



REQUEST FOR PROPOSALS

URBANTECH NYC MARKETING AND EXPANSION

Release Date: August 24, 2017

Submission Date: October 4, 2017

Table of Contents

I. DEFINITIONS..... 3

II. GENERAL INFORMATION 3

A. Introduction..... 3

B. Urban Tech Sector Overview..... 4

C. Request for Proposals Overview..... 4

D. Respondent Profile..... 5

E. Timeline 6

III. SPECIFIC SCOPE OF SERVICES 6

A. Work Stream 1: Urbantech NYC Website..... 6

B. Work Stream 2: Media and Marketing Services 14

C. Work Stream 3: Partner Network..... 16

IV. PROPOSAL REQUIREMENTS 18

V. SELECTION PROCESS 21

VI. SUBMISSIONS 21

VII. TERMS AND CONDITIONS 23

VIII. APPENDICES 26

APPENDIX 1: DOING BUSINESS DATA FORM..... 27

APPENDIX 2: PROPOSAL CERTIFICATION FORM..... 28

APPENDIX 3: SAMPLE FEE AND COST SCHEDULE 30

APPENDIX 5: BACKGROUND INVESTIGATION FORMS 32

APPENDIX 6: DRAFT CONSULTANT CONTRACT..... 33

I. DEFINITIONS

CMS: Content Management System.

IT Stakeholders: Individuals, groups, or consultants who may affect and/or be affected by decisions or outcomes of the project, particularly those with knowledge of the technical specifications of the project.

Marketing and Strategy Stakeholders: Individuals, groups, or consultants who may affect and/or be affected by decisions or outcomes of the project, including the Urbantech NYC team, NYCEDC consultants for the Urbantech NYC initiative, and participants in Urbantech NYC programs.

Startup: A privately-held, entrepreneurial and scalable company.

Urban Challenge: Any challenge faced by New York City and similar urban environments. Urban challenges can include, but are not limited to, environmental challenges posed by CO2 emissions, inefficient energy use, air or water quality, and waste management, as well as vulnerable infrastructure such as power grid, transportation, telecommunications, and the built environment.

Urban Technology / Urban Tech: Any technology-backed product or service that mitigates or addresses an Urban Challenge.

Program Participants: Companies or individuals participating in an Urbantech NYC Hub’s educational programming and events

II. GENERAL INFORMATION

A. Introduction

New York City Economic Development Corporation (“NYCEDC”) has a strong history of supporting entrepreneurs in launching early-stage companies, including a network of incubators across the five boroughs of New York City (“NYC”). These facilities have helped foster early-stage Startups, centralize the community, and bring educational programming to New Yorkers.

NYCEDC has identified an opportunity to build on the existing network of Urban Technology stakeholders to provide a central resource for the Urban Tech community and foster further innovation within the sector. By partnering with industry, academic and

research institutions, and communities to build services and spaces dedicated to solving Urban Challenges, NYCEDC will work to establish NYC as a leader in Urban Technology.

B. Urban Tech Sector Overview

By 2050, it is estimated that 7 out of every 10 people will live in an urban area. As global population continues to gravitate towards urban centers, cities have become increasingly important actors in addressing social, environmental, and economic challenges. In 2016 NYCEDC launched Urbantech NYC to support the development of the local Urban Technology industry, focusing on solutions that address Urban Challenges.

Specifically, Urbantech NYC offers space, prototyping equipment, tailored programming (e.g. commercialization support, demonstration opportunities), and access to a network of key industry stakeholders. In partnership with NYCEDC's Urbantech NYC program, New Lab and Grand Central Tech are anchors for innovators developing and scaling new solutions to our most pressing urban challenges. By doing so, they create good jobs and strengthen neighborhoods in NYC.

C. Request for Proposals Overview

NYCEDC is issuing this Request for Proposals ("RFP") seeking one or more service providers (the "Service Providers") with proven track records to develop and launch the scope of services (the "Services") as part of Urbantech NYC. The Services will collectively drive Urban Tech development and dissemination in New York City.

Through this RFP, NYCEDC seeks to:

- **Centralize the NYC Urban Tech community** by creating a digital space that provides industry news, events, programmatic resources, and program updates
- **Connect Urban Tech companies to the Urbantech NYC programs**, and help them navigate resources and funding opportunities that will support their company's growth
- **Elevate the Urbantech NYC brand**, by increasing the number of followers on social media, subscribers to quarterly newsletters, and attendees at industry events
- **Leverage industry organizations** to provide the Urbantech NYC community with increased access to an expanded network of:
 - Programming (e.g., competitions, challenges, trainings, etc.)
 - Events (e.g., panels, conferences, expos, meetups, etc.)

- Marketing (e.g., blogs, podcasts, content, etc.)
 - Facilities (e.g., co-working spaces, event spaces, etc.)
 - Equipment
- **Unite academia, corporates, NGOs, startups, and government** to create opportunities for roundtables and summits, using research to spur innovation such as:
 - Topical workshops, roundtables, and summits
 - Research (e.g., Smart(er) NYCitywide Research Group)
 - Digital/Knowledge exchange platforms

Respondents should note that NYCEDC believes Urbantech NYC should serve as a central resource to the broader ecosystem of Urban Tech stakeholders, rather than limiting access to companies who are part of Urbantech NYC Program Participants.

The Services comprise three (3) “Work Streams” that are detailed further in the RFP.

Respondents may submit proposals for all Work Streams or individual Work Streams as appropriate given Respondent’s capacity and area of expertise. Respondents shall clearly indicate which Work Streams the proposal addresses. Each proposal for each Work Stream will be evaluated independently; however NYCEDC reserves the right to award one or more Work Streams(s) to the same Service Provider.

D. Respondent Profile

The Respondents may be, but are not limited to, private companies, industry groups, not-for-profit organizations, academic or research institutions, venture capitalists, incubator managers, or individuals affiliated with relevant organizations.

NYCEDC expects to enter into a contract for the Services with one or more selected respondent(s) (the “Respondent”) for a contemplated term of at least eighteen (18) months, if any, pursuant to this RFP (any such selected Respondent(s) hereinafter referred to as the “Operator(s)”) to launch and operate the Urbantech NYC Website, Media and Marketing Services, and Partner Network as further described herein, or any other program as a result of Urbantech NYC. Please see the form of draft contract attached hereto as Appendix 6.

While the lead Respondent must be a single organization, NYCEDC welcomes and strongly encourages responses from joint ventures and partnerships in order to successfully accomplish the Scope of Services (e.g. non-profit organizations, academic institutions,

investors/venture capital firms, and/or corporate participants). Respondents may respond to more than one Work Stream with more than one joint venture and/or partnership. Respondents shall clearly indicate each joint venture/partnership in each Work Streams the proposal addresses.

E. Timeline

Time Period	Milestone
August 24, 2017	RFP Released
September 12, 2017	Informational Session for Potential Respondents
September 20, 2017	Questions/Clarification Deadline
September 27, 2017	Answers Posted
October 4, 2017	Submission Due Date for Proposals
Q4 2017 – Q1 2018	Select Operators (All Work Streams)

III. SPECIFIC SCOPE OF SERVICES

The Services requested for Urbantech NYC comprise three (3) “Work Streams” and each is defined below.

For each of the Work Streams, the Service Provider shall deliver a series of tasks (“Tasks”) under the direction of the project team (the “Project Team”), which will comprise representatives from NYCEDC working with selected Service Providers to complete the program. The Service Provider’s implementation of each Task shall be subject to the Project Team’s review and approval, each such approval not to be unreasonably withheld, conditioned, or delayed.

All Service Provider(s) are expected to include the Urbantech NYC name, logo, and website already developed and owned by NYCEDC for any branding and marketing materials.

The Services comprise the following three (3) Work Streams, and each is defined in further detail below.

A. Work Stream 1: Urbantech NYC Website

The Website will serve as a central resource for the local Urban Tech community and provide information to regional, national, and international audiences interested in expanding to New York City and opportunities to get involved. The Website will promote Urbantech NYC official

and affiliated programs, resources, and events, in addition to elevating the Urbantech NYC brand to a broad audience.

The Website will be built in iterative build phases, focused on meeting specific functional objectives. NYCEDC anticipates that the build phase will last approximately nine (9) months, after which the consultant will maintain the website and develop content for an additional nine (9) months, with timeline to be finalized upon selection of Service Provider. NYCEDC may select one or more respondents, but also welcomes subcontracted partners for the content portion of the scope.

Task 1: Phase 1 Discovery

1.1 Technical Discovery

- a) Review current site and assess legacy technology stack and platform considerations to determine feasibility of basing new website on the legacy architecture
- b) Interview IT Stakeholders for technical requirements discussions

1.2 Strategic Discovery

- a) Gather information about the target audience and industry / space
- b) Interview and correspond with Marketing and Strategy stakeholders for strategic requirements discussions
- c) Interview stakeholders ranging from Marketing and Strategy Stakeholders to Urban Tech, cleantech, and resiliency startups to gain an understanding of expectations, needs, and requirements for the website (via interviews or online surveys)
- d) Conduct research to clarify the scope of Urbantech NYC's online digital presence to understand the following, including but not limited to:
 - i. The Urbantech NYC initiative (value proposition, offering, etc.) and the environment in which it operates
 - ii. Peer websites / industry benchmarks / aspirations to assess and understand user expectations
 - iii. Core project goals, milestones, and objectives
 - iv. Business requirements and success metrics
 - v. Analytics requirements
 - vi. User personas and journeys

1.3 Discovery Findings Document

- a) Deliver discovery findings document outlining insights and best strategic path forward, informing design and development of the new website

1.4 Written Plan and Timeline

- a) Based on both Technical and Strategic Discovery, outline and deliver a timeline consisting of clearly-defined goals, objectives, and milestones for duration of website build
- b) Make formal recommendation of full proposed technology stack including high-availability infrastructure plan, along with rationale, roles, and responsibilities, and define success criteria for the website from a technological and strategic standpoint

Deliverable	Deliverable Completion Timeline
Technical and Strategic Discovery Document (Tasks 1.1-1.3)	Delivered at end of Week 4
Written Plan (Task 1.4)	Delivered at end of Week 4

Task 2: Phase 1 Build

2.1 Weekly design and development sprint meetings with NYCEDC to review progress and refine estimates, share feedback, prioritize tasks, and next steps

2.2 Provide NYCEDC with access to development staging site, allowing for feedback and change requests until website launch

2.3 Wireframes / UX

- a) Provide visual representation of hierarchical organization of information that will exist on the site, ensuring intuitive nomenclature and organization, including but not limited to:
 - i. Feature function list
 - ii. Global elements available on all pages
 - iii. Sections / pages and types of information available on each
- b) Desktop, mobile, and tablet-responsive wireframes
 - i. Define grid layout for mobile responsiveness
 - ii. Ensure page structure and content types are optimized for search
 - iii. Use industry standards such as cross-browser functionality and mobile

readiness

- iv. Meet WCAG 2.0 AA accessibility standards

2.4 Website Visual Design / UI

a) Visual Design/UI exploration

- i. Building from current brand identity guidelines, explore at least two creative directions that will further develop the current brand system to build a more comprehensive proprietary look and feel for the Urbantech NYC brand.

Depending on Discovery, these may include:

- a. Typography
- b. Color palette/usage
- c. Imagery/illustration styles and sizes
- d. Proprietary graphic elements/patterns

- ii. Demonstrate how each design concept applies to the website by applying it across 2-3 unique page types. The extended brand expression and web design that is selected will form the basis of the site's visual design system

b) Visual Design/UI application

- i. Once approved, selected visual design will be refined and applied to all page types to establish templates for the site

2.5 Phase 1 Website Build

- a) Develop website back-end functionality to facilitate content management and updates by NYCEDC, building UX and UI into a functional website presence
- b) Develop responsive front-end functionality for homepage and subpages
- c) Implement recommendation for high-availability infrastructure and ensuring fast load times
- d) Build and implement contact form
- e) Implement Google Analytics, and calendar of events with important dates including pulling from Meetup, Eventbrite, etc.
- f) Embed social media feeds (e.g., Twitter, Instagram, LinkedIn, Facebook, etc.) to push updates and editorial content to the Website
- g) Highlight Calls to Action (CTAs) such as email signups for updates / newsletter / social

media, using short form(s) to direct visitor traffic based on sector, interest, or role

- h) Optimize website for social media using open graph meta tags that will tell websites like Facebook which descriptions and images to pull if website link is shared
- i) Quality Assurance Testing
 - i. Cross-browser testing for proper functionality and rendering on current versions of Firefox, Chrome, Safari, and Explorer desktop browsers
 - ii. Cross-device testing for proper functionality and rendering on Android and Apple iOS (tablet and mobile)
- j) Provide links to online course content and in-person training opportunities in New York City
- k) Provide links to all Urbantech NYC consultants' websites or portals
- l) Publish high-level information received from Urbantech NYC initiatives
- m) Go live with Phase 1 Website
- n) Browser Support for Firefox, Chrome, Safari, Internet Explorer 11, and Microsoft Edge

Deliverable	Deliverable Completion Timeline
Meeting Schedule and Notes (Task 2.1)	Delivered on a weekly basis from Week 5 to Week 12
Wireframes (Task 2.3)	Delivered at end of Week 6
Visual Design and UI Document (Task 2.4)	Delivered at end of Week 8
Live Site (Task 2.5)	Delivered at end of Week 12

Task 3: Content Strategy

3.1 Create content document outlining all pieces of content to be included on the Urbantech NYC website, based on Discovery insights and wireframes / UX

Deliverable	Deliverable Completion Timeline
Content Document (Task 3.1)	Delivered at end of Week 6

Task 4: Content Creation

4.1 Create copy consistent with Urbantech NYC guidance and aligned to web writing best practices based on high-level information received from the Urbantech NYC initiatives and expand blog capacity

4.2 Produce relevant video, photography, and imagery

4.3 Identify existing expert resources including current NYCEDC and Urbantech NYC partners to establish a directory of concierge-type services that can help connect users to expert advice

4.4 Facilitate content management and updates by NYCEDC

Deliverable	Deliverable Completion Timeline
Final Content (Tasks 4.1, 4.3, 4.4)	Delivered at end of Week 10
Images, Photography, and Video (Task 4.2)	Delivered at end of Week 10

Task 5: Documentation

5.1 Content Management Training Plan

- a) Provide reference document for authors, editors, and any other roles dealing with content management

5.2 Disaster Recovery Plan

- a) Provide document that includes backup / restore strategy and timeline

5.3 End of Life Plan

- a) Provide documentation for full website administration / build handoff (Git repositories, usernames / passwords, etc.), including access to backup copies of all files associated with Website and database backups

Deliverable	Deliverable Completion Timeline
Content Management Training Plan (Task 5.1)	Delivered at end of Week 12
Disaster Recovery Plan (Task 5.2)	Delivered at end of Week 12
End of Life Plan (Task 5.3)	Delivered at end of Week 12

Task 6: Phase 2 Build

6.1 Attendance

- a) Weekly design and development sprints with NYCEDC to review progress and refine estimates, share feedback, prioritize tasks, and plan next steps

6.2 Access

- a) Provide NYCEDC with access to development staging site, allowing for feedback and change requests until Phase 2 launch

6.3 Application Forms

- a) Leverage Discovery work from Task 1 and do UX, UI, and front-end / back-end code for application feature, allowing for centralized applications to all Urbantech NYC and potentially adjacent programs

6.4 Program / Service Comparison Tool

- a) Leverage Discovery work from Task 1 and do UX, UI, and front-end/back-end code for program / service comparison tool that allows visitors to search for relevant resources based on defined key criteria

6.5 Login Registration Feature

- a) Leverage Discovery work from Task 1 and do UX, UI, and front-end/back-end code for login registration feature to allow users to enter a participant section of the website. Feature should capture all necessary information and metrics as requested by NYCEDC and subject to NYCEDC review.

Deliverable	Deliverable Completion Timeline
Meeting Schedule and Notes (Tasks 6.1-6.2)	Delivered at end of Week 16
Application Forms (Task 6.3)	Delivered at end of Week 16
Comparison Tool (Task 6.4)	Delivered at end of Week 16
Registration Feature (Task 6.5)	Delivered at end of Week 16

Task 7: Maintenance

7.1 Update and monitor the Website to ensure performance across all major browsers in accordance with NYCEDC’s comments on a regular, prescheduled basis. NYCEDC, either directly or by instructing the Consultant(s), will have the right to remove any content or materials from the Website or any related social media.

- a) Back-end CMS – Monitor and maintain back-end content management system and structures according to Written Plan, allowing multiple users to emphasize content from Website, newsletters, etc. and enabling NYCEDC to scale and add additional features as needed
- b) CMS and 3rd Party Module Upgrades – Upgrade content management systems, as well as any plugins, themes, and other additional features that must be monitored to ensure optimum functionality. NYCEDC must have access to the CMS to be able to make changes
- c) Login Registration Feature – Continue support for login registration feature
- d) Program / Service Comparison Tool – Monitor and maintain program / service comparison tool regularly to ensure performance across all major browsers and on mobile / tablet
- e) Application forms – Continue support for application forms

Deliverable	Deliverable Completion Timeline
Routine monitoring and monthly check-ins with NYCEDC	On a monthly basis, beginning on Commencement Date

Task 8: Program Monitoring and Evaluation Metrics and Reporting

NYCEDC expects regular progress updates from the Service Provider. NYCEDC will collaborate with the Service Provider in forming strategy for, and implementation of, the Urbantech NYC Website, especially prior to the launch, and expects to develop a close working relationship with consistent communications with the Service Provider.

8.1 Output and Outcome Metrics – the Service Provider, working with NYCEDC, shall collect information on a number of metrics for the program tasks and results, including Output and Outcome metrics. These metrics are to be detailed in a Monitoring and Evaluation Plan and in contract between NYCEDC and the Service Provider.

8.2 Reports – the Service Provider shall provide regular reports that will include, but will not be limited to:

- a) Pre-launch status report: with strategic plans, targets and estimates with regards to the Website
- b) Post-launch status reports (quarterly) and annual reports: with a qualitative assessment of progress against the strategic plan, as well as the pre-established output and outcome metrics agreed upon and detailed in a Monitoring and Evaluation Plan.

NYCEDC will work with the Service Provider to determine the structure of the reports.

Deliverable	Deliverable Completion Timeline
Pre-launch status report	Delivered at end of Week 6
Post-launch status reports	On a quarterly basis, beginning on Commencement Date
Annual reports	On an annual basis, beginning on Commencement Date

B. Work Stream 2: Media and Marketing Services

Service Provider(s) will provide digital marketing and communications services including managing Urbantech NYC’s digital presence and generate engaging industry content, with the objective of increasing awareness of Urbantech NYC resources and participating companies to a broader audience. NYCEDC is seeking a consultant with knowledge of and relationships in the urban tech sector (e.g. clean tech, smart cities).

NYCEDC anticipates marketing services will be needed for approximately eighteen (18) months.

Task 1: Content Creation and Social Media

1.1 Newsletters – Publish 1 biweekly Urbantech NYC newsletter that includes, but is not limited to, relevant community success stories, relevant news, company profiles, and events.

1.2 Social Media – Monitor and publish pertinent news through Urbantech NYC social media accounts, including, but not limited to, Facebook, Twitter, and Instagram. In addition, the Service Provider will publish:

- a) 1 blog post per week

- b) 3 discrete tweets per week, plus engagement through retweets and responses
- c) 3 Instagram posts per week

Deliverable	Deliverable Completion Timeline
Submit quarterly newsletters	On a quarterly basis, beginning one month after the Commencement Date
Submit proof of social media items monthly	On a monthly basis, beginning on Commencement Date

All newsletters, social media posts and other marketing content must be consistent with NYCEDC guidelines, and is subject to NYCEDC’s prior review before print and/or posting.

Task 2: Event Participation

2.1 Coordinate the marketing, promotion, and production of four major New York City Urban Tech sector events such as conferences, summits, roundtables, etc., establishing the Urban Tech NYC presence

Deliverable	Deliverable Completion Timeline
Provide list of major sector events where operational and marketing support was provided	On a quarterly basis, beginning one month after the Commencement Date

Task 3: Program Monitoring and Evaluation Metrics and Reporting

NYCEDC expects regular progress updates from the Service Provider. NYCEDC will be a collaborative partner in forming strategy for, and implementation of, the Urbantech NYC Media and Marketing Services, especially prior to the launch, and expects to develop a close working relationship with consistent communications with the Service Provider.

3.1 Output and Outcome Metrics – the Service Provider, working with NYCEDC, shall collect information on a number of metrics for the program tasks and results, including Output and Outcome metrics. These metrics are to be detailed in a Monitoring and Evaluation Plan and in contract between NYCEDC and the Service Provider.

3.2 Reports – the Service Provider shall provide regular reports that will include, but will not be limited to:

- a) Pre-launch status report: with strategic plans, targets and estimates with regards to the media and marketing services

- b) Post-launch status reports (quarterly): with a qualitative assessment of progress against the strategic plan, as well as the pre-established output and outcome metrics agreed upon and detailed in a Monitoring and Evaluation Plan.

NYCEDC will work with the Service Provider to determine the structure of the reports.

Deliverable	Deliverable Completion Timeline
Pre-launch status report	Delivered at end of Week 6
Post-launch status reports	On a quarterly basis, beginning on Commencement Date

C. Work Stream 3: Partner Network

New York City has existing, high-potential resources in the form of facilities, programs, and networks for Urban Technology companies (e.g., working space, educational trainings, workshops, mentor programs, access to a community, prototyping equipment, networking events). These facilities range from small, independent membership collectives, to labs developed by academic research institutions. Related programming includes workshops, networking events, and seminars. What these resources have in common is that they are not all readily accessible by Startups, entrepreneurs and other users interested in gaining experience and access to the Urban Technology community.

Service Providers undertaking the tasks of the Partner Network Work Stream will develop targeted services to reach users outside of their current scope. The target user population can be any user group that is not currently served or are underserved by the partner facility or program. This can include, but is not limited to, students, adults in need of vocational training, entrepreneurs, startups, and businesses interested in learning about new technologies.

It is anticipated that NYCEDC will select multiple Service Providers to provide Partner Network Services across New York City. Each Service Provider should provide services that aim to expand programmatic reach to stakeholders (e.g., academic R&D teams, students and faculty of institutions of higher learning, nonprofits, government agencies) that are not currently engaged in the Urbantech NYC programming.

Task 1: Partnership Scope and Program Development

1.1 Partnership Scope – The Service Providers are expected to develop a Partner Network Services scope describing their intended vision for their program. Scope document should include, but is not limited to, the following:

- a) Community of users Service Provider plans to target
- b) Anticipated engagement plan for NYCEDC
- c) Resources Service Provider plans to contribute in order to execute on Service Provider’s vision (e.g., use of existing facilities, mentorship, relationship building, funding for a competition, etc.)

1.2 Program Development – The Service Provider(s), in conjunction with NYCEDC, are expected to design the services. Service models can range from open access hours, access to equipment use and trainings, industry events, competitions, and networking events for the broader Urban Tech community. In developing the service(s), Service Provider(s) should look to increase the utilization rate of their resources and space and provide resource access to groups that are not currently part of their user base.

Task 2: Marketing, Community Outreach & Recruitment

2.1 Service Provider(s) are expected to develop a marketing plan to identify, recruit and select appropriate program participants and perform outreach to potential program participants and industry stakeholders.

Task 3: Manage Program Execution

3.1 The Service Provider(s) are expected to deliver the service and undertake participant management activities throughout the duration of the program cycle.

Task 4: Program Monitoring and Evaluation Metrics and Reporting

NYCEDC expects regular progress updates from the Service Provider. NYCEDC will collaborate with the Service Provider in forming strategy for, and implementation of, the Urbantech NYC Partner Network, especially prior to the launch, and expects to develop a close working relationship with consistent communications with the Service Provider.

4.1 Output and Outcome Metrics – the Service Provider, working with NYCEDC, shall collect information on a number of metrics for the program tasks and results, including Output and Outcome metrics. These metrics are to be detailed in a Monitoring and Evaluation Plan and in contract between NYCEDC and the Service Provider.

4.2 Reports – the Service Provider shall provide regular reports that will include, but will not be limited to:

- a) Pre-launch status report: with strategic plans, targets and estimates with regards to the Partner Network
- b) Post-launch status reports (quarterly): with a qualitative assessment of progress against the strategic plan, as well as the pre-established output and outcome metrics agreed upon and detailed in a Monitoring and Evaluation Plan.

NYCEDC will work with the Service Provider to determine the structure of the reports.

Deliverable	Deliverable Completion Timeline
Pre-launch status report	Delivered at end of Week 6
Post-launch status reports	On a quarterly basis, beginning on Commencement Date

Task 5: Final Report

5.1 The Partner(s) are expected develop a final report upon completion of the service delivery providing analysis of the program’s merits, participant outcomes (to be assessed user surveys or interviews) and recommendations for future iterations of the program.

IV. PROPOSAL REQUIREMENTS

A. Proposal Submission Requirements

NYCEDC encourages those responding to this RFP (each being a “Respondent”) to develop a proposal for the services as outlined below (each being a “Proposal”). Respondents should clearly label the Work Stream that they are responding to in each Proposal that is submitted. Respondents should also include sufficient details on how their Proposals meet the selection criteria outlined in Section V of this RFP (Selection Process). NYCEDC shall not be liable for any costs incurred by the Respondent in the preparation of its Proposal. All Proposals shall become the property of NYCEDC.

Proposals should be provided separately for each Work Stream. Each proposal for each Work Stream will be evaluated independently.

- a) **Project Description and Scope**

- i. Provide a description of the proposed approach to the Services (Work Stream 1: Urbantech NYC Website; Work Stream 2: Media and Marketing Services; or Work Stream 3: Partner Network) that clearly demonstrates understanding of the particular Services. The proposal must include a detailed statement of the proposed approach and ability to provide the required Services and work product, description of the proposal targets, and how the proposal will meet the service gap identified.
- ii. A detailed project work plan and timeline, including, but not limited to a schedule for completing all aspects of the Services.
- iii. Potential partnerships, if relevant.
- iv. Marketing and communication strategy detailing how the proposed service will be marketed to target audiences.

b) Funding and Budget

Provide a cost competitive fee schedule for the proposed services, outlining total project cost, and, as applicable, proposed additional sources of funding, and any funding already secured through other appropriate third-party sources in the form attached hereto as Appendix 4 (the “Fee and Cost Schedule”). The proposed cost structure should outline how funding will be allocated across operational and service areas such as marketing, program development, implementation, etc. The Fee and Cost Schedule for each proposal must be submitted in a separate envelope.

NYCEDC anticipates that the contracts for Work Streams 1, 2, and 3 will be executed in Q2 2018 and will be approximately 18 months in length, with one (1) one-year option for renewal upon the mutual option of the parties.

c) Respondent’s Information

- i. Provide contact information, including the legal name of the individual, firm or entity, business address, name of contact, telephone, email, and Federal Tax Identification Number (EIN), if applicable.
- ii. Provide a summary of the individual’s or firm’s background and experience with Urban Technology, businesses, projects, etc. Please do not submit standard marketing material. If the firm or individual does not have a background and/or experience in the above, please provide a summary of the background and experience which would be suitable to implementing such a project(s).

- iii. Provide a list of locales and entities for which the individual or firm has implemented such projects, and indicate the capacity generated from such projects.

d) Respondent Description

Each Respondent submitting a proposal must demonstrate sufficient financial resources and professional ability to develop the Urbantech NYC Services in a manner consistent with its proposal. Each Respondent must complete and submit, along with its proposal, in a separate sealed envelope labeled “Doing Business Data Form for Consulting Services for Urbantech NYC Services,” an accurate Doing Business Data Form in the form as described in Appendix 1. In addition, each proposal must include:

- i. Name, address, telephone number, and qualifications of the individual or each member of the Respondent team;
- ii. Background information on all members of the Respondent team including the relevant experience of all principal members involved in the development and operation of the Services;
- iii. Any additional documentation or information evidencing the strength of the Respondent and its ability to provide Services outlined in a proposed Work Stream. As relevant, this should include any past experience in similar endeavors, business development, training and talent development, and any partnerships with community, educational, financial, or other organizations that would support the long-term viability of the Services.
- iv. If applicable, provide the same details listed above on lead Respondent’s potential partnership organizations, as well as an explanation of the additional value they add to the lead Respondent’s overall proposal.

e) Proposal Certification Form

Respondent must provide a statement signed by an authorized principal or officer stating that the Respondent has read this RFP and the Appendices fully and agrees to the terms and conditions set forth herein and therein. See Appendix 2 for an example Proposal Certification Form.

V. SELECTION PROCESS

There is no financial obligation on the part of NYCEDC following the selection of a Respondent pursuant to this RFP. In the event that NYCEDC proceeds with a contract award, it is anticipated that NYCEDC may enter into one more contracts with multiple Service Providers within each Work Stream. Please see the form of draft contract attached hereto as Appendix 6.

Proposals will be evaluated independently within their respective Work Streams. Respondents looking to submit proposals in more than one Work Stream should submit separate Proposals for each Work Stream. Interviews with NYCEDC would be scheduled after its initial review of Proposals.

NYCEDC will evaluate each proposal according to the criteria listed below, taking into account the information provided in the proposal and any other information about the Respondent and its performance available to NYCEDC. Proposals that are not complete or do not conform to the requirements of this RFP may not be considered.

NYCEDC reserves the right to request additional information, site visits, interviews or presentations, from one or more of the Respondents. The selection criteria are as follows:

- 1. The quality of the proposal (30%):** The quality of the proposed services, including the degree to which it demonstrates the Respondent's full understanding of the service; ability to execute the proposed service(s); and the content of the proposal demonstrating the Respondent's full understanding of the expertise necessary to successfully fill the services.
- 2. The quality of Respondent team (30%):** The Respondent's demonstrated experience and reputation in program development, management, and outreach in the area(s) of each Work Stream.
- 3. Economic and community impact (30%):** The potential impact of a proposal's service(s) on the target audience, surrounding communities (if applicable), and the extent to which proposed program(s) are creating opportunities for a diverse group of New Yorkers.
- 4. The proposed fee and cost schedules (10%)**

VI. SUBMISSIONS

How to Submit

Proposals must be submitted to and received by NYCEDC no later than 4:00pm on Wednesday, October 4, 2017.

Five (5) hard copies of the Proposal in paper form and one copy of the Proposal in electronic format (either CD-ROM or USB device) must be received by NYCEDC, at the address below, in a package with the Respondent's name and address clearly written on the outside and labeled "Urbantech NYC" by the Submission Deadline in order to be accepted for the subsequent review period:

New York City Economic Development Corporation
110 William Street, 4th Floor
New York, NY 10038
Attn: Maryann Catalano, Chief Procurement Officer, Contracts

NYCEDC Urbantech NYC Expansion RFP
New York City Economic Development Corporation
UrbantechRFP@edc.nyc

Doing Business Data Form; Statement of Agreement

All Proposals should also include: (a) Local Law 34 Forms (Appendix 1), and (b) Proposal Certification Form (Appendix 2)

Further Information/Questions and Answers

An optional informational session will be held on September 12, 2017 at 9AM at NYCEDC Offices (110 William Street, 6th Floor, New York, NY 10038). Attendance is not mandatory. Those who wish to attend should RSVP by email to UrbantechRFP@edc.nyc on or before September 8, 2017.

Respondents may submit questions and/or request clarification from NYCEDC no later than 5:00pm on September 20, 2017. Please send questions regarding this RFP to UrbantechRFP@edc.nyc. All questions will be answered and posted to www.nycedc.com/RFP by September 27, 2017.

For all questions that do not pertain to the subject matter of this RFP, please contact NYCEDC's Contracts Hotline at (212)-312-3969.

VII. TERMS AND CONDITIONS

NYCEDC is issuing this Request for Proposal (“RFP”). In addition to those stated elsewhere, this RFP and any transaction resulting from this RFP are subject to the conditions, terms and limitations stated below:

- A. The City and NYCEDC, and their respective officers, employees, and agents, make no representation or warranty and assume no responsibility for the accuracy of the information set forth in this RFP.
- B. The City and NYCEDC, and their respective officers, employees, and agents, make no representation or warranty and assume no responsibility with respect to any space proposed by Respondents to facilitate and/or undertake the Scope of Work (including, without limitation, any resources offered in connection with Partnership Network Services), which space shall conform to, and be subject to, the provisions of the New York City Zoning Resolution, all other applicable laws, regulations, and ordinances of all Federal, State and City authorities having jurisdiction, and any applicable Urban Renewal Plan, design guidelines or similar development limitations, as all of the foregoing may be amended from time to time.
- C. Neither NYCEDC nor the City is obligated to pay and shall not pay any costs in connection with assisting respondent(s) or the project, or incurred by any respondent at any time unless NYCEDC or the City has expressly agreed to do so in writing.
- D. Only proposals from principals will be considered responsive. Individuals in representative, agency or consultant status may submit proposals only under the direction of identified principals, where the principals are solely responsible for paying for such services.
- E. This is a Request for Proposals **not** a Request for Bids. NYCEDC shall be the sole judge of each response’s conformance with the requirements of this RFP and of the merits of the individual qualifications and proposals. NYCEDC reserves the right to waive any conditions or modify any provision of this RFP with respect to one or more Respondents, to negotiate with one or more of the Respondents, to require supplemental statements and information from any Respondents, to establish additional terms and conditions, to encourage Respondents to work together, award contracts to multiple Respondents, or to reject any or all responses, if in its judgment it is in the best interest of NYCEDC and the City to do so. If all responses are rejected, this RFP may be withdrawn and the contract re-offered under the same or different terms and conditions. In all cases, NYCEDC shall be the sole judge of the acceptability of the responses. NYCEDC will enforce the submission deadline stated in the

RFP. The timing of a selection of a Respondent may differ depending upon the degree to which further information on individual proposals must be obtained or due to other factors that NYCEDC may consider pertinent. All responses become the property of NYCEDC.

- F. Except as specifically provided herein, the Respondent will pay all applicable taxes payable with respect to the project.
- G. Investigations/Derogatory Information. The Respondent, the members of its team, and all officers, principals, principal shareholders, partners and members thereof, if applicable, must complete a background questionnaire and shall be subject to investigation by NYCEDC and, as applicable, the City's Department of Investigation. The selection of a Respondent may be rejected or revoked, or the Contract, if awarded, terminated for cause, in NYCEDC's sole discretion, in the event any derogatory information is revealed by such investigation.
- H. All proposals and other materials submitted to NYCEDC in response to this RFP may be disclosed in accordance with the standards specified in the Freedom of Information Law, Article 6 of the Public Officers Law ("FOIL"). The entity submitting a proposal may provide in writing, at the time of submission a detailed description of the specific information contained in its submission, which it has determined is a trade secret and which, if disclosed, would substantially harm such entity's competitive position. This characterization shall not be determinative, but will be considered by NYCEDC when evaluating the applicability of any exemptions in response to a FOIL request.
- I. The Respondent may also be required to agree in good faith to consider any proposals made by the City or City-related entities with regard to jobs the respondent is seeking to fill and to provide the City with the opportunity to make job referrals and create a training program(s).
- J. Upon submission of a proposal to this RFP and subject to any legally required disclosures, Respondents, and their representatives and agents, shall treat their proposals and all information obtained from NYCEDC or the City in connection with this RFP (the "Confidential Information") confidentially, and shall not discuss, publish, divulge, disclose or allow to be disclosed the Confidential Information to any other Respondents or any other person, firm or entity, including press or other media, without NYCEDC's prior written approval. Respondents shall refer all press and other inquiries concerning the RFP and the Confidential Information, without further comment, to NYCEDC.
- K. In the event that the Service Provider elects to undertake charitable fundraising in connection with the Services (and/or elects to subcontract with a third party provider in connection with

such fundraising activities), certain restrictions and regulations may apply to such activity, including but not limited to the following: (1) the Service Provider shall ensure that each fundraiser has all required registrations, including any required registration with the New York State Charities Bureau, (2) donated funds may be required to be deposited with NYCEDC and donated property may become the property of NYCEDC, and (3) prospective donors and sponsors shall be subject to NYCEDC's approval prior to any solicitation.

VIII. APPENDICES

APPENDIX 1: DOING BUSINESS DATA FORM

The Service Provider shall complete and submit a Doing Business Data Form which can be found at www.nycedc.com in the following section:

“Resource/Vendor Resources”

If the Respondent cannot access or download these forms, NYCEDC may, upon request, send the Respondent the required forms. The text of said section provides as follows:

Doing Business Accountability Project Forms

Local Law 34 of 2007 (LL 34) requires the creation of a database containing information about entities that do business with the City as defined by the law, and principal officers, owners and senior managers of these entities. This information will be collected on Doing Business Data Forms that are distributed, collected and reviewed by agencies, and forwarded to the Doing Business Accountability Project (DBAP) at MOCS for processing. Collected data will be used to identify entities and people who are subject to LL 34’s limitations on campaign contributions in municipal elections.

The submission of a Doing Business Data Form that is not accurate and complete may result in appropriate sanctions. Respondents are encouraged to consult legal counsel with respect to the impact of LL34. Respondents may also wish to review the document “Q&A: The Doing Business Data Form and the Doing Business Database” available at the Website and described in for further information. Note that responding to this RFP constitutes “doing business with the city” under LL34.

If you have any questions or concerns, please contact the Doing Business Accountability Project at 212-788-8104 or DoingBusiness@cityhall.nyc.gov.

[Doing Business Form](#)

[Doing Business Form-Real Property](#)

[Q&A General](#)

[Q&A Real Property](#)

APPENDIX 2: PROPOSAL CERTIFICATION FORM

SAMPLE

RESPONDENT'S PROPOSAL CERTIFICATION FORM

Submitted by

[Insert Name of Respondent] (The "Respondent")

Respondent, in accordance with and subject to all of the terms and conditions of the Request for Proposals pursuant to which this proposal (the "Proposal") is being submitted, agrees that it will provide in consideration of the price(s) set forth in the Fee and Cost Schedule, all of the proposed Services set forth in the respective Work Stream in accordance with the Contract Draft, and to accept in full compensation therefore (including without limitation all overhead, profit, taxes and other charges and expenses applicable thereto), the price(s) stated in the Fee and Cost Schedule. The Fee and Cost Schedule, is simultaneously being delivered to you in a separate sealed envelope and is incorporated herein and made part hereof.

Respondent makes the following statements and representations as part of its Proposal:

- (a) That the Respondent has examined all parts of the RFP, including the Contract Draft, and all terms and conditions hereof.
- (b) That the Respondent agrees to obtain all necessary approvals, permits and/or licenses required by law or regulation of the performance of the Services.

In order to induce NYCEDC to accept this Proposal, Respondent hereby agrees to abide by all of the terms and conditions of the Contract Draft including, without limitation, all representation and warranties set forth therein.

WHEREFORE, the Respondent submits this Proposal to NYCEDC.

[INSERT NAME OF RESPONDENT]

Signed by: _____

Printed Name: _____

Title: _____

Respondent's Address: _____

Notice Address (if different from above): _____

Respondent's Telephone Number: _____

Respondent's Fax Number: _____

Respondent's E-mail Address: _____

Respondent's Tax I.D. Number: _____

APPENDIX 3: SAMPLE FEE AND COST SCHEDULE

1. The Respondent shall complete and submit a Fee and Cost Schedule, substantially in the form of the “Sample Fee and Cost Schedule” on the following page.
2. The submitted fee and cost Schedule should cover all Services and Tasks for the specific Work Stream described in the RFP and shall provide a breakdown of staff costs and allowable additional costs per Task.

(See Sample Fee and Cost Schedule on following page)

Submitted by

[Insert Name of Respondent] (The “Respondent”)

SAMPLE FEE AND COST SCHEDULE

The following Fee and Cost Schedule is for evaluation purposes only and shall not be used to determine payments or to define the Scope of Work. If selected, prior to Contract execution, the Consultant will provide a detailed Fee and Cost Schedule which may be utilized for payment purposes.

TASK:	PAYMENTS:
Task 1: Phase 1 Build	
<i>Design and develop website</i>	\$
<i>Content creation</i>	\$
<i>Back-end functionality development</i>	\$
<i>Monitor and review</i>	\$
Task 1 Total	\$ _____
Task 2: Phase 1 Maintenance	
<i>Operate full website</i>	\$
<i>Develop and maintain for scale</i>	\$
<i>Support log-in registration</i>	\$
<i>Update and monitor to ensure performance</i>	\$
<i>Develop training plan</i>	\$
Task 2 Total	\$ _____
Task 3: Phase 2 Website Expansion	
<i>Develop plan for the incorporation of new content</i>	\$
<i>Develop program comparison tool</i>	\$
<i>Build log-in registration feature</i>	\$
<i>Develop application forms</i>	\$
Task 3 Total	\$ _____
Task 4: Phase 2 Maintenance	
<i>Update and monitor program comparison tool</i>	\$
<i>Continue support for log-in registration feature</i>	\$
<i>Monitor back-end content management systems</i>	\$
Task 4 Total	\$ _____
Total Cost (Tasks 1-4)	\$ <u>[Not to exceed \$150,000]</u>

APPENDIX 5: BACKGROUND INVESTIGATION FORMS

The successful Respondent shall cooperate in supplying any information as may be required with respect to the Vendex Clearance Forms, which are available online at www.nyc.gov/vendex (the “Vendex Website”), and any other government review and approval forms. If the Respondent cannot access or download these forms, NYCEDC may, upon request, send the Respondent the required forms.

APPENDIX 6: DRAFT CONSULTANT CONTRACT

**NEW YORK CITY ECONOMIC DEVELOPMENT CORPORATION
URBANTECH NYC
PROFESSIONAL SERVICES CONTRACT
FOR THE PROVISION OF CONSULTING SERVICES
NYCEDC CONTRACT NO. 60920003
PROJECT CODE NO. 6092**

***PROFESSIONAL SERVICES
CONTRACT***

**NEW YORK CITY ECONOMIC DEVELOPMENT CORPORATION
URBANTECH NYC
PROFESSIONAL SERVICES CONTRACT
FOR THE PROVISION OF CONSULTING SERVICES
NYCEDC CONTRACT NO. 60920003
PROJECT CODE NO. 6092**

PART I SPECIFIC TERMS AND CONDITIONS

PART II GENERAL TERMS AND CONDITIONS

PART III APPENDICES

NEW YORK CITY ECONOMIC DEVELOPMENT CORPORATION
URBANTECH NYC
PROFESSIONAL SERVICES CONTRACT
FOR THE PROVISION OF CONSULTING SERVICES
NYCEDC CONTRACT NO. 60920003
PROJECT CODE NO. 6092

PART I
SPECIFIC TERMS AND CONDITIONS

New York City Economic Development Corporation (the “Corporation” or “NYCEDC”) and the Services Provider identified below, in consideration of the mutual covenants contained in this Contract (as defined below) and other valuable and good consideration, do hereby agree to all of the terms and conditions set forth in (i) these Specific Terms and Conditions (Part I) set forth immediately below, (ii) the General Terms and Conditions (Part II) annexed hereto and made a part hereof and (iii) the Appendices (Part III) annexed hereto and made a part hereof. Capitalized terms shall have the meaning set forth in Appendix A (Definitions) unless otherwise defined in this Contract or the context otherwise requires.

1. **The Contract**

- 1.1 **Contract:** These Specific Terms and Conditions (Part I), the General Terms and Conditions (Part II) and the Appendices (Part III)
- 1.2 **NYCEDC Contract No. 60920003**
- 1.3 **Contract Date:** The date of the Contract is as of
- 1.4 **Commencement Date:**
- 1.5 **Term:** 18 months (estimate)
- 1.6 **Maximum Contract Price:**
- 1.7 **Project:** Urbantech NYC
- 1.8 **Project Site:** New York City
- 1.9 **Allowable Additional Costs:** The Allowable Additional Costs are defined in Appendix B (Scope of Services) and the amount set forth in Appendix C (Payments). NOT APPLICABLE
- 1.10 **Retainage:** NOT APPLICABLE
- 1.11 **Retainage Payment Date:** NOT APPLICABLE
- 1.12 **M/WBE Participation Goal:** NOT APPLICABLE

2. **Parties**

- 2.1 **The Corporation:** New York City Economic Development Corporation, a not-for-profit corporation, organized under the laws of the State of New York.

- 2.2 **Director:**
- 2.3 **The Service Provider:** [_____], a [INSERT STATE SERVICE PROVIDER WAS ORGANIZED AND TYPE OF BUSINESS ENTITY, *e.g.* a New York corporation (or partnership, LLP or LLC)], having an office at:

ADDRESS: _____

FEDERAL TAX ID# _____

- 2.4 **Principal:** [INSERT NAME OF SERVICE PROVIDER'S MOST SENIOR OFFICER RESPONSIBLE FOR THE PERFORMANCE OF THE SERVICES]
- 2.5 **Person in Charge:** [INSERT NAME OF THE MEMBER OF THE SERVICE PROVIDER'S PROFESSIONAL STAFF WHO WILL HAVE PRIMARY RESPONSIBILITY TO PERFORM AND/OR SUPERVISE AND COORDINATE PERFORMANCE OF THE SERVICES]

3. Notice Parties and Addresses

3.1 Notices to the Corporation:

New York City Economic Development Corporation
 110 William Street
 New York, NY 10038
 Attn: General Counsel

with a copy to:

New York City Economic Development Corporation
 110 William Street
 New York, NY 10038
 Attn: [NAME: _____]

3.2 Notices to the Service Provider:

[NAME: _____]
 [ADDRESS: _____]

 Attn: [NAME: _____]

This Contract may be executed in counterparts, all of which counterparts, when taken together, shall be deemed a fully executed instrument.

IN WITNESS WHEREOF, the parties hereto have caused this Contract to be duly executed as of the Contract Date hereinabove written.

**NEW YORK CITY ECONOMIC
DEVELOPMENT CORPORATION**

[INSERT SERVICE PROVIDER NAME]

By: _____

By: _____

Name: _____

Name: _____

Title: _____

Title: _____

**NEW YORK CITY ECONOMIC DEVELOPMENT CORPORATION
URBANTECH NYC
PROFESSIONAL SERVICES CONTRACT
FOR THE PROVISION OF CONSULTING SERVICES
NYCEDC CONTRACT NO. 60920003
PROJECT CODE NO. 6092**

**PART II
GENERAL TERMS AND CONDITIONS**

ARTICLE 1 PERFORMANCE OF SERVICES1
ARTICLE 2 COMPENSATION4
ARTICLE 3 SUSPENSION OR TERMINATION5
ARTICLE 4 PERSONNEL AND SUBCONTRACTORS.....8
ARTICLE 5 DOCUMENTS AND MATERIALS10
ARTICLE 6 INDEMNIFICATION, CLAIMS AND INSURANCE13
ARTICLE 7 REPRESENTATIONS AND WARRANTIES.....17
ARTICLE 8 APPLICABLE LAWS, RULES AND REGULATIONS.....18
ARTICLE 9 M/WBE REQUIREMENTS22
ARTICLE 10 MISCELLANEOUS26

NEW YORK CITY ECONOMIC DEVELOPMENT CORPORATION
URBANTECH NYC
PROFESSIONAL SERVICES CONTRACT
FOR THE PROVISION OF CONSULTING SERVICES
NYCEDC CONTRACT NO. 60920003
PROJECT CODE NO. 6092

PART II
GENERAL TERMS AND CONDITIONS

The Corporation and the Service Provider agree as follows:

ARTICLE 1
PERFORMANCE OF SERVICES

1.1 Services. The Corporation hereby retains and engages the Services Provider and the Services Provider agrees to perform the Services as described in **Appendix B** (Scope of Services), attached hereto.

1.2 Time for Performance of Services/Term/Delays and Force Majeure.

1.2.1 The Services Provider shall commence the Services upon or promptly after the Commencement Date and shall complete the Services and each phase of the Services within the time or times stated for Final Completion as set forth in **Appendix B**, and in accordance with any directive given and Progress Schedule approved by the Corporation, unless this Contract is earlier terminated pursuant to Article 3 hereof.

1.2.2 This Contract shall be for the Term as set forth in Part I, Section 1.5 unless sooner terminated pursuant to Article 3 hereof.

1.2.3 If the Services Provider has been delayed and as a result will be unable to complete performance fully and satisfactorily within the time fixed therefor, the Services Provider may be granted an extension of time fixed for performance equal to the period the Services Provider was actually and necessarily delayed upon submission of evidence of the causes of the delay, subject to the written approval of the Director in his or her sole discretion. The decision of the Director as to the granting of the extension and its length shall be binding upon the Services Provider.

1.2.4 Subject to the Corporation's determination and approval, the Corporation may extend the time or times for performance of the Services where such performance has been substantially obstructed, hindered or delayed by reason of acts of Force Majeure. The Services Provider shall have no claim against the Corporation or the City for any loss or damage sustained by the Services Provider nor for any extra compensation in the form of an increase in the Maximum Contract Price, or otherwise, through such delay, hindrance or obstruction.

1.3 Complete Work and Timing and Sequence/Meetings. It is the intent of the parties that the provisions of this Contract shall not be construed so as to limit the Services, but that the Services shall include all acts necessary to fully and finally complete the work described in **Appendix B** hereof. The Services Provider shall schedule and perform the Services in a manner so as to permit their completion diligently and expeditiously. The Principal, the Person in Charge and such other Representatives of the Services Provider as may be required under the circumstances shall be available to meet with the Director or her or his designee as often as necessary to effectively perform the Services, and as often as may be specified in **Appendix B**.

1.4 Authority of Director/Performance of Services.

1.4.1 The Services to be performed by the Services Provider shall at all times be subject to the review, direction and control of the Director, whose decision shall be final and binding upon the Services Provider. The Director shall have the right to determine the amount, quality, acceptability and fitness of the Services and her or his approval shall be a condition precedent to the right of the Services Provider to receive any compensation under this Contract. The Director shall act reasonably in exercising her or his authority under this Contract. The Director and any other person or agent duly authorized to act for and on behalf of the Corporation shall not, by virtue of such authority or action, be liable in any manner to the Services Provider.

1.4.2 The Services Provider shall perform all of the Services in a prudent and professional manner and in accordance with standards and practices as are customary for such Services in the New York City Metropolitan Statistical Area.

1.5 Changes to the Services.

1.5.1 The Services Provider shall not make any changes in the Services without prior written authorization from the Director. The Services Provider shall revise or correct any Work Product submitted in accordance with this Contract until accepted by the Director and accepted by all agencies whose approval is required by law, without additional compensation or time extension. Any changes to the performance of the Services or the Work Product which are necessary due to improper performance of the Services, a defect of design, unworkability of details or other fault or error of the Services Provider shall be made by the Services Provider, also without additional compensation or time extension.

1.5.2 The Director shall have the right to alter the Services, provided however, that if the Services Provider believes that any work or services that it has been directed to perform as a result of such alteration is beyond the Scope of Services and constitutes Extra Work, the Services Provider shall so Notify the Director within three (3) days of such directive. The Director shall determine whether such altered Services are (i) within the Scope of Services; or (ii) Extra Work requiring an amendment to the Scope of Services and the Contract. The Director's determination shall be final, binding and conclusive.

1.5.3 The Director reserves the right to reduce the Scope of Services under this Contract by Notice to the Services Provider specifying the nature and extent of such reduction. The Services Provider shall be compensated for all Services satisfactorily performed prior to the reduction and for Services satisfactorily performed thereafter. If said reduction results in a credit

for the Corporation, such credit shall be immediately due and owing to Corporation, and the Services Provider shall either pay such credit to the Corporation or the Corporation may withhold the credit amount from any future payments by the Corporation to the Services Provider, at the exclusive option of the Corporation.

1.6 Equipment.

1.6.1 The Services Provider, at its own expense, shall secure all supplies, materials and equipment required to perform and complete the Services.

1.6.2 The Services Provider, at its sole cost and expense, shall bear the risk of loss for any supplies, materials and equipment used to perform the Services whether such loss arises by reason of fire, theft, vandalism, negligence or any other cause whatsoever. Services Provider, at its sole cost and expense, shall promptly replace or repair all such lost, stolen or damaged supplies, materials and equipment.

1.6.3 The Services Provider, at its sole cost and expense, shall maintain all of its supplies, materials and equipment in good working and serviceable order so as to enable the Services Provider to perform the Services in a first-class and professional manner.

1.6.4 The Services Provider shall be solely responsible for the means and methods and the safety and protection of all its employees and shall assume all liability for injuries, including death, that may occur to such employees due to the act, omission, negligence, fault or default of the Services Provider.

1.7 Services Subject to City Contract, Indemnification and Third Party Beneficiary. This Contract is a subcontract under the City Contract. The Services Provider acknowledges that it has reviewed the City Contract and agrees to comply with the City Contract with respect to the Services and not to violate, or through its acts or failure to act cause the Corporation to violate, the City Contract. The Services Provider agrees to defend, indemnify and hold harmless the Corporation from any claim, liability or judgment to which the Corporation may be subject because of any such action or failure to act. The City shall be a third party beneficiary of this Contract and shall have a direct cause of action against the Services Provider in the event that any claim be made or any cause of action be brought against the Corporation or City or if the Services Provider breaches this Contract.

1.8 Acts to be Performed by the Corporation. The Corporation shall perform the following acts in connection with this Contract:

1.8.1 The Corporation shall make available to the Services Provider all relevant technical data (subject to the provisions of Part II, Section 5.3 herein) in regard to the Contract which is in the possession of the Corporation.

1.8.2 The Corporation shall designate a Project Manager to serve as a liaison between the Corporation and the Services Provider.

ARTICLE 2 **COMPENSATION**

2.1 Payments.

2.1.1 Subject to, and in accordance with this Article 2, the Corporation shall pay to the Services Provider, and the Services Provider agrees to accept, in full consideration for the Services, and for all expenses of the Services Provider in connection therewith, including Subcontractors' Costs and Allowable Additional Costs, an amount not to exceed the Maximum Contract Price, payable as provided for in this Section 2.1 and in Appendix C.

2.1.2 Requisitions shall be in a form reasonably acceptable to the Corporation and shall be supported by any appropriate or necessary documentation or other evidence relating to the amounts set forth in the Requisition, as the Corporation may reasonably require including, but not limited to invoices, receipts and vouchers from Subcontractors and suppliers, information related to M/WBEs required under Section 9.5 and, where applicable, the time sheets and/or certified payroll reports of the Services Provider's staff and its Principal.

2.1.3 Each Requisition submitted to the Corporation by the Services Provider shall constitute a representation that, except as specifically set forth in the Requisition, as of the date of the Requisition, all representations and warranties made by the Services Provider in Article 7 are true, complete and accurate as if made as of the date of the submission of the Requisition.

2.1.4 The Director shall review the Requisitions and the Work Product. If, in her or his judgment, the Services have been satisfactorily performed in accordance with this Contract, the Director will approve the Requisition. All payments to the Services Provider will be made in accordance with this Article 2.

2.1.5 Subject to Section 3.5, Final Payment will be due only upon Final Completion.

2.1.6 The Services Provider, with the Director's prior approval, may exceed the Maximum Payment allocated to a particular Portion of the Services if the Services Provider by Notice determines that the Maximum Payment initially allocated to the Portion is insufficient to adequately perform the Portion of the Services and if the Services Provider demonstrates to the Director a savings with respect to another Portion of the Services which is at least equal to the amount of such excess. However, notwithstanding the above, in no event shall the Corporation pay the Services Provider more than the Maximum Contract Price.

2.1.7 All Requisitions must be submitted to the Corporation's Accounts Payable Department.

2.2 Miscellaneous Payment Provisions.

2.2.1 In addition to its rights under Section 9.10, if the Corporation shall have reasonable grounds for believing that:

(i) the Services Provider will be unable to perform the Services or any Portion thereof fully and satisfactorily in accordance with any Progress Schedule, or

(ii) a meritorious claim exists or will exist against the Corporation, the Services Provider or the City arising out of the act, omission or negligence of the Services Provider or the Services Provider's breach of any provision of this Contract,

then the Corporation may withhold payment of any amount otherwise due and payable to the Services Provider hereunder. Any amount so withheld may be retained by the Corporation for such period as it may deem advisable to protect the Corporation and the City against any loss and may, after Notice to the Services Provider, be applied in satisfaction of any claim herein described.

2.2.2 The Corporation shall not be deemed to have released the Services Provider from any claim or liability, or to have waived any cause of action arising from any breach of this Contract by virtue of making payments to the Services Provider.

2.2.3 Upon acceptance by the Services Provider of the Final Payment to be paid pursuant to this Contract, the Services Provider agrees that it shall be deemed to have fully released the Corporation and the City from any and all claims, demands and causes of action whatsoever which the Services Provider has or may have against the Corporation or the City in connection with this Contract and, upon the request of the Corporation, shall execute a release to such effect.

2.2.4 All payments to the Services Provider under this Contract shall be subject to all applicable Legal Requirements.

2.3 Electronic Funds Transfers. All payments due under this Contract in excess of \$100,000 shall be made by Electronic Funds Transfer ("EFT"). Upon execution of this Contract, and in no event later than its submission of its first Requisition, the Services Provider shall complete and submit to the Corporation the "EFT Vendor Payment Enrollment Form" annexed to Appendix C. The Services Provider shall update such information to the extent necessary for EFT payments to be made. The Corporation shall not be obligated to make any payment in excess of \$100,000 unless such information is provided and shall be entitled to rely solely on the information provided by the Services Provider. Payments to the Corporation shall be made by check unless the Corporation Notifies the Services Provider to make payments by EFT.

ARTICLE 3

SUSPENSION OR TERMINATION

3.1 Delay, Postponement or Suspension of Work.

3.1.1 The Corporation shall have the right to delay, postpone or suspend the Services, or any Portion thereof, immediately or upon a specified date, for a period of not more than ninety (90) days, upon Notice to the Services Provider, for any reason deemed by the Corporation to be in its interest. The Services Provider and all of its Subcontractors and Representatives shall cease all Services, or any specified Portion thereof, immediately or as of the date specified in the Notice.

3.1.2 Any such delay, postponement or suspension shall not give rise to any cause of action for damages against the Corporation or the City, but the Term specified in Part I of this Contract and the Services Provider's time for performance of the Services shall be extended for the period of the delay, postponement or suspension.

3.1.3 In the event of any delays, postponements or suspensions, the Services Provider shall resume the Services upon the date specified in the Notice or upon such other date as the Corporation may thereafter specify by Notice.

3.2 Termination for Convenience. The Corporation shall have the right to terminate the Services, or any Portion thereof, immediately or upon a specified date, upon Notice to the Services Provider and for any reason deemed by the Corporation to be in its interest.

3.3 Defaults and Termination for Cause.

3.3.1 In addition to any other right that the Corporation may have, upon the occurrence of an Event of Default, the Corporation shall have the right to declare the Services Provider in default and terminate this Contract, in whole or in part, for cause, by giving Notice to the Services Provider of the cause and the date of such termination.

3.3.2 An Event of Default shall be deemed to have occurred if any of the following events has occurred, each an "Event of Default":

- (i) The Services Provider fails to assign workers, order materials or enter into subcontracts in a manner sufficient to permit completion of the Services, or any Portion thereof, within the time limits of the Progress Schedule or in accordance with any Progress Schedule approved by the Corporation;
- (ii) The Services Provider fails to complete the Services, or any Portion thereof, within the time limits provided in this Contract or any Progress Schedule approved by the Corporation;
- (iii) The Services Provider materially violates any term, covenant or provision of this Contract;
- (iv) The Services Provider materially fails to comply with any Applicable Requirements or any Applicable Agreements;
- (v) Any representation or warranty made by the Services Provider in Article 7 or in any other Article in this Contract shall prove to be untrue or be breached;
- (vi) The Services Provider becomes insolvent, files for bankruptcy or is adjudged a debtor in possession;
- (vii) The Services Provider voluntarily, or by operation of law, assigns, transfers, conveys or otherwise disposes of its interest in this Contract or its right to receive funds hereunder without the prior written consent of the Corporation;
- (viii) The Services Provider fails to comply with the M/WBE Requirements in Article 9; or
- (ix) The Services Provider or any of its officers, directors, partners, members, five (5%) percent shareholders, principals or other persons substantially involved in its activities, commits any of the acts or omissions specified as the grounds for debarment in the City's *Procurement Policy Board Rules*.

3.4 Effects of Termination for Convenience or for Cause.

3.4.1 The Contract, or such portion of the Contract described in the Notice of termination, shall terminate as of the termination date set forth in the Notice given pursuant to Section 3.3.1, or immediately if no date is specified.

3.4.2 Upon receipt of a Notice of termination for cause or for convenience, the Services Provider shall cease any or all Services, immediately or on the date specified, in accordance with the terms of the Notice.

3.4.3 Termination, whether for convenience or for cause, shall not give rise to any cause of action for damages against the Corporation or the City.

3.4.4 Within ten (10) days after the effective date of termination, the Services Provider shall surrender and turn over to the Corporation all Work Product and any other materials related to this Contract requested by the Corporation including, without limitation, all materials, equipment and supplies purchased by the Services Provider on behalf of the Corporation in connection with this Contract.

3.5 Payment Upon Termination.

3.5.1 Upon termination with or without cause, the Services Provider shall promptly present to the Corporation a verified statement of all costs actually incurred prior to the date of termination, together with all documents in the Services Provider's possession related thereto that the Corporation may demand in order to verify such statement of costs including, without limitation, canceled checks, subcontracts, and paid receipts and bills from Subcontractors. The Corporation will review the statement of costs and review or audit any supporting documentation provided by or in the Services Provider's possession. The Corporation will Notify the Services Provider of the results of such review or audit and the amount approved for payment.

3.5.2 If the termination was without cause, the Services Provider shall receive such equitable compensation for such Services as shall, in the judgment of Director, have been satisfactorily performed by the Services Provider up to the date of the termination, such compensation to be fixed by the Corporation after consultation with the Services Provider, subject to any rights of audit provided herein. Such payment will be processed by the Corporation after Services Provider provides all information and documentation required hereunder. Such payment shall constitute full and Final Payment to the Services Provider.

3.5.3 If the termination was for cause, the Services Provider shall receive such equitable compensation for such Services as shall, in the judgment of Director, have been satisfactorily performed by the Services Provider up to the date of the termination, such compensation to be fixed by the Corporation, subject to any rights of audit provided herein, and subject to set-off by the Corporation for any additional expenses the Corporation incurs to complete the Project satisfactorily, including the expenses of engaging another services provider and the costs set forth in Section 9.10(ii). The sum of (i) such additional expenses incurred to the Corporation for the completion of the Project, and (ii) payments made to the Services

Provider prior to the termination of the Contract shall hereafter be referred to as the “Contract Completion Costs”.

(i) If the Contract Completion Costs exceed the Maximum Contract Price, Services Provider shall pay such difference to the Corporation, as described in Section 3.5.4 below.

(ii) If the Contract Completion Costs are less than the Maximum Contract Price, provided that the Services Provider has provided all information and documentation required by this Section, the Corporation will pay to the Services Provider, an amount equal to the lesser of (a) the difference between the Maximum Contract Price and the Contract Completion Costs, or (b) such amount, when added to sums previously paid to Services Provider, equitably compensates Services Provider for Services satisfactorily performed up to the date of termination. Such payment will be made as further described in Section 3.5.4 below.

3.5.4 If the termination was for cause, the Corporation will, upon full completion of the Project, deliver a written notice to the Services Provider advising the Services Provider that the Project has been completed and setting forth the Contract Completion Costs. If the Contract Completion Costs exceed the Maximum Contract Price, the Services Provider shall promptly pay such difference to the Corporation upon receipt of such notice. If the Contract Completion Costs are less than the Maximum Contract Price, then, subject to (i) the Services Provider’s providing to the Corporation all information and documentation required by this Section, and (ii) any other applicable provisions of this Contract including, without limitation, Sections 3.5.5 and 3.5.6 hereof, the Corporation will pay the Services Provider the amount described in Section 3.5.3(ii). Such payment shall constitute full and Final Payment to the Services Provider.

3.5.5 The Corporation need not wait until the completion of the Services to seek the enforcement of its rights against the Services Provider if there has been a termination for cause, but no monies shall be due or payable to the Services Provider terminated for cause until the Services are completed.

3.5.6 The provisions of this Section 3.5 shall be in addition to any other rights the Corporation may have under this Contract, any Applicable Requirement, any Applicable Agreement, or otherwise, in law or in equity.

3.6 No Release. Termination of this Contract, whether by expiration of its Term or otherwise, shall not release the Services Provider from any liability to the Corporation or from the Services Provider’s indemnification and other obligations under this Contract that have not been specifically terminated pursuant to this Article of the Contract.

ARTICLE 4

PERSONNEL AND SUBCONTRACTORS

4.1 Personnel.

4.1.1 The Services Provider shall employ at its own expense all personnel and retain all Subcontractors as may be required to perform the Services, and shall be solely responsible for their work, compensation, direction and conduct during the performance of this Contract. The

personnel of the Services Provider and any Subcontractor shall cooperate fully with the personnel of the Corporation including, without limitation, the Director, and, in the event any personnel of the Services Provider or any Subcontractor fails to cooperate, the Services Provider shall relieve them of their duties of performance under this Contract.

4.1.2 The Services Provider shall submit to the Director, prior to performance of Services by such personnel, resumes of the Services Provider's personnel and those of its Subcontractors' personnel who will perform the Services. The experience and training of such personnel is a material inducement for the Corporation to enter into this Contract and make payment for the Services. The Services Provider and its Subcontractors are expected to use such personnel to perform the Services. If the Services Provider or a Subcontractor proposes to substitute any other personnel for those heretofore identified, it shall assign persons with equivalent or better experience and training and shall submit the resumes of such proposed substitute personnel to the Director and obtain the Director's prior approval of the substitution. Notwithstanding anything contained herein to the contrary, all personnel furnished by the Services Provider as required under this Contract shall be employees of the Services Provider or approved Subcontractors of the Services Provider and not employees or subcontractors of the Corporation or the City.

4.2 Subcontractors.

4.2.1 The Services Provider is authorized to enter into subcontracts for specialized professional services as required for performance of the Services subject to the prior written approval of the Director as to the Subcontractor, the scope of services, compensation, and the Principal or other member(s) of the Services Provider's staff responsible for supervising the performance of the Subcontractor's activities. The Services Provider, and not the Corporation, is responsible for the Subcontractor's work, acts and omissions.

4.2.2 The Services Provider shall pay any Subcontractors approved by the Corporation for work that has been satisfactorily performed no later than thirty (30) days from the date of Services Provider's receipt of payments from the Corporation.

4.2.3 The Services Provider is solely responsible for the payments to the Subcontractors. Upon receipt of evidence of Services Provider default hereunder with respect to its obligations to make payments to its Subcontractors, the Corporation reserves the right, after three (3) calendar days prior Notice, to retain any money due the Services Provider and pay directly for labor, materials, equipment, Services and all other obligations of the Services Provider and to deduct the amount of any such direct payments from any payments or amounts then due or thereafter to become due to the Services Provider.

4.2.4 The Services Provider shall inform all Subcontractors fully of the terms and conditions of this Contract. All subcontracts shall provide that:

- (i) there is no privity of contract between the Subcontractor and the Corporation or the City;
- (ii) neither the Corporation nor the City will incur any liability by virtue of any act, omission, negligence, or obligation of the Subcontractor or the Services Provider;

(iii) the Subcontractor shall indemnify, defend and hold harmless the Corporation and the City, their agents, employees, members, directors, officials and officers against any and all claims, judgments or liabilities to which they may be subject (including, without limitation, any and all claims for injuries to persons (including death) and damage to property) because of any negligence or any fault or default of the Subcontractor, its agents, employees or subcontractors or the breach of the Subcontractor's obligations under the subcontract;

(iv) the Subcontractor's Requisitions shall conform to the same requirements and include the representations, warranties and agreements set forth in Sections 2.1.2 and 2.1 3;

(v) the "Events of Default" set forth in Section 3.3.2 as grounds for termination for cause shall be "Events of Default" and grounds for termination of the Subcontractor for cause;

(vi) the subcontract may be assigned without the written consent of the Subcontractor to the City, NYCEDC or any other corporation, agency or instrumentality having authority to accept the assignment; and

(vii) all work and services performed under the subcontract shall strictly comply with the requirements of this Contract.

If the Services Provider fails to include the provisions set forth in this Section 4.2.4 in any subcontract, the Services Provider hereby agrees to indemnify, defend and hold harmless the Corporation and the City and their Representatives against any and all claims, damages, awards, judgments, liabilities, expenses, fines, penalties, costs and/or fees incurred by or imposed upon the Corporation and the City and their Representatives, including reasonable fees, as a result of said failure.

4.2.5 The Services Provider shall provide the Corporation with a list of all Subcontractors employed for the performance of the Services whose subcontract amount totals \$25,000 or more. The Services Provider will furnish each such Subcontractor whose Subcontract amount totals less than \$100,000 with the Corporation's internal qualification and background investigation forms. The Services Provider will furnish each such subcontractor whose subcontract amount totals \$100,000 or more with the Mayor's Office of Contracts Investigations Forms. These forms will be provided by the Corporation to the Services Provider. The Services Provider shall cause each such Subcontractor to fill out and complete the forms in a timely fashion but in no event later than the commencement of the Services performed by such Subcontractor pursuant to its subcontract.

4.3 Person in Charge. The Services Provider has designated a Person-in-Charge who will have primary responsibility to perform and/or supervise and coordinate the performance of the Services. Substitution of said person shall be made only with the prior written approval of the Director. Failure to make such person(s) available to the extent necessary to perform the Services skillfully and promptly shall be a material violation of the terms of this Contract.

ARTICLE 5

DOCUMENTS AND MATERIALS

5.1 Approval. All Work Product to be prepared or furnished by the Services Provider pursuant to this Contract or publicizing the work of the Services Provider hereunder must be:

- (i) approved in writing by the Director before any Work Product or publication as to the work of the Services Provider shall be considered accepted and before any distribution;
- (ii) revised by the Services Provider in accordance with the directions of the Director prior to approval; and
- (iii) prepared so as not to violate any provisions of law including, without limitation, the City Charter and the Administrative Code of the City.

5.2 Work Product.

5.2.1 All Work Product is the exclusive property of the Corporation. The Corporation may use any Work Product prepared by the Services Provider in such manner, for such purposes, and as often as the Corporation 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 Services Provider.

5.2.2 The Services Provider shall not use, transmit, display, publish or otherwise license such Work Product without the Corporation's prior written consent.

5.2.3 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 the Corporation 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 Services Provider hereby irrevocably transfers, assigns and conveys exclusive copyright ownership in and to the Work Product to the Corporation, free and clear of any liens, claims or other encumbrances. The Services Provider shall retain no copyright or other intellectual property interest in the Work Product.

5.2.4 To the extent that the Work Product does not qualify as a "work-made-for-hire", Services Provider acknowledges the existence, if any, of its statutory moral rights as those rights are described in 17 U.S.C. § 106A(a), and knowingly executes this Contract on the following terms: (i) this waiver applies to the Work Product and to any promotional materials connected with the Work Product; (ii) the Services Provider hereby expressly and forever waives any and all rights under 17 U.S.C. § 106A, and any rights arising under U.S. federal or state law or under the laws of any other country that conveys rights of the same nature as those conveyed by 17 U.S.C. § 106A, or any other type of moral right or *droit moral*.

5.2.5 The Services Provider represents and warrants that, except for material which is in the public domain and non-original material that meets the requirements of §5.2.6, the Work Product

- (i) shall be wholly original material not published elsewhere;
- (ii) shall not violate any copyright, trademark or other applicable law; and
- (iii) shall not, to the best of Services Provider's knowledge, constitute a defamation or invasion of the right of privacy or publicity, or an infringement of any kind, of any rights of any third party.

5.2.6 The Services Provider represents and warrants that to the extent that the Work Product incorporates non-original material, the Services Provider shall obtain and provide the Corporation with copies of all necessary permissions and clearances, in writing, for the use of such non-original material under this Contract. Since some licenses for materials may be for a limited duration, the Services Provider shall provide and/or specify the following to the Corporation with respect to all non-original materials included in its Work Product:

- (i) all information as to any durational limitations on use;
- (ii) any requirement that a notice be displayed in connection with display, including the specific owner of the rights to be credited, and any limitation on the use under the Services Provider's license; and
- (iii) a statement certified by the Principal verifying the foregoing in the form annexed hereto as Appendix D.

Services Provider will update the foregoing information and promptly provide such updates to the Corporation during the Contract Term.

5.2.7 The Services Provider acknowledges that the Corporation or the City may, in their sole discretion, register copyright in the Work Product with the U.S. Copyright Office or any other government agency authorized to grant registrations to copyright. The Services Provider will cooperate in this effort, and agrees to provide any further documentation necessary to accomplish this.

5.2.8 The Services Provider agrees that the Corporation and the City may use the Services Provider's name and the names, biographies and likenesses of its members, in advertising and promotion related to the Work Product, and in any and all ancillary products related to the Services regardless of the format in which such use occurs.

5.2.9 Prior to acceptance of any Work Product by the Director, upon the Director's request and within a reasonable time following delivery of the Work Product, the Services Provider shall submit revised Work Product incorporating any revisions, changes or alterations reasonably requested by the Director. If the original Work Product or the revised Work Product is not acceptable to the Director, the Corporation shall have the right to use the Work Product, to prepare or finalize the Work Product or to commission a third party to do so without further employment of or compensation to the Services Provider.

5.2.10 The Services Provider acknowledges that the decision to accept the Work Product for use, incorporation, transmission, display or publication is within the sole discretion of the Director.

5.2.11 Services Provider agrees that it will cooperate in providing any other documentation necessary to effectuate the intent of this Section of the Contract.

5.2.12 The Services Provider shall not make any unauthorized use of copyrighted, trademarked or other protected materials or intellectual property and agrees to defend, indemnify and hold harmless the Corporation and the City and their respective officers, officials, agents,

members, directors, and employees against any damage or liability arising out of the Services Provider's infringement or unauthorized use of any such material or property.

5.2.13 The Corporation may elect to grant the Service Provider a limited license to be negotiated between the parties covering the use of certain intellectual property such as, but not limited to, URLs, social media accounts, branding, style guidelines, and marks owned by the Corporation in connection with the Urbantech NYC program to be used in the Service Provider's implementation of the Services under this Contract.

5.3 Confidential Information.

5.3.1 The Services Provider shall hold all Confidential Information provided by the Corporation in the strictest confidence. Services Provider agrees to:

- (i) use the Confidential Information solely for evaluation and the performance of the Services under this Contract;
- (ii) not disclose the Confidential Information outside of its Subcontractors who have agreed in advance in writing to be bound by the terms of this Section 5.3 and its employees and to limit dissemination to only those Subcontractors and employees who have a need to know it in order to accomplish the Services;
- (iii) execute any confidentiality agreements required by any governmental or other entities or individuals which provide any information, records, data, materials, documents or electronic files to Services Provider for use in performance of the Services; and
- (iv) not disclose the Confidential Information for three (3) years following Final Completion.

5.3.2 Services Provider represents that it has adequate safeguards and procedures to protect the confidentiality of records and information and to limit dissemination only to authorized employees as necessary for the performance of the Services. All Confidential Information provided to Services Provider shall remain the property of the Corporation.

5.3.3 Services Provider agrees that money damages would not be a sufficient remedy in the event of any breach of this Section 5.3 and that, in addition to all other remedies which may be available, the Corporation shall be entitled to specific performance and injunctive or other equitable relief as a remedy for any such breach. Services Provider shall defend, hold harmless and indemnify the Corporation for any and all claims, losses, expenses and/or damages arising out of breach of this Section 5.3 or unauthorized use of the Confidential Information.

ARTICLE 6

INDEMNIFICATION, CLAIMS AND INSURANCE

6.1 Indemnification of the Corporation and the City.

6.1.1 The Services Provider shall indemnify, defend and hold harmless the Corporation and the City, their agents and employees from any and all claims, judgments or liabilities to which they may be subject because of any negligence or any fault or default of the Services Provider, its agents, employees or subcontractors or the breach of the Services Provider's obligations under the Contract.

6.1.2 The Services Provider shall be solely responsible for all injuries to persons, including death, or damage to property sustained during its operations and work under this Contract resulting from any negligence, fault or default of the Services Provider or of its employees, authorized agents, servants, independent contractors or subcontractors retained by the Services Provider pursuant to this Contract. The Services Provider agrees to indemnify, defend and hold the Corporation and the City harmless from any liability upon any and all claims for injuries to persons (including death) and damage to property on account of negligence, fault or default of the Services Provider, its employees, authorized agents, servants, independent contractors and subcontractors retained by the Services Provider.

6.2 Claims or Actions Against the Corporation.

6.2.1 The Services Provider shall look solely to the funds appropriated by the Corporation for this Contract for the satisfaction of any claim or cause of action the Services Provider may have against the Corporation in connection with this Contract or the failure of the Corporation to perform any of its obligations hereunder. In no event shall the Corporation's aggregate liability hereunder in connection herewith or related to the performance of the Services exceed the Maximum Contract Price.

6.2.2 Upon acceptance by the Services Provider of the Final Payment to be paid pursuant to this Contract, the Services Provider agrees that it shall be deemed to have released the Corporation from any and all claims, causes of action, and liability to the Services Provider, its Representatives, successors and assigns, in connection with this Contract or the performance of the Services.

6.2.3 No member, director, employee, servant, officer, agent or other person authorized to act on behalf of the Corporation shall have any personal liability in connection with this Contract or any failure of the Corporation to perform its obligations hereunder.

6.2.4 No person or entity shall have any right against the Director or any member, director, employee, servant or officer, agent of the City or the Corporation or other person authorized to act on their behalf or any claim against the City or the Corporation by reason of the failure or refusal to withhold money pursuant to Section 2.2.1 hereof.

6.2.5 The Services Provider agrees that no cause of action against the Corporation in connection with this Contract or the Services shall lie or be maintained by the Services Provider, its successors or assigns unless such action is commenced within six months after (i) the termination of this Contract, or (ii) the accrual of the cause of action, whichever is earlier.

6.2.6 If any claim is made or any action brought relating to this Contract or the Services, whether or not the Services Provider is a party, the Services Provider shall diligently render to the Corporation any and all assistance that the Corporation may require of the Services Provider, without compensation.

6.2.7 The provisions of this Section shall not waive, limit or in any way prejudice any other right of the Corporation or the City.

6.3 Insurance.

6.3.1 At all times during the performance of the work or Services in connection with this Contract or for such other time periods as the Corporation may require, the Services Provider, at its sole cost and expense, shall purchase and maintain the insurance described in this Section 6.3 and the annexed Appendix E, as may be applicable and as may be required by the Corporation.

6.3.2 Services Provider shall purchase and maintain insurance with insurance companies that:

- (i) are acceptable to the Corporation;
- (ii) are rated A-:VII or better by A.M. Best Company; and
- (iii) are licensed to issue such insurance by the New York State Department of

Insurance.

6.3.3 The insurance policies purchased and maintained by the Services Provider shall:

- (i) be in form and substance satisfactory to the Corporation;
- (ii) be in the minimum face policy amounts set forth in Appendix E;
- (iii) list all individuals and entities identified in Appendix E as Additional

Insureds except in the case of any workers' compensation, automobile liability and professional liability policies required to be maintained hereunder;

- (iv) include a waiver of the right of subrogation with respect to all additional insureds named therein as well as the required Workers' Compensation coverage; and
- (v) contain the provisions set forth in Appendix E.

6.3.4 Coverage for the individuals and entities identified in Appendix E as Additional Insureds shall be written into those policies set forth in Section 6.3.3 above as an endorsement at least as broad as ISO Form CG 20 10 (07/04 ed.).

6.3.5 The Services Provider shall make and maintain timely premium payments for all policies required hereunder.

6.3.6 The Services Provider shall require that each of its Subcontractors, prior to the commencement of their work, purchase and maintain, or be covered by, at no cost or expense to the Corporation or the City, the same types and amounts of insurance and meet all of the same requirements as required of the Services Provider as set forth in this Article 6 and Appendix E. The Services Provider hereby covenants and warrants that its Subcontractors shall purchase and maintain the policies required by this Section in the amounts and for the periods required by this Section.

6.3.7 Prior to the commencement of the Services the Services Provider shall forward to the Corporation's Contract Administration and Procurement Department at least three (3) original certificates of insurance for each policy required for compliance with this Contract, for itself and its Subcontractors substantially as set forth in Appendix E. The Services Provider shall also provide an original certificate of insurance to each of the Additional Insureds.

6.3.8 The Services Provider shall provide the Corporation and the Additional Insureds written confirmation of the renewal of any policy required hereunder no less than five (5) days prior to the expiration of any such policy.

6.3.9 Unless otherwise agreed to in writing by the Corporation, the types of insurance to be purchased and maintained by the Services Provider and its Subcontractors are as follows:

(i) Workers' Compensation, Disability Benefits, and Employer's Liability Insurance. The Services Provider shall purchase and maintain and shall require each of its Subcontractors to purchase and maintain workers' compensation, disability benefits insurance in statutory amounts, and employer's liability insurance in the amounts set forth in Appendix E, for all of its employees engaged in the Services. The failure of the Services Provider to comply with this Section 6.3.9(i) shall make this Contract voidable at the option of the Corporation.

(ii) Commercial General Liability. The Services Provider shall purchase and maintain commercial general liability insurance to protect the Corporation, the City and the Additional Insureds, the Services Provider and its Subcontractors against any and all claims for property damage, personal injury and death arising out of the Services performed by the Services Provider and its Subcontractors, and any work incidental thereto. The commercial general liability insurance policy must also include products and completed operations coverage, which shall include a provision that coverage will extend for a period of at least twelve (12) months from the date of final completion and acceptance by the Corporation of all of the Services. The certificate of insurance must indicate that such insurance is on a "per occurrence" and an aggregate basis. The commercial general liability policy shall be in a form at least as broad in coverage as the most current ISO Form CG 00 01. The additional insured protection must be as broad as coverage that would be afforded through use of ISO Forms CG 20 26, CG 20 33 and CG 20 37. The liability policy(ies) certificate of insurance must indicate cross-liability coverage providing severability of interests so that, except with respect to the limits of insurance, and any rights or duties specifically assigned to the first named insured, coverage will respond as if separate policies were in force for each insured. If at any time the commercial general liability policy should be canceled, terminated, or modified so that the insurance is not in effect as above required, then the Services Provider shall suspend performance of the Services if the Corporation shall so direct. If the Contract is so suspended, no extension of time shall be due on account thereof. If the Contract is not suspended, whether or not because of omission of the Corporation to order suspension, then the Corporation may, at its sole option, obtain insurance affording coverage equal to that required hereunder, the cost of such insurance to be payable by the Services Provider to the Corporation.

(iii) Automobile Liability Insurance. The Services Provider shall purchase and maintain automobile liability insurance covering all automobiles used in connection with the work or Services under this Contract whether owned, non-owned and/or hired automobiles.

(iv) Umbrella/Excess Liability Coverage. If the Services Provider purchases or maintains umbrella/excess liability insurance, such insurance should specifically list the Services Provider's commercial general liability, comprehensive automobile liability and employer's liability as primary coverages, to protect the Corporation, the City, the Additional Insureds, the Services Provider and its Subcontractors from any and all claims in excess of the underlying policy limits for such primary coverages. The certificate of insurance must indicate that such insurance afforded by this Section 6.3.9(iv) is on a "per occurrence" basis and an aggregate basis.

(v) If applicable, any additional policies as may be described in Appendix E.

6.3.10 As a condition precedent to payment of any amounts owing to the Services Provider by the Corporation, the Services Provider shall, unless otherwise expressly agreed to in writing by the Corporation, provide to the Corporation the original certificates of insurance required under this Contract and shall on demand provide true copies of policies and endorsements to policies showing compliance with the insurance requirements set forth in this Article 6 and Appendix E.

6.3.11 The policies to be maintained by the Services Provider hereunder that are subject to the Additional Insured requirements set forth in Section 6.3.3 (iii) above shall constitute the primary coverage for claims arising out of this Contract, and shall state that insurance, if any, carried by the Corporation, the City or the Additional Insureds will not be called upon to contribute to a loss that would otherwise be paid by the Services Provider's insurer. The Services Provider shall comply with the provisions of all policies required pursuant to this Contract, and shall give the insurer, the Corporation, the City and the Additional Insureds due and timely Notice of all claims, accidents and losses promptly upon its acquiring knowledge of the same.

6.3.12 The insurance provisions of this Article 6 shall be in addition to any rights that the Corporation, the City and the Additional Insureds may have under any hold harmless and indemnification provisions of this Contract and any other right provided by this Contract or by law. The Services Provider shall not violate or permit to be violated any term or condition of the policies.

6.3.13 The Commercial General Liability and Umbrella Excess Liability Coverage policies must be endorsed to show that these primary and/or excess policies are to be considered primary and non-contributory. In addition, the Commercial General Liability and Umbrella/Excess Liability Coverage policies must provide that (i) the Additional Insured protection afforded under the Services Provider's policies shall be primary and not on an excess or contributing basis with any policies which may be available to the Corporation, and (ii) that the Services Provider's policies, primary and excess, must be exhausted before implicating any Corporation policy available.

6.3.14 In order to ensure vertical erosion of liability limits provided by the Services Provider under this Contract, the Services Provider agrees to permit the Corporation's staff and/or the Corporation's insurance consultants to review the Services Provider's liability policy language for all liability policies and to endorse those policies to clarify the hierarchy of policies in the event of a claim.

ARTICLE 7

REPRESENTATIONS AND WARRANTIES

The Services Provider represents and warrants that:

7.1 The Services Provider is duly organized, validly existing and in good standing under the laws of its jurisdiction of formation, and has all requisite power and authority to authorize,

execute, deliver and perform this Contract in accordance with its terms. The Services Provider is authorized to do business in the City of New York.

7.2 The authorization, execution and delivery of this Contract, and compliance with the provisions hereof, do not and will not conflict with or constitute a violation of or default under any statute, indenture, mortgage, deed of trust or other agreement or instrument to which the Services Provider is bound, or, to the knowledge of the Services Provider, any order, rule or regulation of any court or governmental agency or body having jurisdiction over the Services Provider or any of its activities or properties.

7.3 The Services Provider has not been asked to pay, and has neither offered to pay, nor paid, any illegal consideration, whether monetary or otherwise, in connection with the procurement of this Contract.

7.4 The Services Provider has not employed any person to solicit or procure this Contract, and has not made and shall not make, except to full-time employees of the Services Provider, any payment or any agreement for the payment of any commission, percentage, brokerage, contingent fee or any other compensation in connection with the procurement of this Contract.

7.5 The Services Provider has not acquired nor will it acquire any interest of any nature, direct or indirect (including any interest in land in an area related to the Services or any interest in any corporation, partnership, or other entity with any such interest), which would conflict in any manner or degree with the performance of the Services. The Services Provider further represents and covenants that in the performance of this Contract no person having any such conflicting interest shall be employed by the Services Provider.

7.6 The Services Provider is not in arrears to the City upon any debt, contract or taxes and is not a defaulter, as surety or otherwise, upon any obligation to the City, and has not been declared not responsible, or disqualified, by any agency of the City, nor is there any proceeding pending relating to the responsibility or qualification of the Services Provider to receive public contracts. The Services Provider represents that it has paid all applicable New York City income, excise and other taxes for all years it has conducted business activities in New York City.

7.7 All questionnaires and/or disclosure forms delivered by the Services Provider and its Representatives to the Corporation to date are, to the best of the Services Provider's knowledge, true and correct in all material respects; no material change has occurred in the circumstances of the Services Provider, or any of its principals or affiliated persons or entities since the respective dates upon which such disclosure forms were executed that would otherwise require disclosure on such forms; and such disclosure forms do not contain any untrue statement of a material fact or omit to state a material fact necessary in order to make any statement contained in such form not misleading.

ARTICLE 8

APPLICABLE LAWS, RULES AND REGULATIONS

8.1 New York Law Governs; New York Courts. The Contract shall be governed by and construed in accordance with the laws of the State of New York. Any and all claims asserted by or against the Corporation arising under this Contract or related hereto shall be heard and

determined either in the Federal Courts, located in the City or in the New York State Courts located in the City and County of New York. To effect this agreement and intent, the Services Provider agrees as follows:

8.1.1 If the Corporation initiates any action against the Services Provider in Federal Court or in New York State Court, service of process may be made on the Services Provider in person, wherever the Services Provider may be found, or by registered mail addressed to the Services Provider at its address as set forth in this Contract, or to such other address as the Services Provider shall have provided to the Corporation in writing.

8.1.2 With respect to any action between the Corporation and the Services Provider in New York State Court, the Services Provider hereby expressly waives and relinquishes any rights it might otherwise have (i) to move to dismiss on grounds of forum non conveniens, and (ii) to move for a change of venue to a New York State Court outside New York County.

8.1.3 With respect to any action between the Corporation and the Services Provider in Federal Court located in the City, the Services Provider expressly waives and relinquishes any right it might otherwise have to move to transfer the action to a Federal Court outside the City.

8.1.4 If the Services Provider commences any action against the Corporation in a court located other than in the City and State of New York, then, upon request of the Corporation, the Services Provider shall either consent to a transfer of the action to a court of competent jurisdiction located in the City and State of New York or, if the court where the action is pending will not or cannot transfer the action, the Services Provider shall consent to dismiss such action without prejudice and may thereafter reinstitute the action in a court of competent jurisdiction in the City.

8.2 Modification Required by Law. The parties agree that each and every provision of federal or state or local law, rule, regulation or order, required to be inserted in this Contract, is deemed by this reference to be so inserted in its correct form, and upon the application of either party, this Contract shall be amended by the express insertion of any such provision not so inserted or so inserted incorrectly so as to comply strictly with the law, without prejudice to the rights of either party.

8.3 Compliance with the Law. The Services Provider agrees that all acts to be performed by it in connection with this Contract shall be performed in strict conformity with all Legal Requirements, including without limitation, Applicable Requirements and Applicable Agreements. Failure by the Services Provider to abide by such Legal Requirements shall be a material default under this Contract.

8.4 Equal Employment Opportunity/Employment Reports.

8.4.1 The Services Provider shall comply with the applicable provisions of the Equal Employment and Affirmative Action Compliance for Non-Construction Contracts Addendum (the "Executive Order No. 50 (1980) Supply and Service Rider" or "E.O. 50") attached hereto as Appendix F and made a part hereof. Appendix F shall be attached to and made a part of any subcontract entered into by the Services Provider pursuant to this Contract that exceeds \$100,000.

8.4.2 The Services Provider covenants that it shall complete and submit and shall require all Subcontractors to complete and submit Employment Reports (as required by E.O. 50) to the Corporation which can be found at www.nycedc.com in the section identified in Appendix G. If the Services Provider cannot access or download these forms, the Corporation may, upon request, send the Services Provider the required forms.

8.4.3 The Services Provider and any subcontractor that provide any on-site construction activity shall complete and submit the Payroll Report to the Corporation in the form annexed to this Contract as Appendix C.

8.4.4 The Services Provider shall give consideration to employing City residents who are economically disadvantaged or are eligible under any applicable Legal Requirements including, without limitation, the Workforce Investment Act of 1998, and who have qualifications and skills commensurate with the requirements for the position available. To the greatest extent feasible, the Services Provider shall give opportunities for training and employment to lower income persons in the Project area.

8.4.5 The provisions of this Section 8.4 shall be deemed supplementary to, and not in lieu of, or in substitution for, the applicable provisions of the New York State Labor Law relating to non-discrimination, and other applicable Legal Requirements.

8.5 Minimum Wages. Except for any employees whose prevailing wage is required to be fixed pursuant to Section 220, et seq. and Section 230, et seq. of the New York State Labor Law, which employees shall be paid such prevailing wage, all persons employed by the Services Provider or any subcontractor in the manufacture or furnishing of the supplies, materials, or equipment, or the furnishing of work, labor or services, used in the performance of this Contract, shall be paid, without subsequent deduction or rebate unless expressly authorized by law, not less than the minimum hourly rate required by law, unless a higher amount is required pursuant to any other provision of this Contract.

8.6 No Tropical Hardwoods. Tropical hardwoods, as defined in Section 165 of the New York State Finance Law, shall not be used in the performance of this Contract except as expressly permitted by the foregoing provision of law.

8.7 Sales and Use Tax.

8.7.1 The Services Provider acknowledges that the Corporation and the City are exempt from sales and use taxes imposed by Article 28 of the New York State Tax Law for purchases of tangible personal property, to the extent that such property is used to alter, maintain or improve, and becomes an integral component part of real property. This exemption does not apply to tools, machinery, equipment or other property leased by the Corporation's contractors and subcontractors or to supplies, materials or other property that are consumed in the construction or for any reason not incorporated into real property.

8.7.2 The Services Provider shall inform its Subcontractors of this exemption and shall advise its Subcontractors to exclude sales and use taxes from their bids, as applicable.

8.8 Whistleblowers.

8.8.1 In accordance with Section 12-113 of the New York City Administrative Code (the “Administrative Code”),

8.8.1.1 The Services Provider shall not take an adverse personnel action with respect to an officer or employee in retaliation for such officer or employee making a report of information concerning conduct which such officer or employee knows or reasonably believes to involve corruption, criminal activity, conflict of interest, gross mismanagement or abuse of authority by any officer or employee of the Services Provider or any of its Subcontractors to (i) the Corporation, (ii) the City’s Department of Investigation, (iii) a member of the New York City Council, the City’s Public Advocate or the Comptroller, or (iv) the City Chief Procurement Officer, DSBS Chief Contracting Officer (“DSBS ACCO”) or DSBS Commissioner.

8.8.1.2 If any of the Services Provider’s officers or employees believes that s/he or has been the subject of an adverse personnel action in violation of paragraph 8.8.1.1 above, s/he shall be entitled to bring a cause of action against the Services Provider to recover all relief necessary to make him or her whole. Such relief may include but is not limited to: (i) an injunction to restrain continued retaliation, (ii) reinstatement to the position such employee would have had but for the retaliation or to an equivalent position, (iii) reinstatement of full fringe benefits and seniority rights, (iv) payment of two times back pay, plus interest, and (v) compensation for any special damages sustained as a result of the retaliation, including litigation costs and reasonable attorney’s fees. An officer or employee described in this paragraph may bring an action in any court of competent jurisdiction for such relief. An officer or employee who brings a cause of action pursuant to this paragraph shall notify the DSBS ACCO or DSBS Commissioner of such action; provided, however, that failure to provide such notice shall not be a jurisdictional defect, and shall not be a defense to an action brought pursuant to this paragraph. This paragraph shall not be deemed to create a right of action against the City, any public agency or other public entity, or the Corporation, nor shall any such public agency, entity or corporation be made a party to an action brought pursuant to this subdivision.

8.8.2 In accordance with Section 6-132 of the Administrative Code, the Services Provider shall post a notice in the form annexed hereto at Exhibit L

8.8.3 For purposes of this Section, “adverse personnel action” includes dismissal, demotion, suspension, disciplinary action, negative performance evaluation, any action resulting in loss of staff, office space, equipment or other benefit, failure to appoint, failure to promote, or any transfer or assignment or failure to transfer or assign against the wishes of the affected officer or employee.

8.9 MacBride Principles. The Services Provider stipulates and agrees to comply with the MacBride Principles.

8.10 Iran Divestment Act. The Contractor shall comply with Section 165-a of the New York State Finance Law.

8.11 Paid Sick Leave Law. The Services Provider shall comply with Title 20, Chapter 8 of the New York City Administrative Code related to paid sick leave for Services Provider’s employees.

8.12 Doing Business Data Form Requirements.

8.12.1 Local Law No. 34 of 2007 amended the City's Campaign Finance Law and required the City to establish a database containing the names of any "person" that has "business with the city", as such terms are defined in LL 34. The Services Provider shall comply with all requirements of LL 34 applicable to this Contract.

8.12.2 The Services Provider shall complete and submit a Doing Business Data Form which can be found at www.nycedc.com. If the Services Provider cannot access or download these forms, the Corporation may, upon request, send the Services Provider the required forms.

8.12.3 The Services Provider's failure to complete and submit a Doing Business Data Form and/or its submission of a form that is not accurate or complete may result in appropriate sanctions.

ARTICLE 9 **M/WBE REQUIREMENTS**

9.1 M/WBE Program. Local Law No. 129 of 2005 added and Local Law 1 of 2013 amended Section 6-129 of the Administrative Code of the City of New York (hereinafter "Section 6-129"). Section 6-129 establishes a program for participation in City procurement by minority-owned business enterprises ("MBEs") and women-owned business enterprises ("WBEs", together with "MBEs" collectively referred to as "M/WBEs"), certified in accordance with Section 1304 of the City Charter. As stated in the Section 6-129, the intent of the program is to address the impact of discrimination on the City's procurement process, and to promote the public interest in avoiding fraud and favoritism in the procurement process, increasing competition for City business and lowering contract costs. The Corporation endorses these goals and has adopted an M/WBE Program to further participation by MBEs and WBEs in the provision of the Services. All Services Providers shall comply with all requirements of the Corporation's M/WBE Program applicable to this Contract.

9.2 Minority and Women -Owned Business Enterprises. M/WBE firms must be certified by DSBS to credit such firms' participation toward attainment of the Participation Goals. Such certification must occur prior to the firms' commencement of work.

9.3 Participation Goal.

9.3.1 The Participation Goal for this Contract is set forth in Part I, Section 1.12. The Participation Goal represents a percentage of the total dollar value of the Contract that may be achieved by awarding subcontracts to firms certified with DSBS as MBEs or WBEs, and/or by crediting the participation of the Services Provider.

9.3.2 The Participation Goal is a material term of the Contract and the Services Provider shall be subject to the Participation Goal.

9.3.3 A service provider that is an M/WBE shall be permitted to count its own participation toward fulfillment of the Participation Goal, provided that the value of the Services Provider's participation shall be determined by subtracting from the total value of the Contract

any amounts that the Services Provider pays to direct Subcontractors. A Services Provider may not subcontract more than 50% of the total value of the Contract unless it working under a retainer contract or a construction management contract. The value of an M/WBE Services Provider's participation shall be determined by subtracting from the total value of the Contract any amounts that the respondent will pay to direct Subcontractors. If the Services Provider is not an M/WBE, it must meet the Participation Goal through the awarding of subcontracts to firms certified with DSBS as MBEs or WBEs.

9.3.4 A Services Provider that is a Qualified Joint Venture shall be permitted to count a percentage of its own M/WBE participation toward fulfillment of the Participation Goal. The value of the Qualified Joint Venture's participation shall be determined by first subtracting from the total value of the Contract, any amounts that the Qualified Joint Venture will pay to direct Subcontractors. Thereafter, the M/WBE percentage of the Qualified Joint Venture shall be applied to the remaining value of the Contract to determine the overall Participation Goal.

9.4 M/WBE Narrative /Subcontractors Participation Plan.

9.4.1 The M/WBE Narrative, Subcontractors Participation Plan and applicable forms for this Contract are attached hereto as Appendix H. If this is a retainer, the Services Provider shall submit a Subcontractor Participation Plan on a task by task basis as required.

9.4.2 Subcontractors Participation Plan for this Contract is annexed hereto as Appendix H.

9.4.3 In the event that the Corporation does not approve a Subcontractor proposed by the Services Provider, the Services Provider shall have a reasonable time to propose alternate Subcontractors.

9.5 M/WBE Compliance Reports.

9.5.1 The Services Provider shall provide the Corporation with written statements ("M/WBE Compliance Reports"), certified under penalty of perjury, reporting the status of the Services Provider's compliance with its M/WBE Subcontractor Participation Plan as set forth in this Section 9.5.

9.5.2 The Services Provider shall submit a M/WBE Compliance Report to the Corporation:

- (i) with each Requisition for payment; and/or
- (ii) on a periodic basis as the Corporation may require.

9.5.3 Each M/WBE Compliance Report shall set forth the following for the period covered by the report:

- (i) the total amount paid to Subcontractors (including Subcontractors that are not MBEs or WBEs);

(ii) the names, addresses and contact numbers of each MBE or WBE hired as a Subcontractor pursuant to such plan as well as the dates and amounts paid to each MBE or WBE.

9.5.4 In addition to the foregoing, the Services Provider shall submit a final, cumulative M/WBE Compliance Report to the Corporation with its Requisition for Final Payment. The Services Provider shall set forth in such final report the information required by Section 9.5.3 in connection with all Services rendered by the Services Provider and its Subcontractors during the entire Contract Term.

9.6 Subcontractor Payment Tracking. NYCEDC requires contractors and service providers to track subcontractor award and payment information online through the Compliance Tracking System (CTS). Prime Contractors and Services Providers are responsible for entering contact and award information on all subcontractors associated with the project, and ensuring that any direct subcontractors do the same for second-tier subcontractors they are using on the project. When Prime Services Providers/Contractors receive payments from NYCEDC, they will receive a system-generated notification prompting them to access CTS and enter information on how much of that payment was retained and the amounts paid to each subcontractor, along with dates of payment. Prime Services Providers/Contractors have seven days from receipt of this notification to enter the required information in the CTS. In addition, any changes to subcontractors and award amounts must be tracked in this system.

The compliance tracking system can be accessed by following this link:
<https://nycedc.mwdb.com/>

9.7 Change Orders. If the Services Provider requests a change order having a value that exceeds ten percent (10%) of the Contract, the Corporation will establish an M/WBE participation goal for the work to be performed pursuant to the change order.

9.8 Modification of the Services Provider's Subcontractors Participation Plan.

9.8.1 The Services Provider may request modification of its Subcontractors Participation Plan after the award of the Contract. The Corporation may grant such request if it determines that the Services Provider has established, with appropriate documentary and other evidence, that the Services Provider has made all reasonable, good faith efforts to meet the Participation Goal set for the Contract.

9.8.2 Good Faith Efforts. Good faith efforts should be documented by Services Provider requesting a modification and such documentation provided to the Corporation upon the Corporation's request. In determining whether the Services Provider has made all reasonable good faith efforts to meet the Participation Goal, the Corporation will consider, along with any other relevant factors, evidence submitted by the Services Provider showing that the Services Provider has, without limitation, conducted the following:

9.8.2.1 Direct Outreach. The Services Provider provided timely notice to M/WBEs of specific opportunities to participate in the Contract;

9.8.2.2 NYCEDC Assistance. The Services Provider submitted timely requests for assistance to the Corporation's M/WBE liaison officer and provides the Corporation

with a description of how the Corporation's recommendations were acted upon and an explanation of how action upon such recommendations did not lead to the desired level of participation of M/WBEs;

9.8.2.3 Advertised Opportunities. The Services Provider advertised opportunities to participate in the Contract in general circulation media, trade and professional association publications, small business media and publications of M/WBE organizations;

9.8.2.4 Follow Up with M/WBEs. The Services Provider sent timely written notices to advise M/WBEs that their interest in the Contract was solicited;

9.8.2.5 Substitution of Work. The Services Provider made efforts to identify portions of the Contract Work that could be substituted for portions originally designated for the participation by M/WBEs in the M/WBE Subcontractors Participation Plan and for which the Services Provider claims an inability to retain M/WBEs;

9.8.2.6 Meeting with M/WBEs. The Services Provider held meetings with M/WBEs prior to the date their proposals were due, for the purpose of explaining in detail the scope and requirements of the work for which their proposals were solicited;

9.8.2.7 Negotiated with M/WBEs. The Services Provider made efforts to negotiate with M/WBEs as relevant to perform specific subcontracts, or acts as suppliers or service providers; and

9.8.2.8 Interested Subcontractor List. The Services Provider made efforts to contact interested M/WBEs listed on the Website's Interested Subcontractor list.

9.8.3 The Corporation's M/WBE Director and Chief Contracting Officer will provide written notice to the Services Provider of the determination on whether the Services Provider has made all reasonable good faith efforts to meet the Participation Goal.

9.9 Compliance Audits. This Contract may be audited by the Corporation, DSBS and the City Comptroller to determine the Services Provider's compliance with the requirements of the Corporation's M/WBE Program and the Services Provider's M/WBE Subcontractors Participation Plan.

9.10 Enforcement. In the event the Corporation determines that the Services Provider or its Subcontractors have violated the requirements of the Corporation's M/WBE Program or the M/WBE Subcontractors Participation Plan including, without limitation, a determination that the Services Provider has made payments to or awarded work to M/WBE Subcontractors in amounts less than the amounts specified in the Services Provider's M/WBE Subcontractor Participation Plan (unless the Corporation has permitted the Services Provider to modify the Services Provider's M/WBE Subcontractors Participation Plan in accordance with Section 9.8), the Corporation may:

- (i) terminate the Contract;
- (ii) assess actual and consequential damages for and/or exercise its right to set off any additional expenses the Corporation incurs to complete the Project satisfactorily in

accordance with the Corporation's M/WBE Program and in order to meet the Participation Goal including, without limitation, the actual and administrative costs of:

- (a) meeting the Participation Goal through additional procurements;
 - (b) payments made to any other consultant retained to complete the Services; and
 - (c) investigation and enforcement; or
- (iii) assert any other right or remedy it has under the Contract.

9.11 Liquidated Damages for Failure to Fulfill Approved Participation Goals. If the Services Provider fails to fulfill its Participation Goals set forth in its Subcontractors Participation Plan or the Participation Goals as modified by the Corporation pursuant to Section 9.8, the Corporation may assess liquidated damages in the amount of ten percent (10%) of the difference between the dollar amount of work required to be awarded to M/WBEs to meet the Participation Goal and the dollar amount the Services Provider actually awarded and paid to M/WBEs. In view of the difficulty of accurately ascertaining the loss which the Corporation will suffer by reason of the Services Provider's failure to meet the Participation Goals, the foregoing amount is hereby fixed and agreed as the liquidated damages that the Corporation will suffer by reason of such failure, and not as a penalty. The Corporation may deduct and retain out of any monies which may become due under this Contract the amount of any such liquidated damages; and in case the amount which may become due under this Contract shall be less than the amount of the liquidated damages suffered by the Corporation, the Services Provider shall be liable to pay the difference.

9.12 Statements. Statements made in any instrument submitted to the Corporation in connection with the Corporation's M/WBE Program shall be submitted under penalty of perjury and any false or misleading statement or omission shall be grounds for the application of any applicable criminal and/or civil penalties for perjury.

9.13 Evaluations. The Services Provider's record in implementing its M/WBE Subcontractor Participation Plan shall be a factor in the evaluation of its performance.

ARTICLE 10

MISCELLANEOUS

10.1 Services Provider as Independent Contractor. Notwithstanding anything contained herein to the contrary including, without limitation, the provisions of Section 5.2 hereof, it is specifically understood and agreed that in the performance of the terms, covenants and conditions of this Contract, the Services Provider and its Representatives shall not be deemed to be acting as agents, servants or employees of the Corporation or the City by virtue of this Contract or by virtue of any approval, permit, license, grant, right, or other authorization given by the City or the Corporation or any of their Representatives in connection with this Contract, but shall be deemed to be independent contractors performing work or professional services for the Corporation, and shall be deemed solely responsible for all acts taken by them pursuant to this Contract.

10.2 Assignment. This Contract is intended to secure the Services of the Services Provider or a competent Representative or Representatives of the Services Provider approved by the

Director. The Services Provider shall not assign, convey, subcontract, or transfer this Contract or the Services Provider's rights hereunder without the written consent of the Director, which consent shall be manifested by Notice. The Corporation shall have the right to assign, convey, subcontract or transfer this Contract or the Corporation's rights hereunder without the written consent of the Services Provider to the City or any other corporation, agency or instrumentality having authority to accept the assignment.

10.3 Right to Inspect. The Corporation, the City Comptroller, the Inspectors and any other individual or entity authorized under any Legal Requirement shall have the right on reasonable Notice to inspect the operations and records of the Services Provider and its Subcontractors relating to this Contract.

10.4 Maintenance of Records. In order to facilitate any audit provided herein, the Services Provider agrees to maintain accurate, readily auditable records and accounts with supporting documentation in accordance with generally accepted accounting principles of the Services performed by it, its employees, and its Subcontractors under this Contract and of all financial accounts and transactions maintained or undertaken in connection with this Contract, including, but not limited to, time cards and records reflecting the nature of the work performed and time consumed, bank statements, cancelled checks, bills and receipts, Requisitions, and deposit slips, and to make such records available for inspection and audit in the City by the Corporation, the City, the Inspectors and any other individual or entity authorized under any Applicable Statute or Applicable Agreement upon reasonable Notice. Said records shall be maintained for a period of six (6) years after termination of this Contract.

10.5 Modification in Writing. No modification, amendment, waiver or release of any provision of this Contract or of any right, obligation, claim or cause of action arising hereunder shall be valid or binding for any purpose unless in writing and duly executed by the party against whom the same is asserted.

10.6 Captions. The tables of contents and captions of this Contract are for convenience of reference only and in no way define, limit or describe the scope or intent of the Contract or in any way affect this Contract.

10.7 Completeness. This Contract contains all the terms and conditions agreed upon by the parties hereto, and no other agreement, oral or otherwise, regarding the subject matter of this Contract shall be deemed to exist or to bind either of the parties hereto.

10.8 Severability. If any clause, provision or section of this Agreement be ruled invalid by any court of competent jurisdiction, the invalidity of such clause, provision or section shall not affect any of the remaining provisions hereof.

10.9 Notices.

10.9.1 Each Notice, demand, request or other communication in connection with this Contract shall be either: (i) served in person, with delivery of service acknowledged in writing by the party receiving the same; (ii) sent by nationally known overnight delivery service or telefax; or (iii) deposited in the U.S. mails, first class mail, postage prepaid, and addressed to the

respective address herein set forth in Part I, Section 3 or to such other address as may be specified by Notice sent in accordance herewith.

10.9.2 Every Notice hereunder shall be deemed to have been given: (i) at the date of receipt by the respective party in the case of personal delivery, overnight delivery or telefax and (ii) five (5) business days after the date of deposit in the first class U.S. mails.

10.10 Non-Waiver. Failure of the Corporation or its Representatives to enforce or otherwise require the performance of any of the terms and conditions of this Contract, at the time or in the manner that said terms and conditions are set forth herein, shall not be deemed a waiver of any such terms or conditions by the Corporation and the same may be selectively enforced or raised as a basis of a claim or cause of action at the option of the Corporation.

10.11 Refusal to Testify.

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

10.11.2 If:

(i) any person who has been advised that her or his statement, and any information from such statement, will not be used against her or him in any subsequent criminal proceeding refuses to testify before a grand jury or other governmental agency or authority empowered directly or by designation to compel the attendance of witnesses and to examine witnesses under oath concerning the award of, or performance under, any transaction, agreement, lease, permit, contract, or license entered into with the City, the State, or any political subdivision or public authority thereof, or the PANYNJ, or the Corporation, or any local development corporation within the City, or any public benefit corporation organized under the laws of the State of New York, or

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

then the commissioner or agency head (each of which is hereinafter referred to as the "Commissioner") whose agency is a party in interest to the transaction, submitted bid, submitted proposal, contract, lease, permit, or license involved in such investigation, audit or inquiry shall convene a hearing, upon not less than five (5) days written notice to the parties involved, to determine if any penalties should attach for the failure of a person to testify.

10.11.3 If any non-governmental party to the hearing requests an adjournment, the Commissioner who convened the hearing or the Corporation may, upon the Commissioner granting the adjournment, suspend any contract, lease, permit, or license pending the final determination pursuant to subsection 10.11.5 below without the City or the Corporation incurring any penalty or damages for delay or otherwise.

10.11.4 The Corporation or the City may impose the following penalties after a final determination by the Commissioner that penalties should attach for the failure of a person to testify:

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

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

10.11.5 The Commissioner shall consider and address, in reaching her or his determination, and the Corporation and the Commissioner shall consider and address, in assessing an appropriate penalty, the factors in subparagraphs (i) and (ii) below. The Commissioner and the Corporation may also consider, if relevant and appropriate, the criteria established in subparagraphs (iii) and (iv) below in addition to any other information which may be relevant and appropriate:

(i) The entity'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.

(ii) 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.

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

(iv) 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 subsection 10.11.4 above), provided that the party or entity has given actual notice to the Commissioner upon the acquisition of the interest, or at the hearing called for in subsection 10.11.2(2) 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.

10.11.6 The term “license” or “permit” as used herein shall be defined as a license, permit, franchise or concession not granted as a matter of right.

10.11.7 The term “entity” as used herein shall mean any firm, partnership, corporation, association, joint venture or person that receives monies, benefits, licenses, leases or permits from or through the City or otherwise transacts business with the City.

10.11.8 The term “member” as used herein shall mean any person associated with another person or entity as a partner, director, officer, principal or employee.

10.11.9 The term “person” as used herein shall mean any natural person doing business alone or associated with another person or entity as a partner, director, officer, principal or employee.

10.12 No Political Activity. The Services Provider agrees that there shall be no political activity or any activity to further the election or defeat of any candidate for public, political or party office as a part of or in connection with this Contract, nor shall any of the funds provided under this Contract be used for such purposes.

**NEW YORK CITY ECONOMIC DEVELOPMENT CORPORATION
URBANTECH NYC
PROFESSIONAL SERVICES CONTRACT
FOR THE PROVISION OF CONSULTING SERVICES
NYCEDC CONTRACT NO. 60920003
PROJECT CODE NO. 6092**

**PART III
APPENDICES**

APPENDIX A	DEFINITIONS
APPENDIX B	SCOPE OF SERVICES
APPENDIX C	PAYMENTS
APPENDIX D	FORM OF CERTIFIED STATEMENT REGARDING USE OF NON-ORIGINAL MATERIALS
APPENDIX E	INSURANCE REQUIREMENTS
APPENDIX F	EQUAL EMPLOYMENT AND AFFIRMATIVE ACTION COMPLIANCE FOR NON-CONSTRUCTION CONTRACTS ADDENDUM
APPENDIX G	E.O. 50 EMPLOYMENT REPORT FORM
APPENDIX H	SUBCONTRACTORS PARTICIPATION PLAN
APPENDIX I	OUTSIDE FUNDING SOURCES
APPENDIX J	APPLICABLE REQUIREMENTS
APPENDIX K	APPLICABLE AGREEMENTS
APPENDIX L	WHISTLEBLOWER POSTER
APPENDIX M	RESERVED

APPENDIX A
DEFINITIONS

APPENDIX A**DEFINITIONS**

The defined terms listed below shall have the following corresponding meanings in the annexed Contract (as defined herein) unless otherwise defined or the context otherwise requires. The singular shall include the plural and vice versa as the context may dictate. The gender used in the annexed Contract shall be deemed to refer to the masculine, feminine, or neuter gender, as the context or the identity of the persons being referred to may require.

Additional Insured	All individuals and entities listed in Appendix E
Allowable Additional Costs	As defined in Appendix B Scope of Services
Applicable Agreements	Various governing agreements related to the Funds, the Project and/or this Contract, including, without limitation, any specific “Applicable Agreements” identified in Part I, and any other governing agreement or MOU with the City, State and/or federal governments, or any agency thereof
Applicable Requirements	Any and all federal, state and local laws, statutes, rules, regulations and orders applicable to this Contract, the Funds or the Project, including, without limitation, any specific “Applicable Requirements” identified in Part I
Borough	The City borough where the Project is located
City	The City of New York
City Contract	The Amended and Restated Contract between the City and the Corporation, dated as of June 30, 2013 and the Amended and Restated Maritime Contract between the City and the Corporation, dated as of June 30, 2013, as applicable, as each may be amended, restated and/or revised from time to time
City Comptroller	Comptroller of the City or his or her designee
Commencement Date	The date upon which the Services Provider shall commence the Services as stated in Part I, Section 1.4
Comptroller General	The United States Comptroller General

Confidential Information	Any and all information, records, data, materials, documents, electronic files or Work Product provided by NYCEDC and/or the City or any of its agencies to the Services Provider except that which (i) shall have otherwise become publicly available through no fault of Services Provider or its Representatives; (ii) becomes available to the Services Provider on a nonconfidential basis from a source other than NYCEDC, the City or any of its agencies; or (iii) is known by the Services Provider prior to its receipt from NYCEDC, the City or any of its agencies without any obligations of confidentiality with respect thereto
Services Provider	The entity or person contracted by the Corporation to perform the Services pursuant to this Contract, as identified in Part I, Section 2.3
Services Provider's Underlying Intellectual Property	The Services Provider's analytical concepts, approaches, methodologies, or formats developed by the Services Provider's staff, and to other materials not prepared for delivery to the Corporation and also including any derivatives, improvements, enhancements or extensions of the Services Provider's Underlying Intellectual Property conceived, reduced to practice, or developed during the term of this Contract that are not uniquely applicable to the Corporation
Contract	The Contract between the Services Provider and the Corporation to which this Appendix A is annexed, as defined in Part I, Section 1.1
Contract Completion Costs	As defined in Section 3.5.3
Contract Date	The date of this Contract, as stated in Part I, Section 1.3
Corporation	New York City Economic Development Corporation, a not-for-profit corporation organized pursuant to laws of the State of New York
CPL	Contractor Pollution Liability Insurance
DBEs	Disadvantaged Business Enterprises
Director	The person set forth in Part I, Section 2.2, or such other person as may be subsequently designated by the Corporation

Disability Benefit	A type of insurance to be purchased and maintained by the Services Provider and its Subcontractors, in statutory amounts, for all of its employees engaged in the Services
DCAS	New York City Department of Citywide Administrative Services
DCP	New York City Department of City Planning
DEP	New York City Department of Environmental Protection
Division	Division of Labor Services of DSBS
DOB	New York City Department of Buildings
Doing Business Data Form	The form available at www.nycedc.com to be completed by the Services Provider and submitted to the Corporation pursuant to LL 34
DOT	New York City Department of Transportation
DPR	New York City Department of Parks and Recreation
DSBS	New York City Department of Small Business Services
DSNY	New York City Department of Sanitation
Electronic Funds Transfer (EFT)	Any transfer of funds, other than a transaction originated by check, draft or similar paper instrument, that is initiated through an electronic terminal, telephonic instrument or computer or magnetic tape so as to order, instruct or authorized a financial institution to debit or credit an account
E.O. 50	Executive Order No. 50 (1980), as amended or revised from time to time
Employment Report(s)	The reports described in Appendix G and available at www.nycedc.com to be completed and submitted to the Corporation pursuant to Executive Order 50
Event of Default	As described in Part II, Section 3.3.2
Extra Work	A significant alteration to the work or Services that the Services Provider has been directed to perform by the Director as described in Part II, Section 1.5.2
FDNY	New York City Fire Department

Federal Courts	United States Federal Courts located in New York City
FHWA	United States Federal Highway Administration
Final Completion	The performance of all Services contemplated in this Contract to the satisfaction of the Director
Final Payment	The last payment by the Corporation to the Services Provider under the Contract upon Final Completion or as provided in Part II, Sections 3.5.2 and 3.5.4
Force Majeure	Any of the following acts and events that occur without the negligence or fault, and beyond the reasonable control, of Services Provider and that of any of its successors, heirs, assigns, and/or Representatives and of which Services Provider has given the Corporation express written notice within three (3) days after the commencement of the alleged cause of the delay, hindrance, or obstruction: governmental preemption in connection with a national emergency, war or act of war, insurrection, riot, act of public enemy, terrorist acts, labor disputes, accidents, mechanical failure and acts of God (including fire, flood or abnormal adverse weather conditions not reasonably anticipatable)
FTA	United States Federal Transit Administration
Funding Agencies	All federal, State or local agencies or entities that are the source of the Funds including, without limitation, any specific "Funding Agencies" identified in Part I
Funds	All funds from the federal, State or local sources to be applied to payments for Services under this Contract including, without limitation, any specific "Funds" identified in Part I
IDA	New York City Industrial Development Agency, a corporate governmental agency constituting a body corporate and politic and a public benefit corporation organized pursuant to Article 18-A of the General Municipal Law of the State of New York
Inspectors	All individuals or entities specifically identified as "Inspectors" in Part I, if any
Insurer	Any insurance company retained by the Services Provider pursuant to Part II, Section 6.3.2

Joint Venture	An association, of limited scope and duration, between two or more persons who have entered into an agreement to perform and/or provide services required by a contract, in which each such person contributes property, capital, effort, skill and/or knowledge, and in which each such person is entitled to share in the profits of the venture in reasonable proportion to the economic value of its contribution.
Landmarks Preservation Commission (LPC)	The City of New York Landmarks Preservation Commission
Legal Requirements	All applicable laws, rules, regulations, ordinances, codes and orders of all federal, state and local governmental authorities, agencies, departments or bureaus having jurisdiction over and which affect the work and/or Services under this Contract including, without limitation, all Applicable Agreements and all Applicable Requirements
Local Law 34 (LL 34)	Local Law No. 34 of 2007, as it may be amended or superseded
MacBride Principles	Those principles relating to nondiscrimination in employment and freedom of workplace opportunities that requires employers doing business in Northern Ireland to comply with specific terms set forth in Section 6-115.1 of the City's Administrative Code
Maximum Contract Price	The maximum amount that may be paid for the Services under the Contract, as stated in Part I, Section 1.6
Maximum Payment	The maximum amount payable for each Portion of the Services during a billing period
MBEs	Minority-owned Business Enterprises
M/WBE Compliance Reports	As described in Part II, Section 9.5
M/WBEs	MBEs and WBEs, collectively
M/WBE Subcontractors Participation Plan	As described in Part II, Section 9.5
MOU	Memorandum of Understanding

New York State Courts	Courts of the State of New York in the City and County of New York
Notice	Any written notice, demand, request, instruction, advice, directive or other communication in connection with this Contract to be delivered to a party designated in Part I, Section 3, for the receipt of notice in the manner set forth in Part II, Section 10.9.1
Notice to Proceed	Written Notice from the Corporation to the Services Provider to proceed with the Services or any portion thereof
Notify	To give a Notice pursuant to Part II, Section 10.9.1
NYCEDC	The Corporation
NYCTA	New York City Transit Authority
NYPD	New York City Police Department
NYSDEC	New York State Department of Environmental Conservation
NYSDOH	New York State Department of Health
NYSDOS	New York State Department of State
NYSDOT	New York State Department of Transportation
OMB	New York City Office of Management and Budget
OPRHP	New York State Office of Parks, Recreation and Historic Preservation
PANYNJ	The Port Authority of New York and New Jersey
Participation Goal	The Corporation's goal for M/WBE participation related to the Contract, as defined in Part II, Section 9.3.
Payment Schedule	Schedule listing Maximum Payment for each Portion of the Services, appended to Appendix C when payment for Services or a Portion of the Services is on a Tasks completed basis
Payroll Report	Forms that the Services Provider and any Subcontractors that provide any on-site construction activity must complete

Percentage of Completion	An amount equal to the percentage of completion of each Portion of the Services
Person In Charge	As identified in Part I, Section 2.5, the member(s) of the Services Provider's professional staff who will have primary responsibility to perform and/or supervise and coordinate the performance of the Services
PLL	Pollution Legal Liability Insurance Policy
Portion	Each portion, task or phase of the Services as described in Appendix B and/or Appendix C
Principal	The Services Provider's most senior officer of the Services Provider's staff responsible for the performance of Services as identified in Part I, Section 2.4
Progress Reports	Reports which Services Provider is obligated to prepare that show the status of the Services in accordance with the Progress Schedule
Progress Schedule	Any schedule issued or approved by the Corporation for the performance of the Services, including, without limitation, Project or Services milestones, deadlines or delivery dates
Project	As identified in Part I, Section 1.7, and described in detail in Appendix B
Project Manager	A person designated by the Corporation to serve as a liaison between the Corporation and the Services Provider
Project Site	The location of the Project as identified in Part I, Section 1.8 and described in detail in Appendix B
Public Design Commission ("PDC")	Public Design Commission of the New York City (f/k/a The Art Commission)
Qualified Joint Venture ("QJV")	A Joint Venture between one or more MBEs and/or WBEs and another person, in which the percentage of profit to which the certified firm or firms is entitled for participation in the Contract, as set forth in the joint venture agreement, is at least 25% of the total profit.
RAP	Remedial action plan
Representatives	The employees, agents, servants, officers, directors, members, independent contractors and subcontractors of a person or entity

Requisition	A request for payment, to be submitted by Services Provider not more than once per month, setting forth in detail, for the billing period for which partial payment is requested, the amount requested and Services performed during the billing period
Retainage	Any sum withheld from any payment to the Services Provider including, without limitation, those set forth in Part II, Sections 1.5.3, 2.2.1 and 4.2.3
Retainage Payment Date	The date by which any Retainage identified in Part I, Section 1.10 will be paid to the Services Provider, as identified in Part I, Section 1.11, subject to the provisions of Part II, Article 2 and Part III, Appendix C
Scope of Services	The Services to be provided by the Services Provider in connection with this Contract, as set forth in Appendix B
Services	All of the services to be provided to the Corporation by the Services Provider pursuant to the Contract, as described in greater detail in Appendix B
SHPO	State Historic Preservation Officer
Specific Terms and Conditions	Part I of this Contract
Fee and Cost Schedule	Schedule listing names of Services Provider's staff, hourly rates and estimated number of days to be spent providing Services, appended to Appendix C when payment for Services or a Portion of the Services is on an hourly rate basis
State	State of New York
Subcontractor	Any person or entity including, without limitation, contractors, consultants, subconsultants, vendors and subcontractors of such persons or entities, employed or retained by the Service Provider in accordance with the Contract to provide any services, work, materials, equipment or supplies in connection with the Services
Subcontractors' Costs	The compensation payable by the Services Provider to any subcontractor(s) of the Services Provider pursuant to a contract(s) entered into pursuant to Part II, Section 4.2
Term	The duration of this Contract, as stated in Part I, Section 1.5

USACOE	United States Army Corps of Engineers
USDOT	United States Department of Transportation
UST	Underground storage tanks
WBEs	Women-owned Business Enterprises
Worker's Compensation	A type of insurance to be purchased and maintained by the Services Provider and its Subcontractors, in statutory amounts, for all of its employees engaged in the Services
Work-Made-For-Hire	As defined in Section 101 of the United States Copyright Act, 17 U.S.C. § 101
Work Product	All reports, plans, studies, surveys, data, databases, programs, processes, systems, drawings, tracings, blueprints, photographs, computer drawings, schematics, specifications, log books, correspondence, models, studies, permits approvals, designs, deliverables, samples, presentation materials, analyses, punch lists, submissions, filings, applications, schedules, documents and materials, including, without limitation, those related to inspections, tests and test results, in all formats now known or hereinafter known, prepared or furnished by the Services Provider pursuant to this Contract, <u>provided however</u> that Work Product shall not include any Services Provider's Underlying Intellectual Property

APPENDIX B

SCOPE OF SERVICES

[SEE SECTION III OF RFP]

APPENDIX C

PAYMENTS

[SEE SECTION VIII APPENDIX 3 OF RFP]

APPENDIX C

PAYMENTS BASED ON TASKS COMPLETED

The Maximum Payment for each Portion of the Services shall be the respective amounts set forth for in the Payment Schedule annexed hereto as Exhibit 1 to this Appendix C.

Interim payments shall be made to the Services Provider. The interim payments will be made no more frequently than once a month in an amount equal to the Percentage of Completion of each Portion of the Services, multiplied by the Maximum Payment for each Portion performed during the billing period, less any Retainage. The Services Provider shall also be reimbursed for Allowable Additional Costs as such costs accrue. Except as may permitted under Part II, Section 2.2.1 of the Contract, Retainage will not be applied against Allowable Additional Costs.

To request an interim payment, the Services Provider shall submit to the Corporation's **Accounts Payable Department**, not more than once per month, a Requisition setting forth in detail, for the period for which partial payment is requested, the following:

- (i) the Percentage of Completion for each Portion of the Services performed by the Services Provider during the billing period;
- (ii) Allowable Additional Costs incurred during the billing period;
- (iii) the amount of partial payment requested; and
- (iv) a representation and warranty that, except as set forth in the Requisition, the representations and warranties made by the Services Provider in Article 7 of the Contract are true and correct as of the date of the Requisition as if made on the date of the Requisition.

An EFT Enrollment Form is attached as Exhibit 2 to this Appendix C and must be completed and returned to the Corporation prior to Services Provider's submission of its first Requisition.

In addition, the Services Provider shall submit Progress Reports to the Director at least monthly or in accordance with any other schedule approved by the Director, or at the Director's request. Such Progress Reports shall clearly state the reasons for any actual or anticipated delays in completion of the Services

EXHIBIT 1 TO APPENDIX C
PAYMENT SCHEDULE

SAMPLE; TASKS SET FORTH BELOW ARE EXAMPLES ONLY

Task	Maximum Payment
 <i>Task 1 – Concept Development and Review</i>	
Information Gathering	\$
Analysis and Surveys (including Utilities)	\$
Conceptual Design	\$
Concept Book	\$
Task 1 Total	\$
 <i>Task 2 – Schematic Design</i>	
Three Schematic Designs	\$
One Schematic Design	\$
Schematic Book	\$
Task 2 Total	\$
 <i>Task 3 – Preliminary Design Development</i>	
Preliminary Design Development	\$
Agency Approvals	\$
Preliminary DD Package	\$
Task 3 Total	\$
 <i>Task 4 – Final Design Development</i>	
Final Design Development	\$
Final Design Development Package	\$
Additional Documents	\$
Task 4 Total	\$
 <i>Total Tasks 1-4</i>	
\$	
<i>Allowable Additional Costs</i>	
\$	
Total Amount	
\$	

EXHIBIT 2 TO APPENDIX C
EFT ENROLLMENT FORM



NEW YORK CITY ECONOMIC DEVELOPMENT CORPORATION
DIRECT DEPOSIT/ELECTRONIC FUNDS TRANSFER (EFT)
VENDOR PAYMENT ENROLLMENT FORM

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

Mail to: New York City Economic Development Corporation, 110 William Street, 4th Floor, New York, NY 10038
 Attention: Controller, Accounting Dept. or Fax to: 212-312-3914

SECTION I – VENDOR INFORMATION

1. SOCIAL SECURITY NUMBER OR TAXPAYER ID NUMBER: (AS IT APPEARS ON W-9 FORM)		<table border="1" style="width:100%; height: 15px;"> <tr> <td style="width: 10%;"></td><td style="width: 10%;"></td><td style="width: 10%;"></td><td style="width: 10%;"></td><td style="width: 10%;"></td><td style="width: 10%;"></td><td style="width: 10%;"></td><td style="width: 10%;"></td><td style="width: 10%;"></td><td style="width: 10%;"></td> </tr> </table>										
2. VENDOR NAME (AS IT APPEARS ON W-9 FORM); (AS IT APPEARS ON W-9 FORM)												
3. VENDOR'S PRIMARY ADDRESS:												
4. VENDOR'S EMAIL ADDRESS:												
5. CONTACT PERSON NAME:	6. CONTACT PERSON TELEPHONE NUMBER:											

SECTION II – FINANCIAL INSTITUTION INFORMATION

1. BANK ACCOUNT NUMBER:	2. ACCOUNT NAME:											
3. BANK NAME:												
4. BANK BRANCH ADDRESS:												
5. ROUTING TRANSIT NUMBER: (LOCATED AT THE BOTTOM OF YOUR CHECK)	<table border="1" style="width:100%; height: 15px;"> <tr> <td style="width: 10%;"></td><td style="width: 10%;"></td><td style="width: 10%;"></td><td style="width: 10%;"></td><td style="width: 10%;"></td><td style="width: 10%;"></td><td style="width: 10%;"></td><td style="width: 10%;"></td><td style="width: 10%;"></td><td style="width: 10%;"></td> </tr> </table>											6. ACCOUNTING TYPE: (CHECK ONE) <input type="checkbox"/> CHECKING <input type="checkbox"/> SAVINGS
7. DIRECT DEPOSIT/ACH/EFT COORDINATOR'S NAME:	8. TELEPHONE NUMBER:											

SECTION III – VENDOR SIGNATURE

VENDOR SIGNATURE	PRINT NAME	DATE


NEW YORK CITY ECONOMIC DEVELOPMENT CORPORATION
**DIRECT DEPOSIT/ELECTRONIC FUNDS TRANSFER (EFT)
VENDOR PAYMENT ENROLLMENT FORM**
GENERAL INSTRUCTIONS

Please complete all sections of the Direct Deposit EFT Enrollment Application and forward the completed application along with a voided check or a copy of an encoded deposit slip that includes an imprinted vendor's name to:

New York City Economic Development Corporation, 110 William St., Room 400
New York, NY 10038 – Attention: Controller, Accounting Dept or Fax to: 212-312-3914.

SECTION I – VENDOR INFORMATION

1. Enter the vendor's social security number or taxpayer ID number, the 9-digit number reported on W-9 form.
2. Provide the name of the vendor (as it appears on the W-9).
3. Enter the vendor's complete address for EFT correspondence associated with this account.
4. Provide the vendor's E-mail address, if you have one.
5. Indicate the name and telephone number of the vendor's contact person. (If you are enrolling yourself individually, you are the contact person).

SECTION II – FINANCIAL INSTITUTION INFORMATION

1. Indicate the vendor's bank account number.
2. Indicate the vendor's account name.
3. Provide bank's name.
4. Provide the complete address of your bank.
5. Indicate 9-digit routing (ABA) transit number (located at the bottom of your check).
6. Indicate type of account: (Check one box only).
7. List name and telephone number of your bank's Direct Deposit/EFT Coordinator.

SECTION III – VENDOR SIGNATURE

Sign and date where indicated.

EXHIBIT 3 TO APPENDIX C

THE CITY OF NEW YORK • OFFICE OF THE COMPTROLLER • BUREAU OF LABOR LAW

PAYROLL REPORT

TO BE SUBMITTED WITH REQUISITION FOR PAYMENT

NAME OF PRIME CONTRACTOR		NAME OF CONTRACTOR/SUBCONTRACTOR		ADDRESS		PHONE #		AGENCY				
CONTRACT REGISTRATION #		JOB CODE		WEEK ENDING DATE		PROJECT NAME & LOCATION		PAYROLL #				
								TAX I.D. #				
(1) NAME ADDRESS LAST FOUR DIGITS OF SOCIAL SECURITY NUMBER	(2) LIST TRADE & CHECK CLASSIFICATION JOURNEYMEN APPRENTICE (AND EX. ASSISTANTS) HELPER	(3) T I M E	(4) DAY AND DATE	(5) TOTAL HOURS	(6) BASE RATE OF PAY PER HOUR	(7) TOTAL BASE PAY	(8) SUPPLEMENTAL BENEFITS		(10) TOTAL BENEFITS PAID	(11) GROSS PAY	(12) TOTAL TAX & OTHER DEDUCTIONS	(13) NET PAY
							(9) RATE PER HOUR	(9) PAID TO (Local # if Union is directed)				
	<input type="checkbox"/> J <input type="checkbox"/> A <input type="checkbox"/> H	RT					U Local#					
	<input type="checkbox"/> J <input type="checkbox"/> A <input type="checkbox"/> H	RT					U Local#					
	<input type="checkbox"/> J <input type="checkbox"/> A <input type="checkbox"/> H	RT					U Local#					
	<input type="checkbox"/> J <input type="checkbox"/> A <input type="checkbox"/> H	RT					U Local#					
	<input type="checkbox"/> J <input type="checkbox"/> A <input type="checkbox"/> H	RT					U Local#					
	<input type="checkbox"/> J <input type="checkbox"/> A <input type="checkbox"/> H	RT					U Local#					
	<input type="checkbox"/> J <input type="checkbox"/> A <input type="checkbox"/> H	RT					U Local#					
	<input type="checkbox"/> J <input type="checkbox"/> A <input type="checkbox"/> H	RT					U Local#					

INSTRUCTIONS ON REVERSE SIDE

FALSIFICATION OF THIS STATEMENT IS A PUNISHABLE OFFENSE

This certified payroll has been prepared in accordance with the instructions contained on the reverse side of this form. I certify that the above information represents wages and supplemental benefits paid to all persons employed by my firm for construction work on the above project during the period shown. I understand that falsification of this statement is a punishable offense.

SIGNATURE

NAME (Print)

TITLE

DATE

20



Instructions for the Preparation and Submission of a Payroll Report

1. All persons who performed any on-site construction activity, during the period of the requisition, shall be listed on the Payroll Report.
2. Separate Payroll Reports shall be submitted by the prime contractor and each subcontractor who performed any on-site construction activity during the period of the requisition.
3. Failure to provide the required Payroll Report may result in the requisition for payment being returned unpaid or the payment being reduced.

4. PAYROLL REPORT HEADING: The Payroll Report Heading shall require the following information:

NAME OF PRIME CONTRACTOR: Enter the name of the firm that has entered into the contract with the New York City government agency.
NAME OF CONTRACTOR / SUBCONTRACTOR: The legal name of the firm submitting the Payroll Report shall be placed immediately below this designation. Circle either the word CONTRACTOR or SUBCONTRACTOR as applicable.
ADDRESS: Insert the current address (i.e., street, city, state and zip code) of the firm submitting the Payroll Report.
PHONE NO.: Enter the telephone number of the firm submitting the Payroll Report in the space provided.
AGENCY: Enter the name of the New York City government agency that has the contract with the Prime Contractor.
PAYROLL NO.: In the space provided, enter the Payroll Number of the Contractor or Subcontractor.
CONTRACT REG. NO.: Enter the Contract Registration Number here. This may be obtained from the "Notice of Award" and / or the "Order to Commence Work" letters.
JOB CODE: In the space provided, enter the Contractor/ Subcontractor's in-house labor distribution code or job number where applicable.
WEEK ENDING DATE: In the space provided, enter the last date of the pay-week (i.e., month, day, year).
PROJECT NAME & LOCATION: In this space, enter the Project Name and Location where contract work is being performed.
TAX ID. NO.: Enter in this space the Federal Tax Identification Number of the firm submitting the Payroll Report.

5. For every employee who performed any on-site construction activity during the period of the Payroll Report, the following information shall be provided:
 - 1) **NAME, ADDRESS, LAST FOUR DIGITS OF THE SOCIAL SECURITY NO.:** The legal name, current address and the last four digits of the social security number of each employee. (Employers must keep the full social security number on file for each of their covered workers.) If the employee has no social security number, please list his/her IRS Individual Taxpayer Identification Number and mark it "TIN".
 - 2) **LIST TRADE & CHECK WORK CLASSIFICATION:** Specify and insert the Trade applicable to the work performed by each employee. The Trade identified must be one listed on the Prevailing Wage & Supplemental Benefits Schedule of the Comptroller, i.e., Electrician, Laborer, etc. Check next to the letter J if the individual is a Journeyman. Check next to the letter A if the person is a Registered Apprentice with the Department of Labor of the State of New York. Check next to the letter H only if the person is a Helper in a trade classification that has Helper rates listed in the Comptroller's Schedule of Prevailing Wages.
 - 3) **TIME:** RT indicates Regular Time, and OT indicates Overtime.
 - 4) **DAY AND DATE:** Below this heading, in the first row, enter the appropriate sequence of the contractor's pay records, M/T/W/T/F/S, for example, is the sequence to use if the workweek ends on a Sunday, and SSMTWTF is the sequence if the workweek ends on a Friday. In the second row, below each letter representing the day of the workweek, insert the corresponding date. Below the heading HOURS WORKED EACH DAY, at the intersection of the column of the particular day and date and the horizontal row of the employee's name, insert the hours worked each day in the appropriate box either for RT (Regular Time) and / or OT (Overtime). If an employee worked Shift Time, the RT (Regular Time) row shall be used and adjusted accordingly.
 - 5) **TOTAL HOURS:** Add the hours worked for Regular and / or Shift Time with the hours worked for Overtime, and enter separate totals in this column.
 - 6) **BASE RATE OF PAY PER HOUR:** Specify the actual base rate of pay per hour paid to the employee. Do not include supplemental benefits in this amount.
 - 7) **TOTAL BASE PAY:** Total amount earned by the employee, not including benefits.

SUPPLEMENTAL BENEFITS:

- 8) **RATE PER HOUR:** Amount of supplemental benefits paid / provided per hour.
- 9) **PAID TO:** Place a check mark in the appropriate box: U for Union if benefits paid to a Union, E for Employee if benefits paid in cash (or check) directly to the Employee, or O for Other, if benefits are otherwise paid / provided to the employee. If U is checked, you must insert the "local" number of the union in that box.
- 10) **TOTAL BENEFITS PAID:** Total amount of supplemental benefits paid / provided for the workweek to the employee.
- 11) **GROSS PAY:** Total amount earned for workweek. This amount comprises the Total Base Pay plus any benefit paid in cash (or check) directly to the employee (i.e., column (7) + column (9) E if Box E is checked and payment made directly to employee). No other type of benefit should be included in this column's total.
- 12) **TOTAL TAX AND OTHER DEDUCTIONS:** Enter the sum total of all deductions in this column (including FICA, Federal, State and City Taxes, etc.). This does not absolve you from maintaining appropriate tax and other records required by law).
- 13) **NET PAY:** Total amount of pay after all deductions (i.e., the actual Take-Home Pay).

APPENDIX D

**FORM OF CERTIFIED STATEMENT REGARDING
USE OF NON-ORIGINAL MATERIALS**

APPENDIX D

**FORM OF CERTIFIED STATEMENT REGARDING
USE OF NON-ORIGINAL MATERIALS**

STATE OF _____)
) ss.:
 COUNTY OF _____)

The undersigned, being first duly sworn, deposes and states as follows:

1. I am the Principal of the Services Provider named below in connection with the contract (the “Contract”) identified below between the Services Provider and New York City Economic Development Corporation (“NYCEDC”).

2. I make this affidavit pursuant to Section 5.2.6(iii) of the Contract to verify certain information regarding non-original materials included in the Work Product (as defined in the Contract) furnished by the Services Provider to NYCEDC pursuant to the Contract.

3. I hereby certify that the information set forth on the “List of Rights, Limitations and Requirements Regarding the Use and Display of Non-Original Materials Included in Services Provider’s Work Product” (the “Non-Original Materials List”) annexed hereto and made a part hereof, and the licenses, releases, permissions, clearances and other documents (collectively, the “Licenses”) annexed thereto, are complete, true and accurate as of the date of this affidavit, and I acknowledge and understand that NYCEDC shall rely thereon in connection with any use and display of such materials.

4. In particular, I hereby certify that the annexed Non-Original Materials List and Licenses set forth (i) all non-original materials included in Services Provider’s Work Product; (ii) all information as to the source of such materials; (iii) all information as to any durational limitations on use of such materials; (iv) all requirements as to notices that must be displayed in connection with display, including the specific owner of the rights to be credited; and (v) all other limitations on the use and display under the Licenses.

Dated: _____ Signature: _____

Services Provider: _____ Printed Name: _____

NYCEDC Contract No.: _____ Title: _____

Sworn to before me this
 day of _____, 20____

 Notary Public

APPENDIX E

INSURANCE REQUIREMENTS

- 1. Required Policies and Amounts**
- 2. Additional Insureds**
- 3. Required Provisions**
- 4. Sample Form of Insurance Certificate**

APPENDIX E**INSURANCE REQUIREMENTS**

1. Required Policies and Amounts*

<u>Workers' Compensation/ Disability Benefits:</u>	In statutory amounts
<u>Employer's Liability:</u>	The greater of statutory amounts or \$1,000,000
<u>Commercial General Liability:</u>	A minimum of \$1,000,000 per occurrence, with an annual aggregate of not less than \$2,000,000 in the aggregate The maximum deductible or self-insured retention ("SIR") for the Commercial General Liability policy shall be \$25,000
<u>Automobile Liability:</u>	\$1,000,000 combined single limit per occurrence
<u>Umbrella/Excess Liability:</u>	\$10,000,000 on a per occurrence and aggregate basis, and shall be excess of primary general, automobile and employer's primary liability limits

If the Services Provider or its Subcontractors use floating equipment, barges or floats, or performs marine-related construction, the Services Provider and as applicable, its Subcontractors, shall purchase and maintain additional insurance of the following types and in the following amounts in connection with the performance of the Services:

<u>U.S. Harbor Workers' Long Shoremens' Compensation Act:</u>	In statutory amounts
---	----------------------

<u>Marine Protection and Indemnity:</u>	\$25,000,000 per occurrence, but if an annual aggregate is applicable to the policy not less than \$25,000,000 in the aggregate per year
---	--

If the Project is adjacent to or includes an existing railroad or subway line, the Services Provider, or its Subcontractors, shall purchase and maintain the following insurance in the following amounts in connection with the performance of the Services by the Services Provider and its Subcontractors, and any work incidental thereto:

Railroad Protective Liability: \$1,000,000 per occurrence, but if an annual aggregate is applicable to the policy not less than \$2,000,000 in the aggregate

If the Services Provider or any of its Subcontractors is performing asbestos or other toxic or hazardous materials remediation, removal, abatement, storage or disposal work including, without limitation, related demolition work, the Services Provider or its Subcontractors shall purchase and maintain additional insurance of the following types and in the following amounts in connection with the performance of the Services and any work incidental thereto:

Contractor Pollution Liability (“CPL”) Policy and, as applicable, Asbestos Abatement Liability Policy, Lead Abatement Contractors Liability Policy, Stop Loss Policy, Professional Services Policy, Pollution Legal Liability (“PLL”) Policy, Transportation Coverage and Non-Owned Disposal <u>Site Coverage:</u>	\$5,000,000 combined single limit per occurrence for bodily injury or death, and property damage, but if an annual aggregate is applicable to the policy not less than \$5,000,000 in the aggregate per year dedicated to this Project, on an “occurrence” basis, with a term of not less than ten (10) years
---	---

Such CPL and PLL policies shall be for a term of not less than (10) years, on an “occurrence” basis, and any aggregate applicable to such policies shall be dedicated to this Project. In addition, such policies shall include, without limitation, and as applicable, (a) bodily injury and defense coverage for asbestos and lead; (b) coverage for unknown UST’s; (c) a definition of “property damage” that includes diminution in value of third-party properties; (d) a statement that such insurance is primary and over any surety contracts or bonds covering the Services; (e) a statement that the insured’s rights will not be prejudiced if there is a failure to give notice due to the insured’s belief that the occurrence was not covered; (f) coverage for products brought onto the work site where Services are being performed; (g) a definition of “stop loss” or “cleanup cost cap” that includes monitoring activities; (h) a definition of “cleanup costs” that includes any costs associated with natural resources damages; and (i) a statement that exclusions for modifications of remedial action plans (“RAP”) shall not include changes required by regulatory agencies (either via a change in regulations or as a result of governmental entity oversight, increased levels or quantities of pollutants within the boundary of the RAP, discovery of pollutants not identified in the exclusion, and amendments to the RAP because of a change in technological approach).

If the Services Provider or any of its Subcontractors is performing professional services in its capacity as a professional, including as may be evidenced by a license to practice that profession, the Services Provider or its Subcontractors shall purchase and maintain additional insurance of the following type and in the following amount in connection with the performance of the Services and any work incidental thereto:

Professional Liability/Errors &
Omissions Insurance:

Professional liability (“PL”) and/or errors and omissions (“E & O”) insurance policies shall be written with a minimum amount of \$2,000,000 per claim and in the aggregate.

If the Services Provider cancels its PL or E & O policy during, or lets its PL or E & O policy coverage lapse after, the policy period in which the term for services under the Services Provider Contract ends, the Services Provider must obtain tail coverage, or an extended reporting period endorsement, that extends coverage of the professional liability insurance for a period of at least three years.

***All required policies shall include a waiver of the right of subrogation with respect to all additional insureds named therein as well as the required Workers’ Compensation coverage.**

APPENDIX E

INSURANCE REQUIREMENTS

2. Additional Insureds

For the purposes of this Contract and the requirements of Article 6 thereof including, without limitation, Section 6.3.3 (iii), the term “Additional Insureds” shall include the following individuals and entities:

New York City Economic Development Corporation
The City of New York

and such other entities and individuals as the Corporation may direct from time to time.

APPENDIX E

INSURANCE REQUIREMENTS

3. Required Provisions

The policies required under Section 6.3.9 (ii) of the Contract shall contain the following provisions, if available:

“A. Notices from the insurer (the “Insurer”) to the New York City Economic Development Corporation (the “Corporation”) and the City of New York (the “City”), in connection with this policy, shall be addressed to the General Counsel, New York City Economic Development Corporation, at 110 William Street, New York, New York 10038 (with a copy to the Corporation’s Contract Administrator at the same address), and to the Commissioner, New York City Department of Small Business Services, at 110 William Street, New York, New York 10038 or such other addresses as may be specified by the Corporation;

B. The Insurer shall accept notice of accident from the Corporation or the City as soon as practicable after receipt by an official of such Additional Insured (as identified in Appendix E of the Contract between the Corporation and the Services Provider to which this policy applies) of notice of such accident as valid and timely notice under this policy;

C. The Insurer shall accept notice of claim from the City as soon as practicable after such claim has been filed with the Comptroller of the City and notice of claim from the Corporation, as soon as practicable after receipt by such party as valid and timely notice under this policy;

D. Notice of accident or claim to the Insurer by the Services Provider, the Corporation or the City shall be deemed notice by all under this policy;

E. This policy shall not be canceled, terminated or modified by the Insurer or the Services Provider unless thirty (30) days prior written notice is sent by registered mail to the Corporation or the City;

F. The presence of engineers, inspectors or other employees or agents of the Services Provider, the Corporation or the City at the site of the Services performed by the Services Provider shall not invalidate this policy of insurance; and

G. Violation of any of the terms of any other policy issued by the Insurer to the Services Provider or a subcontractor of the Services Provider shall not invalidate this policy; and

H. Insurance, if any, carried by the Corporation, the City or the Additional Insureds will not be called upon to contribute to a loss that would otherwise be paid by the Insurer.”

APPENDIX E

INSURANCE REQUIREMENTS

4. Sample Form of Insurance Certificate

APPENDIX F

E.O. 50 SUPPLY & SERVICE RIDER

EQUAL EMPLOYMENT OPPORTUNITY

APPENDIX F**E.O. 50 SUPPLY & SERVICE RIDER****EQUAL EMPLOYMENT OPPORTUNITY**

[Note: for purposes of this rider, the “contractor” means the Services Provider identified in this Contract]

This contract is subject to the requirements of Executive Order No. 50 (April 25, 1980) (§10-14) as revised (“E.O.50”) and the Rules and Regulations promulgated thereunder. No contract will be awarded unless and until these requirements have been complied with in their entirety. By signing this contract, the contractor agrees that it:

- (1) will not discriminate unlawfully against any employee or applicant for employment because of race, creed, color, national origin, sex, age, handicap, marital status, sexual orientation or citizenship status with respect to all employment decisions including, but not limited to, recruitment, hiring, upgrading, demotion, downgrading, transfer, training, rates of pay or other forms of compensation, layoff, termination, and all other terms and conditions of employment;
- (2) will not discriminate in the selection of subcontractors on the basis of the owner’s, partners’ or shareholders’ race, color, creed, national origin, sex, age, handicap, marital status or sexual orientation or citizenship status;
- (3) will state in all solicitations or advertisements for employees placed by or on behalf of the contractor that all qualified applicants will receive consideration for employment without regard to race, creed, color, national origin, sex, age, handicap, marital status, sexual orientation or citizenship status, or it is an equal employment opportunity employer;
- (4) will send to each labor organization or representative of workers with which it has a collective bargaining agreement or other contract or memorandum of understanding, written notification of its equal employment opportunity commitments under E.O. 50 (§10-14) and the rules and regulations promulgated thereunder; and
- (5) will furnish before the contract is awarded all information and reports including an Employment Report which are required by E.O. 50 (§10-14), the rules and regulations promulgated thereunder, and orders of the Director of the Division of Labor Services (the “Division”). Copies of all required reports are available upon request from the contracting agency; and
- (6) will permit the Division to have access to all relevant books, records and accounts for the purposes of investigation to ascertain compliance with such rules, regulations, and orders.

The contractor understands that in the event of its noncompliance with the nondiscrimination clauses of this contract or with any such rules, regulations, or orders, such noncompliance shall

constitute a material breach of the contract and noncompliance with E.O. 50 (§10-14) and the rules and regulations promulgated thereunder. After a hearing held pursuant to the rules of the Division, the Director may direct the imposition by the contracting agency head of any or all of the following sanctions:

- (i) disapproval of the contractor;
- (ii) suspension or termination of the contract;
- (iii) declaring the contractor in default; or
- (iv) in lieu of any of the foregoing sanctions, the Director may impose an employment program.

The Director of the Division may recommend to the contracting agency head that a contractor who has repeatedly failed to comply with E.O. 50 (§10-14) and the rules and regulations promulgated thereunder be determined to be nonresponsible.

The contractor agrees to include the provisions of the foregoing paragraphs in every subcontract or purchase order in excess of New York City's small purchase limit established by rule of New York City's Procurement Policy Board to which it becomes a party unless exempted by E.O. 50 (§10-14) 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 the Division of Labor Services as a means of enforcing such provisions including sanctions for noncompliance.

The contractor further agrees that it will refrain from entering into any contract or contract modification subject to E.O. 50 (§10-14) and the rules and regulations promulgated thereunder with a subcontractor who is not in compliance with the requirements of E.O. 50 (§10-14) and the rules and regulations promulgated thereunder.

APPENDIX G

E.O. 50 EMPLOYMENT REPORT FORM

The Services Provider shall complete and submit, and if applicable, shall require its Subcontractors to complete and submit, Employment Reports (as required by E.O. 50) to the Corporation which can be found at www.nycedc.com in the following section:

“Resources/Vendor Resources”

If the Services Provider cannot access or download these forms, the Corporation will, upon request, send the Services Provider the required forms. The text of said section reads as follows:

Non-Construction Consulting Contracts

Non-construction consulting contracts require a Supply & Service employment report. Generally, the “under 50 employees” form should be used by companies with fewer than 50 employees, and the longer “full form” should be used for companies with more than 50 employees. Please refer to the Supply & Service instructions document to learn more about the forms.

[Supply & Service Employment Report Instructions](#)

[Supply & Service – under 50 employees](#)

[Supply & Service – full form](#)

APPENDIX H

M/WBE SUBCONTRACTORS PARTICIPATION PLAN

INTENTIONALLY DELETED

APPENDIX I

OUTSIDE FUNDING SOURCES

INTENTIONALLY DELETED

APPENDIX J
APPLICABLE REQUIREMENTS
INTENTIONALLY DELETED

APPENDIX K
APPLICABLE AGREEMENTS
INTENTIONALLY DELETED

APPENDIX L
WHISTLEBLOWER POSTER
SEPARATE ATTACHMENT



REPORTING INFORMATION TO THE NEW YORK CITY DEPARTMENT OF INVESTIGATION

If you have information of any corrupt or fraudulent activities or unethical conduct relating to a New York City funded project or contract, contact:

**Department of Investigation (DOI) Complaint Bureau
212-825-5959**

or by mail or in person at:

**DEPARTMENT OF INVESTIGATION
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.

THE LAW PROTECTS EMPLOYEES OF CITY CONTRACTORS WHO REPORT CORRUPTION

- Any employee of a contractor or subcontractor that has a contract with the City or a City contractor of 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 information about fraud, false claims, corruption, criminality, conflict of interest, gross mismanagement, or abuse of authority relating to a City contract over \$100,000 to DOI or to certain other government officials all of whom must forward the report to DOI.
- Any employee who has made 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.

