

Project Rebuild, Inc.

Build-It-Back Acquisition, Relocation and Buyout Program

INVITATION FOR BIDS

FENCING, SECURING, AND MAINTENANCE OF VACANT SITES

ISSUE DATE: August 10, 2016

QUESTIONS DUE BY: August 17, 2016
QUESTIONS SENT TO: astefanski@neighborhoodrestore.org
RESPONSE DATE: August 19, 2016

BIDS OPENING DATE: August 31, 2016

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INVITATION FOR BIDS

This Invitation for Bids ("IFB") is being issued by Project Rebuild, Inc. ("Project Rebuild") a not-for-profit entity affiliated with Neighborhood Restore HDFC and formed for the purpose of administering the Build-It-Back Acquisition, Relocation, and Buyout Program ("Program"), to determine the eligibility of Contractors ("Applicants") experienced in fencing, securing and maintaining vacant homes and properties throughout New York City.

Project Rebuild is seeking Applicants to provide complete property security and maintenance services for the Program as described in more detail in Section II. Scope of Work.

Qualified Applicants will be selected from among the list of Applicants who qualify through this IFB. The contract(s) will be awarded to the Applicant(s) that is determined to be the best value, by optimizing quality, cost, and efficiency and therefore is determined to be most advantageous to the Program. It is important to note that not all Applicants deemed qualified will be selected to participate in the Program.

I. INTRODUCTION

This IFB specifically addresses acquiring properties affected by Superstorm Sandy from homeowners or other eligible transferors and subsequently determining appropriate disposition strategies with oversight from the Mayor's Office of Housing Recovery Operations ("HRO") and NYC Department of Housing Preservation and Development ("HPD").

The Program permits homeowners or other eligible transferors of eligible properties (typically homes that were completely destroyed or substantially damaged by Superstorm Sandy) to sell their properties to Project Rebuild, who will then use Community Development Block Grant - Disaster Recovery ("CDBG-DR") funds to rehabilitate or demolish them for redevelopment or for another subsequent property use. Rehabilitated homes will be sold with certain restrictions upon resale to ensure ongoing compliance with Federal Regulations. This may include selling the property to qualifying homebuyers at an affordable cost or for vacant properties, selling to developers as sites of future affordable housing. Disposing of sites through an auction-like process may also be required. Sites determined to be restricted from future development will be cleared and transferred to an appropriate City agency, a qualified land steward, or another eligible owner. Based on initial estimates, Project Rebuild expects to acquire approximately 100 properties for subsequent disposition. This number is subject to change.

The selected Contractor(s) will be given pre-determined clusters and will be required to accept all the properties offered to them by Project Rebuild. The Contractor cannot reject any homes within the assigned cluster offered by Project Rebuild for their assigned scope of services. The Contractor's workload will be dependent upon the scopes of work for each property.

II. SCOPE OF WORK

As described above, Project Rebuild is seeking Qualified Applicants to provide fencing, securing, and maintenance services for vacant properties and sites as follows:

A. Vacant site (property already demolished):

Property Securing and Maintenance:

1. Fencing of the sites.
2. Clearing debris.
3. Routine maintenance – at least 2x monthly
4. Seasonal maintenance (for example: removing snow and ice and mowing grass).

B. Property to be demolished:

Property Securing and Maintenance:

1. Fencing of the sites before and after demolition.
2. Securing of windows and doors before demolition.
3. Clearing debris.
4. Routine maintenance – at least 2x monthly
5. Seasonal maintenance (for example: removing snow and ice and mowing grass).

C. Property to be rehabilitated:

Property Securing and Maintenance:

1. Fencing of the sites.
2. Securing of windows and doors before and after rehabilitation.
3. Clearing debris.
4. Routine maintenance – at least 2x monthly
5. Seasonal maintenance (for example: removing snow and ice and mowing grass).

III. PROGRAM GUIDELINES

Execution of Contract for Services

If selected for the Program, Applicants will be required to execute a contract with Project Rebuild. Given that Project Rebuild does not at this time know the identity of all the property owners who will participate in the Program, the contract will need to be amended to include any additional properties once such additional properties are qualified for the Program and assigned to a selected Contractor.

Obligations of Contractor

Upon entering into contract with Project Rebuild, Contractor(s) accept responsibility for meeting all deadlines and for complying with enforcement provisions. The Contractors are required to provide the scope of service in accordance with the following:

- Ensure compliance with Project Rebuild deadlines for delivery of services. Some assignments will involve priority work, which will require immediate attention, within reason. Under the normal course of business, Project Rebuild expects a property to be fenced and secured within thirty (30) days of acquisition and routine maintenance performed two times per month, at a minimum. Given the time-sensitive nature of the Program, Project Rebuild requires that the work completion deadlines be adhered to strictly. Failure to meet these deadlines may be grounds for termination by Project Rebuild.
- Maintain adequate staff to undertake the services required. Project Rebuild reserves the right, at its sole discretion, to request additional staff or to require the replacement of nonproductive staff members when deemed necessary.
- Establish with Project Rebuild staff an operations plan including, but not limited to, expected timelines and reporting procedures.

Term of the Contract/Pricing

Fees for services will be established through the pricing provided in response to this IFB. Project Rebuild will select the most reasonable and responsive Applicant(s). Project Rebuild will enter into contracts with selected Contractors, renewable with the original terms, at the sole discretion of Project Rebuild. Project Rebuild cannot and does not guarantee a particular number or a particular type of transaction to be serviced by the selected Contractor.

Project Rebuild will make payments of invoices within thirty (30) days of the successful completion of services. Payment for additional services must be submitted, in writing, to Project Rebuild for approval prior to commencing work.

The proposed project shall conform to, and be subject to, all applicable laws, rules, regulations and ordinances of all Federal, State, and City authorities having jurisdiction, as the same may be amended from time to time. Additionally, to participate in the Program, the selected Contractor must adhere to all applicable sections of New York City and federal contracting provisions in the CDBG-DR Rider Package for Contracts attached to this IFB as Attachment 1 ("CDBG-DR Rider Package for Contracts").

Pursuant to the foregoing, Contractors may be required to, without limitation:

- Complete background questionnaires;
- Comply with laws, rules and regulations governing lobbying activity;
- Demonstrate ability to comply with the requirements of Section 3 of the HUD Act of 1968, as amended, and as implemented by the regulations set forth in Attachment 1;
- Comply with New York City's equal employment opportunity ("EEO") requirements, including participating in an EEO class;
- Comply with whistleblower protection laws, as applicable;
- Promptly furnish Project Rebuild with any reasonably requested information and reports and otherwise cooperate with Project Rebuild, in each case, in furtherance of ensuring compliance with federal, state, and local requirements.
- Post open positions through the City's Workforce 1 portal.

Prevailing Wage

Project Rebuild will provide Contractors procured to perform building security and fencing, with compensation and supplements at a rate no less than the rate established in the prevailing wage schedule pursuant to New York City Labor Law 220.

Site Assignment

The sites are all located in areas that were disproportionately affected by Superstorm Sandy in Staten Island, Brooklyn, and Queens. The Contractor must agree to take properties in the clusters that Project Rebuild assigns, regardless of the number assigned. **Failure to do so will disqualify the Contractor from further consideration in the Program.**

IV. THRESHOLD CRITERIA

To be considered eligible, Applicants must be legally licensed to operate as a Contractor in New York State and must meet the following qualifications:

To be considered eligible, Applicants must meet the following qualifications:

- Demonstrated prior experience in the preferred scope of services in accordance with applicable codes, standards, rules and regulations;
- Experience with securing, maintaining, and/or fencing properties in New York City;
- Applicants must have five or more years of proven experience;
- Ability to provide cash collateral, if applicable;
- Demonstrated capacity to deal with these types of projects in an expedited fashion;
- Demonstrated ability to work successfully with government and not-for-profit organizations;

- Demonstrated commitment to working with Minority and Woman Owned Businesses (M/WBE) and Emerging Business Enterprises (EBE) in accordance with Section 6-129 of the New York City Administrative Code; and
- Compliance, if applicable, with Section 220 of the New York State Labor Law, Section 6-109 of the New York Administrative Code, Mayoral Executive Order 102 of 2006, and all other federal, State, and local Labor Laws and regulations, including but not limited to providing on-the-job training opportunities and payment of prevailing wages and living wages.

Applicants may be disqualified for adverse findings with respect to:

- Arson, fraud, bribery, or grand larceny conviction or pending case;
- Previous record of default on work done under government contract;
- Formal debarment or suspension from entering into contracts with any governmental agency or other notification or ineligibility for or prohibition against bidding or proposing on government contracts;
- Denial of a contract based on any obligation to, or unsatisfied judgment or lien held by, a governmental agency;
- Subject of any voluntary or involuntary bankruptcy proceeding;
- City and HUD mortgage foreclosure proceedings or arrears;
- *In Rem* foreclosure or substantial tax arrears;
- A record of substantial building code violations or litigation against properties owned by the Applicant or by any entity or individual that comprises the Applicant;
- Tenant harassment conviction or pending case;
- A negative history with Project Rebuild and its affiliates, HPD, New York State Homes and Community Renewal (HCR) or United States Department of Housing and Urban Development (HUD); or
- A history of poor construction quality without remedy.

V. SUBMISSION REQUIREMENTS

For consideration, Applicants must submit one fastened original binder or pdf file, if submitting electronically, of the Applicant's qualifications, including all documentation requested, as described below:

Each copy of the qualifications must be clearly labeled with tabs as indicated below or labelled sections, if submitting electronically. The tabs should run down the right hand side of the submission. The original applications must be signed by an authorized representative of the Applicant. All submissions become the property of Project Rebuild.

Submissions shall be delivered by hand **no later than August 31, 2016 by 12pm to the address as follows:**

Project Rebuild, Inc.
 150 Broadway, Suite 2101
 New York, NY 10038
 (212) 584-8981 x 16
 Attn: Annie Stefanski

PLEASE NOTE THAT EACH COPY OF THE APPLICANT'S QUALIFICATIONS MUST CONTAIN THE FOLLOWING FORMS AND SUPPORTING DOCUMENTATION AS STATED BELOW.

Contents of Submission & Scoring

TAB A - Cover Letter (5%)

Applicants should provide a cover letter on company letterhead that: references the IFB; summarizes the ability to perform such services as described; and provides contact information for the Applicant's main contact person.

TAB B - Applicant Questionnaire, Certification of Information, & Credit Authorization Form (see attached) (40%)

Complete the forms contained in Tab B. If the Applicant is a joint venture or a newly formed business partnership, provide a separate Questionnaire for each entity that comprises the joint venture.

TAB C - Residential Development Experience Forms (25%)

Contractor must have completed projects in their preferred scope of services (fenced, secured, and/or, maintained) for a minimum of 15 properties in New York City. A completed Residential Development Experience form (Tab C) must be completed for each entity. Applicants should complete the form that corresponds with each of the scopes of services they are applying to perform (i.e. fencing, securing, maintaining). List all projects that have been completed within the last 5 years or that are currently underway or have otherwise been committed.

TAB D - Contractor Bid Form (30%)

Applicants should complete the form that corresponds with the each of the scopes of services they are applying to perform (i.e. fencing, securing, maintaining).

Additional Information

VENDEX

All selected Contractors will be subject to completion of a VENDEX Questionnaire and review of that information by the NYC Department of Investigation prior to contract award. Project Rebuild asks that all Applicants complete and return the VENDEX Questionnaire ("Attachment 2") with its submission to expedite the approval process should the Applicant be selected for the Program. If the Applicant has already submitted the VENDEX Questionnaire for other business within the last three (3) years, a Certificate of No Change may be submitted instead.

Disclosure & Conflict of Interest Statement

Project Rebuild will require disclosure by an Applicant, its employees or anyone acting on its behalf. A review of such disclosure will include, but not be limited to: (i) whether an Applicant, its employees or anyone acting on its behalf has ever been convicted of a crime or offense arising directly or indirectly from the conduct of the Applicant's business; (ii) whether any of an Applicant's officers, directors, or persons exercising substantial policy discretion have ever been convicted of any crime or offense involving misconduct or fraud; (iii) any material financial relationships that an Applicant, any Applicant employee or affiliate has with firms or entities that may create a conflict of interest or the appearance of a conflict of interest in acting as a Contractor for any site with which they enter into contract pursuant to this IFB; and (iv) any family relationship that any employee of an Applicant has with an officer or board member of any site with which they enter into contract pursuant to this IFB, that may create a conflict of interest, or any other matter that the Applicant believe may create a conflict of interest or the appearance of a conflict of interest in acting as a Contractor for any site with which they enter into contract pursuant to this IFB. Failure to adequately disclose may result in a conflict-of-interest determination.

Submissions will be promptly reviewed by Project Rebuild. Interviews, site visits, and/or additional information may be requested.

VI. TERMS AND CONDITIONS

This IFB is subject to the specific conditions, terms and limitations stated below:

- Project Rebuild is not obligated to pay nor shall it in fact pay any costs or losses incurred by any applicant at any time including the cost of responding to the IFB.
- Project Rebuild reserves the right to reject at any time any or all proposals and/or to withdraw this IFB in whole or in part, to negotiate with one or more applicants, and/or dispose of the sites on terms other than those set forth herein. Project Rebuild likewise reserves the right, at any time, to waive compliance with, or change any of the terms and conditions of this IFB, and to entertain modifications and additions to the selected proposals.
- Designation of an Applicant as a Contractor for this Program will not create any rights on the Applicant's part, including without limitation, rights of enforcement, equity, or reimbursement, until the contract is executed.
- The proposed project shall conform to, and be subject to, the provisions of the Zoning Resolution and all other applicable laws, rules, regulations and ordinances of all Federal, State, and City authorities having jurisdiction, as the same may be amended from time to time.

VII. NOTICES

Requirement to Acknowledge Amendments

Applicants are required to acknowledge amendments to this document.

Applicant Rights

Applicants should clearly indicate which portions of their proposals that they deem to be confidential, proprietary information or trade secrets and provide any justification why such information, upon request, should not be disclosed by the City. Applicants have the right to appeal certain decisions.

Irrevocable Price

Prices are irrevocable until contract award, unless the bids is withdrawn, and that bids may be withdrawn only after the expiration of forty-five (45) days from the bids opening and only in writing received by Project Rebuild and in advance of award.

The New York City Comptroller is charged with the audit of contracts in New York City. Any Contractor who believes that there has been unfairness, favoritism, or impropriety in the Bids process should inform the Comptroller, Office of Contract Administration, 1 Centre Street, Room 1005, New York, NY 10007, (212) 669- 2323.

TAB B

APPLICANT QUESTIONNAIRE

ALL APPLICANTS SHALL COMPLETE THIS FORM AS WELL AS THE QUESTIONNAIRE THAT IS ATTACHED.

If the applicant is a joint venture, a separate Questionnaire and Attachment shall be provided for each entity that comprises the joint venture, as identified in Section 2 below. If the applicant is a newly formed joint venture or business, information on the entity with their rehabilitation and marketing and sales experience must be provided. If additional space is needed, please submit separate sheet(s), identifying the question(s) being answered on each sheet. See Section V, of the IFB for detailed submission requirements.

Check the box(es) for the scope of services you are applying to undertake:

Property Fencing
Property Securing
Property Maintenance

NAME OF APPLICANT: _____

ADDRESS: _____

Name of CONTACT PERSON: _____
(for the Applicant)
Address: _____

Telephone Number: _____

Fax Number: _____

E-Mail: _____

2. IS THE APPLICANT A JOINT VENTURE? YES [] NO []

If yes, list below the name, address, and phone number of each entity which comprises the applicant entity stated above, and the percentage of ownership interest in the joint venture.

<u>Name of Entity</u>	<u>Address</u>	<u>% of Ownership</u>
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APPLICANT NAME: _____

NAME OF ENTITY COMPLETING THIS QUESTIONNAIRE: _____

(If other than applicant, i.e. joint venture) _____

1. **PRINCIPALS**

- (a) Provide the following information about all principals of this entity. For corporations: provide the names of the officers and controlling shareholders (those owning 10% or more). For partnerships, provide the names of all general partners. For not-for-profits, please provide the names of the Board of Directors and Officers.

Also state the role that each would play in the acquiring and disposition of Project Rebuild homes and properties.

Name/ Position/Title	Home Address	Role	SS#	% Owned

2. **ORGANIZATIONAL CAPACITY**

- (a) Provide organization resumes or any brochures describing your organization and the projects undertaken.

- (b) State number of years the business has been in operation.

- (c) State number and type of employees and describe their general duties and experience.

(d) Does your organization generally or most efficiently operate as a member of a development team that includes other entities? If yes, identify the other individuals and/or organizations and their respective roles.

(e) If the applicant is a joint venture or a newly formed business entity, has any member of the joint venture or principals of the new business entity jointly carried out another project? If so, state the name(s) and location(s) of each project. Indicate which members of the joint venture or principals of the new business participated in each project.

(f) Identify for profit and nonprofit developers and architects that you have worked with in the past. Describe the extent of the work you have performed for these entities.

(g) Describe any experience or other factors that would demonstrate your knowledge and experience in securing and maintaining housing in New York City. Describe your process in ensuring that the work is completed in a timely and workmanship like manner.

(i) Identify any Minority or Women Owned Businesses (MWBE) certified with New York State that you have worked with and plan to work with should you be awarded this project, including your organization. Please provide business names and trades.

3. **ORGANIZATIONAL STRUCTURE**

(a) Type of Organization: Sole proprietorship [] Partnership [] Corporation [] Not-For Profit []

(b) For corporations or partnerships: provide the following information about all partners, officers, and shareholders. For not-for-profits list your board members and officers.

Name Position/Title	Percentage of Ownership	Date of Ownership

(c) Do any principals and/or officers maintain a business relationship with or have an ownership interest in another company?
Yes [] No []

If yes, provide the following information:

Name Position/Title	Percentage of Ownership	Date of Ownership

(e) Is company owned in full or in part by another firm or investor(s)? Yes [] No []

If yes, provide the following information:

Name of Firm/Investor	Address and Phone	% of Ownership

4. **EXPERIENCE**

(a) Complete the following forms for your organization. If any key member has had other experience that you consider relevant to your organization's qualifications, provide a separate form for each such individual.

5. **REFERENCES**

Provide the name, address, telephone and fax numbers, and e-mail addresses (if available) of at least three business references whom we may contact regarding your residential development experience. For each, identify the home or homes about which the individual is informed. References may include building owners, lenders, architects, engineers, homeowners, and other development professionals with whom you have worked in the past.

6. **OTHER:**

Has any principal identified on page 1, or any organization in which the principal is or was a general partner, or corporate officer, or owned more than 10% of the shares of the corporation been the subject of any of the following:

	YES	NO
A. Arson conviction, or pending case;		
B. Harassment complaint filed by the New York State Division of Rent Control or the New York State Division of Housing and Community Renewal;		
C. HPD's Housing Litigation Division pending or active case or negative history;		
D. Had an ownership or management interest in a home that was tax foreclosed by the City or assigned by a Judge of Landlord and Tenant Court to a 7A Administrator or Receiver;		
E. City and/or HUD Mortgage foreclosure or currently more than 90 days in arrears on any City or HUD loan;		
F. Defaulted on any contract obligation or agreement of any kind or nature whatsoever entered into with the HUD, State or City of New York or of its agencies;		
G. In the last 5 years, failed to qualify as a responsible bidder, or refused to enter into a contract after an award has been made, privately or with any government agency?		
H. In the last 7 years, filed a bankruptcy petition or been the subject of involuntary bankruptcy proceedings?		
I. In the last 5 years, failed to file any required tax returns, or failed to pay any applicable Federal, State or New York City taxes or other charges?		
J. Been convicted of fraud, bribery, or grand larceny?		

If yes, please state the following information:

(1) Name of principals: _____

(2) Name of organization/corporation and if an officer, state title:

(3) Date of action: _____

(4) Current status of action: _____

(5) Explanation of Circumstances: _____

TAB B: CERTIFICATION OF INFORMATION

This certification must be signed by one of the Individuals listed above; if the Respondent Entity is a joint venture, an Individual representing each Principal of the joint venture must sign it.

I certify that the information set forth in this application and all attachments and supporting documentation is true and correct. I understand that Project Rebuild and HPD will rely on the information in or attached to this document and that this document is submitted to induce the Project Rebuild to select you as a Contractor.

I understand that this statement is part of a continuing application and I will report any changes in or additions to the information herein, and will furnish such further documentation or information as may be requested by Project Rebuild and HPD or any agency thereof.

I understand that if I am selected as a Contractor, I must submit all additional disclosure forms required.

Name of Principal: _____

Signature of Individual: _____

Print Name and Title of Individual: _____

Name of Principal: _____

Signature of Individual: _____

Print Name and Title of Individual: _____

**TAB C: RESIDENTIAL SITE SECURING EXPERIENCE
FENCING & BOARDING WINDOWS & DOORS
LAST 5 YEARS**

NAME OF APPLICANT: _____

NAME OF INDIVIDUAL/ORGANIZATION completing this form: _____

Instructions: Please list property addresses separately even if they are part of a multi-site project. Fill out form completely and use as many forms as necessary to list ALL experience in the last 5 years.

ADDRESS	PROJECT NAME	ROLE (1)	BORO	CB*	CD**	PROJECT TYPE	# OF UNITS	TOTAL DEV. COST	GOV'T PROGRAM	STATUS	WORK TYPE F/B (4)	MO/YR COMPLETE	PUBLIC/PRIVATE LENDER
Bldg. #, Street, City, State, Zip						R/C/H/O (3)							(Contact Name & Phone No.)

(1) ROLE: Indicate the role you played in the development of each property listed above. If completed as part of a joint venture, indicate such by adding JV to the respective role.

- D = Developer
- B = Builder
- GC = Contractor/Construction Manager
- O = Other (Specify:)
- PM = Property Manager
- M = Marketing Agent
- C = Contractor

* Community Board/
Planning District
** Council District/
Congressional District

(2) PROJECT TYPE
R = Rental
C = Co-op/Condo
H = 1-4 Family
O = Other (Specify:)

(3) STATUS
P = Pre-development
I = In-construction
M = In - Marketing (Lease up
or sales)
C = Completed

(4) WORK TYPE
F = Fencing
B = Securing

**TAB C: RESIDENTIAL PROPERTY MAINTENANCE EXPERIENCE
LAST 5 YEARS**

NAME OF APPLICANT: _____

NAME OF INDIVIDUAL/ORGANIZATION completing this form: _____

Instructions: Please list property addresses separately even if they are part of a multi-site project. Fill out form completely and use as many forms as necessary to list ALL experience in the last 5 years.

ADDRESS Bldg. #, Street, City, State, Zip	PROJECT NAME	ROLE (1)	BORO	CB*	CD**	PROJECT TYPE	# OF UNITS	TOTAL DEV. COST	GOV'T PROGRAM	STATUS	MO/YR COMPLETE	PUBLIC/PRIVATE LENDER
						R/C/H/O (2)				P/I/M/C(3)		(Contact Name & Phone No.)

(1) ROLE: Indicate the role you played in the development of each property listed above. If completed as part of a joint venture, indicate such by adding JV to the respective role. e.g. D/JV
 D = Developer
 B = Builder
 GC = Contractor/Construction Manager
 O = Other (Specify:)
 PM = Property Manager
 M = Marketing Agent
 C = Contractor

* Community Board/
 Planning District
 ** Council District/
 Congressional District

(2) PROJECT TYPE
 R = Rental
 C = Co-op/Condo
 H = 1-4 Family
 O = Other (Specify:)

(3) STATUS
 P = Pre-development
 I = In-construction
 M = In - Marketing (Lease up or sales)
 C = Completed

TAB D: CREDIT AUTHORIZATION FORM

I authorize Project Rebuild and/or the Department of Housing Preservation and Development to obtain a credit report on:

FIRM NAME: _____

Complete Section A for the Applicant and sign where indicated below:

Section A

Applicant's Employer Identification Number: _____

Date of Incorporation: _____

Date of Partnership or Joint Venture Formation _____

Complete Section B for Each Principal of the Applicant and sign where indicated below:

Section B

PRINCIPAL'S NAME*: _____

ADDRESS: _____

Social Security Number: _____

Date of Birth: _____

*Please indicate if you are a Jr., Sr. or III.

If you have been married less than two years, or if you have been known by another name, please indicate former name:

If at the above address less than two years, indicate prior address:

Signature: _____

TAB D: FENCING & SECURING CONTRACTOR BID FORM
(for services not intended – leave blank)

ORGANIZATION NAME: _____

PRICE BIDS:

1. WINDOW SECURING

Window Securing (per Window): _____

2. DOOR SECURING

Door Securing (per Door): _____

3. FENCING

Fencing Property (per Linear Foot): _____

Gate (per Gate): _____

4. TOTAL MONTHLY FEE

Total Monthly Fee (if applicable): _____

TAB D: PROPERTY MAINTENANCE CONTRACTOR BID FORM

FIRM NAME: _____

PRICE BIDS:

1. TRASH REMOVAL

Trash Removal (per cubic yard): _____

2. SEASONAL MAINTENANCE

Seasonal Maintenance – yard mow or snow shovel (per visit): _____

3. ROUTINE MAINTENANCE (at least 2x per month)

Cleaning of the Property and Adjoining Sidewalk (per visit): _____

4. MISCELLANEOUS

Allow for potential work that would go above and beyond basic services listed prior, for example, extermination services for pest removal.

Hourly Fee: _____

Attachment 1

**UNIFORM FEDERAL CONTRACT PROVISIONS RIDER
FOR FEDERALLY FUNDED PROCUREMENT CONTRACTS
(11/10/2015)**

[Instructions to Agencies: This Uniform Federal Contract Provisions Rider for Federally Funded Procurement Contracts (“Rider”) must be attached to all federally funded procurement contracts (of any dollar amount) that are subject to 2 CFR Part 200 (Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards). This Rider does not apply to subrecipient or subaward agreements. Procurement contracts funded by the U.S. Department of Housing and Urban Development CDBG Program or CDBG-DR Program must also include the CDBG or CDBG-DR Rider, as applicable.]

A. *Definitions.* As used in this Rider:

- (1) “Awarding Entity” means the entity awarding the Contract. The Awarding Entity may be the City or a contractor at any tier.
- (2) “City” means the City of New York.
- (3) “Commissioner” means the head of the City agency entering into this Contract.
- (4) “Construction” means the building, rehabilitation, alteration, conversion, extension, demolition, painting or repair of any improvement to real property.
- (5) “Contract” refers to the contract or the agreement between the Awarding Entity and the Contractor.
- (6) “Contractor” means the entity performing the services pursuant to a Contract.
- (7) “Federal Agency” means the U.S. agency or agencies funding this Contract in whole or in part.
- (8) “Government” means the U.S. government.
- (9) “Rider” means this Uniform Federal Contract Provisions Rider.

B. *Termination and Remedies for Breach of Contract.* The following provisions concerning remedies for breach of contract and termination apply to Contracts between the City and the City’s Contractor.

- (1) **Remedies for Breach of Contract.** If the Contractor violates or breaches the Contract, the City may avail itself of any or all of the remedies provided for elsewhere in this Contract. If there are no remedies provided for elsewhere in this Contract, the City may avail itself of any or all of the following remedies.

After declaring the Contractor in default pursuant to the procedures in paragraph (a) of subdivision (2) of this section (B) below, the City may (i) withhold payment for unsatisfactory services, (ii) suspend or terminate the Contract in whole or in part; and/or

(iii) have the services under this Contract completed by such means and in such manner, by contract procured with or without competition, or otherwise, as the City may deem advisable in accordance with all applicable Contract provisions and law. After completion of the services under this Contract, the City shall certify the expense incurred in such completion, which shall include the cost of procuring that contract. Should the expense of such completion, as certified by the City, exceed the total sum which would have been payable under the Contract 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 City may be charged against and deducted out of monies earned by the Contractor.

(2) **Termination.** The City shall have the right to terminate the Contract in whole or in part for cause, for convenience, due to force majeure, or due to reductions in federal funding. If the Contract does not include termination provisions elsewhere, the following termination provisions apply:

a. **Termination for Cause.** The City shall have the right to terminate the Contract, in whole or in part, for cause upon a determination that the Contractor is in default of the Contract. Unless a shorter time is determined by the City to be necessary, the City shall effect termination according to the following procedure:

i. *Notice to Cure.* The City shall give 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 Contract pending the outcome of the default proceedings pursuant to this section.

ii. *Opportunity to be Heard.* 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. Before the Commissioner may exercise his or her right to declare the Contractor in default, the Contractor must be given 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.

iii. *Notice of Termination.* After an opportunity to be heard, the Commissioner may terminate the Contract, in whole

or in part, upon finding the Contractor in default. The Commissioner shall give the Contractor written notice of such termination (“Notice of Termination”), specifying the applicable provision(s) under which the Contract is terminated and the effective date of termination. If no date is specified in the Notice of Termination, the termination shall be effective either 10 calendar days from the date the notice is personally delivered or 15 calendar days from the date Notice of Termination is sent by another method. The Notice of Termination shall be personally delivered, 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.

iv. *Grounds for Default.* 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 Contract, 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 Contract 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 Contract 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.

v. *Basis of Settlement.* The City shall not incur or pay any further obligation pursuant to this Contract beyond the termination date set by the City in its Notice of Termination. The City shall pay for satisfactory services provided in accordance with this Contract prior to the termination date. In addition, any obligation necessarily incurred by the Contractor on account of this Contract 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 Contract. 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.

b. **Termination for Convenience.** The City shall have the right to terminate the Contract for convenience, by providing written notice (“Notice of Termination”) according to the following procedure. The Notice of Termination shall specify the applicable provision(s) under which the Contract is terminated and the effective date of termination, which shall be not less than 10 calendar days from the date the notice is personally delivered or 15 days from the date the Notice of Termination is sent by another method. The Notice of Termination shall be personally

delivered, 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. The basis of settlement shall be as provided for in subparagraph (iv) of paragraph (a) of subdivision (2) of this section (B), above.

c. Termination due to Force Majeure

- i. For purposes of this Contract, a force majeure event is an act or event beyond the control and without any fault or negligence of the Contractor (“Force Majeure Event”). Force Majeure 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.
- ii. In the event the Contractor cannot comply with the terms of the Contract (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 Contract. If the Commissioner, in his or her reasonable discretion, determines that the Contractor cannot comply with the terms of the Contract because of a Force Majeure Event, then the Commissioner shall excuse the nonperformance and may terminate the Contract. Such a termination shall be deemed to be without cause.
- iii. If the City terminates the Contract due to a Force Majeure Event, the basis of settlement shall be as provided for in subparagraph (iv) of paragraph (a) of subdivision (2) of this section (B), above.

d. Termination due to Reductions in Federal Funding

- i. This Contract is funded in whole or in part by funds secured from the Federal government. Should the Federal government reduce or discontinue such funds, the City shall have, in its sole discretion, the right to terminate this Contract in whole or in part, or to reduce the funding and/or level of services of this Contract caused by such action by the Federal government, 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 Contract and in the total amount payable under this Contract. Any reduction in funds pursuant to this

paragraph shall be accompanied by an appropriate reduction in the services performed under this Contract.

- ii. In the case of the reduction option referred to in subparagraph (i), above, any such reduction shall be effective as of the date set forth in a written notice thereof to the Contractor, which shall be not less than 30 calendar days from the date of such notice. Prior to sending such notice of reduction, the City shall advise the Contractor that such option is being exercised and afford the Contractor an opportunity to make within seven calendar 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 City shall not be bound to utilize any of the Contractor's suggestions and that the City shall have sole discretion as to how to effectuate the reductions.
- iii. If the City reduces funding pursuant to this paragraph (c), the basis of settlement shall be as provided for in subparagraph (iv) of paragraph (a) of subdivision (2) of this section (B), above.

C. Standard Provisions. The Contractor shall comply with, include in its subcontracts, and cause its subcontractors to comply with the following provisions, as applicable:

- (1) *Reporting.* Contractor shall be required to produce and deliver such reports relating to the services performed under the Contract as may be required by the Awarding Entity, City or any other State or Federal governmental agency with jurisdiction.
- (2) *Non-Discrimination.* Contractor shall not violate any Federal, State, or City law prohibiting discrimination concerning employment, the provision of services, and, if applicable, housing, funded by this Contract.
- (3) *Environmental Protection.* If the Contract is in excess of \$150,000, the Contractor shall comply with all applicable standards, orders, or regulations issued under the Clean Air Act (42 U.S.C. § 7401-7671q), Federal Water Pollution control Act (33 U.S.C. §§ 1251-1387) Section 508 of the Clean Water Act (33 U.S.C. § 1368), Executive Order 11738, and Environmental Protection Agency regulations (provisions of 40 CFR Part 50 and 2 CFR Part 1532 related to the Clean Air Act and Clean Water Act). Violations must be reported to the Federal Agency and the Regional Office of the Environmental Protection Agency (EPA). The Contractor shall include this provision in all subcontracts.
- (4) *Energy Efficiency.* The Contractor shall comply with mandatory standards and policies relating to energy efficiency that are contained in the New York State energy conservation plan issued in compliance with the Energy Policy Conservation Act (Pub. L. 94-163).
- (5) *Debarment.* The Contractor certifies that neither it nor its principals is currently in a state of debarment, suspension, or other ineligible status as a result of prior performance, failure, fraud, or violation of City laws. The Contractor further certifies that neither it nor

its principals is debarred, suspended, otherwise excluded from or ineligible for participation in Federal assistance programs. The City reserves the right to terminate this Contract if knowledge of debarment, suspension or other ineligibility has been withheld by the Contractor.

- (6) *Byrd Anti-Lobbying Amendment (31 USC §1352)*. Contractor certifies that it will not and has not used Federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any Federal agency, a member of Congress, officer or employee of Congress, or any employee of a member of Congress in connection with obtaining this Contract. If the Contract is \$100,000 or more, the Contractor shall disclose to the City any lobbying with non-Federal funds that took place in connection with obtaining this Contract. Each lower tier subcontractor shall make such certification and forward any required disclosures from tier to tier up to the City as grant recipient. (Certification appears in Federal Appendix A)
- (7) *Solid Waste Disposal Act*. Pursuant to 2 CFR § 200.322, Contractor must comply with section 6002 of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act (codified at 42 USC § 6962). The requirements of Section 6002 include procuring only items designated in guidelines of the Environmental Protection Agency (EPA) at 40 CFR Part 247 that contain the highest percentage of recovered materials practicable, consistent with maintaining a satisfactory level of competition, where the purchase price of the item exceeds \$ 10,000 or the value of the quantity acquired during the preceding fiscal year exceeded \$ 10,000; procuring solid waste management services in a manner that maximizes energy and resource recovery; and establishing an affirmative procurement program for procurement of recovered materials identified in the EPA guidelines.
- (8) *Documentation of Costs*. All costs shall be supported by properly executed payrolls, time records, invoices, or vouchers, or other official documentation evidencing in proper detail the nature and propriety of the charges. All checks, payrolls, invoices, contracts, vouchers, orders or other accounting documents, pertaining in whole or in part to the Agreement, shall be clearly identified and regularly accessible.
- (9) *Records Retention*. The Contractor shall retain all books, documents, papers, and records relating to the services performed under the Contract for three years after final payment under the Contract is made and all other pending matters are closed.
- (10) *Records Access*. The Contractor shall grant access to the City, State or any other pass-through entity, the Federal Agency, Inspectors General, and/or the Comptroller General of the United States, or any of their duly authorized representatives, to any books, documents, papers, and/or records of the Contractor that are pertinent to the Contract for the purpose of making audits, examinations, excerpts, and transcripts. The right also includes timely and reasonable access to the Contractor's personnel for the purpose of interview and discussion related to such documents. The rights of access in this section are not limited to the required retention period but last as long as the records are retained.
- (11) *Small Firms, M/WBE Firms, and Labor Surplus Area Firms*. Contractor shall take the following affirmative steps in the letting of subcontracts, if subcontracts are to be let, in order to ensure that minority firms, women's business enterprises, and labor surplus area firms are used when possible:

- a. Placing qualified small and minority businesses and women's business enterprises on solicitation lists;
- b. Assuring that small and minority businesses, and women's business enterprises are solicited whenever they are potential sources;
- c. Dividing total requirements, when economically feasible, into smaller tasks or quantities to permit maximum participation by small and minority businesses, and women's business enterprises;
- d. Establishing delivery schedules, where the requirement permits, which encourage participation by small and minority businesses, and women's business enterprises; and
- e. Using the services and assistance of the Small Business Administration, and the Minority Business Development Agency of the Department of Commerce.

(12) *Intangible Property.*

- a. Pursuant to 2 CFR § 200.315(d), the Government reserves a royalty-free, non-exclusive, and irrevocable right to obtain, reproduce, publish, or otherwise use, and to authorize others to use, for Government purposes: (a) the copyright in any work developed under the Contract or subcontract; and (b) any rights of copyright to which a Contractor purchases ownership with grant support.
- b. Any reports, documents, data, photographs, deliverables, and/or other materials produced pursuant to the Contract ("Copyrightable Materials"), and any and all drafts and/or other preliminary materials in any format related to such items produced pursuant to the contract, shall upon their creation become the exclusive property of the City. The 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 Contract without the prior written

permission of the City. The City may grant the Contractor a license to use the Copyrightable Materials on such terms as determined by the City 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 Contract, copies of which shall be provided to the City upon execution of this Contract.
- e. The Contractor shall promptly and fully report to the City any discovery or invention arising out of or developed in the course of performance of this Contract and the Contractor shall promptly and fully report to the 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.
- 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.

D. Special Provisions for Construction Contracts. If this Contract involves Construction work, design for Construction, or Construction services, all such work or services performed by the Contractor and its subcontractors shall be subject to the following requirements in addition to those set forth above in paragraphs (A), (B), and (C):

(1) *Federal Labor Standards.* The Contractor will comply with the following:

- a. The Davis-Bacon Act (40 U.S.C. §§ 3141-3148): If required by the federal program legislation, in Construction contracts involving an excess of \$2000, and subject to any other federal program limitations, all laborers and mechanics must be paid at a

rate not less than those determined by the Secretary of Labor to be prevailing for the City, which rates are to be provided by the City. These wage rates are a federally mandated minimum only, and will be superseded by any State or City requirement mandating higher wage rates. The Contractor also agrees to comply with Department of Labor Regulations pursuant to the Davis-Bacon Act found in 29 CFR Parts 1, 3, 5 and 7 which enforce statutory labor standards provisions.

- b. If required by the federal program legislation and subject to any other federal program limitations, Sections 103 and 107 of the Contract Work Hours and Safe Standards Act (40 U.S.C. §§ 3701-3708), which provides that no laborer or mechanic shall be required or permitted to work more than eight hours in a calendar day or in excess of forty hours in any workweek, unless such laborer or mechanic is paid at an overtime rate of 1½ times his/her basic rate of pay for all hours worked in excess of these limits, under any Construction contract costing in excess of \$2000. In the event of a violation of this provision, the Contractor shall not only be liable to any affected employee for his/her unpaid wages, but shall be additionally liable to the United States for liquidated damages.
- c. The Copeland “Anti-Kickback” Act (18 U.S.C. § 874), as supplemented by the regulations contained in 29 CFR Part 3, requiring that all laborers and mechanics shall be paid unconditionally and not less often than once a week, and prohibiting all but “permissible” salary deductions.
- d. If this Contract involves Construction work, design for Construction, or Construction services, a more complete detailed statement of Federal Labor Standards annexed hereto as FEDERAL EXHIBIT 2.

(2) *Equal Employment Opportunity*. Executive Order 11246, as amended by Executive Order 11375, and as supplemented in Department of Labor regulations (41 CFR chapter 60) for Construction contracts or subcontracts in excess of \$10,000. The Contractor shall include the notice found at FEDERAL EXHIBIT I in all Construction subcontracts. For the purposes of the Equal Opportunity Construction Contract Specifications and Clause below, the term “Construction Work” means the construction, rehabilitation, alteration, conversion, extension, demolition or repair of buildings, highways, or other changes or improvements to real property, including facilities providing utility services. The term also includes the supervision, inspection, and other onsite functions incidental to the actual construction .

Standard Federal Equal Employment Opportunity Construction Contract Specifications for Contracts and Subcontracts in Excess of \$10,000.

- 1. As used in these specifications:
 - a. “Covered area” means the geographical area described in the solicitation from which this Contract resulted;

b. "Director" means Director, Office of Federal Contract Compliance Programs, United States Department of Labor, or any person to whom the Director delegates authority;

c. "Employer identification number" means the Federal Social Security number used on the Employer's Quarterly Federal Tax Return, U.S. Treasury Department Form 941.

d. "Minority" includes:

(i) Black (all persons having origins in any of the Black African racial groups not of Hispanic origin);

(ii) Hispanic (all persons of Mexican, Puerto Rican, Cuban, Central or South American or other Spanish Culture or origin, regardless of race);

(iii) Asian and Pacific Islander (all persons having origins in any of the original peoples of the Far East, Southeast Asia, the Indian Subcontinent, or the Pacific Islands); and

(iv) American Indian or Alaskan Native (all persons having origins in any of the original peoples of North America and maintaining identifiable tribal affiliations through membership and participation or community identification).

2. Whenever the Contractor, or any subcontractor at any tier, subcontracts a portion of the work involving any Construction trade, it shall physically include in each subcontract in excess of \$10,000 the provisions of these specifications and the Notice which contains the applicable goals for minority and female participation and which is set forth in the solicitations from which this Contract resulted.

3. If the Contractor is participating (pursuant to 41 CFR 60-4.5) in a Hometown Plan approved by the U.S. Department of Labor in the covered area either individually or through an association, its affirmative action obligations on all work in the Plan area (including goals and timetables) shall be in accordance with that Plan for those trades which have unions participating in the Plan. Contractors must be able to demonstrate their participation in and compliance with the provisions of any such Hometown Plan. Each Contractor or subcontractor participating in an approved Plan is individually required to comply with its obligations under the EEO clause, and to make a good faith effort to achieve each goal under the Plan in each trade in which it has employees. The overall good faith performance by other Contractors or subcontractors toward a goal in an approved Plan does not excuse any covered Contractor's or subcontractor's failure to take good faith efforts to achieve the Plan goals and timetables.

4. The Contractor shall implement the specific affirmative action standards provided in paragraphs 7 a through p of these specifications. The goals set forth in the solicitation from which this Contract resulted are expressed as percentages of the total hours of employment and training of minority and female utilization the Contractor should reasonably be able to achieve in each Construction trade in which it has employees in the covered area. Covered Construction Contractors performing Construction Work in geographical areas where they do not have a Federal or federally assisted Construction contract shall apply the minority and female goals established for the geographical areas where the work is being performed. Goals are published periodically in the Federal Register in notice form, and such notices may be obtained from any Office of Federal Contract Compliance Programs office or from Federal

procurement contracting officers. The Contractor is expected to make substantially uniform progress in meeting its goals in each craft during the period specified.

5. Neither the provisions of any collective bargaining agreement, nor the failure by a union with whom the Contractor has a collective bargaining agreement, to refer either minorities or women shall excuse the Contractor's obligations under these specifications, Executive Order 11246, or the regulations promulgated pursuant thereto.

6. In order for the nonworking training hours of apprentices and trainees to be counted in meeting the goals, such apprentices and trainees must be employed by the Contractor during the training period, and the Contractor must have made a commitment to employ the apprentices and trainees at the completion of their training, subject to the availability of employment opportunities. Trainees must be trained pursuant to training programs approved by the U.S. Department of Labor.

7. The Contractor shall take specific affirmative actions to ensure equal employment opportunity. The evaluation of the Contractor's compliance with these specifications shall be based upon its effort to achieve maximum results from its actions. The Contractor shall document these efforts fully, and shall implement affirmative action steps at least as extensive as the following:

a. Ensure and maintain a working environment free of harassment, intimidation, and coercion at all sites, and in all facilities at which the Contractor's employees are assigned to work. The Contractor, where possible, will assign two or more women to each Construction project. The Contractor shall specifically ensure that all foremen, superintendents, and other on-site supervisory personnel are aware of and carry out the Contractor's obligation to maintain such a working environment, with specific attention to minority or female individuals working at such sites or in such facilities.

b. Establish and maintain a current list of minority and female recruitment sources, provide written notification to minority and female recruitment sources and to community organizations when the Contractor or its unions have employment opportunities available, and maintain a record of the organization's responses.

c. Maintain a current file of the names, addresses and telephone numbers of each minority and female off-the-street applicant and minority or female referral from a union, a recruitment source or community organization and of what action was taken with respect to each such individual. If such individual was sent to the union hiring hall for referral and was not referred back to the Contractor by the union or, if referred, not employed by the Contractor, this shall be documented in the file with the reason therefor, along with whatever additional actions the Contractor may have taken.

d. Provide immediate written notification to the Director when the union or unions with which the Contractor has a collective bargaining agreement has not referred to the Contractor a minority person or woman sent by the Contractor, or when the Contractor has other information that the union referral process has impeded the Contractor's efforts to meet its obligations.

e. Develop on-the-job training opportunities and/or participate in training programs for the area which expressly include minorities and women, including upgrading programs and apprenticeship and trainee programs relevant to the Contractor's employment needs, especially those programs funded or approved by the Department of Labor. The Contractor shall provide notice of these programs to the sources compiled under 7b above.

f. Disseminate the Contractor's EEO policy by providing notice of the policy to unions and training programs and requesting their cooperation in assisting the Contractor in meeting its EEO obligations; by including it in any policy manual and collective bargaining agreement; by publicizing it in the company newspaper, annual report, etc.; by specific review of the policy with all management personnel and with all minority and female employees at least once a year; and by posting the company EEO policy on bulletin boards accessible to all employees at each location where Construction Work is performed.

g. Review, at least annually, the company's EEO policy and affirmative action obligations under these specifications with all employees having any responsibility for hiring, assignment, layoff, termination or other employment decisions including specific review of these items with on-site supervisory personnel such as Superintendents, General Foremen, etc., prior to the initiation of Construction Work at any job site. A written record shall be made and maintained identifying the time and place of these meetings, persons attending, subject matter discussed, and disposition of the subject matter.

h. Disseminate the Contractor's EEO policy externally by including it in any advertising in the news media, specifically including minority and female news media, and providing written notification to and discussing the Contractor's EEO policy with other Contractors and subcontractors with whom the Contractor does or anticipates doing business.

i. Direct its recruitment efforts, both oral and written, to minority, female and community organizations, to schools with minority and female students and to minority and female recruitment and training organizations serving the Contractor's recruitment area and employment needs. Not later than one month prior to the date for the acceptance of applications for apprenticeship or other training by any recruitment source, the Contractor shall send written notification to organizations such as the above, describing the openings, screening procedures, and tests to be used in the selection process.

j. Encourage present minority and female employees to recruit other minority persons and women and, where reasonable, provide after school, summer and vacation employment to minority and female youth both on the site and in other areas of a Contractor's work force.

k. Validate all tests and other selection requirements where there is an obligation to do so under 41 CFR Part 60-3.

l. Conduct, at least annually, an inventory and evaluation at least of all minority and female personnel for promotional opportunities and encourage these employees to seek or to prepare for, through appropriate training, etc., such opportunities.

m. Ensure that seniority practices, job classifications, work assignments and other personnel practices, do not have a discriminatory effect by continually monitoring all personnel and employment related activities to ensure that the EEO policy and the Contractor's obligations under these specifications are being carried out.

n. Ensure that all facilities and company activities are non-segregated except that separate or single-user toilet and necessary changing facilities shall be provided to assure privacy between the sexes.

o. Document and maintain a record of all solicitations of offers for subcontracts from minority and female Construction contractors and suppliers, including circulation of solicitations to minority and female Contractor associations and other business associations.

p. Conduct a review, at least annually, of all supervisor's adherence to and performance under the Contractor's EEO policies and affirmative action obligations.

8. Contractors are encouraged to participate in voluntary associations which assist in fulfilling one or more of their affirmative action obligations (7a through p). The efforts of a Contractor association, joint Contractor-union, Contractor-community, or other similar group of which the Contractor is a member and participant, may be asserted as fulfilling any one or more of its obligations under 7a through p of these specifications provided that the Contractor actively participates in the group, makes every effort to assure that the group has a positive impact on the employment of minorities and women in the industry, ensures that the concrete benefits of the Program are reflected in the Contractor's minority and female work force participation, makes a good faith effort to meet its individual goals and timetables, and can provide access to documentation which demonstrates the effectiveness of actions taken on behalf of the Contractor. The obligation to comply, however, is the Contractor's and failure of such a group to fulfill an obligation shall not be a defense for the Contractor's noncompliance.

9. A single goal for minorities and a separate single goal for women have been established. The Contractor, however, is required to provide equal employment opportunity and to take affirmative action for all minority groups, both male and female, and all women, both minority and non-minority. Consequently, the Contractor may be in violation of the Executive Order if a particular group is employed in a substantially disparate manner (for example, even though the Contractor has achieved its goals for women generally, the Contractor may be in violation of the Executive Order if a specific minority group of women is underutilized).

10. The Contractor shall not use the goals and timetables or affirmative action standards to discriminate against any person because of race, color, religion, sex, or national origin.

11. The Contractor shall not enter into any Subcontract with any person or firm debarred from Government contracts pursuant to Executive Order 11246 or suspended or is otherwise excluded from or ineligible for participation in federal assistance programs.

12. The Contractor shall carry out such sanctions and penalties for violation of these specifications and of the Equal Opportunity Clause, including suspension, termination and cancellation of existing subcontracts as may be imposed or ordered pursuant to Executive Order 11246, as amended, and its implementing regulations, by the Office of Federal Contract Compliance Programs. Any Contractor who fails to carry out such sanctions and penalties shall be in violation of these specifications and Executive Order 11246, as amended.

13. The Contractor, in fulfilling its obligations under these specifications, shall implement specific affirmative action steps, at least as extensive as those standards prescribed in paragraph 7 of these specifications, so as to achieve maximum results from its efforts to ensure equal employment opportunity. If the Contractor fails to comply with the requirements of the Executive Order, the implementing regulations, or these specifications, the Director shall proceed in accordance with 41 CFR 60-4.8.

14. The Contractor shall designate a responsible official to monitor all employment related activity to ensure that the company EEO policy is being carried out, to submit reports relating to the provisions hereof as may be required by the Government and to keep records. Records shall at least include for each employee the name, address, telephone numbers, Construction trade, union affiliation if any, employee identification number when assigned, social security number, race, sex, status (e.g., mechanic, apprentice trainee, helper, or laborer), dates of changes in status, hours worked per week in the indicated trade, rate of pay, and locations at which the work was performed. Records shall be maintained in an easily understandable and retrievable form; however, to the degree that existing records satisfy this requirement, Contractors shall not be required to maintain separate records.

15. Nothing herein provided shall be construed as a limitation upon the application of other laws which establish different standards of compliance or upon the application of requirements for hiring of local or other areas residents (e.g., those under the Public Works Employment Act of 1977 and the Community Development Block Grant Program).

- (3) (A) **Equal Opportunity Clause** (for contracts for Construction Work) required by 41 CFR Part 6-1.4(b). **[Effective through January 10, 2016]**

During the performance of this contract, the Contractor agrees as follows:

(1) The Contractor will not discriminate against any employee or applicant for employment because of race, color, religion, sex, sexual orientation, gender identity, or national origin. The Contractor will take affirmative action to ensure that applicants are employed, and that employees are treated during employment without regard to their race, color, religion, sex, sexual orientation, gender identity, or national origin. Such action shall include, but not be limited to the following: Employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The Contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided setting forth the provisions of this nondiscrimination clause.

(2) The Contractor will, in all solicitations or advertisements for employees placed by or on behalf of the Contractor, state that all qualified applicants will receive considerations for employment without regard to race, color, religion, sex, sexual orientation, gender identity, or national origin.

(3) The Contractor will send to each labor union or representative of workers with which he has a collective bargaining agreement or other contract or understanding, a notice to be provided advising the said labor union or workers' representatives of the Contractor's commitments under this section, and shall post copies of the notice in conspicuous places available to employees and applicants for employment.

(4) The Contractor will comply with all provisions of Executive Order 11246 of September 24, 1965, and of the rules, regulations, and relevant orders of the Secretary of Labor.

(5) The Contractor will furnish all information and reports required by Executive Order 11246 of September 24, 1965, and by rules, regulations, and orders of the Secretary of Labor, or pursuant thereto, and will permit access to his books, records, and accounts by the administering agency and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations, and orders.

(6) In the event of the Contractor's noncompliance with the nondiscrimination clauses of this contract or with any of the said rules, regulations, or orders, this contract may be canceled, terminated, or suspended in whole or in part and the Contractor may be declared ineligible for further Government contracts or federally assisted construction contracts in accordance with procedures authorized in Executive Order 11246 of September 24, 1965, and such other sanctions may be imposed and remedies invoked as provided in Executive Order 11246 of September 24, 1965, or by rule, regulation, or order of the Secretary of Labor, or as otherwise provided by law.

(7) The Contractor will include the portion of the sentence immediately preceding paragraph (1) and the provisions of paragraphs (1) through (7) in every subcontract or purchase order unless exempted by rules, regulations, or orders of the Secretary of Labor issued pursuant to section 204 of Executive Order 11246 of September 24, 1965, 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 the administering agency may direct as a means of enforcing such provisions, including sanctions for noncompliance: Provided, however, That in the event a Contractor becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of such direction by the administering agency the Contractor may request the United States to enter into such litigation to protect the interests of the United States.

(B) **Equal Opportunity Clause** (for contracts for Construction Work) required by 41 CFR Part 6-1.4(b). **[Effective starting January 11, 2016]**

During the performance of this contract, the Contractor agrees as follows:

(1) The Contractor will not discriminate against any employee or applicant for employment because of race, color, religion, sex, sexual orientation, gender identity, or national origin. The Contractor will take affirmative action to ensure that applicants are employed, and that employees are treated during employment without regard to their race, color, religion, sex, sexual orientation, gender identity, or national origin. Such action shall include, but not be limited to the following:

Employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The Contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided setting forth the provisions of this nondiscrimination clause.

(2) The Contractor will, in all solicitations or advertisements for employees placed by or on behalf of the Contractor, state that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex, sexual orientation, gender identity, or national origin.

(3) The Contractor will not discharge or in any other manner discriminate against any employee or applicant for employment because such employee or applicant has inquired about, discussed, or disclosed the compensation of the employee or applicant or another employee or applicant. This provision shall not apply to instances in which an employee who has access to the compensation information of other employees or applicants as a part of such employee's essential job functions discloses the compensation of such other employees or applicants to individuals who do not otherwise have access to such information, unless such disclosure is in response to a formal complaint or charge, in furtherance of an investigation, proceeding, hearing, or action, including an investigation

conducted by the employer, or is consistent with the Contractor's legal duty to furnish information.

(4) The Contractor will send to each labor union or representative of workers with which he has a collective bargaining agreement or other contract or understanding, a notice to be provided advising the said labor union or workers' representatives of the Contractor's commitments under this section, and shall post copies of the notice in conspicuous places available to employees and applicants for employment.

(5) The Contractor will comply with all provisions of Executive Order 11246 of September 24, 1965, and of the rules, regulations, and relevant orders of the Secretary of Labor.

(6) The Contractor will furnish all information and reports required by Executive Order 11246 of September 24, 1965, and by rules, regulations, and orders of the Secretary of Labor, or pursuant thereto, and will permit access to his books, records, and accounts by the administering agency and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations, and orders.

(7) In the event of the Contractor's noncompliance with the nondiscrimination clauses of this contract or with any of the said rules, regulations, or orders, this contract may be canceled, terminated, or suspended in whole or in part and the Contractor may be declared ineligible for further Government contracts or federally assisted construction contracts in accordance with procedures authorized in Executive Order 11246 of September 24, 1965, and such other sanctions may be imposed and remedies invoked as provided in Executive Order 11246 of September 24, 1965, or by rule, regulation, or order of the Secretary of Labor, or as otherwise provided by law.

(8) The Contractor will include the portion of the sentence immediately preceding paragraph (1) and the provisions of paragraphs (1) through (8) in every subcontract or purchase order unless exempted by rules, regulations, or orders of the Secretary of Labor issued pursuant to section 204 of Executive Order 11246 of September 24, 1965, 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 the administering agency may direct as a means of enforcing such provisions, including sanctions for noncompliance:

Provided, however, that in the event a Contractor becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of such direction by the administering agency, the Contractor may request the United States to enter into such litigation to protect the interests of the United States.

E. Rights to Inventions. [Special Provisions For Contracts Involving Experimental, Developmental, or Research Work.]

(1) If this Contract involves the performance of experimental, developmental, or research work by the Contractor or its subcontractors, and the entity performing such work is a Nonprofit Organization or Small Business Firm as defined below, the following provisions apply in addition to those set forth above in paragraphs (A), (B), and (C), unless the Contract specifically states that this provision is superseded:

a. Definitions. The following definitions apply to this section (D).

- i. "Invention" means any invention or discovery which is or may be patentable or otherwise protectable under Title 35 of the United States Code, or any novel variety of plant which is or may be protected under the Plant Variety Protection Act (7 U.S.C. § 2321 *et seq.*).
 - ii. "Subject invention" means any invention of the Contractor conceived or first actually reduced to practice in the performance of work under this Contract, provided that in the case of a variety of plant, the date of determination (as defined in section 41(d) of the Plant Variety Protection Act, 7 U.S.C. 2401(d)) must also occur during the period of Contract performance.
 - iii. "Practical Application" means to manufacture in the case of a composition or product, to practice in the case of a process or method, or to operate in the case of a machine or system; and, in each case, under such conditions as to establish that the invention is being utilized and that its benefits are, to the extent permitted by law or government regulations, available to the public on reasonable terms.
 - iv. "Made" when used in relation to any invention means the conception or first actual reduction to practice of such invention.
 - v. "Small Business Firm" means a small business concern as defined at section 2 of Pub. L. 85-536 (15 U.S.C. 632) and implementing regulations of the Administrator of the Small Business Administration. For the purpose of this clause, the size standards for small business concerns involved in government procurement and subcontracting at 13 CFR 121.3-8 and 13 CFR 121.3-12, respectively, will be used.
 - vi. "Nonprofit Organization" means a university or other institution of higher education or an organization of the type described in section 501(c)(3) of the Internal Revenue Code of 1954 (26 U.S.C. 501(c) and exempt from taxation under section 501(a) of the Internal Revenue Code (25 U.S.C. 501(a)) or any nonprofit scientific or educational organization qualified under a state nonprofit organization statute.
- b. *Allocation of Principal Rights.* The Contractor may retain the entire right, title, and interest throughout the world to each subject invention subject to the provisions of this clause and 35 U.S.C. 203. With respect to any subject invention in which the Contractor retains title, the Federal government shall have a nonexclusive, nontransferable, irrevocable, paid-up license to

practice or have practiced for or on behalf of the United States the subject invention throughout the world.

c. *Invention Disclosure, Election of Title and Filing of Patent Application by Contractor.*

- i. The Contractor will disclose each subject invention to the City and the Federal Agency within two months after the inventor discloses it in writing to Contractor personnel responsible for patent matters. Such disclosure shall be in the form of a written report and shall identify the contract under which the invention was made and the inventor(s). It shall be sufficiently complete in technical detail to convey a clear understanding to the extent known at the time of the disclosure, of the nature, purpose, operation, and the physical, chemical, biological or electrical characteristics of the invention. The disclosure shall also identify any publication, on sale or public use of the invention and whether a manuscript describing the invention has been submitted for publication and, if so, whether it has been accepted for publication at the time of disclosure. In addition, after such disclosure, the Contractor will promptly notify the City and the Federal Agency of the acceptance of any manuscript describing the invention for publication or of any on sale or public use planned by the Contractor.
- ii. The Contractor will elect in writing whether or not to retain title to any such invention by notifying the City and the Federal Agency within two years of disclosure to the City and the Federal Agency. However, in any case where publication, on sale or public use has initiated the one year statutory period wherein valid patent protection can still be obtained in the United States, the period for election of title may be shortened by the Federal Agency to a date that is no more than 60 days prior to the end of the statutory period.
- iii. The Contractor will file its initial patent application on a subject invention to which it elects to retain title within one year after election of title or, if earlier, prior to the end of any statutory period wherein valid patent protection can be obtained in the United States after a publication, on sale, or public use. The Contractor will file patent applications in additional countries or international patent offices within either ten months of the corresponding initial patent application or six months from the date permission is granted by the Commissioner of Patents and Trademarks to file foreign

patent applications where such filing has been prohibited by a Secrecy Order.

- iv. Requests for extension of the time for disclosure, election, and filing under subparagraphs (1), (2), and (3) may be granted at the discretion of the Federal Agency.

d. Conditions When the Government May Obtain Title

The Contractor will convey to the Federal Agency, upon written request, title to any subject invention --

- i. If the Contractor fails to disclose or elect title to the subject invention within the times specified in (c), above, or elects not to retain title; provided that the Federal Agency may only request title within 60 calendar days after learning of the failure of the Contractor to disclose or elect within the specified times.
 - ii. In those countries in which the Contractor fails to file patent applications within the times specified in (c) above; provided, however, that if the Contractor has filed a patent application in a country after the times specified in (c) above, but prior to its receipt of the written request of the Federal Agency, the Contractor shall continue to retain title in that country.
 - iii. In any country in which the Contractor decides not to continue the prosecution of any application for, to pay the maintenance fees on, or defend in reexamination or opposition proceeding on, a patent on a subject invention.
- e. Minimum Rights to Contractor and Protection of the Contractor Right to File
- i. The Contractor will retain a nonexclusive royalty-free license throughout the world in each subject invention to which the Government obtains title, except if the Contractor fails to disclose the invention within the times specified in (c), above. The Contractor's license extends to its domestic subsidiary and affiliates, if any, within the corporate structure of which the Contractor is a party and includes the right to grant sublicenses of the same scope to the extent the Contractor was legally obligated to do so at the time the Contract was awarded. The license is transferable only with the approval of the Federal Agency except when transferred to the successor of that party of the Contractor's business to which the invention pertains.

- ii. The Contractor's domestic license may be revoked or modified by the funding Federal Agency to the extent necessary to achieve expeditious practical application of the subject invention pursuant to an application for an exclusive license submitted in accordance with applicable provisions at 37 CFR Part 404 and agency licensing regulations (if any). This license will not be revoked in that field of use or the geographical areas in which the Contractor has achieved practical application and continues to make the benefits of the invention reasonably accessible to the public. The license in any foreign country may be revoked or modified at the discretion of the funding Federal Agency to the extent the Contractor, its licensees, or the domestic subsidiaries or affiliates have failed to achieve practical application in that foreign country.
 - iii. Before revocation or modification of the license, the funding Federal Agency will furnish the Contractor a written notice of its intention to revoke or modify the license, and the Contractor will be allowed thirty calendar days (or such other time as may be authorized by the funding Federal Agency for good cause shown by the Contractor) after the notice to show cause why the license should not be revoked or modified. The Contractor has the right to appeal, in accordance with applicable regulations in 37 CFR Part 404 and Federal Agency regulations (if any) concerning the licensing of Government-owned inventions, any decision concerning the revocation or modification of the license.
- f. Contractor Action to Protect the Government's Interest
- i. The Contractor agrees to execute or to have executed and promptly deliver to the Federal Agency all instruments necessary to (i) establish or confirm the rights the Government has throughout the world in those subject inventions to which the Contractor elects to retain title, and (ii) convey title to the Federal Agency when requested under paragraph (d) above and to enable the Government to obtain patent protection throughout the world in that subject invention.
 - ii. The Contractor agrees to require, by written agreement, its employees, other than clerical and nontechnical employees, to disclose promptly in writing to personnel identified as responsible for the administration of patent matters and in a format suggested by the Contractor each subject invention made under contract in order that the Contractor can comply with the disclosure provisions of paragraph (c), above, and to execute all papers necessary

to file patent applications on subject inventions and to establish the Government's rights in the subject inventions. This disclosure format should require, as a minimum, the information required by (c)(1), above. The Contractor shall instruct such employees through employee agreements or other suitable educational programs on the importance of reporting inventions in sufficient time to permit the filing of patent applications prior to U.S. or foreign statutory bars.

- iii. The Contractor will notify the Federal Agency of any decisions not to continue the prosecution of a patent application, pay maintenance fees, or defend in a reexamination or opposition proceeding on a patent, in any country, not less than thirty calendar days before the expiration of the response period required by the relevant patent office.
- iv. The Contractor agrees to include, within the specification of any United States patent applications and any patent issuing thereon covering a subject invention, the following statement, "This invention was made with government support under (identify the contract) awarded by (identify the Federal Agency). The government has certain rights in the invention."

g. Subcontracts

- i. The Contractor will include this clause, suitably modified to identify the parties, in all subcontracts, regardless of tier, for experimental, developmental or research work to be performed by a small business firm or domestic nonprofit organization. The subcontractor will retain all rights provided for the Contractor in this clause, and the Contractor will not, as part of the consideration for awarding the subcontract, obtain rights in the subcontractor's subject inventions.
 - ii. The Contractor will include in all other subcontracts, regardless of tier, for experimental developmental or research work the patent rights clause required by 2 CFR § 200.315(c) and Appendix II to 2 CFR Part 200.
- h. *Reporting on Utilization of Subject Inventions.* The Contractor agrees to submit on request periodic reports no more frequently than annually on the utilization of a subject invention or on efforts at obtaining such utilization that are being made by the Contractor or its licensees or assignees. Such reports shall include information regarding the status of development, date of first commercial sale or use, gross royalties received by the Contractor, and such other data and information as the Federal

Agency may reasonably specify. The Contractor also agrees to provide additional reports as may be requested by the Federal Agency in connection with any march-in proceeding undertaken by the Federal Agency in accordance with paragraph (j) of this clause. As required by 35 U.S.C. § 202(c)(5), the Federal Agency agrees it will not disclose such information to persons outside the Government without permission of the Contractor.

- i. *Preference for United States Industry.* Notwithstanding any other provision of this clause, the Contractor agrees that neither it nor any assignee will grant to any person the exclusive right to use or sell any subject inventions in the United States unless such person agrees that any products embodying the subject invention or produced through the use of the subject invention will be manufactured substantially in the United States. However, in individual cases, the requirement for such an agreement may be waived by the Federal Agency upon a showing by the Contractor or its assignee that reasonable but unsuccessful efforts have been made to grant licenses on similar terms to potential licensees that would be likely to manufacture substantially in the United States or that under the circumstances domestic manufacture is not commercially feasible.
- j. *March-in Rights.* The Contractor agrees that with respect to any subject invention in which it has acquired title, the Federal Agency has the right in accordance with the procedures in 37 CFR § 401.6 and any supplemental regulations of the Federal Agency to require the Contractor, an assignee or exclusive licensee of a subject invention to grant a nonexclusive, partially exclusive, or exclusive license in any field of use to a responsible applicant or applicants, upon terms that are reasonable under the circumstances, and if the Contractor, assignee, or exclusive licensee refuses such a request the Federal Agency has the right to grant such a license itself if the Federal Agency determines that:
 - i. Such action is necessary because the Contractor or assignee has not taken, or is not expected to take within a reasonable time, effective steps to achieve practical application of the subject invention in such field of use.
 - ii. Such action is necessary to alleviate health or safety needs which are not reasonably satisfied by the Contractor, assignee or their licensees;
 - iii. Such action is necessary to meet requirements for public use specified by Federal regulations and such requirements are not reasonably satisfied by the Contractor, assignee or licensees; or

- iv. Such action is necessary because the agreement required by paragraph (i) of this clause has not been obtained or waived or because a licensee of the exclusive right to use or sell any subject invention in the United States is in breach of such agreement.
- k. *Special Provisions for Contracts with Nonprofit Organizations.*
If the Contractor is a nonprofit organization, it agrees that:
- i. Rights to a subject invention in the United States may not be assigned without the approval of the Federal Agency, except where such assignment is made to an organization which has as one of its primary functions the management of inventions, provided that such assignee will be subject to the same provisions as the Contractor;
 - ii. The Contractor will share royalties collected on a subject invention with the inventor, including Federal employee co-inventors (when the Federal Agency deems it appropriate) when the subject invention is assigned in accordance with 35 U.S.C. § 202(e) and 37 CFR § 401.10;
 - iii. The balance of any royalties or income earned by the Contractor with respect to subject inventions, after payment of expenses (including payments to inventors) incidental to the administration of subject inventions, will be utilized for the support of scientific research or education; and
 - iv. It will make efforts that are reasonable under the circumstances to attract licensees of subject invention that are Small Business Firms and that it will give a preference to a Small Business Firm when licensing a subject invention if the Contractor determines that the Small Business Firm has a plan or proposal for marketing the invention which, if executed, is equally as likely to bring the invention to practical application as any plans or proposals from applicants that are not Small Business Firms; provided, that the Contractor is also satisfied that the Small Business Firm has the capability and resources to carry out its plan or proposal. The decision whether to give a preference in any specific case will be at the discretion of the Contractor. However, the Contractor agrees that the Secretary may review the Contractor's licensing program and decisions regarding Small Business Firm applicants, and the Contractor will negotiate changes to its licensing policies, procedures, or practices with the Secretary when the Secretary's review discloses that the Contractor could take reasonable steps

to implement more effectively the requirements of this paragraph (k)(iv).

1. *Communication.* The central point of contact at the Federal Agency for communications on matters relating to this clause may be obtained from the City upon request.

Certification Regarding Lobbying

The undersigned Contractor certifies, to the best of his or her knowledge, that:

1. No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of an agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.
2. If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.
3. The undersigned shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements) and that all subrecipients shall certify and disclose accordingly.

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by 31, U.S.C. § 1352 (as amended by the Lobbying Disclosure Act of 1995). Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

The Contractor, _____ certifies or affirms the truthfulness and accuracy of each statement of its certification and disclosure, if any. In addition, the Contractor understands and agrees that the provisions of 31 U.S.C. § 3801 et seq., apply to this certification and disclosure, if any.

Signature of Contractor's Authorized Official

Name and Title of Contractor's Authorized Official

Date

NOTICE TO BIDDERS

NOTICE OF REQUIREMENT FOR AFFIRMATIVE ACTION TO ENSURE EQUAL EMPLOYMENT OPPORTUNITY (EXECUTIVE ORDER 11246, as amended) FOR ALL CONSTRUCTION CONTRACTS AND SUB-CONTRACTS IN EXCESS OF \$10,000.

1. The Offeror's or Bidder's attention is called to the "Equal Opportunity Clause" and the "Standard Federal Equal Employment Opportunity Construction Contract Specifications" set forth herein.

2. The goals and timetables for minority and female participation, expressed in percentage terms for the Contractor's aggregate workforce in each trade on all Construction Work in the covered area, are as follows:

Goals and Timetables for Minorities

<u>Trade</u>	<u>Goal (percent)</u>	
Electricians	9.0 to	10.2
Carpenters	27.6 to	32.0
Steamfitters	12.2 to	13.5
Metal Lathers	24.6 to	25.6
Painters	28.6 to	26.0
Operating Engineers	25.6 to	26.0
Plumbers	12.0 to	14.5
Iron Workers (structural)	25.9 to	32.0
Elevator Constructors	5.5 to	6.5
Bricklayers	13.4 to	15.5
Asbestos Workers	22.8 to	28.0
Roofers	6.3 to	7.5
Iron Workers (ornamental)	22.4 to	23.0
Cement Masons	23.0 to	27.0
Glazers	16.0 to	20.0
Plasterers	15.8 to	18.0
Teamsters	22.0 to	22.5
Boilermakers	13.0 to	15.5
All Other	16.4 to	17.5

Goals and Timetables for Women

From April 1, 1980 until the present 6.9

These goals are applicable to all the Contractor's Construction Work (whether or not it is Federal or federally assisted) performed in the covered area. If the Contractor performs Construction Work in a geographical area located outside of the covered area, it shall apply the goals established for such geographical area where the work is actually performed. With regard to this second area, the Contractor also is subject to the goals for both its federally involved and nonfederally involved Construction.

The Contractor's compliance with the Executive Order and the regulations in 41 CFR Part 60-4 shall be based on its implementation of the Equal Opportunity Clause, specific affirmative action obligations required by the specifications set forth in 41 CFR 60-4.3(a), and its efforts to meet the goals. The hours of minority and female employment and training must be substantially uniform throughout the length of the contract, and in each trade, and the Contractor shall made a good faith effort to employ minorities and women evenly on each of its projects. The transfer of minority or female employees or trainees from Contractor to Contractor or from project to project for the sole purpose of meeting the Contractor's goals shall be a violation of the contract, the Executive Order and the regulations in 41 CFR Part 60-4. Compliance with the goals will be measured against the total work hours performed.

3. The Contractor shall provide written notification to the Director of the Office of Federal Contract Compliance Programs within 10 working days of award of any Construction subcontract in excess of \$10,000 at any tier for Construction Work under the contract resulting from this solicitation. The notification shall list the name, address and telephone number of the subcontractor; employer identification number of the subcontractor; estimated dollar amount of the subcontract; estimated starting and completion dates of the subcontract; and the geographical area in which the contract is to be performed.

4. As used in this Contract, the "covered area" is the City of New York.

CDBG-DR Rider

(Version 11.10.2015)

INSTRUCTIONS TO NYC AGENCIES AND OFFICES

This CDBG Rider contains supplementary general conditions for use with procurement contracts and subrecipient agreements that are funded in whole or in part by the U.S. Department of Housing and Urban Development (“HUD”) under Title I of the Housing and Community Development Act of 1974 (Pub. L. 93-383) as amended. For all procurement contracts and subrecipient agreements funded by the Community Development Block Grant Disaster Recovery (“CDBG-DR”) Program, *except those funded by the regular CDBG (“CDBG”) Program*, this CDBG-DR Rider must be included as an attachment, expressly made a part of, and incorporated by reference. A different rider with terms specific to the regular CDBG Program should be attached to CDBG funded procurement contracts and subrecipient agreements.

FEDERAL REGISTER NOTICES

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Federal Register Notices applicable to the use of CDBG-DR Funds for Hurricane Sandy disaster recovery are available on the HUD Web site at <https://www.hudexchange.info/cdbg-dr/cdbg-dr-laws-regulations-and-federal-register-notices>.

SECTION 3 NOTICE

HUD recently issued proposed amendments to the Section 3 regulations in 24 CFR Part 135. If HUD finalizes and promulgates the amendments to 24 CFR Part 135 during the term of this Agreement, the Contractor or Subrecipient will be required to adhere to the amended 24 CFR Part 135.

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ARTICLE 1. DEFINITIONS

As used in this CDBG-DR Rider:

(a) “Act” means Title 1 of the Housing and Community Development Act of 1974 (Pub. L. 93-383) as amended.

(b) “Agency” means the entity, or entities, executing this Agreement on behalf of the City of New York.

(c) “Agreement” means either the “contract” (as defined by 2 CFR § 200.22) between the City and the Contractor or the agreement between the City and “Subrecipient” as defined by 2 CFR § 200.93 as the context requires.

(d) “City” means the City of New York.

(e) “Construction” means the building, rehabilitation, alteration, conversion, extension, demolition, painting or repair of any improvement to real property.

(f) “Contractor” and/or “Subrecipient” means the entity or entities executing this Agreement, other than the Agency.

(g) “Equipment” means tangible personal property (including information technology systems) having a useful life of more than one year and a per-unit acquisition cost which equals or exceeds \$5,000.

(h) “Grant” means Community Development Block Grant Program funds provided to the City of New York by the Federal Department of Housing and Urban Development or a pass-through entity.

(i) “Hometown Plan” means a voluntary areawide plan that was developed by representatives of affected groups (usually labor unions, minority organizations, and contractors), and subsequently approved by the Office of Federal Contract Compliance (OFCC), for purposes of implementing the equal employment opportunity requirements pursuant to Executive Order 11246, as amended.

(j) “HUD” means the Secretary of Housing and Urban Development or a person authorized to act on his or her behalf.

(k) “Program” means the New York City Community Development Block Grant Program approved by HUD as the same may from time to time be amended.

(l) “Real property” means land, including land improvements, structures and appurtenances thereto, but excludes moveable machinery and moveable equipment.

(m) “Subcontractor” means any person, firm or corporation, other than employees of the Contractor or the Subrecipient, or another Subcontractor who is engaged by the Contractor or the Subrecipient to furnish (i) services, (ii) labor or (iii) services and/or labor and materials at the site of the work performed under this Agreement.

ARTICLE 2. HOUSING AND COMMUNITY DEVELOPMENT ACT AND NATIONAL ENVIRONMENTAL POLICY ACT

[Applicable to Contractors and Subrecipients]

This Agreement is subject to Title 1 of the Housing and Community Development Act of 1974 (P.L. 93-383) as amended (The Act) and all rules, regulations and requirements now issued or hereafter issued pursuant to the Act; the Agreement may be suspended and/or terminated without liability to the City if the Grant to the City pursuant to the Act is suspended or terminated, and unless and until the City or Agency receives Community Development funds in an amount that is deemed sufficient to enable it to fund this Agreement, the City or Agency is under no obligation to make any payments to the Contractor or Subrecipient. In this regard, the Agency is under no obligation to make any payments to the Contractor or Subrecipient, and shall not make any such payment, and the Contractor or Subrecipient shall not commence performance, until:

- (a) the Agency has received from the City's Office of Management and Budget instructions to proceed, evidencing compliance with the National Environmental Policy Act, as amended, and with regulations of the U.S. Department of Housing and Urban Development, related thereto, found at 24 CFR Part 58, and
- (b) the Contractor or Subrecipient has been notified of such instructions by the Agency. Furthermore, the Contractor or Subrecipient and the City mutually agree that the Contractor or Subrecipient shall not advance any funds, from any source without limitation, to pay for costs intended to be paid for under this Agreement prior to the receipt and notification described in this paragraph (a), and the City shall not reimburse the Contractor or Subrecipient for any costs incurred in violation of this provision.

ARTICLE 3. LABOR REQUIREMENTS

[Applicable to Contractors and Subrecipients; must be included in all subcontracts]

- (a) **Section 3.** This Agreement is subject to Section 3 of the Housing and Urban Development Act of 1968 (P.L. 90-448) and implementing regulations at 24 CFR Part 135, as may be amended during the term of this Agreement. Pursuant to 24 CFR § 135.38, the Contractor or Subrecipient agrees to the following:
 - 1. The work to be performed under this Agreement is subject to the requirements of Section 3 of the Housing and Urban Development Act of 1968, as amended, 12 U.S.C. § 1701 u (Section 3). The purpose of Section 3 is to ensure that employment and other economic opportunities generated by HUD assistance or HUD-assisted projects covered by Section 3 shall, to the greatest extent feasible, be directed to low- and very low-income persons, particularly persons who are recipients of HUD assistance for housing.
 - 2. The parties to this Agreement agree to comply with HUD's regulations in 24 CFR Part 135, which implement Section 3. As evidenced by their execution of this Agreement, the parties to this Agreement certify that they are under no contractual or other impediments that would prevent them from complying with the Part 135 regulations.

3. The Contractor or Subrecipient agrees to send to each labor organization or representative of workers with which the Contractor or Subrecipient has a collective bargaining agreement or other understanding, if any, a notice advising the labor organization or workers' representative of the Contractor's or Subrecipient's commitments under this Section 3 clause, and will post copies of the notice in conspicuous places at the work site where both employees and applicants for training and employment positions can see the notice. The notice shall describe the Section 3 preference, shall set forth minimum number and job titles subject to hire, availability of apprenticeship and training positions, the qualifications for each; and the name and location of the person(s) taking applications for each of the positions; and the anticipated date the work shall begin.
4. The Contractor or Subrecipient agrees to include this Section 3 clause in every subcontract subject to compliance with regulations in 24 CFR Part 135, and agrees to take appropriate action, as provided in an applicable provision of the subcontract or in this Section 3 clause, upon a finding that the Subcontractor is in violation of the regulations in 24 CFR Part 135. The Contractor or Subrecipient will not subcontract with any Subcontractor where the Contractor or Subrecipient has notice or knowledge that the Subcontractor has been found in violation of the regulations in 24 CFR Part 135.
5. The Contractor or Subrecipient will certify that any vacant employment positions, including training positions, that are filled (1) after the Contractor or Subrecipient is selected but before the Agreement is executed, and (2) with persons other than those to whom the regulations of 24 CFR Part 135 require employment opportunities to be directed, were not filled to circumvent the Contractor's or Subrecipient's obligations under 24 CFR Part 135.
6. Noncompliance with HUD's regulations in 24 CFR Part 135 may result in sanctions, termination of this Agreement for default, and debarment or suspension from future HUD assisted contracts.
7. With respect to work performed in connection with Section 3 covered Indian Housing Assistance, Section 7(b) of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450e) also applies to the work to be performed under this Agreement. Section 7(b) requires that to the greatest extent feasible (i) preference and opportunities for training and employment shall be given to Indians, and (ii) preference in the award of contracts and subcontracts shall be given to Indian organizations and Indian-owned Economic Enterprises. Parties to this Agreement that are subject to the provisions of Section 3 and Section 7(b) agree to comply with Section 3 to the maximum extent feasible, but not in derogation of compliance with Section 7(b).
8. The Contractor or Subrecipient agrees to submit, and shall cause its subcontractors to submit, quarterly reports to the Agency detailing the number of new employees hired, the number of new Section 3 employees hired, and any affirmative efforts made to direct hiring efforts to low- and very low-income persons, particularly persons who are recipients of HUD assistance for housing during the previous quarter.

- (b) ***The Davis-Bacon Act (40 U.S.C. §§ 3141 et seq.)***. In Construction contracts involving an excess of \$2000, unless exclusively in connection with the rehabilitation of residential property containing fewer than 8 units, the Contractor shall pay and the Subrecipient shall cause its contractors to pay all laborers and mechanics at a rate not less than those determined by the Secretary of Labor to be prevailing for the City, which rates are to be provided by the Agency. These wage rates are a federally mandated minimum only, and will be superseded by any State or City requirement mandating higher wage rates. The Contractor also agrees to comply with Department of Labor Regulations pursuant to the Davis-Bacon Act found in 29 CFR Parts 1, 3, 5 and 7, which enforce statutory labor standards provisions. **This provision supersedes section D(1)(a) of the Uniform Federal Contract Provisions Rider for Federally Funded Procurement Contracts.**
- (c) ***Overtime***. In Construction contracts involving an excess of \$2000, and subject to the exception in 24 CFR section 570.603 (regarding the rehabilitation of residential property containing less than 8 units), Contractor shall comply and the Subrecipient shall cause its contractor to comply with sections 103 and 107 of the Contract Work Hours and Safe Standards Act (40 U.S.C. §§ 3701 *et seq.*), which provides that no laborer or mechanic shall be required or permitted to work more than eight hours in a calendar day or in excess of forty hours in any workweek, unless such laborer or mechanic is paid at an overtime rate of 1½ times his/her basic rate of pay for all hours worked in excess of these limits. In the event of a violation of this provision, the Contractor shall not only be liable to any affected employee for his/her unpaid wages, but shall be additionally liable to the United States for liquidated damages. **This provision supersedes section D(1)(b) of the Uniform Federal Contract Provisions Rider for Federally Funded Procurement Contracts.**

ARTICLE 4. ADDITIONAL FEDERAL CONDITIONS FOR CONSTRUCTION FOR SUBRECIPIENTS

[Applicable to Subrecipients. A similar provision for Contractors is included in the Uniform Federal Contract Provisions Rider for Federally Funded Procurement Contracts at section D(1)(c)-(d), (2) and (3).]

If this Agreement involves Construction work, design for Construction, or Construction services, all such work or services performed by the Subrecipient and its Subcontractors shall be subject to the following requirements:

- (a) ***Impermissible Salary Deductions***. In Construction contracts of any amount, the Subrecipient shall cause its Subcontractor to comply with the Copeland “Anti-Kickback” Act (18 U.S.C. § 874), as supplemented by the regulations contained in 29 CFR Part 3, requiring that all laborers and mechanics shall be paid unconditionally and not less often than once a week, and prohibiting all but “permissible” salary deductions.
- (b) ***Federal Labor Standards***. In Construction contracts of any amount, the Subrecipient shall cause its Subcontractors to comply with the more detailed statement of Federal Labor Standards annexed hereto as FEDERAL EXHIBIT 2.

- (c) ***Equal Employment Opportunity.*** In Construction contracts or subcontracts in excess of \$10,000, the Subrecipient shall cause its Subcontractors to comply with Executive Order 11246, as amended by Executive Order 11375, and as supplemented in Department of Labor regulations (41 CFR chapter 60). Subrecipient shall include the following Specifications, which are required pursuant to 41 CFR 60-4.3 in all federally assisted contracts and subcontracts. For the purposes of the Equal Opportunity Construction Contract Specifications and Clause below, the term “Construction Work” means the construction, rehabilitation, alteration, conversion, extension, demolition or repair of buildings, highways, or other changes or improvements to real property, including facilities providing utility services. The term also includes the supervision, inspection, and other onsite functions incidental to the actual construction.

Standard Federal Equal Employment Opportunity Construction Contract Specifications for Contracts and Subcontracts in Excess of \$10,000. (Federal Notice Required by 41 CFR 60-4.3)

1. As used in these specifications:
 - a. “Covered area” means the geographical area described in the solicitation from which this contract resulted;
 - b. “Director” means Director, Office of Federal Contract Compliance Programs, United States Department of Labor, or any person to whom the Director delegates authority;
 - c. “Employer identification number” means the Federal Social Security number used on the Employer’s Quarterly Federal Tax Return, U.S. Treasury Department Form 941.
 - d. “Minority” includes:
 - (i) Black (all persons having origins in any of the Black African racial groups not of Hispanic origin);
 - (ii) Hispanic (all persons of Mexican, Puerto Rican, Cuban, Central or South American or other Spanish Culture or origin, regardless of race);
 - (iii) Asian and Pacific Islander (all persons having origins in any of the original peoples of the Far East, Southeast Asia, the Indian Subcontinent, or the Pacific Islands); and
 - (iv) American Indian or Alaskan Native (all persons having origins in any of the original peoples of North America and maintaining identifiable tribal affiliations through membership and participation or community identification).
2. Whenever the contractor or any subcontractor at any tier, subcontracts a portion of the work involving any Construction trade, it shall physically include in each subcontract in excess of \$10,000 the provisions of these specifications and the Notice which contains the applicable goals for minority and female participation and which is set forth in the solicitations from which this Agreement resulted.
3. If the contractor is participating (pursuant to 41 CFR 60-4.5) in a Hometown Plan approved by the U.S. Department of Labor in the covered area either individually or through an association, its affirmative action obligations on all work in the Plan area (including goals and timetables) shall be in accordance with that Plan for those trades

which have unions participating in the Plan. Contractors must be able to demonstrate their participation in and compliance with the provisions of any such Hometown Plan. Each contractor or subcontractor participating in an approved Plan is individually required to comply with its obligations under the EEO clause, and to make a good faith effort to achieve each goal under the Plan in each trade in which it has employees. The overall good faith performance by other contractors or subcontractors toward a goal in an approved Plan does not excuse any covered contractor's or subcontractor's failure to take good faith efforts to achieve the Plan goals and timetables.

4. The contractor shall implement the specific affirmative action standards provided in paragraphs 7 a through p of these specifications. The goals set forth in the solicitation from which this Agreement resulted are expressed as percentages of the total hours of employment and training of minority and female utilization the contractor should reasonably be able to achieve in each Construction trade in which it has employees in the covered area. Covered Construction contractors performing Construction Work in geographical areas where they do not have a Federal or federally assisted Construction contract shall apply the minority and female goals established for the geographical areas where the work is being performed. Goals are published periodically in the Federal Register in notice form, and such notices may be obtained from any Office of Federal Contract Compliance Programs office or from Federal procurement contracting officers. The contractor is expected to make substantially uniform progress in meeting its goals in each craft during the period specified.

5. Neither the provisions of any collective bargaining agreement, nor the failure by a union with whom the contractor has a collective bargaining agreement, to refer either minorities or women shall excuse the contractor's obligations under these specifications, Executive Order 11246, or the regulations promulgated pursuant thereto.

6. In order for the nonworking training hours of apprentices and trainees to be counted in meeting the goals, such apprentices and trainees must be employed by the contractor during the training period, and the contractor must have made a commitment to employ the apprentices and trainees at the completion of their training, subject to the availability of employment opportunities. Trainees must be trained pursuant to training programs approved by the U.S. Department of Labor.

7. The contractor shall take specific affirmative actions to ensure equal employment opportunity. The evaluation of the contractor's compliance with these specifications shall be based upon its effort to achieve maximum results from its actions. The contractor shall document these efforts fully, and shall implement affirmative action steps at least as extensive as the following:

a. Ensure and maintain a working environment free of harassment, intimidation, and coercion at all sites, and in all facilities at which the contractor's employees are assigned to work. The contractor, where possible, will assign two or more women to each Construction project. The contractor shall specifically ensure that all foremen, superintendents, and other on-site supervisory personnel are aware of and carry out the contractor's obligation to maintain such a working environment, with specific attention to minority or female individuals working at such sites or in such facilities.

b. Establish and maintain a current list of minority and female recruitment sources, provide written notification to minority and female recruitment sources and to

community organizations when the contractor or its unions have employment opportunities available, and maintain a record of the organization's responses.

c. Maintain a current file of the names, addresses and telephone numbers of each minority and female off-the-street applicant and minority or female referral from a union, a recruitment source or community organization and of what action was taken with respect to each such individual. If such individual was sent to the union hiring hall for referral and was not referred back to the contractor by the union or, if referred, not employed by the contractor, this shall be documented in the file with the reason therefor, along with whatever additional actions the contractor may have taken.

d. Provide immediate written notification to the Director when the union or unions with which the contractor has a collective bargaining agreement has not referred to the contractor a minority person or woman sent by the contractor, or when the contractor has other information that the union referral process has impeded the contractor's efforts to meet its obligations.

e. Develop on-the-job training opportunities and/or participate in training programs for the area which expressly include minorities and women, including upgrading programs and apprenticeship and trainee programs relevant to the contractor's employment needs, especially those programs funded or approved by the Department of Labor. The contractor shall provide notice of these programs to the sources compiled under 7b above.

f. Disseminate the contractor's EEO policy by providing notice of the policy to unions and training programs and requesting their cooperation in assisting the contractor in meeting its EEO obligations; by including it in any policy manual and collective bargaining agreement; by publicizing it in the company newspaper, annual report, etc.; by specific review of the policy with all management personnel and with all minority and female employees at least once a year; and by posting the company EEO policy on bulletin boards accessible to all employees at each location where Construction Work is performed.

g. Review, at least annually, the company's EEO policy and affirmative action obligations under these specifications with all employees having any responsibility for hiring, assignment, layoff, termination or other employment decisions including specific review of these items with on-site supervisory personnel such as Superintendents, General Foremen, etc., prior to the initiation of Construction Work at any job site. A written record shall be made and maintained identifying the time and place of these meetings, persons attending, subject matter discussed, and disposition of the subject matter.

h. Disseminate the contractor's EEO policy externally by including it in any advertising in the news media, specifically including minority and female news media, and providing written notification to and discussing the contractor's EEO policy with other contractors and subcontractors with whom the contractor does or anticipates doing business.

i. Direct its recruitment efforts, both oral and written, to minority, female and community organizations, to schools with minority and female students and to minority and female recruitment and training organizations serving the contractor's recruitment area and employment needs. Not later than one month prior to the date for the acceptance of applications for apprenticeship or other training by any recruitment source, the contractor shall send written notification to organizations such as the above, describing the openings, screening procedures, and tests to be used in the selection process.

j. Encourage present minority and female employees to recruit other minority persons and women and, where reasonable, provide after school, summer and vacation

employment to minority and female youth both on the site and in other areas of a contractor's work force.

k. Validate all tests and other selection requirements where there is an obligation to do so under 41 CFR Part 60-3.

l. Conduct, at least annually, an inventory and evaluation at least of all minority and female personnel for promotional opportunities and encourage these employees to seek or to prepare for, through appropriate training, etc., such opportunities.

m. Ensure that seniority practices, job classifications, work assignments and other personnel practices, do not have a discriminatory effect by continually monitoring all personnel and employment related activities to ensure that the EEO policy and the contractor's obligations under these specifications are being carried out.

n. Ensure that all facilities and company activities are non-segregated except that separate or single-user toilet and necessary changing facilities shall be provided to assure privacy between the sexes.

o. Document and maintain a record of all solicitations of offers for subcontracts from minority and female Construction contractors and suppliers, including circulation of solicitations to minority and female contractor associations and other business associations.

p. Conduct a review, at least annually, of all supervisor's adherence to and performance under the Contractor's EEO policies and affirmative action obligations.

8. Contractors are encouraged to participate in voluntary associations which assist in fulfilling one or more of their affirmative action obligations (7a through p). The efforts of a contractor association, joint contractor-union, contractor-community, or other similar group of which the contractor is a member and participant, may be asserted as fulfilling any one or more of its obligations under 7a through p of these specifications provided that the contractor actively participates in the group, makes every effort to assure that the group has a positive impact on the employment of minorities and women in the industry, ensures that the concrete benefits of the Program are reflected in the contractor's minority and female work force participation, makes a good faith effort to meet its individual goals and timetables, and can provide access to documentation which demonstrates the effectiveness of actions taken on behalf of the contractor. The obligation to comply, however, is the contractor's and failure of such a group to fulfill an obligation shall not be a defense for the contractor's noncompliance.

9. A single goal for minorities and a separate single goal for women have been established. The contractor, however, is required to provide equal employment opportunity and to take affirmative action for all minority groups, both male and female, and all women, both minority and non-minority. Consequently, the contractor may be in violation of the Executive Order if a particular group is employed in a substantially disparate manner (for example, even though the contractor has achieved its goals for women generally, the contractor may be in violation of the Executive Order if a specific minority group of women is underutilized).

10. The contractor shall not use the goals and timetables or affirmative action standards to discriminate against any person because of race, color, religion, sex, or national origin.

11. The contractor shall not enter into any Subcontract with any person or firm debarred from Government contracts pursuant to Executive Order 11246 or suspended or is otherwise excluded from or ineligible for participation in federal assistance programs.

12. The contractor shall carry out such sanctions and penalties for violation of these specifications and of the Equal Opportunity Clause, including suspension, termination and cancellation of existing subcontracts as may be imposed or ordered pursuant to Executive Order 11246, as amended, and its implementing regulations, by the Office of Federal Contract Compliance Programs. Any contractor who fails to carry out such sanctions and penalties shall be in violation of these specifications and Executive Order 11246, as amended.

13. The contractor, in fulfilling its obligations under these specifications, shall implement specific affirmative action steps, at least as extensive as those standards prescribed in paragraph 7 of these specifications, so as to achieve maximum results from its efforts to ensure equal employment opportunity. If the contractor fails to comply with the requirements of the Executive Order, the implementing regulations, or these specifications, the Director shall proceed in accordance with 41 CFR 60-4.8.

14. The contractor shall designate a responsible official to monitor all employment related activity to ensure that the company EEO policy is being carried out, to submit reports relating to the provisions hereof as may be required by the Government and to keep records. Records shall at least include for each employee the name, address, telephone numbers, Construction trade, union affiliation if any, employee identification number when assigned, social security number, race, sex, status (e.g., mechanic, apprentice trainee, helper, or laborer), dates of changes in status, hours worked per week in the indicated trade, rate of pay, and locations at which the work was performed. Records shall be maintained in an easily understandable and retrievable form; however, to the degree that existing records satisfy this requirement, contractors shall not be required to maintain separate records.

15. Nothing herein provided shall be construed as a limitation upon the application of other laws which establish different standards of compliance or upon the application of requirements for hiring of local or other areas residents (e.g., those under the Public Works Employment Act of 1977 and the Community Development Block Grant Program).

- (d) A. **Equal Opportunity Clause [Effective through January 10, 2016]** Subrecipient shall include the following provisions, which are required by 41 CFR section 60-1.4(b), in all federally assisted contracts and subcontracts.

During the performance of this contract, the Contractor agrees as follows:

(1) The Contractor will not discriminate against any employee or applicant for employment because of race, color, religion, sex, sexual orientation, gender identity, or national origin. The Contractor will take affirmative action to ensure that applicants are employed, and that employees are treated during employment without regard to their race, color, religion, sex, sexual orientation, gender identity, or national origin. Such action shall include, but not be limited to the following: Employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The Contractor agrees to post in conspicuous places, available to employees and

applicants for employment, notices to be provided setting forth the provisions of this nondiscrimination clause.

(2) The Contractor will, in all solicitations or advertisements for employees placed by or on behalf of the Contractor, state that all qualified applicants will receive considerations for employment without regard to race, color, religion, sex, sexual orientation, gender identity, or national origin.

(3) The Contractor will send to each labor union or representative of workers with which he has a collective bargaining agreement or other contract or understanding, a notice to be provided advising the said labor union or workers' representatives of the Contractor's commitments under this section, and shall post copies of the notice in conspicuous places available to employees and applicants for employment.

(4) The Contractor will comply with all provisions of Executive Order 11246 of September 24, 1965, and of the rules, regulations, and relevant orders of the Secretary of Labor.

(5) The Contractor will furnish all information and reports required by Executive Order 11246 of September 24, 1965, and by rules, regulations, and orders of the Secretary of Labor, or pursuant thereto, and will permit access to his books, records, and accounts by HUD and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations, and orders.

(6) In the event of the Contractor's noncompliance with the nondiscrimination clauses of this contract or with any of the said rules, regulations, or orders, this contract may be canceled, terminated, or suspended in whole or in part and the Contractor may be declared ineligible for further Government contracts or federally assisted construction contracts in accordance with procedures authorized in Executive Order 11246 of September 24, 1965, and such other sanctions may be imposed and remedies invoked as provided in Executive Order 11246 of September 24, 1965, or by rule, regulation, or order of the Secretary of Labor, or as otherwise provided by law.

(7) The Contractor will include the portion of the sentence immediately preceding paragraph (1) and the provisions of paragraphs (1) through (7) in every subcontract or purchase order unless exempted by rules, regulations, or orders of the Secretary of Labor issued pursuant to section 204 of Executive Order 11246 of September 24, 1965, 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 HUD may direct as a means of enforcing such provisions, including sanctions for noncompliance: Provided, however, That in the event a Contractor becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of such direction by HUD, the Contractor may request the United States to enter into such litigation to protect the interests of the United States.

(B) **Equal Opportunity Clause [Effective starting January 11, 2016]** Subrecipient shall include the following provisions, which are required by 41 CFR section 60-1.4(b), in all federally assisted contracts and subcontracts.

During the performance of this contract, the Contractor agrees as follows:

(1) The Contractor will not discriminate against any employee or applicant for employment because of race, color, religion, sex, sexual orientation, gender identity, or national origin. The Contractor will take affirmative action to ensure that applicants are employed, and that employees are treated during employment without regard to their race, color, religion, sex, sexual orientation, gender identity, or national origin. Such action shall include, but not be limited to the following:

Employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The Contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided setting forth the provisions of this nondiscrimination clause.

(2) The Contractor will, in all solicitations or advertisements for employees placed by or on behalf of the Contractor, state that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex, sexual orientation, gender identity, or national origin.

(3) The Contractor will not discharge or in any other manner discriminate against any employee or applicant for employment because such employee or applicant has inquired about, discussed, or disclosed the compensation of the employee or applicant or another employee or applicant. This provision shall not apply to instances in which an employee who has access to the compensation information of other employees or applicants as a part of such employee's essential job functions discloses the compensation of such other employees or applicants to individuals who do not otherwise have access to such information, unless such disclosure is in response to a formal complaint or charge, in furtherance of an investigation, proceeding, hearing, or action, including an investigation conducted by the employer, or is consistent with the Contractor's legal duty to furnish information.

(4) The Contractor will send to each labor union or representative of workers with which he has a collective bargaining agreement or other contract or understanding, a notice to be provided advising the said labor union or workers' representatives of the Contractor's commitments under this section, and shall post copies of the notice in conspicuous places available to employees and applicants for employment.

(5) The Contractor will comply with all provisions of Executive Order 11246 of September 24, 1965, and of the rules, regulations, and relevant orders of the Secretary of Labor.

(6) The Contractor will furnish all information and reports required by Executive Order 11246 of September 24, 1965, and by rules, regulations, and orders of the Secretary of Labor, or pursuant thereto, and will permit access to his books, records, and accounts by HUD and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations, and orders.

(7) In the event of the Contractor's noncompliance with the nondiscrimination clauses of this contract or with any of the said rules, regulations, or orders, this contract may be canceled, terminated, or suspended in whole or in part and the Contractor may be declared ineligible for further Government contracts or

federally assisted construction contracts in accordance with procedures authorized in Executive Order 11246 of September 24, 1965, and such other sanctions may be imposed and remedies invoked as provided in Executive Order 11246 of September 24, 1965, or by rule, regulation, or order of the Secretary of Labor, or as otherwise provided by law.

(8) The Contractor will include the portion of the sentence immediately preceding paragraph (1) and the provisions of paragraphs (1) through (8) in every subcontract or purchase order unless exempted by rules, regulations, or orders of the Secretary of Labor issued pursuant to section 204 of Executive Order 11246 of September 24, 1965, 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 HUD may direct as a means of enforcing such provisions, including sanctions for noncompliance:

Provided, however, that in the event a Contractor becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of such direction by HUD, the Contractor may request the United States to enter into such litigation to protect the interests of the United States.

ARTICLE 5. FEDERAL NON-DISCRIMINATION LAWS

[Applicable to Contractors and Subrecipients]

This Agreement is subject to:

- (a) Section 109 of the Act, which requires that no person in the United States shall on the grounds of race, color, national origin, religion, or sex be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance made available pursuant to the Act. Section 109 also directs that the prohibitions against discrimination on the basis of age under the Age Discrimination Act and the prohibitions against discrimination on the basis of disability under Section 504 shall apply to programs or activities receiving Federal financial assistance under Title I programs. The Contractor or Subrecipient agrees to comply with provisions of 24 CFR Part 6, 8, and 146.
- (b) Title VIII of the Civil Rights Act of 1968 (P.L. 90-284; 42 U.S.C. §§ 3602-3620), as amended, which prohibits discrimination in the sale or rental of housing and in the provision of brokerage services based on race, color, religion, sex, national origin, disability, or familial status, and which requires affirmative action in the furtherance of Fair Housing objectives.
- (c) Executive Order 11063, as amended by Executive Order 12259, pursuant to regulations issued at 24 CFR Part 107, which prohibits discrimination on the basis of race, color, religion, sex or national origin and requires equal opportunity in housing constructed, operated or provided with federal funds.
- (d) Title VI of the Civil Rights Act of 1964 (P.L. 88-352; 42 U.S.C. §§ 2000d *et seq.*) and implementing regulations in 24 CFR Part 1, which states that no person shall, on the ground of race, color or national origin, be excluded from participation in, be denied the benefits of, or otherwise be subject to discrimination under any Program or activity made possible by, or resulting from, this Agreement.

- (e) Consistent with 24 CFR § 570.614, the Contractor or Subrecipient warrants that all services, programs, and/or Construction (including design and alteration) under this Agreement shall be performed in accordance with all federal, state and local laws and regulations regarding accessibility standards for persons with disabilities including, but not limited to, the following: Section 504 of the Rehabilitation Act, the Architectural Barriers Act of 1968 (42 U.S.C. § 4151-4157), the Uniform Federal Accessibility Standards (Appendix A to 24 CFR Part 40 and Appendix A to 41 CFR Part 101-19, subpart 101-19.6), and the Americans with Disabilities Act (42 U.S.C. § 12131; 47 U.S.C. §§ 155, 201, 218, and 225).
- (f) If the Contractor or Subrecipient is, or may be deemed to be, a religious or denominational institution or organization operated for religious purposes which is supervised or controlled by or in connection with a religious or denominational institution or organization, the Contractor or Subrecipient agrees that in connection with services to be provided under this Agreement:
- i. it shall not discriminate against any employee or applicant for employment on the basis of religion and shall not limit employment or give preference in employment to persons on the basis of religion.
 - ii. it shall not discriminate against any person applying for such public services on the basis of religion or religious belief and shall not limit such services or give preference to persons on the basis of religion or religious belief.
 - iii. it shall provide no religious instruction or counseling, conduct no religious worship or services, engage in no religious proselytizing, and exert no other religious influence in the provision of such public services.
 - iv. it shall not use CDBG funds for the acquisition, construction, or rehabilitation of structures to the extent that those structures are used for inherently religious activities. CDBG funds may be used for the acquisition, construction, or rehabilitation of structures only to the extent that those structures are used for conducting eligible activities under 24 CFR Part 570. Where a structure is used for both eligible and inherently religious activities, CDBG funds may not exceed the cost of those portions of the acquisition, construction, or rehabilitation that are attributable to eligible activities in accordance with the cost accounting requirements applicable to CDBG funds in 24 CFR Part 570. Sanctuaries, chapels, or other rooms that a CDBG-funded religious congregation uses as its principal place of worship, however, are ineligible for CDBG-funded improvements. Disposition of real property is subject to 24 CFR § 570.200(j)(5). In addition, payment may be authorized for a portion of eligible rehabilitation or construction costs attributable to the non-religious use of a facility that is not used exclusively for

religious purposes, pursuant to Section VI(A)(4)(c) of HUD Docket No. FR-56960-N-01.

The non-discrimination provisions in this Article shall be incorporated in and made a part of all subcontracts executed in connection with this Agreement.

- (g) Subrecipients shall comply with all civil-rights related requirements, pursuant to 24 CFR § 570.503(b)(5).

ARTICLE 6. ENVIRONMENTAL PROTECTION; ENERGY EFFICIENCY; HISTORIC PRESERVATION; FLOOD PROTECTION; LEAD-BASED PAINT

[Paragraphs (a) – (e) applicable to Contractors and Subrecipients; paragraph (f) applicable to Subrecipients]

- (a) For agreements, subcontracts, and subgrants of amounts in excess of \$150,000, the Contractor or Subrecipient shall comply with all applicable standards, orders, or requirements issued under the Clean Air Act (42 U.S.C. § 7401, Federal Water Pollution control Act (33 U.S.C. §§ 1251, et seq.) Section 508 of the Clean Water Act (33 U.S.C. § 1368), Executive Order 11738, and Environmental Protection Agency regulations (provisions of 40 CFR Part 50 and 2 CFR Part 1532 related to the Clean Air Act and Clean Water Act). Violations must be reported to the Federal Agency and the Regional Office of the Environmental Protection Agency (EPA).
- (b) The Subrecipient and Contractor shall comply with mandatory standards and policies relating to energy efficiency that are contained in the New York State energy conservation plan issued in compliance with the Energy Policy Conservation Act (Pub. L. 94-163). Further, the Contractor or Subrecipient shall comply with the construction standards concerning energy efficiency set forth in section VI(A)(1)(a)(5) of HUD Docket No. FR-5696-N-01.
- (c) This Agreement is subject to laws and authorities listed in 24 CFR § 58.5, including the Historic Preservation Act of 1966 (P.L. 89-665; 16 U.S.C. §§ 470 *et seq.*), the Archeological and Historic Preservation Act of 1974 (P.L. 93-291; 16 U.S.C. §§ 469-469c), Executive Order 11593 and regulations at 36 CFR Part 800. In general, this requires concurrence from the State Historic Preservation Officer for all rehabilitation and demolition of historic properties that are fifty years old or older or that are included on a Federal, state, or local historic property list.
- (d) This Agreement is subject to the Lead-Based Paint Poison Prevention provisions found in 24 CFR § 570.608, the Lead-Based Paint Poisoning Prevention Act (42 U.S.C. §§ 4821-4846), the Residential Lead Based Paint Hazard Reduction Act of 1992 (U.S.C. §§ 4851-4856, and 24 CFR Part 35, subparts A, B, J, K, and R. This provision is to be included in all subcontracts, for work in connection with this Agreement, which relate to residential structures.
- (e) Pursuant to the provisions in 24 CFR § 570.605, Section 202(a) of the Flood Disaster Protection Act of 1973 (42 U.S.C. § 4106), and the regulations in 44 CFR Parts 59-79 apply to this Agreement.

- (f) Subrecipients shall implement procedures and mechanisms to ensure that assisted property owners comply with all flood insurance requirements set forth in Section VI(B)(31) of HUD Docket No. FR-56960-N-01.

ARTICLE 7. UNIFORM RELOCATION ASSISTANCE

[Applicable to Contractors and Subrecipients]

This Agreement is subject to the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (42 U.S.C. §§ 4601-4655) and regulations at 49 CFR Part 24 and 24 CFR section 570.606.

ARTICLE 8. UNIFORM ADMINISTRATIVE REQUIREMENTS (INCLUDING PROCUREMENT STANDARDS), COST PRINCIPLES, AND AUDIT REQUIREMENTS FOR FEDERAL AWARDS

[Subdivision (a) is applicable to Contractors and Subrecipients; subdivision (b) is applicable to Subrecipients only; subdivision (c) is applicable to Contractors only]

- (a) Pursuant to 2 CFR § 2400.101 and 24 CFR § 85.1, Subrecipients and Contractors are subject to the Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards at 2 CFR Part 200 (commonly referred to the “Super Circular”), as applicable.
- (b) For the procurement of all subcontracts and goods contracts, Subrecipients are required to follow the procurement standards in 2 CFR §§ 200.318-200.326, except as allowed by 2 CFR § 200.110.
- (c) Contractors are subject to the Uniform Federal Contract Provisions Rider, attached to this Agreement.

ARTICLE 9. UNEARNED PAYMENTS; INCOME; DOCUMENTATION OF COSTS; ACCOUNTING SYSTEM; FIDELITY BONDS; DISBURSEMENT RESTRICTIONS

[Paragraphs (a), (b), (d), and (e) are applicable to Contractors and Subrecipients; paragraph (d) is applicable to Subrecipients only]

- (a) Unearned payments under this Agreement may be suspended or terminated upon refusal to accept any additional conditions that may be imposed by HUD at any time, or if the Grant to the City under the Act is suspended or terminated. Unearned payments received by the Contractor or Subrecipient will be returned to the City.

The Contractor or Subrecipient agrees that if any income is generated from the Community Development Block Grant Program funded activities, Contractor or Subrecipient shall return such income to the City’s Community Development Block Grant Program unless expressly authorized by the City. Such funds are subject to all applicable requirements governing the use of Community Development Block Grant

funds, including 24 CFR § 570.503(b)(3), which provides that, at the end of the program year, the City may require remittance of all or part of any program income balances (including investments thereof) held by the Subrecipient (except those needed for immediate cash needs, cash balances of a revolving loan fund, cash balances from a lump sum drawdown, or cash or investments held for section 108 security needs). Alternative program requirements concerning the definition of “program income” are set forth in Section VI(A)(17)(a)-(b) of Docket No. FR-56960-N-01, as amended by Section II(5) of Docket No. FR-5710-N-01.

- (b) All costs shall be supported by properly executed payrolls, time records, invoices, contracts, or vouchers, or other official documentation evidencing in proper detail the nature and propriety of the charges. All checks, payrolls, invoices, contracts, vouchers, orders or other accounting documents, pertaining in whole or in part to the Agreement, shall be clearly identified and readily accessible.
- (c) The Subrecipient shall submit to the Agency a detailed description of its accounting, reporting and internal control systems, including but not limited to the procedures for cash receipts, cash disbursements, payrolls, personnel policies, fixed petty cash controls and other systems which are necessary under the circumstances. The Agency shall evaluate and document all systems and only upon acceptance and approval of the accounting, reporting and internal control systems by the Agency, shall funds be disbursed to the Subrecipient, other provisions of the Agreement notwithstanding.
- (d) If required by the Federal awarding agency or elsewhere in this Agreement, the Agency must receive a statement from the Contractor’s or Subrecipient’s chief fiscal officer or its insurer assuring that all persons handling funds received or disbursed under this Agreement are covered by fidelity insurance in an amount equal to cash advances from the City. If the bond is cancelled or coverage is substantially reduced, the Contractor or Subrecipient shall promptly notify the Agency of this fact in every case not later than 48 hours. In such event, the Agency shall not disburse any more funds to the Contractor or Subrecipient until it has received assurance that adequate coverage has subsequently been obtained.
- (e) No money under this Agreement shall be disbursed by the Agency to any Contractor or Subrecipient except pursuant to a written contract which incorporates the applicable Supplementary General Conditions and unless the Contractor or Subrecipient is in compliance with HUD requirements with regard to accounting and fiscal matters, to the extent they are applicable, and provided that the Agency has completed HUD requirements, including but not limited to environmental certifications pursuant to 24 CFR Part 58.

ARTICLE 10. RECORDS AND AUDITS

[Applicable to Contractors and Subrecipients]

- (a) Records shall be maintained in accordance with requirements prescribed by or in 2 CFR § 200.333, HUD and/or the City with respect to all matters covered by this Agreement and retained for at least three years after the City makes final payments and all other pending matters concerning this Agreement are closed, subject to the exceptions in 2 CFR § 200.333.

- (b) At such times on such forms as HUD and/or the City may require, there shall be furnished to HUD and/or the City such statements, records, reports, data and information, as HUD and/or the City may request pertaining to matters covered by this Agreement. At a minimum, such forms will include the following:
 - (i) Quarterly Data Collection Report forms for the purpose of including specific Program description, accomplishment, expenditure and beneficiary information in the City's Quarterly Performance Reports.
 - (ii) Annual Property Register forms for the purpose of tracking the use of CDBG purchased equipment.
- (c) At any time during normal business hours and as often as the City, the Agency, HUD, Inspector General, U.S. General Accounting Office, and/or the Comptroller General of the United States may deem necessary, the Contractor or Subrecipient shall make available for examination to the City, HUD, Inspector General, U.S. General Accounting Office and/or representatives of the Comptroller General all of its books, accounts, records, reports, files, and other papers or property with respect to all matters covered by this Agreement and shall permit the City, HUD and/or representatives of the Comptroller General and the U.S. General Accounting Office to audit, examine, make excerpts of, and make transcriptions from such books, accounts, records, reports, files, and other papers or property and to make audits of all contracts, invoices, materials, payrolls, records or personnel, conditions of employment and other data relating to all matters covered by this Agreement.

ARTICLE 11. SUBCONTRACTORS

[Applicable to Contractors and Subrecipients]

- (a) The provisions of this Agreement shall apply to Subcontractors and their officers, agents and employees in all respects as if they were employees of the Contractor or Subrecipient. The Contractor or Subrecipient shall not be discharged from its obligations and liabilities, but shall be liable for all acts and negligence of Subcontractors, and their officers, agents and employees, as if they were employees of the Contractor or Subrecipient.
- (b) Employees of the Subcontractor shall be subject to the same provisions as employees of the Contractor or Subrecipient.
- (c) The services furnished by Subcontractors shall be subject to the provisions hereof as if furnished directly by the Contractor or Subrecipient, and the Contractor or Subrecipient shall remain responsible therefor.
- (d) Any subcontracts entered into pursuant to this Agreement shall include Exhibit 3 (Investigations Clause, Conflicts of Interest Clause; and Executive Order No. 50 provisions, which shall be binding on every Subcontractor.

ARTICLE 12. CONFLICTS; EXHIBITS

[Applicable to Contractors and Subrecipients]

- (a) If any provision in this CDBG Rider directly conflicts with any other provision in the Agreement, the provision in CDBG Rider shall be controlling.
- (b) Federal Exhibits 1 and 2 are attached to, and made a part of this CDBG Rider.

ARTICLE 13. REVERSION OF ASSETS

[Applicable to Subrecipients]

- (a) At the Agreement's expiration, the Subrecipient shall transfer to the City all CDBG funds on hand at the time of expiration and any accounts receivable attributable to the use of CDBG funds.
- (b) Any real property under the Subrecipient's control that was acquired or improved in whole or in part with Community Development funds in excess of \$25,000 must be used to either (i) meet the national objectives in Section 570.208 for a period of five years after acquisition if the property or completion of the improvements, as applicable, or (ii) disposed in a manner which results in the Program being reimbursed in the amount of the current fair market value of the property less any portion thereof attributable to expenditures of non-CDBG funds for acquisition of, or improvements to, the property.
- (c) Title to all Equipment in excess of \$5,000 purchased pursuant to this Agreement with CDBG funds or furnished by the City shall vest in the City and the same shall be conspicuously labeled as such.

ARTICLE 14. SMALL FIRMS, M/WBE FIRMS, AND LABOR SURPLUS AREA FIRMS

[Applicable to Subrecipients. Contractors must follow section C(11) of the Uniform Federal Contract Provisions Rider for Federally Funded Procurement Contracts.]

Subrecipient shall take the following affirmative steps in the letting of subcontracts, if subcontracts are to be let, in order to ensure that minority firms, women's business enterprises, and labor surplus area firms are used when possible:

- (a) Placing qualified small and minority businesses and women's business enterprises on solicitation lists;
- (b) Assuring that small and minority businesses, and women's business enterprises are solicited whenever they are potential sources;
- (c) Dividing total requirements, when economically feasible, into smaller tasks or quantities to permit maximum participation by small and minority businesses, and women's business enterprises;

- (d) Establishing delivery schedules, where the requirement permits, which encourage participation by small and minority businesses, and women's business enterprises; and
- (e) Using the services and assistance of the Small Business Administration, and the Minority Business Development Agency of the Department of Commerce.

ARTICLE 15. INTANGIBLE PROPERTY

[Applicable to Subrecipients. A similar provision for Contractors is included in the Uniform Federal Contract Provisions Rider for Federally Funded Procurement Contracts at section C(12).]

- (a) Pursuant to 2 CFR § 200.315(d), the federal Government reserves a royalty-free, non-exclusive, and irrevocable right to obtain, reproduce, publish, or otherwise use, and to authorize others to use, for Government purposes: (a) the copyright in any work developed under the Agreement or subcontract; and (b) any rights of copyright to which a Subrecipient purchases ownership with grant support.
- (b) Any reports, documents, data, photographs, deliverables, and/or other materials produced pursuant to the Agreement ("Copyrightable Materials"), and any and all drafts and/or other preliminary materials in any format related to such items produced pursuant to the contract, shall upon their creation become the exclusive property of the City. The 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 Subrecipient 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 Subrecipient shall retain no copyright or intellectual property interest in the Copyrightable Materials. The Copyrightable Materials shall be used by the Subrecipient for no purpose other than in the performance of this Agreement without the prior written permission of the City. The City may grant the Subrecipient a license to use the Copyrightable Materials on such terms as determined by the City and set forth in the license.
- (c) The Subrecipient 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 Subrecipient shall fully cooperate in this effort, and agrees to provide any and all documentation necessary to accomplish this.
- (d) The Subrecipient 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 Subrecipient has obtained all necessary permissions and clearances, in writing, for the use of such non-original material under this Contract, copies of which shall be provided to the City upon execution of this Contract.

- (e) The Subrecipient shall promptly and fully report to the City any discovery or invention arising out of or developed in the course of performance of this Agreement and the Contractor shall promptly and fully report to the 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.
- (f) If the Subrecipient 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.

ARTICLE 16. HATCH ACT; LOBBYING; CONFLICTS OF INTEREST

[Applicable to Subrecipients.]

- (a) Hatch Act: The Subrecipient agrees that no funds provided, nor personnel employed under this Agreement, shall be in any way or to any extent engaged in the conduct of political activities in violation of Chapter 15 of Title V of the U.S.C.
- (b) Lobbying: The Subrecipient agrees that no funds provided will be used by it or its Subcontractors in violation of 24 CFR § 87.100.
- (c) Conflict of Interest: The Subrecipient agrees to abide by the provisions of 2 CFR §§ 200.112 and 200.318(c) and 24 CFR § 570.611.

ARTICLE 17. SUSPENSION AND TERMINATION

[Applicable to Subrecipients.]

- (a) The City may take enforcement action against a Subrecipient for non-compliance, as described in 2 CFR §§ 200.338 and 200.339(a)(1) & (2), including suspension or termination.
- (b) The City may terminate for convenience pursuant to 2 CFR § 200.339(a)(3).

ARTICLE 18. PERFORMANCE REQUIREMENTS AND REMEDIES

[Applicable to Contractors]

The Disaster Relief Appropriations Act, 2013 (Public L. 113-2) of January 29, 2013, requires contracts to contain “performance requirements and penalties.” Accordingly, Contractor shall be subject to any performance requirements and remedial provisions and/or liquidated damages set forth in this Agreement. Contractor acknowledges that negative performance evaluations may impair its ability to win future contracts with the City as follows: Under City Procurement Policy Board (PPB) Rules section 4-01, Contractor is subject to performance evaluations at least once

annually. The City shall enter such performance evaluations into the VENDEX system. To the extent allowed by the PPB Rules, such performance evaluations shall be considered by the City in:

- (1) making a determination of the Contractor's responsibility or non-responsibility in future City procurements, under PPB Rule section 2-08(g)(1)(ii) and
- (2) deciding to renew or not to renew the Agreement, under PPB Rule section 4-04(c)(10).

FED. EXHIBIT 1

NOTICE TO BIDDERS

NOTICE OF REQUIREMENT FOR AFFIRMATIVE ACTION TO ENSURE EQUAL EMPLOYMENT OPPORTUNITY (EXECUTIVE ORDER 11246, as amended) FOR ALL HUD COMMUNITY DEVELOPMENT FUNDED CONSTRUCTION CONTRACTS AND SUB-CONTRACTS IN EXCESS OF \$10,000.

1. The Offeror's or Bidder's attention is called to the "Equal Opportunity Clause" and the "Standard Federal Equal Employment Opportunity Construction Contract Specifications" set forth above.
2. The goals and timetables for minority and female participation, expressed in percentage terms for the Contractor's aggregate workforce in each trade on all Construction Work in the covered area, are as follows:

Goals and Timetables for Minorities

<u>Trade</u>	<u>Goal (Percent)</u>		
Electricians	9.0	to	10.2
Carpenters	27.6	to	32.0
Steamfitters	12.2	to	13.5
Metal Lathers	24.6	to	25.6
Painters	28.6	to	26.0
Operating Engineers	25.6	to	26.0
Plumbers	12.0	to	14.5
Iron Workers (structural)	25.9	to	32.0
Elevator Constructors	5.5	to	6.5
Bricklayers	13.4	to	15.5
Asbestos Workers	22.8	to	28.0
Roofers	6.3	to	7.5
Iron Workers (ornamental)	22.4	to	23.0
Cement Masons	23.0	to	27.0
Glazers	16.0	to	20.0
Plasterers	15.8	to	18.0
Teamsters	22.0	to	22.5
Boilermakers	13.0	to	15.5
All Other	16.4	to	17.5

Goals and Timetables for Women

From April 1, 1980 until the present 6.9

These goals are applicable to all the Contractor's Construction Work (whether or not it is Federal or federally assisted) performed in the covered area. If the Contractor performs Construction Work in a geographical area located outside of the covered area, it shall apply the goals

established for such geographical area where the work is actually performed. With regard to this second area, the Contractor also is subject to the goals for both its federally involved and non-federally involved Construction.

The Contractor's compliance with the Executive Order and the regulations in 41 CFR Part 60-4 shall be based on its implementation of the Equal Opportunity Clause, specific affirmative action obligations required by the specifications set forth in 41 CFR 60-4.3(a), and its efforts to meet the goals. The hours of minority and female employment and training must be substantially uniform throughout the length of the contract, and in each trade, and the Contractor shall make a good faith effort to employ minorities and women evenly on each of its projects. The transfer of minority or female employees or trainees from Contractor to Contractor or from project to project for the sole purpose of meeting the Contractor's goals shall be a violation of the contract, the Executive Order and the regulations in 41 CFR Part 60-4. Compliance with the goals will be measured against the total work hours performed.

3. The Contractor shall provide written notification to the Director of the Office of Federal Contract Compliance Programs within 10 working days of award of any Construction subcontract in excess of \$10,000 at any tier for Construction Work under the contract resulting from this solicitation. The notification shall list the name, address and telephone number of the subcontractor; employer identification number of the subcontractor; estimated dollar amount of the subcontract; estimated starting and completion dates of the subcontract; and the geographical area in which the contract is to be performed.

4. As used in this Agreement, the "covered area" is the City of New York.

EXHIBIT 2

Applicability

The Project or Program to which the construction work covered by this contract pertains is being assisted by the United States of America and the following Federal Labor Standards Provisions are included in this Contract pursuant to the provisions applicable to such Federal assistance.

A. 1. (i) Minimum Wages. All laborers and mechanics employed or working upon the site of the work, will be paid unconditionally and not less often than once a week, and without subsequent deduction or rebate on any account (except such payroll deductions as are permitted by regulations issued by the Secretary of Labor under the Copeland Act (29 CFR Part 3), the full amount of wages and bona fide fringe benefits (or cash equivalents thereof) due at time of payment computed at rates not less than those contained in the wage determination of the Secretary of Labor which is attached hereto and made a part hereof, regardless of any contractual relationship which may be alleged to exist between the contractor and such laborers and mechanics. Contributions made or costs reasonably anticipated for bona fide fringe benefits under Section I(b)(2) of the Davis-Bacon Act on behalf of laborers or mechanics are considered wages paid to such laborers or mechanics, subject to the provisions of 29 CFR 5.5(a)(1)(iv); also, regular contributions made or costs incurred for more than a weekly period (but not less often than quarterly) under plans, funds, or programs, which cover the particular weekly period, are deemed to be constructively made or incurred during such weekly period. Such laborers and mechanics shall be paid the appropriate wage rate and fringe benefits on the wage determination for the classification of work actually performed, without regard to skill, except as provided in 29 CFR 5.5(a)(4). Laborers or mechanics performing work in more than one classification may be compensated at the rate specified for each classification for the time actually worked therein: Provided, That the employer's payroll records accurately set forth the time spent in each classification in which work is performed. The wage determination (including any additional classification and wage rates conformed under 29 CFR 5.5(a)(1)(ii) and the Davis-Bacon poster (WH-1321) shall be posted at all times by the contractor and its subcontractors at the site of the work in a prominent and accessible, place where it can be easily seen by the workers.

(ii) (a) Any class of laborers or mechanics which is not listed in the wage determination and which is to be employed under the contract shall be classified in conformance with the wage determination. HUD shall approve an additional classification and wage rate and fringe benefits therefor only when the following criteria have been met:

(1) The work to be performed by the classification requested is not performed by a classification in the wage determination; and

(2) The classification is utilized in the area by the construction industry; and

(3) The proposed wage rate, including any bona fide fringe benefits, bears a reasonable relationship to the wage rates contained in the wage determination.

(b) If the contractor and the laborers and mechanics to be employed in the classification (if known), or their representatives, and HUD or its designee agree on the classification and wage rate (including the amount designated for fringe benefits where appropriate), a report of the action taken shall be sent by HUD or its designee to the Administrator of the Wage and Hour Division, Employment Standards Administration, U.S. Department of Labor, Washington, D.C. 20210. The Administrator, or an authorized representative, will approve, modify, or disapprove every additional classification action within 30 days of receipt and so advise HUD or its designee or will notify HUD or its designee within the 30-day period that additional time is necessary. (Approved by the Office of Management and Budget under OMB control number 1215-0140.)

(c) In the event the contractor, the laborers or mechanics to be employed in the classification or their representatives, and HUD or its designee do not agree on the proposed classification and wage rate (including the amount designated for fringe benefits, where appropriate), HUD or its designee shall refer the questions, including the views of all interested parties and the recommendation of HUD or its designee, to the Administrator for determination. The Administrator, or an authorized representative, will issue a determination within 30 days of receipt and so advise HUD or its designee or will notify HUD or its designee within the 30-day period that additional time is necessary. (Approved by the Office of Management and Budget under OMB Control Number 1215-0140.)

(d) The wage rate (including fringe benefits where appropriate) determined pursuant to subparagraphs (1)(ii)(b) or (c) of this paragraph, shall be paid to all workers performing work in the classification under this contract from the first day on which work is performed in the classification.

(iii) Whenever the minimum wage rate prescribed in the contract for a class of laborers or mechanics includes a fringe benefit which is not expressed as an hourly rate, the contractor shall either pay the benefit as stated in the wage determination or shall pay another bona fide fringe benefit or an hourly cash equivalent thereof.

(iv) If the contractor does not make payments to a trustee or other third person, the contractor may consider as part

of the wages of any laborer or mechanic the amount of any costs reasonably anticipated in providing bona fide fringe benefits under a plan or program, Provided, That the Secretary of Labor has found, upon the written request of the contractor, that the applicable standards of the Davis-Bacon Act have been met. The Secretary of Labor may require the contractor to set aside in a separate account assets for the meeting of obligations under the plan or program. (Approved by the Office of Management and Budget under OMB Control Number 1215-0140.)

2. Withholding. HUD or its designee shall upon its own action or upon written request of an authorized representative of the Department of Labor withhold or cause to be withheld from the contractor under this contract or any other Federal contract with the same prime contractor, or any other Federally-assisted contract subject to Davis-Bacon prevailing wage requirements, which is held by the same prime contractor so much of the accrued payments or advances as may be considered necessary to pay laborers and mechanics, including apprentices, trainees and helpers, employed by the contractor or any subcontractor the full amount of wages required by the contract. In the event of failure to pay any laborer or mechanic, including any apprentice, trainee or helper, employed or working on the site of the work, all or part of the wages required by the contract, HUD or its designee may, after written notice to the contractor, sponsor, applicant, or owner, take such action as may be necessary to cause the suspension of any further payment, advance, or guarantee of funds until such violations have ceased. HUD or its designee may, after written notice to the contractor, disburse such amounts withheld for and on account of the contractor or subcontractor to the respective employees to whom they are due. The Comptroller General shall make such disbursements in the case of direct Davis-Bacon Act contracts.

3. (i) Payrolls and basic records. Payrolls and basic records relating thereto shall be maintained by the contractor during the course of the work preserved for a period of three years thereafter for all laborers and mechanics working at the site of the work. Such records shall contain the name, address, and social security number of each such worker, his or her correct classification, hourly rates of wages paid (including rates of contributions or costs anticipated for bona fide fringe benefits or cash equivalents thereof of the types described in Section 1(b)(2)(B) of the Davis-bacon Act), daily and weekly number of hours worked, deductions made and actual wages paid. Whenever the Secretary of Labor has found under 29 CFR 5.5 (a)(1)(iv) that the wages of any laborer or mechanic include the amount of any costs reasonably anticipated in providing benefits under a plan or program described in Section 1(b)(2)(B) of the Davis-Bacon Act, the contractor shall maintain records which show that the commitment to provide such benefits is enforceable, that the plan or program is financially responsible, and that the plan or program has been

communicated in writing to the laborers or mechanics affected, and records which show the costs anticipated or the actual cost incurred in providing such benefits. Contractors employing apprentices or trainees under approved programs shall maintain written evidence of the registration of apprenticeship programs and certification of trainee programs, the registration of the apprentices and trainees, and the ratios and wage rates prescribed in the applicable programs. (Approved by the Office of Management and Budget under OMB Control Numbers 1215-0140 and 1215-0017.)

(ii) (a) The contractor shall submit weekly for each week in which any contract work is performed a copy of all payrolls to HUD or its designee if the agency is a party to the contract, but if the agency is not such a party, the contractor will submit the payrolls to the applicant sponsor, or owner, as the case may be, for transmission to HUD or its designee. The payrolls submitted shall set out accurately and completely all of the information required to be maintained under 29 CFR 5.5(a)(3)(i) except that full social security numbers and home addresses shall not be included on weekly transmittals. Instead the payrolls shall only need to include an individually identifying number for each employee (e.g., the last four digits of the employee's social security number). The required weekly payroll information may be submitted in any form desired. Optional Form WH-347 is available for this purpose from the Wage and Hour Division Web site at <http://www.dol.gov/esa/whd/forms/wh347instr.htm> or its successor site. The prime contractor is responsible for the submission of copies of payrolls by all subcontractors. Contractors and subcontractors shall maintain the full social security number and current address of each covered worker, and shall provide them upon request to HUD or its designee if the agency is a party to the contract, but if the agency is not such a party, the contractor will submit the payrolls to the applicant sponsor, or owner, as the case may be, for transmission to HUD or its designee, the contractor, or the Wage and Hour Division of the Department of Labor for purposes of an investigation or audit of compliance with prevailing wage requirements. It is not a violation of this subparagraph for a prime contractor to require a subcontractor to provide addresses and social security numbers to the prime contractor for its own records, without weekly submission to HUD or its designee. (Approved by the Office of Management and Budget under OMB Control Number 1215-0149.)

(b) Each payroll submitted shall be accompanied by a "Statement of Compliance," signed by the contractor or subcontractor or his or her agent who pays or supervises the payment of the persons employed under the contract and shall certify the following:

(1) That the payroll for the payroll period contains the information required to be provided under 29 CFR 5.5 (a)(3)(ii), the appropriate information is being maintained under 29 CFR 5.5(a)(3)(i), and that such information is correct and complete;

(2) That each laborer or mechanic (including each helper, apprentice, and trainee) employed on the contract during the payroll period has been paid the full weekly wages earned, without rebate, either directly or indirectly, and that no deductions have been made either directly or indirectly from the full wages earned, other than permissible deductions as set forth in 29 CFR Part 3;

(3) That each laborer or mechanic has been paid not less than the applicable wage rates and fringe benefits or cash equivalents for the classification of work performed, as specified in the applicable wage determination incorporated into the contract.

(c) The weekly submission of a properly executed certification set forth on the reverse side of Optional Form WH-347 shall satisfy the requirement for submission of the "Statement of Compliance" required by subparagraph A.3.(ii)(b).

(d) The falsification of any of the above certifications may subject the contractor or subcontractor to civil or criminal prosecution under Section 1001 of Title 18 and Section 231 of Title 31 of the United States Code.

(iii) The contractor or subcontractor shall make the records required under subparagraph A.3.(i) available for inspection, copying, or transcription by authorized representatives of HUD or its designee or the Department of Labor, and shall permit such representatives to interview employees during working hours on the job. If the contractor or subcontractor fails to submit the required records or to make them available, HUD or its designee may, after written notice to the contractor, sponsor, applicant or owner, take such action as may be necessary to cause the suspension of any further payment, advance, or guarantee of funds. Furthermore, failure to submit the required records upon request or to make such records available may be grounds for debarment action pursuant to 29 CFR 5.12.

4. Apprentices and Trainees.

(i) **Apprentices.** Apprentices will be permitted to work at less than the predetermined rate for the work they performed when they are employed pursuant to and individually registered in a bona fide apprenticeship program registered with the U.S. Department of Labor, Employment and Training Administration, Office of Apprenticeship Training, Employer and Labor Services, or with a State Apprenticeship Agency recognized by the Office, or if a person is employed in his or her first 90 days of probationary employment as an apprentice in such an apprenticeship program, who is not individually registered in the program, but who has been certified by the Office of Apprenticeship Training, Employer and Labor Services or a State Apprenticeship Agency (where appropriate) to be eligible for probationary employment as an apprentice. The allowable ratio of apprentices to journeymen on the job site in any craft classification shall not be greater than the ratio permitted to the contractor as to the entire work force under the registered program. Any worker listed on a payroll at an apprentice wage rate, who

is not registered or otherwise employed as stated above, shall be paid not less than the applicable wage rate on the wage determination for the classification of work actually performed. In addition, any apprentice performing work on the job site in excess of the ratio permitted under the registered program shall be paid not less than the applicable wage rate on the wage determination for the work actually performed. Where a contractor is performing construction on a project in a locality other than that in which its program is registered, the ratios and wage rates (expressed in percentages of the journeyman's hourly rate) specified in the contractor's or subcontractor's registered program shall be observed. Every apprentice must be paid at not less than the rate specified in the registered program for the apprentice's level of progress, expressed as a percentage of the journeymen hourly rate specified in the applicable wage determination. Apprentices shall be paid fringe benefits in accordance with the provisions of the apprenticeship program. If the apprenticeship program does not specify fringe benefits, apprentices must be paid the full amount of fringe benefits listed on the wage determination for the applicable classification. If the Administrator determines that a different practice prevails for the applicable apprentice classification, fringes shall be paid in accordance with that determination. In the event the Office of Apprenticeship Training, Employer and Labor Services, or a State Apprenticeship Agency recognized by the Office, withdraws approval of an apprenticeship program, the contractor will no longer be permitted to utilize apprentices at less than the applicable predetermined rate for the work performed until an acceptable program is approved.

(ii) **Trainees.** Except as provided in 29 CFR 5.16, trainees will not be permitted to work at less than the predetermined rate for the work performed unless they are employed pursuant to and individually registered in a program which has received prior approval, evidenced by formal certification by the U.S. Department of Labor, Employment and Training Administration. The ratio of trainees to journeymen on the job site shall not be greater than permitted under the plan approved by the Employment and Training Administration. Every trainee must be paid at not less than the rate specified in the approved program for the trainee's level of progress, expressed as a percentage of the journeyman hourly rate specified in the applicable wage determination. Trainees shall be paid fringe benefits in accordance with the provisions of the trainee program. If the trainee program does not mention fringe benefits, trainees shall be paid the full amount of fringe benefits listed on the wage determination unless the Administrator of the Wage and Hour Division determines that there is an apprenticeship program associated with the corresponding journeyman wage rate on the wage determination which provides for less than full fringe benefits for apprentices. Any employee listed on the payroll at a trainee rate who is not registered and participating in a training plan approved by

the Employment and Training Administration shall be paid not less than the applicable wage rate on the wage determination for the work actually performed. In addition, any trainee performing work on the job site in excess of the ratio permitted under the registered program shall be paid not less than the applicable wage rate on the wage determination for the work actually performed. In the event the Employment and Training Administration withdraws approval of a training program, the contractor will no longer be permitted to utilize trainees at less than the applicable predetermined rate for the work performed until an acceptable program is approved.

(iii) Equal employment opportunity. The utilization of apprentices, trainees and journeymen under 29 CFR Part 5 shall be in conformity with the equal employment opportunity requirements of Executive Order 11246, as amended, and 29 CFR Part 30.

5. Compliance with Copeland Act requirements. The contractor shall comply with the requirements of 29 CFR Part 3 which are incorporated by reference in this contract

6. Subcontracts. The contractor or subcontractor will insert in any subcontracts the clauses contained in subparagraphs 1 through 11 in this paragraph A and such other clauses as HUD or its designee may by appropriate instructions require, and a copy of the applicable prevailing wage decision, and also a clause requiring the subcontractors to include these clauses in any lower tier subcontracts. The prime contractor shall be responsible for the compliance by any subcontractor or lower tier subcontractor with all the contract clauses in this paragraph.

7. Contract termination; debarment. A breach of the contract clauses in 29 CFR 5.5 may be grounds for termination of the contract and for debarment as a contractor and a subcontractor as provided in 29 CFR 5.12.

8. Compliance with Davis-Bacon and Related Act Requirements. All rulings and interpretations of the Davis-Bacon and Related Acts contained in 29 CFR Parts 1, 3, and 5 are herein incorporated by reference in this contract

9. Disputes concerning labor standards. Disputes arising out of the labor standards provisions of this contract shall not be subject to the general disputes clause of this contract. Such disputes shall be resolved in accordance with the procedures of the Department of Labor set forth in 29 CFR Parts 5, 6, and 7. Disputes within the meaning of this clause include disputes between the contractor (or any of its subcontractors) and HUD or its designee, the U.S. Department of Labor, or the employees or their representatives.

10. (i) Certification of Eligibility. By entering into this contract the contractor certifies that neither it (nor he or she) nor any person or firm who has an interest in the contractor's firm is a person or firm ineligible to be awarded Government contracts by virtue of Section 3(a) of the Davis-Bacon Act or 29 CFR 5.12(a)(1) or to be

awarded HUD contracts or participate in HUD programs pursuant to 24 CFR Part 24.

(ii) No part of this contract shall be subcontracted to any person or firm ineligible for award of a Government contract by virtue of Section 3(a) of the Davis-Bacon Act or 29 CFR 5.12(a)(1) or to be awarded HUD contracts or participate in HUD programs pursuant to 24 CFR Part 24.

(iii) The penalty for making false statements is prescribed in the U.S. Criminal Code, 18 U.S.C. 1001. Additionally, U.S. Criminal Code, Section 1 01 0, Title 18, U.S.C., "Federal Housing Administration transactions", provides in part: "Whoever, for the purpose of . . . influencing in any way the action of such Administration..... makes, utters or publishes any statement knowing the same to be false..... shall be fined not more than \$5,000 or imprisoned not more than two years, or both."

11. Complaints, Proceedings, or Testimony by Employees. No laborer or mechanic to whom the wage, salary, or other labor standards provisions of this Contract are applicable shall be discharged or in any other manner discriminated against by the Contractor or any subcontractor because such employee has filed any complaint or instituted or caused to be instituted any proceeding or has testified or is about to testify in any proceeding under or relating to the labor standards applicable under this Contract to his employer.

B. Contract Work Hours and Safety Standards Act. The provisions of this paragraph B are applicable where the amount of the prime contract exceeds \$100,000. As used in this paragraph, the terms "laborers" and "mechanics" include watchmen and guards.

(1) Overtime requirements. No contractor or subcontractor contracting for any part of the contract work which may require or involve the employment of laborers or mechanics shall require or permit any such laborer or mechanic in any workweek in which the individual is employed on such work to work in excess of 40 hours in such workweek unless such laborer or mechanic receives compensation at a rate not less than one and one-half times the basic rate of pay for all hours worked in excess of 40 hours in such workweek.

(2) Violation; liability for unpaid wages; liquidated damages. In the event of any violation of the clause set forth in subparagraph (1) of this paragraph, the contractor and any subcontractor responsible therefor shall be liable for the unpaid wages. In addition, such contractor and subcontractor shall be liable to the United States (in the case of work done under contract for the District of Columbia or a territory, to such District or to such territory), for liquidated damages. Such liquidated damages shall be computed with respect to each individual laborer or mechanic, including watchmen and guards, employed in violation of the clause set forth in subparagraph (1) of this paragraph, in the sum of \$10 for each calendar day on which such individual was required or permitted to work in excess of the standard workweek of 40 hours without payment of the overtime wages required by the clause set forth in subparagraph (1) of this paragraph.

(3) Withholding for unpaid wages and liquidated damages. HUD or its designee shall upon its own action or upon written request of an authorized representative of the Department of Labor withhold or cause to be withheld, from any moneys payable on account of work performed by the contractor or subcontractor under any such contract or any other Federal contract with the same prime contract, or any other Federally-assisted contract subject to the Contract Work Hours and Safety Standards Act which is held by the same prime contractor such sums as may be determined to be necessary to satisfy any liabilities of such contractor or subcontractor for unpaid wages and liquidated damages as provided in the clause set forth in subparagraph (2) of this paragraph.

(4) Subcontracts. The contractor or subcontractor shall insert in any subcontracts the clauses set forth in subparagraph (1) through (4) of this paragraph and also a clause requiring the subcontractors to include these clauses in any lower tier subcontracts. The prime contractor shall be responsible for compliance by any subcontractor or lower tier subcontractor with the clauses set forth in subparagraphs (1) through (4) of this paragraph.

C. Health and Safety. The provisions of this paragraph C are applicable where the amount of the prime contract exceeds \$100,000.

(1) No laborer or mechanic shall be required to work in surroundings or under working conditions which are unsanitary, hazardous, or dangerous to his health and safety as determined under construction safety and health standards promulgated by the Secretary of Labor by regulation.

(2) The Contractor shall comply with all regulations issued by the Secretary of Labor pursuant to Title 29 Part 1926 and failure to comply may result in imposition of sanctions pursuant to the Contract Work Hours and Safety Standards Act, (Public Law 91-54, 83 Stat 96). 40 USC 3701 et seq.

(3) The contractor shall include the provisions of this paragraph in every subcontract so that such provisions will be binding on each subcontractor. The contractor shall take such action with respect to any subcontractor as the Secretary of Housing and Urban Development or the Secretary of Labor shall direct as a means of enforcing such provisions.

EXHIBIT 3

INVESTIGATIONS CLAUSE, CONFLICTS OF INTEREST CLAUSE; AND EXECUTIVE ORDER NO. 50

I. 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.

II. 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.

III. 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.

Attachment 2

Certificate of No Change Form

- Please fill in all the fields and DO NOT leave any field blank.
- Please submit two completed forms. Copies will not be accepted.
- Please send both copies to the agency that requested it, unless you are advised to send it directly to the Mayor's Office of Contract Services (MOCS).
- A materially false statement willfully or fraudulently made in connection with this certification, and/or the failure to conduct appropriate due diligence in verifying the information that is the subject of this certification, may result in rendering the submitting entity non-responsible for the purpose of contract award.
- A materially false statement willfully or fraudulently made in connection with this certification may subject the person making the false statement to criminal charges

I, _____, being duly sworn, state that I have read
Enter Your Name

and understand all the items contained in the vendor questionnaire and any submission of change as identified on page one of this form and certify that as of this date, these items have not changed. I further certify that, to the best of my knowledge, information and belief, those answers are full, complete, and accurate; and that, to the best of my knowledge, information, and belief, those answers continue to be full, complete, and accurate.

In addition, I further certify on behalf of the submitting vendor that the information contained in the principal questionnaire(s) and any submission of change identified on page two of this form have not changed and have been verified and continue, to the best of my knowledge, to be full, complete and accurate.

I understand that the City of New York will rely on the information supplied in this certification as additional inducement to enter into a contract with the submitting entity.

Vendor Questionnaire *This section is required.*

This refers to the vendor questionnaire(s) submitted for the vendor doing business with the City.

Name of Submitting Entity: _____

Vendor's Address: _____

Vendor's EIN or TIN: _____ Requesting Agency: _____

Are you submitting this Certification as a parent? (Please circle one) Yes No

Signature date on the last full vendor questionnaire signed by the submitting vendor: _____

Signature date on changed submission, if applicable, for the submitting vendor: _____

Principal Questionnaire

This section refers to the most recent principal questionnaire submissions.

Principal Name	Date of signature on last full Principal Questionnaire	Date(s) of signature on Changed Submission (if applicable)
----------------	--	--

1

2

3

4

5

6

Check if additional changes were submitted and attach a document with the date of additional submissions.

Certification *This section is required.*

This form must be signed and notarized. Please complete this twice. Copies will not be accepted.

Certified By:

Name (Print)

Title

Name of Submitting Entity

Signature

Date

Notarized By:

Notary Public

County License Issued

License Number

Sworn to before me on: _____
Date



**Mayor's Office of
Contract Services**

September 25, 2014

Please note that effective, September 25, 2014, the VENDEX questionnaires are now fillable. **YOU WILL STILL NEED TO COMPLETE, PRINT AND SUBMIT THE PAPER COPIES.**

These include the:

Bill de Blasio
Mayor

Lisette Camilo
City Chief Procurement
Officer and Director of
Contract Services

- Vendor Questionnaire
- Principal Questionnaire
- Certification of No Change

**253 Broadway, 9th
Floor
New York, NY 10007**

Please be advised that certain fields require certain types of entry, e.g.:

212 788 0010 tel
212 788 0049 fax

- Date fields require entries to match: MM/DD/YYYY
- Telephone/Fax fields require entries to match: XXX-XXX-XXXX or (XXX) XXX-XXXX
- EIN/TIN/SSN fields require 9 digits and no dashes
- SSN only fields require entries to match XXX-XX-XXXX

Please also note that not all the fields will match the underlying formatting due to the limitations of the form, but ALL information will be able to be inputted. If you have any questions or concerns with the form, please email us at

VENDEXFEEDBACK@cityhall.nyc.gov and we will get back to you as soon as possible.

PLEASE NOTE THAT ALTHOUGH THE FORMS ARE FILLABLE, YOU WILL STILL NEED TO COMPLETE, PRINT AND SUBMIT THE PAPER COPIES.

Thank you for your kind consideration.

PRINCIPAL QUESTIONNAIRE

The Vendor Information Exchange System (**VENDEX**) includes two questionnaires – the **vendor questionnaire** and the **principal questionnaire**. These have been developed to collect information from vendors who wish to do business with New York City, to ensure that New York City obeys the mandate in its charter to do business only with responsible vendors.

Questionnaires may be obtained in paper format from the VENDEX Unit (212-341-0933) or downloaded from the NYC website at <http://www.nyc.gov/vendex>.

Questionnaires must be completed in paper format. All questions must be answered. A response of "Not Applicable (N/A)", or the equivalent, is not acceptable. Answers must be typewritten or printed in ink. If more space is needed to respond, photocopy the corresponding section's page, check the box that additional information is attached, and attach the photocopied page to the questionnaire.

The publication "Vendor's Guide to VENDEX" provides assistance and explanation for the questionnaires, including definitions of terms or phrases written in **bold** face throughout the questionnaires. If you have not obtained a copy of this publication, please download a copy from the New York City web site, or contact the VENDEX Unit at 212-341-0933. All forms must be sent to MOCS: 253 Broadway, 9th Floor; New York, New York 10007. If you have questions, contact the VENDEX Unit at 212-341-0933.

ANSWER THIS QUESTIONNAIRE CAREFULLY AND COMPLETELY. FAILURE TO SUBMIT A FULLY COMPLETED QUESTIONNAIRE MAY RESULT IN THE REJECTION OF THE VENDEX SUBMISSION. MAKING ANY UNAUTHORIZED CHANGE OR ALTERATION TO THE QUESTIONNAIRE WILL RENDER IT VOID.

Name of **submitting vendor** _____

Submitting vendor's EIN/SSN/TIN _____

Type of submission: (Check one)

- 1. Full questionnaire
- 2. **Changed questionnaire**

If checked, provide submission date of last full questionnaire: ____/____/____

Name of person completing this **principal questionnaire** _____

Employer/Title _____

Telephone Number (_____) _____ - _____ Fax Number (_____) _____ - _____

Email address _____

The disclosure of the **social security number** is mandatory under the right granted New York City by the Tax Reform Act of 1976 and will be used for the purpose of tax administration. The number may also be used for general identification purposes. If you do not consent to such additional use for general identification purposes, please check here

1. **Principal owner or officer's name** _____ **SSN** ____/____/____
 Date of birth ____/____/____

Home address _____
 Street/P.O. Box/Apt Number _____ Floor #/Suite # _____

City/State/Zip Code _____

Primary place of business address

Street/P.O. Box/Apt Number _____ Floor #/Suite # _____

City/State/Zip Code _____

Business telephone (_____) _____ - _____ Business fax number (_____) _____ - _____

Business email address _____

2. State all positions (with dates) held with **submitting vendor** during the past five (5) years

Title of position held:	Dates held	From	To
1) _____	_____	____/____/____	____/____/____
2) _____	_____	____/____/____	____/____/____
3) _____	_____	____/____/____	____/____/____

Check if more than three (3) positions were held, and attach list of titles and dates held

3. No Yes Do you hold a ten (10) percent or greater ownership interest in the **submitting vendor**?

4. No Yes Are there any outstanding loans, guarantees or any other form of security or lease or any other type of contribution made in whole or in part between you and the **submitting vendor**?

5. No Yes Within the past three (3) years, have you been a **principal owner** or **officer** of any **entity** other than the **submitting vendor**?

6. No Yes Has New York City awarded any **contracts** to an **entity** listed in response to Question 5 while you were a **principal owner** or **officer**?

Provide a detailed response for all questions answered with information and/or "YES" in the question's corresponding section starting on page four of this questionnaire.

7. At any time during the past five (5) years, have you, and/or any **entity** in which you have been a **principal owner** or **officer**, been subject to any of the following actions, whether pending or completed:

- a. No Yes debarred from bidding on any government **contract**?
- b. No Yes found **non-responsible** on any government **contract**?
- c. No Yes declared in default and/or terminated for cause on any **contract**, and/or had any **contract** canceled for cause?
- d. No Yes determined to be ineligible to bid or propose on any **contract**?
- e. No Yes suspended from bidding on any government **contract**?
- f. No Yes received an overall unsatisfactory performance rating from any government **agency** on any **contract** or agreement?

8. Do you presently serve, or have you within the past five (5) years served, as:

- a. No Yes an elected or appointed official or officer?
- b. No Yes a full or part-time employee in a New York City **agency** or as a consultant to any New York City **agency**?
- c. No Yes an officer of any political party organization in New York City, whether paid or unpaid?
- d. No Yes as a consultant or advisor to a New York City **agency** that is or was involved in the solicitation, negotiation, operation and/or administration of **contracts** on which the **submitting vendor** will work during this three year **VENDEX** cycle?

9. During the past five (5) years, have you failed to:

- a. No Yes file any applicable federal, state or New York City tax returns?
- b. No Yes pay any applicable federal, state or New York City taxes or other assessed New York City charges, including but not limited to water and sewer charges?

Provide details to questions answered "yes" in the corresponding section below.

Corresponds to Question 3.

Total percentage of stock owned: _____ Purchase date: ____/____/____
(if sole proprietorship, enter 100%)

Corresponds to Question 4. (check all that apply)

- Loan amount \$ _____
- Lease amount \$ _____
- Guarantee amount \$ _____
- Other _____ (Name)
- Security amount \$ _____
- Other _____ (Name)

Corresponds to Question 5.

Name of **entity** of which you are/were a **principal owner** or **officer**

Address _____

EIN/TIN _____ Telephone number (____) _____ - _____

Your title _____

Associated from ____/____/____ to ____/____/____ Still serving

Check if attaching additional information

Corresponds to Question 6.

Name of **entity** that received the **contract**

EIN/TIN _____

Check if attaching additional information

Provide a detailed response to all questions checked "YES" from pages one - three. If you need more space to respond, photocopy the corresponding section's page, check the box that additional information is attached, and attach the photocopied page to this Questionnaire.

Corresponds to Question 7. (Use this box for only one action. For each additional action, photocopy this page, complete the information and attach to this questionnaire.)

The following refers to section: 7a 7b 7c 7d 7e 7f

Action applies to:

You (as **principal owner** or **officer**)

Entity. If checked, name _____

Entity's EIN/TIN _____

Your title (as **principal owner** or **officer**) (while action was underway)

Action is: Pending Completed

Date of action From ____/____/____ To ____/____/____ Still ongoing

Name of **agency** initiating action _____

Contract number _____

Reason for action _____

Check if attaching additional information

Corresponds to Question 8. (check all that apply)

8a. elected official elected officer appointed official

Name of **agency** where you serve(d) _____

Date started ____/____/____ Date completed ____/____/____ Still Serving

Check if attaching additional information

8b. Full time employee Part time employee Consultant to NYC **agency**

Name of **agency** where you work(ed) _____

Date started ____/____/____ Date completed ____/____/____ Still Serving

Check if attaching additional information

8c. paid officer unpaid officer

Name of political party or organization _____

Date started ____/____/____ Date completed ____/____/____ Still Serving

Check if attaching additional information

8d. **Individual** serves/served New York City **agency** as consultant advisor

Employee/advisor's name _____

SSN _____ Date of Birth ____/____/____

Name of NYC **agency** _____

Check if attaching additional information

Provide a detailed response to all questions checked "YES" from pages one - three. If you need more space to respond, photocopy the corresponding section's page, check the box that additional information is attached, and attach the photocopied page to this Questionnaire.

Corresponds to Question 9.

9a. You failed to file

- Federal taxes
- State taxes
- N.Y. City taxes
- Other

If "State" is checked, and other than N.Y., name State _____

If "Other" is checked, specify _____

Taxes were not filed for tax years:

- 19_____
- 20_____
- 20_____
- 20_____
- 20_____

Check if attaching additional information

9b. You failed to pay:

- Federal taxes
- State taxes
- N.Y. City taxes
- Other NYC charge

If "State" is checked, and other than N.Y., name State _____

If "Other NYC charge(s)" is checked, specify _____

Taxes were not paid for tax years:

- 19_____
- 20_____
- 20_____
- 20_____
- 20_____

Check if attaching additional information

CERTIFICATION

THE PRINCIPAL QUESTIONNAIRE MUST BE CERTIFIED BY THE PRINCIPAL COMPLETING THE QUESTIONNAIRE. A MATERIALLY FALSE STATEMENT WILLFULLY OR FRAUDULENTLY MADE IN CONNECTION WITH THIS QUESTIONNAIRE MAY RESULT IN RENDERING THE SUBMITTING VENDOR NON-RESPONSIBLE WITH RESPECT TO THE VENDEX SUBMISSION AND, IN ADDITION, MAY SUBJECT THE PERSON MAKING THE FALSE STATEMENT TO CRIMINAL CHARGES.

I, _____ serving as _____ for _____,
Name Title Submitting Vendor's Name

being duly sworn, certify that:

- I have not altered the substance of this questionnaire in any manner;
- I have read and understand all of the items contained in the foregoing 6 pages of this questionnaire and the following _____ pages of attachments;
- I supplied full and complete responses to each item therein to the best of my knowledge, information and belief;
- I understand that New York City will rely on the information supplied in this questionnaire as an inducement to enter into a **contract** with the **submitting vendor**;
- I understand that at the time of execution of any **contract** with New York City, the **submitting vendor** will be required to certify that the information I have supplied remains accurate, and I further understand that I may provide to the **VENDEX** unit, in writing, any change(s) in the information provided in this questionnaire at the time of any change in the circumstances;
- I have read the vendor questionnaire submitted by the **submitting vendor**, and the answers thereto, and that, to the best of my knowledge, information and belief, those answers are full, complete and accurate.

Sworn to before me this _____ day of _____, 20_____;

Notary Public

Print name

Signature

_____/_____/_____
Date



**Mayor's Office of
Contract Services**

September 25, 2014

Please note that effective, September 25, 2014, the VENDEX questionnaires are now fillable. **YOU WILL STILL NEED TO COMPLETE, PRINT AND SUBMIT THE PAPER COPIES.**

These include the:

Bill de Blasio
Mayor

Lisette Camilo
City Chief Procurement
Officer and Director of
Contract Services

- Vendor Questionnaire
- Principal Questionnaire
- Certification of No Change

**253 Broadway, 9th
Floor
New York, NY 10007**

Please be advised that certain fields require certain types of entry, e.g.:

212 788 0010 tel
212 788 0049 fax

- Date fields require entries to match: MM/DD/YYYY
- Telephone/Fax fields require entries to match: XXX-XXX-XXXX or (XXX) XXX-XXXX
- EIN/TIN/SSN fields require 9 digits and no dashes
- SSN only fields require entries to match XXX-XX-XXXX

Please also note that not all the fields will match the underlying formatting due to the limitations of the form, but ALL information will be able to be inputted. If you have any questions or concerns with the form, please email us at

VENDEXFEEDBACK@cityhall.nyc.gov and we will get back to you as soon as possible.

PLEASE NOTE THAT ALTHOUGH THE FORMS ARE FILLABLE, YOU WILL STILL NEED TO COMPLETE, PRINT AND SUBMIT THE PAPER COPIES.

Thank you for your kind consideration.

VENDOR QUESTIONNAIRE

The Vendor Information Exchange System (**VENDEX**) includes two questionnaires – the **vendor questionnaire** and the **principal questionnaire**. These have been developed to collect information from vendors who wish to do business with New York City, to ensure that New York City obeys the mandate in its charter to do business only with responsible vendors.

Questionnaires may be obtained in paper format from the VENDEX Unit (212-341-0933) or downloaded from the NYC website at <http://www.nyc.gov/vendex>.

Questionnaires must be completed in paper format. All questions must be answered. A response of "Not Applicable (N/A)", or the equivalent, is not acceptable. Answers must be typewritten or printed in ink. If more space is needed to respond, photocopy the corresponding section's page, check the box that additional information is attached, and attach the photocopied page to the questionnaire.

The publication "Vendor's Guide to VENDEX" provides assistance and explanation for the questionnaires, including definitions of terms or phrases written in **bold** face throughout the questionnaires. If you have not obtained a copy of this publication, please download a copy from the New York City web site, or contact the VENDEX Unit at 212-341-0933. All forms must be sent to MOCS: 253 Broadway, 9th Floor; New York, New York 10007. If you have questions, contact the VENDEX Unit at 212-341-0933.

ANSWER THIS QUESTIONNAIRE CAREFULLY AND COMPLETELY. FAILURE TO SUBMIT A FULLY COMPLETED QUESTIONNAIRE MAY RESULT IN THE REJECTION OF THE VENDEX SUBMISSION. MAKING ANY UNAUTHORIZED CHANGE OR ALTERATION TO THE QUESTIONNAIRE WILL RENDER IT VOID.

Name of submitting vendor _____

Submitting Vendor's EIN/ SSN/TIN: _____

Submitting vendor is Prime Parent Controlling entity Subcontractor

Type of submission: (Check one)

1. Full questionnaire
2. **Changed questionnaire**

If checked, provide submission date of last full questionnaire: ____/____/____

Name of person completing this **vendor questionnaire** _____

Employer/Title _____

Telephone Number (_____) _____ - _____ Fax Number (_____) _____ - _____

Email address _____

The disclosure of the **social security number** is mandatory under the right granted New York City by the Tax Reform Act of 1976 and will be used for the purpose of tax administration. The number may also be used for general identification purposes. If you do not consent to such additional use for general identification purposes, please check here

1. Submitting vendor's:

a. Principal executive office address

Street/P.O. Box _____ Floor #/Suite # _____

City/State/Zip Code _____

Telephone Number (_____) _____ - _____ Fax Number (_____) _____ - _____

b. Primary place of business (in the NYC metropolitan area)

Street/P.O. Box _____ Floor #/Suite # _____

City/State/Zip Code _____

Telephone Number (_____) _____ - _____ Fax Number (_____) _____ - _____

- Check if the **submitting vendor** had other **primary places of business** in the NYC metropolitan area within the prior five (5) years and list information on page 7.

c. Primary place of business address is (check all that apply)

- Owned Rented Rented with an option to buy Donated

d. Addresses of the three largest sites at which it is anticipated that work would occur in connection with the contract pending at the times this questionnaire is completed, based on the number of people to be employed at each site:

- address in 1a. (if applicable) address in 1b. (if applicable)

Additional site(s)

Street/P.O. Box _____ Floor #/Suite # _____

City/State/Zip Code _____

Telephone Number (_____) _____ - _____ Fax Number (_____) _____ - _____

- Check if **submitting vendor's** three largest sites include other addresses and list information on page 7.

e. Web site address www. _____

f. Annual gross revenue (check range that applies)

- \$0 - \$99,999 \$100,000 - \$499,999 \$500,000 – \$999,999
- \$1,000,000 - \$ 2,499,999 \$2,500,000 –\$4,999,999 \$5,000,000 or more

g. Business category (check all that apply)

- Professional services Manufacturing Construction Human Services
- Commercial Services Distribution Retail Not-for-Profit

Submitting vendor's

h. DUNS number _____ none

i. National or regional stock exchange or NASDAQ listing _____ none

j. Date submitting vendor began business in New York City ____/____/____

- Check if additional information is attached

Provide a detailed response to all questions answered with information and/or "YES" in the question's corresponding section starting on page 7 of this questionnaire.

2. No Yes Does the **submitting vendor** now use, or has it in the past ten (10) years used, an **EIN, TIN, SSN** or **DBA**, trade name or abbreviation other than the **submitting vendor** name or **EIN/SSN/TIN** number listed on page 1 of this questionnaire?

3. No Yes Has the **submitting vendor** used any other **business addresses** and **telephone numbers** at any time during the prior five (5) years?

4a.

Date this business was formed ____ / ____ / ____

State in which business was formed _____

County in which business was formed _____

Country in which business was formed (if not formed in USA) _____

Type of organization (check one):

_____ Business Corporation

_____ Not-for Profit Corporation

_____ Sole Proprietorship

_____ Partnership: _____ General _____ Limited _____ Limited Liability

_____ Limited Liability Company

_____ Joint Venture

_____ Other-indicate type: _____

4b. No Yes Are there any counties in New York State, other than the county listed in response to question 4a, in which the **submitting vendor** has filed a certificate of incorporation, a **DBA**, or the equivalent?

Provide a detailed response to all questions answered with information and/or "YES" in the question's corresponding section starting on page 7 of this questionnaire.

5.		
a.	<input type="checkbox"/> No <input type="checkbox"/> Yes	Does the submitting vendor share office space, staff, equipment, or expenses with any other entities ?
b.	<input type="checkbox"/> No <input type="checkbox"/> Yes	Does the submitting vendor anticipate using or occupying any real property, other than the business addresses listed in response to Question 1 and 3, during the three (3) year VENDEX cycle?
c.	<input type="checkbox"/> No <input type="checkbox"/> Yes	Does any principal owner or officer of the submitting vendor , or any member of his/her immediate family , have an ownership interest in any entity that holds the title or lease to any real property used by the submitting vendor in the New York City metropolitan area?
6.		
a.		Starting on page 8, list ALL of the submitting vendor's principal owners and the three officers who exercise the most substantial degree of control over the submitting vendor .
b.	<input type="checkbox"/> No <input type="checkbox"/> Yes	Pursuant to any stock option or any other arrangements, does any individual or entity have the right within the next three (3) years to acquire stock in the submitting vendor , which, when combined with current holdings, would make such an individual or entity a principal owner or officer ?
c.	<input type="checkbox"/> No <input type="checkbox"/> Yes	Is ten (10) percent or more of the submitting vendor's stock or ownership currently used or pledged as collateral for any loan or obligation?
7.		Are there any individuals now serving in a managerial or consulting capacity to the submitting vendor , whether or not as a principal owner or officer , who now serve, or within the past five (5) years have served as:
a.	<input type="checkbox"/> No <input type="checkbox"/> Yes	an elected or appointed public official or officer?
b.	<input type="checkbox"/> No <input type="checkbox"/> Yes	a full or part-time employee in a New York City agency or as a consultant to any New York City agency ?
c.	<input type="checkbox"/> No <input type="checkbox"/> Yes	an officer of any political party organization in New York City, whether paid or unpaid?
d.	<input type="checkbox"/> No <input type="checkbox"/> Yes	as a consultant or advisor to a New York City agency performing services related to the solicitation, negotiation, operation and/or administration of contracts on which the submitting vendor will work during this three (3) year VENDEX cycle?
8.	<input type="checkbox"/> No <input type="checkbox"/> Yes	Does the submitting vendor control one or more entities ?
9.	<input type="checkbox"/> No <input type="checkbox"/> Yes	Does the submitting vendor have one or more affiliates , and/or is it a subsidiary of, and controlled by any other entity ?

Provide a detailed response to all questions answered with information and/or "YES" in the question's corresponding section starting on page 7 of this questionnaire.

<p>10. <input type="checkbox"/>No <input type="checkbox"/>Yes</p>	<p>Has the submitting vendor, or any affiliate listed in response to Question 9, been a subcontractor on any contract with any New York City agency in the past three (3) years?</p>
<p>11. At any time during the past five (5) years, has the submitting vendor or any of its affiliates, been subject to any of the following actions, whether pending or completed:</p>	
<p>a. <input type="checkbox"/>No <input type="checkbox"/>Yes</p>	<p>debarred from entering into any government contract?</p>
<p>b. <input type="checkbox"/>No <input type="checkbox"/>Yes</p>	<p>found non-responsible on any government contract?</p>
<p>c. <input type="checkbox"/>No <input type="checkbox"/>Yes</p>	<p>declared in default and/or terminated for cause?</p>
<p>d. <input type="checkbox"/>No <input type="checkbox"/>Yes</p>	<p>determined to be ineligible to bid or propose on any contract?</p>
<p>e. <input type="checkbox"/>No <input type="checkbox"/>Yes</p>	<p>suspended from bidding or entering into any government contract?</p>
<p>f. <input type="checkbox"/>No <input type="checkbox"/>Yes</p>	<p>received an overall unsatisfactory performance rating from any government agency on any contract?</p>
<p>12. Are there or have there been any judgments, injunctions, or liens, including, but not limited to, judgments based on taxes owed, fines and penalties assessed by any government agency, elected official, or the New York City Council initiated against the submitting vendor and/or any affiliate:</p>	
<p>a. <input type="checkbox"/>No <input type="checkbox"/>Yes</p>	<p>at any time within the past five (5) years?</p>
<p>b. <input type="checkbox"/>No <input type="checkbox"/>Yes</p>	<p>that remain open, unsatisfied, or in effect today?</p>
<p>13. <input type="checkbox"/>No <input type="checkbox"/>Yes</p>	<p>Have any bankruptcy proceedings been initiated by or against the submitting vendor or its affiliates within the past seven (7) years (whether or not closed) or is any bankruptcy proceeding pending by or against the submitting vendor or its affiliates regardless of date of filing?</p>
<p>14. In the past five (5) years, has the submitting vendor, any of its principal owners or officers, or any affiliate:</p>	
<p>a. <input type="checkbox"/>No <input type="checkbox"/>Yes</p>	<p>had any permit, license, concession, franchise or lease terminated for cause or revoked?</p>
<p>b. <input type="checkbox"/>No <input type="checkbox"/>Yes</p>	<p>been disqualified for cause as a bidder on any permit, license, concession, franchise or lease?</p>
<p>15. <input type="checkbox"/>No <input type="checkbox"/>Yes</p>	<p>In the past five (5) years, have any of the submitting vendors or any of the submitting vendors' affiliates or any individual currently or within that period serving as a principal owner, officer or managerial employee been investigated by any government agency, including, but not limited to, federal, state and local regulatory agencies?</p>

Provide a detailed response to all questions answered with information and/or "YES" in the question's corresponding section starting on page 7 of this questionnaire.

16.	Has the submitting vendor , any affiliate , or any of their current or former principal owners or officers or managerial employees :	a. <input type="checkbox"/> No <input type="checkbox"/> Yes been convicted of a misdemeanor and/or found in violation of any administrative, statutory, or regulatory provisions in the past five (5) years? b. <input type="checkbox"/> No <input type="checkbox"/> Yes been convicted of a felony, and/or any crime related to truthfulness and/or business conduct in the past ten (10) years? c. <input type="checkbox"/> No <input type="checkbox"/> Yes have any felony, misdemeanor and/or administrative charges currently pending?
17.	<input type="checkbox"/> No <input type="checkbox"/> Yes	For the past five (5) years, has the submitting vendor or any of its principal owners , officers , or any affiliate had any sanction imposed as a result of judicial or administrative disciplinary proceedings with respect to any professional license held?
18.	<input type="checkbox"/> No <input type="checkbox"/> Yes	Other than the submitting vendor's employees, did the submitting vendor retain, employ or designate anyone to influence the preparation of contract specifications, or the solicitation or award of any contract during this three (3) year VENDEX cycle?
19.	<input type="checkbox"/> No <input type="checkbox"/> Yes	Is the submitting vendor exempt from income taxes under the Internal Revenue Code ? During the past five (5) years, has the submitting vendor failed to: b. <input type="checkbox"/> No <input type="checkbox"/> Yes file any applicable federal, state or New York City tax returns? c. <input type="checkbox"/> No <input type="checkbox"/> Yes pay any applicable federal, state or New York City taxes or other assessed New York City charges, including but not limited to water and sewer charges?
20.	<input type="checkbox"/> No <input type="checkbox"/> Yes	<u>This question applies to not-for-profit vendors, others please answer "no".</u> If the submitting vendor is a not-for-profit corporation , in the past three (3) years, have any audits of the submitting vendor revealed material weaknesses in its system of internal controls, compliance with contractual agreements and/or laws and regulations?

Provide a detailed response to all questions checked "YES" from pages one–six. If you need more space to respond, photocopy the corresponding section's pages, check the box that additional information is attached, and attach the photocopied page to this questionnaire.

Provide details to questions answered "yes" in the corresponding section below.

Corresponds to Question 1.

1b. Submitting vendor's other primary place(s) of business

Street/P.O. Box _____ Floor #/Suite # _____

City/State/Zip Code _____

Telephone Number (_____) _____ - _____ Fax Number (_____) _____ - _____

1d. Submitting vendor's largest sites

Street/P.O. Box _____ Floor #/Suite # _____

City/State/Zip Code _____

Telephone Number (_____) _____ - _____ Fax Number (_____) _____ - _____

Street/P.O. Box _____ Floor #/Suite # _____

City/State/Zip Code _____

Telephone Number (_____) _____ - _____ Fax Number (_____) _____ - _____

Check if attaching additional information

Corresponds to Question 2.

Other **DBA**, name, trade name, abbreviation _____

Other **EIN/TIN/SSN** _____

Dates in use - from ____/____/____ to ____/____/____ Still in use

Check if attaching additional information

Corresponds to Question 3.

Other **business addresses** and **telephone numbers** in the last five (5) years

(Check One) Current Former

Street/P.O. Box _____ Floor #/Suite # _____

City/State/Zip Code _____

Main telephone number (_____) _____ - _____ Main fax number (_____) _____ - _____

Check if attaching additional information

Corresponds to Question 4. (check all that apply)

4b. Certificate of incorporation **DBA**

Other, please identify _____

County _____ Date ____/____/____

Check if attaching additional information

Provide a detailed response to all questions checked "YES" from pages one–six. If you need more space to respond, photocopy the corresponding section's pages, check the box that additional information is attached, and attach the photocopied page to this questionnaire.

Corresponds to Question 5. (check all that apply)

5a. Item(s) **shared** **Space** **Staff** **Equipment** **Expenses**

Other **entity's** name _____

Other **entity's** EIN/TIN/SSN _____

Address _____

Street/P.O. Box _____

Floor #/Suite # _____

City/State/Zip Code _____

Check if attaching additional information

5b. Address _____

Street/P.O. Box _____

Floor #/Suite # _____

City/State/Zip Code _____

Additional addresses to be used not yet known

Check if attaching additional information

5c. Ownership interest is **principal owner** **officer** **immediate family**

Name of party with ownership interest _____

Name of **entity** holding title or lease _____

Check if attaching additional information

Corresponds to Question 6.

6a. **Principal owner's** name _____

EIN/SSN _____ Date of birth ____/____/____ Percent of ownership _____

individual partnership joint venture corporation

Principal owner's name _____

EIN/SSN _____ Date of birth ____/____/____ Percent of ownership _____

individual partnership joint venture corporation

Principal owner's name _____

EIN/SSN _____ Date of birth ____/____/____ Percent of ownership _____

individual partnership joint venture corporation

Check if attaching additional information

Provide a detailed response to all questions checked "YES" from pages one–six. If you need more space to respond, photocopy the corresponding section's pages, check the box that additional information is attached, and attach the photocopied page to this questionnaire.

Question 6 continued.

6a. **Officer's name** _____

cont. **SSN** _____ - _____ - _____ **Date of birth** ____/____/____

Title _____

Officer's name _____

SSN _____ - _____ - _____ **Date of birth** ____/____/____

Title _____

Officer's name _____

SSN _____ - _____ - _____ **Date of birth** ____/____/____

Title _____

Check if attaching additional information

6b. **Individual** **Entity** **Name** _____

EIN/SSN _____ **If individual**, **date of birth** ____/____/____

Stock option **Other (explain)** _____

Percent of ownership: _____

If entity is checked, is the **business address** the same as that listed in question 1? **Yes** **No**

If no, list address

Street/P.O. Box **Floor #/Suite #**

City/State/Zip Code

Main telephone number (_____) _____ - _____ **Main fax number** (_____) _____ - _____

Check if attaching additional information

6c. (Check all that apply)

Stock **Ownership:**

Used **Pledged as collateral** **Other (explain)** _____

Loan **Obligation**

Name of receiving individual and/or entity _____

EIN/SSN _____ **If individual**, **date of birth** ____/____/____

Percent of ownership: _____ **Transaction date** ____/____/____

Check if attaching additional information

Provide a detailed response to all questions checked "YES" from pages one–six. If you need more space to respond, photocopy the corresponding section's pages, check the box that additional information is attached, and attach the photocopied page to this questionnaire.

Corresponds to Question 7. (Check all that apply)

- 7a. elected official elected officer appointed official appointed officer
 principal owner or officer **managerial capacity** **consulting capacity**

Employee's Name _____

SSN _____ Date of Birth ____/____/____

Title in **submitting vendor** _____

Name of organization elected or appointed to _____

Check if attaching additional information

- 7b. Full-time NYC **agency** employee Part-time NYC **agency** employee Consultant to NYC **agency**
 principal owner or officer **managerial capacity** **consulting capacity**

Employee's Name _____

SSN _____ Date of Birth ____/____/____

Title in **submitting vendor** _____

Name of NYC **agency** _____

Individual serves/served New York City **agency** as consultant advisor

Check if attaching additional information

- 7c. Paid officer in NYC political party Unpaid officer in NYC political party
 principal owner or officer **managerial capacity** **consulting capacity**

Employee's Name _____

SSN _____ Date of Birth ____/____/____

Title in **submitting vendor** _____

Name of political party _____

Check if attaching additional information

7d. Individual serves **submitting vendor** as

- principal owner or officer** **managerial capacity** **consulting capacity**

Individual serves/served New York City **agency** as consultant advisor

Employee's Name _____

SSN _____ Date of Birth ____/____/____

Title in **submitting vendor** _____

Name of NYC **agency** _____

Check if attaching additional information

Provide a detailed response to all questions checked "YES" from pages one–six. If you need more space to respond, photocopy the corresponding section's pages, check the box that additional information is attached, and attach the photocopied page to this questionnaire.

Corresponds to Question 8. (Check all that apply)

Name of **controlled entity** _____

For profit **Not-for-profit corporation** Other (explain) _____

EIN/TIN/SSN _____

Address

Street/P.O. Box

City/State/Zip Code

Main telephone number (_____) _____ - _____ Main fax number (_____) _____ - _____

Check if attaching additional information

Corresponds to Question 9. (Check all that apply)

Submitting vendor has one or more **affiliate(s)**

(If checked) Name of **affiliate** _____

Type of business For profit **Not-for-profit corporation** Other (explain) _____

EIN/TIN/SSN _____

Address

Street/P.O. Box

City/State/Zip Code

Main telephone number (_____) _____ - _____ Main fax number (_____) _____ - _____

Check if attaching additional information

Submitting vendor is a **subsidiary** of:

Submitting vendor is **controlled** by:

(If checked) Name of **entity** _____

EIN/TIN/SSN _____

Type of business For profit **Not-for-profit corporation** Other (explain) _____

Address

Street/P.O. Box

City/State/Zip Code

Main telephone number (_____) _____ - _____ Main fax number (_____) _____ - _____

Check if attaching additional information

Provide a detailed response to all questions checked "YES" from pages one–six. If you need more space to respond, photocopy the corresponding section's pages, check the box that additional information is attached, and attach the photocopied page to this questionnaire.

Corresponds to Question 10.

submitting vendor **affiliate**

If **affiliate**, name _____ **EIN/TIN/SSN** _____

Name of prime contractor _____

Contract type _____

Contract number _____ **Contract** start date ____/____/____

Subcontract amount \$ _____

Name of NYC **agency** _____

Check if attaching additional information

Corresponds to Question 11.

11a. **submitting vendor** **affiliate**

If **affiliate**, name _____ **EIN/TIN/SSN** _____

Debarment proceeding pending Debarment in effect Period of debarment completed

Summary of finding _____

Date of finding (if any) ____/____/____

Name of government **agency** _____

Address

Street/P.O. Box _____

City/State/Zip Code _____

Check if attaching additional information

11b. **submitting vendor** **affiliate**

If **affiliate**, name _____ **EIN/TIN/SSN** _____

Date notified of **non-responsible** finding ____/____/____

Submitting vendor/affiliate appealed the finding of **non-responsible**, with the following outcome(s) upheld reversed pending

Summary of finding _____

Date of finding (if any) ____/____/____

Name of government **agency** _____

Address

Street/P.O. Box _____

City/State/Zip Code _____

Check if attaching additional information

Provide a detailed response to all questions checked "YES" from pages one–six. If you need more space to respond, photocopy the corresponding section's pages, check the box that additional information is attached, and attach the photocopied page to this questionnaire.

Question 11 continued.

11c. **submitting vendor** **affiliate**

If **affiliate**, name _____ EIN/TIN/SSN _____

Declared in default Terminated for cause

Summary of finding _____

Date of finding (if any) ____/____/____ proceeding ongoing

Name of government **agency** _____

Address _____

Street/P.O. Box

City/State/Zip Code

Check if attaching additional information

11d. **submitting vendor** **affiliate**

If **affiliate**, name _____ EIN/TIN/SSN _____

Ineligible to bid Ineligible to propose

Summary of finding _____

Date of finding (if any) ____/____/____ proceeding ongoing

Name of government **agency** _____

Address _____

Street/P.O. Box

City/State/Zip Code

Check if attaching additional information

11e. **submitting vendor** **affiliate**

If **affiliate**, name _____ EIN/TIN/SSN _____

Suspension is pending in effect completed

Summary of finding _____

Date of finding (if any) ____/____/____ proceeding ongoing

Name of government **agency** _____

Address _____

Street/P.O. Box

City/State/Zip Code

Check if attaching additional information

Provide a detailed response to all questions checked "YES" from pages one–six. If you need more space to respond, photocopy the corresponding section's pages, check the box that additional information is attached, and attach the photocopied page to this questionnaire.

Question 11 continued.

11f. **submitting vendor** **affiliate**

If **affiliate**, name _____ EIN/TIN/SSN _____

Summary of finding _____

Date of finding (if any) ____/____/____ proceeding ongoing

Name of government **agency** _____

Address

Street/P.O. Box _____

City/State/Zip Code _____

Check if attaching additional information

Corresponds to Question 12. (Check all that apply)

12a. **submitting vendor** **affiliate**

If **affiliate**, name _____ EIN/TIN/SSN _____

judgment injunction lien

other (explain) _____

Name of **agency** _____

Date obligation filed ____/____/____ Date discharged ____/____/____

Amount of original obligation \$ _____ Amount outstanding \$ _____

Check if attaching additional information

12b. **submitting vendor** **affiliate**

If **affiliate**, name _____ EIN/TIN/SSN _____

judgment injunction lien

other (explain) _____

Name of **agency** _____

open unsatisfied in effect today

Amount of original obligation \$ _____ Amount outstanding \$ _____

Check if attaching additional information

Provide a detailed response to all questions checked "YES" from pages one–six. If you need more space to respond, photocopy the corresponding section's pages, check the box that additional information is attached, and attach the photocopied page to this questionnaire.

Corresponds to Question 13. (Check all that apply)

Within the past seven (7) years, bankruptcy proceedings

- have been initiated
- have been closed
- remain pending

These proceedings involve

- submitting vendor**
- affiliate**

If **affiliate**, name _____ EIN/TIN/SSN _____

Court name _____

Court address _____

Docket number _____ Date initiated _____ Date closed ___/___/___

Check if attaching additional information

Corresponds to Question 14. (Check all that apply)

- 14a. **submitting vendor** **principal owners or officers** **affiliate**

Name _____ EIN/TIN/SSN _____

terminated for cause revoked Date ___/___/___

permit license concession franchise lease

Name of sanctioning **agency** _____

Specify reason(s) for action _____

Check if attaching additional information

- 14b. **submitting vendor** **principal owners or officers** **affiliate**

Name _____ EIN/TIN/SSN _____

disqualified for cause Date ___/___/___

permit license lease concession franchise

Name of sanctioning **agency** _____

Specify the reason(s) for action _____

Check if attaching additional information

Provide a detailed response to all questions checked "YES" from pages one–six. If you need more space to respond, photocopy the corresponding section's pages, check the box that additional information is attached, and attach the photocopied page to this questionnaire.

Corresponds to Question 15.

- submitting vendor** **affiliate**
- individual** serving as **principal owner** **officer** **managerial employee**

Name _____ EIN/TIN/SSN _____

Name of investigating government **agency** _____

Date initiated ____/____/____ Date completed ____/____/____ ongoing

Summary of investigation _____

Check if attaching additional information

Corresponds to Question 16. (Check all that apply)

- 16a. **submitting vendor** **affiliate**
- former **principal owner** **officer** **managerial employee**
 - current **principal owner** **officer** **managerial employee**

Name _____ EIN/TIN/SSN _____

- Found in violation of administrative provision(s)
- statutory provisions(s)
- regulatory provision(s)

convicted of a misdemeanor

Summary of finding _____

Date of action ____/____/____ Charging **agency** _____

Check if attaching additional information

Provide a detailed response to all questions checked "YES" from pages one–six. If you need more space to respond, photocopy the corresponding section's pages, check the box that additional information is attached, and attach the photocopied page to this questionnaire.

Question 16 continued.

16b. **submitting vendor** **affiliate**

former **principal owners** or **officers** or **managerial employees**

current **principal owners** or **officers** or **managerial employees**

Name _____ EIN/TIN/SSN _____

convicted of a felony in the past ten (10) years

convicted of a crime related to truthfulness in the past ten (10) years

convicted a crime related to business conduct in the past ten (10) years

Summary of felony and/or crime _____

Date of action ____/____/____ Charging **agency** _____

Check if attaching additional information

16c. **submitting vendor** **affiliate**

former **principal owners** or **officers** or **managerial employees**

current **principal owners** or **officers** or **managerial employees**

Name _____ EIN/TIN/SSN _____

Charges pending are felony misdemeanor administrative charges

Summary of finding _____

Date of action ____/____/____ Charging **agency** _____

Check if attaching additional information

Provide a detailed response to all questions checked "YES" from pages one–six. If you need more space to respond, photocopy the corresponding section's pages, check the box that additional information is attached, and attach the photocopied page to this questionnaire.

Corresponds to Question 17.

Name of sanctioning agency _____

Name of sanctioned individual or entity _____

submitting vendor principal owners or officers affiliate

EIN/SSN/TIN _____

judicial disciplinary proceedings with respect to any professional license held

administrative disciplinary proceedings with respect to any professional license held

Summary _____

Date of action ____/____/____

Check if attaching additional information

Corresponds to Question 18.

Name _____ EIN/TIN/SSN _____

Address _____

Street/P.O. Box _____

City/State/Zip Code _____

Telephone number (____) _____ - _____ Fax number (____) _____ - _____

Check if attaching additional information

Corresponds to Question 19.

19a. Reason for exemption from income taxes _____

Check if attaching additional information

19b. Submitting vendor failed to file:

Federal taxes State taxes NYC taxes Other

If "State" is checked, and other than N.Y., name State _____

If "Other" is checked, specify _____

Taxes were not filed for tax years

19____ 20____ 20____ 20____ 20____

Check if attaching additional information

Provide a detailed response to all questions checked "YES" from pages one–six. If you need more space to respond, photocopy the corresponding section's pages, check the box that additional information is attached, and attach the photocopied page to this questionnaire.

Question 19 continued.

19c. **Submitting vendor** failed to pay:

- Federal taxes
- State taxes
- NYC taxes
- Other NYC charges

If "State" is checked, and other than N.Y., name State _____

If "Other NYC charges" is checked, specify _____

Taxes were not paid for tax years:

- 19_____
- 20_____
- 20_____
- 20_____
- 20_____

Check if attaching additional information

Corresponds to Question 20.

audits revealed **material weaknesses** in:

- system of internal controls
- compliance with contractual agreements
- compliance with laws and regulations

Summary _____

Date ____/____/____

Check if attaching additional information

Provide a detailed response to all questions checked "YES" from pages one–six. If you need more space to respond, photocopy the corresponding section's pages, check the box that additional information is attached, and attach the photocopied page to this questionnaire.

CERTIFICATION

A MATERIALLY FALSE STATEMENT WILLFULLY OR FRAUDULENTLY MADE IN CONNECTION WITH THIS QUESTIONNAIRE MAY RESULT IN RENDERING THE SUBMITTING VENDOR NON-RESPONSIBLE WITH RESPECT TO THE VENDEX SUBMISSION, AND, IN ADDITION, MAY SUBJECT THE PERSON MAKING THE FALSE STATEMENT TO CRIMINAL CHARGES.

I, _____ serving as _____ for _____,
Name Title Submitting Vendor's Name

I hereby certify that:

- I have not altered the substance of this questionnaire in any manner;
- I have read and understand all of the items contained in the foregoing 19 pages of this questionnaire and the following _____ pages of attachments;
- I have supplied full and complete responses to each item therein to the best of my knowledge, information and belief;
- I understand that the New York City will rely on the information supplied in this questionnaire as an inducement to enter into a **contract** with the **submitting vendor**;
- I understand that at the time of execution of any **contract** with New York City, the **submitting vendor** will be required to certify that the information I have supplied remains accurate, and I further understand that I may provide to the VENDEX unit, in writing, any change(s) in the information provided in this questionnaire at the time of any change in the circumstances;
- I will notify the VENDEX unit in writing of all **subcontractors** engaged pursuant to each resulting **contract** valued at one hundred thousand dollars (\$100,000) or more;
- The **submitting vendor** was not founded or established and is not operated in a manner to evade the application or defeat the purpose of Section 6-116.2, subdivision (b) of the New York City Administrative Code, and is not the successor, assignee or **affiliate** of an **entity** which is ineligible to bid or propose on contracts or against which a proceeding to determine eligibility to bid or propose on contracts or against which a proceeding to determine eligibility to bid or propose on contracts is pending.

I further certify as to the following ongoing obligations of the **submitting vendor**:

- The New York City Administrative Code provides that the **submitting vendor** shall update the information provided in this questionnaire by submitting a current questionnaire every three years, to be provided no later than the date of award of any **contract** subsequent to the expiration of the three year period;
- The **submitting vendor** is required to certify, at the time of any future award, that the information previously submitted in its most recent **VENDEX** submission is full, complete and accurate, except as to any changed information the **submitting vendor** provides at that time and, as to that information, the **submitting vendor** shall be required to certify that it is full, complete and accurate.

Sworn to before me this _____ day of _____, 20_____;

Notary Public

Print name

Signature

_____/_____/_____
Date

Vendor's Guide to VENDEX

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PREFACE

The City is legally required to use the Vendor Information Exchange System (**VENDEX**), a computerized data system, to help it make decisions regarding vendor responsibility as required by law. A responsible contractor is one which has the capability in all respects to perform fully the contract requirements and the business integrity to justify the award of public tax dollars.

The **VENDEX** Questionnaires consist of the **vendor** and **principal questionnaires**. This vendor's guide provides instructions to assist in completing and submitting these questionnaires. If further assistance is required, visit the New York City web site (<http://www.nyc.gov/vendex>) or contact the VENDEX Unit at (212) 341-0933.

REQUIREMENTS AND INSTRUCTIONS FOR VENDEX QUESTIONNAIRES

The **vendor** and **principal questionnaire(s)** are valid for three (3) years from the date of signature on the certification page(s) of the questionnaires.

Vendors are required to complete the **VENDEX** questionnaires if they have **contracts** or subcontracts:

1. Valued at \$100,000 or more;
2. That are sole source contracts valued at \$10,000 or more and/or;
3. Whose aggregate business with the City in the preceding 12 months totals 100,000 or more;

In addition, vendors are required to complete the **VENDEX** questionnaires if they are:

1. Applicants for franchises, regardless of dollar amount or;
2. Applicants for concessions which, singly or in combination with other **contracts** held by the vendor, are valued at \$100,000 or more.

Please note that, the City, In its sole discretion, may require that other **entities/principals** complete **VENDEX questionnaires**.

Vendors who have **parent** or other **controlling entities** will be required to submit **vendor questionnaires** for these **entities**. **Principal questionnaires** for **parent** or **controlling entities** are not required.

If during the three (3) years, the submitting vendor is awarded another contract and any of the **submitting vendor's** or **principal's** circumstances change, causing a change to any answers in the previously submitted **vendor** and/or **principal questionnaire**, the **submitting vendor** must update those answers at the time of award of the subsequent contract by resubmitting to the **VENDEX** Unit:

1. The first page of the relevant questionnaire with the box "**changed questionnaire**" selected;
2. The question pages where information has changed along with their corresponding supplemental pages if necessary;
3. A signed and notarized certification page.

If there have been changes to the **submitting vendor's vendor questionnaire** but no changes to the **principal questionnaire** the **submitting vendor** is required to submit a changed questionnaire along with a certification of no change for the principals to MOCS. Such updates must be done by the time the **submitting vendor** enters into its next contract with a New York City **agency**.

1. When completing questionnaires, err on the side of full disclosure. Non-disclosure of relevant material may lead to a finding of **non-responsibility** or

criminal charges against an **individual/vendor**. If there is a question about whether or not a particular matter should be disclosed, please contact the Mayor's Office of Contract Services at 212-341-0933.

2. Questionnaires may be obtained from the VENDEX Unit at 212-341-0933 or downloaded from the New York City web site <http://www.nyc.gov/vendex>
3. Vendors may not edit, alter or change questionnaires in any way including, file conversions. Any such changes will render the questionnaires void.
4. Answers must be either typewritten or handwritten in ink. If additional space is needed to complete a question, check the box indicating that additional information is attached, and attach the supplemental pages to the questionnaire. All questions must be answered. Questions answered "no" do not require additional information. A response of "not applicable (N/A)", or the equivalent, will not be accepted both on **vendor & principal questionnaires**. Please attach any additional relevant documentation e.g. correspondence, to the back of the form.
5. Certification - A materially false statement willfully or fraudulently made in connection with any **VENDEX questionnaire** may result in a finding of non-responsibility. In addition, this may subject the **individual** making the false statement to criminal charges. The individual who completes the questionnaire must sign the certification in the presence of a notary public.
6. Submitted certification pages must have original signatures.
7. Questionnaires are considered complete when all questions are answered, and the original questionnaires are signed and notarized.
8. Completed original questionnaires may be delivered via U.S. Mail or hand delivery to: The Mayor's Office of Contract Services, VENDEX Unit, 253 Broadway, 9th Floor, NY, NY 10007.
9. The **VENDEX** Unit will notify the **submitting vendor** if a questionnaire is incomplete. In this circumstance, the submitting vendor will have five (5) business days to answer the question completely and resubmit the questionnaire or to confirm that the requested information is being sent to MOCS, unless otherwise specified. If the **submitting vendor** and/or **principal** does not adhere to this timeframe, its **VENDEX** submission will be rejected.
10. The **submitting vendor** should keep a copy of the completed questionnaires.

WHO SHOULD COMPLETE AND SIGN THE VENDOR QUESTIONNAIRE?

The person who completes the **vendor questionnaire** on behalf of the **submitting vendor** must provide their title, telephone/ fax number and e-mail address on page 1 of the **vendor questionnaire**. The person who signs the certification on behalf of the **submitting vendor** should be either the Chief Executive, Executive Director, Chief Administrator, President, Vice President, Treasurer, Secretary, Chair of the Board of Directors, or the principal owner or officer responsible for administering the **submitting vendor's contract**.

WHO MUST COMPLETE A PRINCIPAL QUESTIONNAIRE?

All **principal owners** and **officers** listed in response to question number 6a in the **vendor questionnaire** must complete **principal questionnaires**, with the following exceptions:

1. If the **submitting vendor** is a partnership, all partners should be listed, but only the partners performing on the contract and those who have a (10) percent or greater ownership interest in the partnership need to complete **principal questionnaires**.
2. If another **entity** controls ten (10) percent or more of the **submitting vendor** that **entity** must complete a **vendor questionnaire** instead of a **principal questionnaire**. **Principal questionnaires** are not required for the **principal owners** or **officers** of that entity. Under these circumstances, a submitting vendor is still required to submit principal questionnaires for its top three officers listed in response to question 6A regardless of ownership interest.
3. If the **principal owner** or **officer** is an estate or trust, then the executor or trustee must complete a **principal questionnaire**.

The City, in its sole discretion, may require that other principal owners or officer complete a VENDEX questionnaire.

WHO SHOULD COMPLETE AND SIGN A CERTIFICATION OF NO CHANGE?

1. Two original signed, notarized **certifications of no change** must be executed for both the **submitting vendor** and if applicable the **parent**.
2. **Certifications of No Change** are to be sent directly to the agency with which the **submitting vendor** is seeking to do business. **Certifications of No Change** should not be sent to the Mayor's Office of Contract Services. (Unless it is a certification of no change for principals on a changed questionnaire as described on page 2 of 14).
3. The **individual** signing the **certification of no change** on behalf of the vendor certifies that both the **vendor** and **principal questionnaires** are complete and accurate.
4. It is recommended that one of the **principal owners/officers** listed in response to question #6a execute the **certification of no change** on behalf of the **vendor**.
5. If you are completing the **certification of no change** on behalf of the **parent entity** you are not required to provide principal information.
6. The **submitting vendor** must also report to the contracting **agency** information on all **subcontractors** that will work on the proposed **contract**.

DEFINITIONS

Administrative Charge

When an **agency** charges an entity with violating the agency's regulations. These charges include, but are not limited to violations of prevailing wage laws, workers' compensation laws, Occupational Safety and Health Administration (OSHA) violations and tax offenses.

Affiliate

An **entity** in which the **parent** of the submitting vendor owns more than fifty (50) percent of the voting stock and/or an **entity** in which a group of **principal owners** or **officers** that owns more than fifty (50) percent of the **submitting vendor** also owns more than fifty (50) percent of the voting stock.

Agency

Any government body, whether Federal, State, City, County, Borough, local agency or other office, position, administration, department, division, bureau, commission, authority, corporation, advisory committee or other agency of government, including departments, offices, quasi-public agencies, public authorities, public corporations, public development corporations, local development corporations and others. New York City agencies are those agencies for which expenses are paid in whole or in part from the city treasury, and include but are not be limited to, the City Council, the offices of each elected official, the Department of Education, the School Construction Authority, community boards, the Financial Services Corporation, the Health and Hospitals Corporation, the Economic Development Corporation, and the New York City Housing Authority, but do not include any court or any corporation or institution maintaining or operating a public library, museum, botanical garden, arboretum, tomb, memorial building, aquarium, zoological garden or similar facility.

Business Addresses

The address and telephone numbers for the location(s) at which the **submitting vendor** conducts its activities. See definition for telephone number(s).

Certification of No Change

Replaced Affidavits of No Change- certifies that information contained in vendor questionnaires, principal questionnaires or any changed questionnaires for this vendor are complete and accurate.

Changed Questionnaire

The revised **VENDEX** questionnaire submitted within the three year **VENDEX** cycle to document changes occurring to any of the information collected on either the **principal questionnaire** or **vendor questionnaire**, or both. This is comprised of the questionnaire's top page (checking the **changed questionnaire** box), newly signed and notarized certification page and the appropriate pages where the information has changed, along with any necessary additional information. If there have been

changes to the **submitting vendor's vendor questionnaire** but no changes to the **principal questionnaire** the **submitting vendor** is required to submit a **changed questionnaire** along with the **certification of no change** for the principals to MOCS.

Consulting Capacity

Serving in a capacity to act on behalf of or assist the **submitting vendor** with services including, but not limited to legal, engineering or architectural.

Contract

Any agreement between a New York City agency, New York City affiliated **agency**, elected official or the Council and an **individual** or **entity**, which (a) is for the provision of goods, services, or construction and has a value that when aggregated with the values of all other such agreements with the same **individual** or **entity** or **subcontractor** during the immediately preceding twelve (12) month period is valued at one hundred thousand dollars (\$100,000) or more; or (b) is for the provision of goods and/or services, was awarded on a sole source basis and is valued at ten thousand dollars (\$10,000) or more; or (c) is a concession and has a value that when aggregated with the value of all other contracts/agreements held by the same concessionaire is valued at one hundred thousand dollars (\$100,000) or more; or (d) is a franchise.

Control (Controlling Entity)

The **submitting vendor** is controlled by another **entity** when:

- the other **entity** holds ten (10) percent or greater ownership interest, or
- the other **entity** directs or has the right to direct daily operations

The **submitting vendor** controls another **entity** when:

- it holds ten (10) percent or more of the voting stock of the other **entity**, or
- it directs or has the right to direct daily operations

DBA

An acronym that stands for doing business as, a formal notice filed with a county clerk that an **individual** or **entity** is conducting business under an assumed name.

DUNS

The D&B number, formerly known as the Dun and Bradstreet number.

Employer identification number (EIN)

A nine digit number assigned by the Internal Revenue Service to sole proprietors, corporations, partnerships, estates, trusts, and other **entities** for tax filing and reporting business purposes. See definitions for **TIN** and **SSN**.

Entity

Any joint venture, sole proprietorship, general partnership, limited liability

partnership, limited partnership, limited liability company, professional limited liability company, business corporation, professional business corporation, or others. This also includes any **not-for-profit corporation**.

Immediate Family

Includes former or current husband(s), and or wife(ves), son(s), daughter(s), stepson(s), stepdaughter(s), adopted child(ren), grandchild(ren), parent(s), brother(s), sister(s), grandparent(s), mother(s)-in-law, father(s)-in-law, brother(s)-in-law and sister(s)-in-law.

Individual

Any person (not an **entity**).

Internal Revenue Code

The set of rules and regulations established by the United States Internal Revenue Service (IRS).

Investigated

An **individual** or **entity** has been **investigated** if there has been any inquiry by any prosecutorial, investigative or regulatory agency concerning such **individual** or **entity** or the activities and/or the business practices thereof. An "inquiry" includes, but is not limited to the following:

1. an appearance before a grand jury by the **individual** or any current or former representative of the **entity** or its **affiliates** has been made or been sought;
2. a subpoena requiring testimony has been issued and/or received;
3. a subpoena for the production of documents in a criminal proceeding or criminal investigation has been issued and/or received;
4. a search warrant at any location occupied or used by **individual/entity**, any **affiliate**, or any of their **principal owners** or **officers** has been executed;
5. notice has been received that the communications or activities of the **individual** or any current or former representative of the **entity** or its **affiliates** have been monitored under a court order;
6. notice has been received that the **individual/entity**, or any current or former representative of the **entity** or its **affiliates** is the subject or target of an investigation;
7. any questioning of an employee concerning the **individual/entity**, or the conduct of the **individual/entity's** or the **affiliate's** business which relates to the possible commission of any act or acts that could expose the **individual**, the **entity**, or its **affiliates** to either criminal or civil

liability;

8. any investigation into compliance with prevailing wage laws or regulations;

The following are not inquiries:

1. background investigations for employment;
2. contact with the contracting **agency** relating to performance or routine aspects of an existing contract;
3. **agency** communications relating to constituent complaints;
d) routine non-forensic program or financial audits.

Managerial Employees or Managerial Capacity

Employees in a supervisory capacity who, either by virtue of their title or their duties, operate with discretion over solicitation, letting, or management of **contracts** with New York City.

Material Weakness

A reportable condition in which the design or operation of one or more of the components of internal control does not reduce to a relatively low level the risk that errors and irregularities in amounts that would be material in relation to the general purpose financial statements being audited may occur and not be detected within a timely period by employees in the normal course of performing their assigned functions.

Non-Responsible

When an **individual** or **entity** lacks the capability in all respects to fully perform the contract requirements and/or lacks the business integrity to justify the award of public tax dollars.

Not-for-Profit Corporation

Any group incorporated under the New York State Not-For-Profit Corporation Law and/or registered with the Secretary of the State as a Not-For-Profit Corporation in accordance with Article 13 of that law, and/or exempt from taxation under section 501 of the **Internal Revenue Code**.

Officer

Any **individual** who serves as or performs the functions of chief executive officer, chief financial officer, or chief operating officer of the **submitting vendor**, without regard to such **individual's** title e.g., president, vice president, secretary, treasurer, board chairperson, trustee, (**individual** or **entity** who administers a trust) or their equivalents.

Parent

Any **entity** including, but not limited to any **individual**, partnership, joint venture or

corporation which owns more than fifty (50) percent of the voting stock of another **entity**.

Primary Place of Business

The most important location from which the **submitting vendor** conducts its business in the New York City metropolitan area. See **business address** definition.

Prime

The **entity** awarded the contract.

Principal Executive Office

The location at which the **submitting vendor's principals** are located. See also the definitions for **primary place of business**, **business address** and **telephone numbers**.

Principal Owner

An **individual**, partnership, joint venture or corporation that holds a ten (10) percent or greater ownership interest in a **submitting vendor** or **subcontractor**.

Principal Questionnaire

The **VENDEX** questionnaire collecting information on the **submitting vendor's principals** and/ or **officers**.

Responsibility Determination

A conclusion reached by any government **agency** or quasi-governmental **agency**, concerning the responsibility of an **entity**. A **responsibility determination** is based on several factors including, but not limited to an **entity's** financial resources, business integrity, and performance.

Sanction

Any fine, penalty, judgment, injunction, violation, debarment or suspension.

Share

To have space, staff, equipment, **expenses**, etc., or use such items, in common with one or more other **entities**. See **shared equipment**, **shared space**, **shared staff** and **shared expenses** definitions.

Shared Equipment

Equipment is considered to be the items used in an **individual** or **entity's** operation or activity that include, but are not limited to telephone(s) and telephone systems, photocopiers, computer, motor vehicles and construction machinery. These items are considered shared whenever the **submitting vendor** shares the ownership and/or the use of any **equipment** with any other **entity**. **Equipment** should not be considered to be **shared** under the following three circumstances: (1) when, although the **equipment** is owned by another **entity**, the **submitting vendor** has

entered into a formal lease for the use of the **equipment** and exercises exclusive use of the **equipment**; or (2) when the **submitting vendor** owns **equipment** that it has formally leased to another **entity**, and for the duration of such lease the **submitting vendor** has relinquished all right to the use of such leased **equipment**; or (3) when the **submitting vendor** out-sources internal administrative functions, such as payroll.

Shared Expenses

Expenses are costs, charges, fees, etc. When the **submitting vendor** and any other **entity** jointly incur or pay for expenses, they are considered shared.

Shared Space

Space is considered to be shared when any part of the space utilized by the **submitting vendor**, at any of its sites, is also utilized on a regular or intermittent basis for any purpose by any other **entity**, and where there is no lease or sublease in effect between the **submitting vendor**, and any other **entity**, that is sharing space with the **submitting vendor**.

Shared Staff

Staff should be considered to be shared when any **individual** provides the services of an employee (including services of any type or level, managerial or supervisory, whether paid or unpaid) to the **submitting vendor**, and also, on either a regular or irregular basis, provides the services of an employee, paid or unpaid, to one or more other **entities**, if such services are provided during any part of the same hours the **individual** is providing services to the **submitting vendor**. This type of **sharing** may include, but is not limited to, **individuals** who provide the following services: telephone answering, receptionist, delivery, custodial, and driving.

Social Security Number (SSN)

The unique nine digit number assigned by the Social Security Administration that assists in maintaining an accurate record of wages or self-employment earnings that are covered under the Social Security Act, and used by the Internal Revenue Service for tax administration purposes. See **EIN** and **TIN** definitions.

Subcontract

An agreement between an **individual** or **entity** that is party to a **contract** and another **individual** or **entity** which (a) is for the provision of goods, services or construction pursuant to that **contract**, and has a value that when aggregated with the values of all other such agreements with the same **individual** or **entity** and **subcontractor** during the immediately preceding twelve (12) month period is valued at one hundred thousand dollars (\$100,000) or more; or (b) is for the provision of goods and/or services, was awarded on a sole source basis and is valued at ten thousand dollars (\$10,000) or more; or (c) is a concession and has a value that when aggregated with the value of all other **contracts/agreements** held by the same concessionaire is valued at one hundred thousand dollars (\$100,000) or more; or (d)

is a franchise.

Subcontractor

Any **individual** or **entity** engaged under a **subcontract**.

Submitting Vendor

The **entity** submitting the **vendor questionnaire**

Subsidiary

An **entity** in which the majority of the voting stock is owned by a **parent**.

Telephone Numbers

The telephone numbers of an **individual**, **entity** and/or **submitting vendor** at the **primary place of business address**, **principal executive office address** and **business addresses**.

Taxpayer Identification Number (TIN)

A generic term used by the Internal Revenue Service for identification in the administration of tax laws, which includes **SSN** and/or **EIN**, among others. See **EIN** and **SSN** definitions.

VENDEX

The Vendor Information Exchange System, a legally required computerized data system that contains information for every New York City franchise, concession, and **contract** over one hundred thousand dollars (\$100,000). Information is collected on the **vendor**, **principal** and **changed questionnaires**.

Vendor Questionnaire

VENDEX questionnaire collecting information on the **submitting vendor**.

FREQUENTLY ASKED QUESTIONS WITH ANSWERS

PROCESS OF SUBMISSION OF VENDEX QUESTIONNAIRES

1. Question: If a **VENDEX** questionnaire has already been completed and submitted within the last three years and the **submitting vendor** is seeking a new contract, does the new **VENDEX** questionnaire have to be completed and submitted?

Answer: The **VENDEX** questionnaires remain current for three years from the date of the notarized signature on the certification page. However, if, during the three (3) years, any of the **submitting vendor's** circumstances change causing modifications to any answers in the vendor and/or **principal questionnaire(s)** previously provided, the **submitting vendor** **MUST** update the appropriate questionnaire at the time of award of the subsequent **contract**. Remember to check the box on the front page that says it is a **changed questionnaire**.

2. Question: Are the submitted **VENDEX** questionnaires for my company approved?

Answer: There is no such thing as a **VENDEX** approval. Once the City has accepted **VENDEX** forms for a **submitting vendor** and its **principal owners** or **officers** and has inputted the information into the **VENDEX** system, the agency performs contract- specific responsibility determinations.

3. Question: Who can sign the **principal questionnaire's** certification page?

Answer: The **principal questionnaire** must be signed by the **individual** named in question #1 of the questionnaire. There is no power of attorney for the **principal questionnaire**.

4. Question: Where should I send my completed **VENDEX** questionnaires?

Answer: To the Mayor's Office of Contract Services **VENDEX** Unit 253 Broadway, 9th Floor New York, NY 10007

5. Question: My company has fifty members on its board of directors. How many **officers** do I have to list?

Answer: You must report the three **officers** or **individuals** who exercise the most substantial degree of **control** over the **entity**.

6. Question: Does MOCS accept **VENDEX** submissions from vendors that do not have a pending award?

Answer: MOCS will accept **VENDEX** submission from any vendor; however MOCS will only process submissions when City agencies make specific requests for vendor submissions associated with pending awards.

ELEMENTS REQUIRED TO DO BUSINESS WITH NEW YORK CITY

1. Question: Is it necessary to have an **EIN** in order to do business with New York City **agencies**?

Answer: An **EIN** is required in order to do business with New York City **agencies**, except for foreign companies whose contracting services will be carried out outside of the United States. In those cases vendors must contact the Vendor Enrollment Center at (212) 857-1680 for further instructions.

WHO MUST SUBMIT A QUESTIONNAIRE? WHICH QUESTIONNAIRE MUST BE SUBMITTED?

1. Question: I do not own any shares/stock in the **submitting vendor**, why do I have to fill out a **principal questionnaire**?

Answer: If you are an officer of the **submitting vendor**, you are required to submit a **principal questionnaire** regardless of ownership interest.

2. Question: If the **submitting vendor** is owned by another **entity**, do both **entities** submit **principal questionnaires**?

Answer: No. **Principal questionnaires** are required for the **principal owners/officers** of the **submitting vendor** but not for those of the **parent**.

3. Question: What is the difference between a **subsidiary** and an **affiliate** of the **submitting vendor**?

Answer: A subsidiary is an **entity** in which the majority of the voting stock is owned by the **submitting vendor**. The **submitting vendor** is the **parent** of the **subsidiary**. An **affiliate** is an **entity** in which the **parent** that owns the **submitting vendor** also owns more than fifty percent of the voting stock, or an **entity** in which more than fifty percent of the business and the voting stock is owned by some or all of the same **principal owners** as the **submitting vendor**; in effect, **affiliates** have a sibling relationship to the **submitting vendor**.

4. Question: What type of questionnaire should be completed for a **subcontractor**?

Answer: A **subcontractor** must complete a **vendor questionnaire** and the **subcontractor's principal owners/officers** are required to submit **principal questionnaires**.

5. Question: If an **entity** is foreign-based, does it have to complete the **VENDEX** questionnaires?

Answer: Yes, where the **entity** is based does not change the legal requirement to complete the **VENDEX** questionnaire(s).

6. Question: If a **local affiliate** or **subsidiary** of a foreign-based **entity** will be responsible for carrying out the terms of the contract, does the foreign **entity** have to fill out a **vendor questionnaire**, or may the local division fill one out?

Answer: If the foreign-based **entity** itself is the **parent**, the **submitting vendor** must disclose all of the requested information concerning the foreign-based **entity** and, generally, the foreign-based **entity** must also complete a **vendor questionnaire**, but in appropriate circumstances, the **agency** may rely solely upon the **vendor questionnaire** from the **submitting vendor**. If the foreign-based **entity** itself is the **submitting vendor**, the foreign-based **entity** must complete the **vendor questionnaire**.

7. Question: If a trust or an estate is a **parent** or a **principal** owner of the **submitting vendor**, do **VENDEX** Questionnaires need to be completed by the trustee or administrator of the trust?

Answer: Yes.

8. Question: If a holding company, created for tax purposes, is a **parent** or **principal**

owner, does it have to complete the **VENDEX** questionnaires?

Answer: Yes, the purpose of the company's formation is irrelevant and does not affect the legal obligation to complete **VENDEX** questionnaires.

9. Question: If an **entity** has a large number of **subsidiaries**, do all of them have to be listed on the **vendor questionnaire**?

Answer: All **subsidiaries** of an **entity** completing a **vendor questionnaire** must be disclosed. However, the **entity** may submit a list of **subsidiaries** and that list may be submitted as an attachment in lieu of completing the appropriate section on the questionnaire.

INVESTIGATION RELATED

1. Question: An **entity** was debarred by the federal government three years ago, but that decision was later overturned. Does this need to be reported?

Answer: No, if an entity was debarred, found non-responsible or defaulted, and those determinations were subsequently overturned or reversed, the entity is not required to disclose them in response to Question 11. However, if those actions were taken as the result of an investigation or inquiry by any prosecutorial, investigative or regulatory agency, the entity is required to disclose the investigation or inquiry in response to Question 15.

2. Question: The **principal owner** of an **entity** was arrested for DWI and the case was later dismissed. Does this need to be disclosed?

Answer: No, if criminal charges were filed against a **submitting vendor** or **affiliate**, or if a **principal owner** or **officer** was arrested, and those charges or that arrest was later dismissed, the entity is not required to disclose them in response to Question 16 (a) or (b) because there are no convictions in those cases. However, if the charges are currently pending at the time the **entity** is completing the questionnaire, the **entity** is required to disclose them in response to Question 16 (c) which asks if any charges are currently pending. If the charges or the arrest that was later dismissed was the result of an investigation or inquiry by any prosecutorial, investigative or regulatory agency, the **entity** is required to disclose the investigation or inquiry in response to Question 15.

3. Question: If, in the course of being **investigated**, the **submitting vendor** has been asked to provide documents, but has not heard anything since complying, how should the status of the investigation be described?

Answer: Contact the investigating **agency** and ask for the status. Report their answer (e.g. open, closed, pending, or even "the investigating body did not respond or refused to comment").

4. Question: I am a **submitting vendor** and the **agency** investigating me/my company

told me the inquiry was confidential, and should not be discussed with anyone else. I want to cooperate with the **VENDEX** process, but do not want to violate the investigating **agency's** guidelines. How do I proceed?

Answer: If you are in such a situation, you should explain to the **agency** that you are seeking New York City business and are required to report being investigated to the City. If permission is still refused, you should disclose that you/your company are the subject(s) of an investigation and detail the communications between you and the investigating **agency**, including the request for secrecy. You may also wish to seek legal counsel.

UPDATING PREVIOUSLY SUBMITTED QUESTIONNAIRES

1. Question: What should I do if I realize that a completed **VENDEX** questionnaire was inadvertently inaccurate?

Answer: As soon as you learn of the error, you should contact the **VENDEX** Unit in writing and alert them to the error, and then submit a **changed questionnaire** as soon as possible. Failure to timely advise the City of a mistake could lead to questions about the reason for the inaccuracy.

TIMING RELATED

1. Question: The **principal owner** is aware of adverse data from a former **affiliate**, should this information still be reported since the **principal owner** is no longer an employee of that **entity**?

Answer: Yes, if the date of occurrence of that adverse information is within the timeframe of the **VENDEX** question.

2. Question: Four years ago, a **principal owner** or **officer** of the **submitting vendor** had her/his driver's license revoked. Her/his current duties do not involve driving a vehicle. Do I need to report this?

Answer: Yes, this must be reported. **Vendor questionnaire** question 14a asks specifically if a license has been revoked. Answer this, and all questions, completely.

3. Question: How long does the adverse information stay on the **VENDEX** system?

Answer: Adverse information remains on the **VENDEX** system for ten (10) years.