



## **BIDDERS CHECK-OFF LIST FOR CONSULTANT AND SERVICE CONTRACTS**



**TO BIDDER:**

**THIS SECTION MUST BE SUBMITTED WITH THE BID AND COMPLETED IN ITS ENTIRETY:**

### **PART III – BID SUBMISSION DOCUMENTS:**

- PAGES 69 – 75 – Bid Price Submission Section, must be signed, and if incorporated, sealed.**
- PAGE 69 – Bid Price Submission, must be signed, and if incorporated, sealed. Fill out in both numbers and words. The Total Bid Price should equal the Total Bid Price Amount on the Price Schedule.**
- PAGE 72 – Acknowledgement of Bidder, Fill out in its entirety, must be signed and notarized.**
- PAGE 73 – Affirmation of Taxes Paid, Fill out in its entirety, must be signed and if incorporated, sealed.**
- PAGE 79 – Acknowledgment of Addenda, Fill out in its entirety, as applicable, must be signed.**
- PAGE 85 – Bidder’s Certification of Compliance with Iran Divestment Act, Fill out in its entirety, must be signed and notarized.**

**In order for this Bid to be considered responsive, be sure to sign, notarize, and affix the corporate seal on applicable pages. All signatures must be original and signed in ink. All changes must be initialed in ink.**

### **ADDITIONAL INFORMATION:**

**It is the vendor’s responsibility for ensuring their bid submission is properly completed and submitted. The successful vendor is responsible for all applicable terms and conditions contained herein. At a minimum the vendor should perform the following:**

- **Note** time, date and location for the Receipt of Bids and if applicable, the date of the Pre-bid Conference on pages 4 and 5. **It is the vendor’s responsibility to submit the bids at the appropriate time and location.**
- **Review** the entire scope of work contained in the Specifications, page 7.
- **Review** the Schedule of Contract Requirements, Schedule A, page 8 .
- **Review** Insurance requirements located on page 8, Schedule A and further described on pages 39-43.
- **Review** Schedule of Wage Rates and Supplements as applicable, Page 78.
- **Review** the Subcontractor Approval Form requirements on Page 18, Article 22, and Page 80.
- **Review** and acknowledge all bid amendments (addenda) if applicable, Page 79.  
(Check the FDNY website: <http://nyc.gov/html/fdny/html/contracting/index.shtml> for all addendums).
- **Review** and obtain bonds, if applicable, refer to page 8, page 18

**All qualification requirements as stated herein shall be in effect and current as of the date of the bid submission.**

**Upon notification, the Bidder shall submit the following documentation within seven (7) days from either written or oral notification.**

- 
- Department of Labor Services **Supply and Service Report** (see Page 20).
  - Complete, execute, and notarize **Vendex Vendor and Principal Questionnaire** (See pages 26, 76) if aggregate business over the preceding 12 months (including this bid submission) is over \$ 100,000, <http://www.nyc.gov/vendex>.
  - Provide a minimum of **three (3) references**. References must include name, telephone number, and a contact person.

- Provide requested information for the **Contractor Questionnaire** (see Page 74).
- Provide a **Certificate of Insurance**.
- All other applicable documents as provided herein.
- Provide a copy of the completed **Subcontractor Approval Form** for each subcontractor as applicable.

**Failure to provide all required documentation, information or disclosure statements may result in a determination of non-responsiveness in accordance with the New York City Procurement Policy Board Rules, Section 2-07.**



**THE CITY OF NEW YORK**

# **FIRE DEPARTMENT**

**BUREAU OF FISCAL SERVICES  
CONTRACT DEVELOPMENT UNIT**

**COMPETITIVE SEALED BID  
AGREEMENT AND SPECIFICATIONS**

## **PROJECT DESCRIPTION**

**SPECIFICATION FOR THE REUPHOLSTERING  
OF FIRE DEPARTMENT VEHICLE SEATS**

**PIN NO.** 057130001172  
**CONTRACT NO.** \_\_\_\_\_  
**NYC LAW DEPT. NO.** \_\_\_\_\_

## **SPECIAL NOTICE TO BIDDERS**

The New York City Department of Small Business Services (SBS), in conjunction with lender partners, has established the [Upfront Capital Loan](#) program to provide financing of mobilization costs for both prime contractors and subcontractors on City projects.

Under this initiative, loans are available for mobilization needs such as insurance, labor, supplies and equipment. Bidders are encouraged to visit [www.nyc.gov/CompeteToWin](http://www.nyc.gov/CompeteToWin) to learn more or contact [UpfrontCapital@sbs.nyc.gov](mailto:UpfrontCapital@sbs.nyc.gov) or 311 to obtain details and determine preliminary eligibility.

A successful loan applicant will be required to make an assignment of its contract or subcontract payments to the lender until the loan is repaid. If the loan is to a subcontractor, a prime contractor must honor the terms of such an assignment.

A prime contractor may not discriminate against a subcontractor or potential subcontractor by reason of the subcontractor's participation, or nonparticipation, in the loan program.

## **NOTICE TO BIDDERS**

**Pursuant to recent amendments to State law expected to take effect prior to the award of this contract, purchase contracts subject to GML §103 (including contracts for service work, but excluding any purchase contracts necessary for the completion of a public works contract pursuant to Article eight of the Labor Law) shall be awarded on the basis of best value as defined in the State Finance Law §163. State Finance Law §163(1)(j) defines best value as that bid or offer that optimizes quality, cost, and efficiency. Accordingly, this contract will be awarded on the basis of best value to the City, which will be determined to be the lowest responsive and responsible bidder, provided however that the Mayor may, pursuant to Charter §313(b)(2), direct the agency to award this contract to other than the low bidder in the best interests of the City by determining, in writing, that another bid optimizes quality, cost and efficiency and is thus the best value to the City. An award to other than the low bidder may only be made to a bidder whose bid is within 10% of the lowest responsive and responsible bid.**

## **NOTICE TO BIDDERS, PROPOSERS, CONTRACTORS, AND RENEWAL CONTRACTORS**

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

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

**Local Law No. 30-2012 requires a contractor to prominently post information explaining how its employees can report allegations of fraud, false claims, criminality, or corruption in connection with a City contract to City officials and the rights and remedies afforded to employees for whistleblowing activity. Local Law No. 30-2012 is codified at Section 6-132 of the New York City Administrative Code.**

## **NOTICE TO BIDDERS**

**Bids must be submitted in the form specified in the solicitation including all required signatures, in ink, and including all required pricing information (typewritten or printed in ink).**

**If a bid price has been materially altered, to include, additions, erasures, cross-outs, white-outs or any other changes – it must be initialed in ink by the Bidder.**

**If the alteration has not been initialed in ink, and cannot be severed from the items in the bid, the bidder may be subject to a finding of non-responsiveness.**

## **NOTICE TO BIDDERS**

All bids received in Section 5S-01-K are time stamped and issued a receipt by the Contract Development Unit. Only Contract Development Unit receipts and time stamps are authorized. U.S. mail or messenger delivery receipts will not be accepted as proof of delivery.

A copy of the Contract Development Unit receipt is attached to the bid package and a duplicate provided to a messenger, if hand delivered. The bidder is responsible for timely delivery of the bid package to Section 5S-01-K. The Fire Department is not responsible for any delays in delivery of the bid. This includes, but is not limited to, outside mail and delivery services, messenger services, internal security delays, transportation delays, or Fire Department Internal Mail Distribution Services.

Bidders are advised that on occasion security delays at the building entrance can exceed one (1) hour. Bidders delivering the bids must be in possession of valid photo identification that may be retained at the security desk until the bidder exits the building.

Bidders utilizing overnight delivery services should note that the delivery of the bid is made directly to the Fire Department mailroom. The bid will be delivered to Contract Development Unit, 5th Floor, Section 5S-01-K by the Fire Department internal mail distribution personnel. Regular mail service is held at the post office for daily pick up by Fire Department Employees. Bidders should be further aware that all mail including overnight packages may not be delivered until the following day. Therefore, if overnight services are utilized, bidders should allow at least two (2) business days for delivery.

Any bid received at Contract Development Unit, 5th Floor, Section 5S-01-K after the time and date set for receipt of bids is late and shall not be considered. (Procurement Policy Board Rules 3-02(k) (1).



## **NOTICE TO BIDDERS**

**Effective April 1, 2007, the Procurement Policy Board (PPB) has made extensive changes to the numbering system of its Rules, resulting in a substantial renumbering of the Rules. The section numbers of PPB rules that are cited or referred to in the Contract contained herein may not have been changed to reflect the new numbers, and thus in some instances the section number of a PPB Rule being cited in a particular Contract provision, bidders are referred to the PPB Rule that addresses the subject matter indicated in that Contract provision.**

**A copy of the PPB Rules may be downloaded from the New York City Procurement Policy Board website:**

<http://www.nyc.gov/html/mocs/ppb/html/rules/rules.shtml>

## **NOTICE TO BIDDERS**

### **ELECTRONIC FUNDS TRANSFER**

- A. In accordance with Section 6-107.1 of the New York City Administrative Code, the Contractor agrees to accept payments under this Agreement from the City by electronic funds transfer. An electronic funds transfer is any transfer of funds, other than a transaction originated by check, draft or similar paper instrument, which is initiated through an electronic terminal, telephonic instrument or computer or magnetic tape so as to order, instruct or authorize a financial institution to debit or credit an account. Prior to the first payment made under this Agreement, Contractor shall designate one financial institution or other authorized payment agent and shall complete the attached “EFT Vendor Payment Enrollment Form” in order to provide the Commissioner of Finance with information necessary for Contractor to receive electronic funds transfer payments through the designated financial institution or authorized payment agent. The crediting of the amount of a payment to the appropriate account on the books of a financial institution or other authorized payment agent designated by the Contractor shall constitute full satisfaction by the City for the amount of the payment under this agreement. The account information supplied by the Contractor to facilitate the electronic funds transfer shall remain confidential to the fullest extent provided by law.**
- B. The agency head may waive the application of the requirements herein to payments on contracts entered into pursuant to §315 of the City Charter. In addition, the Commissioner of the Department of Finance and the Comptroller may jointly issue standards pursuant to which the contracting agency may waive the requirements hereunder for payments in the following circumstances: (i) for individuals or classes of individuals for whom compliance imposes a hardship; (ii) for classifications or types of checks; or (iii) in other circumstances as may be necessary in the interest of the City.**

## **NOTICE TO BIDDERS**

**Pursuant to Procurement Policy Board Rule 2-08(f)(2), the contractor will be charged a fee for the administration of the VENDEX system, including the Vendor Name Check process, if a Vendor Name Check review is required to be conducted by the Department of Investigation. The contractor shall also be required to pay the applicable required fees for any of its subcontractors for which Vendor Name Check reviews are required. The fee(s) will be deducted from payments made to the contractor under the contract. For contracts with an estimated value of less than or equal to \$1,000,000, the fee will be \$175. For contracts with an estimated value of greater than \$1,000,000, the fee will be \$350.**

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**PART I: BID INFORMATION, SPECIFICATION, SUBMISSION  
REQUIREMENTS**

## **SECTION A - INFORMATION FOR BIDDERS**

### **1.0 Description of Procurement**

The Fire Department of the City of New York seeks the services of a Contractor to perform reupholstering of Fire Department vehicle seats.

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### **2.0 Bid Submission Requirements**

- PAGE 69 - Bid Price Submission Section, must be signed, and if incorporated, sealed. Fill out in both numbers and words. The Total Bid Price should equal the Total Bid Price Amount on the Price Schedule.

### **2.1 Time and Place for Receipt of Bids**

- a. Sealed bids shall be received by the Fire Department of the City of New York on or before the day, at the time and at the location set forth below:

**Time:**            **4:00 P.M.**

**Date:**            **February 14, 2013**

**Place:**           9 MetroTech Center, Brooklyn, N.Y. 11201  
5th Floor, 5S-01-K, Contract Development Unit

**Attention:**      Roman Shpolyansky

- b. The completed bid must be submitted in a sealed envelope to **Contract Development Unit, 5th Floor, Section 5S-01-K** on or before the date and time indicated in Section A - INFORMATION FOR BIDDERS, (2.1)(a) above. The envelope must be marked with the name of the person, firm or corporation presenting it, the bid opening date, bid number and bid title. The bid and all other documents requiring signature must be signed and notarized, if required. Failure to comply with these instructions may result in rejection of our bid.
- c. All bids received in **Section 5S-01-K** are time stamped and issued a receipt by the Contract Development Unit. Only Contract Development Unit receipts and time stamps are authorized. U.S. mail or messenger delivery receipts will not be accepted as proof of delivery. A copy of the Contract Development Unit receipt is attached to the bid package and a duplicate provided to a messenger, if hand delivered. The bidder is responsible for timely delivery of the bid package to **Section 5S-01-K**. The Fire Department is not responsible for any delays in delivery of the bid. This includes, but is not limited to, outside mail and delivery services, messenger services, internal security delays, transportation delays, **or Fire Department Internal Mail Distribution Services.**

Bidders are advised that on occasion security delays at the building entrance can exceed one (1) hour. Bidders delivering the bids must be in possession of valid identification that will

be retained at the security desk until the bidder exits the building. This identification can be a driver's license, passport, employee id, credit card, bank card, or immigration card (green card).

Bidders utilizing overnight delivery services should note that the delivery of the bid is made directly to the Fire Department mailroom. The bid will be delivered to **Contract Development Unit, 5th Floor, Section 5S-01-K** by the Fire Department internal mail distribution personnel. Regular mail service is held at the post office for daily pick up by Fire Department Employees. Bidders should be further aware that all mail including overnight packages may not be delivered until the following day. Therefore, if overnight services are utilized, bidders should allow at least two (2) business days for delivery.

Any bid received at **Contract Development Unit, 5th Floor, Section 5S-01-K** after the time and date set for receipt of bids is **late and shall not be considered**. Late bids and modifications shall be promptly returned to the bidder unopened. (Procurement Policy Board Rules 3-02(k) (1) and (3)).

**d. Pre-Bid Conference**

A pre-bid conference will not be held for this solicitation.

A pre-bid conference shall be held on the following date, at the time and at the location set forth below:

**Time:** \_\_\_\_\_

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

**Place:** \_\_\_\_\_ (including room number, if applicable)

Bidder attendance at this pre-bid conference is **non-mandatory**; however, the Department strongly recommends that all interested bidders make an effort to attend.

Nothing stated at the pre-bid conference shall change the terms or conditions of the Invitations For Bids unless a change is made by written amendment.

**e. Agency Contact**

**Any questions or correspondence relating to this bids solicitation shall be addressed to:**

**Name:** Roman Shpolyansky  
**Address:** 9 MetroTech, Brooklyn, N.Y. 11201  
**Telephone:** (718) 999-0298  
**Fax:** (718) 999-0177  
**Email:** shpolyr@fdny.nyc.gov

**All questions must be received ten (10) business days prior to the bid due date. Questions received after this period will not be accepted.**



**Section VIII Charter Section 312(a) Certification:**

The Fire Department has determined that the contract to be awarded through this solicitation,  
Procurement Identification Number: 057130001172, Project Description: Reupholstering of Fire  
Department Vehicle Seats, will not directly result in the displacement of any New York City employee.

\_\_\_\_\_  
Signature of Agency Chief Contracting Officer

\_\_\_\_\_  
Date

**SECTION B – SPECIFICATIONS AND SCOPE OF WORK**

**SPECIFICATION FOR THE REUPHOLSTERING  
OF FIRE DEPARTMENT VEHICLE SEATS**

**I. INVITATION**

The Fire Department of the City of New York seeks the services of a Contractor to perform reupholstering of Fire Department vehicle seats.

**II. DEFINITIONS**

- A. "Agreement" means this Agreement as amended, modified, or supplemented from time to time in accordance with the terms of this Agreement.
- B. "City" means the City of New York.
- C. "Contractor" means the party providing services pursuant to this Agreement.
- D. "FDNY" or "Department" means the Fire Department of the City of New York, with its headquarters located at 9 MetroTech Center, Brooklyn, New York 11201-3857.
- E. "FDNY Authorized Representative" means the Assistant Commissioner for Fleet Services or other representative designated by the Deputy Commissioner for Support Services and Human Resources to oversee the provision of Services pursuant to this Agreement.
- F. "FDNY Facility" means the FDNY division or battalion office, firehouse, ambulance station, or other location owned, leased or operated by FDNY.
- G. "FDNY Vehicles" means ambulances, automobiles, fire engines, ladder trucks, suburbans and other vehicles owned, leased or operated by the FDNY for which the Contract is to perform vehicle seat upholstery replacement work pursuant to this agreement.
- H. "Fleet Services" means the FDNY Fleet Services Division located at 48-67 34<sup>th</sup> Street, Long Island City, New York 11101, or other location designated by FDNY pursuant to this Agreement for the pick-up and delivery of vehicle seats by the Contractor.
- I. "Holidays" means New Year's Day, Martin Luther King Jr. Day, Presidents' Day, Memorial Day, Independence Day, Labor Day, Thanksgiving Day, and Christmas Day.
- J. "Notice to Proceed" means the written notification to the Contractor to commence the provision of services pursuant to this Agreement.
- K. "OEM" means the Original Equipment Manufacturer.
- L. "Services" means any or all services performed by the Contractor pursuant to this Agreement.

### **III. INTRODUCTION**

- A. The FDNY seeks a contractor with the expertise and experience required to perform reupholstery work on vehicle seats constructed of:
1. Either two (2") or Four (4") inch thick high density foam;
  2. A covering of either thirty-eight (38) ounce heavy-duty vinyl or eighteen hundred (1,800) denier Cordura® nylon 1,800; and
  3. Wood framing material

### **IV. SCOPE OF WORK**

A. General Requirements

1. The Contractor shall provide all labor, equipment, tools, parts, materials and supplies required to reupholster driver and passenger seats in FDNY Vehicles in accordance with OEM specifications and the requirements set forth in this Agreement. The Contractor shall perform reupholstery work for all types of vehicle seats, including but not limited to:
  - a. Officers Seats
  - b. Mack Seats
  - c. Small Jump Seats
  - d. Jump Seats
  - e. Seagrave Seats
  - f. Bostrom Seats
  - g. Excursion Seats
  - h. S.U.V. Seats
  - i. Sedan Seats (bucket and bench types)
  - j. Ambulance Seats (bucket and bench types)
  - k. Light Duty Truck Seats
2. All wood framing required to complete the vehicle seat replacements shall be furnished by the FDNY.
3. Prior to performing any work, the Contractor shall inspect each vehicle seat to be reupholstered to determine what work is needed. The Contractor shall verify the damages or defects reported by the Department as requiring replacement. The Contractor shall submit a written report to the FDNY Authorized Representative which shall include the type of replacements required, the completion date for the replacements, and the total cost. This report shall be submitted within one (1) business day of the inspection.
4. The Contractor shall reupholster the vehicle seats including but not limited to replacing foam seat pads or seat backs, replacing seat trim or hardware, and installation or adjustment of wood frames. All seams shall be double stitched. Replacements shall be performed in accordance with the OEM recommended procedures and shall not compromise the use or serviceability of the vehicle seat.

5. The Contractor shall complete all vehicle seat reupholstery work, and return the reupholstered vehicle seats to Fleet Services within five (5) business days from the date of pick-up of the vehicle seats.
6. The Contractor shall monitor all deliverables, Services and shall promptly notify the FDNY Authorized Representative, by telephone or other means, of any failure to provide such Services in accordance with the contract schedule. If it is determined that such failure to provide such Services has caused or is likely to cause such impairment or inconvenience, then the Department shall notify the Contractor in writing, and provide a cure date to the Contractor. The cure date shall provide the Contractor with a time period to cure the situation to avoid liquidated damages. Decisions of the Department in this regard shall be final and shall not be arbitrary or capricious.

#### B. Pick-Up and Delivery

1. The FDNY Authorized Representative will notify the Contractor that one or more vehicle seats require reupholstery work and request a pick up from Fleet Services. The Department may make requests for services by telephone or other means. The FDNY Authorized Representative will advise the Contractor of the nature of the work required. The Contractor shall acknowledge the request for services by telephone call to the FDNY Authorized Representative. The Contractor shall respond to the FDNY Facility designated by the Department to pick-up the vehicle seats requiring reupholstery, within one (1) business day from notification by the FDNY Authorized Representative.
2. FDNY will remove the vehicle seat(s) requiring reupholstery work and make them available for pick up.
3. The Contractor shall pick up and deliver the vehicle seats within the service window period of 7:00 a.m. to 3:00 p.m. Monday to Friday, excluding Holidays.
4. The Contractor shall provide a receipt to the FDNY Facility Representative for vehicle seat(s) picked-up at the FDNY Facility. The Contractor shall record identifying information on the receipt, which includes but is not limited to the following:
  - a. the number of vehicle seat(s) picked-up,
  - b. the type or description of the vehicle seat,
  - c. and the name and location of the FDNY Facility where the vehicle seat(s) were picked up.

This receipt is to be signed by the Contractor personnel and an FDNY Authorized Representative acknowledging the amount and type of seats being reupholstered.

5. The Contractor shall transport the vehicle seats in a secure vehicle to the Contractor replacement facility. The Contractor shall provide and utilize movers' blankets or other material to protect the vehicle seat(s) from being damaged or soiled.
6. The Contractor shall reupholster the vehicle seats and return the vehicle seats to Fleet Services, or other facility designated by FDNY, within ten (10) business days from the date of pick up. The Contractor shall submit a Service Ticket with the vehicle seats, in accordance with Section V of this Agreement.

## **V. SERVICE TICKETS**

- A. Upon completion of Services, the Contractor shall submit a Service Ticket to the FDNY Authorized Representative. The ticket shall include but not be limited to the following information:
1. Date of pickup of the vehicle seat(s).
  2. Description or type of vehicle seats reupholstered.
  3. Detailed description of Services provided, including all replacements performed.
  4. Contractor employees' names and signatures.
  5. Date of delivery of the vehicle seats(s).
  6. Indicate price and quantity of each replacement
- B. A copy of the service ticket shall be attached to each invoice submitted for payment to the FDNY.

## **VI. QUALITY CONTROL PROGRAM**

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

## **VII. GENERAL TERMS AND CONDITIONS**

- A. All Services provided pursuant to this Agreement shall be performed in accordance with all applicable Federal, State and local laws, rules and regulations, and the Contractor shall meet or exceed industry standards.

- B. The work shall be performed in accordance with the best modern practice using materials and workmanship that meet the highest standards.
- C. The Contractor shall coordinate the performance of Services with the FDNY Authorized Representative.
- D. The Contractor shall provide and maintain all equipment required and appropriate to ensure the safety of Contractor personnel.
- E. The Contractor shall bear the costs of any repairs resulting from damage caused by the Contractor's work practices or its employees. The Contractor at no additional cost to the FDNY shall promptly replace any vehicle, equipment, furnishings, building, or facility accessories damaged by the Contractor in connection with the provision of Services pursuant to this Agreement to their original condition within fifteen (15) calendar days.
- F. All pick-up, deliveries and inspections by the Contractor shall be performed as expeditiously as possible with a minimum of interference to FDNY operations and personnel.
- G. The Contractor shall not utilize any FDNY equipment, tools or supplies.
- H. The Contractor shall not be permitted to drive vehicles onto FDNY property without the express permission of the FDNY Authorized Representative.
- I. This Agreement is not intended to create any rights in third parties other than successors and assignees of the parties.
- J. In the event of the termination of this Agreement, the Contractor shall remain liable for the full performance of all terms and conditions of this Agreement that the Contractor was obligated to perform up to the time of such termination. Any and all continuing obligations and liabilities of the Contractor under this Agreement shall survive the termination of this Agreement.

#### **VIII. FINAL ACCEPTANCE OF SERVICES**

- A. Final acceptance of the Services by the FDNY shall be in the form of written notification from the FDNY Authorized Representative that the Services performed are satisfactory and are accepted as complying with the terms and conditions of this Agreement.
- B. The date of final acceptance shall be the date of such written notification.

#### **IX. CONTRACTOR QUALIFICATIONS**

- A. At the time of bid submission, the Contractor shall have a minimum of three (3) year's experience in vehicle upholstery replacement similar to that required by this specification. The use of subcontractor's experience cannot be used to satisfy this requirement. Individual experience as a principal, director, officer, or employee of an organization may not be used to satisfy this requirement.
- B. To support the experience requirements and other qualifications, the Contractor shall provide:
  - 1. At least three (3) references for work similar to that required by this specification,

2. Tax returns and incorporation records (if applicable) indicating that the bidder is an active organization or sole proprietorship, in continuous operation for a period of five (5) years prior to the bid submission.
  3. Other supporting documentation such as contracts, purchase orders, employee payroll records, financial statements, vendor or supplier invoices, and state or local certification records.
- C. The Department reserves the right to inspect the Contractor's facility prior to award of the bid.

## **X. CONTRACTOR PERSONNEL**

- A. The Contractor shall have in its employ at all times a sufficient number of capable and qualified employees to enable it to complete the Services pursuant to this Agreement. The employees shall have the training and demonstrated ability in the specified areas, and possess all required licenses, permits, and all other applicable certificates and qualifications. In the absence of any licensing requirements by a Federal, State or City authority, the Contractor shall certify in writing that the persons involved in the performance of the work are competent to perform the required Services.
- B. The Contractor shall ensure that all of the Services required by this Agreement are satisfactorily supervised. The Contractor shall provide such supervision as is sufficient to carry out all the terms and conditions of this Agreement.
- C. The Contractor shall designate one of its employees to function in the role of primary contact person. The contact person shall be the liaison for the Contractor for the term of the Agreement, and shall handle issues, problems or questions arising from the performance of Services.
- D. The Department reserves the right to review the credentials and qualifications of any Contractor personnel providing Services pursuant to this Agreement, and to instruct the Contractor not to use for such purposes any individual that the Department determines to be unqualified to perform the Services.
- E. The Contractor shall comply with all FDNY security rules. Contractor personnel shall wear clearly visible photo identification and shall comply with the FDNY security procedures and directions at FDNY Facilities.

## **XI. SUBCONTRACTOR QUALIFICATIONS**

- A. The Contractor shall not enter into a contract with any subcontractor for the performance of Services under this Agreement without the prior written consent of the Fire Department. Subcontracting shall be permitted up to a maximum of twenty-five percent (25%) of the workload. All subcontractors shall possess the same qualifications as the Contractor, as set forth in Section IX of this Agreement and are required to comply with all provisions of this Agreement. The Contractor shall remain responsible for the performance of any requirements of this Agreement that the subcontractor fails to perform.



## **XII. CONFIDENTIALITY**

- A. The Contractor agrees that all records, information or data which it may have access to, examine, prepare, maintain or have custody of and deliver hereunder (“Confidential Information”) shall be kept strictly confidential. The Contractor shall not at any time during the term of the Agreement, or thereafter, make any disclosure or statements or release to any third party any Confidential Information without the prior written approval of the Fire Department.
- B. The Contractor agrees that it will instruct its officers, employees and agents, to maintain the confidentiality of any and all Confidential Information.
- C. Upon expiration or termination of this Agreement, the Contractor shall return to the Department any and all Confidential Information in the possession of the Contractor and its subcontractors, and permanently delete any and all Confidential Information maintained in any electronic form by the Contractor or its subcontractors.
- D. A breach of this section shall constitute a material breach of this Agreement for which the FDNY may terminate the Agreement. The FDNY reserves any and all other rights and remedies in the event of unauthorized disclosure.
- E. This provision shall survive the expiration or termination of this Agreement.

## **XIII. LIQUIDATED DAMAGES**

- A. If the Contractor fails to provide the Services pursuant to this Agreement within the time periods established herein, the Contractor shall be subject to fixed and liquidated damages of sixty dollars (\$60.00) per vehicle seat, for each business day or portion thereof that the Contractor has failed to pick-up, complete the replacement work, or deliver the vehicle seats.
- B. If the Contractor fails to dispatch the personnel, or complete the warranty service, within the time periods established herein, then the Contractor shall be subject to liquidated damages of sixty dollars (\$60.00) per business day or portion thereof that the Contractor has failed to provide such warranty services.
- C. Such liquidated damages shall be subject to the cure procedures set forth in Section IV A (6).
- D. All such charges for liquidated damages assessed to the Contractor shall be deducted from money that is due or shall become due to the Contractor from the City. In the event that there is no money due the Contractor, then the Contractor shall pay the amount of the damages due the City within thirty (30) day from the date of the assessment by the FDNY.

## **XIV. WARRANTY**

- A. The Contractor shall warrant for the period of one (1) year after final acceptance by the Department of that such Services, including any and all upholstery work, seat pads or backs, frames, and all related parts, are free from defects in materials and workmanship and conform to their intended uses and OEM published specifications or better. If the manufacturer’s warranty for any vehicle seat component or related part is in excess of one year, then that period of time shall be in effect for the covered vehicle seat component or part.

- B. This warranty shall survive the expiration or termination of the Agreement for a period equal to the balance of the warranty period for any Service provided.
- C. The FDNY will use its best efforts to notify the Contractor during the warranty period if the reupholstered seats or any component thereof are not in good working order.
- D. During the warranty period, the Contractor shall either replace, at the FDNY's sole option, any upholstery, seat pad or back, or component part which the FDNY determines is not in good working order, at no additional cost to the FDNY, within seven (7) calendar days from oral or written notification by the FDNY Authorized Representative.
- E. Replacement of the reupholstered seats or any components shall be new or equivalent to new in performance
- F. Any upholstery, seat pads, seat backs, component parts that are added, or other replacement items for equipment that is under warranty, are automatically covered by this warranty.
- G. The Contractor shall bear the cost of transportation and insurance of both personnel and material to designated locations and return, to meet its obligations under this warranty.
- H. The Contractor shall provide and bear the cost of all labor and material required to meet its obligations under this warranty.
- I. The Contractor shall respond to warranty replacements requested within the same time frames established in Section IV(B). The Contractor shall provide warranty replacements, at no additional cost to the FDNY.

## **XV. COMPENSATION**

- A. The Contractor shall submit an all-inclusive fixed per vehicle seat rate for providing vehicle seat replacements, including labor and all materials. All rates shall be fully burdened, including but not be limited to all labor, capital equipment costs, statutory payroll, fringe benefits, overhead, insurance, travel time, transportation costs, tolls, tools, vehicles, attendant expenses, permits, Social Security, Workers' Compensation and Contractor profit. The rates shall remain fixed for the duration of the Agreement, and shall not be subject to any additions, mark-ups, percentage multipliers, or cost of living increases.
- B. The quantity of labor and materials as set forth in the Price Schedule, in each category and as a whole represents the FDNY's best estimate as to the project requirements on an annual basis. The FDNY reserves the right to increase or decrease the quantities according to the requirements of the FDNY, at any time during the Agreement. The FDNY shall not be required to order any quantity of work, nor shall it be limited to the amounts estimated to be required to fulfill its needs.

## **XVI. TERM OF AGREEMENT**

- A. The term of this Agreement shall be from the date of the Notice to Proceed, until the expiration of five (5) consecutive years unless otherwise amended or terminated.

## SCHEDULE A

### (SUMMARY OF GENERAL PROVISIONS)

Items indicated by a blackened box (■) or by (☒) to left will be required under this contract

Provision	Minimum Limits and Special Conditions
<input type="checkbox"/> Security Deposit or Bid Deposit Not Required	Security Deposit <u>N/A</u> of Contractor's Bid Submission or Bid Bond in the amount of \$ <u>N/A</u>
<input type="checkbox"/> Performance and Payment Bonds	Not Required
<input checked="" type="checkbox"/> Liquidated Damages	Specification - Page <u>7-7</u>
<input checked="" type="checkbox"/> Subcontracting Total Maximum Subcontracting	<u>25%</u>
<input checked="" type="checkbox"/> Term of Agreement	Term of Agreement <u>Five (5) Years</u>
Types of Insurance (per Article 7 in its entirety, including listed paragraph)	Minimum Limits and Special Conditions
<input checked="" type="checkbox"/> Commercial General Liability	\$ <u>1,000,000.00</u> per occurrence \$ <u>2,000,000.00</u> aggregate (applicable separately to this Project) Additional Insureds: 1. City of New York, including its officials and employees, and 2. <u>Fire Department of the City of New York</u> 3. _____
<input checked="" type="checkbox"/> Workers' Compensation <input checked="" type="checkbox"/> Disability Benefits Insurance <input checked="" type="checkbox"/> Employers' Liability <input type="checkbox"/> Professional Liability	Workers' Compensation: Statutory per New York State law without regard to jurisdiction Disability Benefits Insurance: Statutory per New York State law without regard to jurisdiction Professional Services: \$ <u>1,000,000.00</u> per claim
<input checked="" type="checkbox"/> Business Automobile Liability Coverage	\$ 1,000,000.00 per accident If vehicles are used for transporting hazardous materials, the Contractor shall provide pollution liability broadened coverage for covered autos (endorsement CA 99 48) as well as proof of MCS 90

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**SCHEDULE A**

**(SUMMARY OF GENERAL PROVISIONS)**

**PART III. ADDRESS OF COMMISSIONER**

Wherever reference is made in Article 7 to documents to be sent to the **Commissioner** (e.g., notices, filings, or submissions), such documents shall be sent to the address set forth below or, in the absence of such address, to the **Commissioner's** address as provided elsewhere in this **Contract**.

Robert L. Scott

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Agency Chief Contracting Officer

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FDNY Headquarters

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9 MetroTech Center

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Brooklyn, NY 11201-3857

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## **SECTION D - BID INFORMATION**

### **1. Bid Submission Check List**

- a. Bid Form and Affidavits - BID SUBMISSION (PRICE)

### **2. Definitions**

- a. The definitions set forth in Chapter 1 of the Procurement Policy Board Rules shall apply to this Invitation For Bids.
- b. Except for titles, subtitles, headings, running headlines, tables of contents and indices (all of which are printed herein merely for convenience) the following, except for such portions thereof as may be specifically excluded, shall be deemed to be part of the contract and the Invitation For Bids.

### **3. Invitation For Bid Documents**

- a. Except for titles, sub-titles, headings, running headlines, tables of contents and indices (all of which are printed herein merely for convenience) the following, except for such portions thereof as may be specifically excluded, shall be deemed to be part of the contract and the Invitation For Bids.
  - 1. The Advertisement and Proposal for Bids.
  - 2. The Bid.
  - 3. The Agreement.
  - 4. The Budget Director's Certificate
  - 5. The Specifications.
  - 6. The Contract Drawings.
  - 7. All addenda issued by the Agency Chief Contracting Officer (ACCO) prior to the receipt of bids.
  - 8. All provisions required by law to be inserted in this contract whether actually inserted or not.
  - 9. The Notice of Award.
  - 10. Performance and Payment Bonds.
  - 11. Notice to Proceed with Work.
- b. For particulars as to this procurement, including quantity and quality of the purchase, extent of the work or labor to be performed, delivery and performance schedule, and any other special instructions, prospective bidders are referred to the Invitation For Bids documents. A copy of such documents can be obtained from 10:00 AM to 4:00 PM, Monday – Friday, at the following location: Fire Department of the City of New York, 9 MetroTech Center, Brooklyn, N.Y. 11201, Attn: Contract Development Unit, 5S-01-K, or by downloading the documents from the Department’s website and clicking on the appropriate solicitation: <http://nyc.gov/html/fdny/html/contracting/index.shtml>
- c. Additional Copies - Additional copies of the Invitation For Bids documents may be obtained, subject to the conditions set forth in the advertisement for bids.

#### **4. Examination of Proposed Contract**

- a. Request for Interpretation or Correction - Prospective bidders must examine the Contract Documents carefully and before bidding must request the ACCO in writing for an interpretation or correction of every patent ambiguity, inconsistency or error therein which should have been discovered by a reasonably prudent bidder. Such interpretation or correction, as well as any additional contract provisions the ACCO may decide to include, will be issued in writing by the ACCO as an addendum to the contract, which will be sent by mail or delivered to each person recorded as having received a copy of the contract documents from the Contract Clerk, and which also shall be posted at the place where the contract documents are available for the inspection of prospective bidders.

Upon such mailing or delivery and posting, such addendum shall become a part of the contract documents, and binding on all bidders, whether or not actual notice of such addendum is shown.

- b. Only the Commissioner's or Agency Chief Contracting Officer's Interpretation or Correction Binding - Only the written interpretation or correction by the Fire Commissioner, ACCO or their duly authorized representative shall be binding as to any interpretation or corrections of the terms and conditions of this contract.

#### **5. Form of Bid**

- a. Each bid must be submitted in the prescribed form and must contain: a) the name, residence and place of business of the person or persons making the same; b) the names of all persons interested therein, and if no other person is so interested, such fact must be distinctly stated; c) a statement to the effect that it is made without any connection with any other person making a bid for the same purpose and that it is in all respects fair and without collusion or fraud; d) a statement that no Councilman or other officer or employee or person whose salary is payable in whole or part from the City Treasury is directly or indirectly interested therein or in the supplies, materials or equipment and work or labor to which it relates, or in any portion of the profits thereof; e) a statement that the bidder is not in arrears to the City or to any agency upon a debt or contract or taxes, and is not a defaulter as surety or otherwise upon any obligation to the City to any agency thereof, except as set forth in the bid.
- b. The Bid shall be typewritten or written legibly in ink. **The Bid shall be signed in ink. Erasures or alterations shall be initialed by the signer in ink.**

#### **6. Bidder's Oath**

- a. The bid shall be properly signed by an authorized representative of the bidder and the bid shall be verified by the written oath of the authorized representative who signed the bid, that the several matters stated and information furnished therein are in all aspects true.
- b. A materially false statement willfully or fraudulently made in connection with the bid or any of the forms completed and submitted with the bid may result in the termination of any contract between the City and the Bidder. As a result, the Bidder may be barred from participating in future City contracts as well as be subject to possible criminal prosecution.

**7. Site Visit**

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

**8. Bids Shall Be Typewritten or Written Legibly in Ink**

The Bid shall be typewritten or written legibly in ink. **The Bid shall be signed in ink. Erasures or alterations shall be initialed by the signer in ink.**

**9. Irrevocability of Bid**

The prices set forth in the bid cannot be revoked and shall be effective until the award of the contract, unless the bid is withdrawn as provided for in Section 14, below.

**10. Acknowledgment of Amendments**

The receipt of any amendment to the contract documents shall be acknowledged by the bidder.

**11. Bid Samples and Descriptive Literature**

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

**12. Proprietary Information/Trade Secrets**

The bidder shall identify those portions of its bid that it deems to be confidential, proprietary information or trade secrets, and provide justification why such materials shall not be disclosed by the City. All materials the bidder desires to remain confidential shall be clearly indicated by stamping the pages on which such information appears, at the top and bottom thereof with the word "Confidential". Such materials stamped "Confidential" must be easily separable from the non-confidential sections of the bid.

All such materials so indicated shall be reviewed by the Agency and any decision not to honor a request for confidentiality shall be made in accordance with the NYS Freedom of Information Law (FOIL). Prices, makes and model or catalog numbers of the items offered, deliveries, and terms of payment shall be publicly available after bid opening regardless of any designation of confidentiality made by the bidder.



### **13. Bid Evaluation and Award**

In accordance with the New York City Charter, the Procurement Policy Board Rules and the terms and conditions of this Invitation For Bids, this contract shall be awarded, if at all, to the lowest responsive and responsible bidder, whose bid meets the requirements and evaluation criteria set forth in the Invitation For Bids, and whose bid price is either the lowest bid price or, if the Invitation For Bids so states, the lowest evaluated bid price. A bid may not be evaluated for any requirement or criterion that is not disclosed in the Invitation For Bids. Contract award is subject to provisions of the MacBride Principles Law.

The date of award is dependent on the responses of the bidders, determinations of responsiveness and responsibility, resolution of any appeals or disputes, as well as the timely submission of accurate and complete information by the successful contractor. The successful contractor should anticipate that award may not be for a period up to 6 months from the date of bid opening, and may be extended based on processing of relevant information and other approvals.

### **14. Late Bids, Late Withdrawals and Late Modifications**

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

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

### **15. Withdrawal of Bids**

Except as provided for in Section 14, above, a bidder may not withdraw its bid before the expiration of forty-five (45) days after the date of the opening of bids; thereafter, a bidder may withdraw its bid only in writing and in advance of an actual award.

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

### **16. Mistake in Bids**

#### **a. Mistake Discovered Before Bid Opening**

A bidder may correct mistakes discovered before the time and date set for bid opening by withdrawing or correcting the bid.

#### **b. Mistakes Discovered Before Award**

1. In accordance with the Procurement Policy Board Rules, if a bidder alleges a mistake in bid after bid opening and before award, the bid may be corrected or withdrawn

upon written approval of the Agency Chief Contracting Officer and Agency Counsel if the following conditions are met:

- i) **Minor Informalities.** Minor informalities in bids are matters of form rather than substance evident from the bid document, or insignificant mistakes that can be waived or corrected without prejudice to other bidders; that is, the effect on price, quantity, quality, delivery, or contractual conditions is negligible. The Contracting Officer may waive such informalities or allow the bidder to correct them depending on which is in the best interest of the City.
- ii) **Mistakes Where Intended Correct bid is Evident.** If the mistake and the intended correct bid are clearly evident on the face of the bid document, the bid shall be corrected to the intended correct bid and may not be withdrawn.
- iii) **Mistakes Where Intended Correct Bid for Goods or Services is Not Evident.** A bidder for goods or services may be permitted to withdraw a low bid if:
  - a) a mistake is clearly evident on the face of the bid document but the intended correct bid is not similarly evident; or
  - b) the bidder submits proof of evidentiary value which clearly and convincingly demonstrates that a mistake was made.
- iv) **Mistakes Where Intended Correct Bid [for Construction] is Not Evident.** Mistakes may not be corrected after bid opening. A bidder [for construction,] may be permitted to withdraw a low bid where a unilateral error or mistake has been discovered in the bid and the Contracting Officer makes the following determination, which shall be approved by the ACCO:
  - a) the mistake was known or made known to the agency prior to [the awarding of the contract] supplier selection or within three days after the opening of the bid, whichever period is shorter;
  - b) the price bid was based on an error of such magnitude that enforcement would be unconscionable;
  - c) the bid was submitted in good faith and the bidder submits credible evidence that the mistake was a clerical error as opposed to a judgment error;
  - d) the error in bid is actually due to an unintentional and substantial arithmetic error or unintentional omission of a substantial quantity of work, labor, material, goods, or services made directly in the compilation of the bid, which unintentional arithmetic error or unintentional omission can be clearly shown by objective evidence drawn from inspection of the original work paper, documents, or materials used in the preparation of the bid sought to be withdrawn, and
  - e) it is possible to place the City in the same condition that had existed prior to the receipt of the bid.

Upon the approval of the ACCO, the bid may be withdrawn, and the bid bond or other security returned to the bidder. The contract shall either be awarded to the next lowest bidder or resolicited

pursuant to these Rules. Under no circumstances shall a bid be amended or revised to rectify the error or mistake.

Upon the approval of the ACCO, the bid may be withdrawn, and the bid bond or other security returned to the bidder. The contract shall either be awarded to the next lowest bidder or resolicited pursuant to these Rules. Under no circumstances shall a bid be amended or revised to rectify the error or mistake.

**c. Mistakes Discovered After Award**

Mistakes shall not be corrected after award of the contract except where the City Chief Procurement Officer subject to the approval of Corporation Counsel makes a written determination that it would be unconscionable not to allow the mistake to be corrected.

**17. Low Tie Bids**

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

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

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

**18. Rejection of Bids**

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

- (1)** The bidder fails to furnish any of the information required pursuant to this solicitation; or if
- (2)** The bidder is determined to be not responsible pursuant to the Procurement Policy Board Rules; or if
- (3)** The bid is determined to be non-responsive pursuant to the Procurement Policy Board Rules.

**b. Rejection of All Bids.** The Agency, upon written approval by the Agency Chief Contracting Officer, may reject all bids and may elect to resolicit bids in accordance with the Procurement Policy Board Rules or by other method authorized by such rules.

**19. Right to Appeal Determinations of Non-Responsiveness or Non-Responsibility and Right to Protest Solicitations and Award.**

The bidder has the right to appeal a determination of non-responsiveness or non-responsibility and has the right to protest a solicitation and award, pursuant to Sections 2-07(e), 2-08(k), (l), (m), and 2-10 respectively, of the Procurement Policy Board Rules.

**20. Affirmative Action and Equal Employment Opportunity**

This Invitation For Bids is subject to applicable provisions of Federal, State, and Local Laws and executive orders requiring affirmative action and equal employment opportunity.

**20a. Minority- or Woman-Owned Business and/or Locally-based Enterprise**

Bidders may obtain information concerning the availability of qualified and experienced Certified Minority- or Woman-Owned Business and/or Locally-Based Enterprise that can supply products or services for your organization needs by consulting the New York City Department of Small Business (SBS) Online Directory of Certified Business at [www.nyc.gov/sbs](http://www.nyc.gov/sbs). Applications to be a Certified Minority- or Woman-Owned Business and/or Locally-Based Enterprise may be obtained at the following SBS website [www.nyc.gov/sbs](http://www.nyc.gov/sbs).

**21. VENDEX Questionnaire**

Pursuant to **Administrative Code 6-116.2 and Section 2-08** of the rules of the Procurement Policy Board, bidders may be obligated to submit completed VENDEX questionnaires with this bid. Generally, if this bid is one hundred thousand dollars (\$100,000) or more, or if this bid when added to the sum total of all contracts, concessions and franchises the bidder has received from the City and any subcontracts received from City contractors over the passes twelve months, equals or exceeds one hundred thousand dollars (\$100,000) VENDEX questionnaires must be completed and submitted with this bid. Any questions concerning this requirement must be submitted to the Agency Chief Contracting Officer or the contact person for this contract. The Vendex Questionnaires consist of a Vendor Questionnaire and a Principal Questionnaire. The Vendor Questionnaire, the Principal Questionnaire and detailed instructions regarding the completion of the Vendex Questionnaires may be obtained and downloaded from <http://www.nyc.gov/vendex>. The Vendex Questionnaire **must be completed by the winning bidder and any subcontractors subsequent to award**, and submitted to the Department before any award of contract or subcontract may be made or before approval is given for a proposed sub-contractor. **Non-Compliance with these submission requirements may result in the disqualification of the Bid or vendor, disapproval of a sub-contract or, subsequent withdrawal of approval for the use of an approved sub-contractor, or the cancellation of the contract after its award.**

## **22. Subcontractor Approval Form**

The winning bidder shall provide a completed Subcontractor Approval Form (see page 83) for each proposed subcontractor at such time as the winning bidder shall propose to engage the services of the subcontractor. The winning bidder shall review the requirements in the section marked "Agency" on the Subcontractor Approval Form and provide all information as required. **Non-Compliance with these requirements may result in the disapproval of a sub-contract or the cancellation of the contract after its award.**

## **23. Audit by Comptroller**

The New York City Comptroller is charged with the audit of contracts in New York City. Any vendor who believes that there has been unfairness, favoritism or impropriety in the bid process should inform the Comptroller, Office of Contract Administration, One Centre Street, Room 835, New York, New York; telephone number (212) 669-7883.

## **24. Bid Security**

- a. Bid Bond. If required in the Schedule of Bonds and Liability Insurance in this Invitation For Bids, no bid will be received or considered which is not accompanied by a Bid Bond (in the form set forth herein) issued by a surety company which is authorized to do business in the State of New York.
- b. The Bid Bond shall insure the City of New York to the extent of not less than ten percent (**10%**) of the amount of the Bid Contract Price.
- c. In lieu of a Bid Bond, the bid may be accompanied by a deposit in approximately the sum of two percent (**2%**) of the amount of the Bid Contract Price. Such deposit shall consist of a certified check upon a state or national bank or trust company or a check of such bank or trust company signed by a duly authorized officer thereof, drawn to the City which the Comptroller shall approve as of equal value with the sum so required.
- d. The bid deposit, in whatever form, must not be enclosed in the envelope containing the bid, but must be submitted separately to the ACCO's representative upon presentation of the bid.
- e. The Bid Bond, or check, or cash as the case may be, shall assure the City of New York and the Agency of the adherence of the bidder to its bid and the execution of the contract, in form as annexed hereto, if its bid is accepted.

## **25. Performance Bond**

If required in the Schedule of Bonds and Liability Insurance in this Invitation For Bids (Schedule A), the successful bidder shall, prior to or at the time of the execution of the contract deliver to the City an executed bond in a form prescribed herein, and having as surety thereunder, such surety company or companies as are approved by the Comptroller, in the amount set forth in said Schedule of Bonds and Liability Insurance to secure the faithful performance and the completion of the contract.

## **26. Payment Bond**

If required in the Schedule of Bonds and Liability Insurance in this Invitation For Bids (Schedule A), the successful bidder shall, prior to or at the time of execution of the contract deliver to the City an executed bond in form prescribed herein, and having as surety thereunder, such surety company or companies as are approved by the Comptroller in the amount set forth in said Schedule of Bonds and Liability Insurance, as security for the payment for all persons performing Labor or furnishing materials in connection with the contract.

## **27. Deposits**

- a. In lieu of a performance or payment bond, the successful bidder may deposit with the Comptroller money or an obligation of the City of New York which the Comptroller shall approve as of equal value with the amount of the bond or bonds required in the Schedule of Bonds and Liability Insurance.
- b. Whenever the successful bidder deposits obligations of the City of New York in lieu of a performance or payment bond, the Comptroller may sell and use the proceeds thereof, for any purpose for which the principal or surety on such bond would be liable under the terms of the contract. If money is deposited with the Comptroller, the successful bidder shall not be entitled to receive interest on such money from the City.

### **Note: Deposits in Lieu of Bonds**

In lieu of a payment or performance bond, a bidder may deposit (a) cash in the form of a bank check or certified check payable to New York City Fire Department in the amount of one hundred percent (100%) of the bid price or (b) a letter of credit in the amount of one hundred percent (100%) of the contract bid price.

### **Payment and Performance Bonds**

Performance and Payment bonds are required only for construction contracts that are greater than Five Hundred Thousand Dollars (\$500,000.00). Each bond shall be for one hundred percent (100%) of the contract bid price.

## **28. Failure to Execute Contract**

In the event of failure of the successful bidder to execute the contract and furnish any required security and insurance, within ten (10) days after notice of the award of the contract, the deposit of the successful bidder or so much thereof as shall be applicable to the amount of the award made shall be retained by the City, and the successful bidder shall be liable for and hereby agrees to pay on demand the difference between the price bid and the price for which such contract shall be subsequently relet, including the cost of such reletting and less the amount of such deposit. No plea of mistake in such accepted bid shall be available to the bidder for the recovery of the deposit or as a defense to any action in an accepted bid.

## **29. Power of Attorney**

Attorneys in fact who sign performance or payment bonds must file with each bond a certified copy of their power of attorney to sign said bond or bonds.

### **30. Financial Qualifications**

- a. The Agency may require any bidder or prospective bidder to furnish all books of account, records, vouchers, statements or other information concerning the bidder's financial status for examination as may be required by the Agency to ascertain bidder's responsibility and capability to perform the contract.
- b. If the bidder fails or refuses to supply any of the documents or information set forth in paragraph (a) hereof or fails to comply with any of the requirements thereof, the Agency may reject the bid.

### **31. Bureau of Office Labor Services Information**

- a. Who Must File a Complete Employment Report - In accordance with Executive Order No. 50 (1980) and its implementing Regulations (E.O. 50), the filing of a completed Employment Report (ER) is a requirement of doing business with the City of New York if you meet all of the following conditions:
  - 1. you have been identified as the lowest bidder for a supply or service contract or your proposal for supplies or services has been accepted;
  - 2. your firm employs 50 or more people, and please note that
  - 3. suppliers, sub-contractors or vendors performing on the contract who meet conditions 2 and 3, also must file an ER if the subcontract value is greater than one hundred thousand dollars (\$100,000).

If you are the low bidder, an ER will be sent to you under separate cover.

- b. Who Must File A Less Than 50 Employees Certificate
  - 1. If you company or any of its facilities performing on the contract has fewer than 50 employees, although the contract value exceeds \$50,000, you need only submit a "Less Than 50 Employees Certificate".
  - 2. If there is a sub-contractor, supplier or vendor to the prime Contractor and any of its facilities performing on the contract has fewer than 50 employees, although the sub-contract value exceeds \$50,000, the subcontractor shall submit the "Less Than 50 Employees Certificate".

### **32. Labor Law and Living Wage Requirements**

The successful bidder will be required to comply strictly with all Federal, State and Local laws and regulations, including but not limited to providing on-the-job training opportunities and payment of prevailing wages, and in accordance with all requirements of Local Law §220 and Labor Law § 230 and Executive Order 102 (2007).

- I. For public works or building service contracts:*

- a. The successful bidder shall be required to enter into written agreements with subcontractors prior to the subcontractors commencing work under the contract, which shall include prevailing wage and supplement requirements.
- b. Compliance with the Labor Law prevailing wage and supplement requirements are material terms of the contract with the City, and in the event a Contractor is found liable for a violation of such requirements, the Contractor shall be liable to the City for all of its costs in enforcing such requirements.
- c. Contractors and subcontractors shall maintain standard sign-in and sign-out logs, or in the alternative, and subject to the approval of the ACCO, an equivalent electronic or biometric, and submit such logs and other payroll records to the Fire Department or the Comptroller upon request.
- d. Contractors and subcontractors shall pay their workers under the Contract by check. For all contractors in excess of one million dollars (\$1,000,000) and all subcontracts in excess of (\$750,000) such checks shall be generated by a payroll system (or an in-house system may be used, subject to the approval of the ACCO), and in either case, provide check stubs or other documentation to the employees at least once each month containing information sufficient to document compliance with the requirements of the Labor Law concerning prevailing wages and supplements.

***II. For contracts subject to the Living Wage Law:***

- a. The successful bidder shall be required to enter into written agreements with subcontractors prior to the subcontractors commencing work under the contract, which shall include provisions relating to wages, supplements, and health benefits required by the Living Wage Law.
- b. Compliance with the Living Wage Law as material terms of the contract with the City, and in the event a Contractor is found liable for a violation of such requirements, the Contractor shall be liable to the City for all of its costs in enforcing such requirements.
- c. Contractors and subcontractors shall maintain standard sign-in and sign-out logs, or in the alternative, and subject to the approval of the ACCO, an equivalent electronic or biometric, and submit such logs and other payroll records to the Fire Department or the Comptroller upon request.
- d. Contractors and subcontractors shall pay their workers under the Contract by check. For all contractors in excess of one million dollars (\$1,000,000) and all subcontracts in excess of (\$750,000) such checks shall be generated by a payroll system (or an in-house system may be used, subject to the approval of the ACCO), and in either case, provide check stubs or other documentation to the employees at least once each month containing information sufficient to document compliance with the requirements of the Living Wage Law concerning prevailing wages, supplements and health benefits.

***III. Failure to comply with the requirements of this article may be grounds for default and/or withholding payments due under the contract.***



**IV.** All prime contractors being awarded contracts subject to Prevailing Wage or Living Wage must complete and sign a pre-award statement concerning wage requirements. All subcontractors being considered for contracts subject to Prevailing Wage or Living Wage must complete and sign a pre-approval statement concerning wage requirements where the subcontract value exceeds \$250,000 as part of the subcontractor approval process. This requirement applies to all Prevailing Wage or Living Wage contract awards.

**33. Publicity**

- a.** The prior written approval of the Department is required before the Contractor or any of its employees, servants, agents, or independent contractors may, at any time, either during or after completion or termination of this Agreement, make any statement to the press of issue any material for publication through the media of communication bearing on the work performed or data collected under this agreement.
- b.** If the Contractor publishes a work dealing with any aspect of performance under this Agreement, or of the results and accomplishments attained in such performance, the Department shall have a royalty-free, nonexclusive and irrevocable license to reproduce, publish or otherwise use and to authorize others to use the publication.

## APPENDIX A

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

#### ARTICLE 1 - DEFINITIONS

##### Section 1.01 Definitions

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

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

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

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

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

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

F. “Comptroller” shall mean the Comptroller of the City of New York.

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

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

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

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

K. “Procurement Policy Board” or “PPB” shall mean the board established pursuant to Charter § 311 whose function is to establish comprehensive and consistent procurement policies and rules which have broad application throughout the City.

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

M. "State" shall mean the State of New York.

## **ARTICLE 2 - REPRESENTATIONS AND WARRANTIES**

### **Section 2.01 Procurement of Agreement**

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

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

### **Section 2.02 Conflicts of Interest**

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

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

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

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

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

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

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

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

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

**Section 2.03 Fair Practices**

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

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

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

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

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

#### **Section 2.04 VENDEX**

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

#### **Section 2.05 Political Activity**

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

#### **Section 2.06 Religious Activity**

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

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

As required by Admin. Code § 6-123, the Contractor will not engage in any unlawful discriminatory practice as defined in and pursuant to the terms of Title 8 of the City Administrative Code. The Contractor shall include a provision in any agreement with a first-level subcontractor performing services under this Agreement for an amount in excess of Fifty Thousand Dollars (\$50,000) that such subcontractor shall not engage in any such unlawful discriminatory practice.

## **Section 2.08 Bankruptcy and Reorganization**

In the event that the Contractor files for bankruptcy or reorganization under Chapter Seven or Chapter Eleven of the United States Bankruptcy Code, the Contractor shall disclose such action to the Department within seven (7) days of filing.

## **ARTICLE 3 - ASSIGNMENT AND SUBCONTRACTING**

### **Section 3.01 Assignment**

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

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

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

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

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

### **Section 3.02 Subcontracting**

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

Thousand Dollars (\$5,000). The Contractor must submit monthly reports to the Department indicating all such subcontractors. All subcontracts must be in writing.

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

C. All subcontracts shall contain provisions specifying that:

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

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

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

4. The subcontractor specifically agrees to be bound by Section 4.07 and Article 5 of this Appendix A and specifically agrees that the City may enforce such provisions directly against the subcontractor as if the City were a party to the subcontract.

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

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

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

City shall pay for services provided by the subcontractor in accordance with this Agreement prior to the effective date of revocation.

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

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

## **ARTICLE 4 - LABOR PROVISIONS**

### **Section 4.01 Independent Contractor Status**

The Contractor and the Department agree that the Contractor is an independent contractor and not an employee of the Department or the City. Accordingly, neither the Contractor nor its employees or agents will hold themselves out as, or claim to be, officers or employees of the City, or of any department, agency or unit of the City, by reason of this Agreement, and they will not, by reason of this Agreement, make any claim, demand or application to or for any right or benefit applicable to an officer or employee of the City, including, but not limited to, Workers' Compensation coverage, Disability Benefits coverage, Unemployment Insurance benefits, Social Security coverage or employee retirement membership or credit.

### **Section 4.02 Employees**

All persons who are employed by the Contractor and all consultants or independent contractors who are retained by the Contractor to perform services under this Agreement are neither employees of the City nor under contract with the City. The Contractor, and not the City, is responsible for their work, direction, compensation, and personal conduct while engaged under this Agreement. Nothing in the Agreement shall impose any liability or duty on the City for the acts, omissions, liabilities or obligations of the Contractor, or any officer, employee, or agent of the Contractor, or for taxes of any nature, or for any right or benefit applicable to an officer or employee of the City, including, but not limited to, Workers' Compensation coverage, Disability Benefits coverage, Unemployment Insurance benefits, Social Security coverage or employee retirement membership or credit. Except as specifically stated in this Agreement, nothing in this Agreement shall impose any liability or duty on the City to any person or entity.

### **Section 4.03 Removal of Individuals Performing Work**

The Contractor shall not have anyone perform work under this Agreement who is not competent, faithful and skilled in the work for which he or she shall be employed. Whenever the Commissioner shall inform the Contractor, in writing, that any individual is, in his or her opinion, incompetent, unfaithful, or unskilled, such individual shall no longer perform work under this Agreement. Prior to making a determination to direct a Contractor that an individual shall no longer perform work under this Agreement, the Commissioner shall provide the Contractor an opportunity to be heard on no less than five (5) Days' written notice. The Commissioner may direct the Contractor not to allow the individual from performing work under the Agreement pending the opportunity to be heard and the Commissioner's determination.



#### **Section 4.04 Minimum Wage**

Except for those employees whose minimum wage is required to be fixed pursuant to Sections 220 or 230 of the New York State Labor Law or by City Administrative Code § 6-109, all persons employed by the Contractor in the performance of this Agreement shall be paid, without subsequent deduction or rebate, unless expressly authorized by Law, not less than the minimum wage as prescribed by Law. Any breach of this Section shall be deemed a material breach of this Agreement.

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

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

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

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

3. There may be deducted from the amount payable to the Contractor by the City under this Agreement a penalty of Fifty Dollars (\$50) for each person for each calendar day during which such person was discriminated against or intimidated in violation of the provisions of this Agreement; and

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

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

#### **Section 4.06 Non-Discrimination: Admin. Code § 6-108**

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

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

B. It shall be unlawful for any person or any servant, agent or employee of any person, described in Paragraph A above, to ask, indicate or transmit, orally or in writing, directly or indirectly, the race, color, creed or religious affiliation of any person employed or seeking employment from such person, firm or corporation.

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

D. Any person, or the employee, manager or owner of or officer of such firm or corporation who shall violate any of the provisions of this Section shall, upon conviction thereof, be punished by a fine of not more than One Hundred Dollars (\$100) or by imprisonment for not more than thirty (30) Days, or both.

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

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

1. Will not discriminate unlawfully against any employee or applicant for employment because of race, creed, color, national origin, sex, age, disability, marital status, sexual orientation or citizenship status with respect to all employment decisions including, but not limited to, recruitment, hiring, upgrading, demotion, downgrading, transfer, training, rates of pay or other forms of compensation, layoff, termination, and all other terms and conditions of employment;

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

3. Will state in all solicitations or advertisements for employees placed by or on behalf of the Contractor that all qualified applicants will receive consideration for employment without unlawful discrimination based on race, color, creed, national origin, sex, age, disability, marital status, sexual orientation or citizenship status, and that it is an equal employment opportunity employer;

4. Will send to each labor organization or representative of workers with which it has a collective bargaining agreement or other contract or memorandum of understanding, written notification of its equal employment opportunity commitments under E.O. 50 and the rules and regulations promulgated thereunder;

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

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

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

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

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

D. The Contractor agrees to include the provisions of the foregoing Paragraphs in every subcontract or purchase order in excess of One Hundred Thousand Dollars (\$100,000) to which it becomes a party unless exempted by E.O. 50 and the rules and regulations promulgated thereunder, so that such provisions will be binding upon each subcontractor or vendor. The Contractor will take such action with respect to any subcontract or purchase order as may be directed by the Director of DLS as a means of enforcing such provisions including sanctions for noncompliance. A supplier of unfinished products to the Contractor needed to produce the item contracted for shall not be considered a subcontractor or vendor for purposes of this Paragraph.

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

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

## **ARTICLE 5 - RECORDS, AUDITS, REPORTS, AND INVESTIGATIONS**

### **Section 5.01 Books and Records**

The Contractor agrees to maintain separate and accurate books, records, documents and other evidence, and to utilize appropriate accounting procedures and practices, which sufficiently

and properly reflect all direct and indirect costs of any nature expended in the performance of this Agreement.

### **Section 5.02 Retention of Records**

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

### **Section 5.03 Inspection**

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

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

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

### **Section 5.04 Audit**

A. This Agreement and all books, records, documents, and other evidence required to be maintained or retained pursuant to this Agreement, including all vouchers or invoices presented for payment and the books, records, and other documents upon which such vouchers or invoices are based (e.g., reports, cancelled checks, accounts, and all other similar material), are

subject to audit by (i) the City, including the Comptroller, the Department, and the Department's Office of the Inspector General, (ii) the State, (iii) the federal government, and (iv) other persons duly authorized by the City. Such audits may include examination and review of the source and application of all funds whether from the City, the State, the federal government, private sources or otherwise.

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

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

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

#### **Section 5.05 No Removal of Records from Premises**

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

#### **Section 5.06 Electronic Records**

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

#### **Section 5.07 Investigations Clause**

A. The Contractor agrees to cooperate fully and faithfully with any investigation, audit or inquiry conducted by a State or City agency or authority that is empowered directly or by designation to compel the attendance of witnesses and to examine witnesses under oath, or conducted by the Inspector General of a governmental agency that is a party in interest to the transaction, submitted bid, submitted proposal, contract, lease, permit, or license that is the subject of the investigation, audit or inquiry.

B. 1. If any person who has been advised that his or her statement, and any information from such statement, will not be used against him or her in any subsequent criminal proceeding refuses to testify before a grand jury or other governmental agency or authority empowered directly or by designation to compel the attendance of witnesses and to examine witnesses under oath concerning the award of or performance under any transaction, agreement, lease, permit, contract, or license entered into with the City, or State, or any political subdivision or public authority thereof, or the Port Authority of

New York and New Jersey, or any local development corporation within the City, or any public benefit corporation organized under the Laws of the State, or;

2. If any person refuses to testify for a reason other than the assertion of his or her privilege against self-incrimination in an investigation, audit or inquiry conducted by a City or State governmental agency or authority empowered directly or by designation to compel the attendance of witnesses and to take testimony under oath, or by the Inspector General of the governmental agency that is a party in interest in, and is seeking testimony concerning the award of, or performance under, any transaction, agreement, lease, permit, contract, or license entered into with the City, the State, or any political subdivision thereof or any local development corporation within the City, then;

C. 1. The Commissioner or Agency Head whose agency is a party in interest to the transaction, submitted bid, submitted proposal, contract, lease, permit, or license shall convene a hearing, upon not less than five (5) Days written notice to the parties involved to determine if any penalties should attach for the failure of a person to testify.

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

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

1. The disqualification for a period not to exceed five (5) years from the date of an adverse determination for any person, or any entity of which such person was a member at the time the testimony was sought, from submitting bids for, or transacting business with, or entering into or obtaining any contract, lease, permit or license with or from the City; and/or

2. The cancellation or termination of any and all such existing City contracts, leases, permits or licenses that the refusal to testify concerns and that have not been assigned as permitted under this Agreement, nor the proceeds of which pledged, to an unaffiliated and unrelated institutional lender for fair value prior to the issuance of the notice scheduling the hearing, without the City incurring any penalty or damages on account of such cancellation or termination; monies lawfully due for goods delivered, work done, rentals, or fees accrued prior to the cancellation or termination shall be paid by the City.

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

1. The party's good faith endeavors or lack thereof to cooperate fully and faithfully with any governmental investigation or audit, including but not limited to the discipline, discharge, or disassociation of any person failing to testify, the production of

accurate and complete books and records, and the forthcoming testimony of all other members, agents, assignees or fiduciaries whose testimony is sought.

2. The relationship of the person who refused to testify to any entity that is a party to the hearing, including, but not limited to, whether the person whose testimony is sought has an ownership interest in the entity and/or the degree of authority and responsibility the person has within the entity.

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

4. The effect a penalty may have on an unaffiliated and unrelated party or entity that has a significant interest in an entity subject to penalties under Paragraph D above, provided that the party or entity has given actual notice to the Commissioner or Agency Head upon the acquisition of the interest, or at the hearing called for in Paragraph (C)(1) above gives notice and proves that such interest was previously acquired. Under either circumstance, the party or entity must present evidence at the hearing demonstrating the potential adverse impact a penalty will have on such person or entity.

#### F. Definitions

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

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

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

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

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

### **Section 5.08 Confidentiality**

A. The Contractor agrees to hold confidential, both during and after the completion or termination of this Agreement, all of the reports, information, or data, furnished to, or prepared, assembled or used by, the Contractor under this Agreement. The Contractor agrees that such reports, information, or data shall not be made available to any person or entity without the prior written approval of the Department. The Contractor agrees to maintain the confidentiality of such reports, information, or data by using a reasonable degree of care, and

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

B. The Contractor shall provide notice to the Department within three (3) days of the discovery by the Contractor of any breach of security, as defined in Admin. Code § 10-501(b), of any data, encrypted or otherwise, in use by the Contractor that contains social security numbers or other personal identifying information as defined in Admin. Code § 10-501 (“Personal Identifying Information”), where such breach of security arises out of the acts or omissions of the Contractor or its employees, subcontractors, or agents. Upon the discovery of such security breach, the Contractor shall take reasonable steps to remediate the cause or causes of such breach, and shall provide notice to the Department of such steps. In the event of such breach of security, without limiting any other right of the City, the City shall have the right to withhold further payments under this Agreement for the purpose of set-off in sufficient sums to cover the costs of notifications and/or other actions mandated by any Law, or administrative or judicial order, to address the breach, and including any fines or disallowances imposed by the State or federal government as a result of the disclosure. The City shall also have the right to withhold further payments hereunder for the purpose of set-off in sufficient sums to cover the costs of credit monitoring services for the victims of such a breach of security by a national credit reporting agency, and/or any other commercially reasonable preventive measure. The Department shall provide the Contractor with written notice and an opportunity to comment on such measures prior to implementation. Alternatively, at the City’s discretion, or if monies remaining to be earned or paid under this Agreement are insufficient to cover the costs detailed above, the Contractor shall pay directly for the costs, detailed above, if any.

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

D. The Contractor, and its officers, employees, and agents shall notify the Department, at any time either during or after completion or termination of this Agreement, of any intended statement to the press or any intended issuing of any material for publication in any media of communication (print, news, television, radio, Internet, etc.) regarding the services provided or the data collected pursuant to this Agreement at least twenty-four (24) hours prior to any statement to the press or at least five (5) business Days prior to the submission of the material for publication, or such shorter periods as are reasonable under the circumstances. The Contractor may not issue any statement or submit any material for publication that includes confidential information as prohibited by this Section 5.08.



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

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

## **ARTICLE 6 - COPYRIGHTS, PATENTS, INVENTIONS, AND ANTITRUST**

### **Section 6.01 Copyrights**

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

B. Any reports, documents, data, photographs, deliverables, and/or other materials provided pursuant to this Agreement (“Copyrightable Materials”) shall be considered “work-made-for-hire” within the meaning and purview of Section 101 of the United States Copyright Act, 17 U.S.C. § 101, and the City shall be the copyright owner thereof and of all aspects, elements and components thereof in which copyright protection might exist. To the extent that the Copyrightable Materials do not qualify as “work-made-for-hire,” the Contractor hereby irrevocably transfers, assigns and conveys exclusive copyright ownership in and to the Copyrightable Materials to the City, free and clear of any liens, claims, or other encumbrances. The Contractor shall retain no copyright or intellectual property interest in the Copyrightable Materials. The Copyrightable Materials shall be used by the Contractor for no purpose other than in the performance of this Agreement without the prior written permission of the City. The Department may grant the Contractor a license to use the Copyrightable Materials on such terms as determined by the Department and set forth in the license.

C. The Contractor acknowledges that the City may, in its sole discretion, register copyright in the Copyrightable Materials with the United States Copyright Office or any other government agency authorized to grant copyright registrations. The Contractor shall fully cooperate in this effort, and agrees to provide any and all documentation necessary to accomplish this.

D. The Contractor represents and warrants that the Copyrightable Materials: (i) are wholly original material not published elsewhere (except for material that is in the public domain); (ii) do not violate any copyright Law; (iii) do not constitute defamation or invasion of the right of privacy or publicity; and (iv) are not an infringement, of any kind, of the rights of any third party. To the extent that the Copyrightable Materials incorporate any non-original

material, the Contractor has obtained all necessary permissions and clearances, in writing, for the use of such non-original material under this Agreement, copies of which shall be provided to the City upon execution of this Agreement.

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

F. If the Contractor publishes a work dealing with any aspect of performance under this Agreement, or with the results of such performance, the City shall have a royalty-free, non-exclusive irrevocable license to reproduce, publish, or otherwise use such work for City governmental purposes.

### **Section 6.02 Patents and Inventions**

The Contractor shall promptly and fully report to the Department any discovery or invention arising out of or developed in the course of performance of this Agreement. If the services under this Agreement are supported by a federal grant of funds, the Contractor shall promptly and fully report to the federal government for the federal government to make a determination as to whether patent protection on such invention shall be sought and how the rights in the invention or discovery, including rights under any patent issued thereon, shall be disposed of and administered in order to protect the public interest.

### **Section 6.03 Pre-existing Rights**

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

### **Section 6.04 Antitrust**

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

## **ARTICLE 7 - INSURANCE**

### **Section 7.01 Agreement to Insure**

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

## **Section 7.02 Commercial General Liability Insurance**

A. The Contractor shall maintain Commercial General Liability Insurance covering the Contractor as Named Insured and the City as an Additional Insured in the amount of at least One Million Dollars (\$1,000,000) per occurrence. Such insurance shall protect the City and the Contractor from claims for property damage and/or bodily injury, including death that may arise from any of the operations under this Agreement. Coverage under this insurance shall be at least as broad as that provided by the most recently issued Insurance Services Office (“ISO”) Form CG 0001, and shall be "occurrence" based rather than “claims-made.”

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

## **Section 7.03 Professional Liability Insurance**

A. At the Department’s direction, if professional services are provided pursuant to this Agreement, the Contractor shall maintain and submit evidence of Professional Liability Insurance appropriate to the type(s) of such services to be provided under this Agreement in the amount of at least One Million Dollars (\$1,000,000) per claim. The policy or policies shall include an endorsement to cover the liability assumed by the Contractor under this Agreement arising out of the negligent performance of professional services or caused by an error, omission or negligent act of the Contractor or anyone employed by the Contractor.

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

C. Claims-made policies will be accepted for Professional Liability Insurance. All such policies shall have an extended reporting period option or automatic coverage of not less than two (2) years. If available as an option, the Contractor shall purchase extended reporting period coverage effective on cancellation or termination of such insurance unless a new policy is secured with a retroactive date, including at least the last policy year.

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

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

## **Section 7.05 Unemployment Insurance**

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

### **Section 7.06 Business Automobile Liability Insurance**

A. If vehicles are used in the provision of services under this Agreement, then the Contractor shall maintain Business Automobile Liability insurance in the amount of at least One Million Dollars (\$1,000,000) each accident combined single limit for liability arising out of ownership, maintenance or use of any owned, non-owned, or hired vehicles to be used in connection with this Agreement. Coverage shall be at least as broad as the most recently issued ISO Form CA0001.

B. If vehicles are used for transporting hazardous materials, the Business Automobile Liability Insurance shall be endorsed to provide pollution liability broadened coverage for covered vehicles (endorsement CA 99 48) as well as proof of MCS-90.

### **Section 7.07 General Requirements for Insurance Coverage and Policies**

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

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

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

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

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

### **Section 7.08 Proof of Insurance**

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

1. C-105.2 Certificate of Workers’ Compensation Insurance;
2. U-26.3 -- State Insurance Fund Certificate of Workers’ Compensation Insurance;
3. Request for WC/DB Exemption (Form CE-200);
4. Equivalent or successor forms used by the New York State Workers’ Compensation Board; or

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

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

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

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

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

F. In the event the Contractor receives notice, from an insurance company or other person, that any insurance policy required under this Article shall expire or be cancelled or terminated for any reason, the Contractor shall immediately forward a copy of such notice to both the Commissioner [insert Agency name and appropriate address], and the New York City Comptroller, Attn: Office of Contract Administration, Municipal Building, One Centre Street, Room 1005, New York, New York 10007.

### **Section 7.09 Miscellaneous**

A. Whenever notice of loss, damage, occurrence, accident, claim or suit is required under a general liability policy maintained in accordance with this Article, the Contractor shall provide the insurer with timely notice thereof on behalf of the City. Such notice shall be given even where the Contractor may not have coverage under such policy (for example, where one of Contractor's employees was injured). Such notice shall expressly specify that "this notice is being given on behalf of the City of New York as Additional Insured" and contain the following information: the number of the insurance policy; the name of the named insured; the date and location of the damage, occurrence, or accident; the identity of the persons or things injured, damaged, or lost; and the title of the claim or suit, if applicable. The Contractor shall simultaneously send a copy of such notice to the City of New York c/o Insurance Claims Specialist, Affirmative Litigation Division, New York City Law Department, 100 Church Street, New York, New York 10007. If the Contractor fails to comply with the requirements of this paragraph, the Contractor shall indemnify the City for all losses, judgments, settlements and

expenses, including reasonable attorneys' fees, arising from an insurer's disclaimer of coverage citing late notice by or on behalf of the City.

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

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

D. The Contractor waives all rights against the City, including its officials and employees for any damages or losses that are covered under any insurance required under this Article (whether or not such insurance is actually procured or claims are paid thereunder) or any other insurance applicable to the operations of the Contractor and/or its subcontractors in the performance of this Agreement.

E. In the event the Contractor requires any subcontractor to procure insurance with regard to any operations under this Agreement and requires such subcontractor to name the Contractor as an additional insured under such insurance, the Contractor shall ensure that such entity also name the City, including its officials and employees, as an additional insured with coverage at least as broad as the most recently issued ISO form CG 20 26.

## **ARTICLE 8 - PROTECTION OF PERSONS AND PROPERTY AND INDEMNIFICATION**

### **Section 8.01 Reasonable Precautions**

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

### **Section 8.02 Protection of City Property**

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

### **Section 8.03 Indemnification**

The Contractor shall defend, indemnify and hold the City, its officers and employees harmless from any and all claims (even if the allegations of the lawsuit are without merit) or judgments for damages on account of any injuries or death to any person or damage to any property and from costs and expenses to which the City, its officers and employees may be subjected or which it may suffer or incur allegedly arising out of or in connection with any operations of the Contractor and/or its subcontractors to the extent resulting from any negligent act of commission or omission, any intentional tortious act, or failure to comply with the

provisions of this Agreement or of the Laws. Insofar as the facts or Law relating to any claim would preclude the City from being completely indemnified by the Contractor, the City shall be partially indemnified by the Contractor to the fullest extent permitted by Law.

#### **Section 8.04 Infringement Indemnification**

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

#### **Section 8.05 Indemnification Obligations Not Limited By Insurance Obligation**

The indemnification provisions set forth in this Article shall not be limited in any way by the Contractor's obligations to obtain and maintain insurance as provided in this Agreement.

#### **Section 8.06 Actions By or Against Third Parties**

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

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

#### **Section 8.07 Withholding of Payments**

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

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

C. The City shall not, however, impose a setoff in the event that an insurance company that provided liability insurance pursuant to Article 7 above has accepted the City's tender of the claim or action without a reservation of rights.

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

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

### **Section 8.08 No Third Party Rights**

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

## **ARTICLE 9 - CONTRACT CHANGES**

### **Section 9.01 Contract Changes**

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

### **Section 9.02 Changes Through Fault of Contractor**

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

## **ARTICLE 10 - TERMINATION, DEFAULT, AND REDUCTIONS IN FUNDING**

### **Section 10.01 Termination by the City Without Cause**

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

B. If the City terminates this Agreement pursuant to this Section, the following provisions apply. The City shall not incur or pay any further obligation pursuant to this Agreement beyond the termination date set by the City pursuant to Section 10.05. The City shall pay for services provided in accordance with this Agreement prior to the termination date. In addition, any obligation necessarily incurred by the Contractor on account of this Agreement prior to receipt of notice of termination and falling due after the termination date shall be paid by the City in accordance with the terms of this Agreement. In no event shall such obligation be construed as including any lease or other occupancy agreement, oral or written, entered into between the Contractor and its landlord.



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

A. This Agreement is funded in whole or in part by funds secured from the federal, State and/or City governments. Should there be a reduction or discontinuance of such funds by action of the federal, State and/or City governments, the City shall have, in its sole discretion, the right to terminate this Agreement in whole or in part, or to reduce the funding and/or level of services of this Agreement caused by such action by the federal, State and/or City governments, including, in the case of the reduction option, but not limited to, the reduction or elimination of programs, services or service components; the reduction or elimination of contract-reimbursable staff or staff-hours, and corresponding reductions in the budget of this Agreement and in the total amount payable under this Agreement. Any reduction in funds pursuant to this Section shall be accompanied by an appropriate reduction in the services performed under this Agreement.

B. In the case of the reduction option referred to in Paragraph A, above, any such reduction shall be effective as of the date set forth in a written notice thereof to the Contractor, which shall be not less than thirty (30) Days from the date of such notice. Prior to sending such notice of reduction, the Department shall advise the Contractor that such option is being exercised and afford the Contractor an opportunity to make within seven (7) Days any suggestion(s) it may have as to which program(s), service(s), service component(s), staff or staff-hours might be reduced or eliminated, provided, however, that the Department shall not be bound to utilize any of the Contractor's suggestions and that the Department shall have sole discretion as to how to effectuate the reductions.

C. If the City reduces funding pursuant to this Section, the following provisions apply. The City shall pay for services provided in accordance with this Agreement prior to the reduction date. In addition, any obligation necessarily incurred by the Contractor on account of this Agreement prior to receipt of notice of reduction and falling due after the reduction date shall be paid by the City in accordance with the terms of this Agreement. In no event shall such obligation be construed as including any lease or other occupancy agreement, oral or written, entered into between the Contractor and its landlord.

D. To the extent that the reduction in public funds is a result of the State determining that the Contractor may receive medical assistance funds pursuant to title eleven of article five of the Social Services Law to fund the services contained within the scope of a program under this Agreement, then the notice and effective date provisions of this section shall not apply, and the Department may reduce such public funds authorized under this Agreement by informing the Contractor of the amount of the reduction and revising attachments to this agreement as appropriate.

## **Section 10.03 Contractor Default**

A. The City shall have the right to declare the Contractor in default:

1. Upon a breach by the Contractor of a material term or condition of this Agreement, including unsatisfactory performance of the services;

2. Upon insolvency or the commencement of any proceeding by or against the Contractor, either voluntarily or involuntarily, under the Bankruptcy Code or relating to the insolvency, receivership, liquidation, or composition of the Contractor for the benefit of creditors;

3. If the Contractor refuses or fails to proceed with the services under the Agreement when and as directed by the Commissioner;

4. If the Contractor or any of its officers, directors, partners, five percent (5%) or greater shareholders, principals, or other employee or person substantially involved in its activities are indicted or convicted after execution of the Agreement under any state or federal law of any of the following:

a. a criminal offense incident to obtaining or attempting to obtain or performing a public or private contract;

b. fraud, embezzlement, theft, bribery, forgery, falsification, or destruction of records, or receiving stolen property;

c. a criminal violation of any state or federal antitrust law;

d. violation of the Racketeer Influence and Corrupt Organization Act, 18 U.S.C. § 1961 et seq., or the Mail Fraud Act, 18 U.S.C. § 1341 et seq., for acts in connection with the submission of bids or proposals for a public or private contract;

e. conspiracy to commit any act or omission that would constitute grounds for conviction or liability under any statute described in subparagraph (d) above; or

f. an offense indicating a lack of business integrity that seriously and directly affects responsibility as a City vendor.

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

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

B. The right to declare the Contractor in default shall be exercised by sending the Contractor a written notice of the conditions of default, signed by the Commissioner, setting forth the ground or grounds upon which such default is declared (“Notice to Cure”). The Contractor shall have ten (10) Days from receipt of the Notice to Cure or any longer period that is set forth in the Notice to Cure to cure the default. The Commissioner may temporarily suspend services under the Agreement pending the outcome of the default proceedings pursuant to this Section.

C. If the conditions set forth in the Notice to Cure are not cured within the period set forth in the Notice to Cure, the Commissioner may declare the Contractor in default pursuant to this Section. Before the Commissioner may exercise his or her right to declare the Contractor in default, the Commissioner shall give the Contractor an opportunity to be heard upon not less than five (5) business days notice. The Commissioner may, in his or her discretion, provide for such

opportunity to be in writing or in person. Such opportunity to be heard shall not occur prior to the end of the cure period but notice of such opportunity to be heard may be given prior to the end of the cure period and may be given contemporaneously with the Notice to Cure.

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

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

#### **Section 10.04 Force Majeure**

A. For purposes of this Agreement, a force majeure event is an act or event beyond the control and without any fault or negligence of the Contractor (“Force Majeure Event”). Such events may include, but are not limited to, fire, flood, earthquake, storm or other natural disaster, civil commotion, war, terrorism, riot, and labor disputes not brought about by any act or omission of the Contractor.

B. In the event the Contractor cannot comply with the terms of the Agreement (including any failure by the Contractor to make progress in the performance of the services) because of a Force Majeure Event, then the Contractor may ask the Commissioner to excuse the nonperformance and/or terminate the Agreement. If the Commissioner, in his or her reasonable discretion, determines that the Contractor cannot comply with the terms of the Agreement because of a Force Majeure Event, then the Commissioner shall excuse the nonperformance and may terminate the Agreement. Such a termination shall be deemed to be without cause.

C. If the City terminates the Agreement pursuant to this Section, the following provisions apply. The City shall not incur or pay any further obligation pursuant to this Agreement beyond the termination date. The City shall pay for services provided in accordance with this Agreement prior to the termination date. Any obligation necessarily incurred by the Contractor on account of this Agreement prior to receipt of notice of termination and falling due after the termination date shall be paid by the City in accordance with the terms of this Agreement. In no event shall such obligation be construed as including any lease or other occupancy agreement, oral or written, entered into between the Contractor and its landlord.

#### **Section 10.05 Procedures for Termination**

A. The Department and/or the City shall give the Contractor written notice of any termination of this Agreement. Such notice shall specify the applicable provision(s) under which

the Agreement is terminated and the effective date of the termination. Except as otherwise provided in this Agreement, the notice shall comply with the provisions of this Section. For termination without cause, the effective date of the termination shall not be less than ten (10) Days from the date the notice is personally delivered, or fifteen (15) Days from the date the notice is either sent by certified mail, return receipt requested, or sent by fax and deposited in a post office box regularly maintained by the United States Postal Service in a postage pre-paid envelope. In the case of termination for default, the effective date of the termination shall be as set forth above for a termination without cause or such earlier date as the Commissioner may determine. If the City terminates the Agreement in part, the Contractor shall continue the performance of the Agreement to the extent not terminated.

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

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

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

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

4. Submitting to the Department, within ninety (90) Days, a final statement and report relating to the Agreement. The report shall be made by a certified public accountant or a licensed public accountant; and

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

#### **Section 10.06 Miscellaneous Provisions**

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

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

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

## **ARTICLE 11 - PROMPT PAYMENT AND ELECTRONIC FUNDS TRANSFER**

### **Section 11.01 Prompt Payment**

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

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

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

### **Section 11.02 Electronic Funds Transfer**

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

B. The Agency Head may waive the application of the requirements of this Section to payments on contracts entered into pursuant to Charter § 315. In addition, the commissioner of the Department of Finance and the Comptroller may jointly issue standards pursuant to which the Agency may waive the requirements of this Section for payments in the following circumstances: (i) for individuals or classes of individuals for whom compliance imposes a hardship; (ii) for classifications or types of checks; or (iii) in other circumstances as may be necessary in the best interest of the City.

C. This Section is applicable to contracts valued at Twenty-Five Thousand Dollars (\$25,000) and above.

## **ARTICLE 12 - CLAIMS**

### **Section 12.01 Choice of Law**

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

### **Section 12.02 Jurisdiction and Venue**

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

### **Section 12.03 Resolution of Disputes**

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

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

2. For construction and construction-related services this Section shall apply only to disputes about the scope of work delineated by the Agreement, the interpretation of Agreement documents, the amount to be paid for extra work or disputed work performed in connection with the Agreement, the conformity of the Contractor's work to the Agreement, and the acceptability and quality of the Contractor's work; such disputes arise when the City Engineer, City Resident Engineer, City Engineering Audit Officer, or other designee of the Agency Head makes a determination with which the Contractor disagrees. For construction, this Section shall not apply to termination of the Agreement for cause or other than for cause.

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

C. During such time as any dispute is being presented, heard, and considered pursuant to this Section, the Agreement terms shall remain in full force and effect and, unless

otherwise directed by the ACCO or Engineer, the Contractor shall continue to perform work in accordance with the Agreement and as directed by the ACCO or City Engineer, City Resident Engineer, City Engineering Audit Officer, or other designee of the Agency Head. Failure of the Contractor to continue the work as directed shall constitute a waiver by the Contractor of any and all claims being presented pursuant to this Section and a material breach of contract.

D. Presentation of Dispute to Agency Head.

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

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

3. Agency Head Determination. Within thirty (30) Days after the receipt of all materials and information, or such longer time as may be agreed to by the parties, the Agency Head shall make his or her determination and shall deliver or send a copy of such

determination to the Contractor and ACCO and, in the case of construction or construction-related services, the City Engineer, City Resident Engineer, City Engineering Audit Officer, or other designee of the Agency Head, together with a statement concerning how the decision may be appealed.

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

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

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

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

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

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



has expired. In compromising or adjusting any claim hereunder, the Comptroller may not revise or disregard the terms of the Agreement.

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

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

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

3. a person with appropriate expertise who is not an employee of the City. This person shall be selected by the presiding administrative law judge from a prequalified panel of individuals, established, and administered by OATH, with appropriate background to act as decision-makers in a dispute. Such individuals may not have a contract or dispute with the City or be an officer or employee of any company or organization that does, or regularly represent persons, companies, or organizations having disputes with the City.

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

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

2. Agency Response. Within thirty (30) Days of receipt of the petition by the Corporation Counsel, the Agency shall respond to the statement of the Contractor and make available to the CDRB all material it submitted to the Agency Head and Comptroller. Three complete copies of the Agency response shall be submitted to the CDRB at OATH’s offices and one to the Contractor. Extensions of time for submittal of

the Agency response shall be given as necessary upon a showing of good cause or, upon the consent of the parties, for an initial period of up to thirty (30) Days.

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

4. CDRB Determination. Within forty-five (45) Days of the conclusion of all submissions and oral arguments, the CDRB shall render a decision resolving the dispute. In an unusually complex case, the CDRB may render its decision in a longer period of time, not to exceed ninety (90) Days, and shall so advise the parties at the commencement of this period. The CDRB's decision must be consistent with the terms of this Agreement. Decisions of the CDRB shall only resolve matters before the CDRB and shall not have precedential effect with respect to matters not before the CDRB.

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

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

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

#### **Section 12.04 Claims and Actions**

A. Any claim against the City or Department based on this Agreement or arising out of this Agreement that is not subject to dispute resolution under the PPB Rules or this Agreement shall not be made or asserted in any legal proceeding, unless the Contractor shall have strictly complied with all requirements relating to the giving of notice and of information with respect to such claims as provided in this Agreement.

B. No action shall be instituted or maintained on any such claims unless such action shall be commenced within six (6) months after the date of filing with the Comptroller of the certificate for the final payment under this Agreement, or within six (6) months of the termination or expiration of this Agreement, or within six (6) months after the accrual of the cause of action, whichever first occurs.

#### **Section 12.05 No Claim Against Officers, Agents or Employees**

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

#### **Section 12.06 General Release**

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

#### **Section 12.07 No Waiver**

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

### **ARTICLE 13 - APPLICABLE LAWS**

#### **Section 13.01 PPB Rules**

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

#### **Section 13.02 All Legal Provisions Deemed Included**

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

### **Section 13.03 Severability / Unlawful Provisions Deemed Stricken**

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

### **Section 13.04 Compliance With Laws**

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

### **Section 13.05 Americans with Disabilities Act (ADA)**

A. This Agreement is subject to the provisions of Subtitle A of Title II of the Americans with Disabilities Act of 1990, 42 U.S.C. § 12131 et seq. (“ADA”) and regulations promulgated pursuant thereto, see 28 CFR Part 35. The Contractor shall not discriminate against an individual with a disability, as defined in the ADA, in providing services, programs, or activities pursuant to this Agreement. If directed to do so by the Department to ensure the Contractor’s compliance with the ADA during the term of this Agreement, the Contractor shall prepare a plan (“Compliance Plan”) which lists its program site(s) and describes in detail, how it intends to make the services, programs and activities set forth in the scope of services herein readily accessible and usable by individuals with disabilities at such site(s). In the event that the program site is not readily accessible and usable by individuals with disabilities, contractor shall also include in the Compliance Plan, a description of reasonable alternative means and methods that result in making the services, programs or activities provided under this Agreement, readily accessible to and usable by individuals with disabilities, including but not limited to people with visual, auditory or mobility disabilities. The Contractor shall submit the Compliance Plan to the ACCO for review within ten (10) Days after being directed to do so and shall abide by the Compliance Plan and implement any action detailed in the Compliance Plan to make the services, programs, or activities accessible and usable by the disabled.

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

### **Section 13.06 Voter Registration**

A. Participating Agencies. Pursuant to Charter § 1057-a, if this Agreement is with a participating City agency and the Contractor has regular contact with the public in the daily administration of its business, the Contractor must comply with the requirements of this Section. The participating City agencies are: the Administration for Children’s Services; the City Clerk; the Civilian Complaint Review Board; the Commission on Human Rights; Community Boards; the Department of Small Business Services; the Department of Citywide Administrative Services; the Department of Consumer Affairs; the Department of Correction; the Department of Environmental Protection; the Department of Finance; the Department of Health and Mental Health; the Department of Homeless Services; the Department of Housing Preservation and

Development; the Department of Parks and Recreation; the Department of Probation; the Taxi and Limousine Commission; the Department of Transportation; and the Department of Youth and Community Development.

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

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

2. The Contractor shall also include a voter registration form with any Contractor communication sent through the United States mail for the purpose of supplying clients with materials for application, renewal, or recertification for services and change of address relating to such services. If forms written in Spanish or Chinese are not provided in such mailing, the Contractor shall provide such forms upon the Department's request.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

b. display any political preference or party allegiance;

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

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

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

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

### **Section 13.07 Participation in an International Boycott**

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

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

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

### **Section 13.08 MacBride Principles**

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

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

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

### **Section 13.09 Access to Public Health Insurance Coverage Information**

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

B. Applicability to Certain Contractors. This Section shall be applicable to a Contractor operating pursuant to an Agreement which (i) is in excess of \$250,000 and (ii) requires such Contractor to supply individuals with a written application for, or written renewal or recertification of services, or request for change of address form in the daily administration of its contractual obligation to such participating City agency. "Contractors" to whom this Section applies shall be deemed to include subcontractors if the subcontract requires the subcontractor to supply individuals with a written application for, or written renewal or recertification of services, or request for change of address form in the daily administration of the subcontractor's contractual obligation.

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

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

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

3. The Contractor will provide an opportunity for an individual requesting a written application for services, renewal or recertification for services or change of address form relating to the provision of services via the Internet to request a pamphlet, and will provide such pamphlet by United States mail or an Internet address where such pamphlet may be viewed or downloaded, to any person who indicates via the Internet that they wish to be sent a pamphlet.

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

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

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

### **Section 13.10 Distribution of Personal Identification Materials**

A. Participating Agencies. Pursuant to City Executive Order No. 150 of 2011 ("E.O. 150"), if this Agreement is with a participating City agency and the Contractor has regular



contact with the public in the daily administration of its business, the Contractor must comply with the requirements of this Section. The participating City agencies are: Administration for Children's Services, Department of Consumer Affairs, Department of Correction, Department of Health and Mental Hygiene, Department of Homeless Services, Department of Housing Preservation and Development, Human Resources Administration, Department of Parks and Recreation, Department of Probation, and Department of Youth and Community Development.

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

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

## **ARTICLE 14 - MISCELLANEOUS PROVISIONS**

### **Section 14.01 Conditions Precedent**

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

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

### **Section 14.02 Merger**

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

### **Section 14.03 Headings**

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

### **Section 14.04 Notice**

A. The Contractor and the Department hereby designate the business addresses specified at the beginning of this Agreement as the places where all notices, directions, or communications from one such party to the other party shall be delivered, or to which they shall be mailed. Either party may change its notice address at any time by an instrument in writing executed and acknowledged by the party making such change and delivered to the other party in the manner as specified below.

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

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

**AFFIRMATION**

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

Full name of Proposer or Bidder *[below]*

Address \_\_\_\_\_

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

**CHECK ONE BOX AND INCLUDE APPROPRIATE NUMBER:**

- A - Individual or Sole Proprietorships

SOCIAL SECURITY NUMBER \_\_\_\_\_

- B - Partnership, Joint Venture or other unincorporated organization

EMPLOYER IDENTIFICATION NUMBER \_\_\_\_\_

- C - Corporation

EMPLOYER IDENTIFICATION NUMBER \_\_\_\_\_

By \_\_\_\_\_

Signature

\_\_\_\_\_  
Title

If a corporation place seal here

Must be signed by an officer or duly authorized representative.

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

**CERTIFICATION BY BROKER**

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

**CERTIFICATION BY BROKER**

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

\_\_\_\_\_  
[Name of broker (typewritten)]

\_\_\_\_\_  
[Address of broker (typewritten)]

\_\_\_\_\_  
[Signature of authorized officer of broker]

\_\_\_\_\_  
[Name of authorized officer (typewritten)]

\_\_\_\_\_  
[Title of authorized officer (typewritten)]

\_\_\_\_\_  
[Contact Phone Number for Broker (typewritten)]

\_\_\_\_\_  
[Email Address of Broker (typewritten)]

Sworn to before me this  
\_\_\_\_ day of \_\_\_\_\_, 201\_

\_\_\_\_\_  
NOTARY PUBLIC

**AGREEMENT**

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This agreement made and entered into as of the \_\_\_\_\_ day of \_\_\_\_\_ 20\_\_\_\_\_, by and between the Fire Department Agency Chief Contracting Officer on behalf of the City of New York ("Fire Department Chief Contracting Officer") and \_\_\_\_\_ ("Contractor") having offices located at \_\_\_\_\_.

This Agreement consists of the Advertisement and proposal for Bids, the Information for Bidders, The Agreement, Appendix "A", the Specifications, the Bid Documents, all addenda issued by the Commissioner prior to the receipt of Bids, the Notice of Award, the Notice to Proceed with the work, and all provisions required by law to be inserted into this Agreement, whether actually inserted or not.

Each party has full power and authority to enter into and perform this Agreement, and the persons authorized and empowered to enter into this Agreement. Each party further acknowledges that it has read the Agreement, understands it, and agrees to be bound by it.

The Fire Department Agency Chief Contracting Officer on behalf of the City of New York, and the Contractor have executed this Agreement in triplicate, one part of which is to remain with the Fire Department Agency Chief Contracting Officer, one other to be filed with the Comptroller of the City, and the third to be delivered to the Contractor.

**THE CITY OF NEW YORK**

By \_\_\_\_\_  
Fire Dept. Agency Chief Contracting Officer

\_\_\_\_\_  
(Name of Contractor)

By \_\_\_\_\_  
(Member of Firm or Officer of Corporation)

(Where Contractor is a Corporation, add)

Attest: \_\_\_\_\_  
Secretary

(Seal)

**AGREEMENT**

**Acknowledgement by Agency Chief Contracting Officer**

State of New York  
County of Kings, ss:

On this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_ before me personally came ROBERT L. SCOTT to me known and known to me to be the Agency Chief Contracting Officer of the Fire Department of the City of New York, the person described as such in and who as such executed the foregoing instrument and he acknowledged to me that he executed the same as Agency Chief Contracting Officer for the purposes therein mentioned.

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

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**AGREEMENT**

**Acknowledgement by Corporation**

State of \_\_\_\_\_

City of \_\_\_\_\_, ss:

On this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_ before me personally came \_\_\_\_\_ who being by me duly sworn, did depose and say that s/he resides in the City of \_\_\_\_\_; that s/he is the \_\_\_\_\_ of the \_\_\_\_\_ the corporation described in and which executed the foregoing instrument; that he knows the seal of said corporation; that the seal affixed to the said instrument is such corporate seal; that it was so affixed by order of the Board of Directors of said corporation; and that he signed his/her name thereto by like order.

\_\_\_\_\_  
Notary public or Commissioner of Deeds

**Acknowledgement by Individual**

State of \_\_\_\_\_

City of \_\_\_\_\_, ss:

On this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_\_ before me personally came \_\_\_\_\_ to me know and known to me to be the same person described and who executed the foregoing instrument and he acknowledged to me that he executed the same for the purposes therein mentioned.

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

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**Acknowledgements by Partnership**

State of \_\_\_\_\_

City of \_\_\_\_\_, ss:

On this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_\_ before me personally came \_\_\_\_\_ to me known and known to me to be a member of \_\_\_\_\_ for firm described in and which executed the foregoing instrument and he acknowledged to me that s/he subscribed the name of said firm thereto on behalf of said firm for the purposes therein mentioned.

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

**AGREEMENT**

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**AUTHORITY**

**BUDGET DIRECTORS CERTIFICATE NO.....DATED**

**APPROPRIATION**

**COMMISSIONER'S CERTIFICATE**

In conformity with the provisions of Section 93-C-3.0 of the Administrative Code of the City of New York, it is hereby certified that the estimated cost of the work, materials, and supplies required by the within contract, amounting to \_\_\_\_\_

\_\_\_\_\_dollars (\$\_\_\_\_\_) is chargeable to the fund of the Department of Fire, entitled.

Code, \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

I hereby certify that the specifications contained herein comply with the terms and conditions of the...**BUDGET.**

\_\_\_\_\_  
Agency Chief Contracting Officer

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**COMPTROLLER'S CERTIFICATE**

The City of New York, \_\_\_\_\_, 20\_\_\_\_\_

In pursuance of the provisions of section 93-C-3.0 of the Administrative Code of the City of New York, I hereby certify that there remains unapplied and unexpended a balance of the above mentioned fund applicable to this contract sufficient to pay the estimated expense of executing the same.

viz:\$\_\_\_\_\_

\_\_\_\_\_  
Comptroller



**PART III - BID SUBMISSION DOCUMENTS**

**PART III - BID SUBMISSION DOCUMENTS**  
**BID PRICE SUBMISSION**

**SECTION I**

**NOTE TO BIDDERS: FAILURE TO COMPLETE THIS SECTION IN DETAIL WILL  
RESULT IN REJECTION OF YOUR BID.**

1. **THE UNDERSIGNED** agrees, if this bid is accepted, that it will, within 10 days after receipt of notice of award, furnish certificates of insurance as may be required, execute the Agreement set forth in this Competitive Sealed Bid and will proceed, when directed to do so, with the work required hereunder in strict compliance with the terms and conditions set forth in this Competitive Sealed Bid **AT THE FOLLOWING BID PRICE:**

**TOTAL BID PRICE:** \_\_\_\_\_

(Amount in words) \_\_\_\_\_

\_\_\_\_\_ dollars AND

\_\_\_\_\_ cents.

**NOTE: In case of discrepancy between the amount in figures and the amount in words the lesser amount will apply.**

2. **THE UNDERSIGNED** hereby certifies to the truth and accuracy of all figures and answers contained in the documentation submitted with the bid, and authorizes the Department to make any necessary examination of the books of account, records and vouchers of the bidder to determine its responsibility.

3. **THE UNDERSIGNED** hereby agrees that the Provisions, re: MacBride Principles, constitute material conditions of this contract.

Bidder (Print) \_\_\_\_\_

By \_\_\_\_\_

(Signature of Person Authorized to sign this Bid)

\_\_\_\_\_  
(Type name and title, if any)

attest:

(Corporation Seal)

\_\_\_\_\_  
(Secretary of Corporate Bidder)

# FIRE DEPARTMENT OF THE CITY OF NEW YORK

## PRICE SCHEDULE FOR THE REUPHOLSTERING OF FIRE DEPARTMENT VEHICLE SEATS

**PIN NO: 057130001172**

**Year 1**

<b>Vehicle Seats</b>	<b>Part Number</b>	<b>Size of Seat</b>	<b>Estimated Annual Quantities (A)</b>	<b>Price Per Seat (B)</b>	<b>Total Amount (C) (A) X (B) = (C)</b>
OFFICERS SEAT BOTTOM OR BACK CUSHION (To be covered with Cordura® Nylon 1800 Denier)	12JS123R OR 12JS005D	44" X 16"	40	\$ _____	\$ _____
MACK DRIVERS SEAT BOTTOM OR BACK CUSHION (To be covered with Cordura® Nylon 1800 Denier)	12JS120R	22" X 21"	4	\$ _____	\$ _____
SMALL JUMP SEAT (To be covered with Cordura® Nylon 1800 Denier)	12JS126R	14" X 12"	20	\$ _____	\$ _____
JUMP SEAT CUSHION (To be covered with Cordura® Nylon 1800 Denier)	12JS126RHD	17" X 14"	400	\$ _____	\$ _____
SEAGRAVE BUCKET SEATS BACK OR BOTTOM (To be covered with Cordura® Nylon 1800 Denier)	12JS005R OR 160964529529NR	19" X 30"	50	\$ _____	\$ _____
BOSTROM SEATS BACK OR BOTTOM (To be covered with Cordura® Nylon 1800 Denier)	12JS130R OR 160963529529R	22" X 21"	100	\$ _____	\$ _____

# FIRE DEPARTMENT OF THE CITY OF NEW YORK

## PRICE SCHEDULE FOR THE REUPHOLSTERING OF FIRE DEPARTMENT VEHICLE SEATS

**PIN NO: 057130001172**

JUMP SEATS BACK REST (To be covered with Cordura® Nylon 1800 Denier)	12JS108R	17" X 6"	200	\$	\$
MACK LARGE SEAT BACK OR BOTTOM (To be covered with Cordura® Nylon 1800 Denier)	RESC85X15	85" X 14"	200	\$	\$
EXCURSION BUCKET SEAT BOTTOM (To be covered with Cordura® Nylon 1800 Denier)	22X21EB	22" X 21"	12	\$	\$
EXCURSION BUCKET SEAT BACK (To be covered with Cordura® Nylon 1800 Denier)	30X21EB	30" X 21"	12	\$	\$
S.U.V. BUCKET SEATS VINYL BOTTOM	22X21BVB	22" X 21"	100	\$	\$
S.U.V. BUCKET SEATS VINYL BACK	30X21VB	30" X 21"	100	\$	\$
SEDAN BUCKET SEAT CLOTH BOTTOM	22X21CB	22" X 21"	12	\$	\$
SEDAN BUCKET SEAT CLOTH BACK	30X21CB	30" X 21"	12	\$	\$
SEDAN BUCKET SEAT VINYL BOTTOM	22X21VB	22" X 21"	24	\$	\$
SEDAN BUCKET SEAT VINYL BACK	30X21SVB	30" X 21"	24	\$	\$

# FIRE DEPARTMENT OF THE CITY OF NEW YORK

## PRICE SCHEDULE FOR THE REUPHOLSTERING OF FIRE DEPARTMENT VEHICLE SEATS

**PIN NO: 057130001172**

SEDAN BENCH SEAT VINYL BOTTOM	60X21VB	60" X 21"	12	\$	\$
SEDAN BENCH SEAT VINYL BACK	60X27VB	60 X 27"	4	\$	\$
SEDAN BENCH SEAT CLOTH BACK	60X27CB	60 X 27"	4	\$	\$
AMBULANCE BUCKET SEAT BOTTOM	22X21AB	22" X 21"	200	\$	\$
AMBULANCE BUCKET SEAT BACK	28X21AB	28" X 21"	200	\$	\$
AMBULANCE BENCH BOTTOM	50X12AB	50" X 12"	200	\$	\$
AMBULANCE BENCH BACK	17X14AB	17" X 14"	200	\$	\$
AMBULANCE BENCH SEAT BOTTOM (OLD)	36X18AB	36" X 18"	10	\$	\$
LIGHT DUTY TRUCK BENCH BOTTOM	60X22BB	60" X 22"	24	\$	\$
LIGHT DUTY TRUCK BENCH BACK	60X30BB	60" X 30"	24	\$	\$
<b>TOTAL YEAR ONE</b>					\$

Note #1: The qualities listed above are estimates used for bid purposes only. The above pricing includes all labor, equipment, tools, materials and supplies to provide the Services, which shall be fully burdened, as set forth in the Specification.

**FIRE DEPARTMENT OF THE CITY OF NEW YORK**

PRICE SCHEDULE FOR THE REUPHOLSTERING  
OF FIRE DEPARTMENT VEHICLE SEATS

**PIN NO: 057130001172**

SUBMITTED BY: \_\_\_\_\_

PRINT NAME: \_\_\_\_\_

SIGNATURE: \_\_\_\_\_

TITLE: \_\_\_\_\_

DATE: \_\_\_\_\_

# FIRE DEPARTMENT OF THE CITY OF NEW YORK

## PRICE SCHEDULE FOR THE REUPHOLSTERING OF FIRE DEPARTMENT VEHICLE SEATS

**PIN NO: 057130001172**

**Year 2**

<b>Vehicle Seats</b>	<b>Part Number</b>	<b>Size of Seat</b>	<b>Estimated Annual Quantities (A)</b>	<b>Price Per Seat (B)</b>	<b>Total Amount (C) (A) X (B) = (C)</b>
OFFICERS SEAT BOTTOM OR BACK CUSHION (To be covered with Cordura® Nylon 1800 Denier)	12JS123R OR 12JS005D	44" X 16"	40	\$ _____	\$ _____
MACK DRIVERS SEAT BOTTOM OR BACK CUSHION (To be covered with Cordura® Nylon 1800 Denier)	12JS120R	22" X 21"	4	\$ _____	\$ _____
SMALL JUMP SEAT (To be covered with Cordura® Nylon 1800 Denier)	12JS126R	14" X 12"	20	\$ _____	\$ _____
JUMP SEAT CUSHION (To be covered with Cordura® Nylon 1800 Denier)	12JS126RHD	17" X 14"	400	\$ _____	\$ _____
SEAGRAVE BUCKET SEATS BACK OR BOTTOM (To be covered with Cordura® Nylon 1800 Denier)	12JS005R OR 160964529529R	19" X 30"	50	\$ _____	\$ _____
BOSTROM SEATS BACK OR BOTTOM (To be covered with Cordura® Nylon 1800 Denier)	12JS130R OR 160963529529R	22" X 21"	100	\$ _____	\$ _____

# FIRE DEPARTMENT OF THE CITY OF NEW YORK

## PRICE SCHEDULE FOR THE REUPHOLSTERING OF FIRE DEPARTMENT VEHICLE SEATS

**PIN NO: 057130001172**

JUMP SEATS BACK REST (To be covered with Cordura® Nylon 1800 Denier)	12JS108R	17" X 6"	200	\$	\$
MACK LARGE SEAT BACK OR BOTTOM (To be covered with Cordura® Nylon 1800 Denier)	RESC85X15	85" X 14"	200	\$	\$
EXCURSION BUCKET SEAT BOTTOM (To be covered with Cordura® Nylon 1800 Denier)	22X21EB	22" X 21"	12	\$	\$
EXCURSION BUCKET SEAT BACK (To be covered with Cordura® Nylon 1800 Denier)	30X21EB	30" X 21"	12	\$	\$
S.U.V. BUCKET SEATS VINYL BOTTOM	22X21BVB	22" X 21"	100	\$	\$
S.U.V. BUCKET SEATS VINYL BACK	30X21VB	30" X 21"	100	\$	\$
SEDAN BUCKET SEAT CLOTH BOTTOM	22X21CB	22" X 21"	12	\$	\$
SEDAN BUCKET SEAT CLOTH BACK	30X21CB	30" X 21"	12	\$	\$
SEDAN BUCKET SEAT VINYL BOTTOM	22X21VB	22" X 21"	24	\$	\$
SEDAN BUCKET SEAT VINYL BACK	30X21SVB	30" X 21"	24	\$	\$



# FIRE DEPARTMENT OF THE CITY OF NEW YORK

## PRICE SCHEDULE FOR THE REUPHOLSTERING OF FIRE DEPARTMENT VEHICLE SEATS

**PIN NO: 057130001172**

SEDAN BENCH SEAT VINYL BOTTOM	60X21VB	60" X 21"	12	\$	\$
SEDAN BENCH SEAT VINYL BACK	60X27VB	60 X 27"	4	\$	\$
SEDAN BENCH SEAT CLOTH BACK	60X27CB	60 X 27"	4	\$	\$
AMBULANCE BUCKET SEAT BOTTOM	22X21AB	22" X 21"	200	\$	\$
AMBULANCE BUCKET SEAT BACK	28X21AB	28" X 21"	200	\$	\$
AMBULANCE BENCH BOTTOM	50X12AB	50" X 12"	200	\$	\$
AMBULANCE BENCH BACK	17X14AB	17" X 14"	200	\$	\$
AMBULANCE BENCH SEAT BOTTOM (OLD)	36X18AB	36" X 18"	10	\$	\$
LIGHT DUTY TRUCK BENCH BOTTOM	60X22BB	60" X 22"	24	\$	\$
LIGHT DUTY TRUCK BENCH BACK	60X30BB	60" X 30"	24	\$	\$
<b>TOTAL YEAR TWO</b>					\$

Note #1: The qualities listed above are estimates used for bid purposes only. The above pricing includes all labor, equipment, tools, materials and supplies to provide the Services, which shall be fully burdened, as set forth in the Specification.

**FIRE DEPARTMENT OF THE CITY OF NEW YORK**

PRICE SCHEDULE FOR THE REUPHOLSTERING  
OF FIRE DEPARTMENT VEHICLE SEATS

**PIN NO: 057130001172**

SUBMITTED BY: \_\_\_\_\_

PRINT NAME: \_\_\_\_\_

SIGNATURE: \_\_\_\_\_

TITLE: \_\_\_\_\_

DATE: \_\_\_\_\_

# FIRE DEPARTMENT OF THE CITY OF NEW YORK

## PRICE SCHEDULE FOR THE REUPHOLSTERING OF FIRE DEPARTMENT VEHICLE SEATS

**PIN NO: 057130001172**

**Year 3**

<b>Vehicle Seats</b>	<b>Part Number</b>	<b>Size of Seat</b>	<b>Estimated Annual Quantities (A)</b>	<b>Price Per Seat (B)</b>	<b>Total Amount (C) (A) X (B) = (C)</b>
OFFICERS SEAT BOTTOM OR BACK CUSHION (To be covered with Cordura® Nylon 1800 Denier)	12JS123R OR 12JS005D	44" X 16"	40	\$ _____	\$ _____
MACK DRIVERS SEAT BOTTOM OR BACK CUSHION (To be covered with Cordura® Nylon 1800 Denier)	12JS120R	22" X 21"	4	\$ _____	\$ _____
SMALL JUMP SEAT (To be covered with Cordura® Nylon 1800 Denier)	12JS126R	14" X 12"	20	\$ _____	\$ _____
JUMP SEAT CUSHION (To be covered with Cordura® Nylon 1800 Denier)	12JS126RHD	17" X 14"	400	\$ _____	\$ _____
SEAGRAVE BUCKET SEATS BACK OR BOTTOM (To be covered with Cordura® Nylon 1800 Denier)	12JS005R OR 160964529529R	19" X 30"	50	\$ _____	\$ _____
BOSTROM SEATS BACK OR BOTTOM (To be covered with Cordura® Nylon 1800 Denier)	12JS130R OR 160963529529R	22" X 21"	100	\$ _____	\$ _____

# FIRE DEPARTMENT OF THE CITY OF NEW YORK

## PRICE SCHEDULE FOR THE REUPHOLSTERING OF FIRE DEPARTMENT VEHICLE SEATS

**PIN NO: 057130001172**

JUMP SEATS BACK REST (To be covered with Cordura® Nylon 1800 Denier)	12JS108R	17" X 6"	200	\$	\$
MACK LARGE SEAT BACK OR BOTTOM (To be covered with Cordura® Nylon 1800 Denier)	RESC85X15	85" X 14"	200	\$	\$
EXCURSION BUCKET SEAT BOTTOM (To be covered with Cordura® Nylon 1800 Denier)	22X21EB	22" X 21"	12	\$	\$
EXCURSION BUCKET SEAT BACK (To be covered with Cordura® Nylon 1800 Denier)	30X21EB	30" X 21"	12	\$	\$
S.U.V. BUCKET SEATS VINYL BOTTOM	22X21BVB	22" X 21"	100	\$	\$
S.U.V. BUCKET SEATS VINYL BACK	30X21VB	30" X 21"	100	\$	\$
SEDAN BUCKET SEAT CLOTH BOTTOM	22X21CB	22" X 21"	12	\$	\$
SEDAN BUCKET SEAT CLOTH BACK	30X21CB	30" X 21"	12	\$	\$
SEDAN BUCKET SEAT VINYL BOTTOM	22X21VB	22" X 21"	24	\$	\$
SEDAN BUCKET SEAT VINYL BACK	30X21SVB	30" X 21"	24	\$	\$

# FIRE DEPARTMENT OF THE CITY OF NEW YORK

## PRICE SCHEDULE FOR THE REUPHOLSTERING OF FIRE DEPARTMENT VEHICLE SEATS

**PIN NO: 057130001172**

SEDAN BENCH SEAT VINYL BOTTOM	60X21VB	60" X 21"	12	\$	\$
SEDAN BENCH SEAT VINYL BACK	60X27VB	60 X 27"	4	\$	\$
SEDAN BENCH SEAT CLOTH BACK	60X27CB	60 X 27"	4	\$	\$
AMBULANCE BUCKET SEAT BOTTOM	22X21AB	22" X 21"	200	\$	\$
AMBULANCE BUCKET SEAT BACK	28X21AB	28" X 21"	200	\$	\$
AMBULANCE BENCH BOTTOM	50X12AB	50" X 12"	200	\$	\$
AMBULANCE BENCH BACK	17X14AB	17" X 14"	200	\$	\$
AMBULANCE BENCH SEAT BOTTOM (OLD)	36X18AB	36" X 18"	10	\$	\$
LIGHT DUTY TRUCK BENCH BOTTOM	60X22BB	60" X 22"	24	\$	\$
LIGHT DUTY TRUCK BENCH BACK	60X30BB	60" X 30"	24	\$	\$
<b>TOTAL YEAR THREE</b>					\$

Note #1: The qualities listed above are estimates used for bid purposes only. The above pricing includes all labor, equipment, tools, materials and supplies to provide the Services, which shall be fully burdened, as set forth in the Specification.

**FIRE DEPARTMENT OF THE CITY OF NEW YORK**

PRICE SCHEDULE FOR THE REUPHOLSTERING  
OF FIRE DEPARTMENT VEHICLE SEATS

**PIN NO: 057130001172**

SUBMITTED BY: \_\_\_\_\_

PRINT NAME: \_\_\_\_\_

SIGNATURE: \_\_\_\_\_

TITLE: \_\_\_\_\_

DATE: \_\_\_\_\_

# FIRE DEPARTMENT OF THE CITY OF NEW YORK

## PRICE SCHEDULE FOR THE REUPHOLSTERING OF FIRE DEPARTMENT VEHICLE SEATS

**PIN NO: 057130001172**

**Year 4**

<b>Vehicle Seats</b>	<b>Part Number</b>	<b>Size of Seat</b>	<b>Estimated Annual Quantities (A)</b>	<b>Price Per Seat (B)</b>	<b>Total Amount (C) (A) X (B) = (C)</b>
OFFICERS SEAT BOTTOM OR BACK CUSHION (To be covered with Cordura® Nylon 1800 Denier)	12JS123R OR 12JS005D	44" X 16"	40	\$ _____	\$ _____
MACK DRIVERS SEAT BOTTOM OR BACK CUSHION (To be covered with Cordura® Nylon 1800 Denier)	12JS120R	22" X 21"	4	\$ _____	\$ _____
SMALL JUMP SEAT (To be covered with Cordura® Nylon 1800 Denier)	12JS126R	14" X 12"	20	\$ _____	\$ _____
JUMP SEAT CUSHION (To be covered with Cordura® Nylon 1800 Denier)	12JS126RHD	17" X 14"	400	\$ _____	\$ _____
SEAGRAVE BUCKET SEATS BACK OR BOTTOM (To be covered with Cordura® Nylon 1800 Denier)	12JS005R OR 160964529529R	19" X 30"	50	\$ _____	\$ _____
BOSTROM SEATS BACK OR BOTTOM (To be covered with Cordura® Nylon 1800 Denier)	12JS130R OR 160963529529R	22" X 21"	100	\$ _____	\$ _____

# FIRE DEPARTMENT OF THE CITY OF NEW YORK

## PRICE SCHEDULE FOR THE REUPHOLSTERING OF FIRE DEPARTMENT VEHICLE SEATS

**PIN NO: 057130001172**

JUMP SEATS BACK REST (To be covered with Cordura® Nylon 1800 Denier)	12JS108R	17" X 6"	200	\$	\$
MACK LARGE SEAT BACK OR BOTTOM (To be covered with Cordura® Nylon 1800 Denier)	RESC85X15	85" X 14"	200	\$	\$
EXCURSION BUCKET SEAT BOTTOM (To be covered with Cordura® Nylon 1800 Denier)	22X21EB	22" X 21"	12	\$	\$
EXCURSION BUCKET SEAT BACK (To be covered with Cordura® Nylon 1800 Denier)	30X21EB	30" X 21"	12	\$	\$
S.U.V. BUCKET SEATS VINYL BOTTOM	22X21BVB	22" X 21"	100	\$	\$
S.U.V. BUCKET SEATS VINYL BACK	30X21VB	30" X 21"	100	\$	\$
SEDAN BUCKET SEAT CLOTH BOTTOM	22X21CB	22" X 21"	12	\$	\$
SEDAN BUCKET SEAT CLOTH BACK	30X21CB	30" X 21"	12	\$	\$
SEDAN BUCKET SEAT VINYL BOTTOM	22X21VB	22" X 21"	24	\$	\$
SEDAN BUCKET SEAT VINYL BACK	30X21SVB	30" X 21"	24	\$	\$



# FIRE DEPARTMENT OF THE CITY OF NEW YORK

## PRICE SCHEDULE FOR THE REUPHOLSTERING OF FIRE DEPARTMENT VEHICLE SEATS

**PIN NO: 057130001172**

SEDAN BENCH SEAT VINYL BOTTOM	60X21VB	60" X 21"	12	\$	\$
SEDAN BENCH SEAT VINYL BACK	60X27VB	60 X 27"	4	\$	\$
SEDAN BENCH SEAT CLOTH BACK	60X27CB	60 X 27"	4	\$	\$
AMBULANCE BUCKET SEAT BOTTOM	22X21AB	22" X 21"	200	\$	\$
AMBULANCE BUCKET SEAT BACK	28X21AB	28" X 21"	200	\$	\$
AMBULANCE BENCH BOTTOM	50X12AB	50" X 12"	200	\$	\$
AMBULANCE BENCH BACK	17X14AB	17" X 14"	200	\$	\$
AMBULANCE BENCH SEAT BOTTOM (OLD)	36X18AB	36" X 18"	10	\$	\$
LIGHT DUTY TRUCK BENCH BOTTOM	60X22BB	60" X 22"	24	\$	\$
LIGHT DUTY TRUCK BENCH BACK	60X30BB	60" X 30"	24	\$	\$
<b>TOTAL YEAR FOUR</b>					\$

Note #1: The qualities listed above are estimates used for bid purposes only. The above pricing includes all labor, equipment, tools, materials and supplies to provide the Services, which shall be fully burdened, as set forth in the Specification.

**FIRE DEPARTMENT OF THE CITY OF NEW YORK**

PRICE SCHEDULE FOR THE REUPHOLSTERING  
OF FIRE DEPARTMENT VEHICLE SEATS

**PIN NO: 057130001172**

SUBMITTED BY: \_\_\_\_\_

PRINT NAME: \_\_\_\_\_

SIGNATURE: \_\_\_\_\_

TITLE: \_\_\_\_\_

DATE: \_\_\_\_\_

# FIRE DEPARTMENT OF THE CITY OF NEW YORK

## PRICE SCHEDULE FOR THE REUPHOLSTERING OF FIRE DEPARTMENT VEHICLE SEATS

**PIN NO: 057130001172**

**Year 5**

<b>Vehicle Seats</b>	<b>Part Number</b>	<b>Size of Seat</b>	<b>Estimated Annual Quantities (A)</b>	<b>Price Per Seat (B)</b>	<b>Total Amount (C) (A) X (B) = (C)</b>
OFFICERS SEAT BOTTOM OR BACK CUSHION (To be covered with Cordura® Nylon 1800 Denier)	12JS123R OR 12JS005D	44" X 16"	40	\$ _____	\$ _____
MACK DRIVERS SEAT BOTTOM OR BACK CUSHION (To be covered with Cordura® Nylon 1800 Denier)	12JS120R	22" X 21"	4	\$ _____	\$ _____
SMALL JUMP SEAT (To be covered with Cordura® Nylon 1800 Denier)	12JS126R	14" X 12"	20	\$ _____	\$ _____
JUMP SEAT CUSHION (To be covered with Cordura® Nylon 1800 Denier)	12JS126RHD	17" X 14"	400	\$ _____	\$ _____
SEAGRAVE BUCKET SEATS BACK OR BOTTOM (To be covered with Cordura® Nylon 1800 Denier)	12JS005R OR 160964529529R	19" X 30"	50	\$ _____	\$ _____
BOSTROM SEATS BACK OR BOTTOM (To be covered with Cordura® Nylon 1800 Denier)	12JS130R OR 160963529529R	22" X 21"	100	\$ _____	\$ _____

# FIRE DEPARTMENT OF THE CITY OF NEW YORK

## PRICE SCHEDULE FOR THE REUPHOLSTERING OF FIRE DEPARTMENT VEHICLE SEATS

**PIN NO: 057130001172**

JUMP SEATS BACK REST (To be covered with Cordura® Nylon 1800 Denier)	12JS108R	17" X 6"	200	\$	\$
MACK LARGE SEAT BACK OR BOTTOM (To be covered with Cordura® Nylon 1800 Denier)	RESC85X15	85" X 14"	200	\$	\$
EXCURSION BUCKET SEAT BOTTOM (To be covered with Cordura® Nylon 1800 Denier)	22X21EB	22" X 21"	12	\$	\$
EXCURSION BUCKET SEAT BACK (To be covered with Cordura® Nylon 1800 Denier)	30X21EB	30" X 21"	12	\$	\$
S.U.V. BUCKET SEATS VINYL BOTTOM	22X21BVB	22" X 21"	100	\$	\$
S.U.V. BUCKET SEATS VINYL BACK	30X21VB	30" X 21"	100	\$	\$
SEDAN BUCKET SEAT CLOTH BOTTOM	22X21CB	22" X 21"	12	\$	\$
SEDAN BUCKET SEAT CLOTH BACK	30X21CB	30" X 21"	12	\$	\$
SEDAN BUCKET SEAT VINYL BOTTOM	22X21VB	22" X 21"	24	\$	\$
SEDAN BUCKET SEAT VINYL BACK	30X21SVB	30" X 21"	24	\$	\$

# FIRE DEPARTMENT OF THE CITY OF NEW YORK

## PRICE SCHEDULE FOR THE REUPHOLSTERING OF FIRE DEPARTMENT VEHICLE SEATS

**PIN NO: 057130001172**

SEDAN BENCH SEAT VINYL BOTTOM	60X21VB	60" X 21"	12	\$	\$
SEDAN BENCH SEAT VINYL BACK	60X27VB	60 X 27"	4	\$	\$
SEDAN BENCH SEAT CLOTH BACK	60X27CB	60 X 27"	4	\$	\$
AMBULANCE BUCKET SEAT BOTTOM	22X21AB	22" X 21"	200	\$	\$
AMBULANCE BUCKET SEAT BACK	28X21AB	28" X 21"	200	\$	\$
AMBULANCE BENCH BOTTOM	50X12AB	50" X 12"	200	\$	\$
AMBULANCE BENCH BACK	17X14AB	17" X 14"	200	\$	\$
AMBULANCE BENCH SEAT BOTTOM (OLD)	36X18AB	36" X 18"	10	\$	\$
LIGHT DUTY TRUCK BENCH BOTTOM	60X22BB	60" X 22"	24	\$	\$
LIGHT DUTY TRUCK BENCH BACK	60X30BB	60" X 30"	24	\$	\$
<b>TOTAL YEAR FIVE</b>					\$

Note #1: The qualities listed above are estimates used for bid purposes only. The above pricing includes all labor, equipment, tools, materials and supplies to provide the Services, which shall be fully burdened, as set forth in the Specification.

**FIRE DEPARTMENT OF THE CITY OF NEW YORK**

**PRICE SCHEDULE FOR THE REUPHOLSTERING  
OF FIRE DEPARTMENT VEHICLE SEATS**

**PIN NO: 057130001172**

**Total (Years 1 + 2 + 3 + 4 +5) = \$ \_\_\_\_\_**

SUBMITTED BY: \_\_\_\_\_

PRINT NAME: \_\_\_\_\_

SIGNATURE: \_\_\_\_\_

TITLE: \_\_\_\_\_

DATE: \_\_\_\_\_

## STATEMENTS AND REPRESENTATIONS OF BIDDER

### **BIDDER MAKES THE FOLLOWING STATEMENTS AND REPRESENTATIONS AS PART OF THIS BID:**

1. That the bidder, if an individual, is of lawful age. That the bidder is the only one interested in this bid; and that no person, firm or organization other than herein above named has any interest in this bid, or in the contract proposed to be taken.
2. That the bidder and each person signing on behalf of any bidder certified, and in the case of a joint bid each party thereto certifies as to its own organization, under penalty of perjury, that to the best of 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 process 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 prior to bid opening, directly or indirectly to any other bidder or to any competitor; and
  - C. No attempt has been made or will be made by the bidder to induce any other person, partnership or corporation to submit or not to submit a bid for the purpose of restricting competition:
  - D. That no councilperson or other officer or employee or person whose salary is payable in whole or in part from the City Treasury is directly or indirectly interested in this bid, or in the supplies, materials, equipment, work or labor to which it relates, or in any of the profits thereof.
  - E. Said bidder is not in arrears to the City of New York upon debt, contract or taxes and is not a defaulter, as surety or otherwise, upon obligation to the City of New York, and has not been declared not responsible, or disqualified, by any agency of The City of New York or State of New York, nor is there any proceeding pending relating to the responsibility or qualification of the bidder to receive public contracts except  
\_\_\_\_\_.

The bidder shall indicate on its bid its Tax Identification Number.

3. That the said bidder has inspected the site where the services are to be performed and is satisfied as to all general and local conditions that may affect the cost of performance of the contract.
4. That the bidder has examined all parts of this Proposal for Bid, including but not limited to the Agreement and the terms and conditions thereof; and if the bid is accepted as submitted, the bidder shall execute the Agreement as set forth herein.
5. That the bidder certifies that it is duly licensed to do business in the City and State of New York and holds or agrees to obtain all necessary permits required by law or regulation for the performance of the contract.

6. The bidder, executes this document expressly warranting and representing that should this bid be accepted by the City and the contract awarded to it, the bidder and its subcontractors engaged in the performance of the contract: (1) will comply with the provisions of Section 343-9.0 of the Administrative Code of the City of New York in relation to minimum wages and other stipulations and the rules and regulation of the Procurement Policy Board adopted pursuant thereto as more expressly and in detail set forth in the contract form.

In the event of breach or violation of any of the foregoing, the bidder may be subject to damages, liquidated or otherwise, cancellation of the contract and suspension as a bidder for a period of three (3) years.

7. The bidder, (1) represents that its attention has been specifically drawn to the Equal Employment Provisions of the Contract Agreement, and (2) warrants that it will comply with all the terms and provisions prescribed therein.
8. The bidder executes this document expressly warranting and representing that should this bid be accepted and the contract awarded to the bidder, the bidder and its subcontractors engaged in the performance (1) will comply with the provisions of Section 343-8.0 of the Administrative Code of the City of New York and the nondiscrimination provisions of Sections 220 and 239 of the New York Labor Law as more expressly and in detail set forth in the contract form: and (2) will post notices to be furnished by the City, setting forth the requirements of the aforesaid law in prominent and conspicuous places in each and every plant, factory, building and structure where employees engaged in the performance of the contract can readily view it, and will continue to keep such notices posted until the supplies, materials and equipment, or work, labor and services required by the Contractor have been finally accepted by the City.



**ACKNOWLEDGEMENT OF BIDDER - PRINCIPAL IF A CORPORATION**

State of \_\_\_\_\_

ss:

County of \_\_\_\_\_

On this \_\_\_\_\_ day of \_\_\_\_\_ 20\_\_\_\_\_ before me personally came \_\_\_\_\_ to me known, who, being by me duly sworn did depose and say that he/she resides at \_\_\_\_\_

\_\_\_\_\_ that he/she is the \_\_\_\_\_ of \_\_\_\_\_

the corporation described in and which executed the foregoing instrument; that he knows the seal of said corporation; that one of the seals affixed to said instrument is such seal, that it was so affixed by order of the directors of the directors of said corporation, and that he signed his name thereto by like order.

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

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**ACKNOWLEDGEMENT OF BIDDER - PRINCIPAL IF A PARTNERSHIP**

State \_\_\_\_\_

ss:

County \_\_\_\_\_

On this \_\_\_\_\_ day of \_\_\_\_\_ 20\_\_\_\_\_ before me personally appeared \_\_\_\_\_ to me known and known to me to be one of the members of the firm of \_\_\_\_\_

\_\_\_\_\_ described in and who executed the foregoing instrument and he/she acknowledged to me that the executed the same as and for the act and deed of said firm.

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

---

**ACKNOWLEDGEMENT OF BIDDER - PRINCIPAL IF AN INDIVIDUAL**

State of \_\_\_\_\_

ss:

County of \_\_\_\_\_

On this \_\_\_\_\_ day of \_\_\_\_\_ 20\_\_\_\_\_ before me personally appeared \_\_\_\_\_ to me known and known to me to be the person described in and who executed the foregoing instrument and acknowledged that he/she executed the same.

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

**AFFIRMATION**

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

Full name of Proposer or Bidder *[below]*

Address \_\_\_\_\_  
City \_\_\_\_\_ State \_\_\_\_\_ Zip Code \_\_\_\_\_

**CHECK ONE BOX AND INCLUDE APPROPRIATE NUMBER:**

- A - Individual or Sole Proprietorships  
SOCIAL SECURITY NUMBER \_\_\_\_\_
- B - Partnership, Joint Venture or other unincorporated organization  
EMPLOYER IDENTIFICATION NUMBER \_\_\_\_\_
- C - Corporation  
EMPLOYER IDENTIFICATION NUMBER \_\_\_\_\_

By \_\_\_\_\_  
Signature

\_\_\_\_\_  
Title

If a corporation place seal here

Must be signed by an officer or duly authorized representative.

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

## CONTRACTOR QUESTIONNAIRE

**NOTE TO BIDDER:** This form must be completed by All Bidders and returned within seven (7) days from either written or oral notification.

1. Bidder Information

a. Name of Bidder: \_\_\_\_\_

b. Bidder is: Individual  Partnership  Corporation

c. Address: \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
(City) (State) (Zip Code + 4)

d. Telephone: \_\_\_\_\_ e. Fax: \_\_\_\_\_

f. Email: \_\_\_\_\_

g. URL: \_\_\_\_\_

2. Date business was formed: \_\_\_\_\_

3. How long is the business at present address: \_\_\_\_\_

4. If incorporated, state date of incorporation \_\_\_\_\_ State  
\_\_\_\_\_  
(If not a domestic corporation, attach a copy of the Certificate of Authority by the Secretary of the State of New York pursuant to the General Corporation Law.)

5. List below names and addresses of principal officers of the Corporation.

<u>Name</u>	<u>Address</u>	<u>Title</u>
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____

6. If a partnership, list names and addresses of all partners:

<u>Name</u>	<u>Address</u>	<u>Title</u>
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____

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

\_\_\_\_\_  
(State) (County)  
(If certificate is filed outside New York City, attach a certified copy of the certificate).

8. Number of employees: \_\_\_\_\_

9. Do you share the working premises with any other firm or firms?  Yes  No

If Yes, provide the name of the other firm or firms:

\_\_\_\_\_  
(Address) (Years)

10. Do you own or operate a warehouse?  Yes  No

If Yes, give address and number of years at address:

\_\_\_\_\_  
(Address) (Years)

11. Does this business have any outstanding bids for contracts with the City of New York?  
 Yes  No

If Yes, please list bids and agencies:

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

12. Does this business have any current contract awards from the City?  
 Yes  No

If Yes, please list the awards including the amount of the award.

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

**VENDEX GUIDE FOR BIDDERS VENDEX QUESTIONNAIRES**

**Forms and Instructions available at: [NYC.gov/vendex](https://www.nyc.gov/vendex)**

Vendor Questionnaire

Principal Questionnaire

Vendor's Guide to VENDEX

Certification of No Change

Submitted VENDEX Memo

Notice to Vendors

## AMERICANS WITH DISABILITIES ACT

The following provisions to this agreement

applicable /  not applicable

This Agreement is subject to the provisions of Subtitle A of Title II of the Americans with Disabilities Act of 1990, 42 U.S.C. 12132 (“ADA”) and regulations promulgated pursuant thereto, see 28 CFR Part 35. Contractor shall not discriminate against an individual with a disability, as defined in the ADA, in providing services, programs or activities pursuant to this Agreement. To ensure Contractor’s compliance with the ADA during the term of this Agreement, the Contractor shall prepare a plan (“Compliance Plan”) which lists its program site(s) and describes in detail how it intends to make the services, programs or activities set forth in the scope of services herein readily accessible and usable by individuals with disabilities at such site(s) listed. In the event the program site is not readily accessible and usable by individuals with disabilities, Contractor shall also include in the Compliance Plan a description of reasonable alternative means and methods that result in making the services, programs or activities set forth herein readily accessible to and usable by the individuals with disabilities, including but not limited to people with visual, audible, or mobile disabilities. Contractors shall submit the Compliance Plan to the ACCO of the Agency for review within 10 days after execution of this Agreement. Upon approval by the Agency of the Compliance Plan, Contractor shall abide by the Compliance Plan and implement any action detailed in the Compliance Plan to make the services, programs or activities accessible and usable by the Agency and the Contractor.

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

## **SCHEDULE OF WAGE RATES AND SUPPLEMENTS**

The following provisions to this agreement

applicable /  not applicable

1. The omission of any pertinent wage rates from this list shall not be presumed as an indication that such type of labor will not be required on this project.
2. This schedule sets forth the wage rate and supplements required to be annexed to and to form part of the specifications in contracts for public works pursuant to Subdivision 3 of Section 220, (or pursuant to Section 231 if the work is for Building Services), of the Labor Law of the State of New York. It is noted, however; that only the rates and supplements applicable to those classifications of workmen, laborers and mechanics actually involved in particular contract shall be annexed to the contract as part of the specifications.
3. The attached schedule of wages and supplements are considered the prevailing wage rate and the Contractor engaged in public work is obligated to pay each employee not less than the wages specified in this schedule for his craft, trade or occupation.
4. All rates and supplements above are the basic rates and supplements and do not include overtime, shift differentials (if any), holidays, Saturday or Sunday rates or any other type of premium payments.
5. If contract is not awarded within 90 days of date of establishments of prevailing rates or wages, request must be made for a re-determination of a schedule of wages by the awarding agency.

APPLICABLE PREVAILING WAGE TITLES:

N/A

**ACKNOWLEDGMENT OF ADDENDA**

**Procurement Identification Number:** \_\_\_\_\_

**Project Description:** \_\_\_\_\_

Instructions: The respondent is to complete Part I or Part II of this form, whichever is applicable, and sign and date this form. This form serves as the respondent's acknowledgment of the receipt of the Addenda to this solicitation which may have been issued by the FDNY prior to the Proposal Due Date and Time.

Part I: Check Box if Applicable:

Listed below are the dates of issue for each Addendum received in connection with this solicitation.

Addendum # 1, dated: \_\_\_/\_\_\_/\_\_\_      Addendum # 2, dated: \_\_\_/\_\_\_/\_\_\_

Addendum # 3, dated: \_\_\_/\_\_\_/\_\_\_      Addendum # 4, dated: \_\_\_/\_\_\_/\_\_\_

Addendum # 5, dated: \_\_\_/\_\_\_/\_\_\_      Addendum # 6, dated: \_\_\_/\_\_\_/\_\_\_

Addendum # 7, dated: \_\_\_/\_\_\_/\_\_\_      Addendum # 8, dated: \_\_\_/\_\_\_/\_\_\_

Addendum # 9, dated: \_\_\_/\_\_\_/\_\_\_      Addendum # 10, dated: \_\_\_/\_\_\_/\_\_\_

Addendum # 11, dated: \_\_\_/\_\_\_/\_\_\_      Addendum # 12, dated: \_\_\_/\_\_\_/\_\_\_

Part II: Check Box if Applicable:  **NO ADDENDUM WAS RECEIVED IN CONNECTION WITH THIS COMPETITIVE SEALED BID.**

**NOTE: THE BIDDER MUST SIGN AND COMPLETE THIS FORM**

Respondent's Company Name: \_\_\_\_\_

Respondent's Authorized Representative:

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

Signature: \_\_\_\_\_

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

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



**SUBCONTRACTOR APPROVAL FORM**

**CITY OF NEW YORK  
SUBCONTRACTOR APPROVAL FORM**

Column on left indicates whom that section is to be completed by.

**(b) PRIME CONTRACT INFORMATION**

<b>Agency: Fire Department</b>	<b>Unit/Div:</b>
FMS Contract No.:	PIN:
Contract Value: \$	Registration Date:
Contract Description:	

**(c) PRIME CONTRACTOR IDENTIFICATION**

**AGENCY**

Name:		
Phone:	Fax:	
Address:	City:	State/Zip:
EIN/SSN:	E-Mail:	

**SUBCONTRACTOR INFORMATION**

**PRIME CONTRACTOR**

Name:		
Phone:	Fax:	
Address:	City:	State/Zip:
EIN/SSN:	E-Mail:	
Subcontract Description:		
Approx Subcontract Value: \$	Approx Start Date _ / _ / _	Approx End Date _ / _ / _
<b>Subcontractor is DSBS-certified as: M/WBE <input type="checkbox"/> EBE <input type="checkbox"/> or LBE <input type="checkbox"/> (check all that apply &amp; note status below)</b>		
YES <input type="checkbox"/>	Application Pending <input type="checkbox"/>	Intends to Apply <input type="checkbox"/> NO <input type="checkbox"/>
<b>Prime Contractor Certification:</b> I hereby affirm that the information supplied is true and correct.		
Signature _____	Title _____	
Print Name _____	Date _____	

**AGENCY PRELIMINARY REVIEW**

PLEASE SEE PAGE 2 OF THIS FORM INSTRUCTIONS

**AGENCY**

Agency Preliminary Review Completed By: _____	Date _____			
1. VENDEX <input type="checkbox"/>	2. Employment <input type="checkbox"/>	3. References <input type="checkbox"/>	4. Apprenticeship <input type="checkbox"/>	5. Licenses <input type="checkbox"/>

**PRIME CONTRACTOR RESPONSE**

**PRIME**

For each of the boxes checked in the agency preliminary response above, I have informed the Subcontractor of all relevant requirements and provided all requested documentation.

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

**AGENCY FINAL RESPONSE**

**AGENCY**

Final Agency Approval: _____	Granted <input type="checkbox"/>	Denied <input type="checkbox"/>
Signature: _____	Date _____	

**CITY OF NEW YORK**  
**SUBCONTRACTOR APPROVAL FORM**

Page 2  
Prime Vendor Preliminary Review Follow-up Instructions

After completing the Preliminary Review, the agency will mark, on Page 1, the box for any item requiring follow-up and return the form to the Prime Vendor. The Prime Vendor should follow the instructions below for each of the boxes checked in the Agency Preliminary Review on Page 1, and return the form to the agency with any required documentation.

1. VENDEX

If Box 1 (VENDEX) is checked, the agency has granted preliminary approval, and determined that the subcontractor is required to file VENDEX Questionnaires with the Mayor's Office of Contract Services. A VENDEX Vendor Questionnaire and Principal Questionnaire must be filed where the subcontract dollar amount is  $\geq$  \$100,000 or where the aggregate business with the City is  $\geq$  \$100,000 during the preceding twelve months. The VENDEX Questionnaires and Guide can be downloaded from <http://www.nyc.gov/html/selltonyc/html/tocvendex.html>.

2. Employment

If Box 2 (Employment) is checked, the subcontractor must complete a Division of Labor Services (DLS) Construction Employment Report. A subcontractor selected to perform work on a construction project funded or assisted by the City of New York must complete a DLS Construction Employment Report if the subcontract dollar amount  $>$  \$750,000. For construction projects funded in whole or in part by the federal government, a DLS Construction Employment Report must be completed if the proposed subcontract value  $>$  \$10,000. For non-construction goods/services subcontracts  $>$  \$100,000, employment reports are required for any subcontractor with  $>$  50 employees, and a certificate is required for those with fewer employees.

3. References

If Box 3 (References) is checked, you as the prime contractor must provide references with respect to the subcontractor's ability to perform, consisting of a list of three completed comparable projects. References shall include a full description/location of each project, scope of work, value of project, and the names and phone numbers of owners, architect or engineer who supervised the work. Please attach your documentation to your response.

4. Apprenticeship

If Box 4 (Apprenticeship) is checked, you as the prime contractor must provide the agency with proof that the subcontractor maintains an apprenticeship agreement appropriate for the scope of work to be performed, that the apprenticeship agreement has been registered with and approved by the New York State Commission of Labor, and that the program has three years of current, successful experience in providing career opportunities.

5. Licenses

If Box 5 (Licenses) is checked, you as the prime contractor must document that the subcontractor has all required licenses. Please attach your documentation to your response.

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

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

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

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

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

Each bidder or proposer must certify that it is not on the list of entities engaged in

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

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

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

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

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

*[Please Check One]*

**BIDDER'S CERTIFICATION**

- By submission of this bid or proposal, each bidder/proposer and each person signing on behalf of any bidder/proposer certifies, and in the case of a joint bid each party thereto certifies as to its own organization, under penalty of perjury, that to the best of its knowledge and belief, that each bidder/proposer is not on the list created pursuant to paragraph (b) of subdivision 3 of Section 165-a of the State Finance Law.
  
- I am unable to certify that my name and the name of the bidder/proposer does not appear on the list created pursuant to paragraph (b) of subdivision 3 of Section 165-a of the State Finance Law. I have attached a signed statement setting forth in detail why I cannot so certify.

Dated: \_\_\_\_\_, New York  
          \_\_\_\_\_, 20\_\_

\_\_\_\_\_  
SIGNATURE

\_\_\_\_\_  
PRINTED NAME

\_\_\_\_\_  
TITLE

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

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

Dated:

## WHISTLEBLOWER PROTECTION EXPANSION ACT RIDER

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

- (a) Contractor shall not take an adverse personnel action with respect to an officer or employee in retaliation for such officer or employee making a report of information concerning conduct which such officer or employee knows or reasonably believes to involve corruption, criminal activity, conflict of interest, gross mismanagement or abuse of authority by any officer or employee relating to this Contract to (i) the Commissioner of the Department of Investigation, (ii) a member of the New York City Council, the Public Advocate, or the Comptroller, or (iii) the City Chief Procurement Officer, ACCO, Agency head, or Commissioner.
- (b) If any of Contractor's officers or employees believes that he or she has been the subject of an adverse personnel action in violation of subparagraph (a) of paragraph 1 of this rider, he or she shall be entitled to bring a cause of action against Contractor to recover all relief necessary to make him or her whole. Such relief may include but is not limited to: (i) an injunction to restrain continued retaliation, (ii) reinstatement to the position such employee would have had but for the retaliation or to an equivalent position, (iii) reinstatement of full fringe benefits and seniority rights, (iv) payment of two times back pay, plus interest, and (v) compensation for any special damages sustained as a result of the retaliation, including litigation costs and reasonable attorney's fees.
- (c) Contractor shall post a notice provided by the City in a prominent and accessible place on any site where work pursuant to the Contract is performed that contains information about:
  - (i) how its employees can report to the New York City Department of Investigation allegations of fraud, false claims, criminality or corruption arising out of or in connection with the Contract; and
  - (ii) the rights and remedies afforded to its employees under New York City Administrative Code sections 7-805 (the New York City False Claims Act) and 12-113 (the Whistleblower Protection Expansion Act) for lawful acts taken in connection with the reporting of allegations of fraud, false claims, criminality or corruption in connection with the Contract.
- (d) For the purposes of this rider, "adverse personnel action" includes dismissal, demotion, suspension, disciplinary action, negative performance evaluation, any action resulting in loss of staff, office space, equipment or other benefit, failure to appoint, failure to promote, or any transfer or assignment or failure to transfer or assign against the wishes of the affected officer or employee.

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

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





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

**Mail to:** NYC Department of Finance, Treasury Division, 66 John Street, 12th Floor, New York, NY 10038 - Attention: EFT, or **Fax to:** EFT at 212-361-7063.

**INSTRUCTIONS:** Please complete all sections of this Enrollment Form and attach a voided check or a copy of an encoded deposit slip that includes an imprinted vendor's name. See the reverse side for more information and instructions.

## SECTION I - VENDOR INFORMATION

1. SOCIAL SECURITY NUMBER OR TAXPAYER ID NUMBER: (AS IT APPEARS ON W-9 FORM)		<input type="text"/>
2. VENDOR NAME (AS IT APPEARS ON W-9 FORM):		
3. VENDOR'S ADDRESS (FOR EFT ENROLLMENT PURPOSES):		
4. VENDOR'S EMAIL ADDRESS:		
5. CONTACT PERSON NAME:	CONTACT PERSON TELEPHONE NUMBER:	

## SECTION II - FINANCIAL INSTITUTION INFORMATION

1. BANK ACCOUNT NUMBER:	2. ACCOUNT NAME:	
3. BANK NAME :		
4. BANK BRANCH ADDRESS:		
5. ROUTING TRANSIT NUMBER: (LOCATED AT THE BOTTOM OF YOUR CHECK)	<input type="text"/>	6. ACCOUNT TYPE - MUST BE EITHER CHECKING OR SAVINGS: (CHECK ONE BOX ONLY)
7. DIRECT DEPOSIT/ACH/EFT COORDINATOR'S NAME:		<input type="checkbox"/> CHECKING <input type="checkbox"/> SAVINGS
		TELEPHONE NUMBER:

## SECTION III - VENDOR SIGNATURE

_____	_____	_____
VENDOR SIGNATURE	PRINT NAME	DATE

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

## **GENERAL INSTRUCTIONS**

Please complete all sections of the Direct Deposit EFT Enrollment Application and forward the completed application along with a voided check or a copy of an encoded deposit slip that includes an imprinted vendor's name to: NYC Department of Finance, Treasury Division, 66 John Street, 12th Floor, New York, NY 10038 - Attention: EFT, or Fax to: EFT at 212-361-7063.

### **SECTION I - VENDOR INFORMATION**

1. Enter the vendor's social security number or taxpayer ID number, the 9-digit number reported on the W-9 form.
2. Provide the name of the vendor (as it appears on the W-9).
3. Enter the vendor's complete address for EFT correspondence associated with this account.
4. Provide the vendor's E-mail address, if you have one.
5. Indicate the name and telephone number of the vendor's contact person. (If you are enrolling yourself individually, you are the contact person.)

### **SECTION II - FINANCIAL INSTITUTION INFORMATION**

1. Indicate the vendor's bank account number.
2. Indicate the vendor's account name.
3. Provide bank's name
4. Provide the complete address of your bank.
5. Indicate 9-digit routing (ABA) transit number (located at the bottom of your check).
6. Indicate type of account. Account must be designated as either checking or savings. (Check one box only).
7. List name and telephone number of your bank's Direct Deposit/EFT Coordinator.

### **SECTION III - VENDOR SIGNATURE**

Sign and date where indicated.

**PIN NO. 057130001172**

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**THE CITY OF NEW YORK  
FIRE DEPARTMENT**

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**CONTRACT AND SPECIFICATIONS  
For Furnishing and Delivering as Required:**

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**REUPHOLSTERING  
OF FIRE DEPARTMENT VEHICLE SEATS**

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