. The Staffing Plan shall only include personnel for the performance of consulting and/or technical services. The Staffing Plans shall not include any personnel who perform administrative, overhead and/or home office functions. In the space provided below, the Respondent shall identify the following: (1) Contract Executive, (2) Key Personnel, and (3) Other Personnel. For all specified personnel (except the Contract Executive), the Respondent shall indicate the total estimated hours per title. The total estimated hours per title must be in accordance with the Respondent's Project Schedule and shall not include any hours other than regular business hours (i.e., no evening, weekend or holiday hours). Each Staffing Plan must identify actual personnel the Respondent intends to provide for the duration of each Project.

TITLES: Staffing requirements are set forth on the following pages. Such staffing requirements specify the titles of personnel which the Consultant will be required to provide, through its own employees and/or through its Subconsultants. Any personnel provided by the Consultant and/or its Subconsultants must satisfy the Minimum Requirements Per Title set forth on the following pages.

ADDITIONAL TITLES: If an additional title(s) of personnel is required for a specific Project, the Commissioner shall establish the following: (1) additional required title(s), and (2) minimum requirements per title.

MINIMUM REQUIREMENTS PER TITLE: Minimum requirements per title are set forth on the following pages. In addition to requirements included in this Exhibit, any individual performing Special Inspection services must comply with the minimum qualification requirements per title established by the DOB. Such requirements are set forth in detail on the DOB website.

The Response may be considered non-responsive if the Respondent fails to identify Key Personnel who meet the minimum requirements per title.

[Pages inserted from RFI Response at contract conformance.]

EXHIBIT C

METHOD OF PAYMENT AND SCOPE OF SERVICES FOR THE PROJECT

METHOD OF PAYMENT FOR THE PROJECT

The method of payment for the Project is [check which applies]:

_X_ Time Card Basis _X_ Unit Price Basis

SCOPE OF SERVICES

1. Provisions Applicable to Services: The provisions set forth below shall apply to the Consultant's services for the Project.

1.1 In connection with all special inspections and laboratory testing services, the Consultant is responsible for the following:

(a) The Consultant shall assume responsibility to inspect and certify that construction operations and materials are in compliance with all requirements in the NYC Building Code regarding "Special Inspections".
(b) Prepare all required forms, applications and/or documentation for filing with the Department of Buildings ("DOB"), including without limitation, reports of inspections and/or tests.
(c) Ensure that all required deliverables, including without limitation, reports of inspections and/or tests, are signed and sealed by a Professional Engineer or a Registered Architect licensed by New York State.
(d) Obtain all required approvals from DOB.
(e) Submit a Daily Inspection Report to the Resident Engineer, not later than noon of the day after the inspection. The report shall contain all the referencing information, indicate inspectors' activities and equipment used and summarily indicate inspection results and conclusions.
(f) Upon completion of each special inspection and/or test, submit to the Resident Engineer copies of all reports of such inspection and/or test. Submit such reports to DOB after final inspection of the project.
(g) Upon completion of the Project, submit to the Resident Engineer all documents and records associated with the services provided. Such documents shall include, without limitation, the following: (1) all reports of special inspections and/or tests, (2) field notebooks or field data sheets, (3) field equipment calibration / maintenance logs, and (4) chain-of-custody records.
(h) Upon completion of the Project, submit to the Resident Engineer all documents and records associated with the services provided. Such documents shall include, without limitation, the following: (1) all reports of special inspections and/or tests, (2) field notebooks or field data sheets, (3) field equipment calibration / maintenance logs, and (4) chain-of-custody records.

1.2 DDC is represented at the construction site by the Resident Engineer. The Consultant shall only consult with and take direction from the Resident Engineer regarding the performance of services on site.

(a) Prior to commencing services, the Consultant shall consult with the Resident Engineer regarding the scheduling of all required services. Any services involving the construction contractor(s) shall be coordinated through the Resident Engineer. The Consultant shall perform all services in a timely manner to avoid any delay to the project.
(b) The Consultant shall notify the Resident Engineer of any violation, failure or lack of compliance discovered during an inspection or a laboratory test. Such notification shall be verbal, as well as by email or fax, and shall be made within one (1) hour of discovery to allow prompt corrective measures.
(c) The Resident Engineer must verify the following: all daily timesheets of personnel performing inspections, and all log sheets.

1.3 The Consultant shall immediately notify the Resident Engineer, both verbally and by fax or e-mail of the deficiencies or failures set forth below. The Consultant shall keep complete records and file daily reports, including who was notified of observed deficiencies. The Consultant shall send copies of reports to the Resident Engineer within five (5) business days of observation of the deficiency or failure.

(a) Any failure of the contractor or its subcontractor to follow sound construction practices, NYC Building Code requirements or accepted engineering standards.
(b) Any construction work, equipment or material delivered or installed that does not comply with the construction contract requirements. The Consultant shall make such follow-up checks on each reported item of non-compliance and promptly advise DDC of any failure to remove, correct, or replace rejected construction work, equipment or materials, etc.
(c) Any inferior work, including unacceptable materials and equipment, found or observed during the course of the performance of its services.
(d) Any violation by the contractor or its subcontractors, which Consultant may observe, of applicable provisions of federal, state or local laws, rules and regulations.
(e) Any test failure, in order to facilitate the required corrective action and to mitigate the costs to replace and/or repair the work affected by the failure.

1.4 For all required inspection and testing services, the Consultant shall establish a protocol for each project site in compliance with all Local, State and Federal Laws, Rules or Regulations applicable to the work.

1.5 The Consultant shall review all project related documentation provided by DDC, including without limitation, drawings, specifications, surveys, notifications and amendments.

1.6 Consultant shall give written notice to all concerned of the time when tests will be conducted.

1.7 DDC will furnish all energy, fuel, water and light required for special inspections, ADA inspections, and progress inspections.

2. Inspection Services: The Consultant shall provide the inspection services set forth below.

2.1 Special Inspections and Progress Inspections: The NYC Building Code and Rules of the City of New York, under provisions regarding "Special Inspections" and “Progress Inspections”,

require that certain materials, operations and equipment be inspected or tested to verify compliance with code requirements. The Consultant shall provide all services necessary and required for Special Inspections and Progress Inspections to ensure compliance with the requirements of the NYC Building Code. The Special Inspections and Progress Inspections shall be provided by the Consultant in compliance with Chapter 17 of the NYC Building Code. Refer to the scope of work as indicated in the drawings.

2.2 Progress Inspections for Energy Code Compliance: The City Energy Conservation Code (the "Energy Code"), under provisions regarding "Progress Inspections for Energy Code Compliance", requires progress inspections and/or testing per 1 RCNY Chapter 5000 when applicable to the scope of work. The Consultant shall provide all services necessary and required for Progress Inspections Energy Code Compliance to ensure compliance with the requirements of the Energy Code.

2.3 Final Inspection for Certificate of Occupancy: As required by the N.Y.C. Building Code, the Consultant shall: (a) participate in the final inspection for the Certificate of Occupancy, (b) submit to DDC all documentation in connection with special inspections and laboratory testing services provided, and (c) cooperate fully with the DDC Permit & Approval Section in the securing of the Certificate of Occupancy for the project.

2.4 ADA Inspection Services: When directed by the Commissioner in writing, the Consultant, through its own employees or its Subconsultants, will be required to provide inspection service to document compliance with the Americans with Disabilities Act ("ADA") on the Project as set forth below.

(a) Frequency of ADA inspections:

(1) ADA inspections must be performed on the Project Site by qualified professional personnel at the following construction milestones, unless otherwise specified by the Commissioner:

i. Completion of framing and roughing;
ii. Completion of wallboard installation;
iii. Start of installation of finishes; and
iv. Completion of installation of finishes.

(2) Additional ADA inspection may be required depending on the type of the Project and as required by DDC. DDC reserves the right to request additional ADA inspections depending on the needs of the Project.

(3) The Commissioner will specify the number of ADA inspections. However, as a general requirement, each Project will require ADA inspections during the construction milestones specified in Section 2.4(a)(1) above, as well as anywhere between one (1) to three (3) interim progress ADA inspections.

(b) The Consultant will be required to perform at minimum the following activities in connection with the ADA inspections, unless otherwise specified by the Commissioner.

(1) Coordinate the ADA inspections with the contractor, construction manager and DDC for site access, and access to Drawings, submittals, Shop Drawings, material samples and catalogue cuts.
(2) Review the construction progress schedule and coordinate Site visits to capture the milestone inspections and closely follow the construction progress.

(3) Conduct ADA inspections during Site field visits at the specified construction milestones specified in Article 2.4(a)(1).
(4) In addition to the Site visits in connection with the construction milestones specified in Article 2.4(a)(1), conduct ADA inspections during interim progress Site visits as required by DDC.
(5) Prepare ADA Compliance Report for each Site visit in connection with the construction milestone specified in Article 2.4(a)(1), as well as any interim progress Site visits. The ADA Compliance Report:
    i. must include statement of percentage of work completed, next construction milestone date (if applicable), photographs, field measurements, relevant submittals, Shop Drawings, material samples and catalogues cuts provided by the contractor, construction manager or the Project Manager, as well as any additional and necessary documents and information to help determine and demonstrate ADA compliance status for the Project;
    ii. must note any contractor noncompliance of previously reported items and deviations to the Drawings;
    iii. must be signed and dated by the qualified professional personnel who performed the ADA inspection services;
    iv. must be in a form of a checklist provided to the Consultant by the Commissioner; and
    v. must be submitted as a Word or Excel document within 48 hours of the Site visit via email to the Project Manager and DDC's Director of ADA Compliance.
(6) Participate in meetings to review ADA Compliance Reports, if requested by DDC.
(7) Respond in a timely manner to DDC's requests for clarification or additional information with respect to the ADA Compliance Reports.

(c) The ADA inspections services must be performed by qualified personnel who have working knowledge of the ADAAG Standards, Chapter 11 of the NYC Building Code, and ICC A117.1 Standards and meet the minimum experience requirements set out in Exhibit B.

2.5 Other Inspection or Consulting Services: In addition to the above described services, the Consultant shall provide the following: (a) inspection and/or testing services to ensure that construction operations and/or materials are in compliance with drawings and specifications prepared for the project by the Architect/Engineer of Record, (b) inspection services to determine the quality of work performed by the construction contractor and its subcontractors, as well as compliance with all applicable laws, rules and regulations, (c) additional inspection, testing and/or engineering consulting services not described in this Contract, including without limitation, testing and inspection of elevators, electrical, plumbing and drainage, chemical analysis, etc., required for the Project, and (d) preparation of special engineering studies and/or reports when requested by DDC. If so directed, such studies and reports shall be developed and written by or under the direction of a New York State Licensed Professional Engineer and shall be signed and sealed by the Professional Engineer.

3. Laboratory Testing Services

3.1 The Consultant shall provide laboratory testing services for the Project in compliance with Chapter 17 of the NYC Building Code. Such testing services shall be performed by the laboratory set forth in Exhibit A. Qualification Requirements for the laboratory are set forth in

Article 5. The turn-around time for all required testing services shall be in accordance with the construction schedule for the project, as specified by the Resident Engineer.

3.2 Testing services provided by the Consultant, through its certified laboratory, shall include, without limitation, (1) obtaining samples at the site, (2) transporting samples, and (3) conducting test(s). All testing services shall be in accordance with the latest ASTM methods and procedures, as well as the following procedures: AWS, ASME, ANSI, AISC, SJI, PCI, ACI, and TPI. In addition, for non-destructive testing, the procedure shall conform to ASTM E543. The Consultant shall not be entitled to any increase in the unit prices for testing services due to revisions in the methods and/or procedures.

(a) The Consultant shall sample, review, test, inspect etc. the requisite quantities and number of times required by the NYC Building Code and all applicable references. The Consultant shall provide justification for sampling, reviewing, testing, etc. in numbers and quantities exceeding the minimums required by the NYC Building Code and all applicable references.
(b) The quantity of sampling performed as part of the NYC Energy Code Progress Inspections shall equal the representative percentages required by the NYC Energy Code. The Consultant shall provide justification if the quantity exceeds representative percentages.

3.3 Testing services provided by the Consultant shall be in accordance with Exhibits D, E and F. Exhibits D and F set forth the following: (1) Unit Prices for Testing and Laboratory Services, and (2) Unit Prices for Progress Inspections. Expenses deemed included in unit prices for testing services are set forth in Exhibits D and F. Rental of special testing equipment specified in Exhibit E shall be reimbursed through the Allowance for Reimbursable Services.

3.4 For each test performed, the Consultant shall provide a Preliminary Laboratory Test Report summarizing the results of the test, as well as a Final Report with appropriate backup documentation prepared by the Consultant.

(a) The Preliminary Laboratory Test Report shall be sent to the Resident Engineer by facsimile within one (1) business day after performance of the test. The Preliminary Laboratory Test Report shall be on the Laboratory's letterhead and shall be signed by the director of the laboratory. The Preliminary Laboratory Test Report shall, at a minimum, include the items set forth below.

    (1) Test type, identity of material subject to test, name of person operating test equipment, description of test equipment, including manufacturer, model number & serial number
    (2) Copy of the test data, along with the interpretations of these data
    (3) Brief statement describing the means and methods of the performance of the test
    (4) Procedures for and frequency of calibration of the equipment used in the test
    (5) Photographic documentation substantiating the inspector's interpretations of the test results, where appropriate
    (6) Signature sheet certifying test results signed by operator of test equipment, Consultant's representative and other witnesses.

(b) The Final Report prepared by the Consultant shall be submitted to the Resident Engineer within one week following performance of the test.

3.5 The Consultant may be directed to perform other types of tests or to provide other types of testing equipment. A change order may be issued to the Consultant for the provision of such other testing services or equipment. In the alternative, such other testing services or equipment may be provided by an entity other than the Consultant as a Reimbursable Service.

EXHIBIT D

SCHEDULE OF UNIT PRICES FOR TESTING AND/OR LABORATORY SERVICES

Services on a Unit Price Basis: The Consultant shall provide the testing and/or laboratory services set forth in this Exhibit for the unit prices set forth herein.

Expenses Included in Unit Prices: The expenses that are deemed included in the unit prices for testing and/or laboratory services are set forth below, except as otherwise expressly stated in this Exhibit. The Consultant shall not be entitled to any mark-up on the unit prices set forth in this Exhibit. For each item of testing and/or laboratory services set forth in this Exhibit, the Consultant shall provide the services and/or equipment described below, even though such services and/or equipment are not stated in the description of the item.

(1) All expenses incurred by the Consultant and/or its Subconsultant(s) in connection with performing the specified testing and/or laboratory services, including without limitation, expenses for the following:

   (a) Performance of the specified services by qualified professional personnel (i.e., Engineer, operator, technician, etc.)
   (b) Preparation of all required forms, applications, documentation and/or reports for filing with the DOB, including without limitation, Technical Reports (TRs) and any other required reports of testing and/or laboratory services. DDC will file with the DOB.
   (c) Gathering the sample, and transporting and/or handling the sample
   [Note: In Items 3(a) and 5(a), a separate unit price is provided for sampling services. In Item 12(a), sampling services are expressly included in the description of the item. This shall not be construed to mean that sampling services are not required for other items set forth in this Exhibit, or that expenses for such sampling services are not deemed included in the Unit Prices for such items.]
   (d) Material consumed in the test
   (e) Equipment to perform the test, including calibration, set up, maintenance and cleaning
   (f) Providing Preliminary Laboratory Test Report summarizing the results of the tests
   (g) Preparing Final Report with appropriate backup documentation interpreting and/or analyzing the results of the test. If required by law, rule or regulation, or if requested by DDC, such Final Report must be signed and sealed by a Professional Engineer licensed in N.Y.

(2) All expenses related to supervision, management, oversight and quality control procedures
(3) All expenses related to providing the non-reimbursable items and/or services set forth in Article 6 and Exhibit C.
(4) All expenses related to overhead, including insurance, and any anticipated profit

Non-Regular Business Hours: In the event the Consultant performs services on a unit price basis during non-regular business hours, the Unit Prices set forth in this Exhibit D shall not be subject to an increase for such services.

[Pages inserted from RFI Response at contract conformance.]

EXHIBIT E

SPECIAL TESTING EQUIPMENT

Payment for rental of the special testing equipment set forth below, including the cost of operator labor, shall be through the Allowance for Reimbursable Services as set forth in Article 7.

	Item	
1	**SPECIAL EQUIPMENT**	
	1a	Radiographic Film
	1b	Ultrasonic Equipment (S meter) (ASTM C 597)
	1c	Magnetic Particle Equipment
	1d	Eddy Current Equipment
	1e	Radiographic Equipment
	1f	Microwave Test Equipment (per AASHTO, TP23)
	1g	GPR (Ground Penetrating Radar)

EXHIBIT F

SCHEDULE OF UNIT PRICES FOR PROGRESS INSPECTIONS – ENERGY CODE COMPLIANCE

Services on a Unit Price Basis: The Consultant shall provide the Progress Inspections set forth in this Exhibit for the unit prices set forth herein.

Expenses Included in Unit Prices: The expenses that are deemed included in the unit prices for Progress Inspections are the expenses set forth below. The Consultant shall not be entitled to any mark-up on the unit prices set forth in this Exhibit.

(a) All expenses incurred by the Consultant and/or its Subconsultant(s) in connection with performing the specified progress inspections, including without limitation: (1) expenses for performance of the inspection and/or test by qualified professional personnel, and (2) expenses for the preparation of all required forms, applications, documentation and/or reports for filing with the DOB, including without limitation, Technical Reports (TRs) and any other required reports of inspections and/or tests. DDC will file with the DOB.

(b) All expenses related to management and oversight, including, without limitation, any time spent by principals performing such duties

(c) All expenses related to providing the non-reimbursable items and/or services set forth in Article 6 and Exhibit C.

(d) All expenses related to overhead, including insurance, and any anticipated profit

Non-Regular Business Hours: In the event the Consultant performs services on a unit price basis during non-regular business hours, the Unit Prices set forth in this Exhibit F shall not be subject to an increase for such services.

[Pages inserted from RFI Response at contract conformance.]

EXHIBIT G: PERSONNEL QUALIFICATION CERTIFICATION

_____
(Consultant)

I, _____, an officer or principal of the Consultant, hereby certify that the personnel listed below, who have performed Services during the past pay period(s) _____ (Insert dates) for the New York City Department of Design and Construction (DDC) under Contract Number _____, have met, and currently meet, all qualification requirements of the New York City Building Code, as well as all other qualifications required by other Agencies with jurisdiction over the services performed. Current documentation confirming such qualifications has been submitted by the Consultant to DDC for all such personnel. I further certify that no inspections or Services have been, or will be, performed by personnel who are not fully qualified, as required by the Contract. (Use additional pages as necessary)

Name	Discipline
Name	Discipline
Name	Discipline
Name	Discipline
Name	Discipline
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Name	Discipline

Signature: _____ Title: _____
(Principal or Corporate Officer)

Date: _____

EXHIBIT H: FEE PROPOSAL

Note: Total amount for Scope of Services must not exceed $58,541.00.

[Pages inserted from RFI Response at contract conformance.]

EXHIBIT I

APPENDIX A

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