



CONSTRUCTION CONTRACT

INVITATION FOR BIDS

New York City
Department of
Environmental Protection
59-17 Junction Boulevard
Flushing, New York 11373

Rohit Aggarwala
Commissioner

Joseph Vaicels
Assistant Commissioner
Agency Chief Contracting
Officer

Bid Booklet
(With additional volumes of Contract Terms, Specifications
and Drawings)

Contract: CRO-624G

Description: Repurposing of the Kensico Laboratory as the Kensico Regional Headquarters
CAT-423 Reconstruction of Facilities Located in the Upstate Watershed

DEP Bid Administrator
59-17 Junction Boulevard, 17th Floor
Flushing, New York 11373

April 2023

NO TEXT ON THIS PAGE

NOTICE TO NEW YORK CITY DEPARTMENT OF ENVIRONMENTAL PROTECTION CONTRACTORS

Please be advised that all notices required to be submitted to the New York City Department of Environmental Protection (“DEP”) Commissioner pursuant to Article 11, Article 27, Article 30, and Article 78¹ of the City of New York Standard Construction Contract must now instead be submitted electronically to the following email address: commcontractnotices@dep.nyc.gov.² Upon receipt, DEP will send an acknowledgement via email. The DEP Commissioner will no longer accept physical copies of said notices.

If a contractor is unable to comply with this notice, please contact commcontractnotices@dep.nyc.gov immediately to make alternative arrangements.

Please note the above email address may only accept messages that are ten megabytes or smaller. If your submission is larger than that, please contact commcontractnotices@dep.nyc.gov to request a link that will allow you to upload the documents.

Thank you for your anticipated cooperation.

¹Please note that Article 78 appears only in the 2017 City of New York Standard Construction Contract.

²Please be advised that this notice only applies to documents that must be submitted to the DEP Commissioner. Please follow the contract and the Procurement Board Policy Rules when submitting documents to the Comptroller of the City of New York, the Contract Dispute Resolution Board, or any other entity.

SECTION A
Information is
in Passport



NOTICE TO BIDDERS

Please be advised that, The Iran Divestment Act of 2012 (effective April 12, 2012) is codified at State Finance Law("SFL") 165-a and General Municipal Law ("GML") §103-9. The Iran Divestment Act, with certain exceptions, prohibits the City from entering into contracts with persons engaged in investment activities in the energy sector of Iran. To implement the law, each bidder or proposer is required to certify at the time it submits its bid or proposal that it is not on a list of entities engaged in investment activities in Iran created by the Commissioner of the NYS Office of General Services pursuant to the State Finance Law. If a bidder or proposer is on the list, an Agency will be able to award a contract to such a vendor only in situations where the vendor is taking steps to cease its investments in Iran or where the vendor is a necessary sole source.

Attached is a rider and a certification implementing the Iran Divestment Act. **ALL BIDDERS ARE REQUIRED TO SIGN THE BIDDER'S CERTIFICATION OF COMPLIANCE WITH IRAN DIVESTMENT ACT AND SUBMIT IT WITH THEIR BID FAILURE TO SUBMIT THIS CERTIFICATION THE MAY RESULT IN A NON-RESPONSIVE DETERMINATION**

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

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

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

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

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

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

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

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

NOTICE TO VENDORS

Please be advised that, pursuant to the authority granted to the City under Labor Law §816-b, the Department of Environmental Protection hereby requires that the contractor awarded a contract as a result of this solicitation, and any of its subcontractors with subcontracts worth two million dollars or over, have, prior to entering into such contract or subcontract, apprenticeship agreements appropriate for the type and scope of work to be performed that have been registered with, and approved by, the New York State Commissioner of Labor. In addition, the contractor and its subcontractors will be required to show that such apprenticeship program/s have successfully passed the two year Probation period following the initial registration date of such program/s with the New York State Department of Labor.

The failure to prove, upon request, that these requirements have been met shall result in the contract not being awarded to the contractor or the subcontractor not being approved.

Please be further advised that, pursuant to Labor Law §220, the allowable ratio of apprentices to journeypersons in any craft classification shall not be greater than the ratio permitted to the contractor as to its workforce on any job under the registered apprenticeship program.

May 21, 2015

NOTICE TO BIDDERS

This is to inform you that due to heightened security, we require identification of all people attending the pre-bid site visit.

The pre-bid meeting will held on the date and at the location indicated on the *Cover Page and Invitation for Bids Summary*. After the meeting, there will be a site visit that requires clearance from the DEP Police. Each person interested in attending the site visit must mail or e-mail a completed *Temporary Access Form* to the Agency Contact person indicated on the *Cover Page and Invitation for Bids Summary*, to be received by one week before the site visit. This form should be completed fully and have a copy of the persons identification scanned with the form. (Acceptable forms of identification are: Driver's license, or Passport. Include as the e-mail subject "DD/MM/YY, HH/MM AM, Site Visit for Contract XXXXX") and include a contact name and phone number. Be advised that only approved attendees will be admitted to the facility and attendance will be limited to a maximum of two (2) persons per company. Attendees must present government-issued photo identification to gain entry. Expired identification will not be accepted. Prospective bidders who have not been pre-screened before the visit must show up at the site 30 minutes prior to the scheduled meeting with the requested information. Bidders are encouraged to be prompt and are hereby notified that there will be no admittance any time after 30 minutes of the scheduled meeting has elapsed.

All attendees should have their own personnel safety equipment (hard hat, boots, etc.) to enter the site area. All attendees will remain with the group and in designated areas during the visit. Wandering round the site is not permitted. Cameras, videos and bags are not permitted on-site.



DEP POLICE USE ONLY

Access: Approved Denied

Date/Time:

Reviewing Officer: Initials:

Badge #:

TEMPORARY ACCESS FORM

Type of Access Requested. Select one:

- DAY WORKER ACCESS** - For persons working on a day-to-day basis at a DEP facility and/or project site and who are not part of a contractor's regular staff. DEP Police will notify the employee, construction manager, and post officer if access is granted.
- DAY TOUR ACCESS** - For persons attending tours of DEP critical infrastructure. DEP Police will notify the individual and sponsoring DEP entity if access is granted.
- PRE-BID MEETING SITE ACCESS** - For prospective bidders attending pre-bid meetings at a DEP facility and/or project site. Any bidder who does not fax or e-mail this form to the appropriate DEP Project Manager at least one week prior to the scheduled visit will be required to bring the requested information to the site no less than 30 minutes prior to the scheduled meeting start time; there is no admittance of any bidder more than 30 minutes after the scheduled meeting start time.
- DELIVERIES** - For persons delivering materials to a DEP site (other than UPS or FedEx).

SUBMIT FORM TO:	<u>East of Hudson - Eastview Command Center</u>	<u>West of Hudson - Ashokan Dispatch</u>
	T: (914) 593-7500 / F: (914) 345-1840 E: PoliceEastviewComm@dep.nyc.gov	T: (845) 657-8433 / F: (845) 657-6145 E: Ashokancomm@dep.nyc.gov

This form expires fifteen (15) days from the date of submission. Access beyond that date requires official DEP-issued identification or submission of a new Temporary Access Form.

<i>All fields are required. Please print clearly or type:</i>		Today's Date:
Date(s) Access Requested: From:		To:
Site Location (name and/or address):		
Company or Group Affiliation Name:		
Name:		
Security Point of Contact:		Telephone #:
Work to be Performed:		
Name: _____, _____, _____ Last First M.I.		
Date of Birth (mm/dd/yyyy):		Social Security # (last 4 only):
Contact Telephone Number(s):		or
Driver License #:		, Issuing State
If no driver license, other form of government issued photo identification and number:		

I hereby affirm that the above information is true and that I agree to comply with all DEP policies and rules while I am on DEP property. I understand that 1) I must bring my identification to the site for physical inspection, 2) expired identification will not be accepted, and 3) providing false or misleading information or identification may result in criminal charges, denial of access to DEP sites and facilities, or rejection of any bid submitted by the applicant's company.

Place identification in this box if scanning or faxing this form.

Signature

NOTICE TO BIDDERS, PROPOSERS, CONTRACTORS, AND RENEWAL CONTRACTORS

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

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

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

REPORT

CORRUPTION, FRAUD, UNETHICAL CONDUCT

RELATING TO A NYC-FUNDED CONTRACT OR PROJECT

CALL THE NYC DEPARTMENT OF INVESTIGATION

212-825-5959



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

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

OR FILE A COMPLAINT ON-LINE AT:

www.nyc.gov/doi

All communications are confidential

THE LAW PROTECTS EMPLOYEES OF CITY CONTRACTORS WHO REPORT CORRUPTION

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



← **Scan the QR Code at Left to File a Complaint**

SECTION B

For Tax Affirmation, Item Grid, Minimum Qualification and Bid Bond/security form, Apprenticeship Directive please see PASSPort: RFX Section.

SECTION B3
FINANCIAL STATEMENT REQUIREMENT

Contractors that do business with the City of New York Department of Environmental Protection (“DEP”) are required to submit complete financial statements once a year. Preferably, DEP requests the corporation or firm's annual financial statement prepared by a certified public accountant; which should include, but not be limited to, a certified balance sheet, revenue and expense sheet, and fixed and capital assets. If DEP has no record of having received this bidder's current financial statement, a DEP representative will contact the bidder's representative who will be responsible for submitting this information within five days of being informed. Note that if your firm so requires, DEP will provide a financial form which can be used in lieu of a certified financial statement.

SECTION B4
BIDDER DECLARATION, BID AND ACKNOWLEDGMENT

The bidder named on the Cover Page and in SECTION B1, above, affirms and declares:

1. The person signing this bid (the “signatory”) is of lawful age, and, if signing as an individual bidder, is the only one interested in this bid; if the signatory is signing as an officer, director, partner or member of a corporation, partnership, or other organization making this bid, no person, firm or corporation other than the bidder named above has any interest in this bid, or in the Contract proposed to be taken.

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

(a) The prices in this bid have been arrived at independently without collusion, consultation, communication or agreement for the purpose of restricting competition, as to any matter relating to such prices, with any other bidder or with any competitor or potential competitor;

(b) Unless otherwise required by law, the prices which have been quoted in this bid have not been knowingly disclosed by the bidder and will not knowingly be disclosed by the bidder directly or indirectly to any other bidder or to any competitor or potential competitor prior to the bid opening; and

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

3. That no councilmember or other officer or employee or person whose salary is payable in whole or in part from the City Treasury is directly or indirectly interested in this bid, or in the supplies, materials, equipment, work or labor to which it relates, or in any of the profits.

4. The bidder, as an individual, or as a member, partner, director, or officer of the bidder, if the same be a firm, partnership or corporation, executes this document expressly warranting and representing that, should this bid be accepted by the City, and the Contract awarded, the Contractor and its subcontractors engaged in the performance of the Contract:

(a) Will comply with the provisions of Section 6-108 of the Administrative Code of the City of New York (the "Administrative Code") and the non - discrimination provisions of Section 220a of the New York Labor Law as more expressly set forth in detail in the Contract form; and

(b) Will comply with the provisions of Section 6-109 of the Administrative Code in relation to minimum wages and other stipulations as more expressly set forth in detail in the Contract; and

(c) Have complied with the provisions of the aforesaid laws since their respective effective dates; and

(d) Will post notices to be furnished by the City, setting forth the requirements of the aforesaid laws in prominent and conspicuous places in each and every plant, factory, building, and structure where employees engaged in the performance of the Contract can readily view it, and will continue to keep such notices posted until the supplies, materials and equipment, or work, labor and services required to be furnished or rendered by the Contractor have been finally accepted by the City.

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

5. Employment Reports

(a) The bidder, as an individual, or as a member, partner, director, or officer of the bidder, if the same be a firm, partnership, corporation or other entity:

(i) represents that its attention has been specifically drawn to Executive Order No. 50 (1980) ("E.O.50"), on Equal Employment Compliance under the Contract, and subsequent amendments including Executive Order No. 108 (1986) ("E.O.108"); and

(ii) warrants that it will comply with such provisions and comparable provisions in the Contract (Article 36 of the Standard Construction Contract).

The apparent low bidder must submit the Employment Report (included in the Bid Booklet), if applicable, within five days after the bid opening.

(b) The bidder, as an individual, or as a member, partner, or officer of the bidder, if the same be a firm, partnership, corporation or other entity, executes this document expressly warranting that it will comply with any provision of this Invitation for Bids and of the Contract relating to employment practices and to the provision of records and access to the job site to the City as may be necessary to enable it to verify such compliance.

6. All materials, fixtures, supplies and equipment furnished under the Contract shall be new and unused, except as approved by the Agency or as specified, and of standard first-grade quality and of the best workmanship and design. The City of New York encourages use of recycled products where practicable.

7. The bidder has visited and examined the site of the work and has carefully examined the Contract in the form approved by the Corporation Counsel, and will execute the Contract and perform

all its items, covenants and conditions, and will provide, furnish and deliver all work, materials, supplies, tools and appliances for all labor and materials necessary or required for the work, all in strict conformity with the Contract, in accordance with the bid schedule of prices annexed hereto and the total bid price below.

☞ The Bid Schedule of Prices follows this page (for LUMP SUM CONTRACTS there is no additional Bid Schedule of Prices.) The Bid Total and Signature Page follows.

☞ THE BID SHALL BE TYPEWRITTEN OR WRITTEN LEGIBLY IN INK. THE BID SHALL BE SIGNED IN INK. ERASURES OR ALTERATIONS SHALL BE INITIALED BY THE SIGNATORY IN INK.

8. The Engineer's Estimate of Quantities on the Bid Schedule of Prices (if any) is approximate only and is not to be considered as a binding feature of the Contract. Bidders are required to submit their bids upon the following express conditions which apply to and become part of every bid received. Bidders must satisfy themselves as to the accuracy of any Engineer's Estimate and of their bid price by personal examination of the location of the proposed work and surroundings thereof, and by such other means as they may prefer, and shall not, at any time after submission of their bids, dispute or complain of such Engineer's Estimate of Quantities, nor assert that there was any misunderstanding in regard to quantity or kind of material to be furnished or work to be done. No error or misunderstanding of the bidder shall affect the validity of the bid made or the Contract entered into hereunder.

9. The bid prices given below are to be paid for the actual quantities of the several classes of work in the completed work or structure, and they cover the cost of all work, labor, material, tools, plant and appliances of every description necessary and required to complete the entire work, as specified, and the removal of debris, temporary work and appliances. Should the dimensions of any part of the work or the materials be less than those required by the plan, the actual quantities only will be allowed in measurement.

10. By signing this bid document, below, the bidder certifies the accuracy of the information provided on the Cover Page/Invitation for Bids Summary and in its bid, as well as the information to be provided in connection with the Financial Statement Requirement set forth in Section B3. In addition, by signing this bid below, the bidder acknowledges and agrees to the terms and conditions of the provisions enumerated below and that such provisions constitute material conditions of this Contract:

[IMPORTANT NOTE -- THESE ARE MANDATORY CHECK-OFF ITEMS – YOU MUST CHECK “YES” BELOW OR YOUR BID MAY BE REJECTED AS NON-RESPONSIVE]

(a) Article 69 of the Standard Construction Contract- MacBride Principles

- YES the bidder agrees to comply with the MacBride Principles
- NO the bidder does not agree to comply with the MacBride Principles

(b) Article 71 of the Standard Construction Contract - Tropical Hardwoods Law

- YES the bidder agrees to comply with the Tropical Hardwoods Law
- NO the bidder does not agree to comply with the Tropical Hardwoods Law

SECTION B5
BIDDERS MINIMUM QUALIFICATIONS

Introduction:

Due to the special nature of the Work required for the Project, the Bidder shall be required to submit, with its Bid, sufficient evidence, including completion of the Bidder's Minimum Qualifications Requirements Statement Form (attached), that it satisfies all of the following minimum qualification criteria ("Minimum Qualifications").

Minimum Qualifications:

1. The Bidder must have prior experience on at least three (3) Projects, each substantially completed within the last ten (10) years, and with a minimum three (3) years of experience performing similar work (in scope and magnitude) as described in this Contract.
2. In the event that the Bidder is an entity which was formed within five (5) years prior to the Bid Opening, NYCDEP may, in determining compliance with the Minimum Qualifications, consider prior projects completed by principals(s) of the Bidder while such principal was affiliated with another entity, subject to the following conditions:
 - 2.A If the Bidder is relying on the prior experience of only one (1) of its principals, such principal must hold an ownership interest of 51% or greater in the entity submitting the Bid.
 - 2.B If the Bidder is relying on the prior experience of more than one of its principals, each such principal must hold an ownership interest of 20% or greater in the entity submitting the Bid, and all such principals must collectively hold an ownership interest of 51% or greater in the entity submitting the Bid.
 - 2.C If the Bidder is relying on the prior experience of any of its principals, each such principal must:
 - i. Have held a significant management role in the prior entity which he/she was affiliated, and
 - ii. Have been a principal of the entity submitting the Bid for a period of at least six months prior to the submission of the Bid or from the inception of the entity submitting the Bid.
3. In the event that the Bidder is a joint venture, one of entities in the joint venture must meet the Minimum Qualifications and hold an ownership interest of 50% or greater in the entity submitting the Bid.
4. Additional Project-Specific Required Minimum Technical Qualifications (if needed):

5. Failure of the Bidder to submit sufficient evidence that it satisfies the Minimum Qualifications may result in a determination that the Bidder is non-responsive pursuant to the PPB Rules.

6. NYCDEP may independently evaluate the Bidder's qualifications and experience and deem the Bidder qualified, even if the Bidder has technically failed (based on the aforementioned requirements) to submit sufficient evidence and/or complete the Minimum Qualifications Form(s), and as a result, is responsive to the Minimum Qualifications requirements of this Bid.

FORM TO FOLLOW

SECTION C



CONSTRUCTION CONTRACT

INFORMATION FOR BIDDERS

(Rev. 4/13/2018)

59-17 Junction Boulevard, Flushing, New York 11373

DEPARTMENT OF ENVIRONMENTAL PROTECTION
INFORMATION FOR BIDDERS - CONSTRUCTION CONTRACT



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DEPARTMENT OF ENVIRONMENTAL PROTECTION
INFORMATION FOR BIDDERS - CONSTRUCTION CONTRACT

1. **GENERAL INFORMATION**

(A) PAGINATION OF INVITATION FOR BIDS (“IFB”) PACKAGE

The pages of this solicitation package are numbered consecutively. Prospective bidders must examine the documents carefully. Before bidding, prospective bidders must notify the Agency Chief Contracting Officer, in writing, if any pages are missing, and request that those missing pages be furnished to them.

(B) DESCRIPTION AND LOCATION OF WORK

The description and location of the work for which bids are requested are specified on the Cover Page/IFB Summary (sometimes referred to as the “Cover Page”) located in the front of the Bid Booklet that is part of this IFB.

(C) PROCUREMENT POLICY BOARD RULES

This Invitation for Bids is subject to the Rules of the Procurement Policy Board of the City of New York (the “PPB Rules”). In the event of a conflict between the PPB Rules and a provision of this Invitation for Bids, the PPB Rules shall take precedence. A copy of the PPB Rules can be obtained on the City’s website at <http://www.nyc.gov/html/moc/ppb/html/home/home.shtml>.

(D) BID SUBMISSION REQUIREMENTS

The Bid Booklet Contents and Instructions indicates with a star (★) certain forms, all of which are contained in the Bid Booklet for this Invitation for Bids if they are applicable to this Contract, that must be completed and submitted with the bid, or else it may be rejected as non-responsive.

In addition, it is recommended that the following forms, all of which are contained in the Bid Booklet, be completed and submitted with the bid, or within five days after the bid opening. Please be advised, however, that when requested to do so by DEP, the apparent low bidder must submit the following forms:

- i. **Business Entity and Principal VENDEX Questionnaires** - See Section 26, below, for details.
- ii. **Employment Report** - See Section 32, below, for details.

NON-COMPLIANCE WITH ANY BID SUBMISSION REQUIREMENTS MAY RESULT IN REJECTION OF THE BID.

2. **TIME AND PLACE FOR RECEIPT OF BIDS**

Sealed bids will be received by the Department of Environmental Protection, Contract Management Office, 59-17 Junction Blvd. 17th Floor, Flushing, New York 11373, on the day and at the time specified on the Cover Page/Invitation for Bids Summary. Bids will be publicly opened and read aloud in the presence of the Commissioner, or his/her representatives, and any bidder who may desire to be present.

DEPARTMENT OF ENVIRONMENTAL PROTECTION
INFORMATION FOR BIDDERS - CONSTRUCTION CONTRACT

3. DEFINITIONS

The definitions set forth in the Procurement Policy Board Rules shall apply to this Invitation for Bids. Other capitalized terms used in this Invitation for Bidders are used as defined in the New York City Standard Construction Contract (the “Standard Construction Contract”).

4. INVITATION FOR BIDS DOCUMENTS

(A) INCLUDED IN CONTRACT DOCUMENTS. Except for titles, subtitles, headings, running headlines, tables of contents and indices (all of which are printed herein merely for convenience) the contents of this Invitation for Bids package, except for such portions thereof as may be specifically excluded, shall be deemed to be part of the Contract, including the bid documents as completed and submitted by the successful bidder. For a further definition of the Contract Documents, see Article 1 of the Standard Construction Contract..

(B) GENERAL CONDITIONS AND SPECIFICATIONS. For particulars as to this procurement, including quantity and quality of the purchase, extent of the work or labor to be performed, delivery and performance schedule, and any other special instructions, prospective bidders are referred to the General Conditions and Specification sections of the Invitation for Bids, including Schedule A to the General Conditions (highlighting key information specific to the bids for this Contract), as well as the Contract Drawings. A copy of such documents can be obtained at the DEP Contract Management Office, 59-17 Junction Blvd., 17th Floor, Flushing, 11373.

(C) DEPOSIT FOR COPY OF INVITATION FOR BIDS DOCUMENTS. Prospective bidders may obtain a copy of the Invitation for Bids documents by complying with the conditions set forth in the City Record Advertisement for Bids. The deposit required must be in the form of a money order or certified check, made payable to the order of the City of New York, and drawn upon a state or national bank or trust company, or of a check of such bank or trust company *signed by a duly authorized officer thereof*.

(D) RETURN OF INVITATION FOR BIDS DOCUMENTS. All Invitation for Bids documents must be returned to the Department upon request. If a prospective bidder elects not to submit a bid, the Invitation for Bids documents shall be returned to the Department along with a statement that no bid will be submitted.

(E) RETURN OF DEPOSIT. The Invitation for Bids documents deposit will be returned within 30 days after the award of the Contract or the rejection of all bids as set forth in the advertisement provided the Invitation for Bids documents are returned to the Contract Management Office in physical condition satisfactory to the Commissioner.

(F) ADDITIONAL COPIES. Additional copies of the Invitation for Bids may be obtained from the Agency Chief Contracting Officer, subject to any conditions set forth in the Advertisement for Bids.

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5. PRE-BID CONFERENCE

A pre-bid conference, if required, as shown in the advertisement, shall be held as set forth on the Cover Page.

Nothing stated at the pre-bid conference shall change the terms and/or conditions of the Invitation for Bids unless a change is made by written amendment as provided in Section 9, below, and the Procurement Policy Board Rules, contained in an Addendum to the Invitation for Bids issued by the Agency Chief Contracting Officer.

Failure to attend a mandatory pre-bid conference shall constitute grounds for the rejection of the bid.

Please notify the Agency Contact Person for this IFB, listed on the Cover Page, of the number of representatives from your firm that will attend the conference. This should be done at least five City working days before the date of the pre-bid conference.

6. AGENCY CONTACT

Any questions or correspondence relating to this bid solicitation shall be addressed to the Agency Contact Person specified on the Cover Page.

7. BIDDER'S OATH

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

8. [Intentionally Omitted]

9. EXAMINATION OF PROPOSED CONTRACT

(A) REQUEST FOR INTERPRETATION OR CORRECTION BEFORE BIDDING. Prospective bidders must examine the Invitation for Bids carefully and, before bidding, must make a request in writing to the Agency Contact Person to have the Agency Chief Contracting Officer (“ACCO”) issue an interpretation or correction of every patent ambiguity, inconsistency or error therein which should have been discovered by a reasonably prudent bidder. Such interpretation or correction as well as any additional Contract provisions the ACCO may decide to include will be issued in writing by the ACCO as an Addendum to the Invitation for Bids, which will be sent to each person recorded as having received a copy of the Invitation for Bids, and which will also be posted at the place where Invitations for Bids are distributed. Upon such mailing or delivery and posting, such Addendum shall become a part of the Invitation for Bids and the Contract Documents, and binding on all bidders, whether or not actual notice of such Addendum is shown.

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(B) ONLY THE ACCO'S INTERPRETATION OR CORRECTION BINDING. Only the written interpretation or correction so given by the ACCO shall be binding, and prospective bidders are warned that no other officer, agent or employee of the City is authorized to give information concerning, or to explain or interpret, the Invitation for Bids documents.

(C) SUBCONTRACTOR SOLICITATION. Documents given to a prospective subcontractor for the purpose of soliciting the subcontractor's bid shall include either a copy of the bid cover or a separate information sheet setting forth the project name, the Contract number (if available), the contracting agency, and the project's location.

10. **FORM OF BIDS**

Each bid must be submitted upon the prescribed Bid Form contained in Section B of the Bid Booklet, and must contain:

(A) The name, residence, and place of business of the person(s) or entity(ies) making the same.

(B) The names of all persons or entities interested therein, and if no other person or entity is so interested, such fact must be distinctly stated.

(C) A statement to the effect that it is made without any connection with any other person or entity making a bid for the same purpose and it is in all respects fair and without collusion or fraud.

(D) A statement that no Councilperson, or other officer or employee or person whose salary is payable in whole or in part from the City Treasury is directly or indirectly interested therein or in the supplies, materials or equipment and work or labor to which it relates, or in any portion of the profits thereof.

(E) A statement that the bidder is not in arrears to the City or to any agency upon a debt or contract, or taxes, and is not a defaulter as surety or otherwise upon any obligation to the City or to any agency thereof, except as set forth in the bid.

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

11. [Intentionally Omitted]

12. **IRREVOCABILITY OF BID**

The prices set forth in the bid cannot be revoked and shall be effective until the award of the Contract, unless the bid is withdrawn as provided for in Sections 16 and 19, below.

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13. **ACKNOWLEDGMENT OF ADDENDA**

The receipt of any Addendum to the Contract Documents shall be acknowledged by the bidder on or before the submission of the bid.

14. **BID SAMPLES AND DESCRIPTIVE LITERATURE**

Bid samples and descriptive literature shall not be submitted by the bidder, unless expressly requested elsewhere in the Invitation for Bids or Contract Documents. Any unsolicited bid samples or descriptive literature that are submitted shall not be examined or tested and shall not be deemed to vary any of the provisions of this Contract. DEP may discard them, and they will not affect bid evaluation.

15. **PROPRIETARY INFORMATION / TRADE SECRETS**

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

All such materials stamped "Confidential" shall be reviewed by DEP and any decision not to honor a request for confidentiality shall be communicated in writing to the bidder. For those bids which are unsuccessful, all such confidential materials shall be returned to the bidder, with the exception of one copy that the City may retain and hold in a secure and confidential manner. Prices, makes, and model or catalog numbers of the items offered, deliveries, and terms of payment shall be publicly available after bid opening regardless of any designation of confidentiality made by the bidder.

16. **PRE-OPENING MODIFICATION OR WITHDRAWAL OF BIDS**

Bids may be modified or withdrawn by written notice received by the Contract Management Office, 59-17 Junction Blvd. 17th Floor, Flushing, NY 11373 before the time and date set for the bid opening.

If a bid is withdrawn in accordance with this Section, the bid security, if any, shall be returned to the bidder.

17. **BID EVALUATION AND AWARD**

In accordance with the New York City Charter, the Procurement Policy Board Rules and the terms and conditions of this Invitation for Bids, this Contract shall be awarded, if at all, to the lowest responsible bidder whose bid meets the requirements and evaluation criteria set forth in the Invitation for Bids, and whose bid price is either the lowest responsive bid price or, if the Invitation for Bids so states, the lowest evaluated responsive bid price. A bid

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may not be evaluated for any requirement or criterion that is not disclosed in the Invitation for Bids.

(A) **RESTRICTIONS.** No negotiations with any bidder shall be allowed to take place except under circumstances and in the manner set forth in the PPB Rules and Section 17(B) of this Information for Bidders. Nothing in this Section shall be deemed to permit a Contract award to a bidder submitting a higher quality item than that designated in the Invitation for Bids if that bid is not also the most favorable bid.

(B) **NEGOTIATIONS WITH THE APPARENT LOWEST RESPONSIVE AND RESPONSIBLE BIDDER.** Upon determination of the apparent lowest responsive and responsible bidder and prior to award, the Contracting Officer may elect to open negotiations with such bidder in an effort to improve the bid to the City with respect to the price only. In the event the apparent lowest responsive and responsible bidder declines to negotiate, the Contracting Officer may elect to either award the Contract to the apparent lowest responsive and responsible bidder or may, upon written approval by the Agency Chief Contracting Officer, reject all bids in accordance with the PPB Rules.

18. **LATE BIDS, LATE WITHDRAWALS AND LATE MODIFICATIONS**

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

The exception to this provision is that a late modification of a successful bid that makes the bid terms more favorable to the City shall be considered at any time it is received and may be accepted upon written approval of the Agency Chief Contracting Officer.

19. **WITHDRAWAL OF BID**

Except as provided for in Section 16, above, a bidder may not withdraw its bid before the expiration of 45 days after the date of the opening of bids; thereafter, a bidder may withdraw its bid only in writing and in advance of an actual award.

20. **MISTAKES IN BIDS**

(A) **MISTAKES DISCOVERED BEFORE BID OPENING.** A bidder may correct mistakes discovered before the time and date set for bid opening by withdrawing or correcting the bid as provided in Section 16, above.

(B) **MISTAKES DISCOVERED AFTER BID OPENING**

i. **Mistakes Where Intended Correct Bid is Evident**

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If the mistake and the intended correct bid are clearly evident on the face of the bid document, the bid shall be corrected to the intended correct bid and may not be withdrawn. Examples of mistakes that may be clearly evident on the face of the bid document are typographical errors, errors in extending unit prices, transposition errors, and arithmetical errors.

ii. **Mistakes Where Intended Correct Bid is Not Evident**

In accordance with General Municipal Law Section 103(11), mistakes may not be corrected after bid opening. Unless otherwise required by law, the sole remedy for a bid mistake discovered after bid opening in accordance with this Section shall be withdrawal of that bid, and return of the bid bond or other security, if any, to the bidder. Thereafter, DEP may, in its discretion, award the Contract to the next lowest bidder or rebid the Contract. Any amendment to or reformation of a bid or a contract to rectify such an error or mistake therein is strictly prohibited. Where a unilateral error or mistake is discovered in a low bid, such bid may be withdrawn upon written approval of the Agency Chief Contracting Officer if the following conditions are met:

- (a) the mistake is known or made known to DEP prior to the awarding of the Contract or within three days after the opening of the bid, whichever period is shorter; and
- (b) the price bid was based on an error of such magnitude that enforcement would be unconscionable; and
- (c) the bid was submitted in good faith and the bidder submits credible evidence that the mistake was a clerical error as opposed to a judgment error; and
- (d) the error in the bid is actually due to an unintentional and substantial arithmetic error or an unintentional omission of a substantial quantity of work, labor, material, or services made directly in the compilation of the bid, which unintentional arithmetic error or unintentional omission can be clearly shown by objective evidence drawn from inspection of the original work paper, documents, or materials used in the preparation of the bid sought to be withdrawn; and
- (e) it is possible to place the City in the same condition that had existed prior to the receipt of the bid.

21. **LOW TIE BIDS**

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

- i. Award to a certified New York City minority-owned, woman-owned or emerging business entity bidder;
- ii. Award to a New York City bidder;

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iii. Award to a certified New York State small, minority, or woman-owned business bidder;

iv. Award to a New York State bidder.

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

22. **REJECTION OF BIDS**

(A) REJECTION OF INDIVIDUAL BIDS. DEP may reject a bid if:

i. the bidder fails to furnish any of the information required pursuant to Section 26 or 31, below; or if

ii. the bidder is determined to be not responsible pursuant to the Procurement Policy Board Rules; or if

iii. the bid is determined to be non-responsive pursuant to the Procurement Policy Board Rules; or if

iv. the bid, in the opinion of the Agency Chief Contracting Officer, contains unbalanced bid prices and is thus non-responsive.

(B) REJECTION OF ALL BIDS. The ACCO may reject all bids and may elect to resolicit by bid or by other method authorized by the PPB Rules.

23. **RIGHT TO APPEAL DETERMINATIONS OF NON-RESPONSIVENESS OR NON-RESPONSIBILITY AND RIGHT TO PROTEST SOLICITATIONS AND AWARD**

The bidder has the right to appeal a determination of non-responsiveness or non-responsibility and any vendor has the right to protest a solicitation and award. For further information concerning these rights, the bidder is directed to the Procurement Policy Board Rules.

24. [Intentionally Omitted]

25. **AFFIRMATIVE ACTION AND EQUAL EMPLOYMENT OPPORTUNITY**

This Invitation for Bids is subject to applicable provisions of federal, state, and local laws and executive orders requiring affirmative action and equal employment opportunity.

26. **VENDEX QUESTIONNAIRES AND FEES**

Pursuant to New York City Administrative Code §6-116.2 and the PPB Rules (9 RCNY §5-02), bidders may be obligated to submit completed VENDEX Questionnaires in connection with this bid. Generally, if this bid is \$100,000 or more, or if this bid when added to the sum total of all contracts, concessions, and franchises the bidder has received from the City, and any subcontracts

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received from City contractors, over the past twelve months, equals or exceeds \$100,000 VENDEX Questionnaires must be completed and submitted. If completed VENDEX Questionnaires have been filed with the City within the previous 36 months, and there are no changes to any response contained in those VENDEX Questionnaires, the bidder may submit a Certification of No Change in lieu of completing additional VENDEX Questionnaires. If changes have occurred, the bidder is required to submit a Changed Questionnaire.

The VENDEX Questionnaires or the Certification of No Change must be completed and submitted directly to the Mayor's Office of Contract Services ("MOCS") before any award of the Contract may be made (or before an approval is given for a proposed subcontractor). Information provided on VENDEX Questionnaires is subject to review by the City's Department of Investigation. Detailed instructions regarding the completion of VENDEX Questionnaires are included in Section E of the Bid Booklet that is part of this IFB. The VENDEX Memorandum form included in the Bid Booklet must be completed by the apparent low bidder and submitted to the ACCO's office upon notification by DEP, certifying that the necessary questionnaires or a VENDEX Certification of No Change, as applicable, have been submitted to MOCS. Non-compliance with these submission requirements may result in the rejection of the bid, disapproval of a proposed subcontractor, subsequent withdrawal of approval for the use of an approved subcontractor, or the cancellation of the Contract after its award. Any questions concerning the VENDEX Questionnaires must be submitted to the ACCO.

Pursuant to PPB Rules Section 2-08(f)(2), the contractor will be charged a fee for the administration of the VENDEX system, including the Vendor Name Check process, if a Vendor Name Check is required to be conducted by the City Department of Investigation. The contractor shall also be required to pay the applicable required fees for any of its subcontractors for which Vendor Name Check reviews are required. The fee(s) will be deducted from payments made to the contractor under the Contract. For contracts with an estimated value of less than or equal to one million dollars (\$1,000,000), the fee will be one hundred and seventy-five dollars (\$175). For contracts with an estimated value of greater than one million dollars (\$1,000,000), the fee will be three hundred and fifty dollars (\$350).

27. **AUDIT BY THE COMPTROLLER**

The New York City Comptroller is charged with the audit of City contracts. Any vendor who believes that there has been unfairness, favoritism, or impropriety in the bid process should inform the Comptroller, Office of Contract Administration, One Centre Street, Room 835, New York, NY; telephone number (212) 669-2797.

28. **BID, PERFORMANCE, AND PAYMENT SECURITY**

(A) **BID SECURITY.** The Mayor's Office of Contract Services or the Agency Chief Contracting Officer may require the submission of bid security in an amount and type specified in Schedule A to the General Conditions. **If bid security is required on Schedule A, no bid will be considered which is not accompanied by the bid security. The bid security shall assure the City and DEP of the adherence of the bidder to its bid, and the execution of the Contract, in form included in this IFB, if its bid is accepted.** The bidder is advised that submission of a bid bond where the surety on such bond fails to meet the criteria set forth herein shall result in the rejection of the bid as non-responsive.

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- i. If a bid bond is furnished to satisfy the bid security requirement, it shall be submitted in the form included in the Bid Booklet, issued by a surety company that is authorized to do business in the State of New York and approved by the City. The bid bond shall insure the City of New York to the extent of not less than amount stated in Schedule A.
- ii. If a bank certified check is submitted as bid security, it must be upon a state or national bank or trust company or a check of such bank or trust company signed by a duly authorized officer thereof, drawn to the City, which the Comptroller shall approve as of equal value with the sum so required in Schedule A.
- iii. The bid security, in whatever form, must not be enclosed in the envelope containing the bid, but must be submitted separately to the Commissioner's representative upon presentation of the bid.
- iv. Bid security will be returned to bidders as follows:
 - (a) Within ten days after the bid opening, the Comptroller will be notified to return the bid security of all but the three lowest bidders. Within five days after the award, the Comptroller will be notified to return the bid securities of the remaining two unsuccessful bidders.
 - (b) Within five days after the execution of the Contract and acceptance of the Contractor's performance and payment bonds, the Comptroller will be notified to return the bid security of the successful bidder or, if no performance and payment bonds are required, the Comptroller will be notified to return the bid security only after the sum retained under applicable provisions of the Contract equals the bid security.
 - (c) Where all bids are rejected, the Comptroller will be notified to return the bid security of all bidders at the time of rejection.

(B) PERFORMANCE SECURITY. The Agency Chief Contracting Officer or the Mayor's Office of Contract Services may require performance security, in the form set forth herein, in the amount specified in Schedule A. The performance security shall be delivered by the Contractor to the Contract Management Office *within ten days after the receipt of a Notice of Award*. If a Contractor fails to deliver the required performance security, the award shall be rescinded, its bid security shall be enforced and award of the Contract may be made to the next lowest responsive and responsible bidder or the Contract may be rebid.

(C) PAYMENT SECURITY. Payment security is required in the amount specified in Schedule A. The payment security, in the form set forth herein, shall be delivered by the Contractor to the Contract Management Office *within ten days after the receipt of a Notice of Award*. If a Contractor fails to deliver the required payment security, the award shall be rescinded, its bid security shall be enforced, and award of the Contract may be made to the next lowest responsive and responsible bidder, or the Contract may be rebid.

(D) ACCEPTABLE SECURITY. Acceptable security for bids, performance and payment shall be limited to:

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- i. A one-time bond in a form satisfactory to the City (the bidder must use the forms included in this IFB);
- ii. A bank-certified check or money order;
- iii. City bonds; or
- iv. Other financial instruments as determined by the Mayor's Office of Contract Services in consultation with the Comptroller.

When the successful bidder deposits obligations of the City of New York as performance and payment security, the Comptroller may sell and use the proceeds thereof for any purpose for which the principal or surety on such bond would be liable under the terms of the Contract. If money is deposited with the Comptroller, the successful bidder shall not be entitled to receive interest on such money from the City.

(E) Security provided in the form of bonds must be prepared on the form of bonds authorized by the City as included in the Invitation for Bids. Such bonds must have as surety thereunder such surety company or companies as are:

- i. Approved by the City of New York; and
- ii. Authorized to do business in the State of New York.

(F) Premiums for any required bonds must be included in the base bid.

29. **FAILURE TO EXECUTE CONTRACT AND FURNISH SECURITY OR INSURANCE**

In the event of failure of the successful bidder to execute the Contract and furnish the required security and insurance, or to make any other submission required hereunder, within ten days after Notice of Award of the Contract, the bid security of the successful bidder, or so much thereof as shall be applicable to the amount of the award made, shall be retained by the City, and the successful bidder shall be liable for and hereby agrees to pay the City on demand the difference between the price bid and the price for which such Contract shall be subsequently relet, including the cost of such reletting less the amount of such bid security. No plea of mistake in such accepted bid shall be available to the bidder for the recovery of such bid security or as a defense to any action based upon such accepted bid. Further, should the bidder's failure to comply with this Section cause any funding agency, body or group (federal, state, City, public, private, etc.) to terminate, cancel or reduce the funding on this project, the bidder in such event shall be liable also to the City for the amount of actual funding withdrawn by such agency, body or other entity on this project less the amount of the forfeited bid security.

30. **POWER OF ATTORNEY**

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

31. **BIDDER RESPONSIBILITY AND QUALIFICATIONS**

Bidders must include with their bids or upon demand by DEP all information necessary for a determination of bidder responsibility, as set forth in the Specifications.

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(A) **BIDDER'S RECORDS AND SWORN STATEMENTS.** DEP may require any bidder or prospective bidder to furnish all books of account, records, vouchers, statements or other information concerning the bidder's financial status for examination as may be required by the agency to ascertain the bidder's responsibility and capability to perform the Contract. If required, a bidder must also submit a sworn statement setting forth such information as the Agency may require concerning present and proposed plant and equipment, the personnel and qualifications of its working organization, prior experience and performance record.

(B) **ORAL EXAMINATION ON QUALIFICATIONS.** In addition thereto, and when directed by the agency, a responsible officer, agent, or employee of the bidder must submit to an oral examination to be conducted by the agency in relation to its proposed tentative plan and schedule of operations, and such other matters as the agency may deem necessary in order to determine the bidder's ability and responsibility to perform the Work in accordance with the Contract. Each person so examined must sign and verify a stenographic transcript of such examination noting thereon such corrections as such person may desire to make.

(C) **FAILURE TO SUPPLY INFORMATION.** If the bidder fails or refuses to supply any of the documents or information set forth in this Section or fails to comply with any of the requirements hereof, the agency may reject its bid.

32. **EMPLOYMENT REPORTS (DEPARTMENT OF SMALL BUSINESS SERVICES)**

In accordance with Executive Order No. 50 (1980) as modified by Executive Order No. 108 (1986), the filing of a complete Employment Report is a requirement of doing business with the City of New York for construction contractors with a contract valued at **\$1,000,000 or more** and subcontractors with construction **subcontracts of \$750,000 or more**. The required forms and information are included in the Bid Booklet.

Prior to the award of a Contract resulting from this Invitation for Bids, the apparent successful bidder will be required to submit the following documents:

(A) **Employment Report**

(B) **Subcontractor Employment Report** (if subcontract is equal to or in excess of \$750,000)

(C) **Less than \$750,000 Subcontractor Certificate** (for subcontracts valued at less than \$750,000)

In addition, if the apparent successful bidder will award a subcontract for non-construction services worth \$100,000 or more, a **Supply and Service Employment Report**, available from the City Department of Small Business Services, must be provided.

33. **LABOR LAW REQUIREMENTS**

The successful bidder will be required to comply strictly with all federal, state, and local labor laws and regulations, including, but not limited, to providing on-the-job training opportunities and payment of prevailing wages and supplements as required by New York State Labor Law Section 220. The successful bidder must post at the jobsite all signs and notices required by the Labor Law.

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All requests for clarification of the classification of trades to be employed in the performance of the work under this Contract shall be directed to the Agency Chief Contracting Officer, in writing, at least 48 hours prior to the bid opening date.

In the event that a trade not listed in the classification of trades required to be used at the time of the award of the Contract is in fact employed during the performance of this Contract, the Contractor shall be required to obtain from the City Comptroller the prevailing wage rates and supplementary benefits for the trades used and to complete the performance of this Contract at the price at which the Contract was awarded.

34. INSURANCE

Bidders are advised that the insurance requirements contained in this Invitation for Bids are regarded as a material term of this Contract.

Pursuant to Section 57 and Section 220(8) of the New York State Workers' Compensation Law, the successful bidder must submit proof of workers' compensation and disability benefits coverage to this Department prior to the execution of any Contract resulting from this solicitation.

ALL other required insurance documentation must also be submitted prior to commencement of the work of this Contract. During performance and up to the date of final acceptance, the Contractor must effect and maintain with insurance companies authorized to do business in the State of New York, the types and amounts of insurance specified in Schedule A, in accordance with the terms and conditions of Article 22 of the Standard Construction Contract.

35. LUMP SUM CONTRACTS

(A) COMPARISON OF BIDS. Bids on Lump Sum Contracts will be compared on the basis of the lump sum price bid, as adjusted for alternate prices bid, if any.

(B) LUMP SUM BIDS FOR "GENERAL CONSTRUCTION WORK" that includes excavation shall include all necessary excavation work defined in the Specifications as being included in the lump sum bid. The bidder shall also bid a unit price for the cost of excavating additional material that may need to be removed, where the Specifications identify an unknown and/or estimated amount of additional excavation for which additional payment will be made. The total estimated additional cost of removing such undefined material will be taken as the quantity set forth in the Engineer's Estimate of Quantities multiplied by the unit price bid. This total estimated cost of additional excavation shall be added to the lump sum bid for the General Construction Work solely for the purpose of comparing bids to determine the low bidder.

(C) VARIATIONS FROM ENGINEER'S ESTIMATE. The Engineer's estimate of the quantity of additional excavation for which additional payment will be made at the unit price bid is approximate only and is given solely for use as a uniform basis for the comparison of bids. This is not a promise to pay the successful bidder the total estimated cost of any such additional excavation, which will be paid for at the unit price bid for each unit of such additional material that the Contractor actually excavates and removes, which may be more or less than the quantity in the Engineer's Estimate and, if

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so, no action for damages or for loss of profits shall accrue to the Contractor by reason thereof.

36. UNIT PRICE CONTRACTS

(A) COMPARISON OF BIDS. Bids on Unit Price Contracts will be compared on the basis of a total estimated bid price, arrived at by taking the sum of the estimated quantities of each unit price item multiplied by the corresponding unit prices bid, and including any lump sum prices bid on designated items, in accordance with the Engineer's Estimate of Quantities set forth in the Bid Form.

(B) VARIATIONS FROM ENGINEER'S ESTIMATE. The total estimated bid price will be used solely to compare bids to determine the lowest bidder. DEP does not promise to pay the successful bidder this total estimated bid price, or to require any particular lump sum item or any of the unit price items. The terms and conditions applicable to overruns of unit price items are set forth in Article 26 of the Standard Construction Contract.

37. CITY'S LIMITED TAX EXEMPTION

Unless this Contract indicates otherwise, the City is exempt from the payment of federal, State and local taxes on tangible personal property sold to the City pursuant to the Contract. The bid price(s) must be exclusive of such taxes and shall be so construed. Bidders are referred to Article 62 of the Standard Construction Contract.

38. LICENSES AND PERMITS

At the time the bid is submitted, the bidder must have all licenses that are required by New York State and/or New York City, or any other authority with jurisdiction, for a contractor that will perform the type of work required by the Contract. The successful bidder will also be required to obtain all other necessary licenses and permits to perform the work, at its own expense.

39. MULTIPLE PRIME CONTRACTORS

If more than one prime contractor will be involved on this project, all bidders are required to examine the IFBs for all other parts of the project.

40. LOCALLY BASED ENTERPRISE ("LBE") REQUIREMENTS

This Contract is subject to the LBE requirements of New York City Administrative Code § 6-108.1 and the regulations promulgated thereunder, **unless** either: (a) the Subcontractor Utilization Plan (included in this IFB as Schedule B, if applicable) contains minority- and women-owned business enterprise ("M/WBE") requirements that the successful bidder must meet, or (b) New York State Revolving Fund M/WBE requirements apply, as indicated on the Cover Page/IFB Summary. The bidder is referred to the provisions set forth in Article 67 of the Standard Construction Contract for details of the LBE requirements.

41. NO BLASTING

Unless otherwise permitted in the Specifications or Contract Drawings, no blasting will be allowed under this Contract. The Contractor shall use line drilling or other acceptable methods.

DEPARTMENT OF ENVIRONMENTAL PROTECTION
INFORMATION FOR BIDDERS - CONSTRUCTION CONTRACT

42. COMPTROLLER'S CERTIFICATE

This Contract shall not be binding or of any force unless the Comptroller of the City shall endorse hereon his/her certificate that there remains unexpended and unapplied, as provided in Section 6-101 of the Administrative Code of the City of New York, a balance of the appropriation of funds applicable thereto sufficient to pay the estimated expense of executing this Contract. This Contract shall continue in force only after annual appropriation of funds by the City of New York and certification as hereinabove set forth.

43. CERTIFICATION BY NON-GOVERNMENTAL ENTITY OR MEMBERSHIP IN NON-GOVERNMENTAL ORGANIZATION

In the Specifications included in this Contract, wherever certification or training by a non- governmental entity, or membership in a non-governmental organization is required, this shall be deemed to require such certification, training or membership or possession of equivalent qualifications or characteristics as determined by the Engineer. The previous sentence shall not be construed to be a waiver of any legally required Federal, State or local certification, training or licensing requirement, nor shall it apply where certification by the manufacturer of materials or equipment is called for.

44. [Intentionally Omitted]

45. PROMPT PAYMENT

The Prompt Payment provisions set forth in the Procurement Policy Board Rules are applicable to payments made under a Contract resulting from this solicitation. The provisions require the payment to contractors of interest on payments made after the required payment date except as set forth in the PPB Rules. The Contractor must submit a proper invoice to receive payment, except where the Contract provides that the Contractor will be paid at predetermined intervals without having to submit an invoice for each scheduled payment. Determinations of interest due will be made in accordance with the provisions of the Procurement Policy Board Rules.

END OF INFORMATION FOR BIDDERS

SECTION D

The “List Of Equipment/Material Manufacturers Form”
Is Not Required For This Project

SECTION E

Procurement and Sourcing Solutions Portal (PASSPort) Disclosure Filing (formerly known as Vendor Information Exchange System (VENDEX) Forms or Certificate of No Change)

All organizations intending to do business with the City of New York must complete the disclosure process in order to be considered for award of a contract. This disclosure process was formerly completed using Vendor Information Exchange System (VENDEX) paper-based forms. The City of New York has now moved collection of vendor disclosure information online. In anticipation of awards, potential bidders must create online accounts in the new Procurement and Sourcing Solutions Portal (PASSPort) and file all disclosure information. **Paper submissions, including certifications of no changes to existing VENDEX packages will not be accepted in lieu of complete online filings.**

Any reference to VENDEX in the Information for Bidders should be deemed to be a reference to PASSPort; the VENDEX questionnaire included herein no longer applies and will not be accepted by the Mayor's Office of Contract Services.

For more information about PASSPort, please visit nyc.gov/passport.

SECTION F

SECTION G



Division of Labor Services

FREQUENTLY ASKED QUESTIONS

General

Q. My approval status is expiring; can I submit an employment report directly to DLS for recertification?

A. No. You must submit your employment report with all supporting documentation to the City agency where you are bidding for the contract. Only participants of the Industrial and Commercial Abatement Program (ICAP) can submit employment reports directly to DLS.

Q. My company has a valid Certificate of Approval and I was just awarded another contract; can I use this approval for the new contract?

A. Although you have a valid approval you must submit a copy of the Certificate of Approval and the following sections of the employment report:

- General Information
- Part I – Contractor and Subcontractor Information
- Part II, Form B – Projected Workforce (Construction contractors only)
- Signature Page

Supply & Service

Q: I am a prime contractor with less than 50 employees; do my subcontractors have to fill out an employment report?

- If the value of the subcontract is in excess of \$100,000 and the subcontractor has more than 50 employees, they must fill out an employment report. However, if the value of the subcontract is in excess of \$100,000 and the subcontractor has less than 50 employees, then they must fill out a “Less than 50” certificate.
- **Where can I find my industry code?**
- A list of the [industry codes](#) can be accessed through the website.

Industrial and Commercial Abatement Program (ICAP)

Q. I am a developer without a construction workforce applying for ICAP benefits; do I have to fill out an employment report?

A. Yes. In order for you to receive the tax benefits, you must provide documentation that you are an Equal Employment Opportunity (EEO) employer pursuant to the rules of the ICAP.

Q. I am a tenant in a building that qualifies for ICAP and am planning to apply for tax benefits; do I have to file an employment report?

A. Yes. In order for you to receive tax benefits on the construction work you perform on the property, you must provide documentation that you are an EEO employer pursuant to the rules of the ICAP.

The City of New York
Department of Small Business Services
Division of Labor Services
Contract Compliance Unit
1 Liberty Plaza
New York, New York 10006
Phone: (212) 513-6323
Fax: (212) 618-8879

CONSTRUCTION EMPLOYMENT REPORT
INSTRUCTIONS

WHO MUST FILE A CONSTRUCTION EMPLOYMENT REPORT

A Construction Employment Report (ER) must be filed if you meet the following conditions:

CONTRACT FUNDING SOURCE	CONTRACTOR	CONTRACT VALUE	SUBMISSION REQUIREMENT
Federal/Federally assisted	Prime and subcontractors	\$10,000 or greater	Construction Employment Report
City and state funded	Prime contractor	\$1,000,000 or greater	
	Subcontractor	\$750,000 or greater	Less than \$750,000 Certificate (City/State Only)
Less than \$750,000			

Prime Contractor:

- A general contractor or construction manager selected to perform work on a construction project funded (in whole or in part) by the federal government with a proposed contract value of \$10,000 or more.
- A general contractor or construction manager selected to perform work on a construction project funded or assisted by the City of New York with a proposed contract value of \$1,000,000 or more.

Subcontractor:

- A subcontractor selected to perform work on a construction project funded (in whole or in part) by the federal government with a proposed contract value of \$10,000 or more.
- A subcontractor selected to perform work on a construction project funded or assisted by the City of New York with a proposed contract value of \$750,000 or more.
- A subcontractor selected to perform work on a construction project funded or assisted by the City of New York with a proposed contract value of less than \$750,000 must submit a "Less than \$750,000" certificate.

WHERE TO FILE

Employment Reports must be filed with the City agency awarding the contract. If you are a contractor or subcontractor who will be working for a private developer in receipt of funding or assistance from the City, the ER must be filed with the City agency with jurisdiction over the developer's project.

DLS REVIEW PROCESS

In accordance with Executive Order 50 (EO 50), upon receipt by DLS of a completed ER, DLS conducts a review of the contractor's current employment policies, practices and procedures, as well as perform a statistical analysis of the contractor's workforce, if necessary. The process is as follows:

1. Within five (5) business days, DLS will review the ER for completeness and accuracy. If any information is omitted or incorrect, or if necessary documents are not submitted, the submission shall be deemed incomplete and DLS will inform the contractor. The substantive compliance review does not commence until the submission is complete. **An incomplete submission will delay the review process and may preclude or interrupt the contract approval.**
2. If the ER submission is complete, the compliance review will proceed, resulting in one of the following:

Certificate of Approval

The contractor is found to be in compliance with all applicable laws and regulations. The approval is valid for 36 months.

Continued Approval Certificate

The contractor has been issued a Certificate of Approval in the previous 36 months which is good for the applicable contract.

Conditional Certificate of Approval

The contractor is required to take corrective actions in order to be in compliance with EO 50. The contractor must meet the conditions within one month of the issue of the Conditional Certificate.

Determination of Nonperformance

The contractor has failed to take the required corrective actions stipulated in the Conditional Certificate. A determination of nonperformance may prevent a contractor from receiving an award of a contract.

HOW TO COMPLETE THE EMPLOYMENT REPORT

Contents

General Information

Part I: Contractor/Subcontractor Information

Part II: Employment Policies and Practices

Part III: Contract Bid Information and Projected and Current Workforce

Forms Signature Page

PART I: CONTRACTOR/SUBCONTRACTOR INFORMATION

Questions 7 – 11: Please provide the required contact information for your company. All contracts must have a designated Equal Employment Officer.

Question 12: If you are a subcontractor, you must state the name of the contractor for whom you are providing the construction services.

Question 13: Please provide the number of permanent employees in your company.

Question 14a-g: The Project Identification Number (PIN) and the Contract Registration ID Number (CT#) can be obtained from the City agency. Provide a description of the trade work you will perform on this project and the address where the work will be performed. Subcontractors can obtain this information from the contract they have with the prime contractor.

Questions 15 – 18: If your company has received a valid Certificate of Approval within the past 36 months, been audited by the United States Department of Labor, Office of Federal Contract Compliance Programs (OFCCP), or if your company has submitted an ER for a different contract for which you have not yet received a compliance certificate, then you only need to complete and submit the following:

- General Information section
- Part I - Contractor/Subcontractor Information
- Form B - Projected Workforce
- Signature Page

If your company is currently waiting for an approval on another contract previously submitted, be certain to identify the date on which you submitted the completed Employment Report, the name of the City contracting agency with which the contract was made, and the name and telephone number of the person to whom the Employment Report was submitted.

If your company was issued a Conditional Certificate of Approval, all required corrective actions must have been taken or DLS will not issue a Continued Certificate.

Question 18: If the company was audited by the OFCCP, also provide the following:

- Identify the reviewing OFCCP office by its name and address
- If an unconditional certificate of compliance was issued by the OFCCP, attach a copy of the certificate in lieu of completing Parts II and III;
- Include copies of all corrective actions and documentation of OFCCP's performance; and • Provide a copy of all stated OFCCP findings.

Question 19: Please provide a copy of any Collective Bargaining Agreement(s) which is negotiated through an employer trade association on behalf of your organization or any of its affiliates.

PART II: EMPLOYMENT POLICIES AND PRACTICES

Remember to label all documents with the question number for which they are submitted.

Questions 20a – k: You must respond to the questions as to whether or not your firm has documents reflecting written policies, benefits and procedures. If so, then you must identify by name each document in which the policy(ies), procedure(s) and benefit(s) is located and submit copies of all of the document(s). If your firm follows unwritten practices or procedures, include an explanation of how they operate. Please submit the most current document(s), including all applicable amendments. Label each document and/or unwritten practice according to the question to which it corresponds (e.g. 20a, 20b, etc.)

Questions 21a – h: Inquires about the manner/methods by which you comply with the requirements of the Immigration Reform and Control Act of 1986 (IRCA).

Question 22: Inquires into where and how I-9 forms are maintained and stored.

Questions 23a – e: Inquires into whether or not there is a requirement that an applicant or employee be subjected to a medical examination at any given time. Copies of the

medical information questionnaire and instructions must be submitted with the Employment Report.

Question 24: Indicate the existence and location of all statements of your firm's Equal Employment Opportunity policy and attach a copy of each statement.

11246. Question 25: Submit any current Affirmative Action Plan(s) created pursuant to Executive Order

Question 26: If your firm or collective bargaining agreement has an internal grievance procedure, indicate this and submit a copy of the policy and procedure. If unwritten, explain its nature and operation. Explain how your firm's procedure addresses EEO complaints.

Question 27: If your employees have used the procedure in the last three (3) years, please submit an explanation in the format indicated below:

1. Number of complaint(s)	2. Nature of the complaint(s)	3. Position(s) of the complainant(s)	4. Was an investigation conducted? Y/N	5. Current status of the disposition
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Question 28: Indicate whether in the past three (3) years complaints have been filed with a court of law or administrative agency, naming your company as a defendant (or respondent) in a complaint alleging violation of any anti-discrimination or affirmative action laws. If yes, develop and submit a log to show, for each administrative/and or judicial action filed, the following information:

1. Name(s) of complainant(s)	2. Administrative agency or court in which action was filed	3. Nature of the complaint(s)	4. Current status	5. If not pending, the complaint's disposition
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Question 29: Identify each job for which a physical qualification exists. Identify and explain the physical qualification(s) for each stated job. Submit job descriptions for each job and the reasons for the qualifications.

Question 30: Identify each job for which there exists any qualification related to age, race, color, national origin, sex, creed, disability, marital status, sexual orientation or citizenship status. Identify and explain the specific related qualification for each job stated. Submit job descriptions for each job and the reasons for the qualifications.

PART III: CONTRACT BID INFORMATION AND PROJECTED AND CURRENT WORKFORCE FORMS

FORM A: CONTRACT BID INFORMATION – USE OF SUBCONTRACTORS/TRADES

Your projections for the utilization of subcontractors on the proposed contract are to be provided in this section. A chart has been provided for the identification of subcontractors. Information is to be provided to the extent known at the time the ER is filed for review by DLS. If the subcontractor's name is unknown, then write "unknown". Under "ownership", enter the appropriate race/ethnic and gender code. If the contract is federally funded or assisted and the subcontractor is being utilized in accordance with applicable federal requirements with respect to Minority Business Enterprise or Woman Business Enterprise requirements, enter the appropriate

code. This will also apply to state funded contracts with similar requirements for minority and female owned businesses.

FORM B: PROJECTED WORKFORCE FOR WORK TO BE PERFORMED ON THIS PROJECT

For each trade to be engaged by your company for this project, enter the projected workforce for Males and Females by trade classification in the charts provided.

FORM C: CURRENT WORKFORCE FOR WORK TO BE PERFORMED ON THIS PROJECT

For each trade *currently* engaged by your company for all work performed in NYC, enter the current workforce for Males and Females by trade classification in the charts provided.

SIGNATURE PAGE

The signatory of this Employment Report and all other documents submitted to DLS must be an official authorized to enter into a binding legal agreement. The signature page must be completed in its entirety and notarized. Only original signatures will be accepted.

The City of New York Department of Small Business Services
Division of Labor Services Contract Compliance Unit
1 Liberty Plaza, New York, New York 10006
Phone: (212) 513 – 6323
Fax: (212) 618-8879

CONSTRUCTION EMPLOYMENT REPORT

GENERAL INFORMATION

1. Your contractual relationship in this contract is: Prime contractor Subcontractor
- 1a. Are M/WBE goals attached to this project? Yes No
2. Please check one of the following if your firm would like information on how to certify with the City of New York as a:
- Minority Owned Business Enterprise Locally Based Business Enterprise
 Women Owned Business Enterprise Emerging Business Enterprise
 Disadvantaged Business Enterprise
- 2a. If you are certified as an **MBE, WBE, LBE, EBE** or **DBE**, what city/state agency are you certified with? _____ Are you DBE certified? Yes No
3. Please indicate if you would like assistance from SBS in identifying certified M/WBEs for contracting opportunities: Yes No
4. Is this project subject to a project labor agreement? Yes No
5. Are you a Union contractor? Yes No If yes, please list which local(s) you affiliated with _____
6. Are you a Veteran owned company? Yes No

PART I: CONTRACTOR/SUBCONTRACTOR INFORMATION

7. _____
Employer Identification Number or Federal Tax I.D. Email Address
8. _____
Company Name
9. _____
Company Address and Zip Code
10. _____
Chief Operating Officer Telephone Number
11. _____
Designated Equal Opportunity Compliance Officer Telephone Number
(If same as Item #10, write "same")
12. _____
Name of Prime Contractor and Contact Person
(If same as Item #8, write "same")

13. Number of employees in your company: _____

14. Contract information:

(a) _____ (b) _____
Contracting Agency (City Agency) Contract Amount

(c) _____ (d) _____
Procurement Identification Number (PIN) Contract Registration Number (CT#)

(e) _____ (f) _____
Projected Commencement Date Projected Completion Date

(g) Description and location of proposed contract:

15. Has your firm been reviewed by the Division of Labor Services (DLS) within the past 36 months and issued a Certificate of Approval? Yes___ No___

If yes, attach a copy of certificate.

16. Has DLS within the past month reviewed an Employment Report submission for your company and issued a Conditional Certificate of Approval? Yes___ No___

If yes, attach a copy of certificate.

NOTE: DLS WILL NOT ISSUE A CONTINUED CERTIFICATE OF APPROVAL IN CONNECTION WITH THIS CONTRACT UNLESS THE REQUIRED CORRECTIVE ACTIONS IN PRIOR CONDITIONAL CERTIFICATES OF APPROVAL HAVE BEEN TAKEN.

17. Has an Employment Report already been submitted for a different contract (not covered by this Employment Report) for which you have not yet received compliance certificate?

Yes___ No___ If yes,

Date submitted: _____

Agency to which submitted: _____

Name of Agency Person: _____

Contract No: _____

Telephone: _____

18. Has your company in the past 36 months been audited by the United States Department of Labor, Office of Federal Contract Compliance Programs (OFCCP)? Yes___ No___

If yes,

(a) Name and address of OFCCP office.

(b) Was a Certificate of Equal Employment Compliance issued within the past 36 months?
Yes___ No___

If yes, attach a copy of such certificate.

(c) Were any corrective actions required or agreed to? Yes___ No___

If yes, attach a copy of such requirements or agreements.

(d) Were any deficiencies found? Yes___ No___

If yes, attach a copy of such findings.

19. Is your company or its affiliates a member or members of an employers' trade association which is responsible for negotiating collective bargaining agreements (CBA) which affect construction site hiring? Yes___ No___

If yes, attach a list of such associations and all applicable CBA's.

PART II: DOCUMENTS REQUIRED

20. For the following policies or practices, attach the relevant documents (e.g., printed booklets, brochures, manuals, memoranda, etc.). If the policy(ies) are unwritten, attach a full explanation of the practices. See instructions.

- ___ (a) Health benefit coverage/description(s) for all management, nonunion and union employees (whether company or union administered)
- ___ (b) Disability, life, other insurance coverage/description
- ___ (c) Employee Policy/Handbook
- ___ (d) Personnel Policy/Manual
- ___ (e) Supervisor's Policy/Manual
- ___ (f) Pension plan or 401k coverage/description for all management, nonunion and union employees, whether company or union administered
- ___ (g) Collective bargaining agreement(s).
- ___ (h) Employment Application(s)
- ___ (i) Employee evaluation policy/form(s).
- ___ (j) Does your firm have medical and/or non-medical (i.e. education, military, personal, pregnancy, child care) leave policy?
- ___ (k) Sexual Harassment Policy

21. To comply with the Immigration Reform and Control Act of 1986 when and of whom does your firm require the completion of an I-9 Form?

- (a) Prior to job offer Yes___ No___
- (b) After a conditional job offer Yes___ No___
- (c) After a job offer Yes___ No___
- (d) Within the first three days on the job Yes___ No___
- (e) To some applicants Yes___ No___
- (f) To all applicants Yes___ No___
- (g) To some employees Yes___ No___
- (h) To all employees Yes___ No___

22. Explain where and how completed I-9 Forms, with their supportive documentation, are maintained and made accessible.

23. Does your firm or any of its collective bargaining agreements require job applicants to take a medical examination? Yes___ No___

If yes, is the medical examination given:

- (a) Prior to a job offer Yes___ No___
- (b) After a conditional job offer Yes___ No___
- (c) After a job offer Yes___ No___
- (d) To all applicants Yes___ No___
- (e) Only to some applicants Yes___ No___

If yes, list for which applicants below and attach copies of all medical examination or questionnaire forms and instructions utilized for these examinations.

24. Do you have a written equal employment opportunity (EEO) policy? Yes___ No___

If yes, list the document(s) and page number(s) where these written policies are located.

25. Does the company have a current affirmative action plan(s) (AAP)

____ Minorities and Women

____ Individuals with handicaps

____ Other. Please specify _____

26. Does your firm or collective bargaining agreement(s) have an internal grievance procedure with respect to EEO complaints? Yes___ No___

If yes, please attach a copy of this policy.

If no, attach a report detailing your firm's unwritten procedure for handling EEO complaints.

27. Has any employee, within the past three years, filed a complaint pursuant to an internal grievance procedure or with any official of your firm with respect to equal employment opportunity? Yes___ No___

If yes, attach an internal complaint log. See instructions.

28. Has your firm, within the past three years, been named as a defendant (or respondent) in any administrative or judicial action where the complainant (plaintiff) alleged violation of any anti-discrimination or affirmative action laws? Yes___ No___

If yes, attach a log. See instructions.

29. Are there any jobs for which there are physical qualifications? Yes___ No___

If yes, list the job(s), submit a job description and state the reason(s) for the qualification(s).

30. Are there any jobs for which there are age, race, color, national origin, sex, creed, disability, marital status, sexual orientation, or citizenship qualifications? Yes___ No___

If yes, list the job(s), submit a job description and state the reason(s) for the qualification(s).

SIGNATURE PAGE

I, (print name of authorized official signing) _____ hereby certify that the information submitted herewith is true and complete to the best of my knowledge and belief and submitted with the understanding that compliance with New York City's equal employment requirements, as contained in Chapter 56 of the City Charter, Executive Order No. 50 (1980), as amended, and the implementing Rules and Regulations, is a contractual obligation. I also agree on behalf of the company to submit a certified copy of payroll records to the Division of Labor Services on a monthly basis.

Contractor's Name

Name of person who prepared this Employment Report

Title

Name of official authorized to sign on behalf of the contractor

Title

Telephone Number

Signature of authorized official

Date

If contractors are found to be underutilizing minorities and females in any given trade based on Chapter 56 Section 3H, the Division of Labor Services reserves the right to request the contractor's workforce data and to implement an employment program.

Contractors who fail to comply with the above mentioned requirements or are found to be in noncompliance may be subject to the withholding of final payment.

Willful or fraudulent falsifications of any data or information submitted herewith may result in the termination of the contract between the City and the bidder or contractor and in disapproval of future contracts for a period of up to five years. Further, such falsification may result in civil and/or criminal prosecution.

To the extent permitted by law and consistent with the proper discharge of DLS' responsibilities under Charter Chapter 56 of the City Charter and Executive Order No. 50 (1980) and the implementing Rules and Regulations, all information provided by a contractor to DLS shall be confidential.

Only original signatures accepted.

Sworn to before me this _____ day of _____ 20 _____

Notary Public

Authorized Signature

Date

FORM A. CONTRACT BID INFORMATION: USE OF SUBCONTRACTORS/TRADES

1. Do you plan to subcontractor work on this contract? Yes___ No___
2. If yes, complete the chart below.

NOTE: All proposed subcontractors with a subcontract in excess of \$750,000 must complete an Employment Report for review and approval before the contract may be awarded and work commences.

SUBCONTRACTOR'S NAME*	OWNERSHIP (ENTER APPROPRIATE CODE LETTERS BELOW)	WORK TO BE PERFORMED BY SUBCONTRACTOR	TRADE PROJECTED FOR USE BY SUBCONTRACTOR	PROJECTED DOLLAR VALUE OF SUBCONTRACT

***If subcontractor is presently unknown, please enter the trade (craft name).**

OWNERSHIP CODES

- W: White
- B: Black
- H: Hispanic
- A: Asian
- N: Native American
- F: Female

FORM B: PROJECTED WORKFORCE

TRADE CLASSIFICATION CODES

- (J) Journeylevel Workers (A) Apprentice
- (H) Helper (TRN) Trainee
- (TOT) Total by Column

For each trade to be engaged by your company for this project, enter the projected workforce for Males and Females by trade classification on the charts below.

Trade: _____

Union Affiliation, if applicable

Total (Col. #1-10):

Total Minority, Male & Female
(Col. #2,3,4,5,7,8,9, & 10):

Total Female
(Col. #6 – 10):

	MALES					FEMALES				
	(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)	(10)
	White Non Hisp.	Black Non Hisp.	Hisp.	Asian	Native Amer.	White Non Hisp.	Black Non Hisp.	Hisp.	Asian	Native Amer.
J										
H										
A										
TRN										
TOT		T								

What are the recruitment sources for you projected hires (i.e., unions, government employment office, job tap center, community outreach)?

FORM B: PROJECTED WORKFORCE

Trade:

Union Affiliation, if applicable

Total (Col. #1-10):

Total Minority, Male & Female
(Col. #2,3,4,5,7,8,9, & 10):

Total Female
(Col. #6 – 10):

MALES

	(1) White Non Hisp.	(2) Black Non Hisp.	(3) Hisp.	(4) Asian	(5) Native Amer.
J					
H					
A					
TRN					
TOT		T			

FEMALES

	(6) White Non Hisp.	(7) Black Non Hisp.	(8) Hisp.	(9) Asian	(10) Native Amer.

What are the recruitment sources for you projected hires (i.e., unions, government employment office, job tap center, community outreach)?

FORM C: CURRENT WORKFORCE

TRADE CLASSIFICATION CODES

- (J) Journeylevel Workers (A) Apprentice
- (H) Helper (TRN) Trainee
- (TOT) Total by Column

For each trade currently engaged by your company for all work performed in New York City, enter the current workforce for Males and Females by trade classification on the charts below.

Trade: _____

Union Affiliation, if applicable

Total (Col. #1-10):

Total Minority, Male & Female
(Col. #2,3,4,5,7,8,9, & 10):

Total Female
(Col. #6 – 10):

		MALES					FEMALES				
		(1) White Non Hisp.	(2) Black Non Hisp.	(3) Hisp.	(4) Asian	(5) Native Amer.	(6) White Non Hisp.	(7) Black Non Hisp.	(8) Hisp.	(9) Asian	(10) Native Amer.
J											
H											
A											
TRN											
TOT		T									

What are the recruitment sources for you projected hires (i.e., unions, government employment office, job tap center, community outreach)?

FORM C: CURRENT WORKFORCE

Trade: _____

Union Affiliation, if applicable _____

Total (Col. #1-10): _____

Total Minority, Male & Female (Col. #2,3,4,5,7,8,9, & 10): _____

Total Female (Col. #6 – 10): _____

MALES

FEMALES

	(1) White Non Hisp.	(2) Black Non Hisp.	(3) Hisp.	(4) Asian	(5) Native Amer.	(6) White Non Hisp.	(7) Black Non Hisp.	(8) Hisp.	(9) Asian	(10) Native Amer.
J										
H										
A										
TRN										
TOT		T								

What are the recruitment sources for you projected hires (i.e., unions, government employment office, job tap center, community outreach)?

SECTION H

**CITY OF NEW YORK
SUBCONTRACTOR APPROVAL FORM**

For subcontracts to be approved AFTER contract registration
Column on left indicates whom that section is to be completed by

PRIME CONTRACT INFORMATION

AGENCY

Agency: NYC DEP	Unit/Div:	Registration #
		Registration Date:
Contract No.:		PIN:
Contract Description:		
Contract Subject to a Project Labor Agreement (PLA) YES <input type="radio"/> NO <input checked="" type="radio"/>		

PRIME CONTRACTOR IDENTIFICATION

Name:	EIN/SSN:
-------	----------

SUBCONTRACTOR INFORMATION

PRIME CONTRACTOR

Company Name:	PIP Vendor #:	
Contact (please print):	Title:	
Phone:	Fax:	
Address:	City:	State/Zip:
EIN/SSN:	E-Mail:	
Subcontract Description:		
Subcontract Value:	Start Date: / /	End Date:
Subcontractor Signed Letter of Assent <input type="checkbox"/> (if Prime Contract is subject to a Project Labor Agreement)		
Subcontractor is <input type="checkbox"/> SBS <input type="checkbox"/> ESD Certified as: M/WBE <input type="checkbox"/> EBE <input type="checkbox"/> or LBE <input type="checkbox"/> (check all that apply & note status below)		
YES <input type="checkbox"/>	Application Pending <input type="checkbox"/>	Intends to Apply <input type="checkbox"/> NO <input type="checkbox"/>
Subcontractor Prevailing Wage or Living Wage Statement (if applicable) <input type="checkbox"/>		
Primary Trades to be used for Construction Services (list all):		
Subcontractor's Experience Modification Rating (EMR): _____ (Letter from insurance carrier to verify rating must be included).		
Prime Contractor Certification: I hereby affirm that the information supplied is true and correct.		
Signature _____	Title _____	
Print Name _____	Date _____	
Email _____	Phone _____	

**AGENCY PRELIMINARY REVIEW
PLEASE SEE PAGE 2 FOR INSTRUCTIONS**

AGENCY

Agency Preliminary Review Completed By: _____	Date _____
PASSPort <input type="checkbox"/> Employment <input type="checkbox"/> References <input type="checkbox"/> PLA <input type="checkbox"/> Apprenticeship <input type="checkbox"/> Licenses <input type="checkbox"/> Sub Agreement <input type="checkbox"/> PIP <input type="checkbox"/>	

PRIME CONTRACTOR RESPONSE

PRIME

For each of the boxes checked in the agency preliminary response above, I have informed the Subcontractor of all relevant requirements and provided all requested documentation. <input type="checkbox"/>

AGENCY FINAL RESPONSE

AGENCY

Final Agency Approval: Granted <input type="checkbox"/> Denied <input type="checkbox"/>	
Signature: _____	Date _____
If Subcontracted Amount Has Changed, Please Enter The Revised Amount And Resubmit:	

**CITY OF NEW YORK
SUBCONTRACTOR APPROVAL FORM**

Page 2
Prime Vendor Preliminary Review Follow-up Instructions

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

1. VENDEX

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

2. Employment

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

3. References

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

4. PLA

If Box 4 (PLA) is checked, you as the prime contractor must obtain signed Letter of Assent from the subcontractor which demonstrates that the subcontractor agrees to the terms of the PLA. Please attach the subcontractor's signed Letter of Assent to your response.

5. Apprenticeship

If Box 5 (Apprenticeship) is checked, you as the prime contractor must provide the agency with proof that the subcontractor maintains an apprenticeship agreement appropriate for the scope of work to be performed, that the apprenticeship agreement has been registered with and approved by the New York State Commission of Labor, and that the program has three years of current, successful experience in providing career opportunities.

6. Licenses

If Box 6 (Licenses) is checked, you as the prime contractor must document that the subcontractor has all required licenses. Please attach your documentation to your response.

The City of New York Department of Small Business Services
Division of Labor Services Contract Compliance Unit
1 Liberty Plaza, New York, New York 10006
Phone: (212) 513 – 6323 Fax: (212) 618-8879

Date _____

File Number _____

**LESS THAN \$750,000 SUBCONTRACT CERTIFICATE
(CITY, STATE AND ICIP ONLY)**

Are you currently certified as one of the following? Please check yes or no:

MBE Yes ___ No ___ WBE Yes ___ No ___ LBE Yes ___ No ___

DBE Yes ___ No ___ EBE Yes ___ No ___

If you are certified as an MBE, WBE, LBE, EBE or DBE, what city/state agency are you certified with?

Please check one of the following if your firm would like information on how to certify with the City of New York as a:

___ Minority Owned Business Enterprise

___ Locally Based Business Enterprise

___ Women Owned Business Enterprise

___ Emerging Business Enterprise

___ Disadvantaged Business Enterprise

Company Name

Employer Identification Number or Federal Tax I.D

Company Address and Zip Code

Contact Person (First Name, Last Name)

Telephone Number

Fax Number

E-mail Address

Description and location of proposed subcontract: _____

Are you a Union contractor? Yes ___ No ___ If yes, please list which local(s) you affiliated with

Are you a Veteran owned company? Yes ___ No ___

Procurement Identification Number (PIN)
(City contracts only)

Contract Registration Number (CT#)
(City contracts only)

Block and Lot Number _____
(ICIP projects only)

Contract Amount _____

I, (print name of authorized official signing) _____ hereby certify that I am authorized by the above-named subcontractor to certify that said subcontractor's proposed contract with the above named owner or City agency is less than \$750,000. This affirmation is made in accordance with NYC Charter Chapter 56, Executive Order No. 50 (1980) and the implementing Rules.

Willful or fraudulent falsifications of any data or information submitted herewith may result in the termination of the contract between the City and the bidder or contractor and in disapproval of future contracts for a period of up to five years. Further, such falsification may result in civil and/or criminal prosecution.

Signature of authorized official _____

Date _____

Only original signatures accepted.

Sworn to before me this _____ day of _____ 20 _____

Notary Public _____

Authorized Signature _____

Date _____

NOTICE TO VENDORS

Please be advised that, pursuant to the authority granted to the City under Labor Law §816-b, the Department of Environmental Protection hereby requires that the contractor awarded a contract as a result of this solicitation, and any of its subcontractors with subcontracts worth two million dollars or over, have, prior to entering into such contract or subcontract, apprenticeship agreements appropriate for the type and scope of work to be performed that have been registered with, and approved by, the New York State Commissioner of Labor. In addition, the contractor and its subcontractors will be required to show that such apprenticeship program/s have successfully passed the two year Probation period following the initial registration date of such program/s with the New York State Department of Labor.

The failure to prove, upon request, that these requirements have been met shall result in the contract not being awarded to the contractor or the subcontractor not being approved.

Please be further advised that, pursuant to Labor Law §220, the allowable ratio of apprentices to journeypersons in any craft classification shall not be greater than the ratio permitted to the contractor as to its workforce on any job under the registered apprenticeship program.

May 21, 2015

Subcontractor Pre-Approval Statement – Prevailing Wage Contracts

Agency: _____

Prime Contractor: _____

Subcontractor: _____

Contract #: _____

On behalf of the subcontractor and contract shown above, I affirm that I have reviewed the following information with the prime contractor:

- The work to be done or the trades that will be employed on the subcontract;
- The Comptroller’s prevailing wage schedules for each trade;
- The requirement to pay the prevailing wage and supplement rates in effect at the time the work is done, and the dates of likely changes in such rates (July 1 and January 1);
- The registration, ratio and payment guidelines for apprentices, and whether their use is optional or required under this contract;
- The requirement to use City-approved certified payroll forms, the need to fill those forms out completely, and to submit such original payrolls within thirty (30) days of issuance of the first payroll and every thirty (30) days thereafter;
- The requirement to use standard sign-in and sign-out logs or an agency-approved electronic or biometric system, and that such logs must be submitted to the resident engineer or agency representative daily;
- The requirement that all workers on job sites shall wear laminated photo identification badges;
- The prohibition on cash payments to workers and subcontractors; all workers must be paid by check or direct deposit weekly (bi-weekly, where permitted by law [certain non-construction workers only]), and that for contracts over \$1,000,000 and subcontracts over \$750,000 such checks must be generated by either a payroll service or an agency-approved automated system; and

I further affirm that the subcontractor will comply with these and all other relevant requirements of the New York State Labor Law and City of New York laws and regulations concerning payment of prevailing wages and supplements.

Subcontractor Signature: _____ Date: _____

Printed Name: _____

Position: _____

Prime Contractor Witness: _____ Date: _____

Printed Name: _____

Rev 5/14



SECTION I

NOTICE TO ALL PROSPECTIVE CONTRACTORS
PARTICIPATION BY MINORITY-OWNED AND WOMEN-OWNED BUSINESS
ENTERPRISES IN CITY PROCUREMENT

ARTICLE I. M/WBE PROGRAM

Section 6-129 of the Administrative Code of the City of New York (“Section 6-129”) establishes the program for participation in City procurement (“M/WBE Program”) by minority-owned business enterprises (“MBEs”) and women-owned business enterprises (“WBEs”), certified in accordance with Section 1304 of the New York City Charter. As stated in 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 contract provisions contained herein are pursuant to Section 6-129, and the rules of the Department of Small Business Services (“DSBS”) promulgated thereunder.

If this Contract is subject to the M/WBE Program established by Section 6-129, the specific requirements of MBE and/or WBE participation for this Contract are set forth in Schedule B of the Contract (entitled the “M/WBE Utilization Plan”) and are detailed below.

The Contractor must comply with all applicable MBE and WBE requirements for this Contract.

All provisions of Section 6-129 are hereby incorporated in the Contract by reference and all terms used herein that are not defined herein shall have the meanings given such terms in Section 6-129.

References to MBEs or WBEs shall also include such businesses certified pursuant to the executive law where credit is required by section 311 of the New York City Charter or other provision of law.

Article I, Part A, below, sets forth provisions related to the participation goals for construction, standard and professional services contracts.

Article I, Part B, below, sets forth miscellaneous provisions related to the M/WBE Program.

PART A

PARTICIPATION GOALS FOR CONSTRUCTION, STANDARD
AND PROFESSIONAL SERVICES CONTRACTS OR TASK ORDERS

1. The **MBE and/or WBE Participation Goals** established for this Contract or Task Orders issued pursuant to this Contract, ("**Participation Goals**"), as applicable, are set forth on Schedule B, Part 1 to this Contract (see Page 1, Line 1 Total Participation Goals) or will be set forth on Schedule B, Part 1 to Task Orders issued pursuant to this Contract, as applicable.

The **Participation Goals** represent a percentage of the total dollar value of the Contract or Task Order, as applicable, that may be achieved by awarding subcontracts to firms certified with DSBS as MBEs and/or WBEs, and/or by crediting the participation of prime contractors and/or qualified joint ventures as provided in Section 3 below, unless the goals have been waived or modified by Agency in accordance with Section 6-129 and Part A, Sections 10 and 11 below, respectively.

2. If **Participation Goals** have been established for this Contract or Task Orders issued pursuant to this Contract, Contractor agrees or shall agree as a material term of the Contract that Contractor shall be subject to the **Participation Goals**, unless the goals are waived or modified by Agency in accordance with Section 6-129 and Part A, Sections 10 and 11 below, respectively.

3. If **Participation Goals** have been established for this Contract or Task Order issued pursuant to this Contract, a Contractor that is an MBE and/or WBE shall be permitted to count its own participation toward fulfillment of the relevant **Participation Goal**, provided that in accordance with Section 6-129 the value of Contractor's participation shall be determined by subtracting from the total value of the Contract or Task Order, as applicable, any amounts that the Contractor pays to direct subcontractors (as defined in Section 6-129(c)(13)), and provided further that a Contractor that is certified as both an MBE and a WBE may count its own participation either toward the goal for MBEs or the goal for WBEs, but not both.

A Contractor that is a qualified joint venture (as defined in Section 6-129(c)(30)) shall be permitted to count a percentage of its own participation toward fulfillment of the relevant **Participation Goal**. In accordance with Section 6-129, the value of Contractor's participation shall be determined by subtracting from the total value of the Contract or Task Order, as applicable, any amounts that Contractor pays to direct subcontractors, and then multiplying the remainder by the percentage to be applied to total profit to determine the amount to which an MBE or WBE is entitled pursuant to the joint venture agreement, provided that where a participant in a joint venture is certified as both an MBE and a WBE, such amount shall be counted either toward the goal for MBEs or the goal for WBEs, but not both.

4. A. If **Participation Goals** have been established for this Contract, a prospective contractor shall be required to submit with its bid or proposal, as applicable, a completed Schedule B, M/WBE Utilization Plan, Part 2 (see Pages 1-2) indicating: (a) whether the contractor is an MBE or WBE, or qualified joint venture; (b) the percentage of work it intends to award to direct subcontractors; (c) in cases where the contractor intends to award direct subcontracts, a description of the type and dollar value of work designated for participation by MBEs and/or WBEs, and the time frames in which such work is scheduled to begin and end; as well as the name, addresses, and telephone numbers of the M/WBE subcontractors if required by the solicitation; and (d) the prospective contractor's required certification and affirmations. In the event that this M/WBE Utilization Plan indicates that the bidder or proposer, as applicable, does not intend to meet the **Participation Goals**, the bid or proposal, as applicable, shall be

deemed non-responsive, unless Agency has granted the bidder or proposer, as applicable, a pre-award waiver of the **Participation Goals** in accordance with Section 6-129 and Part A, Section 10 below.

B. (i) If this Contract is for a master services agreement or other requirements type contract that will result in the issuance of Task Orders that will be individually registered (“Master Services Agreement”) and is subject to M/WBE **Participation Goals**, a prospective contractor shall be required to submit with its bid or proposal, as applicable, a completed Schedule B, M/WBE Participation Requirements for Master Services Agreements That Will Require Individually Registered Task Orders, Part 2 (page 2) indicating the prospective contractor’s certification and required affirmations to make all reasonable good faith efforts to meet participation goals established on each individual Task Order issued pursuant to this Contract, or if a partial waiver is obtained or such goals are modified by the Agency, to meet the modified **Participation Goals** by soliciting and obtaining the participation of certified MBE and/or WBE firms. In the event that the Schedule B indicates that the bidder or proposer, as applicable, does not intend to meet the **Participation Goals** that may be established on Task Orders issued pursuant to this Contract, the bid or proposal, as applicable, shall be deemed non-responsive.

(ii) **Participation Goals** on a Master Services Agreement will be established for individual Task Orders issued after the Master Services Agreement is awarded. If **Participation Goals** have been established on a Task Order, a contractor shall be required to submit a Schedule B – M/WBE Utilization Plan For Independently Registered Task Orders That Are Issued Pursuant to Master Services Agreements, Part 2 (see Pages 1-2) indicating: (a) whether the contractor is an MBE or WBE, or qualified joint venture; (b) the percentage of work it intends to award to direct subcontractors; (c) in cases where the contractor intends to award direct subcontracts, a description of the type and dollar value of work designated for participation by MBEs and/or WBEs, and the time frames in which such work is scheduled to begin and end; as well as the name, addresses, and telephone numbers of the M/WBE subcontractors if required by the solicitation; and (d) the prospective contractor’s required certification and affirmations. The contractor must engage in good faith efforts to meet the **Participation Goals** as established for the Task Order unless Agency has granted the contractor a pre-award waiver of the **Participation Goals** in accordance with Section 6-129 and Part A, Section 10 below.

C. THE BIDDER/PROPOSER MUST COMPLETE THE SCHEDULE B INCLUDED HEREIN (SCHEDULE B, PART 2). A SCHEDULE B SUBMITTED BY THE BIDDER/PROPOSER WHICH DOES NOT INCLUDE THE VENDOR CERTIFICATION AND REQUIRED AFFIRMATIONS WILL BE DEEMED TO BE NON-RESPONSIVE, UNLESS A FULL WAIVER OF THE PARTICIPATION GOALS IS GRANTED (SCHEDULE B, PART 3). IN THE EVENT THAT THE CITY DETERMINES THAT THE BIDDER/PROPOSER HAS SUBMITTED A SCHEDULE B WHERE THE VENDOR CERTIFICATION AND REQUIRED AFFIRMATIONS ARE COMPLETED BUT OTHER ASPECTS OF THE SCHEDULE B ARE NOT COMPLETE, OR CONTAIN A COPY OR COMPUTATION ERROR THAT IS AT ODDS WITH THE VENDOR CERTIFICATION AND AFFIRMATIONS, THE BIDDER/PROPOSER WILL BE NOTIFIED BY THE AGENCY AND WILL BE GIVEN FOUR (4) CALENDAR DAYS FROM RECEIPT OF NOTIFICATION TO CURE THE SPECIFIED DEFICIENCIES AND RETURN A COMPLETED SCHEDULE B TO THE AGENCY. FAILURE TO DO SO WILL RESULT IN A DETERMINATION THAT THE BID/PROPOSAL IS NON-RESPONSIVE. RECEIPT OF NOTIFICATION IS DEFINED AS THE DATE NOTICE IS E-MAILED

OR FAXED (IF THE BIDDER/PROPOSER HAS PROVIDED AN E-MAIL ADDRESS OR FAX NUMBER), OR NO LATER THAN FIVE (5) CALENDAR DAYS FROM THE DATE OF MAILING OR UPON DELIVERY, IF DELIVERED.

5. Where an **M/WBE** Utilization Plan has been submitted, the Contractor shall, within 30 days of issuance by Agency of a notice to proceed, submit a list of proposed persons or entities to which it intends to award subcontracts within the subsequent 12 months. In the case of multi-year contracts, such list shall also be submitted every year thereafter. The Agency may also require the Contractor to report periodically about the contracts awarded by its direct subcontractors to indirect subcontractors (as defined in Section 6-129(c)(22)). **PLEASE NOTE: If this Contract is a public works project subject to GML §101(5) (i.e., a contract valued at or below \$3M for projects in New York City) or if the Contract is subject to a project labor agreement in accordance with Labor Law §222, and the bidder is required to identify at the time of bid submission its intended subcontractors for the Wicks trades (plumbing and gas fitting; steam heating, hot water heating, ventilating and air conditioning (HVAC); and electric wiring), the Contractor must identify all those to which it intends to award construction subcontracts for any portion of the Wicks trade work at the time of bid submission, regardless of what point in the life of the contract such subcontracts will occur. In identifying intended subcontractors in the bid submission, bidders may satisfy any Participation Goals established for this Contract by proposing one or more subcontractors that are MBEs and/or WBEs for any portion of the Wicks trade work.** In the event that the Contractor's selection of a subcontractor is disapproved, the Contractor shall have a reasonable time to propose alternate subcontractors.

6. MBE and WBE firms must be certified by DSBS in order for the Contractor to credit such firms' participation toward the attainment of the **Participation Goals**. Such certification must occur prior to the firms' commencement of work. A list of city-certified MBE and WBE firms may be obtained from the DSBS website at www.nyc.gov/buycertified, by emailing DSBS at buyer@sbs.nyc.gov, by calling (212) 513-6451, or by visiting or writing DSBS at One Liberty Plaza, New York, New York, 10006, 11th floor. Eligible firms that have not yet been certified may contact DSBS in order to seek certification by visiting www.nyc.gov/getcertified, emailing MWBE@sbs.nyc.gov, or calling the DSBS certification helpline at (212) 513-6311. A firm that is certified as both an MBE and a WBE may be counted either toward the goal for MBEs or the goal for WBEs, but not both. No credit shall be given for participation by a graduate MBE or graduate WBE, as defined in Section 6-129(c)(20).

7. Where an **M/WBE** Utilization Plan has been submitted, the Contractor shall, with each voucher for payment, and/or periodically as Agency may require, submit statements, certified under penalty of perjury, which shall include, but not be limited to, the total amount the Contractor paid to its direct subcontractors, and, where applicable pursuant to Section 6-129(j), the total amount direct subcontractors paid to indirect subcontractors; the names, addresses and contact numbers of each MBE or WBE hired as a subcontractor by the Contractor, and, where applicable, hired by any of the Contractor's direct subcontractors; and the dates and amounts paid to each MBE or WBE. The Contractor shall also submit, along with its voucher for final payment: the total amount it paid to subcontractors, and, where applicable pursuant to Section 6-129(j), the total amount its direct subcontractors paid directly to their indirect subcontractors; and a final list, certified under penalty of perjury, which shall include the name, address and contact

information of each subcontractor that is an MBE or WBE, the work performed by, and the dates and amounts paid to each.

8. If payments made to, or work performed by, MBEs or WBEs are less than the amount specified in the Contractor's **M/WBE Utilization Plan**, Agency shall take appropriate action, in accordance with Section 6-129 and Article II below, unless the Contractor has obtained a modification of its **M/WBE Utilization Plan** in accordance with Section 6-129 and Part A, Section 11 below.

9. Where an **M/WBE Utilization Plan** has been submitted, and the Contractor requests a change order the value of which exceeds the greater of 10 percent of the Contract or Task Order, as applicable, or \$500,000, Agency shall review the scope of work for the Contract or Task Order, as applicable, and the scale and types of work involved in the change order, and determine whether the **Participation Goals** should be modified.

10. Pre-award waiver of the **Participation Goals**. (a) A bidder or proposer, or contractor with respect to a Task Order, may seek a pre-award full or partial waiver of the **Participation Goals** in accordance with Section 6-129, which requests that Agency change one or more **Participation Goals** on the grounds that the **Participation Goals** are unreasonable in light of the availability of certified firms to perform the services required, or by demonstrating that it has legitimate business reasons for proposing a lower level of subcontracting in its **M/WBE Utilization Plan**.

(b) To apply for a full or partial waiver of the **Participation Goals**, a bidder, proposer, or contractor, as applicable, must complete Part 3 of Schedule B and submit such request no later than seven (7) calendar days prior to the date and time the bids, proposals, or Task Orders are due, in writing to the Agency Contact Person listed in Schedule B, Part 1. Full or partial waiver requests that are received later than seven (7) calendar days prior to the date and time the bids, proposals, or Task Orders are due may be rejected as untimely. Bidders, proposers, or contractors, as applicable, who have submitted timely requests will receive an Agency response by no later than two (2) calendar days prior to the due date for bids, proposals, or Task Orders; provided, however, that if that date would fall on a weekend or holiday, an Agency response will be provided by close-of-business on the business day before such weekend or holiday date.

(c) If the Agency determines that the **Participation Goals** are unreasonable in light of the availability of certified firms to perform the services required, it shall revise the solicitation and extend the deadline for bids and proposals, or revise the Task Order, as applicable.

(d) Agency may grant a full or partial waiver of the **Participation Goals** to a bidder, proposer or contractor, as applicable, who demonstrates—before submission of the bid, proposal or Task Order, as applicable—that it has legitimate business reasons for proposing the level of subcontracting in its **M/WBE Utilization Plan**. In making its determination, Agency shall consider factors that shall include, but not be limited to, whether the bidder, proposer or contractor, as applicable, has the capacity and the bona fide intention to perform the Contract without any subcontracting, or to perform the Contract without awarding the amount of subcontracts represented by the **Participation Goals**. In making such determination, Agency

may consider whether the **M/WBE** Utilization Plan is consistent with past subcontracting practices of the bidder, proposer or contractor, as applicable, whether the bidder, proposer or contractor, as applicable, has made efforts to form a joint venture with a certified firm, and whether the bidder, proposer, or contractor, as applicable, has made good faith efforts to identify other portions of the Contract that it intends to subcontract.

11. Modification of **M/WBE** Utilization Plan. (a) A Contractor may request a modification of its **M/WBE** Utilization Plan after award of this Contract. **PLEASE NOTE: If this Contract is a public works project subject to GML §101(5) (i.e., a contract valued at or below \$3M for projects in New York City) or if the Contract is subject to a project labor agreement in accordance with Labor Law §222, and the bidder is required to identify at the time of bid submission its intended subcontractors for the Wicks trades (plumbing and gas fitting; steam heating, hot water heating, ventilating and air conditioning (HVAC); and electric wiring), the Contractor may request a Modification of its M/WBE Utilization Plan as part of its bid submission.** The Agency may grant a request for Modification of a Contractor's **M/WBE** Utilization Plan if it determines that the Contractor has established, with appropriate documentary and other evidence, that it made reasonable, good faith efforts to meet the **Participation Goals**. In making such determination, Agency shall consider evidence of the following efforts, as applicable, along with any other relevant factors:

(i) The Contractor advertised opportunities to participate in the Contract, where appropriate, in general circulation media, trade and professional association publications and small business media, and publications of minority and women's business organizations;

(ii) The Contractor provided notice of specific opportunities to participate in the Contract, in a timely manner, to minority and women's business organizations;

(iii) The Contractor sent written notices, by certified mail or facsimile, in a timely manner, to advise MBEs or WBEs that their interest in the Contract was solicited;

(iv) The Contractor made efforts to identify portions of the work that could be substituted for portions originally designated for participation by MBEs and/or WBEs in the **M/WBE** Utilization Plan, and for which the Contractor claims an inability to retain MBEs or WBEs;

(v) The Contractor held meetings with MBEs and/or WBEs prior to the date their bids or proposals were due, for the purpose of explaining in detail the scope and requirements of the work for which their bids or proposals were solicited;

(vi) The Contractor made efforts to negotiate with MBEs and/or WBEs as relevant to perform specific subcontracts, or act as suppliers or service providers;

(vii) Timely written requests for assistance made by the Contractor to Agency's M/WBE liaison officer and to DSBS;

(viii) Description of how recommendations made by DSBS and Agency were acted upon and an explanation of why action upon such recommendations did not lead to the desired level of participation of MBEs and/or WBEs.

Agency's M/WBE officer shall provide written notice to the Contractor of the determination.

(b) The Agency may modify the **Participation Goals** when the scope of the work has been changed by the Agency in a manner that affects the scale and types of work that the Contractor indicated in its **M/WBE Utilization Plan** would be awarded to subcontractors.

12. If the Contractor was required to identify in its bid or proposal the MBEs and/or WBEs they intended to use in connection with the performance of the Contract or Task Order, substitutions to the identified firms may only be made with the approval of the Agency, which shall only be given when the Contractor has proposed to use a firm that would satisfy the **Participation Goals** to the same extent as the firm previously identified, unless the Agency determines that the Contractor has established, with appropriate documentary and other evidence, that it made reasonable, good faith efforts. In making such determination, the Agency shall require evidence of the efforts listed in Section 11(a) above, as applicable, along with any other relevant factors.

13. If this Contract is for an indefinite quantity of construction, standard or professional services or is a requirements type contract and the Contractor has submitted an **M/WBE Utilization Plan** and has committed to subcontract work to MBEs and/or WBEs in order to meet the **Participation Goals**, the Contractor will not be deemed in violation of the M/WBE Program requirements for this Contract with regard to any work which was intended to be subcontracted to an MBE and/or WBE to the extent that the Agency has determined that such work is not needed.

14. If **Participation Goals** have been established for this Contract or a Task Order issued pursuant to this Contract, at least once annually during the term of the Contract or Task Order, as applicable, Agency shall review the Contractor's progress toward attainment of its **M/WBE Utilization Plan**, including but not limited to, by reviewing the percentage of work the Contractor has actually awarded to MBE and/or WBE subcontractors and the payments the Contractor made to such subcontractors.

15. If **Participation Goals** have been established for this Contract or a Task Order issued pursuant to this Contract, Agency shall evaluate and assess the Contractor's performance in meeting those goals, and such evaluation and assessment shall become part of the Contractor's overall contract performance evaluation.

PART B

MISCELLANEOUS

1. The Contractor shall take notice that, if this solicitation requires the establishment of a **M/WBE** Utilization Plan, the resulting contract may be audited by DSBS to determine compliance with Section 6-129. See §6-129(e)(10). Furthermore, such resulting contract may also be examined by the City's Comptroller to assess compliance with the **M/WBE** Utilization Plan.
2. Pursuant to DSBS rules, construction contracts that include a requirement for a **M/WBE** Utilization Plan shall not be subject to the law governing Locally Based Enterprises set forth in Section 6-108.1 of the Administrative Code of the City of New York.
3. DSBS is available to assist contractors and potential contractors in determining the availability of MBEs and/or WBEs to participate as subcontractors, and in identifying opportunities that are appropriate for participation by MBEs and/or WBEs in contracts.
4. Prospective contractors are encouraged to enter into qualified joint venture agreements with MBEs and/or WBEs as defined by Section 6-129(c)(30).
5. By submitting a bid or proposal the Contractor hereby acknowledges its understanding of the M/WBE Program requirements set forth herein and the pertinent provisions of Section 6-129, and any rules promulgated thereunder, and if awarded this Contract, the Contractor hereby agrees to comply with the M/WBE Program requirements of this Contract and pertinent provisions of Section 6-129, and any rules promulgated thereunder, all of which shall be deemed to be material terms of this Contract. The Contractor hereby agrees to make all reasonable, good faith efforts to solicit and obtain the participation of MBEs and/or WBEs to meet the required **Participation Goals**.

ARTICLE II. ENFORCEMENT

1. If Agency determines that a bidder or proposer, as applicable, has, in relation to this procurement, violated Section 6-129 or the DSBS rules promulgated pursuant to Section 6-129, Agency may disqualify such bidder or proposer, as applicable, from competing for this Contract and the Agency may revoke such bidder's or proposer's prequalification status, if applicable.
2. Whenever Agency believes that the Contractor or a subcontractor is not in compliance with Section 6-129 or the DSBS rules promulgated pursuant to Section 6-129, or any provision of this Contract that implements Section 6-129, including, but not limited to any **M/WBE** Utilization Plan, Agency shall send a written notice to the Contractor describing the alleged noncompliance and offering the Contractor an opportunity to be heard. Agency shall then conduct an investigation to determine whether such Contractor or subcontractor is in compliance.
3. In the event that the Contractor has been found to have violated Section 6-129, the DSBS rules promulgated pursuant to Section 6-129, or any provision of this Contract that implements Section 6-129, including, but not limited to, any **M/WBE** Utilization Plan, Agency may determine that one of the following actions should be taken:

- (a) entering into an agreement with the Contractor allowing the Contractor to cure the violation;
- (b) revoking the Contractor's pre-qualification to bid or make proposals for future contracts;
- (c) making a finding that the Contractor is in default of the Contract;
- (d) terminating the Contract;
- (e) declaring the Contractor to be in breach of Contract;
- (f) withholding payment or reimbursement;
- (g) determining not to renew the Contract;
- (h) assessing actual and consequential damages;
- (i) assessing liquidated damages or reducing fees, provided that liquidated damages may be based on amounts representing costs of delays in carrying out the purposes of the M/WBE Program, or in meeting the purposes of the Contract, the costs of meeting utilization goals through additional procurements, the administrative costs of investigation and enforcement, or other factors set forth in the Contract;
- (j) exercising rights under the Contract to procure goods, services or construction from another contractor and charge the cost of such contract to the Contractor that has been found to be in noncompliance; or
- (k) taking any other appropriate remedy.

4. If an **M/WBE** Utilization Plan has been submitted, and pursuant to this Article II, Section 3, the Contractor has been found to have failed to fulfill its **Participation Goals** contained in its **M/WBE** Utilization Plan or the **Participation Goals** as modified by Agency pursuant to Article I, Part A, Section 11, Agency 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 MBE and/or WBE firms to meet the **Participation Goals** and the dollar amount the Contractor actually awarded and paid, and/or credited, to MBE and/or WBE firms. In view of the difficulty of accurately ascertaining the loss which the City will suffer by reason of Contractor's failure to meet the **Participation Goals**, the foregoing amount is hereby fixed and agreed as the liquidated damages that the City will suffer by reason of such failure, and not as a penalty. Agency 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 liquidated damages suffered by the City, the Contractor shall be liable to pay the difference.

5. Whenever Agency has reason to believe that an MBE and/or WBE is not qualified for certification, or is participating in a contract in a manner that does not serve a commercially

useful function (as defined in Section 6-129(c)(8)), or has violated any provision of Section 6-129, Agency shall notify the Commissioner of DSBS who shall determine whether the certification of such business enterprise should be revoked.

6. Statements made in any instrument submitted to Agency pursuant to Section 6-129 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. The making of a false or fraudulent statement by an MBE and/or WBE in any instrument submitted pursuant to Section 6-129 shall, in addition, be grounds for revocation of its certification.

7. The Contractor's record in implementing its **M/WBE** Utilization Plan shall be a factor in the evaluation of its performance. Whenever Agency determines that a Contractor's compliance with an **M/WBE** Utilization Plan has been unsatisfactory, Agency shall, after consultation with the City Chief Procurement Officer, file an advice of caution form for inclusion in VENDEX as caution data.

SECTION J

Prime Contractor Pre-Award Statement – Prevailing Wage Contracts

Agency: _____

Prime Contractor: _____

Contract #: _____

On behalf of the prime contractor and contract shown above, I affirm that I have reviewed the following information with the contracting agency:

- The work to be done or the trades that will be employed on the contract;
- The Comptroller’s prevailing wage schedules for each trade;
- The requirement to pay the prevailing wage and supplement rates in effect at the time the work is done, and the dates of likely changes in such rates (July 1 and January 1);
- The requirement for written agreements with all subcontractors, which include prevailing wage and supplement requirements;
- The registration, ratio and payment guidelines for apprentices, and whether their use is optional or required under this contract;
- The requirement to use City-approved certified payroll forms, the need to fill those forms out completely, and to submit such original payrolls within thirty (30) days of issuance of the first payroll and every thirty (30) days thereafter;
- The requirement to use standard sign-in and sign-out logs or an agency-approved electronic or biometric system, and that such logs must be submitted to the resident engineer or agency representative daily;
- The requirement that all workers on job sites shall wear laminated photo identification badges;
- The prohibition on cash payments to workers and subcontractors; all workers must be paid by check or direct deposit weekly (bi-weekly, where permitted by law [certain non-construction workers only]), and that for contracts over \$1,000,000 and subcontracts over \$750,000 such checks must be generated by either a payroll service or an agency-approved automated system; and
- That the prime contractor shall be liable to the City for the cost of enforcement in the event the prime contractor or any subcontractor is found in violation of these requirements.

I further affirm that the prime contractor will comply with these and all other relevant requirements of the New York State Labor Law and City of New York laws and regulations concerning payment of prevailing wages and supplements, and that violation of such laws may subject the prime contractor to various administrative, civil and criminal penalties.

Prime Contractor Signature: _____ Date: _____

Printed Name: _____

Position: _____

Agency Witness: _____ Date: _____

Printed Name: _____

Rev 5/14





SPECIAL NOTICE

NEW YORK STATE LABOR LAW WAGE REQUIREMENTS

This contract is subject to New York State Labor Law Section 220 which requires that construction workers on the site be paid prevailing wages and supplements.

Contractor is reminded that all wage provisions of this contract will be enforced strictly, and failure to comply will be considered when evaluating performance. Noncompliance may result in the contractor being debarred by the City from future contracts. Complaints filed with the Comptroller may result in decisions which may debar a contractor from bidding contracts with any state governmental entity and other political subdivisions.

Contractor is expected to submit accurate payroll reports and other required documents and verify attendance and job classification being utilized in compliance with the law, contract provisions and agency procedures. Also see **Information for Bidders and Contract** for additional information on prevailing wage requirements.

Notes:

1. If this Contract is subject to a Project Labor Agreement (PLA), refer to the PLA language in the Contract Documents as to how it impacts the Prevailing Wage Rate conditions (i.e. overtime, holidays, etc.).
2. If this Contract is funded under the New York State Revolving Loan Program (SRF), it shall be subject to the prevailing wages under NYS Labor Law Section 220 and the prevailing wages under United States Davis-Bacon Act. If there is a conflict between the wage rate set forth by the Davis Bacon Act or the wage rate established pursuant to §220 of the NYS Labor Law, the contractor shall pay the higher rate.

**VERIFICATION OF PAYMENT TO SUBCONTRACTOR(S)
(TO BE ATTACHED TO EACH REQUEST FOR PAYMENT)**

IN ACCORDANCE WITH ARTICLES 17.11 AND 43.5, OF THE CONTRACT, IT IS HEREBY CERTIFIED THAT THE FOLLOWING IS A TRUE, ACCURATE AND COMPLETE REPRESENTATION OF THE SUBCONTRACTOR WORK UNDER THIS CONTRACT, THAT PAYMENT TO SUBCONTRACTOR(S) FOR PRIOR WORK HAS BEEN MADE, AND THAT PAYMENT TO SUBCONTRACTOR(S) FOR WORK PERFORMED PURSUANT TO THIS PAYMENT REQUEST SHALL BE PAID TO THE NAMED SUBCONTRACTOR(S) NOT LATER THAN 7 DAYS AFTER PAYMENT HAS BEEN RECEIVED BY THE CONTRACTOR. IF THERE ARE NO PERFORMANCE AND PAYMENT BONDS FOR THIS CONTRACT, SEE ARTICLE 17.12 OF THE CONTRACT.

DEP CONTRACT DESIGNATION: _____ REGISTRATION NUMBER _____

PARTIAL PAYMENT NUMBER: _____

PAYMENT FOR WORK FROM: _____ THROUGH _____

NAME OF SUBCONTRACTOR, SUPPLIER OR SERVICE PROVIDER	VALUE OF SUBCONTRACT \$	AMOUNT PREVIOUSLY PAID TO SUBCONTRACTOR FOR WORK IN PRIOR PAYMENT REQUESTS	AMOUNT INCLUDING RETAINAGE TO BE PAID FOR WORK INCLUDED IN THIS PAYMENT REQUEST

CONTRACTOR

PERCENT WORK COMPLETED

PRINT NAME OF REPRESENTATIVE

TITLE

AUTHORIZED SIGNATURE

DATE

Certificate of Contractor to the Comptroller or Financial Officer of The City of New York

Under the provisions of Section 220-a of the Labor Law of the State of New York, and the terms and conditions of Contract.....with the Department of Environmental Protection of The City of New York, the undersigned CONTRACTOR hereby certifies to the Comptroller and the Director of Finance of The City of New York that the following is a true and correct statement of the amounts now due from the said CONTRACTOR to laborers for daily or weekly wages on account of labor performed upon the work under the aforementioned Contract, and for material and/or supplies delivered for use on the work, and for which payment is due, to wit:

<u>NAMES</u>	<u>AMOUNTS DUE FOR</u>	
	<u>LABOR</u>	<u>MATERIALS & SUPPLIES</u>

(Note: If no money is due to any laborers, state above "None due to laborers." If no money is due to other persons for material and/or supplies delivered for use on the work, state above "None due to materialmen and supply men.")

That the following is a true and correct list of all subcontractors who have employed laborers and/or used materials and/or supplies for work performed under said contract:

<u>NAMES OF SUBCONTRACTORS</u>	<u>WORK SUBCONTRACTED</u>
--------------------------------	---------------------------

(I) or (we) have complied with all provisions of Section 220 of the New York State Labor Law. (Note: If no subcontractors are employed, state above "None")

.....
Contractor

By.....
President

STATE OF NEW YORK,

} ss:

COUNTY OF.....

....., deposes and says that he/she is the
(name)of
(title)
(firm's name)

the CONTRACTOR named herein, and who executed the foregoing, that he/she has read the foregoing statement subscribed by him/her, and knows the contents thereof, and that the same is true of his/her own knowledge and is executed under the provisions of Section 220-a of the Labor Law of the State of New York, and the terms and conditions of Contract.....with the Department of Environmental Protection of The City of New York.

.....
President

Sworn/Affirmed to before me thisday of.....

.....Notary Public, County of.....

Note: A County Clerk's notarial certificate must accompany this document if it is executed outside the State of New York.

Certificate of Subcontractor to the Comptroller or Financial Officer of The City of New York

Under the provisions of Section 220-a of the Labor Law of the State of New York, and the terms and conditions of Contract.....with the Department of Environmental Protection of The City of New York, the undersigned CONTRACTOR hereby certifies to the Comptroller and the Director of Finance of The City of New York that the following is a true and correct statement of the amounts now due from the said CONTRACTOR to laborers for daily or weekly wages on account of labor performed upon the work under the aforementioned Contract, and for material and/or supplies delivered for use on the work, and for which payment is due, to wit:

<u>NAMES</u>	<u>AMOUNTS DUE FOR</u>	
	<u>LABOR</u>	<u>MATERIALS & SUPPLIES</u>

(Note: If no money is due to any laborers, state above "None due to laborers." If no money is due to other persons for material and/or supplies delivered for use on the work, state above "None due to materialmen and supply men.")

That the following is a true and correct list of all subcontractors who have employed laborers and/or used materials and/or supplies for work performed under said contract:

<u>NAMES OF SUBCONTRACTORS</u>	<u>WORK SUBCONTRACTED</u>
--------------------------------	---------------------------

(I) or (we) have complied with all provisions of Section 220 of the New York State Labor Law.
(Note: If no subcontractors are employed, state above "None")

.....
Contractor

By.....
President

STATE OF NEW YORK,

COUNTY OF..... } ss:

....., deposes and says that he/she is the
(name)of
(title)
(firm's name)

the CONTRACTOR named herein, and who executed the foregoing, that he/she has read the foregoing statement subscribed by him/her, and knows the contents thereof, and that the same is true of his/her own knowledge and is executed under the provisions of Section 220-a of the Labor Law of the State of New York, and the terms and conditions of Contract.....with the Department of Environmental Protection of The City of New York.

.....
President

Sworn/Affirmed to before me thisday of.....

.....Notary Public, County of.....

Note: A County Clerk's notarial certificate must accompany this document if it is executed outside the State of New York.

SECTION K

ELECTRONIC FUNDS TRANSFER

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

Mail to: NYC Department of Finance, Treasury Division, 66 John Street, 12th Floor, New York, NY 10038 - Attention: EFT, or
Fax to: EFT at 212-487-3027 or 212-487-3026

 ENROLLMENT MODIFICATION

INSTRUCTIONS: Please check only one of the two boxes above. Check the Enrollment box to sign up for EFT. Check the Modification box if you are currently enrolled and are making changes to the Vendor and/or Financial Institution information you have already submitted.

The person completing this form must be an individual who can authorize changes related to SECTION II - FINANCIAL INSTITUTION INFORMATION. **The Person signing this form in Section III must be the same Contact Person in Section I.**

Please complete all sections of this Enrollment Form and attach a voided check, a copy of an encoded deposit slip that includes an imprinted vendor's name, the first page of a bank statement OR a letter signed by your bank representative, confirming account name, account number, and ABA routing number for ACH payments.

Note: Your application cannot be processed without this documentation. See the reverse side for more information and instructions.

SECTION I - VENDOR INFORMATION

1. SOCIAL SECURITY NUMBER OR TAXPAYER ID NUMBER:
(AS IT APPEARS ON W-9 FORM)

2. VENDOR NAME (AS IT APPEARS ON W-9 FORM):

3. VENDOR'S ADDRESS (FOR EFT ENROLLMENT PURPOSES):

4. VENDOR'S EMAIL ADDRESS:

5. CONTACT PERSON'S NAME:

6. CONTACT TELEPHONE NUMBER:

SECTION II - FINANCIAL INSTITUTION INFORMATION

1. BANK ACCOUNT NUMBER:

2. ACCOUNT NAME:

3. BANK NAME:

4. BANK BRANCH ADDRESS:

5. BANK 9-DIGIT ROUTING NUMBER:
(LOCATED AT THE BOTTOM OF CHECK)

6. ACCOUNT TYPE - MUST BE EITHER CHECKING OR SAVINGS:
(CHECK ONE BOX ONLY)

CHECKING

SAVINGS

7. DIRECT DEPOSIT/ACH/EFT COORDINATOR'S NAME:

8. TELEPHONE NUMBER:

SECTION III - VENDOR SIGNATURE AND AUTHORIZATION

I, hereby confirm my authority, as an authorized signer of the above-referenced bank account, to issue these instructions to credit and/or debit the bank account. I authorize the City of New York to Direct Deposit all entitled payments to the account specified above and to initiate (if necessary) debit entries or adjustments for any credit (i) made in error, (ii) of an incorrect amount, (iii) that were duplicates of a correct payment. I understand that this authorization will remain in effect until a written authorization requesting cancellation is submitted to the fax number(s) above.

1. VENDOR SIGNATURE - MUST BE THE SAME CONTACT PERSON FROM SECTION I

2. DATE - MM/DD/YYYY

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

GENERAL INSTRUCTIONS

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

NYC Department of Finance
Treasury Division
66 John Street, 12th Floor
New York, NY 10038
Attention: EFT

or Fax to: EFT at 212-487-3027 or 212-487-3026.

This completed form can be saved to your computer. Please retain a copy for your records.

SECTION I - VENDOR INFORMATION

1. Enter the vendor's social security number or taxpayer ID, the 9-digit number reported on the W-9 form.
2. Provide the name of the vendor (as it appears on the W-9).
3. Enter the vendor's complete address for EFT correspondence associated with this account.
4. Provide the vendor's email address, if you have one.
5. Indicate the name and telephone number of the vendor's contact person. The contact person must be authorized to make changes in the Financial Institution Information below in Section II. (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. Bank name
4. Bank address
5. Indicate 9-digit routing (ABA) transit number (located at the bottom of your check).
6. Indicate type of account. Account must be designated as either checking or savings. (Check one box only).
7. List name and telephone number of your bank's Direct Deposit/EFT Coordinator.

SECTION III - VENDOR SIGNATURE AND AUTHORIZATION

Sign and date where indicated. **Note: The person signing this form must be the same contact person as stated in Section I.**



ANSWERS TO FREQUENTLY ASKED QUESTIONS ABOUT THE NEW YORK CITY DIRECT DEPOSIT/ELECTRONIC FUNDS TRANSFER (EFT) FOR CITY VENDORS

1. WHAT ARE THE BENEFITS OF DIRECT DEPOSIT?

There are several advantages to direct deposit:

- Payments are secure – Paper checks can be lost in the mail or stolen, but money deposited directly into your account is more secure.
- Payments arrive sooner – You don't have to wait for a check to arrive in the mail. Electronic payments are deposited directly into your bank account, saving days of waiting for checks to clear.
- You save time – Money deposited into your bank account is automatic. You save the time you used to spend at the bank depositing the check.

2. AM I REQUIRED TO ENROLL?

In accordance of Local Law 43 enacted by City Council in 2007, all vendors with City contracts over \$25,000, and human service providers are required to enroll in the payment Direct Deposit program. All vendors are encouraged to enroll in the program.

3. CAN FOREIGN COMPANIES ENROLL?

Foreign vendors *must enroll with a bank domiciled within the continental United States*. For a foreign vendor to do business with the City of New York, they are a required to follow the following steps:

Step 1:

- The foreign vendor needs to complete a W8 and a foreign vendor questionnaire (1st page).
- Please note that the vendor will need to determine which of the 3 types of W8s they will need to complete.
- The W8s and the Foreign Vendor Questionnaire can be accessed at <http://comptroller.nyc.gov/forms-n-rfps/w9substitute-w8/>.

Step 2:

- The foreign vendor has to submit the original W8 and the Foreign Vendor Questionnaire to the paying agency.
- The paying agency has to fill out the 2nd page of the Foreign Vendor Questionnaire.
- Both documents (once completed) have to be sent (in Adobe.pdf format) by the paying agency to 1042vendor@comptroller.nyc.gov to begin the validation process.
- Please note that the Comptroller's Office will need the original forms to meet IRS compliance.

If you have any questions about the foreign vendor validation process, you may contact the Comptroller's Office via email at 1042vendor@comptroller.nyc.gov

4. ARE MY PAYMENTS GOING TO BE PROCESSED ON THE SAME SCHEDULE AS THEY WERE BEFORE DIRECT DEPOSIT/EFT?

Yes.

5. HOW QUICKLY WILL A PAYMENT BE DEPOSITED INTO MY ACCOUNT?

Payments are deposited two business days after the date of issuance. Saturdays, Sundays, and legal holidays are not considered business days. In addition to not having to wait for mail delivery, with direct deposit, vendors save additional time by not having to travel to the bank to wait in line to deposit checks or worry about lost, misplaced or stolen checks.

6. HOW WILL I KNOW WHEN THE PAYMENT IS IN OUR BANK ACCOUNT?

Once you are enrolled in direct deposit, the Department of Finance will email you a link that will allow you to enroll in the Payee Information Portal, or PIP. The Payee Information Portal is a service that allows you, as a payee/vendor for the City of New York, to manage your own account information, view your financial transactions with the City of New York and much more.

In addition, you may contact your bank directly or use online banking, mobile applications, and regular bank statements to confirm the deposit.

7. HOW WILL I KNOW WHAT THE PAYMENT IS FOR?

All payment information is transferred electronically to your bank account from Citibank. The City of New York now offers vendor access to the Payee Information Portal (PIP), which permits them, if they enroll in this program, to track up to three years of issued payments, as well as all scheduled payments. Direct deposits may reflect several invoices from one or more agencies, but the Payee Information Portal will provide information about each and every payment.

8. WHAT IF THERE IS A DISCREPANCY IN THE AMOUNT WE REQUESTED AND THE AMOUNT WE RECEIVED?

Please contact your agency representative.

9. CAN DIRECT DEPOSITS BE CREDITED TO THE WRONG ACCOUNT? IF THAT HAPPENS, WHO IS RESPONSIBLE?

The vendor is responsible for submitting to the Department of Finance correct information for the proper bank account to which it wishes to receive payments. The Department of Finance will not be able to ascertain if the vendor has supplied information for the wrong bank account.

However, if the bank account information that has been submitted is inconsistent and/or incorrect, the receiving bank will reject the payment and the Department of Finance will be notified. Finance will notify the agency and/or vendor and together we will do whatever is necessary to correct the problem. In order not to delay your payment, we will issue check(s) for your payment until the problem is resolved.

10. WHAT MUST I DO IF I CHANGE MY BANK OR MY ACCOUNT NUMBER?

Whenever you change any information or close your account, you must notify the Finance Treasury Division, in writing, indicating the type of change you are requesting (i.e. change in bank, change in bank account number). A copy of an imprinted voided check or imprinted, encoded deposit slip with the new account information must be included with your letter. Mail correspondence to: Department of Finance, Treasury Division, 66 John Street, 12th Floor, New York, New York 10038, Att: Direct Deposit/EFT.

It is important that you do not close the account that is linked to your direct deposits until the new account has been established and payments are being credited to your new account. When the change is complete, you may then close the old account. If, however the account is closed and direct deposit payments are returned, you must provide the Department of Finance with new account information, including a copy of an imprinted voided check or imprinted encoded deposit slip. The new account data will be verified with your bank ("prenote"), for a period of approximately 10 calendar days, during which only paper checks are available. At the conclusion of a successful "pre-note," you will again be activated for EFT, and future deposits will be made to the new account.

11. CAN I CANCEL MY DIRECT DEPOSIT ENROLLMENT?

If you have a contract with the City for more than \$25,000, or if you are a human service provider, the law requires that you receive your payments by direct deposit. Other vendors may cancel their participation in the program by sending a letter indicating the effective date of cancellation enrollment. Mail Correspondence to Department of Finance, Treasury Division, 66 John Street, 12th Floor, New York, New York 10038, Att: Direct Deposit/EFT

12. HOW DO I KNOW IF I AM A HUMAN SERVICE PROVIDER?

Human service providers are defined as those vendors such as health care organizations, educational institutions, and religious institutions who provide services to people. If you have a question about whether you are a human service provider please call: 212-487-2592.

13. DO I NEED TO SEND SEPARATE DIRECT DEPOSIT ENROLLMENT FORMS FOR EACH CITY AGENCY WITH WHICH I DO BUSINESS?

No. One enrollment form is sufficient.

14. WHAT IF MY NAME OR TAX ID # CHANGES (OR BOTH)? HOW DOES THIS AFFECT MY DIRECT DEPOSIT? WHO SHOULD BE NOTIFIED?

NON PIP VENDORS

If your name or Tax ID # changes (or both), the Comptroller's Office must validate a new Vendor Code. If you do not use the Payee Information Portal (PIP), you must complete and send to the agency you are doing business with the necessary supporting documents from the state in which you were incorporated justifying the changes e.g., a Certificate of Amendment, a new Substitute Form W-9 and a 147-C IRS letter. If you do not have the letter, you can call the IRS Main Business Line at 1-800-829-4933 (option 1 for Employer Identification Number questions) between 7a.m.-7p.m. Monday-Friday, except holidays, for assistance.

Once the Comptroller has validated the change, you must notify the Department of Finance and submit a new EFT Vendor Enrollment Form.

PIP VENDORS

If your name or Tax ID change (or both) the Comptroller's Office must validate a new Vendor Code. If you are enrolled in the Payee Information Portal (PIP), you must make the changes in PIP. In addition you must complete and send a new PIP Substitute Form W-9 and 147-C IRS letter to the PIP Unit of the Comptroller's Office, One Centre Street, New York, NY 10007, or by FAX: 212-815-8555. Once the Comptroller has registered the change, you must notify the Department of Finance and submit a new direct deposit enrollment form.

15. WHAT IF MY ADDRESS CHANGES? HOW DOES THIS AFFECT MY DIRECT DEPOSIT? WHO SHOULD BE NOTIFIED?

If your address changes, the Comptroller's Office does NOT validate a new Vendor Code. The vendor should follow the procedures above regarding Forms W-9, but does not have to submit to the Department of Finance new enrollment paperwork.

NEW YORK CITY
ENVIRONMENTAL PROTECTION

INVITATION FOR BIDS

FOR FURNISHING ALL
LABOR AND MATERIAL NECESSARY
AND REQUIRED FOR:

CRO-624G

Repurposing of the Kensico Laboratory as the Kensico Regional Headquarters

BID BOOKLET

(with additional volumes of Contract Terms, Specifications and
Drawings)

April 2023
