



PROJECT NO. PW335A27

LAW

THE CITY OF NEW YORK
DEPARTMENT OF DESIGN AND CONSTRUCTION
DIVISION OF SAFETY AND SITE SUPPORT
30-30 THOMSON AVENUE
LONG ISLAND CITY, NEW YORK 11101-3045
TELEPHONE NUMBER (718) 391-1000
WEBSITE www.nyc.gov/buildnyc

BID BOOKLET

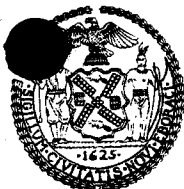
FOR FURNISHING ALL LABOR AND MATERIALS NECESSARY
AND REQUIRED FOR:

**ASBESTOS ABATEMENT WITHIN THE CITY
OF NEW YORK**

VOLUME 1 OF 2

PREPARED BY THE DIVISION OF SAFETY AND SITE SUPPORT
BUREAU OF ENVIRONMENTAL AND
GEOTECHNICAL SERVICES

SEPTEMBER 2013



W 4-037



NEW YORK CITY DEPARTMENT OF
DESIGN + CONSTRUCTION

DR. FENIOSKY PEÑA-MORA
Commissioner

RAMON RODRIGUEZ
Acting Agency Chief
Contracting Officer

May 23, 2014

CERTIFIED MAIL - RETURN RECEIPT REQUEST

AIR TECH LAB, INC.
251 53rd Street
Brooklyn, NY 11220

RE: FMS ID: PW335A27
E-PIN: 85014B0050001
DDC PIN: 8502014RQ0004C
ASBESTOS ABATEMENT WITHIN THE CITY OF
NEW YORK - CITYWIDE
NOTICE OF AWARD

Dear Contractor:

You are hereby awarded the above referenced contract based upon your bid in the amount of \$3,499,508.96 submitted at the bid opening on January 23, 2014. Within ten (10) days of your receipt of this notice of award, you are required to take the actions set forth in Paragraphs (1) through (3) below. For your convenience, attached please find a copy of Schedule A of the General Conditions to the Contract, which sets forth the types and amounts of insurance coverage required for this contract.

- (1) Execute four copies of the Agreement in the Contracts Unit, 30-30 Thomson Avenue, 1st Floor, Long Island City, New York (IDCNY Building). A Commissioner of Deeds will be available to witness and notarize your signature. The Agreement must be signed by an officer of the corporation or a partner of the firm.
- (2) Submit to the Contracts Unit four properly executed performance and payment bonds. If required for this contract, copies of performance and payment bonds are attached.
- (3) Submit to the Contracts Unit the following insurance documentation: (a) original certificate of insurance for general liability in the amount required by Schedule A, and (b) original certificates of insurance or other proof of coverage for workers' compensation and disability benefits, as required by New York State Law. The insurance documentation specified in this paragraph is required for registration of the contract with the Comptroller's Office.





On or before the contract commencement date, you are required to submit all other certificates of insurance and/or policies in the types and amounts required by Schedule A. Such certificates of Insurance and/or policies must be submitted to the Agency Chief Contracting Office, Attention: Risk Manager, Fourth Floor at the above indicated department address.

Your attention is directed to the section of the Information for Bidders entitled "Failure to Execute Contract". As indicated in this section, in the event you fail to execute the contract and furnish the required bonds within the (10) days of your receipt of this notice of award, your bid security will be retained by the City and you will be liable for the difference between your bid price and the price for which the contract is subsequently awarded, less the amount of the bid security retained.

Sincerely,

Acting Agency Chief
Contracting Officer



1

**BID FORM
THE CITY OF NEW YORK
DEPARTMENT OF DESIGN AND CONSTRUCTION
DIVISION OF SAFETY & SITE SUPPORT**

**BID FOR FURNISHING ALL LABOR AND
MATERIAL NECESSARY AND REQUIRED FOR:**

PROJECT ID: PW335A27

Name of Bidder: Air Tech Lab, Inc.

Date of Bid Opening: January 21, 2014

Bidder is: (Check one, whichever applies) Individual () Partnership () Corporation (x)

Place of Business of Bidder: 251 53rd STREET, BROOKLYN, NY 11220

Bidder's Telephone Number: (718) 439-0925 Fax Number: (718) 439-3245

Bidder's E-Mail Address: Roland@airtechlab.com

Residence of Bidder (If Individual): _____

If Bidder is a Partnership, fill in the following blanks:

Names of Partners

Residence of Partners

Roland Dib

President- See Below

Roger Dib

Secretary- See Below

If Bidder is a Corporation, fill in the following blanks:

Organized under the laws of the State of New York

Name and Home Address of President: 8901 Ridge Blvd
Brooklyn, NY 11209

Name and Home Address of Secretary: 231 85th Street
Brooklyn, NY 11209

Name and Home Address of Treasurer: _____

BID FORM (TO BE NOTARIZED)

AFFIDAVIT WHERE BIDDER IS AN INDIVIDUAL

STATE OF NEW YORK, COUNTY OF _____ ss:

_____ being duly sworn says:

I am the person described in and who executed the foregoing bid, and the several matters therein stated are in all respects true.

(Signature of the person who signed the Bid)

Subscribed and sworn to before me this _____ day of _____,

Notary Public

AFFIDAVIT WHERE BIDDER IS A PARTNERSHIP

STATE OF NEW YORK, COUNTY OF _____ ss:

_____ being duly sworn says:

I am a member of _____ the firm described in and which executed the foregoing bid. I subscribed the name of the firm thereto on behalf of the firm, and the several matters therein stated are in all respects true.

(Signature of Partner who signed the Bid)

Subscribed and sworn to before me this _____ day of _____,

Notary Public

AFFIDAVIT WHERE BIDDER IS A CORPORATION

STATE OF NEW YORK, COUNTY OF Kings ss:

Roland Dib

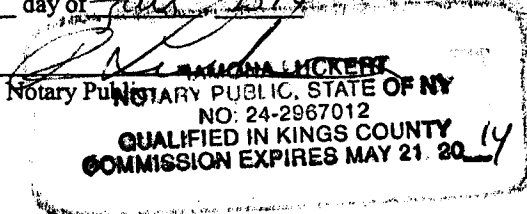
_____ being duly sworn says:

I am the President of the above named corporation whose name is subscribed to and which executed the foregoing bid. I reside at 8901 Ridge Blvd, Brooklyn, NY 11209

I have knowledge of the several matters therein stated, and they are in all respects true.

(Signature of Corporate Officer who signed the Bid)

Subscribed and sworn to before me this 21 day of Jan, 2014



AFFIRMATION

The undersigned bidder affirms and declares that said bidder is not in arrears to the City of New York upon debt, contract or taxes and is not a defaulter, as surety or otherwise, upon obligation to the City of New York, and has not been declared not responsible, or disqualified, by any agency of the City of New York, nor is there any proceeding pending relating to the responsibility or qualification of the bidder to receive public contracts except "None"

(If none, the bidder shall insert the word "None" in the space provided above.)

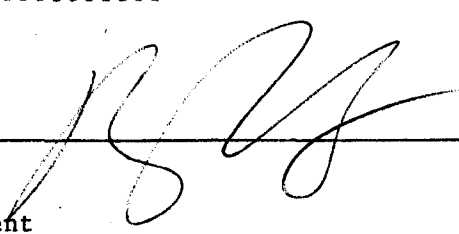
Full Name of Bidder: Air Tech Lab, Inc.
Address: 251 53rd STREET
City Brooklyn State NY Zip Code 11220

CHECK ONE BOX AND INCLUDE APPROPRIATE NUMBER:

- A - Individual or Sole Proprietorship*
SOCIAL SECURITY NUMBER

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

- C- Corporation
EMPLOYER IDENTIFICATION NUMBER
13-3589029

By: 
Signature
Title: President

If a corporation, place seal here

This affirmation must be signed by an officer or duly authorized representative.
*Under the Federal Privacy Act the furnishing of Social Security Numbers by bidders on City contracts is voluntary. Failure to provide a Social Security Number will not result in a bidder's disqualification. Social Security Numbers will be used to identify bidders, proposers or vendors to ensure their compliance with laws, to assist the City in enforcement of laws, as well as to provide the City a means of identifying of businesses which seek City contracts.

A. PROJECT REFERENCES – SIMILAR CONTRACTS COMPLETED BY THE BIDDER

List all contracts substantially completed within the last 4 years similar to the contract being awarded, up to a maximum of 10, in descending order of date of substantial completion.

| Project & Location | Contract Type | Contract Amount (\$000) | Date Completed | Owner Reference & Tel. No. | Architect/Engineer Reference & Tel. No. if different from owner |
|--------------------|---------------|-------------------------|----------------|----------------------------|---|
| See Attached | | | | | |
| | | | | | |
| | | | | | |
| | | | | | |
| | | | | | |
| | | | | | |
| | | | | | |

B. PROJECT REFERENCES - CONTRACTS CURRENTLY UNDER CONSTRUCTION BY THE BIDDER

List all contracts currently under construction even if they are not similar to the contract being awarded.

| Project & Location | Contract Type | Contract Amount (\$000) | Subcontracted to Others (\$000) | Uncompleted Portion (\$000) | Date Scheduled to Complete | Owner Reference & Tel. No. | Architect/Engineer Reference & Tel. No. if different from owner |
|--------------------|---------------|-------------------------|---------------------------------|-----------------------------|----------------------------|----------------------------|---|
| See Attached | | | | | | | |
| | | | | | | | |
| | | | | | | | |
| | | | | | | | |
| | | | | | | | |
| | | | | | | | |

C. PROJECT REFERENCES – PENDING CONTRACTS NOT YET STARTED BY THE BIDDER

List all contracts awarded to or won by the bidder but not yet started.

| Project & Location | Contract Type | Contract Amount (\$000) | Date Scheduled to Start | Owner Reference & Tel. No. | Architect/Engineer Reference & Tel. No. if different from owner |
|--------------------|---------------|-------------------------|-------------------------|----------------------------|---|
| "None" | | | | | |
| | | | | | |
| | | | | | |
| | | | | | |
| | | | | | |
| | | | | | |
| | | | | | |

AIR TECH LAB, Inc.

251 BAY STREET
Brooklyn, NY 11225
Tel: (718) 439-0925

Fax: (718) 439-3245
www.airtechlab.com
Jan-98

| PROJECT # | PROJECT TYPE | OWNER'S ADDRESS | OWNER'S NAME & PHONE # | AMOUNT | TYPE OF WORK | |
|-----------|---|---|------------------------------|--------------|-------------------------|----------------------|
| SCA 7278 | Service Contract Various Locations | School Construction Authority 30-30 Thompson Ave, NY, NY Alex Lampert | Alex Lampert 718-472-8501 | \$2,005,000 | Asbestos/Lead Abatement | |
| SCA 7406 | Service Contract Various Locations | School Construction Authority 30-30 Thompson Ave, NY, NY Alex Lampert | Alex Lampert 718-472-8501 | \$1,976,000 | Asbestos/Lead Abatement | 1/1998-1/1999 |
| SCA 7717 | Service Contract Various Locations | School Construction Authority 30-30 Thompson Ave, NY, NY Alex Lampert | Alex Lampert 718-472-8501 | \$1,358,000 | Asbestos/Lead Abatement | 2/1/1999-2/2000 |
| SCA 8022 | Various Schools throughout NYC | School Construction Authority 30-30 Thompson Ave, NY, NY | Alex Lampert 718-472-8501 | \$2,150,000 | Asbestos/Lead Abatement | 8/99-3/2000 |
| SCA 8370 | Service Contract Various Locations | Authority 30-30 Thompson Ave, NY, NY Alex Lampert (718) 472-8502 | Alex Lampert 718-472-8501 | \$4,000,000 | Asbestos/Lead Abatement | 8/2000-10/2001 |
| SCA 8825 | Service Contract Work Order | School Construction Authority 30-30 Thompson Ave, NY, NY | Apri Alberghini 718-472-8502 | \$8,331,500 | Asbestos/Lead Abatement | 9/2001-2/2005 |
| SCA 9351 | Service Contract Work Order Various Locations | School Construction Authority 30-30 Thompson Ave, NY, NY | Alex Lampert 718-472-8501 | \$12,500,000 | Asbestos/Lead Abatement | 9/2004-10/2007 |
| SCA 10554 | Service Contract Various Locations | School Construction Authority 30-30 Thompson Ave, NY, NY | Alex Lampert 718-472-8501 | \$9,500,000 | Asbestos/Lead Abatement | 10/2007-9/2009 |
| SCA 11601 | Service Contract Various Locations | School Construction Authority 30-30 Thompson Ave, NY, NY | Alex Lampert 718-472-8502 | \$9,000,000 | Asbestos/Lead Abatement | 9/2009-9/2010 |
| SCA 11914 | Service Contract Various Locations | School Construction Authority 30-30 Thompson Ave, NY, NY | Alex Lampert 718-472-8503 | \$9,000,000 | Asbestos/Lead Abatement | 7/2010-7/2012 |
| SCA 12408 | Service Contract Various Locations | School Construction Authority 30-30 Thompson Ave, NY, NY | Alex Lampert 718-472-8504 | \$3,000,000 | Asbestos/Lead Abatement | 6/1/2012-in progress |

QUALIFICATION FORM

List previous projects completed to meet the special experience requirements for this contract. Please photocopy this form for submission of all required projects.

Name of Contractor: Air Tech Lab, Inc.

Name of Project: Asbestos/ Lead Abatement NYCSCA

Location of Project: New York City - City Wide

Owner or Owner's representative who is familiar with the work performed:

Name: Roland Dib
Title: President Phone Number: 718 439-0925

Brief description of work completed: See - Attached

Was the work was performed as a prime or a subcontractor: N/A

Amount of Contract: _____

Date of Completion: _____

Name of Contractor: _____

Name of Project: _____

Location of Project: _____

Owner or Owner's representative who is familiar with the work performed:

Name: _____
Title: _____ Phone Number: _____

Brief description of work completed: _____

Was the work was performed as a prime or a subcontractor: _____

Amount of Contract: _____

Date of Completion: _____

SAFETY QUESTIONNAIRE

The bidder must include, with its bid, all information requested on this Safety Questionnaire. Failure to provide a completed and signed Safety Questionnaire at the time of bid opening may result in disqualification of the bid as non-responsive.

1. Bidder Information:

Company Name: Air Tech Lab, Inc.

DDC Project Number: PW 335A27

Company Size: Ten (10) employees or less
 X Greater than ten (10) employees

 Company has previously worked for DDC

2. Type(s) of Construction Work

| TYPE OF WORK | LAST 3 YEARS | THIS PROJECT |
|--------------------------------------|--------------|--------------|
| General Building Construction | _____ | _____ |
| Residential Building Construction | _____ | _____ |
| Nonresidential Building Construction | _____ | _____ |
| Heavy Construction, except building | _____ | _____ |
| Highway and Street Construction | _____ | _____ |
| Heavy Construction, except highways | _____ | _____ |
| Plumbing, Heating, HVAC | _____ | _____ |
| Painting and Paper Hanging | _____ | _____ |
| Electrical Work | _____ | _____ |
| Masonry, Stonework and Plastering | _____ | _____ |
| Carpentry and Floor Work | _____ | _____ |
| Roofing, Siding, and Sheet Metal | _____ | _____ |
| Concrete Work | _____ | _____ |
| Specialty Trade Contracting | _____ | _____ |
| Asbestos Abatement | X | X |
| Other (specify) | | |
| Lead, Mold, Abatement | X | _____ |

3. Experience Modification Rate:

The Experience Modification Rate (EMR) is a rating generated by the National Council of Compensation Insurance (NCCI). This rating is used to determine the contractor's premium for worker's compensation insurance. The contractor may obtain its EMR by contacting its insurance broker or the NCCI. If the contractor cannot obtain its EMR, it must submit a written explanation as to why.

The Contractor must indicate its Intrastate and Interstate EMR for the past three years. [Note: For contractors with less than three years of experience, the EMR will be considered to be 1.00].

| YEAR | INTRASTATE RATE | INTERSTATE RATE |
|------|-----------------|-----------------|
| 2010 | 0.92 | |
| 2011 | 0.92 | |
| 2012 | 0.99 | |

If the Intrastate and/or Interstate EMR for any of the past three years is greater than 1.00, the contractor must attach, to this questionnaire, a written explanation for the rating and identify what corrective action was taken to correct the situation resulting in that rating.

4. OSHA Information:

_____ Contractor has received a willful violation issued by OSHA or New York City Department of Buildings (NYCDOB) within the last three years.

_____ Contractor has had an incident requiring OSHA notification within 8 hours (i.e., fatality, or hospitalization of three or more employees).

The Occupational Safety and Health Act (OSHA) of 1970 requires employers with ten or more employees, on a yearly basis to complete and maintain on file the form entitled "Log of Work-related Injuries and Illnesses". This form is commonly referred to as the OSHA 300 Log (OSHA 200 Log for 2001 and earlier).

The OSHA 300 Log must be submitted for the last three years for contractors with more than ten employees.

The Contractor must indicate the total number of hours worked by its employees, as reflected in payroll records for the past three years.

The contractor must submit the Incident Rate for Lost Time Injuries (the Incident Rate) for the past three years. The Incident Rate is calculated in accordance with the formula set forth below. For each given year, the total number of incidents is the total number of non-fatal injuries and illnesses reported on the OSHA 300 Log. The 200,000 hours represents the equivalent of 100 employees working forty hours a week, fifty weeks per year.

$$\text{Incident Rate} = \frac{\text{Total Number of Incidents X 200,000}}{\text{Total Number of Hours Worked by Employees}}$$

| YEAR | TOTAL NUMBERS OF HOURS WORKED BY EMPLOYEES | INCIDENT RATE |
|------|--|---------------|
| 2010 | 300,000 | 0 |
| 2011 | 300,000 | 0 |
| 2012 | 300,000 | 0 |

If the contractor's Incident Rate for any of the past three years is one point higher than the Incident Rate for the type of construction it performs (listed below), the contractor must attach, to this questionnaire, a written explanation for the relatively high rate.

| | |
|--------------------------------------|------|
| General Building Construction | 8.5 |
| Residential Building Construction | 7.0 |
| Nonresidential Building Construction | 10.2 |
| Heavy Construction, except building | 8.7 |
| Highway and Street Construction | 9.7 |
| Heavy Construction, except highways | 8.3 |
| Plumbing, Heating, HVAC | 11.3 |
| Painting and Paper Hanging | 6.9 |
| Electrical Work | 9.5 |
| Masonry, Stonework and Plastering | 10.5 |
| Carpentry and Floor Work | 12.2 |
| Roofing, Siding, and Sheet Metal | 10.3 |
| Concrete Work | 8.6 |
| Specialty Trade Contracting | 8.6 |

5. Safety Performance on Previous DDC Project(s)

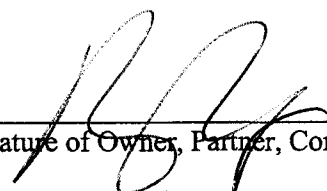
No Contractor previously audited by the DDC Office of Site Safety.

DDC Project Number(s): _____

_____ Accident on previous DDC Project(s).

_____ Fatality or Life-altering Injury on DDC Project(s) within the last three years.
 [Examples of a life-altering injury include loss of limb, loss of a sense (e.g., sight, hearing), or loss of neurological function].

Date: 1-21-14

By: 
 (Signature of Owner, Partner, Corporate Officer)

Title: President

CONSTRUCTION EMPLOYMENT REPORT

GENERAL INFORMATION

1. Your contractual relationship in this contract is: Prime contractor Subcontractor
- 1a. Are MWBE 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 MWBEs 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 Local 78
6. Are you a Veteran owned company? Yes No

PART I: CONTRACTOR/SUBCONTRACTOR INFORMATION

7. 13-3589029 Roland@airtechlab.com
Employer Identification Number or Federal Tax I.D. Email Address
8. Air Tech Lab, Inc/
Company Name
9. 251 53rd STREET, BROOKLYN, NY 11220
Company Address and Zip Code
10. Roland Dib (718) 439-0925
Chief Operating Officer Telephone Number
11. "Same"
Designated Equal Opportunity Compliance Officer Telephone Number
(If same as Item #10, write "same")
12. "Same"
Name of Prime Contractor and Contact Person
(If same as Item #8, write "same")

13. Number of employees in your company: 20

14. Contract information:

(a) DDC
Contracting Agency (City Agency)

(b) \$3,499,508.96
Contract Amount

(c) PW 335A27
Procurement Identification Number (PIN)

(d) _____
Contract Registration Number (CT#)

(e) NTP
Projected Commencement Date

(f) 4 Years
Projected Completion Date

(g) Description and location of proposed contract:

Asbestos Abatement

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 X

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 X

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___ NoX

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___ NoX

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.

- X (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?

AIR TECH LAB, Inc.
Asbestos & Lead Abatement Services

251 53rd STREET
Brooklyn, NY 11220
Tel: (718) 439-0925
Fax: (718) 439-3245

Department of Desing and construction
30-30 Thomson Avenue
LIC, NY 11101

Re:

Asbestos Abatement
PW 335A27
Pin: 8502014RQ0004C
Bid date: 1/21/14
Bid time: 2:00 pm

Question 20 (a):

Union workers are covered under the union policies.

Office employees are covered under a private insurance 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 <input checked="" type="checkbox"/> | No <input type="checkbox"/> |
| (b) After a conditional job offer | Yes <input type="checkbox"/> | No <input checked="" type="checkbox"/> |
| (c) After a job offer | Yes <input type="checkbox"/> | No <input checked="" type="checkbox"/> |
| (d) Within the first three days on the job | Yes <input type="checkbox"/> | No <input checked="" type="checkbox"/> |
| (e) To some applicants | Yes <input type="checkbox"/> | No <input checked="" type="checkbox"/> |
| (f) To all applicants | Yes <input type="checkbox"/> | No <input checked="" type="checkbox"/> |
| (g) To some employees | Yes <input type="checkbox"/> | No <input checked="" type="checkbox"/> |
| (h) To all employees | Yes <input checked="" type="checkbox"/> | No <input type="checkbox"/> |

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

Copies are left in the employees files

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 <input checked="" type="checkbox"/> | No <input type="checkbox"/> |
| (b) After a conditional job offer | Yes <input type="checkbox"/> | No <input checked="" type="checkbox"/> |
| (c) After a job offer | Yes <input type="checkbox"/> | No <input checked="" type="checkbox"/> |
| (d) To all applicants | Yes <input checked="" type="checkbox"/> | No <input type="checkbox"/> |
| (e) Only to some applicants | Yes <input type="checkbox"/> | No <input checked="" type="checkbox"/> |

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.
Complaints received are handed over to Senior Management for review and corrective measures.

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 X

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 X

If yes, attach a log. See instructions.

29. Are there any jobs for which there are physical qualifications? Yes ___ No X

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 X

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) Roland Dib 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.

Air Tech Lab, Inc.

Contractor's Name

Roland Dib President
Name of person who prepared this Employment Report Title

Name of official authorized to sign on behalf of the contractor Title

(718) 439-0925
Telephone Number

[Signature] 1-21-14
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.

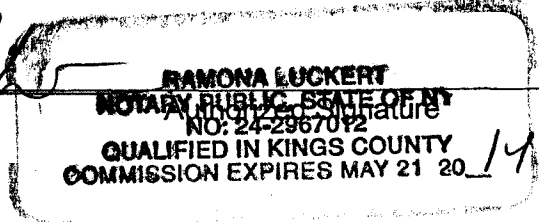
Willful or fraudulent falsifications of any data or information submitted herewith may result in the termination of the contract between the City and the bidder or contractor and in disapproval of future contracts for a period of up to five years. Further, such falsification may result in civil and/or 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 21 day of January 2014

[Signature] 1-21-14
Notary Public 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
- (H) Helper
- (TOT) Total by Column
- (A) Apprentice
- (TRN) Trainee

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: _____

Asbestos Abatement _____

Union Affiliation, if applicable _____

78

Total (Col. #1-10):

16

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

9

Total Female (Col. #6 - 10):

2

| | 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 | 7 | | 7 | | | 1 | | 1 | | |
| H | | | | | | | | | | |
| A | | | | | | | | | | |
| TRN | | | | | | | | | | |
| TOT | 7 | T | 7 | | | 1 | | 1 | | |

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

Unions Employees _____

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 | | | | | 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 CLASSIFICATION CODES

- (J) Journey/level Workers
- (H) Helper
- (TOT) Total by Column
- (A) Apprentice
- (TRN) Trainee

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:

MALES

FEMALES

| | 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 Total (Col. #1-10): | | | | | | | | | | |
| H Total Minority, Male & Female (Col. #2,3,4,5,7,8,9, & 10): | | | | | | | | | | |
| A Total Female (Col. #6 - 10): | | | | | | | | | | |
| TRN | | | | | | | | | | |
| TOT | | | | | | | | | | |

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

| | (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. |
|-----|------------------------------|------------------------------|--------------|--------------|-------------------------|
| J | | | | | |
| H | | | | | |
| A | | | | | |
| TRN | | | | | |
| TOT | | | | | |

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

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

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

[Please Check One]

BIDDER'S CERTIFICATION

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

Dated: _____, New York

_____, 20__

SIGNATURE

Roland Dib

PRINTED NAME

President

TITLE

Sworn to before me this

21 day of Jan, 2014

Notary Public

RAMONA LUCKERT
NOTARY PUBLIC, STATE OF NY
NO: 24-2967012
QUALIFIED IN KINGS COUNTY
COMMISSION EXPIRES MAY 21 2014

THE CITY OF NEW YORK
DEPARTMENT OF DESIGN AND CONSTRUCTION
DIVISION OF SAFETY AND SITE SUPPORT

December 27, 2013

ADDENDUM No. # 1

FOR FURNISHING ALL LABOR AND MATERIAL NECESSARY AND REQUIRED FOR:

Project #: PW335A27

Project Description: Asbestos Abatement within the City of New York

This addendum is issued for the purpose of amending the requirements of the Bid and Contract Documents and is hereby made a part of said Bid and Contract Documents to the same extent as though it were originally included therein.

1. Revision to Bid Booklet – Attachment 1

THIS ADDENDUM MUST BE SIGNED BY ALL BIDDERS AND ATTACHED TO THEIR BIDS.

If additional information is required, please contact the Department of Design and Construction, Contract Section at (718) 391-1016, (718) 391-1283 or by fax at (718) 391-2615.


Mark Capu,
Associate Commissioner 12/30/2013

Air Tech Lab, Inc.

Name of Bidder

By: 

BID BOND I
FORM OF BID BOND

KNOW ALL MEN BY THESE PRESENTS. That we, AIR TECH LAB, INC.

251 - 53rd Street
Brooklyn, NY 11220

hereinafter referred to as the "Principal", and INTERNATIONAL FIDELITY INSURANCE CO.

1 Newark Center
Newark, NJ 07102

hereinafter referred to as the "Surety" are held and firmly bound to THE CITY OF NEW YORK,
hereinafter referred to as the "CITY", or to its successors and assigns in the penal sum of _____

****Ten (10%) Percent of Total Amount Bid****

(\$ _____), Dollars lawful money of the United States, for the payment of which said sum of money well and truly to be made, we, and each of us, bind ourselves, our heirs, executors, administrators, successors and assigns, jointly and severally, firmly by these presents.

Whereas, the Principal is about to submit (or has submitted) to the City the accompanying proposal, hereby made a part hereof, to enter into a contract in writing for _____

Project No. PW335A27 - Asbestos Abatement Within the City of New York

NOW, THEREFORE, the conditions of this obligation are such that if the Principal shall not withdraw said Proposal without the consent of the City for a period of forty-five (45) days after the opening of bids and in the event of acceptance of the Principal's Proposal by the City, if the Principal shall:

(a) Within ten (10) days after notification by the City, execute in quadruplicate and deliver to the City all the executed counterparts of the Contract in the form set forth in the Contract Documents, in accordance with the proposal as accepted, and

(b) Furnish a performance bond and separate payment bond, as may be required by the City, for the faithful performance and proper fulfillment of such Contract, which bonds shall be satisfactory in all respects to the City and shall be executed by good and sufficient sureties, and

(c) In all respects perform the agreement created by the acceptance of said Proposal as provided in the Information for Bidders, bound herewith and made a part hereof, or if the City shall reject the aforesaid Proposal, then this obligation shall be null and void; otherwise to remain in full force and effect.

BID BOND 2

In the event that the Proposal of the Principal shall be accepted and the Contract be awarded to him the Surety hereunder agrees subject only to the payment by the Principal of the premium therefore, if requested by the City, to write the aforementioned performance and payment bonds in the form set forth in the Contract Documents.

It is expressly understood and agreed that the liability of the Surety for any and all claims hereunder shall in no event exceed the penal amount of this obligation as herein stated.

There shall be no liability under this bond if, in the event of the acceptance of the Principal's Proposal by the City, either a performance bond or payment bond, or both, shall not be required by the City on or before the 30th day after the date on which the City signs the Contract.

The surety, for the value received, hereby stipulates and agrees that the obligations of the Surety and its bond shall in no way be impaired or affected by any postponements of the date upon which the City will receive or open bids, or by any extensions of the time within which the City may accept the Principal's Proposal, or by any waiver by the City of any of the requirements of the Information for Bidders, and the Surety hereby waives notice of any such postponements, extensions, or waivers.

IN WITNESS WHEREOF, the Principal and the Surety have hereunto set their hands and seals and such of them as are corporations have caused their corporate seals to be hereto affixed and these presents to be signed by their proper officers the 21st day of January, 2014.

(Seal)

AIR TECH LAB, INC. (L.S.)

Principal

By: _____

(Seal)

INTERNATIONAL FIDELITY INSURANCE CO.

Surety

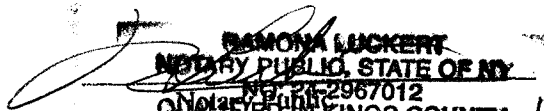
By: _____

Carl W. Bull, Attorney-In-Fact

BID BOND 3

ACKNOWLEDGMENT OF PRINCIPAL, IF A CORPORATION

State of NY County of Kings ss:
On this 21st day of January, 2014, before me personally came Roland Dib to me known, who, being by me duly sworn, did depose and say that he resides at 8423 Ridge Blvd Brooklyn, NY 11209 that he is the President of AIR TECH LAB, INC. the corporation described in and which executed the foregoing instrument; that he knows the seal of said corporation; that one of the seals affixed to said instrument is such seal; that it was so affixed by order of the directors of said corporation, and that he signed his name thereto by like order.


RAMONA LUCKERT
NOTARY PUBLIC, STATE OF NY
No. 26-2967012
QUALIFIED IN KINGS COUNTY
COMMISSION EXPIRES MAY 21, 2014

ACKNOWLEDGMENT OF PRINCIPAL, IF A PARTNERSHIP

State of _____ County of _____ ss:
On this _____ day of _____, _____, before me personally appeared _____ to me known and known to me to be one of the members of the firm of _____ described in and who executed the foregoing instrument, and he acknowledged to me that he executed the same as and for the act and deed of said firm.

Notary Public

ACKNOWLEDGMENT OF PRINCIPAL, IF AN INDIVIDUAL

State of _____ County of _____ ss:
On this _____ day of _____, _____, before me personally appeared _____ to me known and known to me to be the person described in and who executed the foregoing instrument and acknowledged that he executed the same.

Notary Public

AFFIX ACKNOWLEDGMENTS AND JUSTIFICATION OF SURETIES

INTERNATIONAL FIDELITY INSURANCE COMPANY
 ONE NEWARK CENTER, 20TH FLOOR, NEWARK, NEW JERSEY 07102-5207

STATEMENT OF ASSETS, LIABILITIES, SURPLUS AND OTHER FUNDS

AT DECEMBER 31, 2012

ASSETS

| | |
|--|-----------------------------|
| Bonds (Amortized Value) | \$37,665,793 |
| Preferred Stocks (Market Value) | 2,500,000 |
| Common Stocks (Market Value) | 80,694,734 |
| Mortgage Loans on Real Estate | 400,000 |
| Cash & Bank Deposits | 93,103,224 |
| Other Invested Assets | 358,888 |
| Unpaid Premiums & Assumed Balances | 11,392,115 |
| Reinsurance Recoverable from Reinsurers | 2,486,235 |
| Electronic Data Processing Equipment | 334,973 |
| Investment Income Due and Accrued | 376,830 |
| Net Deferred Tax Assets | 5,627,125 |
| Health Care () and other amounts receivable | 262,567 |
| Other Assets | <u>11,622,747</u> |
| TOTAL ASSETS | <u>\$246,825,231</u> |

LIABILITIES, SURPLUS & OTHER FUNDS

| | |
|--|-----------------------------|
| Losses (Reported Losses Net as to Reinsurance Ceded and Incurred But Not Reported Losses) | \$13,876,269 |
| Reinsurance Payable on Paid Losses and Loss Adjustment Expenses (Schedule F, Part 1, Column 6) | 1,510,083 |
| Loss Adjustment Expenses | 4,652,242 |
| Contingent Commissions & Other Similar Charges | 5,602,396 |
| Other Expenses (Excluding Taxes, Licenses and Fees) | 3,872,209 |
| Taxes, Licenses & Fees (Excluding Federal Income Tax) | 448,079 |
| Current federal and Foreign Income Taxes | 811,905 |
| Unearned Premiums | 36,650,734 |
| Dividends Declared & Unpaid: Policyholders | 500,000 |
| Ceded Reinsurance Premiums Payable | 4,082,113 |
| Funds Held by Company under Reinsurance Treaties | 1,031 |
| Amounts Withheld by Company for Account of Others | 70,783,059 |
| Provisions for Reinsurance | 2,152 |
| Payable to Parent, Subsidiaries and Affiliates | 205,016 |
| Other Liabilities | <u>4,975</u> |
| TOTAL LIABILITIES | <u>\$143,002,263</u> |
| | |
| Common Capital Stock | \$1,500,000 |
| Gross Paid-in & Contributed Surplus | 374,600 |
| Surplus Note | 16,000,000 |
| Unassigned Funds (Surplus) | 88,265,914 |
| Less: Treasury Stock at cost (51,501 shares common) (value incl. \$45.) | <u>2,317,545</u> |
| | |
| Surplus as Regards Policyholders | <u>\$103,822,969</u> |
| TOTAL LIABILITIES, SURPLUS & OTHER FUNDS | <u>\$246,825,232</u> |

I, Francis L. Mitterhoff, President of INTERNATIONAL FIDELITY INSURANCE COMPANY, certify that the foregoing is a fair statement of Assets, Liabilities, Surplus and Other Funds of this Company, at the close of business, December 31, 2012, as reflected by its books and records and as reported in its statement on file with the Insurance Department of the State of New Jersey.



IN TESTIMONY WHEREOF, I have set my hand and affixed the seal of the Company, this 24th day of February, 2013.
 INTERNATIONAL FIDELITY INSURANCE COMPANY

POWER OF ATTORNEY

INTERNATIONAL FIDELITY INSURANCE COMPANY ALLEGHENY CASUALTY COMPANY

ONE NEWARK CENTER, 20TH FLOOR NEWARK, NEW JERSEY 07102-5207

KNOW ALL MEN BY THESE PRESENTS: That INTERNATIONAL FIDELITY INSURANCE COMPANY, a corporation organized and existing under the laws of the State of New Jersey, and ALLEGHENY CASUALTY COMPANY a corporation organized and existing under the laws of the State of Pennsylvania, having their principal office in the City of Newark, New Jersey, do hereby constitute and appoint

WILLIAM T. GUILFOYLE, CARL W. BULL

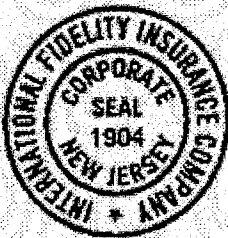
West New York, NJ

their true and lawful attorney(s)-in-fact to execute, seal and deliver for and on its behalf as surety, any and all bonds and undertakings, contracts of indemnity and other writings obligatory in the nature thereof, which are or may be allowed, required or permitted by law, statute, rule, regulation, contract or otherwise, and the execution of such instrument(s) in pursuance of these presents, shall be as binding upon the said INTERNATIONAL FIDELITY INSURANCE COMPANY and ALLEGHENY CASUALTY COMPANY, as fully and amply, to all intents and purposes, as if the same had been duly executed and acknowledged by their regularly elected officers at their principal offices.

This Power of Attorney is executed and may be revoked, pursuant to and by authority of the By-Laws of INTERNATIONAL FIDELITY INSURANCE COMPANY and ALLEGHENY CASUALTY COMPANY and is granted under and by authority of the following resolution adopted by the Board of Directors of INTERNATIONAL FIDELITY INSURANCE COMPANY at a meeting duly held on the 20th day of July, 2010 and by the Board of Directors of ALLEGHENY CASUALTY COMPANY at a meeting duly held on the 15th day of August, 2000:

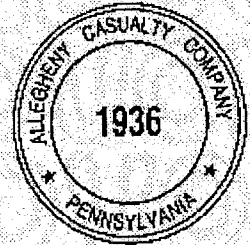
"RESOLVED, that (1) the President, Vice President, or Secretary of the Corporation shall have the power to appoint, and to revoke the appointments of, Attorneys-in-Fact or agents with power and authority as defined or limited in their respective powers of attorney, and to execute on behalf of the Corporation and affix the Corporation's seal thereto, bonds, undertakings, recognizances, contracts of indemnity and other written obligations in the nature thereof or related thereto; and (2) any such Officers of the Corporation may appoint and revoke the appointments of joint-control custodians, agents for acceptance of process, and Attorneys-in-fact with authority to execute waivers and consents on behalf of the Corporation; and (3) the signature of any such Officer of the Corporation and the Corporation's seal may be affixed by facsimile to any power of attorney or certification given for the execution of any bond, undertaking, recognizance, contract of indemnity or other written obligation in the nature thereof or related thereto, such signature and seals when so used whether heretofore or hereafter, being hereby adopted by the Corporation as the original signature of such officer and the original seal of the Corporation, to be valid and binding upon the Corporation with the same force and effect as though manually affixed."

IN WITNESS WHEREOF, INTERNATIONAL FIDELITY INSURANCE COMPANY and ALLEGHENY CASUALTY COMPANY have each executed and attested these presents on this 12th day of March, 2012.



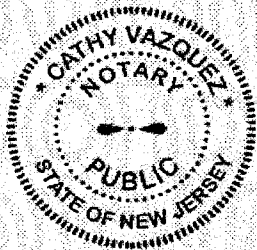
STATE OF NEW JERSEY
County of Essex

ROBERT W. MINSTER
Executive Vice President/Chief Operating Officer
(International Fidelity Insurance Company)
and, President (Allegheny Casualty Company)



On this 12th day of March 2012, before me came the individual who executed the preceding instrument, to me personally known, and, being by me duly sworn, said he is the therein described and authorized officer of INTERNATIONAL FIDELITY INSURANCE COMPANY and ALLEGHENY CASUALTY COMPANY; that the seals affixed to said instrument are the Corporate Seals of said Companies; that the said Corporate Seals and his signature were duly affixed by order of the Boards of Directors of said Companies.

IN TESTIMONY WHEREOF, I have hereunto set my hand affixed my Official Seal, at the City of Newark, New Jersey the day and year first above written.



A NOTARY PUBLIC OF NEW JERSEY
My Commission Expires Mar. 27, 2014

CERTIFICATION

I, the undersigned officer of INTERNATIONAL FIDELITY INSURANCE COMPANY and ALLEGHENY CASUALTY COMPANY do hereby certify that I have compared the foregoing copy of the Power of Attorney and affidavit, and the copy of the Sections of the By-Laws of said Companies as set forth in said Power of Attorney, with the originals on file in the home office of said companies, and that the same are correct transcripts thereof, and of the whole of the said originals, and that the said Power of Attorney has not been revoked and is now in full force and effect.

IN TESTIMONY WHEREOF, I have hereunto set my hand this **21st** day of **January, 2014**

MARIA BRANCO, Assistant Secretary

PROJECT ID: PW335A27

CITY OF NEW YORK
DEPARTMENT OF DESIGN AND CONSTRUCTION
DIVISION OF SAFETY & SITE SUPPORT

BID BOOKLET

TABLE OF CONTENTS

| | PAGE |
|--|------|
| 1. Special Notice to Bidders..... | 2 |
| 2. Notice: Project Labor Agreement..... | 6 |
| 3. Bid Form..... | 7 |
| 4. Affirmation..... | 12 |
| 5. Bid Bond..... | 13 |
| 6. Iran Divestment Act Compliance Rider..... | 16 |
| 7. Safety Questionnaire..... | 18 |
| 8. Pre-award Process | 21 |
| 9. Project Reference Form | 23 |
| 10. Confirmation of Vendex Compliance..... | 26 |
| 11. <u>Attachment 1</u> : Bid Information..... | 28 |
| 12. <u>Attachment 2</u> : Construction Employment Report | 29 |

**CITY OF NEW YORK
DEPARTMENT OF DESIGN AND CONSTRUCTION
DIVISION OF SAFETY & SITE SUPPORT**

SPECIAL NOTICE TO BIDDERS

BID SUBMISSION REQUIREMENTS

**THE FOLLOWING DOCUMENTS ARE TO BE COMPLETED
AND SUBMITTED WITH THE BID:**

1. Bid Form, including Affirmation
2. Bid Security (if required, see Attachment 1)

**FAILURE TO SUBMIT ITEMS (1), (2) AND (3)
WILL RESULT IN THE DISQUALIFICATION OF THE BID.**

4. Iran Divestment Act Compliance Rider
5. Safety Questionnaire
6. Construction Employment Report (if bid is \$1,000,000 or more)
7. Contract Certificate (if bid is less than \$1,000,000)
8. Confirmation of Vendex Compliance
9. Special Experience Requirements (if applicable)
10. Any Addenda issued prior to the receipt of bids

**FAILURE TO SUBMIT ITEMS (4) THROUGH (10)
MAY RESULT IN THE DISQUALIFICATION OF THE BID.**

- (1) All of the above referred to blank forms to be completed and submitted with the bid are included in the BID BOOKLET.
- (2) If the bidder has any questions or requires additional information, please contact the Department of Design and Construction by phone (718-391-2601) or by fax (718-391-2615).
- (3) **VENDEX QUESTIONNAIRES:** The Bidder is advised that Vendex Questionnaires and procedures have been changed. Vendex Questionnaires, as well as detailed instructions, may be obtained at www.nyc.gov/vendex. The bidder may also obtain Vendex forms and Instructions by contacting the Agency Chief Contracting Officer or the contact person for this contract.
- (4) **SPECIAL EXPERIENCE REQUIREMENTS:** The Bidder is advised that Special Experience Requirements may apply to this contract. Such requirements are set forth on page 3 of this Bid Booklet.

SPECIAL EXPERIENCE REQUIREMENTS

PROJECT ID: PW335A27

- (1) **GENERAL:** The special experience requirements set forth in below apply to the bidder for this contract.
 - (a) **Evaluation:** Compliance with the experience requirements set forth herein will be determined solely by the City. The bidder is advised that failure to meet the below described experience will result in the rejection of the bid as non-responsive.
 - (b) **Compliance by the Bidder as an Entity:** Compliance with the special experience requirements must be demonstrated by the BIDDER ITSELF, i.e., the actual entity submitting the bid, whether an individual, corporation or partnership. The bidder itself must have been in existence as the same entity for the three year period prior to the bid opening. During such period, the bidding entity itself must have achieved compliance with the special experience requirements. The bidding entity may not use or rely on the experience or credentials of any other entity; regardless of any relationship such other entity may have to the bidder.
- (2) **REQUIREMENTS:** The bidder must demonstrate compliance with the special experience requirements set forth below. The bidder must, as part of its bid, submit documentation demonstrating compliance with all listed requirements.
 - (a) The bidder must, for the three year period prior to the bid opening, demonstrate that it has maintained the following licenses: (1) licensed by the New York State Department of Labor (NYSDOL), as an Asbestos Handling Contractor, and (2) licensed by the United States Environmental Protection Agency (USEPA) for the performance of lead abatement and/or remediation services.
 - (b) The bidder must, for the three year period prior to the bid opening, have been in the business of providing asbestos abatement services as a routine part of its daily operations.
 - (c) The bidder must, for the three year period prior to the bid opening, demonstrate the following: (1) that for each year, it completed various asbestos abatement projects, the total cumulative value of which is at least \$1,000,000 per year, and (2) that for each year it completed at least one asbestos abatement project that had a minimum value of \$250,000.00.
 - (d) The bidder must, for the two year period prior to the bid opening, demonstrate the following: (1) that for each year, it completed various lead abatement and/or remediation projects, the total cumulative value of which is at least \$200,000.00 per year, and (2) that for each year it completed at least one lead abatement and/or remediation project that had a minimum value of \$100,000.00.
 - (e) The bidder must demonstrate that it has in its employ at the time of the bid, a minimum of the following: (1) six (6) individuals, each of whom has been issued an Asbestos Handler Supervisor Certificate by NYSDOL and NYCDEP, (2) one individual who has been issued an Asbestos Project Designer Certificate by NYSDOL, and (3) twelve (12) individuals, each of whom has been issued an Asbestos Handler Certificate by NYSDOL. Resumes, as well as certificates, of such personnel must be submitted.
 - (f) The bidder must demonstrate that it has in its employ at the time of the bid, a minimum of the following: (1) one individual certified as a Lead Supervisor by the United States Environmental Protection Agency (USEPA), (2) four individuals certified by the USEPA as Lead Workers, and (3) one individual certified by USEPA as a Lead Risk Assessor. Resumes, as well as certificates, of such personnel must be submitted.
 - (g) The bidder must demonstrate its capability to perform asbestos abatement services by submitting a list of equipment owned by the bidder that is necessary and required for regulatory compliance.
 - (h) The bidder must demonstrate its capability to perform lead abatement and/or remediation services by submitting a list of equipment owned by the bidder that is necessary and required for regulatory compliance.

- (3) **QUALIFICATION FORM:** For each project submitted to demonstrate compliance with the Special Experience Requirements, the bidder must complete the Qualification Form included in the Bid Booklet. The City will only evaluate a project if the following criteria are met: (1) the project is described on the Qualification Form, and (2) all information on the Qualification Form is provided. The City will not evaluate any project which does not comply with the criteria set forth herein, including any project which is referred to only on the resume of an individual.
- (4) **JOINT VENTURES:** In the event the bidder is a joint venture, at least one firm in the joint venture must meet the above described experience requirements.
- (5) **EXPERIENCE REQUIREMENTS FOR SPECIFIC AREAS OF WORK:** Special Experience Requirements also apply to specific areas of work. Such Special Experience Requirements are set forth in the sections of the Specific Requirements listed below. The bidder is advised to carefully review these Special Experience Requirements prior to submitting its bid, as such Special Experience Requirements will be strictly enforced.
- (a) Compliance with Special Experience Requirements for specific areas of work will be evaluated prior to an award of contract. Once approved, no substitution will be permitted, unless the qualifications of the proposed replacement have been approved in writing in advance by the City.
- (b) Special Experience Requirements are set forth in the sections of the Specific Requirements listed below.
- Article 1: Testing Laboratory (Asbestos)
 Testing Laboratory (Lead)
 Industrial Hygiene Laboratory (Air Monitoring)
 - Section 1.03 C: Professional Engineer
 - Section 6.01: Installation of Mechanical Insulation

QUALIFICATION FORM

List previous projects completed to meet the special experience requirements for this contract. Please photocopy this form for submission of all required projects.

Name of Contractor: _____

Name of Project: _____

Location of Project: _____

Owner or Owner's representative who is familiar with the work performed:

Name: _____

Title: _____ Phone Number: _____

Brief description of work completed: _____

Was the work was performed as a prime or a subcontractor: _____

Amount of Contract: _____

Date of Completion: _____

Name of Contractor: _____

Name of Project: _____

Location of Project: _____

Owner or Owner's representative who is familiar with the work performed:

Name: _____

Title: _____ Phone Number: _____

Brief description of work completed: _____

Was the work was performed as a prime or a subcontractor: _____

Amount of Contract: _____

Date of Completion: _____

NOTICE TO BIDDERS:

- **PROJECT LABOR AGREEMENT:** This contract is subject to a Project Labor Agreement (“PLA”) entered into between the City and the Building and Construction Trades Council of Greater New York (“BCTC”) affiliated Local Unions. By submitting a bid, the Contractor agrees that the PLA is binding on the Contractor and all subcontractors of all tiers. The bidder to be awarded the contract will be required to execute a “Letter of Assent” prior to award.

The Bidder is advised to review the following: (1) Notice regarding the PLA, (2) the PLA, and (3) the Letter of Assent, all of which are set forth at the beginning of Volume 2 of the Contract Documents.

BID FORM
THE CITY OF NEW YORK
DEPARTMENT OF DESIGN AND CONSTRUCTION
DIVISION OF SAFETY & SITE SUPPORT

**BID FOR FURNISHING ALL LABOR AND
MATERIAL NECESSARY AND REQUIRED FOR:**

PROJECT ID: PW335A27

Name of Bidder: _____

Date of Bid Opening: _____

Bidder is: (Check one, whichever applies) Individual () Partnership () Corporation ()

Place of Business of Bidder: _____

Bidder's Telephone Number: _____ Fax Number: _____

Bidder's E-Mail Address: _____

Residence of Bidder (If Individual): _____

If Bidder is a Partnership, fill in the following blanks:

Names of Partners

Residence of Partners

If Bidder is a Corporation, fill in the following blanks:

Organized under the laws of the State of _____

Name and Home Address of President: _____

Name and Home Address of Secretary: _____

Name and Home Address of Treasurer: _____

BID FORM

The above-named Bidder affirms and declares:

1. The said bidder is of lawful age and the only one interested in this bid; and no person, firm or corporation other than hereinbefore named 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 its knowledge and belief: (1) the prices in this bid have been arrived at independently without collusion, consultation, communication or agreement, for the purpose of restricting competition, as to any matter relating to such prices with any other bidder or with any competitor; (2) unless otherwise required by law, the prices quoted in this bid have not been knowingly disclosed by the bidder and will not knowingly be disclosed by the bidder prior to opening, directly or indirectly, to any other bidder or to any competitor; and (3) No attempt has been made or will be made by the bidder to induce any other person, partnership or corporation to submit or not to submit a bid for the purpose of restricting competition.
3. No councilman or other officer or employee or person whose salary is payable in whole or in part from the City Treasury is directly or indirectly interested in this bid, or in the supplies, materials, equipment, work or labor to which it relates, or in any of the profits thereof.
4. The bidder is not in arrears to the City of New York upon debt or contract or taxes, and is not a defaulter, as surety or otherwise, upon any obligation of the City of New York, and has not been declared not responsible, or disqualified, by any agency of the City of New York or State of New York, nor is there any proceeding pending relating to the responsibility or qualification of the bidder to receive public contracts except as set forth on the Affirmation included in this Bid Booklet.

The bidder hereby affirms that it has paid all applicable City income, excise and other taxes for all years it has conducted business activities in New York City.

5. 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 to him, he and his subcontractors engaged in the performance: (1) will comply with the provisions of Section 6-108 of the Administrative Code of the City of New York and the non-discrimination provisions of Section 220a of the New York State Labor Law, as more expressly and in detail set forth in the Agreement; (2) will comply with Section 6-109 of the Administrative Code of the City of New York in relation to minimum wages and other stipulations as more expressly and in detail set forth in the Agreement; (3) have complied with the provisions of the aforesaid laws since their respective effective dates, and (4) 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 any breach or violation of the foregoing, the Contractor may be subject to damages, liquidated or otherwise, cancellation of the Contract and suspension as a bidder for a period of three years. (The words, "the bidder", "he", "his", and "him" where used herein shall mean the individual bidder, firm, partnership or corporation executing this bid).

6. Compliance Report

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, (1) represents that his attention has been specifically drawn to Executive Order No. 50, dated, April 25, 1980, on Equal Employment Compliance of the contract, and (2) warrants that he will comply with the provisions of Executive Order No. 50. The Employment Report must be submitted as part of the bid.

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 that he will comply with: (1) the provision of the contract on providing records, Chapter 8.

7. By submission of this bid, the bidder certifies that it now has and will continue to have the financial capability to fully perform the work required for this contract. Any award of this contract will be made in reliance upon such certification. Upon request therefor, the bidder will submit written verification of such financial capability in a form that is acceptable to the department.

8. In accordance with Section 165 of the State Finance Law, the bidder agrees that tropical hardwoods, as defined in Section 165 of the State Finance Law, shall not be utilized in the performance of this Contract, except as the same are permitted by the foregoing provision of law.

9. 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 the work, materials, supplies, tools and appliances for all labor and materials necessary or required for the hereinafter named work, all in strict conformity with the Contract, for the prices set forth in the Schedule of Unit Price Items.

BID FORM (TO BE NOTARIZED)

AFFIDAVIT WHERE BIDDER IS AN INDIVIDUAL

STATE OF NEW YORK, COUNTY OF _____ ss: _____ being duly sworn says:

I am the person described in and who executed the foregoing bid, and the several matters therein stated are in all respects true.

(Signature of the person who signed the Bid)

Subscribed and sworn to before me this _____ day of _____, _____

Notary Public

AFFIDAVIT WHERE BIDDER IS A PARTNERSHIP

STATE OF NEW YORK, COUNTY OF _____ ss: _____ being duly sworn says:

I am a member of _____ the firm described in and which executed the foregoing bid. I subscribed the name of the firm thereto on behalf of the firm, and the several matters therein stated are in all respects true.

(Signature of Partner who signed the Bid)

Subscribed and sworn to before me this _____ day of _____, _____

Notary Public

AFFIDAVIT WHERE BIDDER IS A CORPORATION

STATE OF NEW YORK, COUNTY OF _____ ss: _____ being duly sworn says:

I am the _____ of the above named corporation whose name is subscribed to and which executed the foregoing bid. I reside at _____ I have knowledge of the several matters therein stated, and they are in all respects true.

(Signature of Corporate Officer who signed the Bid)

Subscribed and sworn to before me this _____ day of _____, _____

Notary Public

AFFIRMATION

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

(If none, the bidder shall insert the word "None" in the space provided above.)

Full Name of Bidder: _____

Address: _____

City _____ State _____ Zip Code _____

CHECK ONE BOX AND INCLUDE APPROPRIATE NUMBER:

A - Individual or Sole Proprietorship*
SOCIAL SECURITY NUMBER

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

C- Corporation
EMPLOYER IDENTIFICATION NUMBER

By: _____
Signature

Title: _____

If a corporation, place seal here

This affirmation must be signed by an officer or duly authorized representative.

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

BID BOND 1
FORM OF BID BOND

KNOW ALL MEN BY THESE PRESENTS. That we, _____

hereinafter referred to as the "Principal", and _____

hereinafter referred to as the "Surety" are held and firmly bound to THE CITY OF NEW YORK, hereinafter referred to as the "CITY", or to its successors and assigns in the penal sum of _____

(\$ _____), Dollars lawful money of the United States, for the payment of which said sum of money well and truly to be made, we, and each of us, bind ourselves, our heirs, executors, administrators, successors and assigns, jointly and severally, firmly by these presents.

Whereas, the Principal is about to submit (or has submitted) to the City the accompanying proposal, hereby made a part hereof, to enter into a contract in writing for _____

NOW, THEREFORE, the conditions of this obligation are such that if the Principal shall not withdraw said Proposal without the consent of the City for a period of forty-five (45) days after the opening of bids and in the event of acceptance of the Principal's Proposal by the City, if the Principal shall:

(a) Within ten (10) days after notification by the City, execute in quadruplicate and deliver to the City all the executed counterparts of the Contract in the form set forth in the Contract Documents, in accordance with the proposal as accepted, and

(b) Furnish a performance bond and separate payment bond, as may be required by the City, for the faithful performance and proper fulfillment of such Contract, which bonds shall be satisfactory in all respects to the City and shall be executed by good and sufficient sureties, and

(c) In all respects perform the agreement created by the acceptance of said Proposal as provided in the Information for Bidders, bound herewith and made a part hereof, or if the City shall reject the aforesaid Proposal, then this obligation shall be null and void; otherwise to remain in full force and effect.

BID BOND 2

In the event that the Proposal of the Principal shall be accepted and the Contract be awarded to him the Surety hereunder agrees subject only to the payment by the Principal of the premium therefore, if requested by the City, to write the aforementioned performance and payment bonds in the form set forth in the Contract Documents.

It is expressly understood and agreed that the liability of the Surety for any and all claims hereunder shall in no event exceed the penal amount of this obligation as herein stated.

There shall be no liability under this bond if, in the event of the acceptance of the Principal's Proposal by the City, either a performance bond or payment bond, or both, shall not be required by the City on or before the 30th day after the date on which the City signs the Contract.

The surety, for the value received, hereby stipulates and agrees that the obligations of the Surety and its bond shall in no way be impaired or affected by any postponements of the date upon which the City will receive or open bids, or by any extensions of the time within which the City may accept the Principal's Proposal, or by any waiver by the City of any of the requirements of the Information for Bidders, and the Surety hereby waives notice of any such postponements, extensions, or waivers.

IN WITNESS WHEREOF, the Principal and the Surety have hereunto set their hands and seals and such of them as are corporations have caused their corporate seals to be hereto affixed and these presents to be signed by their proper officers the _____ day of _____, _____.

(Seal)

Principal (L.S.)

By: _____

(Seal)

Surety

By: _____

BID BOND 3

ACKNOWLEDGMENT OF PRINCIPAL, IF A CORPORATION

State of _____ County of _____ ss:
On this _____ day of _____, _____, before me personally came _____ to me known, who, being by me duly sworn, did depose and say that he resides at _____ that he is the _____ of _____ the corporation described in and which executed the foregoing instrument; that he knows the seal of said corporation; that one of the seals affixed to said instrument is such seal; that it was so affixed by order of the directors of said corporation, and that he signed his name thereto by like order.

Notary Public

ACKNOWLEDGMENT OF PRINCIPAL, IF A PARTNERSHIP

State of _____ County of _____ ss:
On this _____ day of _____, _____, before me personally appeared _____ to me known and known to me to be one of the members of the firm of _____ described in and who executed the foregoing instrument, and he acknowledged to me that he executed the same as and for the act and deed of said firm.

Notary Public

ACKNOWLEDGMENT OF PRINCIPAL, IF AN INDIVIDUAL

State of _____ County of _____ ss:
On this _____ day of _____, _____, before me personally appeared _____ to me known and known to me to be the person described in and who executed the foregoing instrument and acknowledged that he executed the same.

Notary Public

AFFIX ACKNOWLEDGMENTS AND JUSTIFICATION OF SURETIES

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:

- (1) 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
- (2) The person is a financial institution that extends twenty million dollars or more in credit to another person, for forty-five days or more, if that person will use the credit to provide goods or services in the energy sector in Iran and is identified on a list created pursuant to paragraph (b) of subdivision three of Section 165-a of the State Finance Law and maintained by the Commissioner of the Office of General Services.

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

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

- (1) The investment activities in Iran were made before the effective date of this section (i.e., April 12, 2012), the investment activities in Iran have not been expanded or renewed after the effective date of this section and the person has adopted, publicized and is implementing a formal plan to cease the investment activities in Iran and to refrain from engaging in any new investments in Iran: or
- (2) The City makes a determination that the goods or services are necessary for the City to perform its functions and that, absent such an exemption, the City would be unable to obtain the goods or services for which the contract is offered. Such determination shall be made in writing and shall be a public document.

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

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

[Please Check One]

BIDDER'S CERTIFICATION

- By submission of this bid or proposal, each bidder/proposer and each person signing on behalf of any bidder/proposer certifies, and in the case of a joint bid each party thereto certifies as to its own organization, under penalty of perjury, that to the best of its knowledge and belief, that each bidder/proposer is not on the list created pursuant to paragraph (b) of subdivision 3 of Section 165-a of the State Finance Law.

- I am unable to certify that my name and the name of the proposer does not appear on the list created pursuant to paragraph (b) of subdivision 3 of Section 165-a of the State Finance Law. I have attached a signed statement setting forth in detail why I cannot so certify.

Dated: _____, New York

_____, 20__

SIGNATURE

PRINTED NAME

TITLE

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

Notary Public

SAFETY QUESTIONNAIRE

The bidder must include, with its bid, all information requested on this Safety Questionnaire. Failure to provide a completed and signed Safety Questionnaire at the time of bid opening may result in disqualification of the bid as non-responsive.

1. Bidder Information:

Company Name: _____

DDC Project Number: _____

Company Size: _____ Ten (10) employees or less
 _____ Greater than ten (10) employees

_____ Company has previously worked for DDC

2. Type(s) of Construction Work

| TYPE OF WORK | LAST 3 YEARS | THIS PROJECT |
|--------------------------------------|--------------|--------------|
| General Building Construction | _____ | _____ |
| Residential Building Construction | _____ | _____ |
| Nonresidential Building Construction | _____ | _____ |
| Heavy Construction, except building | _____ | _____ |
| Highway and Street Construction | _____ | _____ |
| Heavy Construction, except highways | _____ | _____ |
| Plumbing, Heating, HVAC | _____ | _____ |
| Painting and Paper Hanging | _____ | _____ |
| Electrical Work | _____ | _____ |
| Masonry, Stonework and Plastering | _____ | _____ |
| Carpentry and Floor Work | _____ | _____ |
| Roofing, Siding, and Sheet Metal | _____ | _____ |
| Concrete Work | _____ | _____ |
| Specialty Trade Contracting | _____ | _____ |
| Asbestos Abatement | _____ | _____ |
| Other (specify) | _____ | _____ |

3. Experience Modification Rate:

The Experience Modification Rate (EMR) is a rating generated by the National Council of Compensation Insurance (NCCI). This rating is used to determine the contractor's premium for worker's compensation insurance. The contractor may obtain its EMR by contacting its insurance broker or the NCCI. If the contractor cannot obtain its EMR, it must submit a written explanation as to why.

The Contractor must indicate its Intrastate and Interstate EMR for the past three years. [Note: For contractors with less than three years of experience, the EMR will be considered to be 1.00].

| YEAR | INTRASTATE RATE | INTERSTATE RATE |
|-------|-----------------|-----------------|
| _____ | _____ | _____ |
| _____ | _____ | _____ |
| _____ | _____ | _____ |

If the Intrastate and/or Interstate EMR for any of the past three years is greater than 1.00, the contractor must attach, to this questionnaire, a written explanation for the rating and identify what corrective action was taken to correct the situation resulting in that rating.

4. OSHA Information:

_____ Contractor has received a willful violation issued by OSHA or New York City Department of Buildings (NYCDOB) within the last three years.

_____ Contractor has had an incident requiring OSHA notification within 8 hours (i.e., fatality, or hospitalization of three or more employees).

The Occupational Safety and Health Act (OSHA) of 1970 requires employers with ten or more employees, on a yearly basis to complete and maintain on file the form entitled "Log of Work-related Injuries and Illnesses". This form is commonly referred to as the OSHA 300 Log (OSHA 200 Log for 2001 and earlier).

The OSHA 300 Log must be submitted for the last three years for contractors with more than ten employees.

The Contractor must indicate the total number of hours worked by its employees, as reflected in payroll records for the past three years.

The contractor must submit the Incident Rate for Lost Time Injuries (the Incident Rate) for the past three years. The Incident Rate is calculated in accordance with the formula set forth below. For each given year, the total number of incidents is the total number of non-fatal injuries and illnesses reported on the OSHA 300 Log. The 200,000 hours represents the equivalent of 100 employees working forty hours a week, fifty weeks per year.

$$\text{Incident Rate} = \frac{\text{Total Number of Incidents X 200,000}}{\text{Total Number of Hours Worked by Employees}}$$

| YEAR | TOTAL NUMBERS OF HOURS WORKED BY EMPLOYEES | INCIDENT RATE |
|-------|--|---------------|
| _____ | _____ | _____ |
| _____ | _____ | _____ |
| _____ | _____ | _____ |

If the contractor's Incident Rate for any of the past three years is one point higher than the Incident Rate for the type of construction it performs (listed below), the contractor must attach, to this questionnaire, a written explanation for the relatively high rate.

| | |
|--------------------------------------|------|
| General Building Construction | 8.5 |
| Residential Building Construction | 7.0 |
| Nonresidential Building Construction | 10.2 |
| Heavy Construction, except building | 8.7 |
| Highway and Street Construction | 9.7 |
| Heavy Construction, except highways | 8.3 |
| Plumbing, Heating, HVAC | 11.3 |
| Painting and Paper Hanging | 6.9 |
| Electrical Work | 9.5 |
| Masonry, Stonework and Plastering | 10.5 |
| Carpentry and Floor Work | 12.2 |
| Roofing, Siding, and Sheet Metal | 10.3 |
| Concrete Work | 8.6 |
| Specialty Trade Contracting | 8.6 |

5. Safety Performance on Previous DDC Project(s)

_____ Contractor previously audited by the DDC Office of Site Safety.

DDC Project Number(s): _____

_____ Accident on previous DDC Project(s).

_____ Fatality or Life-altering Injury on DDC Project(s) within the last three years.
 [Examples of a life-altering injury include loss of limb, loss of a sense (e.g., sight, hearing), or loss of neurological function].

Date: _____

By: _____
 (Signature of Owner, Partner, Corporate Officer)

Title: _____

Pre-Award Process

The bidder is advised that as part of the pre-award review of its bid, it may be required to submit the information described in Sections (A) through (E) below.

If required, the bidder must submit the information described in Sections (A) through (E) below within five (5) business days following receipt of notification from DDC that it is among the low bidders. Such notification from DDC will be by facsimile or in writing and will specify the types of information which must be submitted.

In the event the bidder fails to submit the required information within the specified time frame, its bid may be rejected as nonresponsive.

- (A) **Contractor's Bid Breakdown:** Not applicable.
- (B) **Project Reference Form:** If required, the bidder must complete and submit the Project Reference Form included in this Bid Booklet. The Project Reference Form consists of 3 parts: (1) Similar Contracts Completed by the Bidder, (2) Contracts Currently Under Construction by the Bidder, and (3) Pending Contracts Not Yet Started by the Bidder.
- (C) **Copy of License:** If required, the bidder must submit a copy of the license under which the bidder will be performing the work. Such license must clearly show the following: (1) Name of the Licensee, (2) License Number, and (3) Expiration date of the License. A copy of the license will be required from bidders for the following contracts: Plumbing Work, Electrical Work and Asbestos Abatement.
- (D) **Financial Information:** If required, the bidder must submit the financial information described below:
 - (1) **Audited Financial Statements:** Financial statements (Balance Sheet and Income Statement) of the entity submitting the bid, as audited by an independent auditor licensed to practice as a certified public accountant (CPA). Audited financial statements for the three most recent fiscal years must be submitted. Each such financial statement must include the auditor's standard report.

If the bidder does not have audited financial statements, it must submit an affidavit attesting to the fact that the bidder does not have such statements. In addition, the bidder must submit the following documentation covering the three most recent fiscal years: signed federal tax returns, unaudited financial statements, and a "certified review letter" from a certified public accountant (CPA) verifying the unaudited financial statements.

Unless the most recent audited or unaudited financial statement was issued within ninety (90) days, the bidder must submit interim financial information that includes data on financial position and results of operation (income data) for the current fiscal year. Such information may be summarized on a monthly or quarterly basis or at other intervals.

Schedule of Aged Accounts Receivable, including portion due within ninety (90) days.

(E) **Project Specific Information:** If required, the bidder must submit the project specific information described below:

- (1) Statement indicating the number of years of experience the bidder has had and in what type of construction.
- (2) Resumes of all key personnel to be involved in the project, including the proposed project superintendent.
- (3) List of significant pieces of equipment expected to be used for the contract, and whether such equipment is owned or leased.
- (4) Description of work expected to be subcontracted, and to what firms, if known.
- (5) List of key material suppliers.
- (6) Preliminary bar chart time schedule
- (7) Contractor's expected means of financing the project. This should be based on the assumption that the contractor is required to finance 2X average monthly billings throughout the contract period.
- (8) Any other issues the contractor sees as impacting his ability to complete the project according to the contract.

In addition to the information described in Sections (A) through (E) above, the bidder shall submit such additional information as the Commissioner may require, including without limitation, an explanation or justification for specific unit price items.

The bidder is further advised that it may be required to attend a pre-award meeting with DDC representatives. If such a meeting is convened, the bidder will be advised as to any additional material to be provided.

A. PROJECT REFERENCES – SIMILAR CONTRACTS COMPLETED BY THE BIDDER

List all contracts substantially completed within the last 4 years similar to the contract being awarded, up to a maximum of 10, in descending order of date of substantial completion.

| Project & Location | Contract Type | Contract Amount (\$000) | Date Completed | Owner Reference & Tel. No. | Architect/Engineer Reference & Tel. No. if different from owner |
|--------------------|---------------|-------------------------|----------------|----------------------------|---|
| | | | | | |
| | | | | | |
| | | | | | |
| | | | | | |
| | | | | | |
| | | | | | |
| | | | | | |
| | | | | | |

B. PROJECT REFERENCES – CONTRACTS CURRENTLY UNDER CONSTRUCTION BY THE BIDDER

List all contracts currently under construction even if they are not similar to the contract being awarded.

| Project & Location | Contract Type | Contract Amount (\$000) | Subcontracted to Others (\$000) | Uncompleted Portion (\$000) | Date Scheduled to Complete | Owner Reference & Tel. No. | Architect/Engineer Reference & Tel. No. if different from owner |
|--------------------|---------------|-------------------------|---------------------------------|-----------------------------|----------------------------|----------------------------|---|
| | | | | | | | |
| | | | | | | | |
| | | | | | | | |
| | | | | | | | |
| | | | | | | | |
| | | | | | | | |

C. PROJECT REFERENCES – PENDING CONTRACTS NOT YET STARTED BY THE BIDDER

List all contracts awarded to or won by the bidder but not yet started.

| Project & Location | Contract Type | Contract Amount (\$000) | Date Scheduled to Start | Owner Reference & Tel. No. | Architect/Engineer Reference & Tel. No. if different from owner |
|--------------------|---------------|-------------------------|-------------------------|----------------------------|---|
| | | | | | |
| | | | | | |
| | | | | | |
| | | | | | |
| | | | | | |
| | | | | | |
| | | | | | |

VENDEX COMPLIANCE

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

(B) **Confirmation of Vendex Compliance:** The Bidder shall submit this Confirmation of Vendex Compliance to the Department of Design and Construction, Contracts Section, 30-30 Thomson Avenue – First Floor, Long Island City, NY 11101.

Bid Information: The Bidder shall complete the bid information set forth below.

Name of Bidder: _____
Bidder's Address: _____
Bidder's Telephone Number: _____
Bidder's Fax Number: _____
Date of Bid Opening: _____
Project ID: _____

Vendex Compliance: To demonstrate compliance with Vendex requirements, the Bidder shall complete either Section (1) or Section (2) below, whichever applies.

(1) **Submission of Vendex Questionnaires to MOCS:** By signing in the space provided below, the Bidder certifies that as of the date specified below, the Bidder has submitted Vendex Questionnaires to the Mayor's Office of Contract Services, Attn: VENDEX, 253 Broadway, 9th Floor, New York, New York 10007.

Date of Submission: _____

By: _____
(Signature of Partner or corporate officer)

Print Name: _____

(2) **Submission of Certification of No Change to DDC:** By signing in the space provided below, the Bidder certifies that it has read the instructions in a "Vendor's Guide to Vendex" and that such instructions do not require the Bidder to submit Vendex Questionnaires. The Bidder has completed **TWO ORIGINALS** of the Certification of No Change set forth on the next page of this Bid Booklet.

By: _____
(Signature of Partner or corporate officer)

Print Name: _____

**DIRECTIONS: Please execute two originals (both with original signature).
Please forward directly to the agency (not M.O.C.S.).**

CERTIFICATION OF NO CHANGE

A MATERIALLY FALSE STATEMENT WILLFULLY OR FRAUDULENTLY MADE IN CONNECTION WITH THIS CERTIFICATION, AND/OR THE FAILURE TO CONDUCT APPROPRIATE DUE DILIGENCE IN VERIFYING THE INFORMATION THAT IS THE SUBJECT MATTER OF THIS CERTIFICATION, MAY RESULT IN RENDERING THE SUBMITTING ENTITY NON-RESPONSIBLE FOR THE PURPOSE OF CONTRACT AWARD, AND A MATERIALLY FALSE STATEMENT WILLFULLY OR FRAUDULENTLY MADE IN CONNECTION WITH THIS CERTIFICATION MAY SUBJECT THE PERSON MAKING THE FALSE STATEMENT TO CRIMINAL CHARGES.

| | |
|---|--|
| Submitting entity _____ | |
| Are you submitting this Certification as a parent? | <input type="checkbox"/> Yes / <input type="checkbox"/> No |
| EIN/TIN _____ | |
| Address _____ | |
| Agency _____ | |

I, _____, being duly sworn, state that I have read and understand all the items contained in the _____ questionnaire, dated _____ [if applicable: and the submission(s) dated _____, updating the information in that questionnaire]; and that, to the best of my knowledge, information and belief, the answers contained in the _____ questionnaire [if applicable: as modified by the submission(s) dated _____,] are full, complete, and accurate; and that, to the best of my knowledge, information, and belief, those answers continue to be full, complete, and accurate. I further certify on behalf of the **submitting vendor** that the information contained in the **principal questionnaires** for _____, dated _____, _____, dated _____, _____, dated _____, [if applicable: and the submission(s) dated _____, updating the information in those questionnaires] has been verified and continues to the best of my knowledge to be full, complete and accurate. I understand that the City of New York will rely on the information supplied in this certification as additional inducement to enter into a contract with the submitting entity.

| | |
|---|--|
| Sworn to before me this _____ day of _____ 20____ | |
| _____ Notary Public | _____ County License Issued License Number |
| BY _____ | |
| Print name | |
| _____ | |
| Title | |
| _____ | |
| Signature | Date |
| ON BEHALF OF _____ | |
| Name of submitting entity | |

ATTACHMENT I

BID INFORMATION

DESCRIPTION OF PROCUREMENT:

Project ID.: PW335A27 PIN8502014RQ0004C

Project Description: Asbestos Abatement Within The City of New York - Citywide

DIVISION/AGENCY: DIVISION OF SAFETY & SITE SUPPORT
DEPARTMENT OF DESIGN AND CONSTRUCTION

SUBMIT BIDS ON OR BEFORE: TUESDAY, JANUARY 21ST, 2014
BID OPENING TIME TO: 30-30 THOMSON AVENUE, LONG ISLAND CITY, NY 11101

BID OPENING PLACE: 1ST FLOOR BID ROOM

BID OPENING DATE AND HOUR: TUESDAY, JANUARY 21ST, 2014, 2014 AT 2:00 PM

PRE-BID CONFERENCE DATE AND HOUR: TUESDAY, JANUARY 17th, 2014 AT 10:00 AM AT:
DEPARTMENT OF DESIGN AND CONSTRUCTION
30-30 THOMSON AVENUE, LONG ISLAND CITY
1ST FLOOR - BID ROOM

MANDATORY YES
OPTIONAL _____
NONE _____

BID SECURITY: REQUIRED X Yes _____ No

CERTIFIED CHECK in the amount of: \$ _____
BID BOND in the amount of 10% of the bid proposal.

Bid Security is not required on any bid less than \$1,000,000.00

PERFORMANCE AND PAYMENT SECURITY: Not Required

CONTACT PERSON: LORRAINE HOLLEY PHONE: 718-391-2601

ADDITIONAL REMARKS:

ATTACHMENT 2

CONSTRUCTION EMPLOYMENT REPORT

Construction Employment Report: If the bid is \$1,000,000 or more, the bidder must complete and submit the Construction Employment Report set forth on the following pages.

BID FORM

PROJECT ID: PW335A27

UNIT PRICES: The bidder shall submit unit prices for Items 1 and 2 set forth below. The bidder is advised to review the Articles 5 and 7 of the Specific Requirements, which describe the costs that are deemed included in the unit prices, as well as the method of payment for the performance of various services. Such Unit Prices shall remain in effect for the base term of the contract (3 years), the renewal term (2 years) and the extended term (1 year).

TOTAL BID PRICE: The Total Bid Price is the addition of the Extended Prices for Items 1 and 2. The Total Bid Price will be used for the purpose of comparing bids and determining the low bidder. The contract will be awarded to the lowest responsive and responsible bidder for a Total Not to Exceed Amount of \$4,000,000. Such total amount includes an Allowance for Incidental (Non-Asbestos) Work, an Allowance for Lead Abatement and/or Remediation Services and an Allowance for Reimbursable Services.

| ITEM NO. | DESCRIPTION | ESTIMATED QUANTITIES | UNIT PRICE (BID PRICE) | EXTENDED PRICE |
|----------|--|----------------------|------------------------|----------------|
| 1 | Removal and disposal of ACM and replacement with non-ACM insulation during Regular Hours (Monday through Friday, 7:00 A.M. to 5:00 P.M.) | 121,967 sq. ft. | \$ _____ per sq. ft. | \$ _____ |
| 2 | Removal and disposal of ACM and replacement with non-ACM insulation during Premium Hours (Monday through Friday, before 7:00 A.M. or after 5:00 P.M., and all day Saturday, Sundays, and holidays) | 51,500 sq. ft. | \$ _____ per sq. ft. | \$ _____ |

Total Bid Price: Addition of Items 1 and 2: \$ _____

BIDDER'S SIGNATURE AND AFFIDAVIT

Bidder: _____

By: _____
(Signature of Partner or corporate officer)

Attest: _____
(Corporate Seal) Secretary of Corporate Bidder

Affidavit on the following page should be subscribed and sworn to before a Notary Public

The City of New York Department of Small Business Services
Division of Labor Services Contract Compliance Unit
110 William Street, New York, New York 10038
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) _____
Contracting Agency (City Agency)

(b) _____
Contract Amount

(c) _____
Procurement Identification Number (PIN)

(d) _____
Contract Registration Number (CT#)

(e) _____
Projected Commencement Date

(f) _____
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?

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

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

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

FEMALES

| | (6) | | (7) | | (8) | | (9) | | (10) | |
|-----|-----------------|-----------------|-----------------|-----------------|-------|-------|-------|-------|--------------|--------------|
| | White Non Hisp. | Black Non Hisp. | White Non Hisp. | Black Non Hisp. | Hisp. | Asian | Hisp. | Asian | Native Amer. | Native Amer. |
| J | | | | | | | | | | |
| H | | | | | | | | | | |
| A | | | | | | | | | | |
| TRN | | | | | | | | | | |
| TOT | | | | | | | | | | |

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

FEMALES

| | (6) | | (7) | | (8) | | (9) | | (10) | |
|-----|-----------------------|-----------------------|-----------------------|-----------------------|-----------------------|-----------------------|-------|-------|-----------------|-----------------|
| | White Non Hisp. | Black Non Hisp. | White Non Hisp. | Black Non Hisp. | White Non Hisp. | Black Non Hisp. | Asian | Asian | Native Amer. | Native Amer. |
| J | | | | | | | | | | |
| H | | | | | | | | | | |
| A | | | | | | | | | | |
| TRN | | | | | | | | | | |
| TOT | | | | | | | | | | |

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

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.

| | 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. |
| Trade: _____ | | | | | | | | | | |
| Union Affiliation, if applicable _____ | | | | | | | | | | |
| Total (Col. #1-10): _____ | J | | | | | | | | | |
| Total Minority, Male & Female (Col. #2,3,4,5,7,8,9, & 10): _____ | H | | | | | | | | | |
| Total Female (Col. #6 - 10): _____ | 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): _____

FEMALES

| | (6) White | | (7) Black | | (8) Hisp. | (9) Asian | (10) Native Amer. |
|-----|-----------|-------|-----------|-------|-----------|-----------|-------------------|
| | Non Hisp. | Hisp. | Non Hisp. | Hisp. | | | |
| J | | | | | | | |
| H | | | | | | | |
| A | | | | | | | |
| TRN | | | | | | | |
| TOT | | | | | | | |

MALES

| | (1) White | | (2) Black | | (3) Hisp. | (4) Asian | (5) Native Amer. |
|-----|-----------|-------|-----------|-------|-----------|-----------|------------------|
| | Non Hisp. | Hisp. | Non Hisp. | Hisp. | | | |
| 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)?

PROJECT No. PW335A27

THE CITY OF NEW YORK
DEPARTMENT OF DESIGN AND CONSTRUCTION
DIVISION OF SAFETY AND SITE SUPPORT

30-30 THOMSON AVENUE, LONG ISLAND CITY, NEW YORK 11101-3045
TELEPHONE NUMBER (718) 391-1000

WEBSITE www.nyc.gov/buildnyc

CONTRACT FOR FURNISHING ALL LABOR AND MATERIAL NECESSARY AND REQUIRED FOR:

ASBESTOS ABATEMENT WITHIN THE CITY OF NEW YORK

LOCATED AT *VARIOUS ADDRESSES*
IN ALL BOROUGHES OF
THE CITY OF NEW YORK

Contractor

Dated

, 20

Assigned to

Approved as to Form
Certified as to Legal Authority

Acting Corporation Counsel

Dated

, 20

Examined and Found Correct

Contract Clerk
Comptroller

Entered in the Comptroller's Office

Dated

, 20

First Assistant Bookkeeper





PROJECT NO. PW335A27

THE CITY OF NEW YORK
DEPARTMENT OF DESIGN AND CONSTRUCTION
DIVISION OF SAFETY AND SITE SUPPORT
30-30 THOMSON AVENUE
LONG ISLAND CITY, NEW YORK 11101-3045
TELEPHONE NUMBER (718) 391-1000
WEBSITE www.nyc.gov/buildnyc

PROJECT LABOR AGREEMENT, INFORMATION FOR BIDDERS, AGREEMENT, AND SPECIFICATIONS

FOR FURNISHING ALL LABOR AND MATERIALS NECESSARY
AND REQUIRED FOR:

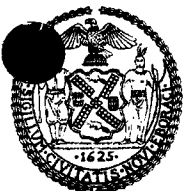
ASBESTOS ABATEMENT WITHIN THE CITY OF NEW YORK

VOLUME 2 OF 2

PREPARED BY: THE DIVISION OF SAFETY AND SITE SUPPORT
BUREAU OF ENVIRONMENTAL AND
GEOTECHNICAL SERVICES

SEPTEMBER 2013

14-037



NOTICE:

THIS CONTRACT IS NOT SUBJECT TO THE REQUIREMENTS OF THE WICKS LAW FOR SEPARATE PRIME CONTRACTORS

This contract is subject to a Project Labor Agreement ("PLA"). In accordance with the Labor Law, the requirements of the Wicks Law for separate prime contractors do not apply to any project that is covered by a PLA. Accordingly, the requirements of the Wicks Law for separate prime contractors do not apply to this Project. However, the Contract Documents for this Project (General Conditions, Drawings and Specifications) were prepared as if the requirements of the Wicks Law for separate prime contractors did apply. To correct this situation, the bidder is advised that the Contract Documents are revised as set forth below.

- (A) Delete any and all references to separate responsibilities, separate specifications, separate drawings and/or separate contracts for the four subdivisions of the work listed below:
- General Construction Work (Contract No. 1)
 - Plumbing Work (Contract No. 2)
 - HVAC & Fire Protection Work (Contract No. 3)
 - Electrical Work (Contract No. 4)
- (B) Revise all such references to indicate that:
- The Project consists of a single contract, the Contract for General Construction Work.
 - All responsibilities and obligations in the Contract Documents assigned to the separate Contractors for the four subdivisions of the work listed above are the responsibility of the Contractor for General Construction Work.
 - The Contractor for General Construction Work is responsible for the performance of all required work for the Project as set forth in the Contract Documents, including all responsibilities and obligations assigned to the separate Contractors for the four subdivisions of the work listed above.
- (C) Revise any and all references to Contracts Nos. 2, 3 and 4 to refer to Contract No. 1.
- (D) Revise the specifications for plumbing work to require Contractor for General Construction Work to engage a Licensed Plumber to perform the required plumbing work.
- (E) Revise the specifications for electrical work to require Contractor for General Construction Work to engage a Licensed Electrician to perform the required electrical work.

NOTICE:

THIS CONTRACT IS SUBJECT TO A PROJECT LABOR AGREEMENT

This contract is subject to the attached Project Labor Agreement ("PLA") entered into between the City and the Building and Construction Trades Council of Greater New York ("BCTC") affiliated Local Unions. By submitting a bid, the Contractor agrees that if awarded the Contract the PLA is binding on the Contractor and all subcontractors of all tiers. The bidder to be awarded the contract will be required to execute the attached Letter of Assent prior to award. Contractor shall include in any subcontract a requirement that the subcontractor, and sub-subcontractors of all tiers, become signatory to and bound to the ~~PLA~~ with respect to the subcontracted work. Contractor will also be required to have all subcontractors of all tiers execute the attached Letter of Assent prior to such subcontractors performing any work on the Project. Bidders are advised that the City of New York and City agencies have entered into multiple PLAs. The terms of each PLA, while similar, are not identical. All bidders should carefully read the entire PLA that governs this Contract.

To the extent that the terms of the PLA conflict with any other terms of the invitation for bids, including the Standard Construction Contract, the terms of the PLA shall govern. For example, the PLA section that authorizes the scheduling of a four-day work, ten hours per day on straight time at the commencement of the job, PLA Article 12, section 1, overrides the Standard Construction Contract's provision concerning a five-day work week with a maximum of eight hours in a day, Standard Construction Contract Article 37.2.1. Where, however, the invitation for bids, including the Standard Construction Contract, requires the approval of the City/Department, the PLA does not supersede or eliminate that requirement.

In addition to the various provisions regarding work rules, Contractors should take special note of the requirement that Contractors and Subcontractors make payments to designated employee benefit funds. See PLA Article 11, Section 2. The PLA also contains provisions for what occurs when a contractor or a subcontractor fails to make required payments into the benefit funds, including potentially the direct payment by the City to the benefit fund of monies owed and corresponding withholding of payments to the Contractor. See PLA Article 11, Section 2. The City strongly advises Contractors to read these provisions carefully and to include appropriate provisions in subcontracts addressing these possibilities.

This Contract is subject to the apprenticeship requirements of Labor Law §222 and to apprenticeship requirements established by the Department pursuant to Labor Law §816-b. Please be advised that the involved trades have apprenticeship programs that meet the statutory requirements of Labor Law 222(e) and the requirements set by the Department pursuant to Labor Law §816-b, contractors and subcontractors who agree to perform the Work pursuant to the PLA are participating in such apprenticeship programs within the meaning of Labor Law §222(e) and the Department's directive.

If this Contract is subject to the Minority-Owned and Women-Owned Business Enterprise ("M/WBE") program created by Local Law 129, the specific requirements of M/WBE participation for this Contract are set forth in Schedule B entitled the "Subcontractor Utilization Plan", and are detailed in a separate Notice to Prospective Contractors included with this bid package. If such requirements are included with this Contract, the City strongly advises Contractors to read those provisions, as well as PLA Article 4, Section 2(C), carefully. A list of M/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) 513-6356, or by visiting or writing DSBS at 110 William St., New York, New York, 10038, 7th 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.

The local collective bargaining agreements (CBAs) that are incorporated into the PLA as PLA Schedule A Agreements are available on computer disk from the Department's Contract Officer upon the request of any prospective bidder. Please note that the "PLA Schedule A" is distinct from the Department's Schedule A that is a part of this invitation for bids.

A contact list for the participating unions is set forth after the FAQs.

Below are answers to frequently asked questions (FAQs) about this PLA:

Q1. Does a contractor need to be signatory with the unions in the NYC Building and Construction Trades Council in order to bid on projects under the PLA?

A. No, any contractor may bid by signing and agreeing to the terms of the PLA. The contractor need not be signatory with these unions by any other labor agreement or for any other project.

Q2. Does a contractor agreeing to the PLA and signing the Letter of Assent create a labor agreement with these unions outside of the project covered by the PLA?

A. No, the PLA applies only to those projects that the Contractor agrees to perform under the PLA and makes no labor agreement beyond those projects.

Q3. Does the PLA affect the subcontractors that a bidder may utilize on the project?

A. Subject to the Department's approval of subcontractors pursuant to Article 17 of the Standard Construction Contract, a contractor may use any subcontractor, union or non-union, as long as the subcontractor signs and agrees to the terms of the PLA.

Q4. Are bidders required to submit Letters of Assent signed by proposed subcontractors with their bid in order to be found responsive?

A. No, bidders do not have to submit signed Letters of Assent from their subcontractors with their bid. Subcontractors, however, will be required to sign the letter of Assent prior to being approved by the Department.

Q5. May a contractor or subcontractor use any of its existing employees to perform this work?

A. Generally labor will be referred to the contractor from the respective signatory local unions. See PLA Article 4. However, contractors and subcontractors may continue to use up to 12% of their existing, qualifying labor force for this work, in accordance with the terms of PLA Article 4, Section 2B. Certified MWBEs for which participation goals are set pursuant to NYC Administrative Code §6-129 that are not signatory to any Schedule A CBAs may use their existing employees for the 2nd, 4th, 6th and 8th employee needed on the job if their contracts are valued at or under \$500,000. For contracts valued at above \$500,000 but under \$1,000,000, such certified MWBEs may use their own employees for the 2nd, 5th and 8th employees needed on the job in accordance with the provisions of PLA Article 4, Section 2C. If additional workers are needed by these MWBEs, the additional workers will be referred to the contractor from the signatory local unions subject to the contractor's right to meet 12% of the additional needs with its existing, qualifying employees.

Q6. Must the City set MWBE participation goals for the particular project or contract in order for a certified MWBE to utilize the provisions of PLA Article 4, Section 2C?

A. No. PLA Article 4, Section 2(C) specifies what categories of MWBEs are eligible to take advantage of this provision (i.e., those MWBEs for which the City is authorized to set participation goals under §6-129). For purposes of section 2(C), it is not necessary for the project to be subject to §6-129 or for the City to have actually set participation goals for the particular contract or project. The result is the same where a projects receives State funding and therefore is subject to the requirements of Article 15-A of the Executive Law.

Q7. May a contractor bring in union members from locals that are not signatory unions?

A. Referrals will be from the respective signatory locals and/or locals listed in schedule A of the PLA. Contractors may utilize 'traveler provisions' contained in the local collective bargaining agreements (local CBAs) where such provisions exist and/or in accordance with the provisions of PLA Article 4, Section 2.

Q8. Does a non-union employee working under the PLA automatically become a union member?

A. No, the non-union employee does not automatically become a union member by working on a project covered by the PLA. Non-union employees working under the PLA are subject to the union security provisions (i.e., union dues/agency shop fees) of the local CBAs while on the project. These employees will be enrolled in the appropriate benefit plans and earn credit toward various union benefit programs. See PLA Article 4, Section 6 and Article 11.

Q9. Are all contractors and subcontractors working under the PLA, including non-union contractors and contractors signatory to collective bargaining agreements with locals other than those that are signatories to the PLA, required to make contributions to designated employee benefit funds?

A. Contractors and subcontractors working under the PLA will be required to contribute on behalf of all employees covered by the PLA to established jointly trustee employee benefit funds designated in the Schedule A CBAs and required to be paid on public works under any applicable prevailing wage law. See PLA Article 11, Section 2. The Agency may withhold from amounts due the contractor any amounts required to be paid, but not actually paid into any such fund by the contractor or a subcontractor. See PLA Article 11, Section 2 C.

Q10. What happens if a contractor or subcontractor fails to make a required payment to a designated employee benefit fund?

A. The PLA sets forth a process for unions to address a contractor or a subcontractor's failure to make required payments. The process includes potentially the direct payment by the City to the benefit fund of monies owed and the corresponding withholding of payments to the Contractor. See PLA Article 11, Section 2. The City strongly advises Contractors to read these provisions carefully and to include appropriate provisions in subcontracts addressing these possibilities.

Q11. Does signing on to the PLA satisfy the Apprenticeship Requirements established for this bid?

A. Yes. By agreeing to perform the Work subject to the PLA, the bidder demonstrates compliance with the apprenticeship requirements imposed by this invitation for Bids.

Q12. Does the PLA provide a standard work day across all the signatory trades?

A. Yes, all signatory trades will work an eight (8) hour day, Monday through Friday with a day shift at straight time as the standard work week. The PLA also permits a contractor to schedule a four day [within Monday through Friday] work week, ten (10) hours per day at straight time if announced at the commencement of the project. See PLA Article 12, Section 1. This is an example where the terms of the PLA override provisions of the Standard Construction Contract (compare with section 37.2 of the Standard Construction Contract).

Q13. Does the PLA create a common holiday schedule for all the signatory trades?

A. Yes, the PLA recognizes eight (8) common holidays. See PLA Article 12, Section 4.

Q14. Does the PLA provide for a standard policy for 'shift work' across all signatory trades?

A. Yes, second and third shifts may be worked with a standard 5% premium pay. In addition, a day shift does not have to be scheduled in order to work the second and third shifts at the 1.05 hourly pay rate. See PLA Article 12, Section 3.

Q15. May the Contractor schedule overtime work, including work on a weekend?

A. Yes, the PLA permits the Contractor to schedule overtime work, including work on the weekends. See PLA Article 12, Sections 2, 3, and 5. To the extent that the Agency's approval is required before a Contractor may schedule or be paid for overtime, that approval is still required notwithstanding the PLA language.

Q16. Are overtime payments affected by the PLA?

A. Yes, all overtime pay incurred Monday through Saturday will be at time and one half (1 ½). There will be no stacking or pyramiding of overtime pay under any circumstances. See PLA Article 12, Section 2. Sunday and holiday overtime will be paid according to each trades CBA.

Q17. Are there special provisions for Saturday work when a day is 'lost' during the week due to weather, power failure or other emergency?

A. Yes, when this occurs the Contractor may schedule Saturday work at weekday rates. See PLA Article 12, Section 5.

Q18. Does the PLA contain special provisions for the manning of Temporary Services?

A. Yes. Where temporary services are required by specific request of the agency or construction manager, they shall be provided by the contractor's existing employees during working hours in which a shift is scheduled for employees of the contractor. The need for temporary services during non-working hours will be determined by the agency or construction manager. There will be no stacking of trades on temporary services. See PLA Article 15.

Q19. What do the workers get paid when work is terminated early in a day due to inclement weather or otherwise cut short of 8 hours?

A. The PLA provides that employees who report to work pursuant to regular schedule and not given work will be paid two hours of straight time. Work terminated early for severe weather or emergency conditions will be paid only for time actually worked. In other instances where work is terminated early, the worker will be paid for a full day. See PLA Article 12, Sections 6 and 8.

Q20. Should a local collective bargaining agreement [local CBA] expire during the project will a work stoppage occur on a project subject to the PLA?

A. No. All the signatory unions are bound by the 'no strike' agreement as to the PLA work. Work will continue under the PLA and the otherwise expired local CBA(s) until the new local CBA(s) are negotiated and in effect. See PLA Articles 7 and 19.

Q21. May a contractor working under the PLA be subject to a strike or other boycott activity by a signatory union at another site while the contractor is a signatory to the PLA?

A. Yes. The PLA applies ONLY to work under the PLA and does not regulate labor relations at other sites even if those sites are in close proximity to PLA work.

Q22. If a contractor has worked under other PLAs in the New York City area, are the provisions in this PLA generally the same as the others?

A. While Project Labor Agreements often look similar to each other, and particular clauses are often used in multiple agreements, each PLA is a unique document and should be examined accordingly.

Q23. What happens if a dispute occurs between the contractor and an employee during the project?

A. The PLA contains a grievance and arbitration process to resolve disputes between the contractor and the employees. See PLA Article 9.

Q24. What happens if there is a dispute between locals as to which local gets to provide employees for a particular project or a particular aspect of a project?

A. The PLA provides for jurisdictional disputes to be resolved in accordance with the NY Plan. See PLA Article 10. A copy of the NY Plan is available upon request from the Department. The PLA provides that work is not to be disrupted or interrupted pending the resolution of any jurisdictional dispute. The work proceeds as assigned by the contractor until the dispute is resolved. See PLA Article 10, Section 3.

THIS PAGE INTENTIONALLY LEFT BLANK

CONTACT INFORMATION FOR LOCAL UNIONS

BOILER MAKERS LOCAL NO. 5

24 Van Siclen Avenue
Floral Park, NY 11001
Phone: (516) 326-2500
Fax: (516) 326-3435
Thomas Klein, Bus. Mgr.
boilermakers5@optonline.net

BLASTERS & DRILLERS LOCAL NO. 29

43-12 Ditmars Blvd.
Astoria, NY, 11105
Phone: (718) 278-5800
Thomas Russo, bus mgr.

BRICKLAYERS LOCAL NO. 1

Santo Lanzafame (718) 392-0525

BUILDING TRADES

71 West 23rd Street, Suite 501
New York, NY 10010
Phone: (212) 647-0700
Fax: (212) 647-0705
John Barnett, Chairman

CARPENTERS DISTRICT COUNCIL

395 Hudson Street
New York, New York 10014
Phone: (212) 366-7500
Fax: (212) 675-3140
Michael J. Forde, Executive Secy Treas.
Peter Thomassen, President
Denis Sheil, V.P.
Ronald Rawald, D.C. Rep.
carpmik@aol.com

CEMENT MASONS NO. 780

150-42 12th Avenue
Whitestone, NY 11357
Phone: (718) 357-3750
Fax: (718) 357-2057
Angelo Scagnelli, Bus. Mgr.
Paul M. Mantia, President
Angelolocal780@yahoo.com

CONCRETE WORKERS DISTRICT COUNCIL NO. 16

29-18 35th Avenue
Long Island City, NY 11106
Phone: (718) 392-5077
Fax: (718) 392-5087
Alex Castaldi, Pres. Bus. Mgr.
Ccwdc16@yahoo.com

DERRICKMEN AND RIGGERS CONCRETE WORKERS

25-19 43rd Avenue
Long Island City, NY 11101
Phone: (718) 361-6534

Fax: (718) 361-6584
Joseph McDonald, Bus. Agent
joemac197@aol.com

DRYWALL TAPERS 1974

265 West 14th Street
New York, NY 10011

Phone: (212) 242-8500

Fax: (212) 242-2356

Joseph Giordano, Bus. Mgr.

Salvatore Marsala, Org.

Maurice Maynard, Org.

Ellior Santiago, Org.

Vincent Calderone, Org.

Ann Juliano Union Sec.

Local1974@aol.com

ELECTRICAL LOCAL NO. 3

158-11 Harry Van Arsdale, Jr. Avenue

Flushing, NY 113656

Phone: (718) 591-4000

Fax: (718) 380-8998

Christopher Erikson, Bus. Mgr.

John E. Marchell, President

Raymond Melville, Asst. Bus. Mgr. Construction

Paul Ryan, Asst. Bus. Mgr. Westchester/Fairfield

Luis Restrepo, Asst. Bus. Mgr.

Mark G. Hansen, Bus. Rep.

Elliot Hecht, Bus. Rep.

Raymond Kitson, Bus. Rep.

Austin McCann, Bus. Rep.

Robert Olenick, Bus. Rep.

Michael O'Neill, Bus. Rep.

Joseph Santigate, Bus. Rep.

Louis Sciara, Bus. Rep.

Lance Van Arsdale, Asst. Bus. Maintenance Division

Ray West, Bus. Rep.

mail@local3ibew.org

ELEVATOR CONSTRUCTORS NO. 1

47-24 27th Avenue

Long Island City, NY 11101

Phone: (718) 767-7004

Fax: (718) 767-6730

Lenny Legotte, Pres. Bus. Mgr.

Thomas Moore, Bus. Agent

Gary Riefenhauser, Bus. Agent

Fred McCourt, Bus. Agent

Robert Stork, Bus. Agent

llegotte@localoneiuec.com

snoble@localoneiuec.com

ENGINEERS NO. ENGINEERS LOCAL UNION NO. 14

141-57 Northern Boulevard

Flushing, NY 11354

Phone: (718) 939-0600

Fax: (718) 939-3131

Edwin Christian, Pres. Bus. Mgr.

Christopher Confrey, Bus. Rep. Rec Sec.
John R. Powers, Bus. Rep. Treas.
engineers@iuoelocal14.com

ENGINEERS NO. 15, 15A, 15B, 15C, 15D

265 West 14th Street
New York, NY 10011
Phone: (212) 929-5327-8-9
Fax: (212) 206-0357
James T. Callahan, Pres. & Bus. Mgr.
Robert G. Shaw, Bus. Rep. & V.P.
Charles Gambino, Bus. Rep., Fin. Sec.
Brian S. Kelly, Bus. Rep. & Rec. Sec.
Daniel Schneider, Bus. Rep. & Treasurer
Gregg Nolan, Bus. Rep
Christopher Thomas, Bus. Rep.
Bruce Murphy, Director of Training

ENGINEERS NO. 30

115-06 Myrtle Avenue
Richmond Hill, NY 11418
Phone: (718) 847-8484
Fax: (718) 850-0524
John T. Ahern, Bus. Mgr.

ENGINEERS No. 94

331-337 West 44th Street
New York, NY 10036
Phone: (212) 245-7040 Fax: (212) 245-7886
Kuba Brown, Bus. Mgr. & President
kubabrown@local94.com

GLAZERS NO. 1281

45 West 14th Street
New York, NY 10011
Phone: (212) 924-5200
Fax: (212) 255-1151
William Elfeld, Bus. Rep.

HEAT & FROST INSULATORS AND ASBESTOS WORKERS LOCAL UNION NO. 12

25-19 43rd Avenue
Long Island City, NY 11101
Phone: (718) 784-3456
Fax: (718) 784-8357
Joseph Lapinski, Bus. Agent
Nick Grgas, Bus. Agent
Matthew Aracick, Fin. Sec.
John Killard, President
Dennis Ippolito, Bus. Mgr.
matty@insulatorslocal12.com
dennis@insulators.org

HEAT FROST INSULATORS LOCAL UNION NO. 12A

2110 Newton Avenue
Astoria, NY 11102
Phone: (718) 937-3203
Fax: (718) 482-8722
Francisco Vega, Bus. Mgr.

IRON WORKERS DISTRICT

505 White Plains Road, Suite 200
Tarrytown, NY 10591
Phone: (914) 332-4430
Fax: (914) 332-4431
Edward J. Walsh, Pres.
ironworkdc@aol.com

IRON WORKERS NO. 40

451 Park Avenue South
New York, NY 10016
Phone: (212) 889-1320
Fax: (212) 779-3267
Robert Walsh, Bus. Mgr. Fin. Sec.
Daniel Doyle, Bus. Rep. V.P.
Kevin O'Rourke, Pres. Bus. Agent

IRON WORKERS NO. 361

89-19 97TH Avenue
Ozone Park, NY 11416
Phone: (718) 332-1016-17
Fax: (718) 322-1053
Matthew Chartrand, Pres. Bus. Agent
Richard O'Kane, Bus. Mgr. Fin. Sec.
Thomas Seaman, President
Anthony DeBlaisie, Bus. Agent, V.P.
John Delaney, Jr., Rec. Sec.
unionhall@361.com

LABORERS LOCAL NO. 78 ASBESTOS & LEAD ABATEMENT

30 Cliff Street
New York, New York 10038-2825
Phone: (212) 227-4805
Fax: (212) 406-1800
Kazik Prosniewski, Pres.
Edison Severino, Bus. Mgr.
Pawel Gruchacz, Sec. Treas.
Local78dispatchers@gmail.com

LABORERS, CONSTRUCTION AND GENERAL BUILDING NO. 79

520 8th Avenue
New York, NY 10018
Phone: (212) 465-7900
Fax: (212) 465-7903
Kenneth Brancaccio, President
John Delgado, Bus. Mgr.
George Zecca, Bus. Mgr.
John Norbury, V.P. & Bus. Agent
Chas Rynkiewicz, Organizer, Mk Dev.
Eugene Sparano, Organizer Mkt. Dev.
John Modica, Bus. Agent
Joseph Cangelosi, Bus. Agent
Kenny Robinson, Bus. Agent
James Haggerty, Bus. Agent
Carl Tully, Bus. Agent
Jose Andino, Bus. Agent
Edward Medina, Bus. Agent

Luis Pereria, Bus Agent
Noe Duran, Bus. Agent
Timothy Campbell, Bus. Agent
John Wund, Agent, Organizer
79@laborerslocal.org

LABORERS NO. 731

34-11/19 35th Avenue
Astoria, NY 11106
(718) 706-0720
Joseph D'Amato, Bus. Mgr.

LATHERS METAL LOCAL NO. 46

1322 Third Avenue
New York, NY 10021
Phone: (212) 737-0500
Fax: (212) 249-1226
Robert Ledwith, Bus. Mgr.
Terence Moore, Bus. Agent
Kenneth Allen, Bus. Agent
Fred LeMoine Jr., Bus. Agent
Kevin Kelly, Bus. Agent

MASON TENDERS DIST. COUNCIL

520 8th Avenue
New York, NY 10018
Phone: (212) 452-9400
Fax: (212) 452-9499
Robert Bonanza, Bus. Mgr.
David Bolger, Field Rep.

METAL POLISHERS LOCAL UNION NO. 8A

36-18 33rd Street 2nd Fl.
Long Island City, 11106
Phone: (718) 361-1770
Fax: (718) 361-1934
Hector Lopez, Bus. Mgr., Pres.

METAL TRADES DIVISION

Kevin Connelly, Bus. Agent
21-42 44th Drive

MILLWRIGHT AND MACHINERY ERECTORS LOCAL NO. 740

89-07 Atlantic Avenue
Woodhavaen, NY 11412
Phone: (718) 849-3636
Fax: (718) 849-0070
Robert Seeger, Bus. Mgr.

ORNAMENTAL IRON WORKERS NO. 580

501 West 42nd Street
New York, NY 10036
Phone: (212) 594-1662
Fax: (212) 564-2748
Dennis Lusardi, Bus. Mgr.
James Mahoney, Bus. Agent
Robert Benesh, Bus. Agent
Dennis Milton, Bus. Agent

Peter Creegan, Bus. Agent
dlusardi@local-580.com

PAINTERS DISTRICT COUNCIL NO. 9

45 West 14th Street
New York, NY 10011
Phone: (212) 255-2950
Fax: (212) 255-1151
William Elfeld, President
Gerard O'Brien, Bus. Rep.
Greg Coords, Bus. Rep.
Richard Small, Bus. Rep.
Jose Torent, Bus. Rep.
Raul Rendon, Bus. Rep.
Paul Belliveau, Bus. Rep.
Joseph Ramaglia, Bus. Mgr.
Anthony Buscema, Bus. Rep.
James Barnett, Bus. Rep.
Angelo Serse, Bus. Rep.
Jack Kittle, Political Dir.
Gus Diamantas, Training Director
John Barrett, Bus. Rep.

PAINTERS STRUCTURAL STEEL NO. 806

40 West 27th Street
New York, New York 10001
Phone: (212) 447-1838, 0149
Fax: (212) 545-8386
Angelo Serse, Bus. Mgr.

PAVERS & ROAD BUILDERS DISTRICT COUNCIL NO. 1

136-25 37th Avenue, Suite 502
Flushing, NY 11354
Phone: (718) 779-8850
Fax: (718) 779-8857
Keith Loscalzo, Bus. Mgr.
Vincent Masino, Trustee
Lowell Barton, Bus. Agent
Francisco Fernandez, Bus. Agent
Joao Teixeira, Bus. Agent
Bonaventura Valerio, Bus. Agent
Joseph Sarro, Bus. Agent

PLASTERS LOCAL UNION NO. 262

2241 Conner Street
Bronx, NY 10466
Phone: (718) 547-5440
Fax: (718) 547-5435
John Sweeney, Int'l Rep.
mventura@opcmialocal262.com

PLUMBERS NO. 1

158-29 Bross Bay Boulevard
Howard Beach, NY 11414
Phone: (718) 738-7500
Fax: (718) 835-0896
George Reilly, Bus. Mgr.
Daniel Lucarelli, Bus. Agent
PLA-Union Contact List_rev

Kevin Brady Sr., Bus. Agent
Donald Doherty Jr. Bus. Agent at Large
Dudley Kinsley, Bus. Agent
Michael Apuzzo, Bus. Agent
John Feeney Jr., Bus. Agent
Paul O'conner, Bus. Agent
Anthony Russini, Bus. Agent
John Murphy, Fin. Sec. Treasuer
Fred Delligatti, Bus. Agent
Thomas Kemps, Bus. Agent
plu1ny@aol.com

PRIVATE SANITATION LOCAL NO. 813

45-18 Court Sq., Suite 600
Long Island City, NY 11101
Phone: (718) 937-7010
Fax: (718) 937-7003
Anthony Marino, President

ROOFERS & WATERPROOFERS NO. 8

467 Dean Street
Brooklyn, NY 11217
Phone: (718) 857-3500
Fax (718) 398-8359
Thomas Pedrick, Trustee & Int'l V.P.
Nicolas Siciliano, Bus. Agent

SHEET METAL WORKERS LOCAL NO. 28

MANHATTAN OFFICE
500 Greenwich Street
New York, NY 10013
Phone: (212) 226-941-7700
Fax: (212) 226-0304
Brian McBreaty, Bus. Agent
Richard Knice, Fin. Sec-Treas.
Michael Belluzzi, Bus. Mgr. & Pres.
Kevin McPike, Bus. Agent
Daniel Fox Jr., Bus. Agent
Rick Buckheit, Bus. Agent
Robert Rotolo, Bus. Mgr.
joanne@local28union.com

SHEET METAL WORKERS LOCAL 137

21-42 44th Drive
Long Island City, NY 11101
Phone: (718) 937-4514
Fax: (718) 937-4113
Paul Collins Jr.
Dante Dano, Agent

STEAMFITTERS LOCAL UNION NO. 638

32-32 48th Avenue
Long Island City, NY 11101
Phone: (718) 392-3420
Fax: (718) 784-7285
John Torpey, Pres.-Fax: (718) 372-5340
James Elder, Sec. Treasurer
John Enright, Bus. Agent

John O'Connell, Bus. Agent
Richard Roberts, Bus. Agent At-Large
Patrick Dolan Jr., Bus. Agent
Brian Wangerman, Bus. Agent
Robert Egan Jr., Bus. Agent
Vincent Curran Jr., Bus. Agent
Patrick Daly, Bus. Agent
Raymond Dean Jr., Bus. Agent
Scott Roche, Bus. Agent
Patrick Norton, Bus. Agent
Robert Bartels, Jr. Bus. Agent
Christopher P. Sheeran, Bus. Agent
bpetriccione@steamfitters638.org
rroberts@steamfitters638.org

TEAMSTERS LOCAL UNION 282

2500 Marcus Avenue
Lake Success, NY 11042
Phone: (516) 488-2822
Fax: (516) 488-4895
Thomas Gesualdi
Kpalmeri282@yahoo.com

TEAMSTERS LOCAL UNION 814

33-01 38TH Avenue
Long Island City, NY 11101
Phone: (718) 392-4510
Fax: (718) 361-9610
George Daniello, Pres., Bus. Mgr.
team814@hotmail.com

TILE, MARBLE & TERRAZO B.A.C. LOCAL UNION 7

45-34 Court Square
Long Island City, NY 11101
Phone: (718) 786-7648
Fax: (718) 472-2370
Thomas Lane, President Bus. Mgr.
William Hill, Bus. Agent
Blaise Toneatto, Bus. Agent
Christopher Guy, Sec. Treasurer
Ernesto Jimenez, Bus. Agent
Joseph Andriano, Bus. Agent
Ronald Nicastri, Bus. Agent
James Ghan, Bus. Agent
tlane@baclocal7.com

TIMBERMEN LOCAL 1536

395 Hudson Street, 8th Floor
New York, NY 10014
Phone: (212) 366-7500
Samuel Bailey, Bus. Mgr.

NYC AGENCY RENOVATION & REHAB OF CITY OWNED BUILDINGS/STRUCTURES

PROJECT LABOR AGREEMENT

COVERING SPECIFIED

**RENOVATION & REHABILITATION
OF CITY OWNED BUILDINGS AND STRUCTURES**



TABLE OF CONTENTS

| | PAGE |
|--|----------|
| ARTICLE 1 - PREAMBLE..... | 1 |
| SECTION 1. PARTIES TO THE AGREEMENT | 2 |
| ARTICLE 2 - GENERAL CONDITIONS | 2 |
| SECTION 1. DEFINITIONS | 2 |
| SECTION 2. CONDITIONS FOR AGREEMENT TO BECOME EFFECTIVE..... | 3 |
| SECTION 3. ENTITIES BOUND & ADMINISTRATION OF AGREEMENT | 3 |
| SECTION 4. SUPREMACY CLAUSE | 4 |
| SECTION 5. LIABILITY | 4 |
| SECTION 6. THE AGENCY..... | 5 |
| SECTION 7. AVAILABILITY AND APPLICABILITY TO ALL SUCCESSFUL BIDDERS | 5 |
| SECTION 8. SUBCONTRACTING | 5 |
| ARTICLE 3-SCOPE OF THE AGREEMENT..... | 5 |
| SECTION 1. WORK COVERED..... | 5 |
| SECTION 2. TIME LIMITATIONS..... | 7 |
| SECTION 3. EXCLUDED EMPLOYEES | 7 |
| SECTION 4. NON-APPLICATION TO CERTAIN ENTITIES..... | 9 |
| ARTICLE 4- UNION RECOGNITION AND EMPLOYMENT..... | 9 |
| SECTION 1. PRE-HIRE RECOGNITION | 9 |

NYC AGENCY RENOVATION & REHAB CITY OWNED BUILDINGS/STRUCTURES

SECTION 2. UNION REFERRAL 9

SECTION 3. NON-DISCRIMINATION IN REFERRALS 11

SECTION 4: MINORITY AND FEMALE REFERRALS 12

SECTION 5. CROSS AND QUALIFIED REFERRALS..... 12

SECTION 6. UNION DUES 12

SECTION 7. CRAFT FOREPERSONS AND GENERAL FOREPERSONS 13

ARTICLE 5- UNION REPRESENTATION 13

SECTION 1. LOCAL UNION REPRESENTATIVE 13

SECTION 2. STEWARDS..... 13

SECTION 3. LAYOFF OF A STEWARD..... 14

ARTICLE 6- MANAGEMENT'S RIGHTS 14

SECTION 1. RESERVATION OF RIGHTS..... 14

SECTION 2. MATERIALS, METHODS & EQUIPMENT..... 15

ARTICLE 7- WORK STOPPAGES AND LOCKOUTS..... 16

SECTION 1. NO STRIKES-NO LOCK OUT 16

SECTION 2. DISCHARGE FOR VIOLATION..... 16

SECTION 3. NOTIFICATION..... 16

SECTION 4. EXPEDITED ARBITRATION 17

SECTION 5. ARBITRATION OF DISCHARGES FOR VIOLATION 19

ARTICLE 8 - LABOR MANAGEMENT COMMITTEE..... 19

SECTION 1. SUBJECTS..... 19

NYC AGENCY RENOVATION & REHAB CITY OWNED BUILDINGS/STRUCTURES

SECTION 2. COMPOSITION..... 19

ARTICLE 9- GRIEVANCE & ARBITRATION PROCEDURE 19

SECTION 1. PROCEDURE FOR RESOLUTION OF GRIEVANCES 20

SECTION 2. LIMITATION AS TO RETROACTIVITY..... 22

SECTION 3. PARTICIPATION BY AGENCY AND/OR CONSTRUCTION
MANAGER..... 22

ARTICLE 10 - JURISDICTIONAL DISPUTES..... 22

SECTION 1. NO DISRUPTIONS..... 22

SECTION 2. ASSIGNMENT 22

SECTION 3. NO INTERFERENCE WITH WORK..... 22

ARTICLE 11 - WAGES AND BENEFITS..... 23

SECTION 1. CLASSIFICATION AND BASE HOURLY RATE 23

SECTION 2. EMPLOYEE BENEFITS..... 23

**ARTICLE 12- HOURS OF WORK, PREMIUM PAYMENTS, SHIFTS AND
HOLIDAYS..... 26**

SECTION 1. WORK WEEK AND WORK DAY 26

SECTION 2. OVERTIME 27

SECTION 3. SHIFTS 27

SECTION 4. HOLIDAYS 28

SECTION 5. SATURDAY MAKE-UP DAYS..... 28

SECTION 6. REPORTING PAY 29

SECTION 7. PAYMENT OF WAGES 30

NYC AGENCY RENOVATION & REHAB CITY OWNED BUILDINGS/STRUCTURES

SECTION 8. EMERGENCY WORK SUSPENSION 30

SECTION 9. INJURY/DISABILITY 30

SECTION 10. TIME KEEPING 30

SECTION 11. MEAL PERIOD 30

SECTION 12. BREAK PERIODS 31

ARTICLE 13 - APPRENTICES 31

SECTION 1. RATIOS 31

ARTICLE 14-SAFETY PROTECTION OF PERSON AND PROPERTY 31

SECTION 1. SAFETY REQUIREMENTS 31

SECTION 2. CONTRACTOR RULES 32

SECTION 3. INSPECTIONS 32

ARTICLE 15 - TEMPORARY SERVICES 32

ARTICLE 16 - NO DISCRIMINATION..... 33

SECTION 1. COOPERATIVE EFFORTS 33

SECTION 2. LANGUAGE OF AGREEMENT 33

ARTICLE 17- GENERAL TERMS 33

SECTION 1. PROJECT RULES 33

SECTION 2. TOOLS OF THE TRADE..... 34

SECTION 3. SUPERVISION..... 34

SECTION 4. TRAVEL ALLOWANCES..... 34

SECTION 5. FULL WORK DAY 34

NYC AGENCY RENOVATION & REHAB CITY OWNED BUILDINGS/STRUCTURES

SECTION 6. COOPERATION AND WAIVER 34

ARTICLE 18. SAVINGS AND SEPARABILITY 35

SECTION 1. THIS AGREEMENT 35

SECTION 2. THE BID SPECIFICATIONS 36

SECTION 3. NON-LIABILITY 36

SECTION 4. NON-WAIVER..... 36

ARTICLE 19 - FUTURE CHANGES IN SCHEDULE A AREA CONTRACTS ... 37

SECTION 1. CHANGES TO AREA CONTRACTS..... 37

SECTION 2. LABOR DISPUTES DURING AREA CONTRACT NEGOTIATIONS
..... 37

ARTICLE 20 - WORKERS' COMPENSATION ADR..... 37

SECTION 1..... 37

ARTICLE 21 - HELMETS TO HARDHATS 38

Section 1..... 38

Section 2..... 38

Project Labor Agreement - - Letter of Assent..... 45

New York City Building and Construction Trades Council Standards of
Excellence..... 46

**PROJECT LABOR AGREEMENT COVERING SPECIFIED
RENOVATION & REHABILITATION OF NEW YORK CITY OWNED
FACILITIES & STRUCTURES**

ARTICLE 1 - PREAMBLE

WHEREAS, the City of New York desires to provide for the cost efficient, safe, quality, and timely completion of certain rehabilitation and renovation work ("Program Work," as defined in Article 3) for Fiscal Years 2010 - 2014 in a manner designed to afford the lowest costs to the Agencies covered by this Agreement, and the Public it represents, and the advancement of permissible statutory objectives;

WHEREAS, this Project Labor Agreement will foster the achievement of these goals, inter alia, by:

(1) providing a mechanism for responding to the unique construction needs associated with this Program Work and achieving the most cost effective means of construction, including direct labor cost savings, by the Building and Construction Trades Council of Greater New York and Vicinity and the signatory Local Unions and their members waiving various shift and other hourly premiums and other work and pay practices which would otherwise apply to Program Work;

(2) expediting the construction process and otherwise minimizing the disruption to the covered Agencies' ongoing operations at the facilities that are the subject of the Agreement;

(3) avoiding the costly delays of potential strikes, slowdowns, walkouts, picketing and other disruptions arising from work disputes, reducing jobsite friction on common situs worksites, and promoting labor harmony and peace for the duration of the Program Work;

(4) standardizing the terms and conditions governing the employment of labor on the Program Work;

(5) permitting wide flexibility in work scheduling and shift hours and times to allow maximum work to be done during off hours yet at affordable pay rates;

(6) permitting adjustments to work rules and staffing requirements from those which otherwise might obtain;

(7) providing comprehensive and standardized mechanisms for the settlement of work disputes, including those relating to jurisdiction;

NYC AGENCY RENOVATION & REHAB CITY OWNED BUILDINGS/STRUCTURES

- (8) ensuring a reliable source of skilled and experienced labor; and
- (9) securing applicable New York State Labor Law exemptions.

WHEREAS, the Building and Construction Trades Council of Greater New York and Vicinity, its participating affiliated Local Unions and their members, desire to assist the City in meeting these operational needs and objectives as well as to provide for stability, security and work opportunities which are afforded by this Project Labor Agreement; and

WHEREAS, the Parties desire to maximize Program Work safety conditions for both workers and the community in the project area.

NOW, THEREFORE, the Parties enter into this Agreement:

SECTION 1. PARTIES TO THE AGREEMENT

This is a Project Labor Agreement ("Agreement") entered into by the City of New York, on behalf of itself and the Agencies covered herein, including in their capacity as construction manager of covered projects and/or on behalf of any third party construction manager which may be utilized, and the Building and Construction Trades Council of Greater New York and Vicinity ("Council") (on behalf of itself) and the signatory affiliated Local Union's ("Unions" or "Local Unions"). The Council and each signatory Local Union hereby warrants and represents that it has been duly authorized to enter into this Agreement.

ARTICLE 2 - GENERAL CONDITIONS

SECTION 1. DEFINITIONS

Throughout this Agreement, the various Union parties including the Building and Construction Trades Council of Greater New York and Vicinity and its participating affiliated Local Unions, are referred to singularly and collectively as "Union(s)" or "Local Unions"; the term "Contractor(s)" shall include any Construction Manager, General Contractor and all other

contractors, and subcontractors of all tiers engaged in Program Work within the scope of this Agreement as defined in Article 3; "Agency" means the following New York City agencies: the Department for the Aging (DFTA), Administration for Children's Services (ACS), Department of Citywide Administrative Services (DCAS), Department of Corrections (DOC), Department of Design and Construction (DDC), Fire Department (FDNY), Department of Homeless Services (DHS), Human Resources Administration (HRA), Department of Health and Mental Hygiene (DOHMH), Department of Parks and Recreation (DPR), Police Department (NYPD); Department of Sanitation (DSNY); the New York City Agency that awards a particular contract subject to this Agreement may be referred to hereafter as the "Agency"; when an Agency acts as Construction Manager, unless otherwise provided, it has the rights and obligations of a "Construction Manager" in addition to the rights and obligations of an Agency; the Building and Construction Trades Council of Greater New York and Vicinity is referred to as the "Council"; and the work covered by this Agreement (as defined in Article 3) is referred to as "Program Work."

SECTION 2. CONDITIONS FOR AGREEMENT TO BECOME EFFECTIVE

This Agreement shall not become effective unless each of the following conditions are met: the Agreement is executed by (1) the Council, on behalf of itself, (2) the participating affiliated Local Unions; and (3) the mayor of the City of New York or his designee.

SECTION 3. ENTITIES BOUND & ADMINISTRATION OF AGREEMENT

This Agreement shall be binding on all participating Unions and their affiliates, the Construction Manager (in its capacity as such) and all Contractors of all tiers performing Program Work, as defined in Article 3. The Contractors shall include in any subcontract that they let for performance during the term of this Agreement a requirement that their subcontractors, of all tiers, become signatory and bound by this Agreement with respect to that subcontracted work

NYC AGENCY RENOVATION & REHAB CITY OWNED BUILDINGS/STRUCTURES

falling within the scope of Article 3 and all Contractors (including subcontractors) performing Program Work shall be required to sign a "Letter of Assent" in the form annexed hereto as Exhibit "A". This Agreement shall be administered by the applicable Agency or a Construction Manager or such other designee as may be named by the Agency or Construction Manager, on behalf of all Contractors.

SECTION 4. SUPREMACY CLAUSE

This Agreement, together with the local Collective Bargaining Agreements appended hereto as Schedule A, represents the complete understanding of all signatories and supersedes any national agreement, local agreement or other collective bargaining agreement of any type which would otherwise apply to this Program Work, in whole or in part, except that Program Work which falls within the jurisdiction of the Operating Engineers Locals 14 and 15 and/or the Teamsters Local 282 will be performed under the terms and conditions set out in the Schedule A agreements of Operating Engineers Locals 14 and 15 and Teamsters Local 282. Subject to the foregoing, where a subject covered by the provisions of this Agreement is also covered by a Schedule A, the provisions of this Agreement shall prevail. It is further understood that no Contractor shall be required to sign any other agreement as a condition of performing Program Work. No practice, understanding or agreement between a Contractor and a Local Union which is not set forth in this Agreement shall be binding on this Program Work unless endorsed in writing by the Construction Manager or such other designee as may be designated by the Agency.

SECTION 5. LIABILITY

The liability of any Contractor and the liability of any Union under this Agreement shall be several and not joint. The Construction Manager and any Contractor shall not be liable for any violations of this Agreement by any other Contractor; and the Council and

Local Unions shall not be liable for any violations of this Agreement by any other Union.

SECTION 6. THE AGENCY

The Agency (or Construction Manager where applicable) shall require in its bid specifications for all Program Work within the scope of Article 3 that all successful bidders, and their subcontractors of all tiers, become bound by, and signatory to, this Agreement. The Agency (or Construction Manager) shall not be liable for any violation of this Agreement by any Contractor. It is understood that nothing in this Agreement shall be construed as limiting the sole discretion of the Agency or Construction Manager in determining which Contractors shall be awarded contracts for Program Work. It is further understood that the Agency or Construction Manager has sole discretion at any time to terminate, delay or suspend the Program Work, in whole or part, on any Program.

SECTION 7. AVAILABILITY AND APPLICABILITY TO ALL SUCCESSFUL BIDDERS

The Unions agree that this Agreement will be made available to, and will fully apply to, any successful bidder for (or subcontractor of) Program Work who becomes signatory thereto, without regard to whether that successful bidder (or subcontractor) performs work at other sites on either a union or non-union basis and without regard to whether employees of such successful bidder (or subcontractor) are, or are not, members of any unions. This Agreement shall not apply to the work of any Contractor which is performed at any location other than the site of Program Work.

SECTION 8. SUBCONTRACTING

Contractors will subcontract Program Work only to a person, firm or corporation who is or agrees to become party to this Agreement.

ARTICLE 3-SCOPE OF THE AGREEMENT

SECTION 1. WORK COVERED

NYC AGENCY RENOVATION & REHAB CITY OWNED BUILDINGS/STRUCTURES

Program Work shall be limited to designated rehabilitation and renovation construction contracts bid and let by an Agency (or its Construction Manager where applicable) after the effective date of this Agreement with respect to rehabilitation and renovation work performed for an Agency on City-owned property under contracts let prior to June 30, 2014. Subject to the foregoing, and the exclusions below, such Program Work shall mean any and all contracts that predominantly involve the renovation, repair, alteration, rehabilitation or expansion of an existing City-owned building or structure within the five boroughs of New York City. Examples of Program Work include, but are not limited to, the renovation, repair, alteration and rehabilitation of an existing temporary or permanent structure, or an expansion of above ground structures located in the City on a City-owned building. This Program Work shall also include JOCS contracts, demolition work, site work, asbestos and lead abatement, painting services, carpentry services, and carpet removal and installation, to the extent incidental to such building rehabilitation of City-owned buildings or structures.

It is understood that Program Work does not include, and this Project Labor Agreement shall not apply to, any other work, including:

1. Contracts let and work performed in connection with projects carried over, recycled from, or performed under bids or rebids relating to work that were bid prior to the effective date of this Agreement or after June 30, 2014;
2. Contracts procured on an emergency basis;
3. Small purchases (purchases not more than \$100,000) awarded pursuant to New York City Charter §314, New York City Charter § 316 and New York City Procurement Policy Board Rules §3-08;
4. Contracts for work on streets and bridges and for the closing or environmental remediation of landfills;

5. Contracts with not-for-profit corporations where the City is not awarding or performing the work performed for that entity;

6. Contracts with governmental entities where the City is not awarding or performing the work performed for that entity;

7. Contracts with electric utilities, gas utilities, telephone companies, and railroads, except that it is understood and agreed that these entities may only install their work to a demarcation point, e.g. a telephone closet or utility vault, the location of which is determined prior to construction and employees of such entities shall not be used to replace employees performing Program Work pursuant to this agreement; and

8. Contracts for installation of information technology that are not otherwise Program Work.

SECTION 2. TIME LIMITATIONS

In addition to falling within the scope of Article 3, Section 1, to be covered by this Agreement Program Work must be (1) advertised and let for bid after the effective date of this Agreement, and (2) let for bid prior to June 30, 2014, the expiration date of this Agreement. It is understood that this Agreement, together with all of its provisions, shall remain in effect for all such Program Work until completion, even if not completed by the expiration date of the Agreement. If Program Work otherwise falling within the scope of Article 3, Section 1 is not let for bid by the expiration date of this Agreement, this Agreement may be extended to that work by mutual agreement of the parties.

SECTION 3. EXCLUDED EMPLOYEES

The following persons are not subject to the provisions of this Agreement, even though performing Program Work:

A. Superintendents, supervisors (excluding general and forepersons

NYC AGENCY RENOVATION & REHAB CITY OWNED BUILDINGS/STRUCTURES

specifically covered by a craft's Schedule A), engineers, professional engineers and/or licensed architects engaged in inspection and testing, quality control/assurance personnel, timekeepers, mail carriers, clerks, office workers, messengers, guards, technicians, non-manual employees, and all professional, engineering, administrative and management persons;

B.. Employees of the Agency, New York City, or any other municipal or State agency, authority or entity, or employees of any other public employer, even though working on the Program site while covered Program Work is underway;

C. Employees and entities engaged in off-site manufacture, modifications, repair, maintenance, assembly, painting, handling or fabrication of project components, materials, equipment or machinery or involved in deliveries to and from the Program site, except to the extent they are lawfully included in the bargaining unit of a Schedule A agreement;

D. Employees of the Construction Manager (except that in the event the Agency engages a Contractor to serve as Construction Manager, then those employees of the Construction Manager performing manual, on site construction labor will be covered by this Agreement);

E. Employees engaged in on-site equipment warranty work unless employees are already working on the site and are certified to perform warranty work;

F. Employees engaged in geophysical testing other than boring for core samples;

G. Employees engaged in laboratory, specialty testing, or inspections, pursuant to a professional services agreement between the Agency, or any of the Agency's other professional consultants, and such laboratory, testing, inspection or surveying firm; and

H. Employees engaged in on-site maintenance of installed equipment or systems which maintenance is awarded as part of a contract that includes Program Work but

which maintenance occurs after installation of such equipment or system and is not directly related to construction services.

SECTION 4. NON-APPLICATION TO CERTAIN ENTITIES

This Agreement shall not apply to those parents, affiliates, subsidiaries, or other joint or sole ventures of any Contractor which do not perform Program Work. It is agreed that this Agreement does not have the effect of creating any joint employment, single employer or alter ego status among the Agency (including in its capacity as Construction Manager) or any Contractor. The Agreement shall further not apply to any New York City or other municipal or State agency, authority, or entity other than a listed Agency and nothing contained herein shall be construed to prohibit or restrict the Agency or its employees, or any State, New York City or other municipal or State authority, agency or entity and its employees, from performing on or off-site work related to Program Work.

As the contracts involving Program Work are completed and accepted, the Agreement shall not have further force or effect on such items or areas except where inspections, additions, repairs, modifications, check-out and/or warranty work are assigned in writing (copy to Local Union involved) by the Agency (or Construction Manager) for performance under the terms of this Agreement.

ARTICLE 4- UNION RECOGNITION AND EMPLOYMENT

SECTION 1. PRE-HIRE RECOGNITION

The Contractors recognize the signatory Unions as the sole and exclusive bargaining representatives of all employees who are performing on-site Program Work, with respect to that work.

SECTION 2. UNION REFERRAL

NYC AGENCY RENOVATION & REHAB CITY OWNED BUILDINGS/STRUCTURES

A. The Contractors agree to employ and hire craft employees for Program Work covered by this Agreement through the job referral systems and hiring halls established in the Local Unions area collective bargaining agreements. Notwithstanding this, Contractors shall have sole right to determine the competency of all referrals; to determine the number of employees required; to select employees for layoff (subject to Article 5, Section 3); and the sole right to reject any applicant referred by a Local Union, subject to the show-up payments. In the event that a Local Union is unable to fill any request for qualified employees within a 48 hour period after such requisition is made by a Contractor (Saturdays, Sundays and holidays excepted), a Contractor may employ qualified applicants from any other available source. In the event that the Local Union does not have a job referral system, the Contractor shall give the Local Union first preference to refer applicants, subject to the other provisions of this Article. The Contractor shall notify the Local Union of craft employees hired for Program Work within its jurisdiction from any source other than referral by the Union.

B. A Contractor may request by name, and the Local will honor, referral of persons who have applied to the Local for Program Work and who meet the following qualifications:

- (1) possess any license required by New York State law for the Program Work to be performed;
- (2) have worked a total of at least 1000 hours in the Construction field during the prior 3 years; and
- (3) were on the Contractor's active payroll for at least 60 out of the 180 calendar days prior to the contract award.

No more than twelve per centum (12%) of the employees covered by this Agreement, per Contractor by craft, shall be hired through the special provisions above. Under this provision, name referrals begin with the eighth employee needed and continue on that same

basis.

C. Notwithstanding Section 2(B), above, certified MWBE contractors for which participation goals are set pursuant to New York City Administrative Code §6-129, that are not signatory to any Schedule A CBAs, with contracts valued at or under five hundred thousand (\$500,000), may request by name, and the Local will honor, referral of the second (2nd), fourth (4th), sixth (6th), and eighth (8th) employee, who have applied to the Local for Program Work and who meet the following qualifications:

- (1) possess any license required by New York State law for the Program Work to be performed;
- (2) have worked a total of at least 1000 hours in the Construction field during the prior 3 years; and
- (3) were on the Contractor's active payroll for at least 60 out of the 180 work days prior to the contract award.

For such contracts valued at above \$500,000 but less than \$1 million, the Local will honor referrals by name of the second (2nd), fifth (5th), and eighth (8th) employee subject to the foregoing requirements. In both cases, name referrals will thereafter be in accordance with Section 2(B), above.

D. Where a certified MWBE Contractor voluntarily enters into a Collective Bargaining Agreement ("CBA") with a BCTC Union, the employees of such Contractor at the time the CBA is executed shall be allowed to join the Union for the applicable trade subject to satisfying the Union's basic standards of proficiency for admission.

SECTION 3. NON-DISCRIMINATION IN REFERRALS

The Council represents that each Local Union hiring hall and referral system will be operated in a non-discriminatory manner and in full compliance with all applicable federal, state and local laws and regulations which require equal employment opportunities. Referrals

NYC AGENCY RENOVATION & REHAB CITY OWNED BUILDINGS/STRUCTURES

shall not be affected in any way by the rules, regulations, bylaws, constitutional provisions or any other aspects or obligations of union membership, policies or requirements and shall be subject to such other conditions as are established in this Article. No employment applicant shall be discriminated against by any referral system or hiring hall because of the applicant's union membership, or lack thereof.

SECTION 4: MINORITY AND FEMALE REFERRALS

In the event a Local Union either fails, or is unable to refer qualified minority or female applicants in percentages equaling the workforce participation goals adopted by the City and set forth in the Agency's (or, if applicable, Construction Manager's) bid specifications, within 48 hours of the request for same, the Contractor may employ qualified minority or female applicants from any other available source.

SECTION 5. CROSS AND QUALIFIED REFERRALS

The Local Unions shall not knowingly refer to a Contractor an employee then employed by another Contractor working under this Agreement. The Local Unions will exert their utmost efforts to recruit sufficient numbers of skilled and qualified crafts employees to fulfill the requirements of the Contractor.

SECTION 6. UNION DUES

All employees covered by this Agreement shall be subject to the union security provisions contained in the applicable Schedule A local agreements, as amended from time to time, but only for the period of time during which they are performing on-site Program Work and only to the extent of tendering payment of the applicable union dues and assessments uniformly required for union membership in the Local Unions which represent the craft in which the employee is performing Program Work. No employee shall be discriminated against at any Program Work site because of the employee's union membership or lack thereof. In the case of

unaffiliated employees, the dues payment will be received by the Local Unions as an agency shop fee.

SECTION 7. CRAFT FOREPERSONS AND GENERAL FOREPERSONS

The selection of craft forepersons and/or general forepersons and the number of forepersons required shall be solely the responsibility of the Contractor except where otherwise provided by specific provisions of an applicable Schedule A, and provided that all craft forepersons shall be experienced and qualified journeypersons in their trade as determined by the appropriate Local Union. All forepersons shall take orders exclusively from the designated Contractor representatives. Craft forepersons shall be designated as working forepersons at the request of the Contractor, except when an existing local Collective Bargaining Agreement prohibits a foreperson from working when the craft persons he is leading exceed a specified number.

ARTICLE 5- UNION REPRESENTATION

SECTION 1. LOCAL UNION REPRESENTATIVE

Each Local Union representing on-site employees shall be entitled to designate in writing (copy to Contractor involved and Construction Manager) one representative, and/or the Business Manager, who shall be afforded access to the Program Work site.

SECTION 2. STEWARDS

A. Each Local Union shall have the right to designate a working journey person as a Steward and an alternate, and shall notify the Contractor and Construction Manager of the identity of the designated Steward (and alternate) prior to the assumption of such duties. Stewards shall not exercise supervisory functions and will receive the regular rate of pay for their craft classifications. All Stewards shall be working Stewards.

B. In addition to their work as an employee, the Steward shall have the right

NYC AGENCY RENOVATION & REHAB CITY OWNED BUILDINGS/STRUCTURES

to receive complaints or grievances and to discuss and assist in their adjustment with the Contractor's appropriate supervisor. Each Steward shall be concerned with the employees of the Steward's trade and, if applicable, subcontractors of their Contractor, but not with the employees of any other trade Contractor. No Contractor shall discriminate against the Steward in the proper performance of Union duties.

C. The Stewards shall not have the right to determine when overtime shall be worked, or who shall work overtime except pursuant to a Schedule A provision providing procedures for the equitable distribution of overtime.

SECTION 3. LAYOFF OF A STEWARD

Contractors agree to notify the appropriate Union 24 hours prior to the layoff of a Steward, except in cases of discipline or discharge for just cause. If a Steward is protected against layoff by a Schedule A provision, such provision shall be recognized to the extent the Steward possesses the necessary qualifications to perform the work required. In any case in which a Steward is discharged or disciplined for just cause, the Local Union involved shall be notified immediately by the Contractor.

ARTICLE 6- MANAGEMENT'S RIGHTS

SECTION 1. RESERVATION OF RIGHTS

Except as expressly limited by a specific provision of this Agreement, Contractors retain full and exclusive authority for the management of their operations including, but not limited to, the right to: direct the work force, including determination as to the number of employees to be hired and the qualifications therefore; the promotion, transfer, layoff of its employees; require compliance with the directives of the Agency including standard restrictions related to security and access to the site that are equally applicable to Agency employees, guests,

or vendors; or the discipline or discharge for just cause of its employees; assign and schedule work; promulgate reasonable Program Work rules that are not inconsistent with this Agreement or rules common in the industry and are reasonably related to the nature of work; and, the requirement, timing and number of employees to be utilized for overtime work. No rules, customs, or practices which limit or restrict productivity or efficiency of the individual, as determined by the Contractor, Agency and/or Construction Manager and/or joint working efforts with other employees shall be permitted or observed.

SECTION 2. MATERIALS, METHODS & EQUIPMENT

There shall be no limitation or restriction upon the Contractors' choice of materials, techniques, methods, technology or design, or, regardless of source or location, upon the use and installation of equipment, machinery, package units, pre-cast, pre-fabricated, pre-finished, or pre-assembled materials or products, tools, or other labor-saving devices. Contractors may, without restriction, install or use materials, supplies or equipment regardless of their source; provided, however, that where there is a Schedule "A" that includes a lawful union standards and practices clause, then such clause as set forth in Schedule A Agreements will be complied with, unless there is a lawful Agency specification (or specification issued by a Construction Manager which would be lawful if issued by the Agency directly) that would specifically limit or restrict the Contractor's choice of materials, techniques, methods, technology or design, or, regardless of source or location, upon the use and installation of equipment, machinery, package units, pre-cast, pre-fabricated, pre-finished, or pre-assembled materials or products, tools, or other labor-saving devices, and which would prevent compliance with such Schedule A clause. The on-site installation or application of such items shall be performed by the craft having jurisdiction over such work; provided, however, it is recognized that other personnel having special qualifications may participate, in a supervisory capacity, in

the installation, check-off or testing of specialized or unusual equipment or facilities as designated by the Contractor. There shall be no restrictions as to work which is performed off-site for Program Work.

ARTICLE 7- WORK STOPPAGES AND LOCKOUTS

SECTION 1. NO STRIKES-NO LOCK OUT

There shall be no strikes, sympathy strikes, picketing, work stoppages, slowdowns, hand billing, demonstrations or other disruptive activity at the Program Work site for any reason by any Union or employee against any Contractor or employer. There shall be no other Union, or concerted or employee activity which disrupts or interferes with the operation of the Program Work or the objectives of the Agency at any Program Work site. In addition, failure of any Union or employee to cross any picket line established by any Union, signatory or non-signatory to this Agreement, or the picket or demonstration line of any other organization, at or in proximity to a Program Work site where the failure to cross disrupts or interferes with the operation of Program Work is a violation of this Article. Should any employees breach this provision, the Unions will use their best efforts to try to immediately end that breach and return all employees to work. There shall be no lockout at a Program Work site by any signatory Contractor, Agency or Construction Manager.

SECTION 2. DISCHARGE FOR VIOLATION

A Contractor may discharge any employee violating Section 1, above, and any such employee will not be eligible thereafter for referral under this Agreement for a period of 100 days.

SECTION 3. NOTIFICATION

If a Contractor contends that any Union has violated this Article, it will notify the

Local Union involved advising of such fact, with copies of the notification to the Council. The Local Union shall instruct and order, the Council shall request, and each shall otherwise use their best efforts to cause, the employees (and where necessary the Council shall use its best efforts to cause the Local Union), to immediately cease and desist from any violation of this Article. If the Council complies with these obligations it shall not be liable for the unauthorized acts of a Local Union or its members. Similarly, a Local Union and its members will not be liable for any unauthorized acts of the Council. Failure of a Contractor or the Construction Manager to give any notification set forth in this Article shall not excuse any violation of Section 1 of this Article.

SECTION 4. EXPEDITED ARBITRATION

Any Contractor or Union alleging a violation of Section 1 of this Article may utilize the expedited procedure set forth below (in lieu of, or in addition to, any actions at law or equity) that may be brought.

A. A party invoking this procedure shall notify J.J. Pierson or Richard Adelman; who shall alternate (beginning with Arbitrator J.J. Pierson) as Arbitrator under this expedited arbitration procedure. If the Arbitrator next on the list is not available to hear the matter within 24 hours of notice, the next Arbitrator on the list shall be called. Copies of such notification will be simultaneously sent to the alleged violator and Council.

B. The Arbitrator shall thereupon, after notice as to time and place to the Contractor, the Local Union involved, the Council and the Construction Manager, hold a hearing within 48 hours of receipt of the notice invoking the procedure if it is contended that the violation still exists. The hearing will not, however, be scheduled for less than 24 hours after the notice required by Section 3, above.

C. All notices pursuant to this Article may be provided by telephone, telegraph, hand delivery, or fax, confirmed by overnight delivery, to the Arbitrator, Contractor,

NYC AGENCY RENOVATION & REHAB CITY OWNED BUILDINGS/STRUCTURES

Construction Manager and Local Union involved. The hearing may be held on any day including Saturdays or Sundays. The hearing shall be completed in one session, which shall not exceed 8 hours duration (no more than 4 hours being allowed to either side to present their case, and conduct their cross examination) unless otherwise agreed. A failure of any Union or Contractor to attend the hearing shall not delay the hearing of evidence by those present or the issuance of an award by the Arbitrator.

D. The sole issue at the hearing shall be whether a violation of Section 1, above, occurred. If a violation is found to have occurred, the Arbitrator shall issue a Cease and Desist Award restraining such violation and serve copies on the Contractor and Union involved. The Arbitrator shall have no authority to consider any matter in justification, explanation or mitigation of such violation or to award damages (any damages issue is reserved solely for court proceedings, if any.) The Award shall be issued in writing within 3 hours after the close of the hearing, and may be issued without an Opinion. If any involved party desires an Opinion, one shall be issued within 15 calendar days, but its issuance shall not delay compliance with, or enforcement of, the Award.

E. The Agency and Construction Manager (or such other designee of the Agency) may participate in full in all proceedings under this Article.

F. An Award issued under this procedure may be enforced by any court of competent jurisdiction upon the filing of this Agreement together with the Award. Notice of the filing of such enforcement proceedings shall be given to the Union or Contractor involved, and the Construction Manager.

G. Any rights created by statute or law governing arbitration proceedings which are inconsistent with the procedure set forth in this Article, or which interfere with compliance thereto, are hereby waived by the Contractors and Unions to whom they accrue.

H. The fees and expenses of the Arbitrator shall be equally divided between the involved Contractor and Union.

SECTION 5. ARBITRATION OF DISCHARGES FOR VIOLATION

Procedures contained in Article 9 shall not be applicable to any alleged violation of this Article, with the single exception that an employee discharged for violation of Section 1, above, may have recourse to the procedures of Article 9 to determine only if the employee did, in fact, violate the provisions of Section 1 of this Article; but not for the purpose of modifying the discipline imposed where a violation is found to have occurred.

ARTICLE 8 - LABOR MANAGEMENT COMMITTEE

SECTION 1. SUBJECTS

The Program Labor Management Committee will meet on a regular basis to: 1) promote harmonious relations among the Contractors and Unions; 2) enhance safety awareness, cost effectiveness and productivity of construction operations; 3) protect the public interests; 4) discuss matters relating to staffing and scheduling with safety and productivity as considerations; and 5) review efforts to meet applicable participation goals for MWBEs and workforce participation goals for minority and female employees.

SECTION 2. COMPOSITION

The Committee shall be jointly chaired by a designee of the Agency and the President of the Council. It may include representatives of the Local Unions and Contractors involved in the issues being discussed. The parties may mutually designate an MWBE representative to participate in appropriate Committee discussions. The Committee may conduct business through mutually agreed upon sub-committees.

ARTICLE 9- GRIEVANCE & ARBITRATION PROCEDURE

SECTION 1. PROCEDURE FOR RESOLUTION OF GRIEVANCES

Any question, dispute or claim arising out of, or involving the interpretation or application of this Agreement (other than jurisdictional disputes or alleged violations of Article 7, Section 1) shall be considered a grievance and shall be resolved pursuant to the exclusive procedure of the steps described below, provided, in all cases, that the question, dispute or claim arose during the term of this Agreement.

Step 1:

(a) When any employee covered by this Agreement feels aggrieved by a claimed violation of this Agreement, the employee shall, through the Local Union business representative or job steward give notice of the claimed violation to the work site representative of the involved Contractor and the Construction Manager. To be timely, such notice of the grievance must be given within 7 calendar days after the act, occurrence or event giving rise to the grievance. The business representative of the Local Union or the job steward and the work site representative of the involved Contractor shall meet and endeavor to adjust the matter within 7 calendar days after timely notice has been given. If they fail to resolve the matter within the prescribed period, the grieving party, may, within 7 calendar days thereafter, pursue Step 2 of the grievance procedure by serving the involved Contractor with written copies of the grievance setting forth a description of the claimed violation, the date on which the grievance occurred, and the provisions of the Agreement alleged to have been violated. Grievances and disputes settled at Step 1 are non-precedential except as to the specific Local Union, employee and Contractor directly involved unless the settlement is accepted in writing by the Construction Manager (or designee) as creating a precedent.

(b) Should any signatory to this Agreement have a dispute (excepting jurisdictional disputes or alleged violations of Article 7, Section 1) with any other signatory to

this Agreement and, if after conferring, a settlement is not reached within 7 calendar days, the dispute shall be reduced to writing and proceed to Step 2 in the same manner as outlined in subparagraph (a) for the adjustment of employee grievances.

Step 2:

The Business Manager or designee of the involved Local Union, together with representatives of the involved Contractor, Council and the Construction Manager (or designee), shall meet in Step 2 within 7 calendar days of service of the written grievance to arrive at a satisfactory settlement.

Step 3:

(a) If the grievance shall have been submitted but not resolved in Step 2, any of the participating Step 2 entities may, within 21 calendar days after the initial Step 2 meeting, submit the grievance in writing (copies to other participants, including the Construction Manager or designee) to J.J. Pierson or Richard Adelman, who shall act, alternately (beginning with Arbitrator J.J. Pierson), as the Arbitrator under this procedure. The Labor Arbitration Rules of the American Arbitration Association shall govern the conduct of the arbitration hearing, at which all Step 2 participants shall be parties. The decision of the Arbitrator shall be final and binding on the involved Contractor, Local Union and employees and the fees and expenses of such arbitrations shall be borne equally by the involved Contractor and Local Union.

(b) Failure of the grieving party to adhere to the time limits set forth in this Article shall render the grievance null and void. These time limits may be extended only by written consent of the Construction Manager (or designee), involved Contractor and involved Local Union at the particular step where the extension is agreed upon. The Arbitrator shall have authority to make decisions only on the issues presented to him and shall not have the authority to change, add to, delete or modify any provision of this Agreement.

SECTION 2. LIMITATION AS TO RETROACTIVITY

No arbitration decision or award may provide retroactivity of any kind exceeding 60 calendar days prior to the date of service of the written grievance on the Construction Manager and the involved Contractor or Local Union.

SECTION 3. PARTICIPATION BY AGENCY AND/OR CONSTRUCTION MANAGER

The Agency and Construction Manager (or such other designee of the Agency) shall be notified by the involved Contractor of all actions at Steps 2 and 3 and, at its election, may participate in full in all proceedings at these Steps, including Step 3 arbitration.

ARTICLE 10 - JURISDICTIONAL DISPUTES

SECTION 1. NO DISRUPTIONS

There will be no strikes, sympathy strikes, work stoppages, slowdowns, picketing or other disruptive activity of any kind arising out of any jurisdictional dispute. Pending the resolution of the dispute, the work shall continue uninterrupted and as assigned by the Contractor. No jurisdictional dispute shall excuse a violation of Article 7.

SECTION 2. ASSIGNMENT

All Program Work assignments shall be made by the Contractor to unions affiliated with the BCTC consistent with the New York Plan for the Settlement of Jurisdictional Disputes ("New York Plan") and its Greenbook decisions, if any. Where there are no applicable Greenbook decisions, assignments shall be made in accordance with the provisions of the New York Plan and local industry practice.

SECTION 3. NO INTERFERENCE WITH WORK

There shall be no interference or interruption of any kind with the Program Work while any jurisdictional dispute is being resolved. The work shall proceed as assigned by the

Contractor until finally resolved under the applicable procedure of this Article. The award shall be confirmed in writing to the involved parties. There shall be no strike, work stoppage or interruption in protest of any such award.

ARTICLE 11 - WAGES AND BENEFITS

SECTION 1. CLASSIFICATION AND BASE HOURLY RATE

All employees covered by this Agreement shall be classified in accordance with the work performed and paid the hourly wage rates applicable for those classifications as required by the applicable prevailing wage laws.

SECTION 2. EMPLOYEE BENEFITS

A. The Contractors agree to pay on a timely basis contributions on behalf of all employees covered by this Agreement to those established jointly trustee employee benefit funds designated in Schedule A (in the appropriate Schedule A amounts), provided that such benefits are required to be paid on public works under any applicable prevailing wage law. Bona fide jointly trustee fringe benefit plans established or negotiated through collective bargaining during the life of this Agreement may be added if similarly required under applicable prevailing wage law. Contractors, not otherwise contractually bound to do so, shall not be required to contribute to benefits, trusts or plans of any kind which are not required by the prevailing wage law provided, however, that this provision does not relieve Contractors signatory to local collective bargaining agreement with any affiliated union from complying with the fringe benefit requirements for all funds contained in the CBA.

B. The Contractors agree to be bound by the written terms of the legally established jointly trustee Trust Agreements specifying the detailed basis on which payments are to be paid into, and benefits paid out of, such Trust Funds but only with regard to Program Work done under this Agreement and only for those employees to whom this Agreement

NYC AGENCY RENOVATION & REHAB CITY OWNED BUILDINGS/STRUCTURES

requires such benefit payments.

C. To the extent consistent with New York City's Procurement Policy Board Rules with respect to prompt payment, as published at www.nyc.gov/ppb, §4-06(e), and in consideration of the unions' waiver of their rights to withhold labor from a contractor or subcontractor delinquent in the payment of fringe benefits contributions ("Delinquent Contractor"); the Agency agrees that where any such union and/or fringe benefit fund shall notify the Agency, the General Contractor, and the Delinquent Contractor in writing with back-up documentation that the Delinquent Contractor has failed to make fringe benefit contributions to it as provided herein and the Delinquent Contractor shall fail, within ten (10) calendar days after receipt of such notice, to furnish either proof of such payment or notice that the amount claimed by the union and/or fringe benefit fund is in dispute, the Agency shall withhold from amounts then or thereafter becoming due and payable to the General Contractor an amount equal to that portion of such payment due to the General Contractor that relates solely to the work performed by the Delinquent Contractor which the union or fringe benefit fund claims to be due it, and shall remit the amount when and so withheld to the fringe benefit fund and deduct such payment from the amounts then otherwise due and payable to the General Contractor, which payment shall, as between the General Contractor and the Agency, be deemed a payment by the Agency to the General Contractor; provided however, that in any month, such withholding shall not exceed the amount contained in the General Contractor's monthly invoice for work performed by the Delinquent Contractor. The union or its employee benefit funds shall include in its notification of delinquent payment of fringe benefits only such amount it asserts the Delinquent Contractor failed to pay on the specific project against which the claim is made and the union or its employee benefit funds may not include in such notification any amount such Delinquent Contractor may have failed to pay on any other City or non-City project.

D. In the event the General Contractor or Delinquent Contractor shall notify the Agency as above provided that the claim of the union or fringe benefit fund is in dispute, the Agency shall withhold from amounts then or thereafter becoming due and payable to the General Contractor an amount equal to that portion of such payment due to the General Contractor that relates solely to the work performed by the Delinquent Contractor which the union and/or fringe benefit fund claims to be due it, and deposit such amount when and so withheld in a separate interest-bearing account pending resolution of the dispute pursuant to the union's Schedule A agreement, and the amount so deposited together with the interest thereon shall be paid to the party or parties ultimately determined to be entitled thereto, or held until the Delinquent Contractor and union or fringe benefit fund shall otherwise agree as to the disposition thereof; provided however, that such withholding shall not exceed the amount contained in the General Contractor's monthly invoice for work performed by the Delinquent Contractor. In the event the Agency shall be required to withhold amounts from a General Contractor for the benefit of more than one fringe benefit fund, the amounts so withheld in the manner and amount prescribed above shall be applied to or for such fund in the order in which the written notices of nonpayment have been received by the Agency, and if more than one such notice was received on the same day, proportionately based upon the amount of the union and/or fringe benefit fund claims received on such day. Nothing herein contained shall prevent the Agency from commencing an interpleader action to determine entitlement to a disputed payment in accordance with section one thousand six of the civil practice law and rules or any successor provision thereto.

E. Payment to a fringe benefit fund under this provision shall not relieve the General Contractor or Delinquent Contractor from responsibility for the work covered by the payment. Except as otherwise provided, nothing contained herein shall create any obligation on

the part of the Agency to pay any union or fringe benefit fund, nor shall anything provided herein serve to create any relationship in contract or otherwise, implied or expressed, between the union/fund and/or fringe benefit and the Agency.

**ARTICLE 12- HOURS OF WORK, PREMIUM PAYMENTS,
SHIFTS AND HOLIDAYS**

SECTION 1. WORK WEEK AND WORK DAY

A. The standard work week shall consist of 40 hours of work at straight time rates, Monday through Friday, 8 hours per day, plus ½ hour unpaid lunch period.

B. In accordance with Program needs, there shall be flexible start times with advance notice from Contractor to the Union. The Day Shift shall commence between the hours of 6:00 a.m. and 9:00 a.m. and shall end between the hours of 2:30 p.m. and 5:30 p.m., for an 8 hour day, and up to 7:30 p.m. for a 10 hour day. The Evening Shift shall commence between the hours of 3:00 p.m. and 6:00 p.m., unless different times are necessitated by the Agency's phasing plans on specific projects. The Night Shift shall commence between the hours of 11:00 p.m. and 2:00 a.m., unless different times are necessitated by the Agency's phasing plans on specific projects. Subject to the foregoing, starting and quitting times shall occur at the Program Work site designated by the Contractor.

C. Scheduling - Monday through Friday is the standard work week; 8 hours of work plus ½ hour unpaid lunch. Notwithstanding any other provision of this Agreement, a contractor may schedule a four day work week, 10 hours per day at straight time rates, plus a ½ hour unpaid lunch, at the commencement of the job.

D. Notice - Contractors shall provide not less than 5 days prior notice to the Local Union involved as to the work week and work hour schedules to be worked or such lesser notice as may be mutually agreed upon.

SECTION 2. OVERTIME

Overtime shall be paid for any work over eight (8) hours in a day where 5/8s is scheduled or for work over ten (10) hours in a day where 4/10s is scheduled and over forty (40) hours in a week, at time and one half (1½) Monday through Saturday. All overtime work performed on Sunday and Holidays will be paid pursuant to the applicable Schedule A. There shall be no stacking or pyramiding of overtime pay under any circumstances. There will be no restriction upon the Contractor's scheduling of overtime or the nondiscriminatory designation of employees who shall be worked, including the use of employees, other than those who have worked the regular or scheduled work week, at straight time rates. The Contractor shall have the right to schedule work so as to minimize overtime or schedule overtime as to some, but not all, of the crafts and whether or not of a continuous nature.

SECTION 3. SHIFTS

A. Flexible Schedules - Scheduling of shift work, including Saturday and Sunday work, shall be within the discretion of the Contractor in order to meet Program Work schedules and existing Program Work conditions including the minimization of interference with the mission of the Agency. It is not necessary to work a day shift in order to schedule a second or third shift, or a second shift in order to schedule a third shift, or to schedule all of the crafts when only certain crafts or employees are needed. Shifts must have prior approval of the Agency or Construction Manager, and must be scheduled with not less than five work days notice to the Local Union or such lesser notice as may be mutually agreed upon.

B. Second and/or Third Shifts/Saturday and/or Sunday Work - - The second shift shall start between 3 p.m. and 6 p.m. and the third shift shall start between 11 p.m. and 2 a.m., subject to different times necessitated by the Agency phasing plans on specific projects. There shall be no reduction in shift hour work. With respect to second and third shift work there

NYC AGENCY RENOVATION & REHAB CITY OWNED BUILDINGS/STRUCTURES

shall be a 5% shift premium. No other premium or other payments for such work shall be required unless such work is in excess of 40 hours in the week. All employees within a classification performing Program Work will be paid at the same wage rate regardless of the shift or work scheduled work, subject only to the foregoing provisions.

C. Flexible Starting Times - Shift starting times will be adjusted by the Contractor as necessary to fulfill Program Work requirements subject to the notice requirements of paragraph A.

SECTION 4. HOLIDAYS

A. Schedule - There shall be 8 recognized holidays on the Project:

| | |
|------------------------|------------------|
| New Years Day | Labor Day |
| Martin Luther King Day | President's Day |
| Memorial Day | Thanksgiving Day |
| Independence Day | Christmas Day |

All said holidays shall be observed on the calendar date except those holidays which occur on Saturday shall be observed on the previous Friday and those that occur on Sunday shall be observed on the following Monday.

B. Payment - Regular holiday pay, if any, for work performed on such a recognized holiday shall be in accordance with the applicable Schedule A.

C. Exclusivity - No holidays other than those listed in Section 4(A) above shall be recognized or observed.

SECTION 5. SATURDAY MAKE-UP DAYS

When severe weather, power failure, fire or natural disaster or other similar circumstances beyond the control of the Contractor prevent work from being performed on a regularly scheduled weekday, the Contractor may schedule a Saturday make-up day and such

time shall be scheduled and paid as if performed on a weekday. Any other Saturday work shall be paid at time and one-half (1½) . The Contractor shall notify the Local Union on the missed day or as soon thereafter as practicable if such a make-up day is to be worked.

SECTION 6. REPORTING PAY

A. Employees who report to the work location pursuant to their regular schedule and who are not provided with work shall be paid two hours reporting pay at straight time rates. An employee whose work is terminated early by a Contractor due to severe weather, power failure, fire or natural disaster or for similar circumstances beyond the Contractor's control, shall receive pay only for such time as is actually worked. In other instances in which an employee's work is terminated early (unless provided otherwise elsewhere in this Agreement), the employee shall be paid for his full shift.

B. When an employee, who has completed their scheduled shift and left the Program Work site, is "called out" to perform special work of a casual, incidental or irregular nature, the employee shall receive overtime pay at the rate of time and one-half of the employee's straight time rate for hours actually worked.

C. When an employee leaves the job or work location of their own volition or is discharged for cause or is not working as a result of the Contractor's invocation of Section 7 below, they shall be paid only for the actual time worked.

D. Except as specifically set forth in this Article there shall be no premiums, bonuses, hazardous duty, high time or other special premium payments or reduction in shift hours of any kind.

E. There shall be no pay for time not actually worked except as specifically set forth in this Article and except where an applicable Schedule A requires a full weeks' pay for forepersons.

SECTION 7. PAYMENT OF WAGES

A. Termination- Employees who are laid off or discharged for cause shall be paid in full for that which is due them at the time of termination. The Contractor shall also provide the employee with a written statement setting forth the date of lay off or discharge.

SECTION 8. EMERGENCY WORK SUSPENSION

A Contractor may, if considered necessary for the protection of life and/or safety of employees or others, suspend all or a portion of Program Work. In such instances, employees will be paid for actual time worked, except that when a Contractor requests that employees remain at the job site available for work, employees will be paid for that time at their hourly rate of pay.

SECTION 9. INJURY/DISABILITY

An employee who, after commencing work, suffers a work-related injury or disability while performing work duties, shall receive no less than 8 hours wages for that day. Further, the employee shall be rehired at such time as able to return to duties provided there is still Program Work available for which the employee is qualified and able to perform.

SECTION 10. TIME KEEPING

A Contractor may utilize brassing or other systems to check employees in and out. Each employee must check in and out. The Contractor will provide adequate facilities for checking in and out in an expeditious manner.

SECTION 11. MEAL PERIOD

A Contractor shall schedule an unpaid period of not more than 1/2 hour duration at the work location between the 3rd and 5th hour of the scheduled shift. A Contractor may, for efficiency of operation, establish a schedule which coordinates the meal periods of two or more crafts or which provides for staggered lunch periods within a craft or trade. If an employee is

required to work through the meal period, the employee shall be compensated in a manner established in the applicable Schedule A.

SECTION 12. BREAK PERIODS

There will be no rest periods, organized coffee breaks or other non-working time established during working hours. Individual coffee containers will be permitted at the employee's work location. Where 4/10s are being worked there shall be a morning and an afternoon coffee break.

ARTICLE 13 - APPRENTICES

SECTION 1. RATIOS

Recognizing the need to maintain continuing supportive programs designed to develop adequate numbers of competent workers in the construction industry and to provide craft entry opportunities for minorities, women and economically disadvantaged non-minority males, Contractors will employ apprentices in their respective crafts to perform such work as is within their capabilities and which is customarily performed by the craft in which they are indentured. Contractors may utilize apprentices and such other appropriate classifications in the maximum ratio permitted by the New York State Department of Labor or the maximum allowed per trade. Apprentices and such other classifications as are appropriate shall be employed in a manner consistent with the provisions of the appropriate Schedule A. The parties encourage, as an appropriate source of apprentice recruitment consistent with the rules and operations of the affiliated unions' apprentice-programs, the use of the Edward J. Malloy Initiative for Construction Skills, Non-Traditional Employment for Women and Helmets to Hardhats.

ARTICLE 14-SAFETY PROTECTION OF PERSON AND PROPERTY

SECTION 1. SAFETY REQUIREMENTS

NYC AGENCY RENOVATION & REHAB CITY OWNED BUILDINGS/STRUCTURES

Each Contractor will ensure that applicable OSHA and safety requirements are at all times maintained on the Program Work site and the employees and Unions agree to cooperate fully with these efforts to the extent consistent with their rights and obligations under the law. Employees will cooperate with employer safety policies and will perform their work at all times in a safe manner and protect themselves and the property of the Contractor and Agency from injury or harm, to the extent consistent with their rights and obligations under the law. Failure to do so will be grounds for discipline, including discharge.

SECTION 2. CONTRACTOR RULES

Employees covered by this Agreement shall at all times be bound by the reasonable safety, security, and visitor rules as established by the Contractors and the Construction Manager for this Program Work. Such rules will be published and posted in conspicuous places throughout the Program Work sites. Any site security and access policies established by the Construction Manager or General Contractor intended for specific application to the construction workforce for Program Work and that are not established pursuant to an Agency directive shall be implemented only after notice to the BCTC and its affiliates and an opportunity for negotiation and resolution by the Labor Management Committee.

SECTION 3. INSPECTIONS

The Contractors and Construction Manager retain the right to inspect incoming shipments of equipment, apparatus, machinery and construction materials of every kind.

ARTICLE 15 - TEMPORARY SERVICES

Temporary services, i.e. all temporary heat, water, power and light, shall only be required upon the specific request of the Agency or Construction Manager, and when so requested shall be assigned to the appropriate trade claiming jurisdiction. Temporary system coverage shall be provided by the appropriate Contractors' existing employees during working hours in which a

shift is scheduled for employees of this Contractor. The Agency or Construction Manager may determine the need for temporary system coverage requirements during non-working hours.

There shall be no stacking of trades on temporary services. In the event a temporary system is claimed by multiple trades, the matter shall be resolved through the New York Plan for Jurisdictional Disputes.

ARTICLE 16 - NO DISCRIMINATION

SECTION 1. COOPERATIVE EFFORTS

The Contractors and Unions agree that they will not discriminate against any employee or applicant for employment because of creed, race, color, religion, sex, sexual orientation, national origin, marital status, citizenship status, disability, age or any other status provided by law, in any manner prohibited by law or regulation.

SECTION 2. LANGUAGE OF AGREEMENT

The use of the masculine or feminine gender in this Agreement shall be construed as including both genders.

ARTICLE 17- GENERAL TERMS

SECTION 1. PROJECT RULES

A. The Construction Manager and the Contractors shall establish such reasonable Program Work rules that are not inconsistent with this Agreement or rules common in the industry and are reasonably related to the nature of work. These rules will be explained at the pre-job conference and posted at the Program Work sites and may be amended thereafter as necessary. Notice of amendments will be provided to the appropriate Local Union. Failure of an employee to observe these rules and regulations shall be grounds for discipline, including discharge. The fact that no order was posted prohibiting a certain type of misconduct shall not be a defense to an employee disciplined or discharged for such misconduct when the action taken is

for cause.

B. The parties adopt and incorporate the BCTC's Standards of Excellence as annexed hereto as Exhibit "B".

SECTION 2. TOOLS OF THE TRADE

The welding/cutting torch and chain fall are tools of the trade having jurisdiction over the work performed. Employees using these tools shall perform any of the work of the trade. There shall be no restrictions on the emergency use of any tools or equipment by any qualified employee or on the use of any tools or equipment for the performance of work within the employee's jurisdiction.

SECTION 3. SUPERVISION

Employees shall work under the supervision of the craft foreperson or general foreperson.

SECTION 4. TRAVEL ALLOWANCES

There shall be no payments for travel expenses, travel time, subsistence allowance or other such reimbursements or special pay except as expressly set forth in this Agreement.

SECTION 5. FULL WORK DAY

Employees shall be at their work area at the starting time established by the Contractor, provided they are provided access to the work area. The signatories reaffirm their policy of a fair day's work for a fair day's wage.

SECTION 6. COOPERATION AND WAIVER

The Construction Manager, Contractors and the Unions will cooperate in seeking any NYS Department of Labor, or any other government, approvals that may be needed for implementation of any terms of this Agreement. In addition, the Council, on their own behalf and

on behalf of its participating affiliated Local Unions and their individual members, intend the provisions of this Agreement to control to the greatest extent permitted by law, notwithstanding contrary provisions of any applicable prevailing wage, or other, law and intend this Agreement to constitute a waiver of any such prevailing wage, or other, law to the greatest extent permissible only for work within the scope of this Agreement, including specifically, but not limited to those provisions relating to shift, night, and similar differentials and premiums. This Agreement does not, however, constitute a waiver or modification of the prevailing wage schedules applicable to work not covered by this Agreement.

ARTICLE 18. SAVINGS AND SEPARABILITY

SECTION 1. THIS AGREEMENT

In the event that the application of any provision of this Agreement is enjoined, on either an interlocutory or permanent basis, or is otherwise determined to be in violation of law, or if such application may cause the loss of Program funding or any New York State Labor Law exemption for all or any part of the Program Work, the provision or provisions involved (and/or its application to particular Program Work, as necessary) shall be rendered, temporarily or permanently, null and void, but where practicable the remainder of the Agreement shall remain in full force and effect to the extent allowed by law (and to the extent no funding or exemption is lost), unless the part or parts so found to be in violation of law or to cause such loss are wholly inseparable from the remaining portions of the Agreement and/or are material to the purposes of the Agreement. In the event a court of competent jurisdiction finds any portion of the Agreement to trigger the foregoing, the parties will immediately enter into negotiations concerning the substance affected by such decision for the purpose of achieving conformity with the court determination and the intent of the parties hereto for contracts to be let in the future.

SECTION 2. THE BID SPECIFICATIONS

In the event that the Agency's (or Construction Manager's) bid specifications, or other action, requiring that a successful bidder (and subcontractor) become signatory to this Agreement is enjoined, on either an interlocutory or permanent basis, or is otherwise determined to be in violation of law, or may cause the loss of Program funding or any New York State Labor Law exemption for all or any part of the Program Work, such requirement (and/or its application to particular Program Work, as necessary) shall be rendered, temporarily or permanently, null and void, but where practicable the Agreement shall remain in full force and effect to the extent allowed by law and to the extent no funding or exemption is lost). In such event, the Agreement shall remain in effect for contracts already bid and awarded or in construction only where the Agency and Contractor voluntarily accepts the Agreement. The parties will enter into negotiations as to modifications to the Agreement to reflect the court or other action taken and the intent of the parties for contracts to be let in the future.

SECTION 3. NON-LIABILITY

In the event of an occurrence referenced in Section 1 or Section 2 of this Article, neither the Agency, the Construction Manager, any Contractor, nor any Union shall be liable, directly or indirectly, for any action taken, or not taken, to comply with any court order or injunction, other determination, or in order to maintain funding or a New York State Labor Law exemption for Program Work. Bid specifications will be issued in conformance with court orders then in effect and no retroactive payments or other action will be required if the original court determination is ultimately reversed.

SECTION 4. NON-WAIVER

Nothing in this Article shall be construed as waiving the prohibitions of Article 7 as to signatory Contractors and signatory Unions.

ARTICLE 19 - FUTURE CHANGES IN SCHEDULE A AREA CONTRACTS

SECTION 1. CHANGES TO AREA CONTRACTS

A. Schedule A to this Agreement shall continue in full force and effect until the Contractor and/or Union parties to the Area Collective Bargaining Agreements which are the basis for Schedule A notify the Agency and Construction Manager in writing of the hourly rate changes agreed to in that Area Collective Bargaining which are applicable to work covered by this Agreement and their effective dates.

B. It is agreed that any provisions negotiated into Schedule A collective bargaining agreements will not apply to work under this Agreement if such provisions are less favorable to those uniformly required of contractors for construction work normally covered by those agreements; nor shall any provision be recognized or applied on Program Work if it may be construed to apply exclusively, or predominantly, to work covered by this Agreement.

C. Any disagreement between signatories to this Agreement over the incorporation into Schedule A of provisions agreed upon in the renegotiation of Area Collective Bargaining Agreements shall be resolved in accordance with the procedure set forth in Article 9 of this Agreement.

SECTION 2. LABOR DISPUTES DURING AREA CONTRACT NEGOTIATIONS

The Unions agree that there will be no strikes, work stoppages, sympathy actions, picketing, slowdowns or other disruptive activity or other violations of Article 7 affecting the Program Work by any Local Union involved in the renegotiation of Area Local Collective Bargaining Agreements nor shall there be any lock-out on such Program Work affecting a Local Union during the course of such renegotiations.

ARTICLE 20 - WORKERS' COMPENSATION ADR

SECTION 1.

NYC AGENCY RENOVATION & REHAB CITY OWNED BUILDINGS/STRUCTURES

An ADR program may be negotiated and participation in the ADR Program will be optional by trade.

ARTICLE 21 - HELMETS TO HARDHATS

Section 1.

The Contractors and the Unions recognize a desire to facilitate the entry into the building and construction trades of veterans who are interested in careers in the building and construction industry. The Contractors and Unions agree to utilize the services of the Center for Military Recruitment, Assessment and Veterans Employment (hereinafter "Center") and the Center's "Helmets to Hardhats" program to serve as a resource for preliminary orientation, assessment of construction aptitude, referral to apprenticeship programs or hiring halls, counseling and mentoring, support network, employment opportunities and other needs as identified by the parties.

Section 2.

The Unions and Contractors agree to coordinate with the Center to create and maintain an integrated database of veterans interested in working on this Project and of apprenticeship and employment opportunities for this Project. To the extent permitted by law, the Unions will give credit to such veterans for bona fide, provable past experience.

NYC AGENCY RENOVATION & REHAB CITY OWNED BUILDINGS/STRUCTURES

IN WITNESS WHEREOF the parties have caused this Agreement to be executed and effective
as of the ___ day of _____, _____

FOR BUILDING AND CONSTRUCTION TRADES COUNCIL
OF GREATER NEW YORK AND VICINITY

BY: Gary LaBarbera
Gary LaBarbera
President

FOR NEW YORK CITY

BY: _____
Michael R. Bloomberg
Mayor

APPROVED AS TO FORM:

ACTING CORPORATION COUNSEL
NEW YORK CITY

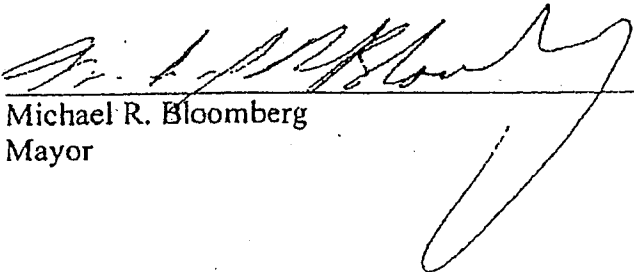
NYC AGENCY RENOVATION & REHAB CITY OWNED BUILDINGS/STRUCTURES

IN WITNESS WHEREOF the parties have caused this Agreement to be executed and effective
as of the ___ day of _____, _____

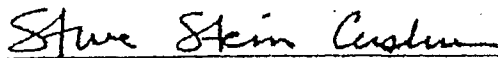
FOR BUILDING AND CONSTRUCTION TRADES COUNCIL
OF GREATER NEW YORK AND VICINITY

BY: _____
Gary LaBarbera
President

FOR NEW YORK CITY

BY: 
Michael R. Bloomberg
Mayor

APPROVED AS TO FORM:


ACTING CORPORATION COUNSEL
NEW YORK CITY

DEC 1 8 2009

THIS PAGE INTENTIONALLY LEFT BLANK

List of Signatory Unions

Blasterers and Drillers Local #29

Bricklayers Local No. 1

Boiler Makers Local No. 5

Carpenters District Council

Cement Masons No. 780

Derrickmen and Riggers Union No. 197

Concrete Workers District Council No. 16, including Cement and Concrete Workers Nos. 6-A, 18-A, and 20

Electrical Local No. 3

Drywall Tapers 1974

Elevator Constructors No. 1

Heat & Frost Insulators Local Union No. 12A

Heat & Frost Insulators Local Union No. 12

Iron Workers No. 40

Iron Workers District Council

Laborers Local No. 78 Asbestos & Lead Abatement

Iron Workers No. 361

Laborers Construction and General Building No. 79

Laborers Local 731

Lathers Metallic Local No. 46

Local Union 8A Glaziers No. 1281

Mason Tenders District Council

Metal Polishers DC 9
Painters District Council No. 9
Painters Structural Steel No. 806
Ornamental Iron Workers No. 580
Plasters Local Union No. 262
Pavers & Road Builders District Council No. 1
Plumbers No. 1
Sheet Metal Workers Local No. 28
Roofers & Waterproofers No. 8
Sheet Metal Workers Local No. 137
Steamfitters Local Union No. 638; including Metal Trades Division
Teamsters Local Union 813
Teamsters Local Union 814
Tile, Marble & Terrazzo B.A.C. Local Union No. 7

PLA Schedule A

The following Collective Bargaining Agreements, as this Schedule may be amended from time to time in accordance with the Agreement, constitute Schedule A:

- (1) Agreement between the Boilermakers Association of Greater New York, Inc. and the International Brotherhood of Boilermakers, Iron Ship Builders, Blacksmiths, Forgers and Helpers AFL-CIO, Lodge No. 5, September 1, 2006 - December 31, 2009.
- (2) Agreement between Association of Cement and Concrete Contractors of New York, Inc. and Cement and Concrete Workers comprised of Local No. 6A, Local No. 18A, Local No. 20 and the Employer, July 1, 2008 - June 30, 2011.
- (3) Agreement between the Cement League and the District Council of Cement and Concrete Workers; Comprised of Local No. 6A, Local No. 18A, Local No. 20; July 1, 2008 - June 30, 2011.
- (4) Agreement between the Cement League and the United Cement Masons' Union Local No. 780, Clarified & Extended from October 23, 1940 to June 30, 2011.
- (5) Building Construction agreement between the Building Contractors Association, Inc. and the District Council of New York City and Vicinity of the United Brotherhood of Carpenters and Joiners of America, AFL-CIO, July 1, 2006 - June 30, 2011.
- (6) General Contractors Association - Carpenters 2006; Agreement Between Members of the General Contractors Association of New York, Inc. and the District Council of Carpenters of New York City and Vicinity, July 1, 2006 - June 30, 2011.
- (7) Trade Agreement between Drywall Tapers and Pointers of Greater New York Local Union 1974, affiliated with International Union of Painters and Allied Trades, AFL-CIO and Drywall Taping Contractors' Association of Greater New York and the Association of Wall-Ceiling & Carpentry Industry of New York, Inc., September 6, 2006 - June 28, 2011; Independent Agreement between Local Union 1974 and Employer.
- (8) Agreement between Allied Building Metal Industries, Inc. and Local Union Nos. 40 and 361 of the International Association of Bridge, Structural and Ornamental and Reinforcing Iron Workers AFL-CIO, July 1, 2008 - June 30, 2014.
- (9) Agreement between Independent Contractors and Local #46 Metallic Lathers Union and Reinforcing Ironworkers of New York and Vicinity of the International Association of Bridge, Structural, Ornamental and Reinforcing Iron Workers, July 1, 2008 - June 30, 2014.
- (10) Agreement of Working Conditions between the Independent Insulation Contractors Association of New York City Inc. and the International Association of Heat and Frost Insulators and Asbestos Workers Local No. 12 of New York City, 2008-2014.

- (11) Mason Tenders District Council of Greater New York Master Independent Collective Bargaining Agreement, 2008-2011.
- (12) Trade Agreement between District Council No. 9, International Union of Painters and Allied Trades, AFL-CIO and the Association of Master Painters and Decorators of New York, Inc. and the Association of Wall, Ceiling & Carpentry Industries of New York, Inc. and the Window and Plate Glass Dealers Association, May 1, 2005 - April 30, 2011.
- (13) Trade Agreement between Enterprise Association Local Union 638 and Mechanical Contractors Association of New York, Inc., July 1, 2008 - June 30, 2011.
- (14) Agreement between Allied Building Metal Industries Inc. and Architectural and Ornamental Iron Workers Local Union No. 580 AFL-CIO; July 1, 2008 - June 30, 2011.
- (15) Official Working Agreement between Service Contractors Division of the Mechanical Contractors Association of New York and Enterprise Association Metal Trades Branch Local Union 638, July 1, 2007 - June 30, 2010.
- (16) Agreement between Association of Contracting Plumbers of the City of New York, Inc. and Local Union No 1 of the United Association of Journeymen and Apprentices of the Plumbing and Pipe Fitting Industry of the United States and Canada, July 1, 2007 - June 30, 2010.
- (17) Agreement and Working Rules between New York Electrical Contractors Association, Inc. and the Association of Electrical Contractors, Inc. and Local Union No. 3 International Brotherhood of Electrical Workers, AFL-CIO, May 10, 2007 - May 13, 2010.
- (18) Official Working Agreement between Service Contractors Division of the Mechanical Contractors Association of New York, Inc. and Enterprise Association Metal Trades Branch Local Union 638, Refrigeration, Air Conditioning, Air Cooling, Oil Burner and Stoker Service and Maintenance Technicians, July 1, 2007 - June 30, 2010.
- (19) Structural Steel and Bridge Painters of Greater New York, Local Union No. 806, District Council No. 9, International Union of Painters and Allied Trades, AFL-CIO, CLC and New York Structural Steel Painting Contractors Association, Inc.; Collective Bargaining Agreement, October 1, 2005 - September 30, 2011.
- (20) Trade Agreement between United Derrickmen & Riggers Association, Local No. 197 of New York, All long Island, Westchester and Vicinity and Building Stone and Pre-Case Contractors Association, 2008.
- (21) Agreement between the Greater New York and New Jersey Tile Contractors Association, Inc., and the Tile Setters and Tile Finishers Union of New York and New Jersey, Local Union No. 7 of the International Union of Bricklayers and Allied Craftworkers, June 8, 2009 - June 2, 2013.

(22) Agreement between The Building Contractors Association, Inc. and International Union of Operating Engineers Local 15 and 15 A, July 1, 2006-June 30, 2011.

(23) Agreement dated as of July 1, 2006 between Building Contractors Association and International Union of Operating Engineers Local 14-14B, July 1, 2006-June 30, 2011.

(24) Agreement Between The Building Contractors Association, Inc. and International Union of Operating Engineers Local 15D affiliated with the AFL-CIO, July 1, 2006-June 30, 2011.

(25) Local 282 International Brotherhood of Teamsters High Rise Contract, Building Contractors Association and Independents, 2008-2013.

(26) Building, Concrete, Excavation & Common Laborers Union Local No. 731 Independent Agreement, July 1, 2006-June 30, 2012.

(27) March 17, 2009 Agreement between ThyssenKrupp Elevator Corp. and International Union of Elevator Constructors, Local 1 of NY and NJ, 2009-2014.

(28) Working Agreement Local Union No. 8 United Union of Roofers, Waterproofers and Allied Workers and Roofing and Waterproofing Contractor's Association of New York and Vicinity, July 1, 2009-June 30, 2011.

(29) Standard Form Collective Bargaining Agreement between Sheet Metal Workers' International Association Local Union #137 and the Greater New York Sign Association, July 16, 2007 - July 15, 2010.

(30) Trade Agreement between _____ and Local No. 1 New York of the International Union of Bricklayers and Allied Craftworkers, July 1, 2008 - July 30, 2011.

THIS PAGE INTENTIONALLY LEFT BLANK

Project Labor Agreement -- Letter of Assent

Dear:

The undersigned party confirms that it agrees to be a party to and be bound by the New York Agency, Project Labor Agreement as such Agreement may, from time to time, be amended by the parties or interpreted pursuant to its terms. The terms of the Project Labor Agreement, its Schedules, Addenda and Exhibits are hereby incorporated by reference herein.

The undersigned, as a Contractor or Subcontractor (hereinafter Contractor) on the Project known as _____ and located at _____ (hereinafter PROJECT), for and in consideration of the award to it of a contract to perform work on said PROJECT, and in further consideration of the mutual promises made in the Project Labor Agreement, a copy of which was received and is acknowledged, hereby:

- (1) Accepts and agrees to be bound by the terms and conditions of the Agreement, together with any and all schedules; amendments and supplements now existing or which are later made thereto;
- (2) Agrees to be bound by the legally established collective bargaining agreements and local trust agreements as set forth in the Project Labor Agreement and this Agreement but only to the extent of Program Work and as required by the PLA.
- (3) Authorizes the parties to such local trust agreements to appoint trustees and successor trustees to administer the trust funds and hereby ratifies and accepts the trustees so appointed as if made by the Contractor but only to the extent of Program Work as required by the PLA.
- (4) Certifies that it has no commitments or agreements that would preclude its full and complete compliance with the terms and conditions of said Agreement. The Contractor agrees to employ labor that can work in harmony with all other labor on the Project and shall require labor harmony from every lower tier subcontractor it has engaged or may engage to work on the Project. Labor harmony disputes/issues shall be subject to the Labor Management Committee provisions.
- (5) Agrees to secure from any Contractor(s) (as defined in said Agreement) which is or becomes a Subcontractor (of any tier), to it, a duly executed Agreement to be Bound in from identical to this document.

Dated: _____

(Name of Contractor or subcontractor)

(Name of CM; GC; Contractor or Higher Level Subcontractor)

(Authorized Officer & Title)

(Address)

(Phone) (Fax)

Contractor's State License #

Sworn to before me this _____ day of _____, 2009

Notary Public

STANDARDS OF EXCELLENCE

The purpose of this Standard of Excellence is to reinforce the pride of every construction worker and the commitment to be the most skilled, most productive and safest workforce available to construction employers and users in the City of New York. It is the commitment of every affiliated local union to use our training and skills to produce the highest quality work and to exercise safe and productive work practices.

The rank and file members represented by the affiliated local unions acknowledge and adopt the following standards:

- *Provide a full days work for a full days pay;*
- *Safely work towards the timely completion of the job;*
- *Arrive to work on time and work until the contractual quitting time;*
- *Adhere to contractual lunch and break times;*
- *Promote a drug and alcohol free work site;*
- *Work in accordance with all applicable safety rules and procedures;*
- *Allow union representatives to handle job site disputes and grievances without resort to slowdowns, or unlawful job disruptions;*
- *Respect management directives that are safe, reasonable and legitimate;*
- *Respect the rights of co-workers;*
- *Respect the property rights of the owner, management and contractors.*

The Unions affiliated with the New York City Building and Construction Trades Council will expect the signatory contractors to safely and efficiently manage their jobs and the unions see this as a corresponding obligation of the contractors under this Standard of Excellence. The affiliated unions will expect the following from its signatory contractors:

- *Management adherence to the collective bargaining agreements;*
- *Communication and cooperation with the trade foremen and stewards;*
- *Efficient, safe and sanitary management of the job site;*
- *Efficient job scheduling to mitigate and minimize unproductive time;*
- *Efficient and adequate staffing by properly trained employees by trade;*
- *Efficient delivery schedules and availability of equipment and tools to ensure efficient job progress;*
- *Ensure proper blueprints, specifications and layout instructions and material are available in a timely manner*
- *Promote job site dispute resolution and leadership skills to mitigate such disputes;*
- *Treatment of all employees in a respectful and dignified manner acknowledging their contributions to a successful project.*

The affiliated unions and their signatory contractors shall ensure that both the rank and file members and the management staff shall be properly trained in the obligations undertaken in the Standard of Excellence.

NOTICE TO BIDDERS

DAMAGES FOR DELAY PILOT PROGRAM

Please be advised that this contract is part of a pilot program in which the Standard Construction Contract provisions concerning delay damages have been revised to allow contractors to be reimbursed for specified additional costs that are attributable to a delay in the performance of the work resulting from certain acts or omissions of the City agency or its representatives. Certain changes are highlighted here to alert bidders to the pilot program. Please see Articles 11, 12.3, and 13.10 of the Standard Construction Contract for a full understanding and the actual text of the pilot program. The text of the revised Standard Construction Contract is the controlling document should there be any discrepancies between this notice and the Standard Construction Contract.

Changes to Articles 11, 12.3, and 13.10 of the Standard Construction Contract permit contractors to make claims for delay damages relating to the following circumstances:

The failure of the City to take reasonable measures to coordinate and progress the Work;

Extended delays attributable to the City in the review or issuance of change orders, in shop drawing reviews and approvals or as a result of the cumulative impact of multiple change orders, which constitute a material change to the Work and which have a verifiable impact on project costs.

The unavailability of the site for an extended period of time that significantly affects the scheduled completion of the contract.

The issuance by the City of a stop work order relative to a substantial portion of work for a period exceeding thirty days, that was not brought about through any action or omission of the Contractor.

Differing site conditions that were not known or reasonably ascertainable on a pre-bid inspection of the site or review of the bid documents or other publicly available sources and that are not ordinarily encountered in the Project's geographical area or neighborhood or in the type of work to be performed.

Delays caused by the City's bad faith or its willful, malicious, or grossly negligent conduct;

Delays not contemplated by the parties;

Delays so unreasonable that they constitute an intentional abandonment of the Contract by the City; and

Delays resulting from the City's breach of a fundamental obligation of the Contract.

Please see Article 11.4 for provisions regarding compensable delays.

Specific exclusions to claims for damages also apply, such as for third party (non-City) acts and omissions, court orders, strikes or *force majeure* events. For provisions related to non-compensable delays, please see Article 11.5.

For those delays where damages are available, Article 11 also sets forth what costs are recoverable. Please see Article 11.7 for which costs are recoverable and which costs are non-recoverable.

Article 11 also contains provisions concerning notice and documentation of claims. Please see Articles 11.1, 11.2, and 11.6. Contractors must comply with the notice requirements in order to preserve their claims. Consequently, please read these sections carefully. Delay damages are compensable only if they were actually, reasonably and necessarily incurred and are verified by appropriate documentation submitted at the appropriate times.

Claims for delay damages are not covered by the dispute resolution process in Article 27 of the Standard Construction Contract. See Article 11.8. When the amount of delay damages are agreed upon, such damages may be paid through a change order.

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.

WHISTLEBLOWER PROTECTION EXPANSION ACT RIDER

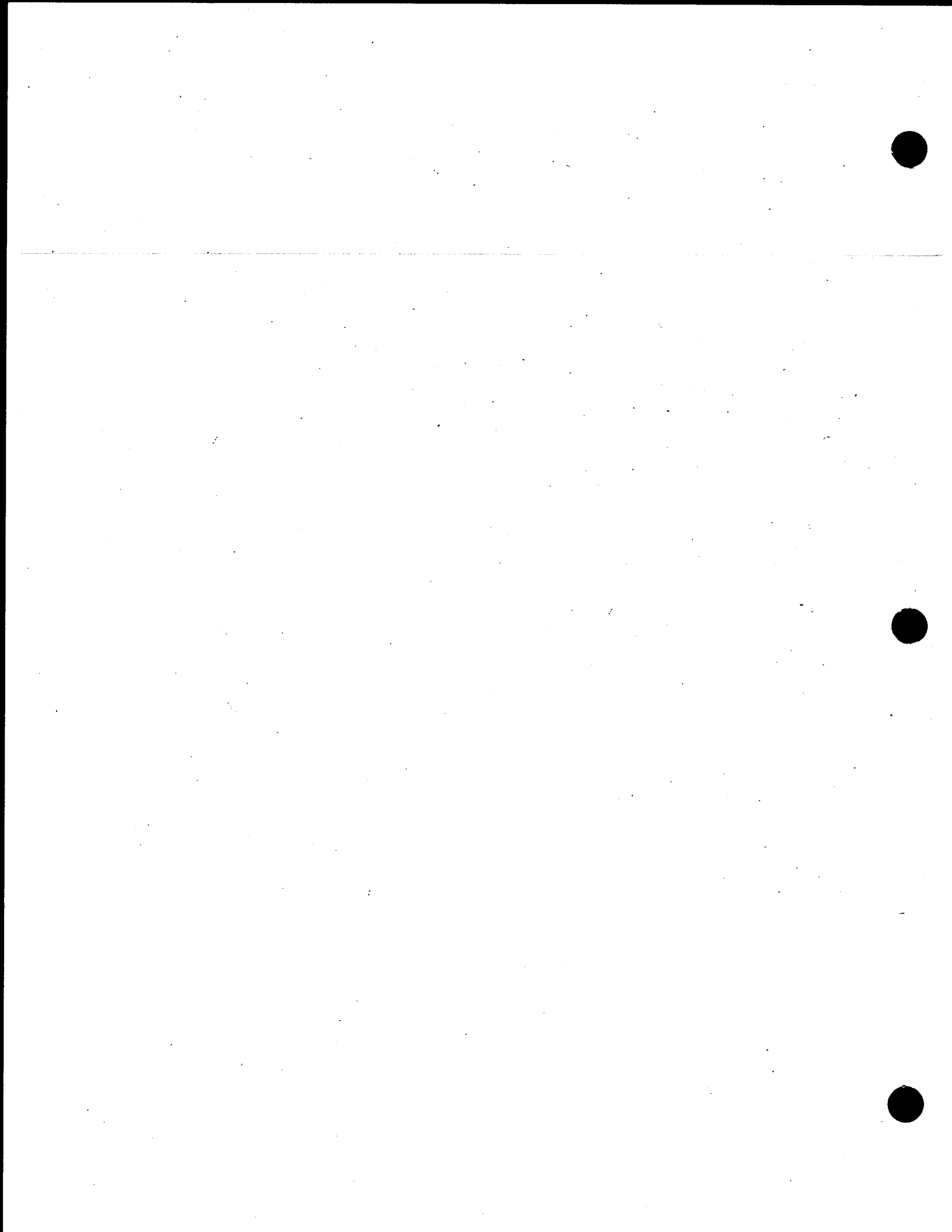
1. In accordance with Local Law Nos. 30-2012 and 33-2012, codified at sections 6-132 and 12-113 of the New York City Administrative Code, respectively,
 - (a) Contractor shall not take an adverse personnel action with respect to an officer or employee in retaliation for such officer or employee making a report of information concerning conduct which such officer or employee knows or reasonably believes to involve corruption, criminal activity, conflict of interest, gross mismanagement or abuse of authority by any officer or employee relating to this Contract to (i) the Commissioner of the Department of Investigation, (ii) a member of the New York City Council, the Public Advocate, or the Comptroller, or (iii) the City Chief Procurement Officer, ACCO, Agency head, or Commissioner.
 - (b) If any of Contractor's officers or employees believes that he or she has been the subject of an adverse personnel action in violation of subparagraph (a) of paragraph 1 of this rider, he or she shall be entitled to bring a cause of action against Contractor to recover all relief necessary to make him or her whole. Such relief may include but is not limited to: (i) an injunction to restrain continued retaliation, (ii) reinstatement to the position such employee would have had but for the retaliation or to an equivalent position, (iii) reinstatement of full fringe benefits and seniority rights, (iv) payment of two times back pay, plus interest, and (v) compensation for any special damages sustained as a result of the retaliation, including litigation costs and reasonable attorney's fees.
 - (c) Contractor shall post a notice provided by the City in a prominent and accessible place on any site where work pursuant to the Contract is performed that contains information about:
 - (i) how its employees can report to the New York City Department of Investigation allegations of fraud, false claims, criminality or corruption arising out of or in connection with the Contract; and
 - (ii) the rights and remedies afforded to its employees under New York City Administrative Code sections 7-805 (the New York City False Claims Act) and 12-113 (the Whistleblower Protection Expansion Act) for lawful acts taken in connection with the reporting of allegations of fraud, false claims, criminality or corruption in connection with the Contract.
 - (d) For the purposes of this rider, "adverse personnel action" includes dismissal, demotion, suspension, disciplinary action, negative performance evaluation, any action resulting in loss of staff, office space, equipment or other benefit, failure to appoint, failure to promote, or any transfer or assignment or failure to transfer or assign against the wishes of the affected officer or employee.
 - (e) This rider is applicable to all of Contractor's subcontractors having subcontracts with a value in excess of \$100,000; accordingly, Contractor shall include this rider in all subcontracts with a value in excess of \$100,000.
2. Paragraph 1 is not applicable to this Contract if it is valued at \$100,000 or less. Subparagraphs (a), (b), (d), and (e) of paragraph 1 are not applicable to this Contract if it was solicited pursuant to a finding of an emergency. Subparagraph (c) of paragraph 1 is neither applicable to this Contract if it was solicited prior to October 18, 2012 nor if it is a renewal of a contract executed prior to October 18, 2012.

NOTICE TO BIDDERS

Please be advised that the City of New York has revised the form of the performance bond that is required for City construction contracts that do not exceed \$5 million. The form of bond required for contracts that are greater than \$5 million has not changed. The City now has two approved forms. One form is to be used for contracts that do not exceed \$5 million and one form is to be used for contracts above \$5 million. The City's payment bond remains unchanged.

The new bond form for contracts that do not exceed \$5 million has been approved by the U.S. Small Business Administration ("SBA") for participation in their Bond Guarantee Program. The SBA's Bond Guarantee Program enables eligible small businesses to obtain or increase bonding by having the SBA act as a partial guarantor of the contractor to the surety. If you are interested in participating in this program, we suggest that you contact your broker or the SBA.

In order to maximize participation by small businesses in the SBA Guarantee Program, the City also encourages prime contractors who are awarded contracts greater than \$5 million to allow their subcontractors to use the SBA-approved form, particularly on contracts that are subject to Local Law 129 (the M/WBE program), if the prime contractor requires subcontractors to obtain performance bonds.



Notice to Bidders:

In 2013 the City will be implementing a new web based subcontractor reporting system. Once this subcontractor reporting system is implemented, and Contractor receives notice of its implementation, Contractor will be required to list in the system all of the subcontractors that it knows it will use or is already using in the performance of this contract. For each subcontractor listed, Contractor will be required to provide the following information: maximum contract value, description of subcontractor work, start and end date of the subcontract and identification of the subcontractor's industry. Identification of subcontractors in the system along with the required information will be required in order to obtain subcontractor approval under [section 3.02 of Appendix A][Article 17 of the Standard Construction Contract] and PPB Rule § 4-13 for all subcontractors that have not been approved as of the implementation date. Thereafter, Contractor will be required to report in the system the payments made to each subcontractor within 30 days of making the payment. If any of the required information changes throughout the term of the contract, Contractor will be required to revise the information in the system...

When the subcontractor reporting system is implemented, Contractor will receive a written notice from the City which will contain the information the Contractor will need to list its subcontractors and report payments. Contractor will not be required to comply with the requirements set forth herein until such notice is received. Contractor will have 30 days from the date of the notice to list its current subcontractors for which it has already received Agency approval, if any. Thereafter, for those subcontractors that have not yet been approved by the Agency, subcontractors will have to be listed in the system in order to obtain the required Agency approval.

Failure of the Contractor to list a subcontractor and/or to report subcontractor payments in a timely fashion may result in the Agency declaring the Contractor in default of the Contract and may subject Contractor to liquidated damages in the amount of \$100 per day for each day that the Contractor fails to identify a subcontractor along with the required information about the subcontractor and/or fails to report payments to a subcontractor, beyond the time frames set forth herein or in the notice from the City. For construction contracts, the provisions of Article 15 of the Standard Construction Contract shall govern the issue of liquidated damages.

Contractor hereby agrees to these provisions and acknowledges that they will become effective on the date set forth in the notice.

THIS PAGE INTENTIONALLY LEFT BLANK

CITY OF NEW YORK

**DEPARTMENT OF
DESIGN AND CONSTRUCTION
DIVISION OF SAFETY & SITE SUPPORT**

INFORMATION FOR BIDDERS

SEPTEMBER 2013

INFORMATION FOR BIDDERS

1. Description and Location of Work

The description and location of the work for which bids are requested are specified in Attachment 1, "Bid Information". Attachment 1 is included in the Bid Booklet.

2. Time and Place for Receipt of Bids

Sealed bids shall be received on or before the date and hour specified in Attachment 1, at which time they will be publicly opened and read aloud in the presence of the Commissioner or his/her representative, and any bidders who may desire to be present.

3. Definitions

The definitions set forth in the Procurement Policy Board Rules shall apply to this Invitation For Bids.

4. Invitation For Bids and Contract Documents

(A) Except for titles, sub-titles, headings, running headlines, tables of contents and indices (all of which are printed herein merely for convenience) the following, except for such portions thereof as may be specifically excluded, shall be deemed to be part of the Contract and the Invitation for Bids.

- (1) All provisions required by law to be inserted in this Contract, whether actually inserted or not
- (2) The Contract Drawings and Specifications
- (3) The General Conditions, the General Requirements and the Special Conditions, if any
- (4) The Contract
- (5) Work Orders issued pursuant to the Contract
- (5) The Information for Bidders; Request for Proposals; Notice of Solicitation and Proposal For Bids; Bid or Proposal, and, if used, the Bid Booklet
- (6) The Budget Director's Certificate; all Addenda issued prior to the receipt of the bids; the Notice of Award; Performance and Payment Bonds, if required; and the Notice to Proceed with the Work.

(B) For particulars as to this procurement, including quantity and quality of the purchase, extent of the work or labor to be performed, delivery and performance schedule, and any other special instructions, prospective bidders are referred to the Invitation For Bids Documents. A copy of such documents can be obtained at the location set forth in Attachment 1.

(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 Notice of Solicitation. The deposit must be in the form of a check or money order made payable to the City of New York, and drawn 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.

(D) Return of Invitation For Bids Documents: All Invitation For Bids Documents must be returned to the Department upon request. If the bidder elects not to submit a bid thereunder, 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: Such 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 location specified in Attachment 1, in physical condition satisfactory to the Commissioner.

(F) Additional Copies: Additional copies of the Invitation For Bids Documents may be obtained, subject to the conditions set forth in the advertisement for bids.

5. Pre-Bid Conference

A pre-bid conference shall be held as set forth in Attachment 1. Nothing stated at the pre-bid conference shall change the terms or conditions of the Invitation For Bids Documents, unless a change is made by written amendment as provided in Section 9 below. Failure to attend a mandatory pre-bid conference shall constitute grounds for the rejection of the bid.

6. Agency Contact

Any questions or correspondence relating to this bid solicitation shall be addressed to the Agency Contact person specified in Attachment 1.

7. Bidder's Oath

(A) The bid shall be properly signed by an authorized representative of the bidder and the bid shall be verified by the written oath of the authorized representative who signed the bid, that the several matters stated and information furnished therein are in all aspects true.

(B) A materially false statement willfully or fraudulently made in connection with the bid or any of the forms completed and submitted with the bid may result in the termination of any Contract between the City and the Bidder. As a result, the Bidder may be barred from participating in future City contracts as well as be subject to possible criminal prosecution.

8. Examination and Viewing of Site, Consideration of Other Sources of Information and Changed Conditions

(A) Pre-Bidding (Investigation) Viewing of Site - Bidders must carefully view and examine the site of the proposed work, as well as its adjacent area, and seek other usual sources of information, for they will be conclusively presumed to have full knowledge of any and all conditions on, about or above the site relating to or affecting in any way the performance of the work to be done under the Contract which were or should have been indicated to a reasonably prudent bidder. To arrange a date for visiting the work site, bidders are to contact the Agency Contact person specified in Attachment 1.

(B) Should the contractor encounter during the progress of the work subsurface conditions at the site materially differing from any shown on the Contract Drawings or indicated in the Specifications or such subsurface conditions as could not reasonably have been anticipated by the contractor and were not anticipated by the City, which conditions will materially affect the cost of the work to be done under the Contract, the attention of the Commissioner must be called immediately to such conditions before they are disturbed. The Commissioner shall thereupon promptly investigate the conditions. If he finds that they do so materially differ, or that they could not reasonably have been anticipated by the contractor and were not anticipated by the City, the Contract may be modified with his written approval.

9. Examination of Proposed Contract

(A) Request for Interpretation or Correction: Prospective bidders must examine the Contract Documents carefully and before bidding must request the Commissioner in writing for an interpretation or correction of every patent ambiguity, inconsistency or error therein which should have been discovered by a reasonably prudent bidder. Such interpretation or correction, as well as any additional contract provisions the Commissioner may decide to include, will be issued in writing by the Commissioner as an addendum to the Contract, which will be transmitted to each person recorded as having received a copy of the Contract Documents from the Department. Transmission of such addendum will be by mail, e-mail, facsimile or hand delivery. Such addendum will also be posted at the place where the Contract Documents are available for the inspection of prospective bidders. Upon transmission as provided for herein, such addendum shall become a part of the Contract Documents, and binding on all bidders, whether or not actual notice of such addendum is shown.

(B) Only Commissioner's Interpretation or Correction Binding: Only the written interpretation or correction so given by the Commissioner 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 Contract.

(C) Documents given to a subcontractor for the purpose of soliciting the subcontractor's bid shall include either a copy of the bid cover sheet 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 Bid

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

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. FAILURE TO CONFORM TO THE REQUIREMENTS OF THIS SECTION 10 SHALL RESULT IN THE REJECTION OF THE BID.

11. 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 15 and 18 below.

12. Acknowledgment of Amendments

The receipt of any amendment to the Contract Documents shall be acknowledged by the bidder in its bid submission.

13. Bid Samples and Descriptive Literature

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

14. Proprietary Information/Trade Secrets

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

(B) All such materials so indicated shall be reviewed by the Agency 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. 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.

15. Pre-Opening Modification or Withdrawal of Bids

Bids may be modified or withdrawn by written notice received in the office designated in Attachment 1, 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.

16. 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 responsible bidder whose bid meets the requirements and evaluation criteria set forth in the Invitation For Bids, and whose bid price is either the most favorable bid price or, if the Invitation For Bids so states, the most favorable evaluated bid price. A bid may not be evaluated for any requirement or criterion that is not disclosed in the Invitation For Bids.

Restriction: No negotiations with any bidder shall be allowed to take place except under the circumstances and in the manner set forth in Section 21. 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.

17. Late Bids, Late Withdrawals and Late Modifications

Any bid received at the place designated in the solicitation after the time and date set for receipt of bids is late and shall not be considered. Any request for withdrawal or modification received at the place designated in the solicitation after the time and date set for receipt of bids is late and shall not be considered. The exception to this provision is that a late modification of a successful bid that makes the bid terms more favorable to the City shall be considered at any time it is received.

18. Withdrawal of Bids.

Except as provided for in Section 15, above, a bidder may not withdraw its bid before the expiration of forty-five (45) days after the date of the opening of bids; thereafter, a bidder may withdraw its bid only in writing and in advance of an actual award. If within sixty (60) days after the execution of the Contract, the Commissioner fails to fix the date for commencement of work by written notice to the bidder, the bidder, at his option, may ask to be relieved of his obligation to perform the work called for by written notice to the Commissioner. If such notice is given to the Commissioner, and the request to withdraw is granted, the bidder waives all claims in connection with this Contract.

19. Mistake in Bids

(A) Mistake Discovered Before Bid Opening: A bidder may correct mistakes discovered before the time and date set for bid opening by withdrawing or correcting the bid as provided in Section 15 above.

(B) Mistakes Discovered Before Award

(1) In accordance with General Municipal Law (Section 103, subdivision 11), where a unilateral error or mistake is discovered in a 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 the agency prior to the awarding of the Contract or within 3 days after the opening of the bid, whichever period is shorter; and
- (b) The price bid was based upon 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 agency in the same position as existed prior to the bid.

(2) Unless otherwise required by law, the sole remedy for a bid mistake in accordance with this Article shall be withdrawal of the bid, and the return of the bid bond or other security, if any, to the bidder. Thereafter, the agency 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.

(3) 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 corrected are typographical errors, errors in extending unit prices, transposition errors and arithmetical errors.

20. 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:

- (1) Award to a certified New York City small, minority or woman-owned business entity bidder;
- (2) Award to a New York City bidder;
- (3) Award to a certified New York State small, minority or woman-owned business bidder;
- (4) 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.

21. Rejection of Bids

(A) Rejection of Individual Bids: The Agency may reject a bid if:

- (1) The bidder fails to furnish any of the information required pursuant to Section 24 or 28 hereof; or if
- (2) The bidder is determined to be not responsible pursuant to the Procurement Policy Board Rules; or if
- (3) The bid is determined to be non-responsive pursuant to the Procurement Policy Board Rules; or if
- (4) The bid, in the opinion of the Agency Chief Contracting Officer, contains unbalanced bid prices and is thus non-responsive, unless the bidder can show that the prices are not unbalanced for the probable required quantity of items, or if the imbalance is corrected pursuant to Section 15.

(B) Rejection of All Bids: The Agency, upon written approval by the Agency Chief Contracting Officer, may reject all bids and may elect to resolicit bids if in its sole opinion it shall deem it in the best interest of the City so to do.

(C) Rejection of All Bids and Negotiation With All Responsible Bidders: The Agency Head may determine that it is appropriate to cancel the Invitation For Bids after bid opening and before award and to complete the acquisition by negotiation. This determination shall be based on one of the following reasons:

- (1) All otherwise acceptable bids received are at unreasonable prices, or only one bid is received and the Agency Chief Contracting Officer cannot determine the reasonableness of the bid price, or no responsive bid has been received from a responsible bidder; or
- (2) In the judgment of the Agency Chief Contracting Officer, the bids were not independently arrived at in open competition, were collusive, or were submitted in bad faith.

(D) When the Agency has determined that the Invitation for Bids is to be canceled and that use of negotiation is appropriate to complete the acquisition, the contracting officer may negotiate and award the Contract without issuing a new solicitation, subject to the following conditions:

- (1) prior notice of the intention to negotiate and a reasonable opportunity to negotiate have been given by the contracting officer to each responsible bidder that submitted a bid in response to the Invitation for Bids;
- (2) the negotiated price is the lowest negotiated price offered by a responsible bidder; and
- (3) the negotiated price is lower than the lowest rejected bid price of a responsible bidder that submitted a bid in response to the Invitation for Bids.

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

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

23. 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.

24. VENDEX Questionnaires

(A) Requirement: Pursuant to Administrative Code Section 6-116.2 and the PPB Rules, bidders may be obligated to complete and submit VENDEX Questionnaires. 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 received from City contractors over the past twelve months, equals or exceeds \$100,000, Vendex Questionnaires must be completed. If required, Vendex Questionnaires must be completed and submitted before any award of contract may be made or before approval is given for a proposed subcontractor. Non-compliance with these submission requirements may result in the disqualification of the bid, disapproval of a subcontractor, subsequent withdrawal of approval for the use of an approved subcontractor, or the cancellation of the contract after its award.

(B) Submission: Vendex Questionnaires must be submitted directly to the Mayor's Office of Contract Services, ATTN: Vendex, 253 Broadway, 9th Floor, New York, New York 10007. In addition, the bidder must submit a Confirmation of Vendex Compliance to the agency. A form for this confirmation is set forth in the Bid Booklet.

(C) Obtaining Forms: Vendex Questionnaires, as well as detailed instructions, may be obtained at www.nyc.gov/vendex. The bidder may also obtain Vendex forms and instructions by contacting the Agency Chief Contracting Officer or the contact person for this contract.

25. Complaints About the Bid Process

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

26. Bid, Performance and Payment Security

(A) Bid Security: Each bid must be accompanied by bid security in an amount and type specified in Attachment 1 (included in the Bid Booklet). The bid security shall assure the City of New York of the adherence of the bidder to its proposal, the execution of the Contract, and the furnishing of Performance and Payment Bonds by the bidder, if required in Attachment 1. Bid security shall be returned to the bidder as follows:

- (1) Within ten (10) days after the bid opening, the Comptroller will be notified to return the deposits of all but the three (3) lowest bidders. Within five (5) days after the award, the Comptroller will be notified to return the deposits of the remaining two unsuccessful bidders.
- (2) Within five (5) days after the execution of the Contract and acceptance of the Contractor's bonds, the Comptroller will be notified to return the bid security of the successful bidder or, if performance and payment bonds are not required, only after the sum retained under Article 21 of the Contract equals the amount of the bid security.
- (3) Where all bids are rejected, the Comptroller will be notified to return the deposit of the three (3) lowest bidders at the time of rejection.

(B) Performance and Payment Security: Performance and Payment Security must be provided in an amount and type specified in Attachment 1 (included in the Bid Booklet). The performance and payment security shall be delivered by the contractor prior to or at the time of execution of the Contract. If a contractor fails to deliver the required performance and payment security, its bid security shall be enforced, and an award of Contract may be made to the next lowest responsible and responsive bidder, or the contract may be rebid.

(C) Acceptable Types of Security: Acceptable types of security for bids, performance, and payment shall be limited to the following:

- (1) a one-time bond in a form satisfactory to the City;
- (2) a bank certified check or money order;
- (3) obligations of the City of New York; or
- (4) other financial instruments as determined by the Office of Construction in consultation with the Comptroller.

Whenever 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 the money is deposited with the Comptroller, the successful bidder shall not be entitled to receive interest on such money from the City.

(D) Form of Bonds: Security provided in the form of bonds must be prepared on the form of bonds authorized by the City of New York. Forms for bid, performance, and payment bonds are included in the Invitation for Bids Documents. Such bonds must have as surety thereunder such surety company or companies as are: (1) approved by the City of New York; (2) authorized to do business in the State of New York, and (3) approved by the Department of the Treasury of the United States. Premiums for any required bonds must be included in the base bid.

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.

The Department of the Treasury of the United States advises that information concerning approved surety companies may be obtained as follows: (1) from the Government Printing Office at 202-512-1800; (2) through the Internet at <http://www.fms.treas.gov/c570/index.html>, and (3) through a computerized public bulletin board, which can be accessed by using your computer modem and dialing 202-874-6887.

(E) Power of Attorney: Attorneys in fact who sign bid, performance, or payment bonds must file with each bond a certified copy of their power of attorney to sign said bonds.

27. Failure to Execute Contract

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

28. Bidder Responsibilities and Qualifications

(A) Bidders must include with their bids all information necessary for a determination of bidder responsibility, as set forth in the Specifications.

(B) The Agency may require any bidder or prospective bidder to furnish all books of account, records, vouchers, statements or other information concerning the bidder's financial status for examination as may be required by the Agency to ascertain 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 his working organizations, prior experience and performance record.

(C) Oral Examination on Qualifications: In addition thereto, and when directed by the Agency, the bidder, or a responsible officer, agent or employee of the bidder, must submit to an oral examination to be conducted by the Agency in relation to his 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.

(D) If the bidder fails or refuses to supply any of the documents or information set forth in paragraph (B) hereof or fails to comply with any of the requirements thereof, the Agency may reject the bid.

29. Employment Report

In accordance with Executive Order No. 50 (1980) as modified by Executive Order 108 (1986), the filing of a completed Employment Report (ER) is a requirement of doing business with the City of New York for construction contractors with contracts of \$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.

30. Labor Law Requirements

(A) General: The successful bidder will be required to comply strictly with all Federal, State and local labor laws and regulations.

(B) New York State Labor Law: 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. The 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.

(C) Records: The Contractor is expected to submit accurate payroll reports and other required documents and verify attendance and job classifications being utilized in compliance with the law, Contract provisions and agency procedures.

31. Insurance

(A) Bidders are advised that the insurance requirements contained herein are regarded as material terms of the Contract. As required by Article 22 of the Contract, the contractor must effect and maintain with companies licensed and authorized to do business in the State of New York, the types of insurance set forth therein, when required by and in the amounts set forth in Schedule A of the General Conditions. Such required insurance must be provided from the date the contractor is ordered to commence work and up to the date of final acceptance of all required work.

(B) The contractor must, within ten days of receipt of the notice of award, submit the following insurance documentation: (a) original certificate of insurance for general liability in the amount required by Schedule A of the General Conditions, and (b) original certificates of insurance or other proof of coverage for workers' compensation and disability benefits, as required by Section 57 of the New York State Workers' Compensation Law and Section 220 of the Disability Benefits Law.

32. Lump Sum Contracts

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

(B) Lump Sum Bids for "General Construction Work" which include 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 additional cost of excavating material which is defined in the Specifications as excavation for which additional payment will be made. The total estimated additional cost of removing such material will be taken as the quantity set forth

in the Engineer's Estimate 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 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 excavation for which additional payment will be made is approximate only and is given solely to be used as a uniform basis for the comparison of bids and such estimate is not to be considered as part of this contract. The quantities actually required to complete the contract work may be more or less than the quantities in the Engineer's Estimate and, if so, no action for damages or for loss of profits shall accrue to the contractor by reason thereof.

33. Unit Price Contracts

(A) Comparison of Bids: Bids on Unit Price Contracts will be compared on the basis of a total estimated price, arrived at by taking the sum of the estimated quantities of such items, in accordance with the Engineer's Estimate of Quantities set forth in the Bid Form, multiplied by the corresponding unit prices, and including any lump sum bids on individual items.

(B) Variations from Engineer's Estimate: Bidders are warned that the Engineer's Estimate of Quantities on the various items of work and materials is approximate only, given solely to be used as a uniform basis for the comparison of bids, and is not be considered part of this contract. The quantities actually required to complete the contract work may be less or more than so estimated, and if so, no action for damages or for loss of profits shall accrue to the contractor by reason thereof.

(C) Overruns: The terms and conditions applicable to overruns of unit price items are set forth in Article 26 of the Contract.

34. Excise Tax

Bidders are referred to the Specifications for information on Federal Excise Tax exemptions.

35. Licenses and Permits

The successful bidder will be required to obtain all necessary licenses and permits necessary to perform the work.

36. Multiple Prime Contractors

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

37. Locally Based Enterprise Requirements (LBE)

This Contract is subject to the requirements of Administrative Code, Section 6-108.1, and the regulations promulgated thereunder. No construction contract will be awarded unless and until these requirements have been complied with in their entirety. The bidder is advised of the provisions set forth below, as well as the provisions with respect to the Locally Based Enterprise Program contained in Article 67 of the Contract. The contractor is advised that:

(A) If any portion of the Contract is subcontracted, not less than ten percent of the total dollar amount of the contract shall be awarded to locally based enterprises ("LBEs"); except, where less than ten percent of the total dollar amount of the Contract is subcontracted, such lesser percentage shall be so awarded.

(B) No contractor shall require performance and payment bonds from LBE subcontractors.

(C) No Contract shall be awarded unless the contractor first identifies in its bid:

- (1) the percentage, dollar amount and type of work to be subcontracted; and
- (2) the percentage, dollar amount and type of work to be subcontracted to LBEs.

(D) Within ten calendar days after notification of low bid, the apparent low bidder shall submit an "LBE Participation Schedule" to the contracting agency. If such schedule does not identify sufficient LBE subcontractors to meet the requirements of Administrative Code Section 6-108.1, the apparent low bidder shall submit documentation of its good faith efforts to meet such requirements.

- (1) The "LBE Participation Schedule" shall include:
 - (a) the name and address of each LBE that will be given a subcontract,
 - (b) the percentage, dollar amount and type of work to be subcontracted to the LBE, and
 - (c) the dates when the LBE subcontract work will commence and end.
- (2) The following documents shall be attached to the "LBE Participation Schedule":
 - (a) verification letters from each subcontractor listed in the "LBE Participation Schedule" stating that the LBE will enter into a formal agreement for work,
 - (b) certification documents of any proposed LBE subcontractor which is not on the LBE certified list, and
 - (c) copies of the certification letter of any proposed subcontractor which is an LBE.
- (3) Documentation of good faith efforts to achieve the required LBE percentage shall include as appropriate but not limited to the following:
 - (a) attendance at prebid meetings, when scheduled by the agency, to advise bidders of contract requirements;
 - (b) advertisement where appropriate in general circulation media, trade association publications and small business media of the specific subcontracts that would be at least equal to the percentage goal for LBE utilization specified by the contractor;
 - (c) written notification to association of small, minority and women contractors soliciting specific subcontractors;
 - (d) written notification by certified mail to LBE firms that their interest in the contract is solicited for specific work items and their estimated values;
 - (e) demonstration of efforts made to select portions of the work for performance by LBE firms in order to increase the likelihood of achieving the stated goal;
 - (f) documented efforts to negotiate with LBE firms for specific subcontracts, including at a minimum:
 - (i) The names, address and telephone numbers of LBE firms that are contacted;
 - (ii) A description of the information provided to LBE firms regarding the plans and specifications for portions of the work to be performed;
 - (iii) Documentation showing that no reasonable price can be obtained from LBE firms;
 - (iv) A statement of why agreements with LBE firms were not reached;
 - (g) a statement of the reason for rejecting any LBE firm which the contractor deemed to be unqualified; and
 - (h) documentation of efforts made to assist the LBE firms contacted that needed assistance in obtaining required insurance.

(E) Unless otherwise waived by the Commissioner with the approval of the Office of Economic and Financial Opportunity, failure of a proposed contractor to provide the information required by paragraphs (C) and (D) above may render the bid non-responsive and the Contract may not be awarded to the bidder. If the contractor states that it will subcontract a specific portion of the work, but can demonstrate despite good faith efforts it cannot achieve its required LBE percentage for subcontracted work until after award of Contract, the Contract may be awarded, subject to a letter of compliance from the contractor stating that it will comply with Administrative Code Section 6-108.1 and subject to approval by the Commissioner. If the contractor has not met its required LBE percentage prior to award, the contractor shall demonstrate that a good faith effort has been made subsequent to award to obtain LBEs on each subcontract until it meets the required percentage.

(F) When a bidder indicates prior to award that no work will be subcontracted, no work may be

subcontracted without the prior written approval of the Commissioner, which shall be granted only if the contractor in good faith seeks LBE subcontractors at least six weeks prior to the start of work.

(G) The contractor may not substitute or change any LBE which was identified prior to award of the contract without the written permission of the Commissioner. The contractor shall make a written application to the Commissioner for permission to make such substitution or change, explaining why the contractor needs to change its LBE subcontractor and how the contractor will meet its LBE subcontracting requirement. Copies of such application must be served on the originally identified LBE by certified mail return receipt requested, as well as the proposed substitute LBE. The Commissioner shall determine whether or not to grant the contractor's request for substitution.

38. Bid Submission Requirements

Bid submission requirements are set forth in the Bid Booklet.

39. Comptroller's Certificate

This Contract shall not be binding or of any force unless it is registered by the Comptroller in accordance with Section 328 of the City Charter and the Procurement Policy Board Rules. This Contract shall continue in force only after annual appropriation of funds by the City of New York and certification as hereinabove set forth.

40. Procurement Policy Board Rules

This Invitation For Bids is subject to the Rules of the Procurement Policy Board of the City of New York. In the event of a conflict between said Rules and a provision of this Invitation For Bids, the Rules shall take precedence.

41. DDC Safety Requirements

The DDC Safety Requirements apply to the work to be performed pursuant to the Contract. The DDC Safety Requirements are set forth on the following pages.

CITY OF NEW YORK
DEPARTMENT OF DESIGN AND CONSTRUCTION
SAFETY REQUIREMENTS

THE DDC SAFETY REQUIREMENTS INCLUDE THE FOLLOWING SECTIONS:

- I. POLICY ON SITE SAFETY**
- II. PURPOSE**
- III. DEFINITIONS**
- IV. RESPONSIBILITIES**
- V. SAFETY QUESTIONNAIRE**
- VI. SAFETY PROGRAM AND SITE SAFETY PLAN**
- VII. KICK-OFF/PRE-CONSTRUCTION MEETINGS AND SAFETY REVIEW**
- VIII. EVALUATION DURING WORK IN PROGRESS**
- IX. SAFETY PERFORMANCE EVALUATION**

I. POLICY ON SITE SAFETY

The City of New York Department of Design and Construction (DDC) is committed to a policy of injury and illness prevention and risk management for construction work that will ensure the safety and health of the workers engaged in the projects and the protection of the general public. Therefore, it is DDC's policy that work carried out by Contractors on DDC jobsites must, at a minimum, comply with applicable federal, state and city laws, rules and regulations, including without limitation:

- U. S. Department of Labor 29 Code of Federal Regulations (CFR) Part 1926 and applicable Sub-parts of Part 1910 – U.S. Occupational Safety and Health Administration (OSHA) including, but not limited to “Respiratory Protection” (29 CFR 1910.134), “Permit-Required Confined Spaces” (29 CFR 1910.146), and “Hazard Communication” (29 CFR 1910.1200);
- New York State Department of Labor Industrial Code Rule 23 – Protection in Construction, Demolition and Excavation;
- New York City Construction Codes, Title 28
- NYC Department of Transportation Title 34 Chapter 2 – Highway Rules
- New York State Department of Labor Industrial Code Rule 753
- NYC Local Law No. 113 (2005) Noise Control Code

In addition, all regulations promulgated by the NYC Department of Transportation, including requirements for Maintenance and Protection of Traffic (MPT), are applicable when contained in contract specifications. While MPT is a significant component of work in our Infrastructure Division, it does not supersede or exempt Contractors from complying with other applicable health and safety standards (for example, excavating and trenching standards, operation of heavy equipment and compliance with City environmental and noise regulations).

II. PURPOSE

The purpose of this policy is to ensure that Contractors perform their work and supervise their employees in accordance with all applicable federal, state and city rules and regulations. Further, Contractors will be expected to minimize or eliminate jobsite and public hazard, through a planning, inspection, auditing and corrective action process. The goal is to control risks so that injuries, illnesses and accidents to contractors' employees, DDC employees and the general public, as well as damage to city-owned and private property, are reduced to the lowest level feasible.

III. DEFINITIONS

Agency Chief Contracting Officer (ACCO): The ACCO shall mean the person delegated authority by the Commissioner to organize and supervise the procurement activity of subordinate Agency staff in conjunction with the CCPO.

Competent Person: As defined by OSHA, an individual who is capable of identifying existing and predictable hazards in the surroundings or working conditions that are unsanitary, hazardous, or dangerous to employees or the general public, and who has authorization to take prompt corrective measures to eliminate them.

Construction Safety Auditor: A representative of the QACS Construction Safety Unit who provides inspection and assessment services to enhance health and safety on all DDC construction projects. The activities of the Construction Safety Auditor include performing site surveys, reviewing health and safety plans, reviewing construction permits, and rendering technical advice and assistance to DDC Resident Engineers and Project Managers.

Construction Safety Unit: A part of QACS within the Division of Safety and Site Support that assesses contractor safety on DDC jobsites and advises responsible parties of needed corrective actions.

Construction Superintendent: A representative of the contractor responsible for overseeing performance of the required construction work. This individual must engage in sound construction practices, and is responsible to maintain a safe work site. In the case of a project involving the demolition, alteration or new construction of buildings, the Construction Superintendent must be licensed by the NYC Department of Buildings.

Contractor: For purposes of these Safety Requirements, the term "Contractor" shall mean any person or entity that enters into a contract for the performance of construction work on a DDC project. The term "Contractor" shall include any person or entity which enters into any of the following types of contracts: (1) a prime construction contract for a specific project, (2) a prime construction contract using the Job Order Contracting System ("JOCS Contract"), and (3) a subcontract with a CM/Builder ("First Tier Subcontract").

Director - Quality Assurance and Construction Safety (QACS): Responsible for the operations of the QACS Construction Safety Unit and the DDC Site Safety management programs.

Job Hazard Assessment (JHA): A process of identifying site-specific hazards that may be present during construction and establishing the means and methods to reduce or eliminate those hazards.

Jobsite Safety Coordinator: A person designated by the Contractor to be onsite during all activities. This individual shall have received, at a minimum, the OSHA 10-hour construction safety program. Other examples of acceptable training are the 30-hour OSHA Safety and Health Standards for the Construction Industry training program (OSHA 510) or a degree/certificate in a safety and health from a college-level curriculum. This person does not necessarily have to be dedicated full-time to site safety, but must have sufficient experience and authority to undertake corrective action and must qualify to be a competent person. For certain projects, as defined in NYC Construction Codes – Title 28, this person may be required to have a Site Safety Manager's License issued by the NYC DOB.

Qualified Person: As defined by OSHA, an individual who, by possession of a recognized degree, certificate, license or professional standing, or who by extensive knowledge, training, and experience, has successfully demonstrated his or her ability to solve problems relating to the subject matter, the work, or the project. Qualified Persons are required under regulation to address issues pertaining, but without limit, to fall protection, scaffold design and trenching and shoring, among others.

Resident Engineer (RE) / Construction Project Manager (CPM): Representative of the Commissioner duly designated by the Commissioner to be his/her representative at the site of the work. (The RE/CPM may be a third-party consultant, including a CM, retained by DDC.)

Safety Program: Established by the Contractor that covers all operations of that Contractor and establishes the Contractor's overall safety policy, regulatory compliance plan and minimum safety standards. The Safety Program must be submitted prior to award and is subject to review and acceptance by the Construction Safety Unit.

Safety Questionnaire: Used by DDC to evaluate Contractor's current and past safety performance. It is required to be completed by all Contractors initially when submitting bids for Construction work, or when being pre-qualified and updated annually or as requested by the DDC.

Site Safety Plan: A site-specific safety plan developed by the Contractor for a specific project. The Site Safety Plan must identify hazards associated with the project, and include specific safety precautions and training appropriate and necessary to complete the work. The Site Safety Plan must be submitted prior to award and is subject to review and acceptance by the Construction Safety Unit.

Unsafe or Unhealthy Condition: A condition that could be potentially hazardous to the health and safety of personnel or the public, and/or damaging to equipment, machinery, property or the environment.

Weekly Safety Meetings: Weekly documented jobsite safety meetings, given to all jobsite personnel by contractor, with the purpose of discussing general safety topics and job specific requirements encountered at the DDC work site.

IV. RESPONSIBILITIES

All persons who manage, perform, and provide support for construction projects shall conduct operations in compliance with the requirements identified in this Policy and all applicable governing regulatory agency requirements and guidelines pertaining to safety in construction.

A. Resident Engineer / Construction Project Manager / Construction Manager

- Monitors the issuance of safety-related permits, approvals and drawings and maintains copies on site.
- Monitors construction-related work activities to confirm that they are conducted in accordance with DDC policies and all applicable regulations that pertain to construction safety.
- Maintains documentation and periodically attends weekly safety meeting.
- Notifies the Construction Safety Unit and the ACCO's Insurance and Risk Management Unit of project-related accidents and emergencies, as per DDC's Construction Safety Emergency Protocol.
- Gathers facts related to all accidents and prepares DDC Accident Reports.
- Notifies the Construction Safety Unit of outside regulatory agency inspections and forwards a copy of the inspection report within three days of its receipt.
- Monitors the conditions at the site for conformance with the Site Safety Plan and DDC construction documents.
- Notifies the contractor and DDC in the event that any condition or activity exists that is not in compliance with the Site Safety Plan, applicable federal, state or local codes or any condition that presents a potential risk of injury to the public or workers or possible damage to property.
- Notifies DDC of any emergency condition and directs the contractor to provide such labor, materials, equipment and supervision to abate such conditions.
- Reports gross safety violations to the Construction Safety Unit immediately.

B. Contractors

- Complete a Safety Questionnaire and submit with its bid or as part of a pre-qualification package.
- Provide a Written Job Hazard Assessment (JHA) that identifies expected safety issues of the work to be performed. JHA shall be included with the Site Safety Plan submitted by the contractor.
- Submit a Site Safety Plan and Safety Program within 10 business days of notification from DDC that it has been identified as the low bidder. The Site Safety Plan and Safety Program are subject to review and acceptance by the Construction Safety Unit prior to an award of contract. The Site Safety Plan shall be revised and updated as necessary.
- Ensure that all employees are aware of the hazards associated with the project through formal and informal training and/or other communications. Conduct and document weekly safety meetings for the duration of the project. Documentation to be provided to the RE/CPM/CM on a monthly basis.
- Name a Construction Superintendent, if required.
- Name a Job Site Safety Coordinator. The Contractor will be required to identify the Job Site Safety Coordinator in the Site Safety Plan.
- Comply with all mandated federal, state and local safety and health rules and regulations.
- Comply with all provisions of the Site Safety Plan.
- As part of the Site Safety Plan, prepare a site specific MPT (if not otherwise provided in the contract documents) and comply with all of its provisions.
- Conduct and document site-specific safety orientation for Contractor personnel to review the hazards associated with the project as identified in the Site Safety Plan and the specific safety procedures and controls that will be used to protect workers, the general public and property. The Job Site Safety Coordinator will conduct this training prior to mobilization and provide documentation to the RE/CPM/CM.
- Provide, replace and adequately maintain at or around the project site, suitable and sufficient signage, lights, barricades and enclosures (fences, sidewalk sheds, netting, bracing, etc.).
- Report unsafe conditions or hazards to the DDC RE/CPM/CM as soon as practical, but no more than 24 hours after discovery, and take action to remove or abate such conditions.
- Report any accident involving injuries to workers or the general public, as well as property damage, to the DDC RE/CPM/CM within two (2) hours.
- Notify the DDC RE/CPM/CM within two (2) hours of the start of an inspection by any regulatory agency personnel, including OSHA.
- Maintain all records pertaining to all required compliance documents and accident and injury reports.
- Respond to DDC recommendations on safety, which shall in no way relieve the Contractor of its responsibilities for safety on the project. The Contractor has sole responsibility for safety.

V. SAFETY QUESTIONNAIRE

DDC requires that all Contractors provide information regarding their current and past safety and environmental performance and programs. This will be accomplished by the use of the DDC Safety Questionnaire. As a part of the bid submittal package, the contractor must submit a completed DDC Safety Questionnaire listing their workers' compensation experience modification rating and OSHA Incidence Rates for the three (3) years prior to the date of the bid opening. DDC may request a Contractor to update its Questionnaire at any time or to provide more detailed information. The Contractor must provide the requested update within 30 days.

The following criteria will be used by DDC in reviewing the Contractor's responsibility, which will be based on the information provided on the questionnaire:

- Criteria 1: OSHA Injury and Illness Rates (I&IR) are no greater than the average for the industry (based on the most current Bureau of Labor Statistics data for the Contractors SIC code); and
- Criteria 2: Insurance workers compensation Experience Modification Rate (EMR) equal to or less than 1.0; and
- Criteria 3: Any willful violations issued by OSHA or NYC DOB within the last three years; and
- Criteria 4: A fatality (worker or member of public) experienced on or near Contractor's worksite within the last three (3) years; and
- Criteria 5: An unacceptable rating by QACS based on past performance on DDC projects; and
- Criteria 6: Contractor has in place an acceptable corporate safety program and its employees shall have completed all documented relative safety training; and
- Criteria 7: Contractor shall provide OSHA Injury Records (currently OSHA 300 Log) for the last three (3) years.

If the Contractor fails to meet the basic criteria listed above, the Construction Safety Unit may request, through the ACCO, more detail concerning the Contractor's safety experience. DDC may request the Contractor to provide copies of, among other things, OSHA records, OSHA and DOB citations, EPA citations and written Safety Programs.

VI. SAFETY PROGRAM AND SITE SAFETY PLAN

The Contractor shall submit the following within 10 days of notification from DDC that it has been identified as the low bidder: (1) Safety Program, and (2) Site Safety Plan. The Safety Program shall set forth the Contractor's overall safety policy, regulatory compliance plan and minimum safety standard, and the Site Safety Plan shall identify hazards associated with the project, and include specific safety precautions and training appropriate and necessary to complete the work. The Safety Program and the Site Safety Plan are subject to review and acceptance by the Construction Safety Unit prior to an award of contract.

The Site Safety Plan shall apply to all Contractor and subcontractor operations, and shall have at a minimum, the following elements. Each element shall be described in a separate section in the written document. It may be necessary to modify the basic format for certain unique or high-risk projects (such as tunnels or high-rise construction). The basic elements are as follows:

1. **Responsibility and Organization:** Identify the person or persons with authority and responsibility for implementing the Site Safety Plan. Provide an organization chart and define levels of authority and responsibility. Identify the Competent Person, the Construction Superintendent (if required), the Job Safety Coordinator and the Qualified Person required for this project.
2. **Communication:** Establish a system for communicating with employees and subcontractors on matters relating to worker and public safety and health and environmental protection, including provisions designed to encourage employees to inform the employer of hazards at the worksite without fear of reprisal. An emergency response notification protocol is to be established that also includes after hours contact numbers. The plan must also include provisions for weekly safety meetings held by the Job Site Safety Coordinator.
3. **Job Hazard Assessment:** A written document submitted by the contractor, used to identify expected job hazards and public safety risks and state the specific means and methods to reduce, control or eliminate those hazards. This part of the Site Safety Plan must also include how on-going evaluations of those risks and hazards will be carried out, including plans for periodic inspections to identify unsafe conditions, work practices and public safety hazards.

4. Accident/Exposure Investigation: Establish a procedure to investigate and report occupational and public injury or illness, property damage, vehicle accidents or other mishaps.
5. Hazard Correction: Establish means, methods and/or procedures for correcting unsafe or unhealthy conditions that might be exposing both the public and workers to hazards. Corrective actions must be taken immediately when observed or discovered. Should an imminent hazard exist which cannot be immediately abated without endangering employees, the public and/or property, remove or restrict all exposed persons from the area except those necessary to correct the existing condition. Employees necessary to correct the hazardous condition shall be provided the necessary safeguards. When corrective actions cannot be taken immediately, temporary measures should be taken until such time permanent measures are taken to eliminate the potential risks or hazards
6. Training: Describe site-specific hazard training programs. In addition to the required safety orientation, additional site specific training, in the form of required weekly safety meetings, will be required. Contractors must also initiate training when: a) new employees are hired; b) employees are given new job assignments for which training has not been previously received; c) new substances, processes, procedures or equipment are introduced that might represent a new public or worker hazard; d) the employee is made aware of a new or previously unrecognized hazard; e) new supervisors are assigned to familiarize themselves with the safety and health hazards to which employees under their immediate direction and control may be exposed; and f) after a jobsite incident or accident has occurred.
7. Recordkeeping: Establish procedures to maintain records of scheduled and periodic inspections, weekly safety meetings, and training records. Updated records shall be maintained at the jobsite, accessible to the Construction Safety Auditors and/or Quality Assurance Auditors/RE/CPM, and retained in accordance with DDC policy.

The most critical component of the Site Safety Plan is the Job Hazard Assessment section. This section must address specific hazards that are anticipated throughout the project. Each Site Safety Plan must address, at a minimum:

- Public and pedestrian safety
- Fall protection
- Electrical hazards
- Scaffolding
- Fire protection
- Emergency notification & response
- Housekeeping / debris removal
- Dust control
- Maintenance and protection of traffic
- Trenching and excavating
- Heavy equipment operations
- Material / equipment storage
- Environmental contamination
- Sheeting and shoring
- Alcohol and Drug Abuse Policy

The following additional hazards must be addressed, if applicable, based on the contract safety specifications and/or the results of the JHA (the list is not all-inclusive):

- Basic Personal Protective Equipment
- Compressed Air
- Compressed Gas Cylinders
- Cranes, Derricks and Hoists
- Demolition
- Electrical safety
- Excavations and Trenching
- Fall Protection – Floor openings/Stairways
- Fall Protection – Guardrails Toe boards etc
- Fall Protection – Leading Edge
- Fall Protection – Personal Fall Protection Devices
- Fire Protection and Fire Prevention
- Hazard Communication (RIGHT TO KNOW)
- Hazardous Energy & Lock Out / Tag Out
- Housekeeping/ Sanitation
- Maintenance and Protection of Traffic (MPT)

- Man Lifts /Aerial Lifts
- Marine Operations
- Motor Vehicle Safety
- Overhead Power lines
- Permit Required Confined Space
- Portable Ladders
- Powered Actuated Tools
- Powered Material Handling Equipment
- Scaffolds – Mobile
- Scaffolds – Stationary
- Scaffolds – Suspended
- Slings
- Steel Erection
- Welding and Cutting (Hot Work)
- Airborne Contaminants – Particulates – General
- Asbestos
- Blood borne Pathogens
- Hearing Protection
- Lead in Construction
- Mercury in Construction
- PCB's
- Respiratory Protection
- Silica
- Thermal Stress
- West Nile Virus
- Rodents and Vermin
- Noise Mitigation Plan

Certain DDC programs, such as Job Order Contracting System (JOCS), may not necessarily require Site Safety Plans. The JOCS contractor will be required to submit a Safety Program. In addition, certain DDC Operating Units may establish program or client-specific safety requirements. The contractor's Site Safety Plan must address such program or client specific safety requirements.

VII. KICK-OFF MEETINGS/PRE-CONSTRUCTION AND SAFETY REVIEW

As part of the construction kick-off meeting, a Site Safety Plan review will be part of the agenda. A QACS representative will participate in this meeting with the contractor prior to the start of the project for the purpose of:

- A. Reviewing the safety issues detailed in the contract.
- B. Reviewing the Site Safety Plan.
- C. Reviewing any new issues or information that was not previously addressed.
- D. Discussing planned inspections and audits of the site by DDC personnel.

VIII. EVALUATION DURING WORK IN PROGRESS

The Contractor's adherence to these Safety Requirements will be monitored throughout the project. This will be accomplished by the following:

- A. Use of a safety checklist by a representative of the Construction Safety Unit or other designated DDC representative or Consultant during regular, unannounced inspections of the job site. Field Exit Conferences will be held with the RE/CPM, Contractor Superintendents or Safety Representatives.
- B. The RE/CPM will continually monitor the safety and environmental performance of the contractor's employees and work methods. Deficiencies shall be brought to the attention of the contractor's representative on site for immediate correction. The DDC representative will maintain a written record of these deficiencies and forward

them to the Construction Safety Unit on a weekly basis. Any critical deficiencies shall be immediately reported to QACS phone# (718) 391-1624 or (718) 391-1911.

- C. If the Contractor's safety performance during the project is not up to DDC standards (safety performance measure, accident/incident rate, etc.) the Director- QACS, or designee will meet with the Contractor's safety representative, the DDC project manager, the RE/CPM, or the DDC Environmental Specialist (if environmental issues are involved). The purpose of this meeting is to 1) determine the level of non-compliance; 2) explain and clarify the safety/environmental provisions; 3) agree on a future course of action to correct the deficiencies.
- D. If the deficiencies continue to occur with inadequate attention by the contractor, this shall, among other remedies available, be grounds for default.
- E. The contractor shall inform the Construction Safety Unit and ACCO Insurance and Risk Management Unit of all medical injuries or illnesses that require doctors' treatment resulting from an on-the-job incident within 24 hours of the occurrence. The Construction Safety Unit shall also be immediately informed of all fatalities, catastrophic accidents with more than one employee hospitalized, any injuries to members of the general public and major equipment damage (e.g., property damage, equipment rollovers, loads dropped from crane). QACS shall maintain a record of all contractor injuries and illnesses during the project and provide regular reports to the Agency.
- F. The Construction Safety Unit shall be immediately notified at the start of any NYS-DOL/ NYC-COSH/ OSHA/ EPA inspections. The Director of Quality Assurance & Construction Safety shall maintain a log of all contractor OSHA/EPA inspections and citations during the project.

IX. SAFETY PERFORMANCE EVALUATION

The contractor's safety record, including all DDC inspection results, will be considered as part of the Contractor's performance evaluation at the conclusion of the project. Poor safety performance during the course of the project shall be a reason to rate a Contractor unsatisfactory which will be reflected in the City's Vendex system and will be considered for future procurement actions as set forth in the City's Procurement Policy Board Rules.

CITY OF NEW YORK
DEPARTMENT OF DESIGN AND CONSTRUCTION
DIVISION OF SAFETY & SITE SUPPORT

STANDARD CONSTRUCTION SERVICE CONTRACT

SEPTEMBER 2013

THIS AGREEMENT, by and between the City of New York (the "City"), party of the first part, acting by and through the Commissioner of the Department of Design and Construction (the "Commissioner") and the Contractor, party of the second part.

WITNESSETH:

That the parties hereto, in consideration of the mutual agreements herein contained, hereby agree as follows:

CHAPTER I - THE CONTRACT AND DEFINITIONS

ARTICLE 1- THE CONTRACT

1.1 **General:** This is a Requirements Contract. Pursuant to this Contract, the Contractor shall be required to provide services for various projects on an as needed basis. The services to be provided by the Contractor are set forth in the Specifications.

1.1.1 **Work Orders:** Throughout the term of the Contract, as the need for services arises, the Commissioner shall issue a Work Order to the Contractor. The Contractor shall provide services in accordance with the Work Order for the Project specified therein. The Contractor shall not perform services pursuant to this Contract until the Commissioner has issued a Work Order. Work Orders issued hereunder shall specify the following: (a) Description of the Project for which services are required; (b) Services to be performed by the Contractor; (c) Time frame for the completion of services, and (d) Not to Exceed amount for the services to be performed.

1.1.2 **Supplementary Work Orders:** In the event of any changes to the Work Order, the Commissioner shall issue a Supplementary Work Order to the Contractor. The Contractor shall be bound by the terms and conditions of any such Supplementary Work Order issued by the Commissioner.

1.1.3 **No Right to Reject:** The Contractor shall have no right to reject a Work Order issued hereunder or to decline to perform services pursuant thereto. Any rejection of a Work Order by the Contractor, either expressly made or implied by conduct, shall constitute a material breach of this Contract.

1.1.4 **Work by Others:** In the event there is a need for the required services, the Commissioner reserves the right not to utilize this requirements contract and to proceed with a new solicitation for the required services, or to have the services performed by another Contractor(s), or by City employees, if the Commissioner, in his/her sole opinion, determines that it would be in the best interest of the City to do so

1.2 Except for titles, subtitles, headings, running headlines, tables of content and indices (all of which are printed herein merely for convenience), the following, except for such portions thereof as may be specifically excluded, shall be deemed to be part of this Contract:

- 1.2.1 All provisions required by law to be inserted in this Contract, whether actually inserted or not;
- 1.2.2 Contract Drawings, Specific Requirements and/or Specifications;
- 1.2.3 General Conditions and Special Conditions, if any;
- 1.2.4 Contract, including Schedule A (Final Page);
- 1.2.5 Work Orders issued pursuant to the Contract;
- 1.2.6 Information for Bidders; Request for Proposals; Notice of Solicitation and Proposal For Bids; Bid or Proposal, and, if used, the Bid Booklet;
- 1.2.7 Budget Director's Certificate; all Addenda issued prior to the receipt of the bids; the Notice of Award; Performance and Payment Bonds, if required; and the Notice to Proceed with the Work.

1.3 Should any conflict occur in or between the Drawings and Specifications, the Contractor shall be deemed to have estimated the most expensive way of doing the Work, unless the Contractor shall have asked for and obtained a decision in writing from the Commissioner, of the Agency that is entering into this Contract, before the submission of its bid as to what shall govern.

ARTICLE 2 - DEFINITIONS

2.1 The following words and expressions, or pronouns used in their stead, shall, wherever they appear in this Contract,

be construed as follows, unless a different meaning is clear from the context:

- 2.1.1 "Addendum" or "Addenda" shall mean the additional contract provisions issued in writing by the Commissioner prior to the receipt of bids.
- 2.1.2 "Agency" shall mean a city, county, borough or other office, position, department, division, bureau, board or commission, or a corporation, institution or agency of government, the expenses of which are paid in whole or in part from the City treasury.
- 2.1.3 "Agency Chief Contracting Officer" (ACCO) shall mean a person delegated authority by the Commissioner to organize and supervise the procurement activity of subordinate Agency staff in conjunction with the CCPO.
- 2.1.4 "City" shall mean the City of New York.
- 2.1.5 "City Chief Procurement Officer" (CCPO) shall mean a person delegated authority by the Mayor to coordinate and oversee the procurement activity of Mayoral agency staff, including the ACCO and any offices which have oversight responsibility for the procurement of construction.
- 2.1.6 "Commissioner" shall mean the Commissioner of the Department of Design and Construction of the City of New York, or his/her duly authorized representative.
- 2.1.7 "Comptroller" shall mean the Comptroller of the City of New York.
- 2.1.8 "Contract" or "Contract Documents" shall mean each of the various parts of the contract referred to in Article 1 hereof, both as a whole and severally.
- 2.1.9 "Contract Drawings" shall mean only those drawings specially entitled as such and listed in the Specifications or in any Addendum, or any drawings furnished by the Commissioner, pertaining or supplemental thereto.
- 2.1.10 "Contract Work" shall mean everything required to be furnished and done by the Contractor by any one or more of the parts of the Contract referred to in Article 1 hereof, except extra work as hereinafter defined; it being understood that, in case of any inconsistency in or between any part or parts of this Contract, the Engineer shall determine which shall prevail.
- 2.1.11 "Contractor" shall mean the entity which executed this Contract, whether a corporation, firm, partnership, joint venture, individual, or any combination thereof, and it(s), their, his/ her successors, personal representatives, executors, administrators and assigns, and any person, firm, partnership, joint venture, individual, or corporation which shall at any time be substituted in the place of the Contractor under this Contract.
- 2.1.12 "Days" shall mean calendar days, except where otherwise specified.
- 2.1.13 "Department" or "DDC" shall mean the Department of Design and Construction of the City of New York, acting by and through the Commissioner thereof, or his/her duly authorized representative.
- 2.1.14 "Engineer" or "Architect" or "Project Manager" shall mean the person so designated in writing by the Commissioner to act as such in relation to this Contract, including a private Architect or Engineer or Project Manager, as the case may be.
- 2.1.15 "Engineering Audit Officer" (EAO) shall mean the person so designated by the Commissioner to perform responsible auditing functions hereunder.
- 2.1.16 "Extra Work" shall mean Work other than that required by the Contract at the time of award which is authorized by the Commissioner pursuant to this Contract.
- 2.1.19 "Law" or "Laws" shall mean the Constitution of the State of New York, the New York City Charter, the New York City Administrative Code, a statute of the United States or of the State of New York, a local law of the City of New York, and any ordinance, rule or regulation having the force of law.

- 2.1.20 "Materialman" shall mean any person, firm or corporation, other than employees of the Contractor, who or which contracts with the Contractor or any subcontractor, to fabricate or deliver, or who actually fabricates or delivers, plant materials or equipment to be incorporated in the work.
- 2.1.21 "Means and Methods of Construction" shall mean the labor, materials in temporary structures, tools, plant, and construction equipment, and the manner and time of their use, necessary to accomplish the result intended by this Contract.
- 2.1.22 "Other Contractors" shall mean any contractor (other than the party of the second part or his subcontractors) who has a contract with the City for work on or adjacent to the building or site of the work.
- 2.1.23 "Payroll Taxes" shall mean State Unemployment Insurance ("SUI"), Federal Unemployment Insurance ("FUI") and payments pursuant to the Federal Insurance Contributions Act ("FICA").
- 2.1.24 "Project" shall mean the Project for which services are required, as specified by the Commissioner on a Work Order basis.
- 2.1.25 "Procurement Policy Board" (PPB) shall mean the Agency of the City of New York whose function is to establish comprehensive and consistent procurement policies and rules which shall have broad application throughout the City.
- 2.1.26 "Required Quantity" in a unit price contract shall mean the actual quantity of any item of work or materials which is required to be performed or furnished in order to comply with the Contract.
- 2.1.27 "Resident Engineer" shall mean the representative of the Commissioner duly designated by the Commissioner to be his/her representative at the site of the work.
- 2.1.28 "Site" shall mean the area upon or in which the Contractor's operations are carried on, and such other areas adjacent thereto as may be designated as such by the Engineer.
- 2.1.29 "Specifications" shall mean all of the directions, requirements and standards of performance applying to the work as hereinafter detailed and designated under specifications.
- 2.1.30 "Subcontractor" shall mean any person, firm or corporation, other than employees of the Contractor, who or which contracts with the Contractor or his subcontractors to furnish, or actually furnishes labor, or labor and materials, or labor and equipment, at the site. Wherever the word Subcontractor appears, it shall also mean sub-subcontractor.
- 2.1.31 "Treasurer" shall mean the Commissioner of the Department of Finance of the City of New York.
- 2.1.32 "Work" shall mean everything required to be furnished and done by the Contractor under the Contract, and shall include both Contract work and extra work.
- 2.1.33 "Work Order" shall mean an order issued pursuant to this Contract to the Contractor by the Department with a "not to exceed" amount and a specified scope of work to be completed within a definite time period.

CHAPTER II - THE WORK AND ITS PERFORMANCE

ARTICLE 3 - CHARACTER OF THE WORK

3.1 Unless otherwise expressly provided in the Contract Drawings (which may be issued during the term of the Contract), Specifications and Addenda, the work must be performed in accordance with the best modern practice, with materials and workmanship of the highest quality, to the satisfaction of the Commissioner.

ARTICLE 4 - MEANS AND METHODS OF CONSTRUCTION

4.1 Unless otherwise expressly provided in the Contract Drawings, Specifications and Addenda, the means and

methods of construction shall be such as the Contractor may choose; subject, however, to the Engineer's right to reject means and methods proposed by the Contractor which:

- 4.1.1 Will constitute or create a hazard to the work, or to persons or property; or
- 4.1.2 Will not produce finished work in accordance with the terms of the Contract.
- 4.1.3 Will be detrimental to the overall progress of the Project.

4.2 The Engineer's approval of the Contractor's means and methods of construction, or his failure to exercise his right to reject such means or methods, shall not relieve the Contractor of his obligation to accomplish the result intended by the Contract; nor shall the exercise of such right to reject create a cause of action for damages.

ARTICLE 5 - COMPLIANCE WITH LAWS

5.1 The Contractor shall comply with all Laws applicable to this Contract and to the Work to be done hereunder.

5.2 Procurement Policy Board Rules: This Contract is subject to the Rules of the PPB ("PPB Rules") in effect at the time of the bid opening for this Contract. In the event of a conflict between the PPB Rules and a provision of this Contract, the PPB Rules shall take precedence.

5.3 Noise Control Code Provisions.

5.3.1 In accordance with the provisions of Section 24-216(b) of the Administrative Code of the City ("Administrative Code"), Noise Abatement Contract Compliance, devices and activities which will be operated, conducted, constructed or manufactured pursuant to this Contract and which are subject to the provisions of the City Noise Control Code shall be operated, conducted, constructed, or manufactured without causing a violation of the Administrative Code. Such devices and activities shall incorporate advances in the art of noise control development for the kind and level of noise emitted or produced by such devices and activities, in accordance with regulations issued by the Commissioner of the Department of Environmental Protection.

5.3.2 The Contractor agrees to comply with Section 24-219 of the Administrative Code of the City ("Administrative Code") and implementing rules codified at 15 Rules of the City of New York ("RCNY") Section 28-100 et. seq. In accordance with such provisions, the Contractor, if the Contractor is the responsible party under such regulations, shall prepare and post a Construction Noise Mitigation Plan at each work site, in which the Contractor shall certify that all construction tools and equipment have been maintained so that they operate at normal manufacturers operating specifications. If the Contractor cannot make this certification, it must have in place an Alternative Noise Mitigation Plan approved by the New York City Department of Environmental Protection. In addition, the Contractor's certified Construction Noise Mitigation Plan is subject inspection by the Department of Environmental Protection in accordance with 15 RCNY §28-101. No Contract work may take place at a worksite unless there is a Construction Noise Mitigation Plan or approved Alternative Noise Mitigation Plan in place. In addition, the Contractor shall create and implement a noise mitigation training program. Failure to comply with these requirements may result in fines and other penalties pursuant to the applicable provisions of the Administrative Code and RCNY.

5.4 Ultra Low Sulfur Diesel Fuel: In accordance with the provisions of Section 24-163.3 of the Administrative Code, the Contractor specifically agrees as follows:

5.4.1 Definitions. For purposes of this Article 5.4, the following definitions apply:

- 5.4.1(a) "Contractor" means any person or entity that enters into a Public Works Contract with a City agency, or any person or entity that enters into an agreement with such person or entity, to perform work or provide labor or services related to such Public Works Contract
- 5.4.1(b) "Motor Vehicle" means any self-propelled vehicle designed for transporting persons or property on a street or highway.
- 5.4.1(c) "Nonroad Engine" means an internal combustion engine (including the fuel system) that is not used in a Motor Vehicle or a vehicle used solely for competition, or that is not subject to standards promulgated under section 7411 or section 7521 of title 42 of the United States Code, except that this term shall apply to internal combustion engines used to power generators, compressors or similar equipment used in any

- construction program or project.
- 5.4.1(d) "Nonroad Vehicle" means a vehicle that is powered by a Nonroad Engine, fifty horsepower and greater, and that is not a Motor Vehicle or a vehicle used solely for competition, which shall include, but not be limited to, excavators, backhoes, cranes, compressors, generators, bulldozers and similar equipment, except that this term shall not apply to horticultural maintenance vehicles used for landscaping purposes that are powered by a Nonroad Engine of sixty-five horsepower or less and that are not used in any construction program or project.
- 5.4.1(e) "Public Works Contract" means a contract with a City agency for a construction program or project involving the construction, demolition, restoration, rehabilitation, repair, renovation, or abatement of any building, structure, tunnel, excavation, roadway, park or bridge; a contract with a City agency for the preparation for any construction program or project involving the construction, demolition, restoration, rehabilitation, repair, renovation, or abatement of any building, structure, tunnel, excavation, roadway, park or bridge; or a contract with a City agency for any final work involved in the completion of any construction program or project involving the construction, demolition, restoration, rehabilitation, repair, renovation, or abatement of any building, structure, tunnel, excavation, roadway, park or bridge.
- 5.4.1(f) "Ultra Low Sulfur Diesel Fuel" means diesel fuel that has a sulfur content of no more than fifteen parts per million.

5.4.2 Ultra Low Sulfur Diesel Fuel

- 5.4.2(a) All Contractors shall use Ultra Low Sulfur Diesel Fuel in diesel-powered Nonroad Vehicles in the performance of this Contract.
- 5.4.2(b) Notwithstanding the requirements of Article 5.4.2(a), Contractors may use diesel fuel that has a sulfur content of no more than thirty parts per million to fulfill the requirements of this Article 5.4.2, where the Commissioner of the New York City Department of Environmental Protection ("DEP Commissioner") has issued a determination that a sufficient quantity of Ultra Low Sulfur Diesel Fuel is not available to meet the needs of City agencies and Contractors. Any such determination shall expire after six months unless renewed.
- 5.4.2(c) Contractors shall not be required to comply with this Article 5.4.2 where the agency letting this contract makes a written finding, which is approved, in writing, by the DEP Commissioner, that a sufficient quantity of Ultra Low Sulfur Diesel Fuel, or diesel fuel that has a sulfur content of no more than thirty parts per million is not available to meet the requirements of Section 24-163.3 of the Administrative Code, provided that such Contractor in its fulfillment of the requirements of this Contract, to the extent practicable, shall use whatever quantity of Ultra Low Sulfur Diesel Fuel or diesel fuel that has a sulfur content of no more than thirty parts per million is available. Any finding made pursuant to this subdivision shall expire after sixty days, at which time the requirements of this Article 5.4.2 shall be in full force and effect unless the Agency renews the finding in writing and such renewal is approved by the DEP Commissioner.
- 5.4.2(d) Contractors may check on determinations and approvals issued by the DEP Commissioner pursuant to Section 24-163.3 of the Administrative Code, if any, at www.dep.nyc.gov or by contacting the Agency issuing this solicitation.
- 5.4.2(e) The requirements of this Article 5.4.2 do not apply where they are precluded by federal or State funding requirements or where the Contract is an emergency procurement.

5.4.3 Best Available Technology

- 5.4.3(a) All Contractors shall utilize the best available technology for reducing the emission of pollutants for diesel-powered Nonroad Vehicles in the performance of this Contract. For determinations of best available technology for each type of diesel-powered Nonroad Vehicle, Contractors shall comply with the regulations of the City Department of Environmental Protection, as and when adopted, Chapter 14 of Title 15 of the Rules of the City of New York (RCNY). The Contractor shall fully document all steps in the best available technology selection process and shall furnish such documentation to the Agency or the DEP Commissioner upon request. The Contractor shall retain all documentation generated in the best available technology selection process for as long as the selected best available technology is in use.
- 5.4.3(b) No Contractor shall be required to replace best available technology for reducing the emission of pollutants or other authorized technology utilized for a diesel-powered Nonroad Vehicle in accordance

with the provisions of this Article 5.4.3 within three years of having first utilized such technology for such vehicle.

5.4.3(c) This Article 5.4.3 shall not apply to any vehicle used to satisfy the requirements of a specific Public Works Contract for fewer than twenty calendar days.

5.4.3(d) The Contractor shall not be required to comply with this Article 5.4.3 with respect to a diesel-powered Nonroad Vehicle under the following circumstances:

5.4.3(d)(1) Where the agency makes a written finding, which is approved, in writing, by the DEP Commissioner, that the best available technology for reducing the emission of pollutants as required by those paragraphs is unavailable for such vehicle, Contractor shall use whatever technology for reducing the emission of pollutants, if any, is available and appropriate for such vehicle.

5.4.3(d)(2) Where the DEP Commissioner has issued a written waiver based upon the Contractor having demonstrated to the DEP Commissioner that the use of the best available technology for reducing the emission of pollutants might endanger the operator of such vehicle or those working near such vehicle, due to engine malfunction, Contractor shall use whatever technology for reducing the emission of pollutants, if any, is available and appropriate for such vehicle, which would not endanger the operator of such vehicle or those working near such vehicle.

5.4.3(d)(3) In determining which technology to use for the purposes of Articles 5.4.3(d)(1) and 5.4.3(d)(2) above, Contractor shall primarily consider the reduction in emissions of particulate matter and secondarily consider the reduction in emissions of nitrogen oxides associated with the use of such technology, which shall in no event result in an increase in the emissions of either such pollutant.

5.4.3(d)(4) Contractors shall submit requests for a finding or a waiver pursuant to this Article 5.4.3(d) in writing to the DEP Commissioner, with a copy to the ACCO of the Agency issuing the solicitation. Any finding or waiver made or issued pursuant to Articles 5.4.3(d)(1) and 5.4.3(d)(2) above shall expire after one hundred eighty days, at which time the requirements of Article 5.4.3(a) shall be in full force and effect unless the Agency renews the finding, in writing, and the DEP Commissioner approves such finding, in writing, or the DEP Commissioner renews the waiver, in writing.

5.4.3(e) The requirements of this Article 5.4.3 do not apply where they are precluded by federal or State funding requirements or where the contract is an emergency procurement.

5.4.4 Section 24-163 of the Administrative Code. Contractors shall comply with Section 24-163 of the Administrative Code related to the idling of the engines of motor vehicles while parking.

5.4.5 Compliance

5.4.5(a) Contractor's compliance with Article 5.4 may be independently monitored. If it is determined that the Contractor has failed to comply with any provision of Article 5.4, any costs associated with any independent monitoring incurred by the City shall be reimbursed by the Contractor.

5.4.5(b) Any Contractor who violates any provision of Article 5.4, except as provided in Article 5.4.5(c) below, shall be liable for a civil penalty between the amounts of one thousand and ten thousand dollars, in addition to twice the amount of money saved by such Contractor for failure to comply with Article 5.4.

5.4.5(c) No Contractor shall make a false claim with respect to the provisions of Article 5.4 to a City agency. Where a Contractor has been found to have done so, such Contractor shall be liable for a civil penalty of twenty thousand dollars, in addition to twice the amount of money saved by such Contractor in association with having made such false claim.

5.4.6 Reporting

5.4.6(a) For all Public Works Contracts covered by this Article 5.4, the Contractor shall report to the Department the following information:

- (1) The total number of diesel-powered Nonroad Vehicles used to fulfill the requirements of this Public Works Contract;

- (2) The number of such Nonroad Vehicles that were powered by Ultra Low Sulfur Diesel Fuel;
- (3) The number of such Nonroad Vehicles that utilized the best available technology for reducing the emission of pollutants, including a breakdown by vehicle model and the type of technology;
- (4) The number of such Nonroad Vehicles that utilized such other authorized technology in accordance with Article 5.4.3, including a breakdown by vehicle model and the type of technology used for each such vehicle;
- (5) The locations where such Nonroad Vehicles were used; and
- (6) Where a determination is in effect pursuant to Article 5.4.2(b) or 5.4.2(c), detailed information concerning the Contractor's efforts to obtain Ultra Low Sulfur Diesel Fuel or diesel fuel that has a sulfur content of no more than thirty parts per million.

5.4.6(b) The Contractor shall submit the information required by Article 5.4.6(a) at the completion of work under the Public Works Contract and on a yearly basis no later than August 1 throughout the term of the Public Works Contract. The yearly report shall cover work performed the preceding fiscal year (July 1 - June 30).

5.5 Ultra Low Sulfur Diesel Fuel. In accordance with the Coordinated Construction Act for Lower Manhattan, as amended:

5.5.1 Definitions. For purposes of this Article 5.5, the following definitions apply:

5.5.1(a) "Lower Manhattan" means the area to the south of and within the following lines: a line beginning at a point where the United States pierhead line in the Hudson river as it exists now or may be extended would intersect with the southerly line of West Houston street in the borough of Manhattan extended, thence easterly along the southerly side of West Houston street to the southerly side of Houston street, thence easterly along the southerly side of Houston street to the southerly side of East Houston street, thence northeasterly along the southerly side of East Houston street to the point where it would intersect with the United States pierhead line in the East river as it exists now or may be extended, including tax lots within or immediately adjacent thereto.

5.5.1(b) "Lower Manhattan Redevelopment Project" means any project in Lower Manhattan that is funded in whole or in part with federal or State funding, or any project intended to improve transportation between Lower Manhattan and the two air terminals in the City of New York known as LaGuardia Airport and John F. Kennedy International Airport, or between Lower Manhattan and the air terminal in Newark known as Newark Liberty International Airport, and that is funded in whole or in part with federal funding.

5.5.1(c) "Nonroad Engine" means an internal combustion engine (including the fuel system) that is not used in a Motor Vehicle or a vehicle used solely for competition, or that is not subject to standards promulgated under section 7411 or section 7521 of title 42 of the United States Code, except that this term shall apply to internal combustion engines used to power generators, compressors or similar equipment used in any construction program or project.

5.5.1(d) "Nonroad Vehicle" means a vehicle that is powered by a Nonroad Engine, fifty horsepower and greater, and that is not a Motor Vehicle or a vehicle used solely for competition, which shall include, but not be limited to, excavators, backhoes, cranes, compressors, generators, bulldozers and similar equipment, except that this terms shall not apply to horticultural maintenance vehicles used for landscaping purposes that are powered by a Nonroad Engine of sixty-five horsepower or less and that are not used in any construction program or project.

5.5.1(e) "Ultra Low Sulfur Diesel Fuel" means diesel fuel that has a sulfur content of no more than fifteen parts per million.

5.5.2 Requirements. Contractors and Subcontractors are required to use only Ultra Low Sulfur Diesel Fuel to power the diesel-powered Nonroad Vehicles with engine horsepower (HP) rating of 50 HP and above used on a Lower Manhattan Redevelopment Project and, where practicable, to reduce the emission of pollutants by retrofitting such Nonroad Vehicles with oxidation catalysts, particulate filters, or technology that achieves lowest particulate matter emissions.

5.6 Pesticides. In accordance with Section 17-1209 of the Administrative Code, to the extent that the Contractor or any Subcontractor applies pesticides to any property owned or leased by the City, the Contractor and any Subcontractor shall

comply with chapter 12 of the Administrative Code.

ARTICLE 6 – INSPECTION

6.1 During the progress of the Work, the Contractor shall at all times afford the representatives of the City every reasonable, safe and proper facility for inspecting all work done or being done at the site and also the manufacture or preparation of materials and equipment at the place of such manufacture or preparation.

6.2 The Contractor's obligation hereunder shall include the uncovering or taking down of finished work and its restoration thereafter; provided, however, that the order to uncover, take down and restore shall be in writing, and further provided that if work thus exposed proves satisfactory, and if the Contractor has complied with Article 6.1, such uncovering or taking down and restoration shall be considered an item of extra work to be paid for in accordance with the provisions of Article 26 hereof.

6.3 Inspection and approval by the Commissioner, the Engineer, Project Manager, or Resident Engineer, of finished work or of work being performed, or of materials and equipment at the place of manufacture or preparation, shall not relieve the Contractor of its obligation to perform the work in strict accordance with the Contract. Finished or unfinished work found not to be in strict accordance with the Contract shall be replaced as directed by the Engineer, even though such work may have been previously approved and paid for. Such corrective work is Contract Work and shall not be deemed Extra Work.

6.4 Rejected work and materials must be promptly taken down and removed from the site, which must at all times be kept in a reasonably clean and neat condition.

ARTICLE 7 - PROTECTION OF WORK AND OF PERSONS AND PROPERTY; NOTICES AND INDEMNIFICATION

7.1 During the performance of the Work, the Contractor shall be under an absolute obligation to protect the finished and unfinished Work against any damage, loss, injury, theft and/or vandalism and in the event of such damage, loss, injury, theft and/or vandalism, it shall promptly replace and/or repair such Work at the Contractor's sole cost and expense, as directed by the Resident Engineer. The obligation to deliver finished Work in strict accordance with the Contract shall be absolute and shall not be affected by the Resident Engineer's approval of, or failure to prohibit, the Means and Methods of Construction used by the Contractor.

7.2 During the performance of the Work, the Contractor shall take all reasonable precautions to protect the persons and property of the City and of others from damage, loss or injury resulting from the Contractor's, and/or its Subcontractors' operations under this Contract. The Contractor's obligation to protect shall include the duty to provide, place or replace and adequately maintain at or about the Site suitable and sufficient protection such as lights, barricades, and enclosures.

7.3 The Contractor shall comply with the notification requirements set forth below in the event of any loss, damage or injury to Work, persons or property, or any accidents arising out of the operations of the Contractor and/or its Subcontractors under this Contract.

7.3.1 The Contractor shall make a full and complete report in writing to the Resident Engineer within three (3) Days after the occurrence.

7.3.2 The Contractor shall notify in writing the commercial general liability insurance carrier, and, where applicable, the worker's compensation and/or other insurance carrier, of any such loss, damage, injury, or accident, and any claim or suit arising therefrom, immediately, but not later than 20 days after such event. The Contractor's notice to the commercial general liability insurance carrier must expressly specify that "this notice is being given on behalf of the City of New York as Additional Insured as well as [the Contractor] as Named Insured." The Contractor's notice to the insurance carrier shall contain the following information: the name of the Contractor, the number of the Contract, the date of the occurrence, the location (street address and borough) of the occurrence, and the identity of the persons or things injured, damaged or lost.

- 7.3.2(a) At the time notice is provided to the insurance carrier(s), the Contractor shall provide copies of such notice to the Comptroller and the Commissioner. Notice to the Comptroller shall be sent to the Insurance Unit, NYC Comptroller's Office, 1 Centre Street – Room 1222, New York, New York, 10007. Notice to the Commissioner shall be sent to the Commissioner of DDC, 30-30 Thomson Avenue, Long Island City, New York, New York, 11101.
- 7.3.2(b) If the Contractor fails to provide any of the foregoing notices to any appropriate insurance carrier(s) in a timely and complete manner, the Contractor shall indemnify the City for all losses, judgments, settlements and expenses, including reasonable attorneys' fees, arising from an insurer's disclaimer of coverage citing late notice by or on behalf of the City.

7.4 To the fullest extent permitted by law, the Contractor shall indemnify, defend and hold the City, its employees and agents (the "Indemnitees") harmless against any and all claims (including but not limited to claims asserted by any employee of the Contractor and/or its Subcontractors) and costs and expenses of whatever kind (including but not limited to payment or reimbursement of attorneys' fees and disbursements) allegedly arising out of or in any way related to the operations of the Contractor and/or its Subcontractors in the performance of this Contract or from the Contractor's and/or its Subcontractors' failure to comply with any of the provisions of this Contract or of the Law. Such costs and expenses shall include all those incurred in defending the underlying claim and those incurred in connection with the enforcement of this Article 7.4 by way of cross-claim, third-party claim, declaratory action or otherwise. The parties expressly agree that the indemnification obligation hereunder contemplates (1) full indemnity in the event of liability imposed against the Indemnitees without negligence and solely by reason of statute, operation of law or otherwise; and (2) partial indemnity in the event of any actual negligence on the part of the Indemnitees either causing or contributing to the underlying claim (in which case, indemnification will be limited to any liability imposed over and above that percentage attributable to actual fault whether by statute, by operation of law, or otherwise). Where partial indemnity is provided hereunder, all costs and expenses shall be indemnified on a pro rata basis.

7.4.1 Indemnification under Article 7.4 or any other provision of the Contract shall operate whether or not Contractor or its Subcontractors have placed and maintained the insurance specified under Article 22.

7.5 The Contractor waives all rights against the City for any damages or losses for which either is covered under any insurance required under Article 22 (whether or not such insurance is actually procured) or any other insurance applicable to the operations of the Contractor and/or its Subcontractors in the performance of this Contract.

7.6 The provisions of this Article shall not be deemed to create any new right of action in favor of third parties against the Contractor or the City.

CHAPTER III - TIME PROVISIONS

ARTICLE 8 - COMMENCEMENT AND PROSECUTION OF THE WORK

8.1 The Contractor must commence on-site labor on the date specified in the Work Order. The time for performance of a project shall be computed from the date specified in the Work Order. Time being of the essence of this Contract, the Contractor shall thereafter prosecute the work diligently, using such means and methods of construction as will assure its completion not later than the date specified thereof, or on the date to which the time for completion may be extended.

ARTICLE 9 – PROGRESS SCHEDULE

9.1 If directed by the Engineer, the Contractor shall submit a proposed progress schedule for the services set forth in the Work Order. If so directed, the Contractor will not receive any payments until the proposed progress schedule is submitted and approved.

9.2 The proposed progress schedule shall be revised as directed by the Engineer, until finally approved by the Engineer, and after such approval, subject to the provisions of Article 11, shall be strictly adhered to by the Contractor.

9.3 If the Contractor shall fail to adhere to the approved progress schedule, or to the schedule as revised pursuant to Article 11, it shall promptly adopt such other or additional methods as will make up for the time lost and will assure completion in accordance with the approved progress schedule.

ARTICLE 10 - REQUESTS FOR INFORMATION OR APPROVAL

10.1 From time to time as the Work progresses and in the sequence indicated by the approved progress schedule, the Contractor shall submit to the Engineer a specific request in writing for each item of information or approval required by the Contractor. These requests shall state the latest date upon which the information or approval is actually required by the Contractor, and shall be submitted in a reasonable time in advance thereof to enable the Engineer a sufficient time to act upon such submissions, or any necessary re-submissions thereof.

10.2 The Contractor shall not have any right to an extension of time on account of delays due to the Contractor's failure to submit requests for the required information or the required approval in accordance with the above requirements.

ARTICLE 11 - NOTICE OF CONDITIONS CAUSING DELAY AND DOCUMENTATION OF DAMAGES CAUSED BY DELAY

11.1 After the commencement of any condition which is causing or may cause a delay in completion of the Work, including conditions for which the Contractor may be entitled to an extension of time, the following notifications and submittals are required:

11.1.1 Within seven (7) Days after the commencement of such condition, the Contractor must notify the Engineer in writing of the existence, nature and effect of such condition upon the approved progress schedule and the Work, and must state why and in what respects, if any, the condition is causing or may cause a delay.

11.1.2 If the Contractor shall claim to be sustaining damages for delay, by reason of any act or omission of the City or its agents, it shall submit to the Commissioner within forty-five (45) Days from the time such damages are first incurred, and every thirty (30) Days thereafter for as long as such damages are incurred, verified statements of the details and the amounts of such damages, together with documentary evidence of such damages. The Contractor may submit any of the above statements within such additional time as may be granted by the Commissioner in writing upon written request therefor. Failure of the Commissioner to respond in writing to a written request for additional time within thirty (30) Days shall be deemed a denial of the request. On failure of the Contractor to fully comply with the foregoing provisions, such claims shall be deemed waived and no right to recover on such claims shall exist. Damages that the Contractor may claim in any action arising under or by reason of this Contract shall not be different from or in excess of the statements made and documentation provided pursuant to this article.

11.2 Failure of the Contractor to strictly comply with the requirements of Article 11.1.1 may, in the discretion of the Commissioner, be deemed sufficient cause to deny any extension of time on account of delay arising out of such condition. Failure of the Contractor to strictly comply with the requirements of Articles 11.1.1 and 11.1.2 shall be deemed a conclusive waiver by the Contractor of any and all claims for damages for delay arising from such condition and no right to recover on such claims shall exist.

11.3 When appropriate and directed by the Engineer, the progress schedule shall be revised by the Contractor until finally approved by the Engineer. The revised progress schedule must be strictly adhered to by the Contractor.

ARTICLE 12 - COORDINATION WITH OTHER CONTRACTORS

12.1 During the progress of the Work, Other Contractors may be engaged in performing other work or may be awarded other contracts for additional work on this Project. In that event, the Contractor shall coordinate the Work to be done hereunder with the work of such Other Contractors and the Contractor shall fully cooperate with such Other Contractors and carefully fit its own Work to that provided under other contracts as may be directed by the Engineer. The Contractor shall not commit or permit any act which will interfere with the performance of work by any Other Contractors.

12.2 If the Engineer shall determine that the Contractor is failing to coordinate its Work with the work of Other Contractors as the Engineer has directed, then the Commissioner shall have the right to withhold any payments otherwise due hereunder until the Contractor completely complies with the Engineer's directions.

12.3 The Contractor shall notify the Engineer in writing if any Other Contractor on this Project is failing to coordinate its work with the Work of this Contract. If the Engineer finds such charges to be true, the Engineer shall promptly issue such directions to the Other Contractor with respect thereto as the situation may require. The City shall not, however, be

liable for any damages suffered by any Other Contractor's failure to coordinate its work with the Work of this Contract or by reason of the Other Contractor's failure to promptly comply with the directions so issued by the Engineer, or by reason of any Other Contractor's default in performance, it being understood that the City does not guarantee the responsibility or continued efficiency of any contractor. The Contractor agrees to make no claim against the City for any damages relating to or arising out of any directions issued by the Engineer pursuant to this article (including but not limited to the failure of any Other Contractor to comply or promptly comply with such directions), or the failure of the Engineer to issue any directions, or the failure of any Other Contractor to coordinate its work, or the default in performance of any Other Contractor.

12.4 The Contractor shall indemnify and hold the City harmless from any and all claims or judgments for damages and from costs and expenses to which the City may be subjected or which it may suffer or incur by reason of the Contractor's failure to comply with the Engineer's directions promptly; and the Comptroller shall have the right to exercise the powers reserved in Article 23 with respect to any claims which may be made for damages due to this Contractor's failure to comply with the Engineer's direction promptly. Insofar as the facts and Law relating to any claim would preclude the City from being completely indemnified by the Contractor, the City shall be partially indemnified by the Contractor to the fullest extent provided by Law.

12.5 Should the Contractor sustain any damage through any act or omission of any Other Contractor having a contract with the City for the performance of work upon the Site or of work which may be necessary to be performed for the proper prosecution of the Work to be performed hereunder, or through any act or omission of a Subcontractor of such Contractor, the Contractor shall have no claim against the City for such damage, but shall have a right to recover such damage from the Other Contractor under the provision similar to the following provisions which apply to this Contract and have been or will be inserted in the contracts with such Other Contractors:

12.5.1 Should any Other Contractor having or who shall hereafter have a contract with the City for the performance of work upon the Site sustain any damage through any act or omission of the Contractor hereunder or through any act or omission of any Subcontractor of the Contractor, the Contractor agrees to reimburse such Other Contractor for all such damages and to defend at its own expense any suit based upon such claim and if any judgment or claims (even if the allegations of the suit are without merit) against the City shall be allowed the Contractor shall pay or satisfy such judgment or claim and pay all costs and expenses in connection therewith and agrees to indemnify and hold the City harmless from all such claims. Insofar as the facts and Law relating to any claim would preclude the City from being completely indemnified by the Contractor, the City shall be partially indemnified by the Contractor to the fullest extent provided by Law.

12.6 The City's right to indemnification hereunder shall in no way be diminished, waived or discharged, by its recourse to assessment of liquidated damages as provided in Article 15, or by the exercise of any other remedy provided for by Contract or by Law.

ARTICLE 13 - TIME OF PERFORMANCE

13.1 Term of the Contract: The Contract shall commence on the date specified in the written Notice of Commencement and shall remain in effect for the period set forth in Schedule A (Final Page of the Contract). At the Commissioner's sole option, the term of this contract may be renewed for the period and for the increased amount set forth in Schedule A. The Commissioner may, for good and sufficient cause, extend the term of this Contract for a cumulative period not to exceed one year from the date of expiration.

13.2 Continuation of the Contract: In the event (1) services are required for a Project, (2) a Work Order for the Project is issued by the Commissioner during the term of the Contract, including the last day thereof, and (3) the time frame for completion of the Project extends beyond the term of the Contract, the Contract shall remain in effect for purposes of such Work Order through the time frame for completion of the Project, as set forth in the Work Order or any Supplementary Work Order required to complete the Project. For the purpose of this provision, the term of the Contract shall mean whichever of the following is the latest and actual final period of the Contract: (1) the term of the Contract, (2) the extended term of the Contract, or (3) the renewal term of the Contract.

13.3 Work Order: The Work Order for the Project shall commence as of the date of issuance and shall remain in effect until completion of all required services for the Project. The time frame for completion of all required services for the Project shall be set forth in the Work Order. Unless terminated or cancelled by the Commissioner, Work Orders shall be

effective and binding upon the Contractor when placed in the mail prior to the termination of the contract term, addressed to the Contractor at the address shown on the advice of award.

13.4 Delay: The Contractor agrees to make no claim for damages for delay in the performance of this Contract occasioned by any act or omission to act of the City or any of its representatives, and agrees that any such claim has been fully compensated for and is reflected in the unit prices bid for the items which are the subject of this contract.

ARTICLE 14 - DATE FOR COMPLETION

14.1 Date for Completion: The Contractor shall complete a project within the time fixed therefore in the Work Order or within the time to which such completion may be extended.

14.2 Determining Date of Completion: Final inspection of a project by the Engineer shall be made within 10 days after receipt of the Contractor's written request therefore. The work will be deemed complete as of the date of such inspection if, upon such inspection, the Engineer finds that no further work remains to be done.

14.3 Request for Reinspection: However, if such inspection, in the opinion of the Engineer, reveals items of work still to be performed, the Contractor shall promptly perform them and then request a reinspection. If, upon any reinspection, the Engineer determines that the project is complete, the date of completion shall be deemed to be the actual date of such reinspection, which shall be made not more than 10 days after the date of the request therefore.

ARTICLE 15 - LIQUIDATED DAMAGES

15.1 In the event the Contractor fails to complete the Work within the time fixed for such completion in the Work Order, plus authorized time extensions, or if the Contractor, in the sole determination of the Commissioner, has abandoned the Work, the Contractor shall pay to the City the sum fixed in the Specific Requirements for each and every Day that the time consumed in completing the Work exceeds the time allowed therefor; which said sum, in view of the difficulty of accurately ascertaining the loss which the City will suffer by reason of delay in the completion of the Work hereunder, is hereby fixed and agreed as the liquidated damages that the City will suffer by reason of such delay, and not as a penalty. This article shall apply to the Contractor if it is defaulted pursuant to Chapter X of this Contract. Neither the failure to assess liquidated damages nor the granting of any time extension shall operate as a waiver or release of any claim the City may have against the Contractor for either actual or liquidated damages.

15.2 Liquidated damages received hereunder are not intended to be nor shall they be treated as either a partial or full waiver or discharge of the City's right to indemnification, or the Contractor's obligation to indemnify the City, or to any other remedy provided for in this Contract or by Law.

15.3 The Commissioner may deduct and retain out of the monies which may become due hereunder, the amount of any such liquidated damages; and in case the amount which may become due hereunder shall be less than the amount of liquidated damages suffered by the City, the Contractor shall be liable to pay the difference.

ARTICLE 16 - NOT USED

CHAPTER IV - SUBCONTRACTS AND ASSIGNMENTS

ARTICLE 17 - SUBCONTRACTS

17.1 The Contractor shall not make subcontracts totaling an amount more than the percentage of the total Contract price fixed in Schedule A, without prior written permission from the Commissioner. All subcontracts made by the Contractor shall be in writing. No work may be performed by a Subcontractor prior to the Contractor entering into a written subcontract with the Subcontractor and complying with the provisions of this Article 17.

17.2 Before making any subcontracts, the Contractor shall submit a written statement to the Commissioner giving the name and address of the proposed Subcontractor, the portion of the Work and materials which it is to perform and furnish, the cost of the subcontract, the VENDEX questionnaire if required, and any other information tending to prove that the proposed Subcontractor has the necessary facilities, skill, integrity, past experience and financial resources to perform the Work in accordance with the terms and conditions of this Contract.

17.3 If an approved Subcontractor elects to subcontract any portion of its subcontract, the proposed sub-subcontract shall be submitted in the same manner as directed above.

17.4 The Commissioner will notify the Contractor in writing whether the proposed Subcontractor is qualified or not qualified. If the proposed Subcontractor is not qualified, the Contractor may submit another proposed Subcontractor unless the Contractor decides to do the Work. No Subcontractor shall be permitted on the Site unless approved.

17.5 Before entering into any subcontract hereunder, the Contractor shall inform the Subcontractor fully and completely of all provisions and requirements of this Contract relating either directly or indirectly to the Work to be performed and the materials to be furnished under such subcontract, and every such Subcontractor shall expressly stipulate that all labor performed and materials furnished by the Subcontractor shall strictly comply with the requirements of this Contract.

17.6 Documents given to a 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 Agency and the Project's location.

17.7 The Commissioner's approval of a Subcontractor shall not relieve the Contractor of any of its responsibilities, duties and liabilities hereunder. The Contractor shall be solely responsible to the City for the acts or defaults of its Subcontractor and of such Subcontractor's officers, agents and employees, each of whom shall, for this purpose, be deemed to be the agent or employee of the Contractor to the extent of its subcontract.

17.8 The Contractor shall be responsible for ensuring that all Subcontractors performing Work at the Site have either their own insurance coverage or are covered by the Contractor's insurance as required by Article 22.

17.9 The Contractor shall promptly, upon request, file with the Engineer a conformed copy of the subcontract and its cost. The subcontract shall provide the following:

17.9.1 Payment to Subcontractors: The agreement between the Contractor and its Subcontractors shall contain the same terms and conditions as to method of payment for Work, labor and materials, and as to retained percentages, as are contained in this Contract.

17.9.2 Prevailing Rate of Wages: The agreement between the Contractor and its Subcontractors shall include the prevailing wage rates and supplemental benefits to be paid in accordance with Labor Law Section 220.

17.9.3 Section 6-123 of the Administrative Code: Pursuant to the requirements of Section 6-123 of the Administrative Code, every agreement between the Contractor and its Subcontractors in excess of \$50,000 shall include a provision that the Subcontractor shall not engage in any unlawful discriminatory practice as defined in Title VIII of the Administrative Code (Section 8-101 et. seq.).

17.10 The Commissioner may deduct from the amounts certified under this Contract to be due to the Contractor, the sum or sums due and owing from the Contractor to the Subcontractors according to the terms of the said subcontracts, and in case of dispute between the Contractor and its Subcontractor, or Subcontractors, as to the amount due and owing, the Commissioner may deduct and withhold from the amounts certified under this Contract to be due to the Contractor such sum or sums as may be claimed by such Subcontractor, or Subcontractors, in a sworn affidavit, to be due and owing until such time as such claim or claims shall have been finally adjusted.

17.11 On Contracts where 100% performance bonds and payment bonds are executed, the Contractor shall include on each requisition for payment the following data: Subcontractor's name, value of the subcontract, total amount previously paid to Subcontractor for Work previously requisitioned, and the amount, including retainage, to be paid to the Subcontractor for Work included in the requisition.

17.12 On Contracts where performance bonds and payment bonds are not executed, the Contractor shall include with each requisition for payment submitted hereunder, a signed statement from each and every Subcontractor and/or Materialman for whom payment is requested in such requisition. Such signed statement shall be on the letterhead of the Subcontractor and/or Materialman for whom payment is requested and shall (i) verify that such Subcontractor and/or Materialman has been paid in full for all work performed and/or material supplied to date, exclusive of any amount retained

and any amount included on the current requisition, and (ii) state the total amount of retainage to date, exclusive of any amount retained on the current requisition.

ARTICLE 18 - ASSIGNMENTS

18.1 The Contractor shall not assign, transfer, convey or otherwise dispose of this Contract, or the right to execute it, or the right, title or interest in or to it or any part thereof, or assign, by power of attorney or otherwise any of the monies due or to become due under this Contract, unless the previous written consent of the Commissioner shall first be obtained thereto, and the giving of any such consent to a particular assignment shall not dispense with the necessity of such consent to any further or other assignments.

18.2 Such assignment, transfer, or conveyance shall not be valid until filed in the office of the Commissioner and the Treasurer, with the written consent of the Commissioner endorsed thereon or attached thereto.

18.3 Failure to obtain the previous written consent of the Commissioner to such an assignment, transfer or conveyance, may result in the revocation and annulment of this Contract. The City shall thereupon be relieved and discharged from any further liability to the Contractor, its assignees, transferees or sublessees, who shall forfeit and lose all monies therefor earned under the Contract, except so much as may be required to pay the Contractor's employees.

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

18.5 This Contract may be assigned by the City to any corporation, agency or instrumentality having authority to accept such assignment.

CHAPTER V - CONTRACTOR'S SECURITY AND GUARANTY

ARTICLE 19 - SECURITY DEPOSIT

19.1 The bid deposit, if required, shall be retained by the Comptroller as security for the Contractor's faithful performance of the Contract and will be returned to the Contractor only after the sum retained under Article 21 equals the amount of the bid deposit, subject to the other provisions of this Contract. If performance and payment bonds are required, any bid security posted shall be returned within a reasonable time after posting of such bonds and execution of this Contract by the City. When no partial payments are provided, the bid deposit will be released when final payment is certified to the Comptroller for payment.

19.2 If the Contractor is declared in default under Article 48 prior to the return of the deposit, or if any claim is made such as referred to in Article 23, the amount of such deposit, or so much thereof as the Comptroller may deem necessary, may be retained and then applied by the Comptroller:

- 19.2.1 To compensate the City for any expense, loss or damage suffered or incurred by reason of or resulting from such default, including the cost of re-letting and liquidated damages; or
- 19.2.2 To indemnify the City against any and all claims.

ARTICLE 20 - PAYMENT GUARANTEE

20.1 On Contracts where 100% performance bonds and payment bonds are executed, this article does not apply.

20.2 In the event the terms of this Contract do not require the Contractor to provide a payment bond, the City shall, in accordance with the terms of this article, guarantee payment of all lawful demands for:

- 20.2.1 Wages and compensation for labor performed and/or services rendered; and
- 20.2.2 Materials, equipment, and supplies provided, whether incorporated into the Work or not, when demands have been filed with the City as provided hereinafter by any person, firm, or corporation which furnished labor, material, equipment, supplies, or any combination thereof, in connection with the Work performed hereunder (hereinafter referred to as the "beneficiary") at the direction of the City or the Contractor.

- 20.3 The provisions of Article 20.2 are subject to the following limitations and conditions:
- 20.3.1 The guarantee is made for the benefit of all beneficiaries as defined in Article 20.2 provided that those beneficiaries strictly adhere to the terms and conditions of this Article 20.3.
- 20.3.2 Nothing in this article shall prevent a beneficiary providing labor, services or material for the Work from suing the Contractor for any amounts due and owing the beneficiary by the Contractor.
- 20.3.3 All demands made against the City pursuant to this article shall be made within four (4) months from the date payment is due on the invoice or invoices submitted by the beneficiary to the Contractor for labor or Work done or for materials or supplies delivered, or, if the demand is for wages, four (4) months from the date the wages were due to be paid to the beneficiary.
- 20.3.4 All demands made against the City by such beneficiary shall be presented to the Engineer along with all written documentation concerning the demand which the Engineer deems appropriate or necessary, which may include, but shall not be limited to: the subcontract; any invoices presented to the Contractor for payment; the notarized statement of the beneficiary that the demand is due and payable, that a request for payment has been made of the Contractor and that the demand has not been paid by the Contractor within the time allowed for such payment by the subcontract; and copies of any correspondence between the beneficiary and the Contractor concerning such demand. The City shall notify the Contractor that a demand has been made. The Contractor shall inform the City of any defenses to the demand, and shall forward to the City any documents the City requests concerning the demand.
- 20.3.5 The City shall make payment only if, after considering all defenses presented by the Contractor, it determines that the payment is due and owing to the beneficiary making the demand.
- 20.3.6 The City will not initiate the payment process of this article or make payment on a demand where the beneficiary making the demand has filed a lien against the Work or otherwise sues the City prior to receiving a written notice from the City that it will not pay the demand.
- 20.3.7 No beneficiary shall be entitled to interest from the City, or to any other costs, including, but not limited to, attorney's fees.
- 20.4 Upon the receipt by the City of a demand pursuant to this article, the City may withhold from any payment otherwise due and owing to the Contractor under this Contract an amount sufficient to satisfy the demand.
- 20.4.1 In the event the City determines that the demand is valid, the City shall notify the Contractor of such determination and the amount thereof, and direct the Contractor to immediately pay such amount to the beneficiary. In the event the Contractor, within seven (7) days of receipt of such notification from the City, fails to pay the beneficiary, such failure shall constitute an automatic and irrevocable assignment of payment by the Contractor to the beneficiary for the amount of the demand determined by the City to be valid. The Contractor, without further notification or other process, hereby gives its unconditional consent to such assignment of payment to the beneficiary and authorizes the City, on its behalf, to take all necessary actions to implement such assignment of payment, including without limitation the execution of any instrument or documentation necessary to effectuate such assignment. In the event that the amount otherwise due and owing to the Contractor by the City is insufficient to satisfy such demand, the City may, at its option, require payment from the Contractor of an amount sufficient to cover such demand and exercise any other right to require or recover payment which the City may have under Law or Contract.
- 20.4.2 In the event the City determines that the demand is invalid, any amount withheld pending the City's review of such demand shall be paid to the Contractor; provided, however, no lien has been filed. In the event a lien has been filed, the terms and conditions set forth in Article 23 shall apply.
- 20.5 The provisions of this article shall not prevent the City and the Contractor from resolving disputes in accordance with the PPB Rules, where applicable.

20.6 In the event the City determines that the beneficiary is entitled to payment pursuant to this article, such determination and any defenses and counterclaims raised by the Contractor shall be taken into account in evaluating the Contractor's performance.

20.7 Nothing in this article shall relieve the Contractor of the obligation to pay the claims of all persons with valid and lawful claims against the Contractor relating to the Work.

20.8 The Contractor shall not require any performance, payment or other bonds of any Subcontractor if this Contract does not require such bonds of the Contractor.

20.9 The payment guarantee made pursuant to this article shall be construed in a manner consistent with Section 137 of the State Finance Law and shall afford to persons furnishing labor or materials to the Contractor or his Subcontractors in the prosecution of the Work under this Contract all of the rights and remedies afforded to such persons by such section, including but not limited to, the right to commence an action against the City on the payment guarantee provided by this article within the one year limitations period set forth in Section 137(4)(b).

ARTICLE 21 - RETAINED PERCENTAGE

21.1 As security for the faithful performance of this Contract, the Commissioner shall deduct, and retain five (5%) percent of the value of Work certified for payment in each partial payment voucher. The amount retained shall be released to the Contractor at the end of the term of this Contract.

ARTICLE 22. INSURANCE

22.1 Types of Insurance: From the date the Contractor is required to provide Proof of Insurance pursuant to Article 22.3.1 through the date of completion of all required Work, the Contractor shall effect and maintain the following types of insurance if and as indicated in Schedule A (with the minimum limits and special conditions specified in Schedule A). Such insurance shall be issued by companies that meet the standards of Article 22.2.1 and shall be primary (and non-contributing) to any insurance or self-insurance maintained by the City.

22.1.1 Commercial General Liability Insurance: The Contractor shall provide a Commercial General Liability Insurance policy covering the Contractor as Named Insured and the City as an Additional Insured. This policy shall protect the City and the Contractor from claims for property damage and/or bodily injury, including death, which may arise from any of the operations under this Contract. Coverage under this policy shall be at least as broad as that provided by ISO Form CG 0001 (10/01 ed.), must be "occurrence" based rather than "claims-made", and shall include, without limitation, the following types of coverage: Premises Operations, Products and Completed Operations, Contractual Liability (including the tort liability of another assumed in a contract), Broad Form Property Damage, Medical Payments, Independent Contractors, Personal Injury (Contractual Exclusion deleted), Explosion, Collapse and Underground Property, and Incidental Malpractice. If such insurance contains an aggregate limit, it shall apply separately to this Project.

- (a) Such Commercial General Liability Insurance shall name the City, together with its officials and employees, as an Additional Insured under this policy. Coverage for the City as Additional Insured shall specifically include the City's officials and employees, and shall be at least as broad as either Insurance Services Office ("ISO") Form CG 20 10 (07/04 ed.) or Form CG 20 33 (07/04 ed.) and shall provide completed operations coverage at least as broad as CG 20 37 (07/04 ed.).

22.1.2 Workers' Compensation Insurance and Disability Benefits Insurance: The Contractor shall provide, and ensure that each Subcontractor provides, Workers Compensation Insurance and Disability Benefits Insurance in accordance with the Laws of the State of New York on behalf of all employees providing services under this Contract.

22.1.3 Employers' Liability Insurance: The Contractor shall provide, and ensure that each Subcontractor provides, Employers Liability Insurance affording compensation due to bodily injury by accident or disease sustained by any employee arising out of and in the course of his/her employment under this Contract.

22.1.4 Comprehensive Business Automobile Liability Insurance: The Contractor shall provide a Comprehensive Business

Automobile Liability policy for liability arising out of any owned, non-owned, leased and hired vehicles to be used in connection with this Contract. Coverage should be at least as broad as ISO Form CA0001, ed. 10/01.

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

22.1.5 The Contractor shall provide such other types of insurance, at such minimum limits, as specified in Schedule A.

22.2 General Requirements for Insurance Policies:

22.2.1 All required insurance policies shall be maintained with companies that may lawfully issue the required policy and have an A.M. Best rating of at least A- VII or a Standard and Poor's rating of at least AA, unless prior written approval is obtained from the Mayor's Office of Operations.

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

22.2.3 In his/her sole discretion, the Commissioner may, subject to the approval of the Comptroller and the Corporation Counsel, accept Letters of Credit and/or custodial accounts in lieu of required insurance.

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

22.2.5 All required insurance policies, except for insurance required pursuant to Sections 22.1.2 and 22.1.3, shall contain the following endorsement: "This policy may not be cancelled, terminated, modified or changed unless thirty (30) days prior written notice is sent by the Insurance Company to the Named Insured (or First Named Insured, as appropriate), the Commissioner, and to the Comptroller, attn: Office of Contract Administration, Municipal Building, Room 1005, New York, New York 10007."

22.3 Proof of Insurance:

22.3.1 Within ten (10) Days of award, the Contractor shall, for each policy required under this Contract, except for Workers Compensation Insurance and Disability Benefits Insurance and builders' risk insurance, file a Certificate of Insurance with the Commissioner pursuant to Article 22.6. For Workers' Compensation Insurance and Disability Benefits Insurance, the Contractor shall file proof of insurance in a form acceptable to the Commissioner within ten (10) Days of award. Accord forms are not acceptable proof of workers' compensation coverage. The Contractor must submit one of the following forms to the Department, or another form acceptable to the Department: C-105.2 -- Certificate of Workers' Compensation Insurance, or U-26.3 -- State Insurance Fund Certificate of Workers' Compensation Insurance. For builders' risk insurance, the Contractor shall file a Certificate of Insurance with the Commissioner at the direction of the Commissioner but in any event no later than ten (10) Days prior to commencement of the Work.

- (a) All Certificates of Insurance shall be in a form acceptable to the City and shall certify the issuance and effectiveness of the types of insurance specified in Schedule A, each with the specified minimum limits and evidence of compliance with the Additional Insured or Named Insured provisions specified in Schedule A. All Certificate(s) of Insurance shall be accompanied by either a duly executed "Certification by Broker" in the form contained in Schedule A or completed copies of all policies referenced in the Certificate of Insurance. In the absence of completed policies, binders are acceptable.

22.3.2 Certificates of Insurance confirming renewals of insurance shall be submitted to the Commissioner prior to the expiration date of coverage of policies required under this Contract. Such Certificates of Insurance shall comply with the requirements of Article 22.3.1(a).

22.3.3 The Contractor shall be obligated to provide the City with a copy of any policy required by this Article 22 upon

the demand for such policy by the Commissioner or the New York City Law Department.

22.4 Operations of the Contractor:

22.4.1 The Contractor shall not commence the Work unless and until all required certificates have been submitted to and accepted by the Commissioner. Acceptance by the Commissioner of a certificate hereunder does not excuse the Contractor from securing a policy consistent with all provisions of this Article or of any liability arising from its failure to do so.

22.4.2 The Contractor shall be responsible for providing continuous insurance coverage in the manner, form, and limits required by this Contract and shall be authorized to perform Work only during the effective period of all required coverage.

22.4.3 In the event that any of the required insurance policies lapse, are revoked, suspended or otherwise terminated, for whatever cause, the Contractor shall immediately stop all Work, and shall not recommence Work until authorized in writing to do so by the Commissioner. Upon quitting the Site, except as otherwise directed by the Commissioner, the Contractor shall leave all plant, materials, equipment, tools and supplies on the Site. Contract time shall continue to run during such periods and no extensions of time will be granted. The Commissioner may also declare the Contractor in default for failure to maintain required insurance.

22.5 The City as Additional Insured or Loss Payee under Subcontractors' Insurance. The Contractor shall ensure that each Subcontractor name the City as Additional Insured or loss payee, as appropriate, under all policies covering Work performed by such Subcontractor under this Contract. The City's coverage as Additional Insured shall include the City's officials and employees and be at least as broad as that provided to the Contractor. The foregoing requirements shall not apply to insurance provided pursuant to Articles 22.1.2 and 22.1.3.

22.6 Wherever reference is made in Article 7 or this Article 22 to documents to be sent to the Commissioner (e.g., notices, filings, or submissions), such documents shall be sent to the Commissioner of DDC, 30-30 Thomson Avenue, Long Island City, New York, New York, 11101.

22.7 If the Contract involves disposal of hazardous materials, the Contractor shall dispose such materials only at sites where the disposal site operator maintains Pollution Legal Liability Insurance in the amount of at least \$2,000,000 for losses arising from such disposal site.

22.8 Materiality/Non-Waiver: The Contractor's failure to secure policy(ies) in complete conformity with this Article, or to give the Insurance Company timely notice of any sort required in this Contract on behalf of the City, or to do anything else required by this Article shall constitute a material breach of this Contract. Such breach shall not be waived or otherwise excused by any action or inaction by the City at any time.

22.9 Other Remedies: Insurance coverage in the minimum amounts provided for herein shall not relieve the Contractor or Subcontractors of any liability under this Contract, nor shall it preclude the City from exercising any rights or taking such other actions as are available to it under any other provisions of this Contract or Law.

ARTICLE 23 - MONEY RETAINED AGAINST CLAIMS

23.1 If any claim shall be made by any person or entity (including Other Contractors with the City on this Project) against the City or against the Contractor and the City for any of the following:

23.1.1 An alleged loss, damage, injury, theft or vandalism of any of the kinds referred to in Articles 7 and 12, plus the reasonable costs of defending the City, which in the opinion of the Comptroller may not be paid by an insurance company (for any reason whatsoever); or

23.1.2 An infringement of copyrights, patents or use of patented articles, tools, etc., as referred to in Article 57; or

23.1.3 Damage claimed to have been caused directly or indirectly by the failure of the Contractor to perform the Work in strict accordance with this Contract,

the amount of such claim, or so much thereof as the Comptroller may deem necessary, may be withheld by the Comptroller,

as security against such claim, from any money due hereunder. The Comptroller, in his/her discretion, may permit the Contractor to substitute other satisfactory security in lieu of the monies so withheld.

23.2 If an action on such claim is timely commenced and the liability of the City, or the Contractor, or both, shall have been established therein by a final judgment of a Court of competent jurisdiction, or if such claim shall have been admitted by the Contractor to be valid, the Comptroller shall pay such judgment or admitted claim out of the monies retained by the Comptroller under the provisions of this article, and return the balance, if any, without interest, to the Contractor.

23.3 Liens: If at any time before or within thirty (30) Days after the Work is completed and accepted by the City, any persons claiming to have performed any labor or furnished any material toward the performance or completion of this Contract, shall file with the Agency and with the Treasurer any notice as is described in the New York State Lien Law, or any act of the Legislature of the State of New York, the City shall retain, from the monies due or to become due under this Contract, so much of such monies as shall be sufficient to pay the amount claimed in said notice, together with the reasonable costs of any action or actions brought or that may be brought to enforce such lien. The monies so retained shall be held by the City until the lien thereon created by the said act and the filing of the said notice shall be discharged pursuant to Law.

ARTICLE 24 - MAINTENANCE AND GUARANTY

24.1 The Contractor shall promptly repair, replace, restore or rebuild, as the Commissioner may determine, any finished Work in which defects of materials or workmanship may appear or to which damage may occur because of such defects, during the one (1) year period subsequent to the date of completion of each Work Order, except where other periods of maintenance and guarantee are provided for.

24.2 As security for the faithful performance of its obligations hereunder, the Contractor, upon filing its requisition for payment on completion, shall deposit with the Commissioner a sum equal to one (1%) percent of the price of the Work Order (or the amount fixed in the Specifications) in cash or certified check upon a state or national bank and trust company or a check of such bank and trust company signed by a duly authorized officer thereof and drawn to the order of the Comptroller, or obligations of the City, which the Comptroller may approve as of equal value with the sum so required.

24.3 In lieu of the above, the Contractor may make such security payment to the City by authorizing the Commissioner in writing to deduct the amount from the retained amount which shall be deemed the deposit required above.

24.4 If the Contractor has faithfully performed all of its obligations hereunder, the Commissioner shall so certify to the Comptroller within five (5) Days after the expiration of one (1) year from the expiration of the term of this Contract or within thirty (30) Days after the expiration of the guarantee period fixed in the Specifications. The security payment shall be repaid to the Contractor without interest within thirty (30) Days after certification by the Commissioner to the Comptroller that the Contractor has faithfully performed all of its obligations hereunder.

24.5 Notice by the Commissioner to the Contractor to repair, replace, rebuild or restore such defective or damaged Work shall be timely, pursuant to this article, if given not later than ten (10) Days subsequent to the expiration of the one (1) year period or other periods provided for herein.

24.6 If the Contractor shall fail to repair, replace, rebuild or restore such defective or damaged Work promptly after receiving such notice, the Commissioner shall have the right to have the Work done by others in the same manner as provided for in the completion of a defaulted Contract, under Article 51.

24.7 If the security payment so deposited is insufficient to cover the cost of such Work, the Contractor shall be liable to pay such deficiency on demand by the Commissioner.

24.8 The Engineer's certificate setting forth the fair and reasonable cost of repairing, replacing, rebuilding or restoring any damaged or defective Work when performed by one other than the Contractor, shall be binding and conclusive upon the Contractor as to the amount thereof.

24.9 The Contractor shall obtain all manufacturers' warranties and guaranties of all equipment and materials required by this Contract in the name of the City and shall deliver same to the Commissioner. All of the City's rights and title and interest in and to said manufacturers' warranties and guaranties may be assigned by the City to any subsequent purchasers

or lessees of the premises.

CHAPTER VI – CHANGES, EXTRA WORK AND DOCUMENTATION OF CLAIM

ARTICLE 25 - CHANGES

25.1 Changes may be made to this Contract only as duly authorized in writing by the Commissioner in accordance with the Laws and this Contract. All such changes, modifications and amendments will become a part of the Contract. Work so ordered shall be performed by the Contractor.

25.2 Contract changes will be made only for Work necessary to complete the Work included in the original scope of the Contract and/or for non-material changes to the scope of the Contract. Changes are not permitted for any material alteration in the scope of Work in the Contract.

25.3 The Contractor shall be entitled to a price adjustment for Extra Work performed pursuant to a written change order. Adjustments to price shall be computed in one or more of the following ways:

- 25.3.1 By applicable unit prices specified in the Contract; and/or
- 25.3.2 By agreement of a fixed price; and/or
- 25.3.3 By time and material records; and/or
- 25.3.4 In any other manner approved by the CCPO.

25.4 All payments for change orders are subject to pre-audit by the Engineering Audit Officer and may be post-audited by the Comptroller and/or the Department.

ARTICLE 26 - METHODS OF PAYMENT FOR OVERRUNS AND EXTRA WORK

26.1 Overrun of Unit Price Item: An overrun is any quantity of a unit price item which the Contractor is directed to provide which is in excess of one hundred twenty-five (125%) percent of the estimated quantity for that item set forth in the bid schedule.

26.1.1 For any unit price item, the Contractor will be paid at the unit price bid for any quantity up to one hundred twenty five (125%) percent of the estimated quantity for that item set forth in the bid schedule. If during the progress of the Work, the actual quantity of any unit price item required to complete the Work approaches the estimated quantity for that item, and for any reason it appears that the actual quantity of any unit price item necessary to complete the Work will exceed the estimated quantity for that item by twenty-five (25%) percent, the Contractor shall immediately notify the Engineer of such anticipated overrun. The Contractor shall not be compensated for any quantity of a unit price item provided which is in excess of one hundred twenty five (125%) percent of the estimated quantity for that item set forth in the bid schedule without written authorization from the Engineer.

26.1.2 If the actual quantity of any unit price item necessary to complete the Work will exceed one hundred twenty five (125%) percent of the estimated quantity for that item set forth in the bid schedule, the City reserves the right and the Contractor agrees to negotiate a new unit price for such item. In no event shall such negotiated new unit price exceed the unit bid price. If the City and Contractor cannot agree on a new unit price, then the City shall order the Contractor and the Contractor agrees to provide additional quantities of the item on a time and material basis for the actual and reasonable cost as determined under Article 26.2, but in no event at a unit price exceeding the unit price bid.

26.2 Extra Work: For Extra Work where payment is by agreement on a fixed price in accordance with Article 25.3.2, the price to be paid for such Extra Work shall be based on the fair and reasonable estimated cost of the items set forth below. For Extra Work where payment is on a time and material basis in accordance with Article 25.3.3, the price to be paid for such Extra Work shall be the actual and reasonable cost of the items set forth below.

26.2.1 Necessary materials (including transportation to the Site); plus

26.2.2 Necessary direct labor, including payroll taxes and supplemental benefits; plus

- 26.2.3 Sales and personal property taxes, if any, required to be paid on materials not incorporated into such Extra Work; plus
- 26.2.4 Reasonable rental value of Contractor-owned, necessary plant and equipment other than small tools, plus fuel/energy costs. Except for fuel costs for pick-up trucks which shall be reimbursed based on a consumption of five (5) gallons per shift, fuel costs shall be reimbursed based on actual costs or, in the absence of auditable documentation, the following fuel consumption formula per operating hour: $(.035) \times (\text{HP rating}) \times (\text{Fuel cost/gallon})$. Reasonable rental value is defined as the lower of either seventy-five percent of the monthly prorated rental rates established in "The AED Green Book, Rental Rates and Specifications for Construction Equipment" published by PRIMEDIA (the "Green Book"), or seventy-five percent of the monthly prorated rental rates established in the "Rental Rate Blue Book for Construction Equipment" published by PRIMEDIA (the "Blue Book"). The reasonable rental value is inclusive of all operating costs except for fuel/energy consumption and equipment operator's wages/costs. For multiple shift utilization, reimbursement shall be calculated as follows: first shift shall be seventy-five percent of such rental rates; second shift shall be sixty percent of the first shift rate; and third shift shall be forty percent of the first shift rate. Equipment on standby shall be reimbursed at one-third the prorated monthly rental rate. Contractor-owned equipment includes equipment from rental companies affiliated with or controlled by the Contractor, as determined by the Commissioner. In establishing cost reimbursement for non-operating contractor-owned equipment (scaffolding, sheeting systems, road plates, etc.), the City may restrict reimbursement to a purchase-salvage/life cycle basis if less than the computed rental costs; plus
- 26.2.5 Necessary installation and dismantling of such plant and equipment, including transportation to and from the Site, if any, provided that, in the case of non-Contractor-owned equipment rented from a third party, the cost of installation and dismantling are not allowable if such costs are included in the rental rate; plus
- 26.2.6 Reasonable rental costs of non-Contractor-owned necessary plant and equipment other than small tools, plus fuel/energy costs. Except for fuel costs for pick-up trucks which shall be reimbursed based on a consumption of five (5) gallons per shift, fuel costs shall be reimbursed based on actual costs or, in the absence of auditable documentation, the following fuel consumption formula per hour of operation: $(.035) \times (\text{HP rating}) \times (\text{Fuel cost/gallon})$. In lieu of renting, the City reserves the right to direct the purchase of non-operating equipment (scaffolding, sheeting systems, road plates, etc.), with payment on a purchase-salvage/life cycle basis, if less than the projected rental costs; plus
- 26.2.7 Workers' compensation insurance, and any insurance coverage expressly required by the City for the performance of the Extra Work which is different than the types of insurance required by Article 22 and Schedule A. The cost of workers' compensation insurance shall be based upon the Manual Rate for such insurance for the applicable work classifications/codes, in accordance with the most recent schedule promulgated by the New York Compensation Insurance Rating Board; plus
- 26.2.8 Additional costs incurred as a result of the Extra Work for performance and payment bonds; plus
- 26.2.9 Ten (10%) percent of the total of items in Articles 26.2.1 through 26.2.5 as compensation for overhead, except that no percentage for overhead will be allowed on Payroll Taxes or on the premium portion of overtime pay or on sales and personal property taxes. Overhead shall include without limitation, all costs and expenses in connection with administration, management superintendence, small tools, and insurance required by Schedule A other than workers' compensation insurance; plus
- 26.2.10 Ten (10%) percent of the total of items in Articles 26.2.1 through 26.2.5, plus item 26.2.9, as compensation for profit, except that no percentage for profit will be allowed on Payroll Taxes or on the premium portion of overtime pay or on sales and personal property taxes; plus
- 26.2.11 Five (5%) percent of the total of items in Article 26.2.6, 26.2.7, and 26.2.8 as compensation for overhead and profit.
- 26.3 Where the Extra Work is performed in whole or in part by other than the Contractor's own forces pursuant to Article 26.2, the Contractor shall be paid, subject to pre-audit by the Engineering Audit Officer, the cost of such Work computed in accordance with Article 26.2 above, plus an additional allowance of five (5%) percent to cover the Contractor's overhead and profit.

26.4 Where a change is ordered, involving both Extra Work and omitted or reduced Contract Work, the Contract price shall be adjusted, subject to pre-audit by the EAO, in an amount based on the difference between the cost of such Extra Work and of the omitted or reduced Work. The cost of such Extra Work and of such omitted or reduced Work shall be computed based upon applicable Contract unit prices. Where there are no applicable Contract unit prices, the cost of such Extra Work and of such omitted or reduced Contract Work shall be computed in accordance with items 26.2.1 through 26.2.8. If the cost of such Extra Work exceeds the costs of such omitted or reduced Contract Work, the Contract price shall be increased by the difference, plus percentages for overhead and profit as provided in Articles 26.2.9 through 26.2.11. If the cost of the omitted or reduced Contract Work exceeds the cost of the Extra Work, then the Contract price shall be reduced by the difference.

26.5 Where the Contractor and the Commissioner can agree upon a fixed price for Extra Work in accordance with Article 25.3.2 or another method of payment for Extra Work in accordance with Article 25.3.4, or for Extra Work ordered in connection with omitted work, such method, subject to pre-audit by the EAO, may, at the option of the Commissioner, be substituted for the cost plus a percentage method provided in Article 26.2; provided, however, that if the Extra Work is performed by a Subcontractor, the Contractor shall not be entitled to receive more than an additional allowance of five (5%) percent for overhead and profit over the cost of such Subcontractor's Work as computed in accordance with Article 26.2.

ARTICLE 27 - RESOLUTION OF DISPUTES.

27.1 All disputes between the City and the Contractor of the kind delineated in this article that arise under, or by virtue of, this Contract shall be finally resolved in accordance with the provisions of this article and the PPB Rules. This procedure for resolving all disputes of the kind delineated herein shall be the exclusive means of resolving any such disputes.

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

27.1.2 This article shall apply only to disputes about the scope of work delineated by the Contract, the interpretation of Contract documents, the amount to be paid for Extra Work or disputed work performed in connection with the Contract, the conformity of the Contractor's Work to the Contract, and the acceptability and quality of the Contractor's Work; such disputes arise when the Engineer, Resident Engineer, Engineering Audit Officer, or other designee of the Commissioner makes a determination with which the Contractor disagrees.

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

27.3 During such time as any dispute is being presented, heard, and considered pursuant to this article, the Contract terms shall remain in force and the Contractor shall continue to perform Work as directed by the ACCO or the Engineer. Failure of the Contractor to continue Work as directed shall constitute a waiver by the Contractor of its claim.

27.4 Presentation of Disputes to Commissioner. Notice of Dispute and Agency Response. The Contractor shall present its dispute in writing ("Notice of Dispute") to the Commissioner within thirty (30) Days of receiving written notice of the determination or action that is the subject of the dispute. This notice requirement shall not be read to replace any other notice requirements contained in the Contract. The Notice of Dispute shall include all the facts, evidence, documents, or other basis upon which the Contractor relies in support of its position, as well as a detailed computation demonstrating how any amount of money claimed by the Contractor in the dispute was arrived at. Within thirty (30) Days after receipt of the detailed written submission comprising the complete Notice of Dispute, the Engineer, Resident Engineer, Engineering Audit Officer, or other designee of the Commissioner shall submit to the Commissioner all materials he or she deems pertinent to the dispute. Following initial submissions to the Commissioner, either party may demand of the other the production of any document or other material the demanding party believes may be relevant to the dispute. The requested party shall produce all relevant materials that are not otherwise protected by a legal privilege recognized by the courts of New York State. Any question of relevancy shall be determined by the Commissioner whose decision shall be final. Willful failure of the Contractor to produce any requested material whose relevancy the Contractor has not disputed, or whose

relevancy has been affirmatively determined, shall constitute a waiver by the Contractor of its claim.

- 27.4.1 **Commissioner Inquiry.** The Commissioner shall examine the material and may, in his or her discretion, convene an informal conference with the Contractor, the ACCO, and the Engineer, Resident Engineer, Engineering Audit Officer, or other designee of the Commissioner to resolve the issue by mutual consent prior to reaching a determination. The Commissioner may seek such technical or other expertise as he or she shall deem appropriate, including the use of neutral mediators, and require any such additional material from either or both parties as he or she deems fit. The Commissioner's ability to render, and the effect of, a decision hereunder shall not be impaired by any negotiations in connection with the disputed presented, whether or not the Commissioner participated therein. The Commissioner may or, at the request of any party to the dispute, shall compel the participation of any other Contractor with a Contract related to the Work of this Contract, and that Contractor shall be bound by the decision of the Commissioner. Any Contractor thus brought into the dispute resolution proceeding shall have the same rights and obligations under this article as the Contractor initiating the dispute.
- 27.4.2 **Commissioner Determination.** Within thirty (30) days after the receipt of all materials and information, or such longer time as may be agreed to by the parties, the Commissioner shall make his or her determination and shall deliver or send a copy of such determination to the Contractor, the ACCO, and Engineer, Resident Engineer, Engineering Audit Officer, or other designee of the Commissioner, as applicable, together with a statement concerning how the decision may be appealed.
- 27.4.3 **Finality of Commissioner Decision.** The Commissioner's decision shall be final and binding on all parties, unless presented to the Contract Dispute Resolution Board pursuant to this article. The City may not take a petition to the Contract Dispute Resolution Board. However, should the Contractor take such a petition, the City may seek, and the Contract Dispute Resolution Board may render, a determination less favorable to the Contractor and more favorable to the City than the decision of the Commissioner.
- 27.5 **Presentation of Dispute to the Comptroller.** Before any dispute may be brought by the Contractor to the Contract Dispute Resolution Board, the Contractor must first present its claim to the Comptroller for his or her review, investigation, and possible adjustment.
- 27.5.1 **Time, Form, and Content of Notice.** Within thirty (30) days of its receipt of a decision by the Commissioner, the Contractor shall submit to the Comptroller and to the Commissioner a Notice of Claim regarding its dispute with the Agency. The Notice of Claim shall consist of (i) a brief Written statement of the substance of the dispute, the amount of money, if any, claimed and the reason(s) the Contractor contends the dispute was wrongly decided by the Commissioner; (ii) a copy of the written decision of the Commissioner; and (iii) a copy of all materials submitted by the Contractor to the Agency, including the Notice of Dispute. The Contractor may not present to the Comptroller any material not presented to the Commissioner, except at the request of the Comptroller.
- 27.5.2 **Agency Response.** Within thirty (30) days of receipt of the Notice of Claim, the Agency shall make available to the Comptroller a copy of all material submitted by the Agency to the Commissioner in connection with the dispute. The Agency may not present to the Comptroller any material not presented to the Commissioner except at the request of the Comptroller.
- 27.5.3 **Comptroller Investigation.** The Comptroller may investigate the claim in dispute and, in the course of such investigation, may exercise all powers provided in section 7-201 and 7-203 of the New York City Administrative Code. In addition, the Comptroller may demand of either party, and such party shall provide, whatever additional material the Comptroller deems pertinent to the claim, including original business records of the Contractor. Willful failure of the Contractor to produce within fifteen (15) days any material requested by the Comptroller shall constitute a waiver by the Contractor of its claim. The Comptroller may also schedule an informal conference to be attended by the Contractor, Agency representatives, and any other personnel desired by the Comptroller.
- 27.5.4 **Opportunity of Comptroller to Compromise or Adjust Claim.** The Comptroller shall have forty-five (45) days from his or her receipt of all materials referred to in Article 27.5.3 to investigate the disputed claim. The period for investigation and compromise may be further extended by agreement between the Contractor and the Comptroller, to a maximum of ninety (90) days from the Comptroller's receipt of all materials. The Contractor may not present its petition to the Contract Dispute Resolution Board until the period for investigation and compromise delineated

in Article 27.5.4 has expired. In compromising or adjusting any claim hereunder, the Comptroller may not revise or disregard the terms of the Contract between the parties.

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

27.6.1 The chief administrative law judge of the Office of Administrative Trials and Hearings (OATH) or his/her designated OATH administrative law judge, who shall act as chairperson, and may adopt operational procedures and issue such orders consistent with this article as may be necessary in the execution of the Contract Dispute Resolution Board's functions, including, but not limited to, granting extensions of time to present or respond to submissions;

27.6.2 The CCPO or his/her designee; any designee shall have the requisite background to consider and resolve the merits of the dispute and shall not have participated personally and substantially in the particular matter that is the subject of the dispute or report to anyone who so participated; and

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

27.7 Petition to the Contract Dispute Resolution Board. In the event the claim has not been settled or adjusted by the Comptroller within the period provided in this article, the Contractor, within thirty (30) days thereafter, may petition the Contract Dispute Resolution Board to review the Commissioner's determination.

27.7.1 Form and Content of Petition by Contractor. The Contractor shall present its dispute to the Contract Dispute Resolution Board in the form of a petition, which shall include (i) a brief written statement of the substance of the dispute, the amount of money, if any, claimed, and the reason(s) the Contractor contends the dispute was wrongly decided by the Commissioner; (ii) a copy of the written Decision of the Commissioner, (iii) copies of all materials submitted by the Contractor to the Agency; (iv) a copy of the written decision of the Comptroller, if any, and (v) copies of all correspondence with, or written material submitted by the Contractor, to the Comptroller. The Contractor shall concurrently submit four (4) complete sets of the Petition: one set to the Corporation Counsel (Attn: Commercial and Real Estate Litigation Division) and three (3) sets to the Contract Dispute Resolution Board at OATH's offices with proof of service on the Corporation Counsel. In addition, the Contractor shall submit a copy of the written statement of the substance of the dispute, cited in (i) above, to both the Commissioner and the Comptroller.

27.7.2 Agency Response. Within thirty (30) Days of its receipt of the petition by the Corporation Counsel, the Agency shall respond to the brief written statement of the Contractor and make available to the Contract Dispute Resolution Board all material it submitted to the Commissioner and Comptroller. Three (3) complete copies of the Agency response shall be provided to the Contract Dispute Resolution Board and one to the Contractor. Extensions of time for submittal of the Agency response shall be given as necessary upon a showing of good cause or, upon consent of the parties, for an initial period of up to thirty (30) Days.

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

27.7.4 Contract Dispute Resolution Board Determination. Within forty-five (45) Days of the conclusion of all written

submissions and oral arguments, the Contract Dispute Resolution Board shall render a written decision resolving the dispute. In an unusually complex case, the Contract Dispute Resolution Board may render its decision in a longer period, not to exceed ninety (90) Days, and shall so advise the parties at the commencement of this period. The Contract Dispute Resolution Board's decision must be consistent with the terms of the Contract. Decisions of the Contract Dispute Resolution Board shall only resolve matters before the Contract Dispute Resolution Board and shall not have precedential effect with respect to matters not before the Contract Dispute Resolution Board.

27.7.5 Notification of Contract Dispute Resolution Board Decision. The Contract Dispute Resolution Board shall send a copy of its decision to the Contractor, the ACCO, the Engineer, the Comptroller, the Corporation Counsel, the Director of the Office of Construction, and the PPB. A decision in favor of the Contractor shall be subject to the prompt payment provisions of the PPB Rules. The Required Payment Date shall be thirty (30) Days after the date the parties are formally notified of the Contract Dispute Resolution Board's decision.

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

27.8 Any termination, cancellation, or alleged breach of the Contract prior to or during the pendency of any proceedings pursuant to this article shall not affect or impair the ability of the Commissioner or Contract Dispute Resolution Board to make a binding and final decision pursuant to this article.

ARTICLE 28 - RECORD KEEPING FOR EXTRA OR DISPUTED WORK

28.1 While the Contractor or any of its Subcontractors is performing Extra Work on a Time and Material Basis ordered by the Commissioner under Article 25, or is performing disputed Work, or complying with a determination or order under protest in accordance with Articles 27 and 30, in each such case the Contractor shall furnish the Resident Engineer daily with three (3) copies of written statements signed by the Contractor's representative at the Site showing:

28.1.1 The name and number of each Worker employed on such Work or engaged in complying with such determination or order, the number of hours employed, and the character of the Work each is doing; and

28.1.2 The nature and quantity of any materials, plant and equipment furnished or used in connection with the performance of such Work or compliance with such determination or order, and from whom purchased or rented.

28.2 A copy of such statement will be countersigned by the Resident Engineer, noting thereon any items not agreed to or questioned, and will be returned to the Contractor within two (2) Days after submission.

28.3 The Contractor and its Subcontractors, when required by the Commissioner, or the Comptroller, shall also produce for inspection, at the office of the Contractor or Subcontractor, any and all of its books, bid documents, financial statements, vouchers, records, daily job diaries and reports, and cancelled checks, and any other documents relating to showing the nature and quantity of the labor, materials, plant and equipment actually used in the performance of such Work, or in complying with such determination or order, and the amounts expended therefor, and shall permit the Commissioner and the Comptroller to make such extracts therefrom, or copies thereof, as they or either of them may desire.

28.4 In connection with the examination provided for herein, the Commissioner, upon demand therefor, will produce for inspection by the Contractor such records as the Agency may have with respect to such Extra or disputed Work performed under protest pursuant to order of the Commissioner, except those records and reports which may have been prepared for the purpose of determining the accuracy and validity of the Contractor's claim.

28.5 Failure to comply strictly with these requirements shall constitute a waiver of any claim for extra compensation or damages on account of the performance of such Work or compliance with such determination or order.

ARTICLE 29 - NOT USED

ARTICLE 30. NOTICE AND DOCUMENTATION OF COSTS AND DAMAGES; PRODUCTION OF FINANCIAL RECORDS

30.1 If the Contractor shall claim to be sustaining damages by reason of any act or omission of the City or its agents, it shall submit to the Commissioner within forty-five (45) Days from the time such damages are first incurred, and every thirty (30) Days thereafter for as long as such damages are incurred, verified statements of the details and the amounts of such damages, together with documentary evidence of such damages. The Contractor may submit any of the above statements within such additional time as may be granted by the Commissioner in writing upon written request therefor. Failure of the Commissioner to respond in writing to a written request for additional time within thirty (30) Days shall be deemed a denial of the request. On failure of the Contractor to fully comply with the foregoing provisions, such claims shall be deemed waived and no right to recover on such claims shall exist. Damages that the Contractor may claim in any action or dispute resolution procedure arising under or by reason of this Contract shall not be different from or in excess of the statements and documentation made pursuant to this article.

30.2 In addition to the foregoing statements, the Contractor shall, upon notice from the Commissioner, produce for examination at the Contractor's office, by the Engineer, Architect or Project Manager, all of its books of account, bills, invoices, payrolls, subcontracts, time books, daily reports, bank deposit books, bank statements, check books, cancelled checks, showing all of its acts and transactions in connection with or relating to or arising by reason of this Contract, and submit itself and persons in its employment, for examination under oath by any person designated by the Commissioner or Comptroller to investigate claims made or disputes against the City under this Contract. At such examination, a duly authorized representative of the Contractor may be present.

30.3 In addition to the statements required under Article 28 and this Article, the Contractor and/or its Subcontractor shall, within thirty (30) Days upon notice from the Commissioner or Comptroller, produce for examination at the Contractor's and/or Subcontractor's office, by a representative of either the Commissioner or Comptroller, all of its books of account, bid documents, financial statements, accountant workpapers, bills, invoices, payrolls, subcontracts, time books, daily reports, bank deposit books, bank statements, check books, cancelled checks, showing all of its acts and transactions in connection with or relating to or arising by reason of this Contract. Further, the Contractor and/or its Subcontractor shall submit any person in its employment, for examination under oath by any person designated by the Commissioner or Comptroller to investigate claims made or disputes against the City under this Contract. At such examination, a duly authorized representative of the Contractor may be present.

30.4 Unless the information and examination required under Article 30.3 is provided by the Contractor and/or its Subcontractor upon thirty (30) Days' notice from the Commissioner or Comptroller, or upon the Commissioner's or Comptroller's written authorization to extend the time to comply, the City shall be released from all claims arising under, relating to or by reason of this Contract, except for sums certified by the Commissioner or Comptroller to be due under the provisions of this Contract. It is further stipulated and agreed that no person has the power to waive any of the foregoing provisions and that in any action or dispute resolution procedure against the City to recover any sum in excess of the sums certified by the Commissioner or Comptroller to be due under or by reason of this Contract, the Contractor must allege in its complaint and prove, at trial or during such dispute resolution procedure, compliance with the provisions of this Article.

30.5 In addition, after the commencement of any action or dispute resolution procedure by the Contractor arising under or by reason of this Contract, the City shall have the right to require the Contractor to produce for examination under oath, up until the trial of the action or hearing before the Contract Dispute Resolution Board, the books and documents described in Article 30.3 and submit itself and all persons in its employ for examination under oath. If this Article is not complied with as required, then the Contractor hereby consents to the dismissal of the action or dispute resolution procedure.

CHAPTER VII - POWERS OF THE RESIDENT ENGINEER,
THE ENGINEER OR ARCHITECT AND THE COMMISSIONER

ARTICLE 31 - THE RESIDENT ENGINEER

31.1 The Resident Engineer shall have the power to inspect, supervise and control the performance of the Work, subject

to review by the Commissioner. The Resident Engineer shall not, however, have the power to issue an Extra Work order, except as specifically designated in writing by the Commissioner.

ARTICLE 32 - THE ENGINEER OR ARCHITECT OR PROJECT MANAGER

32.1 The Engineer or Architect or Project Manager, in addition to those matters elsewhere herein delegated to the Engineer and expressly made subject to his/her determination, direction or approval, shall have the power, subject to review by the Commissioner:

- 32.1.1 To determine the amount, quality, and location of the Work to be paid for hereunder; and
- 32.1.2 To determine all questions in relation to the Work, to interpret the Contract Drawings, Specifications, and Addenda, and to resolve all patent inconsistencies or ambiguities therein; and
- 32.1.3 To determine how the Work of this Contract shall be coordinated with Work of other Contractors engaged simultaneously on this Project, including the power to suspend any part of the Work, but not the whole thereof; and
- 32.1.4 To make minor changes in the Work as he/she deems necessary, provided such changes do not result in a net change in the cost to the City or to the Contractor of the Work to be done under the Contract; and
- 32.1.5 To amplify the Contract Drawings, add explanatory information and furnish additional Specifications and drawings, consistent with this Contract.

32.2 The foregoing enumeration shall not imply any limitation upon the power of the Engineer or Architect or Project Manager, for it is the intent of this Contract that all of the Work shall generally be subject to his/her determination, direction and approval, except where the determination, direction or approval of someone other than the Engineer or Architect or Project Manager is expressly called for herein.

32.3 The Engineer or Architect or Project Manager shall not, however, have the power to issue an Extra Work order, except as specifically designated in writing by the Commissioner.

ARTICLE 33 - THE COMMISSIONER

33.1 The Commissioner, in addition to those matters elsewhere herein expressly made subject to his/her determination, direction or approval, shall have the power:

- 33.1.1 To review and make determinations on any and all questions in relation to this Contract and its performance; and
- 33.1.2 To modify or change this Contract so as to require the performance of Extra Work (subject, however, to the limitations specified in Article 25) or the omission of Contract Work; and
- 33.1.3 To suspend the whole or any part of the Work whenever in his/her judgment such suspension is required:
 - 33.1.3(a) In the interest of the City generally; or
 - 33.1.3(b) To coordinate the Work of the various Contractors engaged on this Project to the provisions of Article 12; or
 - 33.1.3(c) To expedite completion of the entire Project even though the completion of this particular Contract may thereby be delayed.

ARTICLE 34 - NO ESTOPPEL

34.1 Neither the City nor any Agency, officer, agent or employee thereof, shall be bound, precluded or estopped by any determination, decision, approval, order, letter, payment or certificate made or given under or in connection with this Contract by the City, the Commissioner, the Resident Engineer, or any other officer, agent or employee of the City, either before or after the final completion and acceptance of the Work and payment therefor:

- 34.1.1 From showing the true and correct classification, amount, quality or character of the Work actually done; or that any such determination, decision, order, letter, payment or certificate was untrue, incorrect or improperly made in any particular, or that the Work, or any part thereof, does not in fact conform to the requirements of this Contract; and
- 34.1.2 From demanding and recovering from the Contractor any overpayment made to it, or such damages as the City

may sustain by reason of the Contractor's failure to perform each and every part of its Contract.

CHAPTER VIII - LABOR PROVISIONS

ARTICLE 35. - EMPLOYEES

35.1 The Contractor and its Subcontractors shall not employ on the Work:

35.1.1 Anyone who is not competent, faithful and skilled in the Work for which he/she shall be employed; and whenever the Commissioner shall inform the Contractor, in writing, that any employee is, in his/her opinion, incompetent, unfaithful or disobedient, that employee shall be discharged from the Work forthwith, and shall not again be employed upon it; or

35.1.2 Any labor, materials or means whose employment, or utilization during the course of this Contract, may tend to or in any way cause or result in strikes, work stoppages, delays, suspension of Work or similar troubles by workers employed by the Contractor or its Subcontractors, or by any of the trades working in or about the buildings and premises where Work is being performed under this Contract, or by Other Contractors or their Subcontractors pursuant to other Contracts, or on any other building or premises owned or operated by the City, its Agencies, departments, boards or authorities. Any violation by the Contractor of this requirement may, upon certification of the Commissioner, be considered as proper and sufficient cause for declaring the Contractor to be in default, and for the City to take action against it as set forth in Chapter X of this Contract, or such other article of this Contract as the Commissioner may deem proper; or

35.1.3 In accordance with Section 220.3-e of the Labor Law of the State of New York (hereinafter "Labor Law"), the Contractor and its Subcontractors shall not employ on the Work any apprentice, unless he/she is a registered individual, under a bona fide program registered with the New York State Department of Labor. The allowable ratio of apprentices to journey-level workers in any craft classification shall not be greater than the ratio permitted to the Contractor as to its Work force on any job under the registered program. Any employee listed on a payroll at an apprentice wage rate, who is not registered as above, shall be paid the wage rate determined by the Comptroller of the City for the classification of Work actually performed. The Contractor or Subcontractor will be required to furnish written evidence of the registration of its program and apprentices as well as all the appropriate ratios and wage rates, for the area of the construction prior to using any apprentices on the Contract Work.

35.2 If the total cost of the Work under this Contract is at least two hundred fifty thousand dollars, all laborers, workers, and mechanics employed in the performance of the Contract on the public work site, either by the Contractor, Subcontractor or other person doing or contracting to do the whole or a part of the work contemplated by the contract, shall be certified prior to performing any Work as having successfully completed a course in construction safety and health approved by the United States department of labor's occupational safety and health administration that is at least ten hours in duration.

ARTICLE 36. NO DISCRIMINATION

36.1 The Contractor specifically agrees, as required by Labor Law Section 220-e, as amended, that:

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

36.1.2 Neither the Contractor, Subcontractor, nor any person on its behalf shall, in any manner, discriminate against or intimidate any employee hired for the performance of work under this Contract on account of race, creed, color or national origin;

36.1.3 There may be deducted from the amount payable to the Contractor by the City under this Contract a penalty of fifty (\$50.00) dollars for each person for each Day during which such person was discriminated against or intimidated in violation of the provisions of this Contract; and

- 36.1.4 This Contract may be cancelled or terminated by the City and all moneys due or to become due hereunder may be forfeited, for a second or any subsequent violation of the terms or conditions of this article.
- 36.1.5 The aforesaid provisions of this article covering every Contract for or on behalf of the State or a municipality for the manufacture, sale or distribution of materials, equipment or supplies shall be limited to operations performed within the territorial limits of the State of New York.
- 36.2 The Contractor specifically agrees, as required by to §6-108 of the Administrative Code, as amended, that:
- 36.2.1 It shall be unlawful for any person engaged in the construction, alteration or repair of buildings or engaged in the construction or repair of streets or highways pursuant to a Contract with the City or engaged in the manufacture, sale or distribution of materials, equipment or supplies pursuant to a Contract with the City to refuse to employ or to refuse to continue in any employment any person on account of the race, color or creed of such person.
- 36.2.2 It shall be unlawful for any person or any servant, agent or employee of any person, described in Article 36.1.2, to ask, indicate or transmit, orally or in writing, directly or indirectly, the race, color or creed or religious affiliation of any person employed or seeking employment from such person, firm or corporation.
- 36.2.3 Breach of the foregoing provisions shall be deemed a violation of a material provision of this Contract.
- 36.2.4 Any person, or the employee, manager or owner of or officer of such firm or corporation who shall violate any of the provisions of this section shall, upon conviction thereof, be punished by a fine of not more than one hundred (\$100.00) dollars or by imprisonment for not more than thirty (30) Days, or both.
- 36.3 This Contract is subject to the requirements of Executive Order No. 50 (1980) ("E.O. 50"), as revised, and the Rules and Regulations promulgated thereunder. No Contract will be awarded unless and until these requirements have been complied with in their entirety. By signing this Contract, the Contractor agrees that it:
- 36.3.1 Will not engage in any unlawful discrimination against any employee or applicant for employment because of race, creed, color, national origin, sex, age, disability, marital status or sexual orientation with respect to all employment decisions including, but not limited to, recruitment, hiring, upgrading, demotion, downgrading, transfer, training, rates of pay or other forms of compensation, layoff, termination, and all other terms and conditions of employment; and
- 36.3.2 Will not engage in any unlawful discrimination in the selection of Subcontractors on the basis of the owner's race, color, creed, national origin, sex, age, disability, marital status or sexual orientation; and
- 36.3.3 Will state in all solicitations or advertisements for employees placed by or on behalf of the Contractor that all qualified applicants will receive consideration for employment without unlawful discrimination based on race, creed, color, national origin, sex, age, citizens status, disability, marital status, sexual orientation, or that it is an equal employment opportunity employer; and
- 36.3.4 Will send to each labor organization or representative of workers with which it has a Collective Bargaining Agreement or other Contract or memorandum of understanding, written notification of its equal employment opportunity commitments under E.O. 50 and the Rules and Regulations promulgated thereunder; and
- 36.3.5 Will furnish all information and reports including an Employment Report before the award of the Contract which are required by E.O. 50, the Rules and Regulations promulgated thereunder, and orders of the Department of Business Services, Division of Labor Services ("DLS") and will permit access to its books, records and accounts by the DLS for the purposes of investigation to ascertain compliance with such rules, regulations, and orders.
- 36.4 The Contractor understands that in the event of its noncompliance with the nondiscrimination clauses of this Contract or with any of such rules, regulations, or orders, such noncompliance shall constitute a material breach of this Contract and noncompliance with E.O. 50 and the Rules and Regulations promulgated thereunder. After a hearing held pursuant to the rules of the DLS, the Director of the DLS may direct the Commissioner to impose any or all of the following sanctions:

- 36.4.1 Disapproval of the Contractor; and/or
- 36.4.2 Suspension or termination of the Contract; and/or
- 36.4.3 Declaring the Contractor in default; and/or
- 36.4.4 In lieu of any of the foregoing sanctions, the Director of the DLS may impose an employment program.

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

The Contractor further agrees that it will refrain from entering into any Contract or Contract modification subject to E.O. 50 and the rules and regulations promulgated thereunder with a Subcontractor who is not in compliance with the requirements of E.O. 50 and the rules and regulations promulgated thereunder.

36.5 The Contractor specifically agrees, as required by Section 6-123 of the Administrative Code, that:

- 36.5.1 The Contractor will not engage in any unlawful discriminatory practice in violation of Title VIII of the Administrative Code;
- 36.5.2 Every agreement between the Contractor and its Subcontractors in excess of \$50,000 shall include a provision that the Subcontractor shall not engage in any unlawful discriminatory practice as defined in title viii of the Administrative Code (Section 8-101 et. seq.); and
- 36.5.3 Any failure to comply with this Article 36.5 may subject the Contractor to the remedies set forth in Section 6-123 of the Administrative Code, including, where appropriate, sanctions such as withholding of payment, imposition of an employment program, finding the Contractor to be in default, cancellation of the Contract, or any other sanction or remedy provided by Law or Contract.

ARTICLE 37 - LABOR LAW REQUIREMENTS

37.1 The Contractor shall strictly comply with all applicable provisions of the Labor Law, as amended. Such compliance is a material term of this Contract.

37.2 The Contractor specifically agrees, as required by Labor Law Section 220 and 220-d, as amended, that:

- 37.2.1 Hours of Work: No laborer, worker, or mechanic in the employ of the Contractor, Subcontractor or other person doing or contracting to do the whole or a part of the Work contemplated by this Contract shall be permitted or required to work more than eight (8) hours in any one (1) calendar Day, or more than five (5) Days in any one (1) week, except as provided in the Labor Law and in cases of extraordinary emergency including fire, flood, or danger to life or property, or in the case of national emergency when so proclaimed by the President of the United States of America.
- 37.2.2 In situations in which there are not sufficient laborers, workers and mechanics who may be employed to carry on expeditiously the Work contemplated by this Contract as a result of such restrictions upon the number of hours and days of labor, and the immediate commencement or prosecution or completion without undue delay of the Work is necessary for the preservation of the Site and/or for the protection of the life and limb of the persons using the same, such laborers, workers, and mechanics shall be permitted or required to work more than eight (8) hours in any one (1) Day; or five (5) Days in any one (1) week; provided, however, that upon application of any Contractor, the Commissioner shall have first certified to the Commissioner of Labor of the State of New York (hereinafter "Commissioner of Labor") that such public Work is of an important nature and that a delay in carrying it to completion would result in serious disadvantage to the public; and provided, further, that such Commissioner of Labor shall have determined that such an emergency does in fact exist as provided in Labor Law Section 220.2.
- 37.2.3 Failure of the Commissioner to make such a certification to the Commissioner of Labor shall not entitle the Contractor to damages for delay or for any cause whatsoever.
- 37.2.4 Prevailing Rate of Wages: The wages to be paid for a legal day's Work to laborers, workers, or mechanics employed upon the Work contemplated by this Contract or upon any materials to be used thereon shall not be less than the "prevailing rate of wage" as defined in Labor Law Section 220, and as fixed by the Comptroller in the

attached Schedule of Wage Rates and in updated schedules thereof. The prevailing wage rates and supplemental benefits to be paid are those in effect at the time the Work is being performed.

- 37.2.5 Requests for interpretation or correction in the Information for Bidders includes all requests for clarification of the classification of trades to be employed in the performance of the Work under this Contract. In the event that a trade not listed in the Contract is in fact employed during the performance of this Contract, the Contractor shall be required to obtain from the Agency 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.
- 37.2.6 Minimum Wages: Except for employees whose wage is required to be fixed pursuant to Labor Law Section 220, all persons employed by the Contractor and any Subcontractor in the manufacture or furnishing of the supplies, materials, or equipment, or the furnishing of work, labor, or services, used in the performance of this Contract, shall be paid, without subsequent deduction or rebate unless expressly authorized by Law, not less than the sum mandated by Law. Minimum wages shall be the rates fixed by Federal Law and regulations.
- 37.3 Working Conditions: No part of the Work, labor or services shall be performed or rendered by the Contractor in any plants, factories, buildings or surroundings or under working conditions which are unsanitary or hazardous or dangerous to the health and safety of employees engaged in the performance of this Contract. Compliance with the safety, sanitary and factory inspection Laws of the state in which the Work is to be performed shall be prima facie evidence of compliance with this article.
- 37.4 Prevailing Wage Enforcement: The Contractor agrees to pay for all costs incurred by the City in enforcing prevailing wage requirements, including the cost of any investigation conducted by or on behalf of the Agency or the Comptroller, where the City discovers a failure to comply with any of the requirements of this Article 37 by the Contractor or its Subcontractor(s). The Contractor also agrees, that should it fail or refuse to pay for any such investigation, the Agency is hereby authorized to deduct from a Contractor's account an amount equal to the cost of such investigation.
- 37.4.1 The Labor Law Section 220 and Section 220-d, as amended, provide that this Contract shall be forfeited and no sum paid for any Work done hereunder on a second conviction for willfully paying less than:
- 37.4.1(a) The stipulated wage scale as provided in Labor Law Section 220, as amended, or
37.4.1(b) Less than the stipulated minimum hourly wage scale as provided in Labor Law Section 220-d, as amended.
- 37.4.2 For any breach or violation of either Working Conditions (Article 37.3) and Minimum Wages (Article 37.2.6), the party responsible therefore shall be liable to the City for liquidated damages, which may be withheld from any amounts due on any Contracts with the City of such party responsible, or may be recovered in suits brought by the Corporation Counsel in the name of the City, in addition to damage for any other breach of this Contract, a sum equal to the amount of any underpayment of wages due to any employee engaged in the performance of this Contract. In addition, the Commissioner shall have the right to cancel Contracts and enter into other Contracts for the completion of the original Contract, with or without public letting, and the original Contractor shall be liable for any additional cost. All sums withheld or recovered as deductions, rebates, refunds, or underpayment of wages hereunder, shall be held in a special deposit account and shall be paid without interest, on order of the Comptroller, directly to the employees who have been paid less than minimum rates of pay as set forth herein and on whose account such sums were withheld or recovered, provided that no claims by employees for such payments shall be entertained unless made within two (2) years from the date of actual notice to the Contractor of the withholding or recovery of such sums by the City.
- 37.4.3 A determination by the Comptroller that a Contractor and/or its Subcontractor willfully violated Labor Law Section 220 will be forwarded to the City's five District Attorneys for review.
- 37.4.4 The Contractor's or Subcontractor's noncompliance with this article and Labor Law Section 220, may result in an unsatisfactory performance evaluation and the Comptroller may also find and determine that the Contractor or Subcontractor willfully violated the New York Labor Law.
- 37.4.4(a) An unsatisfactory performance evaluation for noncompliance with this article may result in a determination that the Contractor is a non-responsible bidder on subsequent procurements with the City

and thus a rejection of a future award of a contract with the City, as well as any other sanctions provided for by Law.

37.4.4(b) Labor Law Section 220-b, as amended, provides that when two (2) final determinations have been rendered against a Contractor or Subcontractor within any consecutive six (6) year period determining that such Contractor or Subcontractor has willfully failed to pay the prevailing rate of wages or to provide supplements in accordance with the Labor Law and this article, whether such failures were concurrent or consecutive and whether or not such final determinations concerning separate public work projects are rendered simultaneously, such Contractor or Subcontractor shall be ineligible to submit a bid on or be awarded any public work contract with the City for a period of five (5) years from the second final determination. If the final determination involves the falsification of payroll records or the kickback of wages or supplements, the Contractor or Subcontractor shall be ineligible to submit a bid on or be awarded any public work contract with the City for a period of five (5) years from the first final determination.

37.4.4(c) Labor Law Section 220, as amended, provides that the Contractor or Subcontractor found to have violated this article may be directed to make payment of wages or supplements including interest found to be due, and the Contractor or Subcontractor may be directed to make payment of a further sum as a civil penalty in an amount not exceeding twenty-five (25%) percent of the total amount found to be due.

37.5 The Contractor and its Subcontractors shall within ten (10) Days after mailing of a Notice of Award or written order, post in prominent and conspicuous places in each and every plant, factory, building, and structure where employees of the Contractor and its Subcontractors engaged in the performance of this Contract are employed, notices furnished by the City, in relation to prevailing wages and supplements, minimum wages and other stipulations contained in Sections 220 and 220-h of the Labor Law, and the Contractor and its Subcontractors shall continue to keep such notices posted in such prominent and conspicuous places until Final Acceptance of the supplies, materials, equipment, or Work, labor, or services required to be furnished or rendered under this Contract.

37.6 The Contractor shall strictly comply with all of the provisions of Articles 37.6.1 through 37.6.5, and provide for all workers, laborers or mechanics in its employ, the following:

37.6.1 Notices Posted At Site: Post, in a location designated by the City, schedules of prevailing wages and supplements for this Project, a copy of all re-determinations of such schedules for the Project, the Workers' Compensation Law Section 51 notice, all other notices required by law to be posted at the Site, the City notice that this Project is a public works Project on which each worker is entitled to receive the prevailing wages and supplements for the occupation at which he or she is working, and all other notices which the City directs the Contractor to post. The Contractor shall provide a surface for such notices which is satisfactory to the City. The Contractor shall maintain and keep current such notices in a legible manner and shall replace any notice or schedule which is damaged, defaced, illegible or removed for any reason. The Contractor shall post such notices before commencing any Work on the Site and shall maintain such notices until all Work on the Site is complete; and

37.6.2 Daily Site Sign-in Sheets: Maintain daily Site sign-in sheets, and require that Subcontractors maintain daily Site sign-in sheets for its employees, which include blank spaces for an employee's name to be both printed and signed, job title, date started and Social Security number, the time the employee began Work and the time the employee left Work, until Final Acceptance of the supplies, materials, equipment, or Work, labor, or services to be furnished or rendered under this Contract unless exception is granted by the Comptroller upon application by the Agency. In the alternative, subject to the approval of the CCPO, the Contractor and Subcontractor may maintain an electronic or biometric sign-in system, which provides the information required by this Article 37.6.2; and

37.6.3 Individual Employee Information Notices: Distribute a notice, to each worker, laborer or mechanic employed under this Contract, in a form provided by the Agency, that this Project is a public work project on which each worker, laborer or mechanic is entitled to receive the prevailing rate of wages and supplements for the occupation at which he or she is working. If the total cost of the Work under this Contract is at least two hundred fifty thousand dollars, such notice shall also include a statement that, that each worker, laborer or mechanic be certified prior to performing any Work as having successfully completed a course in construction safety and health approved by the United States department of labor's occupational safety and health administration that is at least ten hours in duration. Such notice shall be distributed to each worker before he or she starts performing any Work of this Contract and with the first paycheck after July first of each year. Worker, laborer or mechanic includes

employees of the Contractor and all Subcontractors and all employees of suppliers entering the Site. At the time of distribution, the Contractor shall have each worker, laborer or mechanic sign a statement, in a form provided by the Agency, certifying that the worker has received the notice required by this article, which signed statement shall be maintained with the payroll records required by this Contract; and

37.6.3.1 The Contractor and each Subcontractor shall notify each worker, laborer or mechanic employed under this Contract in writing of the prevailing rate of wages for their particular job classification. Such notification shall be given to every worker, laborer and mechanic on their first pay stub and with every pay stub thereafter; and

37.6.4 Site Laminated Identification Badges: Provide laminated identification badges which indicate the worker's, laborer's or mechanic's name, trade, employer's name and employment starting date (month/day/year). Further, require as a condition of employment on the Site, that each and every worker, laborer or mechanic wear the laminated identification badge at all times and that it may be seen by any representative of the City; and

37.6.5 Language Other Than English Used On Site: Provide the ACCO notice when three (3) or more employees (worker and/or laborer and/or mechanic) on the Site, at any time, speak a language other than English. The ACCO will then provide the Contractor the notices in Article 37.6.1 in that language or languages as may be required. The Contractor is responsible for all distributions under Article 37; and

37.6.6 Provision of Records: The Contractor and Subcontractor(s) shall produce within five (5) Days on the Site of the Work and upon a written order of the Engineer, the Commissioner, the ACCO, the Agency EAO, or the Comptroller, such records as are required to be kept by this Article 37.6; and

37.6.7 If this Contract is for an amount greater than \$1,000,000, checks issued by the Contractor to covered employees shall be generated by a payroll service or automated payroll system (an in-house system may be used if approved by the Agency). For any subcontract for an amount greater than \$750,000, checks issued by a Subcontractor to covered employees shall be generated by a payroll service or automated payroll system (an in-house system may be used if approved by the Agency); and

37.6.8 The failure of the Contractor or Subcontractor(s) to comply with the provisions of Articles 37.6.1 through 37.6.7 may result in the Commissioner declaring the Contractor or Subcontractor(s) in default and/or the withholding of payments otherwise due under the Contract.

37.7 The Contractor and its Subcontractors shall keep such employment and payroll records as are required by Section 220 of the Labor Law.

37.8 At the time the Contractor makes application for each partial payment and for final payment, the Contractor shall submit to the Commissioner a written payroll certification, in the form provided by this Contract, of compliance with the prevailing wage, minimum wage and other provisions and stipulations required by Labor Law Section 220 and of compliance with the training requirements of Labor law section 220-h set forth in Article 35.2. This certification of compliance with the provisions of this article shall be a condition precedent to payment and no payment shall be made to the Contractor unless and until each such certification shall have been submitted to and received by the Commissioner.

37.9 This Contract is executed by the Contractor with the express warranty and representation that the Contractor is not disqualified under the provisions of Section 220 of the Labor Law for the award of the Contract.

37.10 Any breach or violation of any of the foregoing shall be deemed a breach or violation of a material provision of this Contract, and grounds for cancellation thereof by the City.

ARTICLE 38 - PAYROLL REPORTS

38.1 The Contractor shall maintain on the Site the original payrolls or transcripts thereof which the Contractor and its Subcontractor(s) are required to maintain pursuant to Labor Law Section 220. The Contractor and Subcontractor(s) shall submit original payrolls or transcripts, subscribed and affirmed by it as true, with each and every payment requisition. The Contractor and Subcontractor(s) shall produce within five (5) Days on the Site of the Work and upon a written order of the Engineer, the Commissioner, the ACCO, the Agency EAO, or the Comptroller, such original payrolls or transcripts thereof,

subscribed and affirmed by it as true, and the statements signed by each worker pursuant to this Chapter VIII. In addition, the Contractor and Subcontractor(s) shall furnish to the Engineer upon written demand any other information to satisfy the Engineer that this Chapter VIII and the Labor Law, as to the hours of employment and rates of wages, are being observed. The Contractor shall maintain the payrolls or transcripts thereof for six (6) years from the date of completion of the Work on this Contract.

38.2 When directed by the Engineer, the Contractor or Subcontractor shall provide the Engineer with an attendance sheet for each Day on which Work is performed on the Site. Such attendance sheet shall be in a form acceptable to the Agency and shall provide information for employees of the Contractor and Subcontractor(s).

ARTICLE 39 - DUST HAZARDS

39.1 Should a harmful dust hazard be created in performing the Work of this Contract, for the elimination of which appliances or methods have been approved by the Board of Standards and Appeals of the City of New York, such appliances and methods shall be installed, maintained, and effectively operated during the continuance of such harmful dust hazard. Failure to comply with this provision after notice shall make this Contract void.

CHAPTER IX - PAYMENTS

ARTICLE 40 – CONTRACT PRICE

40.1 Total Payments: Total payments for all services performed and all expenses incurred pursuant to this Agreement shall not exceed the amount set forth in Schedule A.

40.2 Unit Prices: The City agrees to pay and the Contractor agrees to accept, as full payment for the complete and satisfactory performance of the services set forth in the Specifications, the unit prices set forth in the Contractor's Bid. The Contractor is warned that the Estimated Quantities set forth on the Bid Form are approximate only, given solely to be used as a uniform basis for the comparison of bids, and are not be considered part of this contract. The quantity of services the Contractor is actually directed to provide may be less or more than so estimated, and if so, no action for damages or for loss of profits shall accrue to the Contractor by reason thereof.

40.3 Guaranteed Minimum: In the event the Contractor is not issued any Work Orders hereunder, the City agrees to pay, and the Contractor agrees to accept, a minimum fee of \$2,500. The Contractor further agrees that under such circumstances, it has no action for damages or for loss of profits against the City.

ARTICLE 41 – REQUISITIONS FOR PAYMENT

41.1 Requisitions for payment may be submitted upon completion of the services set forth in the Work Order. Requisitions shall be in the authorized form and shall set forth the services performed by the Contractor and the total amount of payment requested. The Contractor shall submit one original and three (3) copies of each requisition for payment.

41.1.1 Unit Price Services: Requisitions for payment shall be accompanied by the following:

- (a) Copy of the Work Order and/or Supplemental Work Order for which payment is requested.
- (b) Description of the services provided during the payment period (quantity, location, etc.)
- (c) Applicable unit price(s) for the services provided
- (d) Total amount of payment requested for all unit price services provided
- (e) If applicable, laboratory analysis and/or test reports in connection with the services provided
- (f) Copy of the Commissioner's written acceptance of the services provided
- (g) Verified statement in the form prescribed by the Comptroller setting forth the information required under Section 220.a of the Labor Law
- (h) Any other documentation required by the Commissioner

41.1.2 Services on a Time and Material Basis: Requisitions for payment shall be accompanied by the following.

- (a) Copy of the Work Order and/or Supplemental Work Order for which payment is requested.
- (b) Description of the services provided during the payment period (quantity, location, etc.)
- (c) Documentation set forth in Article 28 of this Contract
- (d) Total amount of payment requested for all services provided on a time and material basis
- (e) Copy of the Commissioner's written acceptance of the services provided
- (f) Verified statement in the form prescribed by the Comptroller setting forth the information required under Section 220.a of the Labor Law
- (g) Any other documentation required by the Commissioner

41.1.3 Reimbursable Services: Requisitions for payment shall be accompanied by the following. The Contractor shall not be entitled to any mark-up with respect to Reimbursable Services.

- (a) Copy of the Commissioner's directive authorizing the Reimbursable Service(s)
- (b) Description of the Reimbursable Service the Contractor was directed to provide.
- (c) If payment is on a lump sum basis, a report on the progress of the work, indicating the percentage of completion of all required services.
- (d) If payment is on a unit price basis, a report indicating the number of completed units.
- (e) If payment is based on actual cost, receipted bills or any other data required by the Commissioner.

41.2 All payments are contingent upon the Contractor's satisfactory performance of the required services. The Commissioner is authorized to make deductions for any services performed hereunder which he/she determines to be unsatisfactory.

41.3 Within thirty (30) days after receipt of a satisfactory requisition for payment, the Commissioner will approve a voucher in the amount certified for payment, less any and all deductions authorized to be made by the Commissioner under any terms of this Contract or by Law.

ARTICLE 42 – NOT USED

ARTICLE 43 - PROMPT PAYMENT

43.1 The Prompt Payment provisions of the PPB Rules in effect at the time of the Bid will be applicable to payments made under this Contract. The provisions require the payment to Contractor of interest on payments made after the required payment date, except as set forth in the PPB Rules.

43.2 The Contractor shall 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.

43.3 Determination of interest due will be made in accordance with the PPB Rules.

43.4 If the Contractor is paid interest, the proportionate share of that interest shall be forwarded by the Contractor to its Subcontractor(s).

43.5 The Contractor shall pay each Subcontractor or Materialman not later than seven (7) Days after receipt of payment out of amounts paid to the Contractor by the City for Work performed by the Subcontractor or Materialman under this Contract.

43.5.1 If Contractor fails to make any payment to any Subcontractor or Materialman within seven (7) days after receipt of payment by the City pursuant to section 43.5 herein, then the Contractor shall pay interest on amounts due to such Subcontractor or Materialman at a rate of interest in effect on the date such payment is made by the Contractor computed in accordance with section 756-b (1)(b) of the NY General Business Law. Accrual of interest shall commence on the day immediately following the expiration of the seventh day following receipt of payment to the Contractor by the City and shall end on the date on which payment is made.

43.6 The Contractor shall include in each of its subcontracts a provision requiring each Subcontractor to make payment to each of its Subcontractors or suppliers for Work performed under this Contract in the same manner and within the same time period set forth above.

ARTICLE 44 – NOT USED

ARTICLE 45 - FINAL PAYMENT

45.1 After completion of all work required under this contract, the Contractor shall submit all required certificates and documents, together with a requisition for the balance claimed to be due under the Contract, less the amount authorized to be retained for maintenance and guaranty under Article 24. A verified statement similar to that required in connection with applications for partial payments shall also be submitted to the Commissioner.

45.2 Final Verified Statement of Claims: The Contractor shall also submit with the final requisition a final verified statement of any and all alleged claims against the City, and any pending dispute resolution procedures in accord with the PPB Rules and this Contract, in any way connected with or arising out of this Contract (including those as to which details may have been furnished pursuant to Articles 11, 27, 28, and 30.) that have occurred, setting forth with respect to each such claim the total amount thereof, the various items of labor and materials included therein, and the alleged value of each such item; and if the alleged claim be one for delay, the alleged cause of each such delay, the period or periods of time, giving the dates when the Contractor claims the performance of the Work or a particular part thereof was delayed, and an itemized statement and breakdown of the amount claimed for each such delay. With reference to each such claim, the Commissioner, the Comptroller and, in the event of litigation, the Corporation Counsel of the City shall have the same right to inspect, and to make extracts or copies of, the Contractor's books, vouchers, records, etc., as is referred to in Articles 11, 27, 28, and 30. Nothing contained in this article, is entitled to or shall relieve the Contractor from the obligation of complying strictly with Articles 11, 27, 28, and 30. The Contractor is warned that unless such claims are completely set forth as herein required, the Contractor, upon acceptance of the Final Payment pursuant to Article 46, will have waived any such claims.

45.3 Preparation of Final Voucher: Upon determining the balance due hereunder other than on account of claims, the Engineer will prepare and certify, for the Commissioner's approval, a voucher for final payment in that amount less any and all deductions authorized to be made by the Commissioner under this Contract or by Law. In the case of a lump sum Contract, the Commissioner shall certify the voucher for final payment within thirty (30) Days from the date of completion and acceptance of the Work, provided all requests for extensions of time have been acted upon.

45.3.1 Not Used

45.3.2 Payment pursuant to such final voucher, less any deductions authorized to be made by the Commissioner under this Contract or by Law, shall constitute the final payment, and shall be made by the Comptroller within thirty (30) Days after the filing of such voucher in his/her office.

45.4 The Contractor acknowledges that nothing contained in this article is intended to or shall in any way diminish the force and effect of Article 13.

ARTICLE 46 - ACCEPTANCE OF FINAL PAYMENT

46.1 The acceptance by the Contractor, or by anyone claiming by or through it, of the final payment, whether such payment be made pursuant to any judgment of any Court, or otherwise, shall constitute and operate as a release to the City from any and all claims of and liability to the Contractor for anything heretofore done or furnished for the Contractor relating to or arising out of this Contract and the Work done hereunder, and for any prior act, neglect or default on the part of the City or any of its officers, agents or employees, excepting only a claim against the City for the amounts deducted or retained in accordance with the terms and provisions of this Contract or by Law, and excepting any claims, not otherwise waived, or any pending dispute resolution procedures which are contained in the verified statement filed with the Contractor's final requisition pursuant to Article 45.

46.2 The Contractor is warned that the execution by it of a release, in connection with the acceptance of the final payment, containing language purporting to reserve claims other than those herein specifically excepted from the operation of this article, or those for amounts deducted by the Commissioner from the final requisition or by the Comptroller from the final payment as certified by the Engineer and approved by the Commissioner, shall not be effective to reserve such claims, anything stated to the Contractor orally or in writing by any officer, agent or employee of the City to the contrary notwithstanding.

46.3 Should the Contractor refuse to accept the final payment as tendered by the Comptroller, it shall constitute a waiver of any right to interest thereon.

46.4 The Contractor, however, shall not be barred from commencing an action for breach of Contract under this provision to the extent permitted by Law and by the terms of the Contract provided that a detailed and verified statement of claim is served upon the contracting Agency and Comptroller not later than forty (40) Days after the mailing of such final payment. The statement shall specify the items upon which the claim will be based and any such claim shall be limited to such items.

ARTICLE 47 - APPROVAL BY PUBLIC DESIGN COMMISSION

47.1 All works of art, including paintings, mural decorations, stained glass, statues, bas-reliefs and other sculptures, monuments, fountains, arches, and other structures of a permanent character intended for ornament or commemoration, and every design of the same to be used in the performance of this Contract, and the design of all bridges, approaches, buildings, gates, fences, lamps, or structures to be erected, pursuant to the terms of this Contract, shall be submitted to the Public Design Commission and shall be approved by the Public Design Commission prior to the erection or placing in the position of the same. The final payment shall not become due or payable under this Contract unless and until the Public Design Commission shall certify that the design for the Work herein contracted for has been approved by the said Public Design Commission, and that the same has been executed in substantial accordance with the design so approved, pursuant to the provisions of Chapter 37, Section 854 of the City Charter, as amended.

CHAPTER X - CONTRACTOR'S DEFAULT

ARTICLE 48 - COMMISSIONER'S RIGHT TO DECLARE CONTRACTOR IN DEFAULT

48.1 In addition to those instances specifically referred to in other Articles herein, the Commissioner shall have the right to declare the Contractor in default of this Contract if:

- 48.1.1 The Contractor fails to commence Work when notified to do so by the Commissioner; or if
- 48.1.2 The Contractor shall abandon the Work; or if
- 48.1.3 The Contractor shall refuse to proceed with the Work when and as directed by the Commissioner; or if
- 48.1.4 The Contractor shall, without just cause, reduce its working force to a number which, if maintained, would be insufficient, in the opinion of the Commissioner, to complete the Work in accordance with the Progress Schedule; or if
- 48.1.5 The Contractor shall fail or refuse to increase sufficiently such working force when ordered to do so by the Commissioner; or if
- 48.1.6 The Contractor shall sublet, assign, transfer, convert or otherwise dispose of this Contract other than as herein specified; or sell or assign a majority interest in the Contractor; or if
- 48.1.7 The Contractor fails to secure and maintain all required insurance; or if
- 48.1.8 A receiver or receivers are appointed to take charge of the Contractor's property or affairs; or if
- 48.1.9 The Commissioner shall be of the opinion that the Contractor is or has been unnecessarily or unreasonably or willfully delaying the performance and completion of the Work, or the award of necessary subcontracts, or the placing of necessary material and equipment orders; or if
- 48.1.10 The Commissioner shall be of the opinion that the Contractor is or has been willfully or in bad faith violating any of the provisions of this Contract; or if
- 48.1.11 The Commissioner shall be of the opinion that the Work cannot be completed within the time herein provided therefor or within the time to which such completion may have been extended; provided, however, that the impossibility of timely completion is, in the Commissioner's opinion, attributable to conditions within the Contractor's control; or if
- 48.1.12 The Work is not completed within the time herein provided therefor or within the time to which the Contractor may be entitled to have such completion extended; or if
- 48.1.13 Any statement or representation of the Contractor in the Contract or in any document submitted by the Contractor with respect to the Work, the Project, or the Contract (or for purposes of securing the Contract) was untrue or incorrect when made.
- 48.1.14 The Contractor or any of its officers, directors, partners, five (5%) percent shareholders, principals, or other persons substantially involved in its activities, commits any of the acts or omissions specified as the grounds for debarment in the PPB Rules.

48.2 Before the Commissioner shall exercise his/her right to declare the Contractor in default, the Commissioner shall give the Contractor an opportunity to be heard, upon not less than two (2) Day's notice.

ARTICLE 49 - EXERCISE OF THE RIGHT TO DECLARE DEFAULT

49.1 The right to declare in default for any of the grounds specified or referred to in Article 48 shall be exercised by sending the Contractor a notice, signed by the Commissioner, setting forth the ground or grounds upon which such default is declared (hereinafter referred to as a "Notice of Default").

49.2 The Commissioner's determination that the Contractor is in default shall be conclusive, final and binding on the parties and such a finding shall preclude the Contractor from commencing a plenary action for any damages relating to the Contract. If the Contractor protests the determination of the Commissioner, the Contractor may commence a lawsuit in a court of competent jurisdiction of the State of New York under Article 78 of the New York Civil Practice Law and Rules.

ARTICLE 50 - QUITTING THE SITE

50.1 Upon receipt of such notice the Contractor shall immediately discontinue all further operations under this Contract and shall immediately quit the Site, leaving untouched all plant, materials, equipment, tools and supplies then on the Site.

ARTICLE 51 - COMPLETION OF THE WORK

51.1 The Commissioner, after declaring the Contractor in default, may then have the Work completed by such means and in such manner, by Contract with or without public letting, or otherwise, as he/she may deem advisable, utilizing for such purpose such of the Contractor's plant, materials, equipment, tools and supplies remaining on the Site, and also such Subcontractors, as he/she may deem advisable.

51.2 After such completion, the Commissioner shall make a certificate stating the expense incurred in such completion, which shall include the cost of re-letting and also the total amount of liquidated damages (at the rate provided for in the Contract) from the date when the Work should have been completed by the Contractor in accordance with the terms hereof to the date of actual completion of the Work. Such certificate shall be binding and conclusive upon the Contractor, its Sureties, and any person claiming under the Contractor, as to the amount thereof.

51.3 The expense of such completion, including any and all related and incidental costs, as so certified by the Commissioner, and any liquidated damages assessed against the Contractor, shall be charged against and deducted out of monies which are earned by the Contractor prior to the date of default. Should the expense of such completion, as certified by the Commissioner, exceed the total sum which would have been payable under the Contract if it had been completed by the Contractor, any excess shall be paid by the Contractor.

ARTICLE 52 - PARTIAL DEFAULT

52.1 In case the Commissioner shall declare the Contractor in default as to a part of the Work only, the Contractor shall discontinue such part, shall continue performing the remainder of the Work in strict conformity with the terms of this Contract, and shall in no way hinder or interfere with any Other Contractor(s) or persons whom the Commissioner may engage to complete the Work as to which the Contractor was declared in default.

52.2 The provisions of this Chapter relating to declaring the Contractor in default as to the entire Work shall be equally applicable to a declaration of partial default, except that the Commissioner shall be entitled to utilize for completion of the part of the Work as to which the Contractor was declared in default only such plant, materials, equipment, tools and supplies as had been previously used by the Contractor on such part.

ARTICLE 53 - PERFORMANCE OF UNCOMPLETED WORK

53.1 In completing the whole or any part of the Work under the provision of this Chapter X, the Commissioner shall have the power to depart from or change or vary the terms and provisions of this Contract, provided, however, that such departure, change or variation is made for the purpose of reducing the time or expense of such completion. Such departure, change or variation, even to the extent of accepting a lesser or different performance, shall not affect the conclusiveness of

the Commissioner's certificate of the cost of completion referred to in Article 51, nor shall it constitute a defense to an action to recover the amount by which such certificate exceeds the amount which would have been payable to the Contractor hereunder but for its default.

ARTICLE 54 – NOT USED

CHAPTER XI - MISCELLANEOUS PROVISIONS

ARTICLE 55 - CONTRACTOR'S WARRANTIES

55.1 In consideration of, and to induce, the award of this Contract to the Contractor, the Contractor represents and warrants:

- 55.1.1 That it is financially solvent, sufficiently experienced and competent to perform the Work; and
- 55.1.2 That the facts stated in its bid and the information given by it pursuant to the Information for Bidders is true and correct in all respects; and
- 55.1.3 That it has read and complied with all requirements set forth in the Contract.

ARTICLE 56 - CLAIMS AND ACTIONS THEREON

56.1 Any claim, that is not subject to dispute resolution under the PPB Rules or this Contract, against the City for damages for breach of Contract shall not be made or asserted in any lawsuit, unless the Contractor shall have strictly complied with all requirements relating to the giving of notice and of information with respect to such claims, as herein before provided.

56.2 Nor shall any lawsuit be instituted or maintained on any such claims unless such lawsuit is commenced within six (6) months after the date of the filing in the office of the Comptroller of the final payment voucher pursuant to Article 45; except that:

- 56.2.1 Not Used
- 56.2.2 Any claims for monies deducted, retained or withheld under the provisions of this Contract shall be asserted within six (6) months after the date when such monies becomes due and payable hereunder; and
- 56.2.3 If the Commissioner exercises his/her right to terminate the Contract pursuant to Article 64, any such lawsuit shall be commenced within six (6) months of the date the Commissioner exercises said right.

ARTICLE 57 - INFRINGEMENT

57.1 The Contractor shall be solely responsible for and shall indemnify the City against any and all claims and judgments for damages for any infringement of copyright and patents or use of patented articles, tools, materials, equipment, appliances or processes in the performance or completion of the Work, including all costs and expenses which the City shall or may incur or be obligated to pay by reason thereof.

ARTICLE 58 - NO CLAIM AGAINST OFFICERS, AGENTS OR EMPLOYEES

58.1 No claim whatsoever shall be made by the Contractor against any officer, agent or employee of the City for, or on account of, anything done or omitted to be done in connection with this Contract.

ARTICLE 59 - SERVICES OF NOTICES

59.1 The Contractor hereby designates the business address specified in its bid, as the place where all notices, directions or other communications to the Contractor may be delivered, or to which they may be mailed. Actual delivery of any such notice, direction or communication to the aforesaid place, or depositing it in a postpaid wrapper addressed thereto in any post office box (P.O. Box) regularly maintained by the United States Postal Service, shall be conclusively deemed to be sufficient service thereof upon the Contractor as the date of such delivery or deposit.

59.2 Such address may be changed at any time by an instrument in writing, executed and acknowledged by the Contractor, and delivered to the Commissioner.

59.3 Nothing herein contained shall, however, be deemed to preclude or render inoperative the service of any notice, direction or other communication upon the Contractor personally, or, if the Contractor is a corporation, upon any officer thereof.

ARTICLE 60 - UNLAWFUL PROVISIONS DEEMED STRICKEN FROM CONTRACT

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

ARTICLE 61 - ALL LEGAL PROVISIONS DEEMED INCLUDED

61.1 It is the intent and understanding of the parties to this Contract that each and every provision of Law required to be inserted in this Contract shall be and is inserted herein. Furthermore, it is hereby stipulated that every such provision is to be deemed to be inserted herein, and if, through mistake or otherwise, any such provision is not inserted, or is not inserted in correct form, then this Contract shall forthwith upon the application of either party be amended by such insertion so as to comply strictly with the Law and without prejudice to the rights of either party hereunder.

ARTICLE 62 - TAX EXEMPTION

62.1 The City is exempt from payment of Federal, State, local taxes and Sales and Compensation Use Taxes of the State of New York and of cities and counties on all materials and supplies sold to the City pursuant to the provisions of this Contract. These taxes are not to be included in bids. However, this exemption does not apply to tools, machinery, equipment or other property leased by or to the Contractor or a Subcontractor, or to supplies and materials which even though they are consumed, are not incorporated into the completed Work (consumable supplies), and the Contractor and its Subcontractors shall be responsible for and pay any and all applicable taxes, including Sales and Compensation Use Taxes, on such leased tools, machinery, equipment or other property and upon all such unincorporated supplies and materials.

62.2 The Contractor agrees to sell and the City agrees to purchase all supplies and materials, other than consumable supplies, required, necessary or proper for or incidental to the construction of the Project covered by this Contract. The sum paid under this Contract for such supplies and materials shall be in full payment and consideration for the sale of such supplies and materials herein.

62.2.1 The Contractor agrees to construct the Project and to perform all Work, labor and services rendered, necessary, proper or incidental thereto for the sum shown in the bid for the performance of such Work, labor and services, and the sum so paid pursuant to this Contract for such Work, labor, etc., shall be in full consideration for the performance by the Contractor of all its duties and obligations under this Contract in connection with said Work and labor.

62.3 The purchase by the Contractor of the supplies and materials sold hereunder shall be a purchase or procurement for resale and therefore not subject to the New York State or City Sales or Compensation Use Taxes or any such taxes of cities or counties. The sale of such supplies and materials by the Contractor to the City is exempt from the aforesaid sales or compensating use taxes. With respect to such supplies and materials, the Contractor, at the request of the City, shall furnish to the City such Bills of Sale and other instruments as may be required by the City, properly executed, acknowledged and delivered assuring to the City title to such supplies and materials, free of liens and/or encumbrances, and the Contractor shall mark or otherwise identify all such materials as the property of the City.

62.4 Title to all materials to be sold by the Contractor to the City pursuant to the provisions of the Contract shall immediately vest in and become the sole property of the City upon delivery of such supplies and materials to the Site and prior to its becoming a part of the permanent structure and/or construction. Notwithstanding such transfer of title, the Contractor shall have the full and continuing responsibility to install such materials and supplies in accordance with the provisions of this Contract, protect them, maintain them in a proper condition and forthwith repair, replace and make good any damage thereto, theft or disappearance thereof, and furnish additional materials in place of any that may be lost, stolen or rendered unusable, without cost to the City, until such time as the Work covered by the Contract is fully accepted by the City. Such transfer of title shall in no way affect any of the Contractor's obligations hereunder. In the event that, after title has passed to the City, any of such supplies and materials are rejected as being defective or otherwise unsatisfactory, title to all such supplies and materials shall be deemed to have been transferred back to the Contractor.

62.5 The purchase by Subcontractors of supplies and materials to be sold hereunder shall also be a purchase or procurement for resale to the Contractor (either directly or through other Subcontractors) and therefore not subject to the aforesaid Sales or Compensation Use Taxes, provided that the subcontract agreements provide for the resale of such supplies and materials prior to and separate and apart from the incorporation of such supplies and materials into the permanent structure and/or construction and that such subcontract agreements are in a form similar to this Contract with respect to the separation of the sale of materials from the Work and labor, services, consumable supplies and any other matters to be provided, and provided further that the subcontract agreements provide separate prices for materials and all other services and matters. Such separation shall actually be followed in practice, including the separation of payments for supplies and materials from the payments for other Work and labor and other things to be provided.

62.6 The Contractor and its Subcontractors and Materialmen shall obtain any and all necessary Contractor Exempt Purchase Certificates or Resale Certificates from the appropriate governmental Agency or Agencies, and furnish a Contractor Exempt Purchase Certificate or Resale Certificate to all persons, firms or corporations from which they purchase supplies and materials for the performance of the Work covered by this Contract.

62.7 In the event any of the provisions of this article shall be deemed to be in conflict with any other provisions of this Contract or create any ambiguity, then the provisions of this article shall control.

ARTICLE 63 - INVESTIGATION(S) CLAUSE

63.1 The parties to this Contract agree to cooperate fully and faithfully with any investigation, audit or inquiry conducted by a United States, a State of New York (State) or a City governmental Agency or authority that is empowered directly or by designation to compel the attendance of witnesses and to examine witnesses under oath, or conducted by the Inspector General of a governmental Agency that is a party in interest to the transaction, submitted bid, submitted proposal, Contract, lease, permit or license that is the subject of the investigation, audit or inquiry.

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

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

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

63.5 If any non-governmental party to the hearing requests an adjournment, the Commissioner who convened the hearing may, upon granting the adjournment, suspend any Contract, lease, permit, or license, pending the final determination pursuant to Article 63.7 without the City incurring any penalty or damages for delay or otherwise.

63.6 The penalties which may attach after a final determination by the Commissioner may include but shall not exceed:

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

- 63.6.2 The cancellation or termination of any and all such existing City Contracts, leases, permits or licenses that the refusal to testify concerns and that have not been assigned as permitted under this Agreement, nor the proceeds of which pledged, to an unaffiliated and unrelated institutional lender for fair value prior to the issuance of the notice scheduling the hearing, without the City incurring any penalty or damages on account of such cancellation or termination; monies lawfully due for goods delivered, Work done, rentals, or fees accrued prior to the cancellation or termination shall be paid by the City.
- 63.7 The Commissioner shall consider and address in reaching his/her determination and in assessing an appropriate penalty the factors in Articles 63.7.1 and 63.7.2. The Commissioner may also consider, if relevant and appropriate, the criteria established in Articles 63.7.3 and 63.7.4, in addition to any other information which may be relevant and appropriate:
- 63.7.1 The party's good faith endeavors or lack thereof to cooperate fully and faithfully with any governmental investigation or audit, including but not limited to the discipline, discharge, or disassociation of any person failing to testify, the production of accurate and complete books and records, and the forthcoming testimony of all other members, agents, assignees or fiduciaries whose testimony is sought.
- 63.7.2 The relationship of the person who refused to testify to any entity that is a party to the hearing, including but not limited to, whether the person whose testimony is sought has an ownership interest in the entity and/or the degree of authority and responsibility the person has within the entity.
- 63.7.3 The nexus of the testimony sought to the subject entity and its Contracts, leases, permits or licenses with the City.
- 63.7.4 The effect a penalty may have on an unaffiliated and unrelated party or entity that has a significant interest in an entity subject to penalties under Article 63.6, provided that the party or entity has given actual notice to the Commissioner upon the acquisition of the interest, or at the hearing called for in Article 63.4, gives notice and proves that such interest was previously acquired. Under either circumstance the party or entity shall present evidence at the hearing demonstrating the potential adverse impact a penalty will have on such person or entity.
- 63.8 Definitions:
- 63.8.1 The term "license" or "permit" as used herein shall be defined as a license, permit, franchise or concession not granted as a matter of right.
- 63.8.2 The term "person" as used herein shall be defined as any natural person doing business alone or associated with another person or entity as a partner, director, officer, principal or employee.
- 63.8.3 The term "entity" as used herein shall be defined as any firm, partnership, corporation, association, joint venture, or person that receives monies, benefits, licenses, leases, or permits from or through the City or otherwise transacts business with the City.
- 63.8.4 The term "member" as used herein shall be defined as any person associated with another person or entity as a partner, director, officer, principal or employee.
- 63.9 In addition to and notwithstanding any other provision of this Contract, the Commissioner may in his/her sole discretion terminate this Contract upon not less than three (3) Days written notice in the event the Contractor fails to promptly report in writing to the Commissioner of the Department of Investigations ("DOI") of the City any solicitation of money, goods, requests for future employment or other benefit or thing of value, by or on behalf of any employee of the City or other person, firm, corporation or entity for any purpose which may be related to the procurement or obtaining of this Contract by the Contractor, or affecting the performance of this Contract.

ARTICLE 64 - TERMINATION BY THE CITY

- 64.1 In addition to termination pursuant to any other article of this Contract, the Commissioner may, at any time, terminate this Contract by written notice to the Contractor. In the event of termination, the Contractor shall, upon receipt of such notice, unless otherwise directed by the Commissioner:

- 64.1.1 Stop Work on the date specified in the notice;
- 64.1.2 Take such action as may be necessary for the protection and preservation of the City's materials and property;
- 64.1.3 Cancel all cancelable orders for material and equipment;
- 64.1.4 Assign to the City and deliver to the Site or any other location designated by the Commissioner, any non-cancelable orders for material and/or equipment that is not capable of use except in the performance of this Contract and has been specifically fabricated for the sole purpose of this Contract and not incorporated in the Work;
- 64.1.5 Take no action which will increase the amounts payable by the City under this Contract.

64.2 In the event of termination, the City will pay the Contractor the sum of Articles 64.2.1 and 64.2.2, less all payments previously made pursuant to this Contract:

- 64.2.1 For all completed units, the unit price stated in the Contract, and
- 64.2.2 For units that have been ordered but are only partially completed, the Contractor will be paid: (i) a pro rata portion of the unit price stated in the Contract based upon the percent completion of the unit, and (ii) for non-cancelable material and equipment, payment will be made based on the fair and reasonable value of such material and equipment, plus necessary and reasonable delivery costs. The fair and reasonable value of such material and equipment shall be subject to a markup of five (5%) percent.

64.3 All payments pursuant to this article shall be in the nature of liquidated damages and shall be accepted by the Contractor in full satisfaction of all claims against the City. Termination by the City shall not give rise to any cause of action for damages or extra remuneration against the City, other than that provided for herein.

64.4 The City may deduct or set off against any sums due and payable pursuant to this article, any deductions authorized by this Contract or by Law (including but not limited to liquidated damages) and any claims it may have against the Contractor. The City's exercise of the right to terminate the Contract pursuant to this article shall not impair or otherwise effect the City's right to assert any claims it may have against the Contractor in a plenary action.

ARTICLE 65 - CHOICE OF LAW, CONSENT TO JURISDICTION AND VENUE

65.1 This Contract shall be deemed to be executed in the City of New York, State of New York, regardless of the domicile of the Contractor, and shall be governed by and construed in accordance with the Laws of the State of New York and the Laws of the United States, where applicable.

65.2 The parties agree that any and all claims asserted against the City arising under this Contract or related thereto shall be heard and determined in the courts of the State of New York ("New York State Courts") located in the City and County of New York. To effect this Contract and intent, the Contractor agrees:

65.2.1 If the City initiates any action against the Contractor in Federal Court or in New York State Court, service of process may be made on the Contractor either in person, wherever such Contractor may be found, or by registered mail addressed to the Contractor at its address as set forth in this Contract, or to such other address as the Contractor may provide to the City in writing; and

65.2.2 With respect to any action between the City and the Contractor in New York State Court, the Contractor hereby expressly waives and relinquishes any rights it might otherwise have:

- 65.2.2(a) To move to dismiss on grounds of forum non conveniens;
- 65.2.2(b) To remove to Federal Court; and
- 65.2.2(c) To move for a change of venue to a New York State Court outside New York County.

65.2.3 With respect to any action brought by the City against the Contractor in Federal Court located in the City, the Contractor expressly waives and relinquishes any right it might otherwise have to move to transfer the action to a United States Court outside the City.

65.2.4 If the Contractor commences any action against the City in a Court located other than in the City and State of New York, upon request of the City, the Contractor shall either consent to a transfer of the action to a State Court of competent jurisdiction located in the City and State of New York or, if the Court where the action is initially

brought will not or cannot transfer the action, the Contractor shall consent to dismiss such action without prejudice and may thereafter reinstate the action in a State Court of competent jurisdiction in the City.

65.3 If any provision(s) of this article is held unenforceable for any reason, each and all other provision(s) shall nevertheless remain in full force and effect.

ARTICLE 66 - PARTICIPATION IN AN INTERNATIONAL BOYCOTT

66.1 The Contractor agrees that neither the Contractor nor any substantially owned affiliated company is participating or shall participate in an international boycott in violation of the provisions of the Export Administration Act of 1979, as amended, or the regulations of the United States Department of Commerce promulgated thereunder.

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

66.3 The Contractor shall comply in all respects, with the provisions of Section 6-114 of the Administrative Code and the rules and regulations issued by the Comptroller thereunder.

ARTICLE 67 - LOCALLY BASED ENTERPRISE PROGRAM.

67.1 This Contract is subject to the requirements of Section 6-108.1 of the Administrative Code and regulations promulgated thereunder. No construction Contract shall be awarded unless and until these requirements have been complied with in their entirety.

67.2 Unless specifically waived by the Commissioner with the approval of the Division of Economic and Financial Opportunity of the Department of Business Services, if any portion of the Contract is subcontracted, not less than ten (10%) percent of the total dollar amount of the Contract shall be awarded to locally based enterprise ("LBEs"); except that where less than ten (10%) percent of the total dollar amount of the Contract is subcontracted, such lesser percentage shall be so awarded.

67.3 The prime Contractor shall not require performance and payment bonds from LBE Subcontractors.

67.4 If the Contractor has indicated prior to award that no Work will be subcontracted, no Work shall be subcontracted without the prior approval of the Commissioner, which shall be granted only if the Contractor makes a good faith effort beginning at least six (6) weeks before the Work is to be performed to obtain LBE Subcontractors to perform the Work.

67.5 If the Contractor has not identified sufficient LBE Subcontractors prior to award, it shall sign a letter of compliance stating that it complies with Section 6-108.1 of the Administrative Code, recognizes that achieving the LBE requirement is a condition of its Contract, and shall submit documentation demonstrating its good faith efforts to obtain LBEs. After award, the Contractor shall begin to solicit LBE's to perform subcontracted Work at least six (6) weeks before the date such Work is to be performed and shall demonstrate that a good faith effort has been made to obtain LBE's on each subcontract until it meets the required percentage.

67.6 Failure of the Contractor to comply with the requirements of Section 6-108.1 of the Administrative Code and the regulations promulgated thereunder shall constitute a material breach of Contract. Remedy for such breach of Contract may include the imposition of any or all of the following sanctions:

67.6.1 Reducing a Contractor's compensation by an amount equal to the dollar value of the percentage of the LBE subcontracting requirement not complied with;

67.6.2 Declaring the Contractor in default;

67.6.3 Where non-compliance is by an LBE, de-certifying and declaring the LBE ineligible to participate in the LBE program for a period of up to three (3) years.

ARTICLE 68. ANTITRUST

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

ARTICLE 69 - MacBRIDE PRINCIPLES PROVISIONS

69.1 Notice To All Prospective Contractors:

69.1.1 Local Law No. 34 of 1991 became effective on September 10, 1991 and added Section 6-115.1 of the Administrative Code. The local Law provides for certain restrictions on City Contracts to express the opposition of the people of the City to employment discrimination practices in Northern Ireland to promote freedom of work-place opportunity.

69.1.2 Pursuant to Section 6-115.1, prospective Contractors for Contracts to provide goods or services involving an expenditure of an amount greater than ten thousand (\$10,000.) dollars, or for construction involving an amount greater than fifteen thousand (\$15,000.) dollars, are asked to sign a rider in which they covenant and represent, as a material condition of their Contract, that any business operations in Northern Ireland conducted by the Contractor and any individual or legal entity in which the Contractor holds a ten (10%) percent or greater ownership interest in the Contractor will be conducted in accordance with the MacBride Principles of nondiscrimination in employment.

69.1.3 Prospective Contractors are not required to agree to these conditions. However, in the case of Contracts let by competitive sealed bidding, whenever the lowest responsible bidder has not agreed to stipulate to the conditions set forth in this notice and another bidder who has agreed to stipulate to such conditions has submitted a bid within five (5%) percent of the lowest responsible bid for a Contract to supply goods, services or construction of comparable quality, the Agency shall refer such bids to the Mayor, the Speaker or other officials, as appropriate, who may determine, in accordance with applicable Law and rules, that it is in the best interest of the City that the Contract be awarded to other than the lowest responsible pursuant to Section 313(b)(2) of the City Charter.

69.1.4 In the case of Contracts let by other than competitive sealed bidding, if a prospective Contractor does not agree to these conditions, no Agency, elected official or the City Council shall award the Contract to that bidder unless the Agency seeking to use the goods, services or construction certifies in writing that the Contract is necessary for the Agency to perform its functions and there is no other responsible Contractor who will supply goods, services or construction of comparable quality at a comparable price.

69.2 In accordance with Section 6-115.1 of the Administrative Code, the Contractor stipulates that such Contractor and any individual or legal entity in which the Contractor holds a ten (10%) percent or greater ownership interest in the Contractor either:

69.2.1 Have no business operations in Northern Ireland, or

69.2.2 Shall take lawful steps in good faith to conduct any business operations they have in Northern Ireland in accordance with the MacBride Principles, and shall permit independent monitoring of their compliance with such principles.

69.3 For purposes of this Article, the following terms shall have the following meanings:

69.3.1 "MacBride Principles" shall mean those principles relating to nondiscrimination in employment and freedom of work-place opportunity which require employers doing business in Northern Ireland to:

69.3.1(a) increase the representation of individuals from under-represented religious groups in the workforce, including managerial, supervisory, administrative, clerical and technical jobs;

69.3.1(b) take steps to promote adequate security for the protection of employees from under-represented religious groups both at the work-place and while traveling to and from Work;

69.3.1(c) ban provocative religious or political emblems from the workplace;

69.3.1(d) publicly advertise all job openings and make special recruitment efforts to attract applicants from under-represented religious groups;

69.3.1(e) establish layoff, recall and termination procedures which do not in practice favor a particular religious

- group;
- 69.3.1(f) abolish all job reservations, apprenticeship restrictions and different employment criteria which discriminate on the basis of religion;
 - 69.3.1(g) develop training programs that will prepare substantial numbers of current employees from under-represented religious groups for skilled jobs, including the expansion of existing programs and the creation of new programs to train, upgrade and improve the skills of workers from under-represented religious groups;
 - 69.3.1(h) establish procedures to assess, identify and actively recruit employees from under-represented religious groups with potential for further advancement; and
 - 69.3.1(i) appoint a senior management staff member to oversee affirmative action efforts and develop a timetable to ensure their full implementation.

69.4 The Contractor agrees that the covenants and representations in Article 69.2 are material conditions to this Contract. In the event the Agency receives information that the Contractor who made the stipulation required by this Article is in violation thereof, the Agency shall review such information and give the Contractor an opportunity to respond. If the Agency finds that a violation has occurred, the Agency shall have the right to declare the Contractor in default in default and/or terminate this Contract for cause and procure supplies, services or Work from another source in the manner the Agency deems proper. In the event of such termination, the Contractor shall pay to the Agency, or the Agency in its sole discretion may withhold from any amounts otherwise payable to the Contractor, the difference between the Contract price for the uncompleted portion of this Contract and the cost to the Agency of completing performance of this Contract either itself or by engaging another Contractor or Contractors. In the case of a requirement Contract, the Contractor shall be liable for such difference in price for the entire amount of supplies required by the Agency for the uncompleted term of Contractor's Contract. In the case of a construction Contract, the Agency shall also have the right to hold the Contractor in partial or total default in accordance with the default provisions of this Contract, and/or may seek debarment or suspension of the Contractor. The rights and remedies of the Agency hereunder shall be in addition to, and not in lieu of, any rights and remedies the Agency has pursuant to this Contract or by operation of Law.

ARTICLE 70 - HEALTH INSURANCE COVERAGE

70.1 If the price for which this Contract was awarded exceeds \$100,000, or if the price for which this Contract was awarded when combined with other construction or services contracts awarded the Contractor by the City in the year prior to award of this Contract exceeds \$100,000, the Contractor, following registration of the Contract, shall be required to submit responses to requests for information regarding the nature of any health insurance provided by the Contractor to its employees and their spouses and domestic partners, upon request of the Agency or other designated City agency.

ARTICLE 71 - PROHIBITION OF TROPICAL HARDWOODS

71.1 Tropical hardwoods, as defined in Section 165 of the New York State Finance Law ("Finance Law"), shall not be utilized in the performance of this Contract except as expressly permitted by Section 165 of the Finance Law.

ARTICLE 72 - CONFLICTS OF INTEREST

72.1 Section 2604 of the City Charter and other related provisions of the City Charter, the Administrative Code and the Penal Law are applicable under the terms of this Contract in relation to Conflicts of Interest and shall be extended to Subcontractors authorized to perform Work, labor and services pursuant to this Contract and further, it shall be the duty and responsibility of the Contractor to so inform its respective Subcontractors. Notice is hereby given that, under certain circumstances, penalties may be invoked against the donor as well as the recipient of any form of valuable gift.

ARTICLE 73 - MERGER CLAUSE

73.1 The Written Contract herein, contains all the terms and conditions agreed upon by the parties hereto, and no other agreement, oral or otherwise, regarding the subject matter of this Contract shall be deemed to exist or to bind any of the parties hereto, or to vary any of the terms contained herein.

ARTICLE 74 - STATEMENT OF WORK

74.1 The Contractor shall furnish all labor and materials and perform all Work in strict accordance with the

Specifications and Addenda issued prior to the bid opening.

ARTICLE 75 - NOT USED

ARTICLE 76 - ELECTRONIC FUNDS TRANSFER

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

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

ARTICLE 77 - PARTICIPATION BY MINORITY-OWNED AND WOMEN-OWNED BUSINESS ENTERPRISES IN CITY PROCUREMENT

ARTICLE I. M/WBE PROGRAM

Local Law No. 129 of 2005 added and Local Law 1 of 2013 amended Section 6-129 of the Administrative Code of the City of New York (hereinafter "Section 6-129"). Section 6-129 establishes 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. 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 I to this Contract (see Page 1, line 1 Total Participation Goals) or will be set forth on Schedule B, Part I 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 New York City Department of Small Business Services 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 II (see Pages 2-4) 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; and (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. 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 II (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 nonresponsive.

(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 II (see Pages 2-4) 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; and (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. 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 II). A SCHEDULE B SUBMITTED BY THE BIDDER/PROPOSER WHICH DOES NOT INCLUDE THE VENDOR CERTIFICATION AND REQUIRED AFFIRMATIONS (SEE SECTION V OF PART II) WILL BE DEEMED TO BE NON-RESPONSIVE, UNLESS A FULL WAIVER OF THE PARTICIPATION GOALS IS GRANTED (SCHEDULE B, PART III). 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 multiyear 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 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) 513-6356, or by visiting or writing DSBS at 110 William St., New York, New York, 10038, 7th 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 III (Page 5) 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 by email at poped@ddc.nyc.gov or via facsimile at (718) 391-1886. Bidders, proposers, or contractors, as applicable, who have submitted 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 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.

13. 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.

14. 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 an **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 an **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.

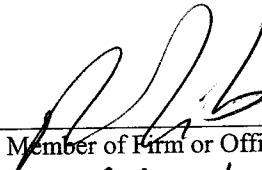
7. The Contractor's record in implementing its **M/WBE** Utilization Plan shall be a factor in the evaluation of its performance. Whenever Agency determines that a Contractor's compliance with an **M/WBE** Utilization Plan has been unsatisfactory, Agency shall, after consultation with the City Chief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

IN WITNESS WHEREOF, the Commissioner, on behalf of the City of New York, and the Contractor, have executed this agreement in quadruplicate, two parts of which are to remain with the Commissioner, another to be filed with the Comptroller of the City, and the fourth to be delivered to the Contractor.

THE CITY OF NEW YORK:

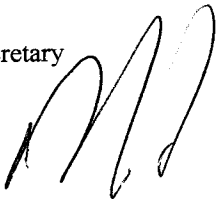
By: 
Deputy Commissioner
Assoc.

CONTRACTOR: Air Tech Lab, Inc.

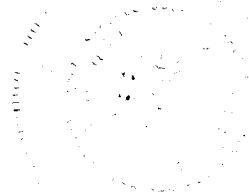
By: 
Member of Firm or Officer of Corporation
Print Name: Roland Dib
Title: President
EIN: 13-3589029

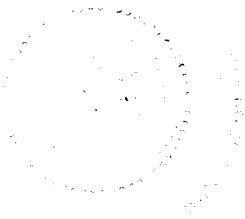
(Where Contractor is a Corporation, add):
Attest:

Secretary



(Seal)





ACKNOWLEDGMENT OF PRINCIPAL, IF A CORPORATION

State of New York County of Queens ss:

On this 4th day of June 2014 before me personally came Roland Dib to me known, who, being by me duly sworn did depose and say that he resides at Brooklyn New York that he is the President

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

VICTORIA AYO-VAUGHAN
Notary Public, State of New York
Registration #01AY5014042
Qualified In Queens County
Commission Expires July 15, 20 15

[Signature]
Notary Public or Commissioner of Deeds

ACKNOWLEDGMENT OF PRINCIPAL, IF A PARTNERSHIP

State of _____ County of _____ ss:

On this _____ day of _____, before me personally appeared _____ to me known, and known to me to be one of the members of the firm of _____ described in and who executed the foregoing instrument; and he acknowledged to me that he executed the same as and for the act and deed of said firm.

Notary Public or Commissioner of Deeds

ACKNOWLEDGMENT OF PRINCIPAL, IF AN INDIVIDUAL

State of _____ County of _____ ss:

On this _____ day of _____, before me personally appeared _____ to me known, and known to me to be the person described in and who executed the foregoing instrument; and acknowledged that he executed the same.

Notary Public or Commissioner of Deeds

ACKNOWLEDGMENT BY COMMISSIONER

State of New York County of Queens ss:

On this 6th day of June 2014, before me personally came Mark Canu to me known, and known to be the Deputy Commissioner of the Department of Design and Construction of The City of New York, the person described as such in and who as such executed the foregoing instrument and he acknowledged to me that he executed the same as Deputy Commissioner for the purposes therein mentioned.

[Signature]
Notary Public or Commissioner of Deeds

VICTORIA AYO-VAUGHAN
Notary Public, State of New York
Registration #01AY5014042
Qualified In Queens County
Commission Expires July 15, 20 15



AUTHORITY

MAYOR'S CERTIFICATE NO. CBX
BUDGET DIRECTOR'S CERTIFICATE NO.

DATED
DATED

APPROPRIATION
COMMISSIONER'S CERTIFICATE

In conformity with the provisions of Section 6-101 of the Administrative Code of the City of New York, it is hereby certified that the estimated cost of the work, materials and supplies required by the within Contract, amounting to

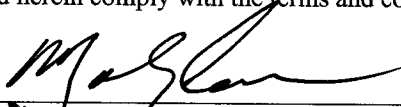
*Three million four hundred ninety nine
thousand five hundred eight dollars
and ninety six cents*

Dollars (\$ 3,499,508.96)

is chargeable to the fund of the Department of Design and Construction entitled Code

Department of Design and Construction

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



Deputy Assessor Commissioner

COMPTROLLER'S CERTIFICATE

The City of New York _____

Pursuant to the provisions of Section 6-101 of the Administrative Code of the City of New York, I hereby certify that there remains unapplied and unexpended a balance of the above mentioned fund applicable to this Contract sufficient to pay the estimated expense of executing the same viz:

\$ _____

Comptroller

MAYOR'S CERTIFICATE OR
CERTIFICATE OF THE DIRECTOR
OF THE BUDGET

SCHEDULE A: CONTRACT INFORMATION

- Division: Division of Safety & Site Support
- Project: Removal and disposal of ACM and replacement with non-ACM insulation, as specified by the Commissioner on a Work Order basis
- Total Amount: Not to Exceed: \$4,000,000
- Time of Performance:
 - Contract Term: 1095 consecutive calendar days ("ccds")
 - Renewal of Contract Term: Duration: 730 consecutive calendar days
Increase: up to \$2,000,000
 - Extension of Contract Term: Duration: 365 consecutive calendar days
- Subcontracts: The Contractor is not permitted to enter into any subcontract(s) for asbestos abatement services and/or lead abatement services, unless authorized in advance in writing by the Commissioner. Subcontracting is only permitted for the following: (1) services of a certified testing laboratory, (2) Reimbursable Services, as set forth in the Specific Requirements, and (3) incidental non-asbestos work, as set forth in the Specific Requirements.
- Insurance: The Contractor shall provide the types and amounts of insurance indicated by a check mark. Requirements for insurance coverage are set forth in Article 22 of the Contract.

 X Commercial General Liability
Amount: \$1,000,000 per occurrence and \$2,000,000 aggregate (applicable separately to this project).
Additional Insured: City of New York, including its officials and employees

 X Workers' Compensation Insurance and Disability Benefits Insurance in accordance with the Laws of the State of New York

 X Employers' Liability Insurance
Amount: \$1,000,000 per accident

 X Comprehensive Business Automobile Liability Insurance
Amount: \$1,000,000 per accident
Additional Insured: City of New York, including its officials and employees
If autos are used for transporting hazardous materials, the Automobile Liability Insurance shall be endorsed to provide pollution liability broadened coverage for covered vehicles (endorsement CA 99 48) as well as proof of MCS 90.

 X Asbestos Liability Insurance
Amount: \$1,000,000 per occurrence and \$2,000,000 aggregate (combined single limit)
Additional Insured: City of New York, including its officials and employees

- Performance and Payment Bonds: Payment and performance bonds are not required at the time of contract award. However, during the performance of the contract, if directed in writing by the Commissioner, the Contractor shall provide Payment and Performance bonds for each Work Order valued at one million (\$1,000,000) or more. Payment and Performance bonds shall each be in an amount equal to 100% of the Work Order price. Such bonds shall be in accordance with the standard form of bonds provided by the City. The City shall reimburse the Contractor the actual and reasonable cost of such bonds, with no make-up for overhead and profit. The Contractor shall provide a copy of the cancelled check for the required bonds, as well as any other documentation required by the Commissioner.

SCHEDULE A

CONTRACT INFORMATION

Insurance / Certification by Broker: Pursuant to Article 22.3.1(a) of the Contract, every Certificate of Insurance must be accompanied by either (1) a certification by the broker setting forth the following text and required information and signatures, or (2) complete copies of all policies referenced in the Certificate of Insurance. In the absence of completed policies, binders are acceptable.

CERTIFICATION BY BROKER

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

of broker (typewritten)] _____ [Name

[Address of broker (typewritten)]

[Signature of authorized official or broker]

[Name and title of authorized official (typewritten)]

Sworn to before me this
0 ___ day of _____, 20__

1 _____
NOTARY PUBLIC

SPECIFIC REQUIREMENTS

SECTION ONE: GENERAL TERMS AND CONDITIONS

Article 1 INTENT

General: This is a requirements contract for various types of services involving: (1) removal and disposal of Asbestos Containing Material (ACM) and (2) replacement of ACM with non-ACM. The various types of services the Contractor will be required to provide, and the method of payment for each type of services, are set forth in Article 7 of these Specific Requirements (SR).

This is a unit price contract. The unit price items are set forth below. The costs deemed included in the unit prices are described in Articles 5 and 7.

- Item 1: Unit Price per Square Foot for the Removal & Disposal of ACM & Replacement with non-ACM Insulation during Regular Hours (Monday through Friday, 7:00 A.M. to 5:00 P.M.).
- Item 2: Unit Price per Square Foot for the Removal & Disposal of ACM & Replacement with non-ACM Insulation during Premium Hours (Monday through Friday, before 7:00 A.M. or after 5:00 P.M., and all day Saturday, Sundays and Holidays).

This contract also includes the Allowances described in Article 22.

Minimum Requirements: Minimum requirements are set forth below.

- (A) Contractor: The Contractor must, throughout the term of the Contract maintain the following licenses: (1) licensed by the New York State Department of Labor (NYS DOL), as an "Asbestos Handling Contractor", and (2) licensed by the United States Environmental Protection Agency (USEPA) for the performance of lead abatement and/or remediation services.

(B) Contractor's Personnel

Asbestos: For the performance of asbestos abatement services, the Contractor must, throughout the term of this Contract, have in its employ, a minimum of the following: (1) six (6) individuals, each of whom has been issued an Asbestos Handler Supervisor Certificate by NYSDOL and NYCDEP, (2) one individual who has been issued an Asbestos Project Designer Certificate by NYSDOL, and (3) twelve (12) individuals, each of whom has been issued an Asbestos Handler Certificate by NYSDOL.

Lead: For the performance of lead abatement services, the Contractor must, throughout the term of this Contract, have in its employ, a minimum of the following: (1) one individual certified as a Lead Supervisor by the United States Environmental Protection Agency (USEPA), (2) four individuals certified by the USEPA as Lead Workers, and (3) one individual certified by the USEPA as a Lead Risk Assessor.

(C) Testing Laboratory

Asbestos: For the performance of asbestos related services, the testing laboratory must be accredited by the New York State Department of Health Environmental Laboratory Approval Program (ELAP) and the National Voluntary Laboratory Accreditation Program (NVLAP).

Lead: For the performance of lead related services, the testing laboratory must be accredited by the New York State Department of Health Environmental Laboratory Approval Program (ELAP) and the American Industrial Hygiene Association (AIHA).

Air Monitoring: For the performance of air monitoring services, industrial hygiene laboratory must be accredited by the American Industrial Hygiene Association (AIHA) and NYDDOH ELAP. The laboratory identification number shall be submitted and approved by the City. In addition, the laboratory must be a current proficient participant in the following: (1) AIHA PAT Program, and (2) NIST/NVLAP Quality Assurance Program for fiber analysis and lead.

Article 2 TERM

Term: The Contract shall commence on the date specified in the written Notice of Commencement and shall remain in effect for the period set forth in Schedule A (Final Page of the Contract). At the Commissioner's sole option, the term of this contract may be renewed for the period and for the increased amount set forth in Schedule A. The Commissioner may, for good and sufficient cause, extend the term of this Contract for a cumulative period not to exceed one year from the date of expiration.

Continuation: In the event (1) services are required for a Project, (2) a Work Order for the Project is issued by the Commissioner during the term of the Contract, including the last day thereof, and (3) the time frame for completion of the Project extends beyond the term of the Contract, the Contract shall remain in effect for purposes of such Work Order through the time frame for completion of the Project, as set forth in the Work Order or any Supplementary Work Order required to complete the Project. For the purpose of this provision, the term of the Contract shall mean whichever of the following is the latest and actual final period of the Contract: (1) the term of the Contract, (2) the extended term of the Contract, or (3) the renewal term of the Contract.

Work Order: The Work Order for the Project shall commence as of the date of issuance and shall remain in effect until completion of all required services for the Project. The time frame for completion of all required services for the Project shall be set forth in the Work Order. Unless terminated or cancelled by the Commissioner, Work Orders shall be effective and binding upon the Contractor when placed in the mail, addressed to the Contractor at the address shown on the advice of award, sent by email to the email address provided by the Contractor, or sent by fax to the facsimile number provided by the Contractor.

Delay: The Contractor agrees to make no claim for damages for delay in the performance of this Contract occasioned by any act or omission to act of the City or any of its representatives, and agrees that any such claim has been fully compensated for and is reflected in the unit prices bid for the items which are the subject of the contract.

Article 3 SCOPE

Contractor shall perform the necessary asbestos abatement work at buildings and /or locations under the jurisdiction of the Department of Design and Construction ("DDC") and in private spaces leased by the City of New York in the Five Boroughs of the City of New York when ordered, by Work Order Letter, to do so by the Commissioner. The occupants of the work areas will be relocated by the City during the performance of the work and returned thereto at the conclusion of the work at no cost to the Contractor. However, the Contractor shall protect all furniture and equipment in the work areas in the manner as specified by the applicable rules and regulations. In addition, he will perform the work of this contract in a manner that will be least disruptive to the normal use of the non-work areas in the building.

ALL WORK SHALL BE DONE IN ACCORDANCE WITH THE APPLICABLE PROVISIONS OF TITLE 15 CHAPTER 1 OF THE RULES OF THE CITY OF NEW YORK, NEW YORK STATE DEPARTMENT OF LABOR INDUSTRIAL CODE RULE 56, UNITED STATES OCCUPATIONAL SAFETY AND HEALTH ADMINISTRATION 29 CFR 1926.1101, UNITED STATES ENVIRONMENTAL PROTECTION AGENCY GUIDELINES AND ALL OTHER APPLICABLE STANDARDS, INCLUDING THESE SPECIFICATIONS.

The contractor shall be responsible for and shall include in the unit prices submitted as its bid any and all fees or charges imposed by local, state or federal law, rule or regulation applicable to the work specified herein.

The contractor's attention is directed to the fact that certain methods of asbestos abatement indicated in the specifications may be protected by patents. The contractor shall be solely responsible for and shall hold the

Department of Design and Construction and the City harmless from any and all damages, losses and expenses arising out of any infringement by the contractor of any patent, including but not limited to the patents described above, resulting from the contractor's use of any patented process, material equipment or device during the performance of this agreement.

Asbestos includes chrysotile, amosite, crocidolite, tremolite asbestos, anthophyllite asbestos, actinolite asbestos, and any of these minerals that has been chemically treated and/or altered.

All work to be done will be specified to the Contractor by a Work Order Letter issued by DDC-Bureau of Environmental & Geotechnical Services.

Prior to starting a project, the Contractor must notify the Commissioner of DDC if he anticipates any difficulty in performing the work as directed in the Work Order Letter and as required by these specifications. The Contractor will be required to attend on-site job meetings, at every project, with the DDC Project Manager / Construction Project Manager prior to start of work to examine conditions and plan sequence of operations, etc. Failure to attend this meeting will result in a permanent deduction of \$500.00 from the value of the Work Order Letter. Any discrepancies in the directives specified in the Work Order Letter must be brought to the attention of the DDC representative at this meeting.

It is the intent of this contract to provide asbestos abatement services during both regular and premium hours. The choice is solely at the discretion of the Commissioner and will be clearly indicated in the Work Order Letter.

When so directed by a Work Order Letter, the Contractor will respond to the work location with a work force of a suitable size, properly equipped and with adequate materials and supplies. If necessary, the size of the work force will be indicated in the Work Order Letter.

When directed to work during regular hours, 7:00 a.m. to 5:00 p.m., Monday through Friday, work shall be performed during those hours that the facility is customarily open and functioning. Payments will be based on the unit price bid for regular hours. The Commissioner may direct the Contractor to perform certain aspects of the project (i.e. waste removal) during non-regular hours to accommodate the client agency.

When directed to work during premium hours, before 7:00 a.m. or after 5:00 p.m., Monday through Friday and all day Saturday and Sunday and holidays, payment will be based on the unit price bid for premium hours.

Some projects may have a mix of regular and premium work units based on specific needs of the project. The actual quantities of regular and premium units will be resolved during the on-site job meeting.

Article 4 LIQUIDATED DAMAGES

In the event the contractor shall fail to complete the work within the time fixed for such completion in the Work Order Letter, plus the additional time allowed by authorized time extensions, or if the contractor, at the sole discretion of the Commissioner, has abandoned the work, the contractor must pay to the City the amount set forth in the schedule below, for each and every calendar day that the time consumed in completing the work exceeds the time allowed therefore, which said sum, in view of the difficulty of accurately ascertaining the loss which the City will suffer by reason of delay in completion of the work, is hereby fixed and agreed as liquidated damages that the City will suffer by reason of such delay, and not as a penalty.

| Total Value of the Work Order Letter (including supplements, revisions, etc.) | Liquidated Damages |
|--|------------------------|
| Up to \$5,000 | \$50 per calendar day |
| From \$5,000.01 up to \$50,000.00 | \$75 per calendar day |
| Over \$50,000.00 | \$100 per calendar day |

Liquidated Damages received hereunder are not intended to be nor shall they be treated as either a partial or full waiver or discharge of the City's right to indemnification under the agreement, or the contractor's obligation

to indemnify the City, or to any other remedy provided for by the contract or the law. The Commissioner will deduct and retain out of the monies which may become due, the amount of such liquidated damages; and in case the amount which may become due shall be less than the amount of liquidated damages suffered by the City, the Contractor shall be liable to pay the difference upon demand by the Commissioner.

Article 5 METHOD OF BIDDING

The Contractor shall submit the unit prices described in Article 1 for the removal and disposal of ACM and replacement of the same with non-ACM insulation. See Article 7 for measurement and payment provisions applicable to the various types of services that will be required.

Each Unit Price shall include all costs to comply with all requirements in connection with performance of the work, as set forth in these Specific Requirements, except for the following costs which will be borne by the City: (1) cost of third party air monitoring and laboratory testing, as described Section 1.16, (2) cost of engaging a Registered Design Professional to prepare any documents required for an asbestos abatement permit, including without limitation, a Work Place Safety Plan and a Tenant Protection Plan, as described in Section 1.05D, and (3) cost of engaging a Registered Design Professional to perform all inspections required pursuant to Title 28 of the RCNY including, but not limited to special inspections required by Chapter 17 of the Building Code.

The costs to comply with all requirements in connection with performance of the work shall include, without limitation, costs for the following: labor, materials, equipment, scaffolding up to 12 feet, pre-cleaning, preparation, removal, encapsulation, final cleaning, disposal, testing, inspections, insurance, filing fees, overhead, profit and any other cost related to the abatement of ACM, including the cost of personal air monitoring/air testing for the Contractor's personnel during performance of the work, in accordance with OSHA regulations, as described in Section 1.15 of these Specific Requirements.

Article 6 QUANTITY CALCULATIONS

In order to determine the square footage involved for the various pipe sizes or pipe insulation sizes that might be encountered, the following table is to be used.

| <u>Pipe Insulation Size</u> | <u>Pipe Size Outside Diameter</u> | <u>Square Footage Per Linear Foot</u> |
|-----------------------------|-----------------------------------|---------------------------------------|
| 2-1/2" | 1/2" | 0.65 |
| 2-3/4" | 3/4" | 0.72 |
| 3" | 1" | 0.79 |
| 3-1/4" | 1-1/4" | 0.85 |
| 3-1/2" | 1-1/2" | 0.92 |
| 4" | 2" | 1.05 |
| 4-1/2" | 2-1/2" | 1.18 |
| 5" | 3" | 1.31 |
| 6" | 3-1/4" | 1.57 |
| 7" | 3-1/2" | 1.86 |
| 8" | 4" | 2.10 |
| 9" | 5" | 2.35 |
| 10" | 6" | 2.62 |
| 12" | 8" | 3.14 |
| 14" | 10" | 3.66 |
| 16" | 12" | 4.18 |
| 18" | 14" | 4.71 |

Article 7 METHOD OF PAYMENT

Payment shall be in accordance with Items A through R below. Payment shall be calculated based on the actual quantity of the item performed by the Contractor, times the unit price specified below. Credits may apply to certain items, as specified below.

- A. **REMOVAL, DISPOSAL AND REPLACEMENT OF ASBESTOS CONTAINING PIPE INSULATION:** Payment shall be calculated as follows: actual linear footage, multiplied by the square footage factor listed for the respective pipe size, as set forth in Article 6, multiplied by the unit price per square foot.

EXAMPLE: 100 lin.ft. of 1/2" pipe and 100 lin.ft. of 6" pipe, including elbows, tees. Flanges, etc.

$$100 \times 0.65 = 65 \text{ sq.ft.} \quad 65 \times \text{unit price} = \text{Payment}$$

$$100 \times 2.62 = 262 \text{ sq.ft.} \quad 262 \times \text{unit price} = \text{Payment}$$

- B. **REMOVAL, DISPOSAL AND REPLACEMENT OF BOILER INSULATION:** (all types including Silicate Block and including the removal/replacement of metal jacketing) Payment shall be made at 1.5 times the unit price per square foot.

EXAMPLE: Item B. removal and replacement of 1000 S.F. of boiler insulation (incl. Silicate block)

$$1000 \text{ S.F.} \times (1.5) \times \text{the Unit Price} = \text{Payment}$$

- C. **REMOVAL, DISPOSAL AND REPLACEMENT OF TANK INSULATION:** (all types including removal/replacement of metal jacketing) Payment shall be made at 1.5 times the unit price per square foot.

- D. **REMOVAL, DISPOSAL AND REPLACEMENT OF BOILER UPTAKE, & BREACHING INSULATION:** (all types including stiffening angles and wire lath) Payment shall be made at 2.0 times the unit price per square foot.

- E. **REMOVAL, DISPOSAL AND REPLACEMENT OF DUCT INSULATION:** Payment shall be made at 1.0 times the unit price per square foot.

- F. **REMOVAL, DISPOSAL AND REPLACEMENT OF SOFT ASBESTOS CONTAINING MATERIAL:** (Including sprayed-on fire proofing and sound proofing) Payment shall be made at 1.0 times the unit price per square foot of surface area. Area of irregular surfaces must be calculated and confirmed with DDC representative.

- G. **ACOUSTIC PLASTER REPAIR AND/OR ENCAPSULATION:** Payment shall be made at 0.5 times the unit price per square foot.

- H. **PATCHING OR REPAIR** of items listed in A through F will be paid at 0.33 times the unit price per square foot.

- I. **REMOVAL, DISPOSAL AND REPLACEMENT OF WATERPROOFING ASBESTOS CONTAINING MATERIAL:** (including friable and non-friable waterproofing material from interior and exterior walls, floors, roof, beams, foundations, penetrations, louvers, vents and openings other than windows, doors and skylights) Payment shall be made at 0.5 times the unit price per square foot.

- J. **REMOVAL, DISPOSAL AND REPLACEMENT OF ASBESTOS CONTAINING ELECTRICAL WIRING INSULATION:** (including friable and non-friable wiring insulation) Payment shall be made at 0.33 times the unit price per square foot.

- K. **PAINTING:** Payment shall be made at 0.05 times the unit price per square foot.

- L. **REMOVAL AND DISPOSAL OF ASBESTOS-CONTAINING PLASTER:** from ceilings and walls, including any wire lath and disposal as asbestos containing waste. Payment shall be made at 0.80 times the unit price per square foot.
- M. **REMOVAL AND DISPOSAL OF ASBESTOS-CONTAINING FLOOR TILES, CEILING TILES, TRANSITE PANELS:** (including any adhesive, glue, tar, mastic and/or underlayment and disposal as asbestos containing waste). Payment shall be made at 0.40 times the unit price per square foot. If multiple layers are discovered, each additional layer shall be paid at 0.20 times the unit price per square foot.
- N. **ADDITIONAL CLEAN UP/HOUSEKEEPING OF WORK AREA:** (excluding pre-cleaning of work area required by regulations) HEPA vacuuming and wet cleaning of asbestos contaminated surface. Payment shall be made at 0.20 times the unit price per square foot. When GLOVE BAG is employed to remove ACM, cost of HEPA vacuuming and wet cleaning of floor area up to 3 feet on each side of glove-bag shall be included in the unit price and no extra payment will be made.
- O. **REMOVAL, DISPOSAL OF ASBESTOS-CONTAINING ROOFING MATERIAL:** including mastic, flashing, tar and sealant compound and provide temporary asbestos-free roof covering consisting of one layer of rolled roofing paper sealed with asphaltic roofing compound. Payment shall be made at 0.8 times the unit price per square foot. Credit at a rate of 0.33 times the unit price will be taken for each square foot of temporary roof covering which the Contractor is directed not to install.
- P. **PICK-UP AND DISPOSAL OF GROSS DEBRIS:** (excluding any waste generated from abatement under Item A-R). Payment shall be made at a rate of \$150 per cubic yard for asbestos contaminated waste and \$75 per cubic yard for non-asbestos contaminated waste. This cost includes all labor and material cost associated with the work.
- Q. **REMOVAL OF ASBESTOS-CONTAINING BRICK, BLOCK, MORTAR, CEMENT OR CONCRETE:** along with all surfacing materials including waterproofing, wire lath and/or other supporting structures and disposal as ACM waste. Payment shall be made at a rate of \$25.00 per cubic foot of material removed.
- R. **REMOVAL AND DISPOSAL OF ASBESTOS CONTAINING WINDOW/DOOR CAULKING or SKYLIGHT WATERPROOFING:** including friable and non-friable caulking, weather-stripping, glazing, sealants or other waterproofing materials applied to windows, doors, skylights, etc. Payment shall be made at the rate of \$400.00 per opening, regardless of size or configuration. This cost includes labor, consumable materials, set-up/breakdown, removal and disposal, as required.

Note 1: CREDIT: For items listed in A through F, a credit at a rate of 0.33 times the unit price, times the respective multiplier (for each item) will be taken for each square foot of insulation which the contractor is not directed to reapply.

Note 2: MINIMUM PAYMENT: The minimum payment per call at any individual job sites or various job sites during the same day will be eight hundred dollars (\$800.00).

Note 3: All payments shall be made as described in this Article 7.

Note 4: WORKING HIGHER THAN 12 FEET ABOVE FLOOR LEVEL OR WORK REQUIRING COMPLEX SCAFFOLDING OR CONSTRUCTION WORK PLATFORMS: Provisions are made in this Contract to compensate the Contractor for work performed in locations that are difficult to access due to work at elevations that are significantly higher than the normal work level. The unit price for these items will be paid at 1.20 times the unit price described in Paragraphs A through R for those portions of the work that are more than twelve (12) feet above the grade for that would be judged as the normal working level.

Article 8 REQUISITIONS FOR PAYMENT

Requisitions for payment may be submitted upon completion of the services set forth in the Work Order. Requisitions shall be in the authorized form and shall set forth the services performed by the Contractor and the

total amount of payment requested. The Contractor shall submit one original and three (3) copies of each requisition for payment.

Unit Price Services: Requisitions for payment shall be accompanied by the following:

- (a) Copy of the Work Order and/or Supplemental Work Order for which payment is requested.
- (b) Description of the services provided during the payment period (quantity, location, etc.)
- (c) Applicable unit price(s) for the services provided.
- (d) Total amount of payment requested for all unit price services provided.
- (e) If applicable, laboratory analysis and/or test reports in connection with the services provided.
- (f) Copy of the Commissioner's written acceptance of the services provided.
- (g) Verified statement in the form prescribed by the Comptroller setting forth the information required under Section 220.a of the Labor Law.
- (h) Any other documentation required by the Commissioner.

Services on a Time and Material Basis: Requisitions for payment shall be accompanied by the following:

- (a) Copy of the Work Order and/or Supplemental Work Order for which payment is requested.
- (b) Description of the services provided during the payment period (quantity, location, etc.)
- (c) Documentation set forth in Article 28 of the Contract
- (d) Total amount of payment requested for all services provided on a time and material basis
- (e) Copy of the Commissioner's written acceptance of the services provided.
- (f) Verified statement in the form prescribed by the Comptroller setting forth the information required under Section 220.a of the Labor Law
- (g) Any other documentation required by the Commissioner

Reimbursable Services: Requisitions for payment shall be accompanied by the following. The Contractor shall not be entitled to any mark-up with respect to Reimbursable Services.

- (a) Copy of the Commissioner's directive authorizing the Reimbursable Services(s)
- (b) Receipted bills or any other data required by the Commissioner

All payments are contingent upon the Contractor's satisfactory performance of the required services. The Commissioner is authorized to make deductions for any services performed hereunder which he/she determines to be unsatisfactory.

Article 9 GUARANTEE

- A. Work performed in compliance with each Work Order Letter shall be guaranteed for a period of one year from the date of the final payment for the entire contract.
- B. The Commissioner will notify the Contractor in writing regarding defects in work under the guarantee, giving date and Work Order Letter number under which the work was previously performed.

Article 10 WORK ORDER

Work Orders: Throughout the term of the Contract, as the need for services arises, the Commissioner shall issue a Work Order to the Contractor. The Contractor shall provide services in accordance with the Work Order for the Project specified therein. The Contractor shall not perform services pursuant to this Contract until the Commissioner has issued a Work Order.

Supplemental Work Orders: In the event of any changes to the Work Order, the Commissioner shall issue a Supplementary Work Order to the Contractor. The Contractor shall be bound by the terms and conditions of any such supplementary Work Order issued by the Commissioner.

No Right to Reject: The Contractor shall have no right to reject a Work Order issued hereunder or to decline to perform services pursuant thereto. Any rejection of a Work Order by the Contractor, either expressly made or implied by conduct, shall constitute a material breach of this contract.

Transmission: Work Orders shall be sent to the Contractor by fax, by mail, by email, or by telephone promptly confirmed by fax or email. The Contractor shall, for the duration of this contract, provide and maintain at its place of business the following for the receipt of Work Orders and other documentation: (1) an email account, (2) a dedicated telephone line, and (3) a dedicated fax line. The fax machine shall be in operation twenty-four (24) hours per day, seven (7) days per week, for the duration of this contract. The Contractor shall not be entitled to any compensation for the provision of such accounts or equipment. All expenses for the required accounts and equipment shall be deemed included in the unit prices.

Article 11 ESTIMATED QUANTITIES

The Contractor is warned that the Estimated Quantities set forth on the Bid Form are approximate only, given solely to be used as a uniform basis for the comparison of bids, and are not be considered part of this contract. The quantity of services the Contractor is actually directed to provide may be less or more than so estimated, and if so, no action for damages or for loss of profits shall accrue to the Contractor by reason thereof.

Article 12 RESPONSE TIME / EMERGENCY MOBILIZATION

When work is ordered, the Contractor will visit the subject location within one (1) working day of receiving a request for an estimate. The Contractor's estimate shall indicate the following: (a) types of services required, (b) estimated quantity for each type of services, and (c) estimated cost of the required services, based on the method of payment set forth in Article 7.

For projects identified as "URGENT", work shall commence no later than 48 hours from time of notification. In this event, the Contractor shall immediately notify EPA NESHAPS Coordinator, NYC DEP and NYS DOL of the start of work.

The contractor is also required to provide "EMERGENCY" response services, within 4 hours when so ordered by the Commissioner. Work Order for Emergency Response services will be paid on a unit price basis plus a \$1000.00 (One Thousand Dollars) emergency mobilization fee. Emergency response services will be clearly identified in the Work Order Letter transmitted by facsimile and/or electronically and confirmed by the Commissioner or his/her representative.

For projects that are not urgent, the Contractor shall notify the EPA NESHAPS Coordinator, NYC DEP, NYS DOL by letter; postmarked 10 working days before any activity begins.

The following information must be included in the notification:

- A. Name and address of building owner or operator;
- B. Project Description:
 - 1. Size - square feet, number of linear feet, etc.;
 - 2. Age - date of construction and renovations (if known);
 - 3. Use - i.e., office, school, industrial, etc.
- C. Amount of asbestos involved in work and an explanation of techniques used to determine the amount;
- D. Building location/addresses;
- E. Work schedule including the starting and completion dates.
- F. Abatement method(s) to be employed;
- G. Procedures for removal of asbestos-bearing material.
- H. Name and location of disposal site where asbestos waste material will be deposited; and
- I. Name, title, and authority of client sponsoring project.
- J. Not to Exceed amount for the services to be performed.

Article 13 WORK BY OTHERS

In the event there is a need for asbestos abatement services, the Commissioner reserves the right not to utilize this requirements contract and to proceed with a new solicitation for the required services, or to have the services performed by another Contractor(s), or by City employees, if the Commissioner, in his/her sole opinion, determines that it would be in the best interest of the City to do so.

Article 14 OCCUPANCY OF SITE NOT EXCLUSIVE

Attention is specifically drawn to the fact that other contractors, performing the work of other contracts, may be on (or be brought upon) any of the work sites of this Contract. Therefore, the Contractor shall not have exclusive rights to any site of his work and shall fully cooperate and coordinate his work with the work of other Contractors who may be on (or be brought upon) any site of the work of this contract.

Article 15 SCAFFOLDING

- A. The Contractor shall furnish all the scaffolding of whatever type is necessary to do the work of this contract, subject to requirement of the Building Code of the City of New York, applicable federal OSHA regulations, DDC requirements and the approval of the Commissioner.
- B. Any scaffolding used, erected and later dismantled must be employed in a manner that does not damage the walls or floors of the work area. Any damage caused by the Contractor in the course of his operations must be repaired in kind or better by him at no cost to the City and to the satisfaction of the Commissioner.

Article 16 LOGS

- A. At each work site the Contractor shall provide a permanently bound log book of minimum 8-1/2" x 11" size. Log book shall contain on a title page the project name, name, address and phone number of Owners; name, address and phone number of Air Monitoring Representative; name, address and phone number of Abatement Contractor; name, address and phone number of Contractor's and City's air testing entity; emergency numbers including, but not limited to local Fire/Rescue Department. Emergency number 911 is not a substitute for the local police fire/rescue department phone number. Log book shall contain a list of personnel approved by the laboratory for entry into the work area.
- B. All entries into the log shall be made in non-washable, permanent ink and such pen shall be strung to or otherwise attached to the log to prevent removal from the log-in area. Under no circumstances shall pencil entries be permitted.

Upon completion of the job, and as a condition of its acceptance, submit the job log book containing day-to-day record of personnel entering the work area, and any significant events occurring during the abatement project to the third party air monitoring immediately upon request and/or upon project completion. All significant events shall immediately be reported verbally to the third party air monitoring firm and thereafter documented in the log book. Failure to do so will cause delay in the project close out. Consequently, several of such failures will be reflected as part of DDC's evaluation process. Daily log entries shall be countersigned by the DDC Project Manager / Construction Project Manager.

Article 17 TELEPHONE PAGING DEVICE

The Contractor, or his authorized representative, shall be subject to call at all times during this contract period, and therefore shall, at all times (24 hours per day, seven days per week) carry a paging device ("Beeper" and/or "Cellular Telephone") that is capable of activation and is of a type that responds to calls and e-mails from anywhere within the New York City metropolitan area (includes New York, New Jersey and Connecticut). He shall supply the Department with the activation number for the device and respond to calls within one (1) hour. The cost to the contractor for this device and all charges accruing thereto is deemed included in the bid.

Article 18 PHOTOGRAPHIC EQUIPMENT

The Contractor shall supply the City with one (1) digital camera capable of taking digital photographs with a minimum resolution of 12.0 megapixels and that will render images in a format compatible with the DDC-BEGS Document Management System, for the duration of the contract. It shall remain the Contractor's property and be returned to him upon expiration of the contract. This camera will be used by the City exclusively to document job site conditions and progress of work under this contract. The cost of the camera shall be deemed included in the price bid for this contract.

Article 19 PROTECTIVE EQUIPMENT FOR AUTHORIZED VISITORS

In addition to protective safety coveralls for workers, the Contractor shall make available at each worksite four (4) additional protective safety coveralls each day for authorized personnel to inspect the work site. He shall also provide, for the duration of the work at any site involving a decontamination unit for worksite access, a lockable storage locker for use by the DDC Representative. In addition to respiratory masks for workers, the Contractor shall have on hand at the beginning of each work day, four (4) Powered Air Purifying Respirators (PAPR) masks each with two sets of new cartridges with HEPA filters, for use by authorized personnel to enter the work area.

Article 20 UTILITIES

- A. General: All temporary facilities shall be subject to the approval of the Commissioner. Prior to starting work at any site locations, sketches (if required) of temporary facilities must be submitted to the DDC Project Manager / Construction Project Manager for the required approval.
- B. Water: The City will furnish all water needed for construction, at no cost to the Contractor in City owned buildings. Heated shower water for the decontamination unit shall be provided by the Contractor at its own cost.
- C. Electricity: The City will furnish all electricity needed for construction, at no cost to the Contractor in City owned buildings. All temporary lighting and temporary electrical service for work area shall be in weather proof enclosures and be ground fault protected. Temporary equipment including ground fault circuit interrupters panels shall be provided by the contractor at no additional cost to the City.
- D. Leased Spaces: The Contractor must make arrangements with the landlord for the supply of water and electricity. Such arrangements are subject to approval by the Commissioner. If the cost of such utilities is not covered by the landlord, the City shall reimburse the contractor for such cost, with no mark up. However, it is the Contractor's responsibility to furnish and install a suitable distribution system to the Work Area. This system will be provided at no cost to the City.

Article 21 SPECIAL PRECAUTIONS

- A. Certain areas such as boiler rooms, equipment rooms, fan rooms etc., will require the development of a detailed plan of action containing special preparation, removal and cleanup techniques. The purpose of these special techniques is to intercept removed asbestos containing materials before they settle in nooks and crannies and on top of pipes and catwalks, etc. above the floor level and become difficult to clean.

This requirement only applies on projects involving large scale, full containment of work areas, decontamination chambers, etc.

The detailed plan of action shall include location(s) of asbestos control area(s), decontamination chamber(s), sequencing of asbestos related work, negative air pressure filtration system plan, disposal plan, type of wetting agent and asbestos sealer to be used, air monitoring, and a detailed description of the method to be employed in order to control pollution, including but not limited to emergency procedures

for fire and medical emergencies and for failure of seals. This plan must be approved prior to the start of any asbestos work.

All boiler room abatement projects, or projects of similar complexity, shall require a detailed plan of action, prepared by the Contractor for acceptance by the DDC Project Manager / Construction Project Manager, prior to commencement of work.

The Contractor must advise the DDC Project Manager / Construction Project Manager of such situations immediately after his initial site visit. It is the Contractor's sole responsibility to plan and perform the work in such a manner that it is brought to successful completion. This includes work area preparation, removal, and final cleaning to an acceptable standard for air testing.

- B. Prior to start of preparatory work as discussed, the Contractor shall attend a pre-construction conference and walk-through attended by DDC Project Manager / Construction Project Manager, designated BEGS representative and representatives of the third party air monitor.

Agenda for this conference will include but not necessarily be limited to:

1. Contractor's scope of work, work plan and schedule.
2. Contractor's safety and health precautions including protective clothing and equipment and decontamination procedures.
3. Testing laboratory's air monitoring plan.
4. Contractor's work procedures including: Method of job site preparation and decontamination chamber set-up, wetting agents and procedures, and removal methods; respiratory protection procedures; procedures for the decontamination of the objects in the "decontamination and abatement" sections; methods of handling removed material and disposal procedures; cleanup procedures and equipment; signs and labels; fire exits and emergency procedures.
5. Contractor's plan for securing the work area for prevention of theft and for barring entry of curious but unprotected personnel into work areas, when required.
6. Temporary utilities.
7. Handling of furniture, books and other moveable objects.
8. Documentation of compliance with environmental laws and standards.

- C. In conjunction with the conference, the Contractor shall accompany the DDC Project Manager / Construction Project Manager on a pre-construction walk-through, documenting existing condition of finishes and furnishings, reviewing overall work plan, location of fire exits, fire protection equipment, water supply and temporary electric tie-in.

Article 22 ALLOWANCES

This contract includes the following Allowances:

- (1) Allowance for Incidental Non-asbestos Work in the not to exceed amount of \$85,000
- (2) Allowance for Lead Abatement and/or Remediation Services in the not to exceed amount of \$100,000.00
- (3) Allowance for Reimbursable Services in the not to exceed amount of \$15,000.00

Incidental Non-asbestos Work: The Contractor may be directed to perform Incidental Non-asbestos Work, including, without limitation, drilling holes, installing hangers, mounting brackets on walls and/or ceilings, and removing asbestos contaminated furniture and/or equipment. Payment for Incidental Non-asbestos Work the Contractor is directed to perform shall be on a time and material basis in accordance with Article 26 of the Contract, except for any item of non-asbestos work for which a price is stipulated in these Specific Requirements. If the incidental work is work for which a license is required (i.e., plumbing and/or electrical work), the contractor shall retain a licensed firm to perform the work.

Lead Abatement and/or Remediation Services: The Contractor may be directed to perform Lead Abatement and/or Remediation Services. Such services shall be in accordance with all federal, state and local laws, rules

and regulations applicable to the work. Payment for Lead Abatement and/or Remediation Services the Contractor is directed to perform shall be on a time and material basis in accordance with Article 26 of the Contract.

Reimbursable Services: The Contractor may be directed to provide Reimbursable Services. If so directed in writing, the Contractor shall provide such Reimbursable Services through entities approved by the Commissioner. Reimbursable Services shall be such services determined by the Commissioner to be necessary for the expeditious completion of the Project. No Reimbursable Services shall be performed by the Contractor, or paid for hereunder, unless expressly authorized in advance in writing by the Commissioner. For Reimbursable Services in excess of \$150, such written authorization must be provided in advance of the expenditure. With respect to Reimbursable Services, the Contractor shall utilize the method of procurement and form of payment directed by the Commissioner. If so directed the Contractor shall conduct a competitive bid and/or proposal process for the specified Reimbursable Service. In general, such competitive process will be required if the cost of the specified Reimbursable Service exceeds \$5,000. The Contractor shall not be entitled to any mark-up with respect to Reimbursable Services. Reimbursable Services may include without limitation, the services set forth below:

- A. Field or computing equipment necessary for the project.
- B. Any other services determined by the Commissioner to be necessary for the project.

In the event the Contractor is directed, as a Reimbursable Service, to purchase any items and/or equipment, such items and/or equipment shall, unless otherwise directed by the Commissioner, be the sole property of the City upon delivery to the designated location. The Contractor shall prepare and maintain an accurate inventory of all items and/or equipment which it is directed to purchase pursuant to the Allowance for Reimbursable Services. Such inventory shall be provided to the City upon request. Upon completion of the required work, as directed by the Commissioner, the Contractor shall turn such items and/or equipment over to the City.

END OF SECTION ONE

SPECIFIC REQUIREMENTS

SECTION TWO: REQUIREMENTS FOR ASBESTOS ABATEMENT AND REINSULATION

Part 1 – GENERAL

1.01 DESCRIPTION

- A. The Contract Documents are as defined in the "Agreement".
- B. Work specified herein shall be the removal and disposal of asbestos-containing materials (ACM) and asbestos-contaminated materials from designated areas of locations designated by the Commissioner or his representative, located throughout the five Boroughs of New York City.
- C. The phasing and scheduling of work for this project shall be coordinated with and approved by the BEGS Project Manager, DDC Construction Project Manager, and/or Facility Manager.

1.02 SCOPE OF WORK

- A. Contractor is to provide all labor, materials, equipment, services, OSHA testing, appurtenances, permits and agreements necessary to perform the work required for the abatement of ACM as required by these contract documents. All work shall be performed in accordance with this Specification, EPA regulations, OSHA regulations, New York City Local Law 70, Title 15, Chapter 1 RCNY, New York State Industrial Code 56, NIOSH recommendations, and any other applicable federal, state or local government regulations. Whenever there is a conflict or overlap of the above references the most stringent provisions are applicable.
- B. The intent of this Specification section is to ensure that Contractor is responsible for the following:
 - 1. Abatement of all ACM.
 - 2. Perform lead abatement and/or remediation as directed as a Reimbursable Service.
 - 3. Cleaning and decontamination of the entire affected area.
 - 4. Drum all lead waste for purpose of Toxicity Characteristic Leaching Procedure (TCLP) testing prior to disposal, as directed as a Reimbursable Service.
 - 5. Demolition that may be required to access ACM in each area, Contractor shall dispose of all debris associated with demolition activities as ACM waste.
 - 6. Removal and disposal of all ACM found within these areas such as pipe and pipe fitting insulation, thermal system insulation, debris, etc.
 - 7. Provide all scaffolding, platform installation, equipment, tools, transportation and any other equipment required and/or necessary to complete all work described in the Contract Documents.
 - 8. Replacement Insulation: Installation of non-ACM replacement insulation, following completion of abatement activities shall be done by the Contractor as described in PART 6 INSTALLATION OF NON-ACM INSULATION of this Specification.
 - 9. The Contractor shall be responsible for and shall include in its Bid any and all fees or charges imposed by Local, State or Federal Law, Rule or Regulation applicable to the work specified herein.
- C. Contractor shall be solely responsible for and shall hold the City of New York Department of

Design and Construction and the City harmless from any and all damages, losses and expenses resulting from any infringement by Contractor of any patent used by Contractor during performance of this agreement.

- D. Prior to starting, the Contractor must notify the Commissioner of DDC if Contractor anticipates any difficulty in performing the work as directed and required by these Specifications. Contractor shall be required to attend an on-site job meeting with the NYC DDC Project Manager prior to start of work to examine conditions of the site for removal and plan the sequence for removal operations.
- E. The Contractor is responsible for preparing and submitting all filings, notifications, amendments and variances etc. required by all City, State and Federal regulatory agencies having jurisdiction.
- F. In addition, the Contractor is also responsible for submitting and/or amending any Asbestos Variance Applications, NYCDEP Asbestos Abatement Permits and Work Place Safety Plans (WPSP's) that may be required by the NYCDEP for the completion of the Contract or incidental work.
- G. The Contractor is responsible to retain a NYSDOL Project Designer for the preparation of an Asbestos Variance Application (ACP-9), when so required.
- H. The City shall, at its sole cost and expense, retain a Registered Design Professional to: (1) prepare any documents required for an asbestos abatement permit, including without limitation, a Work Place Safety Plan and a Tenant Protection Plan, as described in Section 1.05D, and (2) perform all inspections required pursuant to Title 28 of the RCNY including, but not limited to special inspections required by Chapter 17 of the Building Code.
- I. The following conditions shall apply to all temporary shutdowns of existing services.
 - 1. All temporary lighting and temporary electrical services for use in the Work Area shall be in weather proof enclosures, ground fault protected and:
 - a. Shall be performed at no additional charge to the City.
 - b. Shall be performed at times not interfering with the other activities in the building.
 - c. Shall be performed only with written consent from the Commissioner and the Facility Manager.
 - d. Shall be made through written request to the Commissioner at least 10 days in advance with complete written description of the work to be performed.
- J. Stages of Asbestos Removal Work: The Abatement Contractor will be required to perform the work and it is the intent of this Specification to remove all asbestos containing and asbestos contaminated materials from the Work Area. The Contractor is responsible for verifying all quantities of materials listed here and Bid accordingly.
- K. Certain equipment in the Work Area may need to remain operational during removal. Therefore, the removal of ACM from this equipment shall be performed as the last removal activities within the Work Area. The Contractor shall coordinate the scheduling for the removal of ACM on functioning equipment with the Construction Project Manager.

1.03 DEFINITIONS

- A. General Explanation: Certain terms used in this Specification Section are defined below. Definitions and explanations of this Specification Section are not necessarily complete or exclusive, but are

general for the Work to the extent they are not stated more explicitly in another element of the Contract Documents.

B. Definitions in general use:

1. Approve: Where used in conjunction with Engineer's response to submittals, requests, applications, inquiries, reports and claims by Contractor, the meaning of term "approved" will be held to limitations of Engineer's responsibilities and duties as specified in Contract Documents. In no case will "approval" by Engineer be interpreted as a release of Contractor from responsibilities to fulfill requirements of Contract Documents.
2. Directed, Requested, etc.: Where not otherwise explained, terms such as "directed," "requested," "authorized," "selected," "approved," "required," "accepted," and "permitted" mean "directed by Engineer," "requested by Engineer," and similar phrases. However, no such implied meaning will be interpreted to extend Engineer's responsibility into Contractor's responsibility for construction supervision.
3. Furnish: Except as otherwise defined in greater detail, term "furnish" is used to mean supply and deliver to project site, ready for unloading, unpacking, assembly, installation, etc., as applicable in each instance.
4. Indicated: The term "indicated" is a cross-reference to graphic representations, notes or schedules on Drawings, to other paragraphs or schedules in the Specifications, and to similar means of recording requirements in Contract Documents. Where terms such as "shown," "noted," "scheduled," and "specified" are used in lieu of "indicated," it is for purpose of helping reader locate cross-reference, and no limitation of location is intended except as specifically noted.
5. Install: Except as otherwise defined in greater detail, term "install" is used to describe operations at Project site including unloading, unpacking, assembly, erection, placing, anchoring, applying, working to dimension, finishing, curing, protecting, cleaning and similar operations, as applicable in each instance.
6. Installer: The term "installer" is defined as the entity (person or firm) engaged by Contractor, or its subcontractor or sub-subcontractor for performance of a particular unit of work at Project site, including installation, erection, application and similar required operations. It is a general requirement that such entities (installers) be expert in operations they are engaged to perform.
7. City: The term "City" is defined as City of New York Department of Design and Construction. City of New York Department of Design and Construction has been authorized to coordinate construction activities at the site relating to the project described in the Contract Documents.
8. Provide: Except as otherwise defined in greater detail, term "provide" means furnish and install, complete and ready for intended use, as applicable in each instance.
9. Third Party Air Monitor: The term "Third Party Air Monitor" is defined as an entity engaged by City and Construction Project Manager to perform specific inspections or tests of the work, either at Project site or elsewhere; and to report and (if required) interpret results of those inspections or tests.

C. Definitions Relative to Asbestos Abatement:

1. Abatement: Procedures physically taken to control fiber release from ACM. This includes removal, encapsulation, enclosure, cleanup and repair.
2. Aggressive Sampling: Method of sampling in which the individual collecting the air

sample creates activity by the use of mechanical equipment during the sampling period to stir up settled dust and simulate activity in that area of the building.

3. **AIHA:** American Industrial Hygiene Association.
4. **Airlock:** System for permitting entrance and exit while restricting air movement between a contaminated area and an uncontaminated area. It consists of two curtained doorways separated by a distance of at least three feet such that one passes through one doorway into the airlock, allowing the doorway sheeting to overlap and close off the opening before proceeding through the second doorway, thereby preventing flow-through contamination.
5. **Air Sampling:** Process of measuring the fiber content of a known volume of air collected during a specific period. The procedure utilized for asbestos follows the NIOSH Standard Analytical Method 7400, or the provisional transmission electron microscopy methods developed by the US EPA and/or National Institute of Science and Technology which are utilized for lower detection levels and specific fiber identification.
6. **Amended Water:** Water to which a surfactant has been added.
7. **ANSI:** American National Standards Institute.
8. **Area Air Sampling:** Any form of air sampling or monitoring where the sampling device is placed at some stationary location.
9. **Asbestos:** Any hydrated mineral silicate separable into commercially usable fibers, including but not limited to chrysotile (serpentine), amosite (cumingtonite-grunerite), crocidolite (riebeckite), tremolite, anthophyllite and actinolite.
10. **Asbestos Assessment Report:** "Asbestos Assessment Report" shall mean the Form ACP-5, as approved by the NYCDEP, by which a NYCDEP certified asbestos investigator report on the condition of a building or structure in relation to the presence and condition of asbestos therein.
11. **Asbestos-Containing Material (ACM):** Asbestos or any material containing more than one-percent asbestos.
12. **Asbestos-Containing Waste Material:** ACM or asbestos-contaminated objects requiring disposal.
13. **Asbestos Handler:** Individual who disturbs, removes, repairs, or encloses friable asbestos material. This individual shall have completed approved training course(s) and be in possession of certification issued by NYCDEP and NYSDOL.
14. **Asbestos Handler Supervisor:** Individual who supervises the asbestos handlers during an asbestos project and ensures that proper asbestos abatement procedures as well as individual safety procedures are being adhered to. This individual shall have completed approved training course(s) and be in possession of certification issued by NYCDEP and NYSDOL.
15. **Asbestos Handling Certificate:** Certificate(s) issued to individuals who have met the criteria established by NYCDEP and/or NYSDOL.
16. **Asbestos Investigator:** An individual certified by NYCDEP as having successfully demonstrated his or her ability to identify the presence of and evaluate the condition of asbestos in a building or structure.

17. Asbestos Project: Any form of work performed in connection with the alteration, innovation, modification, or demolition of a building or structure which will disturb (e.g. remove, enclose, encapsulate) more than three linear feet or more than three square feet of ACM.
18. Asbestos Project Notification: "Asbestos Project Notification" shall mean the Form ACP-7, as approved by the NYCDEP, by which a building owner or authorized agent submits to the NYCDEP for an asbestos project.
19. ASTM: the American Society for Testing and Materials.
20. Authorized Visitor: Building Owner and his/her representative, and any representative of a regulatory or other agency having jurisdiction over the project.
21. Building Owner: Person in whom legal title to the premises is vested unless the premises are held in land trust, in which instance Building Owner means the person in whom beneficial title is vested.
22. Clean Room: An uncontaminated area or room that is part of worker decontamination enclosure system with provisions for storage of workers' street clothes and protective equipment.
23. Clearance Air Monitoring: Employment of aggressive sampling techniques with a volume of air collected to determine the airborne concentration of residual fibers and shall be performed as the final abatement activity.
24. Commissioner: shall mean the head of the Agency that has entered into this contract or his/her duly authorized representative.
25. Competent Person: shall mean the designated person as defined in OSHA 29CFR 1926.1101.
26. Curtained Doorway: Device that consists of at least three overlapping sheets of polyethylene over an existing or temporarily framed doorway. One sheet shall be secured at the top and left side, the second sheet at the top and right side, and the third sheet at the top and left side. All sheets shall have weights attached to the bottom to ensure that the sheets hang straight and maintain a seal over the doorway when not in use.
27. Decontamination Enclosure System: Series of connected rooms, separated from the Work Area and from each other by air locks, for the decontamination of workers, materials, waste containers, and equipment.
28. Department: unless specified otherwise, refers to the NYCDDC.
29. Encapsulant (sealant) or encapsulating agent: shall mean a liquid material which can be applied to ACM and which temporarily controls the possible release of asbestos fibers from the material either by creating a membrane over the surface (bridging encapsulant) or by penetrating into the material and binding its components together (penetrating encapsulant). A thin coat of lockdown encapsulant shall be applied to all surfaces in the work area which were not the subject of removal or abatement, including the cleaned layer of surface barriers, but excepting sprinklers, standpipes, and other active elements of the fire suppression system.
30. Encapsulation: Coating or spraying of ACM with a bridging or penetrating encapsulant as a form of abatement. A thin coat of lockdown encapsulant may be applied to all surfaces in the work area which were not the subject of removal or abatement, including the

cleaned layer of surface barriers, but excepting sprinklers, standpipes, and other active elements of the fire suppression system.

31. Enclosure: Construction of airtight walls and/or ceilings between ACM and the facility environment, or around surfaces coated with ACM, or any other appropriate procedure as determined by the Department which prevents the release of asbestos fibers.
32. ELAP: Environmental Laboratory Approval Program administered by the New York State Department of Health.
33. EPA or USEPA: United States Environmental Protection Agency.
34. Equipment Room: Contaminated area or room that is part of the worker decontamination enclosure system with provisions for the storage of contaminated clothing and equipment.
35. Fixed Object: Unit of equipment or furniture in the Work Area that cannot be removed from the Work Area.
36. Friable Asbestos Material: Asbestos or any ACM that can be crumbled, pulverized, or reduced to powder when dry, by hand or other mechanical pressure.
37. Glove-Bag Technique: Method for removing friable ACM from heating, ventilation, and air conditioning (HVAC) ducts, short piping runs, valves, joints, elbows, and other nonplanar surfaces in a non-contained Work Area. The glove-bag assembly is a manufactured device consisting of a glove-bag (constructed of at least 6-mil transparent polyethylene), two inward-projecting long sleeve gloves, one inward-projecting waterwand sleeve, an internal tool pouch, and an attached, labeled receptacle for asbestos waste. The glove-bag is constructed and installed in such a manner that it surrounds the object or area to be decontaminated and contains all asbestos fibers released during the removal process.
38. HEPA-Filter: High efficiency particulate air filter capable of trapping and retaining 99.97 percent of particles (asbestos fibers) greater than 0.3 micrometers mass median aerodynamic equivalent diameter.
39. Holding Area: Chamber in the equipment decontamination enclosure located between the washroom and an uncontaminated area.
40. Homogeneous Work Area: Portion of the Work Area that contains one type of ACM and/or where one type of abatement is used.
41. Industrial Hygiene: Science and art devoted to the recognition, evaluation, and control of those environmental factors or stresses, arising in or from the work place, which may cause sickness, impaired health and well-being, or significant discomfort and inefficiency among worker or among the citizens of the community.
42. Industrial Hygienist: Individual having a college or university degree or degrees in Engineering, Chemistry, Physics or Medicine, or related Biological Sciences who, by virtue of special studies and training, has acquired competence in industrial hygiene. Such special studies and training must have been sufficient in all of the above cognate sciences to provide the abilities:
 - a. To recognize the environmental factors and to understand their effect on people and their well-being; and
 - b. To evaluate, on the basis of experience and with the aid of quantitative measurement techniques, the magnitude of these stresses in terms of ability to

impair people's health and well-being; and

- c. To prescribe methods to eliminate, control, or reduce such stresses when necessary to alleviate their efforts.
43. Large Asbestos Project: Asbestos project involving the disturbances (e.g. removal, enclosure, encapsulation) of 260 linear feet or more of ACM or 160 square feet or more of ACM.
44. Major Violation: Any action, on the job performance or lack of performance that may place any individual at risk other than the worker who commits the violation. A major violation is equivalent to two violation points.
45. Minor Asbestos Project: Project involving the disturbance (e.g. removal, enclosure, encapsulation, repair) of more than three linear feet, but not more than 25 linear feet of ACM or more than three square feet, but not more than ten square feet of ACM.
46. Minor Violation: Any action, on the job performance or lack of performance that may place the worker at risk. A minor violation is equivalent to one violation point.
47. Movable Object: Unit of equipment or furniture in the Work Area that can be removed from the Work Area.
48. Negative Air Pressure Equipment: Portable local exhaust system equipped with HEPA filtration. The system shall be capable of creating a negative pressure differential between the outside and inside of the Work Area.
49. NESHAPS: National Emission Standards for Hazardous Air Pollutants.
50. NIOSH: National Institute for Occupational Safety and Health.
51. NYCDEP: New York City Department of Environmental of Protection.
52. NYSDEC: New York State Department of Environmental Conservation.
53. NYSDOL: New York State Department of Labor.
54. Occupied Area: Area of the work site where abatement is not taking place and where personnel or occupants normally function or where workers are not required to use personal protective equipment.
55. OSHA: Occupational Safety and Health Administration.
56. Person: Individual, partnership, company, corporation, association, firm, organization, governmental agency, administration, or department, or any other group of individuals, or any officer or employee thereof.
57. Personal Air Monitoring: Method used to determine employees' exposure to airborne fibers. The sample is collected outside the respirator in the worker's breathing zone.
58. Personal Protective Equipment (PPE): Appropriate protective clothing, gloves, eye protection, footwear, and head gear.
59. Physician: Person licensed or otherwise authorized under Article 131 Section 65.22 of the New York State Education Law.

60. Plasticize: Cover floors and walls with polyethylene sheeting as herein specified or by using spray plastics as acceptable to the Department.
61. Professional Engineer (PE): Individual having, at a minimum, a bachelor's degree in engineering from an accredited college or university with four years acceptable experience as an engineer and who has successfully completed both levels of the professional engineers examination administered by the State of New York Department of Education, Division of Professional Licensing.
62. Project Designer: A person who holds a valid Project Designer certificate issued by the New York State Department of Labor.
63. Project Monitor: A person who holds a valid Project Monitor certificate issued by the New York State Department of Labor.
64. Qualitative Fit Test: Individual test subject's responding (either voluntarily or involuntarily) to a chemical challenge outside the respirator face-piece. Three of the most popular methods include: 1) irritant smoke test; 2) odorous vapor test; and 3) taste test.
65. Quantitative Fit Test: Exposing the respiratory wearer to a test atmosphere containing an easily detectable, nontoxic aerosol, vapor or gas as the test agent. Instrumentation, which samples the test atmosphere and the air inside the face-piece of the respirator, is used to measure quantitatively the leakage into the respirator. There are a number of test atmospheres, test agents, and exercises to perform during the test.
66. Registered Design Professional: A person licensed and registered to practice the profession of architecture or engineering under the Education Law of the State of New York. The City shall, at its sole cost and expense retain a Registered Design Professional to: (1) prepare any documents required for an asbestos abatement permit, including without limitation, a Work Place Safety Plan and a Tenant Protection Plan, as described in Section 1.05D, and (2) perform all inspections required pursuant to Title 28 of the RCNY including, but not limited to special inspections required by Chapter 17 of the Building Code.
67. Removal: Stripping of any asbestos- containing materials from surfaces or components of a facility or taking out structural components in accordance with 40 CFR 61 Subparts A and M.
68. Shower Room: Room between the clean room and the equipment room in the worker decontamination enclosure with hot and cold running water controllable at the tap and arranged for complete showering during decontamination.
69. Small Asbestos Project: asbestos project involving the disturbance (e.g. removal, enclosure, encapsulation) of more than 25 and less than 260 linear feet of ACM or more than ten and less than 160 square feet of ACM.
70. Staging Area: Work Area near the waste transfer airlock where containerized asbestos waste has been placed prior to removal from the Work Area.
71. Structural Member: Load-supporting member of a facility, such as beams and load-supporting walls, or any nonload-supporting member, such as ceiling and nonload- supporting walls.
72. Surfactant: Chemical wetting agent added to water to improve penetration.
73. Visible Emissions: Emissions containing particulate material that are visually detectable

without the aid of instruments.

74. Washroom: Room between the Work Area and the holding area in the equipment decontamination enclosure system where equipment and waste containers are wet cleaned and/or HEPA-vacuumed prior to disposal.
75. Wet Cleaning: Removal of asbestos fibers from building surfaces and objects by using cloths, mops, or other cleaning tools which have been dampened with amended water
76. Work Area: Designated rooms, spaces, or areas of the building or structure where asbestos abatement activities take(s) place.
77. Worker Decontamination Enclosure System: Portion of a decontamination enclosure system designed for controlled passage of workers and authorized visitors, consisting of a clean room, a shower room, and an equipment room separated from each other and from the Work Area by airlocks and curtained doorways.
78. Work Site: Premises where abatement activity is being performed. May be composed of one or more Work Areas.

1.04 STANDARD OPERATING PROCEDURES

- A. Develop and implement a written standard procedure for abatement work to ensure maximum protection and safeguard from asbestos exposure of the workers, visitors, employees, public, and environment.
- B. The standard operating procedure shall ensure:
 1. Tight security from unauthorized entry into the workspace.
 2. Restriction of Contractor's personnel to the immediate Work Area and access/egress routes.
 3. Donning of proper protective clothing and respiratory protection prior to entering the Work Area.
 4. Safe work practices in the work place, including provisions for inter-room communications, exclusion of eating, drinking, smoking, or in any way breaking the respiratory protection.
 5. Proper exit practices from the workspace to the outside through the showering and decontamination facilities.
 6. Removing asbestos in ways that minimize release of fibers.
 7. Packing, labeling, loading, transporting, and disposing of contaminated material in a way that minimizes exposure and contamination.
 8. Emergency evacuation procedures, for medical or safety situations, to minimize the potential exposure to airborne asbestos fibers for emergency personnel, building occupants, and building environment.
 9. Safety from accidents in the workspace, especially from electrical shocks, fall hazards associated with scaffolding, slippery surfaces, and entanglements in loose hoses and equipment.

10. Provisions for effective supervision, air monitoring and personnel monitoring for exposure during the work.
11. Engineering systems that minimize exposure to fibers within the workspace.
12. When so directed, the Contractor shall provide a 24-hour fire watch throughout the entire term of the project, to protect against fire and unauthorized entry into the workspace. The fire watch shall be performed by an individual who is a certified asbestos worker capable of entering the Work Area for regular inspections. Payment for such work shall be on a time and material basis in accordance with Article 26 of the Contract.

C. Provide an Asbestos Handler Supervisor to provide continuous supervision of all work, and to be responsible for the following:

1. Ensure that individuals are using proper personal protective equipment and are trained in its use.
2. Maintain entry log records and ensure that they are recorded in accordance with the provisions of Title 15, Chapter 1 of RCNY.
3. Surveillance of the Work Areas at a minimum of once per work shift or as required by Title 15, Chapter 1 of RCNY, to ensure that the workers personal protective equipment is not torn or ripped and that respiratory protection is worn at all times.
4. Ensure that sufficient personal protective equipment is stored in the clean room.
5. Take precautions to prevent heat stress. Precautions include, but are not limited to, selecting lightweight protective clothing, reducing the work rate, and providing adequate fluid breaks.
6. Perform work area inspection with the Project Monitor prior to the commencement of final clearance air monitoring.

D. ENGINEERING CONTROLS

1. The 8-hour time weighted average airborne concentration of fibers to which any passerby may be exposed shall not exceed 0.01 fibers per cubic centimeter of air when fibers have a physical dimension longer than 5 micrometers as determined by the method prescribed in these Specifications.
2. All Large asbestos projects shall utilize negative pressure ventilation equipment.
 - a. The negative pressure ventilation equipment shall operate continuously, 24 hours a day, from the establishment of isolation barriers through successful clearance air monitoring. If such equipment shuts off, adjacent areas shall be monitored for asbestos fibers.
 - b. A static negative air pressure of 0.02 inches (minimum) water column shall be maintained at all times in the work place during abatement to ensure that contaminated air in the Work Area does not filter back to uncontaminated areas.
 - c. On loss of negative pressure or electric power to the negative pressure ventilating units, abatement shall stop immediately and shall not resume until power is restored and negative pressure ventilation equipment is operating again.

3. Negative pressure ventilation equipment shall be exhausted to the outside of the building away from occupied areas.
 - a. At no time shall the negative pressure ventilation unit exhaust within 40 feet of a receptor or adversely affect the intake ports, louvers, or entrances of the building or adjacent buildings.
 - b. Heavy-duty ducting of equivalent, or larger, shape and dimension as that of the negative pressure ventilation exhaust port shall be used to exhaust the work area.
 - c. All ducting shall be sealed and braced or supported to maintain airtight joints.
4. Where ducting to the outside is not possible, a second negative pressure ventilation unit compatible with the primary unit's capacity shall be connected in series. The area receiving the exhaust shall have sufficient, non-recycling exhaust capacity to the outside of the structure.
5. In the event that there is a failure of the containment system or a breach in the Isolation Barriers, all abatement work will cease and the Contractor will immediately correct the condition. Abatement work will not resume until the Work Area has been smoke tested by the third party laboratory and approved by the Construction Manager.

E. LOCKDOWN ENCAPSULATION PROCEDURES

1. The following procedures shall be followed to seal in nonvisible residue while conducting lockdown encapsulation on all surfaces from which ACM has not been removed:
 - a. Only encapsulants rated as acceptable or marginally acceptable on the basis of Battelle Columbus Laboratory test procedures and rating requirements developed under the 1978 USEPA Contract shall be used for lockdown encapsulation.
 - b. The encapsulant solvent or vehicle shall not contain a volatile hydrocarbon unless reviewed and approved by DEP.
 - c. Latex paint with solids content greater than 15 percent shall be considered a lockdown sealant for coating all non-metallic surfaces.
 - d. Encapsulants shall be applied using airless spray equipment. Spraying is to occur at the lowest pressure range possible to minimize fiber release from encapsulant impact at the surface. It shall be applied with a consistent horizontal or vertical motion.

1.05 NOTIFICATIONS, PERMITS, WARNING SIGNS, LABELS, AND POSTERS

- A. The Contractor shall submit an Asbestos Project Notification (ACP-7) to the NYCDEP listing each work area within the building separately one week in advance of the start of work.
- B. The Contractor shall submit, as required, an Asbestos Variance Application (ACP-9) prepared by a certified Project Designer to the NYCDEP.
- C. The Contractor shall provide a floor plan showing the areas of the building under abatement and the location of all fire exits in said areas. It shall be prominently posted in the building lobby or comparable location, along with a notice stating the location within the building of the negative air cutoff switch.

- D. The Contractor shall obtain, as required, an asbestos abatement permit due to one or more of the activities listed in Title 15 Chapter 1, Sections 1-26 of the RCNY. When required, the Contractor is responsible for submitting any documents required for an asbestos abatement permit, including without limitation, a Work Place Safety Plan and a Tenant Protection Plan. If required, these documents will be prepared by a Registered Design Professional engaged by the City.
- E. The City shall, at its sole cost and expense, retain a Registered Design Professional to perform, as required, the inspections required pursuant to Title 28 of the Administrative Code, including but not limited to special inspections required by Chapter 17 of the Building Code.
- F. The City's Registered Design Professional shall provide, as required, the final inspection report to be filed with DEP on an A-TR1 form. The final inspection report prepared by the Registered Design Professional shall also be submitted to DDC as part of the close out documents package.
- G. The Contractor shall post and ensure that it remains posted the NYCDEP issued Notice of Asbestos Abatement Sign in the lobby of the facility where the asbestos project is being performed.
- H. Erect bilingual (English-Spanish) warning signs around the work space and at every point of potential entry from the outside and at main entrance to building which can be viewed by the public without obstruction, in accordance with OSHA 29 CFR 1926.1101 (K)(Sign Specifications) and Title 15, Chapter 1 of RCNY. The warning signs shall be a bright color so that they will be easily noticeable. The size of the sign and the size of the lettering shall be no less than OSHA requirements.
- I. Provide the required labels for all polyethylene bags and all drums utilized to transport contaminated material to the landfill in accordance with OSHA 29 CFR 1926.1101 (K)(2) and by 49 CFR Parts 171 and 172 of the Department of Transportation regulations.
- J. Provide any other signs, labels, warnings, and posted instructions that are necessary to protect, inform and warn people of the hazard from asbestos exposure. Post in a prominent and convenient place for the workers a copy of the latest applicable regulations from OSHA, EPA, NIOSH, State of New York and New York City and any additional items mandated for posting by the aforementioned regulations.
- K. Furnish all permits, variances and notices required to perform the Work.

1.06 EMERGENCY PRECAUTIONS

- A. Establish emergency and fire exits from the Work Area. The clean side of all emergency exits shall be equipped with two full sets of protective clothing and respirators at all times.
- B. Notify local medical emergency personnel, both ambulance crews and hospital emergency room staff prior to commencement of abatement operations as to the possibility of having to handle contaminated or injured workmen, and shall be advised on safe decontamination.
- C. Prepare to administer first aid to injured personnel after decontamination. Seriously injured personnel shall be treated immediately or evacuated immediately for decontamination. When an injury occurs, precautions shall be taken to reduce airborne fiber concentrations (i.e. misting of the air with water) until the injured person has been removed from the Work Area.
- D. Notify, before actual removal of the asbestos material, the local police and fire departments to the danger of entering the Work Area. Contractor shall make every effort to help these agencies form plans of action should their personnel need to enter the contaminated area.

1.07 SUBMITTALS

A. Pre-Construction Submittals

1. Attend a pre-construction meeting scheduled by the City of New York Department of Design and Construction. This meeting shall also be attended by designated representative of the City of New York third party air monitoring firm, facility manager and the Construction Project Manager. At this meeting, the Contractor shall present three copies of the following items, bound and indexed. The detailed plan of action must be submitted at least five (5) days prior to the pre-construction meeting.
 - a. Contractor's scope of work, work plan and schedule.
 - b. Regulatory Notifications to Government agencies
 - c. Copies of Permits, clearance and licenses if required.
 - d. Schedules: the Contractor shall provide to the Construction Project Manager a copy of the following schedules for approval. Once approved, schedules shall be maintained and updated as received. Contractor shall post a copy of all schedules at the site:
 - e. A construction schedule stating critical dates of the project including, but not limited to, mobilization, Work Area preparation, demolition, gross removal, fine cleaning, encapsulation, inspections, clearance monitoring, and phase of refinishing and final inspections. The schedule shall be updated biweekly, at a minimum.
 - f. A schedule of staffing stating number of workers per shift per activity, name and number of supervisor(s) per shift, shifts per day, and total days to be worked.
 - g. Submit all changes in schedule or staffing to the Construction Project Manager within 48 hours prior to implementation.
 - h. A schedule of equipment to be used including numbers and types of all major equipment such as HEPA Air Filtration Units, HEPA-vacuums, airless sprayers, Water Atomizing Devices and Type "C" compressors.
2. A written plan and shop drawings for preparation of work site and decontamination chamber.
3. Description of protective clothing and approved respirator to be used listing the make, model, NIOSH approval numbers.
4. Delineation of responsibility of work site supervision, including competent person, with names, resumes, and home telephone numbers.
5. Explanation of decontamination sequence and isolation techniques.
6. Description of specific equipment to be utilized, including make and model number of air filtration devices, vacuums, sprayers, etc.
7. Description of any prepared methods, procedures, techniques, or equipment other than those specified in the Contract Documents.
8. Explanation of the handling of contaminated wastes including EPA and NYSDEC identification numbers of Waste Hauler.

9. Description of the final clean-up procedures to be used.
10. Name and qualifications of Contractor's testing laboratory including AIHA accreditation, and proof of NIOSH PAT and NIST/NVLAP Bulk Quality Assurance Proficiency of OSHA samples for approval by the City of New York Department of Design and Construction.
11. Written description of emergency procedures to be followed in case of injury or fire. This section must include evacuation procedures, source of medical assistance (name and telephone number) and procedures to be used for access by medical personnel (examples: first aid squad and physician). NOTE: Necessary Emergency Procedures Shall Take Priority Over All Other Requirements of These Specifications.
12. Material Safety Data Sheets (MSDS) for encapsulants, sealants, firestopping foam, cleaners/disinfectants, spray adhesive, and any and all potentially hazardous materials that may be employed on the project. No work involving the aforementioned will be allowed to proceed until MSDS are reviewed and approved by the Construction Project Manager.
13. Worker Training and Medical Surveillance: Contractor shall submit a list of the persons who will be employed by him and his Subcontractors in the removal work. Present evidence that workers have received proper training required by the regulations and the medical examinations required by OSHA 29 CFR 1926.1101.
14. Logs: Specimen copies of daily progress log, visitor's log, and disposal log.
 - a. The Contractor shall provide a permanently bound log book of minimum 8-1/2" x 11" size at the entrance to the Worker and Waste Decontamination enclosure system as hereinafter specified. Log book shall contain on title page the project name, name, address and phone number of Environmental Control Representative; name, address and phone number of Abatement Contractor; name, address and phone number of Contractor and City's air testing entity; emergency numbers including, but not limited to local Fire/Rescue Department. Log book shall contain a list of personnel approved by the laboratory for entry into the Work Area.
 - b. All entries into the log shall be made in non-washable, permanent ink and such pen shall be strung to or otherwise attached to the log to prevent removal from the log-in area. Under no circumstances shall pencil entries be permitted. Any significant events occurring during the abatement project shall be entered into the log. Upon completion of the job, the Contractor shall submit the logbook containing a day-to-day record of personnel log entries countersigned by the Construction Project Manager everyday
15. Worker's Acknowledgments: Submit statements signed by each employee that the employee has received training in the proper handling of ACM' understands the health implications and risks involved; and understands the use and limitations of the respiratory equipment to be used.

B. During Work Submittals

1. Security and safety logs showing names of person entering workspace, date and time of entry and exit, record of any accident, emergency evacuation, and any other safety and/or health incident.
2. Progress logs showing the number of workers, supervisors, hours of work and tasks completed shall be submitted daily to the Construction Project Manager.

3. Floor plans indicating Contractor's current work progress shall be submitted for review by the Construction Project Manager at weekly progress meetings.
4. All Contractors' air monitoring and inspection results.
5. Copies of NYCDEP/NYS DOL asbestos handlers and supervisors certificates shall be submitted daily to the air monitor.

C. Project Closeout Submittals

Upon completion of the project and as a condition of acceptance, the Contractor shall present two copies of the following items, bound and indexed:

1. Daily OSHA air monitoring results,
2. All Waste Manifests (Asbestos and Construction Debris), seals and disposal logs.
3. Field Sign-In/Sign-Out Logs for every shift,
4. Copies of all Building Department Forms and Permits,
5. A Letter of Compliance stating that all the work on this project was performed in accordance with the Specifications and all applicable Federal, State and Local regulations,
6. All Warranties as stated in the Specifications,
7. A clear and legible copy of the Contractor's Daily Project Logbook,
8. A clear and legible copy of all NYCDEP and NYSDOL asbestos handler and supervisor certificates for each asbestos worker employed on the project,
9. A copy of the NYCDEP Project Monitor Report (ACP-15 form), each Asbestos Project Conditional Closeout Form(s) (ACP-20 form) when applicable and the Asbestos Project Completion Form (ACP-21 form) and the ATR-1 form when applicable.

1.08 QUALITY ASSURANCE

- A. All work required for the completion of this project or called for in this Specification must be executed in a workmanlike manner by using the appropriate methods established by regulatory requirements and/or industrial standards. All workmanship or work methods are subject to review and acceptance by the Construction Project Manager. Throughout the Specification, reference is made to codes and standards which establish qualities, levels or types of workmanship which will be considered acceptable. It is the Abatement Contractor's responsibility to comply with these codes and standards during the execution of this work.
- B. All materials and equipment required or consumed during the work of this Contract must meet the minimum acceptable criteria established by codes and standards referenced elsewhere in this Specification. Materials and equipment must be submitted for prior approval as part of the Contractor's "Shop Drawings".
- C. It is the Contractor's responsibility, when so required by the Specification or upon written request from the Commissioner or his representative to furnish all required proof that workmanship, materials and/or equipment meet or exceed the codes and standards referenced. Such proof shall be in the form requested, typically a certified report or test conducted by a testing entity approved for that purpose by DDC.

- D. The Contractor shall furnish proof that employees working under his supervision have had instruction on the dangers of asbestos exposure, on respirator use, decontamination, and OSHA regulations. This proof shall be in the form of a notarized affidavit to the effect that the above requirements have been satisfied.
- E. The Contractor will have at all times in his possession and in view at the job site the OSHA regulations 29 CFR 1910.1001, and 1926.1101 Asbestos, and Environmental Protection Agency 40 CFR, Part 61, subpart B: National Emission Standard for asbestos, asbestos stripping, work practices and disposal of asbestos waste. He shall also have one copy of NYC Title 15, Chapter 1 of RCNY and NYS DOL ICR 56 at the job site at all times.
- F. Familiarity with Pertinent Codes and Standards: In procuring all items used in this work, it is the Contractor's responsibility to verify the detailed requirements of the specifically named codes and standards and to verify that the items procured for use in this work meet or exceed the specified requirements, and are suitable for their intended use.
- G. Rejection of Non Complying Items: The Commissioner reserves the right to reject items incorporated into the work that fail to meet the specified minimum requirements. The Commissioner further reserves the right, and without prejudice to other recourse that maybe taken, to accept non-complying items subject to an adjustment in the Contract amount as approved by the City.
- H. Applicable Regulations, Codes and Standards: Applicable standards listed in these Specifications include, but are not necessarily limited to, standards promulgated by the following agencies and organizations:
1. American National Standards Institute (ANSI)
(Successor to USASI and ASA)
25 West 43rd Street (between 5th and 6th Avenue) 4th Floor
New York, NY 10036
212-642-4900
 2. American Society for Testing and Materials (ASTM)
100 Bar Harbor Drive
West Conshohocken, PA 19428-2959
610-832-9500
 3. National Institute for Occupational Safety and Health (NIOSH)
Robert A. Taft Laboratory
4676 Columbia Pkwy
Mailstop R12 Cincinnati, Ohio 45226
513-841-4428
 4. National Electrical Code (NEC)
See NFPA
 5. National Fire Protection Association (NFPA)
1 Batterymarch Park
Quincy, Massachusetts 02169-7471
617-770-3000
 6. New York City Fire Department (FDNY)
9 Metrotech Center
Brooklyn, NY 11201-5431
(718) 999-2117
 7. New York City Department of Buildings (NYC DOB)

Enforcement Division
280 Broadway, New York, New York 10007
212- 566-2850

8. New York City Department of Environmental Protection (NYCDEP)
Bureau of Environmental Compliance
Asbestos Control Program
59-17 Junction Boulevard, 8th Floor
Corona, New York 11368
718-595-3682
9. New York City Department of Health and Mental Hygiene (NYC DOHMH)
Environmental Investigation
125 Worth Street
New York, New York 10013
212-442-3372
10. New York State Department of Labor (NYSDOL)
Division of Safety and Health
Engineering Services Unit
State Office Building Campus
Albany, New York 12240-0010
11. New York City Department of Sanitation
125 Worth Street, Room 714
New York, New York 10013
212-566-1066
12. Occupational Safety and Health Administration (OSHA)
Region II - Regional Office
201 Varick Street, Room 908
New York, New York 10014
212-337-2378
13. United States Environmental Protection Agency (EPA or USEPA)
Region II
Asbestos NESHAPS Contact
Air and Waste Management Division
(Air Compliance Branch) – USEPA
290 Broadway, 21st Floor
New York, New York 10007-1866
212-637-3660

Post all applicable regulations in a conspicuous place at the job site. Assure that the regulations are not altered, defaced or covered by other materials. One copy of each regulation must also be kept at Contractor's office.

1.09 CITY / CONTRACTOR RESPONSIBILITIES

- A. The normal occupants of the Work Areas will be relocated by the City prior to the performance of the abatement work and returned there to at the conclusion of the abatement work, at no cost to the Contractor. However, the Contractor shall protect all furniture and equipment in the Work Areas in a manner as hereinafter specified. In addition, the Contractor shall perform the work of this Contract in a manner that will be least disruptive to the normal use of the non-Work Areas in the building.
- B. Contractor shall be responsible for cleaning all portable items not specifically addressed by the

Facility, in the Work Areas, or dispose of same as contaminated waste.

- C. The Facility will provide Contractor with a list of items that cannot be removed and need special attention.
- D. The Facility will stop all deliveries that may be scheduled to the Work Area while work is in progress.
- E. The Facility will have authorized personnel on site at all times or supply Contractor with a means of contacting such personnel without unreasonable delay. Such personnel shall have access to all areas, have knowledge of electrical, and air handling equipment. Such personnel shall assist Contractor in case of any power failure or breakdown to shut down air supply systems, to reset and control all protective systems such as alarms, sprinklers, locks, etc. The Facility shall ensure no active air handling systems are operating within the Work Area.
- F. City will not occupy the portions of the building, in which work is being performed during the entire asbestos removal operation, including completion of clean up.
- G. Contractor shall provide a plan for securing the work area for prevention of theft and for barring entry of curious but unprotected personnel into Work Areas.
- H. Should the failure of any utility occur, the City will not be responsible to the Contractor for loss of time or any other expense incurred.
- I. The Facility will be responsible to notify the Contractor of any planned electrical power shutdowns in order to ensure that there are no power interruptions in the negative air pressure systems.

1.10 USE OF BUILDING FACILITIES

- A. City shall make available to the Contractor, from existing outlets and supplies, all reasonably required amounts of water and electric power at no charge.
- B. Electric power to all Work Areas shall be shut down and locked out except for electrical equipment that must remain in service. Safe temporary power and lighting shall be provided by Contractor in accordance with applicable codes. All power to Work Areas shall be brought in from outside the Work Area through ground-fault interrupter circuits installed at the source. Stationary electrical equipment within the Work Area, which must remain in service, shall be adequately protected, enclosed and ventilated. The Facility will identify all electric lines that must remain in service. Contractor shall protect all lines.
- C. Contractor shall provide, at his own expense, all electrical, water, and waste connections, tie-ins, extensions, and construction materials, supplies, etc. All water tie-ins shall be hard piped with polyethylene or copper piping. At the end of each shift, Contractor shall disconnect all hoses within the work zone and place in equipment room of the worker decontamination unit. Contractor shall ensure positive shutoff of all water to Work Area during non-working hours.
- D. Utilities:
 - 1. General: All temporary facilities required to be installed, shall be subject to the approval of the Commissioner. Prior to starting the work at any site; specify clearly the temporary locations of facilities preferably with sketches and submit the same to the Construction Project Manager for approval.
 - 2. Water: DDC will furnish all water needed for construction, at no cost to the Contractor in buildings owned by the City. All temporary plumbing or adaptations to supply the needs of the Work Area shall be performed and removed by the Contractor and the cost thereof

included in the bid price for abatement work. Shower water for the decontamination unit shall be provided hot. Heating of water, if necessary, shall be provided by the Contractor.

3. Electricity: DDC will furnish all electricity needed for construction, at no cost to the Contractor in buildings owned by the City. All temporary electrical work or adaptations to supply the needs of the Work Area shall be installed and removed by the Contractor and the cost thereof included in the bid price for abatement work.

Leased Spaces: The Contractor must make arrangements with the landlord for the supply of water and electricity. Such arrangements are subject to approval by DDC. If the cost of such utilities is not covered by the landlord, the City shall reimburse the contractor for such cost, with no mark up. However, it is the Contractor's responsibility to furnish and install a suitable distribution system to the Work Area. This system will be provided at no cost to the City.

- E. Contractor shall provide a separate temporary electric panel board to power Contractor's equipment. The Facility will designate an existing electrical source in proximity to the Work Area. Contractor's licensed electrician shall provide temporary tie-in via cable, outlet boxes, junction boxes, receptacles and lights, all with ground fault interruption. At no time shall extension cords greater than 50-feet in length be allowed. All temporary electrical installation shall be in accordance with OSHA regulations. The electric shut down for power panel tie-in will be on off-hours and must be coordinated with the Facility. Contractor shall provide to the City a specification and drawing outlining his power requirements at the pre-construction meeting.
- F. Additional electrical equipment (i.e. transformers, etc.), which is necessary due to the lack of existing power on the floor, shall be at the Contractor's expense.
- G. Contractor shall provide fire protection in accordance with all State and Local fire codes.
- H. When temporary service lines are no longer required, they shall be removed by the Contractor. Any parts of the permanent service lines, grounds and buildings, disturbed or damaged by the installation and/or removal of the temporary service lines, shall be restored to their original condition by the Contractor. Senior Stationary Engineer will inspect and test all switches, controls, gauges, etc. and shall submit a list to the Construction Project Manager of any equipment damaged by the Contractor.
- I. Contractor shall supply hot shower water necessary for use in the decontamination unit.

1.11 USE OF THE PREMISES

- A. Contractor shall confine his apparatus, the storage of materials, and supplies, and the operation of his workmen to limits established by law, ordinances, and the directions of the Construction Project Manager and the Facility. All flammable or combustible materials shall be properly stored to obviate fire and in areas approved by the Facility.
- B. Contractor shall assure that no exits from the building are obstructed, that appropriate safety barriers are established to prevent access, and that Work Areas are kept neat, clean, and safe.
- C. All surrounding work, fixtures, soil lines, drains, water lines, gas pipes, electrical conduit, wires, utilities, duct work railings, shrubbery, landscaping, etc. which are to remain in place shall be carefully protected and, if disturbed or damaged, shall be repaired or replaced as directed by the City, at no additional cost.
- D. All routes through the building to be used by the Contractor shall first be approved by the Construction Project Manager and the Facility.
- E. Attention is specifically drawn to the fact that other Contractors, performing the work of other

Contracts, may be (or are) brought upon any of the work sites of this Contract. Therefore, the Contractor shall not have exclusive rights to any site of his work and shall fully cooperate and coordinate his work with the work of other Contractors who may be on (or are on) any site of the work of this Contract. Regulated area exempted.

- F. Temporary toilet facilities must be provided by the Contractor on the site. Coordinate location of facilities with Construction Project Manager. No toilet facilities will be allowed in the Work Area.

1.12 PROTECTION AND DAMAGE

- A. The Contractor is responsible to cover all furniture and equipment that cannot be removed from Work Areas. Moveable furniture and equipment will be removed from Work Areas by Contractor prior to start of work and returned upon successful completion of the final air testing. At the conclusion of the work (after clearance level of air testing reaches the acceptable limit), the Contractor will remove all plastic covering from the walls, floors, furniture, equipment and reinstall furniture and equipment in the cleaned Work Area. The Contractor shall remove all shades, curtains and drapes from the Work Area, and reinstall the same following the final clean up.
- B. The Contractor shall use rubber-tired vehicles that use non-volatile fuels for conveying material inside building and provide temporary covering, as necessary, to protect floors.
- C. No materials or debris shall be thrown from windows or doors of the building. The building waste system shall NOT be used to remove refuse.
- D. Debris shall be removed from the work site daily. The premises shall be left neat and clean after each work shift, so that work may proceed the next regular workday without interruption. Limited bag storage may take place within the Work Area when approved by the Construction Project Manager.
- E. The Contractor shall protect floors and walls along removal routes from damage, wear and staining with contamination control flooring. All finished surfaces to be protected with masonite or other rigid sheathing material.
- F. A preliminary inspection for pre-existing damage shall be conducted by Contractor and representative of the City before commencement of the project.

1.13 RESPIRATORY PROTECTION REQUIREMENTS

- A. Respiratory protection shall be worn by all individuals who may be exposed to asbestos fibers from the initiation of the asbestos project until all areas have successfully passed clearance air monitoring in accordance with Regulations and these Specifications.
- B. Contractor shall develop and implement a written respiratory protection program with required site-specific procedures and elements. The program shall be administered by a properly trained individual. The written respiratory protection program shall include the requirements set forth in OSHA Standard 29 CFR 1910.134, at a minimum.
- C. The Contractor shall provide workers with individually issued and marked respiratory equipment. Respiratory equipment shall be suitable for the asbestos exposure level(s) in the Work Area(s), as specified in OSHA Standards 26 CFR 1910.134 and 29 CFR 1926.1101, NIOSH Standard 42 CFR 84, or as more stringently specified otherwise, herein.
- D. Where respirators with disposable filter parts are employed, the Contractor will provide sufficient filter parts for replacement as necessary or as required by the applicable regulation.
- E. All respiratory protection shall be NIOSH approved. All respiratory protection shall be provided by Contractor, and used by workers in conjunction with the written respiratory protection program.

- F. Contractor shall provide respirators selected by an Industrial Hygienist that meet the following requirements:

| Airborne Concentration of Asbestos or Conditions of Use | Required Respirator |
|--|--|
| Not in excess of 1 fibers per cubic centimeter (f/cc), 10 times Permissible Exposure Level (PEL) | Half-mask air purifying respirator, other than a disposable respirator, equipped with high efficiency filters. |
| Not in excess of 5 f/cc, 50 times PEL | Full facepiece air-purifying respirator equipped with high efficiency filters. |
| Not in excess of 100 f/cc, 1000 times PEL | Full facepiece Powered air purifying respirator equipped with equipped with high efficiency filters or any supplied air respirator operated in continuous flow mode. |
| Not in excess of 100 f/cc, 1,000 times PEL | Full facepiece supplied air respirator operate in pressure demand mode. |
| Greater than 100 f/cc, 10,000 times PEL, or unknown concentration | Full facepiece supplied air respirator operate in pressure demand mode, equipped with an auxiliary positive pressure self-contained breathing apparatus. |

- G. Selection of high efficiency filters:

1. All high efficiency filters shall have a nominal efficiency rating of 100 (99.97-percent effective) when tested against 0.3-micrometer monodisperse diethyl-hexyl phthalate (DOP) particles.
2. Choose N-, R-, or P-series filters based upon the presence or absence of oil particles.
 - A. N- series filters shall only be used for non-oil solid and water based aerosols or fumes.
 - B. R- and P-series filters shall be used when oil aerosols or fumes (i.e., lubricants, cutting fluids, glycerin, etc.) are present. The R-series filters are oil resistant and the P-series filters are oil proof.
 - C. Follow filter manufacture recommendations.
3. If a vapor hazard exists, use an organic vapor cartridge in combination with the high efficiency filter.

- H. Historical airborne fiber level data may serve as the basis for selection of the level of respiratory protection to be used for an abatement task. Historical data provided by the Contractor shall be based on personal air monitoring performed during work operations closely resembling the processes, type of material, control methods, work practices, and environmental conditions present at the site. Documentation of aforementioned results may be requested by the City and/or Testing Laboratory for review. This will not relieve the Contractor in providing personal air monitoring to determine the time-weighted average (TWA) for the work under contract. The TWA shall be determined in accordance with 29 CFR 1926.1101.

- I. At no time during actual removal operations shall half-mask air purifying respirators be allowed unless a full 8-hour TWA and ceiling concentration have been conducted, and reviewed by the Construction Project Manager. Use of single use dust respirators is prohibited for the above respiratory protection.

- J. Workers shall be provided with personally issued and individually marked respirators. Respirators shall not be marked with any equipment that will alter the fit of the respirator in any way. Only waterproof identification markers shall be used.
- K. Contractor shall ensure that the workers are qualitatively or quantitatively fit tested by an Industrial Hygienist initially and every 12 months thereafter with the type of respirator he/she will be using.
- L. Whenever the respirator design permits, workers shall perform the positive and negative air pressure fit test each time a respirator is worn. Powered air-purifying respirators shall be tested for adequate flow as specified by the manufacturer.
- M. No facial hairs (beards) shall be permitted to be worn when wearing respiratory protection that requires a mask-to-face seal.
- N. Contact lenses shall not be worn in conjunction with respiratory protection on asbestos projects.
- O. If a worker wears glasses, a spectacle kit to fit their respirator shall be provided by Contractor at Contractor's expense.
- P. Respiratory protection maintenance and decontamination procedures shall meet the following requirements:
 1. Respiratory protection shall be inspected and decontaminated on a daily basis in accordance with OSHA 29 CFR 1910.134 (b); and
 2. High efficiency filters for negative pressure respirators shall be changed after each shower; and
 3. Respiratory protection shall be the last piece of worker protection equipment to be removed. Workers must wear respirators in the shower when going through decontamination procedures as stated in Section 3.03 and/or 3.04.
 4. Airline respirators with high efficiency filtered disconnect shall be disconnected in the equipment room and worn into the shower. Powered air-purifying respirator face pieces shall be worn into the shower. Filtered/power pack assemblies shall be decontaminated in accordance with manufacturers recommendations; and
 5. Respirators shall be stored in a dry place and in such a manner that the face-piece and exhalation valves are not distorted; and
 6. Organic solvents shall not be used for washing of respirators.
- Q. Authorized visitors shall be provided with suitable respirators and instruction on the proper use of respirators whenever entering the Work Area. Qualitative fit test shall be done to ensure proper fit of respirator.

1.14 PROTECTIVE CLOTHING

- A. The Contractor shall provide worker protection as required by the most stringent OSHA and/or EPA standards applicable to the work. Provide to all workers, foremen, superintendents, authorized visitors and inspectors, protective disposable clothing consisting of full-body coveralls, head covers, gloves and 18-inch high boot type covers or reusable footwear.
- B. In addition to personal protective equipment for workers, the Contractor shall make available at each worksite at least four (4) additional uniforms and required respiratory equipment each day for personnel who are authorized to inspect the work site. He/she shall also provide, for the

duration of the work at any site involving a decontamination unit for worksite access, a lockable storage locker for use by the Construction Project Manager. In addition to respiratory masks for workers, the Contractor must have on hand at the beginning of each work day, at least four (4) masks each with two sets of fresh filters, for use by personnel who are authorized to inspect the worksite. The Contractor shall check for proper fit of the respirators of all City personnel authorized to enter the Work Area.

- C. Asbestos handlers involved in tent procedures shall wear two (2) disposable suits, including gloves, hood and footwear, and appropriate respiratory equipment. All street clothes shall be removed and stored in a clean room within the work site. The double layer personal protective equipment shall be used for installation of the tent and throughout the procedure, if a decontamination unit (with shower and clean room) is contiguous to the Work Area, only one (1) layer of disposable personal protective equipment shall be required; in this case, prior to exiting the tent the worker shall HEPA vacuum and wet clean the disposable suit.

The outer disposable suit (if 2 suits are worn) shall be removed and remain in the tent upon exiting. Following the tent disposal and work site clean up the workers shall immediately proceed to a shower at the work site. The inner disposal unit and respirator shall be removed in the shower after appropriate wetting. The disposal clothing shall be disposed of as asbestos-containing waste material. The workers shall then fully and vigorously shower with supplied liquid bath soap, shampoo, and clean dry towels.

- D. Coveralls: provide disposable full-body coveralls and disposable head covers. Require that they be worn by all workers in the Work Area. Provide a sufficient number for all required changes for all workers in the Work Area.
- E. Boots: provide work boots with non-skid soles, and where required by OSHA, foot protection, for all workers. Provide boots at no cost to workers. Paint uppers of all boots yellow with waterproof enamel. Do not allow boots to be removed from the Work Area for any reason after being contaminated with ACM and/or dust.
- F. Hard Hats: provide hard hats as required by OSHA for all workers, and provide a minimum of four spares for Inspectors, visitors, etc. Label all hats with same warning label as used on disposal bags. Require hard hats to be worn at all times that work is in progress that may cause potential head injury. Provide hard hats of the type with polyethylene strap suspension. Require hats to remain in the Work Area throughout the work. Thoroughly clean and decontaminate and bag hard hats prior to removing them from the Work Area at the end of the work.
- G. Goggles: provide eye protection (goggles) as required by OSHA for all workers involved in any activity that may potentially cause eye injury. Require them to be worn at all times during these activities. Thoroughly clean and decontaminate goggles before removing them from the Work Area.
- H. Gloves: provide work gloves to all workers, of the type dictated by the Work and OSHA Standards. Do not remove gloves from the Work Area. Dispose of as asbestos-contaminated waste at the end of the work. Gloves shall be worn at all times, except during Work Area Preparation activities that do not disturb ACM.
- I. Reusable footwear, hard hats and eye protection devices shall be left in the contaminated Equipment Room until the end of the Asbestos Abatement Work.
- J. Disposable protective clothing shall be discarded and disposed of as asbestos waste every time the wearer exits from the workspace to the outside through the decontamination facility.
- K. Respirators, disposable coveralls, headcovers and footcovers shall be provided by Contractor for the Facilities Representative, Construction Project Manager and any other authorized representative who may inspect the Work Area. Provide two respirators and six respirator filter

changes per day.

1.15 AIR MONITORING – CONTRACTOR

- A. Contractor shall employ a qualified industrial hygiene laboratory to analyze air samples collected in accordance with OSHA Regulations, 1926.1101 (Asbestos Standards for Construction), and New York City regulations. All costs for this work shall be included in the Bid Price.
- B. Minimum requirements for the industrial hygiene laboratory are set forth in Article 1 of these Specific Requirements.
- C. Contractor shall require a competent person (as defined in OSHA 1926.1101) to perform the following functions and to be on-site continuously for the duration of the project:
 - 1. Monitor the set-up of the Work Area enclosure and ensure its integrity.
 - 2. Control entry and exit into the work enclosure.
 - 3. Ensure that employees are adequately trained in the use of engineering controls, proper work practices, proper personal protective equipment and in decontamination procedures.
 - 4. Insure that employees use proper engineering controls, proper work practices, proper personal protective equipment and proper decontamination procedures.
 - 5. Competent person shall check for rips and tears in work suits, and ensure that they are mended immediately or replaced.
- D. Air monitoring responsibilities, as defined in OSHA regulation 1926.1101, shall be performed by a representative of the testing laboratory retained by the Contractor.
- E. Contractor shall submit to the City all credentials of the designated competent person and industrial hygiene laboratory representative for approval.
- F. Air monitoring and inspection shall be conducted by the Contractor's competent person.
- G. Continuous (daily or per shift) monitoring and inspection will include Work Area samples, personnel samples from the breathing zone of a worker to accurately determine the employees' 8-hour TWA (unless Type C respirators are used) and decontamination unit clean room samples are taken.
- H. Work Area samples and employee personnel samples shall be taken using pumps whose flow rates can be determined to an accuracy of ± 5 -percent, at a minimum of two liters per minute. This must be demonstrated at the job site.
- I. Sampling and analysis methods shall be per NIOSH 7400A.
- J. Test Reports:
 - 1. Promptly process and distribute one copy of the test results, to the Commissioner.
 - 2. Prompt reports are necessary so that if required, modifications to work methods and/or practices may be implemented as soon as possible.

3. Contractor shall by facsimile notify the Commissioner within 24 hours of the results of each test, followed by written notification within three days.

- K. Competent person shall conduct inspections and provide written reports daily. Inspections will include checking the standard operating procedures, engineering control systems, respiratory protection and decontamination systems, packaging and disposal of asbestos waste, and any other aspects of the project which may affect the health and safety of the people and environment. The competent person shall also ensure that the OSHA Job Hazard Analysis (JHA) is onsite for inspection and that all employees have been apprised of its content and that its PPE requirements are enforced on a daily basis.
- L. All costs for required air monitoring by the Contractor's competent person shall be borne by Contractor.
- M. The City reserves the right to conduct air and surface dust sampling in conjunction with and separate from the Testing Laboratory for the purposes of Quality Assurance.
- N. All samples shall be accompanied by a Chain of Custody Record that shall be submitted to the Construction Project Manager upon completion of analysis.

1.16 THIRD PARTY AIR MONITOR AND LABORATORY

- A. The City, at its own expense, will employ the services of an independent Third Party Air Monitoring Firm. The Third Party Air Monitoring Firm will perform air sampling activities at the site and perform periodic and required inspections of the Work Site in accordance with Title 15 Chapter 1 of the RCNY.
- B. The Laboratory will perform analysis of air samples utilizing phase contrast microscopy (PCM) and/or transmission electron microscopy (TEM). This laboratory shall meet the standards stated in Paragraph 1.15 B.
- C. Observations will include, but not be limited to, checking the standard operating procedures, engineering control systems, respiratory protection, decontamination systems, packaging and disposal of asbestos waste, and any other aspects of the project that may affect the health and safety of the environment, Contractor, and/or facility occupants.
- D. The Third Party Air Monitoring Firm and the designated Project Monitor shall have access to all areas of the asbestos removal project at all times and shall continuously inspect and monitor the performance of the Contractor to verify that said performance complies with this Specification. The Third-Party Air Monitor shall be on site throughout the entire abatement operation.
- E. The NYCDDC will be responsible for costs incurred with the Third Party Air Monitoring Firm and laboratory work. Any subsequent additional testing required due to limits exceeded during initial testing shall be paid for by the Contractor.
- F. At a minimum, air sampling shall be conducted in accordance with the following schedule:

| Abatement Activity | Pre-Abatement | During Abatement | Post-Abatement |
|--|----------------------|-------------------------|-----------------------|
| Equal to or greater than 10,000 square feet or 10,000 linear feet of ACM | PCM | PCM | TEM |
| Less than 10,000 square feet or 10,000 linear feet of ACM | PCM | PCM | PCM |

Note: TEM is acceptable wherever PCM is required.

- G. The number of air samples required per stage of abatement and size of abatement project is listed in the table below:

| | | Pre-Abatement | During Abatement | Post Abatement |
|--------------------------------|-------------------------------------|----------------|------------------|-----------------|
| Large Asbestos Projects | | | | |
| 1. | Full Containment | 10 | 5 | 10 |
| 2. | Glovebag inside Tent | 5 ^a | 5 ^a | 5 ^a |
| 3. | Exterior Foam and Vertical Surfaces | - | 5 ^c | 5 ^d |
| 4. | Interior Foam | 10 | 5 ^c | 10 ^d |
| Small Asbestos Projects | | | | |
| 1. | Full Containment | 6 | 3 | 6 |
| 2. | Glovebag inside Tent | 3 ^b | 3 ^b | 3 ^b |
| 3. | Tent | 3 ^b | 3 ^b | 3 ^b |
| 4. | Exterior Foam and Vertical Surfaces | - | 3 ^c | 3 ^d |
| 5. | Interior Foam | 6 | 3 ^c | 6 ^d |
| Minor Projects | | | | |
| 1. | Glovebag inside Tent | - | - | 1 ^d |
| 2. | Tent | - | - | 1 ^d |
| 3. | Exterior Foam and Vertical Surfaces | - | - | 1 ^d |
| 4. | Interior Foam | - | - | 1 ^d |

Notes:

- a. if more than three (3) tents then two (2) samples required per enclosure.
- b. if more than three (3) tents then one (1) sample required per enclosure.
- c. samples shall be taken within the work area(s).
- d. area sampling is required only if:
 - visible emissions are detected during the project
 - during-abatement area sampling results exceeded 0.01 f/cc or the pre-abatement area sampling result(s) for interior projects where applicable.
 - work area to be reoccupied is an interior space at a school, healthcare, or daycare facility.

H. **Pre-Abatement:** Prior to commencement of abatement activities, the number of samples specified below shall be taken by the Third Party Air Monitoring Firm. Samples will be taken during normal occupancy activities and circumstances at the work site. Samples shall be taken at the following locations:

1. For large full-containment and interior foam method asbestos projects , a minimum of five samples and five outside the proposed work area.
2. For small full-containment and interior foam method asbestos projects, a minimum of three inside and three outside the proposed work area.
3. For large or small asbestos projects employing the glovebag procedure within a tent, a minimum of three samples, or two samples per enclosure if more than three enclosures.
4. For small asbestos projects solely employing tent procedure, a minimum of three samples inside each proposed work area, or two samples per enclosure if more than three enclosures
5. For all exterior projects (foam or vertical surface), no pre-abatement sampling is required.

I. **During Abatement:** Frequency and duration of the air sampling during abatement shall be representative of the actual conditions during the abatement. The size of the asbestos project will be a factor in the number of samples required to monitor the abatement activities. The following minimum schedule of samples shall be required daily and continuously during a work shift. If

more than one work daily shift is required to accomplish the work, area sampling shall be performed on each work shift. Area sampling is not required on days when there are no abatement activities. For project air samples collected during the abatement, the period of time permitted between completion of air sample collection and receipt of results on the job site shall not exceed 48 hours. The following minimum schedule of samples shall be required during the work shift.

1. For large asbestos projects employing full containment, area air sampling shall be performed at the following locations:
 - a. Two area samples outside the work area in uncontaminated areas of the building, remote from the decontamination facilities.
 - (1) Primary location selection shall be within 10 feet of isolation barriers.
 - (2) Where negative ventilation exhaust runs through uncontaminated building areas, one of the area samples will be required in these areas to monitor any potential fiber release.
 - (3) Where exhaust tubes have been grouped together in banks of up to five (5) tubes, with each tube exhausting separately and the bank of tubes terminating together at the same controlled area, one area air sample shall be taken.
 - b. One area sample within the uncontaminated entrance to each decontamination enclosure system.
 - c. One area sample within 5 feet of the unobstructed exhaust from a negative pressure ventilation system exhausting indoors but not within a duct.
 - d. One area sample outside, but within 25 feet of, the building or structure, if the entire building or structure is the work area.
2. For large asbestos projects involving interior foam method, area air sampling shall be performed at the following sampling locations:
 - a. One area sample taken outside the work area within 10 feet of isolation barriers.
 - b. One area sample taken within the uncontaminated entrance to each worker decontamination and waste decontamination enclosure system.
 - c. One area sample within 5 feet of the unobstructed exhaust from a negative pressure ventilation system exhausting indoors but not within a duct, if applicable.
 - d. Three area samples inside the work area.
 - e. One area sample where the negative ventilation exhaust ducting runs through uncontaminated building areas, if applicable.
3. For large asbestos projects employing the glovebag procedure within a tent, a minimum of five continuous air samples shall be taken concurrently with the abatement for each work area, unless there are more than three enclosures, in which case two area samples per enclosure are required.
 - a. Four area samples taken outside the work area within ten feet of tent enclosure(s).
 - b. One area sample taken within the uncontaminated entrance to each worker and waste decontamination enclosure system.
 - c. One area sample within five feet of the unobstructed exhaust from a negative pressure ventilation system exhausting indoors, but not within a duct, if applicable.
 - d. One area sample where negative ventilation exhaust ducting runs through uncontaminated building areas, if applicable.

4. For large asbestos projects involving exterior foam method or removal of ACM from vertical surfaces, a minimum of five continuous area samples shall be taken concurrently with the abatement for each work area using the following minimum requirements:
 - a. Three area samples inside the work area and remote from the decontamination systems.
 - b. One area sample within the uncontaminated entrance to each worker and waste decontamination enclosure system.
 - c. One area sample outside the work area within 25 feet of the building or structure, if the entire building or structure is the work area.
 - d. One area sample inside the building or structure at the egress point to the work area, if applicable.

5. For small asbestos projects employing full containment, a minimum of three continuous area samples shall be taken concurrently with the abatement for each work area at the following locations:
 - a. Two area samples taken outside the work area within ten feet of the isolation barriers.
 - b. One area sample within the uncontaminated entrance to each worker or waste decontamination enclosure system.
 - c. One area sample within five feet of the unobstructed exhaust from a negative pressure ventilation system exhausting indoors, but not within a duct, if applicable.
 - d. One area sample where negative ventilation exhaust ducting runs through an uncontaminated building area, if applicable.

6. For small asbestos projects involving the use of foam method on the exterior of a building for the removal of ACM from exterior surfaces, a minimum of three continuous area samples shall be taken concurrently with the abatement for each work area at the following locations
 - a. Two area samples inside the work area and remote from the decontamination systems.
 - b. One area sample within the uncontaminated entrance to each worker and waste decontamination enclosure system.
 - c. One area sample inside the building or structure at the egress point to the work area, if applicable.

7. For small asbestos projects using the tent procedure (with or without the use of glovebags), a minimum of three area samples shall be taken concurrently with the abatement for each work area unless there are more than two enclosures, in which case one sample per enclosure is required.
 - a. One area sample taken inside the work area
 - b. One area sample taken within the uncontaminated entrance to each worker and waste decontamination system.
 - c. One area sample taken outside the work area within ten feet of the isolation barriers.
 - d. One area sample where negative ventilation exhaust ducting runs through uncontaminated building area, if applicable.

J. Post-abatement: Post abatement clearance air monitoring shall include at a minimum the number of area samples specified below, to be taken for each homogeneous work area.

1. For small projects:

- a. involving full containment or interior foam method, three area samples inside and three outside the work area;

- b. involving tent procedure, three area samples inside each work or one area sample inside each tent if there are more than three tents;
 - c. involving exterior foam method or removal from vertical surfaces, three area samples inside the work area, only if visible emissions were detected during the project, or abatement area samples exceeded 0.01f/cc.
2. For large projects:
- a. A minimum of five area samples inside and five outside the work area, for projects involving full containment or interior foam method. In addition to the five sample minimum, one representative area sample shall be collected both inside and outside the work area for every 5,000 square feet above 25,000 square feet of floor space when ACM has been abated.
 - b. a minimum of five area samples inside each tent enclosure where glovebag procedures are being used, or two area samples inside each tent where glovebag procedures are being used if there are more than three tents;
 - c. involving exterior foam method or removal from vertical surfaces, three area samples inside the work area, only if visible emissions were detected during the project, or abatement area samples exceeded 0.01f/cc.
3. When TEM analysis is employed a minimum of five samples from outside the work area shall also be collected.
4. For minor projects post abatement clearance air monitoring is not required, unless visible emissions were detected outside the work area and/or levels exceeded 0.01f/cc during the abatement or the project was conducted inside a school, daycare, or healthcare institution. In such cases one area sample shall be taken.

K. Monitoring requirements for other than post-abatement clearance air monitoring are as follows:

- 1. The sampling zone for indoor air samples shall be representative of the building occupants' breathing zone.
- 2. If possible, outdoor ambient and baseline samplers should be placed about 6 feet above the ground surface in reasonable proximity to the building and away from obstructions and drafts that may unduly affect airflow.
- 3. For outdoor samples, if access to electricity and concerns about security dictate a rooftop site, locations near vents and other structures on the roof that would unduly affect airflow shall be avoided.
- 4. Air sampling equipment shall not be placed in corners of rooms or near obstructions such as furniture.
- 5. Samples shall have a chain of custody record.

L. Area air sampling during abatement shall be conducted as specified in the following documents except as restricted or modified herein:

- 1. Measuring Airborne Asbestos Following an Abatement Action, US EPA document 600/4-85-049 (Nov., 1985);
- 2. Guidance for Controlling Asbestos-Containing Materials in Buildings; US EPA Publication 560/5-85- 024 (June, 1984);
- 3. Methodology for the Measurement of Airborne Asbestos by Electron Microscopy US EPA Contract No. 68-02- 3266;

4. Mandatory and non-mandatory Electron Microscopy Methods set forth in 40 CFR Part 763, Subpart E, Appendix A.
5. NIOSH 7400 method using "A" counting rules

M. In accordance with the above criteria, area samples (see NYCDEP Asbestos Control Program Regulations) shall conform to the following schedule:

| Area Samples for Analysis by | Minimum Volume | Flow Rate |
|------------------------------|----------------|-----------------------|
| PCM, 25mm cassettes | 560 liters | 5 to 15 liters/minute |
| TEM, 25mm cassettes | 560 liters | 1 to 10 liters/minute |
| TEM, 37mm cassettes | 1,250 liters | 1 to 10 liters/minute |

N. Post-abatement clearance air monitoring requirements are as follows:

1. Sampling shall not begin until a visual inspection conducted by the asbestos project Supervisor and the Project Monitor confirms that all containerized waste has been removed from the work and holding areas and there is no visible ACM debris or residue on or about all abated surfaces.
2. Sampling shall not begin until at least one hour after wet cleaning has been completed and no visible pools of water or condensation remain.
3. Samplers shall be placed at random around the work area. If the work area contains the number of rooms equivalent to the number of required samples based on floor area, a sampler shall be placed in each room. When the number of rooms is greater than the required number of samples, a representative sample of rooms shall be selected.
4. The representative samplers placed outside the work area but within the building shall be located to avoid any air that might escape through the isolation barriers and shall be approximately 50 feet from the entrance to the work area, and 25 feet from the isolation barriers.

O. The following aggressive sampling procedures shall be used within the work area during all clearance air monitoring:

1. Before starting the sampling pumps, use forced air equipment (such as a one horsepower leaf blower) to direct exhaust air against all walls, ceilings, floors, ledges and other surfaces in the work area. This pre-sampling procedure shall take at least five minutes per 1,000 square feet of floor area; then
2. Place a 20-inch diameter fan in the center of the room. (Use one fan per 10,000 cubic feet of room space.) Place the fan on slow speed and point it toward the ceiling.
3. Start the sampling pumps and sample for the required time or volume.
4. Turn off the pump and then the fan(s) when sampling is completed.
5. Collect a minimum number of area samples inside and outside each homogeneous work area (5 inside / 5 outside samples for Large Projects and 3 inside / 3 outside samples for Small Projects). In addition to the minimum for Large Projects, one representative area samples shall be collected inside and outside the work area for every 5,000 square feet above 25,000 square feet of floor space where ACM has been abated.

P. For post-abatement monitoring, area samples shall conform to the following schedule:

| Area Samples for Analysis by | Minimum Volume | Flow Rate |
|------------------------------|----------------|-----------------------|
| PCM | 1,800 liters | 5 to 15 liters/minute |
| TEM | 1,250 liters | 1 to 10 liters/minute |

1. Each homogeneous work area that does not meet the clearance criteria shall be thoroughly re-cleaned using wet methods, with the negative pressure ventilation system in operation. New samples shall be collected in the work area as described above. The process shall be repeated until the work site meets the clearance criteria.
2. For an asbestos project with more than one homogeneous work area, the release criterion shall be applied independently to each work area.
3. Should airborne fiber concentrations exceed the clearance criteria, the Contractor shall re-clean the work area utilizing wet wiping and HEPA-vacuuming techniques. Following completion of re-cleaning activities, the Third-Party Air Monitor will perform an observation of the Work Area. If the Third-Party Air Monitor determines that the work was performed in accordance with the specifications, the appropriate settling period will be observed and additional air sampling will be performed.
4. All costs resulting from additional air tests and observations shall be borne by the Contractor. These costs may include, but are not limited to, labor, analysis fees, materials, and expenses.
5. After the area has been found to be in compliance, the Contractor may remove Isolation Barriers and perform final cleaning as specified.

Q. Clearance and/or Re-occupancy Criteria

1. The clearance criteria shall be applied to each homogeneous work area independently.
2. For PCM analysis, the clearance air monitoring shall be considered satisfactory when each of the 5 inside/5 outside samples for Large Projects and/or 3 inside/3 outside samples for Small Projects is less than or equal to 0.01 f/cc or the background concentrations, whichever is greater.
3. For TEM analysis, the clearance air monitoring shall be considered satisfactory when the requirements stated in 40 CFR Part 763, Subpart E, Appendix A, Section IV are met.
4. As soon as the air monitoring tests are completed, the Third-Party Air Monitoring Firm will send the results of such tests to the City and notify the Contractor.
5. The Contractor shall initiate the appropriate closeout information into the DEP ARTS database within 24 hours of work area completion to allow the Third Party Air Monitoring Firm to complete and submit the required ACP-15 forms for each specific work area.
6. The Contractor shall provide the ACP-20 and ACP-21 Forms to the Third Party Air Monitoring Firm within 48 hours of receipt.

1.17 COOPERATION WITH THIRD PARTY AIR MONITORING FIRM

The Contractor shall cooperate fully with all aspects of air monitoring operations.

1.18 TAMPERING WITH TEST EQUIPMENT

All parties to this Contract are hereby notified that any tampering with testing equipment will be considered an attempt at falsifying reports and records to federal and state agencies and each offense will be prosecuted under applicable state and federal criminal codes to the fullest extent possible.

1.19 GUARANTEE

- A. Work performed in compliance with this Contract shall be guaranteed for a period of one year from the date the completed work is accepted by the City.
- B. The City will notify the Contractor in writing regarding defects in work under the guarantee.

Part 2 – PRODUCTS

2.01 MATERIAL HANDLING

- A. Deliver all materials to the job site in their manufacturer's original container, with the manufacturer's label intact and legible.
 - 1. Maintain packaged materials with seals unbroken and labels intact until time of use.
 - 2. Store all materials on pallets, away from any damp and/or wet surface. Cover materials in order to prevent damage and/or contamination.
 - 3. Promptly remove damaged materials and unsuitable items from the job site, and promptly replace with material meeting the specified requirements, at no additional cost to the City.
- B. The Construction Project Manager may reject as non-complying such material and products that do not bear identification satisfactory to the Construction Project Manager as to manufacturer, grade, quality and other pertinent information.

2.02 MATERIALS

- A. All materials provided under this section shall be standard products of manufacturers regularly engaged in the production of such items and shall conform to requirements found in OSHA Standard 29 CFR 1926.1101; EPA Standard 40 CFR 171, 172 and 173; and applicable state and city regulations; and requirements specified within this specification.
- B. Wetting agents (surfactants): shall consist of resin materials in a water base, which has been tested to ensure that materials are non-toxic and non-hazardous. Wetting agents shall be used according to manufacturer's instructions.
- C. Caulking Sealants: Shall be single component, non-sag elastomer with 1600% elongations capacity. Sealant shall meet the requirements of Federal Specification TT-S-00230C, Class A Type II. Sealant shall be used to form an airtight seal around plywood barriers or temporary partitions, to seal along the seams of a decontamination enclosure system's plywood sheathing, and to seal around piping or other small penetrations of the work area. Application of sealants must follow manufacturer's instructions.
- D. Foam sealant: shall be expanding urethane Class 1 foam sealant with and Underwriters Laboratory (UL 723) flame spread index of 25 or less, smoke developed index of 0, and a minimum operating temperature range between -30 °F and 250 °F.

- E. Encapsulants: shall meet the latest requirements of the EPA and/or the NYCDEP; shall not contain toxic or hazardous substances; or solvents; and shall comply with the following performance requirements:
1. General Requirements for all Encapsulants:
 - a. ASTM E84: Flame spread 0-25; smoke density of 5; Fuel contribution of 10
 1. University of Pittsburgh Protocol: Combustion Toxicity; zero mortality.
 - b. ASTM C732: Accelerated Aging Test; Life Expectancy - 20 years.
 - c. ASTM E96: Permeability - minimum of 0.4 perms.
 - d. Underwriters Laboratory approval for Class 1A
 2. Bridging/Penetrating Encapsulants:
 - a. ASTM E736: Cohesion/Adhesion Test - 24 kPa (50 lbs/ft²).
 - b. ASTM E119: Fire Resistance - 3 hours (Classified by UL for use on fibrous/cementitious fireproofing).
 - c. ASTM D2794: Gardner Impact Test; Impact Resistance - minimum 11.5 kg-mm (43 in/lb).
 - d. ASTM D522: Mandrel Bend Test; Flexibility - no rupture or cracking.
 3. Lockdown Encapsulants:
 - a. ASTM E119: Fire resistance - 3 hours (tested with fireproofing over encapsulant applied directly to steel member).
 - b. ASTM E736: Bond Strength - 48 kPa (100 lbs/ft²) (test compatibility with cementitious and fibrous fireproofing).
 4. In certain situations, encapsulants may have to be applied to hot pipes/equipment. The encapsulant must be able to withstand high temperatures without cracking or off-gassing any noxious vapors during application.
- F. Framing Materials and Doors: As required to construct temporary decontamination facilities and isolation barriers. Lumber shall be high grade, new, finished one side and fire retardant.
- G. Fire Retardant Polyethylene Sheeting: minimum uniform thickness of 6-mil. Provide largest size possible to minimize seams.
- H. Fire Retardant Reinforced Polyethylene Sheeting: For covering floor of decontamination units, provide translucent, nylon reinforced or woven polyethylene laminated, fire retardant polyethylene sheeting. Provide largest size possible to minimize seams, minimum uniform thickness 6-mil.
- I. Drums: Asbestos-transporting drums, sealable and clearly marked with warning labels as required by OSHA and EPA.
- J. Polyethylene Disposal Bags: Asbestos disposal bags, minimum of 6-mil thick. Bags shall be clearly marked with warning labels as required by OSHA and EPA.

- K. Signs: Asbestos warning signs for posting at perimeter of Work Area, as required by OSHA and EPA.
- L. Waste Container Bag Liners and Flexible Trailer Trays: One piece leak-resistant flexible tray with absorbent pad, as manufactured by Packaging Research and Design Corporation, Madison, WS 39130 or equivalent.
- M. Tape: Provide tape that is of high quality with an adhesive which is formulated to aggressively stick to sheet polyethylene.
- N. Spray Adhesive: Provide spray adhesive in aerosol cans which is specifically formulated to stick tenaciously to sheet polyethylene.
- O. Flexible Duct: Spiral reinforced flex duct for air filtration devices.
- P. Disposable Protective Clothing: Provide full body coveralls, head, hand and foot coverings that are impervious to asbestos fibers as stipulated in Title 15, Chapter 1 of RCNY, Subchapter E, OSHA 1926.1101(i) and/or Industrial Code Rule 56.

2.03 TOOLS AND EQUIPMENT

- A. Negative Pressure Ventilation Equipment and Air Filtration Device (AFD): Negative pressure ventilation equipment shall be capable of maintaining a minimum negative static pressure of 0.02 inches water column and capable of providing a minimum of four air changes per hour or as required under Title 15 Chapter 1 of RCNY. An AFD shall be equipped with High Efficiency Particulate Air (HEPA) filtration systems and shall be approved by and listed with Underwriter's Laboratory.
- B. Scaffolding: All scaffolding shall be designed and constructed in accordance with OSHA (29 CFR 1926/1910), New York City Building Code, and any other applicable federal, state and local government regulations. Whenever there is a conflict or overlap of the above references the most stringent provisions are applicable. All scaffolding and components shall be capable of supporting without failure a minimum of four times the maximum intended load, plus an allowance for impact. All scaffolding and staging must be certified by a Professional Engineer licensed to practice in the State of New York.
 - 1. Equip rungs of all metal ladders, etc., with an abrasive, non-slip surface.
 - 2. Provide non-skid surface on all scaffold surfaces subject to foot traffic. Scaffold ends and joints shall be sealed with tape to prevent penetration of asbestos fibers.
- C. Transportation Equipment: Transportation Equipment, as required, shall be suitable for loading, temporary storage, transit and unloading of contaminated waste without exposure to persons or property. Any temporary storage containers positioned outside the building for temporary storage shall be metal, closed and locked.
- D. Vacuum Equipment: All vacuum equipment utilized in the Work Area shall utilize HEPA filtration systems as specified in OSHA 1926.1101 and Title 15 Chapter 1 of RCNY.
- E. Vacuum Attachments: Soft Brush Attachment, Asbestos Scraper Tool, Drill Dust Control Kit or other attachments as specified by the Construction Project Manager or NYC DEP or other authority.
- F. Electric Sprayer: An electric airless sprayer suitable for application of encapsulating material and shall be approved by and listed with Underwriters Laboratory.
- G. Water Sprayer: The water sprayer shall be an airless or other low-pressure sprayer for amended

water application.

- H. Portable Shower: For personnel decontamination, that meets all requirements of Title 15 Chapter 1 of RCNY and OSHA 1926.1101.
- I. Water Atomizer: Powered air-misting device equipped with a ground fault interrupter and equipped to operate continuously.
- J. Brushes: All brushes shall have nylon bristles. Wire brushes are excluded from use due to their potential to shred asbestos fibers into small, fine fibers. Wire brushes maybe used for cleaning pipe joints within glove-bags upon written approval of the Construction Project Manager.
- K. Hand Power Tools: shall be equipped with HEPA-filtered local exhaust ventilation if used to drill, cut into or otherwise disturb ACM.
- L. Other Tools and Equipment: Contractor shall provide other suitable tools for the stripping, removal, encapsulation, and disposal activities including but not limited to: hand-held scrapers, sponges, rounded-edge shovels, brooms, and carts.
- M. Fans and Leaf Blower: Provide Leaf Blower (one leaf blower per floor) and one 20-inch diameter fans for each 10,000 cubic feet of Work Area volume to be used for aggressive sampling technique for clearance air testing.
- N. Fire Extinguishers: Provide type "A" fire extinguishers for temporary offices and similar spaces where there is minimal danger of electrical or grease-oil-flammable liquid fires. In other areas, provide type "ABC" dry chemical extinguishers of NFPA recommended types for the exposure in each case. All fire extinguishers shall comply with the applicable recommendations of NFPA Standard 10, "Standard for Portable Extinguishers." Provide a minimum of four fire extinguishers in each Work Area; one in the equipment room of the decontamination unit, one outside the Work Area in the clean room or directly outside same, and two fire extinguishers where they are most effective for their intended purpose. Do not exceed seventy-five feet between fire extinguishers within the Work Area. At least one fire extinguisher with a minimum rating 2-A:10-B:C shall be required for each work place. In case of large asbestos projects, at a minimum at least two such fire extinguishers shall be required.
- O. First Aid Kits: Contractor shall maintain adequately stocked first aid kits in the clean rooms of the decontamination units and within Work Areas. The first aid kit shall be approved by a licensed physician for the work to be performed under this Contract.
- P. Water Service:
 - 1. Temporary Water Service Connection: All connections to the Facilities water system shall include back flow protection. Valves shall be temperature and pressure rated for operation of the temperature and pressures encountered. After completion of use, connections and fittings shall be removed without damage or alteration to existing water piping, and equipment. Leaking or dripping fittings/valves shall be repaired and or replaced as required.
 - 2. Water Hoses: Employ new heavy-duty abrasion-resistant hoses with a pressure rating greater than the maximum pressure of the water distribution system to provide water into each Work Area and to each Decontamination Enclosure Unit. Provide fittings as required for connection to existing wall hydrants or spouts, as well as temporary water heating equipment, branch piping, showers shut-off nozzles and equipment.
 - 3. Water Heater: Provide UL rated 40-gallon electric water heaters to supply hot water for Personal Decontamination Enclosure System Shower. Activate from 30 Amp Circuit breakers located within the Decontamination Enclosure subpanel. Provide relief valve

compatible with water heater operations, pipe relief valve down to drip pan at floor level with type 'L' copper piping. Drip pans shall be 6-inch deep and securely fastened to water heater. Wiring of the water heater shall comply with NEMA, NECA, and UL standards.

Q. Electrical Service:

1. General: Comply with applicable NEMA, NECA and UL standards and governing regulations for materials and layout of temporary electric service.
2. Temporary Power: Provide service to decontamination unit subpanel with minimum 60 AMP, two pole circuit breaker or fused disconnect connected to the building's main distribution panel. Subpanel and disconnect shall be sized and equipped to accommodate all electrical equipment required for completion of the work.
3. Voltage Differences: Provide identification warning signs at power outlets that are other than 110-120 volt power. Provide polarized outlets for plug-in type outlets, to prevent insertion of 110-120 volt plugs into higher voltage outlets. Dry type transformers shall be provided where required to provide voltages necessary for work operations.
4. Ground Fault Protection: Equip all circuits for any purpose entering Work Area with ground fault circuit interrupters (GFCI). Locate GFCIs exterior to the Work Area so that all circuits are protected prior to entry to the Work Area. Provide circuit breaker type ground fault circuit interrupters (GFCI) equipped with test button and reset switch for all circuits to be used for any purpose in the Work Area, decontamination units, exterior, or as otherwise required by NEC, OSHA or other authority. Locate the panel exterior to the Work Area.
5. Power Distribution System: Provide circuits of adequate size and proper characteristics for each use. In general run wiring overhead, and rise vertically where wiring will be least subject to damage from operations.
6. Temporary Wiring: In the Work Area shall be type UF non-metallic sheathed cable located overhead and exposed for surveillance. Provide liquid tight enclosures or boxes for all wiring devices. Do not wire temporary lighting with plain, exposed (insulated) electrical conductors.
7. Electrical Power Cords: Use only grounded extension cords; use hard service cords where exposed to traffic and abrasion. Use single lengths of cords only.
8. Temporary Lighting: All lighting within the Work Area shall be liquid and moisture proof and designed for the use intended.
 - a. Provide sufficient temporary lighting to ensure proper workmanship everywhere; by combined use of daylight, general lighting, and portable plug-in task lighting.
 - b. Provide lighting in the Decontamination Unit as required to supply a minimum 50-foot candle light level.

R. Telephone Paging Device:

The Contractor or his authorized representative shall, at all times during the normal workday or during periods of overtime work under this Contract, carry a digital telephone paging device ("Beeper") and/or cellular telephones which can be activated by a telephone number in the 212 or 646 or 718 or 917 area code. He shall supply the Department of Design and Construction with the activation number for the device and he is liable to respond back to the calls from DDC within

the next one (1) hour period after he receives calls from DDC. The cost to the contractor for this device and all charges accruing thereto is deemed included in the Bid.

2.04 CLEANING

A. Throughout the construction period, the Contractor shall maintain the building as described in this Section.

1. The Contractor shall prevent building areas, other than the Work Area, from becoming contaminated with asbestos-containing dust or debris. Should areas outside the Work Area become contaminated with asbestos-containing dust or debris as a consequence of the Contractor's work practices, the Contractor shall be responsible for cleaning these areas in accordance with the procedures appended in Title 15, Chapter 1 of RCNY and NYSDOL ICR56. All costs incurred in cleaning or otherwise decontaminating non-Work Areas and the contents thereof shall be borne by the Contractor at no additional cost to the City.
2. The Contractor shall provide to all personnel and laborers the required equipment and materials needed to maintain the specified standard of cleanliness.

B. General

1. Wastewater from asbestos removal operations, including shower water, may be discharged into the public sewer system only after approved filtration has been conducted to remove asbestos fibers.
2. Asbestos wastes shall be double bagged in six mil (.006") polyethylene bags approved for ACM disposal and shall be properly labeled and handled before disposal.
3. The Contractor shall use corrugated cartons or drums for disposal of asbestos-containing waste having sharp edged components (e.g. nails, screws, metal lathe and tin sheeting) that may tear polyethylene bags and sheeting. The waste within the drums or cartons must be double bagged.
4. The Contractor shall transport all bags of waste to disposal site in thirty gallon capacity metal or fiber drums with tight lids, or in locked steel dumpster.
5. Dumping of debris, waste or bagged waste will not be permitted.
6. Cleanup of visible accumulations of loose ACM shall occur whenever there is a sufficient amount to fill a single asbestos bag.
7. ACM shall be collected utilizing rubber dust pans and rubber squeegees.
8. HEPA vacuums shall not be used on wet materials unless specifically designed for that purpose.
9. Metal shovels shall not be used within the work area.
10. Accumulations of dust shall be cleaned off all surfaces of the Work Area daily.
11. Mastic solvent when used will be applied in moderation (e.g. by airless sprayer). Saturation of the concrete floor with mastic solvent must be avoided.
12. The Contractor shall retain all items in the storage area in an orderly arrangement allowing maximum access, not impeding traffic, and providing the required protection of all materials.

13. The Contractor shall not allow accumulation of scrap, debris, waste material, and other items not required for use in this work. When asbestos contaminated waste must be kept on the work site overnight or longer, it shall be double bagged and stored in accordance with New York City Department of Sanitation (NYCDOS) regulation Title 16 Chapter 8, and Federal, State and City laws.
14. At least twice a week (more if necessary), the Contractor shall completely remove all scrap, debris and waste material from the job site.
15. The Contractor shall provide adequate storage space for all items awaiting removal from the job site, observing all requirements for fire protection and concerns for the environment.
16. All respiratory protection equipment shall be selected from the latest NIOSH Certified Equipment list.
17. Daily and more often, if necessary, the Contractor shall inspect the Work Areas and adjoining spaces, and pick up all scrap, debris, and waste material. All such items shall be removed to the place designated for their storage.
18. Weekly, and more often, if necessary, the Contractor shall inspect all arrangements of materials stored on the site; re-stack and tidy them or otherwise service them to meet the requirements of these Specifications.
19. The Contractor shall maintain the site in a neat and orderly condition at all times.

Part 3 – EXECUTION

3.01 WORKER DECONTAMINATION FACILITY

- A. Large Asbestos Projects (Small Project Option):
Provide a worker decontamination facility in accordance with, Title 15, Chapter 1 of RCNY, OSHA Standard 29 CFR 1926.1101, 12NYCRR Part 56 and as specified herein. Unless approved by NYCDEP and the City, worker decontamination facilities shall be attached to the Work Areas
 1. Structure:
 - a. Use modular systems or build using wood or metal frame studs, joists, and rafters placed at a maximum of 16 inches on-center.
 - b. When worker decontamination unit is located outdoors, in areas with public access, or in correctional facilities, frame work shall be lined with minimum 3/8" thickness plywood sheathing. Sheathing shall be caulked or taped airtight at all joints and seams.
 - c. Interior shall be covered with two layers of fire retardant opaque 6-mil polyethylene sheeting, with a minimum overlap of 16 inches at seams. Seal seams airtight using tape and adhesive. The interior floor shall be covered with two (2) layers of reinforced fire-retardant polyethylene sheeting with a minimum overlap on the walls of sixteen inches.
 - d. Entrances to the decontamination unit shall be secured with lockable hinged doors. Doors shall be open at all times when abatement operations are in progress. Doors shall be louvered to allow for air movement through the decontamination units into Work Area.
 2. Curtained Doorways: A device to allow ingress or egress from one room to another while permitting minimal air movement between the rooms.

3. Air Locks: Air locks shall consist of two curtained doorways placed a minimum of three feet apart.
4. Decontamination Enclosure System shall be placed adjacent to the Work Area and shall consist of three totally enclosed chambers, separated from Work Area and each other by airlocks, as follows:
 - a. Equipment Room: The equipment room shall have a curtain doorway to separate it from the Work Area, and share a common airlock with the shower room. The equipment room shall be large enough to accommodate at least one worker (allowing them enough room to remove their protective clothing and footwear), and a 6-mil disposal bag for collection of discarded clothing and equipment. The equipment room shall be utilized for the storage of equipment and tools after decontamination using a HEPA-vacuum and/or wet cleaning. A one-day supply of replacement filters, in sealed containers, for HEPA-vacuums and negative air machines, extra tools, containers of surfactant, and other materials and equipment required for the project shall be stored here. A walk-off pan filled with water shall be placed in the Work Area just outside the equipment room for persons to clean foot coverings when leaving the Work Area. Contaminated footwear and reusable work clothing shall be stored in this room.
 - b. Shower Room: The shower room shall have two airlocks (one that separates it from the equipment room and one that separates it from the clean room). The shower room shall contain at least one shower, with hot and cold water adjustable at the tap, per six workers. Careful attention shall be given to the shower to ensure against leaking of any kind. Contractor shall supply towels, shampoo and liquid soap in the shower room at all times. Shower water shall be drained collected, and filtered through a system with at least a 5-micron particle size collection capacity. A system containing a series of several filters with progressively smaller pore sizes shall be used to avoid rapid clogging of the filters by large particles. Filtered water shall be discharged in accordance with applicable codes. Contaminated filters shall be disposed of as asbestos waste.
 - c. Clean Room: The clean room shall share a common airlock with the shower room and shall have a curtained doorway to separate it from outside non-contaminated areas. Lockers, for storage of workers' street clothing, and shelves, for storing respirators, shall be provided in this area. Clean disposable clothing, replacement filters for respirators, and clean dry towels shall be provided in the clean room. The clean room shall not be used for the storage of tools, equipment or other materials.

B. Small Asbestos Projects

Provide a worker decontamination facility in accordance with, Title 15, Chapter 1 of RCNY, OSHA Standard 29 CFR 1926.1101, 12NYCRR Part 56 and as specified herein. Unless approved by NYCDEP and the City, worker decontamination facilities shall be attached to the Work Areas.

1. Structure:
 - a. Use modular systems or build using wood or metal frame studs, joists, and rafters placed at a maximum of 16 inches on-center.
 - b. When worker decontamination unit is located outdoors, in areas with public access, or in correctional facilities, frame work shall be lined with minimum 3/8" thickness plywood sheathing. Sheathing shall be caulked or taped airtight at all joints and seams.
 - c. Interior shall be covered with two layers of opaque 6-mil polyethylene sheeting, with a minimum overlap of 16 inches at seams. Seal seams airtight using tape

and adhesive. The interior floor shall be covered with two (2) layers of reinforced fire-retardant polyethylene sheeting with a minimum overlap on the walls of sixteen inches.

- d. Entrances to the decontamination unit shall be secured with lockable hinged doors. Doors shall be open at all times when abatement operations are in progress. Doors shall be louvered to allow for air movement through the decontamination units into Work Area.
2. Curtained Doorways: A device to allow ingress or egress from one room to another while permitting minimal air movement between the rooms.
 3. Air Locks: Air locks shall consist of two curtained doorways placed a minimum of three feet apart.
 4. Decontamination Enclosure System shall be placed adjacent to the Work Area and shall consist of three totally enclosed chambers, separated from Work Area and each other by airlocks, as follows:
 - a. Shower Room: The shower room shall have two airlocks (one that separates it from the work area and one that separates it from the clean room). The shower room shall contain at least one shower, with hot and cold water adjustable at the tap, per eight workers. Careful attention shall be given to the shower to ensure against leaking of any kind. Contractor shall supply towels, shampoo and soap in the shower room at all times. Shower water shall be drained collected, and filtered through a system with at least a 5-micron particle size collection capacity. A system containing a series of several filters with progressively smaller pore sizes shall be used to avoid rapid clogging of the filters by large particles. Filtered water shall be discharged in accordance with applicable codes. Contaminated filters shall be disposed of as asbestos waste.
 - b. Clean Room: The clean room shall share a common airlock with the shower room and shall have a curtained doorway to separate it from outside non-contaminated areas. Lockers, for storage of workers' street clothing, and shelves, for storing respirators, shall be provided in this area. Clean disposable clothing, replacement filters for respirators, and clean dry towels shall be provided in the clean room. The clean room shall not be used for the storage of tools, equipment or other materials.
 - c. Decontamination Enclosure System Utilities: Lighting, heat, and electricity shall be provided as necessary by the Contractor, and as specified herein.

3.02 WASTE DECONTAMINATION FACILITY

A. Large Asbestos Project (Small Project Option)

1. Provide a worker decontamination facility in accordance with, Title 15, Chapter 1 of RCNY, OSHA Standard 29 CFR 1926.1101, 12NYCRR Part 56 and as specified herein. Unless approved by NYCDEP and the City, worker decontamination facilities shall be attached to the Work Areas.
 - a. Structure:
 1. Use modular systems or build using wood or metal frame studs, joists, and rafters placed at a maximum of 16 inches on-center.

2. When worker decontamination unit is located outdoors, in areas with public access, or in correctional facilities, frame work shall be lined with minimum 3/8" thickness plywood sheathing. Sheathing shall be caulked or taped airtight at all joints and seams.
3. Interior shall be covered with two layers of fire retardant opaque 6-mil polyethylene sheeting, with a minimum overlap of 16 inches at seams. Seal seams airtight using tape and adhesive. The interior floor shall be covered with two (2) layers of reinforced fire-retardant polyethylene sheeting with a minimum overlap on the walls of sixteen inches.
4. Entrances to the decontamination unit shall be secured with lockable hinged doors. Doors shall be open at all times when abatement operations are in progress. Doors shall be louvered to allow for air movement through the decontamination units into Work Area.

- b. Curtained Doorways: A device to allow ingress or egress from one room to another while permitting minimal air movement between the rooms.
- c. Air Locks: Air locks shall consist of two curtained doorways placed a minimum of three feet apart.
- d. Decontamination Enclosure System shall be placed adjacent to the Work Area and shall consist of three totally enclosed chambers, separated from Work Area and each other by airlocks, as follows:
 1. Washroom: An equipment washroom shall have two air locks (one separating the unit from the Work Area and one common air lock that separates it from the holding area. The washroom shall have facilities for washing material containers and equipment. Gross removal of dust and debris from contaminated material containers and equipment shall be accomplished in the Work Area, prior to moving to the washroom.
 2. Holding Area: A holding area shall share a common air lock with the equipment washroom and shall have a curtained doorway to outside areas. A hinged, lockable door shall be placed at the holding area entrance to prevent unauthorized access into the Work Area.

B. Decontamination Enclosure System Utilities: Lighting, heat, and electricity shall be provided as necessary by the Contractor, and as specified herein.

3.03 PERSONNEL ENTRANCE AND DECONTAMINATION PROCEDURES FOR REMOVAL OPERATIONS UTILIZING REMOTE DECONTAMINATION FACILITIES

- A. All individuals who enter the Work Area shall sign the entry log, located in the clean room, upon each entry and exit. The log shall be permanently bound and shall fully identify the facility, agents, contractor(s), the project, each Work Area, and worker respiratory protection employed. The job supervisor shall be responsible for the maintenance of the log during the abatement activity.
- B. Each worker shall remove street clothes in the clean room; wear two disposable suits, including gloves, hoods and non-skid footwear; and put on a clean respirator (with new filters) before entering the Work Area.
- C. Each worker shall, before leaving the Work Area or tent, shall clean the outside of the respirators and outer layer of protective clothing by wet cleaning and/or HEPA-vacuuming. The outer

disposable suit shall be removed in the airlock prior to proceeding to the Worker Decontamination Unit. The inner disposable suit and respirator shall be wet wiped and HEPA vacuumed thoroughly before removing and prior to aggressive shower.

- D. Following showering and drying off, each worker or authorized visitor shall proceed directly to the clean room, dress in street clothes, and exit the decontamination enclosure system immediately.

3.04 PERSONNEL ENTRANCE AND DECONTAMINATION PROCEDURES FOR REMOVAL OPERATIONS UTILIZING ATTACHED DECONTAMINATION FACILITIES

- A. All workers and authorized visitors shall enter the Work Area through the worker decontamination facility.
- B. All individuals who enter the Work Area shall sign the entry log, located in the clean room, upon each entry and exit. The log shall be permanently bound and shall identify fully the facility, agents, contractor(s), the project, each Work Area and worker respiratory protection employed. The site supervisor shall be responsible for the maintenance of the log during the abatement activity.
- C. Each worker or authorized visitor shall, upon entering the job site, remove street clothes in the clean room and put on a clean respirator with filters, and clean protective clothing before entering the Work Area through the shower room and equipment room.
- D. Each worker or authorized visitor shall, each time he leaves the Work Area, remove gross contamination from clothing before leaving the Work Area; proceed to the equipment room and remove clothing except the respirator; still wearing the respirator, proceed to the shower room; clean the outside of the respirator with soap and water while showering; remove filters, wet them, and dispose of them in the container provided for that purpose; wash and rinse the inside of the respirator; and thoroughly shampoo and wash himself/herself.
- E. Following showering and drying off, each worker or authorized visitor shall proceed directly to the clean room, dress in street clothes, and exit the decontamination enclosure system immediately. Disposable clothing of the type worn inside the Work Area is not permitted outside the Work Area.

3.05 MAINTENANCE OF DECONTAMINATION ENCLOSURE FACILITIES AND BARRIERS

The following procedures shall be followed during the conduct of abatement activities.

- A. All polyethylene barriers inside the work place and partitions constructed to isolate the Work Area from occupied areas shall be inspected by the asbestos handler supervisor at least twice per shift.
- B. Smoke tubes shall be used to test the integrity of the Work Area barriers and the decontamination enclosure systems daily before abatement activity begins and at the end of each shift.
- C. Damage and defects in the decontamination enclosure system shall be repaired immediately upon discovery.
- D. At any time during the abatement activity, if visible emissions are observed, or elevated asbestos fiber counts outside the Work Area are measured, or if damage occurs to barriers, abatement shall stop. The source of the contamination shall be located, the integrity of the barriers shall be restored and extended to include the contaminated area, and visible residue shall be cleaned up using appropriate HEPA-vacuuming and wet cleaning.
- E. Inspections and observations shall be documented in the daily project log by the asbestos handler supervisor.

3.06 MODIFICATIONS TO HVAC SYSTEMS

- A. Shut down, isolated or seal, all existing HVAC units, fans, exhaust fans, perimeter convection air units, supply and/or return air ducts, etc., situated in, traversing or servicing the work zone.
- B. Seal all seams with duct tape. Wrap entire duct with a minimum of two layers of 6-mil polyethylene sheeting. All shutdowns are to be coordinated with the Facility. Where systems must be maintained, i.e. traversing Work Areas to non-Work Areas, only supply ducts will be maintained, protect as described above. All returns must be blanked off in Work Area and adjacent areas, including floor above and below Work Area. When required Contractor shall apply for a clarification from NYCDEP. The Contractor shall implement the following engineering procedures:
1. Maintenance of a positive pressure within the HVAC system of 0.01 inch water gauge (or greater) with respect to the ambient pressure outside the Work Area. The conditions for this system shall be maintained and be operational 24 hours per day from the initiation of Work Area preparation until successful final air clearance;
 2. The positive pressurization of the duct shall be tested, inspected and recorded both at the beginning and at the end of each shift;
 3. The positive pressurization shall be monitored using instrumentation which will provide a written record of pressurization and that will trigger an audible alarm, if the static pressure falls below the set value;
 4. The supply air fan and the supply air damper for the active positive-pressurized duct shall be placed in the manual "on" positions to prevent shutdown by fail-safe mechanisms;
 5. The return air fan and the return air dampers shall be shut down and locked-out;
 6. All the seams of the HVAC ducts that pass through the Work Area shall be sealed;
 7. The HVAC ducts that pass through the Work Area shall be covered with two (2) layers of fire retardant 6-mil polyethylene sheeting, and all seams and edges of both layers shall be sealed airtight;
 8. The supply air fans, return air fans, and all dampers servicing the Work Area itself shall be shut down and locked-out. All openings within the Work Area of supply and return air ducts shall be sealed with 3/8-inch plywood and two layers of fire retardant 6-mil polyethylene;
 9. When abatement occurs during periods while the HVAC system is shut down so that an alternative method of pressurization of the duct passing through the Work Area is used (e.g., by low-pressure "blowers", etc., directly coupled into the duct). Item #4 above shall be deleted and shall be replaced by the requirement to set the dampers of the HVAC duct in the manual closed positions, in order to effect pressurization.
- C. Contractor to coordinate this item with the Facility and Construction Project Manager at the commencement of work.
- D. Where HVAC systems (ducts) that service an area cannot be shut down, Contractor shall isolate and seal the ducts, both supply and return, at the boundary of that zone.
1. To isolate, cap, or seal a duct, the Contractor shall remove insulation from duct (if necessary), then disconnect linkage to fold shut all fire dampers. Contractor shall seal all edges and seams with caulk and duct-tape.

2. Contractor shall then cut existing duct and fold metal in and secure with approved fasteners. Contractor shall caulk and duct-tape all seams and edges.
3. All ducts shall then be completely wrapped and sealed with duct-tape and three (3) layers of reinforced fire retardant polyethylene sheeting.
4. All ducts shall be restored to original working order at the end of the project.

E. Where present HVAC systems (ducts) service occupied areas (non-Work Areas), the Contractor shall blank off the ducts.

1. To isolate or seal the return duct, the Contractor shall remove any insulation (if necessary) from the duct. Then disconnect linkage to fold shut all fire dampers and insert a fiberglass board within the duct. Contractor shall seal all edges and seams with caulk, duct-tape and three (3) layers of reinforced polyethylene sheeting.
2. All isolation of return ducts and any other activity that requires removal of ceiling by the Contractor shall be conducted under controls. Work is to be coordinated with the Construction Project Manager and the Facility and is described as follows:
 - a. Work shall occur as scheduled.
 - b. Horizontal surfaces near the blanking operations shall be protected with fire retardant 6-mil polyethylene sheeting.
 - c. Plastic drapes shall be used to enclose the immediate area.
 - d. Contractor to position and operate air filtration devices and HEPA-vacuums in the area to clean space after blanking operations.
 - e. All personnel involved with this work shall receive personal protection (i.e. respirators and disposable suits).

F. Upon loss of negative pressure or electric power, all work activities in an area shall cease immediately and shall not resume until negative pressure and/or electric power has been fully restored. When a power failure or loss of negative pressure lasts, or is expected to last, longer than thirty (30) minutes, the following sequence of events shall occur.

1. All make up air inlets shall be sealed airtight.
2. All decontamination facilities shall be sealed airtight after evacuation of all personnel from the Work Area.
3. All adjacent areas shall be monitored for potential fiber release upon discovery of and subsequently throughout, power failure.

3.07 LOCKOUT OF HVAC SYSTEMS AND ELECTRIC POWER

Prior to the start of any prep work, the Contractor shall employ skilled tradesmen with limited asbestos licenses for the following work:

- A. Disable all ventilating systems or other systems bringing air into or exhausting air out of the Work Area. Disable system by disconnecting wires removing circuit breakers, by lockable switch or other positive means to ensure against accidental re-starting of equipment.
- B. Lockout power to the Work Area by switching off all breakers and removing them from panels or

by switching and locking entire panel. Label panel with following notation: "DANGER CIRCUIT BEING WORKED ON". Give all keys to Facility.

- C. Lock out power to circuits running through Work Area whenever possible by switching off and removing breakers from panel. If circuits must remain live, the Facility shall notify Contractor in order that he may secure a variance from NYCDEP. Protect all conduit and wires to remain and label all active circuits at intervals not to exceed 3 feet with tags having the following notation: "DANGER LIVE ELECTROCUTION HAZARD". Label all circuits in all locations including hidden locations that may be affected by the work in a similar manner.

Part 4 – PREPARATION OF WORK AREA AND REMOVAL PROCEDURES

4.01 REMOVAL OF ASBESTOS-CONTAINING MATERIAL

- A. Contractor shall be responsible for the proper removal of ACM from the Work Area using standard industry techniques. The Third Party Air Monitoring Firm shall observe the Work.

1. General Requirements

- a. Removal of ACM shall be performed using wet methods. Dry removal of ACM is prohibited.
- b. Spray ACM with amended water with sufficient frequency and quantity to enhance penetration. Sufficient time shall be allowed for amended water to penetrate the material to the substrate prior to removal. All ACM shall be thoroughly wetted on all sides while work is being conducted.
- c. Accumulation of standing water on the floor of the Work Area is prohibited.
- d. Apply removal encapsulants, when used, in accordance with the manufacturer's recommendations and guidelines.
- e. Containerize ACM immediately upon detachment from the substrate. Alternately, ACM may be dropped in to a flexible catch basin and promptly bagged. Excess air within the bag shall be removed before sealing. ACM shall not be dropped from a height of greater than 10 feet. Above 10 feet, dust free inclined chutes may be used. Maximum inclination from horizontal shall be 60-degrees for all chutes.
- f. A floor plan showing the areas of the building under abatement and the location of all fire exits in said areas shall be prominently posted in the building lobby or comparable location, along with a notice stating where the location within the building of the negative air cutoff switch is located if required.
- g. Exits from the work area shall be maintained, or alternative exits shall be established, in accordance with section 1027 of the New York City Fire Code. Exits shall be checked at the beginning and end of each work shift against blockage or impediments to exiting.
- h. Signs clearly indicating the direction of exits shall be maintained and prominently displayed within the work area.
- i. "No Smoking" signs shall be maintained and prominently displayed within the work place.
- j. At least one fire extinguisher with a minimum rating 2-A:10-B:C shall be required for each work place. In the case of large asbestos projects, at least two such fire

extinguishers shall be required.

- k. If the containment area of an asbestos project covers the entire floor of the affected building, or an area greater than 15,000 square feet on any given floor, the installation of a negative air cut off switch or switches shall be required at a single location outside the work place, such as inside a stairwell, or at a secured location in the ground floor lobby when conditions warrant. The required switch or switches shall be installed by a licensed electrician pursuant to a permit issued by the Department of Buildings. If negative pressure ventilation equipment is used on multiple floors the cutoff switch shall be able to turn off the equipment on all floors.

B. Removal of ACM Utilizing Tent Containment Procedures and/or Tent and Glove-bag Procedures shall be performed in accordance with the RCNY Chapter 1 Title 15 Section 1-105 and 1-106 and with the procedure listed below:

1. Preparation Procedures:

- a. Ensure that the Third Party Air Monitoring Firm has performed area monitoring and established a background count prior to the preparatory operations for each removal area, as applicable.
- b. Shut down, isolate, and lock out or tag heating, ventilating, and air conditioning (HVAC) systems that serve or which pass through the Work Area. Vents within the Work Area and seams in HVAC components shall be sealed with tape and two layers of polyethylene sheeting. Filters in HVAC systems shall be removed and treated as asbestos-contaminated waste.
- c. Shut down, disconnect, and lock out or tag all electric power to the Work Area so that there is no possibility of its reactivation until after clearance testing of the Work Area.
- d. Provide and install decontamination enclosure systems in accordance with PART 3 - EXECUTION, Sections 3.01 and 3.02 of these Specifications and the NYCDEP Variance. Decontamination facilities may be remote from the Work Areas upon approval from NYCDEP.
- e. Construct rigid framework to support Work Area barriers. Framework shall be constructed using 2-inch by 4-inch wooden or metal studs placed 16 inch on center when existing walls and/or ceiling do not exist.
- f. Seal floor drains, sumps, shower tubs, and other collection devices with two layers of 6-mil plastic and minimum 3/8" plywood, as necessary, and provide a system to collect all water used by the Contractor. Collected water shall be passed through a water filtration system prior to being discharged into the sanitary sewer. Any opening greater than 32 square feet shall be framed with 2-inch by 4-inch studding placed 16 inches on center.
- g. Install and initiate operation of AFDs to provide a negative pressure and a minimum of four air changes per hour within the Work Area relative to surrounding non-Work Areas. Do not shut down AFDs until the Work Area is released to the City following final clearance procedures. The use of HEPA-filtered vacuums to produce a negative air pressure inside the enclosure is prohibited.
- h. Maintain emergency and fire exits from the Work Areas or establish alternative exits satisfactory to the local fire officials. Emergency exits and routes shall be

established and clearly marked with florescent paint or other effective designations to permit easy location from anywhere within the Work Area. Emergency exits shall be secured to prevent access from uncontaminated areas and yet permit emergency exiting. Exits shall be checked daily against exterior blockage or impediments to exiting.

- i. Temporary lighting within the Work Area and decontamination system shall be provided as required to achieve minimum illumination levels.
- j. Hand power tools used to drill, cut into, or otherwise disturb ACM shall be equipped with HEPA filtered local exhaust ventilation.
- k. Prior to being plasticized, the Work Areas shall be cleaned using HEPA-vacuum equipment and/or wet cleaning methods as appropriate. Methods that raise dust, such as dry sweeping or vacuuming with equipment not equipped with HEPA filters, shall not be used.
- l. Plasticize the area after pre-cleaning, using the following procedures. Do not apply polyethylene sheeting to wall and ceiling surfaces that will be demolished to access ACM.
 - 1. Cover floor with one layer of fire retardant 6-mil polyethylene sheeting, turning layer a minimum of 12 inches up wall, and seal layer to wall.
 - 2. Cover walls with one layer of fire retardant 6-mil polyethylene sheeting, overlapping wall layer a minimum of 12 inches, and seal layer to floor layer.
 - 3. Cover ceilings with one layer of fire retardant 6-mil polyethylene sheeting, overlapping wall layer a minimum of 12 inches, and seal layer to wall layer.
 - 4. Repeat procedure for second layer. All joints in polyethylene sheeting shall be glued and taped in such a manner as to prohibit air passage. Joints on plastic layers shall be staggered to reduce the potential for water to penetrate.
 - 5. In areas where demolition is required to access ACM, a layer of fire retardant 6-mil reinforced polyethylene sheeting shall be placed on the floor of the enclosure.
 - 6. Perform demolition required to access ACM. Debris resulting from demolition activities shall be disposed of as ACM as described in this Specification.
 - 7. Repeat preparation of areas accessed by demolition activities as described above.
 - 8. Suspended ceiling tiles and T-grid components shall remain in place until the preparation of the Work Area below the ceiling tiles are completed and personnel and equipment decontamination enclosures have been constructed.
 - 9. Protect non-ACM insulation within the Work Area(s) with two individual layers of 6-mil polyethylene sheeting. Sheeting shall remain in-place until satisfactory clearance air monitoring results are achieved.
- m. Installation of glove-bags for removal of thermal system insulation, when required:

1. General: Glove-bag operations shall be performed using commercially available glove-bags of at least 6-mil, transparent plastic appropriately sized for the diameter of the material to be removed. The use of "moveable" glove-bag techniques is strictly forbidden. At no time, shall the glove-bag be sized to allow for the removal of more than three linear feet of insulation.
 2. Place the necessary tools and materials inside of the tool pouch of the glove-bag before.
 3. Place duct-tape securely around the affected area to form a smooth area to which the glove-bag can be securely fastened.
 4. Attach glove-bag to the cable, wire or pipe. Seal top of glove-bag by double folding and stapling. Place duct-tape along the seam to form an airtight seal. Seal sides of glove-bag, where cable, wire or pipe passes through, with duct-tape to form an airtight seal.
 5. If the material adjacent to the work section is damaged, terminates, is jointed or contains an irregularity, wrap the section in two layers of 6-mil fire retardant polyethylene sheeting and seal airtight with duct-tape.
 6. Smoke test the glove-bag as indicated below. The Project Monitor shall present during all smoke testing.
 7. Aspirate the contents of a smoke tube through the water port access of the bag.
 - a. Seal the water access port airtight with duct-tape.
 - b. Gently squeeze the glove-bag and visually check for any leaks.
 - c. Seal any points of leakage airtight with duct-tape.
 - n. Workers shall follow all procedures for the glove-bag removal methodology.
 - o. Pre-Removal Inspections
 1. Prior to removal of any ACM, the Contractor shall notify the Third Party Air Monitoring Firm and request a pre-removal inspection. Posting of warning signs, building of decontamination enclosure systems, and all other preparatory steps have been taken prior to notification to the Project Monitor.
 2. Contractor shall correct any deficiencies observed by the Project Monitor at no additional cost to City.
 3. Following the Project Monitor's approval of the Work Area preparations, removal of ACM may commence.
2. Removal of ACM Thermal Insulation shall be performed in accordance with the RCNY Chapter 1 Title 15 Section 1-105 and with the Glove-Bag Techniques listed below:
- a. Mist material with amended water. Allow sufficient time for the amended water to penetrate the material to be removed.

- b. Remove the insulation using hand tools such as knives or scissors.
 - c. Exercise caution when removing insulation.
 - d. Remove any residual asbestos-containing insulation from the substrate using wet cleaning methods and nylon-bristled hand brushes.
 - 1. Seal exposed ends of remaining asbestos-containing insulation with duct-tape or a "wetable cloth".
 - 2. Remove tools and materials required for future work from the glove-bag by grasping the items and having the worker remove his or her arm from the glove-bag thereby turning the sleeve "inside out". Twist the sleeve above the items to be salvaged then seal the sleeve from the remainder of the glove-bag by wrapping duct-tape around the sleeve. The duct-tape seal can be cut in the middle to salvage items. The containerized items can then be placed in another glove-bag for further use, or place in a bucket of amended water and decontaminated for removal from the tent enclosure.
 - 3. Twist the glove-bag several times and tape the glove-bag in the middle to keep the material in the bottom during the removal of the glove-bag from the cable.
 - 4. Remove the glove-bag from the cable by cutting the seal along the top. A HEPA-vacuum shall be utilized during the removal process.
 - 5. Place the removed glove-bag immediately into a properly labeled 6-mil polyethylene bag. All material shall be properly containerized and decontaminated prior to removal from the Work Area.
 - 6. Following the completion of removal of insulation, all visible residues shall be removed from the substrate.
3. Removal of ACM Utilizing Tent Containment Procedure:
- a. Mist material with amended water and/or foam. Allow sufficient time for the amended water to penetrate the material to be removed.
 - b. Cut bands, wire or other items placed over insulation or ACM.
 - c. Remove the ACM using hand tools such as knives or scrapers.
 - d. Exercise caution when removing ACM.
 - e. Remove any residual asbestos-containing material from the substrate using wet cleaning methods.
 - f. Seal exposed ends of remaining insulation or ACM with a "wetable cloth" and/or encapsulant.
 - g. Place the removed material immediately into a properly labeled 6-mil polyethylene bag. All material shall be properly containerized and decontaminated prior to removal from the Work Area.
 - h. Following the completion of removal of ACM, all visible residues shall be removed from the substrate.

4. Following Removal of ACM Utilizing Tent Containment or Tent/Glovebag Procedure:
- a. Clean all visible accumulations of loose ACM. Metal shovels shall not be used within the Work Area.
 - b. Accumulations of dust shall be cleaned continuously until completion of clean up.
 - c. Apply a thin coat of an encapsulating agent shall be applied to any surfaces in the Work Area that were not the subject of removal or other remediation activities. In no event shall encapsulant be applied to any surface that was the subject of removal or other remediation activities prior to obtaining satisfactory clearance air monitoring results.
 - d. After removal of all visible accumulations of ACM, the area shall be:
 1. HEPA-vacuumed on dry surfaces.
 2. Wet/dry shop vacuums (dedicated to asbestos abatement) may be used to pick up excess water and gross saturated debris.
 3. All surfaces shall be wet cleaned. Contractor shall request and pass a visual inspection performed by the Project Monitor before proceeding to the next step. Documentation of passing this inspection shall be recorded in a daily logbook.
 4. The Project Monitor and the Asbestos Project Supervisor will conduct a visual observation of the Work Area to verify the absence of asbestos-containing waste materials.
 5. If the Work is accepted by the Project Monitor based on the inspection, Contractor shall be notified. Conduct the following activities in accordance with the contract and all applicable laws, codes, rules and regulations.
 - a. All waste shall be removed from the Work Area and holding areas.
 - b. All tools and equipment are to be removed and decontaminated in the decontamination enclosure system.
 6. If the Work is not approved, the Project Monitor will inform Contractor who will then HEPA-vacuum and/or wet-clean the Work Area. The Project Monitor will then perform a subsequent visual observation. This process will continue until the Project Monitor accepts the Work Area as clean.
 7. The Work Area shall be vacated for a minimum of one hour to allow fibers to settle prior to clearance air monitoring, when required.
 - e. Final Barrier Removal
 1. Upon receipt of acceptable clearance testing results polyethylene sheeting (inside layers) and Isolation Barriers shall be removed and disposed accordingly as ACM.
 2. The area surrounding the abatement work place shall be cleaned of any visible debris utilizing HEPA-vacuum and wet methods.
 - f. The Project Monitor will conduct final visual. Approval must be granted prior to

break down of decontamination facility and contractor demobilization. Other Information: Extra time required to clean Work Areas in order to achieve clearance criteria shall not be considered grounds for an extension of time for contract completion.

C. Removal of ACM Utilizing Full Containment Procedures shall be performed in accordance with the RCNY Chapter 1 Title 15 Section 1-102 and with the procedures below::

1. Preparation Procedures:
 - a. Ensure that the Third Party Air Monitoring Firm has performed area monitoring and established a background count prior to the preparatory operations for each removal area, as applicable.
 - b. Shut down, isolate, and lock out or tag heating, ventilating, and air conditioning (HVAC) systems that serve or which pass through the Work Area. Vents within the Work Area and seams in HVAC components shall be sealed with tape and two layers of polyethylene sheeting. Filters in HVAC systems shall be removed and treated as asbestos-contaminated waste.
 - c. Shut down, disconnect, and lock out or tag all electric power to the Work Area so that there is no possibility of its reactivation until after clearance testing of the Work Area.
 - d. Provide and install decontamination enclosure systems in accordance with Sections 3.01 and 3.02 of this Section.
 - e. Remove ACM that may be disturbed by the erection of partitions using tent procedures and wet removal methods Removal shall be limited to a one-foot wide strip running the length/height of the partition.
 - f. Pre-clean and remove moveable objects from the Work Area. Pre-cleaning shall be accomplished using HEPA-vacuum and wet-cleaning techniques. Store moveable objects at a location determined by the City.
 - g. Protect carpeting that will remain in the Work Area.
 1. Pre-clean carpeting utilizing wet-cleaning techniques.
 2. Install a minimum of two layers of fire retardant 6-mil reinforced polyethylene sheeting over carpeting.
 3. Place a rigid flooring material, minimum thickness of 3/8-inch, over polyethylene sheeting.
 - h. Pre-clean all fixed objects to remain within the Work Area using HEPA-vacuum and wet-cleaning techniques.
 - i. Seal fixed objects with two individual layers, minimum, of fire retardant 6-mil polyethylene sheeting.
 - j. Pre-clean entire Work Area utilizing using HEPA-vacuum and wet-cleaning techniques. Methods of cleaning that raise dust, such as dry sweeping or use of vacuum equipment not equipped with HEPA-filters, are prohibited.
 - k. Install isolation barriers (i.e., sealing of all openings, including but not limited to

windows, corridors, doorways, skylights, ducts, grills, diffusers, and other penetrations within the Work Area) using two layers of fire retardant 6-mil polyethylene sheeting and duct-tape.

- i. Construct rigid framework to support Work Area barriers.
 1. Framework shall be constructed using 2-inch by 4-inch wooden or metal studs placed 16 inch on center when existing walls and/or ceiling do not exist for all openings greater than 32 square feet. Framework is not required except where one dimension is one foot or less or the opening will be used as an emergency exit.
 2. Apply a solid construction material, minimum thickness of 3/8-inch to the Work Area side of the framing. In secure interior areas, not subject to access from the public or building occupants, an additional layer of fire retardant 6-mil polyethylene sheeting may be substituted for the rigid construction material.
 3. Caulk all wall, floor, ceiling, and fixture joints to form a leak tight seal.
- m. Seal floor drains, sumps, shower tubs, and other collection devices with two layers of 6-mil plastic and plywood, as necessary, and provide a system to collect all water used by the Contractor. Collected water shall be passed through a water filtration system prior to being discharged into the sanitary sewer.
- n. Remove ceiling mounted objects not previously sealed that will interfere with removal operations. Mist object and surrounding ACM with amended water prior to removal to minimize fiber dispersal. Clean all moveable objects using HEPA-vacuum and wet-cleaning techniques prior to removal from the Work Area.
- o. Fiberglass insulation with intact coverings shall be protected in place during abatement activities. These materials shall be protected with two layers of 6-mil polyethylene sheeting as isolation barriers and two additional layers of 6-mil polyethylene sheeting serving as primary and secondary surface barriers.
- p. Install and initiate operation of AFDs to provide a negative pressure and a minimum of four air changes per hour within the Work Area relative to surrounding non-Work Areas. Do not shut down AFDs until the Work Area is released to the City following final clearance procedures. The use of HEPA-filtered vacuum to produce a negative air pressure inside the enclosure is prohibited.
- q. Maintain emergency and fire exits from the Work Areas or establish alternative exits satisfactory to the local fire officials. Emergency exits and routes shall be established and clearly marked with florescent paint or other effective designations to permit easy location from anywhere within the Work Area. Emergency exits shall be secured to prevent access from uncontaminated areas and yet permit emergency exiting. Exits shall be checked daily against exterior blockage or impediments to exiting.
- r. Temporary lighting within the Work Area and decontamination system shall be provided as required to achieve minimum illumination levels.
- s. Hand power tools used to drill, cut into, or otherwise disturb ACM shall be equipped with HEPA filtered local exhaust ventilation.
- t. Prior to being plasticized, the Work Areas shall be cleaned using HEPA vacuum

equipment and/or wet cleaning methods as appropriate. Methods that raise dust, such as dry sweeping or vacuuming with equipment not equipped with HEPA filters, shall not be used.

- u. Plasticize the area after pre-cleaning, using the following procedures.
 - 1. Cover floors with one layer of fire retardant 6-mil polyethylene sheeting, turning layer a minimum of 6 inches up wall, and seal layer to wall.
 - 2. Cover walls with one layer of fire retardant 6-mil polyethylene sheeting, overlapping wall layer a minimum of 6 inches, and seal layer to floor layer.
 - 3. Cover floors with a second layer fire retardant of 6-mil polyethylene sheeting, turning layer a minimum of 12 inches up wall, and seal layer to wall.
 - 4. Cover walls with a second layer of fire retardant 6-mil polyethylene sheeting, overlapping wall layer a minimum of 12 inches, and seal layer to floor layer.
 - 5. In areas where demolition is required to access ACM, a layer of fire retardant 6-mil reinforced polyethylene sheeting shall be placed on the floor of the enclosure.
 - 6. Perform demolition required to access ACM. Debris resulting from demolition activities shall be disposed of as ACM as described in this Specification.
 - 7. Repeat preparation of areas accessed by demolition activities as described above.
 - v. Suspended ceiling tiles and T-grid components shall remain in place until the preparation of the Work Area below the ceiling tiles are completed and personnel and equipment decontamination enclosures have been constructed.
 - w. Scaffolds shall be provided for workers engaged in work that cannot safely be performed from the ground or other solid Work Area surface.
 - x. Pre-Removal Inspections
 - 1. Prior to removal of any ACM, the Contractor shall notify the Project Monitor and request a pre-removal inspection. Posting of warning signs, building of decontamination enclosure systems, and all other preparatory steps have been taken prior to notification of the Project Monitor.
 - 2. Contractor shall correct any deficiencies observed by Project Monitor at no additional cost to City.
 - 3. Following the Project Monitor approval of the Work Area preparations, removal of ACM may commence.
2. Removal of ACM Within Full Containment:
- a. Mist material with amended water. Allow sufficient time for the amended water to penetrate the material to be removed.

- b. Remove the material using hand tools such as scrapers or putty knives. Wire-mesh or wood lathe reinforcing, when present, shall be cut into manageable pieces and disposed of as ACM.
 - c. Remove any residual material from the substrate using wet cleaning methods and nylon-bristled hand brushes.
 - d. Place the removal material immediately into a properly labeled 6-mil polyethylene bag. All material shall be properly containerized and decontaminated prior to removal from the Work Area.
 - e. Following the completion of removal of insulation, all visible residue shall be removed from the substrate
3. Following Removal of ACM utilizing Full Containment Procedures:
- a. First Cleaning:
 - 1. Remove any visible accumulation of asbestos material and debris. HEPA-vacuuming and wet cleaning shall be performed on all surfaces inside the Work Area. All sealed drums, plastic bags, and equipment used in the Work Area shall be removed from the Work Area.
 - 2. Upon request of the Contractor, the Project Monitor will perform a visual inspection. Evidence of asbestos contamination identified during the inspection will necessitate further cleaning as heretofore specified.
 - 3. Remove first layer of plastic sheathing inside the Work Area. The isolation barriers and decontamination facility shall remain in place and be utilized.
 - b. Second Cleaning:
 - 1. After the first cleaning, the Work Area shall be vacated for twelve hours to allow fibers to settle.
 - 2. All objects and surfaces in the Work Area shall be HEPA - vacuumed and wet cleaned for a second cleaning.
 - 3. A thin coat of lockdown encapsulant shall be applied to all plastic covered surfaces in the Work Area.
 - 4. When the encapsulant is dry, second layer of polyethylene sheeting on the walls, ceiling and floors shall be removed. Do not remove seals from doors, windows, Isolation Barriers or disconnect the negative pressure equipment.
 - c. Third Cleaning:
 - 1. A minimum of four hours after the second cleanup, all the surfaces in the Work Area shall be HEPA-vacuumed and wet cleaned for a third cleaning.
 - 2. Upon the request of the Contractor, the Project Monitor and the Asbestos Project Supervisor will perform a final inspection. Observations whether cleaned areas are free of dust, dirt, and debris will be recorded in the Project Log Book. Evidence of asbestos contamination identified during the inspection will necessitate further cleaning as heretofore specified.

3. When the Work Area passes the Project Monitor's visual re-occupancy inspection, air sampling shall not begin until at least one hour after the completion of the third cleanup. The Third Air Monitoring Firm shall perform air monitoring using aggressive testing techniques. The Project Monitor will approve Re-occupancy if the specified fiber count in the Work Area is achieved according to the Third Party Air Monitoring Firm testing laboratory.
4. When the Work Area passes the re-occupancy test, all controls and seals established shall be removed.

d. Final Barrier Removal

1. Upon receipt of acceptable clearance testing results, polyethylene sheeting and Isolation Barriers shall be removed and disposed accordingly as asbestos-containing material.
2. The area surrounding the abatement work place shall be cleaned of any visible debris utilizing HEPA vacuum and wet methods.

- e. The Project Monitor will conduct a final visual observation. Approval must be granted prior to break down of decontamination facility and contractor demobilization.

D. Removal of Floor Tile and Mastic shall be performed in accordance with the RCNY Title 15, Chapter 1 §1-108 Foam/Viscous Liquid Use in Flooring Removal and the procedures listed below:

1. Preparation of the Work Area:

- a. These procedures only apply to the removal of vinyl asbestos floor tiles (VAT), ACM floor coverings and associated mastics and adhesives, where only the ACM being abated in the work area is flooring material.
- b. Request that the Third-Party Air Monitoring Firm perform area monitoring and establish a background count prior to the preparatory operations for each removal area.
- c. Provide and install decontamination enclosure systems in accordance with PART 3 - EXECUTION, Sections 3.01 and 3.02 of these Specifications and NYCDEP Title 15, Chapter 1. Decontamination facilities may be remote from the Work Areas upon approval from NYCDEP.
- d. Shut down, isolate, and lock out or tag heating, ventilating, and air conditioning (HVAC) systems which serve or which pass through the Work Area. Vents within the Work Area and seams in HVAC components shall be sealed with tape and two layers of polyethylene sheeting. Filters in HVAC systems shall be removed and treated as asbestos-asbestos contaminated waste.
- e. Shut down, disconnect, and lock out or tag all electric power to the Work Area so that there is no possibility of its reactivation until after clearance testing of the Work Area.

- f. Seal floor drains, sumps and other collection devices with two layers of fire retardant 6-mil plastic and fire rated plywood, as necessary, and provide a system to collect all water used by the Contractor. Collected water shall be passed through a water filtration system prior to being discharged into the sanitary sewer.
- g. Separate by means of airtight barriers (isolation barriers) parts of the building that are not included in the Work Area(s) from parts of the building that will undergo asbestos abatement.
- h. Seal with isolation barriers: open doorways, cased openings, and corridors that will not be used for passage during work.
- i. Isolation barriers shall extend from the floor to the ceiling and form an airtight seal. They shall be built using 2-inch by 4-inch wood or metal framing placed 16 inch on center and shall be braced as necessary. Cover the work sides of the studding with two layers of 6-mil fire retardant, reinforced polyethylene sheeting. Install barriers to form a leak tight seal between the Work Area and adjacent areas. Install isolation barriers in a manner to endure "negative air pressure" within the Work Area.
- j. Completely seal airtight and isolate the Work Area. All openings, including but not limited to doorways, tunnels, ducts, grilles, cracks, diffusers, openings through which pipe conduit passes, and any other penetrations of the Work Area, shall be covered with polyethylene sheeting taped or caulked airtight.
- k. Maintain emergency and fire exits from the Work Areas or establish alternative exits satisfactory to the local fire officials. Emergency exits and routes shall be established and clearly marked with fluorescent paint or other effective designations to permit easy location from anywhere within the Work Area. Emergency exits shall be secured to prevent access from uncontaminated areas and yet permit emergency exiting. Exits shall be checked daily against exterior blockage or impediments to exiting.
- l. Temporary lighting within the Work Area and decontamination system shall be provided as required to achieve minimum illumination levels.
- m. After isolating the area install and initiate operation of air filtration devices (AFDs) to provide a negative pressure of at least -0.02 inches of water and four air changes per hour within the Work Area relative to surrounding non-Work Areas. In areas where negative air units cannot be exhausted to the exterior of the station, units shall be installed in series. When installing units in series, the exhaust from an AFD shall be exhausted into the intake of a second AFD of equal or greater capacity. The exhaust from the second unit shall be directed to the exterior of the Work Area in an area that is not accessible to the public. Both units shall be located inside the Work Area. Exhaust and connect AFD using spiral-reinforced tubing manufactured for this purpose. Do not shut down AFDs until the Work Area is released to the City following final clearance procedures.
- n. Hand power tools used to drill, cut into, or otherwise disturb ACM shall be manufacturer-equipped with HEPA filtered local exhaust ventilation.
- o. Scaffolds shall be provided for workers engaged in work that cannot safely be performed from the ground or other solid Work Area surface.

p. Work Area Pre-cleaning Procedures: After establishing the decontamination enclosure systems, prepare and pre-clean the Work Area as specified below:

- (1) Movable and loose items not removed by the City shall be cleaned using HEPA vacuum equipment and/or wet cleaning methods as appropriate and shall be removed from the Work Area and stored at the City's direction.
- (2) Movable and loose items contaminated with asbestos shall be removed from the Work Areas and properly discarded as asbestos contaminated waste.
- (3) Fixed objects within the Work Area shall be pre-cleaned using HEPA-vacuum equipment and/or wet cleaning methods as appropriate. Joints of covers or casings shall be sealed with tape and fixed objects enclosed with a minimum of two layers of 6-mil fire retardant polyethylene sheeting sealed airtight with tape. Disassembly of these fixed objects is not required unless otherwise noted. Fixed objects shall include, but not be limited to, light fixtures, junction boxes, hangers and black carrying channels.
- (4) Prior to being plasticized, the Work Areas shall be cleaned using HEPA-vacuum equipment and/or wet cleaning methods as appropriate. Methods that raise dust, such as dry sweeping or vacuuming with equipment not equipped with HEPA-filters, shall not be used.

q. Plasticize the area after pre-cleaning, using the following procedure:

- (1) Floor surfaces shall be sealed with a minimum of two layers of fire retardant 6-mil plastic sheeting, except where the only ACM being abated in the project is vinyl asbestos floor tile or other flooring material, in which case the floor need not be sealed;
- (2) Baseboards and wall surfaces shall be sealed with a minimum of two layers of fire retardant 6-mil plastic sheeting up to a minimum height of four feet above the floor. If hand power tools are used during abatement, wall surfaces shall be covered with a layer of fire retardant 6-mil polyethylene sheeting to minimum height of six feet.

r. Pre-Removal Inspections

- (1) Prior to removal of any ACM, the Contractor shall notify the Project Monitor and request a pre-removal inspection. Posting of warning signs, building of decontamination enclosure systems, and all other preparatory steps have been taken prior to notification of the Project Monitor.
- (2) Contractor shall correct any deficiencies observed by Project Monitor at no additional cost to City.
- (3) Following the Project Monitor's approval of the Work Area preparations, removal of ACM may commence.

2. Removal of ACM Floor Tile and Mastic:

- a. Prior to actual removal, the floor tiles and associated mastic shall be blanketed and wetted with a minimum 1-inch to 3-inch coating of the acceptable foam or viscous liquid that shall leave an identifiable colored residue when it dissipates and shall be maintained for the duration of the removal until the material is bagged.
 - b. The foam or viscous liquid shall be non-toxic, shall not require special respiratory protection from handling, and shall not affect the handling and disposal of the waste.
 - c. The foam or viscous liquid shall coat and wet the ACM. The ACM shall be kept wet through the bagging process.
 - d. Persons entering the work area shall wear correctly-fitting, good-traction rubber boots
 - e. Remove floor tile and all underlying layers using a flat hoe or scraper. Remove adhesive backing using approved mastic removal solvent. Do not grind or sand floor.
 - f. Completely remove floor tile and adhesive backing using appropriate tools and materials. As material is removed, wrap it in two layers of plastic and place it in labeled containers for transport.
 - g. Completely remove bulk mastic using an approved mastic solvent. Product application shall be in accordance with the manufacturer's instructions and the Material Safety Data Sheet (MSDS) for the product. Do not allow solvent to stand or to be absorbed by sub-floor. Use diatomaceous earth to prevent the flow of solvent under walls or into other areas from which it would be difficult to recover. Absorb spent solvent and associated mastic immediately after use with diatomaceous earth and place in drums dedicated for the disposal of floor tile mastic waste.
 - h. After completion of mastic removal, thoroughly wash the floor with detergent and rinse clean. Use sufficient quantities of diatomaceous earth to soak up water and detergent so that the waste is completely solid. Place waste in sealed drums dedicated for the disposal of floor tile mastic waste. No bulk mastic residue and traces of foam/viscous liquid shall remain on the floor surface following removal and cleaning. It is not necessary to remove stain from pores of concrete.
 - i. Spent mastic removal agents must be properly stored, categorized and disposed. Refer to "ACM Waste Packing and Load Out Procedures".
 - j. On completion of floor mastic removal, the floor shall be smooth, free from ridges and bumps, and suitable to receive replacement flooring.
3. Additional Removal Requirements: The Project Monitor shall issue a stop work order if visible emissions are detected outside the Work Areas and/or should the airborne fiber concentrations meet or exceed 0.01 f/cc of air or the background count (use the greater of these two values as the reference). Work shall not resume until the condition(s) causing the increase are corrected, surfaces are decontaminated using HEPA vacuums or wet cleaning techniques and the Contractor receives notice from the Project Monitor.
 4. Following Removal of ACM Floor Tile and Mastic:

- a. All surfaces shall be wet cleaned.
- b. HEPA-vacuum all surfaces.
- c. Conduct the following activities in accordance with the contract and all applicable laws, codes, rules and regulations.
 - 1. All waste shall be removed from the Work Area and holding areas.
 - 2. All tools and equipment are to be removed and decontaminated in the decontamination enclosure system.
- d. The Project Monitor will conduct a visual observation of the Work Area to verify the absence of asbestos-containing waste materials.
- e. If the Work is not approved, the Project Monitor will inform Contractor who will then wet-clean and HEPA-vacuum the Work Area. The Project Monitor will then perform a subsequent visual observation. This process will continue until the Project Monitor accepts the Work Area as clean.
- f. Remove polyethylene barriers from the walls of the Work Area. Isolation barriers shall remain in place.
- g. Perform a thorough HEPA-vacuumsing of the Work Area.
- h. The Project Monitor and the Asbestos Project Supervisor will conduct a visual observation of the Work Area to verify the absence of asbestos-containing waste materials.
- i. If the Work is not approved, the Project Monitor will inform Contractor who will then HEPA-vacuum the Work Area. The Project Monitor will then perform a subsequent visual observation. This process will continue until the Project Monitor accepts the Work Area as clean.
- j. If results of air sampling performed during abatement activities indicate airborne fiber concentrations of less than 0.01 fibers per cubic centimeter, or the background level, whichever is greater, final clearance air sampling is not required. The abatement action may be considered complete.
- k. Isolation Barrier Removal
 - (1) Upon receipt of acceptable observation results, polyethylene sheeting and barrier tape shall be removed and disposed accordingly as ACM.
 - (2) The area surrounding the abatement work place shall be cleaned of any visible debris utilizing HEPA vacuum and wet methods.
- l. The Project Monitor will conduct final visual. Approval must be granted prior to break down of decontamination facility and contractor demobilization. Other Information: Extra time required to clean Work Areas in order to achieve clearance criteria shall not be considered grounds for an extension of time for contract completion.

E. Removal of ACM Vinyl Asbestos Floor Tiles (VAT) and other Asbestos Containing Materials by Full containment Procedures without Plastic on the Floor utilizing NYC DEP Variance Attachment VA shall be as follows:

1. Preparation of the Work Area:
 - a. Request that the Third-Party Air Monitor Firm perform area monitoring and establish a background count prior to the preparatory operations for each removal area.
 - b. Provide and install decontamination enclosure systems in accordance with PART 3 - EXECUTION, Sections 3.01 and 3.02 of these Specifications and the NYCDEP Variance.
 - c. Shut down, isolate, and lock out or tag heating, ventilating, and air conditioning (HVAC) systems which serve or which pass through the Work Area. Vents within the Work Area and seams in HVAC components shall be sealed with tape and two layers of polyethylene sheeting. Filters in HVAC systems shall be removed and treated as asbestos contaminated waste.
 - d. Shut down, disconnect, and lock out or tag all electric power to the Work Area so that there is no possibility of its reactivation until after clearance testing of the Work Area.
 - e. Seal floor drains, sumps and other collection devices with two layers of 6-mil fire retardant plastic and fire rated plywood, as necessary, and provide a system to collect all water used by the Contractor. Collected water shall be passed through a water filtration system prior to being discharged into the sanitary sewer.
 - f. The foam or viscous liquid shall be non-toxic, shall not require special respiratory protection for handling, and shall not affect the handling and disposal of the waste.
 - g. The foam or viscous liquid shall coat and maintain a stable blanket (minimum 1" thickness) for the duration of the removal process and shall leave an identifiable colored residue when it dissipates. The acceptable foam or viscous liquid shall be maintained for the duration of the removal until the material is bagged.
 - h. The foam or viscous liquid shall coat and wet the ACM. The ACM shall be kept wet through the bagging process.
 - i. Baseboards and wall surfaces up to a minimum height of four feet above the floor shall be covered with a layer of fire retardant 6-mil plastic sheeting. If hand power tools are used during the abatement, wall surfaces shall be covered with a layer of fire retardant 6-mil polyethylene sheeting to a minimum height of six feet.
 - j. Negative air pressure ventilation shall be provided to allow make-up air into the work area, and the air outlet from the work area shall be at or near the floor level.
 - k. Separate by means of airtight barriers (isolation barriers) parts of the building that are not included in the Work Area(s) from parts of the building that will undergo asbestos abatement.

- l. Seal with isolation barriers: open doorways, cased openings, and corridors that will not be used for passage during work.
- m. Isolation barriers shall extend from the floor to the ceiling and form an airtight seal. They shall be built using 2-inch by 4-inch wood or metal framing placed 16 inch on center and shall be braced as necessary. Cover the work sides of the studding with two layers of 6-mil reinforced, fire retardant polyethylene sheeting. Do not cover wall surfaces or track boxes that will be affected by abatement activities. Install barriers to form a leak tight seal between the Work Area and adjacent areas. Install isolation barriers in a manner to endure "negative air pressure" within the Work Area.
- n. Completely seal airtight and isolate the Work Area. All openings, including but not limited to doorways, tunnels, ducts, grilles, cracks, diffusers, openings through which pipe conduit passes, and any other penetrations of the Work Area, shall be covered with polyethylene sheeting taped or caulked airtight.
- o. Maintain emergency and fire exits from the Work Areas or establish alternative exits satisfactory to the local fire officials. Emergency exits and routes shall be established and clearly marked with fluorescent paint or other effective designations to permit easy location from anywhere within the Work Area. Emergency exits shall be secured to prevent access from uncontaminated areas and yet permit emergency exiting. Exits shall be checked daily against exterior blockage or impediments to exiting.
- p. Temporary lighting within the Work Area and decontamination system shall be provided as required to achieve minimum illumination levels.
- q. After isolating the area install and initiate operation of air filtration devices (AFDs) to provide a negative pressure of at least -0.02 inches of water and six air changes per hour within the Work Area relative to surrounding non-Work Areas. In areas where negative air units cannot be exhausted to the exterior of the station, units shall be installed in series. When installing units in series, the exhaust from an AFD shall be exhausted into the intake of a second AFD of equal or greater capacity. The exhaust from the second unit shall be directed to the exterior of the Work Area in an area that is not accessible to the public. Both units shall be located inside the Work Area. Exhaust and connect AFD using spiral-reinforced tubing manufactured for this purpose. Do not shut down AFDs until the Work Area is released to the City following final clearance procedures.
- r. Hand power tools used to drill, cut into, or otherwise disturb ACM shall be manufacturer-equipped with HEPA filtered local exhaust ventilation.
- s. Scaffolds shall be provided for workers engaged in work that cannot safely be performed from the ground or other solid Work Area surface.
- t. Work Area Pre-cleaning Procedures: After establishing the decontamination enclosure systems, prepare and pre-clean the Work Area as specified below:

- (1) Movable and loose items not removed by the City shall be cleaned using HEPA vacuum equipment and/or wet cleaning methods as appropriate and shall be removed from the Work Area and stored at the City's direction.
 - (2) Movable and loose items contaminated with asbestos shall be removed from the Work Areas and properly discarded as asbestos-asbestos contaminated waste.
 - (3) Fixed objects within the Work Area shall be pre-cleaned using HEPA-vacuum equipment and/or wet cleaning methods as appropriate. Joints of covers or casings shall be sealed with tape and fixed objects enclosed with a minimum of two layers of 6-mil fire retardant polyethylene sheeting sealed airtight with tape. Fixed objects shall include, but not be limited to, light fixtures, junction boxes, hangers and black carrying channels.
 - (4) Prior to being plasticized, the Work Areas shall be cleaned using HEPA-vacuum equipment and/or wet cleaning methods as appropriate. Methods that raise dust, such as dry sweeping or vacuuming with equipment not equipped with HEPA-filters, shall not be used.
- u. Plasticize the area after pre-cleaning, using the following procedure:
- (1) Cover walls with one layer of 6-mil fire retardant polyethylene sheeting, and seal to floor.
 - (2) Cover walls with a second layer of 6-mil fire retardant polyethylene sheeting, overlapping first wall layer a minimum of 12 inches, and seal to floor.
- v. Pre-Removal Inspections
- (1) Prior to removal of any ACM, the Contractor shall notify the Project Monitor and request a pre-removal inspection. Posting of warning signs, building of decontamination enclosure systems, and all other preparatory steps have been taken prior to notification of the Project Monitor.
 - (2) Contractor shall correct any deficiencies observed by Project Monitor at no additional cost to City.
 - (3) Following the Project Monitor's approval of the Work Area preparations, removal of ACM may commence.
2. Removal of ACM Within Full Containment:
- a. Mist material with amended water. Allow sufficient time for the amended water to penetrate the material to be removed.
 - b. Remove the material using hand tools such as scrapers or putty knives. Wire-mesh or wood lathe reinforcing, when present, shall be cut into manageable pieces and disposed of as ACM.
 - c. Remove any residual material from the substrate using wet cleaning methods and nylon-bristled hand brushes.

- d. Place the removal material immediately into a properly labeled 6-mil fire retardant polyethylene bag. All material shall be properly containerized and decontaminated prior to removal from the Work Area.
 - e. Following the completion of removal of insulation, all visible residue shall be removed from the substrate
3. Following Removal of ACM utilizing Full Containment Procedures:
- a. First Cleaning:
 - (1) Clean-up procedures shall involve removal and bagging of the ACM, of visible accumulations of asbestos containing waste, and of all traces of foam or similar viscous liquid. Following the removal of all debris, the work area shall be thoroughly wet cleaned and HEPA vacuumed.
 - (2) Upon request of the Contractor, the Project Monitor will perform a visual inspection. Evidence of asbestos contamination identified during the inspection will necessitate further cleaning as heretofore specified.
 - (3) Remove first layer of plastic sheathing inside the Work Area. The isolation barriers and decontamination facility shall remain in place and be utilized.
 - b. Second Cleaning:
 - (1) After the first cleaning, the Work Area shall be vacated for twelve hours to allow fibers to settle.
 - (2) All objects and surfaces in the Work Area shall be HEPA - vacuumed and wet cleaned for a second cleaning.
 - (3) A thin coat of lockdown encapsulant shall be applied to all plastic covered surfaces in the Work Area.
 - (4) When the encapsulant is dry, second layer of polyethylene sheeting on the walls and ceiling shall be removed. Do not remove seals from doors, windows, Isolation Barriers or disconnect the negative pressure equipment.
 - c. Third Cleaning:
 - (1) A minimum of four hours after the second cleaning, all the surfaces in the Work Area shall be HEPA-vacuumed and wet cleaned for a third cleaning.
 - (2) Upon the request of the Contractor, the Project Monitor and the Asbestos Project Supervisor for observing whether cleaned areas are free of dust, dirt, and debris will do final visual inspection for re-occupancy. Evidence of asbestos contamination identified during the inspection will necessitate further cleaning as heretofore specified.
 - (3) When the Work Area passes the Project Monitor's visual re-

occupancy inspection, air sampling shall not begin until at least one hour after the completion of the third cleaning. The Third-Party Air Monitoring Firm shall perform air monitoring using aggressive testing techniques. The Project Monitor will approve re-occupancy if the specified fiber count in the Work Area is achieved according to the Third-Party Air Monitor Firm's laboratory.

- (4) When the Work Area passes the re-occupancy test, all controls and seals established shall be removed.

d. Final Barrier Removal

- (1) The work area shall be allowed to dry completely before the visual inspection is conducted. The project monitor and asbestos handler supervisor shall confirm the absence in the work area of ACM, asbestos-containing waste or debris, and foam or other viscous liquid.
- (2) Upon successful visual inspection and acceptable clearance testing results, plastic sheeting shall be removed from baseboards and wall surfaces. Isolation barriers shall remain in place.
- (3) The area surrounding the abatement work place shall be cleaned of any visible debris utilizing HEPA vacuum and wet methods.

- e. The Project Monitor will conduct a final visual observation. Approval must be granted prior to break down of decontamination facility and contractor demobilization.

F. Removal of ACM from Vertical Exterior Surfaces shall be performed in accordance with RCNY Chapter 1 Title 15§ 1-109 and the procedures below:

1. Preparation procedures:

- a. This procedure shall apply to the abatement of asbestos-containing materials from vertical exterior surfaces of a building or structure.
- b. The entire surface to be abated and ground-level perimeter shall be considered the work area unless partitions and warning tape are used to define the work area.
- c. A restricted area shall be established using warning tape extending at least 25 feet from the affected areas of the building or to the nearest vertical obstruction or the curb.
- d. The restricted area may be entered only by certified workers or authorized visitors.
- e. Before plasticizing, the restricted area shall be inspected for ACM debris and, if necessary, pre-cleaned using HEPA vacuums and wet methods.
- f. All openings to the building or structure's interior which are within 25 feet of the affected ACM shall be closed and sealed.
- g. Scaffolding erected to access the ACM shall be constructed, maintained, and used in accordance with applicable federal, state, and city laws.

- h. Horizontal surfaces beneath the affected ACM shall be covered with two layers of fire-retardant 6-mil plastic to a width of six feet.
- i. Elevated platforms being used to access the affected ACM shall be plasticized with two layers of fire-retardant 6-mil plastic, which shall extend up from the platform to at least the height of the mid-rail on three sides, and shall be attached directly to the building just below the surfaces under abatement.
- j. The ground-level restricted area shall be cleared of all moveable objects and plasticized with two sheets of fire-retardant 6-mil plastic, which shall be extended one foot up the side of the building. The plasticized area shall be ten feet wide for every floor up to a maximum width of thirty feet, or to the curb. This plastic shall be cleaned, replaced, and disposed of as asbestos waste at the end of each shift.
- k. Sidewalk bridges in the restricted area shall be covered with two layers of fire retardant 6-mil plastic, placed over and secured to the bridge, spread across the full width, draped over the side to ground level, and extended to a width of at least thirty feet.
- l. Establish a remote decontamination unit in accordance with Section 3.01 within the restricted area.
- m. Construct all elevated work platforms a minimum of one foot below the surface to be abated.
- n. Pre-Removal Inspections
 - (1) Prior to removal of any ACM, the Contractor shall notify the Project Monitor and request a pre-removal inspection. Posting of warning signs, building of decontamination enclosure systems, and all other preparatory steps have been taken prior to notification of the Project Monitor.
 - (2) Contractor shall correct any deficiencies observed by Third-Party Air Monitor at no additional cost to City.
 - (3) Following the Project Monitor's approval of the Work Area preparations, removal of ACM may commence.

2. Removal of ACM Materials:

- a. Mist material with amended water. Allow sufficient time for the amended water to penetrate the material to be removed.
- b. Remove the caulk using hand tools such as knives or scrapers.
- c. Exercise caution when removing caulking material to prevent damage to windows or skylight openings.
- d. Remove any residual asbestos-containing caulking material from the substrate using wet cleaning methods and nylon-bristled hand brushes. The use of metal bristled brushes is prohibited.
- e. Place the removed material immediately into a properly labeled 6-mil polyethylene bag. All material shall be properly containerized and

decontaminated prior to removal from the Work Area.

- f. Following the completion of removal of caulking, all visible residues shall be removed from the substrate.
- g. Air sampling shall be conducted in compliance with NYC DEP Title 15 Chapter 1, §1-41 Air Sampling Schedule. This sampling shall be performed by the Third Party Air Monitoring Firm.

3. Following Removal of ACM :

- a. The stripped substrate shall be HEPA vacuumed and wet-wiped.
- b. A visual clearance inspection shall be conducted by the asbestos handler supervisor and project monitor after the work area dries, to ensure the absence of ACM residue or debris in the work area.
- c. After the inspection is completed, the warning tapes and barriers may be removed.
- d. The clearance inspection shall be documented in the log and the project air sampling log.
- e. Air monitoring shall be conducted in accordance with relevant provisions.
- f. Contractor shall request and pass a visual inspection performed by the consultant before proceeding to the next step. Documentation of passing this inspection shall be recorded in a daily logbook.
- g. The Third-Party Air Monitor will conduct a visual observation of the Work Area to verify the absence of asbestos-containing waste materials.
- h. If the Work is accepted by the Third-Party Air Monitor based on the inspection, Contractor shall be notified. Conduct the following activities in accordance with the contract and all applicable laws, codes, rules and regulations.
 - (1) All waste shall be removed from the Work Area and holding areas.
 - (2) All tools and equipment are to be removed and decontaminated in the decontamination enclosure system.
- i. If the Work is not approved, the Third-Party Air Monitor will inform Contractor who will then HEPA-vacuum and/or wet-clean the Work Area. The Third-Party Air Monitor will then perform a subsequent visual observation. This process will continue until the Third-Party Air Monitor accepts the Work Area as clean.
- j. Final Barrier Removal
 - (1) Upon receipt of acceptable observation results, polyethylene sheeting and barrier tape shall be removed and disposed accordingly as ACM.
 - (2) The area surrounding the abatement work place shall be cleaned of any visible debris utilizing HEPA vacuum and wet methods.

- (3) The Third-Party Air Monitor will conduct final visual. Approval must be granted prior to break down of decontamination facility and contractor demobilization. Other Information: Extra time required to clean Work Areas in order to achieve clearance criteria shall not be considered grounds for an extension of time for contract completion.

G. Removal of ACM Roofing and Flashing Materials shall be performed in accordance with NYC DEP § 1-107 Foam Procedure for Roof Removal and the procedures listed below:

1. Preparation procedures:

- a. These procedures apply only to the removal of asbestos-containing roofing material (ACRM) from exterior roof surfaces. The work area on the roof shall be cordoned off with clearly visible barriers such as caution tape, and only authorized persons shall have access.
- b. The foam or viscous liquid shall be non-toxic, shall not require special respiratory protection for handling, and shall not affect the handling and disposal of the waste.
- c. The foam or viscous liquid shall coat and maintain a stable blanket (minimum 1" thickness) for the duration of the removal process and shall leave an identifiable colored residue when it dissipates.
- d. The foam or viscous liquid shall wet the ACRM. The ACRM shall be kept wet through the bagging process.
- e. Persons entering the work area shall wear correctly-fitting, good traction rubber boots.
- f. Abatement shall not be carried out during adverse weather conditions (e.g. precipitation, high winds, ambient temperature below 32 degrees Fahrenheit, etc.).
- g. The worker decontamination unit may be attached to each work area at an entry/exit from each work area, or may be remote, in which case it shall be equipped with an airlock at the entrance. In addition to the shower head(s), the shower room shall be equipped with a flexible hose for waste decontamination for removal of less than 1,000 square feet of ACRM. For 1,000 square feet or more of ACRM removal, a separate waste decontamination facility shall be located at an entry/exit from each work area. Remote holding areas for the asbestos containing waste shall comply with Title 16, Chapter 8, Rules of the City of New York (16 RCNY 8 et seq.)
- h. Movable objects shall be removed from the work area, or kept in place and wrapped in one sheet of fire retardant 6 mil plastic sheeting.
- i. Provisions shall be made to ensure a safe and adequate air supply to affected building(s). All vents, skylights, air intakes, windows and doors opening onto the roof, and all other openings shall be sealed with 2 layers of fire retardant 6 mil plastic or fitting with HEPA filters when appropriate. Temporary extensions may be installed to a height of 10 feet to ensure adequate air exchange instead of sealing vents, air intakes, etc., with 2 layers of plastic or HEPA filters. Drains may be equipped with 5 micron filtering system in lieu of being sealed.
- j. Fixed objects including perimeter walls, bulkheads, cooling towers, ducts

and other rooftop appurtenances shall be covered in one sheet of fire retardant 6 mil plastic up to a height of at least six feet.

- k. THE CONTRACTOR SHALL BE RESPONSIBLE FOR PROTECTION OF THE INTERIOR SPACES BENEATH THE ROOF.
- l. All office equipment and furniture, including but not limited to desks, chairs, computers, printers, cabinets, etc., carpeted and wooden floors shall be covered with one layer of 6- mil plastic sheeting.
- m. THE CONTRACTOR SHALL BE RESPONSIBLE FOR ANY DAMAGE THAT MAY OCCUR IN THE INTERIOR SPACES, INCLUDING BUT NOT LIMITED TO OFFICE EQUIPMENT, FURNITURE, FLOORS, ETC., BENEATH THE ROOF DURING ALL PHASES OF THE ROOF ABATEMENT.
- n. The Contractor shall provide temporary roof protection consisting of 10-mil polyethylene sheeting following abatement over the open roof areas. Strict coordination with the General Contractor, Construction Project Manager and/or Architect is required and necessary during this phase of abatement.
- o. Preliminary examination shall be conducted and precautions shall be taken to prevent damage to the interior of the building, including but not limited to office equipment, furniture, carpeted and wooden floors, etc., and to ensure no adverse effect on the structural stability of the roof due to the abatement activity.
- p. Abatement activities shall not be carried out during adverse weather conditions (e.g., precipitation, heavy winds, etc.).
- q. The floor area between the remote decontamination facility and the Work Area must be protected with 2 layers of 6-mil. fire retardant polyethylene sheeting suitably anchored.
- r. Provisions shall be made to ensure a safe and adequate air supply to affected building(s). All vents, skylights, air intakes, windows and doors opening onto the roof, and all other openings are to be sealed with two layers of 6-mil plastic or fitted with HEPA-filters where appropriate. In lieu of sealing vents, air intakes, etc., with two layers of plastic or HEPA-filters, temporary extensions may be installed to a height of 10 feet to ensure adequate air exchange. Drains may be equipped with 5 micron filtering systems in lieu of being sealed.
- s. Pre-Removal Inspections:
 - (1) Prior to removal of any ACM, the Contractor shall notify the Third-Party Air Monitor and request a pre-removal inspection. Posting of warning signs, building of decontamination enclosure systems, and all other preparatory steps have been taken prior to notification of the Third-Party Air Monitor.
 - (2) Contractor shall correct any deficiencies observed by Third-Party Air Monitor at no additional cost to City.
 - (3) Following the Third-Party Air Monitor's approval of the Work Area preparations, removal of ACM may commence.

2. Removal of ACM Roofing and Flashing Materials:

- a. The Contractor shall be responsible for the removal of all roofing components, including multiple layers of built-up membrane, tar, vapor barrier and/or flashing down to the substrate/deck.
- b. Prior to actual removal, the built-up roofing shall be blanketed and wetted with a minimum 1" coating of the acceptable foam or viscous liquid which shall be maintained for the duration of the removal until the material is bagged. The foam or viscous liquid shall be confined to the work area.
- c. Hand-held power tools used to drill, cut into, or otherwise disturb the ACRM shall be equipped with the HEPA-filtered local exhaust ventilation and operated to prevent potential fiber release.
- d. Abatement shall not be performed in adverse weather conditions (e.g., precipitation, heavy winds, etc.) Contractor shall protect all exposed roof during adverse weather conditions.
- e. Portable HEPA-vacuum machines shall be available during abatement.

After the ACM removal and bagging, the bagged waste shall be HEPA-vacuumed, and then wet-cleaned and transferred into the shower room for double bagging. The double-bagged waste shall be transferred outside the clean room for its final transfer for storage in an enclosed waste container.

3. Following Removal of ACM Roofing and/or Flashing:

- a. Upon completion of the abatement in roof work area, clean-up procedures shall involve removal and bagging of:
 - b. The asbestos containing roofing material (ACRM)
 - c. Visible accumulations of asbestos containing waste
 - d. All excess foam or similar viscous liquid
 - e. All debris, and shall be followed by a thorough wet cleaning.
 - f. All tools shall be wet cleaned and HEPA-vacuumed, and then removed from the work area upon completion.
- g. Following the removal of all debris, the work area shall be thoroughly wet cleaned. The work area shall be allowed to dry completely before the visual inspection is conducted. The inspection shall confirm the absence in the work area of:
 - (1) ACM, debris, bagged ACM waste,
 - (2) Excess foam or other viscous liquid.
- h. If the work area fails visual inspection, it shall undergo another wet cleaning and/or HEPA vacuuming until it passes the visual inspection.
- i. When the visual inspection and clearance testing is successful, all plastic may be removed.
- j. Air monitoring shall be conducted in accordance with the relevant

provisions of Air sampling shall be conducted in compliance with NYC DEP Title 15 Chapter 1, §1-41 Air Sampling Schedule.

4.02 MAINTENANCE OF CONTAINED WORK AREA AND DECONTAMINATION ENCLOSURE SYSTEMS

- A. Ensure that barriers are installed in a manner to appropriate to the expected weather conditions expected during the project and for its duration. Repair damaged barriers and remedy defects immediately upon their discovery. Visually inspect barriers at the beginning and end of each work period.
- B. Visually inspect non-Work Areas and the decontamination enclosure system for water leakage. Check the floor below, ceiling and walls, and view beneath/or around the decontamination enclosure system, for signs of leakage. Perform the visual inspection a minimum of two times for each 8-hour work shift.

PART 5 – ASBESTOS WASTE MANAGEMENT

5.01 ACM WASTE REQUIREMENTS

- A. The Contractor and all sub-Contractor are specifically alerted to the illegal practice of combining asbestos-containing waste (ACW) from one project with the ACW of other projects without using the services of a permitted waste transfer station as defined by 6 NYCRR Part 360 and 364. As part of the shop drawing submittals, the Contractor must submit for approval the proposed method of transportation and disposal that will be utilized to manage the ACW of this Contract. If a permitted transfer station is to be used, the cost shall be included in the Bid price. The Contractor must submit a waste manifest consistent with whatever approved method is utilized as part of the invoicing and payment procedures.
- B. The Contractor shall maintain compliance with the strictest set of regulations of Title 15, Chapter 1 of RCNY, NYC LL 70/85, NYS DOL ICR 56, USEPA, Asbestos Regulation 40 CFR Section 61.152, 29 CFR 1926.1101, 29 CFR 1910.1200 (F) of OSHA's Hazard Communication Standards, and other applicable standards.

NOTE: Any penalties incurred for failure to comply with any of the above regulations will be the sole responsibility for fines imposed due to negligence of the Contractor.

- C. When presenting ACW for storage at the generation site, the Contractor shall:
 - 1. Wet down ACW in a manner sufficient to prevent all visible emissions of dust into the air.
 - 2. Seal material in a leak tight container while wet.
 - 3. Keep ACW separate from any other waste.
- D. When presenting ACW for storage away from the site of generation, the Contractor shall:
 - 1. Ensure that ACW has been properly packaged as per requirements above.
 - 2. Examine the containers of ACW to ensure that there are no breaks in the containers and that no visible dust is being released into the air.
 - 3. If examination reveals damage to a container of ACW the Contractor or person accepting the waste shall immediately wet down the ACW and repackage it into a clean leak tight container. The subsequent repackaging shall be the financial responsibility of the Contractor and occur at no extra cost to the City.

4. Keep ACW separate from any other waste.

E. When storing ACW – The Contractor shall:

1. Ensure that the ACW has been sufficiently wetted down in tight container.
2. Re-wet and repackage any damaged containers.
3. Maintain at storage site an adequate supply of spare leak tight containers.
4. Maintain at storage site an adequate supply of amended water.
5. Keep ACW separate from any other waste.
6. Keep ACW in a secured, enclosed, and locked container.
7. If the Contractor has intention of sorting a quantity of ACW greater than or equal to 50 cubic yards, the Contractor shall: Submit a written request and receive written approval from the City.

F. When presenting for transport, the Contractor shall:

1. Ensure that ACW has been sufficiently wetted down.
2. Examine the integrity of the container's airtight seal.
3. Re-wet and repackage any damaged containers.
4. Keep ACW separate from all other waste.
5. Ensure that a person transporting asbestos waste holds a valid permit issued pursuant to law.
6. Frequency of Waste Removal: Properly packaged and labeled asbestos waste shall be removed from the site on a daily basis. Under no circumstance shall asbestos waste be stored on site without written approval from the City. The Waste Hauler and landfill shall be as indicated on the notifications to regulatory agencies.

G. Waste Load-out Through Equipment Decontamination Enclosure (Full Decontamination Facility): Place asbestos waste in disposal bags. Large items not able to fit into disposal bags shall be wrapped in one layer of 6-mil thick polyethylene sheeting. Clean outer covering of asbestos waste package by wet cleaning and/or HEPA-vacuuming in a designated part of the Work Area. Move wrapped asbestos waste to the equipment washroom, wet clean each bag or object and place it inside a second disposal bag, or a second layer of 6-mil polyethylene sheeting, as the item's physical characteristics demand. Air volume shall be minimized, and the bags or sheeting shall be sealed airtight with tape.

1. The clean containerized items shall be moved to the equipment decontamination enclosure holding area pending load-out to storage or disposal facilities.
2. Workers who have entered the equipment decontamination enclosure system from the uncontaminated non-Work Area shall perform load-out of containers from the decontamination enclosure holding area. Dress workers moving asbestos waste to storage or disposal facilities in clean overalls of a color different than from that of coveralls used in the Work Area. Ensure that workers do not enter from uncontaminated areas into the equipment washroom or the Work Area. Ensure that contaminated

workers do not exit the Work Area through the equipment decontamination enclosure system.

3. Thoroughly clean the equipment decontamination enclosure system immediately upon completion of the waste load-out activities, and at the completion of each work shift.
 4. Labeled ACM waste containers or bags shall not be used for non-ACM debris or trash. Any materials placed in labeled containers or bags, including those turned "inside-out", shall be handled and disposed of as ACM waste.
- H. All asbestos materials, wastes, shower water, polyethylene, disposable equipment and supplies shall be disposed of as contaminated waste, in accordance with the EPA regulation (40 CFR, Section 61.150) and those requirements of the New York Department of Environmental Conservation and New York City Department of Sanitation.
- I. All asbestos materials shall be prepared for transportation in accordance with this specification and all applicable Federal, State, County and City Regulations. Contractor shall submit the following documentation:
1. Where applicable, an EPA Generator's identification numbers which has been obtained from the EPA for all asbestos waste generated from the project.
 2. Applicable State Waste Hauler license and registration numbers.
 3. Federal Hazardous Materials Waste Hauler number.
 4. Designated landfill EPA Permit numbers.
- J. Prior to loading asbestos waste the enclosed cargo areas (dumpster) shall be prepared as follows:
1. Clean via HEPA-vacuum and wet wipe techniques the enclosed cargo areas of all visible debris prior to preparing with polyethylene.
 2. Line the cargo area with two layers of 6-mil polyethylene sheeting to prevent contamination from damaged or leaking containers. Floor sheeting shall be installed first and extend up the walls a minimum of 24-inches. Wall sheeting shall be overlapped and taped securely into place.
- K. Asbestos-containing waste shall be placed on level surfaces in the cargo area of the dumpster and shall be packed tightly to prevent any shifting or tipping of the waste during transportation.
- L. Asbestos-containing waste shall not be thrown into or dropped from the dumpster. All material shall be handled carefully to prevent rupture of the containers.
- M. All personnel engaged in handling and loading of contaminated waste outside of the Work Area shall wear protective clothing. The disposable clothing shall include head, body and foot protection and color of clothing shall be different from abatement personnel in the Work Area. Minimum respiratory protection shall be half face, dual cartridge, air purifying respirators with P100-filters.
- N. Contractor shall immediately clean debris or residue observed on containers or surfaces outside of the Work Area. Cleaning shall be via HEPA equipped wet/dry vacuums only.
- O. All asbestos-containing waste shall be transported from the abatement site to the landfill by a registered Waste Hauler. When transporting ACW:

1. Ensure that the ACW has been sufficiently wetted down in a leak tight container.
 2. Re-wet and repackage any damaged containers.
 3. Maintain at storage site an adequate supply of spare leak tight containers.
 4. Maintain at storage site an adequate supply of amended water.
 5. Keep ACW separate from any other waste.
- P. Keep ACW in a secured, enclosed, and locked container.
- Q. Waste transport documents shall conform to the requirements of the U.S. Department of Transportation, Hazardous Materials Transportation Regulation, 49 CFR Part 173 and EPA 40 CFR 61.150 (d)(1)(2). Shipping documents shall be clearly marked with the required designation "RQ Asbestos". Contractor shall provide a copy of this document to the City.
- R. A uniform hazardous waste manifest shall be prepared by the Contractor and signed by the Contractor each time the Contractor ships a dumpster load of Asbestos-Containing Waste Material. The uniform hazardous waste manifest shall include the site of waste generation, the names and addresses of the Transporter, the Contractor, and the landfill operator with information on the type and number of asbestos-waste containers, time and date. Contractor shall provide the consultant with signed copies of the waste manifest before each departure.
- S. Contractor or his registered hazardous Waste Hauler shall transport asbestos-containing waste material from the abatement site directly to the specified disposal site. Contractor or their Waste Hauler shall not accept material from any other site when transporting asbestos-containing waste material from the abatement site. The consultant reserves the right to travel with Contractor's Waste Hauler to the waste disposal site. No intermediate storage of waste material (i.e., Contractor's warehouse) shall be permitted.
- T. Final or progress application for payments will not be processed unless all hazardous waste manifests generated to date have been received and reviewed by the Construction Project Manager.
- U. All asbestos materials, wastes, shower water, polyethylene disposable equipment and supplies shall be disposed of as contaminated waste, in accordance with the EPA regulation (40 CFR, Section 61.150) and those requirements of the New York State Department of Environmental Conservation and the New York City Department of Sanitation.
- V. Contractor shall transport all sealed drums to a landfill disposal site approved by the NYSDEC and the EPA. Transportation shall be performed by a New York State registered Waste Hauler, where required. When presenting the ACW for disposal the Contractor or sub-Contractor shall:
1. Ensure that waste container is properly labeled according to the National Emission Standard for Hazardous Air Pollutants (NESHAP); Asbestos Revision, 40 CFR, Part 61, Subpart M. The labels shall include the name of the waste generator and the location where the waste was generated.
 2. Comply with all applicable orders issued pursuant to asbestos disposal.
 3. Ensure that ACW has been sufficiently wetted down.
 4. Re-wet and repackage any damaged containers.
 5. Keep ACW separate from all other wastes.

- W. Contractor shall notify the waste disposal site, at least 24 hours prior to transportation of contaminated waste to be delivered. Contractor shall determine if a larger notification period is required.
- X. At the site Contractors or Waste Hauler trucks shall approach the dump location as close as possible for unloading asbestos waste. Containers shall be carefully placed in the ground. Do not throw containers from truck.
- Y. Contractor or Waste Hauler shall inspect containers as they are unloaded at the disposal site. Material in damaged containers shall be repacked in empty containers, as necessary.
- Z. Contractor or Waste Hauler shall not remove asbestos-containing waste Material from drums unless required to do so by the disposal site City. Used drums shall be disposed of as asbestos-contaminated waste.
- AA. All personnel engaged in unloading of the containers at the waste site shall wear protective clothing. The disposable clothing shall include head, body and foot protection. Minimum respiratory protection shall be half. face, dual cartridge, air purifying respirators with HEPA-filters. Workers shall remove their protective clothing at the disposal site, place it in labeled disposal bags and leave them with the deposited waste shipment.
- BB. For the compaction operation, the Contractor shall ensure that disposal sites personnel have been provided with personal protective equipment by the disposal operator. If the disposal site City has not provided this protective equipment, the Contractor shall supply protective clothing and respiratory protection for the duration of this operation (PAPR respirators are mandatory).
- CC. If containers are broken or damaged, the Contractor or Waste Hauler shall, using personnel who are properly trained and wearing proper protective equipment, shall repackage the waste in properly labeled containers. Contractor shall then clean the entire truck and its contents using HEPA-vacuums and wet cleaning techniques until no visible residue is observed.
- DD. Following the removal of all containerized waste, the Contractor shall decontaminate the truck cargo area using HEPA-vacuums and/or wet cleaning techniques until no residue is observed. All 6-mil polyethylene sheeting shall be removed and discarded as asbestos-containing waste material along with contaminated cleaning material and protective clothing, in containers at the disposal site.
- EE. The transporter(s) of all asbestos waste shall not back-haul any items on his return from landfill/disposal site.
- FF. All asbestos waste shall be disposed of in an approved Asbestos Landfill site only.
1. NO PERSON UNDER ANY CIRCUMSTANCES SHALL ABANDON ACW The same shall be disposed of only by certified persons in approved landfills.
 2. A manifest form will be signed by the Landfill City documenting receipt and acceptance of the asbestos-containing waste. This manifest will be furnished to the City of New York.
 3. It is the responsibility of the Asbestos Contractor to determine current waste handling, transportation and disposal regulations for the work site and for each waste disposal landfill. The Asbestos Contractor must comply fully with these regulations and all appropriate U.S. Department of Transportation, EPA and other Federal, State and Local entities' regulations and all other current legal requirements.
 4. The Asbestos Contractor shall obtain an agreement from the transporter (s) that the practice of "Back-Hauling" will not be engaged in, with respect to any and all waste loads taken from this site during the work.

5. The Asbestos Contractor will document actual disposal of the waste at the designated landfill by having completed a Disposal Certificate and will provide a copy of the same to the Department of Design and Construction.

PART 6 - INSTALLATION OF NON-ACM INSULATION

6.01 SCOPE OF WORK

- A. The phasing and scheduling of work for this project shall be coordinated with and approved by the Construction Project Manager and Facility Manager whom will make the final determination on all issues under this Contract covered by this section.
- B. Contractor is to provide all labor, materials, equipment, services, testing, appurtenances, permits and agreements necessary to perform the work required for the installation of non-ACM insulation following abatement of ACM.
- C. All insulation shall be installed by a Contractor specializing in the business of performing insulation work.
- D. The following special experience requirements shall be submitted by Contractor, or their subcontractor, performing mechanical insulation along with their bid to ensure that the work in this Contract will be performed by persons knowledgeable, qualified and trained as specified herein.
 1. Contractor or Subcontractor performing the work of this section must have been in the business of performing mechanical insulation work for the past three years. During that three year period, Contractor must have successfully completed in a timely fashion at least five projects similar in scope and type to the required work.
 2. For each project submitted to meet the experience requirement set forth in Item 1 above, Contractor must provide the information set forth below for each project:
 - a. Name of Contractor
 - b. Name and location of the project
 - c. Name, title and telephone number of Owner or Owner's representative who is familiar with the work performed
 - d. Brief description of the work completed
 - e. Indicate whether the work was performed as a prime or subcontractor
 - f. Amount of the contract or subcontract
 - g. Date of completion
- E. The intent of this section is to ensure that the Contractor is responsible for the following:
 1. Inspect the Site prior to submitting an estimate for the required services. Such estimate shall indicate the following: (a) types of services required, (b) estimated quantity for each type of services, and (c) estimated cost of the required services, based on the method of payment set forth in Article 7.
 2. Ensure the abatement activities have been completed and that the Testing Laboratory has performed appropriate testing and the area(s) are ready for re-occupancy.

3. Leak testing of all items requiring re-insulation prior to application of insulative materials. Leaks shall be immediately reported to the Construction Project Manager and Facility Manager.
4. Application of non-ACM materials to all pipes and mechanical items from which ACM was removed.

F. Contractor shall be responsible to provide all scaffolding, platform installation, equipment, tools, transportation and any other equipment required and/or necessary to complete all work described in this section.

6.02 MATERIAL HANDLING

- A. Deliver all materials to the job site in their manufacturer's original container, with the manufacturer's label intact and legible.
1. Maintain packaged materials with seals unbroken and labels intact until time of use.
 2. Store all materials on pallets, away from any damp and/or wet surface. Cover materials in order to prevent damage and/or contamination.
 3. Promptly remove damaged materials and unsuitable items from the job site, and promptly replace with material meeting the specified requirements, at no additional cost to the City.
- B. The Construction Project Manager may reject as non-complying such material and products that do not bear identification satisfactory to the Construction Project Manager as to manufacturer, grade, quality and other pertinent information.

6.03 NON-ACM MATERIALS

A. Pipe Insulation

1. All insulation and accessories for fittings shall have fire and smoke hazard ratings as tested by ASTM E 84, NFPA 255 or UL 723. Flame spread rating must not exceed 25. Fuel contributed must not exceed 50. Smoke developed rating must not exceed 50 (except where noted otherwise). All insulation shall UL listed. Ratings shall be shown on the products or on carton labels or they may be verified by a report from an independent testing laboratory or agency.
2. Pipe insulation shall be fiberglass, molded, one piece insulation with white Kraft, fiberglass reinforced, aluminum foil laminated, All-Service Jacket (ASJ). Pipe insulation shall be capable of continuous service at a pipe temperature of 450 degrees Fahrenheit (°F) without oxidation or burnout of binders or the development of odors or smoke by any constituent of the material. Physical characteristics shall be as follows:

| | |
|----------------------------|----------------------------|
| Minimum Density | 40 lbs./cu. ft. |
| Thermal Conductivity | 0.23 Btu-in/hr.-sq. ft.-°F |
| Jacket vapor permeability | 0.02 perms. |
| Jacket Puncture Resistance | 50 units (bench). |

3. Insulation Thickness

| <u>Service</u> | <u>Pipe Size</u> | <u>Inches</u> |
|----------------------------------|-------------------|---------------|
| L.P. Steam -15 psig and below | 1-inch and under | 1 |
| | 1¼ inch to 4-inch | 1½ |
| | 5-inch and over | 2 |

| <u>Service</u> | <u>Pipe Size</u> | <u>Inches</u> |
|---|--|---------------|
| Steam Condensate; Return and Drip; Pumped Condensate | 2-inch and under 2½-inch to 6-inch 6-inch and over | 1 1½ 2 |
| Hot Water Systems, Supply and Return Raisers, Mains & Branches | 2-inch and under 2½-inch and over | 1 1½ |
| Domestic Cold Water, Risers, Mains & Branches | All | ½ |

4. Insulation of fittings, valves, flanges, and accessories, same thicknesses as adjacent pipe insulation.

B. Heating, Ventilation, and Air Conditioning (HVAC) Insulation

1. All insulation and accessories for fittings shall have fire and smoke hazard rating as tested by ASTM E 84, NFPA 255 or UL 723. Flame spread rating must not exceed 25. Fuel Contributed must not exceed 50. Smoke developed rating must not exceed 50 (except where noted otherwise). All insulation shall be UL listed. Ratings shall be shown on the products or on carton labels or they may be verified by a report from an independent testing laboratory of agency.
2. Insulation Requirements shall be as follows:

| Services | Insulation Thickness | Insulation Material Requirements |
|--|----------------------|---|
| Kitchen exhaust fan and ducts/heating supply fan and ducts | 2-Inch | Asbestos-free Calcium Silicate block insulation |

6.04 INSTALLATION OF NON-ACM INSULATION

A. Preparation

1. Examine all surfaces to which mechanical insulative coverings are to be installed and verify surfaces are in an acceptable condition to receive insulative coverings.
2. Prepare all surfaces to receive insulative coverings in accordance with the manufacturer's recommendations for application. Before applying insulation, all surfaces shall be free of dust, grease and foreign matter.
3. Insulation shall not be applied to any piping, until required pressure testing has been completed and the system approved for tightness.

B. Installation

1. Install all materials in accordance with the manufacturer's recommendations unless more stringently specified herein.
2. All pipe insulation, jackets, facings vapor barriers and finishes shall be continuous and sealed through floor and walls sleeves, hangers, supports and attachments.
3. Insulation adhesives, mastics, coating and accessory materials shall be products of Benjamin Foster Company (BF), Insul-Cooustic Div., Birman Products Corp. (I-C) or approved equivalent.
4. All vapor barriers shall be completely sealed against moisture penetration.
5. Installation of Pipe Insulation:
 - a. Steam Piping
 1. Pipe insulation sections shall be firmly butted together at all joints with jacket laps and joint butt strips pulled tight and smooth. Longitudinal joints, a minimum of 2-inch overlap. Butt joint strips a minimum of 3-inches wide.
 2. Fittings shall be insulated with pre-molded fiberglass fitting covers for the sizes manufactures. For other types and sizes, fittings may be insulated with radially metered segments of pipe covering secured in place with 16-gauge copper plated, annealed steel wire. Molded fitting covers suitable for same service temperature as pipe insulation.
 3. Valves insulated over the bonnet with cut and built-up sections of pipe insulation. Voids and regular spaces between pipe insulation section and valve body filled with fiberglass blanket insulation (suitable for same service temperature as pipe insulation) wired to valve body. Flanges insulated with built-up sleeves of pipe covering overlapping adjacent pipe insulation.
 - b. Hot Service Piping - Concealed
 1. Pipe insulation jacket laps and joints butt strips shall be stapled on 4-inch centers with flare type staples and secured with aluminum bands on 18-inch centers with one band over each joint butt strip.
 2. Voids in fitting, valve and flange insulation shall be filled with insulating cement and the entire fitting finish with a smoothing coat of cement overlapped a minimum of 2 inches on adjacent pipe covering.
 - c. Hot Service Piping – Exposed: Insulation jacket laps and joint butt strips shall be sealed with BF 82-20 (or I-C 225) lap sealing adhesive. Voids in fittings, valve and flange insulation shall be filled with insulating cement and entire fitting smooth coated with cement. Finish with open weave glass fabric membrane lapped 2 inches over adjacent pipe covering and bonded between two flood coats of BF 30-36 (or I-C 102) finish coating.
 - d. Cold Service Piping - Concealed and Exposed: Insulation jacket laps and joint butt strips shall be sealed with BF 85-20 (or I-C 225) lap sealing adhesive. At all fittings, and at 21 foot intervals of straight run pipe insulation, apply BF 30-35 or (I-C-541) vapor barrier, 1/16 inch thick, to all joints and on the bore of the pipe insulation for a minimum of 2 inches from the joint. Position insulation and press

firmly into place making certain that a complete, unbroken seal is obtained.

C. Protection

1. Protect all temperature and pressure gauges, dials and other shock/impact sensitive equipment and appurtenances from damage during the insulation installation.
2. Protection of Insulation
 - a. Insulation on hot pipes shall be protected from hangers, guides and rollers by pipe protection saddles welded to the pipe, and filled with pipe insulation of insulating cement. Saddles shall be welded to the pipe hanger or support.
 - b. Insulation on cold pipes shall be protected from hangers, guides and rollers by a 180-degree galvanized steel shield on the outside of the insulation and vapor barrier. A half-section of waterproof calcium silicate, high-density insulation of the same thickness as the pipe insulation, and full length of the shield, shall be used to support weight of the pipe at the shield. Shields shall be of sufficient length to allow for the maximum pipe movement and hanger load at the specified hanger spacing.

D. Labeling

1. All new insulation must be labeled "ASBESTOS FREE" in clear and visible lettering.
2. All new insulation shall bear labels or stenciling identifying the flow direction, the pipe system, the type of machinery, the location of valve taps, etc.

E. Cleaning: Clean all work areas to a broom clean condition and leave work area with a neat appearance.

6.05 INSTALLATION OF SPRAY-APPLIED FIREPROOFING

A. Description

1. It is the intent of this Section to provide for the installation of new sprayed-on fireproofing wherever existing asbestos-containing fireproofing has been removed.
2. Provide all materials, labor, equipment and services necessary to install spray-applied fireproofing.

B. System Description

1. All appropriate designs for hourly ratings and thickness must be selected from Underwriter's Laboratories, Inc. (UL) Fire Resistance Directory (latest edition). Contractor shall match building's existing ratings (3 hours on Beams).
2. Prior to commencing any re-spray activities, the Contractor shall submit to the Construction Project Manager or Architect for approval a complete product submission of the re-spray fireproofing material with the specific U.L. Design number for this application.

C. Quality Assurance

1. The material shall have been tested by U.L. in accordance with ASTM E-119.
2. The material shall contain no asbestos.

3. Materials shall not crack or delaminate when tested in accordance with ASTM E-759 (The Effect of Deflection on Sprayed Fire Resistive Materials Applied to Structural Members).
4. Material shall have flame spread and smoke development ratings of not greater than "10-0", respectively.
5. The fireproofing subject to impact tests in accordance with ASTM E-760 (The Effect of Impact on Bonding of Sprayed Fire Resistive Materials Applied to Structural Members) shall not crack or delaminate from the surface to which it was applied.
6. The fireproofing material, when tested in accordance with ASTM E736, shall have a minimum Bond Strength of 200 PSF.
7. The fireproofing material shall not be subject to losses from the finished application by sifting, flaking or dusting. Maximum allowable weight loss of the fireproofing material is .025 gms./sq.ft. (.269 gms./sq.m.) when tested in accordance with ASTM E-859-82 (Air Erosion of Sprayed Fire Resistive Materials Applied to Structural Members).
8. The fireproofing shall not deform more than 10% when subjected to 500 lbs./sq. ft. (2441 Kg./sq. m.) compressive forces in accordance with ASTM E761 (Compressive Strength of Sprayed Fire Resistive Materials Applied to Structural Members).
9. The Contractor shall provide independent test reports confirming that materials meet or exceed performance criteria specified herein shall be furnished. The Contractor shall assume all costs for testing. Copies of test results shall be forwarded to the City and the Construction Project Manager or Architect. These reports must be submitted to the City prior to issuance of the final payment.
10. The dry density of the fireproofing shall be determined in accordance with ASTM E-605-77 test method for each performance criterion. The field density measured shall be consistent with that reported in the performance tests.
11. Use adequate numbers of skilled workmen who are thoroughly trained and experienced in the necessary crafts and who are completely familiar with the specified requirements and the methods needed for proper performance of the work of this section.

D. Sample

1. A representative sample of the material to be used shall be installed at the job site. The sample shall be executed by experienced craftsmen and shall comply with installation procedures set forth in the U.L. Fire Resistance Directory (latest edition).
2. The Contractor shall apply sample section to representative substrates on site. Contractor shall confirm the requirements of fire ratings and finish texture.
3. Comply with all design requirements as to thickness, density of application, and fire rating.
4. Examine installation of sample within one hour of application in order to determine variance in the material due to shrinkage, temperature and humidity. Where shrinkage and/or cracking are evident, adjust mixture and methods of application.
5. Prior to the Contractor proceeding with any further re-spray activities, the Construction Project Manager and/or Architect will inspect and approve the sample.

E. Submittals

1. Prior to commencing re-spray activities the Contractor shall submit to the Construction Project Manager or Architect for review 3 copies of the following information:
 - a. Material safety data sheets for all material to be used.
 - b. Manufacturer's instructions for handling and application of spray fireproofing.
 - c. Manufacturer's certification that proposed materials meet or exceed specified requirements.
 2. Provide U.L. Design numbers in accordance with the latest edition of the Underwriter's Laboratories, Inc. (U.L.) Fire Resistance.
 3. Certification stating that fireproofing application has been completed in full accordance with requirements to provide necessary fire resistance ratings.
 4. Contractor shall provide three (3) copies of certified test reports from a reputable testing laboratory in accordance with the ASTM standards as described in paragraph 1.3 - "Quality Assurance" as well as ASTM E84.
- F. Delivery, Storage and Handling: The material shall be delivered to the job site in sealed bags, labeled as to application and manufacturer. Materials shall be stored in a dry place.
- G. Project/Site Conditions: Do not apply spray-on fireproofing when the temperature of the substrate is below (or above) the limitations recommended by the fireproofing manufacturer, and in no case when either the ambient temperature or substrate temperature is below 40 F.
- H. Environmental Requirements
1. All engineering controls in place necessary to achieve final air clearance as part of asbestos abatement activities shall remain in place and operating during all fireproofing re-spray activities. These controls shall include, at a minimum, the following:
 - a. Isolation Barriers: necessary to isolate the work area from adjacent clean areas.
 - b. Air Filtration Devices: exhausted to the outside of the building. A sufficient number of AFD's shall be employed in order to achieve, at a minimum, a negative pressure relative to adjacent spaces of 0.02 inches of water and a minimum of four (4) air changes per hour.
 2. Personal Protective Equipment shall be provided and utilized by all employees within the work area during re-spray fireproofing and associated activities. This protective equipment shall include, at a minimum, the following:
 - a. Dual Cartridge negative pressure, air-purifying respirators with HEPA filters;
 - b. Full Body Protective Clothing shall be worn;
 3. Depending on the material composition of the re-spray fireproofing and the related potential for employee exposures during re-spray activities, more stringent levels of respiratory protection may be necessary. It shall be the responsibility of the Contractor to determine the appropriate levels of respiratory protection as per 29 CFR.1910.134, OSHA Respiratory Protection Standard.
- I. Guarantee: Submit separate written guarantee, signed by the Installer and Contractor, agreeing to repair or replace spray-on fireproofing which has cracked, flaked, dusted excessively, peeled from the substrate, or otherwise failed to fulfill performance requirements, due to defective materials or workmanship within a period of one (1) year from the date of completion of the work.

J. Products

1. Acceptable Manufacturers

- a. The sprayed fireproofing material shall be of a cementitious nature, containing no fibrous, or mineral wool products. Contractor will submit technical information on the fireproofing material WITH HIS PROPOSAL. The products of the following manufacturer will be considered, with submission of technical data:

Retro Guard Replacement Fireproofing as manufactured by the Construction Products Division of W.R. Grace and Co. or approved equal.

- b. Water shall be clean, fresh and free from organic and mineral impurities that would be harmful to the sprayed fireproofing materials.

2. Sealant material prior to fireproofing shall be Foster's HB 32-60 as manufactured by H.B. Fuller; Fiberset - FT as manufactured by Fiberlock Technologies, Inc., SERPIFLEX as manufactured by International Protective Coatings; or approved equal.

K. Execution

1. Inspections: The installer must examine the substrate and the condition under which the fireproofing work is to be performed, and notify the Construction Project Manager and/or Architect in writing of unsatisfactory conditions. Do not proceed with the fireproofing work until unsatisfactory conditions have been corrected in a manner acceptable to the installer.

L. Preparation

1. All surfaces to which the sprayed ceiling will be applied shall be thoroughly free of oil, grease, loose paint, mill scale or any other matter that would impair bond.
2. Contractor shall verify that clips, hangers, supports, sleeves, and other items required to penetrate the fireproofing are in place before application of fireproofing.
3. Contractor shall verify that all ducts, piping equipment, or other items that would interfere with application of fireproofing are not positioned until fireproofing work is completed.

M. Installation/Application

1. Apply lock down agent (sealant) prior to application of fireproofing over all surfaces to receive spray-applied fireproofing. Apply sealant that is compatible to spray-applied fireproofing product to the thickness and according to the methods as recommended by the manufacturer. Mix and apply fireproofing in strict accordance with manufacturer's instructions.
2. Apply fireproofing full thickness over entire substrate. Exercise care to spray material completely into inverted corners, and to build up work to full thickness at projecting corners. Cover substrate in a monolithic blanket of uniform density and texture. Apply fireproofing in sufficient thickness and density and fire ratings as per Local Building Codes.
3. The thickness of the application shall be subject to inspection. Damaged, disturbed portions, or thinner application of finished fireproofing shall be patched at no additional cost to the City.

4. Care shall be taken so that portions of inserts or hangers extending beyond the required thickness of fireproofing material are kept free of material.
5. Provisions shall be made for ventilation to properly dry the fireproofing after applications.

N. Field Quality Control

1. Contractor shall provide for inspections in accordance with the provisions set forth in this Section to verify compliance with all requirements.
2. Contractor shall correct unacceptable work and provide reinspection to verify compliance with all requirements.

O. Cleanup

1. After completion of each day's work, the Contractor shall sweep clean the working area, placing the waste material in suitable bags or containers and remove from the site.
2. Upon completion of the work, remove from the site, all un-used materials, containers, equipment and the like. Clean and repair all floors, walls, and other adjacent surfaces that are stained, marred or otherwise damaged by this work. All work and the adjacent areas shall be left in clean and perfect condition.
3. Protect other surfaces and equipment from being damaged by the application, overspray, fallout, and dusting-off of sprayed-on fireproofing. Remove excess and spillage promptly.
4. Contractor shall remove fireproofing from materials and surfaces not specifically required to be fireproofed.

6.06 ACCEPTANCE

- A. Upon satisfactory completion of all decontamination procedures, the Construction Project Manager will issue a certificate with copies to all parties.
1. A letter of Compliance stating that all the work on the project was performed in accordance with the Specifications and all applicable Federal, State and Local regulations.
 2. All warranties as stated in the Specifications.

PROJECT No. PW335A27

THE CITY OF NEW YORK
DEPARTMENT OF DESIGN AND CONSTRUCTION
DIVISION OF SAFETY AND SITE SUPPORT
30-30 THOMSON AVENUE, LONG ISLAND CITY, NEW YORK 11101-3045
TELEPHONE NUMBER (718) 391-1000

WEBSITE www.nyc.gov/buildnyc

CONTRACT FOR FURNISHING ALL LABOR AND MATERIAL NECESSARY AND REQUIRED FOR:

ASBESTOS ABATEMENT WITHIN THE CITY OF NEW YORK

LOCATED AT *VARIOUS ADDRESSES*
IN ALL BOROUGHS OF
THE CITY OF NEW YORK

Contractor _____

Dated _____, 20 _____

Assigned to _____

Approved as to Form
Certified as to Legal Authority

Acting Corporation Counsel _____

Dated _____, 20 _____

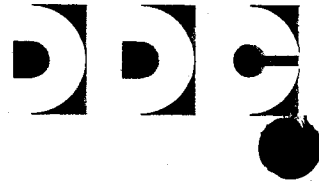
Examined and Found Correct

Contract Clerk
Comptroller

Entered in the Comptroller's Office

Dated _____, 20 _____

First Assistant Bookkeeper _____



PROJECT No. PW335A27

THE CITY OF NEW YORK
DEPARTMENT OF DESIGN AND CONSTRUCTION
DIVISION OF SAFETY AND SITE SUPPORT

30-30 THOMSON AVENUE, LONG ISLAND CITY, NEW YORK 11101-3045
TELEPHONE NUMBER (718) 391-1000

WEBSITE www.nyc.gov/buildnyc

CONTRACT FOR FURNISHING ALL LABOR AND MATERIAL NECESSARY AND REQUIRED FOR:



ASBESTOS ABATEMENT WITHIN THE CITY OF NEW YORK CITY

LOCATED AT *VARIOUS ADDRESSES*
IN ALL BOROUGHES OF
THE CITY OF NEW YORK

Air Tech Lab, Inc.

Contractor

Dated *June 4,* , 20 *14*

Assigned to _____

Approved as to Form
Certified as to Legal Authority

[Handwritten Signature]

Acting Corporation Counsel

Ref 10/22/13

Dated *October 22* , 20 *13*

Examined and Found Correct

Contract Clerk
Comptroller

Entered in the Comptroller's Office

Dated _____ , 20 _____

First Assistant Bookkeeper

