
Bid No.	x	Opening date	/	/	Time
Bid Title	x				

THE CITY OF NEW YORK
DEPT. OF CITYWIDE ADMINISTRATIVE SERVICES
OFFICE OF CITYWIDE PURCHASING
1 CENTRE STREET
NEW YORK, NY 10007-1614

ATTN: 18TH FLOOR BID ROOM

Important Information for Vendors

- Be sure to read the bid solicitation document and all attachments carefully.
- When completing the bid, be sure that all information is typed or written in ink. For your protection, if there are erasures or alterations, they must be initialed, in ink.
- Be sure to complete and include all required forms.
- Bid must be signed in ink and notarized.
- All downloaded documents must be returned; be sure to keep a copy for your records.
- Be sure to complete and use the mailing label (next page) you have downloaded for the envelope in which you submit your bid.
- Be sure to return/submit the bid so that it is received in the bid room by the due date and time indicated on page A-1 of the bid book. If you use **any** mail service to submit your bid response, please ensure that your response arrives at least one (1) business day prior to the scheduled bid opening date to accommodate mail processing.
- Any bid solicitation response that arrives at the bid room after the time and date specified in the bid document shall be deemed late and will not be considered.
- If you plan to deliver your bid in person, please allow ample time for entry through security. Bring 2 forms of identification (one with a photo).
- **Please note that starting July 1, 2011, postcard notification of bid solicitations will no longer be sent. If you wish continued notification of future bids, you must enroll in City Record Online at a856-internet.nyc.gov/nycvendoronline/home.asp Enrollment is free.**

If you have any questions regarding bid notification, please contact our Vendor Relations staff by fax: 646-500-5865, or email: dcasdmssvr@dcas.nyc.gov

BID BOOK

CITY OF NEW YORK
DEPARTMENT OF CITYWIDE ADMINISTRATIVE SERVICES
DIVISION OF MUNICIPAL SUPPLY SERVICES
MUNICIPAL BUILDING
1 CENTRE STREET, 18TH FLOOR
NEW YORK, NEW YORK 10007

INVITATION FOR BIDS

BID INFORMATION:

BID TITLE: **DRUG TESTING, CITYWIDE**

BID NO.: **1200534**

SUBMIT BIDS BEFORE
BID OPENING TIME TO: BID ROOM, 18TH FLOOR, MUNICIPAL BUILDING

BID OPENING DATE
AND HOUR: **JULY 11, 2012 AT: 10:30 AM**

VERIFICATION BY OATH AND SIGNATURE OF BIDDER:

That being duly sworn, I depose and say: that I have knowledge of the several matters herein stated and they are in all respects true and that I have been authorized to execute the foregoing bid on behalf of said corporation, partnership or firm.

Full Name of Bidder (Company)

Address

Federal Tax Identification No. (EIN No.)

Telephone

- [] Corporation
- [] Partnership
- [] Individual

E-Mail Address

Fax No.

Print Name _____

By: _____
Signature

Title

Subscribed and sworn to before me
this ____ day of _____, 20__

Notary Public

Commission Expires _____, 20__

AFFIRMATIONS

1. BIDDER AFFIRMATION

Bidder affirms that it 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 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 or State of New York, nor is there any proceeding pending relating to the responsibility or qualification of the Bidder to receive public contracts.

OR

Bidder is unable to declare as above because of the following:

I AFFIRM

I CANNOT AFFIRM
FOR REASONS ABOVE

2. MACBRIDE PROVISIONS

Bidder by checking the yes box and signing this bid, agrees to the MacBride provisions, contained in the Service Contract at pages 42-44. See the provisions for the effect non-agreement on your bid.

MacBride Provisions Yes No

3. SIGNATURE OF BID

By signing the cover page, bidder agrees to be bound by all the terms and conditions of the bid documents supplied with the bid and documents referenced in the bid documents including but not limited to: Bid Book, Invitation for Bid, Contract Specific Terms and Conditions, Specifications, Schedule of Quantities and Prices, and the Service Contract. All documents, including referenced documents may be obtained from the Office of Vendor Relations, 18th floor, Municipal Building, 1 Centre Street, New York, NY 10007.

SERVICE CONTRACT

TABLE OF CONTENTS

- I. Bid Book (Sectioned into A, B, and C pages)
- A Pages: Invitation for Bid, Offer, Vendor Signature and Notarization, Insurance.
- B Pages: Contract Specific Terms and Conditions
- C Pages: Specifications and Schedule of Quantities and Prices
- II. New York City Service Contract
(90L/MARCH/2008)
- Part I General Definitions
- Part II Standard Instructions to Bidders
- Part III General Conditions
- Part IV Special Conditions
- Part V Affirmations

All applicable forms must be completed and submitted with the bid. Non-compliance with any of the bid submission requirements may result in the disqualification of the bid. For a bid to be considered responsive:

1. NO EXCEPTIONS MAY BE TAKEN TO THE NEW YORK CITY SERVICE CONTRACT.
2. BIDS MUST BE SIGNED. ALL REQUIRED PRICING INFORMATION MUST BE INCLUDED IN THE C PAGES AND BE TYPED OR WRITTEN IN INK.
3. ALL REQUIRED SIGNATURES MUST BE IN INK.
4. ANY ALTERATION OF PRICE (INCLUDING CORRECTION FLUID/TAPE) MUST BE INITIALED IN INK.

OFFER AND ACCEPTANCE

1. FIRM OFFER

The Bidder proposes to provide all labor and services required under this contract and to perform all other work in connection therewith, all as specified by the terms and conditions of the Contract, based upon the unit prices or lump sum prices in the bid (C Pages).

A submitted bid constitutes an Offer to the City by Bidder to provide the Services specified at the unit or lump sum prices 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 modified or withdrawn by written notice received in the office designated to receive bids before the time and date set for bid opening, or, after the expiration of 45 days from bid opening, in advance of an actual award.

The City reserves the right to make awards within 45 days after the date of bid opening during which period the bid may not be withdrawn. If, however, an award is not made within the 45 day period, a bid shall remain in effect until a contract is awarded or the Bidder delivers to the City written notice of the withdrawal of its bid in advance of an actual award.

2. CITY'S ACCEPTANCE

The City shall accept the Offer by mailing to the Bidder at the address specified in the bid a PURCHASE ORDER or NOTICE OF AWARD, for any of the items for which this bid is submitted.

An acceptance of the Offer shall constitute a Contract between the City of New York and the Bidder to provide to the City the services set forth in the PURCHASE ORDER or NOTICE OF AWARD at the unit prices or lump sum price specified in the bid subject to the terms set forth in the Contract as if said form of Contract had been signed by the Agency Chief Contracting Officer and the Bidder.

3. SUBMISSION OF BID

The completed Bid must be submitted in a sealed envelope on or before the time and at the place indicated in the Invitation for Bids. The envelope must be marked with the name of the person, firm or corporation presenting it, the bid opening date, bid number and bid title. The Bid and all other documents requiring signature must be signed, and the Bid signature on A-1 must be an original signature and notarized. The Bid shall be typewritten or written legibly in ink. The Bid shall be signed in ink. Erasures or alterations, including correction fluid/tape, shall be initialed by the signer in ink. The Bid must be properly signed by an authorized representative of the bidder.

4. FALSE STATEMENT

A false statement willfully or fraudulently made in connection with the bid and/or any of the forms completed and submitted to the City in connection 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 as well as be subject to possible criminal prosecution.

5. NEW YORK CITY SERVICE CONTRACT

Bidder acknowledges receipt of and agrees to be bound by the terms and conditions of the New York City Service Contract referenced in the Table of Contents.

6. PROCUREMENT POLICY BOARD RULES

This contract is subject to the Rules of the Procurement Policy Board of the City of New York, as amended. In the event of a conflict between said Rules and a provision of this contract, the Rules shall take precedence. For information and updates on the Procurement Policy Rules, bidders are referred to www.nyc.gov/ppb or the Mayor's Office of Contract Services at 212-788-0010.

7. BID PROCESS

The New York City Comptroller is charged with the audit of contracts in New York City. Any bidder 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 835, New York, New York; telephone number (212) 669-2323.

8. PROMPT PAYMENT

The Prompt Payment provisions set forth in Chapter 4, Section 4-06 of the Procurement Policy Board Rules in effect at the time of this solicitation will be applicable to payment made by New York City agencies only under a contract resulting from this solicitation. The provisions require the payment to contractors of interest on payments made after the required payment date except as set forth in subdivisions c(3) and d(3), (4), (5) and (6) of Section 4-06 of the Rules.

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.

Determinations of interest due will be made in accordance with the provisions of Section 4-06 of the Procurement Policy Board Rules and General Municipal Law §3-a.

Pursuant to the Prompt Payment provisions of the Procurement Policy Board Rules, the Division may designate this contract and the items specified herein as subject to a longer acceptance period to afford a practicable opportunity for testing, installation and inspection. For purposes of vendor payment in such case, the actual date of acceptance by the Using Agency shall substitute for the Invoice Received/Acceptance Date (IRA Date).

9. ELECTRONIC FUNDS TRANSFER

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 attached "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.

The EFT Vendor Payment Enrollment Form is available for download at:
https://www.nyc.gov/html/dof/html/contact/contact_app_emailach.shtml

10. INSURANCE

The Contractor shall procure and keep in effect throughout the term of this Agreement the types and amounts of insurance, the terms and conditions of which shall be in accordance with this Provision, as follows:

Commercial General Liability CG 00 01 (ed. 01/85) or equivalent.

Combined single limit for bodily injury and property damage. \$1,000,000 per occurrence, \$2,000,000 minimum aggregate.

Before commencing services pursuant to this Agreement the Contractor shall procure a comprehensive general liability insurance policy in the contractor's name and naming the City of New York as an additional insured and endorsed to cover liability assumed by the Contractor under the indemnity provisions of this contract which shall protect the City and the Contractor and its subcontractors performing services hereunder from claims for property damage and/or bodily injury which may arise from services under this Agreement, whether such services are performed by the Contractor or by any person or entity directly or indirectly employed or engaged by him. Two (2) certificates of insurance shall be furnished in a manner acceptable to the Agency Chief Contracting Officer, together with copies of all endorsements as pertain to the requirements of this contract.

The policy shall contain no exclusions or endorsements which are not acceptable to the Agency Chief Contracting Officer and shall be of a form and by an insurance company acceptable to the Agency Chief Contracting Officer.

The following endorsements are required to be made on the policy:

- (1) Notice under the Policy of the Insured shall be addressed to the Department at the address first above stated.
- (2) Notice of Accident shall be given to the Insurer within One Hundred and Twenty (120) days after such notice is sent to the Insured by Registered Mail and also sent to the Agency Chief Contracting Officer.
- (3) Notice of Claim shall be given to the Insurer within One Hundred Twenty (120) days

after such notice shall be filed with the Comptroller of the City of New York.

- (4) Notice of Cancellation of Policy: The Policy shall not be cancelled, terminated, modified or changed by the Company unless the sixty (60) days prior written notice is sent to the Insured by Registered Mail and also sent to the Agency Chief Contracting Officer nor shall the policy be cancelled, terminated, modified or changed by the Insured without the prior consent of the Agency Chief Contracting Officer.

Worker's Compensation and Employer's Liability Insurance - \$500,000 per accident

- (1) Before performing any services pursuant to this Agreement the Contractor shall procure Worker's Compensation Insurance in accordance with the Laws of the State of New York on behalf of all employees who are to provide labor or service under this contract. Two certificates of such insurance or authority for self-insurance shall be furnished to the Agency Chief Contracting Officer.
- (2) Before performing any services pursuant to the Agreement this Contractor shall procure Employer's Liability Insurance affording compensation for all employees providing labor or services for whom worker's compensation coverage is not a statutory requirement. Two certificates of such insurance shall be furnished to the Agency Chief Contracting Officer.
- (3) Certificates confirming renewals of insurance shall be presented not less than 30 days prior to the expiration date of coverage until all operations under this contract are deemed completed.

Unemployment Insurance

Unemployment insurance shall be provided by the Contractor for its employees.

Insurance Agreement

- (1) The Insurance required for this contract must be on forms acceptable to the Agency and offered by Insurers acceptable to the Department.
- (2) Where circumstances warrant, the Agency may, at its sole discretion, accept letters of credit or custodial accounts in lieu of specific insurance requirements.
- (3) The Contractor agrees and all insurance shall provide, that the policy shall not be cancelled, terminated or modified by the company without sixty (60) days prior written notice unless another period is specifically given in the Bid documents nor shall it be modified, terminated or cancelled by the Contractor without the prior written approval of the Agency Chief Contracting Officer.
- (4) The Contractor shall be solely responsible for payment of all premiums for insurance contributing to satisfaction of insurance requirements and shall be solely responsible for the payment of all deductibles to which such policies are subject, whether or not the City of New York is an insured under the policy.

- (5) Claims made policies will be accepted for only professional liability and such other risks as are authorized by the New York State Insurance Department. All such policies contributing to satisfaction of insurance requirements shall have an extended reporting period option or automatic coverage if not less than two years. If provided as an option, the Contractor agrees to purchase the extended reporting period on cancellation or termination unless a new policy is effected with a retroactive date, including at least the last policy year.

- (6) The Contractor shall promptly notify the Agency Chief Contracting Officer of any accidents arising in the course of operations under the contract causing bodily injury or property damage.

Automobile Insurance

The Contractor will provide the City with evidence of insurance covering all owned, non-owned and hired vehicles to be used in connection with this Contract.

**FOR YOUR CONVENIENCE IN PUTTING BID TOGETHER
NOT TO BE SUBMITTED WITH YOUR BID**

BIDDER CHECKLIST

<u>Document</u>	<u>Bidder Checklist</u>
Offer	<input type="checkbox"/> Signed and Notarized
Qualification Form	<input type="checkbox"/> Completed and Attached
<hr/>	
OTHER (If Required by Contract Terms)	
<u>Direct Deposit/Electronic Funds Transfer (EFT) Vendor Payment Enrollment Form</u>	<input type="checkbox"/> Completed and Sent to NYC Department of Finance, Treasury Division

PIN: 8571200534

SPECIAL INSTRUCTION TO BIDDERS
CONTRACT SPECIFIC TERMS AND CONDITIONS

CITY OF NEW YORK
DEPARTMENT OF CITYWIDE ADMINISTRATIVE SERVICES
DIVISION OF MUNICIPAL SUPPLY SERVICES
MUNICIPAL BUILDING, NEW YORK, NY 10007

BID NUMBER: 1200534.

BID TITLE: DRUG TESTING SERVICES, CITYWIDE

ALL INQUIRIES REGARDING THIS BID ARE TO BE DIRECTED TO:
PURCHASING AGENT: LIANA PATSURIA AT (212) 669-7937

VENDORS WILL BE SEEN BY APPOINTMENT ONLY

TYPE OF CONTRACT: THIS IS A "C" CONTRACT
(REQUIREMENT CONTRACT) AS DEFINED IN THE NEW YORK
CITY PURCHASE CONTRACT, PART II, PARAGRAPH 2.8,
OR, IF APPLICABLE, THE NEW YORK CITY SERVICE
CONTRACT, PART II, PARAGRAPH 2.6.

IN ACCORDANCE WITH THE NEW YORK CITY PURCHASE
CONTRACT, PART II, SECTION 5.6 - ALTERNATE
PRODUCTS - OR, IF APPLICABLE, THE NEW YORK CITY
SERVICE CONTRACT, PART II, SECTION 5.5 -
ALTERNATE SERVICES:

A BIDDER MAY NOT BID MULTIPLE PRODUCTS OR
SERVICES FOR ONE BID ITEM. IF A BIDDER OFFERS
MORE THAN ONE, ONLY THE LOWEST PRICE OFFERING
WILL BE CONSIDERED. IF THE PRICE OFFERINGS
ARE IDENTICAL, ONLY THE FIRST ITEM LISTED WILL
BE CONSIDERED.

PRODUCTS OFFERED SHOULD BE MANUFACTURED FROM
RECYCLED, RECOVERED, OR ENVIRONMENTALLY
PREFERABLE MATERIALS TO THE MAXIMUM EXTENT
POSSIBLE PROVIDED THAT THE PRODUCT MEETS ALL
SPECIFICATIONS AND PERFORMANCE CRITERIA AND
PROMOTES ECONOMICALLY ADVANTAGEOUS LIFE CYCLE
COSTS.

WHENEVER PRACTICABLE, PACKAGING SHALL ELIMINATE
WASTE; REDUCE WASTE BY WEIGHT, VOLUME AND
TOXICITY WITHOUT SUBSTITUTING A MATERIAL THAT IS
NOT RECYCLABLE; AND SHOULD CONTAIN RECYCLED
CONTENT.

NOTE: UNLESS OTHERWISE PROVIDED, RECYCLED PRODUCTS MADE PRIMARILY FROM A SINGLE MATERIAL IN THIS BID MAY BE ELIGIBLE FOR A PRICE PREFERENCE CONSIDERATION OF UP TO 10% FOR PAPER PRODUCTS AND 5% FOR NON-PAPER PRODUCTS, OVER A LOW BID PRODUCT CONTAINING LESS OR NO RECYCLED CONTENT.

VENDORS OFFERING SUCH PRODUCTS MUST SPECIFY BELOW:

ITEM:.....
MATERIAL MADE FROM:.....
PERCENT OF RECYCLED CONTENT IN PRODUCT:.....
NATURE OF RECYCLED CONTENT:.....

YOU MAY BE CONTACTED TO PROVIDE ADDITIONAL INFORMATION REGARDING THE PRODUCT.

METAL PRODUCTS, PRODUCTS NOT MADE PRIMARILY FROM A SINGLE MATERIAL AND AGGREGATE PURCHASES (CLASS, CATALOGUE AND PRICE LIST) ARE NOT ELIGIBLE FOR A PRICE PREFERENCE UNLESS OTHERWISE SPECIFIED IN THIS BID.

THE CITY RESERVES THE RIGHT TO DISAPPROVE ANY PROVIDER(S) OF GOODS AND/OR SERVICES USED BY THE PRIME VENDOR/CONTRACTOR TO FULFILL ANY CONTRACT RESULTING FROM THIS SOLICITATION. AS USED IN THIS SECTION, A "PROVIDER" SHALL INCLUDE, BUT NOT BE LIMITED TO, A SUBCONTRACTOR, A SUPPLIER OF GOODS AND/OR SERVICES, AND THE MANUFACTURER(S) OF ANY GOODS BEING PROCURED UNDER SUCH CONTRACT. A VENDOR WHO IS AWARDED A CONTRACT PURSUANT TO THIS SOLICITATION MAY, AT THE CITY'S OPTION, BE ASKED TO PROVIDE TO THE CITY A LIST OF PROVIDERS AND, FOR EACH PROVIDER, ITS ADDRESS AND THE NAME OF ITS PRINCIPALS.

IN ADDITION, THE VENDOR MAY BE ASKED TO PROVIDE, ANY OTHER INFORMATION DEEMED NECESSARY BY THE CITY TO DETERMINE WHETHER A PROVIDER SHALL BE DISAPPROVED. FURTHERMORE, DURING THE TERM OF SUCH CONTRACT, THE VENDOR MAY BE ASKED TO SUPPLY TO THE CITY ALL SUCH INFORMATION REGARDING ANY ADDITIONAL PROVIDER(S) IT INTENDS TO USE.

THE CITY RESERVES THE RIGHT TO WITHDRAW ANY APPROVAL IT HAS GIVEN, WHERE SUCH WITHDRAWAL OF APPROVAL IS BASED ON INFORMATION RECEIVED SUBSEQUENT TO THE APPROVAL. THE VENDOR MAY NOT USE A PROVIDER THAT HAS BEEN DISAPPROVED BY THE CITY OR WHOSE APPROVAL HAS BEEN WITHDRAWN.

PURSUANT TO PROCUREMENT POLICY BOARD RULE 2-08(F)(2), THE CONTRACTOR WILL BE CHARGED A FEE FOR THE ADMINISTRATION OF THE VENDEX SYSTEM, INCLUDING THE VENDOR NAME CHECK PROCESS, IF A VENDOR NAME CHECK REVIEW IS REQUIRED TO BE CONDUCTED BY THE DEPARTMENT OF INVESTIGATION. THE CONTRACTOR SHALL ALSO BE REQUIRED TO PAY THE APPLICABLE REQUIRED FEES FOR ANY OF ITS SUB-CONTRACTORS 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 \$1,000,000, THE FEE WILL BE \$175.

FOR CONTRACTS WITH AN ESTIMATED VALUE OF GREATER THAN \$1,000,000, THE FEE WILL BE \$350.

PURSUANT TO RECENT AMENDMENTS TO STATE LAW EXPECTED TO TAKE EFFECT PRIOR TO THE AWARD OF THIS CONTRACT, PURCHASE CONTRACTS SUBJECT TO GML SECTION 103, (INCLUDING CONTRACTS FOR SERVICE WORK, BUT EXCLUDING ANY PURCHASE CONTRACTS NECESSARY FOR THE COMPLETION OF A PUBLIC WORKS CONTRACT PURSUANT TO ARTICLE EIGHT OF THE LABOR LAW) SHALL BE AWARDED 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.

ACCORDINGLY, THIS 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 THIS CONTRACT TO OTHER THAN THE LOW BIDDER IN THE BEST INTERESTS OF THE CITY BY DETERMINING, 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 10% OF THE LOWEST RESPONSIVE AND RESPONSIBLE BID.

IRAN DIVESTMENT ACT RIDER:
THE IRAN DIVESTMENT ACT OF 2012, EFFECTIVE
APRIL 12, 2012, IS CODIFIED AT STATE FINANCE LAW
("SFL") PARAGRAPH 165-A AND GENERAL MUNICIPAL LAW
("GML") PARAGRAPH 103-G. THE IRAN DIVESTMENT PLAN,
WITH CERTAIN EXCEPTIONS, PROHIBITS CITY FROM
ENTERING INTO CONTRACTS WITH PERSONS ENGAGED IN
INVESTMENT ACTIVITIES IN ENERGY SECTOR OF IRAN.
TO IMPLEMENT THE LAW, EACH BIDDER OR PROPOSER IS
REQUIRED TO CERTIFY AT THE TIME IT SUBMIT THE BID
OR PROPOSAL THAT IT IS NOT ON A LIST OF ENTITIES
ENGAGED IN INVESTMENT ACTIVITIES IN IRAN CREATED
BY THE COMMISSIONER OF THE NYS OFFICE OF GENERAL
SERVICES PURSUANT TO THE STATE FINANCE LAW.

IRAN DIVESTMENT ACT RIDER (CONT'D)
ATTACHED ARE A RIDER AND A CERTIFICATION
IMPLEMENTING THE IRAN DIVESTMENT ACT.
EACH BIDDER OR PROPOSER MUST CERTIFY THAT THEY
ARE NOT ON THE LIST UNLESS AND UNTIL IT IS
NOTIFIED OTHERWISE. PLEASE RETURN SIGNED AND
NOTARIZED CERTIFICATION WITH THE BID DOCUMENT.

INTENT AND SCOPE OF CONTRACT:
THE CITY OF NEW YORK IS SEEKING THE SERVICES OF
A QUALIFIED CONTRACTOR TO PERFORM FORENSIC DRUG,
ALCOHOL AND OTHER TESTING SERVICES FOR ITS
UNIFORMED AND CIVILIAN EMPLOYEES AS DESCRIBED IN
ATTACHED DETAILED REQUIREMENTS FOR EACH CLASS.
AN EXPERT WITNESS TESTIMONY MUST BE MADE
AVAILABLE, WHEN NECESSARY.

THE CONTRACTOR SHALL PROVIDE ALL LABOR,
EQUIPMENT, TOOLS, MATERIALS, AND SUPPLIES REQUIRED
TO PERFORM FORENSIC DRUG AND ALCOHOL SCREENING,
AND LITIGATION SUPPORT SERVICES, INCLUDING BUT NOT
LIMITED TO EXPERT WITNESS TESTIMONY AND ANY OTHER
SERVICES LISTED IN THE ATTACHED DETAILED
REQUIREMENTS.

THE CITY RESERVES THE RIGHT TO ADD, DELETE,
AND/OR PROCURE OTHER TESTING SERVICES THAT THE
VENDOR CAN SUPPLY, WHICH ARE SIMILAR TO, BUT NOT
SPECIFICALLY IDENTIFIED IN THIS BID.

THE CONTRACTOR SHALL SUBMIT AN ALL-INCLUSIVE,
FIXED UNIT PRICE FOR EACH ITEM. THE
UNIT PRICE SHALL BE FULLY BURDENED AND SHALL
INCLUDE BUT NOT BE LIMITED TO ALL LABOR AND PARTS
CAPITAL EQUIPMENT COSTS, STATUTORY PAYROLL, FRINGE
BENEFITS, OVERHEAD, INSURANCE, TRAVEL TIME,
TRANSPORTATION COSTS, TOLLS, VEHICLES, TOOLS,
ATTENDANT EXPENSES, CONSUMABLE MATERIALS, AND
CONTRACTOR PROFIT.

THE CONTRACTOR SHALL NOT CHARGE THE AGENCY FOR
REPEAT TESTING ON A SAMPLE WITH INCONCLUSIVE OR
QUESTIONABLE INITIAL RESULTS.

THIS BID CONSISTS OF FOUR CLASSES:
CLASS 1:FORENSIC DRUG & ALCOHOL TESTING FOR FDNY
CLASS 2:FORENSIC DRUG TESTING FOR NYPD
CLASS 3:FORENSIC DRUG & ALCOHOL TESTING FOR DOC
CLASS 4:FORENSIC DRUG & ALCOHOL TESTING FOR DOT

BIDDERS MAY BID ON ONE OR MORE CLASSES
BIDDERS MUST BID ON ALL ITEMS IN THE CLASS

ALL SERVICES FOR THE CITY OF NEW YORK AS
DESCRIBED HEREIN MUST COMPLY WITH THE TERMS
DESCRIBED IN THE DETAILED REQUIREMENTS FOR EACH
OF THE CLASSES ON THIS BID:

ATTACHMENT "A" FOR CLASS 1 (FDNY)
ATTACHMENT "B" FOR CLASS 2 (NYPD)
ATTACHMENT "C" FOR CLASS 3 (DOC)
ATTACHMENT "D" FOR CLASS 4 (DOT)

REQUESTS FOR INFORMATION AND BIDDER QUESTIONS:
ALL TECHNICAL AND/OR CONTRACT RELATED QUESTIONS
MAY BE DIRECTED TO:

LIANA PATSURIA
DEPARTMENT OF CITYWIDE ADMINISTRATIVE SERVICES
DIVISION OF MUNICIPAL SUPPLY SERVICES
1 CENTRE STREET, 18TH FLOOR SOUTH
NEW YORK, NY 10007
TEL: 212-669-7937
EMAIL: LPATSURIA@DCAS.NYC.GOV

BIDDERS MUST SUBMIT ALL QUESTIONS RELATED TO
THIS SOLICITATION VIA EMAIL(LISTED ABOVE) BY
NO LATER THAN 5:00 P.M. ON JUNE 20, 2012.

PURSUANT TO A COOPERATIVE PURCHASING AGREEMENT,
AN AUTHORIZED CITY AGENCY OTHER THAN THE CITY
OF NEW YORK DEPARTMENT OF CORRECTION (DOC),
THE CITY OF NEW YORK FIRE DEPARTMENT (FDNY),
AND NEW YORK CITY POLICE DEPARTMENT (NYPD),
DEPT. OF TRANSPORTATION (DOT) MAY UTILIZE
THE CONTRACT(S) AWARDED FROM THIS SOLICITATION,
REQUIRING THE SELECTED CONTRACTOR TO PROVIDE
THE SERVICES AS DESCRIBED HEREIN.
WITH THE EXCEPTION OF DELIVERY AND BILLING
LOCATIONS, ALL TERMS AND CONDITIONS OF THE
CONTRACT SHALL APPLY TO WORK DONE FOR ALL
AUTHORIZED AGENCIES.

THE TERM OF THIS CONTRACT WILL BE FOR A PERIOD OF
FIVE (5) YEARS. IT IS ANTICIPATED THAT THE
CONTRACT WILL BE REGISTERED AND COMMENCE ON
AUGUST 1, 2012 AND WILL END ON JULY 31, 2017.

THE CITY RESERVES THE RIGHT TO RENEW THE CONTRACT
FOR TWO (2) ONE (1) YEAR OPTIONS AT ITS
DISCRETION.

THE CITY RESERVES THE RIGHT, PRIOR TO CONTRACT REGISTRATION, TO CHANGE (ADJUST) THE START AND END DATES AS NOTED ABOVE. THE CITY FURTHER RESERVES THE RIGHT TO CHANGE (ADJUST) THESE DATES AFTER CONTRACT REGISTRATION TO REFLECT THE ACTUAL COMPTROLLER'S REGISTRATION DATE.

PRICE INCREASES:

ONE YEAR AFTER THE COMMENCEMENT DATE, AND EACH TWELVE (12) MONTHS THEREAFTER, THE CONTRACTOR SHALL BE ALLOWED A PRICE ADJUSTMENT ON JULY 1ST OF EACH SUBSEQUENT YEAR OF THE CONTRACT UNTIL SUCH TIME AS THE CONTRACT HAS ENDED OR IS TERMINATED.

PRICE ADJUSTMENT CALCULATIONS WILL BE MADE UTILIZING THE PRODUCER PRICE INDEX (ES) STATED BELOW, AS COMPILED BY THE U.S. DEPARTMENT OF LABOR, BUREAU OF LABOR STATISTICS.

ADJUSTMENT CALCULATION WILL BE BASED ON THE PERCENT CHANGE FROM THE BASE DATE TO THE MOST RECENT ACTUAL DATE. ONLY THE MOST RECENT ACTUAL DATA WILL BE USED, NOT PRELIMINARY DATA. ALL INDEXES ARE SUBJECT TO REVISION FOUR (4) MONTHS AFTER ORIGINAL PUBLICATION. UNIT PRICES WILL BE ADJUSTED BY THE PERCENTAGE CHANGE IN THE PRODUCER PRICE INDEX FOR MEDICAL LABORATORY SERVICES (PPI) SERIES ID: PCU6215116215112

INITIAL BASE DATE FOR COMPARISON WILL BE THE MONTH IN WHICH OCCURS THE COMMENCEMENT DATE OF THE AGREEMENT RESULTING FROM THIS SOLICITATION. ANY ADJUSTMENT WILL GO INTO EFFECT ON THE DATE INDICATED IN THE CONTRACT MODIFICATION LETTER, WHICH WILL BE SENT BY DCAS TO THE CONTRACTOR ONCE ANY INCREASE HAS BEEN PROCESSED. ONCE A PRICE ADJUSTMENT HAS BEEN PROCESSED, IF A SECOND PRICE INCREASE IS PROCESSED, THE BASIS FOR THAT INCREASE WILL BE THE ACTUAL INDEX UTILIZED FOR THE FIRST INCREASE.

QUALIFICATION REQUIREMENTS:

THE CONTRACTOR SHALL HAVE A MINIMUM OF FIVE (5) YEARS OF CONTINUOUS EXPERIENCE IMMEDIATELY PRIOR TO SUBMITTING ITS BID IN MANAGEMENT AND OPERATION OF A COLLECTION SERVICE FOR CONTROLLED SUBSTANCE SCREENING & DURING THAT TIME SHALL HAVE PERFORMED SATISFACTORILY ON AT LEAST ONE (1) CONTRACT OF SIMILAR SCOPE AND VOLUME AS SPECIFIED IN THIS CONTRACT REQUIREMENT.

THE SUBCONTRACTOR'S EXPERIENCE CANNOT BE USED TO SATISFY THIS REQUIREMENT. INDIVIDUAL EXPERIENCE AS A PRINCIPAL, DIRECTOR, OFFICER, OR EMPLOYEE OF AN ORGANIZATION MAY NOT BE USED TO SATISFY THIS REQUIREMENT.

SUBCONTRACTING:

SUBCONTRACTING OF ANY PORTION OF THE REQUISITE SERVICES SHALL NOT BE PERMITTED.

THE LABORATORY PERFORMING THE TESTING OF THE SAMPLES COLLECTED MUST BE LOCATED IN THE U.S. AND BE CERTIFIED BY HHS UNDER THE NATIONAL LABORATORY CERTIFICATION PROGRAM (NLCP), AND CERTIFIED IN NEW YORK STATE BY THE NEW YORK STATE DEPARTMENT OF HEALTH.

SEE ATTACHED DETAILED REQUIREMENTS FOR EACH CLASS FOR FURTHER INFORMATION ON CONTRACTOR'S QUALIFICATION REQUIREMENTS.

THE CITY OF NEW YORK RESERVES THE RIGHT TO REVIEW THE CREDENTIALS AND QUALIFICATIONS OF ANY CONTRACTOR PERSONNEL PROVIDING SERVICES PURSUANT TO THIS AGREEMENT AND TO INSTRUCT THE CONTRACTOR NOT TO UTILIZE ANY INDIVIDUALS THE CITY DEEMS UNQUALIFIED TO PERFORM SERVICES DESCRIBED HEREIN.

FOLLOWING ATTACHMENTS TO BE COMPLETED AND RETURNED WITH THE BID DOCUMENT:

- 1) ATTACHMENT "E" - COMPLIANCE WITH MINIMUM REQUIREMENTS AND BACK-UP INFORMATION.
- 2) ATTCHMENT "F" - QUAIFICATIONS FORM FOR PAST EXPERIENCE.
- 3) ATTACHMENT "G" - IRAN DIVESTMENT RIDER

THE CITY RESERVES THE RIGHT TO REQUEST ANY ADDITIONAL INFORMATION NECESSARY TO DETERMINE THE BIDDER'S ABILITY TO PERFORM THE WORK AND SUPPLY THE SERVICES IN ACCORDANCE WITH THE CONTRACT. THE CITY ALSO RESERVES THE RIGHT TO CONDUCT A SITE VISIT TO ENSURE THAT BIDDERS HAVE THE CAPABILITIES TO PERFORM THE SERVICES UNDER THIS CONTRACT. IF REQUESTED, THE INFORMATION MUST BE SUBMITTED WITHIN FIVE (5) CALENDAR DAYS OF THE REQUEST. SITE VISITS WILL BE SCHEDULED AS NECESSARY.

CONFIDENTIALITY:

THE CONTRACTOR AGREES TO HOLD CONFIDENTIAL, BOTH DURING AND AFTER THE COMPLETION OR TERMINATION OF THIS AGREEMENT, ALL OF THE INFORMATION, OR DATA, FURNISHED TO, OR PREPARED, ASSEMBLED BY, THE CONTRACTOR UNDER THIS AGREEMENT. THE CONTRACTOR AGREES THAT SUCH INFORMATION, OR DATA SHALL NOT BE MADE AVAILABLE TO ANY PERSON OR ENTITY WITHOUT THE PRIOR WRITTEN APPROVAL OF THE CITY.

THE CONTRACTOR SHALL PROTECT THE CONFIDENTIALITY OF SUCH DATA.

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 SUBCONTRACTORS TO MAINTAIN THE CONFIDENTIALITY OF ANY AND ALL INFORMATION TO BE KEPT CONFIDENTIAL BY THIS AGREEMENT.

UPON EXPIRATION OR TERMINATION OF THIS AGREEMENT THE CONTRACTOR SHALL RETURN TO THE CLIENT AGENCY ALL CONFIDENTIAL INFORMATION IN THE POSSESSION OF THE CONTRACTOR AND ITS SUBCONTRACTORS, AND PERMANENTLY DELETE ANY AND ALL CONFIDENTIAL INFORMATION MAINTAINED IN ANY ELECTRONIC FORM BY THE CONTRACTOR OR ITS SUBCONTRACTORS.

A BREACH OF THIS SECTION SHALL CONSTITUTE A MATERIAL BREACH OF THIS AGREEMENT FOR WHICH THE CITY MAY TERMINATE THE AGREEMENT. THE CITY RESERVES ANY AND ALL OTHER RIGHTS AND REMEDIES IN THE EVENT OF UNAUTHORIZED DISCLOSURE.

THIS PROVISION SHALL SURVIVE THE EXPIRATION OR TERMINATION OF THIS AGREEMENT.

THE CONTRACTOR SHALL DEFEND, INDEMNIFY AND HOLD HARMLESS THE CITY OF NEW YORK AGAINST ANY AND ALL LOSSES, DAMAGES, COSTS AND EXPENSES WHICH IT MAY HEREAFTER SUFFER OR PAY OUT BY REASON OF ANY CLAIMS, ACTIONS, AND RIGHTS OF ACTION IN LAW OR EQUITY, VALID OR INVALID, ARISING OUT OF DAMAGE OCCURRING TO, AND SUFFERED BY, ANY PERSON OR PERSONS, CAUSED IN WHOLE, OR IN PART, BY THE CONTRACTOR, ANY OF ITS OFFICERS, EMPLOYEES, AGENTS OR REPRESENTATIVES, OR ANY PERSON, FIRM, OR CORPORATION DIRECTLY, OR INDIRECTLY EMPLOYED, BY THE CONTRACTOR, AND/OR DAMAGE ARISING OUT OF A PRODUCTS LIABILITY CLAIM, BUT EXCEPTING BODILY INJURIES AND PROPERTY DAMAGE TO THE EXTENT CAUSED BY THE NEGLIGENCE OF THE CITY.

THIS CONTRACT WILL BE SUBJECT TO THE ISSUANCE OF PURCHASE ORDERS AND/OR BLANKET ORDERS. BLANKET ORDERS WILL INDICATE THE MAXIMUM AMOUNT OF MONEY THE CITY HAS SET ASIDE FOR SPECIFIC SERVICES.

IT SHALL BE INCUMBENT UPON THE CONTRACTOR NOT TO EXCEED THE AMOUNT OF MONEY AUTHORIZED BY THE BLANKET ORDER.

IF SERVICES ARE REQUESTED AFTER A BLANKET ORDER IS DEPLETED, CONTRACTOR MUST NOTIFY AGENCY AND WITHHOLD REQUESTED SERVICES UNTIL A NEW ORDER IS ISSUED.

INVOICES ARE TO BE SENT TO THE ADDRESS INDICATED ON THE PURCHASE ORDER.

USAGE REPORT

A USAGE REPORT SHOWING AGENCY, ITEM DESCRIPTION, UNIT OF ISSUE, QUANTITY ORDERED AND DOLLAR VALUE OF ALL ITEMS ORDERED IS REQUIRED ON A QUARTERLY BASIS.

THE FIRST REPORT WILL BE REQUIRED THREE (3) MONTHS AFTER CONTRACT START DATE, SUBSEQUENT REPORTS ARE REQUIRED EVERY THREE (3) MONTHS THEREAFTER.

REPORTS SHOULD COVER THE CURRENT PERIOD AS WELL AS TOTAL CONTRACT PERIOD TO DATE. THE REPORT MUST BE SUBMITTED ELECTRONICALLY IN EXCEL FORMAT.

THE REPORT SHALL BE FORMATTED TO INCLUDE: THE CONTRACT NAME, RC NUMBER AND TERM OF THE CONTRACT AT THE TOP. THE REPORT SHALL INDICATE THE PERIOD OF TIME COVERED BY THE REPORT. THE REPORT IS TO BE ORGANIZED TO SHOW AGENCY, ITEM ORDERED, UNIT OF ISSUE, QUANTITY ORDERED AND DOLLAR VALUE.

THE USAGE REPORT SHALL BE SENT TO THE ATTENTION OF THE PROCUREMENT ANALYST WHOSE NAME IS LISTED ON PAGE B001, AT THE FOLLOWING ADDRESS:

CITY OF NEW YORK
DEPARTMENT OF CITYWIDE ADMINISTRATIVE SERVICES
DIVISION OF MUNICIPAL SUPPLY SERVICES
1 CENTRE STREET, 18TH FLOOR
NEW YORK, NY 10007

NOTE:

THIS CONTRACT MAY BE SUBJECT TO VENDEX PRIOR TO AWARD. SHOULD VENDEX BE REQUESTED, VENDOR IS ADVISED THAT THE REQUESTED INFORMATION WILL BE REQUIRED WITHIN 30 (THIRTY) DAYS.

FAILURE TO RESPOND IN THE THIRTY DAY TIME FRAME MAY BE CAUSE FOR BID DISQUALIFICATION.

VENDEX FORMS ARE AVAILABLE FOR DOWNLOAD FROM:

WWW.NYC.GOV/VENDEX

PLEASE SEE PAGE BOO3 FOR ADDITIONAL VENDEX INFORMATION.

NOTE

PRICE ALTERATION VIA CROSS-OUT, ERASURE, WHITE-OUT, ETC., MUST BE INITIALED IN INK. FAILURE TO DO SO MAY DISQUALIFY BID.

THIS BID BOOK IS TO BE RETURNED INTACT. PAGES ARE NOT TO BE REMOVED AND SHOULD REMAIN IN THE SAME SEQUENCE AS RECEIVED. FAILURE TO COMPLETE ALL REQUIRED FORMS OR PROVIDE ALL REQUIRED INFORMATION MAY DISQUALIFY YOUR BID.

DESCRIPTION

QUANTITY UOI UNIT PRICE EXTENSION

ALL TESTING UNDER THIS CONTRACT MUST BE:

1. CONDUCTED WITHIN THE AWARDED CONTRACTOR'S OWN LABORATORY FACILITIES. NO PART OF THE TESTING IS TO BE SUBCONTRACTED, OR CONDUCTED IN A LABORATORY NOT FULLY CONTROLLED BY THE AWARDED CONTRACTOR.

2. IMPORTANT NOTE:

IN ADDITION TO THE SERVICES DESCRIBED IN THE PRICE SCHEDULES FOR CLASS 1/ CLASS 2/ CLASS 3/ CLASS 4 - ADDITIONAL TESTS WITH NEGOTIATED RATES MAY BE ADDED TO THIS CONTRACT AFTER AWARD & UPON WRITTEN REQUEST FROM THE ORDERING AGENCY.

CLASS/ZONE AWARD 1

ITEM NUMBER: 1.

DRUG TESTING FOR FDNY - AS OUTLINED IN ATTACHMENT "A"

1. LOT \$ _____ \$ _____

PLEASE INSERT 5 YEAR TOTAL EXTENDED PRICE FROM PRICE SCHEDULE FOR CLASS 1 (FDNY)

TOTAL CLASS OR ZONE AWARD (ITEMS 1.00 THRU 1.00) 1\$ _____

CLASS/ZONE AWARD 2

ITEM NUMBER: 2.

DRUG TESTING FOR NYPD - AS OUTLINED IN ATTACHMENT "B"

1. LOT \$ _____ \$ _____

PLEASE INSERT 5 YEAR TOTAL EXTENDED PRICE FROM PRICE SCHEDULE FOR CLASS 2 (NYPD)

TOTAL CLASS OR ZONE AWARD (ITEMS 2.00 THRU 2.00) 2\$ _____

CLASS/ZONE AWARD 3

DESCRIPTION

QUANTITY

UOI

UNIT PRICE

EXTENSION

ITEM NUMBER: 3.

DRUG TESTING FOR DOC - AS OUTLINED IN ATTACHMENT "C"

1.

LOT

\$ _____ \$ _____

PLEASE INSERT 5 YEAR TOTAL EXTENDED PRICE FROM PRICE SCHEDULE FOR CLASS 3 (DOC)

TOTAL CLASS OR ZONE AWARD (ITEMS 3.00 THRU 3.00) 3\$ _____

CLASS/ZONE AWARD 4

ITEM NUMBER: 4.

DRUG TESTING FOR DOT - AS OUTLINED IN ATTACHMENT "D"

1.

LOT

\$ _____ \$ _____

PLEASE INSERT 5 YEAR TOTAL EXTENDED PRICE FROM PRICE SCHEDULE FOR CLASS 4 (DOTY)

TOTAL CLASS OR ZONE AWARD (ITEMS 4.00 THRU 4.00) 4\$ _____

CASH DISCOUNTS

OFFERS OF CASH DISCOUNTS WILL NOT BE CONSIDERED IN MAKING AN AWARD. PLEASE NOTE BELOW IF YOU OFFER A CASH DISCOUNT AND, IF SO, THE DISCOUNT TERMS.

DISCOUNT

YES NO TERMS % DAYS

TRADE DISCOUNTS

DO YOU OFFER A TRADE DISCOUNT THAT WOULD REDUCE THE TOTAL AMOUNT OF YOUR BID?

YES () NO () PERCENT.....

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” shall mean 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” shall mean the various documents, including this Appendix A, that constitute the contract between the Contractor and the City.

C. “City” shall mean The City of New York.

D. “City Chief Procurement Officer” or “CCPO” shall mean 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” shall mean 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” shall mean the Comptroller of the City of New York.

G. “Contractor” shall mean the entity entering into this Agreement with the Department.

H. “Days” shall mean calendar days unless otherwise specifically noted to mean business days.

I. “Department” or “Agency” shall mean the City agency that has entered into this Agreement.

J. “Law” or “Laws” shall mean 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” shall mean 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.

L. “PPB Rules” shall mean 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. “State” shall mean the State of New York.

ARTICLE 2 - REPRESENTATIONS AND WARRANTIES

Section 2.01 Procurement of Agreement

A. The Contractor represents and warrants that no person or entity (other than an officer, partner, or employee working solely for the Contractor) has been employed or retained to solicit or secure this Agreement upon any agreement or understanding for a commission, percentage, brokerage fee, contingent fee or any other direct or indirect compensation. Notwithstanding the preceding sentence, the Contractor may retain consultants to draft proposals, negotiate contracts, and perform other similar services. The Contractor further represents and warrants that no payment, gift, or thing of value has been made, given, or promised to obtain this or any other agreement between the parties. The Contractor makes such representations and warranties to induce the City to enter into this Agreement and the City relies upon such representations and warranties in the execution of this Agreement.

B. For any breach or violation of the representations and warranties 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 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

Appendix A August 2011 Final

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 Paragraph 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.

[PARAGRAPHS D-H ARE APPLICABLE ONLY TO HUMAN OR CLIENT SERVICE CONTRACTS.]

D. Except as provided in Paragraph E below, the Contractor's employees and members of their immediate families, as defined in Paragraph F below, may not serve on the Board of Directors of the Contractor ("Board"), or any committee with authority to order personnel actions affecting his or her job, or which, either by rule or by practice, regularly nominates, recommends or screens candidates for employment in the program to be operated pursuant to this Agreement.

E. If the Board has more than five (5) members, then Contractor's employees and members of their immediate families may serve on the Board, or any committee with authority to order personnel actions affecting his or her job, or which, either by rule or by practice, regularly nominates, recommends or screens candidates for employment in the program to be operated pursuant to this Agreement, provided that (i) Contractor's employees and members of their immediate families are prohibited from voting on any such personnel matters, including but not limited to any matters directly affecting their own salary or other compensation, and shall fully disclose all conflicts and potential conflicts to the Board, and (ii) Contractor's employees and members of their immediate families may not serve in the capacity either of Chairperson or Treasurer of the Board (or equivalent titles), nor constitute more than one-third of either the Board or any such committee.

F. Without the prior written consent of the Commissioner, no person may hold a job or position with the Contractor over which a member of his or her immediate family exercises any supervisory, managerial or other authority whatsoever whether such authority is reflected in a job title or otherwise, unless such job or position is wholly voluntary and unpaid. A member of an immediate family includes: husband, wife, domestic partner, father, father-in-law, mother, mother-in-law, brother, brother-in-law, sister, sister-in-law, son, son-in-law, daughter, daughter-in-law, niece, nephew, aunt, uncle, first cousin, and separated spouse. Where a member of an immediate family has that status because of that person's relationship to a spouse (e.g., father-in-law), that status shall also apply to a relative of a domestic partner. For purposes of this Section, a member of the Board is deemed to exercise authority over all employees of the Contractor.

G. If the Contractor has contracts with the City that in the aggregate during any twelve-month period have a value of more than One Million Dollars (\$1,000,000) and such amount constitutes more than fifty percent (50%) of the Contractor's total revenues, then the Contractor must have a minimum of five (5) persons on its Board.

Appendix A August 2011 Final

H. Paragraphs D-H of this Section 2.02 apply only if Contractor is a not-for-profit corporation.

Section 2.03 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 which 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.

Section 2.04 VENDEX

The Contractor represents and warrants that it and its principals have duly executed and filed all required VENDEX Questionnaires and, if applicable, Certificates of No Change, pursuant to PPB Rule § 2-08 and in accordance with the policies and procedures of the Mayor's Office of Contract Services. The Contractor understands that the Department's reliance upon the completeness and veracity of the information stated therein is a material condition to the execution of this Agreement, and represents and warrants that the information it and its principals have provided is accurate and complete.

Section 2.05 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

Appendix A August 2011 Final

public, political, or party office, nor shall any of the funds provided under this Agreement be used for such purposes.

Section 2.06 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 2.07 Unlawful Discriminatory Practices: Admin. Code § 6-123

As required by 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 City Administrative 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 Fifty Thousand Dollars (\$50,000) that such subcontractor shall not engage in any such unlawful discriminatory practice.

Section 2.08 Bankruptcy and Reorganization

In the event that 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 (7) days of filing.

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 VENDEX questionnaire must be submitted within thirty (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 Agency

Appendix A August 2011 Final

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 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. The Contractor shall not enter into any subcontract for an amount greater than Five Thousand Dollars (\$5,000) for the performance of its obligations, in whole or in part, under this Agreement without the prior approval by the Department of the subcontractor. The Department hereby grants approval for all subcontracts for an amount that does not exceed Five Thousand Dollars (\$5,000). The Contractor must submit monthly reports to the Department indicating all such subcontractors. All subcontracts must be in writing.

B. Prior to entering into any subcontract for an amount greater than Five Thousand Dollars (\$5,000), 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 and the portion of the services that it is to perform and furnish. At the request of the Department, a copy of the proposed subcontract shall be submitted to the Department. The proposed subcontractor's VENDEX Questionnaire must be submitted, if required, within thirty (30) Days after the ACCO has granted preliminary approval of the proposed subcontractor. Upon the request of the Department, the Contractor shall provide any other information demonstrating that the proposed subcontractor 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 Agency shall make a final determination in writing approving or disapproving the subcontractor after receiving all requested information. For proposed subcontracts that do not exceed Twenty-five Thousand Dollars (\$25,000), the Department's approval shall be deemed granted if the Department does not issue a written approval or disapproval within forty-five (45) Days of the Department's receipt of the written request for approval or, if applicable, within forty-five (45) Days of the Department's acknowledged receipt of fully completed VENDEX Questionnaires for the subcontractor.

C. All subcontracts shall contain provisions specifying that:

Appendix A August 2011 Final

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 4.07 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.

D. 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.

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

F. The Department may revoke the approval of a subcontractor granted or deemed granted pursuant to Paragraphs (A) and (B) of this section if revocation is deemed to be in the interest of the City in writing on no less than ten (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.

G. 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.

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

ARTICLE 4 - LABOR PROVISIONS

Section 4.01 Independent Contractor Status

The Contractor and the Department agree that the Contractor is an independent contractor and not an employee of the Department or the City. Accordingly, neither the Contractor nor its employees or agents will hold themselves out as, or claim to be, officers or employees of the

Appendix A August 2011 Final

City, or of any department, agency or unit of the City, by reason of this Agreement, and they will not, by reason of this Agreement, make any claim, demand or application to or for any right or benefit applicable to an officer or employee of the City, including, but not limited to, Workers' Compensation coverage, Disability Benefits coverage, Unemployment Insurance benefits, Social Security coverage or employee retirement membership or credit.

Section 4.02 Employees

All persons who are employed by the Contractor and all consultants or independent contractors who are retained by the Contractor to perform services under 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 engaged under this Agreement. Nothing in the Agreement shall impose any liability or duty on the City for the acts, omissions, liabilities or obligations of the Contractor, or any officer, employee, or agent of the Contractor, or for taxes of any nature, or for any right or benefit applicable to an officer or employee of the City, including, but not limited to, Workers' Compensation coverage, Disability Benefits coverage, Unemployment Insurance benefits, Social Security coverage or employee retirement membership or credit. Except as specifically stated in this Agreement, nothing in this Agreement shall impose any liability or duty on the City to any person or entity.

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 (5) Days' written notice. The Commissioner may direct the Contractor not to allow the individual from performing work under the Agreement pending the opportunity to be heard and the Commissioner's determination.

Section 4.04 Minimum Wage

Except for those employees whose minimum wage is required to be fixed pursuant to Sections 220 or 230 of the New York State Labor Law or by City Administrative 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 shall be deemed a material breach of this Agreement.

Section 4.05 Non-Discrimination: New York State Labor Law § 220-e

A. 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 New York State 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 Fifty Dollars (\$50) 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.

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

Section 4.06 Non-Discrimination: 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 New York City Administrative Code § 6-108, that:

A. 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.

B. It shall be unlawful for any person or any servant, agent or employee of any person, described in Paragraph A above, to ask, indicate or transmit, orally or in writing, directly

Appendix A August 2011 Final

or indirectly, the race, color, creed or religious affiliation of any person employed or seeking employment from such person, firm or corporation.

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

D. 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 shall, upon conviction thereof, be punished by a fine of not more than One Hundred Dollars (\$100) or by imprisonment for not more than thirty (30) Days, or both.

Section 4.07 Non-Discrimination: E.O. 50 -- Equal Employment Opportunity

A. 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:

1. 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;
2. 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;
3. Will state in all solicitations or advertisements for employees placed by or on behalf of the Contractor that all qualified applicants will receive consideration for employment without 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;
4. Will send to each labor organization or representative of workers with which it has a collective bargaining agreement or other contract or memorandum of understanding, written notification of its equal employment opportunity commitments under E.O. 50 and the rules and regulations promulgated thereunder;
5. 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 City Department of Small Business Services, Division of Labor Services ("DLS"); and

Appendix A August 2011 Final

6. 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.

B. 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:

1. Disapproval of the Contractor; and/or
2. Suspension or termination of the Agreement; and/or
3. Declaring the Contractor in default; and/or
4. In lieu of any of the foregoing sanctions, imposition of an employment program.

C. 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.

D. The Contractor agrees to include the provisions of the foregoing Paragraphs in every subcontract or purchase order in excess of One Hundred Thousand Dollars (\$100,000) 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 Paragraph.

E. 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 Paragraph.

F. Nothing contained in this Section 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.

**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, which 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, and other documents 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 records must be retained until the completion of such litigation, claim, or audit. Any books, records and other documents that are created in an electronic format in the regular course of business may be retained in an electronic format. Any books, records, and other documents that are created in the regular course of business as a paper copy may be retained in an electronic format provided that the records satisfy the requirements of New York 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 or other documents 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, and other documents maintained or retained by or on behalf of the Contractor pursuant to this Article. Notwithstanding any provision herein regarding notice of inspection, all books, records and other documents 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 and/or the Comptroller without prior notice and at no additional cost to the City. The Contractor shall make such books, records and other documents 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.

Appendix A August 2011 Final

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.

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.

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 data (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 data 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 (5) 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

Appendix A August 2011 Final

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.

Appendix A August 2011 Final

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 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 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. In the event that the data contains social security numbers or other Personal Identifying Information, as such term is defined in Paragraph B of this Section, the Contractor shall utilize best practice methods (e.g., encryption of electronic records) to protect the confidentiality of such data. The obligation under this Section to hold reports, information or data confidential shall not apply where the City would be required to disclose such reports, information or data pursuant to the State Freedom of Information Law (“FOIL”), provided that the Contractor provides advance notice to the City, in writing or by e-mail, that it intends to disclose such reports, information or data and the City does not inform the contractor, in writing or by e-mail, that such reports, information, or data are not subject to disclosure under FOIL.

B. The Contractor shall provide notice to the Department within three (3) 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

Appendix A August 2011 Final

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 twenty-four (24) hours prior to any statement to the press or at least five (5) 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 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

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-

Appendix A August 2011 Final

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 not commence performing services under this Agreement unless and until all insurance required by this Article is in effect, and shall ensure continuous insurance coverage in the manner, form, and limits required by this Article throughout the term of the Agreement.

Section 7.02 Commercial General Liability Insurance

A. The Contractor shall maintain Commercial General Liability Insurance covering the Contractor as Named Insured and the City as an Additional Insured in the amount of at least One Million Dollars (\$1,000,000) per occurrence and Two Million Dollars (\$2,000,000) per-location aggregate for each location at which a Client Agency stores Client Agency records.

Appendix A August 2011 Final

Such insurance shall protect the City and the Contractor from claims for property damage and/or bodily injury, including death that may arise from any of the operations under this Agreement. Coverage under this insurance shall be at least as broad as that provided by the most recently issued Insurance Services Office (“ISO”) Form CG 0001, and shall be "occurrence" based rather than “claims-made.”

B. Such Commercial General Liability Insurance shall name the City, together with its officials and employees, as an Additional Insured with coverage at least as broad as the most recently issued ISO Form CG 20 10.

Section 7.03 Professional Liability Insurance

A. At the Department’s direction, if professional services are provided pursuant to this Agreement, the Contractor shall maintain and submit evidence of Professional Liability Insurance appropriate to the type(s) of such services to be provided under this Agreement in the amount of at least One Million Dollars (\$1,000,000) per claim. The policy or policies shall include an endorsement to 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.

B. All subcontractors of the Contractor providing professional services under this Agreement for which Professional Liability Insurance is reasonably commercially available shall also maintain such insurance in the amount of at least One Million Dollars (\$1,000,000) per claim, and the Contractor shall provide to the Department, at the time of the request for subcontractor approval, evidence of such Professional Liability Insurance on forms acceptable to the Department.

C. 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 (2) 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.

Section 7.04 Workers’ Compensation, Disability Benefits, and Employer’s Liability Insurance

The Contractor shall maintain, and ensure that each subcontractor maintains, Workers’ Compensation Insurance, Disability Benefits Insurance, and Employer’s Liability Insurance in accordance with the Laws of the State on behalf of, or with regard to, all employees providing services under this Agreement.

Section 7.05 Unemployment Insurance

To the extent required by Law, the Contractor shall provide Unemployment Insurance for its employees.

Section 7.06 Business Automobile Liability Insurance

A. If vehicles are used in the provision of services under this Agreement, then the Contractor shall maintain Business Automobile Liability insurance in the amount of at least Two Million Dollars (\$2,000,000) each accident combined single limit 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 CA0001.

B. If vehicles are used for transporting hazardous materials, the Business 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.

Section 7.07 General Requirements for Insurance Coverage and Policies

A. All required insurance policies shall be maintained with companies that may lawfully issue the required policy and have an A.M. Best rating of at least A- / "VII" or a Standard and Poor's rating of at least A, unless prior written approval is obtained from the City Law Department.

B. All insurance policies shall be primary (and non-contributing) to any insurance or self-insurance maintained by the City.

C. 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.

D. There shall be no self-insurance program with regard to any insurance required under this Article unless approved in writing by the Commissioner. Any such self-insurance program shall provide the City with all rights that would be provided by traditional insurance required under this Article, including but not limited to the defense obligations that insurers are required to undertake in liability policies.

E. The City's limits of coverage for all types of insurance required under this Article shall be the greater of (i) the minimum limits set forth in this Article or (ii) the limits provided to the Contractor as Named Insured under all primary, excess, and umbrella policies of that type of coverage.

Section 7.08 Proof of Insurance

A. For Workers' Compensation Insurance, Disability Benefits Insurance, and Employer's Liability Insurance, the Contractor shall file one of the following within ten (10) Days of award of this Agreement. ACORD forms are not acceptable proof of workers' compensation coverage.

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

Appendix A August 2011 Final

2. U-26.3 -- State Insurance Fund Certificate of Workers' Compensation Insurance;
3. Request for WC/DB Exemption (Form CE-200);
4. Equivalent or successor forms used by the New York State Workers' Compensation Board; or
5. Other proof of insurance in a form acceptable to the City.

B. For each policy required under this Agreement, except for Workers' Compensation Insurance, Disability Benefits Insurance, Employer's Liability Insurance, and Unemployment Insurance, the Contractor shall file a Certificate of Insurance with the Department within ten (10) Days of award of this Agreement. All Certificates of Insurance shall be (a) in a form acceptable to the City and certify the issuance and effectiveness of such policies of insurance, each with the specified minimum limits; and (b) accompanied by the endorsement in the Contractor's general liability policy by which the City has been made an additional insured pursuant to Section 7.02(B). All Certificate(s) of Insurance shall be accompanied by either a duly executed "Certification by Broker" in the form attached to this Appendix A or copies of all policies referenced in the Certificate of Insurance. If complete policies have not yet been issued, binders are acceptable, until such time as the complete policies have been issued, at which time such policies shall be submitted.

C. Certificates of Insurance confirming renewals of insurance shall be submitted to the Commissioner prior to the expiration date of coverage of policies required under this Article. Such Certificates of Insurance shall comply with the requirements of Section 7.08 (A) and Section 7.08(B), as applicable.

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

E. 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 (and ensuring that subcontractors maintain such policies) or from any liability arising from its failure to do so.

F. In the event the Contractor receives notice, from an insurance company or other person, that any insurance policy required under this Article shall expire or be cancelled or terminated for any reason, the Contractor shall immediately forward a copy of such notice to both the Commissioner of Department of Citywide Administrative Services Attn: Agency Chief Contracting Officer, Municipal Building, One Centre Street 18th Floor, New York, NY 10007 and the New York City Comptroller, Attn: Office of Contract Administration, Municipal Building, One Centre Street, Room 1005, New York, New York 10007.

Section 7.09 Miscellaneous

A. Whenever notice of loss, damage, occurrence, accident, claim or suit is required under a general liability policy maintained in accordance with this Article, 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 have coverage under such policy (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 as Additional Insured" and contain the following information: 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 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.

B. The Contractor's failure to maintain any of the insurance required by this Article 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 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. The Contractor waives all rights against the City, including its officials and employees for any damages or losses that are covered under any insurance required under this Article (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 procure insurance with regard to any operations under this Agreement and requires such subcontractor to name the Contractor as an additional insured under such insurance, the Contractor shall ensure that such entity also name the City, including its officials and employees, as an additional insured with coverage 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 damage, loss or injury 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 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

The Contractor shall defend, indemnify and hold the City, its officers and employees harmless from any and all claims (even if the allegations of the lawsuit are without merit) or judgments for damages on account of any injuries or death to any person or damage to any property and from costs and expenses to which the City, its officers and employees may be subjected or which it may suffer or incur allegedly arising out of or in connection with any operations of the Contractor and/or its subcontractors to the extent resulting from any negligent act of commission or omission, any intentional tortious act, or failure to comply with the provisions of this Agreement or of the Laws. Insofar as the facts or Law relating to any claim would preclude the City from being completely indemnified by the Contractor, the City shall be partially indemnified by the Contractor to the fullest extent permitted by Law.

Section 8.04 Infringement Indemnification

The Contractor shall defend, indemnify and hold the City harmless from any and all claims (even if the allegations of the lawsuit are without merit) or judgments for damages and from costs and expenses to which the City may be subject to or which it may suffer or incur allegedly arising out of or in connection with any infringement by the Contractor of any copyright, trade secrets, trademark or patent rights or any other property or personal right of any third party by the Contractor and/or its subcontractors in the performance of this Agreement. The Contractor shall defend, indemnify, and hold the City harmless regardless of whether or not the alleged infringement arises out of compliance with the Agreement's scope of services/scope of work. Insofar as the facts or Law relating to any claim would preclude the City from being completely indemnified by the Contractor, the City 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 indemnification provisions set forth in this Article shall not be limited in any way by the Contractor's obligations to obtain and maintain insurance as provided in this Agreement.

Section 8.06 Actions By or Against Third Parties

A. In the event 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 which the City may reasonably require of the Contractor.

B. The Contractor shall report to the Department in writing within five (5) business Days of the initiation by or against the Contractor of any legal action or proceeding in connection with or relating to this Agreement.

Section 8.07 Withholding of Payments

A. In the event that 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. In the event that 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 further 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 setoff in the event that an insurance company that provided liability insurance pursuant to Article 7 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 shall not be 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 officers 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. Contractors deviating from the requirements of this Agreement without a duly approved and executed change order document, or written contract modification or amendment, do so at their own risk.

Section 9.02 Changes Through Fault of Contractor

In the event that 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, AND REDUCTIONS IN FUNDING

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. If the City terminates this Agreement pursuant to this Section, 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

Appendix A August 2011 Final

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 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 Paragraph 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 thirty (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 (7) 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, 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 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 (5%) or greater shareholders, principals, or other employee or person substantially

Appendix A August 2011 Final

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 (5%) or greater shareholders, principals, or other employee or person substantially involved in its activities are subject to a judgment of civil liability under any state or federal antitrust law for acts or omissions in connection with the submission of bids or proposals for a public or private contract; or

6. If the Contractor or any of its officers, directors, partners, five percent (5%) or greater shareholders, principals, or other employee or person substantially involved in its activities makes or causes to be made any false, deceptive, or fraudulent material statement, or fail to make a required material statement in any bid, proposal, or application for City or other government work.

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 (10) Days from receipt of the Notice to Cure or any longer period that is set forth in the Notice to Cure to cure the default. The Commissioner may temporarily suspend services under the Agreement pending the outcome of the default proceedings pursuant to this Section.

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. 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 (5) business days notice. The Commissioner may, in his or her discretion, provide for such

Appendix A August 2011 Final

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, 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, 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. For termination without cause, the effective date of the termination shall not be less than ten (10) Days from the date the notice is personally delivered, or fifteen (15) Days from the date the notice is either sent by certified mail, return receipt requested, or sent by fax and deposited in a post office box regularly maintained by the United States Postal Service in a postage pre-paid envelope. 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 forty-five (45) Days, any unexpended funds which have been advanced to the Contractor pursuant to this Agreement;
2. Furnishing within forty-five (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 ninety (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; 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, 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 shall not be exclusive and are in addition to all other rights and remedies provided by Law or under this Agreement.

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. 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

Appendix A August 2011 Final

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 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 Agency may waive the requirements of this Section 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 is applicable to contracts valued at Twenty-Five Thousand Dollars (\$25,000) 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

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, 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.

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 and PPB Rule § 4-09. This procedure shall be the exclusive means of resolving any such disputes.

1. This Section 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.

Appendix A August 2011 Final

2. For construction and construction-related services this Section 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 shall not apply to termination of the Agreement for cause or other than for cause.

B. All determinations required by this Section 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 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, 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 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 thirty (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 thirty (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 as the Contractor initiating the dispute.

3. **Agency Head Determination.** Within thirty (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. 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 thirty (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 thirty (30) Days of receipt of the Notice of Claim, the Agency shall make available to the Comptroller a copy of all material

Appendix A August 2011 Final

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 fifteen (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 forty-five (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 ninety (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 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.

Appendix A August 2011 Final

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, 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 thirty (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 thirty (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 its 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 forty-five (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 ninety (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.

Appendix A August 2011 Final

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 thirty (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 shall not affect or impair the ability of the Agency Head or CDRB to make a binding and final decision pursuant to this Section.

Section 12.04 Claims and Actions

A. Any claim against the City or Department based on this Agreement or arising out of this Agreement that is not subject to dispute resolution under the PPB Rules or this Agreement shall not be made or asserted in any legal proceeding, 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 (6) months after the date of filing with the Comptroller of the certificate for the final payment under this Agreement, or within six (6) months of the termination or expiration of this Agreement, or within six (6) months after the accrual of the cause of action, whichever first occurs.

Section 12.05 No Claim Against Officers, Agents or Employees

No claim shall be made by the Contractor against any officer, 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. In the event of 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 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). In the event that 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 (10) 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 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. 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; the Department of Small Business Services; 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 Health; 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

Appendix A August 2011 Final

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, 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 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.

Appendix A August 2011 Final

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 are material conditions of this Agreement.

Appendix A August 2011 Final

F. The provisions of this Section 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 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 13.08 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 13.09 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 applies as provided in Paragraph B of this Section, the Contractor hereby agrees to fulfill the obligations in Paragraph C of this Section. 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

Appendix A August 2011 Final

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 shall be applicable to a Contractor operating pursuant to an Agreement which (i) is in excess of \$250,000 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 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

Appendix A August 2011 Final

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 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 13.10 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. 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 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

Appendix A August 2011 Final

be deemed to exist or to bind either of the parties, or to vary 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 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 fax or email and, unless receipt of the fax or e-mail is acknowledged by the recipient by fax or e-mail, 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 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.

CERTIFICATION BY BROKER

[Pursuant to Article Seven of Appendix A, every Certificate of Insurance must be accompanied by either the following certification by the broker setting forth the following text and required information and signatures or complete copies of all policies referenced in the Certificate of Insurance. In the absence of completed policies, binders are acceptable.]

CERTIFICATION BY BROKER

The undersigned insurance broker represents to the City of New York that the attached Certificate of Insurance is accurate in all material respects, and that the described insurance is effective as of the date of this Certification.

[Name of broker (typewritten)]

[Address of broker (typewritten)]

[Signature of authorized officer of broker]

[Name of authorized officer (typewritten)]

[Title of authorized officer (typewritten)]

[Contact Phone Number for Broker (typewritten)]

[Email Address of Broker (typewritten)]

Sworn to before me this

_____ day of _____, 201_

NOTARY PUBLIC

CITY OF NEW YORK
DEPARTMENT OF CITYWIDE ADMINISTRATIVE SERVICES
OFFICE OF CITYWIDE PURCHASING

ATTACHMENT A

**TITLE: DETAILED REQUIREMENTS FOR DRUG AND ALCOHOL SCREENING, AND
MEDICAL PROFILE TESTING SERVICES
FOR FIRE DEPARTMENT OF THE CITY OF NEW YORK (FDNY)**

Following are requirements for furnishing of all labor and materials necessary and required for collection, screening, and reporting of controlled substance and alcohol screening and medical profile testing of employees in the Fire Department Of the City Of New York (FDNY).

1. DEFINITIONS

- 1.1 “Analyzing Laboratory” shall mean the laboratory operated by the Contractor or its subcontractor performing the drug and/or alcohol screening, or medical profile testing services pursuant to this Agreement.
- 1.2 “BHS ” means the Fire Department’s Bureau of Health Services, located at 9 MetroTech Center, Brooklyn, New York 11201-3857, that is responsible for monitoring the fitness for duty of FDNY uniformed and Emergency Medical Service personnel.
- 1.3 “BITS” means the Fire Department’s Bureau of Investigations and Trials, located at 9 MetroTech Center, Brooklyn, New York 11201-3857, that is responsible for investigating and adjudicating disciplinary matters, including conducting drug and/or alcohol testing based on reasonable suspicion or pursuant to stipulation..
- 1.4 “BTDS ” means the Fire Department’s Bureau of Technology and Systems, located at 9 MetroTech Center, Brooklyn, New York 11201-3857, that is responsible for providing computer and other technological support to ensure the proper functioning of Fire Department operating systems, databases, hardware, applications and programs.
- 1.5 “Chain of Custody Form” means a form supplied by the Contractor which tracks the chain of custody of a Sample subject to drug and/or alcohol screening, by recording its handling and transfer from Donor to Contractor.
- 1.6 “City Holidays” means New Year’s Day, Martin Luther King Jr. Day, Presidents’ Day, Memorial Day, Independence Day, Labor Day, Election Day, Columbus Day, Veterans Day, Thanksgiving Day, and Christmas Day.
- 1.7 “Contractor” means the party providing services pursuant to this Agreement.

- 1.8 “Donor” means the FDNY employee, candidate for employment, or retiree who provides the Sample that is subject to drug and/or alcohol screening or medical profile testing.
- 1.9 “FDNY ” or “Department” means the Fire Department of the City of New York, with its headquarters located at 9 MetroTech Center, Brooklyn, New York 11201–3857.
- 1.10 “FDNY Authorized Representative” means, for the purposes of drug and alcohol screening conducted by the Fire Department’s Testing Unit, the Supervisor of the Testing Unit or other representative designated by the Deputy Commissioner for Legal Affairs; for drug and alcohol testing conducted by BITS, the Assistant Commissioner of BITS or his or her designee; and for the purposes of medical profile testing, the Chief Medical Officer of BHS or his or her designee.
- 1.11 “FDNY Facility” means a FDNY division or battalion office, firehouse, ambulance tation or other location owned, leased or operated by FDNY.
- 1.12 “Notice To Proceed” means the written notification to the Contractor to commence the provision of services pursuant to this Agreement.
- 1.13 “Requisition Form” means a form utilized by a FDNY Authorized Representative for ordering medical profile testing.
- 1.14 “Sample” means a blood or urine specimen subject to drug and/or alcohol screening or medical profile testing.
- 1.15 “Services” means any or all services performed by the Contractor or its subcontractors pursuant to this Agreement.
- 1.16 “SFTP Site” means the secure electronic repository of Sample results established by the Contractor for FDNY use employing the Secure File Transfer Protocol, a network protocol for secure transfer of files over a reliable data stream.
- 1.17 “Testing Unit” means the FDNY unit located at 9 MetroTech Center, Brooklyn, New York 11201-3857, that is responsible for random and other drug and alcohol testing of FDNY employees.

2.0 GENERAL DESCRIPTION OF WORK

- 2.1 The Department screens its employees and candidates for employment in safety-sensitive positions for the presence of drugs and/or alcohol. The Department also requires medical profile testing for employees, candidates for employment and certain retirees. Department employees, candidates for employment and retirees subject to drug and alcohol screenings and/or medical profile testing will be referred to collectively throughout this agreement as “Donors”. The primary Department units

involved in screening and testing Subjects are:

- 2.2 The Department maintains a Bureau of Health Services (BHS) to monitor the fitness for duty of FDNY uniformed and Emergency Medical Service personnel and candidates for employment. BHS regularly conducts tests for medical diagnostic purposes and other tests for screening for illegal drugs, controlled substances, and alcohol. BHS also conducts medical profile testing of retired FDNY personnel in connection with World Trade Center-related medical monitoring.
- 2.3 The Department maintains a Testing Unit to randomly screen FDNY personnel for use of illegal drugs and controlled substances. The Testing Unit is also responsible for conducting other substance and alcohol testing of certain candidates seeking employment with the Department.
- 2.4 The Department maintains a Bureau of Investigations and Trials, which is responsible for conducting tests for illegal and/or prohibited substances (including alcohol) to enforce the Department’s disciplinary mandates.
- 2.5 The Department relies on the results of the drug and alcohol screening and medical profile testing to make certain employment decisions. These employment decisions and the underlying screening or testing may be challenged in litigation or other legal proceedings. The Department handled approximately one hundred sixty eight (168) legal matters involving drug and/or alcohol screening between January 2009 and December 2010. Expert witness testimony and other litigation support services provided by the Contractor will be required from time to time to support and defend the agency’s employment decisions.

3.0. SCOPE OF SERVICES

3.1. General Requirements

- 3.1.1 The Contractor shall provide all labor, equipment, tools, materials, and supplies required to perform drug and alcohol screening, and medical profile testing, and litigation support services, including but not limited to expert witness testimony.
- 3.1.2 All drug and alcohol screening and medical profile testing shall be performed in accordance with industry and scientific standards, including those set forth in Section IV(K) of this Agreement. Such screening and testing shall be performed so as to meet the legal requirements for introduction into evidence in a legal proceeding.
- 3.1.3 The Contractor shall provide all forms, including Department-approved Requisition Forms and Chain of Custody Forms, Sample acquisition materials such as needles, tubes and gloves, and any other items required for the proper collection of Samples. All materials and supplies shall be delivered to the Department in original sealed containers with the manufacturers’ printed labels on the containers.

- 3.1.4 FDNY agrees to provide the Contractor with seven (7) days prior written notice regarding each order of supplies that it requires. Such notice may be transmitted via facsimile, e-mail or telephone. The Contractor shall provide the respective FDNY Authorized Representative with a confirmation number for each supply order.
- 3.1.5 The Contractor shall report all alcohol and drug screening results, and medical profile testing results to the Fire Department in accordance with the procedures set forth in Section IV(G) of this Agreement.
- 3.1.6 The Contractor shall monitor all deliverables and services and shall promptly notify the respective FDNY Authorized Representative, by telephone or other means mutually agreed upon by the parties, of any failure to provide such deliverables and services in accordance with the contract schedule. The Department shall determine if failure to provide such deliverables and services has caused or is likely to cause impairment or inconvenience to the operation of the Department or any unit within the Department. If it is determined that such failure to provide deliverables and services has caused or is likely to cause such impairment or inconvenience, then the Department shall notify the Contractor in writing, and provide a cure date to the Contractor. The notification shall provide the Contractor with a time period to cure the situation to avoid liquidated damages. Decisions of the Department in this regard shall be final and shall not be arbitrary or capricious.
- 3.1.7 The Contractor shall not enter into a contract with any subcontractor for the performance of Services under this Agreement without the prior written consent of the Fire Department. Subcontracting shall be permitted up to a maximum of twenty-five percent (25%) of the workload. All subcontractors shall possess the same qualifications as the Contractor, as set forth in Section VI of this Agreement and are required to comply with all provisions of this Agreement.

3.2 Phlebotomist Services

- 3.2.1 The Contractor shall have phlebotomy facilities to which FDNY will send Donors, located within ten (10) miles of each of the following FDNY Facilities:
 - a. 1688 Victory Boulevard, Suite 101A Staten Island, NY 10314
 - b. 2279 Goshen Turnpike Middletown, NY 10941
 - c. 1001 Crooked Hill Road Center Cottage Brentwood, NY 11717

- 3.2.2 The Contractor shall possess all equipment, tools, materials and supplies required to

perform phlebotomist services at the phlebotomy facility. All phlebotomy facilities shall be open Monday through Saturday, 8:00 a.m. to 5:00 p.m., excluding City Holidays. At the option of the Contractor, the phlebotomy facility may operate during additional days and times.

3.2.3 Donors that require phlebotomist services at Contractor phlebotomy facilities will provide the Requisition Form to the Contractor upon arrival. The Contractor shall perform all Services listed on this form.

3.2.4 All Services completed by the Contractor at their phlebotomy facilities shall be completed at no cost to the Donor.

3.2.5 When applicable, the Contractor shall ensure the proper transport of the Sample from the phlebotomy facility to the appropriate Contractor facility for medical profile testing.

4.0. FORMS

4.1 The Contractor shall provide Chain of Custody Forms for FDNY use in requesting alcohol and/or drug screening of a Sample. The Chain of Custody Form shall list the FDNY-approved drug and/or alcohol screens. The Chain of Custody Form shall identify both the Contractor and FDNY.

4.2 The Contractor shall provide Requisition Forms for FDNY use in requesting medical profile testing of a Sample. The Requisition Form shall list the FDNY approved medical profile tests and identify both the Contractor and FDNY.

4.3 The Contractor shall be responsible for distributing Requisition Forms and Chain of Custody Forms to FDNY Facilities. The Requisition and Chain of Custody Forms shall be designed such that the forms cannot be altered after they have been completed by an FDNY Authorized Representative.

4.4 The Contractor shall only perform Services ordered by the FDNY Authorized Representative and listed on the Chain of Custody or Requisition Form. The Contractor shall not perform any additional Services without the prior written authorization of the FDNY Authorized Representative, including any additional Services requested by the Donor verbally or through alterations made to the Requisition Form.

5.0 SAMPLE PICK-UP SERVICES

5.1 The Fire Department will collect and submit to the Contractor for screening and/or testing, Samples that have been properly prepared, identified and labeled. When submitting Samples to the Contractor, FDNY will use the Contractor's preprinted Chain of Custody Form to request drug and/or alcohol screening of a Sample and the Contractor's preprinted Requisition Form to request medical profile testing of a Sample.

5.2 For Samples submitted for alcohol and/or drug screening, FDNY will label the Samples with a Specimen ID Number that corresponds to the number printed on

the Chain of Custody form. For Samples submitted for medical profile testing, FDNY will affix a barcode to all Samples collected. The barcode shall identify each FDNY member's unique identification number.

5.4 The Contractor shall pick up these Samples according to the unit- specific requirements listed below.

5.4.1. BHS REQUIREMENTS

- a. The Contractor shall pick up Samples for drug and/or alcohol screening or medical profile testing within twenty-four (24) hours after telephone, facsimile or e-mail notification by an FDNY Authorized Representative or at a time mutually agreed upon. All pick-ups shall be made no later than 24 hours from the time Samples were collected by FDNY unless the collection took place on a Friday after 12:00 p.m., Saturday, Sunday or a City Holiday, in which case the Contractor shall pick up Samples on the next business day excluding City Holidays.
- b. The Samples shall be picked up from BHS or other location designated by an FDNY Authorized Representative, within the service window period of 8:00 a.m. to 5:00 p.m., Monday through Friday, excluding City Holidays.
- c. In special cases, an FDNY Authorized Representative may request an emergency pick up on a weekend or City Holiday.

5.4.2. TESTING UNIT AND BITS REQUIREMENTS

- a. The Contractor shall pick up Samples for drug and/or alcohol screening from the Testing Unit, BITS or other location designated by the FDNY Authorized Representative, every day from Monday through Friday, excluding City Holidays, at a mutually agreed upon time between the hours of 8:00 a.m. and 5:00 p.m.
- b. In special cases, an FDNY Authorized Representative may request an emergency pick up on a weekend or City Holiday.

5.4.3. The Contractor shall provide all necessary materials, tools and equipment for transporting the Samples for screening or testing. The Samples shall be stored securely in a temperature-regulated environment, placed in containers designed to minimize the possibility of damage or tampering during shipment and transported to the Contractor's laboratory facility by a secure courier to be retained by the Contractor.

5.4.4 The Contractor shall maintain a copy of the Chain of Custody Form to eliminate any possibility of Sample tampering. The information on the chain of custody form shall include, but not be limited to, the identity of each individual in the chain, the time and date of Sample pick-up from the FDNY, and date and time of Sample delivery to the Contractor facility for drug and/or alcohol screening.

6.0 DRUG AND ALCOHOL SCREENING REQUIREMENTS

- 6.1 The Analyzing Laboratory shall conduct the following types of screens, as requested by the respective FDNY Authorized Representative on the Chain of Custody Form:
- 6.1.1. Forensic urine and/or blood analysis for the following drugs, alcohol or evidence of adulteration:
- (1) Amphetamines
 - (2) Methadone
 - (3) Opiates: Morphine, Codeine, 6-Monoacetylmorphine (the metabolite for heroin), Oxycodone and Hydrocodone.
 - (4) Barbiturates
 - (5) Benzodiazepine
 - (6) Cannabis (THC)
 - (7) Propoxyphene (Darvon)
 - (8) Methaqualone
 - (9) Phencyclidine (PCP)
 - (10) Cocaine
 - (11) Alcohol through application of Blood Serum Test
 - (12) Adulteration through application of Adulteration Panel
- 6.2 Urine Ethanol Screen
- 6.3 Blood Ethanol Screen
- 6.4 Anabolic Steroid Testing
- 6.5 Ketamine Testing
- 6.6 Suspicious Substance Testing, including but not limited to capsules, tablets, liquids and powders.
- 6.7 The expected detection levels shall be in accordance with the United States Department of Health and Human Services and the New York State Department of Health regulations for the purpose of maintaining consistency in testing and reporting as well as to preclude false positives.
- 6.8 The Analyzing Laboratory shall initially screen Samples utilizing the Enzyme Multiplied Immunoassay Technique.
- 6.9 All positive urine or blood results shall be automatically confirmed by Gas Chromatography/Mass Spectrometry testing procedures.

7.0. MEDICAL PROFILE TESTING REQUIREMENTS

7.1. The Analyzing Laboratory shall provide the following tests as requested by the FDNY Authorized Representative on the Requisition Form:

- a. Antinuclear Antibody
- b. Anemia Profile
- c. Arthritis Profile (Shall include the following: ANA, ASO, SED. RATE, URIC ACID, RA TITER, CPK and ACE)
- d. CBC with Differential and Platelet Count
- e. Cholinesterase
- f. Cholinesterase RBC
- g. Depakote Level (Valproic Acid)
- h. Glucose (fasting)
- i. Glycohemoglobin Blood
- j. HCG Quantitative
- k. Hepatitis B: Surface Antibody
- l. Hepatitis B: Core Antibody
- m. Hepatitis A: Antibody
- n. Hepatitis B: Surface Antigen
- o. Hepatitis B Profile
- p. Hepatitis C Profile*
- q. Hepatitis C Virus Confirmation (IB), Serum
- r. Hepatitis C RNA by Qualitative PCR
- s. Hepatitis C RNA by Quantitative PCR
- t. Hepatitis C RNA (Branch Chain)
- u. Hepatitis C Virus Genotype (PCR)
- v. Hepatitis C Virus Ab (RIBA) Confirmatory, Western Blot
- w. HIV (ELISA)
- x. HIV Western Blot
- y. Lead
- z. Lithium
- aa. Liver Profile
- bb. Lyme Antibody cc.
Mercury
- dd. Mumps
- ee. Nasal Culture
- ff. Nortriptyline Level
- gg. Rubella (IGG) Immune
- hh. Rubeola (IGG) Immune ii.
Prothrombin Time
- jj. PSA
- kk. Partial Thromboplastin Time (PTT)
- ll. Quantiferon TB Gold In-Tube
- mm. SED rate (ESR) nn. T3-
RLA
- oo. T3-uptake

- pp. T4-RIA
- qq. T4-free
- rr. Theophylline Level
- ss. Thyroid Screen
- tt. Thyroid Comprehensive
- uu. TSH
- vv. Urinalysis Routine
- ww. Varicella Antibodies
- xx. Wound Culture
- yy. Panel 1: Glucose, Hgb, A1C, U/A
- zz. Panel 2: Medchem 23 (Basic Chemistry Profile)**, CBC with Differential and Platelets Count, U/A, HDL Cholesterol (LDL/HDL Ratio, LDL Cholesterol, Cholesterol/HDL Ratio, HDL as % of Cholesterol, VLDL Calculated)
- aaa. Panel 3: HEP.Profile, Hep.BCAb, Hep.C Ab
- bbb. Panel 4: Cholinesterase, Mercury, Lead
- ccc. Panel 5: Medchem 23 (Basic Chemistry Profile)**, Amylase, CBC w/Differential and Platelets, Hepatitis C Ab, Hepatitis B (Surface Antibody) ddd.
- Panel 6: Rubella, Rubeola, Mumps, Varicella, Hepatitis B (Surface Antibody)
- eee. Panel 7: Rubella Ab, Rubeola Ab, Mumps Ab, Varicella Ab, Hep.BSAb, Hep. BCAb, Hep:C Ab
- fff. Panel 8: Medchem 23 (Basic Chemistry Profile)**, CBC with Diff and Indices, Urinalysis, Hepatitis C Antibody, HDL Cholesterol (LDL/HDL Ratio, LDL Cholesterol, Cholesterol/HDL Ratio, HDL as % of Cholesterol, VLDL Calculated)
- ggg. Panel 9: C-Reactive protein (CRP), Brain Naturetic Peptide (BNP), Hemoglobin A1C
- hhh. Panel 10: Blood Lead, Blood PCB, Urine Mercury, Urine Beryllium, Creatinine

* Note: If the Hepatitis C Profile test is positive, then the Contractor shall proceed with the Hepatitis C Virus Ab (Riba), Confirmatory Western Blot test utilizing the same sample from the employee or candidate. If the Hepatitis C Virus Ab (Riba), Confirmatory Western Blot test is positive, the Contractor shall notify a Fire Department Representative for any additional testing requirements.

** Basic Chemistry Profile shall include the following: Glucose (fasting), Panel Glucose, Sodium, Potassium, Iron, Blood Urea Nitrogen, e-Glomerular Filtration Rate, e-GFR-African American, Carbon Dioxide Content, Chloride, BUN, Creatinine, BUN/Creat. Ratio, Uric Acid, Calcium, Total Protein, Albumin, Globulin, Alb/Globulin Ratio, alb/Globulin Ratio (Chemical Profile), Total Bilirubin, Direct Bilirubin, Alkaline Phosphatase, Inorganic Phosphorus, SGOT, SGPT, LDH, GGTP, Cholesterol, and Triglycerides.

7.2. The Contractor shall be equipped to accommodate FDNY's need for other or different combinations of medical profile tests, including medical profile tests that are developed subsequent to the effective date of this Agreement.

8.0 SAMPLE RESULTS

8.1. The Contractor shall perform all requested screenings and tests of the Samples and shall report the Sample results according to the specific unit requirements listed below, unless otherwise provided in Section IV(G)(6) of this Agreement:

8.2. BHS REQUIREMENTS

8.2.1 By telephone to a FDNY Authorized Representative within three (3) calendar days after pick up of the Samples: and

8.2.2 By electronic transmittal within five (5) calendar days of availability of final laboratory results, sent to a secure file transfer protocol site (“SFTP Site”) established by the Contractor. All data shall be transferred in Health Level 7 (“HL7”) format.

8.2.3 In special cases, including but not limited to the transmittal of sensitive information or failure of the SFTP Database, reports shall be sent to a dedicated printer at BHS.

8.3. TESTING UNIT AND BITS REQUIREMENTS

8.3.1 By electronic transmittal within five (5) calendar days of availability of final laboratory results, sent to a secure SFTP Site, established by the Contractor. All data shall be transferred in HL7 format.

8.3.2 In special cases, including but not limited to the transmittal of sensitive information or failure of the SFTP, Site reports shall be customized as either BITS or Testing Unit and sent to the appropriate printer at the corresponding unit.

8.4. The Contractor shall provide a SFTP Site to facilitate data transfers between the FDNY and the Contractor. The SFTP Site shall be established within fourteen (14) days of the Notice to Proceed or upon a date mutually agreed upon by the Contractor and the FDNY.

8.5. The Contractor shall provide written notification to the FDNY Authorized Representative five (5) days in advance of any routine maintenance or other activity that shall render the SFTP Site unavailable. In the event there is an unexpected interruption of access to the SFTP Site, except as specified herein, the Contractor shall promptly notify the FDNY Authorized Representative at such time as the SFTP Site becomes unavailable.

8.7 Upon restoration of the SFTP Site, the Contractor shall promptly notify the FDNY Authorized Representative.

- 8.8 The Contractor shall restore access to the SFTP Site within four (4) hours of its unavailability due to routine maintenance or within four (4) hours of notification of an unexpected interruption in access to the SFTP Site.
- 8.9. Within thirty (30) days from the date of Notice to Proceed, the Contractor shall provide and install a total of four printers as directed by the FDNY Authorized Representative. The printers shall be equipped to perform the following functions:
- 8.9.1 Print Sample results in report form directly from the Contractor’s server without any connection to FDNY computer networks.
- 8.9.2 Print Sample results in report form in standalone mode immediately after corresponding lab results become available.
- 8.10 The Contractor shall work directly with BTDS to determine the level of connectivity that is required for the purposes of connecting the printers to the SFTP Site, such as through a modem, phone line, Internet subscription or other FDNY-approved means.
- 8.11. The Contractor shall provide preventative maintenance and repairs to the printers including but not limited to replacement of all printer peripherals, connectivity devices, and cables. The Contractor shall regularly provide sufficient ink cartridge supplies for the standalone printers.
- 8.12 Within thirty (30) calendar days from the date of the Notice to Proceed, the Contractor shall provide a list of the drug and alcohol screens and medical profile tests which take more than three (3) calendar days to process, and specify the processing time for such tests. Such processing time shall be the minimum time necessary to complete such screens or tests and shall be subject to approval of the FDNY.
- 8.13 Each transmitted screening or test result shall include but not be limited to the following information:
- a. Employee, candidate, or retiree name
 - b. Identification numbers from barcode
 - c. FDNY control numbers(s) where applicable
 - d. Employee work location or candidate or retiree home address
 - e. Type of sample(s)
 - f. Test(s) ordered
 - g. Test(s) codes
 - h. Panel Name and Panel Breakdown, if applicable
 - i. Analyzing Laboratory sample number(s)
 - j. Date/time of sample collection
 - k. Date/time screen completed
 - l. Reference range and specific method
 - m. Testing contractor specimen number

n. Sample results

8.14 In addition to the above information specified in Paragraph 7 of this section, the Sample result shall include any pertinent information regarding the validity of the Sample results. The Contractor shall transmit only complete and final Sample results. Partial or incomplete Sample results will not be accepted.

8.15 The Contractor shall review all Sample results prior to transmitting any data to FDNY. Sample result data shall be in numerical or text format (if applicable), without any explanation within the “result” data field. If explanations are required for the results, then the explanation shall be inputted in a separate field. The Contractor shall report all Sample results with normal reference ranges that apply for each specific test based on gender, age or any other applicable categories.

8.16 The Contractor shall have all completed Sample results reviewed and initialed by a licensed supervisor certified by the New York State Department of Health.

8.17 The Analyzing Laboratory shall maintain all Sample records, including but not limited to chain of custody documents, and Sample reserve for all positive Samples, for at least three (3) years from the date of testing.

8.18 Negative Samples and results shall be maintained for at least (1) year from the date of testing.

9.0 TRAINING

9.1 The Contractor shall provide training materials and services to FDNY personnel explaining proper Sample collection and chain of custody procedures, including but not limited to manuals, instructional DVDs and/or video tapes.

9.2 FDNY reserves the right to approve any and all training materials prior to distribution and implementation.

9.3 The Contractor shall be available to provide telephone consultations Monday through Friday, 8:00 a.m. to 5:00 p.m. regarding proper Sample collection and chain of custody procedures. To the extent deemed necessary by the Contractor, or as requested by the FDNY, the Contractor shall also provide personal or supervised instruction. The Contractor from time to time shall provide any revised and updated training materials, including changes to testing policies, procedures, and/or methodology.

10.0 INVOICING

10.1 All invoices prepared by the Contractor for Services provided shall be submitted to the Department’s Bureau of Budget and Finance, or to another FDNY unit designated by the FDNY Authorized Representative, and shall include but not be limited to the following information:

- a. FDNY unit (BHS, BITS, or Testing Unit) that provided Sample
- b. Donor name.
- c. Type of Sample(s).
- d. Type of screening/test.
- e. Date/time of Sample collection.

11.0. LITIGATION SUPPORT/EXPERT WITNESS SERVICES

11.1 In the event of any civil, criminal, judicial or administrative proceeding, including but not limited to an action challenging the accuracy or reliability of the Contractor's results and/or the chain of custody associated with such results, the Contractor shall provide all necessary litigation support services.

11.2 The Contractor shall provide all necessary documentation, including but not limited to complete analytical information, certified true copies of all chain of custody documents, control tests performed, results of the calibration of the instruments used, and general information about the Contractor's personnel, procedures and scientific methodology used. The Contractor shall certify the entire contents of the package provided.

11.3 The Contractor shall provide expert witness testimony necessary to defend and support the procedures, technology and information used in conducting the screening and testing Services, including but not limited to expert witness testimony relating to the analytical accuracy, standard operating procedures, industry standards and practice, and interpretation of results, as well as any other information required or requested by the FDNY in support of any legal action.

11.4 The litigation support and expert witness services to be provided by the Contractor may include but not be limited to telephone and on-site consultations, written reports, pre-trial and other preparatory meetings with attorneys, travel time, sequestered waiting time, trial testimony time, and post-testimony work.

11.5 The FDNY may also require other litigation support services, including but not limited to reviewing Sample results, re-test results, documentation from other labs that performed the re-tests, other toxicology reports submitted by Donors, and expert witness testimony.

12.0 QUALITY CONTROL PROGRAM

12.1 The Contractor shall be responsible for monitoring and inspecting all work performed by its employees and subcontractors to ensure compliance with the Agreement requirements. The Contractor shall establish a complete quality control program to ensure the requirements of the Agreement are performed as specified. The program shall include, but will not be limited to, the following:

- a. An inspection system covering all Services provided by the Contractor, including compliance with applicable laws, rules and regulations;

- b. A checklist for use in reviewing performance during regularly scheduled or unscheduled inspections by the Contractor; and
- c. The results of the inspections, including documentation of all corrective action taken, shall be documented in on-going inspection reports along with the names of the individuals performing the inspections. These reports shall be made available to the FDNY Authorized Representative upon request.

12.2 The Contractor shall maintain and provide to FDNY the following information regarding the provision of Services within thirty (30) calendar days of Notice to Proceed and thereafter upon written request:

- a. Testing methodology.
- b. Internal procedures for testing, Sample handling, quality control, record-keeping, and file security.
- c. Procedures for forwarding Samples to the Analyzing Laboratory.
- d. The average monthly volume of drug or alcohol screen testing and types of tests performed by the Analyzing Laboratory.
- e. The address of all laboratory facilities utilized by the Contractor and/or subcontractor to perform testing Services pursuant to the Agreement.

12.3. The Contractor must maintain for the term of the Agreement and certify in writing annually or upon request the following information:

- a. The ability of the Contractor’s testing process to remove or discern external contamination.
- b. The ability of the Contractor’s experts to support tests performed pursuant to this Agreement.
- c. Record of maintaining appropriate performance measures within the industry-accepted ranges for each laboratory test listed in this Agreement for the three (3) years prior to bid submission.
- d. Satisfactory results for all required proficiency testing for the preceding three years (3) years, including those required by the following agencies, and any other regulatory agency requiring such proficiency testing:
 - (1) Centers for Disease Control
 - (2) College of American Pathologists
 - (3) N.Y. State Department of Health
 - (4)

- e. Information concerning any certification, inspections, violations and/or license revocations and/or suspensions.
 - f. Documented internal procedures for testing, Sample handling, quality control, record-keeping, and file security. Such procedures shall be sufficient to comply with all contractual and legal requirements.
 - g. The mean, standard deviation and coefficient of variation or other applicable internal quality control data for all tests performed in accordance with Section IV(E) by the Analyzing Laboratory, by month.
- 12.4 The Contractor shall provide any other requested information within thirty (30) calendar days after telephone or other notification from an FDNY Authorized Representative. Along with each Sample result, the Contractor shall submit a written statement certifying the accuracy of the information provided therein.

13.0. GENERAL TERMS AND CONDITIONS

13.1 All Services pursuant to this Agreement shall be performed in accordance with all applicable Federal, State, and City laws, rules, regulations and guidelines, and the Contractor and its subcontractors shall meet or exceed industry standards.

13.2 The work shall be performed in accordance with the best modern practice, with materials and workmanship that meet the highest standards.

13.3 The Contractor and its subcontractors shall dispose of all waste products in accordance with all applicable Federal, State, and City laws, rules and regulations, including but not limited to laws, rules and regulations that relate to laboratory employee health and safety and the storage, handling and disposal of collection containers and Samples.

13.4 All Services performed by the Contractor shall be performed as expeditiously as possible with a minimum of interference to Department operations and personnel.

13.5 If the Contractor fails to perform the Services as provided for in this Agreement, the Department reserves the right to procure the required Services from another Contractor, in which circumstance the Contractor shall be liable, in addition to liquidated damages, for any additional amount over the cost of that item as bid on the Price Schedule herein.

13.6 This Agreement is not intended to create any rights in third parties other than successors and assignees of the parties. No assignment is allowed without the prior written consent of the Fire Department.

13.7 In the event of termination of this Agreement, the Contractor shall remain liable for the full performance of all terms and conditions of this Agreement that the Contractor was obligated to perform up to the time of such termination. Any and all continuing obligations and liabilities of the Contractor under this Agreement shall survive the termination of this Agreement.

14.0. CONTRACTOR QUALIFICATIONS

14.1 At the time of bid submission, the Contractor shall have a minimum of three (3) years experience in performing drug and alcohol screening, and medical profile testing, and other related analytical testing services similar to that required by this specification. The subcontractor's experience cannot be used to satisfy this requirement. Individual experience as a principal, director, officer, or employee of an organization may not be used to satisfy this requirement.

14.2 The Contractor shall possess all required licenses from the New York State Department of Health and shall ensure that such licenses remain valid throughout the term of the Agreement. The Analyzing Laboratory shall be licensed by the New York State Department of Health to perform forensic toxicology analysis. The laboratory also must be certified under the terms of the Clinical Laboratories Improvement Act ("CLIA") and under the College of American Pathologists ("CAP") program. The laboratory must maintain a level of 95% avoidance of false positive results in proficiency testing. Documentary proof of all required licenses and all applicable certifications shall be provided upon request by the FDNY.

14.3 If at any time during the term of this Agreement, New York City, New York State or the Federal government should institute a special certification or licensing requirement for forensic toxicology or any other certification for evaluation of, or conducting, drug or alcohol screening, the Analyzing Laboratory and/or its employees shall promptly take all steps necessary to qualify for and obtain this certification or license. Proof of licensing or certification shall be provided within five (5) calendar days from the date such license or certification is obtained.

14.4 The Department reserves the right to inspect the facilities of the Contractor and any subcontractors prior to or after the contract award, and at any time during the term of the Agreement.

14.5 Within seven (7) calendar days from the date of notification of the winning bid, the Contractor shall submit a list of each analytical test that the Contractor will perform together with proof of all applicable qualifications including but not limited to licenses, facilities, references, certification in writing of its ability to meet all of the requirements set forth in Section IV(K)(2) and (3), and any other submissions as required herein.

15.0 CONTRACTOR PERSONNEL

15.1 The Contractor shall have in its employ, at all times, a sufficient number of capable and qualified employees to enable it to complete the Services pursuant to this Agreement. The employees shall have the training and demonstrated ability in the specified areas, and possess all required licenses, permits, and other applicable certificates and qualifications. In the absence of any licensing requirements by a Federal, State or City authority, the Contractor shall certify in writing that the persons involved in the performance of the work are competent to perform the Services.

15.2 The obligation to maintain Confidential Information governing patient medical information includes the duty to comply with all Federal, State and local laws, rules and regulations, including the Standards for Privacy of Individually Identifiable Health Information (45 CFR Parts 160 and 164) adopted by the United States Department of Health and Human Services to implement the Health Insurance Portability and Accountability Act of 1996 (“HIPAA Regulations”), if determined to be applicable, including a Business Associate Agreement approved by FDNY.

15.3 Within seven (7) calendar days from written request by the FDNY, the Contractor shall provide certification of vocational training, or copies of licenses for each Contractor employee assigned to perform any of the Services required herein.

15.4 The Contractor shall ensure that all Services required by this Agreement are satisfactorily supervised. The Contractor shall provide such supervision as is sufficient to carry out all the terms and conditions of this Agreement.

15.5 The Contractor shall designate one of its employees to function in the role of primary contact person. The contact person shall be the liaison for the Contractor for the term of this Agreement, and shall handle issues, requests and inquiries arising from the performance of Services.

15.6 The Department reserves the right to review the credentials and qualifications of any Contractor personnel providing Services pursuant to this Agreement, and to instruct the Contractor not to utilize any individuals who FDNY determines to be unqualified to perform the Services.

15.7 The Contractor shall comply with all Department security rules. Contractor personnel shall wear clearly visible photo identification with their company’s name, address, and telephone number and the employee name, and shall comply with FDNY security procedures and directions at FDNY Facilities.

16.0 CONFIDENTIALITY

16.1 The Contractor agrees that all records, information or data which it may have access to, examine, prepare, maintain or have custody of and deliver hereunder (“Confidential Information”) shall be kept strictly confidential. The Contractor shall not at any time during the term of the Agreement, or thereafter, make any disclosure or statements or release to any third party any Confidential Information without the prior written approval of the Department.

16.2 The Contractor agrees that it will instruct its officers, employees, and agents, to maintain the confidentiality of any and all Confidential Information.

16.3 Upon expiration or termination of this Agreement, the Contractor shall return to the Department any and all Confidential Information in the possession of the Contractor and its subcontractors, and permanently delete any and all Confidential Information maintained in any electronic form by the Contractor or its subcontractors.

16.4 A breach of this section shall constitute a material breach of this Agreement for which the FDNY may terminate the Agreement. The FDNY reserves any and all other rights and remedies in the event of unauthorized disclosure.

16.5 This provision shall survive the expiration or termination of this Agreement.

17.0 LIQUIDATED DAMAGES

17.1 If the Contractor fails to respond to a request for Services in accordance with the time frames established herein, then the Contractor shall be subject to fixed and liquidated damages of seventy-five dollars (\$75.00) per Sample submitted for testing or screening or awaiting pick-up per calendar day or portion thereof for each calendar day that the Contractor fails to respond.

17.2 If the Contractor responds to a request for Services, but fails to submit the results of the drug and/or alcohol screening or medical profile testing in accordance with the time frames or format established herein or as mutually agreed upon by the FDNY and the Contractor, then the Contractor shall be subject to fixed and liquidated damages of seventy five dollars (\$75.00) per calendar day or portion thereof beyond the established time frame that the Contractor fails to complete the Services with respect to the Sample submitted for screening or testing.

17.3 If the Contractor fails to provide training materials or services for the proper specimen collection and chain of custody procedures within five (5) calendar days of a request by the Department, then the Contractor shall be subject to fixed and liquidated damages of twenty five dollars (\$25.00) per calendar day or portion thereof for each calendar day that the Contractor fails to provide training materials or services.

17.4 If the Contractor fails to provide litigation support or expert witness services within five (5) calendar days of a request of the Department, then the Contractor shall be subject to fixed and liquidated damages of three hundred and fifty dollars (\$350.00) per calendar day or portion thereof for each calendar day that the Contractor fails to provide the litigation support or expert witness services.

17.5 If the Contractor fails to establish a SFTP Site acceptable to the FDNY or install printers in FDNY designated locations in accordance with the time frames established herein, then the Contractor shall be subject to fixed and liquidated damages of five hundred dollars (\$500.00) per calendar day or portion thereof for each calendar day that the Contractor fails to establish the SFTP Site or install the printers.

17.6 Such liquidated damages shall be subject to the cure procedures set forth in Section IV(A)(6).

17.7 All such charges for Liquidated Damages assessed to the Contractor shall be deducted from the money that is due or shall become due to the Contractor from the City. In the event that there is no money due to the Contractor, then the Contractor shall pay the amount of the charges due the City.

CITY OF NEW YORK
DEPARTMENT OF CITYWIDE ADMINISTRATIVE SERVICES
OFFICE OF CITYWIDE PURCHASING

ATTACHMENT B

TITLE: DETAILED REQUIREMENTS FOR HAIR TESTING (COLLECTION AND ANALYSIS SERVICES FOR NEW YORK POLICE DEPARTMENT (NYPD)

Following are requirements for furnishing of all labor and materials necessary and required for collection, hair testing and analysis services to detect the presence of drugs in the individuals tested for NYPD. The goal and objective is to support the Medical Division of the NYPD's Personnel Bureau's efforts to ensure through drug use tests that all personnel are fit for duty and that its employees adhere to the laws enforced by the NYPD.

1.0 GENERAL INFORMATION

1.1 The Police Department is committed to its mission to protect the lives and property of the citizens of New York City, to treat every citizen with courtesy, professionalism, and respect, and to enforce the laws impartially, fighting crime both by deterring it and by aggressively pursuing perpetrators. To help fulfill that mission, the Medical Division of the NYPD's Personnel Bureau is charged with the responsibility of ensuring that all personnel are fit for duty and that its employees adhere to the laws enforced by the NYPD. For these reasons, the NYPD tests both its job applicants and employees for drug use.

1.2 Current technology and testing methods of hair analysis can detect illegal drugs in individuals for the previous 90 days or more from the date of the test. In addition, current technologies and methodologies used in hair testing can differentiate between ingestion of drugs as opposed to external contamination (non-ingested, non-injected, or non-smoked) sources. In addition to detecting illegal drug use, current technologies and methodologies can provide information on drug type and quantity, and historic pattern of drug use. This type of information and testing procedure is critical to the NYPD. The NYPD has a zero tolerance policy regarding the use of illegal drugs. When the NYPD takes disciplinary action, terminates, or suspends an employee, or disqualifies an applicant for illegal drug use, the NYPD must be able to establish its case in an administrative proceeding or defend a civil challenge to its actions should its actions be legally challenged. Therefore, not only must the drug detection analysis and test be accurate, it must also withstand other legal challenges. As such, the contractor will provide expert witness and legal support services at administrative and civil hearings and in court matters, and must be able to defend unequivocally both the NYPD's decision and the test results and methodologies on which that decision was based, using proven reliable technology and established legal precedent.

1.3 Since it is vital to the NYPD that charges of drug use against its applicants and employees are supported by the most reliable and technologically advanced methods available, urinalysis, which can only detect the presence of drugs for the previous 2-3 days for most drugs, is **not** being covered in these specifications. NYPD solely seeks proposers that will provide detection of illegal drugs through hair analysis. Proposers are also advised of the following:

1.3.1 Subcontracting of any portion of the requisite services shall not be permitted . Therefore, proposals that set forth subcontracting arrangements will be determined to be non-responsive and will not be considered. The NYPD does not consider the hiring of expert witnesses to be subcontracting.

1.3.2 Pursuant to a cooperative purchasing agreement, the City of New York Department of Correction (DOC), the City of New York Fire Department (FDNY), and the City of New York Department of Environmental Protection (DEP) may exercise an option to be included in the contract awarded from this solicitation requiring the selected contractor to provide hair analysis and expert witness services for DOC, FDNY, and DEP employees and candidates. With the exception of delivery and billing locations, all terms and conditions of the contract shall apply to work done for the DOC, FDNY, and DEP.

Note: All references in both this section and throughout the solicitation to the detection of drugs in hair, or to providing information about drug use through hair analysis, shall be deemed to include the metabolites of any such drugs.

2.0 MINIMUM QUALIFICATION REQUIREMENT

2.1 The proposer shall demonstrate that they have a current valid permit issued by the New York State Department of Health to operate a laboratory to perform drug testing on hair samples OR that they have applied for such permit by the proposal due date.

3.0 GENERAL DESCRIPTION OF WORK

3.1 The contractor shall conduct accurate, timely, and technologically and legally reliable testing of hair samples for drug use in accordance with the requirements set forth in the Scope of Services, Section 4.0.

3.2 The contractor shall conduct accurate, timely, and technologically and legally reliable confirmation tests for positive test results in accordance with the requirements set forth in the Scope of Services, Section 4.0.

3.3 The contractor shall provide expert witness/ legal support in administrative proceedings and civil court cases when test results are challenged.

3.4 The contractor shall train NYPD personnel in proper specimen collection and chain of custody procedures for hair samples.

4.0 SCOPE OF SERVICES

4.1. The contractor shall conduct accurate, timely, and technologically and legally reliable drug testing through hair analysis, including confirmation tests for tests that have preliminary positive results. The Contractor shall conduct accurate tests on hair samples consisting of at least 60 strands. All initial screening tests would be completed and reported within 96 hours of when a sample is picked up at the location designated by the NYPD. For preliminary positive results on samples, the required confirmatory test(s) must also be completed and reported within ten (10) days of when a sample is picked up at the designated NYPD location.

4.2. NYPD will collect and submit the samples anonymously to the contractor for testing. The contractor shall provide delivery service for the pick-up of such samples. The contractor shall provide all packaging, collection kits, forms, scissors, razors, hair clips and nail clippers at their own cost.

4.3. The contractor shall test NYPD samples for the presence of cocaine, opiates, phencyclidine (PCP), marijuana and methamphetamine and their metabolites. However, the NYPD reserves the right during the term of the contract to request that the Contractor test for additional drugs. For confirmed positive test results, the contractor would provide Gas Chromatography/ Mass Spectrometry (GC/MS) and/or Liquid Chromatography/ Mass Spectrometry (LC/MS) confirmation tests and / or any other necessary confirmation tests (such as GC/MS/MS) in accordance with recognized standards. The contractor shall submit a report to the NYPD detailing the results of each test. All reports and information, including test results and interpretation shall be submitted in a confidential manner directed to the NYPD's authorized personnel. In the case of confirmed positive results, the contractor shall also fax a copy of the report. For all tests (confirmed positive or negative) the contractor shall forward a separate hard copy of the report (hand-delivered or by mail) to the attention of the NYPD's authorized personnel. Confirmed positive tests will require the submission of a detailed litigation package. Although not mandatory, the additional option of having the results available via secure on-line services will be given consideration.

4.4. Any change in the contractor's drug testing methods or expansion or deletion of drugs in the test panel shall be subject to the prior approval of the NYPD. The cost for any "new" testing, if approved by the NYPD, shall be at the same rates established in the contract, or if the contractor requires additional costs for new tests, the contractor shall provide an itemized cost analysis that justifies the increase. The NYPD will not pay the contractor additional amounts for costs related to research and/or development of new testing methods. Moreover, the NYPD reserves the right to decline any such changes.

5.0 EXPERT WITNESS AND LEGAL SUPPORT

- 5.1 The contractor shall provide expert witness and legal support in administrative proceedings and in civil court cases when test results are challenged and such services are required by the NYPD. In the event of any administrative proceeding or civil court action challenging any test results, including but not limited to, a challenge initiated by an individual or group questioning the accuracy or reliability of the tests, and/or the chain of custody associated with the contractor's results, the contractor shall provide all necessary administrative and legal support including but not limited to expert witness testimony necessary to defend and support the procedures, technology, and information.
- 5.2 The contractor shall provide the NYPD, as needed, with documentation, including complete analytical information, certified true copies of all chain of custody documents, and general information about the contractor's personnel and procedures.
- 5.3 The contractor shall provide expert witness testimony relating to the analytical accuracy, standard operating procedures and interpretation results, etc., as required by the NYPD.
- 5.4 The contractor shall provide the NYPD with a Policies and Procedures Manual. The Policy and Procedures Manual may be amended or supplemented from time to time by the contractor and, at the contractor's request, may be substituted for any previous version, unless such changes substantially alter the terms and conditions of this agreement.

6.0 TRAINING

- 6.1 The contractor shall annually train approximately 30 NYPD personnel in proper specimen collection and chain of custody procedures. Such training would be on-site and would include the dissemination of instructional videotapes, telephone consultations and, to the extent deemed necessary by the NYPD, additional personal or supervised instruction. Such training may take place in group sessions; however, the Commanding Officer of the Medical Division or someone designated by the Commanding Officer would have discretion to limit the number of people being trained at the same time in group sessions.
- 6.2 NYPD reserves the right to approve any and all training materials prior to distribution and implementation.
- 6.3 The Contractor shall be available to provide telephone consultations Monday through Friday, 8:00 a.m. to 5:00 p.m. regarding proper Sample collection and chain of custody procedures. To the extent deemed necessary by the Contractor, or as requested by the NYPD, the Contractor shall also provide personal or supervised instruction. The Contractor from time to time shall provide any revised and updated training materials, including changes to testing policies, procedures, and/or methodology.

7.0 AGREEMENT

7.1 It is anticipated that the following provisions shall be incorporated into the Agreement between the contractor and the NYPD in at least substantially the form that they appear in this section:

7.2 This agreement sets forth the entire agreement and understanding of the Contractor and the NYPD with respect to drug testing. This Agreement covers the testing of samples from employees and job applicants of the NYPD and the City of New York and does not authorize the resale of Contractor's services to any other party or the use of Contractor's name or trademarks for any purpose without contractor's prior written approval. Note: As previously stated, the City of New York Department of Correction (DOC), the City of New York Fire Department (FDNY), and the City of New York Department of Environmental Protection (DEP) may also exercise an option to require the Contractor's services awarded under this contract for the hair analysis and expert witness services for DOC, FDNY, and DEP employees and job applicants.

7.3 The NYPD agrees that the Contractor assumes no liability or responsibility for the errors or omissions of the NYPD, its employees, subcontractors, or any other agents of the NYPD during the term of this agreement. The NYPD agrees to indemnify, defend, and hold the Contractor harmless from and against any and all fines, liabilities, claims, penalties, judgments, damages, costs, and expenses which may be asserted against the Contractor arising out of any claim related to: (i) the NYPD's improper submission and/ or handling of test samples; (ii) the failure of the NYPD to comply with applicable federal, state, and local laws; or (iii) the NYPD's improper interpretation or use of the test results--except to the extent that the Contractor is found to have acted negligently or willfully with respect to such matters.

7.4 The Contractor agrees that the NYPD assumes no liability or responsibility for the errors or omissions of the Contractor, its employees, or agents during the term of this agreement. The Contractor agrees to indemnify, defend, and hold the NYPD harmless from and against any and all fines, liabilities, claims, penalties, judgments, damages, costs, and expenses (including without limitation reasonable attorney's fees, expert witness fees, and costs of investigation) which may be asserted against the NYPD arising out of any claim resulting from: (1) any error or omission caused or alleged to be caused by the negligence or willful tort of the Contractor, its employees, subcontractors, or agents in carrying out the terms of this Agreement, or (2) NYPD's reliance on contractor's representations that its testing process and procedures comply with applicable federal, state, and local laws and rules, and the terms of this RFP and any subsequent contract, except to the extent that the NYPD is found to have acted negligently with respect to such matters.

7.5 Each party agrees to notify the other in writing in the event that any claim or suit arises out of testing performed by the Contractor pursuant to this Agreement and asserted against it. Each party agrees to provide full cooperation to the other at all times during the pendency of any such claim or suit.

8.0 TESTING

8.1 The Contractor hereby agrees to perform all testing as follows:

8.2 Scientific background: The bloodstream nourishes the developing hair follicle. Drugs ingested circulate in the bloodstream and trace levels of these drugs remain trapped in the core of the hair shaft in amounts proportional to those ingested. Such trace levels remain in the hair as it grows out from the head at the approximate rate of one-half inch (or 1.3cm) per month. Drug use occurring over the last 90 days can be obtained by analyzing approximately 4 cms of hair derived from the most recent growth. Normally, analysis involves the detection and quantification of five drug groups: cocaine, marijuana, opiates, methamphetamine and PCP.

8.3 Sample Specifications: The sample must be taken from the individual being tested by a collector trained by the testing laboratory or by an individual properly trained by the NYPD.

8.4 The sample must consist of hair cut from as close to the skin as possible. While the length of hair collected may be greater than 4cms, the final length used for analysis of head hair must not exceed 4 cms.

8.5 Samples must be sent to the analyzing laboratory under appropriate anonymous chain of custody mechanisms including a tamper-evident sample integrity seal to be provided by the Contractor.

8.6 The identity of the individual being tested must be verified by the NYPD's sample collector.

8.7 In all test categories, NYPD procedures require that three separate samples be collected, with one held in reserve for possible independent analysis. In all cases, two samples must be confirmed positive in order for the lab to report a confirmed positive result to the NYPD. The contractor shall perform its test procedures on samples consisting of at least 60 strands of head hairs.

9.0 Laboratory Specifications: The analyzing laboratory shall have a valid Permit to perform Drug Testing on Hair Samples issued by the New York State Department of Health during the contract term. The laboratory must also have all necessary governmental and non-governmental certifications and accreditations. The laboratory must participate in proficiency testing in accordance with recognized standards. The laboratory must maintain a level of 100% in avoiding false positive results in proficiency testing. Additionally, the laboratory must maintain and certify in writing regarding:

9.1 the ability of their testing process to remove or discern external contamination; and,

9.2 the ability of their experts to support tests performed under the contract, and demonstrate a consistent record of such ability; and,

9.3 information concerning any certifications, inspections and/or license or Permit revocations and/or suspensions and any court decisions discrediting, disapproving, or criticizing the Contractor's test methods or procedures. .

10.0 Sample Analysis: The procedure for analysis shall involve a two-tiered protocol: screening for the five drug groups indicated above followed by confirmation of all preliminary positive results. NYPD procedures require that two samples be confirmed positive in order for the lab to report a confirmed positive result.

11.0 Screening: The initial screening of the sample, using total weight of no more than one-half of the collected sample, shall be conducted via industry standard techniques.

12.0 Decontamination: Decontamination procedures will be considered a critical element of this contract. The Contractor will provide a detailed scientific protocol of how the sample will be decontaminated and analyzed to discern potential external contamination, and for determining and reporting samples as confirmed positive or negative.

13.0 Confirmation of Positive Results: All preliminary positive results from the initial screening must be subjected to a second test using another portion of the original sample held in reserve, and must be confirmed by GC/MS and/or Liquid Chromatography/ Mass Spectrometry (LC/MS) and any other confirmation tests (such as GC/MS/MS) in accordance with recognized standards. All confirmation analysis methods must eliminate the melanin fraction of the hair before analysis.

14.0 Confirmation Cut-off Values: Drug confirmation analysis on decontaminated digested extracts shall conform with industry standards. Currently, the NYPD employs the following values to determine a confirmed positive result. These following values shall be presumed to conform with industry standards:

- Marijuana metabolite: 1 ng/10mg of hair (11-Nor- tetrahydrocannabinol-9-carboxylic acid)
- Cocaine: 5ng/10mg of hair, and/or:
 - Benzoylcegonine at 1 ng/10mg of hair
 - cocaethylene a 1ng/10mg of hair
 - nor-cocaine at 1ng/10mg of hair
 - ecgonine methyl ester at 1ng/10mg of hair
- Opiate/synthetic narcotics and metabolites: 5ng/10mg of hair, including:
 - codeine;
 - 6-Monoacetylmorphine (heroin metabolite);
 - morphine
- Phencyclidine: 3ng/ 10mg of hair
- Amphetamines: 5ng/ 10mg of hair; including Amphetamines and methamphetamine.

15.0 Reporting Test Results: All initial screening tests must be completed and reported within 96 hours of when a sample is picked up at the location designated by the NYPD. For preliminary

positive results on samples, the required confirmatory test(s) must also be completed and reported within ten (10) days of when a sample is picked up at the designated NYPD location.

16.0 Documentation & Sample Reserve: The testing laboratory must maintain all sample records, chain of custody and sample reserve on confirmed positive samples for at least three (3) years, and maintain negative results documentation for one (1) year.

17.0 LIQUIDATED DAMAGES

It is anticipated that a liquidated damages provision will be incorporated into the final contract in the amount of **\$100 per sample** for each sample picked up by the contractor (or on behalf of the contractor) that is not tested within the time frames set forth in Section 15.0 above.

18.0 CONFIDENTIALITY

18.1 The Contractor agrees that all records, information or data which it may have access to, examine, prepare, maintain or have custody of and deliver hereunder (“Confidential Information”) shall be kept strictly confidential. The Contractor shall not at any time during the term of the Agreement, or thereafter, make any disclosure or statements or release to any third party any Confidential Information without the prior written approval of the Department.

18.2 The Contractor agrees that it will instruct its officers, employees, and agents to maintain the confidentiality of any and all Confidential Information.

18.3 Upon expiration or termination of this Agreement, the Contractor shall return to the Department any and all Confidential Information in the possession of the Contractor and permanently delete any and all Confidential Information maintained in any electronic form by the Contractor.

18.4 A breach of this section shall constitute a material breach of this Agreement for which the Department may terminate the Agreement. The Department reserves any and all other rights and remedies in the event of unauthorized disclosure.

18.5 This provision shall survive the expiration or termination of this Agreement.

19.0 SUBCONTRACTING

19.1 The Contractor shall not enter into a contract with any subcontractor for the performance of Services under this Agreement. Subcontracting is not permitted.

19.2 The Contractor shall be solely responsible for the performance and quality of all Services under this Agreement and the sole point of contact for all requirements.

20.0 CONTRACTOR PERSONNEL

20.1 The Contractor shall have in its employ, at all times a sufficient number of capable and qualified employees to enable it to complete the Services pursuant to this Agreement. The employees shall have training and demonstrated ability in the specified areas, and possess all required licenses, permits and other applicable certificates and qualifications.

20.2 In the absence of any licensing requirements by a Federal, State or City authority, the Contractor shall certify in writing that the persons involved in the performance of the work are competent to perform Services.

20.3 Within seven (7) calendar days of notification by NYPD, the Contractor shall provide certification of vocational training, or copies of licenses for each Contractor technician assigned to perform any of the services required herein.

20.4 The Contractor shall ensure that all Services required by this Agreement are satisfactorily supervised. The Contractor shall provide such supervision as is sufficient to carry out all the terms and conditions of the Agreement.

20.5 The Contractor shall designate one of its employees to function as the primary contact person. The primary contact person shall be the liaison for the Contractor for the term of the Agreement, and shall handle all issues, problems or questions arising from the performance of Services.

20.6 The DOC reserves the right to review the credentials and qualifications of any Contractor personnel providing Services pursuant to this Agreement, and to instruct the Contractor not to utilize any individuals who DOC determines to be unqualified to perform the Services.

20.7 The Contractor shall comply with all Department security rules. Contractor personnel shall wear clearly visible photo identification and shall comply with NYPD security procedures and directions.

CITY OF NEW YORK
DEPARTMENT OF CITYWIDE ADMINISTRATIVE SERVICES
OFFICE OF CITYWIDE PURCHASING

ATTACHMENT C

TITLE: DETAILED REQUIREMENTS FOR FORENSIC DRUG AND ALCOHOL COLLECTION AND ANALYSIS SERVICES FOR DEPARTMENT OF CORRECTIONS (DOC)

Following are requirements for furnishing of all labor and materials necessary and required to perform forensic drug and alcohol testing of Department of Correction employees as well as litigation support services.

1.0 SCOPE OF SERVICES

1.1 General Requirements

- 1.2 The Contractor shall provide all labor, equipment, tools materials, and supplies required to perform drug analysis of urine or blood Samples that satisfy all current scientific standards, meets generally accepted standards and the legal requirements for introduction into evidence during a legal proceeding. Pricing to include testimony at court or other proceedings.
- 1.3 The Contractor shall provide all Chain of Custody forms, sample acquisition materials (two containers per collection), reporting and any other items required for the proper collection of samples.
- 1.4 DOC will use the Contractor's preprinted chain of custody forms to submit samples to the Contractor.

2.0 TRAINING

- 2.1 The Contractor shall provide training information and services to the DOC including but not limiting to manuals, instructional video tapes, telephone consultants and, to the extent deemed necessary by the Contractor or reasonably requested by the DOC, personal or supervised instruction to explain proper sample collection and chain of custody procedures.
- 2.2 The Contractor shall provide any updated training information and services, policies and procedures and similar materials from time to time and as updated by the Contactor, unless such changes would substantially deviate from existing polices and procedures approved by DOC.

- 2.3 DOC agrees to provide the Contractor with seven (7) days prior notice regarding each order of supplies that it requires.
- 2.4 The Contractor shall monitor all deliverables and services and shall promptly notify the DOC Authorized Representative, by telephone or other means, of any failure to provide such deliverables and services in accordance with the contract schedule.
- 2.5 The Department shall determine if failure to provide such deliverables and services have caused or are likely to cause impairment to the operation of the Department or an inconvenience to the Department. If it is determined that such failure to provide deliverables and services has caused or is likely to cause such impairment or inconvenience, then the Department shall notify the Contractor in writing, and provide a cure date to the Contractor. The cure date shall provide the Contractor with a time period to resolve the situation in order to avoid liquidated damages. Decisions of the Department in this regard shall be final and shall not be arbitrary or capricious.

3.0 SAMPLE PICK-UP

- 3.1. The Department of Correction will collect, provide and deliver Samples properly prepared, identified and labeled for testing to the Contractor's laboratory during the hours of 9:00 am through 5:00 pm Monday through Friday excluding city holidays.
- 3.2 The Samples shall be transported to Contractor's laboratory facility by a DOC employee.
- 3.3 DOC shall provide all necessary equipment for transporting blood or urine Samples for testing.
- 3.4 DOC employee transporting the samples will go directly to the laboratory in order to preserve the chain of custody.

4.0 SUBSTANCE TESTING REQUIREMENTS

- 4.1. The Contractor shall **provide** the following tests, as requested by the DOC Authorized Representative:
- 4.2. The Contractor shall provide forensic urine or blood testing for the following drugs:
 - Amphetamines
 - Methadone
 - Opiates: Morphine, Codeine, 6-Monoacetylmorphine (the metabolite for heroin), and/or
 - Oxycodone

- Barbiturates
- Benzodiazepine/Oxazepam
- Cannabis (THC)
- Propoxyphene (Darvon)
- Methaqualone
- Phencyclidine (PCP)
- Cocaine
- On occasion, other illegal drugs as defined in NYS Public Health Law Section 3306, as amended.

4.3. Urine Ethanol Screen

4.4. Blood Ethanol Screen

4.5 Adulteration panel: For each urine sample tested, creatinine and specific gravity tests should also be performed. These tests are deemed to be integrity tests. The creatinine level must be between 20-350 MG/DL and specific gravity levels should not fall below 1.003. Readings outside the appropriate levels, listed above, may be an indication of possible adulteration.

4.6 The expected detection levels shall be in accordance with the United States Department of Health and Human Services regulations for the purpose of maintaining consistency in testing and reporting as well as to preclude false positives.

4.7 The Contractor shall initially test urine or blood Samples utilizing the Enzyme Multiplied Immunoassay Technique (EMIT).

4.8 All positive urine or blood results shall be automatically confirmed by Gas Chromatography/Mass Spectrometry (GC/MS) testing procedures.

5.0 SAMPLE RESULTS

5.1. The Contractor shall perform all required tests of the Samples and shall report the test results in the following manner:

5.1.1. by telephone to **the** DOC Toxicology Supervisor or designee within 24 hours after receipt of the Samples, unless such tests are subject to Section III (E) (3) below, or are urgent requests as described below in III (D)(2); and

5.1.2. by a secure electronic modem within 24 hours, unless subject to Section III (E) (3) below, to a DOC designated file transfer protocol site (FTP Database) and to a dedicated printer.

5.2 The Contractor shall establish a file transmission system, and provide and install a dedicated modem and printer in a DOC designated location within thirty (30) calendar days from the date of Notice To Proceed.

- 5.3 The Contractor may have to respond to some “stat” or urgent request where testing is conducted the same day as the Sample is delivered, and the results of these requests must be available within 2-3 hours of receipt of the Sample. This response time is applicable only if receipt of Sample is during normal business hours (M-F, 9:00 a.m.-5:00 p.m.).
- 5.4 The Contractor shall provide a list of the drug screen tests which take more than 24 hours to process and specify the processing time for such tests. Such processing time shall be the minimum time necessary to complete such tests and shall be subject to approval of the DOC.
- 5.5 All transmitted files shall be furnished in an ASCII format. The content of the transmitted file shall be furnished to the Contractor afterward. Each transmitted test report shall include but not be limited to the following information:
- Employee name and identification numbers where applicable.
 - DOC Control numbers(s)
 - Employee work location or candidate home address
 - Type of sample(s)
 - Test (s) ordered
 - Testing laboratory sample numbers(s)
 - Date/time of sample collection
 - Date/time test completed
 - Reference range and specific method
 - Testing contractor specimen number
 - Test results
- 5.6 In addition to the above information, the test report shall include any pertinent information regarding the validity of the test results.
- 5.7 The Contractor shall not charge the DOC for repeat testing on a Sample with inconclusive initial results.
- 5.8 All completed lab reports shall be reviewed and initialed by a forensic drug specialist who meets the qualifications in Section VI (B).
- 5.9 The testing laboratory shall maintain all Sample records, chain of custody records, and Sample reserve for all positive Samples for at least three (3) years from the date of testing.
- 5.10 Positive samples must be retained in their original containers in a secure freezer at a temperature below 20° degrees.
- 5.11 The integrity of negative Samples and results shall be maintained for at least (1) year from the date of testing.

6.0 TESTING

6.1 To insure proper specimen handling and test performance, the Contractor shall provide the following information to DOC upon written request:

6.1.1 Testing Methodology

6.1.2 The average monthly volume of drug or alcohol screen testing and types of tests performed by the Contractor.

6.1.3 The means, standard deviation and coefficient of variation or other applicable internal quality control data for all tests performed in accordance with Section 4.0 by the Contractor by month.

6.1.4 Results of proficiency testing from the following agencies:

- i. Centers for Disease Control
- ii. College of American Pathologists
- iii. N.Y. State Department of Health
- iv. All other regulatory agencies requiring proficiency testing

6.1.5. The address of all laboratory facilities utilized by the Contractor to perform testing services pursuant to the Agreement.

6.2 The Contractor shall provide any requested information within thirty (30) calendar days after notification from a DOC Authorized Representative by telephone or by fax. Along with each report, the Contractor shall submit a written statement certifying the accuracy of the information provided therein. The Contractor shall continue to supply quality control data on a monthly basis if so requested by the Department. In such instance, the Contractor shall provide the required reports within thirty (30) calendar days after the end of each month.

7.0 LITIGATION SUPPORT/EXPERT WITNESS SERVICES

7.1 In the event of any civil or criminal judicial or administrative proceeding, including but not limited to a challenge initiated by an individual or group questioning the accuracy or reliability of the Contractor's results and / or the chain of custody associated with such results, the Contractor shall provide all necessary litigation support, including but not limited to expert witness testimony necessary to defend and support the procedures, technology and information used in conducting the testing Services.

7.2 Documentation to be provided shall include, but not be limited to, complete analytical information, certified true copies of all chain of custody documents and general information about the Contractor's personnel and procedures. The Contractor shall provide expert witness testimony relating to the analytical accuracy, standard operating procedures and interpretation results, as well as any other information required or requested by the DOC in support of any legal action.

- 7.3 The Contractor may be required to provide telephone consultation and testimony, on-site consultation and expert testimony which shall include but not be limited to pre-trial meetings and preparation with attorneys, sequestered waiting time, trial testimony, and post- testimony work.

8.0 QUALITY CONTROL PROGRAM

- 8.1. The Contractor shall be responsible for the monitoring and inspection of all work performed to ensure compliance with the Agreement requirements. The Contractor shall establish a complete quality control program to ensure the requirements of the Agreement are provided as specified. The program shall include, but will not be limited to, the following:
- 8.1.1. An inspection system covering all services furnished by the Contractor;
 - 8.1.2. A checklist for use in reviewing performance during regularly scheduled or unscheduled inspections; and
 - 8.1.3. The results of the inspections, including documentation of all corrective action taken shall be documented in on-going inspection reports along with the names of the individuals performing the inspections. These reports shall be made available to the DOC Authorized Representative within twenty-four (24) hours of oral notification from the Contractor.
- 8.2 The Contractor shall be responsible for all work performed to ensure compliance with the Agreement requirements. The Contractor shall be responsible for correcting all Contractor deficiencies within three (3) calendar days after written or oral notification from the DOC Authorized Representative.

9.0 GENERAL TERMS AND CONDITIONS

- 9.1. All Services pursuant to this Agreement shall be performed in accordance with all applicable Federal, State, and City laws, rules, regulations and guidelines, and the Contractor shall meet or exceed industry standards.
- 9.2. The work shall be performed in accordance with the best modern practice, with materials and workmanship that meet the highest standards.
- 9.3. The Contractor shall dispose of all waste products in accordance with all applicable Federal, State, and City laws, rules and regulations.
- 9.4. All Services performed by the Contractor shall be performed as expeditiously as possible with minimal interference to Departmental operations and personnel.
- 9.5 All materials shall be delivered to the Department in original sealed containers with the manufacturers' printed labels on the containers.
- 9.6 This Agreement is not intended to create any rights in third parties other than successors and assignees of the parties.

9.7 In the event of termination of this Agreement, the Contractor shall remain liable for the full performance of all terms and conditions of this Agreement that the Contractor was obligated to perform up to the time of such termination. Any and all continuing obligations and liabilities of the Contractor under this Agreement shall survive the termination of this Agreement.

10.0 CONTRACTOR QUALIFICATIONS

- 10.1 The Contractor shall have a minimum of **five (5)** years experience in performing forensic drug screening as described in this Agreement. Individual experience as a principal, director, officer, or employee of an organization may not be used to satisfy this requirement. The Contractor shall provide at least three (3) references for **forensic drug testing as** required by this specification.
- 10.2 Laboratory supervisors and all other staff members involved in the analytical process shall have substantial experience, at least five years, in performing **forensic** drug screening and alcohol testing.
- 10.3 The Department reserves the right to inspect the facilities of the Contractor prior to award of the bid.
- 10.4 The Contractor shall possess appropriate and valid licenses from the New York State Department of Health. The analyzing laboratory shall be licensed to perform forensic toxicology analysis by New York State Department of Health. The laboratory also must be certified under the terms of the Clinical Laboratories Improvement Act (“CLIA”) and under the College of American Pathologists (“CAP”) program. The laboratory must participate in proficiency testing conducted by the National Institute of Standards and Technology, if applicable. The laboratory must maintain a level of 95% avoidance of false positive results in proficiency testing. Documentary proof of all licenses and certifications shall be provided upon request by the DOC.
- 10.5 The Contractor must maintain and certify in writing:
- 10.5.1 The ability of their testing process to remove or discern external contamination.
- 10.5.2 The ability of their experts to support tests performed under this Agreement.
- 10.5.3 Record of maintaining appropriate performance measures within the industry accepted ranges for each laboratory test listed in this Agreement for the three (3) years prior to bid submission.
- 10.5.4 Satisfactory results for all required proficiency testing for **five (5)** years prior to the bid submission.
- 10.5.5 Information concerning and certification, inspections and/or license revocations and/or suspensions.
- 10.5.6 Documented internal procedures for testing, Sample handling, quality control, record keeping, and file security. Such procedures shall be sufficient to comply with all contractual requirements.

- 10.6. If at any time during the term of this Agreement, New York City or New York State should institute a special licensing requirement for Forensic Toxicology or any other certification for evaluation of, or conducting employee drug screening, the Contractor and/ or its employees shall promptly take all steps necessary to qualify for and obtain this certification. Proof of licensing shall be provided within five (5) days form the date of receipt.

11.0 SUBCONTRACTING

- 11.1 The Contractor shall not enter into a contract with any subcontractor for the performance of Services under this Agreement. Subcontracting is not permitted.
- 11.2 The Contractor shall be solely responsible for the performance and quality of all Services under this Agreement and the sole point of contact for all requirements.

12.0 CONTRACTOR PERSONNEL

- 12.1 The Contractor shall have in its employ, at all times a sufficient number of capable and qualified employees to enable it to complete the Services pursuant to this Agreement. The employees shall have training and demonstrated ability in the specified areas, and possess all required licenses, permits and other applicable certificates and qualifications.
- 12.2 In the absence of any licensing requirements by a Federal, State or City authority, the Contractor shall certify in writing that the persons involved in the performance of the work are competent to perform Services.
- 12.3 Within seven (7) calendar **days of** notification by **DOC**, the Contractor shall provide certification of vocational training, or copies of licenses for each Contractor technician assigned to perform any of the services required herein.
- 12.4 The Contractor shall ensure that all Services required by this Agreement are satisfactorily supervised. The Contractor shall provide such supervision as is sufficient to carry out all the terms and conditions of the Agreement.
- 12.5 The Contractor shall designate one of its employees to function as the primary contact person. The primary contact person shall be the liaison for the Contractor for the term of the Agreement, and shall handle all issues, problems or questions arising from the performance of Services. **The DOC point of contact shall be the Supervisor of the Toxicology Unit.**
- 12.6 The DOC reserves the right to review the credentials and qualifications of any Contractor personnel providing Services pursuant to this Agreement, and to instruct the Contractor not to utilize any individuals who DOC determines to be unqualified to perform the Services.

12.7 The Contractor shall comply with all Department security rules. Contractor personnel shall wear clearly visible photo identification and shall comply with DOC security procedures and directions at DOC facilities.

13.0 CONFIDENTIALITY

13.1 The Contractor agrees that all records, information or data which it may have access to, examine, prepare, maintain or have custody of and deliver hereunder (“Confidential Information”) shall be kept strictly confidential.

13.2 The Contractor shall not at any time during the term of the Agreement, or thereafter, make any disclosure or statements or release to any third party any Confidential Information without the prior written approval of the DOC.

13.3 The Contractor agrees that it will instruct its officers, employees, and agents to maintain the confidentiality of any and all Confidential Information.

13.4 Upon expiration or termination of this Agreement, the Contractor shall return to the DOC any and all Confidential Information in the possession of the Contractor and permanently delete any and all Confidential Information maintained in any electronic form by the Contractor.

13.5 A breach of this section shall constitute a material breach of this Agreement for which the DOC may terminate the Agreement. The DOC reserves any and all other rights and remedies in the event of unauthorized disclosure. This provision shall survive the expiration or termination of this Agreement.

14.0 LIQUIDATED DAMAGES

14.1. If the Contractor fails to respond to a request for Services in accordance with the time frames established herein, then the Contractor shall be subject to fixed and liquidated damages of seventy five dollars (\$75.00) per test requested per calendar day or portion thereof for each calendar day that the Contractor fails to respond.

14.2. If the Contractor responds to a request for Services, but fails to submit the result of the drug testing in accordance with the time frames established herein or mutually agreed upon by the DOC and the Contractor, then the Contractor shall be subject to fixed and liquidated damages of seventy five (\$75.00) per calendar day or portion thereof beyond the established time frame that the Contractor fails to complete the Services.

14.3. If the Contractor fails to provide training information and supplies for the proper Specimen collection and chain of custody procedures in accordance with the time frames established herein, then the Contractor shall be subject to fixed and liquidated damages of twenty five dollars (\$25.00) per calendar day or portion thereof for each calendar day that the Contractor fails to provide supplies.

- 14.4. If the Contractor fails to establish a file transmission system or install a modem and printer in a DOC designated location in accordance with the time frames established herein, then the Contractor shall be subject to fixed and liquidated damages of one hundred dollars (\$100.00) per calendar day or portion thereof for each calendar day that the Contractor fails to establish the file transmission system or perform the installation.
- 14.5 If the Contractor fails to transmit the files in the format required herein then the Contractor shall be subject to fixed and liquidated damages of twenty-five dollars (\$25.00) per calendar day or portion thereof for each calendar day the Contractor fails to provide the files.
- 14.6. Such liquidated damages shall be subject to the cure procedures set forth in Section 2.5.
- 14.7. All charges for Liquidated Damages assessed to the Contractor shall be deducted from money that is due or shall become due to the Contractor from the City of New York. In the event that there is no money due to the Contractor, then the Contractor shall pay the amount of the charges due to the City of New York.

CITY OF NEW YORK
DEPARTMENT OF CITYWIDE ADMINISTRATIVE SERVICES
OFFICE OF CITYWIDE PURCHASING

ATTACHMENT D

TITLE: DETAILED REQUIREMENTS FOR DRUG AND ALCOHOL TESTING SERVICES
FOR DEPARTMENT OF TRANSPORTATION (DOT)

Following are requirements for furnishing of all labor and materials necessary and required for collection, screening, and reporting of controlled substance and alcohol tests of employees in the City of New York Department Of Transportation.

1 GENERAL INFORMATION

1.1 General Description of Work

1.1.1 The Department of Transportation (DOT) of the City of New York (the City), referred to hereinafter as "the Agency", is continuing to carry out a controlled substance and alcohol testing program for its work force, pursuant to the Omnibus Transportation Employee Testing Act of 1991, Title V of Public Law 102-143 (Omnibus Act), as codified and reenacted in Subtitle III of 49 USC 5301 (Mass Transportation). This testing program includes random, reasonable suspicion, follow-up, return-to-duty, post-accident, and pre-employment testing. The Agency maintains two (2) separate pools. One pool, (approx. 550 employees) is for titles covered by United States Coast Guard (USCG) and Federal Transit Administration (FTA). The other pool is for commercial driver's license (CDL) employees covered by Federal Motor Carrier Safety Administration (FMCSA) (approx. 1500 employees). The Agency is currently seeking a qualified Contractor to serve as a Third Party Administrator, referred to hereinafter as "the Contractor", to perform controlled substance and alcohol abuse testing services in accordance with federal regulations, set forth at 49 C.F.R. Parts 40, 382, and 655, and 46 C.F.R. Parts 4 and 16, and 33 C.P.R. 95 and any amendments thereto. If there is any conflict between the specifications, set forth herein and the federal regulations referenced above, the regulations shall govern the Contractor's performance of this Contract. in addition, if any requirement set forth in federal regulations above, has been omitted from these Contract specifications, said requirement shall be deemed included in the Contract as if it had not been omitted.

1.2 Scope of Services

1.2.1 The Contractor is required to provide all labor, material, and equipment, including a sufficient number of mobile specimen collection units, such as vans, as necessary to perform the following services associated with the controlled substance and alcohol testing: 1) collection of urine specimens for controlled substance testing and administration of alcohol breath tests in accordance with all regulations and following applicable chain of custody and testing protocol; 2) administration of screening and confirmatory alcohol breath tests, using an evidential breath testing device (EBT); 3) administration of alcohol screening devices (ASDs)

(saliva and/or breath) where appropriate (currently may use only for USCG pool following a Serious Marine Incident (SMI)), and which is approved for use by the Agency on a case by case basis; 4) transportation of specimens for testing to a laboratory located in the U.S. which is certified by United States Department of Health and Human Services (HHS) under the National Laboratory Certification Program (NLCP) for all testing required under 49 C.F.R. 40; 5) conduction of validity tests on all urine specimens; 6) controlled substance screenings of all urine specimens and required confirmatory tests; 7) review of all controlled substance screening results by a Medical Review Officer (MRO) who must be a licensed physician, and certified as an MRO; 8) transmission of all controlled substance and alcohol test results to the Agency via telephone, fax and listed on a secure website; 9) provision of a secure website which allows web access to a testing database and results which allow the Agency to be able to query using a variety of parameters; 10) provision of Collection, Screening, and Reporting of Controlled Substance and Alcohol Tests of Employees in the City of New York Department of Transportation of the documentation commonly referred to as a "litigation package", described below, as needed; 11) provision of consultation, trial preparation and expert testimony, in person or telephone depositions as required, relative to any and all phases of the Contractor's services, including but not limited to chain of custody and collection procedures, toxicology, test results, etc; 12) recordkeeping as required by the regulations and by the employer; 13) regularly scheduled calibration on all EBTs and ASDs, in accordance with regulations and manufacturer's recommendations, and recorded maintenance of such; 14) assignment of an administrative liaison to coordinate implementation and management of this Contract; 15) provision of qualified collectors to be stationed at Agency designated collection sites each week for the times set out by the Agency; 16) provision of EAP package of materials that meets USCG requirements for one hour training for tests under USCG regulations; 17) conduction of one and one half hour **EAP Training Program/Drug and Alcohol Awareness** training sessions and three hour Reasonable Suspicion training sessions, several classes of which may run consecutively; or be combined into six hour or ten hour training sessions containing a combination of both sessions; and 18) tracking of all changes in the federal regulations and informing and instructing the Agency of same in a timely manner.

- 1.2.1.1 A "litigation package" shall consist of the following:
 - 1.2.1.1.1 Laboratory Report Summary;
 - 1.2.1.1.2 Completed Laboratory Chain of Custody forms;
 - 1.2.1.1.3 Initial testing documents - Immunoassay;
 - 1.2.1.1.4 Confirmation testing documents - Gas Chromatography/Mass Spectroscopy (GC/MS); and
 - 1.2.1.1.5 All laboratory certifications and licensures.

- 1.2.1.2 The "litigation package" must be received from the Contractor within ten (10) business days from the date of the request for a standard package and within five(5) business days from the date of the request for an expedited package.

- 1.2.2 The Contractor will be required to test for the following controlled substances: marijuana, cocaine, opiates, amphetamines, and phencyclidine.
 - 1.2.2.1 Validity testing will be conducted on all specimens.

 - 1.2.2.2 All specimens identified as positive on the initial test shall be confirmed in accordance with the testing procedures set forth in 49 C.F.R. Part 40.

- 1.2.2.3 Urine specimen collections must be conducted by qualified personnel using appropriate forms, equipment and supplies, and managing the integrity of the test and testing site.
- 1.2.3 Alcohol tests must be conducted through use of an EBT which is a device listed on the Conforming Product List (CPL) issued by the National Highway Traffic Safety Administration (NHTSA). All tests which indicate misuse of alcohol must be confirmed by the Contractor in accordance with the testing procedures set forth in 49 C.F.R. Part 40.
- 1.2.4 Additionally, in accordance with 46 C.F.R. Part 4 (effective 6/20/06) Alcohol Screening Devices (ASDs), saliva or breath, may be utilized for screening tests that are now required to be performed within two hours following a Serious Marine Incident (SMI) as defined by the USCG. The use of an ASD instead of an EBT and the choice of a saliva or a breath ASD will be determined by the Agency.
- 1.2.5 The Contractor is also required to provide services incidental to testing, including generating pools (on databases) of covered employees in separate pools as specified below and randomly selecting employees to be tested from these pools by either social security number or employee ID number at the Agency's discretion; collecting urine specimens and transporting them to a certified laboratory for testing; review of controlled substance test results by a licensed physician (MRO); providing expert consultation and testimony in disciplinary proceedings and/or formal hearings; and generating, maintaining, filing and delivering all records and any reports required by federal law and the regulations or as determined by the Agency, and other information as requested by the Agency.
- 1.2.6 All controlled substance test results must be reviewed by an MRO, who shall determine whether a controlled substance test result is positive or negative. Upon a positive determination, the test result must be promptly transmitted, via telephone and fax to the Agency's Designated Employer Representative (DER) so the Agency can immediately remove the employee from the safety-sensitive position in accordance with federal regulations. Additionally, the result must be posted at the Contractor's secure website within 24 hours. In the event of an alcohol test indicating misuse of alcohol, the collector must immediately contact the DER and the Contractor so the Agency can subsequently remove the employee from the safety sensitive position.
- 1.3 Location of Testing:
- 1.3.1 Random and follow-up collections, as well as some reasonable suspicion, post-accident, return-to-duty and pre-employment testing will be performed at Agency facilities as designated by the Agency. Currently the Agency has two collection sites: one at St. George Ferry Terminal in Staten Island, and one at the Brooklyn Army Terminal in Brooklyn. Collections may occasionally occur at other Agency sites, or through the use of mobile specimen collection units provided by Contractor, or at Contractor's collection sites (which are within the five boroughs and accessible to public transportation) at the Agency's discretion.
- 1.3.2 Collections for post-accident testing shall be at either the Agency's designated testing site or other Agency location, the accident site, a medical facility in the proximity of the accident site, or the Contractor's collection site. Such testing may require a Contractor's response by

mobile specimen collection unit at the Agency's discretion; on a twenty-four (24) hour a day, seven (7) day a week basis. The Contractor will be required to provide a collector for post-accident testing at a specified location within two hours from the time of the Agency's initial notification to the Contractor.

1.4 Bidder's Qualifications

1.4.1 Only Bidders who can comply with the following should submit Bids as only such Bidders will be considered qualified:

1.4.2 All Bidders must be certified by the United States Department of Health and Human Services pursuant to Subpart C of Mandatory Guidelines for Federal Workplace Drug Testing Programs, 53 Fed. Reg. 11979, 11986 and by the National Institute on Drug Abuse. The successful Contractor must also be licensed by the New York State and New York City Departments of Health to conduct workplace controlled substance and alcohol tests. In addition, the Bidder shall have had at least five (5) years continuous experience immediately prior to the date of submission of its Bid in the management and operation of a collection service for controlled substance screening and during that time shall have satisfactorily performed or be performing at least one such Contract of a minimum testing pool of 1400 employees requiring similar type and amount/number of services, as specified in this Contract. Additionally the Bidder must have proven experience managing a U.S. Coast Guard/FTA regulated program, in addition to expertise managing a program under the FMCSA. The Bidder may fulfill this prerequisite if the Bidder can demonstrate to the satisfaction of the Agency that the persons or entities owning and controlling the Bidder have had at least five (5) years continuous experience immediately prior to the date of the submission of the Bid in the management and operation of a collection service for controlled substance screening and have actually engaged in providing said services under Contract during that time or have owned and controlled other entities which have actually engaged in providing such services during that period. The laboratory performing the testing of the samples collected must be located in the U.S. and be certified by HHS under the National Laboratory Certification Program (NLCP), and certified in New York State by the New York State Department of Health.

1.4.3 The Bidder must be able to provide the required mobile specimen collection unit services at Agency-identified work sites and accident locations within two (2) hours of notification on a twenty-four (24) hour a day, seven (7) day a week basis.

2.0 Breath Alcohol Testing

2.1 Breath Alcohol Technician (BAT) Qualifications:

2.1.1 Any BAT performing services under this Contract shall meet the qualifications set forth in 49 C.F.R. 40.

2.1.2 Contractor shall ensure that its testing procedures and training emphasize that the BAT is responsible for maintaining the integrity of the breath alcohol testing process, carefully ensuring the privacy of the employee, and avoiding any conduct or remarks that might be

construed as accusatorial or otherwise offensive or inappropriate

- 2.1.3 Contractor shall ensure that all BATs shall have training as required to carry out this function; be a certified technician and be provided detailed instructions for performance of breath alcohol testing. The BAT must successfully complete a NHTSA-approved course of instruction that provides training in the principles of EBT methodology, operation, and calibration checks. In addition, the BAT must complete training on the fundamentals of breath analysis for alcohol content, the procedures required for obtaining a breath specimen, and interpreting and recording EBT results.
- 2.1.4 The BAT must demonstrate competence in the operation of the specific EBT she/he will use. The BAT will be required to receive additional training as new or additional devices or technology are introduced, at the Contractor's expense.
- 2.1.5 The Bidder must have written procedures for calibration and record keeping of such and must furnish this to the Agency with Bid. Records of calibration must be furnished to the Agency, as requested during the length of the Contract.
- 2.2 Screening Test Technician (STT) Qualifications:
- 2.2.1 SATs and/or STTs will be required, where appropriate, to use Alcohol Screening Devices (ASDs) . Contractor must ensure that all BATS and STTs meet the qualifications and training required in the operation of ASDs, saliva and/or breath. These devices must be USDOT approved and CLIA waived and provide quantitative results. Currently, ASDs may be used only for the U.S.C.G. pool following an SMI, and which will be approved for use by the Agency on a case by case basis. The BAT and/or STTs will be required to receive additional training as new or additional devices or technologies are introduced, at the Contractor's expense.
- 2.2.2 Contractor must ensure that all BATs and STTs fill out all federal forms completely and correctly and must review such before sending to the Agency. If forms are not filled out completely or correctly, an affidavit signed by the BAT/STT must be furnished to the Agency within two (2) weeks of the date of the test.
- 2.3 Description of Breath Alcohol Testing Services
- 2.3.1 Random Selection and Testing:
- 2.3.1.1 Covered employees will be subject to random screenings equally distributed over the course of each year. Each covered employee must have an equal chance of being selected for testing. The Agency will determine the frequency of selections throughout each year on a prearranged basis. A computer selection program approved by USDOT must be used. The Contractor will be responsible for the random selection of employees to be screened. On the random controlled substance screen dates, the Contractor will ensure that a collector(s) will appear at the appropriate site(s) for the appropriate number of hours as prearranged.

- 2.3.1.2 Random selections from the pool will be conducted on a monthly or bi-monthly basis, as determined by the Agency. Yearly, the Agency will provide the Contractor with a complete roster of the testing pool. Monthly, the Agency will provide the Contractor with additions and deletions to the pool. The Contractor will be responsible to update the testing pool prior to each selection.
- 2.3.1.3 The selection process must result in a number of drug and alcohol screenings to be given, equal to the appropriate percentage of the number of covered employees each year pursuant to federal regulations. The Agency currently tests for both drugs and alcohol at a rate of approximately 100%. Therefore, all collectors must be trained and certified in both drug and alcohol testing.
- 2.3.1.4 The employees selected for random screening can be from any or all duty shifts; days, evenings and nights (including weekends). The employees will generally be called to a central location. At times, a mobile specimen collection unit will be required to go to an Agency site to be used for testing, as determined by the Agency.
- 2.3.1.5 There will be two (2) separate random selection pools. There will be one (1) pool for employees covered under USCG and FTA regulations, and one for all other covered employees under FMCSA regulations. Records for each pool shall be maintained separately.

2.3.2 Reasonable Suspicion and Post-Accident Testing

- 2.3.2.1 The Agency will notify the Contractor of the need for a reasonable suspicion or post-accident testing and will identify the employee to be tested and location where the testing will be conducted. The location may be any Agency facility identified by the Agency, and in some cases the Agency may require the Contractor to provide a mobile specimen testing unit, or other site as necessary, (including the accident site or a hospital), or a Contractor-designated testing site, at the discretion of the Agency. The Contractor will be required to provide a BAT at the identified location within two (2) hours of being notified by the Agency of the need for a reasonable suspicion or post-accident testing. A reasonable suspicion or post-accident test may be requested on any day of the year, at any time of the day or night, in any borough of New York City.
- 2.3.2.2 The Agency may also conduct reasonable suspicion tests under Agency policy for employees not covered by the above regulations and not in the above pools. All such testing will be done using non-DOT forms while observing the same protocols.

2.3.3 Return-To-Duty Testing

- 2.3.3.1 The Contractor will also be responsible for the testing of employees who are returning to duty after removal from duty due to a controlled substance or alcohol positive test result. Breath alcohol testing of these individuals shall be conducted at the request of the Agency. The testing will be conducted at the Agency's testing sites, or at the Agency's location using Contractor's mobile specimen collection unit, at the Agency's discretion. In some cases an employee may be sent to the Contractor's site within the five boroughs of New York City at the Agency's discretion during hours that will be determined.

2.3.4 Follow-up Screening Testing

- 2.3.4.1 The Agency will notify the Contractor of the need for follow-up testing and will identify the location where the testing will be made. The location may be any one of the Agency's testing sites, or at the Agency's location, and may require the use of Contractor's mobile specimen collection unit, 24 hours a day, 7 days a week, at the Agency's discretion. In some cases an employee may be sent to the Contractor's site at the Agency's discretion during hours that will be determined.

2.4 Testing Supplies & Equipment

- 2.4.1 Selected Contractor will provide all supplies for the testing site(s). The BAT(s) will bring with them to the testing site(s) the following supplies, equipment, and documents required by 49 C.F.R.40:
- 2.4.1.1 An evidential breath testing (EBT) device that is approved by the National Highway Traffic Safety Administration (NHTSA). This device must be able to distinguish alcohol from acetone at the 0.02 alcohol concentration level. It must be capable of conducting an airblank and performing an external calibration check. The EBT must produce a printed result in triplicate, or three consecutive identical copies of each breath test. It must be able to print a unique and sequential number for each completed test, with the BAT and employee being able to read the number before each test, and print the number on each copy of the result along with the manufacturer's name for the device, the device's serial number, and the time of the test.
- 2.4.1.2 Calibration and maintenance devices and records of such as required in accordance with the EBT manufacturer's NHTSA-approved quality assurance plan and federal regulation.
- 2.4.1.3 Individually sealed, disposable mouthpieces for each test.
- 2.4.1.4 Tamper-proof tape.
- 2.4.1.5 Writing Instruments - The BATS will also bring with them a portable writing surface and an indelible pen (or other instrument) suitable for legibly completing any necessary control documents.
- 2.4.1.6 Bags or other suitable containers for removal of all waste and trash related to the performance of breath alcohol testing.

2.5 Breath Alcohol Technician Responsibilities

- 2.5.1 For random and follow-up screening tests, the BAT will report to the selected work site on the day selected, with a roster of employees to be tested. Upon arrival at each facility the BAT will report to the site supervisor so that the site supervisor can arrange for the randomly selected employees to report to the testing site.

- 2.5.2 Employee notification letters will be kept on record for distribution as appropriate and must be provided by the Contractor upon request.
- 2.5.3 Stock Forms - The BAT must have for use on site the following forms:
 - 2.5.3.1 Breath Alcohol Testing Form(ATF) (Contractor to supply this form).
 - 2.5.3.2 Daily Testing Log (Agency to supply Contractor with this form).
- 2.5.4 Verify Identity - The Agency's picture identification and/or driver's license of the employee will be presented to the BAT prior to testing. If no picture identification is available, verification of identity by the immediate supervisor or DER, or Agency designated personnel will be permissible. The testing will not proceed until identification can be verified.
 - 2.5.4.1 After verifying employee identity, the BAT will explain the testing procedures to the employee, at which time the employee and BAT must complete, date, and sign the Breath Alcohol Testing Form, indicating that the employee is present and providing a breath specimen. The BAT will then open an individually sealed, disposable mouthpiece in view of the employee and attach it to the EBT, and instruct the employee to blow forcefully into the mouthpiece for at least six seconds, or until an adequate amount of breath has been obtained. Following the screening test, the BAT must show the employee the result displayed on the EBT or the printed result.
- 2.5.5 The BAT will be responsible to ensure that the privacy requirements set out in the regulations are met for each test. If it is not possible to meet them, the BAT will notify the DER immediately.
 - 2.5.5.1 If the result of the screening test is an alcohol concentration of less than 0.02, no further testing is required and the test will be reported to the Agency as a negative test.
 - 2.5.5.2 If the result of the screening test is an alcohol concentration of 0.02 or greater, a confirmatory test must be conducted at least 15 minutes, but not more than 30 minutes, after the completion of the screening test. The BAT shall inform the employee of the need to conduct a confirmation test, and shall remain with the employee and the EBT until that test is completed.
 - 2.5.5.3 Before the confirmation test is administered, the BAT shall conduct an airblank on the EBT. If the reading is greater than 0.00, the BAT shall conduct one more airblank. If the second airblank reading is greater than 0.00, the EBT must not be used to conduct the test.
 - 2.5.5.4 The confirmation test will be carried out using the same procedures as used in the initial screening test, with a new mouthpiece. If the initial and confirmatory tests provide conflicting readings, the reading of the confirmatory test will be considered to be the final result.
 - 2.5.5.5 The BAT and employee will sign and date the breath alcohol testing form, to which the BAT will attach the printed test result with tamperproof tape, unless the results are printed directly on the form.
 - 2.5.5.6 The BAT will ensure that all alcohol tests proceed as directed by the regulations.

- 2.5.5.7 In the case of an employee who is unable to provide a sufficient quantity of breath specimen, the BAT will contact the DER. The DER will then direct the employee to a medical evaluation by the MRO or a physician acceptable to the MRO who has expertise in the medical issues raised by the employee's failure to provide a sufficient specimen. The MRO may perform this evaluation if the MRO has the appropriate expertise. This medical evaluation must be conducted within five (5) business days.
- 2.5.5.7.1 It may be required that examinations be conducted within the five boroughs of NYC, at the discretion of the Agency.
- 2.5.6 Reporting – All results will be transmitted immediately and confidentially to the DER.
- 2.5.7 Note Failure to Cooperate - If the employee refuses to cooperate with any step of the testing process, the BAT will inform the DER. In addition, the BAT may inform the Drug and Alcohol Testing Coordinator at the site, or the site supervisor, (if appropriate), as directed by the Agency. Notation of the non-cooperation will be made on the ATF by the BAT and then a copy transmitted immediately to the DER; and the test will be ended.
- 2.5.8 Upon completion of the random testings for the day, the BAT shall clean up and remove from the testing site all waste and trash generated as a result of the breath alcohol testing.
- 2.5.8.1 The collector shall deliver to the attention of the DER, via immediate fax, the ATFs and the Daily Testing Log to include employees tested and those unavailable for testing. Originals of all ATFs must be delivered to the DER within one week of test.
- 2.5.9 The BAT will be solely responsible for ensuring the security of all equipment, supplies, and completed paperwork involved in the breath alcohol testing process.
- 2.6 Reasonable Suspicion and Post-Accident Testing Program
- 2.6.1 The Contractor will also be responsible for performing breath alcohol tests as part of the Agency's reasonable suspicion and post-accident testing program. The Contractor will be responsible for the following:
 - 2.6.1.1 Providing a BAT at any of the facilities identified by the Agency, or other site as necessary, within two (2) hours of being notified by the Agency of the need for a reasonable suspicion or post-accident testing. There may be occasions that will require the Contractor to send a mobile specimen collection unit.
 - 2.6.1.2 BAT shall have all documents, all testing supplies, equipment and documents to proceed with a testing.
 - 2.6.1.3 All testing and transportation procedures shall be identical to those applicable to random testings.

2.7 Return-To-Duty Screening

- 2.7.1 The Agency will inform Contractor of the need for a breath alcohol test. Tests will be conducted, either at the Agency's location, or the Contractor's location, Monday through Friday during normal business hours, at the discretion of the Agency.
- 2.7.2 The BAT will have all documents and supplies as herein described to proceed with the testing(s).

2.8 Response Time

- 2.8.1 The Contractor must conduct breath alcohol tests in accordance with the procedures contained herein.
- 2.8.2 The Contractor must guarantee that upon notification of the need for a reasonable suspicion or post-accident testing, a BAT will respond to the identified location as directed within two (2) hours of being notified with all required supplies, equipment and documents to conduct a testing in accordance with these procedures.

3 URINE COLLECTION

3.1 Collectors' Qualifications

- 3.1.1 Contractor shall ensure that all collectors meet the qualifications and have the training and experience as required by 49 C.F.R. 40 to carry out this function; be a licensed medical professional or technician and be provided detailed instructions for collection of specimens.
- 3.1.2 Contractor shall ensure that its collection procedures and training emphasize that the collector is responsible for maintaining the integrity of the specimen collection and transfer process, carefully ensuring the modesty and privacy of the donor, and avoiding any conduct or remarks that might be construed as accusatorial or otherwise offensive or inappropriate.
- 3.1.3 Contractor shall ensure that male collectors will be available to carry out observed collections of specimens from male employees (where required), and that female collectors will be available to carry out observed collection of specimens from female employees (where required).
- 3.1.4 Contractor must ensure that all collectors fill out all federal forms completely and correctly and must review such before sending to the Agency. If forms are not filled out completely or correctly, an affidavit signed by the collector must be furnished to the Agency within two (2) weeks of the date of the test.

3.2 Description of Service

3.2.1 Random Collections

The Contractor will be responsible for the collection, transportation and laboratory analysis of specimens collected pursuant to the Agency's random collection testing program. This work will be performed by an appropriately trained and certified collector.
(See Section 2.3.1 for additional information)

3.2.2 Reasonable Suspicion and Post-Accident Collection

3.2.2.1 The Contractor will be responsible for the collection, transportation and laboratory analysis of specimens collected pursuant to the Agency's reasonable suspicion and post-accident program. This work will be performed by an appropriately trained and certified collector.
(See 2.3.2 for additional information)

3.2.2.2 The Agency may also conduct reasonable suspicion tests under Agency policy for employees not covered by the above regulations and not in the above pools. All such testing will be done using non-DOT forms while observing the same protocols.

3.2.3 Pre-Employment and Return-To-Duty Collection

3.2.3.1 The Contractor may also be responsible for the collection, transportation and laboratory analysis of urine specimens from prospective employees who are required to be screened prior to employment, and will be responsible for testing employees who are returning to duty after removal from duty due to a controlled substance or alcohol-related positive test result. Urine collections from these individuals shall be conducted at the request of the Agency. The collection will be made at the Agency's testing sites or at the Agency's location, or may require the Contractor's sending a mobile testing unit, at the Agency's discretion. In some cases an employee may be sent to the Contractor's site at the Agency's discretion during hours that will be determined.

3.2.4 Follow-up Screening Collection

3.2.4.1 The Contractor will be responsible for the collection, transportation and laboratory analysis of specimens collected pursuant to the Agency's follow-up testing program. This work will be performed by an appropriately trained and certified collector.

3.2.4.2 The Agency will notify the Contractor of the need for follow-up testing and will identify the location where the collection will take place. However, Contractor may be asked to manage the Agency's follow-up testing program to ensure that all follow-up testing is carried out in an appropriate and timely manner. Testing may be conducted at the Agency's testing sites or at the Agency's location, or may require the use of the Contractor's mobile testing unit, 24 hours a day, 7 days a week, at the Agency's discretion. In some cases an employee may be sent to the Contractor's site at the Agency's discretion during hours that will be determined.

3.3 Collection Supplies & Equipment

- 3.3.1 Selected Contractor's certified laboratory will provide all supplies for the collection site(s)• The collector(s) will bring with them the following supplies, equipment, and documents needed for each collection (as provided by certified Laboratory) including the appropriate collection cups, specimen bottles, Federal Drug Testing Custody and Control Forms (hereinafter C.C.F.), shipping cartons, etc. The collector will also be responsible for buying all other supplies such as tamper proof tape, bluing agent, bottled water in 8 or 10 oz. bottles, etc.
- 3.3.2 The Collector will also be responsible for any bags or other suitable containers for removal of all waste and trash related to the performance of urine sample collection.
- 3.3.3 A supply of bottled water in 8 or 10 oz. sizes for employee fluid intake must be furnished by the Contractor at all testing sites of the Agency or the Contractor, in accordance with federal regulations. The Contractor will also provide hand wipes for employee hand washing.

3.4 Collector Responsibilities

- 3.4.1 The Agency may provide trailers at Agency designated testing site(s). For collections at Agency Facilities other than designated testing sites, the Contractor may be required to provide a mobile collection facility, as determined by the Agency.
- 3.4.2 The mobile collection unit must contain a private enclosure for urination with a toilet. The site will also have a sink for hand washing or if there is no sink, hand wipes must be provided by the Contractor. There must also be sufficient space for the collector to establish a clean surface for writing within close proximity of the restroom and for use of the EBT. It will also have a small waiting area.
- 3.4.3 For most random and follow-up screening collections, the collector will report to the Agency testing site or other selected work site during specific time periods to be designated by the Agency, in coordination with the Contractor on the day selected, with a roster of employees to be tested. The number of employees on the roster will be coordinated between the Agency and the Contractor. The collector will report to the site supervisor so that the site supervisor can arrange for the randomly selected and follow-up employees to report for testing. At the Contractor's collection site, a collector or site supervisor must inform the Agency the time of the employee's arrival and completion of the test.
- 3.4.4 Inspection of Collection Room - The collector shall inspect the collection rooms before and after each specimen collection takes place. No soap or other foreign materials will be in the toilet area, behind the enclosure or in the water reservoir.
- 3.4.4.1 The collector shall ensure that access to the site will be restricted and secured immediately prior to and during specimen collection. A bluing agent supplied by collector will be added to toilet water by collector. Other source(s) of water (such as sinks) located within the privacy enclosure where urination will occur shall be secured by the collector in accordance with federal regulations.

- 3.4.5 Verify Identity - The Agency's picture identification and/or driver's license of the employee will be presented to the collector prior to collection. If no picture identification is available, verification of identity by the immediate supervisor or DER, or Agency designated personnel will be permissible. The collection will not proceed until identification can be verified.
- 3.4.5.1 If any employee fails to arrive as scheduled, or if a specimen is not obtained, the collector will notify the DER. When necessary, and/or in the absence of the Drug and Alcohol Testing Coordinator, the collector will complete and sign the Daily Testing Log to include employees tested and those unavailable for testing. This log will be forwarded to the DER and a copy retained by the Contractor.
- 3.4.6 Check Personal Belongings - The collector shall request the employee to remove all outer garments, such as coats, sweaters and vests. In addition, the employee will be asked by collector to remove the contents of pockets and to leave purses, briefcases, and other personal belongings with the outer garments. The employee will be allowed to hold her/his wallet. The employee will be allowed the use of a lockbox for small personal belongings as requested, which will be furnished by the Contractor for all mobile collections. The Agency will furnish this at Agency designated sites. The employee will be requested by collector to rinse her/his hands and thoroughly dry them, either by using a sink in the collection area or using hand wipes. Collectors will explain to employees that these are requirements of federal regulations.
- 3.4.7 Stock Forms - The collector must have for use on site the following forms:
- 3.4.7.1 Federal Drug Testing Custody and Control Form (C.C.F.) (Contractor to supply this form).
- 3.4.7.2 Daily Testing Log (Agency to supply Contractor with this form).
- 3.4.8 Verify Specimen Integrity - The specimen collection will not be observed, unless the collector is otherwise directed per federal regulations to do so, and after informing the Agency.
- 3.4.8.1 In the case of an employee who is unable, after allowance of the time set out in federal regulations, to provide a sufficient quantity of specimen, the collector will contact the DER and the Agency. The Agency will then direct the employee to a medical evaluation by the MRO or a physician acceptable to the MRO who has expertise in the medical issues raised by the employee's failure to provide a sufficient specimen. The MRO may perform this evaluation if the MRO has the appropriate expertise. This medical evaluation must be conducted within five (5) business days. It may be required that examinations be conducted within the five boroughs of NYC, at the discretion of the Agency.
- 3.4.9 Note Failure to Cooperate - If the employee refuses to cooperate with any step of the collection process, the collector will inform the DER, the Drug and Alcohol Testing Coordinator, and the site supervisor (if appropriate). Notation of the non-cooperation will be made on the C.C.F. by the collector; and then a copy transmitted immediately to the DER; and the test will be ended.
- 3.4.10 The collector will follow all procedures for sealing and labeling specimens and completion of all forms pursuant to federal regulations.

- 3.4.11 Form Distribution by collector - Part 1 of the C.C.F. shall be affixed to the specimen bottle. Part 2 shall be forwarded to the MRO. Part 5 shall be given to the employee. Part 3 shall be retained by the collector. Part 4 of the C.C.F. shall be delivered to the DER via fax within 24 hours or during the next business day. The original employer copy will be delivered to the Agency within one week of the test determination.
- 3.4.11.1 Upon completion of the random collections for the day, the collector shall clean up and remove from the testing site all waste and trash generated as a result of the urine sample collection. The collector will also send to the DER via immediate FAX, the Daily Testing Log, as directed by the Agency.
- 3.4.12 The collector will be solely responsible for assuring the security of all equipment, supplies, specimens, and completed paperwork involved in the urine collection.
- 3.5 Reasonable Suspicion and Post-Accident Testing Program
- 3.5.1 The Contractor will also be responsible for performing specimen collections and laboratory testing as part of the Agency's reasonable suspicion and post-accident testing program. The Contractor will be responsible for the following:
- 3.5.1.1 At the discretion of the Agency, the collector will appear at the designated location within two (2) hours of being notified by the Agency of the need for a reasonable suspicion or post-accident collection. On occasion the Agency may require the Contractor to designate an appropriate local collection facility within the five boroughs of New York City or provide a collector at any Agency facility; or other site as necessary (including a hospital), or to bring a mobile specimen collection unit to an Agency site when appropriate.
- 3.5.2 Collector shall have all documents and supplies as heretofore described in Section 3.3 to proceed with a collection.
- 3.5.3 All collection and transportation procedures shall be identical to those applicable to random controlled substance testing collections.
- 3.6 Pre-Employment and Return-To-Duty Screening
- 3.6.1 The Agency will notify Contractor of the need for a collection and laboratory test. Collections will be made at the Agency's testing sites or at the Agency's location, and may on occasion require the use of the Contractor's mobile specimen collection unit, at the Agency's discretion. In some cases an employee may be sent to the Contractor's site at the Agency's discretion during hours that will be determined.
- 3.6.2 The collector will have all documents and supplies for random collection to proceed with the collection(s).

3.7 Reasonable Suspicion and Post-Accident Screening

3.7.1 The procedure for collecting and transporting of reasonable suspicion and post-accident specimens shall be identical to the procedure for random controlled substance testing collection and transportation, pursuant to regulations.

3.8 Response Time

3.8.1 The Contractor must procure specimens in accordance with the procedures contained herein.
 3.8.2 The Contractor must guarantee that upon notification of the need for a reasonable suspicion or post-accident collection, a collector will respond to the identified location as directed within two (2) hours of being notified with all required supplies, equipment and documents to conduct a collection in accordance with these procedures.

4 LABORATORY REQUIREMENTS

4.1 General Description of Laboratory Services

4.1.1 The certified laboratory will provide urine testing required as part of the Agency's Controlled Substance Testing Program. Each specimen will be analyzed at a U. S. laboratory certified by HHS under the National Laboratory Certification Program (NLCP) and the New York State Department of Health, and will be tested for the presence of the compounds, substances or controlled substances listed below, and the results will be forwarded to the relevant Agency as described below. The laboratory must follow all protocol and procedures pursuant to federal regulations.

4.2 Estimated Quantity of Tests

4.2.1 The following table lists the estimated number of urine sample screenings expected to be performed per year, for both the CDL pool and the USCG/ETA pool:

TYPE OF SCREENING	NUMBER OF SCREENINGS
I Pre-Employment	550
II Random Testing	2150
III Reasonable Suspicion	45
IV Post-Accident	115
V Return To Duty/Follow-Up	260
TOTAL:	3120

4.3 Testing

4.3.1 All testing shall be in accordance with standards set by the U.S. Department of Health and Human Services(HHS) under the National Laboratory Certification Program (NLCP). The detection levels shall be in accordance with the provisions of USDOT 49 C.F.R. Part 40. These concentration levels may be modified from time to time by publication in the Federal Register. Initial screen will be by enzyme multiplied immunoassay testing (EMIT) with all presumptive positives confirmed by gas chromatography-mass spectrometry (GC-MS).

- 4.3.2 The selected laboratory will also conduct validity testing in compliance with federal regulations.
- 4.3.3 Upon a positive initial screen (EMIT), a confirmatory test shall be conducted by using a gas chromatography/mass spectrometry (GC/MS) at the levels as previously set forth herein.
- 4.3.4 Both the (EMIT) initial test and the (GC/MS) confirmatory test shall test for the following five drugs or classes of drugs: Marijuana metabolites, Cocaine metabolites, Amphetamines, Opiate metabolites, and Phencyclidine (PCP).
- 4.3.5 The laboratory shall utilize one of the two specimen bottles for the (EMIT) initial test and the confirmatory test (GC/MS). In the case of a positive result, the second bottle shall be retained by the laboratory in frozen storage for a period of at least one year, extendable at the request of the Agency and indefinitely if legally challenged, and be made available for retest upon request of the Agency employee.
- 4.4 Laboratory Reporting
- 4.4.1 The laboratory shall report all test results to the MRO, in the form and manner set forth in federal regulations.
- 4.4.2 A specimen which is confirmed positive will upon request of the employee be delivered to a laboratory identified in the request for retesting, at the employee's expense. The employer will be responsible if the employee does not pay. All appropriate documents including, but not limited to chain of custody shall be maintained by the Contractor. Upon notification of a request by the employee for a retest, the laboratory shall make available to the retesting laboratory the specimen bottle with seal intact on Part 1 along with required documentation and chain of custody papers.
- 4.4.3 The laboratory shall provide a semi-annual statistical summary of testing (said report shall contain no information personally identifying any employee). This summary should contain the following information:
- 4.4.3.1 Initial testing (EMIT) - number of specimens received, number of specimens reported out, number of specimens screened positive.
- 4.4.3.2 Confirmatory testing (GC/MS) - number of specimens received for confirmations, number of specimens confirmed positive.
- 4.4.4 The laboratory shall have available qualified personnel to testify as to the collection, chain of custody, testing procedures and all matters relating thereto, in an administrative or disciplinary proceeding if based upon a positive result reported by the laboratory.
- 4.5 Results of Initial Tests, Confirmatory Tests, and/or Quality Control Data
- 4.5.1 Negative results are to be available to the MRO within twenty-four hours after receipt of the specimen at the laboratory's testing facility.

- 4.5.2 Positive results are to be available to the MRO within 48-72 hours after receipt of the specimen at the laboratory's testing facility.
- 4.5.3 Holidays and weekend work schedules may alter the availability of results as described above.
5. MEDICAL REVIEW OFFICER (MRO)
- 5.1 The Contractor will provide an MRO, who shall be a licensed medical doctor who is certified as an MRO who not only has a knowledge of substance abuse disorders, but who also has been trained to interpret and evaluate laboratory test results in conjunction with an employee's medical history. The MRO is responsible for contacting any employee whose controlled substance screening returns a positive or questionable result. The MRO shall verify positive test results pursuant to federal regulations. This review shall be performed by the MRO prior to the transmission of the results to Agency. The MRO review shall include review of the chain of custody to ensure that it is complete and sufficient on its face. The duties of the MRO with respect to negative results are purely administrative. The MRO will also be responsible for referring employees who are unable to provide sufficient urine or breath samples, for a medical evaluation by the MRO or a physician approved by the MRO within five (5) business days.
- 5.2 MRO Responsibilities
- 5.2.1 The MRO may verify a test as positive without having communicated directly with the employee about the test in circumstances pursuant to federal regulations.
- 5.2.2 Following verification of a positive test result, the MRO shall refer the case to the DER for further handling.
- 5.2.3 In the following circumstances, the MRO shall determine after consultation with a Substance Abuse Professional (SAP) that an employee has demonstrated successful compliance to a referred education and/or treatment program for drugs and/or alcohol and can return to the performance of her/his safety sensitive duties:
- 1.The employee is covered under the U.S.C.G. regulations; and
 - 2.The SAP has notified the MRO that the employee has demonstrated successful compliance to the referred education and/or treatment program and can return to the performance of her/his safety sensitive duties.
- After consultation with the SAP, the MRO will notify the Agency in writing if the employee can resume her/his safety sensitive duties.
- 5.2.4 Disclosure of information. Except as provided below, the MRO shall not disclose to any third party medical information provided by the individual to the MRO as a part of the testing verification process. The MRO shall disclose such information to the Agency's DER if:
- 5.2.4.1 In the MRO's reasonable medical judgment, the information could result in the employee being determined to be medically unqualified under an applicable Agency rule; or

- 5.2.4.2 In the MRO's reasonable medical judgment, the information indicates that continued performance by the employee of her/his safety-sensitive function could pose a significant safety risk.

6 ADMINISTRATIVE AND OTHER REQUIRED SERVICES

6.1 Supplies

- 6.1.1 All supplies and documents required for the collection, identification and transportation of specimens will be provided by Contractor except as specifically set forth herein.

6.2 Chain of Custody

- 6.2.1 The Contractor will provide and maintain compliance with chain of custody procedures and in accordance with federal law. Such procedures are those designed to disclose attempts toward specimen tampering. Specimens arriving at the testing site showing signs of tampering will be considered void and unqualified for testing.

6.3 Reporting of Alcohol and Drug Test Results

- 6.3.1 The Contractor and laboratory must maintain employee test records in strict compliance with all applicable laws and regulations.

- 6.3.2 Contractor shall post all Agency negative test results to the Agency via a secure website within 24 hours of determination. Additionally, all positive results must be telephoned and faxed immediately to the DER following procedures set out between the Agency and Contractor. Positive test results must also be posted on the Contractor's secure website as soon as possible, but no later than 24 hours after determination.

6.4 Reporting of Alcohol Testing Forms and the Chain of Custody Forms

- 6.4.1 Hard-copy - The Contractor shall provide the Agency with the original or a certified true copy of the alcohol testing form(s) and custody and control form(s) within one week of the test result determination.

6.5 Expert Witness Testimony

- 6.5.1 The Contractor shall appear and provide expert witness testimony, (by MRO, laboratory personnel, Contractor's administrative personnel and/or collectors), at any disciplinary proceeding, court, or administrative hearing resulting from controlled substance and alcohol testing, upon reasonable notice from the Agency. (see definition of reasonable notice below)
- 6.5.2 For MRO and laboratory scientific personnel, an expert witness must be available in person to testify on the date of hearing/trial, etc. which may be scheduled on any day of the week from Monday-Friday, 9 a.m. to 5 p.m. Reasonable notice shall be with four (4) weeks notice. Compensation will be paid at a rate of eight (8) hours per session. If the hearing/trial is cancelled without giving the Contractor's expert witness three (3) weeks notice, the Agency

will be billed by the Contractor for eight (8) hours of expert witness testimony (in person). In certain cases, it will be paid by the hour, as determined between the Agency and the Contractor.

6.5.2.1 For expert witness testimony by Contractor's administrative personnel and collectors/BATs, STTs, three (3) weeks' notice will be given. If the hearing/trial is cancelled without giving the Contractor one (1) week notice, the Agency will be billed by the Contractor for the specified hours of expert witness testimony (in person).

6.5.3 When and if possible, we will schedule MRO and laboratory scientific personnel expert witnesses for telephone testimony for a hearing. Compensation for telephone testimony will be paid at four (4) hour per session rate. If the hearing/trial must be cancelled without giving the Contractor three (3) weeks' notice, the Agency will be billed by the Contractor for four (4) hours of expert witness testimony by telephone.

6.5.4 In addition, trial preparation will be required for all challenges and such prep may be conducted by telephone or in person as determined by the Agency. Such preparation will be paid in 30 minute increments.

6.6 Secure website for Reporting

6.6.1 The secure website must allow the Agency access to a testing database and results from which the Agency must be able to query using a variety of parameters, such as by: name, social security number or employee ID number, test date, test result, type of test, type of result, etc.

6.7.1 Training Cancellation Policy

The Agency will provide the Contractor with a one (1) week in advance notice of cancellation for scheduled one and one half (1½) hour Drug and Alcohol Awareness and three (3) hour Reasonable Suspicion for Supervisors Training, or a combination thereof, at no charge to the Agency. If less than one (1) week notice is given to the Contractor, the Agency will incur the cost of the scheduled training.

6.7.2 EAP Training Program/Drug & Alcohol Awareness Training and Reasonable Suspicion Training for Supervisors

The 1-1/2 hour EAP Training Program/Drug & Alcohol Awareness Training conforms to USCG and FTA regulations for training of all employees subject to testing pursuant to 46 CFR Part 16.401 and 49 CFR Part 655.14 which requires covered employees to receive at least 60 minutes of training on the effects and consequences of prohibited drug use on personal health, safety, and the work environment, and signs and symptoms that may indicate prohibited drug use. It will also include information on federally mandated testing requirements; the testing procedures for random alcohol and controlled substance testing; and the ramifications of positive test results.

- 6.7.3 Reasonable Suspicion Training for Supervisors of employees performing safety sensitive functions is mandated by federal regulations (49 CFR Parts 382.603 and 655.14) and requires 60 minutes of training on alcohol misuse and 60 minutes of training on controlled substances use. In addition, information on federal testing requirements and regulations that apply to reasonable suspicion testing; the procedure for initiating reasonable suspicion testing; and required documentation is also presented.
- 6.8 Package of Materials meeting the USCG requirement for one hour of training
- 6.8.1 The Contractor will provide an "EAP package of educational materials" that meets the USCG requirement to provide one hour of training to all employees subject to testing under USCG regulations. One copy will be furnished to the Agency who will make copies for distribution to USCG regulated personnel. This package of materials will be updated annually for an annual distribution by the agency.
- 6.9 Records to be Maintained and Prepared
- 6.9.1 The Contractor shall retain the following records in a secure location with controlled access: records of employee alcohol test results, records of covered employee verified positive and negative controlled substance tests results, documentation of refusals to take required controlled substance and alcohol tests, records relating to the collection process, collection logbooks, documents related to the random selection process, MRO documents, records relating to test results, records relating to medical evaluations, a copy of the custody and control form, and calibration documentation for evidential breath testing devices. In addition, the Contractor shall be responsible for maintaining and updating employee rosters for each of the two pools of covered employees. All such records and documents, or true and accurate copies thereof, shall be turned over to the Agency within 15 days of the conclusion of the initial Contract period.
- 6.9.2 The Contractor will also be required to maintain and provide on a monthly and calendar-year basis a summary of tests performed and results reported for each of three categories: one for employees tested under Federal Motor Carriers Safety Administration (FMCSA); one for employees tested under U.S. Coast Guard (USCG) regulations and Federal Transportation Administration (FTA) regulations; and one for employees not covered by the aforementioned regulations, but tested in response to reasonable suspicion under the Agency policy.
- 6.10 Coordination of Activities - Administrative Liaison
- 6.10.1 All activities described herein will be coordinated by Contractor personnel, who will assume responsibility for setting up each dedicated Agency site to ensure that all aspects of supply, specimen collection, invoicing, and collection orientation are properly implemented.
- 6.10.2 The Contractor will assign an administrative liaison(s) to work with the Agency to facilitate the controlled substance and alcohol testing process, to work on maintaining and updating pool lists, to ensure acceptable implementation of this program, to monitor all forms for correctness and timely forwarding to the Agency, and to address any problems or concerns which may arise.

- 6.10.3 The liaison(s) must have a minimum four (4) years of experience in coordinating large Contracts of this type. The liaison(s) must have a thorough knowledge of federal drug and alcohol testing regulations, and shall develop a working knowledge of the Agency's operations in order to ensure that program implementation impacts minimally on Agency productivity.
- 6.10.4 The liaison(s) will serve as the primary contact between the Agency and the Contractor, and will be available to meet with Agency personnel on an ongoing basis as needed, and will be accessible by telephone 24 hours a day, 7 days a week, in case an emergency response is needed.
- 6.10.5 The Contractor will provide the Agency with annual summary and statistic information necessary to allow the Agency to complete any and all federally mandated annual reports related to the program covered by this Contract.
- 6.10.6 The Contractor will provide the Agency telephone numbers for contacting the MRO and administrative liaison(s). In addition, the Contractor will provide the Agency with 24-hour a day, 7 days a week toll-free numbers for requesting reasonable suspicion and post-accident testing. The Contractor will also provide a live manned number available 24/7 as a back-up.
- 6.11 Consultation
- 6.11.1 Consultations may be required to give expert information (medical, legal, regulatory) to assist Agency in better understanding issues or ways to present legal cases, medical information, etc. Telephone consultations will be compensated by 30 minute intervals and in person consultations will be based on intervals of four hours. This would be consultation above and beyond regular conversations/meetings to gather or exchange information relative to new and existing regulations/ management of program, test results, etc.
- 6.12 Presence of Collectors at DOT Designated Sites for Set Periods Each Week
- 6.12.1 The Agency will require the Contractor's collectors to conduct testing at Agency designated sites for set time periods each week, to be determined between the Contractor and the Agency in each previous week. The Agency requires a collector to be stationed at our testing site at St. George Ferry Terminal, Staten Island for a minimum of 2 - 3 sessions per week, generally 3-4 hours per testing session, at the discretion of the Agency. This will include day, evening and/or overnight sessions, weekday and weekend. The hours will be dependent on the schedules of those employees who are randomly selected from our pool covered by the USCG and FTA. Additionally, the Agency requires a collector to be stationed at our testing site at the Brooklyn Army Terminal, Brooklyn, for a minimum of 2 - 3 sessions per week, generally 3-4 hours per testing session, at the discretion of the Agency. This will include morning and evening sessions, weekday and weekend. The number of tests that can be conducted each session will be determined by the Agency. The Agency will pay an hourly rate for the collectors in addition to a per test price. The collectors will register their time at these sessions by signing or clocking in and out, or by other means as determined by the Agency.

6.13 Post-Accident Testing

6.13.1 Following an SMI, when the employee involved is brought to a hospital, the employer may arrange for entry to the hospital to perform required drug and alcohol tests. In certain cases where entrance into the hospital for this purpose is not allowed by the hospital, we may expect the Contractor to dispatch a collector to arrive within 2 hours to the site designated by the employer to await the employee's release from the hospital. This will be determined by the Agency. We will pay a waiting charge for the time that the employee has to wait to encompass a total time from the time the collector arrives at the designated site until the time the first test begins. The rate for this waiting time will be paid in 30 minute increments.

6.14 Provision of EBT

6.14.1 The Agency may at a future time ask the Contractor to station an EBT on the Staten Island and/or Manhattan side of the Staten Island Ferry for use by the Contractor's collectors, as well as by certain Agency employees who will use this equipment under certain conditions to enable the Agency to meet the USCG 2 hour rule for alcohol testing following a serious marine incident. The Contractor will be responsible for the care, maintenance and calibration of such equipment in a time frame as set out by the manufacturer of the equipment and in accordance with federal regulations. The Contractor will provide certification training on such equipment to Agency personnel, as required by the Agency.

6.15 ASD Training

6.15.1 The Agency will require the Contractor to provide training on ASDs, saliva or breath to Agency personnel as requested by the Agency. Currently the Agency is using ASDs only for our USCG/FTA pool.

6.16 Document Preparation

6.16.1 There may be occasions where the Agency will request the provision of documents related to its drug and alcohol testing program, test challenges, audits or other regulatory requests. These will be separate from the routinely required documents relative to all facets of a testing program. When such documents are requested and deemed by the Agency to be outside the routine scope of such a testing program, the Agency will pay an hourly rate for the preparation of such documents.

GLOSSARY OF ABBREVIATIONS

- Alcohol Screening Devices (ASD)
- Breath Alcohol Technician (BAT)
- Breath Alcohol Testing Form (ATF)
- Commercial Driver's License (CDL)
- Conforming Product List (CPL)
- Department of Transportation (DOT)
- Designated Employer Representative (DER)
- Enzyme Multiplied Immunoassay Testing (EMIT)
- Evidential Breath Testing Device (EBT)
- Federal Drug Testing Custody and Control Forms (C.C.F.)
- Federal Motor Carrier Safety Administration (FMCSA)
- Federal Transit Administration (FTA)
- Gas Chromatography/Mass Spectroscopy (GC/MS)
- Medical Review Officer (MRO)
- National Highway Traffic Safety Administration (NHTSA)
- National Laboratory Certification Program (NLCP)
- Screening Test Technician (STT).
- Serious Marine Incident (SMI)
- Substance Abuse Professional (SAP)
- United States Coast Guard (USCG)
- United States Department of Health and Human Services (HHS)

ATTACHMENT E
COMPLIANCE WITH MINIMUM QUALIFICATION REQUIREMENTS AND BACK-UP DOCUMENTATION
BID # 1200534 / Title: Drug Testing Services, Citywide

BIDDER:

Name: _____

Address: _____

Tax Identification #: _____

Authorized Representative:

Name: _____

Title: _____

Signature: _____

Telephone #: _____

All Bidders must supply information listed below. Check applicable boxes and append the documentation to APPENDIX A.

- 1. A copy of the current valid NYSDOH permit to operate a laboratory to perform drug testing on hair samples is appended to Attachment A.
- 2. A copy of the application to the NYSDOH for a permit to operate a laboratory to perform drug testing on hair samples is appended to Attachment A.
- 3. Copies of current licenses, certifications and/or permits, if any are appended to Attachment A.
- 4. Copy of laboratory evaluation reports from the NYSDOH's Clinical Laboratory Evaluation Program, if any, for the last 5 years is appended to Attachment A.
- 5. Copies of all certifications, accreditations, licenses and permits are appended to Attachment A.
- 6. Copy of the Standard Operating Procedures for conducting the requisite tests.
- 7. Flow chart of drug testing process is appended to Attachment A.
- 8. List of current clients is appended to Attachment A. - (Use attached Qualification Form for Past Experience)
- 9. At Least three (3) References are appended to Attachment A.
- 10. Organizational chart is appended to Attachment A.
- 11. Detailed description of vendor's chain of custody procedures and safeguards for the handling of all samples to be tested is appended to Attachment A.

ATTACHMENT F - QUALIFICATION FORM FOR PAST EXPERIENCE **Bid # 1200534**

Reference No. 1

List previous projects completed to meet the special experience requirement. *If necessary, please photocopy this form for submission of all required projects.*

Name of Customer: _____

Name of Project: _____

Location of Project: _____

Owner or Owner's representative familiar with the work per-formed:

Name: _____

Title: _____

Phone Number: _____

Brief description of work completed:

Was the work performed as a prime or a subcontractor (please check one)

Amount of Contract or Subcontract: _____

Date of Completion: _____

.....
Reference No. 2

Name of Customer: _____

Name of Project: _____

Location of Project: _____

Owner or Owner's representative familiar with the work performed:

Name: _____

Title: _____

Phone Number: _____

Brief description of work completed:

Was the work performed as a prime or a subcontractor (please check one)

Amount of Contract or Subcontract: _____

Date of Completion: _____

CITY OF NEW YORK
DEPARTMENT OF CITYWIDE ADMINISTRATIVE SERVICES
OFFICE OF CITYWIDE PURCHASING

ATTACHMENT "G"

**IRAN DIVESTMENT ACT COMPLIANCE RIDER FOR
NEW YORK CITY CONTRACTORS**

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

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

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

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

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

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

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

**BIDDER'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]

BIDDER'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:

**THE DEPARTMENT OF CITYWIDE ADMINISTRATIVE SERVICES ("DCAS")
 PRICE SCHEDULE TO PROVIDE DRUG AND ALCOHOL SCREENING,
 AND MEDICAL PROFILING - PIN NO: 85712B0073
 CLASS 1 - Fire Department of New York (FDNY)**

Term: FIVE (5) YEARS

A. DRUG SCREEN PANELS

ITEM #		Estimated Five (5) Year Quantities (A)	Price per Panel (B)	Total Amount (C) (A) X (B) = C
1	PANEL 1 (Drug Screen Only)	18,500	\$ _____	\$ _____
Consisting of tests for the following: Amphetamines, Methadone, Opiates [Morphine, Codeine, 6-Monoacetylmorphine (the metabolite for heroin), Hydrocodone, and Oxycodone], Barbiturates, Benzodiazepine, Cannabis (THC), Methaqualone, Phencyclidine (PCP), Cocaine, Propoxyphene (Darvon), and Adulteration Panel (for blood specimens) that includes a test for Pyridinium Chlorochromate. Refer to Bid document for detailed description.				

		Estimated Five (5) Year Quantities (A)	Price per Panel (B)	Total Amount (C) (A) X (B) = C
2	PANEL 2 (Drugs and Alcohol Screenings)	16,000	\$ _____	\$ _____
Consisting of tests for the following: Amphetamines, Methadone, Opiates [Morphine, Codeine, 6-Monoacetylmorphine (the metabolite for heroin), Hydrocodone, and Oxycodone], Barbiturates, Benzodiazepine, Cannabis (THC), Methaqualone, Phencyclidine (PCP), Cocaine, Propoxyphene (Darvon), Adulteration Panel (for urine specimens) that includes a test for Pyridinium Chlorochromate, and Urine Ethanol Screen. Refer to Bid document for detailed description.				

ITEM #		Estimated Five (5) Year Quantities (A)	Price per Panel (B)	Total Amount (C) (A) X (B) = C
3	PANEL 3 (Blood Drug Screening Only)	250	\$ _____	\$ _____
4	PANEL 3 (Blood Drug Screening Only) Onsite Testing	100	\$ _____	\$ _____
Consisting of tests for the following: Amphetamines, Methadone, Opiates [Morphine, Codeine, 6-Monoacetylmorphine (the metabolite for heroin), Hydrocodone, and Oxycodone], Barbiturates, Benzodiazepine, Cannabis (THC), Methaqualone, Phencyclidine (PCP), Cocaine, and Propoxyphene (Darvon).				

**THE DEPARTMENT OF CITYWIDE ADMINISTRATIVE SERVICES ("DCAS")
PRICE SCHEDULE TO PROVIDE DRUG AND ALCOHOL SCREENING,
AND MEDICAL PROFILING - PIN NO: 85712B0073
CLASS 1 - Fire Department of New York (FDNY)**

Term: FIVE (5) YEARS

A. DRUG SCREEN PANELSCont'd

ITEM #		Estimated Five (5) Year Quantities (A)	Price per Panel (B)	Total Amount (C) (A) X (B) = C
5	PANEL 4 (Blood Drugs and Alcohol Screening)	250	\$ _____	\$ _____
6	PANEL 4 (Blood Drugs and Alcohol Screening) Onsite Testing	100	\$ _____	\$ _____
Consisting of tests for the following: Amphetamines, Methadone, Opiates [Morphine, Codeine, 6-Monoacetylmorphine (the metabolite for heroin), Hydrocodone, and Oxycodone], Barbiturates, Benzodiazepine, Cannabis (THC), Methaqualone, Phencyclidine (PCP), Cocaine, Propoxyphene (Darvon), Adulteration Panel (for blood specimens) that includes a test for Pyridinium Chlorochromate, and Blood Ethanol (whole blood and blood serum). Refer to Bid document for detailed description.				
FIVE (5) YEAR TOTAL (Section A)				\$ _____

B. DRUG SCREENS

ITEM #		Estimated Five (5) Year Quantities (A)	Price per Test (B)	Total Amount (C) (A) X (B) = C
6	Anabolic Steroids	200	\$ _____	\$ _____
7	Anabolic Steroids Onsite Testing	100	\$ _____	\$ _____
8	Ketamine	200	\$ _____	\$ _____
9	Ketamine Onsite Testing	100	\$ _____	\$ _____
FIVE (5) YEAR TOTAL (Section B)				\$ _____

C. SUSPICIOUS SUBSTANCE TESTING

ITEM #		Estimated Five (5) Year Quantities (A)	Price per Test (B)	Total Amount (C) (A) X (B) = C
10	Suspicious Substance Testing	300	\$ _____	\$ _____
11	Suspicious Substance Testing Onsite Testing	100	\$ _____	\$ _____
FIVE (5) YEAR TOTAL (Section C)				\$ _____

THE DEPARTMENT OF CITYWIDE ADMINISTRATIVE SERVICES ("DCAS")
PRICE SCHEDULE TO PROVIDE DRUG AND ALCOHOL SCREENING,
AND MEDICAL PROFILING - PIN NO: 85712B0073
CLASS 1 - Fire Department of New York (FDNY)

Term: FIVE (5) YEARS

D. MEDICAL PROFILE TESTING

ITEM #		Estimated Five (5) Year Quantities (A)	Price per Test (B)	Total Amount (C) (A) X (B) = C
12	Antinuclear Antibody	150	\$ _____	\$ _____
13	Anemia Profile	150	\$ _____	\$ _____
14	Arthritis Profile	2,500	\$ _____	\$ _____
15	CBC with Diff. and Platelet CT	100	\$ _____	\$ _____
16	Cholinesterase	500	\$ _____	\$ _____
17	Cholinesterase RBC	500	\$ _____	\$ _____
18	Depakote Level (Valproic Acid)	100	\$ _____	\$ _____
19	Glucose (fasting)	100	\$ _____	\$ _____
20	Glycohemoglobin, Blood	2,500	\$ _____	\$ _____
21	HGG Quantitative	100	\$ _____	\$ _____
22	Hepatitis B: Surface Antibody	2,500	\$ _____	\$ _____
23	Hepatitis B: Core Anibody	1,000	\$ _____	\$ _____
24	Hepatitis A : Antibody	1,000	\$ _____	\$ _____
25	Hepatitis B: Surface Antiagent	1,000	\$ _____	\$ _____
26	Hepatitis B Profile	1,500	\$ _____	\$ _____
27	Hepatitis C Profile	1,500	\$ _____	\$ _____
28	Hepatitis C virus Confirmation (IB) Serum	150	\$ _____	\$ _____
29	Hepatitis C RNA by Qual. PCR	250	\$ _____	\$ _____
30	Hepatitis C RNA by Quant. PCR	100	\$ _____	\$ _____
31	Hepatitis C RNA (Branch Chain)	100	\$ _____	\$ _____
32	Hepatitis C Virus Genotype PCR)	100	\$ _____	\$ _____
33	Hepatitis C Virus Ab (RIBA) Conf. Western Blot	2,000	\$ _____	\$ _____
34	HIV (ELISA)	4,000	\$ _____	\$ _____
35	HIV Western Blot	7,000	\$ _____	\$ _____
36	Lead	50	\$ _____	\$ _____
37	Lithium	150	\$ _____	\$ _____
38	Liver Profile	1,000	\$ _____	\$ _____
39	Lyme Antibody	500	\$ _____	\$ _____
40	Mercury	500	\$ _____	\$ _____
41	Mumps	2,500	\$ _____	\$ _____
42	Nasal Culture	1,500	\$ _____	\$ _____
43	Nortriptyline Level	100	\$ _____	\$ _____
44	Rubella (IGG) Immune	2,500	\$ _____	\$ _____
45	Rubeola (IGG) Immune	2,500	\$ _____	\$ _____
46	PSA	50,000	\$ _____	\$ _____
47	Prothrombin Time	250	\$ _____	\$ _____
48	PTT	250	\$ _____	\$ _____
49	Quantiferon TB Gold In Tube	1,000	\$ _____	\$ _____
50	SED rate (ESR)	100	\$ _____	\$ _____
51	T3-RLA	5,000	\$ _____	\$ _____
52	T3-uptake	5,000	\$ _____	\$ _____
53	T4-RIA	5,000	\$ _____	\$ _____
54	T4-free	5,000	\$ _____	\$ _____

THE DEPARTMENT OF CITYWIDE ADMINISTRATIVE SERVICES ("DCAS")
 PRICE SCHEDULE TO PROVIDE DRUG AND ALCOHOL SCREENING,
 AND MEDICAL PROFILING - PIN NO: 85712B0073
 CLASS 1 - Fire Department of New York (FDNY)

Term: FIVE (5) YEARS

ITEM #	D. MEDICAL PROFILE TESTING ... Cont'd			
55	Theophylline Level	100	\$ _____	\$ _____
56	Thyroid Screen	5,000	\$ _____	\$ _____
57	Thyrod Comprehensive	5,000	\$ _____	\$ _____
58	TSH	5,000	\$ _____	\$ _____
69	Urinalysis Routne	5,000	\$ _____	\$ _____
60	Varicella Antibodies	2,500	\$ _____	\$ _____
61	Wound Culture	1,000	\$ _____	\$ _____
				FIVE (5) YEAR TOTAL (Section D) \$ _____

E. MEDICAL PROFILE PANELS

ITEM #		Estimated Five (5) Year Quantities (A)	Price per Testimony (B)	Total Amount (C) (A) X (B) = C
62	Panel 1	10,000	\$ _____	\$ _____
Consisting of the following tests: Glucose, Hgb, A1C and U/A.				

ITEM #		Estimated Five (5) Year Quantities (A)	Price per Testimony (B)	Total Amount (C) (A) X (B) = C
63	Panel 2	20,000	\$ _____	\$ _____
Consisting of the following tests: Medchem 23 (Basic Chemistry Profile)**, CBC with Differential and Platelets Count, U/A and HDL Cholesterol (LDL/HDL Ratio, LDL Cholesterol, Cholesterol/HDL Ratio, HDL as % of Cholesterol, VLDL Calculated). ** Basic Chemistry Profile shall include the following: Glucose (fasting), Panel Glucose, Sodium, Potassium, Iron, Blood Urea Nitrogen, e-Glomerular Filtration Rate, e-GFR- African American, Carbon Dioxide Content, Chloride, BUN, Creatinine, BUN/Creat. Ratio, Uric Acid, Calcium, Total Protein, Albumin, Globulin, Alb/Globulin Ratio, alb/Globulin Ratio (Chemical Profile), Total Bilirubin, Direct Bilirubin, Alkaline Phosphatase, Inorganic Phosphorus, SGOT, SGPT, LDH, GGTP, Cholesterol, and Triglycerides.				

ITEM #		Estimated Five (5) Year Quantities (A)	Price per Testimony (B)	Total Amount (C) (A) X (B) = C
64	Panel 3	7,000	\$ _____	\$ _____
Consisting of the following tests: HEP Profile, Hep.BCAb, Hep.C Ab.				

ITEM #		Estimated Five (5) Year Quantities (A)	Price per Testimony (B)	Total Amount (C) (A) X (B) = C
65	Panel 4	12,500	\$ _____	\$ _____
Consisting of the following tests: Cholinesterase, Mercury and Lead.				

**THE DEPARTMENT OF CITYWIDE ADMINISTRATIVE SERVICES ("DCAS")
PRICE SCHEDULE TO PROVIDE DRUG AND ALCOHOL SCREENING,
AND MEDICAL PROFILING - PIN NO: 85712B0073
CLASS 1 - Fire Department of New York (FDNY)**

Term: FIVE (5) YEARS

ITEM #		Estimated Five (5) Year Quantities (A)	Price per Testimony (B)	Total Amount (C) (A) X (B) = C
66	Panel 5	7,000	\$ _____	\$ _____
	Consisting of the following tests: Medchem 23 (Basic Chemistry Profile)**, Amylase, CBC w/Differential and Platelets, Hepatitis C Ab and Hepatitis B (Surface Antibody). ** Basic Chemistry Profile shall include the following: Glucose (fasting), Panel Glucose, Sodium, Potassium, Iron, Blood Urea Nitrogen, e-Glomerular Filtration Rate, e-GFR- African American, Carbon Dioxide Content, Chloride, BUN, Creatinine, BUN/Creat. Ratio, Uric Acid, Calcium, Total Protein, Albumin, Globulin, Alb/Globulin Ratio, alb/Globulin Ratio (Chemical Profile), Total Bilirubin, Direct Bilirubin, Alkaline Phosphatase, Inorganic Phosphorus, SGOT, SGPT, LDH, GGTP, Cholesterol, and Triglycerides.			

ITEM #		Estimated Five (5) Year Quantities (A)	Price per Testimony (B)	Total Amount (C) (A) X (B) = C
67	Panel 6	10,000	\$ _____	\$ _____
	Consisting of the following tests: Rubella, Rubeola, Mumps, Varicella and Hepatitis B (Surface Antibody).			

ITEM #		Estimated Five (5) Year Quantities (A)	Price per Testimony (B)	Total Amount (C) (A) X (B) = C
68	Panel 7	10,000	\$ _____	\$ _____
	Consisting of the following tests: Rubella Ab, Rubeola Ab, Mumps Ab, Varicella Ab, Hep.BSAb, Hep. BCAb, Hep:C Ab.			

ITEM #		Estimated Five (5) Year Quantities (A)	Price per Testimony (B)	Total Amount (C) (A) X (B) = C
69	Panel 8	120,000	\$ _____	\$ _____
	Consisting of the following tests: Medchem 23 (Basic Chemistry Profile)**, CBC with Diff and Indices, Urinalysis, HDL Cholesterol (LDL/HDL Ratio, LDL Cholesterol, Cholesterol/HDL Ratio, HDL as % of Cholesterol, VLDL Calculated) and Hepatitis C Antibody. ** Basic Chemistry Profile shall include the following: Glucose (fasting), Panel Glucose, Sodium, Potassium, Iron, Blood Urea Nitrogen, e-Glomerular Filtration Rate, e-GFR- African American, Carbon Dioxide Content, Chloride, BUN, Creatinine, BUN/Creat. Ratio, Uric Acid, Calcium, Total Protein, Albumin, Globulin, Alb/Globulin Ratio, alb/Globulin Ratio (Chemical Profile), Total Bilirubin, Direct Bilirubin, Alkaline Phosphatase, Inorganic Phosphorus, SGOT, SGPT, LDH, GGTP, Cholesterol, and Triglycerides			

ITEM #		Estimated Five (5) Year Quantities (A)	Price per Testimony (B)	Total Amount (C) (A) X (B) = C
70	Panel 9	5,000	\$ _____	\$ _____
	Consisting of the following tests: Hemoglobin A1C, Brain Naturetic Peptide (BNP), and C Reactive Protein (CRP).			

THE DEPARTMENT OF CITYWIDE ADMINISTRATIVE SERVICES ("DCAS")
PRICE SCHEDULE TO PROVIDE DRUG AND ALCOHOL SCREENING,
AND MEDICAL PROFILING - PIN NO: 85712B0073
CLASS 1 - Fire Department of New York (FDNY)

Term: FIVE (5) YEARS

ITEM #		Estimated Five (5) Year Quantities (A)	Price per Testimony (B)	Total Amount (C) (A) X (B) = C
71	Panel 10	5,000	\$ _____	\$ _____
	Consisting of the following tests: Blood Lead, Blood PCB, Urine Mercury, Urine Beryllium and Creatinine.			
			FIVE (5) YEAR TOTAL (Section E)	\$ _____

FIVE (5) YEAR TOTAL (Items 1 through 71) CLASS 1	\$ _____
-----------------------------------------------------------------	----------

Note: The quantities listed above are estimates used for bid purposes only. The above pricing includes all labor, equipment, tools, materials and supplies to provide the Services, which shall be fully burdened, as set forth in the Detailed Requirements.

TOTAL BID (Items 1 through 71) = \$ _____

SUBMITTED BY: _____

PRINT NAME: _____

SIGNATURE: _____

TITLE: _____

DATE: _____

**THE DEPARTMENT OF CITYWIDE ADMINISTRATIVE SERVICES ("DCAS")
 PRICE SCHEDULE TO PROVIDE DRUG TESTING / HAIR ANALYSIS - PIN #: 85712B0073
 CLASS 2 - New York City Police Department (NYPD)**

Term: FIVE (5) YEARS

A. HAIR ANALYSIS - Initial Tests for All Mandatory Drugs (see Detailed Requirements - Attachment B)				
Item #		Estimated Five (5) Year Quantities (A)	Price per Test (B)	Total Amount (C) (A) X (B) = C
1	Specimen Analysis	125,000	\$ _____	\$ _____
2	Supplies	125,000	\$ _____	\$ _____
3	Delivery	125,000	\$ _____	\$ _____
4	Certified Reports	125,000	\$ _____	\$ _____
5	Other _____	125,000	\$ _____	\$ _____
6	Other _____	125,000	\$ _____	\$ _____
7	Other _____	125,000	\$ _____	\$ _____
FIVE (5) YEAR TOTAL				\$ _____

B. CONFIRMATION TESTS				
Item #		Estimated Five (5) Year Quantities (A)	Price per Test (B)	Total Amount (C) (A) X (B) = C
8	Confirmation Tests	2,500	\$ _____	\$ _____
FIVE (5) YEAR TOTAL				\$ _____

C. EXPERT WITNESS AND LEGAL SUPPORT				
Item #		Estimated Five (5) Year Quantities (A)	Price per CAse (B)	Total Amount (C) (A) X (B) = C
9	Expert Witness and Legal Support	125	\$ _____	\$ _____
			FIVE (5) YEAR TOTAL	\$ _____

D. TRAINING				
Item #		Estimated Five (5) Year Quantities (A)	Price per Testimony (B)	Total Amount (C) (A) X (B) = C
10	Training	15	\$ _____	\$ _____
			FIVE (5) YEAR TOTAL	\$ _____

FIVE (5) YEAR TOTAL PROPOSED PRICE (Items 1 through 10) CLASS 2	\$ _____
-------------------------------------------------------------------------	----------

Notes: 1. The quantities listed above are estimates used for bid purposes only. The above pricing includes all labor, equipment, tools, materials and supplies to provide the Services, which shall be fully burdened, as set forth in the Specification for the CLASS indicated above. 2. Vendors must bid on all items listed above	
-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------	--

SUBMITTED BY: _____

PRINT NAME: _____

SIGNATURE: _____

TITLE: _____

DATE: _____

**THE DEPARTMENT OF CITYWIDE ADMINISTRATIVE SERVICES ("DCAS")
 PRICE SCHEDULE TO PROVIDE DRUG AND ALCOHOL SCREENING - PIN #: 85712B0073
 CLASS 3 - Department Of Corrections (DOC)**

Term: FIVE (5) YEARS

A. COLLECTION SITE TESTING - Normal Collection Site Hours				
Item #		Estimated Five (5) Year Quantities (A)	Price per Panel (B)	Total Amount (C) (A) X (B) = C
1	Drug Screen Only - (Affiliated Lab e.g Quest)	2,500	\$ _____	\$ _____
2	Drug Screen Only (Non-Affiliated Lab)	2,500	\$ _____	\$ _____
3	Alcohol Testing	2,500	\$ _____	\$ _____
FIVE (5) YEAR TOTAL				\$ _____

B. COLLECTION SITE TESTING - Off-Hours				
Item #		Estimated Five (5) Year Quantities (A)	Price per Panel (B)	Total Amount (C) (A) X (B) = C
4	Drug Screen (Off-hours)	60	\$ _____	\$ _____
5	Alcohol Testing (Off-hours)	60	\$ _____	\$ _____
FIVE (5) YEAR TOTAL				\$ _____

C. ON-SITE SCHEDULED TESTING (e.g. Random)				
Item #		Estimated Five (5) Year Quantities (A)	Price per Panel (B)	Total Amount (C) (A) X (B) = C
6	Drug Screen (Random/Scheduled)	2,500	\$ _____	\$ _____
7	Alcohol Testing (Random/Scheduled)	2,500	\$ _____	\$ _____
FIVE (5) YEAR TOTAL				\$ _____

**THE DEPARTMENT OF CITYWIDE ADMINISTRATIVE SERVICES ("DCAS")
 PRICE SCHEDULE TO PROVIDE DRUG AND ALCOHOL SCREENING - PIN #: 85712B0073
 CLASS 3 - Department Of Corrections (DOC)**

Term: FIVE (5) YEARS

D. ON-SITE EMERGENCY TESTING (e.g. Post Accident)				
Item#		Estimated Five (5) Year Quantities (A)	Price per Panel (B)	Total Amount (C) (A) X (B) = C
8	Drug Screen (Post Accident)	60	\$ _____	\$ _____
9	Alcohol Testing (Post Accident)	60	\$ _____	\$ _____
FIVE (5) YEAR TOTAL				\$ _____

E. EXPERT TESTIMONY				
Item#		Estimated Five (5) Year Quantities (A)	Price per Testimony (B)	Total Amount (C) (A) X (B) = C
10	Expert Testimony Professional (Physician)	60	\$ _____	\$ _____
11	Expert Testimony Technical (Other)	60	\$ _____	\$ _____
FIVE (5) YEAR TOTAL				\$ _____

F. TRAINING				
Item #		Estimated Five (5) Year Quantities	Price per Testimony	Total Amount (C) (A) X (B) = C
12	Training (optional-reasonable suspicion or employee)	60	\$ _____	\$ _____
FIVE (5) YEAR TOTAL				\$ _____

THE DEPARTMENT OF CITYWIDE ADMINISTRATIVE SERVICES ("DCAS")
 PRICE SCHEDULE TO PROVIDE DRUG AND ALCOHOL SCREENING - PIN #: 85712B0073
 CLASS 3 - Department Of Corrections (DOC)

Term: FIVE (5) YEARS

G. SPLIT TESTS				
Item #		Estimated Five (5) Year Quantities (A)	Price per Testimony (B)	Total Amount (C) (A) X (B) = C
13	Split Specimen Testing	60	\$ _____	\$ _____
		FIVE (5) YEAR TOTAL		\$ _____

FIVE (5) YEAR TOTAL (Items 1 through 13) CLASS 3	\$ _____
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Notes: 1. The quantities listed above are estimates used for bid purposes only. The above pricing includes all labor, equipment, tools, materials and supplies to provide the Services, which shall be fully burdened, as set forth in the Specification for the CLASS indicated above.	
2. Vendors must bid on all items listed above	

SUBMITTED BY: _____

PRINT NAME: _____

SIGNATURE: _____

TITLE: _____

DATE: _____

**THE DEPARTMENT OF CITYWIDE ADMINISTRATIVE SERVICES ("DCAS")
 PRICE SCHEDULE TO PROVIDE FORENSIC DRUG AND ALCOHOL SCREENING - PIN #: 85712B0073
 CLASS 4 - Department Of Transportation (DOT)**

Term: FIVE (5) YEARS

A. ON-SITE TESTING - Pre-Employment, Random, Return-to-Duty, Follow-up tests. All shifts, 7 days a week.				
Item #		Estimated Five (5) Year Quantities (A)	Price per Test (B)	Total Amount (C) (A) X (B) = C
1	Drug Testing, Screen and Confirmation	14,500	\$ _____	\$ _____
2	Alcohol Testing , Screen and Confirmation	13,000	\$ _____	\$ _____
FIVE (5) YEAR TOTAL (Section A)				\$ _____

B. COLLECTION SITE TESTING - Pre-Employment, Random, Return-to-Duty, Follow-up tests. (To be performed by mobile collection unit).				
Item #		Estimated Five (5) Year Quantities (A)	Price per Test (B)	Total Amount (C) (A) X (B) = C
3	Drug Testing, Screen and Confirmation	200	\$ _____	\$ _____
4	Alcohol Testing , Screen and Confirmation	200	\$ _____	\$ _____
FIVE (5) YEAR TOTAL (Section B)				\$ _____

C. TESTING AT CONTRACTOR'S SITE - Pre-Employment, Random, Return-to-Duty, Follow-up tests. (At Contractor's Site, in the five boroughs of NYC. All shifts).				
Item #		Estimated Five (5) Year Quantities (A)	Price per Test (B)	Total Amount (C) (A) X (B) = C
5	Drug Testing, Screen and Confirmation	100	\$ _____	\$ _____
6	Alcohol Testing, Screen and Confirmation	100	\$ _____	\$ _____
FIVE (5) YEAR TOTAL (Section C)				\$ _____

**THE DEPARTMENT OF CITYWIDE ADMINISTRATIVE SERVICES ("DCAS")
PRICE SCHEDULE TO PROVIDE FORENSIC DRUG AND ALCOHOL SCREENING - PIN #: 85712B0073**

CLASS 4 - Department Of Transportation (DOT)

Term: FIVE (5) YEARS

D. ON-SITE REASONABLE SUSPICION/ EMERGENCY TESTING (e.g. Post Accident) . At Agency site, the accident site, or medical facility in the proximity of the accident (at Agency's option). All shifts. Two (2) hour response required, 24 hours a day/ 7 days per week.				
Item#		Estimated Five (5) Year Quantities (A)	Price per Panel (B)	Total Amount (C) (A) X (B) = C
7	Drug Screen (Post Accident)	350	\$ _____	\$ _____
8	Alcohol Testing (Post Accident)	350	\$ _____	\$ _____
FIVE (5) YEAR TOTAL (Section D)				\$ _____

E. MOBILE UNIT - REASONABLE SUSPICION/ EMERGENCY TESTING. At Agency's option - All shifts. Two (2) hour response required, 24 hours a day/ 7 days per week.				
Item#		Estimated Five (5) Year Quantities (A)	Price per Panel (B)	Total Amount (C) (A) X (B) = C
9	Drug Screen (Post Accident)	350	\$ _____	\$ _____
10	Alcohol Testing (Post Accident)	350	\$ _____	\$ _____
FIVE (5) YEAR TOTAL (Section E)				\$ _____

F. CONTRACTOR'S SITE- REASONABLE SUSPICION/ EMERGENCY TESTING. (At Contractor's Site, in the five boroughs of NYC. At Agency's option - All shifts. Two (2) hour response required, 24 hours a day/ 7 days per week.				
Item#		Estimated Five (5) Year Quantities (A)	Price per Test (B)	Total Amount (C) (A) X (B) = C
11	Drug Screen (Post Accident)	100	\$ _____	\$ _____
12	Alcohol Testing (Post Accident)	100	\$ _____	\$ _____
FIVE (5) YEAR TOTAL (Section F)				\$ _____

**THE DEPARTMENT OF CITYWIDE ADMINISTRATIVE SERVICES ("DCAS")
 PRICE SCHEDULE TO PROVIDE FORENSIC DRUG AND ALCOHOL SCREENING - PIN #: 85712B0073**

CLASS 4 - Department Of Transportation (DOT)

Term: FIVE (5) YEARS

G. MEDICAL CONSULTATION - Professional consultation by telephone or in person with licensed Medical Doctor or other care provider as necessary.				
Item#		Estimated Five (5) Year Quantities (A)	Price per hour (B)	Total Amount (C) (A) X (B) = C
13	Rate per hour of consultation by telephone- billed at 30 minute increments	200 hours	\$ _____	\$ _____
14	Rate per hour of consultation in person- 2 hour minimum per session. Price to be all inclusive of all out of pocket; travel & logging expenses	120 hours	\$ _____	\$ _____
FIVE (5) YEAR TOTAL (Section G)				\$ _____

H. LABORATORY PERSONNEL CONSULTATION - Professional consultation by telephone or in person with personnel of certified laboratory involved in testing of collected urine specimens as necessary.				
Item#		Estimated Five (5) Year Quantities (A)	Price per hour (B)	Total Amount (C) (A) X (B) = C
15	Rate per hour of consultation by telephone- billed at 30 minute increments	150 hours	\$ _____	\$ _____
16	Rate per hour of consultation in person- 2 hour minimum per session. Price to be all inclusive of all out of pocket; travel & logging expenses	120 hours	\$ _____	\$ _____
FIVE (5) YEAR TOTAL (Section H)				\$ _____

**THE DEPARTMENT OF CITYWIDE ADMINISTRATIVE SERVICES ("DCAS")
 PRICE SCHEDULE TO PROVIDE FORENSIC DRUG AND ALCOHOL SCREENING - PIN #: 85712B0073**

CLASS 4 - Department Of Transportation (DOT)

Term: FIVE (5) YEARS

I. ADMINISTRATIVE/SUPERVISORY/PROGRAM MANAGEMENT/CONSULTATION - Consultation by telephone or in person with administrative/program management personnel for test results that have been reported, random selection process, or any other administrative function as the Third Party Administrator regarding any operation covered by the federal regulations.				
Item#		Estimated Five (5) Year Quantities (A)	Price per hour (B)	Total Amount (C) (A) X (B) = C
17	Rate per hour of consultation by telephone- billed at 30 minute increments	100 hours	\$ _____	\$ _____
18	Rate per hour of consultation in person- billed at 30 minute increments. Price to be all inclusive of all out of pocket; travel & logging expenses	20 hours	\$ _____	\$ _____
				\$ _____
FIVE (5) YEAR TOTAL (Section I)				

J. COLLECTOR CONSULTATION - Consultation by telephone or in person with collection personnel involved in collection of urine specimens for which test results have been reported, or for the performance of evidentiary breath testing or ASD for which results have been reported.				
Item#		Estimated Five (5) Year Quantities (A)	Price per hour (B)	Total Amount (C) (A) X (B) = C
19	Rate per hour of consultation by telephone- billed at 30 minute increments	50 hours	\$ _____	\$ _____
20	Rate per hour of consultation in person- billed at 30 minute increments. Price to be all inclusive of all out of pocket; travel & logging expenses	10 hours	\$ _____	\$ _____
				\$ _____
FIVE (5) YEAR TOTAL (Section J)				

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CLASS 4 - Department Of Transportation (DOT)

Term: FIVE (5) YEARS

K. DOCUMENT PREPARATION - Document Preparation Time-Preparation time for provision of documents related to test result challenges, audits and/or other inquiries, separate from documents routinely required relative to all facets of testing program.				
Item #		Estimated Five (5) Year Quantities (A)	Price per Hour (B)	Total Amount (C) (A) X (B) = C
21	Document Preparation	150 hours	\$ _____	\$ _____
FIVE (5) YEAR TOTAL (Section K)				\$ _____

L. LITIGATION PACKAGES				
Item #		Estimated Five (5) Year Quantities (A)	Price per Package (B)	Total Amount (C) (A) X (B) = C
22	Cost per package (standard). To be received by the Agency within 10 business days from request.	50 packages	\$ _____	\$ _____
23	Cost per package (standard). To be received by the Agency within 10 business days from request.	75 packages	\$ _____	\$ _____
FIVE (5) YEAR TOTAL(Section L)				\$ _____

**THE DEPARTMENT OF CITYWIDE ADMINISTRATIVE SERVICES ("DCAS")
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CLASS 4 - Department Of Transportation (DOT)

Term: FIVE (5) YEARS

M. TRIAL WITNESS PREPARATION (Per Hour)				
Item#		Estimated Five (5) year quantities (A)	Price per hour (B)	Total Amount (C) (A) X (B) = C
24	Trial Witness Preparation of laboratory personnel (by telephone)	100 hours	\$ _____	\$ _____
25	Trial Witness Preparation of MRO (by telephone)	100 hours	\$ _____	\$ _____
26	Trial Witness Preparation of Collector (by telephone)	100 hours	\$ _____	\$ _____
27	Trial Witness Preparation of Administrative Personnel (by telephone)	100 hours	\$ _____	\$ _____
28	Trial Witness Preparation of laboratory personnel (in person)	100 hours	\$ _____	\$ _____
29	Trial Witness Preparation of MRO (in person)	100 hours	\$ _____	\$ _____
30	Trial Witness Preparation of Collector (in person)	100 hours	\$ _____	\$ _____
31	Trial Witness Preparation of Administrative Personnel (in person)	100 hours	\$ _____	\$ _____
FIVE (5) YEAR TOTAL (Section M)				\$ _____

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Term: FIVE (5) YEARS

N. EXPERT WITNESS TESTIMONY(Per Hour)				
Item#		Estimated Five (5) year quantities (A)	Price per hour (B)	Total Amount (C) (A) X (B) = C
32	Expert Witness Testimony of laboratory personnel (by telephone)	100 hours	\$ _____	\$ _____
33	Expert Witness Testimony of MRO (by telephone)	100 hours	\$ _____	\$ _____
34	Expert Witness Testimony of Collector (by telephone)	100 hours	\$ _____	\$ _____
35	Expert Witness Testimony of Administrative Personnel (by telephone)	100 hours	\$ _____	\$ _____
36	Trial Witness Preparation of laboratory personnel (in person)	100 hours	\$ _____	\$ _____
37	Expert Witness Testimony of MRO (in person)	100 hours	\$ _____	\$ _____
38	Expert Witness Testimony of Collector (in person)	100 hours	\$ _____	\$ _____
39	Expert Witness Testimony of Administrative Personnel (in person)	100 hours	\$ _____	\$ _____
FIVE (5) YEAR TOTAL (Section N)				\$ _____

FIVE (5) YEAR TOTAL (Items 1 through 39) CLASS 4	\$ _____
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Notes: 1. The quantities listed above are estimates used for bid purposes only. The above pricing includes all labor, equipment, tools, materials and supplies to provide the Services, which shall be fully burdened, as set forth in the Specification for the CLASS indicated above.	
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<p>2. Test Charges to include personnel trained and certified to perform testing using an EBT and urine collection to staff part-time presence at Agency- provided collection facilities at Staten IsEand Ferry, Brooklyn Army Terminal and other Agency-selected locations. Days and shifts of required staffing will vary from week to week for Random, Return-to-Duty, Follow-up and Pre-Employment testing. (ASD testing may also be done, at the direction of the Agency).</p>	
<p>3. Hourly rates to be billed at 30 minute increments unless otherwise indicated.</p>	
<p>4. Vendors must bid on all items listed above</p>	

SUBMITTED BY: _____

PRINT NAME: _____

SIGNATURE: _____

TITLE: _____

DATE: _____