

**MEMORANDUM of AGREEMENT between the
CITY OF NEW YORK
DEPARTMENT OF HEALTH AND MENTAL HYGIENE and the
NEW YORK CITY COMMISSION ON HUMAN RIGHTS**

THIS MEMORANDUM OF AGREEMENT (“Agreement”), made as of March 17, 2016 between the City of New York, acting through the Commission on Human Rights (the “City Client”), located at 100 Gold Street, New York, NY 10038 and the City of New York, acting through the Department of Health and Mental Hygiene (“DOHMH”), located at Gotham Center, 42-09 28th Street, Queens, New York 11101-4132.

WHEREAS, DOHMH has entered, or will enter, into a series of contracts with various contractors for creative development of public education campaigns and/or for the placement of public education campaign materials in and with various media and/or through posting at locations throughout the City of New York; and

WHEREAS, DOHMH is ready, willing and able to assist the City Client in developing and carrying out its public education campaign(s), which impact the health and well-being of New Yorkers; and

WHEREAS, the City Client is in need of the public education campaign services that DOHMH can provide hereunder and is duly authorized to procure same;

NOW THEREFORE, the parties agree as follows:

ARTICLE 1. TERM OF PERFORMANCE

This Agreement shall commence as of July 1st that is the beginning of the fiscal year in which the date first set forth above in this Agreement occurs, and shall terminate upon the earlier to occur of 1) the completion of the performance of the public education campaign described in Annex A to this agreement, or 2) the next June 30th to occur in the City fiscal year in which the commencement date of this Agreement occurs, unless terminated pursuant to the terms of Article 4 herein, entitled “Termination.” This Agreement shall be performed within a single City fiscal year.

ARTICLE 2. CAMPAIGN DEFINITION

- A. This Agreement sets forth the understanding of the parties with respect to the placement of service orders by DOHMH for one or more public education campaign(s) to be developed and placed by DOHMH on behalf of the City Client under its contracts with various contractors that may be in effect at the time of order placement and may be utilized in connection with the City Client’s public education campaign(s).

- B. The educational/advertising campaign (the "Campaign") to be developed and carried out under this Agreement is described in the attached Annex A (the "Campaign Definition"). DOHMH and the City Client will jointly carry out the Campaign described in Annex A, in a manner agreed upon between the parties, in accordance with such Campaign Definition, as it may be amended from time to time by change orders to Annex A. Services to be performed for the benefit of the City Client through DOHMH contracts with one or more of its contractors will be subject to the terms, including pricing, of such underlying contracts and the performance of such DOHMH contractors.
- C. To distinguish between the public educational campaigns that DOHMH assists the City Client to develop and place within a single City fiscal year, the Annex A designation is followed with a number to indicate the number of such public educational campaigns in connection with which DOHMH has entered into an Agreement with the City Client during the fiscal year in which the term of this Agreement occurs. For example, the first contract with the City Client in a certain fiscal year will have an Annex A bearing a number 1 after it, the second a number 2, and so on seriatim, depending on the number of public education campaigns undertaken by the City Client during the applicable City fiscal year, e.g., A-1, A-2, A-3, and so on, and all correspondence between the parties should refer to such number for ease of reference.

ARTICLE 3. PAYMENTS AND RECONCILIATION OF COSTS AND FEES

- A. Upon execution of this Agreement or any change order, the City Client will initiate the Intra-city transfer of funds to DOHMH in the amount not to exceed the maximum reimbursable amount (the "MRA") set forth in the Campaign Budget contained in Annex A to this Agreement. If the parties agree in a writing signed by both parties to increase the MRA, as applicable, the City Client will transfer Intra-city funds in the amount of such MRA, or in the case of a change order, in the amount of the MRA increase, to DOHMH through the City's Fiscal Management System ("FMS"), or any successor financial management system that the City may utilize, into the appropriate DOHMH contract account for the contract with the DOHMH contractor specified in the Addendum (the "Account") as soon as is practicable after presentation of such invoice to the City Client. Such payment of amounts not to exceed the MRA, in their cumulative total, will be made either through an Intra-city transfer of funds from City Client to DOHMH, or through such alternative payment procedure and method as may be acceptable to DOHMH.
- B. With transferred funds provided to DOHMH by the City Client, DOHMH will make payments to the DOHMH contractors specified in the applicable Campaign Definition for services rendered in connection with such Campaign Definition, in total amount not to exceed the MRA set forth in Annex A, and in accord with

DOHMH's agreement(s) with the applicable DOHMH contractor(s) to be utilized in connection with the subject Campaign.

- C. If it appears that the total costs of the Campaign, will, for any reason, exceed the MRA for such Campaign, then DOHMH will, after consultation with the City Client, adjust orders to be placed with the DOHMH contractor(s) to decrease the cost thereof, unless the parties agree in writing to amend Annex A through a change order for the purpose of increasing the MRA, to include additional funds, as required and necessary to complete the services described in Annex A.
- D. Upon the conclusion of each Campaign and DOHMH's receipt of billing therefor from the DOHMH contractor(s), DOHMH will reconcile the costs and will submit a reconciliation report to the City Client, together with copies of the underlying documentation on which DOHMH relied in preparing such reconciliation. If such reconciliation indicates that the MRA included an overpayment to DOHMH, then DOHMH will refund the overage to the City Client, and if the reconciliation indicates that the MRA was not sufficient to pay the costs thereof, the City Client will effect an Intra-City transfer of funds to DOHMH for the difference. The parties will work cooperatively and communicate clearly to minimize all differences between Campaign Budget estimates and the actual costs incurred by DOHMH on the City Client's behalf.

ARTICLE 4. TERMINATION

- A. The parties shall have the right to terminate this Agreement, in whole or in part, upon five (5) days prior written notice to all parties, subject to City Client's payment of all costs that DOHMH incurred prior to the date of termination on behalf of City Client.
- B. In the event that the Federal, State or City reimbursement (if applicable) for any campaign under this Agreement becomes unavailable to the City Client, the Agreement shall be deemed terminated immediately, subject to a notice by City Client to DOHMH, and subject to the payment by the City Client of all costs DOHMH incurred under DOHMH contracts.
- C. After termination of this Agreement, no further obligations may be affirmatively incurred under this Agreement by DOHMH on behalf of City Client. Any obligations incurred by DOHMH on behalf of City Client under the applicable DOHMH contract prior to receipt of notice of termination and falling due after such date shall, however, be chargeable to the Intra-City account established by the parties for purposes of the transfer of funds in connection with this Agreement.

ARTICLE 5. MODIFICATION

This Agreement may be modified upon mutual agreement between the parties set forth in writing and signed on behalf of each of the parties. It may not be modified orally.

ARTICLE 6. RETENTION OF RECORDS

The parties agree to retain copies of all their respective records related to this Agreement for a period of six (6) years after the final payment or termination of the Agreement, whichever is later. Federal, State and City auditors, and any other persons duly authorized by DOHMH or City Client, shall have full access to, and the right to, examine any of the said documents during said six (6) year period.

ARTICLE 7. CONFIDENTIALITY

- A. All information obtained, learned, developed, or filed in connection with this Agreement, including data contained in official City Client and DOHMH files or records, shall be held confidential pursuant to the provisions of all applicable federal, state, and local laws and codes, and shall not be disclosed to any persons, organization, agency, or other entity except as authorized or required by applicable law, rule or regulation promulgated by a governmental authority having jurisdiction.
- B. All of the reports, information or data furnished to, or prepared, assembled, or used under this Agreement are to be held confidential, and the same shall not be made available to any individual or organization without the prior written approval by City Client and/or DOHMH, as appropriate, except as authorized or required by applicable law, rule or regulation promulgated by a governmental authority having jurisdiction.
- C. The provisions of this Article 7 shall remain in full force and effect following termination of, or cessation of, the services required by this Agreement.

ARTICLE 8. ENTIRE AGREEMENT

This Agreement 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 Agreement shall be deemed to exist or to bind any of the parties hereto, or to vary any of the terms contained herein.

ARTICLE 9. NOTICES

All notices and requests hereunder by either party shall be in writing, and except as otherwise specified in the Agreement, directed to the address of the parties as follows:

If to DOHMH:

NYC Department of Health and Mental Hygiene
Office of External Affairs
Gotham Center
42-09 28th Street, Office 8-17, CN-33
Queens, NY 11101

Attention: Zaida I. Guerrero
Director of Contracts and Budget
Office of External Affairs, Communications
347-396-4075
zguererr@health.nyc.gov

If to City Client:

NYC Commission on Human Rights
100 Gold Street, Suite 4600
New York, NY 10038

Attention: Carmen Boon
Director of Communications and Marketing
212-416-0127
cboon@cchr.nyc.gov

*Melissa S. Woods
First Deputy Commissioner/
General Counsel
212-416-0138
mwoods@cchr.nyc.gov*

[NO FURTHER TEXT ON THIS PAGE]

IN WITNESS WHEREOF, the parties have duly executed this Agreement as of the date first written above.

**THE CITY OF NEW YORK
COMMISSION ON HUMAN RIGHTS**

By: Melissa S. Woods

Melissa S. Woods
[Print Name]

First Deputy Commissioner / General Counsel
[Print Title]

Date: 4-15-16

**THE CITY OF NEW YORK
DEPARTMENT OF HEALTH AND MENTAL HYGIENE**

By: Assunta Rozza

Deputy Commissioner for the Division of Finance

Date: 4/1/16

**ANNEX A-2
DOHMH MEMORANDUM OF AGREEMENT
SCOPE OF SERVICES
CAMPAIGN DEFINITION**

NAME OF CITY CLIENT: CITY OF NEW YORK COMMISSION ON HUMAN RIGHTS

APPLICABLE TERM: JULY 1, 2015 – JUNE 30, 2016

DESCRIPTION OF PUBLIC EDUCATION CAMPAIGN:

At the announcement of Mayor de Blasio's March 7 Executive Order on single-sex facility access, the Mayor promised to follow the announcement with a public campaign.

CAMPAIGN BUDGET

PLACEMENT:

Subway:

1000 11x46 Subway Car Cards for 4 weeks: \$49,939.20

60 Urban Panels for 4 weeks: \$36,414.00

Subtotal: \$86,353.20

5% DOHMH Administrative Fee: \$4,317.00

Subtotal: \$90,670.20

NOT TO EXCEED MAXIMUM REIMBURSABLE AMOUNT: \$90,670.20