

**WORKFORCE DEVELOPMENT CORPORATION (“WDC”)
REQUEST FOR PROPOSALS**

RFP TITLE:

Future Code: Diversifying the Future of Web

Development in NYC Training Program

PIN: 2023WDC014

SECTION I - TIMETABLE

A. Release Date of this RFP: April 4, 2023

Responses should be submitted electronically by email to Chenelle Dennis at CDennis@sbs.nyc.gov, with a copy to WDCfiscal@sbs.nyc.gov.

Questions Due Date: April 14, 2023

B. Proposal Due Date and Time and Location: May 1, 2023, by 5:00 p.m. (EST)

Responses and all matters concerning this Request for Proposals (“RFP”) must be submitted electronically by email, in either Adobe PDF or Microsoft Word, to **Authorized WDC Contact Person** Chenelle Dennis at CDennis@sbs.nyc.gov, **with a copy to WDCFiscal@sbs.nyc.gov**. If preferred, applicants may submit their information in hard copy to:

Attn: Chenelle Dennis
Deputy Director
Workforce Development Corporation
One Liberty Plaza,
11th Floor, New York NY 10006

1. All responses to this RFP are to be prepared and submitted at the proposer’s expense. The WDC will not pay any costs incurred by proposers in connection with the preparation, submission, and evaluation of the RFP response.

Note: The WDC will consider requests made to the Authorized WDC Contact Person to extend the Proposal Due Date and Time prescribed above. However, unless the WDC issues a written addendum to this RFP which extends the Proposal Due Date and Time for all proposers, the Proposal Due Date and Time prescribed above shall remain in effect.

C. Anticipated Contract Start Date: July 3, 2023

SECTION II: SUMMARY OF THE REQUEST FOR PROPOSALS

A. WDC Background

The WDC is an independent not-for-profit organization created by the City of New York (“City”) for the purpose of assisting the City in developing and funding workforce initiatives. The WDC works closely with the City’s Department of Small Business Services (“SBS”) to contribute to the economic vitality of New York City (“NYC”) by promoting workforce development and job creation through public and private partnerships.

Launched in 2014, the NYC Tech Talent Pipeline (“TTP”) is a workforce initiative housed at the WDC to support the inclusive growth of the NYC tech ecosystem. TTP supports a portfolio of training programs aimed at equipping New Yorkers for tech-related careers in NYC by delivering quality jobs for New Yorkers and quality talent for businesses in NYC. TTP is driven by a network of over 225 companies and works with public and private employers to define industry needs, develop education, training, and recruitment solutions to meet those needs, and catalyze systemic change needed to deliver talent and job opportunities across the five boroughs.

B. Background and Purpose of RFP

The technology industry is among the highest paying sectors in the city representing 369,000 jobs and over 291 billion in economic output¹. Yet technology jobs remain out of reach for many New Yorkers who lack access to the technology training and education necessary to become active participants in the 21st century economy.

The NYC Tech Talent Pipeline works together with NYC employers to develop a portfolio of training programs aimed at equipping New Yorkers with the skills and connections to employment needed to secure jobs in in-demand occupations. Among these programs is **Future Code: Diversifying the Future of Web Development in NYC** (“Program”) which has trained and connected graduates to web development positions with salaries of \$65,000 and above at employers like Etsy, Bloomberg, and Spotify.

Through previous iterations of WDC’s web development training programs, TTP has demonstrated that accelerated tech training is a viable pathway for New Yorkers without a four-year degree or extensive previous technical training to connect with careers in web development. The Program’s goal was to test what works for delivering people into jobs, – especially those who cannot reasonably afford training on their own, are currently underrepresented in the tech industry, and rely on accelerated training as an alternative to traditional degree programs. Historically, the Program has served populations including out of school out of work youth, foreign-born New Yorkers, and recipients of public assistance. Future populations to be served in the program include foster care youth. Most recently the Program enrolled 2 cohorts of twenty-four (24) participants per cohort (total of 48 participants), the WDC expects this to be the minimum number of participants and cohorts for any Program proposal.

See Attachment D for a summary of *Key Practices for Accelerated Tech Training* for more specific information regarding TTP’s efforts to support training providers in attracting and supporting a broader student body and improving job outcomes for all graduates.

Therefore, the WDC is seeking appropriately qualified vendors (each a “Contractor”) to continue to execute and improve the Program. The goal of this RFP is to select up to two (2) contracts. The WDC reserves the right to not make two awards and/or to make more than one award to a single proposer based on the quality of submissions.

Contractor shall provide live, immersive occupational training that includes an introduction to coding and connection to employment in New York City in web development or other WDC-approved technology jobs, with an annualized total

¹ The New York City Tech Ecosystem November 2022 Update. [NYC Tech ecosystem \(squarespace.com\)](https://www.squarespace.com)

compensation of sixty-five thousand dollars (\$65,000) at minimum.

The Program must be designed to incorporate input from industry on needed skills, learning milestones, and serve individuals with little or no prior experience in web development. In addition, proposers are strongly encouraged to propose a training delivery model that exceeds the minimum level set forth above.

This content will be delivered under the name “Future Code: Diversifying the Future of Web Development in NYC.” Unless otherwise approved by the WDC in advance.

C. Anticipated Contract Term

It is anticipated that the term of the contracts awarded from this RFP will be **Twenty-Seven (27) months** with a renewal option at the WDC’s sole discretion for additional periods not exceeding a total of 5 years inclusive of any renewals or extensions, commencing upon Contractor’s receipt of a written notice to proceed from the WDC. The WDC reserves the right, prior to contract award and renewal contract execution, to determine the length of the initial contract term and each option to renew, if any.

D. Anticipated Available Funding

It is anticipated that the maximum available funding for the contracts awarded from this RFP will be up to **\$1,500,000** in local City Tax Levy (“CTL”) funds or federal WIOA funds. The WDC may decide to select up to two (1) proposers depending upon the quality of submissions. The funding allocation and final contract amount is dependent upon the availability and appropriation of funds and is subject to change. In addition, the WDC reserves the right to modify the funding allocation in the best interests of the WDC.

E. Anticipated Payment Structure

It is anticipated that the payment structure of the contract awarded from this RFP will be a deliverables payment model. However, the WDC reserves the right to select any payment structure that is in the WDC’s best interest. No payments will be made, nor funds applied to other uses. WDC will endeavor to accommodate reasonable requests for payment structures that incorporate work performed and the Contractor’s allocation, dedication and expenditure of resources. Work performed by the Contractor beyond the scope of this solicitation and the resulting contract award, will not be compensated without WDC’s prior approval.

F. Minimum Qualification Requirements

The following are the Minimum Qualification Requirements of this RFP. Proposals that fail to meet any of these requirements will be found non-responsive and rejected.

1. Proposer has at least two (2) years of demonstrated experience in developing training curriculum and providing training services that has led to either employment for trainees or measurable wage gains;
2. Has at least two (2) years of experience conducting a comprehensive tech training program with at least one cohort; and
3. Has successfully connected trainees to employment in fields related to the training it has provided.

G. Inclusion on the NYS Eligible Training Provider List (ETPL)

If WIOA funding is used, the Proposer must be able to meet the training provider eligibility requirements set forth in the Workforce Innovation and Opportunity Act, including sections 134(c)(3)(G)(ii)(V) and 122(a). Compliance with applicable law will require, among other things, that the selected Contractor and training Program already be on the New York State Eligible Training Provider List (ETPL) or that selected Contractors have applied for, or will apply, for

inclusion on the list upon contract award.

H. Preferred Qualifications

WDC expects the Consultant to possess the following non-exclusive list of qualifications and or/skills:

1. Demonstrated experience developing and delivering technology-based training programs;
2. Demonstrated training expertise in the most current web development programming languages including, but not limited to, HTML, JavaScript, CSS, and or other in-demand scripting languages in the NYC tech ecosystem (e.g. Python, Ruby, or Node.js) based on demonstrated employer engagement;
3. Demonstrated training expertise in relational databases with an understanding of system structures and algorithms to optimize website performance;
4. Demonstrated experience and success training individuals who are traditionally underrepresented in the technology sector such as women, minorities, young adults, veterans, etc. or who have other barriers to training and employment;
5. Clearly and measurably demonstrated success working with employers to fill their open positions with individuals who completed the Contractor's training; and/or
6. Demonstrated experience building industry relationships, capturing employer feedback, and developing trainings that are responsive to industry need.

SECTION III - SCOPE OF SERVICES

A. WDC's Goals and Objectives for this RFP

The WDC's goals and objectives for this RFP and the resulting contract awards are to award contracts to up to two (2) appropriately qualified Contractors to conduct a full-time, immersive web development training program at a location(s) within the City's five boroughs. Additionally, the WDC intends that the resulting contract award(s) will ultimately accomplish the following related goals and objectives:

1. Deliver an industry-informed, full-time², and comprehensive training Program that equips New York City residents with in-demand technology skills and experience and connects them to web development jobs (or related technology jobs approved by the WDC) based in the City with annualized total compensation of at least \$65,000 per year. NOTE: "Annualized Total Compensation" will include salary and may also include various other forms of remuneration to be approved on a case-by-case basis by the WDC;
2. Develop a comprehensive web development training program model, including a technical assessment and curriculum that incorporates input from industry regarding needed technical and professional skills and learning milestones in order to produce a model that can be tested, refined, and deployed in the future to meet growing demand for entry-level tech talent in the City;
3. Include in the training model Contractor's approach to support low-income individuals with barriers to employment. This should include critical supportive services approach that will encompass, but will not be limited to, case management delivered by a licensed social worker, care management, food, housing, transportation assistance, and other supports as needed.
4. Implement the 12 key practices (See Attachment D: full report available at <https://techtalentpipeline.nyc/industry-insights>) that TTP has found to be important for attracting and supporting a broader student body and improving job outcomes; monitor, document, and share the impact of implementing these outcomes in order to encourage adoption by additional NYC-based bootcamps.

B. WDC's Assumptions Regarding Contractor's Approach

The WDC's assumptions regarding which approach will most likely achieve the goals and objectives of this RFP are delineated below. Contractor(s) will be expected to:

1. Develop, with WDC input, a recruitment and screening process, including a rigorous and exhaustive assessment tool that will accurately capture the minimum skillset and knowledge required to effectively participate in the training. Ensure enrollment of Trainees who can be effectively trained and connected to a web development job (or related technology job approved by the WDC) based in the City, earning an Annualized Total Compensation of at least \$65,000 per year. Proposers are encouraged to exceed the minimum levels set forth in this solicitation for Trainee enrollment.
2. Tailored outreach to ensure participation of individuals with barriers to employment, including but not limited to low-income individuals, individuals underrepresented in New York City's tech workforce, veterans and spouses of veterans, New Yorker's receiving public assistance, immigrant New Yorkers, and out of school and out of work youth. Future programs may also include services for foster care youth.
3. Design and deliver an effective curriculum incorporating input from the NYC Tech Talent Pipeline Advisory Board in order to reflect the needs and expertise of companies seeking or employing web developers. The Contractor is expected to work with the NYC Tech Talent Pipeline to arrange curriculum consultations with industry. This curriculum, which is subject to the WDC's prior approval, is expected to include, but will not be

² For the purposes of this RFP, "full-time" is defined as a minimum of 30 hours per week of work leading to program completion, including, but not limited to, in-class instruction, project-based assignments completed at the Program training facility, and work-based training.

limited to the following:

Web Developer:

1. Key skills & content areas:
 - **Computer science theory;**
 - **HTML;**
 - **JavaScript;**
 - **Java;**
 - **CSS;**
 - **SQL;**
 - **XML;**
 - **Query;**
 - **.Net;**
 - **Other in-demand scripting languages (as informed by industry feedback)**
 - **Databases and the application of data structures;**
 - **Data analytics;**
 - **Compatibility with mobile applications and emerging platforms;**
 - **Adobe Creative Suite; and**
 - **Culminating Web Development Capstone:** Demonstrating understanding of core course concepts and proficiency in various web development skills in a group project created in consultation with industry.

Additional core competencies:

2. Developing problem-solving skills;
 3. Time management and project completion skills;
 4. Building a resume and portfolio;
 5. Excelling in technical and non-technical interviews;
 6. Developing and delivering professional presentations;
 7. Developing or advancing a professional mindset;
 8. Structuring and engaging in a committed job search;
 9. Communicating effectively on diverse teams; Working collaboratively and effectively in a professional setting;
 10. Building a professional identity, including online presence, professional network, etc.;
 11. Understanding of and exposure to the NYC tech ecosystem; and
 12. (Upon securing job placement) Succeeding in the job and preparing for advancement.
4. Hire or designate, with WDC approval, at least two employees dedicated exclusively to the Program: one full-time Program Manager and one full-time Non-Instructional Success Coach/Success Manager.
 5. Hire or designate, with WDC approval, at least one employee dedicated at least 50% to the Program: one Business Development Manager who will connect training graduates to full-time work opportunities in the tech industry.
 6. Deliver training to test the developed model with the goal of determining Program efficacy and making recommendations for improvement and replication, including opportunities for future service delivery at a lower cost (both total cost and cost-per-head).
 7. Establish a training schedule that is full-time and intensive.
 8. Use a live, experiential, or project-based setting to provide the respective training through experienced, knowledgeable, and qualified instructors.
 9. Supplement live training with homework or project-based work.
 10. Develop a strategy to provide professional development training for trainees throughout the course of the program to include non-technical topics (e.g., time management, resume writing, interview prep, conflict

resolution, managing team dynamics, communicating effectively, navigating the professional workplace, etc.), and other supportive services.

11. Establish a WDC-approved monitoring and evaluation process to track each trainee's attendance, progress and skill attainment during and at the conclusion of the respective training.
12. Establish a WDC-approved monitoring process for tracking each trainee's employment status, title, and salary post-program.
13. Develop and implement a job placement strategy to connect Program completers with full-time Web Development jobs (or related technology jobs as approved by the WDC) in the City at Annualized Total Compensation of at least \$65,000 per year.
14. If training is in person, provide an appropriate WDC-approved physical location for the provision of training.
15. Implement the twelve key practices TTP has found to be important for attracting and supporting a broader student body and improving job outcomes. (See Attachment D; full report available at <https://techtalentpipeline.nyc/industry-insights>).

Note: The WDC's assumptions regarding the proposer's approach represent what the WDC believes to be most likely to achieve its goals and objectives. However, proposers are encouraged to propose an approach that they believe will most likely achieve the WDC's goals and objectives. Proposers may also propose more than one approach. However, if an alternative approach affects other areas of the proposal such as experience, organizational capability or price, that alternative approach should be submitted as a complete and separate proposal providing all the information specified in Section IV of this RFP.

C. Contractor Responsibilities

The Contractor(s) is/are expected to be responsible for at least the following services, activities, and deliverables during the contract term:

1. Outreach & Recruitment

1. Contractor shall work with the NYC Department of Small Business Services (SBS) Communications & Marketing Team ("SBS Comms") to implement a comprehensive WDC-approved outreach and recruitment strategy to market the Program to interested individuals.
2. Contractor will work with the WDC to craft and execute a recruitment strategy designed to increase participation by populations that the WDC serves, which include but are not limited to underrepresented in New York City's tech workforce, individuals with barriers to employment, veterans and spouses of veterans, New Yorker's receiving public assistance, foreign-born New Yorkers, and out of school and out of work youth. Future programs may also include services for foster care youth.
3. Eligibility Requirements for Trainees
 1. All Trainees selected by Contractor for participation in the Program must meet the following minimum eligibility criteria:
 - Trainee is at least 18 years of age or older;
 - Trainee is a current resident of New York City;
 - Trainee is authorized to work in the United States;
 - Trainee is unemployed, or earns \$50,000 or less if currently employed;
 - Trainee has limited or no prior experience with the basics of coding and no paid professional web development or similar experience;
 - Trainee does not have a Computer Science degree and are not currently pursuing a Computer Science degree;
 - If funded by WIOA, Trainee must meet all applicable federal selective service requirements which are available at the following address:

<https://www.sss.gov/wp-content/uploads/2020/11/WhoMustRegisterChart.pdf>

- Trainee is fluent in English; and
- Trainee is interested in gaining full-time employment as a web developer and are available to attend all sessions of the program.

4. Trainee Screening Requirements

1. Employ a WDC-approved screening mechanism (that focuses on prerequisite skills or competencies) to identify and to enroll eligible and qualified candidates into the Program. Contractor will be required to develop a screening process, including assessment tools, rubrics, and procedures, which will ensure that enrolled Trainees have sufficient aptitude to successfully complete the Program.

2. Provision of Training

1. The “Training Cycle” is defined as training that consist of an introductory training phase, full-time training phase, and a job search phase.
2. Provide training to a minimum of seventy-two (72) individuals over the contract term. The winning proposer’s Proposed Approach and contract negotiations will ultimately determine the timing of training and job placement.
3. Provide in-kind or budget for all requisite training material, equipment, hardware/software and associated costs, including any technological needs (*i.e.*, software, computers, monitors, printers, overhead projectors), necessary to effectively deliver the Program training, unless otherwise specified by WDC.
4. Develop and submit to WDC for prior approval all Program requirements for course completion, including a policy for making up missed classes.
5. Develop the course structure, including number of hours of training, times of day, and class size all of which shall be subject to the WDC’s prior approval.
6. Where applicable, provide Trainee credentials resulting from training.

3. Curriculum

1. Provide a web development curriculum that will effectively train individuals with little-to-no prior experience in relevant programming languages to become web developers that local employers will hire. This will include, but is not limited to, the breakdown of the curriculum by units outlining the goals, details of each unit, and course hours. Additionally, the Contractor will also provide examples of materials and equipment such as a course book, website component, etc.
2. Develop WDC-approved assessments to measure individual Trainees’ technical and professional skill attainment, to be delivered prior to, at the midpoint of, and at training completion.
3. Include documented input from specific industry partners.
4. Contractor shall offer a Learning Management System, or some equivalent system, for Participant and instructor use throughout the duration of each Training Cycle which will enable Participants to remain engaged with instructors during remote instruction and beyond classroom hours as well as provide them with continual access to learning resources. Contractor shall provide the WDC access to the Learning Management System, and the Participant information contained therein, as reasonably requested by the WDC.
5. Contractor shall also include, in addition to classroom training, WDC-approved opportunities for professional or on-the-job experience, which may take the form of, but is not limited to paid internships at a wage of not less than \$20/hour, client-based projects, etc. The WDC reserves the right to specify the form of professional experience.

4. Training Instructors

1. Provide a sufficient number of knowledgeable and experienced instructors for the entire duration of the

intensive Program training. In addition, and unless otherwise approved by the WDC, Contractor will be required to maintain the approved instructor-to-trainee ratio.

2. Ensure that all training instructors can communicate clearly and effectively in English.

5. Non-Instructional Success Coach/Success Manager

1. Employ a non-instructional success coach who is expected to:
 1. Inform and support recruitment and selection efforts.
 2. Develop relationships with the Trainees from the beginning of the training program process by participating in initial intake and assessment of accepted applicants;
 3. Meet with training instructors on a weekly basis to ensure that any non-instructional issues that Trainees experience, and that may impact program completion, are discovered and addressed in a timely manner via additional one-on-one coaching, tutoring, remediation and other resources as needed;
 4. Identify and assist Trainees evidencing challenges in the areas of professionalism and job readiness.

6. Data Collection and Reporting

1. Conduct program eligibility screening, collect relevant documentation, and register all Trainees prior to the start of training by using and submitting to the WDC a "Customer Information Form," or another standard capture mechanism to be specified by the WDC.
2. Schedule, set an agenda for, and facilitate weekly conference calls between program staff and the WDC to discuss, among other things, program updates, data from program activities or surveys, Program planning, and troubleshooting (as needed).
3. Share all raw data generated during program implementation, including applications, assessments, survey results, and employer feedback.
4. Document program learnings and employer feedback throughout the Training using WDC-provided templates and/or guidance.
 1. Employer feedback regarding the curriculum and assessment rubrics,
 2. Updated training curriculum documents, including instructional calendar, key learning objectives, and scopes of major projects or assignments, Recruitment and selection analysis, and Monthly reports and dashboards.
 3. Facilitate instructional and program staff participation in curricular review and midpoint and final debriefs.
 4. Within 45 days of the final day of training for each cohort produce a comprehensive program report which may include, but will not be limited to:
 - Program model best practices;
 - Specific insights about tech business hiring needs and effective training strategies for meeting those needs.
 - Recommendations for program sustainability;
 - Recommendations for improvements to the curriculum, incorporating specific feedback from employer partners;
 - Additional information and analysis regarding overall job outcomes, technical and professional skill attainment, and the value of and need for supportive and case management services; and
 - Support collection of Trainee surveys at pre-training, midpoint, and post-training.
5. Report contact information and periodic retention data for Trainees at 3-month, 6-month, 9-month, and 12-month intervals after training completion.

7. Jobseeker Services

1. As part of the Program, the Contractor will be required to specify, document and implement a strategy to connect Trainees who complete the Program to employment as web developers (or a related technology job approved by WDC) in the City (or working remotely while still living in the City) earning Annualized Total Compensation of at least \$65,000. Please outline how you will connect to students to employment as web developers and what role the Business Development Manager and Non-Instructional Success Coach/Success Manager will play in accomplishing this requirement.

Note: Proposers should understand that the deliverables-based payment is tied directly to fulfillment of agreed upon job outcomes by Trainees who complete the Program and meet the targets/milestones. Specifically, Contractor must provide WDC-approved documentation that Trainees have been timely connected to full-time employment in the City or working remotely while still living in the City as web developers (or a related technology job approved by WDC) earning Annualized Total Compensation of at least \$65,000.

8. Training Location

1. If hybrid or in-person, proposers are expected to maintain at least one (1) physical ADA compliant training location within one of the five boroughs (The Bronx, Brooklyn, Manhattan, Queens and/or Staten Island).
2. If Contractor is to provide Training remotely (online), all instruction is to be delivered live. Asynchronous material may be provided to supplement, but not replace, live instruction. Contractor shall provide Training on a platform that is accessible to its Participants.
3. Contractor shall provide remote (online) Training via a learning management platform suitable to provide the services pursuant to this Agreement and shall be responsible for all costs relating to the outfitting and set-up of the remote (online) environment, including any network and wiring requirements.
4. Contractor shall arrange for occasional in-person events to help build community amongst its participants and/or help facilitate introductions to employers. Contractor shall arrange for these in-person events only if Contractor judges it feasible and safe to do so.
 1. **WDC must approve any in-person activity before it takes place. Any in-person activity would need to comply with all applicable health and safety regulations as instituted by City, State, and/or Federal officials.**

9. Sustainability & Scaling

1. It is anticipated that the web development training model developed and tested through each cohort will be refined and disseminated in the future to other education and training providers with the goal of meeting demand for skilled Web Developers in the City. As such, the winning Contractor(s), as developers and implementers of the training model(s), will be expected to document any changes to the training model and make suggestions for model refinement.
2. Within one month of the conclusion of the first Training Cycle, Contractor will produce a narrative report, in a form to be provided by the WDC, detailing best practices, challenges, and recommendations for Program revision, including recommendations for **curriculum, recruitment, selection and placement updates, as well as** program sustainability. At the end of the Term, on a date to be mutually determined by the Parties, Contractor will be responsible for producing a Final Report that includes analysis of the **final** Training Cycle as well as more comprehensive analysis which provide recommendations for improving overall model development and program replication, with specific topics for inclusion to be determined by the WDC.

10. Administrative Requirements

1. Cooperate with the WDC in meeting all administrative obligations identified in this solicitation and the resulting contract award.
2. Maintain an administrative office during the Term of the resulting contract, which will meet all of the

administration and management requirements required by this RFP and the resulting contract award.

3. Facilitate WDC contact with Trainees for periodic focus groups and/or conversations;
4. Facilitate WDC contact with industry partners and hiring contacts for feedback on Trainee performance and opportunities for improvement.

11. Site Visits

1. Contractor will accommodate WDC site visits to the Facility **and/or** virtual Training space. Contractor will also work with the WDC to arrange periodic focus group(s) and/or individual conversations with Participants, to be conducted by the WDC.

D. Work Product Licenses*

All materials created under any contract that is entered into as a result of this solicitation (the “Work Product”) are the exclusive property of WDC. WDC may use any Work Product prepared by the Contractors in such manner, for such purposes, and as often as WDC may deem advisable, in whole, in part or in modified form, in all formats now known or hereafter to become known, without further employment of or additional compensation to the Contractors. The Contractors shall not use, transmit, display, publish or otherwise license such Work Product without WDC’s prior written consent. The Work Product 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 WDC is the copyright owner thereof and of all aspects, elements and components thereof in which copyright protection might subsist. To the extent that the Work Product does not qualify as a “work-made-for-hire,” the Contractor hereby irrevocably transfers, assigns and conveys exclusive copyright ownership in and to the Work Product to WDC, free and clear of any liens, claims or other encumbrances. The Contractors shall retain no copyright or other intellectual property interest in the Work Product.

NOTE: This section of the solicitation **DOES NOT** include any materials created by the successful proposer or Contractor **prior to** entering into the agreement with the WDC. Note, however, that the winning proposer will be **required** to provide the WDC an irrevocable, world-wide, royalty-free, non-exclusive, sub-licensable, license to reproduce, translate, publish, use, make derivative works, distribute and dispose of, for governmental purposes, any pre-existing reports, documents, data, photographs, deliverables, and/or other pre-existing materials delivered under any contract that is entered into as a result of this solicitation.

SECTION IV - FORMAT AND CONTENT OF THE PROPOSAL

Instructions: Proposers should provide all information required in the format below. Proposals submitted in hard copy should be printed on both sides of portrait 8 ½" by 11" paper, using Times New Roman font style and a 12-point font size. Pages should be paginated.

If submitted electronically, Program Proposal and Price proposal should be submitted in either PDF or Word format and attached to a single email (further delivery details are below).

The proposal will be evaluated on the basis of its content, not length. Failure to comply with any of these instructions will not make the proposal non-responsive.

Note: Proposers are strongly encouraged to review and incorporate material from TTP's Key Practices for Accelerated Tech Training, available at [Industry Insights — NYC Tech Talent Pipeline \(Attachment D\)](#), where relevant.

A. Proposal Format

1. Proposal Cover Sheet (Attachment A)

The Proposal Cover Sheet ([Attachment A](#)) transmits the proposer's Proposal Package to the WDC. It should be completed, signed and dated by an authorized representative of the proposer. If the proposal is being submitted by a joint venture, include a Proposal Cover Sheet for each entity that is a party to the joint venture.

2. Program Proposal

The Program Proposal is a clear, concise narrative that addresses the following:

- **Licensing/ Accreditation (Attachment B)**
- Proposer's BPSS license status, if applicable, or exemption to licensing requirements.
- Status of proposed training program on the NYS Eligible Training Provider List (ETPL).
- **Experience (Attachment B)**
- Describe the successful relevant experience of the proposer, each proposed subcontractor, if any, and the proposed key staff in providing the work described in Section III of this RFP. Specifically, proposals should address the following:
 - Objectives of previous occupational training programs
 - Brief overview of previous training models offered (part-time, full-time, in-class, on-the-job, hybrid)
 - Target population (describe the characteristics of previous program participants including):
 - Skill level at enrollment – no previous experience, minimal previous exposure, etc.
 - Employment status upon enrollment
 - Income upon enrollment
 - Average Age
 - Other demographics, special considerations
 - Number and description of industry partners engaged in curriculum development and throughout other stages of program implementation

- Trainer-to-student ratio
- Cost of program per student
- Percentage of enrolled individuals who completed training – include number of individuals enrolled, number of individuals that have completed training, and number of students seeking employment after training
- Complete summary of proposer’s post-training job placement policy, including proposer’s definition of “job placement” i.e. the criteria by which a successful placement is measured (placement period, salary, type of position – full-time / part-time / internship / contracted/in-person/ remote/ hybrid)
- Number of individuals who, as a result of the training, have obtained jobs in related fields
- Percentage of training completers placed in related employment within three and six months after completion of training
- Title and salary range of these jobs; please include the average, minimum and maximum annualized salaries, including whether internship, contracted, part-time or full-time.
- List the employers that hired the individuals trained and the job titles they were hired into, and whether these hires were in the City or another geographic area
- List at least three (3) employers that hired students after training who may be contacted as a reference, and the name, title, email and telephone number of a contact person at the reference entity; and
- List any relevant current and/or historical data points which detail the proposer’s successes and general outcomes regarding connection to employment activities, including any unique strategies or partnerships used for this purpose (Note: a bullet-pointed list is acceptable).
- Please briefly outline, from the student perspective, the process by which your organization traditionally connects students to employment opportunities.
- List any supportive resources or strategies that you use to support students in difficult situations, such as students experiencing food insecurities, housing insecurities, or health- related issues.

In addition:

- Attach a resume for each proposed instructor. If additional instructors will need to be hired, please include a description of the job qualifications that the position will require.
- Attach for each key staff position a resume and/or description of the qualifications that will be required.
- **Organizational Capability**
- Demonstrate the proposer’s organizational, technical, managerial and financial capacity to provide the work described in Section III. Specifically, proposals should address the following:
 - Demonstrate the proposer has sufficient resources, including financial and human resources, to begin the Program by the expected contract start date.
 - Demonstrate the proposer has sufficient resources, including financial and human resources, to cover costs between each deliverables payment.
- Demonstrate the proposer’s experience in developing similar programs in a metropolitan area. Please provide an overview of the following:
 - Proposer’s experience (and current capacity given expertise of instructional and administrative staff) to develop trainings focused on adult learners and their specific needs;
 - Demonstrate the ability to tap into the network of technology employers in the City to connect Trainees to jobs.
- List the Contractor’s current project(s) and any future training or trainings the Contractor is committed to for the duration of this contract.

- List any significant recent or anticipated changes in the proposer’s business or market situation which would impact the proposer’s ability to execute the Program, or might shift proposed resources/focus away from the Program, which may include any of the below:
 - Plans to merge with, acquire, or be acquired by another business concern;
 - Plans to expand or reduce the scope of proposer’s business operations; or
 - Any other strategic plans or changes in the proposer’s business circumstances.

In addition:

- Attach a chart showing where, or an explanation of how, the proposed services will fit into the proposer’s organization.
- Attach a copy of the proposer’s latest audit report or certified financial statement, or a statement as to why no report or statement is available.
- Attach proof that the business has been in operation for at least two (2) years.

Note: Proposers should complete annexed Attachment B to respond to the areas identified above relating to “Experience” and “Organizational Capability.” Proposers should attach additional sheets, as applicable, to submit their responses to the WDC if there is insufficient space or if a particular area does not appear on Attachment B.

➤ **Proposed Approach**

Describe in detail how the proposer will provide the work described in Section III of this RFP and demonstrate that the proposer’s approach will fulfill the WDC’s goals and objectives. The “Proposed Approach” description submitted by each proposer should not exceed five (5) pages in length. Specifically, proposals should address the following:

Rationale as to why the proposer’s approach will be successful as a whole in the City.

- Proposed training model, including:
 - Proposed number of trainees and cohorts. Note that the WDC encourages proposers to exceed the minimum service levels set forth in this RFP whenever possible;
 - Proposed overview of training model, including, but not limited to, distribution of in-class, project based, and on-the-job training elements;
 - Proposed curricular outline (a detailed breakdown of course topics explanations as to why each one is included, overview of overall goals and outcomes, anticipated content to be covered, and identification of opportunities that will be established for industry to provide feedback on curriculum development);
 - Proposed timeline and mechanism for engaging employers both during the curriculum development stage and throughout later phases of the program;
 - Recruitment strategy and screening assessment criteria, including prerequisite skills or competencies required for the training, and any relevant aptitude tests;
 - Proposed training delivery, including:
 - Trainee requirements for training completion
 - Training schedule, including frequency (number of days per week, weekday/weekend breakdown, and total number of training sessions) and the time of day when training is to be provided, the number of hours of instruction per training, and duration of any workplace component (including, for example, work on active client projects or internships)
 - Program cohort size
 - Trainee-to-instructor ratio
 - Policy for making up missed training classes
 - Goals of the instructional plan;

- Anticipated equipment and materials required for the Program training (such as a course book, website component, etc.);
 - Strategy to provide support as needed for Trainees beyond classroom hours, including supportive services where appropriate;
 - Monitoring and evaluation process to track each Trainee’s attendance and progress, including the metrics used to measure student progress and skill attainment;
 - Monitoring process to track participant employment status and salary attainment for at least a year following graduation from the Program;
 - Credentials expected as a result of training completion, if applicable;
 - Strategy for connecting trainees to jobs.
- Proposed strategy for documenting implementation, learnings, and best practices both for end of cohort reporting requirements and to inform revision and improvement of the program model for future replication.

Note: The WDC’s assumptions regarding the proposer’s approach represent what the WDC believes to be most likely to achieve its goals and objectives. However, proposers are encouraged to propose an approach that they believe will most likely achieve the WDC’s goals and objectives. Proposers may also propose more than one approach. However, if an alternative approach affects other areas of the proposal such as experience, organizational capability or price, that alternative approach should be submitted as a complete and separate proposal providing all the information specified in Section IV of this RFP.

3. Price Proposal (Attachment C)

For the purposes of comparison, Proposers are required to complete and submit the Price Proposal Attachment (Attachment C). However, proposers are also encouraged to propose innovative payment structures. The WDC reserves the right to select any payment structure that is in the WDC’s best interest.

4. Project Timeline

Proposers should provide a schedule for completion of the deliverables and/or services required by the contracts resulting from this solicitation, including identification of key dates, deadlines or timeframes for research service completion and/or submission of deliverables.

Anticipated Start Date: July 3, 2023

Note: The Contractors are expected to be able to begin immediately upon receipt of a written notice to proceed from WDC.

5. Acknowledgment of Addenda (Attachment E)

The Acknowledgment of Addenda Form (Attachment E) serves as the proposer’s acknowledgment of the receipt of addenda to this RFP which may have been issued by the WDC prior to the Proposal Due Date and Time, as set forth in Section I(B), above. The proposer should complete this form as instructed on the form.

B. Proposal Package Contents (“Checklist”)

The Proposal Package should contain the following materials. Proposers should utilize this section as a “checklist” to assure completeness prior to submitting their proposal to the WDC.

IF SUBMITTED IN HARD COPY:

1. A sealed inner envelope labeled “Program Proposal,” containing one (1) original and one (1) duplicate of the

documents listed below and in the following order:

- Proposal Cover Sheet (Attachment A)
 - Program Proposal (Attachment B)
 - Narrative
 - References for the Proposer and, if applicable, each Subcontractor
 - Resumes and/or Description of Qualifications for instructors and key Staff Positions
 - Documentation of past training administered by the Contractor
 - Organizational Chart
 - Proof of Business of doing business for more than two years
 - Audit Report, Certified Financial Statement, or a statement as to why no report or statement is available
 - Acknowledgment of Addenda Form (Attachment E)
2. A separate sealed inner envelope labeled “Price Proposal” containing one (1) original and one (1) duplicate of the Price Proposal Form.
- Price Proposal Form (Attachment C)
3. A separate sealed outer envelope, enclosing the all of the above-referenced sealed inner envelopes. The sealed outer envelope should have **two (2) labels** containing:
- The Proposer’s name and address, the Title and PIN of this RFP and the name and telephone number of the Proposer’s Contact Person
 - The name, title and address of the Authorized WDC Contact Person

IF SUBMITTED ELECTRONICALLY:

1. **One** PDF or Word document labeled “Program Proposal [Proposer Organization Name]”
- Proposal Cover Sheet (Attachment A)
 - Program Proposal (Attachment B)
 - Narrative
 - References for the Proposer and, if applicable, each Subcontractor
 - Resumes and/or Description of Qualifications for instructors and key Staff Positions
 - Documentation of past training administered by the Contractor
 - Organizational Chart
 - Proof of Business of doing business for at least two years
 - Audit Report or Certified Financial Statement or a statement as to why no report or statement is available
 - Acknowledgment of Addenda Form (Attachment E)
2. A separate PDF or Word document labeled “Price Proposal [Proposer Organization Name]”
3. Price Proposal Form (Attachment C) One email with previous two files attached, which includes:
- A subject line with the following format: Title of RFP, RFP Pin #
 - A message in the body of the email noting the Proposer’s name and address, the Title and PIN of this RFP and the name and telephone number of the Proposer’s Contact Person.
 - CDennis@sbs.nyc.gov in the recipient (“To”) field, and LSantiago@sbs.nyc.gov in the “cc” field.

SECTION V - PROPOSAL EVALUATION AND CONTRACT AWARD PROCEDURES

A. Evaluation Procedures

All proposals accepted by the WDC will be reviewed to determine whether they are responsive or non-responsive to the requisites of this RFP. Proposals that are determined by the WDC to be non-responsive will be rejected. The WDC's Evaluation Committee will evaluate and rate all remaining proposals based on the Evaluation Criteria prescribed below. The WDC reserves the right to conduct site visits and/or interviews and/or to request that proposers make presentations and/or demonstrations, as the WDC deems applicable and appropriate. Although discussions may be conducted with proposers submitting acceptable proposals, the WDC reserves the right to award contracts on the basis of initial proposals received, without discussions; therefore, the proposer's initial proposal should contain its best programmatic and price terms.

B. Evaluation Criteria

Awards will be made to the highest overall scorers. The criteria for evaluation and weight assigned are set forth below.

* Demonstrated quantity and quality of successful relevant experience.	25%
* Demonstrated level of organizational capability.	30%
* Quality of proposed approach.	45%

C. Basis for Contract Award. A contract will be awarded to the responsible proposer(s) whose proposal(s) is/are determined to be the most advantageous to the WDC, taking into consideration the price and such other factors or criteria, which are set forth in this RFP. Contract award(s) shall be subject to the timely completion of contract negotiations between the WDC and the selected proposer(s). The WDC shall rank proposers by technical merit. The WDC may request best and final offers (BAFOs) and will then consider price by negotiating a fair and reasonable price with the highest technically ranked proposer(s). In the event that such price is not successfully negotiated, the WDC may conclude such negotiations, and enter into negotiations with the next highest technically ranked proposer(s), as necessary.

D. Confidential, Proprietary Information or Trade Secrets. Proposers should give specific attention to the identification of those portions of their proposals that they deem to be confidential, proprietary information or trade secrets and provide any justification of why such materials, upon request, should not be disclosed by the WDC. Such information must be easily separable from the non-confidential sections of the proposal. All information not so identified may be disclosed by the WDC.

E. RFP Postponement/Cancellation. The WDC reserves the right to postpone or cancel this RFP, in whole or in part, and to reject all proposals.

F. Proposer Costs. Proposers will not be reimbursed for any costs incurred to prepare proposals.

G. Applicable Laws. This Request for Proposals and the resulting contract award, if any, unless otherwise stated, are subject to all applicable provisions of the federal Workforce Innovation and Opportunity Act (29 U.S.C. 3101 et seq.), New York State Law, the New York City Charter and Administrative Code, the Rules of the City of New York. In addition, contract award is subject to applicable provisions of federal, state and local laws and executive orders, including those requiring affirmative action and equal employment opportunity.

H. General Contract Provisions. Contracts shall be subject to the WDC's general contract provisions, in substantially the form that they appear in the attached "Appendix A—Standard Terms and Conditions" or, if the WDC utilizes other than the formal Appendix A, in substantially the form that they appear in the WDC's general contract

provisions. Contracts shall also be subject to the terms and conditions outlined in the attached “Appendix B-Uniform Federal Contract Provisions Rider For Federally Funded Procurement Contracts” and the attached “Appendix C- Combined Federal & State Certifications.”

- I. Prices Irrevocable.** Prices proposed by the proposer shall be irrevocable until contract award, unless the proposal is withdrawn. Proposals may only be withdrawn by submitting a written request to the WDC prior to contract award. This shall not limit the discretion of the WDC to request proposers to revise proposed prices through the submission of best and final offers and/or the conduct of negotiations.

SECTION VI – ATTACHMENTS

Attachment A – Proposal Cover Sheet

Attachment B – Licensing, Experience and Organizational Capability Proposer Response Form (Program Proposal)

Attachment C – Price Proposal Form

Attachment D – Key Practices for Accelerated Tech Training

Attachment E – Acknowledgment of Addenda

STANDARD TERMS AND CONDITIONS

ATTACHMENT A

PROPOSAL COVER SHEET

RFP TITLE: Future Code Diversifying the Future of Web Development in NYC

PIN:

Proposer:

Name: _____

Address: _____

Tax Identification #: _____

Years in Operation _____

Proposer's Contact Person:

Name: _____

Title: _____

Telephone #: _____

Email Address: _____

Proposer's Authorized Representative:

Name: _____

Title: _____

Signature: _____

Date: _____

If submitted in hard copy, is the response printed on both sides, on recycled paper containing the minimum percentage of recovered fiber content as requested by the WDC in the instructions to this solicitation?

Yes **No**

ATTACHMENT B

**LICENSING, EXPERIENCE, AND ORGANIZATIONAL CAPABILITY PROPOSER RESPONSE FORM
(PROGRAM PROPOSAL)**

RFP TITLE: Future Code Diversifying the Future of Web Development in NYC

PIN:

Proposers should provide the information requested in the tables below regarding their Experience and Organizational Capability, attaching additional pages, if necessary. This Attachment B should be included in the proposal response package submitted to the WDC.

I. Licensing/Accreditation

If applicable, is your organization licensed by and registered with the New York State Bureau of Proprietary School Supervision (BPSS)?

YES___ **NO** ___

Is your organization on the NYS Eligible Training Provider List for the training program being proposed herein?

YES___ **NO** ___

II. Experience

- **Previous Program Training Outcomes.** Proposers should provide the following information relating to proposer’s implementation of the Web Development Training Program(s) that connect Program graduates with jobs following completion of the Training(s):

Trainer-to-student ratio:	
# of industry partners engaged in curriculum development	
# of individuals that completed training vs # of individuals enrolled:	# completed: # originally enrolled:
# of individuals that as a result of the training have obtained entry-level web development positions:	# of individuals that as a result of the training have obtained entry-level web development positions: # of individuals placed within 3 months of completion: #of individuals placed within 6 months of completion:
Salary range of those filled jobs:	\$ _____ to \$ _____
Average salary of those filled jobs:	\$ _____

- **Companies/Employers that Hired Proposer’s Trainees; Company Names & Titles.** Proposers should list the companies that hired individual students that completed the Proposer’s training, each job titles they were hired into, and salary information corresponding to each job title:
**Please attach supplementary materials in a similar format to include more companies.*

Company Name	Job Titles of Hires	Number of Hires for Each Job Title	Salary(ies) for each title	Full-Time/Part-Time/Internship/Contractor
1.				
2.				
3.				
4.				
5.				

- Companies/Employers that Hired Proposer’s Trainees: References. Proposers should use the following format to provide at least three (3) employers references for companies that hired students after training.

Company #1

- Company Name: _____
 - Company Address
 - Address 1: _____
 - Address 2: _____
 - City: _____
 - Zip: _____
 - Company Contact First Name: _____ Last: _____
 - Title: _____
 - Contact Phone #: _____
 - Contact Email: _____
 - Notes: _____
- _____
- _____

Company #2

- Company Name: _____
- Company Address
 - Address 1: _____
 - Address 2: _____
 - City: _____
 - Zip: _____
- Company Contact First Name: _____ Last: _____
- Title: _____
- Contact Phone #: _____
- Contact Email: _____
- Notes: _____

Company #3

- Company Name: _____
- Company Address
 - Address 1: _____
 - Address 2: _____
 - City: _____
 - Zip: _____
- Company Contact First Name: _____ Last: _____
- Title: _____
- Contact Phone #: _____
- Contact Email: _____
- Notes: _____

III. Organizational Capability

- Start-Up Costs. Proposers should provide the information requested in the tables below to demonstrate that the proposer has sufficient resources, including financial and human resources, to begin the Program by the expected contract start date.
 - Identify the anticipated Personnel Services (PS) costs needed to mobilize and start the contract:

# of People	Startup Task	Name of Employee(s)	Wage/Hr. or Salary/Yr.	% of Time*	Cost to Contract
Total Wages					
Fringe @ __%					
Total Startup Personnel Costs					

**Put 100% if the employee is working solely on this project and will have no conflicting priorities.*

- Identify the anticipated Other Than Personnel Services (OTPS) costs needed to mobilize and start the contract:

Expense	Cost to Contract	Notes (duration, number of items, etc.)
Hardware / Equipment		
Software		
Furniture		
Training Materials		
Insurance (Bonding & Liability)		
Rent		
Other OTPS Costs (identify)		
Total OTPS Costs		
Total Start-up Personnel Costs		
Total Start-up OTPS Costs		
Total Start-up Budget (Personnel + OTPS)		

- Operating Costs. Proposers should provide the information requested in the tables below to demonstrate that the proposer has sufficient resources, including financial and human resources, to cover anticipated Program costs between each deliverables payment.

- Identify the anticipated monthly operating personnel costs for the duration of the resulting contract award:

# of People	Job Title	Name of Employee(s)	Wage/Hr. Or Salary/Yr.	% of Time*	Cost to Contract
Total Wages					
Fringe @ __%					
Total Monthly Operating Personnel Costs					

*Put 100% if the employee is working solely on this project and will have no conflicting priorities.

Identify the anticipated monthly operating OTPS costs for the duration of the resulting contract award:

Expense	Cost to Contract	Notes (duration, number of items, etc.)
Hardware / Equipment		
Software		
Furniture		
Training Materials		
Insurance (Bonding & Liability)		
Rent		
Other OTPS Costs (identify)		
Total Monthly Operating OTPS Costs		

Total Monthly Personnel Costs		
Total Monthly OTPS Costs		
Total Monthly Budget (Personnel + OTPS)		

- Demonstrate the proposer’s experience in developing and executing similar programs in the City or a similar City.
 - Do you have experience implementing the web development training in the City or a similar city? (Yes or No) _____ and if so, in what city or cities?

○ City #1

➤ City: _____ State: _____

➤ Brief Description of Similar Training: _____

○ City #2

➤ City: _____ State: _____

➤ Brief Description of Similar Training: _____

○ City #3

➤ City: _____ State: _____

➤ Brief Description of Similar Training: _____

- Demonstrate the ability to tap into the network of technology employers in the City to connect Trainees to jobs.

- List the technology employers that you already have relationships within the City:

○ Firm 1: _____

○ Firm 2: _____

○ Firm 3: _____

○ Firm 4: _____

○ Firm 5: _____

- List the technology employers you would target to help trainees in this program find jobs, and why:

- Firm 1:

- Why: _____

- Firm 2:

- Why: _____

- Firm 3:

- Why: _____

- Firm 4:

- Why: _____

- Firm 5:

- Why: _____

ATTACHMENT C

PRICE PROPOSAL FORM

RFP TITLE: Future Code Diversifying the Future of Web Development in NYC

PIN:

TOTAL PRICE: \$ _____

TOTAL PRICE IN WORDS:

TOTAL COST PER TRAINEE: \$ _____

TOTAL NUMBER OF TRAINEES PLACED INTO JOBS: _____

Printed Name of Proposer

Signature of Proposer

PLEASE COMPLETE ITEMIZED BUDGET ON NEXT PAGE

Please Note: In case of discrepancies between the price in words and the price in figures, the price in words will be considered the price.

Other Than Personnel Services: Please provide a line-by-line price proposal of Other Than Personnel Services (OTPS) costs in the table below. **Note:** The pre-populated items listed in the table below are not exhaustive and proposers are expected to list each OTPS cost for the Program on separate lines. The format below is for reference only. Please add lines as needed.

Expense	Cost to Contract	Notes (duration, number of items, etc.)
Hardware/Equipment		
Software		
Furniture		
Training Materials		
Insurance (Bonding & Liability)		
Other OTPS Costs (identify)		
Supportive Services (as defined by the WDC)	\$100,000	e.g. Transportation and/or nutritional assistance
Total OTPS Costs		

Total PS Costs		
Total OTPS Costs		
<p>Placement Bonus Note: Maximum total amount available will equal 10% of PS + OTPS. The value of each placement will equal <i>the Total Placement Bonus Amount Available/ Target # of Participants</i>. E.g., \$100,000/64 participants would \$1,562.50 per job placement.</p> <p>Vendor will be required to verify each job placement.</p>		
Total Budget (PS + OTPS + Placement Bonus)		

ATTACHMENT C (Continued)

PROPOSER’S PRICE PROPOSAL: KEY METRICS

RFP TITLE: Future Code Diversifying the Future of Web Development in NYC

PIN:

Proposers must complete the “Key Metrics” table below:

<u>Key Metrics</u>	
Estimated total hours of instruction per cohort	_____ hours
Estimated total duration of each cohort training	_____ weeks
Number of trainees in total	_____ students
Number of cohorts	_____ cohorts
Cost per trainee	\$ _____ per trainee

ATTACHMENT D

Key Practices for Accelerated Tech Training

Details available at: <https://techtalentpipeline.nyc/industry-insights>

CONTINUOUSLY ENGAGE INDUSTRY TO IMPROVE JOB OUTCOMES

- PRACTICE 1: ENGAGE LOCAL INDUSTRY THROUGH MULTIPLE CHANNELS TO DEVELOP AND CONTINUOUSLY UPDATE TRAINING**
Convene employers to define target jobs, skills, and curriculum, and re-engage partners through multiple channels to regularly update needs.
- PRACTICE 2: USE INDUSTRY-INFORMED SCREENING THAT INCLUDES NON-TECHNICAL SKILLS**
Work with local companies to identify non-technical skills candidates need to succeed in the target career, and screen for them before admission.
- PRACTICE 3: INVEST IN A TEAM TO PROACTIVELY CONNECT STUDENTS TO JOBS**
Develop targeted job opportunities, work closely with graduates through candidate process, and use employer feedback to help students improve.

ATTRACT AND SUPPORT AN EXPANDED POOL OF STUDENTS

- PRACTICE 4: EXPAND STUDENT POOL THROUGH COMMUNITY-BASED RECRUITMENT PARTNERS**
Engage community-based organizations as recruitment partners and provide information on what students need to enter and succeed in training.
- PRACTICE 5: OFFER STUDENT-FRIENDLY FINANCING OPTIONS AND GUIDANCE**
Provide financing options that expand access without unreasonable debt – and staff to help students assess options.
- PRACTICE 6: PROVIDE CLEAR UP-FRONT INFORMATION ON ALL REQUIREMENTS**
Provide accessible data on time commitment (and cost) of training and job search, pre-requisites, outcomes, and bootcamp role in connecting to jobs.
- PRACTICE 7: DEPLOY TRAINED STAFF TO HELP STUDENTS MANAGE NON-TECHNICAL CHALLENGES**
Hire staff or partner with organizations that can coach students through non-technical challenges, and coordinate support through case conferencing.
- PRACTICE 8: CULTIVATE A SUPPORTIVE COMMUNITY THROUGH COHORTS**
Implement cohort-based training and supportive programming to build a community, support system, and a future network amongst students.
- PRACTICE 9: CONDUCT ASSESSMENTS FREQUENTLY AND PROVIDE TARGETED SUPPORT**
Assess students' progress regularly and provide targeted support where they fall short.

INTEGRATE “REAL WORLD” PREPARATION AND EXPERIENCE THROUGHOUT TRAINING

- PRACTICE 10: PROVIDE EARLY, FREQUENT TECH-SPECIFIC PROFESSIONAL DEVELOPMENT**
Begin preparing students for the job hunt early. Build areas of common professional knowledge and provide opportunities to practice tech-specific interview techniques.

PRACTICE 11: REQUIRE INDUSTRY-INFORMED PROJECTS THAT INVOLVE REAL-WORLD APPLICATIONS AND PUBLIC DEMONSTRATIONS

Incorporate project-based work informed by industry that requires students to apply their knowledge and present their work publicly.

PRACTICE 12: HELP STUDENTS GAIN EXPERIENCE, INCLUDING THROUGH PAID INTERNSHIPS

Simulate the experience of working in tech through training and include on-the-job learning for those that need relevant experience regardless of skill.

ATTACHMENT E

ACKNOWLEDGMENT OF ADDENDA

RFP TITLE: Future Code Diversifying the Future of Web Development in NYC

PIN:

Directions: Complete **Part I** or **Part II**, whichever is applicable, and sign your name in **Part III**. All proposers must complete and include this page as part of their proposal package.

Part I. Acknowledgment of Receipt of Addenda

Listed below are the dates of issue for each Addendum received in connection with this RFP:

Addendum # 1, Dated _____, 2023

Addendum # 2, Dated _____, 2023

Addendum # 3, Dated _____, 2023

Addendum # 4, Dated _____, 2023

Addendum # 5, Dated _____, 2023

Part II. Acknowledgement of No Receipt of Addenda

_____ No Addendum was received in connection with this RFP

Part III. Proposer's Name and Authorized Representative

Proposer's Name: _____

Proposer's Authorized Representative:

Name: _____

Title: _____

Signature: _____

Date: _____

APPENDIX A – Standard Terms and Conditions

Please see the appended WDC Appendix A (June 2018) for the general provisions governing WDC-funded contracts

APPENDIX B – Uniform Federal Contract Provisions Rider For Federally Funded Procurement Contracts

Please see the Appendix B for the Uniform Federal Provisions Rider for Federally Funded Procurement Contracts

APPENDIX C – Combined Federal & State Certifications

Please see the Appendix C for Combined Federal & State Certifications

APPENDIX A

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

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ARTICLE 1 - DEFINITIONS

Section 1.01 Definitions

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

- A. “WDC” means the Workforce Development Corporation.
- B. “Agreement” means the various documents, including this Appendix A, that constitute the contract between the Contractor and the WDC.
- C. “City” means the City of New York.
- D. “WDC Executive Director” or “duly authorized representative” means the position delegated authority by the WDC Board of Directors to coordinate and oversee all activities, including procurement activity of the WDC.
- E. “Contractor” means the entity entering into this Agreement with the City.
- F. “Days” means calendar days unless otherwise specifically noted to mean business days.
- G. “Law” or “Laws” means the New York City Charter (“Charter”), the New York City Administrative Code (“Admin. Code”), a local rule of the City of New York, the Constitutions of the United States and the State of New York, a statute of the United States or of the State of New York and any ordinance, rule or regulation having the force of law and adopted pursuant thereto, as amended, and common law.
- H. “SBS” means the New York City Department of Small Business Services.
- I. “EDC” means the New York City Economic Development Corporation.
- J. “State” means the State of New York.

ARTICLE 2 – REPRESENTATIONS, WARRANTIES, CERTIFICATIONS, AND DISCLOSURES

Section 2.01 Conflicts of Interest

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.

Section 2.02 Certification Relating to Fair Practices

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

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

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

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

B. The fact that the Contractor (i) has published price lists, rates, or tariffs covering items being procured, (ii) has informed prospective customers of proposed or pending publication of new or revised price lists for such items, or (iii) has sold the same items to other customers at the same prices and/or terms being bid or proposed, does not constitute, without more, a disclosure within the meaning of this Section 2.02.

Section 2.03 Disclosure Relating to Bankruptcy and Reorganization

If the Contractor files for bankruptcy or reorganization under Chapter Seven or Chapter Eleven of the United States Bankruptcy Code, the Contractor shall disclose such action to the WDC within seven days of filing.

Section 2.04 Authority to Execute Agreement

The Contractor represents and warrants that: (i) its execution, delivery and performance of this Agreement have been duly authorized by all necessary corporate action on its part; (ii) it has all necessary power and authority to execute, deliver and perform its obligations under this Agreement; and (iii) once executed and delivered, this Agreement will constitute its legal, valid and binding obligation, enforceable in accordance with its terms.

ARTICLE 3 - ASSIGNMENT AND SUBCONTRACTING

Section 3.01 Assignment

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

B. Before entering into any such assignment, transfer, conveyance, or other disposal of this Agreement, the Contractor shall submit a written request for approval to the WDC Executive Director or duly authorized representative giving the name and address of the proposed assignee. Upon the request of the WDC, the Contractor shall provide any other information demonstrating that the proposed assignee has the necessary facilities, skill, integrity, past experience, and financial resources to perform the specified services in accordance with the terms and conditions of this Agreement. The WDC shall make a final determination in writing approving or disapproving the assignee after receiving all requested information.

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

D. The provisions of this Section 3.01 shall not hinder, prevent, or affect an assignment by the Contractor for the benefit of its creditors made pursuant to the Laws of the State.

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

Section 3.02 Subcontracting

A. All subcontractors must be approved by the WDC prior to commencing work under a subcontract. The WDC in its discretion may grant or deny preliminary approval for the Contractor to contract with the subcontractor.

B. The WDC shall notify the Contractor within 30 Days whether preliminary approval has been granted. If preliminary approval is granted, the Contractor shall provide such documentation as may be requested by the WDC to show that the proposed subcontractor has the

C.

D. necessary facilities, skill, integrity, past experience and financial resources to perform the required work.

E. Upon receipt of all relevant documentation, the WDC shall notify the Contractor in writing whether the proposed subcontractor is approved. If the proposed subcontractor is not approved, the Contractor may submit another proposed subcontractor unless the Contractor decides to do the work. No subcontractor shall be permitted to perform work unless approved by the WDC.

F. All subcontracts must be in writing. All subcontracts shall contain provisions specifying that:

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

2. Nothing contained in the agreement between the Contractor and the subcontractor shall impair the rights of the WDC, EDC, and/or the City;

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

4. The subcontractor specifically agrees to be bound by Section 4.05(B) and Article 5 of this Appendix A and specifically agrees that the WDC may enforce such provisions directly against the subcontractor as if the WDC were a party to the subcontract.

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

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

I. The WDC may revoke the approval of a subcontractor granted or deemed granted pursuant to Section 3.02(A) if revocation is deemed to be in the interest of the WDC in writing on no less than 10 Days' notice unless a shorter period is warranted by considerations of health, safety, integrity issues, or other similar factors. Upon the effective date of such revocation, the Contractor shall cause the subcontractor to cease all work under the Agreement. The WDC shall not incur any further obligation for services performed by such subcontractor pursuant to this Agreement beyond the effective date of the revocation. The WDC shall pay for services provided by the subcontractor in accordance with this Agreement prior to the effective date of revocation.

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

K. Individual employer-employee contracts are not subcontracts subject to the requirements of this Section 3.02.

Section 3.03 Equipment

Unless otherwise directed by the WDC, title to all equipment or other property purchased at a price in excess of \$500 with funds obtained through this Agreement shall be in the name of the WDC. Contractor shall properly maintain and keep in good repair all equipment acquired with funds obtained through this Agreement. Contractor shall dispose of such equipment as directed by the WDC, and shall maintain detailed records concerning such dispositions. At the WDC's request, Contractor must execute a UCC-1 to evidence the WDC's interest in equipment purchased at a price in excess of \$5,000 and to enable the WDC to perfect that interest by filing or otherwise.

ARTICLE 4 - LABOR PROVISIONS

Section 4.01 Independent Contractor Status

The Contractor and the WDC agree that the Contractor is an independent contractor and not an employee, subsidiary, affiliate, division, department, agency, office, or unit of the WDC, EDC, and/or the City. Accordingly, the Contractor and its employees, officers, and agents shall not, by reason of this Agreement or any performance pursuant to or in connection with this Agreement, assert the existence of any relationship or status on the part of the Contractor, with respect to the WDC, EDC, and/or the City, that differs from or is inconsistent with that of an independent contractor.

Section 4.02 Employees and Subcontractors

All persons who are employed by the Contractor and all the Contractor's subcontractors (including without limitation, consultants and independent contractors) that are retained to perform services under or in connection with this Agreement are neither employees of the WDC, EDC, and/or the City nor under contract with the WDC, EDC, and/or the City. The Contractor, and not the WDC, EDC, and/or the City, is responsible for their work, direction, compensation, and personal conduct while the Contractor is engaged under this Agreement. Nothing in this Agreement, and no entity or person's performance pursuant to or in connection with this Agreement, shall create any relationship between the WDC, EDC, and/or the City and the Contractor's employees, agents, subcontractors, or subcontractor's employees or agents (including without limitation, a contractual relationship, employer-employee relationship, or quasi-employer/quasi-employee relationship) or impose any liability or duty on the WDC, EDC, and/or the City (i) for or on account of the acts, omissions, liabilities, rights or obligations of the Contractor, its employees or agents, its subcontractors, or its subcontractor's employees or agents (including without limitation, obligations set forth in any collective bargaining agreement); or (ii) for taxes of any nature; or (iii) for any right or benefit applicable to an official or employee of the WDC, EDC, and/or City, or to any officer, agent, or employee of the Contractor or any other entity (including without limitation, Workers' Compensation coverage, Employers' Liability coverage, Disability Benefits coverage, Unemployment Insurance benefits, Social Security coverage, employee health and welfare benefits or employee retirement benefits, membership or credit). The Contractor and its employees, officers, and agents shall not, by reason of this Agreement or any

performance pursuant to or in connection with this Agreement, (i) hold themselves out as, or claim to be, officials or employees of the WDC, EDC, and/or the City, including any department, agency, office, or unit of the WDC, EDC, and/or the City, or (ii) make or support in any way on behalf of or for the benefit of the Contractor, its employees, officers, or agents any demand, application, or claim upon or against the WDC, EDC, and/or the City for any right or benefit applicable to an official or employee of the WDC, EDC, and/or the City or to any officer, agent, or employee of the Contractor or any other entity. Except as specifically stated in this Agreement, nothing in the Agreement and no performance pursuant to or in connection with the Agreement shall impose any liability or duty on the WDC, EDC, and/or the City to any person or entity whatsoever.

Section 4.03 Removal of Individuals Performing Work

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

Section 4.04 Minimum Wage; Living Wage

Except for those employees whose minimum wage is required to be fixed in accordance with N.Y. Labor Law §§ 220 or 230 or by Admin. Code § 6-109, all persons employed by the Contractor in the performance of this Agreement shall be paid, without subsequent deduction or rebate, unless expressly authorized by Law, not less than the minimum wage as prescribed by Law. Any breach of this Section 4.04 shall be deemed a material breach of this Agreement.

Section 4.05 Non-Discrimination in Employment

A. General Prohibition. To the extent required by Law, the Contractor shall not unlawfully discriminate against any employee or applicant for employment because of actual or perceived age, religion, religious practice, creed, sex, gender, gender identity or gender expression, sexual orientation, status as a victim of domestic violence, stalking, and sex offenses, familial status, partnership status, marital status, caregiver status, pregnancy, childbirth or related medical condition, disability, presence of a service animal, predisposing genetic characteristics, race, color, national origin (including ancestry), alienage, citizenship status, political activities or recreational activities as defined in N.Y. Labor Law 201-d, arrest or conviction record, credit history, military status, uniformed service, unemployment status, salary history, or any other protected class of individuals as defined by City, State or Federal laws, rules or regulations. The Contractor shall comply with all statutory and regulatory obligations to provide reasonable accommodations to individuals with disabilities, due to pregnancy, childbirth, or a related medical condition, due to status as a victim of domestic violence, stalking, or sex offenses, or due to religion.

B. E.O. 50 -- Equal Employment Opportunity

1. 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:

a. 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;

b. 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;

c. 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;

d. 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;

e. 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 SBS, Division of Labor Services (“DLS”); and

f. 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.

2. 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 WDC Executive Director to impose any or all of the following sanctions:

a. Disapproval of the Contractor; and/or

b. Suspension or termination of the Agreement; and/or

c. Declaring the Contractor in default; and/or

d. In lieu of any of the foregoing sanctions, imposition of an employment program.

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

4. The Contractor agrees to include the provisions of the foregoing Sections 4.05(B)(1)-(3) in every subcontract or purchase order in excess of \$100,000.00 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 Section 4.05(B).

5. 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 Section 4.05(B).

6. Nothing contained in this Section 4.05(B) shall be construed to bar any religious or denominational institution or organization, or any organization operated for charitable or educational purposes, that is operated, supervised or controlled by or in connection with a religious organization, from lawfully limiting employment or lawfully giving preference to persons of the same religion or denomination or from lawfully making such selection as is calculated by such organization to promote the religious principles for which it is established or maintained.

ARTICLE 5 - RECORDS, AUDITS, REPORTS, AND INVESTIGATIONS

Section 5.01 Books and Records

A. The Contractor agrees to maintain separate and accurate books, records, documents, and other evidence, and to utilize appropriate accounting procedures and practices that sufficiently and properly reflect all direct and indirect costs of any nature expended in the performance of this Agreement.

B. Contractor shall retain proper and sufficient bills, vouchers, duplicate receipts and documentation for any payments, expenditures or refunds made to or received by Contractor in connection with this Agreement. Contractor shall make all procurement expenditures in excess of \$1,000 by check or credit card.

Section 5.02 Retention of Records

The Contractor agrees to retain all books, records, documents, other evidence relevant to this Agreement, including those required pursuant to Section 5.01, for six years after the final payment or expiration or termination of this Agreement, or for a period otherwise prescribed by Law, whichever is later. In addition, if any litigation, claim, or audit concerning this Agreement

has commenced before the expiration of the six-year period, the books, records, documents, and other evidence must be retained until the completion of such litigation, claim, or audit. Any books, records, documents, and other evidence that are created in an electronic format in the regular course of business may be retained in an electronic format. Any books, records, documents, or other evidence that are created in the regular course of business as a paper copy may be retained in an electronic format provided that they satisfy the requirements of N.Y. Civil Practice Law and Rules (“CPLR”) 4539(b), including the requirement that the reproduction is created in a manner “which does not permit additions, deletions, or changes without leaving a record of such additions, deletions, or changes.” Furthermore, the Contractor agrees to waive any objection to the admissibility of any such books, records, documents, or other evidence on the grounds that such documents do not satisfy CPLR 4539(b).

Section 5.03 Inspection

A. At any time during the Agreement or during the record retention period set forth in Section 5.02, the WDC, EDC, and/or City including the Comptroller and the Department of Investigation, as well as City, State, and federal auditors and any other persons duly authorized by the WDC shall, upon reasonable notice, have full access to and the right to examine and copy all books, records, documents, and other evidence maintained or retained by or on behalf of the Contractor pursuant to this Article 5. Notwithstanding any provision herein regarding notice of inspection, all books, records, documents, and other evidence of the Contractor kept pursuant to this Agreement shall be subject to immediate inspection, review, and copying by the WDC, the Comptroller, and/or federal auditors without prior notice and at no additional cost to the WDC. The Contractor shall make such books, records documents, and other evidence available for inspection in the City of New York or shall reimburse the WDC for expenses associated with the out-of-City inspection.

B. The WDC shall have the right to have representatives of the WDC; EDC; and/or City, State, and/or federal government present to observe the services being performed. If observation of particular services or activity would constitute a waiver of a legal privilege or violate the Law or an ethical obligation under the New York Rules of Professional Conduct for attorneys, National Association of Social Workers Code of Ethics or other similar code governing the provision of a profession’s services in New York State, the Contractor shall promptly inform the WDC and/or other entity seeking to observe such work or activity. Such restriction shall not act to prevent government representatives from inspecting the provision of services in a manner that allows the representatives to ensure that services are being performed in accordance with this Agreement.

C. The Contractor shall not be entitled to final payment until the Contractor has complied with any request for inspection or access given under this Section 5.03.

Section 5.04 Audit

A. This Agreement and all books, records, documents, and other evidence required to be maintained or retained pursuant to this Agreement, including all vouchers or invoices presented for payment and the books, records, and other documents upon which such vouchers or invoices

are based (e.g., reports, cancelled checks, accounts, and all other similar material), are subject to audit by (i) the WDC, EDC, and/or City, including the Comptroller; (ii) the State; (iii) the federal government; and (iv) other persons duly authorized by the WDC. Such audits may include examination and review of the source and application of all funds whether from the City, the State, the federal government, private sources, or otherwise.

B. Audits by the City, including the Comptroller, are performed pursuant to the powers and responsibilities conferred by the Charter and the Admin. Code, as well as all orders, rules, and regulations promulgated pursuant to the Charter and Admin. Code.

C. The Contractor shall submit any and all documentation and justification in support of expenditures or fees under this Agreement as may be required by (i) the WDC, EDC, and/or City, including the Comptroller; (ii) the State; (iii) the federal government in the exercise of its powers under Law.

D. The Contractor shall not be entitled to final payment until the Contractor has complied with the requirements of this Section 5.04.

Section 5.05 No Removal of Records from Premises

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

Section 5.06 Electronic Records

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

Section 5.07 Investigations Clause

A. The Contractor agrees to cooperate fully and faithfully with any investigation, audit or inquiry conducted by a State or City agency, federal government, 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, license, or agreement 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 WDC; EDC; City, State, and/or federal government; and/or any political subdivision or public authority thereof; and/or the Port Authority of New York and New Jersey; and/or any local development corporation within the City; and/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, State, or federal 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 WDC, City, State, federal government, or any political subdivision thereof, or any local development corporation within the City, then;

C. The penalties that may attach after a final determination by the WDC Executive Director may include but shall not exceed:

1. The disqualification for a period not to exceed five 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 WDC; and/or

2. The cancellation or termination of any and all such existing WDC 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 WDC 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 WDC.

D. The WDC Executive Director 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 WDC.

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 WDC Executive Director 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.

E. 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 WDC, or otherwise transacts business with the WDC.

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.

F. In addition to and notwithstanding any other provision of this Agreement, the WDC Executive Director 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 WDC Executive Director 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 WDC or other person or entity for any purpose that may be related to the procurement or obtaining of this Agreement by the Contractor, or affecting the performance of this Agreement.

Section 5.08 Confidentiality

A. The Contractor agrees to hold confidential, both during and after the completion or termination of this Agreement, all of the reports, information, or data, furnished to, or prepared, assembled or used by, the Contractor under this Agreement. The Contractor agrees to maintain the confidentiality of such reports, information, or data by using a reasonable degree of care, and using at least the same degree of care that the Contractor uses to preserve the confidentiality of its own confidential information. The Contractor agrees that such reports, information, or data shall not be made available to any person or entity without the prior written approval of the WDC. The obligation under this Section 5.08 to hold reports, information or data confidential shall not apply where the Contractor is legally required to disclose such reports, information or data, by virtue of a subpoena, court order or otherwise (“disclosure demand”), provided that the Contractor complies with the following: (1) the Contractor shall provide advance notice to the WDC Executive Director, in writing or by e-mail, that it received a disclosure demand for to disclose such reports, information or data and (2) if requested by the WDC, the Contractor shall not disclose such reports, information, or data until the WDC has exhausted its legal rights, if any, to prevent disclosure of all or a portion of such reports, information or data. The previous sentence shall not apply if the Contractor is prohibited by law from disclosing to the WDC the disclosure demand for such reports, information or data.

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

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

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

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

F. A breach of this Section 5.08 shall constitute a material breach of this Agreement for which the WDC may terminate this Agreement pursuant to Article 10. The WDC reserves any and all other rights and remedies in the event of unauthorized disclosure.

ARTICLE 6 - COPYRIGHTS, PATENTS, INVENTIONS, AND ANTITRUST

Section 6.01 Copyrights and Ownership of Work Product

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

B. Any reports, documents, data, photographs, deliverables, and/or other materials provided pursuant to this Agreement (“Copyrightable Materials”) shall be considered “work-made-for-hire” within the meaning and purview of Section 101 of the United States Copyright Act, 17 U.S.C. § 101, and the WDC 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 WDC, free and clear of any liens, claims, or other encumbrances. The Contractor shall retain no copyright or intellectual property interest in the Copyrightable Materials. The Copyrightable Materials shall be used by the Contractor for no purpose other than in the performance of this Agreement without the prior written permission of the WDC. The WDC

may grant the Contractor a license to use the Copyrightable Materials on such terms as determined by the WDC and set forth in the license.

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

D. The Contractor represents and warrants that the Copyrightable Materials: (i) are wholly original material not published elsewhere (except for material that is in the public domain); (ii) do not violate any copyright Law; (iii) do not constitute defamation or invasion of the right of privacy or publicity; and (iv) are not an infringement, of any kind, of the rights of any third party. To the extent that the Copyrightable Materials incorporate any non-original material, the Contractor has obtained all necessary permissions and clearances, in writing, for the use of such non-original material under this Agreement, copies of which shall be provided to the WDC upon execution of this Agreement.

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

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

Section 6.02 Patents and Inventions

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

Section 6.03 Pre-existing Rights

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

Section 6.04 Antitrust

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

ARTICLE 7 - INSURANCE

Section 7.01 Agreement to Insure

The Contractor shall maintain the following types of insurance if and as indicated in Schedule A (with the minimum limits and special conditions specified in Schedule A) throughout the term of this Agreement, including any applicable guaranty period. All insurance shall meet the requirements set forth in this Article 7. Wherever this Article 7 requires that insurance coverage be “at least as broad” as a specified form (including all ISO forms), there is no obligation that the form itself be used, provided that the Contractor can demonstrate that the alternative form or endorsement contained in its policy provides coverage at least as broad as the specified form.

Section 7.02 Workers’ Compensation, Disability Benefits, and Employers’ Liability Insurance

A. The Contractor shall maintain workers’ compensation insurance, employers’ liability insurance, and disability benefits insurance, in accordance with Law on behalf of, or in regard to, all employees providing services under this Agreement

B. Within 10 Days of award of this Agreement or as otherwise specified by the WDC, and as required by N.Y. Workers’ Compensation Law, the Contractor shall submit proof of Contractor’s workers’ compensation insurance and disability benefits insurance (or proof of a legal exemption) to the WDC in a form acceptable to the New York State Workers’ Compensation Board. ACORD forms are not acceptable proof of such insurance. The following forms are acceptable:

1. Form C-105.2, *Certificate of Workers’ Compensation Insurance*;
2. Form U-26.3, *State Insurance Fund Certificate of Workers’ Compensation Insurance*;
3. Form SI-12, *Certificate of Workers’ Compensation Self-Insurance*;
4. Form GSI-105.2, *Certificate of Participation in Worker’s Compensation Group Self-Insurance*;
5. Form DB-120.1, *Certificate of Disability Benefits Insurance*;

6. Form DB-155, *Certificate of Disability Benefits Self-Insurance*;
7. Form CE-200 – *Affidavit of Exemption*;
8. Other forms approved by the New York State Workers' Compensation Board; or
9. Other proof of insurance in a form acceptable to the WDC.

Section 7.03 Other Insurance

A. *Commercial General Liability Insurance.* The Contractor shall maintain commercial general liability insurance in the amounts specified in Schedule A covering operations under this Agreement. Coverage must be at least as broad as the coverage provided by the most recently issued ISO Form CG 00 01, primary and non-contributory, and “occurrence” based rather than “claims-made.” Such coverage shall list the WDC, EDC, and City, together with their respective officials and employees, and any other entity that may be listed on Schedule A as an additional insured with coverage at least as broad as the most recently issued ISO Form CG 20 10 or CG 20 26.

B. *Commercial Automobile Liability Insurance.* If indicated in Schedule A and/or if vehicles are used in the provision of services under this Agreement, the Contractor shall maintain commercial automobile liability insurance for liability arising out of ownership, maintenance or use of any owned, non-owned, or hired vehicles to be used in connection with this Agreement. Coverage shall be at least as broad as the most recently issued ISO Form CA 00 01.

C. *Professional Liability Insurance.*

1. If indicated in Schedule A, the Contractor shall maintain and submit evidence of professional liability insurance or errors and omissions insurance appropriate to the type(s) of such services to be provided under this Agreement. The policy or policies shall cover the liability assumed by the Contractor under this Agreement arising out of the negligent performance of professional services or caused by an error, omission, or negligent act of the Contractor or anyone employed by the Contractor.

2. All subcontractors of the Contractor providing professional services under this Agreement for which professional liability insurance or errors and omissions insurance is reasonably commercially available shall also maintain such insurance in the amount specified in Schedule A. At the time of the request for subcontractor approval, the Contractor shall provide to the WDC, evidence of such professional liability insurance on a form acceptable to the WDC.

3. Claims-made policies will be accepted for professional liability insurance. All such policies shall have an extended reporting period option or automatic coverage of not less than two years. If available as an option, the Contractor shall purchase extended

reporting period coverage effective on cancellation or termination of such insurance unless a new policy is secured with a retroactive date, including at least the last policy year.

D. *Cyber Liability Insurance.* If indicated in Schedule A, the Contractor shall maintain cyber liability insurance covering losses arising from operations under this Agreement in the amounts listed in Schedule A. The WDC shall approve the policy (including exclusions therein), coverage amounts, deductibles or self-insured retentions, and premiums, as well as the types of losses covered, which may include but not be limited to: notification costs, security monitoring costs, losses resulting from identity theft, and other injury to third parties. If additional insured status is commercially available under the Contractor's cyber liability insurance, the insurance shall cover the WDC, EDC, and City, together with their respective officials and employees, as additional insured.

E. *Other Insurance.* The Contractor shall provide such other types of insurance in the amounts specified in Schedule A.

Section 7.04 General Requirements for Insurance Coverage and Policies

A. Unless otherwise stated, all insurance required by Section 7.03 of this Agreement must:

1. be provided by companies that may lawfully issue such policies;
2. have an A.M. Best rating of at least A- / VII, a Standard & Poor's rating of at least A, a Moody's Investors Service rating of at least A3, a Fitch Ratings rating of at least A- or a similar rating by any other nationally recognized statistical rating organization acceptable to the WDC unless prior written approval is obtained from the WDC; and
3. be primary (and non-contributing) to any insurance or self-insurance maintained by the WDC, EDC, and City, including their respective officials and employees (not applicable to professional liability insurance/errors and omissions insurance), and any other entity listed as an additional insured in Schedule A.

B. The Contractor shall be solely responsible for the payment of all premiums for all required insurance policies and all deductibles or self-insured retentions to which such policies are subject, whether or not the WDC, EDC, and City, including their respective officials and employees are insured under the policy.

C. There shall be no self-insurance program, including a self-insurance retention, exceeding \$10,000.00, with regard to any insurance required under Section 7.03 unless approved in writing by the WDC Executive Director. Any such self-insurance program shall provide the WDC, EDC, and City, including their respective officials and employees, and any other additional insured listed on Schedule A with all rights that would be provided by traditional insurance required under this Article 7, including but not limited to the defense obligations that insurers are required to undertake in liability policies.

D. The limits of coverage for all types of insurance for the WDC, EDC, and City, including their respective officials and employees, and any other additional insured listed on Schedule A that must be provided to such additional insured(s) shall be the greater of (i) the minimum limits set forth in Schedule

A or (ii) the limits provided to the Contractor as named insured under all primary, excess, and umbrella policies of that type of coverage.

Section 7.05 Proof of Insurance

A. For each policy required under Article 7 and Schedule A of this Agreement, the Contractor shall file proof of insurance and, where applicable, proof that the WDC, EDC, and City, including their respective officials and employees, is an additional insured within ten Days of award of this Agreement. The following proof is acceptable:

1. A certificate of insurance accompanied by a completed certification of insurance broker or agent (included in Schedule A of this Agreement) and any endorsements by which the WDC, EDC, and City, including their respective officials and employees, have been made an additional insured; or

2. A copy of the insurance policy, including declarations and endorsements, certified by an authorized representative of the issuing insurance carrier.

B. Proof of insurance confirming renewals of insurance required under Article 7 and Schedule A of this Agreement must be submitted to the WDC prior to the expiration date of the coverage. Such proof must meet the requirements of Section 7.04(A).

C. The Contractor shall provide the WDC with a copy of any policy required under this Article 7 upon the demand for such policy by the WDC Executive Director or a duly authorized representative.

D. Acceptance by the WDC Executive Director or a duly authorized representative of a certificate or a policy does not excuse the Contractor from maintaining policies consistent with all provisions of this Article 7 (and ensuring that subcontractors maintain such policies) or from any liability arising from its failure to do so.

E. If the Contractor receives notice, from an insurance company or other person, that any insurance policy required under this Article 7 shall expire or be cancelled or terminated for any reason, the Contractor shall immediately forward a copy of such notice to both the addresses referred to in Section 7.06(A) and Schedule A.

Section 7.06 Miscellaneous

A. Whenever notice of loss, damage, occurrence, accident, claim, or suit is required under a policy required by Section 7.03 and Schedule A, the Contractor shall provide the insurer with timely notice thereof on behalf of the WDC, EDC, and City, including their respective officials and employees. Such notice shall be given even where the Contractor may not be covered under such policy if this Agreement requires that the WDC, EDC, and the City, including its officials and employees, be an additional insured (for example, where one of Contractor's employees was injured). Such notice shall expressly specify that "this notice is being given on behalf of the Workforce Development Corporation, Economic Development Corporation, and the City of New York, including its officials and employees, as additional insured" (such notice shall also include the name of any other entity listed as an additional insured on Schedule A) and contain the following information to the extent known: the number of the insurance policy; the name of

the named insured; the date and location of the damage, occurrence, or accident; the identity of the persons or things injured, damaged, or lost; and the title of the claim or suit, if applicable. The Contractor shall simultaneously send a copy of such notice to both the address referred to in Schedule A and City of New York c/o Insurance Claims Specialist, Affirmative Litigation Division, New York City Law Department, 100 Church Street, New York, New York 10007. If the Contractor fails to comply with the requirements of this paragraph, the Contractor shall indemnify the WDC, EDC, and City, together with their respective officials and employees, and any other entity listed as an additional insured on Schedule A for all losses, judgments, settlements and expenses, including reasonable attorneys' fees, arising from an insurer's disclaimer of coverage citing late notice by or on behalf of the WDC, EDC, and City, together with their officials and employees, and any other entity listed as an additional insured on Schedule A.

B. The Contractor's failure to maintain any of the insurance required by this Article 7 and Schedule A shall constitute a material breach of this Agreement. Such breach shall not be waived or otherwise excused by any action or inaction by the WDC, EDC, and/or City at any time.

C. Insurance coverage in the minimum amounts required in this Article 7 shall not relieve the Contractor or its subcontractors of any liability under this Agreement, nor shall it preclude the WDC, EDC, and/or City from exercising any rights or taking such other actions as are available to it under any other provisions of this Agreement or Law.

D. With respect to insurance required by Section 7.03 and Schedule A (but not including professional liability/errors and omissions insurance), the Contractor waives all rights against the WDC, EDC, and City, including their respective officials and employees, and any other entity listed as an additional insured on Schedule A for any damages or losses that are covered under any insurance required under this Article 7 (whether or not such insurance is actually procured or claims are paid thereunder) or any other insurance applicable to the operations of the Contractor and/or its subcontractors in the performance of this Agreement.

E. In the event the Contractor requires any subcontractor to maintain insurance with regard to any operations under this Agreement and requires such subcontractor to list the Contractor as an additional insured under such insurance, the Contractor shall ensure that such entity also list the WDC, EDC, and City, including their respective officials and employees, and any other entity listed as an additional insured on Schedule A as an additional insured. With respect to commercial general liability insurance, such coverage must be at least as broad as the most recently issued ISO form CG 20 26.

ARTICLE 8 - PROTECTION OF PERSONS AND PROPERTY AND INDEMNIFICATION

Section 8.01 Reasonable Precautions

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

Section 8.02 Protection of WDC, EDC, and City Property

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

Section 8.03 Indemnification

To the fullest extent permitted by Law, the Contractor shall defend, indemnify, and hold harmless the WDC, EDC, and City, including their respective officials and employees, against any and all claims (even if the allegations of the claim are without merit), judgments for damages on account of any injuries or death to any person or damage to any property, and costs and expenses to which the WDC, EDC, and/or City, including their respective officials or employees, may be subject to or which they may suffer or incur allegedly arising out of any of the operations of the Contractor and/or its subcontractors under this Agreement to the extent resulting from any negligent act of commission or omission, any intentional tortious act, and/or the failure to comply with Law or any of the requirements of this Agreement. Insofar as the facts or Law relating to any of the foregoing would preclude the WDC, EDC, and/or City, including their respective officials or employees from being completely indemnified by the Contractor, the WDC, EDC, and City, including their respective officials and employees shall be partially indemnified by the Contractor to the fullest extent permitted by Law.

Section 8.04 Infringement Indemnification

To the fullest extent permitted by Law, the Contractor shall defend, indemnify, and hold harmless the WDC, EDC, and City, including their respective officials and employees, against any and all claims (even if the allegations of the claim are without merit), judgments for damages, and costs and expenses to which the WDC, EDC, and/or City, including their respective officials or employees, may be subject to or which they may suffer or incur allegedly arising out of any infringement, violation, or unauthorized use of any copyright, trade secret, trademark or patent or any other property or personal right of any third party by the Contractor and/or its employees, agents, or subcontractors in the performance of this Agreement. To the fullest extent permitted by Law, the Contractor shall defend, indemnify, and hold harmless the WDC, EDC, and City, including their respective officials and employees, regardless of whether or not the alleged infringement, violation, or unauthorized use arises out of compliance with the Agreement's scope of services/scope of work. Insofar as the facts or Law relating to any of the foregoing would preclude the WDC, EDC, and City, including their respective officials and employees, from being completely indemnified by the Contractor, the WDC, EDC, and City, including their respective officials and employees, shall be partially indemnified by the Contractor to the fullest extent permitted by Law.

Section 8.05 Indemnification Obligations Not Limited By Insurance Obligation

The Contractor's obligation to indemnify, defend and hold harmless the WDC, EDC, and City, including their respective officials and employees, shall neither be (i) limited in any way by the Contractor's obligations to obtain and maintain insurance under this Agreement, nor (ii) adversely affected by any failure on the part of the WDC, EDC, and/or City, including their respective officials or employees to avail themselves of the benefits of such insurance.

Section 8.06 Actions By or Against Third Parties

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

B. The Contractor shall report to the WDC in writing within five business days of the initiation by or against the Contractor of any legal action or proceeding relating to this Agreement.

Section 8.07 Withholding of Payments

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

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

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

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

E. The rights and remedies of the WDC, EDC, and City provided for in this Section 8.07 are not exclusive and are in addition to any other rights and remedies provided by Law or this Agreement.

Section 8.08 No Third Party Rights

A. The provisions of this Agreement shall not be deemed to create any right of action in favor of third parties against the Contractor or the WDC, EDC, and/or City, including their respective officials and employees.

B. Contractor, without recourse to the WDC, EDC, or the City, or their respective officials and employees, shall be responsible for the settlement and satisfaction of all contractual obligations and administrative issues arising out of any procurement or leasing contracts paid with funds obtained through this Agreement.

ARTICLE 9 - CONTRACT CHANGES

Section 9.01 Contract Changes

Changes to this Agreement may be made only as duly authorized by the WDC Executive Director or duly authorized representative. Any amendment or change to this Agreement shall not be valid unless made in writing and signed by authorized representatives of both parties. The Contractor deviates from the requirements of this Agreement without a duly approved and executed change order document or written contract modification or amendment at its own risk.

Section 9.02 Changes Through Fault of Contractor

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

ARTICLE 10 - TERMINATION, DEFAULT, REDUCTIONS IN FUNDING, AND LIQUIDATED DAMAGES

Section 10.01 Termination by the City Without Cause

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

B. In its sole discretion, the WDC shall have the right to terminate this Agreement, in whole or in part, upon the request of the Contractor to withdraw from the Contract, in accordance with the provisions of Section 10.05.

C. If the WDC terminates this Agreement pursuant to this Section 10.01, the following provisions apply. The WDC shall not incur or pay any further obligation pursuant to this Agreement beyond the termination date set by the WDC pursuant to Section 10.05. The WDC shall pay for services provided in accordance with this Agreement prior to the termination date. In addition, any obligation necessarily incurred by the Contractor on account of this Agreement prior to receipt of notice of termination and falling due after the termination date shall be paid by the WDC in accordance with the terms of this Agreement. In no event shall such obligation be construed as including any lease or other occupancy agreement, oral or written, entered into between the Contractor and its landlord.

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

A. This Agreement is funded in whole or in part by funds secured from the federal, State and/or City governments. Should there be a reduction or discontinuance of such funds by action of the federal, State and/or City governments, the WDC shall have, in its sole discretion,

the right to terminate this Agreement in whole or in part, or to reduce the funding and/or level of services of this Agreement caused by such action by the federal, State and/or City governments, including, in the case of the reduction option, but not limited to, the reduction or elimination of programs, services or service components; the reduction or elimination of contract-reimbursable staff or staff-hours, and corresponding reductions in the budget of this Agreement and in the total amount payable under this Agreement. Any reduction in funds pursuant to this Section 10.02(A) shall be accompanied by an appropriate reduction in the services performed under this Agreement.

B. In the case of the reduction option referred to in Section 10.02(A), above, any such reduction shall be effective as of the date set forth in a written notice thereof to the Contractor, which shall be not less than 30 Days from the date of such notice. Prior to sending such notice of reduction, the WDC shall advise the Contractor that such option is being exercised and afford the Contractor an opportunity to make within seven 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 WDC shall not be bound to utilize any of the Contractor's suggestions and that the WDC shall have sole discretion as to how to effectuate the reductions.

C. If the WDC reduces funding pursuant to this Section 10.02, the following provisions apply. The WDC shall pay for services provided in accordance with this Agreement prior to the reduction date. In addition, any obligation necessarily incurred by the Contractor on account of this Agreement prior to receipt of notice of reduction and falling due after the reduction date shall be paid by the WDC in accordance with the terms of this Agreement. In no event shall such obligation be construed as including any lease or other occupancy agreement, oral or written, entered into between the Contractor and its landlord.

Section 10.03 Contractor Default

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

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

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

3. If the Contractor refuses or fails to proceed with the services under the Agreement when and as directed by the WDC Executive Director or duly authorized representative;

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

- a. a criminal offense incident to obtaining or attempting to obtain or performing a public or private contract;
- b. fraud, embezzlement, theft, bribery, forgery, falsification, or destruction of records, or receiving stolen property;
- c. a criminal violation of any state or federal antitrust law;
- d. violation of the Racketeer Influence and Corrupt Organization Act, 18 U.S.C. §§ 1961 *et seq.*, or the Mail Fraud Act, 18 U.S.C. §§ 1341 *et seq.*, for acts in connection with the submission of bids or proposals for a public or private contract;
- e. conspiracy to commit any act or omission that would constitute grounds for conviction or liability under any statute described in subparagraph (d) above; or
- f. an offense indicating a lack of business integrity that seriously and directly affects responsibility as a WDC vendor.

5. If the Contractor or any of its officers, directors, partners, five percent 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 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 WDC, EDC, City, or other government work.

B. The right to declare the Contractor in default shall be exercised by sending the Contractor a written notice of the conditions of default, signed by the WDC Executive Director, setting forth the ground or grounds upon which such default is declared (“Notice to Cure”). The Contractor shall have ten 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 WDC Executive Director may temporarily suspend services under the Agreement pending the outcome of the default proceedings pursuant to this Section 10.03.

C. If the conditions set forth in the Notice to Cure are not cured within the period set forth in the Notice to Cure, the WDC Executive Director may declare the Contractor in default pursuant to this Section 10.03. Before the WDC Executive Director may exercise his or her right to declare the Contractor in default, the WDC Executive Director shall give the Contractor an opportunity to be heard upon not less than five business days’ notice. The WDC Executive Director may, in his or her discretion, provide for such opportunity to be in writing or in person. Such

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

D. After the opportunity to be heard, the WDC Executive Director may terminate the Agreement, in whole or in part, upon finding the Contractor in default pursuant to this Section 10.03, in accordance with the provisions of Section 10.05.

E. The WDC Executive Director, after declaring the Contractor in default, may have the services under the Agreement completed by such means and in such manner as he or she may deem advisable. Should the expense of such completion, as certified by the WDC Executive Director, exceed the total sum which would have been payable under the Agreement if it had been completed by the Contractor, any excess shall be promptly paid by the Contractor upon demand by the WDC. The excess expense of such completion, including any and all related and incidental costs, as so certified by the WDC Executive Director, and any liquidated damages assessed against the Contractor, may be charged against and deducted out of monies earned by the Contractor.

Section 10.04 Force Majeure

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

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

F. If the WDC terminates the Agreement pursuant to this Section 10.04, the following provisions apply. The WDC shall not incur or pay any further obligation pursuant to this Agreement beyond the termination date. The WDC shall pay for services provided in accordance with this Agreement prior to the termination date. Any obligation necessarily incurred by the Contractor on account of this Agreement prior to receipt of notice of termination and falling due after the termination date shall be paid by the WDC in accordance with the terms of this Agreement. In no event shall such obligation be construed as including any lease or other occupancy agreement, oral or written, entered into between the Contractor and its landlord.

Section 10.05 Procedures for Termination

A. The WDC shall give the Contractor written notice of any termination of this Agreement. Such notice shall specify the applicable provision(s) under which the Agreement is terminated and the effective date of the termination. Except as otherwise provided in this Agreement, the notice shall comply with the provisions of this Section 10.05 and Section 13.03. For termination without cause, the effective date of the termination shall not be less than ten Days from the date the notice is personally delivered, or 15 Days from the date the notice is either sent by certified mail, return receipt requested, delivered by overnight or same day courier service in a properly addressed envelope with confirmation, or sent by email and, unless the receipt of the email is acknowledged by the recipient by email, deposited in a post office box regularly maintained by the United States Postal Service in a properly addressed postage pre-paid envelope. In the case of termination for default, the effective date of the termination shall be as set forth above for a termination without cause or such earlier date as the WDC Executive Director may determine. If the WDC terminates the Agreement in part, the Contractor shall continue the performance of the Agreement to the extent not terminated.

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

1. Accounting for and refunding to the WDC, within 45 Days, any unexpended funds which have been advanced to the Contractor pursuant to this Agreement;
2. Furnishing within 45 Days an inventory to the WDC of all equipment, appurtenances and property purchased through or provided under this Agreement and carrying out any WDC directive concerning the disposition of such equipment, appurtenances and property;
3. Turning over to the WDC or its designees all books, records, documents and material specifically relating to this Agreement that the WDC has requested be turned over;
4. Submitting to the WDC, within 90 Days, a final statement and report relating to the Agreement. The report shall be made by a certified public accountant or a licensed public accountant, unless the WDC waives, in writing, the requirement that a certified public accountant or licensed public accountant make such report; and
5. Providing reasonable assistance to the WDC in the transition, if any, to a new contractor.

Section 10.06 Miscellaneous Provisions

A. The WDC, in addition to any other powers set forth in this Agreement or by operation of Law, may suspend, in whole or in part, any part of the services to be provided under this Agreement whenever in his or her judgment such suspension is required in the best interest of the WDC. If the WDC suspends this Agreement pursuant to this Section 10.06, the WDC shall not incur or pay any further obligation pursuant to this Agreement beyond the suspension date until such suspension is lifted. The WDC shall pay for services provided in accordance with this

Agreement prior to the suspension date. In addition, any obligation necessarily incurred by the Contractor on account of this Agreement prior to receipt of notice of suspension and falling due during the suspension period shall be paid by the WDC in accordance with the terms of this Agreement.

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

C. The rights and remedies of the WDC, EDC, and/or City provided in this Article 10 shall not be exclusive and are in addition to all other rights and remedies provided by Law or under this Agreement.

Section 10.07 Liquidated Damages

If Schedule A or any other part of this Agreement includes liquidated damages for failure to comply with a provision of this Agreement, the sum indicated is fixed and agreed as the liquidated damages that the WDC, EDC, and/or City will suffer by reason of such noncompliance and not as a penalty.

ARTICLE 11 - CLAIMS

Section 11.01 Choice of Law

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

Section 11.02 Jurisdiction and Venue

Subject to Section 11.03, the parties agree that any and all claims asserted by or against the WDC, EDC, and/or City arising under or related to this Agreement shall solely be heard and determined either in the courts of the United States located in the City or in the courts of the State located in the City and County of New York. The parties shall consent to the dismissal and/or transfer of any claims asserted in any other venue or forum to the proper venue or forum. If the Contractor initiates any action in breach of this Section 11.02, the Contractor shall be responsible for and shall promptly reimburse the WDC, EDC, and/or City for any attorneys' fees incurred by the WDC, EDC, and/or City in removing the action to a proper court consistent with this Section 11.02.

Section 11.03 Claims and Actions

A. Any claim against the WDC for damages for breach of contract shall not be made or asserted in any action, unless the Contractor shall have strictly complied with all requirements relating to the giving of notice and of information with respect to such claims, as provided in this Agreement.

B. No action shall be instituted or maintained on any such claims unless such action shall be commenced within six months after the final payment under this Agreement, or within six months of the termination or expiration of this Agreement, or within six months after the accrual of the cause of action, whichever first occurs.

Section 11.04 No Claim Against Officials, Agents, or Employees

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

Section 11.05 General Release

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

Section 11.06 No Waiver

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

ARTICLE 12 - APPLICABLE LAWS

Section 12.01 All Legal Provisions Deemed Included

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

Section 12.02 Severability / Unlawful Provisions Deemed Stricken

If this Agreement contains any unlawful provision not an essential part of the Agreement and which shall not appear to have been a controlling or material inducement to the making of this Agreement, the unlawful provision shall be deemed of no effect and shall, upon notice by either

party, be deemed stricken from the Agreement without affecting the binding force of the remainder.

Section 12.03 Compliance With Laws

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

Section 12.03 Unlawful Discrimination in the Provision of Services

A. *Discrimination in Public Accommodations.* With respect to services provided under this Agreement, the Contractor shall not unlawfully discriminate against any person because of actual or perceived age, religion, creed, sex, gender, gender identity or gender expression, sexual orientation, partnership status, marital status, disability, presence of a service animal, race, color, national origin, alienage, citizenship status, or military status, or any other class of individuals protected from discrimination in public accommodations by City, State or Federal laws, rules or regulations. The Contractor shall comply with all statutory and regulatory obligations to provide reasonable accommodations to individuals with disabilities.

B. *Immigration status.* In connection with the services provided under this Agreement, the Contractor shall not inquire about the immigration status of a recipient or potential recipient of such services unless (i) it is necessary for the determination of program, service or benefit eligibility or the provision of City services or (ii) the Contractor is required by law to inquire about such person's immigration status.

Section 12.04 Americans with Disabilities Act (ADA)

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

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

Section 12.05 Political Activity

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

Section 12.06 Religious Activity

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

Section 12.07 Participation in an International Boycott

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

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

ARTICLE 13 - MISCELLANEOUS PROVISIONS

Section 13.01 Merger

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

Section 13.02 Headings

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

Section 13.03 Notice

A. The Contractor and the WDC hereby designate the business addresses and email addresses specified in Schedule A (and if not specified in Schedule A, as specified at the beginning of this Agreement) as the places where all notices, directions, or communications from one such party to the other party shall be delivered, or to which they shall be mailed. Either party may change its notice address at any time by an instrument in writing executed and acknowledged by the party making such change and delivered to the other party in the manner as specified below.

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

C. Nothing in this Section 13.03 shall be deemed to serve as a waiver of any requirements for the service of notice or process in the institution of an action or proceeding as provided by Law, including the New York Civil Practice Law and Rules.

AFFIRMATION

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

_____.

Full name of Proposer or Bidder *[below]*

Address _____

City _____ State _____ Zip Code _____

CHECK ONE BOX AND INCLUDE APPROPRIATE NUMBER:

A - Individual or Sole Proprietorships
SOCIAL SECURITY NUMBER _____

B - Partnership, Joint Venture or other unincorporated organization
EMPLOYER IDENTIFICATION NUMBER _____

C - Corporation
EMPLOYER IDENTIFICATION NUMBER _____

By _____
Signature

Title

If a corporation place seal here
Must be signed by an officer or duly authorized representative.

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

SCHEDULE A

Article 7 -- Insurance

Types of Insurance (per Article 7 in its entirety, including listed paragraph)	Minimum Limits and Special Conditions
<p><input checked="" type="checkbox"/> Workers' Compensation §7.02</p> <p><input checked="" type="checkbox"/> Disability Benefits Insurance §7.02</p> <p><input checked="" type="checkbox"/> Employers' Liability §7.02</p>	<p>Statutory amounts.</p>
<p><input checked="" type="checkbox"/> Commercial General Liability §7.03(A)</p>	<p><u>\$1,000,000.00</u> per occurrence</p> <p><u>\$1,000,000.00</u> personal & advertising injury</p> <p><u>\$2,000,000.00</u> annual aggregate</p> <p><u>\$0</u> products/completed operations</p> <p>Additional Insureds:</p> <ol style="list-style-type: none"> 1. Workforce Development Corporation, and 2. Economic Development Corporation, and 3. <u>City of New York</u>, and 4. <u>Their respective officials and employees.</u>
<p><input type="checkbox"/> Commercial Auto Liability §7.03(B)</p>	<p><u>\$1,000,000.00</u> per accident combined single limit</p>
<p><input type="checkbox"/> Professional Liability/Errors & Omissions §7.03(C)</p>	<p><u>\$1,000,000.00</u> per claim</p>
<p><input type="checkbox"/> Cyber Liability Insurance §7.03(E)</p>	<p><i>TBD</i></p>
Section 10.07 – Liquidated Damages	
Section 13.03 – Notice	
<p>WDC's Mailing Address and Email Address for Notices</p>	<p>Workforce Development Corporation c/o NYC Department of Small Business Services 1 Liberty Plaza, 11th Floor New York, NY 10006</p> <p>Email: cdennis@sbs.nyc.gov creel@sbs.nyc.gov</p>

WDC Appendix A June 2018 Final (Public Funds)

Contractor's Mailing Address and Email Address for Notices	<i>See Agreement</i>

CERTIFICATION BY INSURANCE BROKER OR AGENT

The undersigned insurance broker or agent represents to the Workforce Development Corporation that the attached Certificate of Insurance is accurate in all material respects.

[Name of broker or agent (typewritten)]

[Address of broker or agent (typewritten)]

[Email address of broker or agent (typewritten)]

[Phone number/Fax number of broker or agent (typewritten)]

[Signature of authorized official, broker, or agent]

[Name and title of authorized official, broker, or agent (typewritten)]

State of)

) ss.:

County of)

Sworn to before me this ____ day of _____ 20__

NOTARY PUBLIC FOR THE STATE OF _____



REPORT
CORRUPTION, FRAUD, UNETHICAL CONDUCT
RELATING TO A NYC-FUNDED CONTRACT
OR PROJECT
CALL THE NYC DEPARTMENT OF INVESTIGATION
212-825-5959

**DOI CAN ALSO BE REACHED BY MAIL
OR IN PERSON AT:**

**New York City Department of
Investigation (DOI)
80 Maiden Lane, 17th floor
New York, New York 10038
Attention: COMPLAINT BUREAU**

OR FILE A COMPLAINT ON-LINE AT:
www.nyc.gov/doi

All communications are confidential



**Or scan the QR Code above
to make a complaint**

**THE LAW PROTECTS EMPLOYEES OF
CITY CONTRACTORS WHO REPORT CORRUPTION**

- Any employee of a City contractor, or subcontractor of the City, or a City contractor with a contract valued at more than \$100,000 is protected under the law from retaliation by his or her employer if the employee reports wrongdoing related to the contract to the DOI.
- **To be protected by this law**, an employee must report to DOI – or to certain other specified government officials – information about fraud, false claims, corruption, criminality, conflict of interest, gross mismanagement, or abuse of authority relating to a City contract valued at more than \$100,000.
- Any employee who makes such a report and who believes he or she has been dismissed, demoted, suspended, or otherwise subject to an adverse personnel action because of that report is entitled to bring a lawsuit against the contractor and recover damages

APPENDIX B

UNIFORM FEDERAL CONTRACT PROVISIONS RIDER FOR FEDERALLY FUNDED PROCUREMENT CONTRACTS

This Agreement is subject to 2 CFR Part 200 (Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards) and is subject to the following federal required contract provisions:

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

- (1) “Awarding Entity” means the entity awarding the Contract. The Awarding Entity may be the WDC or a contractor at any tier.
- (2) “WDC” means the Workforce Development Corporation.
- (3) “Executive Director” means the head of the WDC or his/her designee.
- (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 WDC and the WDC’s Contractor.

- (1) **Remedies for Breach of Contract.** If the Contractor violates or breaches the Contract, the WDC 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 WDC 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 WDC 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 WDC may deem advisable in accordance with all applicable Contract provisions and law. After completion of the services under this Contract, the WDC 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 WDC, 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 WDC. The excess expense of such completion, including any and all related and incidental costs, as so certified by the WDC may be charged against and deducted out of monies earned by the Contractor.

(2) **Termination.** The WDC 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 WDC 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 WDC to be necessary, the WDC shall effect termination according to the following procedure:

i. *Notice to Cure.* The WDC shall give written notice of the conditions of default signed by the Executive Director, 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 Executive Director 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 Executive Director may declare the Contractor in default. Before the Executive Director 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 Executive Director 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 Executive Director may terminate the Contract, in whole or in part, upon finding the Contractor in default. The Executive Director 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 WDC 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 Executive Director;

 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 WDC 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 WDC, City of New York, or government work.

v. *Basis of Settlement.* The WDC shall not incur or pay any further obligation pursuant to this Contract beyond the termination date set by the WDC in its Notice of Termination. The WDC 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 WDC 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 WDC 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 Executive Director to excuse the nonperformance and/or terminate the Contract. If the Executive Director, 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 Executive Director shall excuse the nonperformance and may terminate the Contract. Such a termination shall be deemed to be without cause.

- iii. If the WDC 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 WDC 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 WDC 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 WDC shall not be bound to utilize any of the Contractor's suggestions and that the WDC shall

have sole discretion as to how to effectuate the reductions.

- iii. If the WDC 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 of New York, 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).
- (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 WDC 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 WDC any lobbying with non-Federal funds that took place in connection with obtaining this Contract.

- (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. 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 WDC, City of New York, 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 WDC 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 WDC, 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 WDC. The WDC may grant the Contractor a license to use the Copyrightable Materials on such terms as determined by the WDC and set forth in the license.

- c. The Contractor acknowledges that the WDC 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 WDC upon execution of this Contract.
- e. The Contractor shall promptly and fully report to the WDC 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 WDC and City of New York shall have a royalty-free, non-exclusive irrevocable license to reproduce, publish, or otherwise use such work for non-commercial and/or governmental purposes.

D. Rights to Inventions.

- (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 WDC 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 WDC 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

WDC and the Federal Agency within two years of disclosure to the WDC 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 WDC upon request.

APPENDIX C

COMBINED FEDERAL & STATE CERTIFICATIONS

The funding for the awards granted under this contract is provided by the United States Department of Labor which requires the following certifications:

A. CERTIFICATION REGARDING DEBARMENT, SUSPENSION, INELIGIBILITY AND VOLUNTARY EXCLUSION-LOWER TIER COVERED TRANSACTIONS

1. The prospective lower tier participant certifies, by submission of this proposal, that neither it nor its principals is presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any Federal department or agency.
2. Where the prospective lower tier participant is unable to certify to any of the statement in this certification, such prospective participant shall attach an explanation to this proposal.
3. The prospective lower tier participant shall pass the requirements of A.1. and A.2., above, to each person or entity with whom the participant enters into a covered transaction at the next lower tier.

B. CERTIFICATION REGARDING LOBBYING - Certification for Contracts, Grants, Loans, and Cooperative Agreements

By accepting this grant, the signee hereby certifies, to the best of his or her knowledge and belief, 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 signer 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 facts 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 Section 1352, Title 31, U.S.C. **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.**

C. DRUG FREE WORKPLACE

By signing this application, the grantee certifies that it will provide a Drug Free Workplace by implementing the provisions at 29 CFR 94, pertaining to the Drug Free Workplace. In accordance with these provisions, a list of places where performance of work is done in connection with this specific grant will take place must be maintained at your office and available for Federal inspection.

D. NONDISCRIMINATION & EQUAL OPPORTUNITY ASSURANCE

As a condition to the award of financial assistance from the Department of Labor under Title I of the Workforce Innovation and Opportunity Act of 2014 (Pub. Law 113-128) (WIOA), the grant applicant assures that it will comply fully with the nondiscrimination and equal opportunity provisions of the following laws:

(1) Section 188 of WIOA which prohibits discrimination against all individuals in the United States on the basis of race, color, religion, sex, national origin, age disability, political affiliation, or belief, and against beneficiaries on the basis of either citizenship/status as a lawfully admitted immigrant authorized to work in the United States or participation in any WIOA Title I - financially assisted program or activity;

(2) Title VI of the Civil Rights Act of 1964, as amended which prohibits discrimination on the basis of race, color, and national origin;

(3) Section 504 of the Rehabilitation Act of 1973, as amended, which prohibits discrimination against qualified individuals with disabilities;

(4) The Age Discrimination Act of 1975, as amended, which prohibits discrimination on the basis of age; and

(5) Title IX of the Education Amendments of 1972, as amended, which prohibits discrimination on the basis of sex in educational programs.

The grant applicant also assures that it will comply with 29 CFR Part 37 and all other regulations implementing the laws listed above. This assurance applies to the grant applicant's operation of the WIOA Title I - financially assisted program or activity, and to all agreements the grant applicant makes to carry out the WIOA Title I-financially assisted program or activity. The grant applicant understands that the United States has the right to seek judicial enforcement of this assurance.

E. BUY AMERICAN NOTICE REQUIREMENT

The grant applicant assures that, to the greatest extent practicable, all equipment and products purchased with funds made available under the WIOA will be American made. See WIOA Section 502 – Buy American Requirements.

F. SALARY AND BONUS LIMITATIONS

In compliance with Public Laws 110-161, none of the federal funds appropriated in the Act under the heading 'Employment and Training' shall be used by a subrecipient of such funds to pay the salary and

bonuses of an individual, either as direct costs or indirect costs, at a rate in excess of Executive Level II. This limitation shall not apply to vendors providing goods and services as defined in OMB Circular A-133. See Training and Employment Guidance Letter number 5-06 for further clarification. Where applicable, the grant applicant agrees to comply with the Salary and Bonus Limitations.

G. VETERANS' PRIORITY PROVISIONS

Federal grants for qualified job training programs funded, in whole or in part, by the U.S. Department of Labor are subject to the provisions of the "Jobs for Veterans Act" (JVA), Public Law 107-288 (38 USC 4215). The JVA provides priority of service to veterans and spouses of certain veterans for the receipt of employment, training, and placement services. Please note that to obtain priority service, a person must meet the program's eligibility requirements. Training and Employment Guidance Letter (TEGL) No. 5-03 (September 16, 2003) and Section 20 of the Code of Federal Regulations (CFR) Part 1010 (effective January 19, 2009) provide general guidance on the scope of the veterans priority statute and its effect on current employment and training programs. Where applicable, the grant applicant agrees to comply with the Veteran's Priority Provisions.

STATE CERTIFICATIONS

H. CERTIFICATION REGARDING DEBARMENT, SUSPENSION, INELIGIBILITY, AND OUTSTANDING DEBTS

The undersigned, as a duly sworn representative of the contractor/vendor, hereby attests and certifies that:

- 1) No principal or executive officer of the contractor's/vendor's company, its subcontractor(s) and/or successor(s) is presently suspended or debarred; and
- 2) The contractor/vendor, its subcontractor(s) and/or its successor(s) is not ineligible to submit a bid on, or be awarded, any public work contract or sub-contract with the State, any municipal corporation or public body for reason of debarment for failure to pay the prevailing rate of wages, or to provide supplements, in accordance with Article 8 of the New York State Labor Law.
- 3) The contractor/vendor, its subcontractor(s) and/or its successor do not have any outstanding debts owed to the Department, including but not limited to, contractual obligations, fines related to Safety and Health violations, payments owed to workers for public works projects or the general provisions of the Labor Law, unemployment insurance contributions or other related assessments, penalties or charges.

I. CERTIFICATION REGARDING "NONDISCRIMINATION IN EMPLOYMENT IN NORTHERN IRELAND: MacBRIDE FAIR EMPLOYMENT PRINCIPLES"

In accordance with Chapter 807 of the Laws of 1992 the bidder, by submission of this bid, certifies that it or any individual or legal entity in which the bidder holds a 10% or greater ownership interest, or any individual or legal entity that holds a 10% or greater ownership interest in the bidder, either:

(answer Yes or No to one or both of the following, as applicable.)

1. Has business operations in Northern Ireland:

Yes No

If Yes:

2. Shall take lawful steps in good faith to conduct any business operations they have in Northern Ireland in accordance with the MacBride Fair Employment Principles relating to nondiscrimination in employment and freedom of workplace opportunity regarding such operations in Northern Ireland, and shall permit independent monitoring of its compliance with such Principles.

Yes No

J. NON-COLLUSIVE BIDDING CERTIFICATION

By submission of this bid, each bidder and each person signing on behalf of any bidder certifies, and in the case of a joint bid each party thereto certifies as to its own organization, under penalty of perjury, that

to the best of his or her knowledge and belief:

1. The prices in this bid have been arrived at independently without collusion, consultation, communication, or agreement, for the purpose of restricting competition, as to any matter relating to such prices with any other bidder or with any competitor;
2. Unless otherwise required by law, the prices which have been quoted in this bid have not been knowingly disclosed by the bidder and will not knowingly be disclosed by the bidder prior to opening, directly or indirectly, to any other bidder or to any competitor; and

No attempt has been made or will be made by the bidder to induce any other person, partnership or corporation to submit or not to submit to bid for the purpose of restricting competition.

K. IRAN DIVESTMENT ACT

By submitting a bid in response to this solicitation or by assuming the responsibility of a Contract awarded hereunder, Bidder/Contractor (or any assignee) certifies that it is not on the “Entities Determined To Be Non-Responsive Bidders/Offerers Pursuant to The New York State Iran Divestment Act of 2012” list (“Prohibited Entities List”) posted on the OGS website at: <http://www.ogs.ny.gov/about/regs/docs/ListofEntities.pdf> and further certifies that it will not utilize on such a Contract any subcontractor that is identified on the Prohibited Entities List. Additionally, Bidder/Contractor is advised that should it seek to renew or extend a Contract awarded in response to the solicitation, it must provide the same certification at the time the Contract is renewed or extended.

During the term of the Contract, should Labor receive information that a person (as defined in State Finance Law §165-a) is in violation of the above-referenced certifications, Labor will review such information and offer the person an opportunity to respond. If the person fails to demonstrate that it has ceased its engagement in the investment activity which is in violation of the Act within 90 days after the determination of such violation, then Labor shall take such action as may be appropriate and provided for by law, rule, or contract, including, but not limited to, seeking compliance, recovering damages, or declaring the Contractor in default.

Department reserves the right to reject any request for renewal, extension, or assignment for an entity that appears on the Prohibited Entities List prior to the renewal, extension, or assignment of the Agreement, and to pursue a responsibility review with Contractor should it appear on the Prohibited Entities List hereafter.

I, the undersigned, attest under penalty of perjury that I am an authorized representative of the Bidder/Contractor and that the foregoing statements are true and accurate.

Signature of Authorized Representative _____

Title _____

Date _____

WIOA SPECIFIC RIDER

In addition to the provisions set forth in this Agreement and the Appendices, Attachments and Exhibits, to the extent the Services being provided under this Agreement are funded in whole or in part with federal Workforce Innovation and Opportunity Act funds, the following additional provisions apply:

Fraud Reporting. Pursuant to the Workforce Innovation and Opportunity Act of 2014 (Pub. Law 113-128) (“WIOA”) Section 185 and 20 CFR §667.630, any information or complaints concerning criminal fraud, waste, abuse or other criminal activity discovered by or reported in connection with a WIOA or WIOA-related program shall be immediately reported to: The United States Department of Labor, Office of the Inspector General, Office of Investigations, Room S-5514, 200 Constitution Avenue NW, Washington, D.C. 20210, Phone Number 1-800-347-3756.

Grievances. Pursuant to WIOA Section 181 and 20 CFR §667.600, Contractor warrants and represents that it shall comply with, and shall require each Subcontractor/Consultant to comply with the grievance notification procedures set forth in SBS’s grievance policies and procedures in effect during the Agreement found at: http://www.nyc.gov/html/sbs/html/about/eo_wia.shtml.

Political Activity. Pursuant to WIOA Section 194(6), no funds provided under this Agreement may be used for political activity.

Sectarian Activities. Pursuant to 20 CFR §683.255, no funds provided under this Agreement may be used in support of any religious or anti-religious activity.

Union Activities. Pursuant to 20 CFR §680.830, no funds provided under this Agreement may be used directly or indirectly to assist, promote, or deter union organizing.