



**Bus Company**  
**Procurement Division**  
**128-15 28<sup>th</sup> Avenue, Flushing NY 11354**

# Quotation Sheet

**Solicitation No. MP121313**  
**Sr. Contract Analyst – Coretta Covington**  
**Telephone: (718) 888-6226, Fax – 718-888-6240**

**Bid Advertisement Date: 9/10/12**  
**Bid Opening Date: 10/02/12**

**MTA BUS COMPANY (MTABC), a subsidiary of the Metropolitan Transportation Authority, hereby solicits a quotation for the following parts/labor contract:**

	Description	Hourly Rate	Extended Price
	<p align="center"><b><u>Parts/Labor - Two-year contract (24-months)</u></b></p> <p><b>Vendor required to be on an “on-call basis” to provide maintenance, repairs or replacement on all MTA Bus Company CCTV systems.</b></p> <p><b>CCTV system provides security and safety to our employees, assets and operations.</b></p> <p><b>Vendor will be required to supply their own equipment with regards to a bucket truck or mobile platform for access to CCTV repairs above a certain height.</b></p> <p><b><u>Scope of work attached</u></b></p>		

<b>Gross Sum Bid</b>

**Payment terms Net 30, unless otherwise indicated.**  
**Length of contract(s): Two years from issue date of master contract.**

Start-up time after notification of award will be immediate. Vendors who fail to meet this requirement may be determined by MTA Bus Company to have submitted a non-responsive quote which will be rejected.

Vendor: \_\_\_\_\_ Contact Person: \_\_\_\_\_

Address: \_\_\_\_\_

Telephone No. \_\_\_\_\_ Fax No: \_\_\_\_\_



This bid solicitation package consists of the following documents:

1.	Bid Quotation Sheet	Dated 05/12	<input checked="" type="checkbox"/>
2.	Important Notice to Bidders	Dated 02/12	<input checked="" type="checkbox"/>
3.	Information for Bidders	Dated 02/12	<input checked="" type="checkbox"/>
4.	Contract Terms and Conditions	Dated 02/12	<input checked="" type="checkbox"/>
5.	Bid	Dated 10/11	<input checked="" type="checkbox"/>
6.	Schedule G: Rider To Contract Documents	Dated 11/09	<input checked="" type="checkbox"/>
7.	Schedule J: responsibility Questionnaire required only if Bid amount is <u>greater than \$250,000</u>	Dated 02/12	<input checked="" type="checkbox"/>
8.	Schedule M: Utilization of Contract by other Agencies	Dated 01/08	<input checked="" type="checkbox"/>
9.	Schedule N: Non-Bidders Response Form	Dated 01/08	<input checked="" type="checkbox"/>
10.	Schedule O: Storeroom Delivery Information	Dated 05/12	<input checked="" type="checkbox"/>
11.	Schedule W – Compliance with NYS State Finance Law Sections 139-J and 139-K (“Lobbying Law”)	Dated 01/08	<input checked="" type="checkbox"/>
12.	Package 1 – Minority/Women-Owned Business Enterprise, No (“M/WBE”) Goals	Dated 02/02	<input checked="" type="checkbox"/>
13.	Attachment 1 – MTABC Observed Holidays	Dated 11/09	<input checked="" type="checkbox"/>

Bidders are responsible for ensuring that they have received all bid solicitation documents. Bidders are reminded to examine all documents carefully before submitting a bid quotation. If any of the documents referenced above are missing from this package, contact the procurement representative shown above.

The following documents **must** be returned with your bid quotation:

1. Section entitled “Bid,” Dated 02/12, pages 1-11 inclusive.  
Bidders are reminded to examine each page carefully and **Execute/Sign all** sections that apply to this solicitation.
2. The bid quotation sheet(s) (Original or exact duplicate):  
State on the bid quotation sheet(s) the unit price and the extended price for each service listed and, if required, answer any questions or fill in any blanks.
3. Schedule W – Compliance with NY State Finance Law Sections 139-J and 139-K (“Lobbying Law”), Dated 1/08



**Bus Company**

**IMPORTANT NOTICE TO BIDDERS**

**MP121313**

**The attention of all bidders and prospective bidders is hereby drawn to important provisions relating to the following requirements:**

### **NEW YORK STATE LOBBYING LAW OF 2005**

Chapter 1 of the Laws of 2005, as amended by Chapter 596 of the Laws of 2005 (collectively referred to as the “Lobbying Law”), was signed into law by Governor George Pataki in August 2005. The Lobbying Law makes major changes to the Legislative Law and State Finance Law, which regulate lobbying on government procurement initiatives. In particular, the Lobbying Law creates two new sections in the State Finance Law: Section 139-j to address restrictions on “contacts” during the procurement process; and Section 139-k to address the disclosure of contacts and the responsibility of bidders and proposers during procurements. These sections are effective as of January 1, 2006.

**SCHEDULE W, COMPLIANCE WITH NEW YORK STATE’S STATE FINANCE LAW SECTIONS 139-j AND 139-k**, is attached and made part of this solicitation package in compliance with the Lobbying Law. For additional information, all Bidders/Proposers are urged to contact the New York State Office of General Services at (518) 474-5607, or access their website: <http://www.ogs.state.ny.us/aboutOgs/regulations/defaultAdvisoryCouncil.html>.

### **NEW YORK STATE EXECUTIVE ORDER 134**

In accordance with New York State Executive Order 134, MTA Bus Company is encouraging its Contractors/Consultants and their Subcontractors/Subconsultants and Suppliers, to select and procure environmentally preferred cleaning products. For more detailed information, including lists of approved “green” products see the New York State Office of General Services website: <http://www.ogs.state.ny.us/bldgadmin/environmental/ProductLists.html>.

### **CONTRACTOR PERFORMANCE EVALUATION**

Contractor performance will be evaluated by the Project Manager until completion or termination of the contract. The quality of contractor performance in a number of areas will be rated, at a minimum, as satisfactory, needs improvement, unsatisfactory, or not applicable. When evaluations are rated less than satisfactory, contractors will be notified. These notifications shall identify deficient areas in contract performance and afford the contractor the opportunity to correct or present its position concerning items that were reported to be deficient. Each Contractor Performance Evaluation with correspondence documenting deficient performance will be made available to the MTA and affiliated Agencies for use in the Determination of Contractor Responsibility on future contracts. Contractors that are determined to be not responsible will not be eligible for contract award.

### **POST-EMPLOYMENT RESTRICTIONS ON FORMER EMPLOYEES**

The State Ethics in Government Act, specifically, Public Officers Law section 73(8), prohibits (subject to certain exceptions) former employees from working as consultants or contractors or as employees to consultants or contractors on MTA Bus Company (MTABC) projects for a period of two years from his or her separation from MTABC employment. In addition, such former employees are permanently barred from working on any matter with which that employee was directly involved while an MTABC employee. If you are a former MTABC employee or you are planning to include a former MTABC

employee as a member of the project team on any Bid or Proposal, that former employee should call the State Ethics Commission, 1-518-432-8207, to determine whether the post-employment restrictions referenced above would bar the former employee's work on the project. For any former employee proposed for a project, we require a statement that his/her employment on the project is not prohibited by the Ethics in Government Act.

### **METROPOLITAN TRANSPORTATION AUTHORITY VENDOR CODE OF ETHICS**

The Metropolitan Transportation Authority has adopted a Vendor Code of Ethics (the "Code"), which is applicable to all Vendors, as defined in the Code, involved in the procurement process for the award and the performance of the Contract. Additional information concerning the MTA Vendor Code of Ethics is contained in the Contract Documents.



**Bus Company**

**INFORMATION FOR BIDDERS**

**Contract No. MP121313**

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**1. RECEIPT OF BIDS**

- A. The MTA Bus Company (hereinafter referred to as “MTABC”) hereby solicits bids for the furnishing of the goods and/or services described in the Bid attached hereto. Bids may be submitted in person to the attention of the Procurement Representative College Point Depot Maintenance Building, 2<sup>nd</sup> Floor Material Department, 128-15 28<sup>th</sup> Avenue, Flushing, NY 11354, Monday through Friday, between the hours of 10:00 a.m. and 3 p.m., excluding holidays observed by MTABC. Bids will be accepted up until the time and date indicated in the bid documents, at which time the Bid will be publicly opened (hereinafter, the “Bid Opening”). See **PARAGRAPH 3** below for instructions on submission of bids by mail.
- B. If additional time is required to bid, the potential Bidder should submit a written request to the Procurement Representative to obtain such additional time. MTABC will be the sole judge of whether a time extension will be granted.
- C. Bids received after such time will be considered late and will not be considered for awards, except as otherwise permitted under MTABC written procurement procedures.
- D. MTABC is responsible for all matters related to this solicitation/procurement and has designated an individual (the “Procurement Representative”) as the “Point of Contact” to administer same. All contacts by the Bidder from solicitation inception through award shall be made only to such Procurement Representative.

**2. CONTRACT DOCUMENTS/BID SOLICITATION PACKAGE**

- A. The Information for Bidders, the Bid (including the Price Schedule), the Contract Terms and Conditions, the Specific Terms and Conditions, all Schedules (excluding Schedule J, Responsibility Questionnaire), all Addenda (if any) issued, the Technical Specifications (if any), the Contract Drawings (if any), the Attachments (if any), and the Acceptance and Order (Notice of Award) constitute the Contract and shall be referred to collectively as the “Contract” or the “Contract Documents.”
- B. The Contract Documents, including Schedule J, Responsibility Questionnaire, if attached, and the Important Notice to Bidders, excluding the Acceptance and Order (Notice of Award), shall be referred to collectively as the “Bid Solicitation Package.”

**3. SUBMISSION OF THE BID**

- A. A bid must be fully and properly completed and duly executed by a person with authority to legally bind the Bidder on the forms entitled “Bid” and in accordance with the instructions set forth therein.
- B. **BIDDERS MUST RETURN THE BID (AND ALL REQUIRED FORMS AND CERTIFICATIONS) WHICH INCLUDES THE PRICE SCHEDULE IN ITS ENTIRETY. IN ADDITION, BIDDERS MUST ATTACH COPIES OF EACH ADDENDUM ISSUED OR OTHERWISE ACKNOWLEDGE RECEIPT OF EACH ADDENDUM AS INDICATED IN THE BID. AN ADDENDUM WHICH CHANGES ANY PART OF THE BID MUST BE ATTACHED OR THE CHANGE OTHERWISE**



**CLEARLY INCORPORATED ON THE BID.** MTABC, in its sole and absolute discretion, may treat a failure to annex or acknowledge receipt of addenda or to attach any part of the Bid as a minor informality where the addenda or portion of the Bid, as the case may be, is determined by MTABC not to be substantive in nature.

- C. In order to prevent misrouting or premature opening of Bids, the envelope in which the Bid is submitted (along with any other documents required by the Bid Solicitation Package to be submitted) must state on its face the **Contract Number, Title, Bid Opening Date, and Company Name and Address.**
1. If the bid envelope is in turn enclosed in a special courier pouch or Express Mail envelope, such pouch or envelope should be denoted as a "BID" and labeled with all the same information. The envelope should bear the name and return address of the Bidder.
  2. Bidders may submit no more than one (1) bid in a BID envelope, courier pouch, or Express Mail envelope.
- D. It is the Bidder's responsibility to get its Bid to MTABC's Material Department in time for the Bid Opening. **Bids will be regarded as timely only if they in fact reach the Contract Department before the time of the Bid Opening, regardless of the method of delivery.**
1. **Note:** Due to the large volume of mail received at MTABC's office address, Bids received in MTABC offices may not be sorted and transmitted to the Contract Department in time.
- E. Depending on the method of delivery selected by the Bidder, the Bidder is to submit its Bid to MTABC by sending the Bid package to one of the following addresses, as appropriate.
1. Delivery in Person, by Messenger, US Postal Service (including Postal Service Express Mail), or Private Express Courier: Bids delivered in this manner should be addressed and delivered to:  

MTA Bus Company  
Contract Department  
Maintenance Building, 2<sup>nd</sup> Floor  
128-15 28<sup>th</sup> Avenue  
Flushing, NY 11354  
Attention: *(insert procurement rep name here)*
  2. If a bidder chooses to deliver its Bid to MTABC utilizing the USPS, Bidders are strongly advised to mail Bids to MTABC's address with sufficient time to allow sorting at the USPS facility and delivery to MTABC by the Bid Opening Date.
- F. Bids submitted in person, by messenger, or by private express courier are accepted by the Procurement Department Monday through Friday, between the hours of 10:00 a.m. and 3:00 p.m., excluding MTABC observed holidays.

G. All Bids will remain sealed until the date and time specified for public Bid Opening.

**4. GOODS TO BE FURNISHED OR WORK OR SERVICES TO BE PERFORMED**

A. If “Services” are the subject matter of this Contract they must be as specified in the Contract Documents and include the services to be furnished, together with any labor, material or other work necessary for satisfactory performance.

B. If “Goods” are the subject matter of this Contract they must be as specified in the Contract Documents and include the article to be furnished, together with any labor, service or other work necessary for satisfactory performance. Goods must be marked and packaged in accordance with U.S. Standard measurements and nomenclature, using the English language.

C. With respect to the Goods to be furnished hereunder, their quantities, delivery schedule, and delivery points are set forth in the Contract Documents and, unless otherwise specified, all Goods furnished to MTABC must be new and unused.

**5. BRAND NAMES/SUBSTITUTION OF SPECIFIED MATERIAL**

A. Wherever in the Contract Drawings or Specifications a particular brand, or make of material, or equipment is shown or specified, such material or equipment is to be regarded merely as a standard for the purpose of concisely indicating the requirements as to type, quality, performance, design and finish. Any material or equipment other than that specified will be acceptable if, in the opinion of MTABC, it is as satisfactory for the particular work for which it is intended as the material or equipment specified. Contract terms relating to the Substitution of Specified Materials are set forth in **ARTICLE 228 of the GENERAL CONTRACT PROVISIONS**. Complete documentation in support of an “or equal” contention will be required. Bidders are obligated to furnish all data and information as MTABC in its discretion deems necessary to establish the equality of the alternative material or equipment. Any additional cost incurred by MTABC, other than for the initial review of documents submitted in connection with a request for approval of a proposed substitution, shall be borne by the requestor. MTABC may require that a presentation be made for any proposed substitution. MTABC reserves the right to reject any such other material or equipment offered which is not approved by MTABC as being in all respects equal to the named material or equipment for the work for which it is to be used. Such rejection may be for any reason deemed appropriate by MTABC including, without limitation, the expense and/or time needed to evaluate such material or equipment.

B. If Bidder desires to have an “or equal” approved, it shall notify MTABC, which shall thereupon advise the Bidder of any requirements for approval of such item including any required testing where appropriate. Unless there is a specific statement in the Contract Documents to the contrary, bidders are advised that requests for such approval of any alternative material or equipment may be made either prior to or after Bid Opening. If a request is made prior to Bid Opening, MTABC will endeavor to issue its approval of an alternate material or equipment by Addendum. In the case where pre-Bid Opening approval or disapproval has not taken place,

the Bidder will not be permitted to withdraw its Bid on the basis of a claimed mistake in this regard.

- C. After award of the Contract, all proposals for alternative “or equal” substitutions shall be submitted to the Project Manager no later than thirty (30) days after the date of Notice of Award. Within twenty (20) days after submittal of such proposed substitution, MTABC will notify the Contractor if the substitution is rejected or accepted.

## 6. PRICING

- A. ALL PRICES BID MUST BE FIRM, i.e., no price adjustments are allowed unless expressly permitted by the Bid Solicitation Package.
- B. All bid prices shall include, without limitation, delivery charges, demurrage, insurance, packing, boxing, container charges or any other expenses incidental to the Work. All bid prices are deemed to be F.O.B. delivery point.
- C. All bid prices for the Work shall be deemed to include the cost of all work, labor and materials required by the Contract Documents, including all work necessary therefor or incidental thereto, as well as all expenses associated with compliance with laws, rules and regulations of Federal, State or local authorities.
- D. Each prospective Bidder is advised that the provisions of the New York State Tax Law provide an exemption from sales and compensation use taxes on all tangible personal property (materials, equipment and components) sold to contractors or subcontractors in connection with the Work required by the Contract, and which will become an integral component part of that Work. Similarly, the Public Authorities Law exempts sales of goods to MTABC from New York sales and compensating use taxes. Federal Law also affords MTABC an exemption from Federal excise taxes. No amount shall be included in the Bidder’s price for any possible New York State sales or compensating use taxes as well as any Federal excise tax on such personal property or goods. MTABC’s Tax Exemption Certificate No. is 34-2024274.

## 7. DISCOUNTS

Bidders may offer cash discounts for payment by MTABC earlier than the payment period set forth in **ARTICLE 108 of the CONTRACT TERMS AND CONDITIONS**. However, such cash discounts will not be taken into account in determining the low Bidder.

## 8. RESPONSIVE BIDS

Bidders are advised that a qualified or conditional Bid, or one which is at variance with any provision of the Bid Solicitation Package, including the submission of a Bidder’s own terms and conditions, or fails to meet any requirement thereof applicable to the Bid, may be rejected as **nonresponsive**. MTABC reserves the right to waive minor errors or omissions with respect to a Bid.

## 9. UNBALANCED BIDS

When a class bid is indicated for variable quantities of Goods and the Bid for the class shows evidence of unbalanced bid prices (e.g., some of the items represent nominal prices while others are grossly inflated), such Bid may be deemed **nonresponsive**.

## 10. AWARD PROCEDURE

- A. This solicitation contains Contract Execution pages following the General Contract Provisions. However, the Bidder or Proposer is not to execute these documents at the time of submission of the bid or proposal. Prior to Contract award, the prospective awardee will be notified of the required timeframe for it to execute four (4) originals of the Contract, including original Contract Execution pages and applicable Acknowledgement pages. Upon execution of such four (4) originals, the prospective awardee shall return them to the Procurement Representative. At the time of Contract award, MTABC will transmit a fully executed Contract to the Contractor.
- B. Award of the Contract will be made by issuance of a written “Acceptance and Order” or “Notice of Award” informing the successful Bidder that its Bid has been accepted and that it has been awarded the Contract.
- C. The Contract will be awarded to the lowest responsive and responsible Bidder, except as otherwise permitted by law. MTABC also reserves the right to reject any and all Bids in its sole and absolute discretion. In the event of tie Bids, MTABC reserves the right to determine the successful Bidder by lot or otherwise in its discretion.
- D. MTABC reserves the right to conduct a cost analysis prior to award. Should MTABC determine to make such an analysis, the Bidder will be required to provide all appropriate information and/or data requested by MTABC in conducting the analysis. In addition, bidders are advised that prices submitted on an “Invitation for Bid” could be subject to audit if (a) the bid turns out to be the only bid and (b) the bid prices undergo negotiation.

## 11. ITEM AND CLASS AWARDS

See Schedule G, Rider to Contract Documents as to whether or not an award will be made as an Item or Class basis.

- A. Item Award: Except as otherwise expressly indicated in the Bid, the Contract(s) will be awarded on an “item” basis, i.e., a separate award will be made to the lowest responsive and responsible Bidder for each item set forth in the Bid. **The Bidder may bid on one or more or all of the items.** A Bidder will be considered only for the items(s) for which it has set forth a bid on the Bid. Where the Bid calls for a single lump sum price, this will be considered as an item award.
- B. Class Award: If indicated in the Bid as a class award then this Contract will be awarded on a “class” basis, i.e., a single award will be made to the lowest responsive and responsible Bidder based upon the total aggregate price for all items set forth in the Bid. Where the Bid sets forth more than one class of items, the Bidder may bid on one or more or all of such classes, but **the Bidder must bid on each item within a given class.** A Bidder desiring to bid “no charge” on

an item in a class must indicate this clearly. A submitted Bid not setting forth the Bidder's price for each item or "no charge" within a class may be deemed incomplete and is subject to being rejected regarding such class.

## 12. BIDDER'S QUALIFICATIONS

- A. In order to qualify as a responsible bidder, in addition to the other requirements herein provided, a Bidder must be prepared to prove to the satisfaction of MTABC that it has the integrity, skill, and experience to faithfully perform the Contract and that it has the necessary facilities and financial resources to perform the Work in a satisfactory manner and within the time specified. All bidders, whose Bid equals or exceeds \$250,000, shall complete and submit, Parts I, II and VIII of the form entitled **RESPONSIBILITY QUESTIONNAIRE (SCHEDULE J)** with their Bid. The apparent low Bidder shall complete and submit Parts III, IV and V to the Procurement Representative within three (3) working days after receiving written notification.
- B. The Bidder agrees to provide MTABC additional information, or to clarify or supplement information already furnished, including but not limited to information relating to its past performance, its plan for performing the Contract, investigations, indictments, convictions, the Bidder's safety practices and record, and financial conditions. The Bidder agrees to permit MTABC to conduct site visits to Bidder's plant, current work sites, and other locations.
- C. To be considered skilled and experienced, the Bidder must show, among other requirements to MTABC, that it has satisfactorily supplied Goods or performed work or services as the same general type as that called for under the Contract.
- D. Bidder shall also be required to secure the necessary insurance policies, as required by **SCHEDULE A, INSURANCE REQUIREMENTS**, or necessary licenses, permits or certificates, required by any legislative or regulatory body with jurisdiction of the subject matter and may be required to furnish evidence of same.
- E. A Bidder in arrears in the payment of amounts due to the City of New York, the Metropolitan Transportation Authority, MTABC or any of its affiliated agencies will be required to pay said amounts in full in order to be considered a responsible Bidder, unless and to the extent that MTABC, upon satisfactory explanation made by the Bidder, excuses him from the payment thereof or permits further deferment of payment.
- F. The apparent low Bidder may be required to appear at the office of MTABC's Chief Officer, Procurement for a qualification hearing, at such date and time that MTABC may select upon notice to the Bidder, to demonstrate that the Bidder is a responsible Bidder. At such time, the Bidder shall furnish bonds, proof of insurance, financial statements, or other documents as may be required by the Contract Documents. If the qualification hearing is held within ten (10) days of the Bid Opening, MTABC will accept as evidence of compliance with Performance and/or Payment Bond requirements a letter or certificate from an acceptable surety or sureties, as the case may be, which satisfactorily establishes to MTABC that an acceptable surety will issue the necessary bonds not later than thirty (30) days from the date of Bid Opening, in which event the Bidder shall furnish any such bonds within thirty (30) days after Bid Opening.

- G. The Bidder is required to be adequately financed to pay promptly for all labor and materials as such obligations become due and to avoid the necessity for assignment of any monies payable. The Bidder must be prepared to submit a sworn statement, in the form furnished by MTABC (see paragraph 12.a. above), of the Bidder's financial condition, as of a date not more than sixty (60) days prior to the date when the bids are received, and to be examined thereon.
- H. If attached, **SCHEDULE X, FEDERAL DRUG AND ALCOHOL TESTING REQUIREMENTS**, applies to this solicitation and any resultant Contract.

### 13. SECURITY FOR PERFORMANCE

Bidders are hereby notified that **SCHEDULE Q, BONDING REQUIREMENTS AND FORMS OF BONDS**, if included in the LIST OF SCHEDULES sets forth the requirements for Performance or Payment Bonds or other security requirements.

### 14. BID WITHDRAWAL

- A. By submitting the Bid, a Bidder irrevocably offers for a **ninety (90) day period**, commencing with the opening of bids, to enter into the Contract, if awarded, as hereinafter provided.
- B. After the expiration of the aforesaid ninety (90) day period, the Bid may be withdrawn by a Bidder who has otherwise complied with all of the requirements of the Bid Solicitation package by serving MTABC with a written notice of withdrawal. An award made by MTABC prior to its receipt of the notice of withdrawal will be valid, notwithstanding that such award is made after expiration of the said ninety (90) day period. For such written notice of withdrawal to be effective it must be clear, unequivocal and without conditions.

### 15. BID MISTAKE

- A. A Bidder who seeks to rescind its Bid due to a mistake or error in preparation thereof shall notify MTABC within two (2) business days of public Bid Opening, in writing. The notice shall specify the details of the claimed error or mistake. Thereafter, MTABC shall evaluate the matter and determine if the Bidder will be permitted to rescind its Bid.
- B. To assist in its determination, MTABC may conduct a hearing on the matter, wherein the Bidder shall, if requested by MTABC, give testimony and present documentation including Bidder's original bid computation sheets and calculations.

### 16. BID SECURITY

- A. Bidders are hereby notified that **SCHEDULE Q, BONDING REQUIREMENTS AND FORMS OF BONDS**, if included in the LIST OF SCHEDULES, sets forth the requirements for Bid Security. The Bid Security must be submitted in the form of a certified or cashier's check or a bid bond in an amount equal to two percent (2%) of the Gross Sum Bid (defined in the **Bid, Section J3**).

- B. A certified or cashier's check shall be made payable to the order of the MTA Bus Company and shall be drawn upon a national or State bank or trust company. The bid deposit, in whatever form, must be enclosed in a separate envelope endorsed with the contract number and title, and the Bidder's name and submitted to MTABC upon presentation of the Bid.
- C. If included in **SCHEDULE Q, BONDING REQUIREMENTS AND FORMS OF BONDS**, a bid bond may be submitted as Bid Security in the form prescribed by MTABC, a copy of which is attached or appended to the Bid Solicitation Package, and shall be issued by a corporate surety in good standing and licensed to do business in the State of New York. Attorneys-in-fact who sign bid bonds or contract bonds must file with each bond a certified copy of their power of attorney to sign said bonds.
- D. Deposits of certified or cashier's checks by bidders, except the apparent lowest and next to lowest Bidders, will be returned within ten (10) days after the opening of bids. The deposit of the apparent second lowest Bidder will be returned within five (5) days after the award of the Contract. The deposit, if it consists of the certified or cashier's check, will be returned to the Contractor within five (5) days after the award of the Contract. All deposits will be returned without interest.

#### **17. DEFAULT REGARDING A BID**

- A. A Bidder who fails to submit data required for, or to appear at any hearing to determine its responsibility, or fails to respond to questions regarding qualification for an award of the Contract herein, but who would otherwise have been eligible for the award of this Contract, will be in Default Regarding a Bid as expressly provided herein.
- B. A Default Regarding a Bid shall occur by failure of such Bidder to timely submit (if required by the Contract Documents): (i) Performance and Payment Bonds; (ii) Minority and Women-Owned Business Enterprise Submissions; (iii) insurance policies and certificates of insurance; or (iv) any other submission required to be submitted prior to an Award. Except with respect to a Bidder's failure to timely submit the completed MBE/WBE Submissions, a Bidder shall not be deemed in Default Regarding a Bid if any such failure is without the fault or neglect of the Bidder or Bidder's employees or agents.
- C. Upon default, MTABC may retain the bid security, or as much thereof as may be necessary to cover the damages and proceed to contract with such, if any of the original Bidders as, in its opinion, will advance the interests of MTABC or may invite further bids. The defaulting Bidder shall thereupon, in either case, be liable to MTABC for all loss and damage sustained by it by reason of such default.

#### **18. INSPECTION OF PROJECT SITE AND PRE-BID CONFERENCE**

If a tour inspection of the project site is required or a pre-bid conference is to be held, further information concerning the date, time and place will be stated on the actual Bid, or set forth in Schedule B Site Inspection/ Pre-Bid Conference, if included in the solicitation package.

**19. ADDENDA AND REQUEST FOR CLARIFICATION**

- A. Prior to bidding, each prospective Bidder should examine the Bid Solicitation Package carefully and submit in writing to the Procurement Representative any requests for:
1. an interpretation or correction of any ambiguity, inconsistency, or error therein; or
  2. any amendments which the Bidder desires to have made in the Bid Solicitation Package.
- B. To be given consideration, any such request must be in writing and must be received by MTABC at least ten (10) working days prior to the date designated, for the opening of bids, or such shorter period as MTABC, in its sole discretion, shall allow.
- C. Any such interpretation, correction or amendment, as well as any additional provision MTABC may decide to include in the Bid Solicitation Package, will be issued in writing by MTABC prior to Bid opening as an addendum to the Contract. Addenda are binding upon the Bidder upon issuance. Issuance of an addendum is defined as the filing of a copy of such addendum in the Contracts Department of MTABC located in the Maintenance Building 2<sup>nd</sup> fl of the College Point Depot 128-15 28<sup>th</sup> Avenue Flushing, NY 11354. A copy will be made available to any prospective Bidder so requesting. MTABC will endeavor to mail addenda or otherwise transmit to each person recorded as having been furnished a copy of the Bid Solicitation Package. Bidders, however, are responsible for insuring their receipt of all addenda. To request copies of Addenda, contact the Procurement Representative for this solicitation.
- D. Only a written interpretation or correction issued by addendum by MTABC shall be binding. A Bidder's failure to request such an interpretation or correction will preclude such Bidder from thereafter claiming any ambiguity, inconsistency, or error which should have been discovered by a reasonably prudent Bidder.

**20. OPPORTUNITIES FOR MINORITY AND WOMEN-OWNED BUSINESS ENTERPRISES PROGRAM GOALS**

- A. **Goals, if any, are set forth in SCHEDULE K. If Schedule K has been attached and made applicable, as indicated on the List of Schedules provided in this Information For Bidders, the successful Bidder shall comply with the terms and requirements in Schedule K and agrees to meet the goal(s) specified therein for the utilization of MBE/WBE's.** Attention is also directed to the required submission by the apparent low Bidder of completed MBE/WBE utilization forms and an EEO Policy Statement within seven (7) calendar days following the opening of bids. All submissions shall be delivered to MTABC's Procurement Representative.

**21. COMPLIANCE WITH LAWS, RULES AND REGULATIONS**



- A. A Bidder must be prepared to comply with any and all local, State and Federal laws, rules and regulations applicable to the subject matter of this Contract, including those relating to environmental matters.
- B. In accordance with the New York State Finance Law §165-2, MTABC is prohibited from purchasing any tropical hardwood or tropical hardwood products as defined in §165-1, b. Bidders are advised to review **ARTICLE 231, PARAGRAPH F “PROHIBITION ON THE PURCHASE OF TROPICAL HARDWOODS” OF THE CONTRACT TERMS AND CONDITIONS.**
- C. If a Bidder believes that it may furnish or supply tropical hardwood under an exception to the provisions of §165-2, a request for a determination should be made in writing, to the Procurement Representative, at least ten (10) days prior to the scheduled Bid Opening.

## **22. PROMPT PAYMENT**

Pursuant to Section 2880 of the Public Authorities Law, a copy of the MTA’s Statement of Rules and Regulations with respect to prompt payment of invoices will be made available to any Bidder or prospective Bidder requesting same of the Procurement Representative.

## **23. BUY AMERICA STEEL PROVISIONS**

- A. This Contract is subject to Section 2603-a of the Public Authorities Law (Chapter 441, Laws of 1983) entitled “Letting of Certain Contracts Involving Steel Products.” This provision, hereinafter called “Buy America Steel Provision,” requires the Board of each Public Authority to implement such law and to determine whether application of the provisions thereof would result in unreasonable costs or that steel products or steel components cannot be produced or made in the United States in sufficient and reasonably available quantities or of satisfactory quality or design. MTABC has adopted the following guidelines with respect to the implementation of such provisions, which will be applicable to this Contract:

### **B. GUIDELINES**

1. Definition. Steel component means a product rolled, formed, shaped drawn, extruded, forged, cast, fabricated or otherwise similarly processed or processed by a combination of two or more operations, from steel.
2. Supplies, material, or equipment shall be deemed to be made of, fabricated from or contain a steel component or steel components if the cost of the steel component or components exceeds fifty percent (50%) of the cost of the material content of the supplies, material or equipment. Such supplies, materials and equipment shall be referred to herein as “steel products.”
3. A steel component, including structural steel and reinforcing steel, shall be deemed to have been produced or made in whole or in substantial part in the United States, its territories or possessions if the cost of the portion thereof, including both materials and processes, produced or made in the United States, its territories or possessions, exceeds

fifty percent (50%) of the cost of the component. Such steel components shall be referred to herein as “domestic steel components.”

4. Procedures.
  - a. Bidders are permitted and are encouraged to utilize domestic steel and to submit bids for steel products containing domestic steel components. They may also submit bids for steel products not domestically produced.
  - b. The provisions of this Paragraph 23 are applicable to the purchase of steel products estimated to cost in excess of \$50,000 and for contracts for construction, reconstruction, alteration, repair, or maintenance of a facility estimated to be in excess of \$100, 000. Bidders must complete and return the Domestic Steel Certification, which is included in the Bid. Bidders shall state therein the amount of the Bid, which represents the cost of steel components, stated separately for domestic steel components and foreign steel components.
  - c. In a competitively bid contract, the cost of a domestic steel component shall be deemed reasonable if the lowest responsive and responsible Bidder has offered all or substantially all domestic steel components.
  - d. In a competitively bid contract, if a bid including domestic steel components is responsible and responsive, but not the lowest, a credit shall be allowed in the amount of six percent (6%) of the cost of the foreign steel components contained in the lowest responsive and responsive bid, and the Contract shall be awarded to the lowest responsive and responsive Bidder offering domestic steel components if the subtraction of such credit from the amount of its bid makes such bid the lowest responsive and responsive bid.
  - e. The procedures provided in (4) shall not be used if its application would result in the award of a contract utilizing domestic steel components of less total cost than if such procedure were not followed.
  - f. If no bid is received which includes steel components produced or made in the United States, a conclusive presumption shall be made that such steel component or components are not available domestically.
  - g. If a negotiation is undertaken with one party only, evidence must be submitted that the cost of a foreign steel component is at least six percent (6%) less than the cost of domestic steel components if foreign steel components are offered.
5. A determination that steel products or steel components are not produced or made in the United States of satisfactory quality or design shall be made by the Board of MTABC on a case by case basis.
6. Emergency Procurements. In an emergency, steel products shall be deemed not to be produced or made in the United States in sufficient and reasonable available quantities

or of satisfactory quality or design if after reasonable inquiry, MTABC determines that such steel products cannot be obtained within the six percent (6%) cost differential referred to in subparagraph d. within the time required by the emergency.

7. Motor vehicles and automobile equipment assembled in Canada in conformity with the United States-Canadian trade agreement known as the "Automotive Products Trade Act of 1965" shall not be deemed of foreign origin.

C. POST AWARD DETERMINATION

1. If in submitting its Bid, the Contractor certified that it would supply domestic steel products or components but finds out after Contract award that the steel products or components cannot be produced or manufactured in the United States but may be obtained using foreign steel, the Contractor will make a request in writing, to MTABC's Chief Officer, Procurement with a copy to the Project Manager, that MTABC make a determination that the steel product(s) or steel component(s) are not produced or made in the United States of satisfactory quality or design. The Contractor's request will contain the following information:
  - a. MTABC's contract or purchase order number, and MTABC's part or specification number;
  - b. an explanation why the Contractor was unable to ascertain prior to award that it could not obtain the steel product(s) or components(s) of satisfactory quality or design produced or made in the United States;
  - c. for both the domestic steel supplier or manufacturer and the proposed foreign steel supplier or manufacturer the following:
    - i. supplier or manufacturer's name;
    - ii. supplier or manufacturer's part number;
    - iii. cost (including associated costs for the item such as shipping); and
    - iv. delivery schedule or time of availability;
  - d. a written statement from the domestic steel supplier or manufacturer that it is no longer manufacturing or producing the specified item(s), or a sworn statement from the Contractor that the domestic steel supplier or manufacturer is no longer in business;
  - e. an explanation as to what efforts the Contractor has made to obtain a substitute product manufactured or produced from domestic steel that meets or exceeds MTABC's requirements; and

- f. any additional information that MTABC may request in support of the Contractor’s request for a determination.
  
- 2. If MTABC in making the award to the Contractor allowed the Contractor a six percent (6%) credit against other bidder(s) offering foreign steel components and MTABC makes a determination that an exception to the Buy America requirements applies, then MTABC shall be entitled to a price adjustment reducing the total amount payable to the Contractor. The price adjustment shall be derived by taking the difference of the dollar value (if any) of the foreign steel components proposed by the Contractor in its Bid and the dollar value of foreign steel components proposed by the bidder against which the credit was taken; times (X) the sum of the six percent (6%) credit plus (+) a four percent (4%) administrative fee; times (X) a fraction of which the numerator is the dollar value of the domestic steel components proposed by the Contractor for the exception; the denominator of which is the dollar value of the domestic steel components proposed by the Contractor in its Bid.

Example:

\$ value of foreign steel components proposed by the bidder against which the credit was taken less (-) \$ value of foreign steel components proposed by the Contractor in its Bid (if any)	X	10%	X	\$ value of domestic steel components proposed by the Contractor for an exception  divided by (÷) \$ value of domestic steel components proposed by the Contractor in its Bid
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- 3. If MTABC determines that an exception to the Buy America requirements applies, a modification to this Contract will be executed allowing the use of foreign steel products or foreign steel components.

**24. BID PROTEST**

- A. Protests will only be accepted from prospective or actual bidders whose direct economic interest would be affected by the award or non-award of the Contract. Protests must be in writing and will generally not be considered unless submitted within five (5) business days from the date the protestor knew or should have known the facts forming the basis of the protest. Protests prior to a bid due date should be filed not later than five (5) business days prior to the due date in order to be considered timely. Unsolicited supplemental protest submissions will generally not be considered. Protest must include at least the following information: name, address, telephone and fax numbers of the protestor, the solicitation bid or contract number, a detailed statement of the legal and factual grounds for the protest including copies of relevant documents and a statement as to what relief is requested. A protest found by the Chief Officer, Procurement or his or her designee (the “Protest Officer”) in his or her sole discretion to be patently without merit or not brought in a timely manner shall be rejected without further consideration. The Protest Officer may take any action or make any requests he

or she deems necessary in order to investigate the protest and develop a recommendation or disposition of the protest.

- B. The Chief Officer, Procurement may determine that an award must be made prior to resolution of the protest when MTABC determines that:
1. the items to be procured are urgently required; or
  2. delivery or performance will be unduly delayed by failure to make the award promptly;  
or
  3. failure to make prompt award will otherwise cause undue harm to MTABC.

The protestor will be given a written notice of the decision to proceed with the award.

- C. Post Award Protests. Protests after an award should be received by MTABC not later than two (2) calendar weeks after the award and are subject to the substantive requirements as provided in subparagraph a, above. Post-award protests received more than two (2) calendar weeks after the award of a contract shall be considered an “informal inquiry” and will be referred to the appropriate parties administering the contract.
- D. A copy of MTABC’s Protest Procedures may be obtained by contacting the Procurement Representative.

## **25. OMNIBUS PROCUREMENT ACT OF 1992**

- A. It is the policy of New York State to maximize opportunities for the participation of New York State business enterprises, including minority and women-owned business enterprises as Bidders, Subcontractors and Suppliers on its procurement contracts.
- B. Definitions:
1. New York State Business Enterprise - shall mean a business enterprise, including a sole proprietorship, partnership, or corporation, which offers for sale or lease or other form of exchange, goods which are sought by MTABC and which are substantially manufactured, produced or assembled in New York State, or services which are sought by MTABC and which are substantially performed within New York State. MTABC requires that in the case of goods, fifty one percent (51%) or more of the price paid by MTABC is attributable to manufacturing, production, or assembly within New York State. In the case of services, fifty-one percent (51%) or more of the price paid is attributable to services performed within New York State.
  2. Foreign Business Enterprise - shall mean a business enterprise, including a sole proprietorship, partnership, or corporation, which offers for sale or lease or other form of exchange, goods sought by MTABC and which are substantially produced outside New York State, or services which are sought by MTABC and which are substantially performed outside New York State.

3. New York Resident- shall mean a natural person who maintains a fixed permanent and principal home located within New York State and to which such person, whenever temporarily located, always intends to return.
  4. Procurement Contract- shall mean any written agreement entered into by MTABC for the acquisition of goods or services of any kind, in the actual or estimated amount of fifteen thousand dollars (\$15,000) or more. The term does not include an agreement for employment in civil service.
- C. **All Bidders submitting a bid equal or greater than one million dollars** shall provide notification to New York State business enterprises of opportunities to participate, in this Contract, as Subcontractors or Suppliers.
- D. Bidders are advised that information on the availability of New York State Subcontractors and Suppliers is available from:

New York State Department of Economic Development  
Division for Small Business  
30 South Pearl St., 7<sup>th</sup> Floor  
Albany, N.Y. 12245  
Phone: (518) 292-5220      Fax: (518) 292-5853

- E. Bidders are advised that a Directory of certified minority and women-owned business enterprises may be accessed online at [www.empire.state.ny.us](http://www.empire.state.ny.us) (once at the site, click on “ESD’s Business Services” to access “Minority/Women Business”) Bidders who have a question concerning the Directory should contact the:

Empire State Development  
Division of Minority & Women Business Development  
30 South Pearl St.  
Albany, NY 12245  
Phone: (518) 292-5250      Fax: (518) 292-5803

- F. Bidders located in a foreign country are notified that the State may assign or otherwise transfer offset credits created by any procurement contract of one million dollars or more to third parties located in New York State, and that Bidders shall be obligated to cooperate with the State in any and all respects in making such assignment or transfer, including but not limited to, executing any and all documents deemed by the State to be necessary or desirable to effectuate such assignment or transfer, and using their best efforts to obtain recognition and accession to such assignment or transfer by any applicable foreign government.
- G. Bidders are hereby notified that state agencies and authorities are prohibited from entering into contracts with businesses whose principal place of business is located in a discriminatory jurisdiction. “Discriminatory jurisdiction” is defined as any other country, nation, province, state or political subdivision which employs a preference or price distorting mechanism to the detriment of, or otherwise discriminates against, a New York State business enterprise in the

procurement of commodities and services by the same or a non-governmental entity influenced by the same. A list of discriminatory jurisdictions is maintained by the commissioner of the NYS Department of Economic Development.

## **26. RECYCLED PRODUCTS**

Pursuant to Section 2878-a of the Public Authorities Law, all purchases of printing on recycled paper shall contain the official New York State recycling emblem established pursuant to subdivision two of Section 27-0717 of the New York State Environmental Conservation Law and Regulations, if such paper has been approved by the Department of Environmental Conservation as satisfying the requirements of such statute and regulations; or if such paper has not been approved, the printed material is to include a printed statement which indicates the percentage of pre-consumer recycled material content of the paper.

## **27. METROPOLITAN TRANSPORTATION AUTHORITY VENDOR CODE OF ETHICS**

Bidder's Certification of Compliance with the MTA Vendor Code of Ethics ("the Code"): All Vendors, as defined by the Code, involved in this Solicitation and during the performance of any resultant contract are subject to the Code, which is available for Bidder's immediate review on the MTA website at [www.mta.info/mta/procurement/vendor-code.htm](http://www.mta.info/mta/procurement/vendor-code.htm). Accordingly, all Bidders must certify compliance with the Code in the Bid which includes the Certification of Compliance with the MTA Vendor Code of Ethics.

[END OF SECTION]



**Bus Company**

**CONTRACT PROVISIONS**

**Contract No. MP121313**



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CONTRACT EXECUTION

List of Schedules (edit and attach as required)

- Schedule A Insurance Requirements
- Schedule M Utilization of Contract by Other Agencies
- Schedule W Compliance with NYS State Finance law Sections 139-j and 139-k (“Lobbying Law”)

Attachment No. 1 MTABC Observed Holidays

Package 1 – For use with Contracts and Purchases that do Not Have Minority/Women-owned Business Enterprise (M/WBE) Goals

**CONTRACT FOR THE SERVICES OF A CONTRACTOR**

**FOR** \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**THIS CONTRACT** (hereinafter, the “Contract”) made this \_\_\_\_\_ day of \_\_\_\_\_, 20 \_\_\_\_, between by **The MTA Bus Company** (hereinafter “MTABC”), with offices at 2 Broadway, New York, New York 10004, and

\_\_\_\_\_ (hereafter the “Contractor”), with offices at \_\_\_\_\_  
\_\_\_\_\_

**WITNESSETH:**

**WHEREAS**, MTABC desires to retain a Contractor on the terms and conditions set forth in this Contract and Contractor has agreed to accept such retainer;

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

The Contractor agrees to perform the Work in accordance with requirements and terms and provisions hereinafter set forth in the Contract Documents. In consideration for the complete, satisfactory and proper performance thereof by the Contractor, MTABC agrees to pay to the Contractor, and the Contractor agrees to accept as full compensation therefor, the sums of money set forth in the Price Schedule at the time and in the manner and upon the terms and conditions hereinafter set forth in the Contract Documents.

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Scope of work  
For

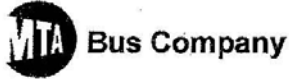
Vendor

To Maintain CCTV Systems  
@ MTA Bus Company.

March 5, 2012.

March 5, 2012

MTA Bus Company is an agency of the Metropolitan Transportation Authority, State of New York



**The following outlines the services to be performed by vendor for MTA Bus Company.**

- 1) Shall maintain and repair the CCTV system for MTA Bus Company.
- 2) Will replace or repair any cameras, monitors and DVR's.
- 3) Vendor will charge a competitive hourly rate (cost of equipment is additional)
- 4) Vendor shall charge competitive prices on all equipment.
- 5) Vendor shall provide at no additional cost the tools and equipment commonly used by technicians for the performance of work.
- 6) A technician is expected to be dispatched on a same day basis.

**Requirements:**

The goal is to have an "on-call basis" contractor to provide maintenance on MTA Bus Company CCTV system. This system provides security and safety to our employees, assets and operations.

- The contractor shall provide telephone numbers where it or its duly authorized representative can be reached on a 24 hour per day basis.
- The contractor shall commence work no later than 24 hours upon finalizing the issuance of a Purchase Order Release Form.
- The contractor is required to perform all work in a safe manner and in compliance with OSHA, the State of New York and the City of New York regulations.
- All Equipment, supplies and materials must be approved for use in New York City, New York State and by agencies having jurisdiction for such approval.
- The technician assigned to the facility shall have at least five (5) years of proven track experience in all phases of work related to the depots security systems.

MTA Bus Company is an agency of the Metropolitan Transportation Authority, State of New York



The following depots are covered under this maintenance contract:

***LaGuardia Depot***  
85-01 24<sup>th</sup> Avenue  
Jackson Heights, N.Y 11369.

***JFK Depot***  
165-25-147<sup>th</sup> Avenue  
Jamaica, N.Y 11434.

***Far Rockaway Depot***  
49-19 Rockaway Beach Blvd.  
Far Rockaway, N.Y 11691.

***Spring Creek Depot***  
12755 Flatlands Ave.  
Brooklyn, N.Y 11208.

***Baisley Park Depot***  
114-15 Guy R. Brewer BLVD.  
Jamaica, N.Y 11434

***Eastchester Depot***  
Interstate 95 @ exit 13  
Bronx, N.Y 10475.

***College Point Depot***  
128-15 28<sup>th</sup> Avenue  
Flushing, N.Y 11354.

***Yonkers Depot***  
59 Babcock Place  
Yonkers, N.Y 10701.

MTA Bus Company is an agency of the Metropolitan Transportation Authority, State of New York

**SPECIFIC CONTRACT PROVISIONS**

**ARTICLE 101            DEFINITIONS**

- A.     The following terms that may be used in this Contract shall, except where, by the context, it is clear that another meaning is intended, be construed as follows:
1.     “Addenda” or “Addendum” shall mean the additional Contract provisions relating to the Contract issued in writing by MTABC prior to the Award Date.
  2.     “MTABC” shall mean the MTA Bus Company, a public benefit corporation existing by virtue of the Metropolitan Transportation Authority (“MTA”), created by resolution of the MTA board of Directors, pursuant to section 1266, subdivision 5, of the Public authorities Law of the State of New York.
  3.     “Award Date” shall mean the date the Notice of Award or Notice to Proceed is issued.
  4.     “City” shall mean the City of New York, according to its boundaries at the date of this Contract.
  5.     “Contract”, “Contract Documents” or “Agreement” shall mean the Important Notice to Bidders or Proposers (INB/INP), Information for Bidders or Request for Proposal (IFB/RFP), the Bid or Proposal, General Contract Provisions, Specific Contract Provisions, Contract Execution, all Schedules, all Addenda (if any), the Technical Specifications (if any), the Scope of Work (if any), the Contract Drawings (if any), the Attachments (if any), the Appendices (if any), the Forms of Bonds (if any), and the Notice of Award (NOA) or the Notice to Proceed (NTP).
  6.     “Contractor” or “Consultant” shall mean the bidder or Proposer to whom this Contract is awarded, its successors and assignees and may be used interchangeably. For convenience the Contractor is hereinafter referred to as if the Contractor were an individual. The word “he” shall, as the sense may require include “she”, “it” and “they”; the word “him” shall include “her”, “it” and “them”; and the word “his” shall include “her”, “its” and “their”.
  7.     “Directed”, “required”, “permitted”, “ordered”, “designated”, “selected”, “prescribed”, or words of like import used in the specifications or upon the drawings (if any) shall mean, respectively, the direction, requirement, permission, order, designation, selection or prescription of the Project Manager; and similarly the words “approved”, “approved manner”, “approval”, “acceptable”, “satisfactory”, “equal”, “necessary”, or words of like import shall mean, respectively, approved by, or acceptable or satisfactory to, or equal, or necessary in the opinion of the Project Manager.
  8.     “Disputes Resolution Officer” or “DRO” shall mean the individual designated by MTABC to resolve disputes between the parties.
  9.     “DOT” shall mean the United States Department of Transportation.
  10.    “Engineer” shall have the same meaning as “Project Manager”.

11. "Federal" or words of like import shall mean the United States of America.
12. "FTA" shall mean the Federal Transit Administration.
13. "Inspector" shall mean any representative of the Project Manager designated to act as an inspector.
14. "Law" shall mean the Constitution of the State of New York, the New York City Charter, the City Code, and each and every other law, rule, regulation, requirement, order, judgment, decree, or ordinance of every kind whatsoever issued by any government entity including but not limited to the Federal Government, applicable to or affecting the Contract, the Work and all persons engaged in the Work (including any of the foregoing which concern health, safety, environmental protection, and non-discrimination).
15. "Legal Proceeding" shall mean every action, litigation, arbitration, administrative proceedings, and other legal or equitable proceeding of any kind whatsoever.
16. "Liens" shall mean any and every lien of any kind whatsoever against the Work, any monies due or to become due from MTABC to Contractor, and/or any other property of MTABC, for or on account of the Work, including any Public Lien.
17. "Manufacturer" -- See "Supplier."
18. "MTA" shall mean the Metropolitan Transportation Authority and any other board, body, commission, official or officials to which or to whom the powers now belonging to MTABC in respect to the planning, financing, location, construction, equipment, maintenance and operation of mass transportation facilities under the provisions of Article 5, Title 11 of the Public Authorities Law of the State of New York shall, by virtue of any act or acts, hereafter pass or be held to appertain.
19. "Notice" or "notice" shall mean a written notice.
20. "Notice of Award" or "Notice to Proceed" shall mean a document that apprises the Contractor that this Contract has been approved by MTABC.
21. "Original Equipment Manufacturer" or "OEM" shall mean the standards, requirements or recommendations of the respective Manufacturer.
22. "Project Manager" shall mean the individual designated by MTABC to administer this Contract or his duly authorized representative and any successor or successors duly appointed or any deputy or substitute for him who shall be appointed by MTABC.
23. "Remanufacture" shall mean the process of replacing or renewing all components, parts of a Unit to achieve current optimum manufacturing performance standards and designs by employing current Original Equipment Manufacturer ("OEM") manufacturing standards.
24. "SI System" shall mean the International System of Units.



- 25. "State" -- See "New York State".
- 26. "Subcontractor" shall mean an individual or organization who enters into a contract to furnish labor or services only or labor and materials or apparatus in connection with the Work directly or indirectly for or in behalf of the Contractor and whether or not in privity of Contract with the Contractor.
- 27. "Supplier" shall mean an individual or organization that furnishes materials, equipment or supplies to the Contractor either directly or indirectly, for incorporation in the Work.
- 28. "United States Government" -- See "Federal."
- 29. "Work" or "Project" shall be defined as all the required obligations of the Contractor hereunder, including but not limited to, the performance of any labor or services, the supplying of any goods or materials, the furnishing or repair and/or remanufacture of any equipment or any other resources or requirements or deliverables necessary to perform, construct, accomplish and complete this Contract's objectives as stated in ARTICLE 102 below.

**ARTICLE 102 PROJECT DESCRIPTION**

- A. The Work to be performed under this Contract may briefly be described as maintenance of CCTV system including all necessary or incidental work, labor and materials. Included in the Work and price shall be all pickup, transportation and delivery expenses from and to MTABC as well as all labor, materials, equipment, incidentals and overhead costs and expenses in performing the Work. The Work shall be performed as specified in the Contract Documents at the production rate specified in **ARTICLE 104, TIME FOR COMPLETION AND DELIVERY**.
- B. The Contractor shall be required to perform all Work in accordance with the Scope of Work included as part of the Contract Documents.

**ARTICLE 103 TERM OF CONTRACT**

The initial term of the contract shall be for a period of 24- months "On-Call" from the date specified in the Notice of Award or the Notice to Proceed as applicable. MTABC shall have an option to extend the term if needed. Such option (s), if any, shall be exercised by MTABC by giving written notice to the Contractor at least three (3) days prior to date the contract would otherwise expire.

**ARTICLE 104 TIME FOR COMPLETION AND DELIVERY**

- A. The Contractor shall provide all Work assigned hereunder within the period of time specified in Article 103 Term of Contract.
- B. MTABC reserves the right of temporarily suspending the performance of the whole or any part of the Work, if it shall deem it in its best interest so to do, without compensation to the Contractor for such suspension other than extending the time for completing the Work as much as in the opinion of MTABC the Contractor may have been delayed by such suspension.

**ARTICLE 105 LIQUIDATED DAMAGES FOR DELAY**

- A. Time is of the essence to this Contract. In the event of a delay in delivery of any Work under this Contract beyond the time as set forth in **ARTICLE 104, TIME FOR COMPLETION AND DELIVERY**, or beyond the period to which such time may be extended by MTABC as herein provided, MTABC shall be paid damages for such delay. Inasmuch as the amount of such damages and the loss to MTABC will be extremely difficult to ascertain, it is hereby expressly agreed that such damages will be liquidated and paid as follows:
- B. The Contractor shall pay MTABC for each and every day (per Day), of unexcused delay, except Saturdays, Sundays and legal holidays. The sum is hereby agreed upon not as a penalty but as liquidated damages.
- C. MTABC shall have the right to deduct such liquidated damage assessments from any monies due or which may thereafter become due to the Contractor under this Contract; and in case the amount which may become due hereunder, shall be less than liquidated damages due to MTABC, the Contractor shall pay the difference upon demand by MTABC.

**ARTICLE 106 WARRANTY**

- A. All workmanship, parts and materials furnished for all the Work shall be unconditionally warranted against failures or defects for a period of one (1) year after the unit is placed in service. The Contractor shall accept MTABC's records with respect to the date the Unit was placed in service.
- B. In the event that any Work covered by the warranty provisions fails during the warranty period, the Contractor shall repair or replace the work within five (5) days without cost or expense to MTABC because this service is for security purposes for each Depot.
- C. The warranty will not apply to the extent that such failure is caused by user abuse. Several examples of user abuse are noted below:
  - 1. Unit damaged by external fire;
  - 2. Unit cut or burned by torch; or
  - 3. Unit damaged in collision or derailment.
- D. In case the Contractor shall fail to repair or replace any part or do any work in accordance with the terms of the warranty, or if immediate replacement or Work is necessary to maintain operation of the Equipment, the Project Manager shall have the right to cause such replacement to be made at the expense of the Contractor.
- E. Each and every piece of equipment, component or part thereof that is replaced, repaired, adjusted or serviced in any manner under the terms of warranty by the Contractor, during the warranty period shall be reported to the Project Manager on forms supplied by MTABC. Each report shall indicate in detail all repairs, adjustments and servicing to each and every component, Unit or parts thereof.

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- F. Any warranty or retrofit work shall be accomplished with minimum disruption to MTABC's operation and its maintenance and service facilities. The Project Manager at his sole discretion shall determine the availability of facilities for warranty or retrofit work.
- G. The Contractor shall make available adequate service facilities, including spare parts, for all the Equipment. Trained technical service personnel shall be available to MTABC sufficient to meet its warranty obligations.
  - 1. The Contractor shall provide field service representatives who are competent and fully qualified in the maintenance and operation of the Equipment. These field service representatives shall assist MTABC in overcoming any difficulties in the operation or maintenance of the Equipment. They shall further serve as on-site representatives of the Contractor for any component failure claims or warranty claims against the Contract. These field service representatives shall be available from the delivery of the first Unit to the acceptance of the Last Unit.
  - 2. During the warranty period, a field service representative shall be available within 24 hours.

**ARTICLE 107 RISK OF LOSS TO THE WORK**

- A. The Contractor assumes risk of loss or damage to the Work to the fullest extent permitted by applicable law, irrespective of whether such loss or damage arises from acts or omissions (whether negligent or not) of the Contractor, MTABC or third persons, or from any cause whatsoever, excepting loss or damage arising solely from negligent or willful acts of MTABC, occurring prior to completion and also assumes risk of loss or damage to remaining work until final completion of all the Work, except that if the failure to complete the remaining Work causes damage to the Work or other parts of MTABC, the Contractor shall be responsible for all resulting loss or damage.
- B. Contractor's obligation hereunder is to immediately repair, replace and make good such loss or damage so as to restore the Work to the same character and condition as before the loss or damage in accordance with the Contract Documents without cost to MTABC.
- C. Risk of loss or damage to, cranes or special equipment, supplied and operated by MTABC shall be on MTABC, but the Contractor shall be responsible for loss or damage thereto arising out of Contractor's failure to fulfill a contractual obligation hereunder or the negligence or willful act of the Contractor, its subcontractors and suppliers.

**ARTICLE 108 PRICE TO INCLUDE / INVOICES AND PAYMENTS**

- A. MTABC shall pay and the Contractor shall accept the amounts set forth in the Price Schedule of the Proposal as full compensation for all costs and expenses of completing the Work in accordance with the Contract, including, but not limited to, all labor and material required to be done or furnished under this Contract; all overhead, expenses, fees and profits including the cost of providing storage yard or facilities; all risks and obligations set forth in the Contract; any applicable fees or taxes; and all expenses due to any unforeseen difficulty encountered in the prosecution of the Work.

- B. Invoices shall be submitted not more than once each month subject to the Contractor's compliance with the submission requirements contained hereunder and all other provisions of the Contract Documents.
1. Proper Invoice: In addition to any other requirement set forth in this Contract with respect to what constitutes a proper invoice or for the Contractor to be entitled to receive payment, the Contractor's invoice, in triplicate, must set forth (1) a description, with specificity, of the goods delivered, Work performed, services rendered, or other event initiating entitlement to payment pursuant to the terms of this Contract; (2) that portion of the Contract price related to such payment less any deductions such as retainage required pursuant to the terms hereof (if any); and (3) the Contract number. Should the invoice not be calculated correctly, such as not taking into account retainage as a deduction, MTABC may either reject the invoice or treat the invoice as proper only to the extent of the correct calculation of the amount thereof.
  2. Supporting Documentation: The following are in addition to any other requirement set forth in this Contract with respect to what supporting documentation must accompany an invoice:
    - a. In the event the Contract contains an inspection and acceptance procedure, the Contractor's invoice relating to delivered and/or installed goods, the Work covered by such invoice must be accompanied by a copy of the Project Manager's certificate of acceptance, or equivalent document, thereof.
    - b. In the event the Contract provides for payment upon achieving stated milestones of performance, the Contractor's invoice relating to any milestone must be accompanied by a copy of the Project Manager's certificate, or equivalent document, that the milestone has been achieved.
    - c. In the event that the payment request is based upon a "deliverable", the Contractor's invoice must be accompanied by appropriate documentation that the deliverable has been delivered in accordance with the Contract, and if this Contract requires acceptance thereof as a condition precedent to payment, that the deliverable has been so accepted.
    - d. Invoices must also be accompanied by all affidavits, time records, staffing and other records provided for or required by the Contract to establish the amount of payment and/or performance of the Work billed, as well as a statement with sufficient specificity which establishes the basis on which the payment is due according to the Contract. Any documentation generated by MTABC, such as certificate of acceptance, will be issued in accordance with the terms of the Contract.
  3. Inspection, Review and Audit: In addition to any other requirements pertaining to the right of MTABC or other entity to perform inspections, reviews or audits with respect to any payment or to the contract as a whole, MTABC reserves the right to inspect, review and/or audit each invoice for payment to verify that the invoice amount is consistent with the materials, labor, goods, and/or services provided and is in accordance with the provisions of the Contract, as well as to determine the resources applied or used by the

Contractor in fulfilling the terms of the Contract or otherwise to verify that the Work, goods or services billed for were provided in accordance therewith. MTABC will require ten (10) business days from the Receipt of Invoice Date within which to perform this function.

4. Set-off: MTABC shall have the right to set off against any payment due the Contractor under this Contract any unpaid legally enforceable debt owed by the Contractor to MTABC as outlined in the Prompt Payment Rules.

5. Designated Payment Office: The Designated Payment Office, to which all invoices and supporting documentation are required to be submitted under this Contract, is as follows:

a. If mailing, please send via email or facsimile all invoices to:

Email: [invoice@mtabsc.org](mailto:invoice@mtabsc.org)

Fax: 212-971-5060

Address: MTA Business Service Center

Accounts Payable

333 W. 34<sup>th</sup> Street

9<sup>th</sup> Floor

New York, NY 10001-2402

b. In addition, one (1) copy of all invoices, marked “copy” or “duplicate”, including all supporting documentation to the designated Project Manager for this Contract at his or her mailing address.

C. Unless otherwise stipulated in writing by the parties, MTABC shall make payment subject to the following conditions, which are, unless waived in whole or in part by MTABC in writing, conditions precedent to payment:

1. The Contractor is not, in the Project Manager’s and/or Procurement Representative’s opinion, in breach of any terms or provision of this Contract;

2. The Project Manager has accepted the Work.

D. MTABC may withhold sums equal to any claims of MTABC against the Contractor, for indemnification or otherwise, pending settlement or other disposition of such claim. MTABC may withhold from any payment otherwise due the Contractor as much as may be necessary to protect MTABC and if it so elects may also withhold any amounts due from the Contractor to any Subcontractors or Suppliers for work performed or material furnished by them. The foregoing provisions shall be construed solely for the benefit of MTABC and will not require MTABC to determine or adjust any claims or disputes between the Contractor and his Subcontractors or Suppliers, or to withhold any moneys for their protection unless MTABC elects to do so. The failure or refusal of MTABC to withhold any moneys from the Contractor shall in no way impair the obligations of any surety or sureties under any bond or bonds furnished under this contract. MTABC may withhold payment to the Contractor, if the Contractor fails to remedy unsuitable conditions. The Contractor shall be given written notice of any unsuitable conditions.

- E. MTABC will pay proper invoices within the time periods provided in the Prompt Payment Rules and Regulations. Payment will be deemed to have been made upon being mailed by MTABC.

*If the next article is not applicable to your contract, note it as NOT USED*

**ARTICLE 109 DRUG AND ALCOHOL TESTING**

This Contract is subject to terms and conditions set forth in **SCHEDULE X, FEDERAL DRUG AND ALCOHOL TESTING REQUIREMENTS**, attached and incorporated herein by reference.

**ARTICLE 110 QUALIFIED PRODUCTS LIST**

- A. Please be advised that MTABC utilizes NYC Transit’s (NYCT) Qualified Products List (QPL).
- B. If the Bid Solicitation Package specifies that an item is on the NYCT’s QPL, then only the specified item will be considered for an award. The QPL is a list of brand products which have been evaluated and pre-qualified for reasons of standardization on the basis of test and/or past performance data, prior to receipt of bids. The purpose of the QPL is to expedite the procurement process while maintaining a high quality of goods by directing awards to manufacturers or suppliers of pre-qualified products only.
- C. Under no circumstances will an equivalent or an “or equal” will be considered for a QPL award. Bids that offer an equivalent will be considered non-responsive.
- D. NYCT shall be the sole judge of acceptability of products offered for QPL qualification. Vendors seeking qualification are obligated to furnish all data and information, as NYCT may deem necessary to establish the item on QPL. The submission of non-returnable samples may be required to enable NYCT to evaluate the viability of the item within the transit system. All costs associated with the qualification of candidate QPL items shall be borne by the requestor.
- E. Copies of the QPL and a description of general qualifying procedures are available at the Bid Reception Desk, 3 Stone Street, New York, NY 10004. Vendors seeking additional information may write to the NYC Transit QPL Committee Chair, 2 Broadway, Room B18.62, New York, NY 10004.

**ARTICLE 111 QUALIFICATION OF CHEMICAL PRODUCTS**

- A. If the Bid Quotation Sheet identifies an item as a chemical commodity (generally those covered by commodity class numbers with the prefix 62-, 69-, 70-, 71-, and 72-), Bidders seeking qualification of an “or equal” may apply for same by complying with these procedures:
- B. If the chemical commodity being offered by the Bidder is not currently listed as a pre-approved product by NYCT, and the item solicited is not listed on the NYCT’s QPL, the Bidder is required to submit the following information either with their quotation, or within three (3) business days of notification by the Procurement Representative, in order to be considered:
  - 1. the required documentation specified in **SCHEDULE I, SUPPLYING HAZARDOUS SUBSTANCES**;

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2. direct technical and performance comparisons between the Bidder's product and the pre-approved material or specification currently used by NYCT;
3. submission of proof which illustrates that the Bidder's product complies and adheres to the appropriate industry standards, including, but not limited to, ASTM, MIL, Federal, SAE, other industrial rules and regulations, and any current regulatory requirements for this material;
4. "Accredited Independent Laboratory" analysis reports on the Bidder's proposed product;
5. a specification sheet containing chemical and physical properties and comprehensive instructions for use;
6. a copy of the manufacturer's:
  - a. Quality Assurance Program; and
  - b. Quality Assurance Manual;
7. contact names and telephone numbers of other municipalities with transit fleets and other organizations that utilize the Bidder's proposed product.

All seven (7) evaluation criteria must be identified by the Bidder by numbering all seven (7) points on the Bidder's submitted documentation. Failure to provide the required documentation in the time frame specified above will render the Bidder nonresponsive and not eligible for award.

- C. At the discretion of MTABC, Bidders seeking qualification of an "or equal" may also be required to:
1. supply the necessary samples and/or personnel to perform a patch test at the User Department's request;
  2. supply the necessary samples to MTABC to perform a chemical analysis, and for NYCT's Office of System Safety to perform a Product Safety Review;
  3. consent to inspection and evaluation of manufacturer's facilities and technical staff by the Authority's personnel.
- D. If the item solicited is listed on the QPL, see **ARTICLE 110, QUALIFIED PRODUCTS LIST**.

**ARTICLE 112 ASIAN LONGHORNED BEETLE**

- A. Any work under this Contract, whether performed by the Contractor or any of its subcontractors, that involves the handling or removal of any "host material" originating from within the Asian Longhorned Beetle (ALB) quarantine zone, as defined by New York State Department of Agriculture and Markets (NYSDAM), must be performed: (1) in accordance with federal, state and local laws and regulations regarding the eradication of the ALB, including Part 139 of the

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New York State Agriculture and Markets Law (NYS AML); and (2) by a Contractor (or subcontractor) that is certified by NYSDAM, to perform such work. Copies of such certification must be provided to MTABC before any work involving host material is commenced.

1. "Host material" generally includes all firewood (of hardwood species) and trees, logs, green lumber, stumps, roots, branches (whether living, cut or dead) that is one-half inch or more in diameter and one of the trees listed in NYS AML Part 139.3.
- B. Prior to the handling or disposal of any host material within the quarantine zone, an NYSDAM-certified person must perform an inspection for the presence of ALB infestation.
1. If an ALB infestation is detected, then all work related to the handling or disposal of that host material must cease and the Contractor shall immediately contact the Project Manager for further action. Work involving the infested host material may not restart until written notification to proceed is received from the Project Manager.
  2. If no ALB infestation is detected, then the host material, if living, may be left untouched. If the host material was discovered cut, dead or to be removed, it must be handled or disposed of pursuant to the regulations set forth by NYSDAM.

## ARTICLE 113 INSURANCE

The Contractor shall procure, at its sole cost and expense, and shall maintain in force at all times during this Contract until final completion, policies of insurance as set forth in Schedule A, Insurance Requirements, written by companies with an A.M. Best Company rating of A- or better and approved by MTA Risk Management.

## ARTICLE 114 NON-DISCLOSURE/PERSONAL PRIVACY LAW

- A. Except upon prior written approval of MTABC, the Contractor shall not furnish or disclose or allow its employees or agents, or subcontractors or their employees or agents, to furnish or disclose to any person or organization, (a) any reports, studies, data, or other information provided by, or obtained from MTABC in connection with the Services performed under this Agreement, (b) any reports, studies, recommendations, data or other information relating to, or made or developed by the Contractor or its subcontractors in the course of the performance of such Services hereunder, or (c) the results of any of such Services performed. All reports, studies, recommendations, data, and other products of the performance of Services by the Contractor or its subcontractors hereunder shall become the property of MTABC.
- C. The relevant provisions of the New York Personal Privacy Protection Law (Article 6-A of the Public Authorities Law, the "PPPL") shall apply to this Agreement as if Contractor were an agency of the State of New York as defined therein. In addition to Contractor's obligations under Paragraph A above, if, in connection with the performance of Services under this Agreement, Contractor receives or otherwise has possession or control of information which, because of any name, number, symbol, mark or other identifier, can be used to identify a person ("Personal Information"), such Personal Information shall be received, maintained and used by Contractor solely for the purpose of performing this Agreement and for no other purpose. If Contractor receives a request for disclosure of Personal Information to any person or entity not expressly authorized under this Agreement, Contractor shall not comply with the request and



shall instead promptly notify MTABC's Project Manager. If Contractor is required by law to comply with the request, to the extent lawful, Contractor shall delay complying with the request until Contractor notifies MTABC's General Counsel in the most expeditious manner possible (e.g., telephone, email, fax) and affords MTABC with the opportunity to lawfully oppose such request.

**ARTICLE 115            APPROVAL FOR PUBLICATION OF REPORTS/PRESS RELEASES**

**A.      Approval for Publication of Reports**

The Contractor agrees that all reports, studies, analyses, specifications, work schedules, recommendations, and all other materials of whatsoever nature, prepared by the Contractor for use in connection with the work under this contract, or furnished the Contractor by MTABC for use under this Contract, are to be considered confidential, and that the Contractor will neither publish, circulate nor use any of the foregoing, except in the performance of its work under this Contract, without first obtaining the written approval of MTABC.

**B.      Press Releases**

The Contractor agrees that it will not issue any news release to the public press or any publication wholly or partly related to its work under this Contract without first obtaining the written consent of MTABC. The Contractor further agrees that it will not make speeches, engage in public appearances, publish articles or otherwise publicize its work under this Contract without the prior written approval of MTABC.

**ARTICLE 116            LABOR LAW**

It is hereby agreed that all applicable provisions of the Labor Law of the State of New York shall be carried out in the performance of this Contract.

**ARTICLE 117            UNANNOUNCED OFFICE VISITS**

**A.      MTABC may make unannounced visits, as it deems necessary, to the offices of contractors and their subcontractors.**

**B.      In order to make certain that unannounced visits MTABC personnel are properly handled, Contractor shall instruct its personnel that:**

1.      MTABC personnel on unannounced visits shall be immediately taken to the appropriate area where MTABC's work is being conducted.
2.      All Contractor and Subcontractor personnel shall give MTABC representative their full cooperation and access to job related information or files such as, but not limited to:
  - a.      correspondence files;
  - b.      plans, drawings, studies, etc.;
  - c.      time cards.

3. Employees shall be cooperative and responsive in answering any questions that may be posed to them in connection with the projects that they are performing for MTABC.
- C. MTABC personnel will be identified by a letter of introduction signed by the Project Manager and, if required, can also identify themselves by means of their MTA employee passes.
- D. These visits will allow MTABC to perform necessary monitoring of Contractor and Subcontractor activities, and will also provide information needed to confirm job progress and expedite Contractor payments.

**GENERAL CONTRACT PROVISIONS****ARTICLE 201           AGREEMENT**

The Contractor agrees to perform the Work in accordance with requirements and terms and provisions hereinafter set forth in the Contract Documents. In consideration for the complete, satisfactory and proper performance thereof by the Contractor, MTABC agrees to pay to the Contractor, and the Contractor agrees to accept as full compensation therefor, the sums of money set forth in the Price Schedule at the time and in the manner and upon the terms and conditions hereinafter set forth in the Contract Documents.

**ARTICLE 202           NOTICES**

Except as otherwise specifically provided, the delivery of any notice, direction or communication to the Contractor or MTABC shall be made by hand, mail, or facsimile transmission directed to the Contractor at the address set forth in the Bid or Proposal and to MTABC to the attention of the Project Manager at the address set forth in the Notice of Award, and shall be deemed to be sufficient service thereof as of the date of such delivery by hand or transmission or three (3) days after mailing. With respect to notices to MTABC, the Contractor shall additionally send a copy of each notice sent to the Project Manager to MTABC's Procurement Representative. The addresses may be changed at any time by notice in writing. Nothing contained herein shall be deemed to preclude or render inoperative the service of any notice, direction or other communication personally upon the Contractor, or if the Contractor is a corporation, upon any officer or director thereof. Nothing in this article shall be deemed as a waiver by MTABC of other requirements with respect to the service of process upon it.

**ARTICLE 203           GENERAL RULES OF INTERPRETATION**

- A. The Information for Bidders, the Bid (including the Bid Quotation Sheet), the Contract Terms and Conditions, the Special Terms and Conditions, all Schedules (excluding Schedule J, Responsibility Questionnaire), all Addenda (if any) issued, the Technical Specifications (if any), the Contract Drawings (if any), and the Acceptance and Order (Notice of Award) constitute the Contract and shall be referred to collectively as the "Contract" or the "Contract Documents."
- B. The Contract is also deemed to include by reference those portions of the Responsibility Questionnaire which contain additional conditions and obligations on the Contractor and rights in favor of MTABC.
- C. References to any agreement or other instrument shall be deemed to include such agreement or other instrument as it may, from time to time, be modified, amended, supplemented, or restated in accordance with its terms.
- D. The word "Contractor" when used in this Contract, shall mean the Bidder to whom MTABC awards this Contract.

- E. The terms “hereof,” “herein,” “hereby,” “herewith,” “hereto,” and “hereunder” shall be deemed to refer to this Contract.
- F. The headings of the paragraphs or Articles are inserted for convenience only and shall not affect the construction or interpretation of this Contract.
- G. All references to “days” shall be deemed to be calendar days, unless otherwise expressly indicated.
- H. All references to “business days” shall be deemed to be references to the days of Mondays through Fridays, exclusive MTABC-observed holidays.
- I. All notices hereunder must be in writing, in accordance with **ARTICLE 202, NOTICES**, unless expressly indicated otherwise.
- J. As used herein, the singular shall mean and include the plural; the masculine gender shall mean and include the feminine and neuter genders; and vice versa.
- K. Other terms appertaining to this Contract are set forth in the Specific Contract Provisions.

**ARTICLE 204                      CONSENT OF MTA BUS COMPANY REQUIRED FOR SUBCONTRACTING, SUBLETTING OR ASSIGNMENT**

A. Contractor may not, by agreement, operation of law, or otherwise, assign, encumber, transfer, convey, sublet or otherwise dispose of this Contract to any entity or person, in whole or in part, including but not limited to an assignment, transfer or conveyance by change in the control or change in the ownership of Contractor or a change in control or change in the ownership of any entity owning or controlling Contractor, without the prior written consent of the MTABC, which consent may be withheld, conditioned or delayed in the MTABC’s sole discretion (provided that Contractor may assign monies due or to become due to Contractor under the Agreement upon prior written notice to MTABC and MTABC’s written acknowledgment). A “change in control” includes, but is not limited to, any change in the ownership or control of Contractor or any entity owning or controlling Contractor, whether such change results from a merger, or a sale, assignment or transfer of stock, or a sale of assets, or a sale, transfer or assignment of assets to an affiliate or subsidiary, or a sale, transfer or assignment of assets to an affiliate or subsidiary with a subsequent sale or transfer of such affiliate or subsidiary, or a transfer or change in control by contract or other such agreement.

B. Any action by Contractor which violates the provisions of section A, above, shall be deemed to be a breach of the Contract by Contractor and MTABC shall have all rights and remedies available to it under law and equity, including termination of the Contract.

C. In the event of the assignment of monies due or to become due under this Agreement, M may require that Contractor provide MTABC with such information, documentation, and authorization as MTABC may deem appropriate.

**ARTICLE 205                    COORDINATION WITH OTHER CONTRACTORS**

During the progress of the Work, it may be necessary for other contractors and/or other persons (including personnel of MTABC) to do work in or about the work site. MTABC reserves the right to permit and put such other contractors and such persons to work and to afford them access to the Work Site (if applicable) at such time and under such conditions as does not unreasonably interfere with Contractor. The Contractor shall prosecute its Work continuously and diligently and shall conduct its Work so as to minimize interference with such other work.

**ARTICLE 206                    CHANGES**

- A. This Contract may be modified and changed from time to time as agreed to in writing between the parties hereto, in a manner not materially affecting the substance hereof.
- B. No change in or modification, termination or discharge of this Contract in any form whatsoever, shall be valid or enforceable unless it is in writing and signed by the party to be charged therewith or his duly authorized representative; provided, however, that any change in or modification, termination or discharge of this Contract expressly provided for in this Contract shall be effective as so provided.
- C. It is agreed by the Contractor that any change resulting in additional Work shall be paid at the applicable rates set forth in the Price Schedule for equivalent items as determined by the Project Manager. In the event that MTABC shall order additional Work for which there are no applicable rates set forth in the Price Schedule for equivalent items, it is understood and agreed by Contractor that MTABC and the Contractor shall negotiate a mutually agreeable price to be paid by MTABC for Contractor's performance of such additional Work. In the event that the parties are unable to agree upon a price for the additional Work, the Project Manager may nevertheless direct the Contractor to proceed with the additional Work. The Contractor shall diligently proceed with the additional Work, but may, initiate a dispute within five (5) days of the Project Manager's directive to proceed pursuant to **ARTICLE 212, DISPUTES**, for a determination by the Disputes Resolution Officer (DRO) as to a reasonable price therefor.
- D. If as a result of the change or modification, MTABC determines that more time is required for the Contractor to complete performance than is specified within the Contract, MTABC will extend the time for Contractor's performance by the number of days actually required for Contractor to complete the Work.

**ARTICLE 207                    EXTENSIONS OF TIME**

- A. If the Contractor is delayed at any time during the progress of the Work by the neglect or failure of MTABC or by a force majeure, then the time for completion and/or affected delivery date(s) shall be extended by MTABC subject to the following conditions:
  - 1 the cause of the delay arises after the Notice of Award and neither were nor could have been anticipated by the Contractor by reasonable investigation before such award;

2. the Contractor demonstrates that the completion of the Work and/or affected delivery(s) will be actually and necessarily delayed;
3. the effect of such cause cannot be avoided or mitigated by the exercise of all reasonable precautions, efforts and measures whether before or after the occurrence of the cause of delay; and
4. the Contractor makes written request and provides other information to MTABC as described in paragraph (D) below.

A delay meeting all the conditions of this paragraph (A) shall be deemed an excusable delay. Any concurrent delay which does not constitute an excusable delay shall not be the sole basis for denying a request hereunder.

- B. Any reference in this Article to the Contractor shall be deemed to include materialmen, Suppliers and Subcontractors, whether or not in privity of contract with the Contractor, all of whom shall be considered as agents of the Contractor for the purpose of this Article.
- C. MTABC reserves the right to rescind or shorten any extension previously granted, if subsequently MTABC determines that any information provided by Contractor in support of a request for an extension of time was erroneous; provided however, that such information or facts, if known, would have resulted in a denial of the request for an excusable delay. Notwithstanding the above, MTABC will not rescind or shorten any extension previously granted if the Contractor acted in reliance upon the granting of such extension and such extension was based on information which, although later found to have been erroneous, was submitted in good faith by the Contractor.
- D. The request for an extension of time pursuant to paragraph (A) above, shall be made within ten (10) days after the time when Contractor knows or should know any cause for which it may claim an excusable delay and shall provide any actual or potential basis for an extension of time, identifying such cause and describing, as fully as practicable at that time the nature and expected duration of the delay and its effect on the completion of that part of the Work identified in the request. Contractor shall not be entitled to an extension of time unless it affirmatively demonstrates that it is entitled to such extension. MTABC may require the Contractor to furnish such additional information or documentation as MTABC shall reasonably deem necessary or helpful in considering the requested extension. The Contractor must also comply with requirements sets forth in the Specifications (if any) regarding Contractor's detailed schedule for performance.
- E. Within thirty (30) days of its receipt of all such information and documentation [or within thirty (30) days of Contractor's filing of the original request in the event MTABC requires no such additional material] MTABC shall advise the Contractor of its decision on such requested extension; except that, where it is not reasonably practicable for MTABC to render such decision in the thirty (30) day period, it shall, prior to the expiration of such period, advise the Contractor that it will require additional time and the approximate date upon which it expects to render such decision.

- F. In regard to an injunction, strike or interference of public authority which may delay the Work, the Contractor shall promptly give MTABC a copy of the injunction or other order and copies of the papers upon which the same shall have been granted. MTABC shall be accorded the right to intervene or become a party to any suit or proceeding in which any such injunction shall be obtained and to move to vacate the same or otherwise, as MTABC may deem proper.
- G. Neither the permitting of the Contractor to proceed with the Work subsequent to the date specified in the Contract (as such date may have been extended pursuant to this Article), the making of any payments to the Contractor thereafter, nor the issuance of any Change Order thereafter, shall operate as a waiver on the part of MTABC of any rights under this Contract, including but not limited to the assessment of liquidated damages (if any) or declaring Contractor in default.
- H. In case the Contractor shall be delayed at any time or for any period by two or more of the causes above-mentioned in this Article, the Contractor shall not be entitled to a separate extension for each one of the causes but only one period of extension shall be granted for the delay.
- I. The Contractor agrees to make no claim for damages for delay of any kind in the performance of this Contract whether occasioned by any act or omission of MTABC or any of its representatives and Contractor agrees that any such claim shall be compensated for solely by an extension of time to complete performance of the Work as provided herein.

**ARTICLE 208****REMEDIES IN CASE OF DEFAULT & TERMINATION FOR CAUSE**

- A. The Contractor shall be in default if it commits a breach of the Contract deemed material by MTABC. Without limiting the generality of the foregoing and in addition to those instances specifically referred to in the Contract, the Contractor shall be in such default if: (i) it fails to begin the Work in accordance with the requirements of the Contract; (ii) it abandons the Work; (iii) it assigns or subcontracts the Work other than as provided in the Contract; (iv) at any time the Project Manager shall be of the opinion that performance of this Contract is unnecessarily or unreasonably delayed, or that the Contractor is willfully violating any of the provisions or covenants of this Contract or is not executing the same in good faith or in accordance with its terms; (v) the Work is not completed within the time prescribed, as may be extended by MTABC; (vi) the Contractor becomes insolvent (other than as a bankrupt), or assigns for the benefit of creditors, or takes advantage of any insolvency statute or debtor or creditor law or if its property or affairs are put in the hands of a receiver; or (vii) the Project Manager shall be of the opinion that the Work cannot be completed within the time herein provided therefor or within the time to which such completion may have been extended provided, however, that the impossibility of timely completion is in the Project Manager's opinion attributable to conditions within the Contractor's control.
- B. In the event of a default by the Contractor, MTABC will notify the Contractor of the default, in writing, and the Contractor shall immediately cease performance of the Work or any part thereof under this Contract. MTABC shall thereupon have the right to take

any action necessary to complete the Work, including performing the Work itself, or contracting with another individual or entity. In the event the Work is completed by MTABC or others, Contractor shall be liable for the costs and expense of said labor, materials, plant, tools, equipment, supplies and property. The costs and expenses so charged may be deducted by MTABC and paid out of any monies otherwise payable to the Contractor.

- C. MTABC may also bring any suit or proceeding to recover damages or to obtain any other relief or for any other purpose proper under this Contract.
- D. MTABC may, in its sole discretion, waive a default by the Contractor, but such waiver, and failure by MTABC to take action in respect to any default, shall not be deemed a waiver of any subsequent default.
- E. In case MTABC shall by Contract or otherwise complete the Work or any part thereof under the provisions of Paragraph B above, the Project Manager from time to time during the course of the completion of the Work or such part thereof or at any time thereafter, shall certify to the amount of the expense incurred by MTABC in the completion of the Work or such part thereof.

Said certificate shall be final and conclusive upon the Contractor and admissible in evidence against the Contractor, and his legal representatives, in any litigation arising or growing out of this Contract.

- F. In the event that MTABC wrongfully terminates the Contract for default, such termination shall be deemed to be a termination for convenience in accordance with Article 209.

#### **ARTICLE 209                    TERMINATION FOR CONVENIENCE BY THE MTA BUS COMPANY**

- A. In addition to any rights of termination by MTABC which may exist pursuant to this Contract or by law, MTABC may terminate performance of this Contract at any time for its own convenience upon giving written notice thereof specifying the effective date, whereupon all further liability of MTABC to the Contractor under this Contract shall cease. In the event of such termination, a proportionate part of the compensation due for Contract Work performed prior to the effective date of such termination and deemed acceptable to MTABC, will be paid to the Contractor as determined by MTABC.
- B. Upon receipt of a notice of termination under this article, the Contractor shall cease performance of the Contract Work, shall cancel all cancelable orders and place no further orders. MTABC's only obligation with respect to such termination for convenience is to compensate the Contractor for the goods/services supplied up until the effective date of termination, provided, however, that in the event the termination for convenience is predicated on a cessation or reduction of funding earmarked for purposes hereof, MTABC's payment obligations with respect to such termination for convenience will be limited to the amount of such funding actually received herefor. The Contractor shall not be entitled to any other payment by virtue of MTABC's exercise of its right of termination as provided in Paragraph A of this Article and expressly waives and



relinquishes any right to claim damages or pursue any other remedy at law or relief in equity, including specific performance, by virtue of MTABC's exercise of such right of termination.

#### **ARTICLE 210            TERMINATION FOR CONVENIENCE - INTEGRITY MATTERS**

MTABC at its discretion may terminate the Contract for convenience without payment for profit and overhead for work not performed if, during the Contract term: (i) the Contractor, a Contractor director, officer, principal, or managerial employees or owner of a ten percent (10%) or more interest in the Contractor, is convicted of a crime involving a public contract; or (ii) significant concerns about the Contractor's integrity are raised based upon an evaluation of the events underlying any other determination, or an indictment or other allegation, that the Contractor or a Contractor's director, officer, principal, or managerial employee, or owner of a ten percent (10%) or more interest in the Contractor, is involved in a criminal or other unlawful activity.

#### **ARTICLE 211            AUTHORITY OF THE PROJECT MANAGER**

- A. The Project Manager shall have general authority to give the Contractor orders and directions with respect to this Contract, including but not limited to, the right at any time to direct the return of any MTABC material or equipment removed by the Contractor as part of the Work. The Project Manager shall in all cases have the authority to initially determine the value, acceptability and fitness of the Work under this Contract, and to determine every question which may arise relative to the Contract and to the fulfillment of the Contract on the part of the Contractor. Any and all material or equipment required or proposed to be incorporated in the Work shall be subject to the approval of the Project Manager and shall not be incorporated in the Work until such approval has been given.
- B. The Project Manager shall make all necessary explanations as to the meaning and intention of the Technical Specifications or Contract Drawings, shall give all orders and directions contemplated therein or thereby and also such orders and directions as may be necessary in every case in which difficult or unforeseen conditions shall arise in performance of the Work required by this Contract. The Project Manager will provide appropriate explanations and reasons for his decisions if requested by the Contractor.
- C. The Contractor shall be bound by and promptly obey and follow every direction or order given by the Project Manager regarding the performance and the nature and manner of performance arising out of, under, or in connection with, or related to or on account of, this Contract whether in writing or orally and confirmed in writing, including any direction which the Project Manager may give by way of withdrawal, modification or reversal of any previous direction given by him, and regardless of whether the Contractor agrees with the Project Manager's determination. This Article shall not include such directions which by their nature are change orders and which require that the procedures for change orders be followed prior to the effectiveness of such directions.
- D. The Contractor shall have a representative at its plant and the work site at all times during performance of the Work authorized to receive orders and directions from the Project Manager.

**ARTICLE 212           DISPUTES**

- A. In the event the Contractor and MTABC are unable to resolve their differences concerning a determination by the Project Manager, the Contractor may initiate a dispute in accordance with the procedure set forth in this Article. Exhaustion of these dispute resolution procedures shall be a precondition to any lawsuit permitted hereunder.
- B. The parties to this Contract authorize the Disputes Resolution Officer (DRO), identified in **SCHEDULE G, RIDER TO CONTRACT DOCUMENTS**, acting personally, to decide all questions of any nature whatsoever arising out of, under or in connection with, or in any way related to or on account of, this Contract (including claims in the nature of breach of Contract or fraud or misrepresentation before or subsequent to Contract award) and the DRO's decision shall be conclusive, final and binding on the parties. The DRO's decision may be based on such assistance as s/he may find desirable, including advice of engineering or other experts. The effect of the DRO's decision shall not be impaired or waived by any negotiations or settlement offers in connection therewith, or by any prior decision of others, which prior decisions shall be deemed subject to review, or by any termination or cancellation of this Contract. All such disputes shall be submitted in writing by either party to the DRO, acting personally, for its decision, together with all evidence and other pertinent information in regard to such questions, in order that a fair and impartial decision may be made. The DRO shall render their decision in writing and deliver a copy of same to the parties.
- C. If the Contractor protests the determination of the DRO, the Contractor may commence a lawsuit in Supreme Court, New York County under Article 78 of the New York Civil Practice Law and Rules, it being understood the review of the Court shall be limited to the question of whether or not the DRO's determination is arbitrary, capricious or so grossly erroneous as to evidence bad faith. No evidence or information shall be introduced or relied upon in such an action or proceeding that has not been presented to the DRO personally prior to the DRO making their decision.
- D. Neither the requirements of this Article nor the time necessary for compliance therewith, however, shall affect the time to have accrued for purpose of any statute controlling actions/proceedings against MTABC and the time of such accrual shall be determined without reference to this Article.

**ARTICLE 213           WITHHOLDING MONEY DUE CONTRACTOR TO MEET CLAIMS OR LIENS**

- A. If at any time a claim, lien or judgment shall be made by any person or corporation against MTABC, for which Contractor is liable under this Contract or, otherwise by law, with respect to matters pertaining to the Work of this Contract, MTABC shall have the right to withhold an amount it deems reasonably necessary to satisfy such claim, in addition to the other sums herein authorized by the Contract to be so retained, out of any monies then due or thereafter becoming due to the Contractor hereunder, as security for the payment of such claim. If the liability of any such party on such claim or claims shall have been finally adjudicated by a judgment of a court of competent jurisdiction or such claim or claims shall have been admitted by the Contractor to be valid, then the claim

may, if determined by MTABC to be in its best interest, be paid from the amount so retained hereunder, credited against the payments due Contractor, and the balance, if any, paid to the Contractor.

- B. Should any such claim remain unsatisfied at the time the final payment is due the Contractor, MTABC shall have the right to retain out of said final payment a sum in its judgment sufficient to protect MTABC in regard to all unsatisfied claims. In lieu of the foregoing, MTABC may require other security.
- C. In case the amount thus retained should be insufficient to pay the amount adjudicated to be due upon such claim, the Contractor shall pay the amount of the deficiency to MTABC. Upon the failure of the Contractor so to do, MTABC may sue for and recover from the Contractor the amount or balance as a debt from the Contractor.
- D. Notwithstanding anything in this Article to the contrary, in the event of a claim for injury to persons or damage to property by persons or corporations other than MTABC, MTABC shall not withhold money due the Contractor provided MTABC receives adequate written assurance from the Contractor's insurance carrier that it will assume all responsibility in connection with the claim including defending the Contractor or MTABC in any lawsuit, and paying any judgment based on said claim. MTABC shall have sole discretion to determine the adequacy of the assurance furnished.

#### **ARTICLE 214            CLAIMS BY CONTRACTOR**

If the Contractor shall have a claim for compensation against MTABC for any loss or damage of any nature arising under this Contract by reason of any act, neglect, fault or default of MTABC or its agents, the Contractor shall, within fifteen (15) days after the sustaining of such damage, furnish a written statement to the Project Manager detailing the nature and amount of damage sustained. This written notice shall constitute a request for a determination by the Project Manager pursuant to **ARTICLE 211, AUTHORITY OF THE PROJECT MANAGER**. Compliance with the provisions hereof shall constitute a condition to Contractor's submission of a dispute pursuant to **ARTICLE 212, DISPUTES** with respect to any claim for compensation and the Contractor shall be deemed to have waived any claim not submitted in accordance therewith. The provisions of this Article shall not be construed as a recognition or admission of any legal liability on the part of MTABC to pay any sum on account of any damage suffered in connection with or arising out of the performance of this Contract or any part thereof.

#### **ARTICLE 215            SUBSTITUTION OF APPROVED SECURITIES**

- A. In the event that this Contract provides for retainage by MTABC of monies due the Contractor as security for its full and timely completion of the Work, the Contractor may from time to time withdraw portions of the amounts so retained, or monies otherwise withheld for any other reasons under the Contract provided any such monies have not been applied by MTABC for reimbursement to itself or a third party in accordance with applicable provisions of the Contract by depositing with the Controller of MTABC approved securities, as set forth in paragraph C hereof, with a market value equal to the amount to be withdrawn.

- B. The Contractor shall pay to MTABC the service charges then in effect for the custodial safekeeping of securities deposited with MTABC by the Contractor pursuant to the terms of this Contract.
- C. Approved securities are: securities of the United States Government, State of New York, City of New York, New York City Transit Authority, Metropolitan Transportation Authority or Triborough Bridge and Tunnel Authority. Other securities may be submitted for MTABC approval. All such securities must be payable to, run in favor of, or be transferred to, MTABC. In case the securities shall, during the term of the Contract, diminish in market value in the opinion of MTABC, or are sold as set forth in **ARTICLE 215, SUBSTITUTION OF APPROVED SECURITIES**, then, within ten (10) days after notice, the Contractor shall deposit cash or securities to restore the value to that originally stated. A failure by the Contractor to deposit such cash or securities in accordance herewith shall be a cause for default.

In lieu of defaulting the Contractor, MTABC may allow the Contractor to proceed with the Work and may deduct from any monies then due or which thereafter may become due to the Contractor the amount necessary to restore the original valuation of such securities, and to hold such amount in lieu thereof.

- D. MTABC shall pay to the Contractor all interest, dividends and other income on the securities, when and as collected. If the securities are in the form of coupon bonds, the coupons as they respectively become due shall be delivered to the Contractor; provided, however, that the Contractor shall not be entitled to interest, dividends or other income on any securities the proceeds of which shall be used or applied as authorized under the Contract.

#### **ARTICLE 216 USE OF MONIES WITHHELD**

Deposits, retainage (if any) or any other monies withheld, whether in cash or securities substituted shall be security for the faithful performance of the Contract by the Contractor. In case any default causes loss, damage or expense to MTABC, then MTABC may apply the amount necessary to restore such loss, damage or expense including liquidated damages, out of the said securities (which may be sold), deposits, retainage or other monies.

#### **ARTICLE 217 MTA BUS COMPANY MAY AVAIL ITSELF OF ALL REMEDIES**

MTABC may avail itself of each and every remedy herein specifically given to it or now or hereafter existing at law or in equity, and each and every such remedy shall be in addition to every other remedy so specifically given or otherwise so existing and may be exercised from time to time and as often and in such order as may be deemed expedient by MTABC, and the exercise of one remedy shall not be deemed to be waiver of the right to exercise, at the same time or thereafter, any other remedy.

#### **ARTICLE 218 RELATIONSHIP BETWEEN THE MTA BUS COMPANY AND OTHERS**

Nothing contained herein shall be deemed to give any third party a claim or cause of action against MTABC beyond such as may otherwise exist without regard to this Contract.

**ARTICLE 219            LIABILITY AND INDEMNIFICATION**

- A. The term “Indemnified Parties,” whenever referred to in this Article, shall be deemed to mean the MTA Bus Company, the MTA and its subsidiaries and affiliates, the City of New York, New York State, PBS Capital LLC, MIU Realty, LLC, JLK Capital, LLC, Green Bus Holding Corp., Jamaica Bus Holding Corp., Triboro Coach Holding Corp., and their members, officers, employees, and agents.
- B. The Contractor shall be solely responsible for all physical injuries (including death) to person(s) (including, but not limited to, employees of MTABC, Contractor or Subcontractors) and damage to property (including, but not limited to, property of MTABC or the Contractor or Subcontractors), occurring on account of or in connection with the performance of the Work hereunder or sustained by any employee of MTABC, Contractor, or Subcontractor. The Contractor shall indemnify and save harmless the Indemnified Parties, to the fullest extent permitted by law, from loss and liability upon any and all claims and expenses, including but not limited to attorneys’ fees, on account of such injuries to persons or such damage to property, irrespective of the actual cause of the accident, irrespective of whether it shall have been due in part to negligence of the Contractor or its subcontractors or the Indemnified Parties, or of any other persons, but excepting bodily injuries and property damage to the extent caused by the sole negligence of MTABC.
- C. The term “loss and liability,” as used herein, shall be deemed to include, but not be limited to, liability for the payment of Workers’ Compensation and disability benefits under the Workers’ Compensation Law of the State of New York or similar statutes.
- D. Except as otherwise provided in (B) above, the liability of the Contractor under this Article is absolute and is not dependent upon any question of negligence on its part or on the part of its agents, officers or employees. The approval of MTABC of the methods of doing the Work or the failure of MTABC to call attention to improper or inadequate methods or to require a change in methods or to direct the Contractor to take any particular precautions or to refrain from doing any particular thing shall not excuse the Contractor in case of any such injury to person or damage to property.
- D. In case any damage shall occur to any part of the Indemnified Parties (except only for the removal of such parts thereof as the Contractor is specifically required by this Contract to remove) on account of the Work, and the Contractor is responsible therefor, MTABC shall have the right to cause such damage to be repaired and to charge the expense of such repairs to the Contractor. In the event that such work is performed by MTABC, then MTABC shall deduct the amount of such expense that may be incurred in repairing any such damage from any monies due or to become due to the Contractor under this Contract or any other agreement between the Contractor and MTABC.

**ARTICLE 220 OWNERSHIP OF MATERIALS/ PATENTS, COPYRIGHTS, AND INFRINGEMENT CLAIMS**

- A. All inventions, ideas, designs and methods contained in the Contract Documents in which MTABC has, or acquires patent, copyright or other intellectual property rights (hereinafter referred to as “IPR”) shall remain reserved for the exclusive use of MTABC and may not be utilized, reproduced or distributed by or on behalf of the Contractor, or any employee, Subcontractor or agent without the prior written consent of MTABC except to the extent necessarily required in connection with performance of the Work.
- B. If, pursuant to performance of the Work, the Contractor or any of its agents, officers, employees or subcontractors shall produce any patentable or copyrightable subject matter as to which MTABC does not gain ownership rights, MTABC and its affiliates shall thereupon have, without cost or expense, an irrevocable, non-exclusive, royalty-free license to make, have made or use, either themselves or by another contractor or other party on their behalf, such subject matter in connection with any work or any activity now or hereafter undertaken by or on behalf of MTABC or any of its affiliates or subsidiaries. The license herein granted shall not be transferable and shall not extend to contractors or other parties except to the extent of their work or activity on behalf of MTABC or such affiliates or subsidiaries.
- C. Except to the extent that rights are held by Contractor or others under existing valid patents or copyrights and are not given to MTABC, MTABC shall have the right to use or permit the use of all such drawings, data, and other papers, and also any oral information of any nature whatsoever received by MTABC, and any ideas or methods represented by such papers and information, for any purposes and at any time without other compensation than that specifically provided herein, and no such papers or information shall be deemed to have been given in confidence and any statement or legend to the contrary on any of said drawings, data, or other papers shall be void and of no effect.
- D. The Contractor warrants that all Work performed shall be free from any claims made against MTABC or Indemnified Parties of IPR from any other person or entity. The Contractor shall save harmless and indemnify the Indemnified Parties from and against all costs, expenses and damages which any of them shall incur or be obligated to pay by reason of any such infringement or claim of infringement, and shall, at the election of MTABC, defend at the Contractor’s sole expense all such claims in connection with any alleged infringement.
- E. If MTABC be enjoined from using any portion of the Work as to which the Contractor is to indemnify MTABC against IPR claims, MTABC may at its option and without thereby limiting any other right it may have hereunder or at law or in equity, require the Contractor to supply at its own expense, temporarily or permanently, facilities not subject to such injunction and not infringing any IPR, and if the Contractor shall fail to do so, the Contractor shall, at its expense, remove such offending facilities and refund the cost thereof to MTABC or take such steps as may be necessary to ensure compliance by MTABC with such injunction, to the satisfaction of MTABC.

- F. The Contractor is responsible to determine whether a prospective Supplier or Subcontractor is a party to any litigation involving IPR infringement claims, including antitrust or other trade regulation claims, or is subject to any injunction which may prohibit it under certain circumstances from selling equipment to be used or installed under this Contract. The Contractor enters into any agreement with a party to such litigation at its own risk and MTABC will not undertake to determine the merits of such litigation. MTABC, however, reserves the right to reject any article which is the subject of such litigation or injunction, or if in its judgment use of such article as a result of such circumstances would delay the Work or be unlawful.

**ARTICLE 221 QUANTITIES ARE APPROXIMATE/VARIABLE QUANTITIES CLAUSE**

- A. The Contractor understands that the quantities of the various unit price items specified in the Bid (if any) are the approximate quantities of such items for the Work as estimated by MTABC, and are not in any way guaranteed or represented as correct or intended to be relied upon and they shall not be taken as final and shall form no basis for any claims for damages including, but not limited to anticipated profits in case they do not correspond with the final quantities actually ordered and that MTABC reserves the right to increase or to diminish or to omit entirely any of the quantities or items as therein stated in the Price Schedule or these Contract Documents.
- B. With respect to any unit price item as to which an estimated quantity is set forth in the Price Schedule, such unit price shall apply regardless of the actual quantity of such item ultimately utilized in, or required by, the Work; except that, if the actual quantity for a unit price item differs from the estimated quantity in the Price Schedule by more than twenty percent (20%), then the Project Manager shall review whether application of the unit price would cause a substantial inequity to either party, and, if so, the unit price for such item will be equitably adjusted, upward or downward, as determined by the Project Manager.
- C. This is not an exclusive contract, and does not obligate MTABC to fill through the Contractor all its needs for the goods or services covered by the Contract. MTABC is free to obtain these goods or services from other sources to the extent it sees fit.

**ARTICLE 222 GENERAL REPRESENTATIONS AND WARRANTIES**

In order to induce MTABC to enter into and perform this Contract, Contractor represents and warrants to MTABC that:

- A. Existence; Compliance with Law. The Contractor (i) if it is a corporation is duly incorporated, organized, validly existing and in good standing as a corporation under the laws of the jurisdiction of its incorporation; (ii) if it is a partnership, non-profit organization, individual or sole proprietorship is duly organized and validly existing under the laws of the jurisdiction in which it was organized; (iii) is duly qualified and in good standing under the laws of each jurisdiction where its ownership, lease, or operation of property in the conduct of its business requires, and (iv) has the power and authority and the legal right to conduct the business in which it is currently engaged and to enter into this Contract.

- B. Authority. The Contractor has full power, authority and legal right to execute, deliver and perform this Contract. The Contractor has taken all necessary action to authorize the execution, delivery and performance of this Contract.
- C. No Legal Bar. The execution, delivery and performance of the Contract do not and will not violate any provision of any existing law, regulation, or of any order, judgment, award or decree of any court or government applicable to the Contractor or the charter or by-laws of the Contractor or any mortgage, indenture, lease, contract, or other agreement or undertaking to which the Contractor is a party or by which the Contractor or any of its properties or assets may be bound, and will not result in the creation or imposition of any lien on any of its respective properties or assets pursuant to the provisions of any such mortgage, indenture, lease, contract or other agreement or undertaking.
- D. No Litigation. Except as specifically disclosed to MTABC in writing prior to the date hereof, no claim, litigation, investigation or proceeding of or before any court, arbitrator or governmental authority is currently pending nor, to the knowledge of the Contractor, is any claim, litigation or proceeding threatening against the Contractor or against its properties or revenues (i) which involves a claim of defective design or workmanship in connection with any contract entered into by the Contractor or (ii) which, if adversely determined, would have an adverse effect on the business, operations, property or financial or other condition of the Contractor. For purposes of this paragraph, a claim, litigation, investigation or proceeding may be deemed disclosed to MTABC if MTABC has received, prior to the date hereof, detailed information concerning the nature of the matter involved, the relief requested, and a description of the intention of the Contractor to controvert or respond to such matter.
- E. No Default. The Contractor is not in default in any respect in the payment or performance of any of its obligations or in the performance of any mortgage, indenture, lease, contract or other agreement or undertaking to which it is a party or by which it or any of its properties or assets may be bound, and no such default or Event of Default (as defined in any such mortgage, indenture, lease, contract, or other agreement or undertaking) has occurred and is continuing or would occur solely as a result of the execution and performance of this Contract. The Contractor is not in default under any order, award, or decree of any court, arbitrator, or government binding upon or affecting it or by which any of its properties or assets may be bound or affected, and no such order, award or decree would affect the ability of the Contractor to carry on its business as presently conducted or the ability of the Contractor to perform its obligations under this Contract or any of the other financing to which it is a party.
- F. No Inducement or Gratuities.
1. Contractor warrants that no person or selling agency has been employed or retained to solicit or secure this Contract upon any agreement or understanding for a commission, percentage, brokerage, or contingent fee, excepting bona fide employees or bona fide established commercial or selling agencies maintained by Contractor for the purpose of securing business.



2. Additionally, Contractor warrants that no gratuities or other inducements have been offered or given or will be offered or given (in the form of entertainment, gifts, offers of employment, or any other thing of value) to any official or employee of MTABC. The Contractor further warrants that during the term of the contract it shall not make any offers of employment to any MTABC employee, or solicit or interview therefor, without obtaining the written approval of the employee's Department Head.
  3. For breach or violation of the foregoing warranties, MTABC shall have the right to cancel the Contract without liability or, at its discretion, to deduct from the Total Contract Price or otherwise to recover the full amount of such commission, percentage, brokerage or contingent fee, or gratuities, and to include the occurrence of such a breach or violation in assessments of the Contractor's responsibility in future bids or proposals.
- G. Conflict of Interest. Contractor covenants that neither it, nor any officer of the corporation or partner of the partnership, as the case may be if Contractor be a corporation or partnership, has any interest, nor shall it acquire any interest, either directly or indirectly, which would conflict in any manner or degree with the performance of the Work hereunder. It further covenants that, in the performance hereof, no person having such interest shall be employed by it. It is expressly understood that breach of any of the covenants contained in this paragraph is a material breach hereof and shall entitle MTABC to recover damages immediately, as well as all monies paid hereunder.
- H. No Conviction or Indictment. Contractor hereby represents that to the best of its knowledge neither it, nor any of its personnel or shareholders has been the subject of any investigation nor has any of them been convicted or indicted for commission of any crime involving misconduct, corruption, bribery, or fraud in connection with any public contract in the State of New York or any other jurisdiction, except as has been specifically disclosed in writing to MTABC, and that, should any such conviction or indictment be obtained or any such investigation commenced prior to the expiration of the term hereof, regardless of the date of the occurrence giving rise to the subject matter of such conviction, indictment or investigation, it will be disclosed in writing to MTABC.

**ARTICLE 223 NO ESTOPPEL AND NO WAIVER**

- A. MTABC shall not, nor shall any department or officer thereof be precluded or estopped by any return or certificate made or given by MTABC, the Project Manager or other officer, agent, or appointee thereof under any provision of this Contract from at any time either before or after the final completion and acceptance of the Work and payment therefor pursuant to any such return or certificate, showing the true and correct classification, amount, quality and character of the Work done and materials furnished by the Contractor or any other person under this Contract or from showing at any time that such return or certificate is untrue and incorrect or improperly made in any particular, or that the Work and materials, or any part thereof, do not in fact conform to the Contract; and MTABC shall not be precluded or estopped, notwithstanding any such return or certificate and payment in accordance therewith, from demanding and recovering from the Contractor such damages as it may sustain by reason of his failure to comply with this Contract.
- B. Neither the acceptance of MTABC or the Project Manager or any of the employees of MTABC, nor any order, measurement or certificate by the Project Manager nor any order by MTABC for payment of money nor any payment for, nor acceptance of, the whole or part of the Work nor any extension of time, nor any possession taken by MTABC or the employees of MTABC shall operate as a waiver of any portion of this Contract or of any power herein reserved to MTABC or of any right to damages herein provided; nor shall any waiver of any breach of this Contract be held to be a waiver of any other or subsequent breach.
- C. In the event that MTABC is entitled to any rights under any statute, whether or not expressly referenced in the Contract Documents, nothing shall be deemed to constitute a waiver by MTABC thereof.

**ARTICLE 224 SAFETY PRECAUTIONS**

The Contractor will provide at his own cost and expense such safety devices for the protection of his employees, and those of the Subcontractor(s), MTABC, the public and any other persons as may be necessary and as may be required by the Project Manager. Any failure to provide such proper protection for his employees, and those of the Subcontractor(s), MTABC, the public and any other persons whether or not required by the Project Manager, will be deemed to be a material violation by the Contractor of his responsibility and obligation hereunder. The Contractor shall comply with all pertinent regulations of the Occupational Safety and Health Act ("OSHA").

**ARTICLE 225 INSPECTION AND EVALUATION**

- A. MTABC shall have the right to inspect the Work hereunder. If any such inspection shows that the Work does not conform to the Contract Documents including, but not limited to, the Technical Specifications and the Scope of Work, MTABC shall so notify the Contractor and the Contractor shall replace or repair the Work at no additional cost to MTABC so that the Work conforms to the Contract Documents. MTABC's failure to

draw the Contractor's attention to any such failure to conform shall not relieve the Contractor of any of its obligations under this Contract.

- B. Upon completion of the Work, the Contractor shall notify the Project Manager in writing that the Work has been completed. An MTABC inspector will inspect the Work and if such Work is deemed unsatisfactory in any respect, the Contractor, at no additional cost to MTABC, will replace the goods or repair or correct such Work and, if applicable, correct the installation all to the satisfaction of the Project Manager. The Contractor must notify the Project Manager in writing that all Work has been completed.

#### **ARTICLE 226 BOOKS AND RECORDS/AUDIT AND EXAMINATION**

The Contractor shall permit authorized representatives of MTABC and of the State and Federal Government having jurisdiction over this Contract, to examine and review all of Contractor's books and records, including but not limited to payrolls, records of personnel, invoices and other relevant data, and to audit the books and records pertaining to this Contract. All such books and records shall be retained for such examination, review and audit for a period of three (3) years from the earlier of termination of the Contract or completion of the Work.

#### **ARTICLE 227 SUBCONTRACTOR/SUPPLIER BOOKS AND RECORDS**

The Contractor shall keep and shall cause each Subcontractor/Supplier to keep accurate books and records in accordance with "generally accepted accounting principles."

#### **ARTICLE 228 BRAND NAMES / SUBSTITUTION OF SPECIFIED MATERIAL**

- A. Wherever in the Contract a particular brand, or make of material, or equipment is shown or specified, such material or equipment is to be regarded merely as a standard for the purpose of concisely indicating the requirements as to type, quality, performance, design and finish. Any material or equipment other than that specified will be acceptable if, in the opinion of the Project Manager, it is as satisfactory for the particular work for which it was intended as the material or equipment specified. Complete documentation in support of an "or equal" contention will be required. The Project Manager may require that a presentation be made for any proposed substitution. MTABC reserves the right to reject any such other material or equipment offered which is not approved by the Project Manager as being in all respects equal to the named material or equipment for the work for which it is to be used. Such rejection may be for any reason including without limitation the Project Manager's determination that the evaluation would result in excessive expense and/or time needed to evaluate such material or equipment.
- B. Unless there is a specific statement to the contrary, the Contractor understands that requests for such approval of any alternative material or equipment shall be submitted within thirty (30) days after Contract Award.
- C. The Contractor is obligated to furnish all data and information as MTABC in its discretion deems necessary to establish the equality of the alternative material or equipment. If the Contractor seeks reconsideration of any determination with respect to equivalency, MTABC shall have discretion to reconsider the matter. In the event of a

reconsideration the Contractor shall be obligated to pay all MTABC expenses in connection therewith.

- E. MTABC shall be the sole judge of the acceptability of items offered as equal to that specified and may reject any item not considered as equal thereto. The Contractor must submit proof satisfactory to MTABC, including a non-returnable sample if requested by MTABC, that the item the Contractor offers is equal to the material or equipment specified in quality, performance and such other characteristics as MTABC may deem relevant.
- F. MTABC will consider as evidence of equivalency an independent laboratory certification concluding that the Contractor's proposed item meets or exceeds all requirements and standards, including performance criteria, of the particular brand or make of material or equipment specified by MTABC. The laboratory must be accredited by the American Association for Laboratory Accreditation or be otherwise acceptable to MTABC.

#### **ARTICLE 229                    REMOVAL OF MATERIAL / WASTE MATERIAL**

- A. Unless otherwise specified for return to MTABC, all scrap material (if any) shall become the property of the Contractor. It is presumed that the scrap credit value is reflected in the Price Schedule. The Contractor, at its own cost and expense, shall be responsible for removal and proper disposal of all scrap material, in accordance with all applicable federal, state and local laws, rules and regulations. The Contractor shall defend, indemnify and hold harmless MTABC for any and all claims relating to said scrap material.
- B. Waste material of any character will under no conditions be permitted to remain on the site of the Work but must be immediately on it becoming unfit for use in the Work be carted away and disposed of by the Contractor at his own expense. The Contractor shall thoroughly clean and keep clean the areas in which the Work hereunder is to be done or which are to be used in connection herewith.

#### **ARTICLE 230                    QUALITY ASSURANCE**

The Contractor shall be responsible for quality assurance and for assuring that the Work conforms to Specifications. The Contractor shall maintain an effective and economical quality control program planned and developed in conjunction with other Contractor functions necessary to satisfy the Contract requirements. The quality control program shall establish and implement procedures to ensure that only acceptable supplies are presented to the Project Manager, and shall demonstrate both recognition of the quality requirements of the Contract and an organized approach to satisfy these requirements. The program shall ensure that quality requirements are determined and satisfied throughout all phases of Contract performance, including, as applicable, design development, purchasing, fabrication, processing, assembly, inspection, testing, packaging, delivery, storage and systems check and shall provide for the early and prompt detection of actual or potential deficiencies, trends, or conditions which could result in unsatisfactory quality and the Contractor must be prepared to demonstrate to the Project Manager's satisfaction the program is effective and in operation.

**ARTICLE 231                    COMPLIANCE WITH APPLICABLE LAWS, REGULATIONS/  
ENVIRONMENTAL MATTERS**

- A. The Contractor and all persons employed upon the work of the Contract, including its Subcontractors, agents, officers, and employees shall comply with all applicable laws, rules and regulations, including all applicable requirements of governmental agencies and departments in the jurisdiction in which the work of the Contract is performed, and all safety regulations of MTABC.
- B. The Contractor, Subcontractor and all Suppliers must submit evidence that all standards, orders and regulations issued pursuant to the Clean Air Act of 1970 will be met. If either the State or City air pollution control agency has more restrictive standards, they shall be enforced. The evidence and related documents will be retained by MTABC for on-site examination by appropriate enforcement agencies.
- C. The Contractor, and any Subcontractor must comply with all local, State and Federal laws, rules and regulations applicable to this Contract and to the goods or services provided hereunder, including but not limited to the Federal Occupational Safety and Health Act of 1970 and the Construction Safety Act of 1969, as amended.
- D. Attention is called regarding environmental matters that must be observed by the Contractor in the prosecution of the Contract, consisting, among others, of safety of operations, noise control, prevention and/or control of air pollution, removal of waste materials, storage of construction materials, protection against fire, minimum disturbance to pedestrian and vehicular traffic, maintaining use of public facilities, and protection against dust hazards. These matters are specifically enumerated merely as a guide. The enumeration is not a complete list of environmental matters to be observed and does not exclude matters contained in this Contract or matters applicable by virtue of City, State or Federal law, rule or regulation which are not specifically designated in this Article. All environmental provisions will be strictly enforced.
- E. As between inconsistent provisions among Federal State and local laws, the Contractor should generally comply with the more stringent requirement, unless a Federal law, rule or regulation requires that the affected Federal provision be observed, notwithstanding the existence of a more stringent applicable State or local requirement.
- F. Prohibition on Purchase of Tropical Hardwoods
1. Except as hereinafter provided, New York State Finance Law §165-2, prohibits public benefit corporations (MTABC) from purchasing or obtaining for any purpose any tropical hardwoods or tropical hardwood products in any form.
  2. The provisions of the subsection F of this Article shall not apply to:
    - a. any hardwoods purchased from a sustained, managed forest; or
    - b. the purchase of any tropical hardwood or tropical hardwood product for which there is no acceptable non-tropical hardwood species; or

- c. where the Contracting Officer finds that no person or entity doing business in the State is capable of providing acceptable non-tropical hardwood species sufficient to meet these particular contract requirements; or
  - d. the restriction would violate the terms of a grant to MTABC from the Federal Government; or
  - e. where the inclusion of such provisions results in a substantial cost increase to MTABC.
3. As used in this subsection F:
- a. “Non-tropical hardwood species” shall mean any and all hardwood that grows in any geographically temperate regions, as defined by the United States Forest Service, and is similar to tropical hardwood in density, texture, grain, stability or durability. Non-tropical hardwood, the use or purchase of which is preferred under this Article, shall include, but not be limited to those species listed in New York State Finance Law Section 165, paragraph 1.
  - b. “Tropical hardwood” shall mean any and all hardwood, scientifically classified as angiosperme that grows in any tropical moist forest. A list of tropical hardwoods is found in New York State Finance Law Section 165, paragraph 1.
  - c. “Tropical rainforests” shall mean any and all forests classified by the scientific term “Tropical moist forests,” the classification determined by the equatorial region of the forest and average rainfall.
  - d. “Tropical wood products” shall mean any wood products, wholesale or retail, in any form, including but not limited to veneer, furniture, cabinets, paneling, mouldings, doorskins, joinery, or sawnwood, which are composed of tropical hardwood except plywood.

G. Omnibus Procurement Act of 1992

1. If this Contract is awarded in an amount equal to or greater than one million dollars, the Contractor will be required to document its efforts to encourage the participation of New York State business enterprises as Suppliers and Subcontractors by showing that the Contractor has:
  - a. solicited bids, in a timely and adequate manner, from New York State business enterprises including certified minority and women-owned business;
  - b. contacted the New York State Department of Economic Development to obtain listings of New York State business enterprises;

- c. placed notices for Subcontractors and Suppliers in newspapers, journals and other trade publications distributed in New York State; or
- d. participated in bid outreach conferences.

If the Contractor determines that the New York State business enterprises are not available to participate on the Contract as Subcontractors or Suppliers, the Contractor shall provide a statement indicating the method by which such determination was made. If the Contractor does not intend to use Subcontractors on the Contract, the Contractor shall provide a statement verifying such.

2. If this Contract is Awarded in an amount equal to or greater than one million dollars, the Contractor will be required to notify New York State residents of employment opportunities through listing any such positions with Community Services Division of the New York Department of Labor or providing for such notification in such manner as is consistent with existing collective bargaining contracts or agreements.

#### **ARTICLE 232 FINAL PAYMENT TO ACT AS RELEASE**

The acceptance by Contractor or any person claiming under Contractor of the final payment hereunder, whether such payment be made pursuant to any judgment or order of any court or otherwise, shall be and shall operate as a release to MTABC from all claim and liability to Contractor for anything theretofore done or furnished for or related to the Work or for any prior act, neglect, fault or default of MTABC or of any person relating to or affecting the Work, except only such claims against MTABC as have been asserted in accordance with **ARTICLE 214, CLAIMS BY CONTRACTOR**, above, or as are specifically reserved in writing prior to accepting the final payment hereunder.

#### **ARTICLE 233 INDEPENDENT CONTRACTOR**

The Contractor agrees that, in accordance with its status as an independent contractor, it will conduct itself consistent with such status, that it will neither hold itself out as nor claim to be an officer or employee of MTABC, State or City, by reason hereof, and that it will not by reason hereof, make any claim, demand or application to or for any right or privilege applicable to an officer or employee of the MTABC, State or City, including, but not limited to, Worker's Compensation coverage, Unemployment Insurance Benefits, Social Security coverage or Retirement membership or credit.

#### **ARTICLE 234 CONTRACTOR'S EMPLOYEES**

- A. All experts or contractors or employees of the Contractor who are employed by the Contractor to perform Work under this Agreement are neither employees of MTABC, MTA or any MTA subsidiary or affiliate nor under contract to MTABC, MTA or any MTA subsidiary or affiliate and the Contractor alone is responsible for their work, direction, compensation and personal conduct while engaged under this Agreement. Nothing in this Agreement shall impose any liability or duty on MTABC for the acts,

omissions, liabilities or obligations of the Contractor or any other person, firm, company, agency, association, corporation, or organization engaged by the Contractor as expert, contractor, independent contractor, specialist, trainee, employee, servant, or agent, or for taxes of any nature including but not limited to unemployment insurance, workers' compensation, disability benefits and social security, or, except as specifically stated in this Agreement, to any person, firm or corporation.

- B. All employees of the Contractor or Subcontractor shall wear a visible identification badge at all times while on MTABC property and shall observe all rules and regulations applicable to MTABC employees. The identification badge shall contain the employee's name, picture, title of position, name of company and address of company.
- C. Employees of the Contractor who are found to be intoxicated, or who have been found partaking of or appear to be under the influence of intoxicating or alcoholic beverages or controlled substances while engaged in the performance of their duties or during their break period shall be summarily removed by the Contractor from the project for the duration of the Contract because of the stringent safety precautions required.
- D. Whenever the Project Manager shall notify the Contractor in writing that in his/her opinion any worker employed for this Contract is incompetent, unfaithful or disorderly, such individual shall be discharged from the Work and shall not again be employed on it.

#### **ARTICLE 235                    CONFIDENTIALITY / ADVERTISING LIMITATION**

- A. Contractor, its employees, and Subcontractors shall keep confidential all information furnished to it (them) by MTABC or otherwise learned by it (them) in the course of performance hereunder.
- B. Except as may be required by law, Contractor shall not make any announcement or release any information concerning this Contract or any part thereof to any member of the public, press, or any official body, unless prior written consent is obtained from MTABC.

#### **ARTICLE 236                    TAX EXEMPTION**

MTABC, a public benefit corporation, is a wholly owned subsidiary of the Metropolitan Transportation Authority, a public authority and public benefit corporation of the State of New York, is exempt from New York State and local sales and compensating use taxes pursuant to Sections 1266 and 1275 of the Public Authorities Law of the State of New York, and the Contractor shall be responsible for all franchise fees and taxes of any kind whatsoever.

Contractor warrants to MTABC that Contractor's pricing to MTABC pursuant to this Agreement excludes any taxes that are eligible for exemption.



**ARTICLE 237            EQUAL EMPLOYMENT OPPORTUNITIES FOR MINORITY GROUP MEMBERS AND WOMEN**

The provisions of this Article apply if the award for this Contract is in excess of \$25,000 for labor, services, supplies, equipment, material or any combination of the foregoing; or in excess of \$100,000 for the acquisition, construction, demolition, replacement, major repair or renovation of real property and improvement thereon.

- A.     The Contractor will not discriminate against employees or applicants for employment and will undertake or continue existing programs of affirmative action to ensure that minority group members and women are afforded equal employment opportunities without discrimination. For purposes of this Article affirmative action shall mean recruitment, employment, job assignment, promotion, upgradings, demotion, transfer, layoff, or termination and rates of pay or other form of compensation.
  
- B.     At the request of MTABC, the Contractor shall request each employment agency, labor union, or authorized representative of workers with which it has a collective bargaining or other agreement or understanding to furnish a written statement that such employment agency, labor union or representative will not discriminate on the basis of race, creed, color, national origin, sex, age, disability or marital status and the such union or representative will affirmatively cooperate in the implementation of the Contractor's obligations herein.
  
- C.     The Contractor shall state, in all solicitations or advertisements for employees, that, in the performance of this Contract, all qualified applicants will be afforded equal employment opportunities without discrimination.
  
- D.     After award of this Contract, the Contractor shall submit to MTABC a workforce utilization report, in a form and manner required by MTABC, of the work force actually utilized on this Contract, broken down by specified ethnic background, gender, and Federal Occupational Categories or other appropriate categories specified by MTABC.

**ARTICLE 238            ANTITRUST ASSIGNMENT**

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

**ARTICLE 239            GRAND JURY TESTIMONY**

- A.     Upon refusal of the Contractor as an individual or as member, partner, director or officer of the Contractor, if the Contractor be a firm, partnership or corporation, when called before a grand jury, governmental department, commission, agency or any other body which is empowered to compel the attendance of witnesses and examine them under oath, to testify in an investigation or to answer any relevant questions concerning any transaction or contract entered into with the State, or any political subdivision thereof, or a public authority or with any public department, agency or official of the State or any

political subdivision thereof, when immunity has been granted to the witness against subsequent use of such testimony, or any evidence derived therefore in any subsequent criminal proceeding:

1. Such individual, or any firm, partnership or corporation of which he is a member, partner, director or officer shall be disqualified for a period of five (5) years after such refusal from submitting bids or proposals for, or entering into or obtaining any contracts, leases, permits or licenses with the City of New York, the Metropolitan Transportation Authority or MTABC or submitting proposals for or entering into, or obtaining any contracts, leases, permits or licenses which will be paid out of any monies under the control of or collected by the City, the Metropolitan Transportation Authority, MTABC and/or shall be subject to such other action appropriate under the circumstances; and
2. this Contract and any and all such existing contracts, leases, permits or licenses made with or obtained by any such individual or with or by the firm, partnership, or corporation of which he/she is a member, partner, director or officer may be cancelled or terminated by the City, the Metropolitan Transportation Authority or MTABC or the contracting agency or be subject to such action appropriate under the circumstances thereto without incurring any penalty or damages on account of such cancellation or termination, but any monies owing for goods delivered, work done, or rentals, permit or license fees due, prior to the cancellation or termination, shall be paid.

**ARTICLE 240            DIESEL EMISSION REDUCTION ACT**

If attached, Schedule Y, regarding the Diesel Emissions Reduction Act, shall be deemed included in this Contract.

**ARTICLE 241            NEW YORK LAWS / CHOICE OF LAW, CONSENT TO JURISDICTION AND VENUE**

- A. This Contract shall be deemed to be executed in the City of New York, 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 except to the extent that the law of the State of New York is superseded by federal law.
- B. The parties agree that any and all claims asserted by or against MTABC arising hereunder or related hereto shall be heard and determined either in the courts of the United States located in New York City ("Federal Courts") or in the courts of the State of New York ("New York State Courts") located in New York County. To effect this agreement and intent, the Contractor agrees:
  1. If MTABC initiates any action against the Contractor in Federal Court or in New York State Court, service of process may be made on the Contractor either in person, wherever such Contractor may be found, or by Certified Mail addressed to the Contractor at its address as set forth herein or to such other address as the Contractor may provide to MTABC in writing.

2. With respect to any action between MTABC and the Contractor in a New York State Court, the Contractor hereby expressly waives and relinquishes any rights he may otherwise have (a) to move to dismiss on grounds of forum non conveniens, (b) to remove to Federal Court; and (c) to move for a change of venue to a New York State Court outside New York County.
3. With respect to any action between MTABC and the Contractor in Federal Court located in New York City, the Contractor expressly waives and relinquishes any right it might otherwise have to move to transfer the action to a Federal Court outside the City of New York.
4. If the Contractor commences any action against MTABC in a court located other than as provided for herein, upon request, the Contractor shall either consent to a transfer of the action to a court of competent jurisdiction, as set forth herein, or, if the court where the action is initially brought will not or cannot transfer the action, shall consent to dismiss such action without prejudice and thereafter reinstitute the action in a court of competent jurisdiction as provided for herein.

**ARTICLE 242                    STATUTE OF LIMITATIONS ON RIGHT TO SUE THE MTA BUS COMPANY/NO CLAIM AGAINST MTA BUS COMPANY OFFICERS, AGENTS OR EMPLOYEES**

- A. No action shall lie or be maintained by the Contractor against MTABC upon any claim arising out of or based upon this Contract or by reason of any act or omission or requirement of MTABC or its agents, unless such action shall be commenced within six (6) months after the completion of the Work, other than Warranty Work, or earlier termination of the Contract. No additional time shall be allowed to begin anew any other action if an action commenced within the time herein limited be dismissed or discontinued, notwithstanding any provision in the New York Civil Practice Law and Rules (CPLR) to the contrary. Nothing herein shall extend the time, as provided in the CPLR, to commence a lawsuit.

In the event that the Contractor has filed with MTABC a statement of claim pursuant to **ARTICLE 214, CLAIMS BY CONTRACTOR**, the Contractor's statute of limitations with respect to said claim(s) only shall be tolled until the final determination by MTABC under **ARTICLE 212, DISPUTES**.

- C. No member, officer, agent or employee of MTABC shall be liable personally hereunder or by reason hereof.

**ARTICLE 243                    DOCUMENTS FORMING THE AGREEMENT/CONTRACT DOCUMENTS CONTAIN ALL TERMS/CONTRACTOR HAS EXAMINED CONTRACT**

- A. The documents forming the Agreement include all the solicitation documents, any Addenda issued, the Contractor's proposal (if any), the Contractor's Bid, Price Schedule or Cost

Proposal (if any), the Purchase Order or Contract Award documents, and the Conformed contract (if any).

- B. These Contract Documents contain all the terms and conditions agreed upon by the parties hereto, and no other agreement, oral or otherwise, regarding the subject matter of this Contract shall be deemed to exist or to bind any of the parties hereto, or to vary any of the terms contained herein.
- C. The Contractor hereby represents that prior to the execution of this Contract he has read each and every clause and section of the Contract and had full opportunity to consider the same and make necessary investigations relating thereto; and he shall not make any claim for, or have any right to, damages or an extension of time for completion of the Contract or any other concession because of any misinterpretation or misunderstanding of this Contract or because of any lack of information.

#### **ARTICLE 244 ALL LEGAL PROVISIONS INCLUDED**

It is the intent of the parties that each and every provision of law required to be inserted in this Contract should be and is inserted herein. Every such provision is to be deemed to be inserted herein, and if any such provision is not inserted or is not inserted in correct form, then this contract shall be deemed amended by such insertion so as to comply strictly with the law and without prejudice to the rights of either party hereunder.

#### **ARTICLE 245 SEVERABILITY**

If the Contract contains any unlawful provisions, the same shall be deemed of no effect, and shall upon the application of either party be stricken from the Contract without affecting the binding force of the Contract as it shall remain after omitting such provision.

#### **ARTICLE 246 SURVIVAL**

In addition to any provision expressly set forth as surviving the expiration or termination of this Contract, any provision of this Contract whose purpose would be defeated or rendered meaningless by the expiration or earlier termination hereof shall be deemed to survive any such expiration or termination.

CONTRACT EXECUTION

CONTRACT NO. \_\_\_\_\_

In WITNESS WHEREOF, this Contract has been executed by both MTABC and \_\_\_\_\_, the CONTRACTOR\*, on the day and year indicated on the applicable "Acknowledgment" documents. The CONTRACTOR, if a corporation, has also affixed its seal to this instrument on the day and year indicated on the "Acknowledgment for the CONTRACTOR" document.

The MTA Bus Company

by: \_\_\_\_\_

THE CONTRACTOR

\_\_\_\_\_  
Exact Name of Contractor (Seal)

by: \_\_\_\_\_

Title: \_\_\_\_\_

\*The Contractor, if a partnership, joint venture or corporation, must execute this Contract in the exact firm or corporate name as it appears in its partnership or joint venture agreement or certificate of incorporation. If the Contractor is a corporation and this Contract is executed by an Officer other than the President or Vice President, the Contractor shall furnish a certified copy of by-laws or a resolution authorizing said Officer to sign, unless same has previously been furnished to MTABC. If the Contractor is a joint venture or partnership, and an individual executes this Contract on behalf of more than one member of the joint venture or partnership, documentation shall be furnished establishing such individual's authority to bind each such member.

ACKNOWLEDGMENT FOR CONTRACTOR

STATE OF )
) SS.:
COUNTY OF )

On this \_\_\_\_ day of \_\_\_\_\_ 20\_\_, before me personally appeared \_\_\_\_\_, known to me to be the person who executed the foregoing instrument, who, being duly sworn by me did depose and say that s/he resides at \_\_\_\_\_, in the City of \_\_\_\_\_, in the County of \_\_\_\_\_, in the State of \_\_\_\_\_; and further that s/he:

[Mark an X in the appropriate box and complete the accompanying statement.]

- (If an individual): executed the foregoing instrument in her/his name and on her/his own behalf.
(If a corporation): is the \_\_\_\_\_ of \_\_\_\_\_, the corporation in said instrument; that, by authority of the Board of Directors of said corporation, s/he is authorized to execute the foregoing instrument on behalf of the corporation for the purposes set forth therein; and that, pursuant to that authority, s/he executed the foregoing instrument in the name of and on behalf of said corporation as the act and deed of said corporation.
(If a partnership): is the \_\_\_\_\_ of \_\_\_\_\_, the partnership described in said instrument; that, by the terms of said partnership s/he is authorized to execute the foregoing instrument on behalf of the partnership for the purposes set forth therein; and that, pursuant to that authority, s/he executed the foregoing instrument in the name of and on behalf of said partnership as the act and deed of said partnership.
(If a limited liability company): is a duly authorized member of \_\_\_\_\_ LLC, the limited liability company described in said instrument; that, s/he is authorized to execute the foregoing instrument on behalf of the limited liability company for the purposes set forth therein; and that, pursuant to that authority, s/he executed the foregoing instrument in the name of and on behalf of said limited liability company as the act and deed of said limited liability company.

Notary Public



# **Bus Company**

**BID**

**MP121313**

**BID OPENING INFORMATION**

CONTRACT/BID NO.:MP121313

LOCATION: 128-15 28<sup>th</sup> Avenue  
Flushing, NY 11354

TIME: 11:00 a.m. – October 2, 2012  
Local Time

**A.** Bids must be made on this form which includes the enclosed Price Schedule. In order to be a responsive bid, all parts of the Bid must be submitted. **BIDDERS MUST ATTACH COPIES OF ALL ADDENDA ISSUED OR ACKNOWLEDGE RECEIPT THEREOF WHERE INDICATED IN THE BID. AN ADDENDUM WHICH CHANGES ANY PART OF THE BID MUST BE ATTACHED OR THE CHANGE OTHERWISE CLEARLY INCORPORATED IN THE BID.** MTABC, in its sole and absolute discretion, may treat a failure to annex or acknowledge receipt of Addenda or to attach any part of the Bid as a minor informality where the Addenda or portion of the Bid, as the case may be, is determined by MTABC not to be substantive in nature. MTABC may also treat any failure of the Bidder to fully complete any portion of the Bid as a minor informality.

**B.** Execution of Bid must be made in Paragraph P, below.

**C.** See **PARAGRAPH 3 of the INFORMATION FOR BIDDERS** for instructions on submission of Bids by mail.

**D.** The undersigned Bidder, acknowledging that it has carefully examined the Bid Solicitation Package, offers to fully perform as set forth therein, at the price(s) stated in the Price Schedule attached hereto.

**E.** The undersigned hereby designates the following office as its office for the purpose of receiving any written notice permitted or required to be served upon the Bidder by any provision of the Contract Documents, including Notice of Award of the Contract:

Street Address:

City, State Zip Code:

Telephone No. ( )

Facsimile No. ( )

Electronic Mail Address:

**F.** (Check where indicated below if the Bidder is a foreign corporation, or entity in which case the Bidder agrees to accept process as provided herein). The undersigned, an individual or sole proprietorship, or a partnership, or government entity, or a non-profit organization, or a corporation not organized and existing under the laws of the State of New York, agrees that personal service of process in any action, suit or proceeding instituted by MTABC against the undersigned on or in connection with



this Bid or the Contract may be made by certified or registered mail addressed to the undersigned at the address referred to in Section E above of this Bid, unless a different address within the State of New York be specified below, in which event service as aforesaid may be made only at the address specified below or at such other mailing address within the State of New York as is substituted therefor by the undersigned by notice in writing to MTABC as provided in the Contract Documents. Failure of the Bidder to check the box below shall constitute the Bidder's statement that it is not a foreign corporation, and may, if untrue, be a ground for disqualification.

Bidder is a foreign corporation

Street Address:

City, State Zip Code:

Telephone No. ( )

Facsimile No. ( )

Electronic Mail Address:

**G. Bidders Representations:**

**A Bidder who has submitted a Schedule J, Responsibility Questionnaire to MTABC within six (6) months of the present date, unless there have been material changes in the information specified on that Responsibility Questionnaire, shall complete and submit Part VIII of Schedule J, the Affidavit of No Change, rather than completing Paragraphs G and H of this Bid.**

1. By submission of this Bid, the undersigned and each person signing on behalf of the undersigned certifies, and in the case of a joint bid each party thereto certifies, as to its own organization, as required by Section 2878 of the Public Authorities Law of the State of New York, under penalty of perjury, that to the best of its knowledge and belief:
  - a. the prices in this Bid have been arrived at independently without collusion, consultation, communication, or agreement, for the purpose of restricting competition, as to any matter relating to such prices with any other bidder or with any competitor;
  - b. unless otherwise required by law, the prices which have been quoted in this Bid have not been knowingly disclosed by the Bidder and will not knowingly be disclosed by the undersigned prior to opening, directly or indirectly, to any other bidder or to any competitor;
  - c. no attempt has been or will be made by the Bidder to induce any other person, partnership or corporation to submit or not to submit a bid for the purpose of restricting competition;

A Bid shall not be considered for award nor shall any award be made where a, b, and c, above, have not been complied with; provided, however, that if in any case the Bidder cannot make the foregoing certification, the Bidder shall so state and shall furnish with the Bid a signed and notarized statement which sets forth in detail the reasons therefor. Where a, b, and c, above, have not been complied with, the Bid shall not be considered for award nor shall any award be made unless MTABC's Chief Officer,

Procurement, or his or her designee, determines that such disclosure was not made for the purpose of restricting competition.

The fact that a Bidder (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 being bid, does not constitute, without more, a disclosure within the meaning of a, b, and c above.

2. Statement of no-conflict of interest

a. No appointed or elected official, member or other officer or employee of the City or State of New York, or of the Metropolitan Transportation Authority (MTA), or MTA’s affiliates and subsidiaries which consist of the MTA Bus Company (MTABC), New York City Transit Authority (NYCTA), Manhattan & Bronx Surface Transit Operating Authority (MABSTOA), Staten Island Rapid Transit Operating Authority (SIRTOA), Metro-North Commuter Railroad (MNCR), Long Island Rail Road (LIRR), Triborough Bridge and Tunnel Authority (TBTA), Metropolitan Suburban Bus Authority (MSBA), MTA Capital Construction Company (MTACC), First Mutual Transportation Assurance Company (FMTAC) and Metropolitan Transportation Authority Card Company: (i) is interested directly or indirectly, in any manner whatsoever in or in the performance of the Contract or in the supplies, work or business to which it relates or in any portion of the profits thereof; or (ii) has been or will be offered or given any tangible consideration in connection with this bid/Contract.

b. Bidder covenants that neither Bidder nor, to the best of the Bidder’s knowledge after diligent inquiry, any director, officer, owner or employee of the Bidder, or any person or entity with a 10% or more interest in Bidder, has any interest nor shall they acquire any interest, directly or indirectly, which would conflict in any manner or degree with the faithful performance of the Contract hereunder.

c. In the event Bidder has no prior knowledge of a conflict of interest as set forth in “a” and “b” above and hereafter acquires information which indicates that there may be an actual or apparent violation of any of the above, Bidder shall promptly bring such information to the attention of the MTABC’s Chief Officer, Procurement. Bidder shall thereafter cooperate with the MTABC’s review and investigation of such information, and comply with any instruction it receives from the Chief Officer, Procurement in regard to remedying the situation.

3. The following statements apply to any bid or contract between Bidder and the City or State of New York, any other state, any public authority or other public entity, the United States government, the MTA, and MTA’s affiliates and subsidiaries which are MTABC, NYCTA, MABSTOA, SIRTOA, MNCR, LIRR, RBTA, MSBA, MTACC, FMTAC, and MTACC, Metropolitan Transportation Authority Card Company. **For all questions, matters on appeal must be disclosed. Unless otherwise noted, all questions relate to the previous ten (10) years.**

(Check “Yes” or “No,” as appropriate.)

a. Within the past five (5) years, has the Bidder been declared not responsible? YES  NO

- b. Has the Bidder been debarred, suspended, or otherwise disqualified from bidding, proposing, or contracting? **YES**  **NO**
- c. Is there a proceeding pending relating to Bidder’s responsibility, debarment, suspension or qualification to receive a public contract? **YES**  **NO**
- d. Within the past five (5) years has the Bidder defaulted on a contract or been terminated for cause? **YES**  **NO**
- e. Has the government or other public entity requested or required enforcement of any of its rights under a surety agreement on the basis of the Bidder default or in lieu of declaring Bidder in default? **YES**  **NO**
- f. Within the past five (5) years, has the Bidder been required to engage the services of an Integrity Monitor, in connection with the award of, or in order to complete any public or private contract? **YES**  **NO**
- g. Within the past five (5) years, have the Bidder’s safety practices/procedures been evaluated and ruled as less than satisfactory by the City or State of New York, any other state, any public Authority or any public entity, the United States government, the MTA, MTA affiliates or subsidiaries? **YES**  **NO**
- h. Has Bidder’s Workers Compensation Experience Rating been 1.2 or greater at any time in the last five (5) years? **YES**  **NO**
- i. Statements a, b, c, d, e and f above also apply to: (i) Bidder’s parent, subsidiaries and affiliates (if any); (ii) any joint venture (including its individual members and any other form of partnership (including its individual members) which includes Bidder’s or Bidder’s parent, subsidiaries, or affiliates; (iii) Bidder’s directors, officers, principals, and managerial employees and any person or entity with a ten percent (10%) or more interest in Bidder; (iv) any legal entity controlled, or ten percent (10%) or more of which is owned, by Bidder, or by any director, officer, principal or managerial employee of Bidder, or by any person or entity with a ten percent (10%) or more interest in Bidder; or (v) any parent, subsidiary or affiliate of any legal entity controlled, or ten percent (10%) or more of which is owned, by Bidder, or by any director, officer, principal or managerial employee of Bidder, or any person or entity with a ten percent (10 %) or more interest in Bidder.
- j. List the name and business address of each person or legal entity which has a ten percent (10%) or more ownership or control interest in Bidder (attach additional pages as needed).

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k. Explain any “Yes” answers to a, b, c, d, e and f in the space provided below (attach additional pages as needed).

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4. If the statements made in Paragraphs G.1., G.2. and G.3. are not accurate or complete, Bidder must explain in the space provided below (attach additional pages as needed).

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**H. Questions which must be answered “Yes” or “No.”** (In the event of a “Yes,” the MTABC reserves the right to inquire further with respect thereto.)

To the best of your knowledge after diligent inquiry, in connection with the business of Bidder or any other firm which is related to Bidder by any degree of common ownership, control, or otherwise, do any of the following statements apply to: (i) Bidder; (ii) Bidder’s parent; (iii) any Bidder subsidiary or affiliate; (iv) any joint venture (including its individual members) or any other partnership (including its individual members) which includes Bidder or Bidder’s parent, subsidiaries, or affiliates; (v) any legal entity, or parent, subsidiary or affiliate of any legal entity, controlled, or ten percent (10%) or more of which is owned, by Bidder, or by any director, officer, principal or managerial employee of Bidder, or by any person or entity with a ten percent (10%) or more interest in Bidder; or (vi) any person who is a director, officer, principal, or, managerial employee, or person or entity with a ten percent (10%) or more interest in any of the aforesaid:

(Check “Yes” or “No,” as appropriate.)

1. Has been convicted by a plea or guilty verdict of, or pleaded nolo contendere

- to, a misdemeanor or felony in any federal, state or local court? **YES**  **NO**
2. Have pending any state or federal grand jury or court an indictment or information for the commission of a crime which has not been favorably terminated? **YES**  **NO**
3. Is the subject of any pending investigation by any grand jury, commission, committee or other entity or agency or authority of any state or the Federal government in connection with the commission of a crime? **YES**  **NO**
4. Is currently disqualified from selling or submitting bids/proposals to or receiving awards from or entering into any contracts with any federal, state or local governmental entity, any public authority or any public entity? **YES**  **NO**
5. Within the past five years, has refused to testify or to answer any question concerning a bid or contract with any federal, state, or local governmental entity, any public authority or other public entity when called before a grand jury or other committee, agency or forum which is empowered to compel the attendance of witnesses and examine them under oath, upon being advised that neither the person’s statement nor any information or evidence derived from such statement will be used against that person in any subsequent criminal proceeding? **YES**  **NO**
6. Is currently disqualified from selling or submitting a bid to, or receiving an award from, or entering into any contract with any public entity or public authority within the State of New York because, within the past five years, such entity or person refused to testify or to answer any relevant question concerning a transaction or contract with the State of New York, any political subdivision of the State of New York, or a public authority or a public department, agency or official of the State of New York or of a political subdivision of the State of New York, when called before a grand jury or other state or local department, commission or agency which is empowered to compel the attendance of witnesses and examine them under oath, upon being advised that neither that person’s statement nor any information or evidence derived from such statement will be used against that person in any subsequent criminal proceeding? **YES**  **NO**
7. Has within a ten (10) year period preceding this Bid been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, State or local) transaction or contract under a public transaction; violation of Federal or State antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property. **YES**  **NO**
8. Explain any “Yes” answers to 1, 2, 3, 4, 5, 6 or 7, in the space provided below (attach additional pages as needed).

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If during the performance of this Contract, either of the following occurs, Bidder shall promptly give notice in writing of the situation to the MTABC’s Chief Officer, Procurement and therefore cooperate with the MTABC’s review and investigation of such information.

- a) Bidder has reason to believe that any representation or answer to any question contained in Paragraphs G and H of the Bid was not accurate or complete at the time the Bid was signed; or
- b) events occur or circumstances change so that an answer to any question in Paragraph H of the Bid is no longer accurate or complete.

In the MTABC’s sole discretion, the following shall constitute grounds for MTABC to take remedial action up to and including immediate termination of the Contract for convenience without payment for profit and overhead for work not performed if: (i) Bidder fails to notify the Sr. Director Procurement/Contracts as required above; or (ii) Contractor fails to cooperate with the MTABC’s request for additional information as required above.

**I. MBE/WBE Certification**

1. The Bidder agrees to the terms and conditions of non-discrimination as set forth in Paragraph 20 of the Information for Bidders and in Article 38 of the Contract Terms and Conditions. The Bidder, as a precondition to entering into a valid and binding Contract, shall during the performance of the Contract, agree to the provisions set forth in paragraphs A to C of Article 38 of the Contract Terms and Conditions.

2. If **SCHEDULE K, OPPORTUNITIES FOR MINORITY AND WOMEN-OWNED BUSINESS ENTERPRISES (“SCHEDULE K”)** has been included in the Contract Documents, the MBE/WBE goals shall be as set forth in SCHEDULE K. Assurance is hereby given that the undersigned will make every good faith effort to meet the MBE/WBE goal(s), and to timely submit completed MBE/WBE documentation, all in accordance with SCHEDULE K.

**J. Bid Quotation Sheet**

1. All bid prices must be set forth on the **BID QUOTATION SHEET** in figures. In case a bid is submitted in both words and figures and there is a discrepancy between the price in words and that in figures, the price in words will generally be taken as the bid price. MTABC reserves the right, however, to treat the price in figures as the bid price where it is evident that the Bidder has made a mistake in writing the bid price in words. MTABC also reserves the right in its sole and absolute discretion to:

- a. waive informalities or inconsistencies in any Bid submitted;
- b. reject all Bids submitted; and
- c. take any other action with respect to contract award as permitted by law.

2. In the event that the **BID QUOTATION SHEET** reflects any item(s) as to which quantities are estimated, the Bidder acknowledges that the quantities as thus specified in the **BID QUOTATION SHEET** are given only as a basis for the Bid evaluation and are not in any way guaranteed or represented as correct or intended to be relied upon, and they shall not be taken as final and shall form no basis for any claim in case they do not correspond with the final measurements or quantities. It is further acknowledged that MTABC reserves the right to increase or to diminish or to omit entirely any of the quantities or items as herein stated.

3. The Gross Sum Bid is the aggregate total of the bid price(s) for the individual item(s) set forth in the Bid Quotation Sheet extended by the estimated quantities, where applicable. In the event that the Gross Sum Bid or any extended unit prices reflect a clear mathematical error, then the correct calculation shall govern.

The **BID QUOTATION SHEET** is attached as part of the Bid.

**K. Domestic Steel Certification**

If this Contract calls for the purchase of “steel products” (as defined in **PARAGRAPH 23 of the INFORMATION FOR BIDDERS**) estimated to cost in excess of \$50,000, or for the utilization of structural or reinforcing steel for the construction, reconstruction, alteration, repair, or maintenance of a facility estimated to be in excess of \$100,000, the Bidder shall certify below the amount of its Bid, if any, which represents the cost of such steel components and the cost of such structural or reinforcing steel and also shall separately certify below the cost of such steel, if any, representing Domestic Steel and the cost of such steel, if any, representing Foreign Steel.

1.	Total Cost of Steel Components	\$ _____	
	Structural or Reinforcing Steel	\$ _____	and/or
2.	Cost of Domestic Steel Components	\$ _____	
	Structural or Reinforcing Steel	\$ _____	and/or
3.	Cost of Foreign Steel Components	\$ _____	
	Structural or Reinforcing Steel	\$ _____	and/or

The Bidder, by signing the Bid, certifies that the foregoing is to the best of Bidder’s knowledge true and correct.

IF THE BIDDER FAILS TO PROVIDE ANY OF THE PRICING DATA REQUIRED ABOVE, MTABC WILL ASSUME THAT THE BID IS BASED ON THE USE OF DOMESTIC STEEL

PRODUCTS. IN SUCH CASE, IF SUCH BIDDER IS AWARDED THE CONTRACT, THE BIDDER WILL BE REQUIRED TO FURNISH DOMESTIC STEEL PRODUCTS AT THE BID PRICE.

**L. Omnibus Procurement Act – Certification (See INFORMATION FOR BIDDERS PARAGRAPH 25)**

1. All Bidders submitting a Bid **equal to or exceeding \$15,000** must check either box a. or b., as appropriate:

a. the goods which are supplied hereunder are substantially manufactured or produced or assembled in New York State, or the services which are provided hereunder will substantially be performed within New York State;

or

b. the goods which are supplied hereunder are substantially produced outside New York State, or the services which are provided hereunder will substantially be performed outside New York State.

2. Bidders, submitting a total Bid **greater than \$1,000,000**, by signing this Bid certify that:

a. The Bidder has made all reasonable efforts to encourage the participation of New York State Business Enterprises as suppliers and subcontractors on this project, and has retained the documentation of these efforts to be provided upon request to the State;

b. The Bidder has complied with the Federal Equal Opportunity Act of 1972 (P.L. 92-261), as amended;

c. The Bidder agrees to make all reasonable efforts to provide notification to New York State residents of employment opportunities on this project through listing any such positions with the Community Services Division of the New York State Department of Labor, or providing such notification in such manner as is consistent with existing collective bargaining contracts or agreements. The Bidder agrees to document these efforts and to provide said documentation to the State upon request.

**M. Certification of Compliance with the Metropolitan Transportation Authority Vendor Code of Ethics**

Consistent with the terms of the MTA Vendor Code of Ethics (the “Code”), which are incorporated herein by reference, the Bidder, by signing the Bid, certifies that during the course of this Solicitation and any resultant Contract:

a. the Bidder has notice of all of the terms of the Code;



- b. no Gift, as defined by the Code, has been or will be offered to the Authority in connection with this Solicitation or any resultant contract;
- c. no conflicts of interest exist or will exist;
- d. all officers and personnel of the Bidder who have interacted or will interact with the Authority have been or will be provided a copy of the Code; and
- e. the Bidder will obtain certifications similar to those made herein from any and all of its lower tier subcontractors, subconsultants and suppliers that the Bidder engaged or being solicited for work under any contract resulting from this procurement. Receipt and retention of these lower tier certifications shall be subject to audit by MTABC.

**BID**

(enter price schedule here)

**N. The following information is to be completed:**

CHECK ONE BOX AND INCLUDE APPROPRIATE NUMBER:

A - Individual or Sole Proprietorship<sup>\*</sup>  
SOCIAL SECURITY NUMBER \_\_\_\_\_

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\* Under the Federal Privacy Act, the furnishing of Social Security numbers by Bidders on this Contract is voluntary. Failure to provide a Social Security number will not result in a Bidder's disqualification. Social Security numbers will be used to identify bidders, proposers or vendors to ensure their compliance with laws, to assist the Contracting Party in enforcement of laws as well as to provide the Contracting Party a means of identifying businesses which seek contracts therewith.

B – Partnership, Joint Venture or other unincorporated organization  
EMPLOYER IDENTIFICATION NUMBER \_\_\_\_\_

C – Corporation  
EMPLOYER IDENTIFICATION NUMBER \_\_\_\_\_

**O. Acknowledgment of Addenda**

The Bidder hereby acknowledges receipt of all Contract Documents and Addenda through and including

ADDENDUM NO. \_\_\_\_\_.

(Bidder to insert number of last Addendum received.)

**P. Execution of Bid**

Bidder is to complete and sign before a Notary Public or Commissioner of Deeds the following Affidavit of Verification section:

Type or Print Bidder's Full  
Legal Name\*:

\_\_\_\_\_ )  
\* Exact Name of Individual, Firm or Corporation or Partnership.

Address:

\_\_\_\_\_  
\_\_\_\_\_

Business Telephone Number: (\_\_\_\_) \_\_\_\_\_

Facsimile Number: (\_\_\_\_) \_\_\_\_\_

Electronic Mail Address: \_\_\_\_\_

Type or Print Name \_\_\_\_\_  
and

Title of Person Executing Bid \_\_\_\_\_

STATE OF \_\_\_\_\_ )

) SS.:

COUNTY OF \_\_\_\_\_ )

The undersigned, being duly sworn says: (a) I am duly authorized by the Bidder to execute this Bid; (b) I have examined all parts of the Contract Documents, Bid and Bid Quotation Sheet and hereby certify that the foregoing Bid and Bid Quotation Sheet is in all respects true and correct and (c) the Bidder hereby authorizes MTABC to make any necessary examination or inquiry in order to make a determination as to the qualifications and responsibility of the Bidder, as well as the authority of the person executing the Bid.

\_\_\_\_\_  
(Signature of Person Executing Bid)

Sworn to before me this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_

\_\_\_\_\_  
(Notary Public or Commissioner of Deeds)

**\*\*FAILURE TO COMPLETE AND RETURN MAY DEEM BID NONRESPONSIVE\*\***

**SCHEDULE G**

**CONTRACT No. MP121313**

**The following changes, deletions and/or additions to the Contract Documents are hereby deemed included in the Contract by the attachment of this Rider:**

**1. Contract Terms and Conditions**

**Article 12 Disputes**

The Disputes Resolution Officer for this contract is James P. Curry, Chief Officer, Procurement.

**Article 22 Quantities are Approximate/Variable Quantities Clause**

Paragraph B is deleted in its entirety.

[END OF SECTION]



**Bus Company**

**Schedule J**

**RESPONSIBILITY QUESTIONNAIRE**

**MP121313**

**PART I - INSTRUCTIONS<sup>1</sup>**

1. The Responsibility Questionnaire (“Questionnaire”) shall be completed and submitted in the following circumstances:
  - a. **Bidders:**
    - i. Bidders, submitting a Bid for public work contracts, where the Bid is equal to or exceeds \$15,000, are to complete and submit Parts I, II, III, IV and VII of the Questionnaire with their Bid;
    - ii. Bidders submitting a Bid for contracts for supplies, materials, or equipment (purchase contracts), or miscellaneous procurement or miscellaneous service contracts, where the Bid submitted is equal to or exceeds \$250,000, that also submit an Operating Agreement Bid or a Purchase Agreement Bid, shall complete Paragraphs G and H of those Bid documents, and shall complete and submit Parts I, II and VII of the Questionnaire with their Bid.
    - iii. The apparent low Bidder will receive notification requesting submission of Part V and VI of the Questionnaire.
  - b. **Proposers:**
    - i. Proposers, submitting a Proposal for public work contracts, where the Proposal is equal to or exceeds \$15,000 are to complete and submit all Parts of the Questionnaire with their Proposal;
    - ii. Proposers, submitting a Proposal for personal service (including Architectural and Engineering) contracts where the Proposal is equal to or exceeds \$15,000 are to complete and submit all Parts of the Questionnaire with their Proposal;
    - iii. Proposers submitting a Proposal for supplies, material, equipment (including transit vehicles and rolling stock) or miscellaneous procurement or service contracts where the Proposal is equal to or exceeds \$15,000 are to complete and submit all Parts of the Questionnaire with their Proposal.
  - c. **Non-Competitive/Sole Source:**
    - i. Proposers for non-competitive/sole source purchase contracts (including preferred sources) or purchase orders/contracts awarded pursuant to existing contracts, that are equal to or in excess of \$15,000, are to complete and submit all Parts of the Questionnaire with their Proposal.

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<sup>1</sup> PERSONAL PRIVACY PROTECTION LAW NOTIFICATION

The information the Contractor is providing on this application, including information about Key People, is requested pursuant to the New York State Public Authorities Law for the purposes of determining the Applicant Firm’s responsibility for a Contract award. Failure to provide the specified information and authorization requested may, in the sole discretion of the MTA, prevent your firm’s award of a Contract by the MTA and/or its agencies. The information will be kept in a file maintained by MTA and its agencies or other files maintained under the authority of MTA and its agencies. Information which, because of any name, number, symbol, mark or other identifier, can be used to identify a person, shall be received, maintained and used by the MTA and its agencies solely for the above-stated purposes and will be protected from public disclosure to the fullest extent permitted by law.

- ii. Proposers for non-competitive public work contracts, where the proposal submitted equals or exceeds \$25,000; for non-competitive personal service (consultant) contracts where the proposal submitted equals or exceeds \$20,000; and for other non-competitive contracts where the proposal submitted equals or exceeds \$25,000, are to complete and submit all Parts of the Questionnaire with their Proposal.
- d. Subcontractors:**
- i. A Subcontractor is defined as being a ‘known’ Subcontractor, if that Subcontractor is proposed by the Bidder/Proposer as a Subcontractor for work on the Contract prior to Contract Award, or is a Subcontractor for which the Bidder/Proposer is requesting approval subsequent to Contract Award.
  - ii. A known Subcontractor is required to complete and submit all Parts of the Questionnaire if that Subcontractor has entered into subcontracts with the Bidder/Proposer valued at \$1 million or more. The Bidder/Proposer or Contractor that is proposing, or requesting approval for, the Subcontractor will obtain the completed Questionnaire from the Subcontractor and provide it to NYCT.
  - iii. A subcontract for the provision of goods, services or construction is valued at \$1 million or more *if when aggregated with the value of all other such subcontracts between the same Bidder/Proposer and the Subcontractor for Authority Contracts (refer to the definition of “Authority” in Paragraph 2), during the immediately preceding twelve (12) month period, has an aggregate value of \$1 million dollars or more.*
- e. Special Circumstances Contracts or Subcontracts:**
- i. Special Circumstances Contracts or Subcontracts, are contracts and subcontracts for painting; scrap; hazardous materials; concrete; lead; asbestos; inspection and testing; security-related projects; carting; and textiles and garments; or such other area as the Authority may designate from time to time.
  - ii. **Proposers** for ‘Special Circumstances’ Contracts that equal or exceed \$100,000.00 shall complete and submit all Parts of the Questionnaire with their Proposal.
  - iii. **Bidders** for ‘Special Circumstances’ Contracts that equal or exceed \$100,000.00 shall complete and submit Parts I, II, III, IV and VII of the Questionnaire unless they are submitting an Operating Agreement Bid or a Purchase Agreement Bid, in which case the Bidder shall complete Paragraphs G and H of those documents, and shall complete and submit Parts I, II and VII of the Questionnaire.
  - iv. The apparent low Bidder will receive notification requesting submission of Parts V and VI of the Questionnaire.
  - v. **Known Subcontractors** for Special Circumstances Subcontracts that equal or exceed \$100,000.00, shall complete and submit all Parts of the Questionnaire and provide it to the Bidder or Proposer for submission by the Bidder or Proposer with the Bid or Proposal.
- f. Affidavit of No Change:**



If the Bidder, Proposer or Subcontractor has submitted a Questionnaire, within six months of the present date, and there have been no material changes in the information specified on that Questionnaire, the Bidder/Proposer or Subcontractor shall complete and submit Part VIII of the Questionnaire, the Affidavit of No Change, with the Bid or Proposal.

2. **Definitions:**

- a. **Affiliate:** An entity in which the parent of the submitting Proposer owns more than fifty (50) % of the voting stock and/or an entity in which a group of principal owners or officers that owns more than fifty (50) % of the submitting Proposer also owns more than fifty (50) % of the voting stock.
- b. **Authority:** refers to the MTA and/or MTA subsidiary or affiliate to which the Proposer is submitting its bid or proposal and/or which is awarding the Contract sought.
- c. **Control:** The submitting Proposer is controlled by another entity when: (1) the other entity holds ten (10) % or more of the voting stock of the submitting Proposer; or (2) the other entity directs or has the right to direct daily operations. The submitting Proposer controls another entity when: (1) it holds ten (10) % or more of the voting stock of the other entity; or (2) it directs or has the right to direct daily operations.
- d. **Government agency(ies):** include city, state, federal public agencies, quasi-public agencies, authorities and corporations, public development corporations, public benefit corporations and local development corporations.
- e. **Integrity Monitor:** includes an Independent Private Sector Inspector General (“IPSIG”), or any independent private sector firm with legal, audit, investigative and loss prevention skills, employed by an organization or government entity, either voluntarily or by compulsory process, to monitor an entity’s business activities to ensure compliance with relevant laws and regulations, as well as to uncover and report unethical or illegal conduct within and against the entity, or to assist an entity in strengthening its internal controls, compliance and business ethics.
- f. **Joint Venture:** a business undertaking by two or more persons, corporations or other legal entities engaged in a single defined project. The necessary elements are: (1) an express or implied agreement; (2) a common purpose the group intends to carry out; and (3) shared profits and losses.
- g. **Managerial employees or Managerial Capacity:** Employees in a supervisory capacity who, either by virtue of their title or their duties, operate with discretion over solicitation, letting, or management of contracts with public agencies.
- h. **Metropolitan Transportation Authority (“MTA”) subsidiary or affiliate (Collectively referred to as “MTA Affiliates and Subsidiaries”) includes:** New York City Transit Authority (“NYCT”), Manhattan and Bronx Surface Transit Operating Authority (“MaBSTOA”), Staten Island Rapid Transit Operating Authority (“SIRTOA”), Triborough Bridge and Tunnel Authority (“TBTA”), Metro-North Commuter Railroad Company (“MNCR”), Long Island Rail Road (“LIRR”), Metropolitan Suburban Bus Authority (“MSBA”), MTA Bus Company (“MTA

BC”), MTA Capital Construction Company (“MTACC”) and First Mutual Transportation Assurance Company (“FMTAC”).

- i. **Officer:** Any individual who serves as or performs the functions of chief executive officer, chief financial officer, or chief operating officer of the submitting Proposer, without regard to such individual’s title. president, vice president, secretary, treasurer, board chairperson, trustee (individual or entity who administers a trust) or their equivalents.
- j. **Parent:** Any entity including, but not limited to any individual, partnership, joint venture or corporation which owns (50) % or more of the voting stock of another entity.
- k. **Principal Owner:** An individual, partnership, joint venture or corporation that holds a ten (10) % or greater ownership interest in a submitting Proposer.
- l. **Proposer:** includes and refers to a Bidder or a Proposer and also refers to the firm awarded the Contract as well as “submitting Contractor” or a “Contractor” seeking subcontracts for \$1 million or more, or seeking subcontracts of \$100,000 or more for Special Circumstances Contracts. The term “Proposer” also refers to the “Subcontractor” that must complete the Questionnaire.
- m. **Proposal:** The term “Proposal” includes the term “Bid”.
- n. **Share:** To have space, staff, equipment, expenses, or use such items, in common with one or more other entities.
- o. **Significant Adverse Information:** includes but is not limited to an unsatisfactory final performance evaluation on a Contract with any MTA agency within the immediate prior three (3) years, an uncured interim unsatisfactory rating on a Contract with any MTA agency, or an answer of “yes” to any question in Part IV herein.
- p. **Special Circumstances Contract or Subcontract:** see the definition in Part I.1.e.
- q. **Subcontractor:** see the definition in Part I.1.d.
- r. **Subsidiary:** An entity in which the majority of the voting stock is owned by a parent.

3. Please state “not applicable” in response to questions clearly not applicable to Proposer (for applicability of questions, see definition of ‘Proposer’), in connection with this solicitation. Do not omit any question. If any representation is not accurate and complete at the time Proposer signs this Questionnaire, Proposer must, as part of its Proposal, identify the provision and explain the reason in detail in the space provided below. If additional space is needed, add additional sheet(s) to this Questionnaire. **If this space is left blank, Proposer shall be deemed to have represented and warranted the accuracy and completeness of the representations on this Questionnaire:**

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4. All information must be legible.
5. Completed Questionnaire or, if applicable, an Affidavit of No Change, must be sworn to by a partner (if partnership), a duly authorized officer or individual (if a corporation), or a principal (if a sole proprietorship).
6. If, at any time prior to award of this Contract or during the performance by the Proposer of this Contract, either of the following occurs, the Proposer shall promptly give notice in writing of the situation to the Authority, to the attention of the appropriate Chief Officer, Procurement, and therefore cooperate with the Authority's review and investigation of such information.
  - i) Proposer has reason to believe that any representation or answer to any question contained in this Questionnaire was not accurate or complete at the time this Questionnaire was signed; or
  - ii) Events occur or circumstances change so that an answer to any question in the Questionnaire is no longer accurate or complete.
7. In the Authority's sole discretion, the following shall constitute grounds for the Authority to take remedial action up to and including immediate termination of the Contract for convenience without payment for profit and overhead for work not performed if:
  - i) Proposer fails to notify the Chief Officer, Procurement as required by this paragraph; or
  - ii) Proposer fails to cooperate with the Authority's request for additional information as required by this paragraph; or
  - iii) Proposer, a director, officer, principal, managerial employee or owner of a 10% or more interest in Proposer, is convicted of a crime involving a public contract; or
  - iv) Significant concerns about the Proposer's integrity are raised based upon an evaluation of the events underlying any other determination, indictment, conviction, or other allegation that Proposer or a director, officer, principal, managerial employee or owner of a 10% or more interest in Proposer, is or has been involved in any felony or a misdemeanor related to truthfulness and/or business conduct in the past ten (10) years.
8. The Authority reserves the right to inquire further with respect to Proposer's responses; and Proposer consents to such further inquiry and agrees to furnish all relevant documents and information as requested by the Authority. Any response to this document prior or subsequent to Proposer's Proposal which is or may be construed as unfavorable to Proposer will not necessarily automatically result in a negative finding on the question of Proposer's responsibility or a decision to terminate the Contract if it is awarded to Proposer.

**PART II - IDENTITY OF PROPOSER**

1. Proposer's Full Legal Name:

\_\_\_\_\_

2. The Proposer represents that it operates as the following form of legal entity: (Check whichever applies and fill in any appropriate blanks.)

an individual or sole proprietorship

a general partnership

a limited partnership

a joint venture consisting of: \_\_\_\_\_,

and \_\_\_\_\_

(List all joint venturers on a separate sheet if this space is inadequate.)

a non-profit organization

a corporation organized or incorporated under the laws of the following state or country:

\_\_\_\_\_ on the following date: \_\_\_\_\_

3. Proposer's federal taxpayer identification number: \_\_\_\_\_

4. Proposer's legal address: \_\_\_\_\_

Telephone Number: (\_\_\_\_) \_\_\_\_\_ Fax Number: (\_\_\_\_) \_\_\_\_\_

Mobile Number: (\_\_\_\_) \_\_\_\_\_ Email: \_\_\_\_\_

5. Proposer's local or authorized point of contact address:

Name: \_\_\_\_\_ Title: \_\_\_\_\_

Address: \_\_\_\_\_

Telephone Number: (\_\_\_\_) \_\_\_\_\_ Fax Number: (\_\_\_\_) \_\_\_\_\_

Cell Number: (\_\_\_\_) \_\_\_\_\_ Email: \_\_\_\_\_

6. a. If Proposer is a corporation, has a Certificate of Incorporation been previously filed with the MTA Bus Company? YES  NO   
*If "NO," attach a certified copy.*

b. Attach a certified copy of the By-Laws and Resolution of the Corporation giving the names and titles of the corporate officers other than President, as well as non-officer employees, who are authorized to sign contracts, bonds, bills of sale and other legal instruments in connection with the Contract, if the same have not been previously filed.

c. If a foreign corporation, has proof of authority to transact business in the State of New York been previously filed with the MTA Bus Company? YES  NO   
*If "NO," attach proof of such authority.*

In the event that any of Proposer's previous submissions to the Authority in response to the above (questions a-c) no longer represent the Proposer's current corporate status, Proposer must attach a certified copy of any documents amending its previous submissions.

7. a. How long has the Proposer been in business? \_\_\_\_\_

b. Have Proposer's major shareholders, officers or principals been in business under another name? If so, identify name and dates used. \_\_\_\_\_

c. How many years experience as a prime contractor/consultant? \_\_\_\_\_

d. How many years experience as a subcontractor/subconsultant? \_\_\_\_\_

8. List below the names, business addresses, titles, and telephone numbers of the following people: if a corporation, identify the president, executive officers, and any other officers directly responsible for this Proposal; if a partnership, identify the partners directly responsible for this Proposal; or, if another form of business entity, identify the principals directly responsible for this Proposal.

<u>Name</u>	<u>Address</u>	<u>Title</u>	<u>Telephone No.</u>

9. If your firm considers itself to be a Minority Business Enterprise (“MBE”), Women-Owned Business Enterprise (“WBE”) or Disadvantaged Business Enterprise (“DBE”), then within the past three (3) years has the Proposer had any MBE, WBE, or DBE certification (or application for such certification) revoked or, if you made application for such certification during such period was same denied?

YES  NO

If answer is “YES,” explain:

\_\_\_\_\_
\_\_\_\_\_
\_\_\_\_\_
\_\_\_\_\_
\_\_\_\_\_
\_\_\_\_\_
\_\_\_\_\_

**PART III-PROPOSER’S REPRESENTATIONS**

1. Statement of non-collusion as required by Section 2878 of the Public Authorities Law of the State of New York:

By submission of this Proposal, the undersigned, and each person signing on behalf of the undersigned, certifies, and in the case of a joint proposal each party thereto certifies, as to its own organization, under penalty of perjury, that to the best of its knowledge and belief:

- a. the prices in this Proposal have been arrived at independently without collusion, consultation, communication, or agreement for the purpose of restricting competition, as to any matter relating to such prices with any other proposer or with any competitor;
b. unless otherwise required by law, the prices which have been quoted in this Proposal have not been knowingly disclosed by the Proposer and will not knowingly be disclosed by the undersigned prior to opening, directly or indirectly, to any other proposer or to any competitor;
c. no attempt has been or will be made by the Proposer to induce any other person, partnership or corporation to submit or not to submit a proposal for the purpose of restricting competition;

A Proposal shall not be considered for award nor shall any award be made where a, b, and c, above, have not been complied with provided, however, that if in any case the Proposer cannot make the foregoing certification, the Proposer shall so state and shall furnish with the Proposal a signed and notarized statement which sets forth in detail the reasons therefor. Where a, b, and c, above, have not been complied with, the Proposal shall not be considered for award nor shall any award be made unless the Vice President, Division of Materiel, of the Authority, or his/her designee, determines that such disclosure was not made for the purpose of restricting competition.

The fact that a Proposer (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 being proposed, does not constitute, without more, a disclosure within the meaning of a, b, and c above.

2. Statement of no-conflict of interest:

a. No appointed or elected official, member or other officer or employee of the City or State of New York, or of the Metropolitan Transportation Authority (“MTA”), or MTA Affiliates and Subsidiaries; i) is interested directly or indirectly, in any manner whatsoever in or in the performance of the Contract or in the supplies, work or business to which it relates or in any portion of the profits thereof; or ii) has been or will be offered or given any tangible consideration in connection with this Proposal/Contract.

b. Proposer covenants that neither Proposer nor, to the best of the Proposer’s knowledge after diligent inquiry, any director, officer, owner or employee of the Proposer, or any person or entity with a 10% or more interest in Proposer, has any interest nor shall they acquire any interest, directly or indirectly, which would conflict in any manner or degree with the faithful performance of the Contract hereunder.

c. In the event Proposer has no prior knowledge of a conflict of interest as set forth in “a” and “b” above and hereafter acquires information which indicates that there may be an actual or apparent violation of any of the above, Proposer shall promptly bring such information to the attention of the Authority’s appropriate chief procurement officer (“Chief Procurement Officer”), Proposer shall thereafter cooperate with the Authority’s review and investigation of such information, and comply with any instruction it receives from the Chief Procurement Officer in regard to remedying the situation.

3. The following statements apply to any proposal or contract between Proposer and the City or State of New York, any other state, any public authority or other public entity, the United States government, the MTA and MTA Affiliates and Subsidiaries. **For all questions, matters on appeal must be disclosed. Unless otherwise noted, all questions relate to the previous ten (10) years.**

a. Statements b, c, d, e, f, g, h, i, j and k below apply to: i) Proposer, Proposer’s parent, subsidiaries and affiliates (if any) of Proposer; ii) any joint venture (including its individual members) and any other form of partnership (including its individual members) which includes Proposer or Proposer’s parent, subsidiaries, or affiliates of Proposer; iii) Proposer’s directors, officers, principals, managerial employees and any person or entity with a 10% or more interest in Proposer; iv) any legal entity controlled, or 10% or more of which is owned, by Proposer, or by any director, officer, principal or managerial employee of Proposer, or by any person or entity with a 10% or more interest in Proposer; or v) any parent, subsidiary or affiliate of any legal entity controlled, or 10% or more of which is owned, by Proposer, or by any director, officer, principal or managerial employee of Proposer, or any person or entity with a 10 % or more interest in Proposer.

Check "YES" or "NO," as appropriate to the following questions:

- a. Within the past five (5) years, has the Proposer been declared not responsible? YES  NO
- b. Has the Proposer been debarred, suspended, or otherwise disqualified from bidding, proposing, or contracting? YES  NO
- c. Is there a proceeding pending relating to Proposer's responsibility debarment, suspension, or qualification to receive a public contract? YES  NO
- d. Within the past five (5) years, has Proposer defaulted on a contract or been terminated for cause? YES  NO
- e. Has a government agency or other public entity requested or required enforcement of any of its rights under a surety agreement on the basis of the Proposer default or in lieu of declaring Proposer in default? YES  NO
- f. Within the past five (5) years, has the Proposer been required to engage the services of an Integrity Monitor, in connection with the award of, or in order to complete any public or private contract? YES  NO
- g. Within the past five (5) years, have Proposer's safety practices/procedures been evaluated and ruled as less than satisfactory by the City or State of New York, any other state, any public authority or any public entity, the United States government, the MTA, MTA affiliates or subsidiaries? YES  NO
- h. Has Proposer's Workers Compensation Experience Rating been 1.2 or greater at any time in the last five (5) years? YES  NO
- i. List the name and business address of each person or legal entity which has a 10% or more ownership or control interest in Proposer (attach additional pages as needed).


- j. Explain any "YES" answers to b, c, d, e, f, g, h, i and j in the space provided below (attach additional pages as needed and **indicate below if additional pages have been attached**).

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**PART IV - QUESTIONS WHICH MUST BE ANSWERED “YES” OR “NO”**

(In the event of a “YES,” the Authority reserves the right to inquire further with respect thereto. **Unless otherwise noted, all questions relate to the previous ten (10) years.**)

To the best of your knowledge after diligent inquiry, in connection with the business of Proposer or any other firm which is related to Proposer by any degree of common ownership, control, or otherwise, do any of the following statements apply to: i) Proposer, Proposer's parent, subsidiaries and affiliates of Proposer (if any); ii) any joint venture (including its individual members) and any other form of partnership (including its individual members) which includes Proposer or Proposer's parent, subsidiaries, or affiliates of Proposer; iii) Proposer's directors, officers, principals, managerial employees, and any person or entity with a 10% or more interest in Proposer; iv) any legal entity controlled, or 10% or more of which is owned, by Proposer, or by any director, officer, principal, managerial employee of Proposer, or by any person or entity with a 10% or more interest in Proposer:

Check “YES” or “NO,” as appropriate to the following questions:

- 1. Has been convicted of or pleaded nolo contendere to (A) any felony or(B) a misdemeanor related to truthfulness in connection with business conduct. YES  NO
- 2. Have pending before any state or federal grand jury or court an indictment or information of the commission of a crime which has not been favorably terminated. YES  NO
- 3. Is the subject of any pending investigation by any grand jury, commission, committee or other entity or agency or authority of any local, state or the federal government in connection with the commission, or alleged commission, of a crime. YES  NO
- 4. Is currently disqualified from selling or submitting bids/proposals to or receiving awards from or entering into any contracts with any federal, state or local governmental entity, any public authority or any other public entity. YES  NO
- 5. Within the past five (5) years, has refused to testify or to answer any question concerning a bid or contract with any federal, state, or local government agency, any public authority or any other public entity when called before a grand jury or other committee, agency or forum which is empowered to compel the attendance of witnesses and examine them under oath, upon being advised that

neither the person’s statement nor any information or evidence derived from such statement will be used against that person in any subsequent criminal proceeding.

YES  NO

6. Is currently disqualified from selling or submitting a bid to, or receiving an award from, or entering into any contract with any public entity or public authority within the State of New York because, within the past five (5) years, such entity or person refused to testify or to answer any relevant question concerning a transaction or contract with the State of New York, any political subdivision of the State of New York, or a public authority or a public department, agency or official of the State of New York or of a political subdivision of the State of New York, when called before a grand jury or other state or local department, commission or agency which is empowered to compel the attendance of witnesses and examine them under oath, upon being advised that neither that person’s statement nor any information or evidence derived from such statement will be used against that person in any subsequent criminal proceeding.

YES  NO

7. Has within the ten (10) year period preceding this Bid/Proposal been convicted of or had a civil judgment rendered against it for or in relation to: (i) commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, State or local) transaction or contract under a public transaction; (ii) collusion with another person or entity in connection with the submission of bids/proposals; (iii) violation of Federal or State antitrust statutes, or False Claims Acts, or (iv) commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements or receiving stolen property.

YES  NO

8. Explain any “YES” answers to 1, 2, 3, 4, 5, 6 or 7, in the space provided below (attach additional pages as needed and indicate below if additional pages have been attached).

Multiple horizontal lines for providing an explanation for 'YES' answers to questions 1 through 7.

**PART V-ADDITIONAL QUESTIONS**

1. List the name, title and home and business address of each person or legal entity which has a 10% or more ownership, or control interest in Proposer.

Name: \_\_\_\_\_

Title: \_\_\_\_\_

Home address: \_\_\_\_\_

Business address: \_\_\_\_\_

2. List the name, title and home and business address of each director and principal officer of Proposer.

Name: \_\_\_\_\_

Title: \_\_\_\_\_

Home address: \_\_\_\_\_

Business address: \_\_\_\_\_

3. In the past ten (10) years has Proposer entered into a consent decree, deferred prosecution agreement, or a non-prosecution agreement? YES  NO

4. In the past three (3) years, has Proposer been a subcontractor on any contract with the Authority? YES  NO

5. In the past seven (7) years, have any bankruptcy proceedings been initiated by or against the Proposer (whether or not closed) or is any bankruptcy proceeding pending by or against the Proposer regardless of the date of filing? YES  NO

6. In the past five (5) years, have there been any judgments, injunctions, or liens of \$100,000 or more, including but not limited to, judgments based on taxes owed, fines and penalties assessed by a government agency against Proposer at any time? YES  NO

7. Are there any judgments, injunctions, or liens for \$100,000 or more each against Proposer that remain open, unsatisfied or in effect today? YES  NO

8. During the past five (5) years, has the Proposer failed to file any applicable federal, state or local tax return? YES  NO

9. Does the Proposer own or rent office space? YES  NO

If "YES", please provide details. \_\_\_\_\_

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10. Does any principal owner or officer of the Proposer, or any member of his/her immediate family, have an ownership interest in any entity that holds the title or lease to any real property used by the Proposer? YES  NO

11. Does Proposer share office space, staff equipment, or expenses with other entities? YES  NO

If "YES", please provide details.

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12. Proposer is required to provide a list of contracts as requested in (A) and (B) below. For each of the contracts listed in (A) and (B) below, Proposer shall provide a brief description of the work performed, the contract number, the dollar amount at award and at completion, date completed, and the name and telephone number of the owner's representative:

(A) List all contracts completed during the last three (3) years. If more than three (3) contracts have been completed in the past three (3) years, list the last three (3) contracts completed.

(1) Brief description of work performed: \_\_\_\_\_  
 \_\_\_\_\_  
 Contract number: \_\_\_\_\_  
 Dollar amount of award: \_\_\_\_\_  
 Date completed: \_\_\_\_\_  
 Name/Telephone number of owner's representative: \_\_\_\_\_  
 Dollar amount at completion: \_\_\_\_\_

(2) Brief description of work performed: \_\_\_\_\_  
 \_\_\_\_\_  
 Contract number: \_\_\_\_\_  
 Dollar amount of award: \_\_\_\_\_  
 Date completed: \_\_\_\_\_  
 Name/Telephone number of owner's representative: \_\_\_\_\_  
 Dollar amount at completion: \_\_\_\_\_

(3) Brief description of work performed: \_\_\_\_\_

\_\_\_\_\_

Contract number: \_\_\_\_\_

Dollar amount of award: \_\_\_\_\_

Date completed: \_\_\_\_\_

Name/Telephone number of owner's representative: \_\_\_\_\_

Dollar amount at completion: \_\_\_\_\_

(B) List each contract completed by Proposer during the last three (3) years for which liquidated damages or penalty provisions were assessed against Proposer for failure to complete the work on time or for any other reason. Proposer is required to provide an explanation of the circumstances for each contract.

(1) Brief description of work performed: \_\_\_\_\_

\_\_\_\_\_

Contract number: \_\_\_\_\_

Dollar amount of award: \_\_\_\_\_

Date completed: \_\_\_\_\_

Name/Telephone number of owner's representative: \_\_\_\_\_

Dollar amount at completion: \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

(2) Brief description of work performed: \_\_\_\_\_

\_\_\_\_\_

Contract number: \_\_\_\_\_

Dollar amount of award: \_\_\_\_\_

Date completed: \_\_\_\_\_

Name/Telephone number of owner's representative: \_\_\_\_\_

Dollar amount at completion: \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

(3) Brief description of work performed: \_\_\_\_\_

\_\_\_\_\_

Contract number: \_\_\_\_\_

Dollar amount of award: \_\_\_\_\_

Date completed: \_\_\_\_\_

Name/Telephone number of owner's representative: \_\_\_\_\_

Dollar amount at completion: \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

If none of the above situations occurred during the last three (3) years, state "NONE" here: \_\_\_\_\_

13. Furnish the following information for each contract for which, during the last three (3) years, the Proposer was:

(A) Terminated for default; or

- (B) Sued to compel performance; or
- (C) Sued to recover damages, including, without limitation, upon an alleged breach of contract, misfeasance, error or omission or other alleged failure on Proposer’s part to perform as required by the contract; or
- (D) Called upon a surety to perform the work; or
- (E) Required to engage the services of an Integrity Monitor in connection with the award of or in order to complete, any public or private contract; or
- (F) Required to draw on a letter of credit in lieu of performance bond.

(1) Brief description of work performed: \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_

Contract number: \_\_\_\_\_  
 Dollar amount of award: \_\_\_\_\_  
 Date completed: \_\_\_\_\_  
 Name/Telephone number of owner’s representative \_\_\_\_\_

(2) Brief description of work performed: \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_

Contract number: \_\_\_\_\_  
 Dollar amount of award: \_\_\_\_\_  
 Date completed: \_\_\_\_\_  
 Name/Telephone number of owner’s representative \_\_\_\_\_

If none of the above situations occurred during the last three (3) years, state “NONE” here: \_\_\_\_\_

14. List all Proposer’s employees: (Attach additional sheets as needed)

(A) Who are current employees of MTA or any MTA subsidiary or affiliate:

Name: \_\_\_\_\_

Currently employed by: (check as appropriate)

- |                               |                               |                                  |                                 |                               |
|-------------------------------|-------------------------------|----------------------------------|---------------------------------|-------------------------------|
| MTA <input type="checkbox"/>  | NYCT <input type="checkbox"/> | MaBSTOA <input type="checkbox"/> | SIRTOA <input type="checkbox"/> | MNCR <input type="checkbox"/> |
| LIRR <input type="checkbox"/> | TBTA <input type="checkbox"/> | MTACC <input type="checkbox"/>   | MTABC <input type="checkbox"/>  |                               |

Name: \_\_\_\_\_

Currently employed by: (check as appropriate)

MTA  NYCT  MaBSTOA  SIRTOA  MNCR   
LIRR  TBTA  MTACC  MTABC

Name: \_\_\_\_\_

Currently employed by: (check as appropriate)

MTA  NYCT  MaBSTOA  SIRTOA  MNCR   
LIRR  TBTA  MTACC  MTABC

(B) Who within the past two (2) years have been MTA or any MTA subsidiary or affiliate employees who were involved on behalf of Proposer with the preparation of this bid/proposal or would be involved in the performance of the Contract if it is awarded to Proposer.

Name: \_\_\_\_\_

Currently employed by: (check as appropriate)

MTA  NYCT  MaBSTOA  SIRTOA  MNCR   
LIRR  TBTA  MTACC  MTABC

Name: \_\_\_\_\_

Currently employed by: (check as appropriate)

MTA  NYCT  MaBSTOA  SIRTOA  MNCR   
LIRR  TBTA  MTACC  MTABC

15. Does Proposer have a subsidiary or affiliate? YES  NO

16. Is Proposer a subsidiary of another entity? YES  NO

17. Within the past five (5) years or currently, does Proposer, any director, officer, principal, managerial employee of Proposer, or any person or entity with a 10% or more interest in Proposer have an interest of 10% or more in any other firm or legal entity? YES  NO

18. If the answer to 15, 16 or 17 is "YES," would Proposer's answers pertaining to Part V Questions 1 through 13 above be the same for each such parent, subsidiary, affiliate, firm or legal entity? If not, please provide a full explanation below and attach additional sheets as necessary. Indicate if additional sheets are attached. YES  NO

Multiple horizontal lines for providing an explanation for question 18.

19. Describe the resources, including but not limited to, staffing, facilities, equipment, and tools that Proposer will commit to the performance of this Contract. If this information is provided elsewhere in Proposer's bid/proposal, please enter below the reference to that section in Proposer's submission that responds to this question. If not provided elsewhere, provide information below and attach additional sheets as necessary. Indicate if additional sheets are attached.

See Section:

Multiple horizontal lines for providing a reference to the section in the bid/proposal for question 19.

20. a. If any professional or other licenses, permits, or certifications are required to perform the work/services called for by this solicitation, list the license, permit, or certification that the Proposer or Proposer's employees or agents possess. If none, state "None."

License or Permit or Certification

Name of Holder

Issuing State or Entity

Three horizontal lines for listing licenses, permits, or certifications for question 20a.



_____	_____	_____
_____	_____	_____
_____	_____	_____

b. Have any of the Proposer’s officers, partners, owners, managers or employees had any project related licenses, permits or certifications revoked or suspended in the past three years?

YES  NO

*If “YES,” explain details below.*

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

**PART VI - FINANCIAL**

1. Provide certified financial statements for the last three (3) fiscal years. If certified financial statements are not available, provide financial statements sworn to by the firm’s Chief Financial Officer. . If Proposer is unable to provide any such statements, provide other information, which will enable the Authority to evaluate and determine whether Proposer has sufficient financial resources to enable Proposer to perform the Contract.

2. The Proposer may submit its prior three (3) years’ financial statements in lieu of completing Section 1 (Balance Sheet), Section 2 (Comparative Statement of Income & Retained Earnings), and Section 3 (Comparative Statements of Cash Flows). However, Section 1, Schedules A, B, C, D, E and F and Sections 4, 6 and 7 must be completed. If the Proposer is required to submit a performance bond, Section 5 must also be completed.

**SECTION 1**

COMPARATIVE BALANCE SHEET  
as of \_\_\_\_\_

(\$000)	20__	20__	20__
	\$	\$	\$

I. CURRENT ASSETS

Cash	_____	_____	_____
Marketable Securities	_____	_____	_____
Notes Receivable (Schedule A)	_____	_____	_____
Accounts Receivable (Schedule B)	_____	_____	_____
Bid Deposits (Schedule C)	_____	_____	_____
Inventories	_____	_____	_____
Prepaid Expenses	_____	_____	_____
Other Current Assets:	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____
TOTAL CURRENT ASSETS	\$ _____	\$ _____	\$ _____

II. OTHER ASSETS:

Investment in Affiliates	\$ _____	\$ _____	\$ _____
Other Non-Current Assets:	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____

TOTAL OTHER ASSETS: \$ \_\_\_\_\_ \$ \_\_\_\_\_ \$ \_\_\_\_\_

III. PROPERTY, PLANT & EQUIPMENT:

NET PROPERTY, PLANT & EQUIPMENT  
(Net of Depreciation) \$ \_\_\_\_\_ \$ \_\_\_\_\_ \$ \_\_\_\_\_

**TOTAL ASSETS** \$ \_\_\_\_\_ \$ \_\_\_\_\_ \$ \_\_\_\_\_

**SECTION 1** (continued)

**LIABILITIES**

(\$000)	20__	20__	20__
	\$	\$	\$

**I. CURRENT LIABILITIES ASSETS**

Notes Payable (Schedule D)	_____	_____	_____
Accounts Payable (Schedule E)	_____	_____	_____
Loans Payable (Schedule F)	_____	_____	_____
Taxes Payable	_____	_____	_____
Current Portion of Long Term Debt	_____	_____	_____
Accrued Liabilities	_____	_____	_____
Other Current Liabilities:	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____
<b>TOTAL CURRENT LIABILITIES</b>	<b>\$ _____</b>	<b>\$ _____</b>	<b>\$ _____</b>

**II. NON-CURRENT LIABILITIES**

Long Term Debt	\$ _____	\$ _____	\$ _____
Other:	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____
<b>TOTAL NON-CURRENT LIABILITIES</b>	<b>\$ _____</b>	<b>\$ _____</b>	<b>\$ _____</b>

<b>TOTAL LIABILITIES</b>	<b>\$ _____</b>	<b>\$ _____</b>	<b>\$ _____</b>
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**III. EQUITY**

Capital Stock Paid Up:			
Common	\$ _____	\$ _____	\$ _____
Preferred	\$ _____	\$ _____	\$ _____
Surplus (net worth)	\$ _____	\$ _____	\$ _____
<b>TOTAL EQUITY</b>	<b>\$ _____</b>	<b>\$ _____</b>	<b>\$ _____</b>
<b>TOTAL LIABILITIES AND EQUITY</b>	<b>\$ _____</b>	<b>\$ _____</b>	<b>\$ _____</b>

**SECTION 1** (continued)

DETAILS RELATIVE TO ASSETS

**SCHEDULE A**

<b>Notes Receivable</b>	(a) due within 90 days _____	\$ _____		
	(b) due after 90 days _____	\$ _____		
	(c) past due _____	\$ _____		
Receivable From: Name	Purpose	Date of Maturity	How Secured	Amount
				\$
<b>TOTAL</b>				\$

**SCHEDULE B**

Aging of Accounts Receivable					P A S T D U E	
Current	1 to 30 days	31 to 60 days	61 to 90 days	Over 90 Days	Total	
Trade \$	\$	\$	\$	\$	\$	
Other \$	\$	\$	\$	\$	\$	
<b>Total \$</b>	\$	\$	\$	\$	\$	

**SCHEDULE C**

Bid Deposit Holder of Deposit: Name	Description	Amount
		\$
<b>TOTAL</b>		\$

**SECTION 1** (continued)

DETAILS RELATIVE TO LIABILITIES

**SCHEDULE D**

<b>Notes Payable</b>	(a) Not Past Due _____ \$ _____		
	(b) Past Due _____ \$ _____		
To Whom: Name	Purpose	When Due	Amount
			\$
<b>TOTAL</b>			\$

**SCHEDULE E**

<b>Accounts Payable</b>	(a) Not Past Due _____ \$ _____		
	(b) Past Due _____ \$ _____		
To Whom: Name	Purpose	Date Payable	Amount
			\$
<b>TOTAL</b>			\$

**SCHEDULE F**

<b>Loans Payable</b>	(a) Not Past Due _____ \$ _____		
	(b) Past Due _____ \$ _____		
To Whom: Name	Purpose	Date Payable	Amount
			\$
<b>TOTAL</b>			\$

**SECTION 2**

COMPARATIVE STATEMENT OF INCOME & RETAINED EARNINGS  
STATEMENT FOR PERIODS ENDED \_\_\_\_\_

	20__	20__	20__
SALES	\$ _____	\$ _____	\$ _____
Less:			
COST OF SALES			
Labor	_____	_____	_____
Material	_____	_____	_____
Depreciation	_____	_____	_____
Other Overhead	_____	_____	_____
GROSS MARGIN	\$ _____	\$ _____	\$ _____
Less: Selling, General and Administrative Expenses	\$ _____	\$ _____	\$ _____
Income Before Taxes	\$ _____	\$ _____	\$ _____
Less: Income Taxes	\$ _____	\$ _____	\$ _____
NET INCOME	\$ _____	\$ _____	\$ _____
Retained Earnings Beginning of Period	\$ _____	\$ _____	\$ _____
Less:			
Cash Dividends Paid	\$ _____	\$ _____	\$ _____
Other:	\$ _____	\$ _____	\$ _____
Net Retained Earnings End of Period	\$ _____	\$ _____	\$ _____

**SECTION 3**

COMPARATIVE STATEMENTS OF CASH FLOWS FOR THE YEARS ENDED \_\_\_\_\_

	Increase (Decrease) in Cash		
	20__	20__	20__
Cash Flows from operating activities:	\$ _____	\$ _____	\$ _____
Cash received from customers	_____	_____	_____
Cash paid to suppliers and employees	_____	_____	_____
Interest paid	_____	_____	_____
Income taxes paid	_____	_____	_____
Miscellaneous receipts (payments)	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____
Net cash provided by operating activities	\$ _____	\$ _____	\$ _____
Cash flows from investing activities:	_____	_____	_____
Proceeds from sale of equipment	_____	_____	_____
Payments for purchase of equipment	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____
Net cash used in investing activities	\$ _____	\$ _____	\$ _____
Cash flows from financing activities:	_____	_____	_____
Net increase in short-term debt	_____	_____	_____
Proceeds from issuance of long-term debt	_____	_____	_____
Repayment of long-term debt	_____	_____	_____
Payment of dividends	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____
Net cash provided by (used in) financing activities	\$ _____	\$ _____	\$ _____
Net increase (decrease) in cash	\$ _____	\$ _____	\$ _____
Cash at beginning of year	\$ _____	\$ _____	\$ _____
Cash at end of year	\$ _____	\$ _____	\$ _____



**SECTION 4 – IDENTITY OF OWNERS**

Who are the principal owners/shareholders of the business entity and what percentage (approx.) does each own?

Name	Percent Owned

**SECTION 5 – PERFORMANCE BOND INFORMATION**

*Section 5 is only applicable to solicitations in which the Proposer is required to provide a performance bond.*

Names and addresses of bonding company or companies that have agreed to furnish the performance bond required by the Contract.

Name	Address	Amount	Expiration Date
		\$	

**SECTION 6 - SUBCONTRACTS**

What parts of this Contract, if any, does Proposer expect to subcontract?

Name and Address of Proposed Subcontractor(s)	Portion of Work	Estimated Dollar Value of Work

**SECTION 7 - CERTIFICATION**

I certify that the attached financial statements for this Proposal properly reflect the financial position of the company for the periods indicated on the financials.

\_\_\_\_\_ Date

Chief Financial Officer

**PART VII – QUESTIONNAIRE EXECUTION, VERIFICATION AND ACKNOWLEDGMENT**

(Complete and submit this Affidavit and Acknowledgment unless the Affidavit of No Change applies.)

Bidder/Proposer must sign here: \_\_\_\_\_

Date: \_\_\_\_\_

STATE OF \_\_\_\_\_ )  
 ) ss.:  
COUNTY OF \_\_\_\_\_ )

On the \_\_\_\_\_ day of \_\_\_\_\_ 20\_\_\_\_, before me personally came and appeared

\_\_\_\_\_ by me known to be said person, who  
swore under oath as follows:

1. He/she is \_\_\_\_\_ of \_\_\_\_\_  
(Print title) (Print name of firm)
2. He/she is duly authorized to sign this Questionnaire on behalf of said firm and duly signed this document pursuant to said authorization.
3. The answers to the questions set forth in this Questionnaire and except as set forth in the stated exceptions in Part III, Proposer’s Representations, the representations set forth in this Questionnaire, are true, accurate and complete. I authorize the MTA to verify any such information and to conduct any background checks it deems appropriate.
4. He/she acknowledges and understands that this Questionnaire includes additional conditions and obligations on the Contractor and rights in favor of the MTA Bus Company, which are deemed included in the Contract if awarded to the firm.

Sworn to and subscribed to before me this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_

\_\_\_\_\_  
(Notary Public)

Notary Public \_\_\_\_\_ County

My Commission expires: \_\_\_\_\_

**PART VIII –AFFIDAVIT OF NO CHANGE**

(If applicable, complete and submit **two** original, signed, notarized Affidavits of No Change.)

STATE OF \_\_\_\_\_ )  
 ) ss.:  
COUNTY OF \_\_\_\_\_ )

On the \_\_\_\_ day of \_\_\_\_\_ 20\_\_\_\_, before me personally came and appeared \_\_\_\_\_, by me known to be said person, who swore under oath as follows:

- 1. I am \_\_\_\_\_ of \_\_\_\_\_.  
(Print name and title) (Print name of firm)
- 2. The firm is the Bidder/Proposer/Subcontractor for Contract \_\_\_\_\_. I am duly authorized to sign this Affidavit of No Change on behalf of said firm and duly signed this document pursuant to said authorization.
- 3. The Bidder/Proposer/Subcontractor previously submitted an MTA Bus Company (MTABC) Schedule J, Responsibility Questionnaire within six (6) months prior to the date hereof, to MTABC.
- 4. Attached is an accurate and true copy of such previously submitted MTABC Schedule J, Responsibility Questionnaire.
- 5. I hereby certify that there has been no material change in the information specified on such attached Schedule J, Responsibility Questionnaire, except as follows: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_
- 6. I acknowledge and understand that the previously submitted MTABC Schedule J, Responsibility Questionnaire includes provisions which are deemed included in the Contract if awarded to the firm.

Bidder/Proposer/Subcontractor must sign here: \_\_\_\_\_

Dated: \_\_\_\_\_

Sworn to and subscribed to before me this \_\_\_\_ day of \_\_\_\_\_, 20\_\_

\_\_\_\_\_  
(Notary Public)

Notary Public \_\_\_\_\_ County

My Commission expires: \_\_\_\_\_



**Bus Company**

**Schedule M**

**UTILIZATION OF CONTRACT BY OTHER  
AGENCIES**

**Bid Solicitation No. MP121313**

**Bid No. MP121313**

If the Bidder is agreeable to permitting any of the listed Authority affiliates or non-affiliates to place orders with it in accordance with the specifications and terms of any contract resulting from this Bid, the Bidder should indicate such agreement by checking the appropriate boxes below. By doing so, the Bidder agrees to permit the affiliates or non-affiliates, indicated by the checked boxes, to buy additional items of the materials, equipment, supplies or services which are the subject of this Bid and agrees further to sell and deliver such item(s) to the ordering affiliate at the same unit price, to the same specifications and otherwise upon the same terms and conditions as are proposed to MTABC under this bid, all on condition that its Bid is accepted in whole or substantial part by MTABC. In the event an affiliate or non-affiliate places such an order, the Bidder agrees to look only to that affiliate or non-affiliate, and not to MTABC, for payment on such order or for the resolution of any dispute and for any other performance required of the purchaser of such order.

**AFFILIATES**

- Metropolitan Transportation Authority
- Metro-North Commuter Railroad
- Metropolitan Suburban Bus Authority
- Triborough Bridge and Tunnel Authority
- Long Island Rail Road
- Staten Island Rapid Transit Operating Authority
- MTA Capital Construction Company
- New York City Transit Authority
- South Brooklyn Rail Road
- First Mutual Transportation Assurance Company

**NON-AFFILIATES**

- Any other public authority, municipality or state agency within New York State.

Name & Title (Type or Print)	Signature	
Date	Telephone	Company Name

NOTE: It is understood and agreed by the Contractor that the Contractor shall perform the work at sites owned and/or operated by the affiliates and/or non-affiliates.

IF APPLICABLE, PLEASE RETURN FORM WITH BID



# **Bus Company**

## **Schedule N**

### **NON-BIDDER'S RESPONSE FORM**

**MP121313**

Bid No: MP121313

Description: Maintenance of CCTV systems for MTA Bus Company

In order to maintain up-to-date bidder's lists, the MTA Bus Company (MTABC) requests that all prospective bidders respond to each solicitation. Failure to submit a Bid, or to reply as to the reason for not bidding, may result in removal of your firm from our bidder's list.

If you are not submitting a Bid, please indicate the reason(s) by checking off one or more of the items below and return this form to us.

- 1. We received the "Bid" but elected not to bid at this time because:
  - a. Plant was operating at capacity. \_\_\_\_\_
  - b. We could not bid competitively. \_\_\_\_\_
  - c. We could not meet delivery requirements. \_\_\_\_\_
  - d. We could not meet specifications. \_\_\_\_\_
  
- 2. We received the "Bid" but did not bid because:
  - a. We did not receive bid on time. \_\_\_\_\_
  - b. We do not handle type of material listed on bid. \_\_\_\_\_
  - c. We do not want to do business with MTABC. \_\_\_\_\_
  - d. Other reasons as specified. \_\_\_\_\_

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You may remove our name from the bid list for: \_\_\_\_\_

Check One  This type of item or material.  
 All bids.

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Firm Name	Authorized Signature	Date
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NOTE: Completion and submission of this form is not necessary if you are quoting on one or more items in the attached "Bid".



# **Bus Company**

## **Schedule W**

### **Compliance with NYS State Finance Law Sections 139-j and 139-k ("Lobbying Law")**

**MP121313**



**NEW YORK STATE'S STATE FINANCE LAW SECTIONS 139-J AND 139-K**

All procurements by MTABC in excess of \$15,000 annually, are subject to New York State's State Finance Law Sections 139-j and 139-k, effective January 1, 2006 ("Lobbying Law").

Pursuant to the Lobbying Law, all "contacts" (defined as oral, written or electronic communications with MTABC intended to influence a procurement) during a procurement must be made with the designated Point of Contact only. Exceptions to this rule include written questions during the bid or proposal process, communications with regard to protests, contract negotiations and RFP conference participants. Nothing in the Lobbying Law inhibits any rights to make an appeal, protest or complaint under existing administrative or judicial procedures.

Violations of the policy regarding permissible contacts must be reported to the appropriate MTABC officer and investigated accordingly. First violation may result in a determination of non-responsibility and ineligibility for award to the violator and its subsidiaries, affiliates and related or successor entities. The penalty for a second violation within four (4) years is ineligibility for bidding/proposing on a procurement and/or ineligibility from being awarded any contract for a period of four (4) years. MTABC will notify the New York State Office of General Services ("OGS") of any determinations of non-responsibility or debarments due to violations of the Lobbying Law. Violations found to be "knowing and willful" must be reported to the MTABC President and OGS.

Moreover, the statutes require MTABC to obtain certain affirmation and certifications from bidders and proposers. This **SCHEDULE W** contains the forms to comply with the Lobbying Law and additional information and instructions.

**NOTE: Failure to complete and return the required forms with your Proposal may cause the Proposer to be deemed non-responsible.**

**DISCLOSURE OF PRIOR NON-RESPONSIBILITY DETERMINATIONS****Instructions:**

New York State Finance Law §139-k(2) obligates MTABC to obtain specific information regarding prior non-responsibility determinations. This information must be collected in addition to the information that is separately obtained pursuant to State Finance Law §163(9). In accordance with State Finance Law §139-k, an offeror must be asked to disclose whether there has been a finding of non-responsibility made within the previous four (4) years by any Governmental Entity due to: (a) a violation of State Finance Law §139-j or (b) the intentional provision of false or incomplete information to a Governmental Entity.

As part of its responsibility determination, State Finance Law §139-k(3) mandates consideration of whether an offeror fails to timely disclose accurate or complete information regarding the above non-responsibility determination. In accordance with law, no procurement contract shall be awarded to any offeror that fails to timely disclose accurate or complete information under this section, unless the factual elements of the limited waiver provision can be satisfied on the written record.

THE FORM IS ON THE NEXT PAGE.

**DISCLOSURE OF PRIOR NON-RESPONSIBILITY DETERMINATIONS**

Name of Bidder/Proposer: \_\_\_\_\_

Address: \_\_\_\_\_  
\_\_\_\_\_

Name and Title of Person Submitting this Form: \_\_\_\_\_

	(Please circle)
Has any governmental entity* made a finding of non-responsibility regarding the Bidder/Proposer in the previous four years?	No      Yes
If yes: Was the basis for the finding of the Bidder's/Proposer's non-responsibility due to a violation of State Finance Law §139-j?	No      Yes
Was the basis for the finding of Bidder's/Proposer's non-responsibility due to the intentional provision of false or incomplete information to a governmental entity?	No      Yes
<i>If yes, please provide details regarding the finding of non-responsibility below.</i>	
Governmental Entity: _____	
Year of Finding of Non-responsibility: _____	
Basis of Finding of Non-Responsibility: _____ _____ _____	
<hr/>	
(Add additional pages as necessary)	
Has any governmental entity terminated, or withheld award of, a procurement contract with the Bidder/Proposer due to the intentional provision of false or incomplete information?	No      Yes
<i>If yes, provide the information below.</i>	
Governmental Entity; _____	
Year Procurement Terminated or Award Withheld: _____	
Basis for Termination of Procurement or Withholding Award: _____ _____ _____	
==	

(Add additional pages as necessary.)

\* A "governmental entity" is: (1) any department, board, bureau, commission, division, office, council, committee or officer of New York State, whether permanent or temporary; (2) each house of the New

York State Legislature; (3) the unified court system; (4) any public authority, public benefit corporation or commission created by or existing pursuant to the public authorities law; (5) any public authority or public benefit corporation, at least one of whose members is appointed by the governor or who serves as a member by virtue of holding a civil office of the state; (6) a municipal agency, as that term is defined in paragraph (ii) of subdivision (s) of section one-c of the Legislative Law; or (7) a subsidiary or affiliate of such a public authority. (SFL §139-j, paragraph 1.a.)

**BIDDER’S/PROPOSER’S AFFIRMATION AND CERTIFICATION**

**By signing below, the Bidder/Proposer:**

- a) Affirms that the Bidder/Proposer understands and agrees to comply with the policies regarding permissible contacts in accordance with State Finance Law Sections 139-j and 139-k of New York State.
- b) Certifies that all information provided to MTABC with respect to State Finance Law §139-j and §139-k is complete, true and accurate.

By: \_\_\_\_\_  
(Signature of Person Certifying)

Date: \_\_\_\_\_

Print Name: \_\_\_\_\_

Print Title: \_\_\_\_\_

Bidder/Proposer or  
Contractor/Consultant: \_\_\_\_\_  
(Full Legal Name)

Address: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Business  
Telephone Number: \_\_\_\_\_

**MTABC’S RIGHT TO TERMINATE**

**MTABC reserves the right to terminate a Contract in the event it is found that the certification filed by the Contractor/Consultant, as Bidder/Proposer, in accordance with New York State Finance Law §139-k was intentionally false or intentionally incomplete. Upon such finding, MTABC may exercise its termination right by providing written notification to the Contractor/Consultant in accordance with the written notification terms of the Contract.**



## **PACKAGE 1**

# **FOR USE WITH CONTRACTS AND PURCHASES THAT DO NOT HAVE MINORITY/WOMEN-OWNED BUSINESS ENTERPRISE ("M/WBE") GOALS**

**MP121313**

**THIS PACKAGE CONTAINS THE FOLLOWING FORMS:**

- **FORM EEO-1 (EMPLOYER INFORMATION REPORT)**
- **FORM WF-257 (WORK FORCE UTILIZATION REPORT - SERVICE AND/OR CONSULTANT FIRMS)**
- **FORM WF-257 (MONTHLY WORK FORCE UTILIZATION REPORT - CONSTRUCTION)**
- **STAFFING PLAN FORM**

**METROPOLITAN TRANSPORTATION AUTHORITY  
Office of Civil Rights**

**EQUAL EMPLOYMENT OPPORTUNITY**

**EMPLOYER INFORMATION REPORT EEO-1**

**Section A - TYPE OF REPORT**

1. Indicate by marking in the appropriate box the type of reporting unit for which this copy of the form is submitted (MARK ONLY ONE BOX.)

(1)  Single-establishment Employer Report

Multi-establishment Employer:

(2)  Consolidated Report (Required)

(3)  Headquarters Unit Report (Required)

(4)  Individual Establishment Report (submit one for each establishment with 50 or more employees)

(5)  Special Report

2. Total number of reports being filed by this Company (Answer on Consolidated Report only)

**SECTION B -- COMPANY IDENTIFICATION (To be answered by all employers)**

Office  
Use  
Only

1. Parent Company

a. Name of parent company (owns or controls establishment in item 2) omit if same as above

a.

Address (Number and street)

b.

City or town

State

ZIP code

c.

2. Establishment for which this report is filed. (Omit if same as above)

a. Name of establishment

d.

Address (Number and street)

City or Town

County

State

ZIP code

e.

b. Employer Identification No. (IRS 9-DIGIT TAX NUMBER)

f.

c. Was an EEO-1 report filed for this establishment last year?  1 YES  2 NO

**METROPOLITAN TRANSPORTATION AUTHORITY**  
**Office of Civil Rights**  
**EQUAL EMPLOYMENT OPPORTUNITY**  
**EMPLOYER INFORMATION REPORT EEO-1**  
**Section C - EMPLOYMENT DATA**

Page 2

Employment at this establishment-Report all permanent full-time and part-time employees including apprentices and on-the-job trainees unless specifically excluded as set forth in the instructions. Enter the appropriate figures on all lines and in all columns. Blank Spaces will be considered as zeros.

Job Categories	NUMBER OF EMPLOYEES										
	Overall Totals (Sum of Col. B thru K)	MALE					FEMALE				
		White (Not of Hispanic Origin)	Black (Not of Hispanic Origin)	Hispanic	Asian or Pacific Islander	American Indian or Alaskan Native	White (Not of Hispanic Origin)	Black (Not of Hispanic Origin)	Hispanic	Asian or Pacific Islander	American Indian or Alaskan Native
A	B	C	D	E	F	G	H	I	J	K	
Officials and Managers 1											
Professionals 2											
Technicians 3											
Sale Workers 4											
Office and Clerical 5											
Craft Workers (Skilled)											
Operatives (Semi-Skilled) 7											
Laborers (Unskilled) 8											
Service Workers 9											
<b>TOTAL 10</b>											
Total employment reported in previous EEO-1 report 11											

NOTE: Omit questions 1 and 2 on the Consolidated Report.

1. Date(s) of payroll period used: \_\_\_\_\_ 2. Does this establishment employ apprentices?  
 1  Yes 2  No



**METROPOLITAN TRANSPORTATION AUTHORITY  
Office of Civil Rights**

# EQUAL EMPLOYMENT OPPORTUNITY

## EMPLOYER INFORMATION REPORT EEO-1

Page 3

**Section D -ESTABLISHMENT INFORMATION (Omit on the Consolidated Report)**

1. What is the major activity of this establishment? (Be specific, i.e., manufacturing steel castings, retail grocer, wholesale plumbing supplies, title insurance, etc. Include the specific type of product or type of service provided, as well as the principal business or industrial activity).	OFFICE USE ONLY
g.	

**Section E-REMARKS**

Use this item to give any identification data appearing on last report which differs from that given above, explain major changes in composition or reporting units and other pertinent information.

**Section F-CERTIFICATION**

- Check one    1     All reports are accurate and were prepared in accordance with the instructions (check on consolidated only)
- 2     This report is accurate and was prepared in accordance with the instructions.

Name of Certifying Official	Title	Signature	Date
Name of person of contact regarding this report (type or print)	Address (Number and Street)		
Title	City and State	ZIP Code	Telephone Number (Including Area Code)

All reports and information obtained from individual reports will be kept confidential as required by Section 709(e) of Title VII. WILLFULLY FALSE STATEMENTS ON THIS REPORT ARE PUNISHABLE BY LAW, U.S. CODE, TITLE 18, SECTION 1001.

6/00

**WORK FORCE UTILIZATION REPORT**  
**SERVICE and/or CONSULTANT FIRMS**

Agency \_\_\_\_\_ /Code \_\_\_\_\_ Reporting Period \_\_\_\_\_

Check one:  Quarterly Report  Semi-Annual Report

Contractor Firm Name \_\_\_\_\_ Address \_\_\_\_\_

City \_\_\_\_\_ State \_\_\_\_\_ Zip \_\_\_\_\_

Type of Report:  Contract Specific Work Force  Total Work Force Check if NOT-FOR-PROFIT

Federal Id/Payee Id No. _____  Check One: <input type="checkbox"/> Prime Contractor <input type="checkbox"/> Subcontractor  Contract Amount: \$ _____	Contract No. _____ Location of Work _____ County _____ ZIP _____  Product/Service Provided: _____  Contract Start Date: _____ Percent of Job Completed _____
---	---

Number of Employees										Total Percent Minority Employees	Total Percent Female Employees	
Federal Occupational Category	Total Number of Employees		Black (Not of Hispanic Origin)		Hispanic		Asian or Pacific Islander		Native American/ Alaskan Native			
	Male	Female	Male	Female	Male	Female	Male	Female	Male			Female
Officials/Admin												
Professionals												
Technicians												
Sales Workers												
Office & Clerical												
Craft Workers												
Operatives												
Laborers												
Service Workers												
<b>TOTALS</b>												

Company Official's Name \_\_\_\_\_ Title \_\_\_\_\_

Company Official's Signature \_\_\_\_\_ Date \_\_\_\_\_

Telephone Number (\_\_\_\_) \_\_\_\_\_

**WORK FORCE UTILIZATION REPORT  
SERVICE and/or CONSULTANT FIRMS  
INSTRUCTIONS FOR COMPLETION**

**PURPOSE:** The *Work Force Utilization Report for Service and/or Consultant Firms* is prepared by all contractors, and subcontractors if any, providing services (skilled or non-skilled) or professional consulting services to a state agency to document their actual employment of minority group members and women during the period covered by the report. The report has a format similar to forms used by the Federal government for reporting equal employment opportunity data. When the *contract specific work force* can be identified, the report covers all employees (including apprentices or trainees) working on the project. If the contract specific work force *cannot* be separated out, the contractor's *total work force* is reported. The completed reports are used by the contracting state agency to monitor the contractor's and subcontractor's compliance with the contract's equal employment opportunity requirements.

**GENERAL INFORMATION:**

1. **Name of contracting state agency** and state agency code (five digit code).
2. **Reporting period** covered by report (mm/dd/yy to mm/dd/yy); **check** to indicate *Quarterly* or *Semi-Annual* Report.
3. **Contractor firm name** (prime contractor on summary report submitted to agency) and **address** (including city name, state and zip code); **check** if the contractor is a NOT-FOR-PROFIT.
4. **Type of Report:** **check** to indicate whether report covers (i) the *Contract Specific Work Force* or (ii) the *Company's Total Work Force* (in the event the contract specific work force cannot be separated out).
5. Contractor **Federal Employer Identification number** or payee identification number (prime contractor i.d. on summary report); **check** to indicate prime or subcontractor report.
6. **Contract Amount** is dollar amount based on terms of the contract.
7. **Contract number** is the agency assigned number given to the contract (seven digits).
8. **Location of work** including county and zip code where work is performed.
9. Indicate **Product or Service provided** by contractor (brief description).
10. **Contract start date** is month/day/year work on contract actually began.
11. Contractor's **estimate of the percentage of work completed** at the end of this reporting period.

**FEDERAL OCCUPATIONAL CATEGORIES:** The contractor's work force is broken down and reported by the nine *Federal Occupational Categories (FOC's)* consistent with the Federal government's EEO-1 categories for the private sector labor force. These are: *Officials and Managers, Professionals, Technicians, Sales, Office & Clerical (Administrative Support), Craft Workers, Operatives, Laborers and Service Workers*. The categories are general in nature, and include all related occupational job titles. The contracting agency can provide assistance in categorizing specific jobs.

**TOTAL NUMBER OF EMPLOYEES:** Record the *total number of all persons employed* in each FOC during the reporting period, regardless of ethnicity (either working on the specific contract OR in the contractor's total work force, based on the type of report indicated above). Report the total number of male (M) employees in column (1) and the total number of female (F) employees in column (2) for each FOC. In columns (3) thru (10) report the numbers of male and female *minority group members* employed, based on the following defined groups:

- **Black (not of Hispanic origin):** all persons having origins in any of the Black African racial groups;
- **Hispanic:** all persons of Mexican, Puerto Rican, Dominican, Cuban, Central or South American descent of either Indian or Hispanic origin, regardless of race;
- **Asian or Pacific Islander:** all persons having origins in any of the Far East countries, South East Asia, the Indian subcontinent or the Pacific Islands;
- **Native American or Alaskan Native:** all persons having origins in any of the original peoples of North America.

**TOTAL % MINORITY =** sum of all minority group members (male and female) employed in the FOC divided by the total number of all employees in that FOC (column 1 + column 2).

**TOTAL % FEMALE =** total number of female employees in the FOC (column 2) divided by the total number of all employees in that FOC (column 1 + column 2).

**TOTALS:** column totals should be calculated (sum each column) for all FOC's combined. Total minority and female percentages should be calculated as shown above, based on the column totals.

**SUBMISSION:** The work force utilization report is to be completed by both prime and subcontractors and **signed and dated** by an *authorized representative* before submission. This **Company Official's name, official title and telephone number** should be printed or typed where indicated on the bottom of the form.

The **prime contractor** shall complete a report for its own work force, **collect** reports completed by each subcontractor, and **prepare a summary report for the entire combined contract work force**. The reports shall include the total number of employees in each occupational category for all payrolls completed in the reporting period. The prime contractor shall submit the summary report to the contracting agency as required by *Part 142 of Title 5 of the NYCRR pursuant to Article 15-A of the Executive Law*.

MONTHLY WORK FORCE UTILIZATION REPORT - FORM WF-257 - CONSTRUCTION

Agency \_\_\_\_\_ /Code \_\_\_\_\_ Reporting Period \_\_\_\_\_

Contractor Firm Name \_\_\_\_\_ Address \_\_\_\_\_ City \_\_\_\_\_ State \_\_\_\_\_ ZIP \_\_\_\_\_

Federal Id/Payee Id No. _____ Check One: Prime Contractor <input type="checkbox"/> Subcontractor <input type="checkbox"/> Contract Amount: \$ _____	Contract No. _____ Location of Work _____ County _____ ZIP _____ Contract Start Date: _____ Percent of Job Completed _____
---	--

Job or Trade Category	**	Total Hours Worked During Reporting Period										Total Number of Employees		Total Number of Minority Employees			
		Total Hours Worked All Employees		Black (Not of Hispanic Origin)		Hispanic		Asian or Pacific Islander		Native American/Alaskan Native		Minority %	Female %	M	F	M	F
		M	F	M	F	M	F	M	F	M	F						
Field Office Staff:																	
Professionals																	
Office/Clerical																	
Laborers	F																
	J																
	A																
Equipment Operators	F																
	J																
	A																
Surveyors	F																
	J																
	A																
Truck Drivers	F																
	J																
	A																
Iron Workers	F																
	J																
	A																
Carpenters	F																
	J																
	A																
Cement Masons	F																
	J																
	A																

MONTHLY WORK FORCE UTILIZATION REPORT - FORM WF-257 - CONSTRUCTION (Con't)

Painters	F																
	J																
	A																
Electricians	F																
	J																
	A																
Plumbers	F																
	J																
	A																
Other:	F																
	J																
	A																
GRAND TOTALS																	

Company Official's Name \_\_\_\_\_ Title \_\_\_\_\_

Company Official's Signature \_\_\_\_\_ Date \_\_\_\_\_

Telephone Number (\_\_\_\_) \_\_\_\_\_

**MONTHLY WORK FORCE UTILIZATION REPORT - CONSTRUCTION**  
**INSTRUCTIONS FOR COMPLETION**

**PURPOSE:** The *Monthly Work Force Utilization Report* is prepared by all construction contractors and subcontractors to document their actual employment of minority group members and women during the period covered by the report. The report has a format similar to forms used by the Federal government (e.g. U.S. Department of Labor) for reporting equal employment opportunity data. The report covers all hourly workers, including foremen, supervisors or crew chiefs, journey workers and apprentices or trainees working on the project. Professional and office clerical field office staff working on the contract shall also be reported. The completed reports are used by the contracting state agency to monitor the contractor's and subcontractor's compliance with the contract's equal employment opportunity requirements.

**GENERAL INFORMATION:**

1. **Name of contracting state agency** and state agency code (five digit code).
2. **Reporting period** covered by report (month/year).
3. **Contractor or subcontractor firm name** (prime contractor on summary report submitted to agency) and **address** (including city name, state and zip code).
4. Contractor or subcontractor **Federal Employer Identification number** or payee identification number (prime contractor i.d. on summary report); **check** to indicate prime or subcontractor report.
5. **Contract Amount** is dollar amount based on terms of the contract.
6. **Contract number** is the agency assigned number given to the contract (seven digits).
7. **Location of work** including county and zip code where work is performed.
8. **Contract start date** is month/day/year work on contract actually began.
9. Contractor's **estimate of the percentage of work completed** at the end of this reporting period.

**JOB OR TRADE CATEGORIES:** A field office staff category plus ten job categories are printed on the form. These are trades commonly used in construction. The categories are intended to be general in nature, and may include several occupational job titles. *IF trades other than those identified are required to perform work on the contract*, this work should be combined and reported in the "Other" category. Work level designations of foreman/supervisor (F), journeyworker (J), and apprentice/trainee (A) are included as separate entries for each standard job category; hours worked must be recorded opposite the appropriate work level for each.

**TOTAL HOURS WORKED DURING REPORTING PERIOD:** Report the total hours worked by **all** employees during the reporting period, regardless of ethnicity, under each job category in column (1) for males (M) and column (2) for females (F). In columns (3) thru (10) report the total hours worked by male and female *minority group members* of one of the following defined groups:

- **Black (not of Hispanic origin):** all persons having origins in any of the Black African racial groups;
- **Hispanic:** all persons of Mexican, Puerto Rican, Dominican, Cuban, Central or South American descent of either Indian or Hispanic origin, regardless of race;
- **Asian or Pacific Islander:** all persons having origins in any of the Far East countries, South East Asia, the Indian subcontinent or the Pacific Islands;
- **Native American or Alaskan Native:** all persons having origins in any of the original peoples of North America.

**MINORITY %** = sum of all employment of minority group members (M and F) in the job category divided by the total hours worked by all employees in that job category (column 1 + column 2).

**FEMALE %** = total hours worked by all female employees in the job category (column 2) divided by the total hours worked by all employees in that job category (column 1 + column 2).

**TOTAL NUMBER OF EMPLOYEES:** record the *total number of all persons employed* during the reporting period, regardless of ethnicity; report the numbers of male (M) and female (F) employees separately.

**TOTAL NUMBER OF MINORITY EMPLOYEES:** record the *total number of minority persons employed* during the reporting period; report the numbers of minority male (M) and minority female (F) employees separately.

**GRAND TOTALS:** column totals should be calculated for all job categories combined. Total minority and female percentages should be calculated as shown above, based on the column grand totals.

**SUBMISSION:** The monthly work force utilization report is to be completed by both prime and subcontractors and **signed and dated** by an *authorized representative* before submission. This **Company Official's name, official title and telephone number** should be printed or typed where indicated on the bottom of the form.

The **prime contractor** shall complete a report for its own work force, **collect** reports completed by each subcontractor, and **prepare a summary report for the entire combined contract work force**. The reports shall include the total work hours for all employees in each work category for all payrolls completed in the monthly reporting period. The prime contractor shall submit the summary report to the contracting agency as required by *Part 142 of Title 5 of the NYCRR* pursuant to *Article 15-A of the Executive Law*.

# STAFFING PLAN

Project/RFP Title: \_\_\_\_\_ Location of Contract: \_\_\_\_\_  
County \_\_\_\_\_ ZIP \_\_\_\_\_

Contractor/Firm Name \_\_\_\_\_ Address \_\_\_\_\_  
City \_\_\_\_\_ State \_\_\_\_\_ ZIP \_\_\_\_\_

Check applicable categories: (1) Staff Estimates include:  Contract/ Project Staff  Total Work Force  Subcontractors  
 (2) Type of Contract :  Construction Consultants  Commodities  Services/Consultants

Total Anticipated Work Force										Total Percent Minority Employees	Total Percent Female Employees	
Federal Occupational Category	Total Number of Employees		Black (Not of Hispanic Origin)		Hispanic		Asian or Pacific Islander		Native American/ Alaskan Native			
	Male	Female	Male	Female	Male	Female	Male	Female	Male			Female
Officials/Admin												
Professionals												
Technicians												
Sales Workers												
Office & Clerical												
Craft Workers												
Operatives												
Laborers												
Service Workers												
<b>TOTALS</b>												

Company Official's Name \_\_\_\_\_ Title \_\_\_\_\_  
 Company Official's Signature \_\_\_\_\_ Date \_\_\_\_\_  
 Telephone Number (\_\_\_\_) \_\_\_\_\_



**Bus Company**

**ATTACHMENT 1**

**MTABC Observed Holidays**

**MP121313**



**Agency Observed Holidays**

New Year's Day

Martin Luther King, Jr.'s Birthday

Presidents' Day

Memorial Day

Independence Day

Labor Day

Veterans Day

Thanksgiving Day

Day after Thanksgiving

Christmas Day



**Bus Company**

**Schedule A**

**INSURANCE REQUIREMENTS**

**MP121313**

**Schedule A – Insurance Requirements**

Contract No: MP121313

Description: Two-Year on-call contract for security maintenance of MTA Bus Company CCTV Systems

**A. The Contractor/Consultant shall provide insurance in the following types and amounts, as indicated by the checked box:**

<u>INSURANCE</u>	<u>MINIMUM AMOUNTS</u>
<input checked="" type="checkbox"/> Workers' Compensation, including Employer's Liability	Statutory Limits
<input checked="" type="checkbox"/> Commercial General Liability (amount is each occurrence)	\$ \$2,000,000
<input checked="" type="checkbox"/> Business Automobile Liability (amount is each accident)	\$ \$1,000,000

**B. INSURANCE REQUIREMENTS**

As used in this Schedule A, the term "Contractor" includes Contractors and Consultants.

Except that as otherwise provided in this Schedule A and/or the Specifications/Scope of Work, the Contractor shall procure, at its sole cost and expense, and shall maintain in force at all times during the term of this Contract, through the completion of Contract, including the Warranty Period, if applicable, policies of insurance as herein below set forth, written by companies with an A.M. Best Company rating of A-/"VII" or better, and approved by the MTA Bus Company (MTABC)/MTA and shall deliver to MTABC evidence of such policies. These policies shall: (i) be written in accordance with the requirements of the paragraphs below, as applicable; (ii) be endorsed in form acceptable to include a provision that the policy shall not be canceled, materially changed, or not renewed without at least thirty (30) days prior written notice to MTABC c/o MTA Risk and Insurance Management Department - Standards, Enforcement & Claims Unit, 2 Broadway, 21<sup>st</sup> floor, New York, NY 10004 by Certified Mail, return receipt requested; and (iii) state or be endorsed to provide (a) that the coverage afforded under the Contractor's policies shall apply on a primary basis and not on an excess or contributing basis with any policies that may be available to MTABC, and also that the contractor's policies, primary and excess, must be exhausted before implicating any MTABC policy available. In addition, Contractor's policies shall state or be endorsed to provide that, if a subcontractor's policy contains any provision that may adversely affect whether Contractor's policies are primary and must be exhausted before implicating any MTABC policy available, contractor's and subcontractor's policies shall nevertheless be primary and must be exhausted before implicating any MTABC policy available. Policies written on a claims made basis are not acceptable, except for Professional Liability. At least two (2) weeks prior to the expiration of the policies, Contractor shall endeavor to provide evidence of renewal or replacement policies of insurance, with terms and limits no less favorable than the expiring policies. Except as otherwise indicated in the detailed coverage paragraphs below, self insured retentions and policy deductibles shall not exceed \$100,000, unless such increased deductible or retention is approved in writing by MTABC. The Contractor shall be responsible for all claims expense and loss payments within the deductible or self-insured retention. The insurance monetary limits required herein may be met through the combined use of the insured's primary and umbrella/excess policies.

1. **Commercial General Liability Insurance** (I.S.O. 2001 Form or equivalent approved by MTABC) in the Contractor's name with limits of liability specifically written for this Contract of at least the amount set forth in Paragraph A, above, for each occurrence/\$2,000,000 General Aggregate Limit (other than Products/Completed Operations)/\$2,000,000 Products/Completed Operations Aggregate Limit on a combined single limit basis for injuries to persons (including death) and damage to property. The limits may be provided in the form of a primary policy or combination of primary and umbrella/excess policy. When the minimum contract amounts can only be met when applying the umbrella/excess policy, the umbrella/excess policy must follow form of the underlying policy and be extended to "drop down" to become primary in the event the primary limits are reduced or aggregate limits are exhausted. Such insurance shall be primary and non-contributory to any other valid and collectible insurance and must be exhausted before implicating an available Authority/MTA policy.
  - a. Contractual coverage for liability assumed by the Contractor under this Contract.
  - b. Personal and Advertising Injury Coverage.
  - c. Products and Completed Operations extending at least one year after project completion.

- d.
  - e. Independent Contractors Coverage.
  - f. “XCU” coverage (Explosion, Collapse, and Underground Hazards) where necessary.
  - g. Additional Insured Endorsement (I.S.O. Form CG 20 10 1185 version or equivalent approved by MTABC) naming the following entities and their subsidiaries and affiliates:
    - i. the MTA Bus Company, the Metropolitan Transportation Authority (“MTA”) including its subsidiaries and affiliates, and the City of New York (“City”) as well as the State of NY (“State”), PBS Capital LLC, MIU Realty, LLC, JLK Capital, LLC, Green Bus Holding Corp., Jamaica Bus Holding Corp. and the Triboro Coach Holding Corp.
    - ii. In the event the work under the Contract includes construction at, or the use of the loading dock, at 2 Broadway, New York, New York, Additional Insureds shall also include:
      - (1) Triborough Bridge & Tunnel Authority (“B&T”), Metro North Commuter Railroad Company (“MNR”), Long Island Railroad (“LIRR”), MTA Bus Company, United States Trust Company of New York as Trustee under the 2 Broadway Ground Lease Trust, Two Broadway LLC, ZAR Realty, Cassidy Turley, Inc., Cassidy Turley PMG, Inc, Inc.
2. **Workers’ Compensation Insurance** (including Employer’s Liability Insurance with limits of not less than \$2,000,000, which limit may be met by a combination of primary and excess insurance) meeting the statutory limits of New York State. When applicable, the policy shall be endorsed to include the Longshore and Harbor Workers’ Compensation Act and/or Maritime Coverage Endorsement (Jones Act Endorsement).
- a. **Longshore & Harbor Workers’ Compensation Act Endorsement** - When work will be performed on or over navigable waterways, a Longshore and Harbor Workers Endorsement shall be provided to cover the employees for wages, transportation, maintenance and cure, in accordance with applicable laws.
  - b. **Maritime Coverage Endorsement (Jones Act)** - When operations are to be performed upon navigable waterways and barges, Tug Boats, and all other vessels on the ocean and all intra-coastal rivers and canals, as well as drivers, divers, and underwater personnel are utilized, a Maritime Coverage Endorsement shall be provided to cover the seamen, masters and members of a crew in accordance with applicable laws, providing remedy for damage or injury in the course of employment.
3. **Business Automobile Liability Insurance** Policy (I.S.O. Form CA 00 01 10 01 or equivalent approved by MTABC) **if vehicle enters MTABC’s property or is used as part of service provided**, in the Contractor’s name with limits of liability of at least the amount set forth in Paragraph A, above, each accident for claims for bodily injuries (including death) to persons and for damage to property arising out of the ownership, maintenance or use of any owned, hired or non-owned motor vehicle.

C. The Contractor shall furnish evidence of all policies before any work is started to MTABC:

c/o MTA Risk & Insurance Management  
 Standards Enforcement & Claims Unit.  
 2 Broadway – 21<sup>st</sup> Floor  
 New York, NY 10004

Certificates of Insurance may be supplied as evidence of policies of the above policies, except for the Builder’s Risk and Railroad Protective Liability policies. However, MTABC reserves the right to request copies of such policies herein described above. If requested by MTABC, the Contractor shall deliver to MTABC, within forty-five (45) days of the request, a copy of such policies, certified by the insurance carrier as being true and complete.

If a Certificate of Insurance is submitted, it must: (1) be provided on MTABC Certificate of Insurance Form or MTA Certificate of Insurance Form for Joint Agency Agreements, as applicable (unless approval has been received from NYCT to submit an ACORD form for an operating contract with a value under \$250,000); (2) be signed by an authorized representative of the insurance carrier or producer and notarized; (3) disclose any deductible, sublimit, self-insured retention, aggregate limit or any exclusions to the policy that materially change the coverage; (4) indicate the Additional Insureds, Additional Named Insureds and/or Named Insureds as required herein; Contractor/Consultant must provide a physical copy

of the Additional Insured Endorsement (ISO Form CG 20 10 1185 version or equivalent) – endorsements must include  
policy number(s); (5)

reference the Contract by number on the face of the certificate; and (6) expressly reference the inclusion of all required endorsements.

- D. Nothing herein contained shall be deemed to limit the Contractor's liability to the limits of liability, or coverage of Policies listed in Section B above, their renewals, or replacement.
- E. The Contractor shall immediately file with MTABC's Law Department (with a copy to the Project Manager), 2 Broadway, 21<sup>st</sup> Floor, NY, NY 10004, a notice of any occurrence likely to result in a claim against MTABC, and shall also file with the Law Department detailed sworn proof of interest and loss with the claim. This paragraph shall survive the expiration or earlier termination of the Contract.
- F. If, at any time during the period of this Contract, insurance as required is not in effect, or proof thereof is not provided to MTABC, MTABC shall have the option to: (i) direct the Contractor to suspend work with no additional cost or extension of time on account thereof; or (ii) treat such failure as an Event of Default.

- CAPITAL CONTRACT  
 OPERATING CONTRACT



# Bus Company

Certificate of Insurance

<b>AGREEMENT or CONTRACT #:</b> MP121313	<b>AGREEMENT or CONTRACT Name/Description:</b> Maintenance of CCTV System	
<b>PRODUCER:</b> <b>ADDRESS:</b>  <b>PHONE NUMBER:</b>	<b>CERTIFICATE ISSUANCE DATE:</b>	<b>RECEIVED BY MTA RIM:</b>  <b>MTA REFERENCE #:</b>
<b>INSURED:</b>  <b>ADDRESS:</b>  <b>PHONE NUMBER:</b>	<b>CO LTR</b>	<b>COMPANIES AFFORDING COVERAGE</b>
<b>CERTIFICATE HOLDER:</b> MTA Bus Company/ MTA Attn: Risk & Insurance Management  <b>ADDRESS:</b> 2 Broadway 21 <sup>st</sup> Floor New York, NY 10004 646-252-RISK	<b>A</b>  <b>B</b>  <b>C</b>  <b>D</b>  <b>E</b>  <b>F</b>  <b>G</b>	

**COVERAGES (See Notes 1 and 2)**

CO LTR	TYPE OF INSURANCE	POLICY NUMBER	EFFECTIVE DATE	EXPIRATION DATE	LIMITS	
	<b>GENERAL LIABILITY</b> <input type="checkbox"/> Comprehensive Form <input type="checkbox"/> Underground Expl. & Collapse Hazard <input type="checkbox"/> Products/Completed Oper. Contractual <input type="checkbox"/> Independent Contractors <input type="checkbox"/> Broad Form Property Dam. <input type="checkbox"/> Personal Injury <input type="checkbox"/> Deductible \$ _____				BODILY INJURY OCC.	\$
					BODILY INJURY AGG.	\$
					PROPERTY DAMAGE OCC.	\$
					BI & PD COMBINED OCC.	\$
					BI & PD COMBINED AGG.	\$
					PERSONAL INJURY AGG.	\$
	<b>AUTOMOBILE LIABILITY</b> <input type="checkbox"/> Any Auto <input type="checkbox"/> Owned Autos <input type="checkbox"/> Hired Autos <input type="checkbox"/> Non-owned Autos				BODILY INJURY (Per Person)	\$
					BODILY INJURY (Per Accident)	\$
					PROPERTY DAMAGE	\$
					BODILY INJURY & PROPERTY DAMAGE COMBINED	\$
	<b>GARAGE LIABILITY</b> <input type="checkbox"/> ANY AUTO				AUTO ONLY-EA ACCIDENT	\$
					OTHER THAN EA ACC	\$
					AUTO ONLY: AGG	\$
	<b>EXCESS LIABILITY</b> <input type="checkbox"/> Umbrella Form <input type="checkbox"/> Other Than Umbrella Form <input type="checkbox"/> Deductible \$ _____				EACH OCCURRENCE	\$
					AGGREGATE	\$
	<b>NYS WORKER'S COMPENSATION AND EMPLOYER'S LIABILITY</b> (Check if applicable)  <input type="checkbox"/> "All States" Coverage				<input type="checkbox"/> STATUTORY LIMITS	
					EMPLOYER'S LIABILITY	\$
	<b>BUILDER'S RISK</b>				FULL CONTRACT VALUE OF	\$
	<b>PROFESSIONAL LIABILITY</b> <input type="checkbox"/> Includes Pollution Liability <input type="checkbox"/> Deductible \$ _____					\$
	<b>OTHER</b>					\$
	<b>OTHER</b>					\$

(See Note 3) (✓ all that apply):

**ADDITIONAL INSUREDS**

Coverage: Commercial Liability, Garage Liability, Excess/Umbrella Liability, Contractor's Pollution Liability Pollution Legal Liability, etc.

**For all MTA Bus Agreements:**

MTA Bus Company (MTABC), Metropolitan Transportation Authority (MTA), including its subsidiaries and affiliates, The State of New York, the City of New York, PBS Capital LLC, MIU Realty, LLC, JLK Capital, LLC, Green Bus Holding Corp., Jamaica Bus Holding Corp. and Triboro Coach Holding Corp.

Other

(See Note 3) (✓ all that apply):

**NAMED INSUREDS**

Coverage: Property, etc.;

**ADD'L INSDS/LOSS PAYEES**

Coverage: Crime Insurance, Valuable Papers Builder's Risk, etc.;

**For all MTA Bus Agreements:**

MTA Bus Company (MTABC), Metropolitan Transportation Authority (MTA), including its subsidiaries and affiliates, The State of New York, the City of New York, PBS Capital LLC, MIU Realty, LLC, JLK Capital, LLC, Green Bus Holding Corp., Jamaica Bus Holding Corp. and Triboro Coach Holding Corp.

Other

**NOTE 1:** The subscribing insurance company(s), authorized to do business in the State of New York, certifies that insurance of the kinds and types and for Limits of liability herein stated, covering the Agreement/Contract herein designated, has been procured by and furnished on behalf of the Insured and is in full force and effect for the period listed on the front of this Certificate of Insurance. In addition, the subscribing insurance company(s) certifies that the insurance limits for General Liability Insurance are not amended by deductible clauses of any nature except as has been disclosed to and approved by MTABC; and that coverage is afforded for the Insured's obligations under that provision of the Agreement/Contract providing for indemnification of the Indemnified Parties, including MTABC, named therein. Further, any Umbrella/Excess Policy used to meet minimum contract requirements follows form of the underlying policy and will "drop down" to become primary in the event the Contractor's underlying policy is exhausted.

**NOTE 2:** The subscribing company(s) shall endeavor to provide thirty (30) days written notice of any material change or cancellation to MTABC c/o MTA Risk and Insurance Management, 2 Broadway, 21<sup>st</sup> Floor, New York, NY 10004.

**NOTE 3:** All references to Additional Insureds, Named Insureds and Loss Payees include those entities' directors, officers, employees, partners, agents, subsidiaries and affiliates.

**NOTE 4:** This certificate is issued to the Certificate Holder in consideration of the Agreement/Contract entered into with the named Insured. It is understood and agreed that the certificate holder relies on the certificate as a basis for continuing such Agreement/Contracts with the named Insured.

AUTHORIZED INSURER/PRODUCER \_\_\_\_\_

BY \_\_\_\_\_

(signature of authorized Insurer/Producer)

TITLE \_\_\_\_\_

STATE OF \_\_\_\_\_ )  
 ) s.s.  
COUNTY OF \_\_\_\_\_ )

On this \_\_\_\_\_ day of \_\_\_\_\_ 20\_\_\_\_, before me personally came \_\_\_\_\_, to me known, who being duly sworn, did depose and say that he/she resides in \_\_\_\_\_, that he/she is the \_\_\_\_\_ of the corporation and described in and which executed the foregoing Certificate of Insurance, that he/she is fully authorized to execute the foregoing Certificate of Insurance.

\_\_\_\_\_  
(Notary Public)

**CERTIFICATES OF INSURANCE must be completed by AUTHORIZED INSURANCE REPRESENTATIVES ONLY.**



**Guidelines**  
**for Submitting Proper Evidence of Insurance to MTA Agencies**  
**These are basic acceptance guidelines-read your agreement for specific insurance requirements.**  
**Policies must be written by Carriers rated A- or better to be acceptable to MTA and its Agencies**

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• **General Liability**, Auto, Garage, Excess, Workers' Comp, Professional, Environmental, etc.

**ACORD certificates are NOT ACCEPTED for operating contracts over \$250,000 or any capital contract**; wording in upper right corner renders ACORD certificate void.

- Accepted on **notarized MTABC Certificate** form or via **Certified Copy(ies) of the actual Policy(ies)**
  - Must **reference the Agreement or Contract #**
  - ✓ **boxes on back of MTABC certificate or provide endorsements as specified in this Schedule A.**
  - Must be **signed by an Authorized Representative of the Insurance Carrier or Producer**
  - **Disclose any deductible, self-insured retention or aggregate limit**
  - **Certificate Issuance Date must be within 30 days of submittal to MTABC**
- 

• **Builders Risk**

- **Cannot** be submitted on Certificate form (temporarily only as proof until Binder/Policy is produced)
  - **Provide a detailed Binder pending issuance of the Actual Policy** or the Actual Policy
  - Named Insureds: as specified in this Schedule A
  - Limits: Equal to the Total Contract Price or Value of Work Being Performed
- 

• **Railroad Protective Liability**

- **Cannot** be submitted on Certificate of Insurance forms
- **Cannot** self-insure for Railroad Protective Liability Insurance
- **Provide a detailed Binder pending issuance of the Actual Policy** or the Actual Policy
- Named Insureds: as specified in this Schedule A
- Standard Limits: \$2,000,000 per occurrence - Check agreement for limits
- **Definition of "Physical Damage to Property" must be amended to read:**

**"Physical Damage to Property means...direct and accidental loss of or damage to all property of any Named Insured and all property in any Named Insured's care, custody and control."**

**This DEFINITION must be shown on the Binder or by Endorsement to the policy or NO work will be permitted.**

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• **Workers Compensation**

- State Insurance Fund form is acceptable.
  - If company is located out of state, an "All States Rider" including New York is required.
  - Sole Proprietors – provide letter so stating.
- 

• **Joint Ventures**

- If the Contractor/Consultant is a joint venture, the joint venture must be listed as the insured on page one of the NYCT Certificate of Insurance.
- 

• **Original Signed Documents are Required**

- Photocopied signatures are not acceptable.
- Faxed documents must be followed-up with originals.