

THE CITY OF NEW YORK
DEPARTMENT OF DESIGN AND CONSTRUCTION
30-30 THOMSON AVENUE
LONG ISLAND CITY, NEW YORK, NEW YORK 11101
TOWN+GOWN MASTER ACADEMIC CONSORTIUM CONTRACT

FMS NUMBER: _____

**REGISTRATION
NUMBER:** _____

PIN NUMBER: _____

THIS ACADEMIC CONSORTIUM CONTRACT, is made and entered into as of the first (1st) day of July 2013, by and between the City (all capitalized terms used herein shall have the meanings ascribed to them in Article 1 herein), acting by and through the Commissioner of DDC, on behalf of the City Agencies participating in Town+Gown, and each Consultant participating in Town+Gown that is a party to this Consortium Contract.

WITNESSETH:

Whereas, long-standing structural conditions have been associated with historic low levels of research and development in the multi-disciplinary field of the built environment, explaining not only the low levels, but also and more importantly the difficulty of increasing such level;

Whereas, these structural conditions include the complex nature of the social system that is the physical built environment; the fragmented nature of the construction industry; fragmented research efforts, mirroring the industry's fragmentation, produced by traditional discipline-based research methodologies, often leaving research results locked within disciplines; inadequate linkages between research and application; and, low levels of public sponsorship;

Whereas, in response to calls from various distinct groups for enhanced built environment research activity, DDC established Town+Gown (<http://www.nyc.gov/html/ddc/html/design/tg.shtml>) in academic year 2009-2010, a pragmatic, integrated approach to enhance the existing culture of built environment research applied to the physical setting of the City;

Whereas, Town+Gown is a systemic action research program aimed at collectively increasing evidence-based analysis, information transfer and understanding related to the City's physical built environment by marshaling and coordinating various analytical capacities and data sets to create an open source environment for academic-practitioner collaborations to enhance the existing culture of research and institutional knowledge base;

Whereas, the City's physical built environment can serve as a laboratory for the formal disciplines that comprise the built environment field as well as other academic fields with component disciplines that overlap the built environment field;

Whereas, Town+Gown's systemic action research process involves the creation and release of an annual built environment research agenda, disseminated to all participating Gown members near the end of the academic year to facilitate Gown members' use of the research questions in developing their experiential learning programs, class projects, thesis and dissertation subjects and basic applied research programs;

Whereas, Town+Gown supports resulting academic-practitioner collaborations by bridging the academic-practitioner gap on particular research projects and highlighting the importance of practice as a source of knowledge;

Whereas, the Town+Gown systemic action research process also involves the release, each academic year, of an annual journal, entitled *Building Ideas*, abstracting completed projects and summarizing symposia proceedings from the prior academic year, facilitating the action-reflection cycle and producing action in the form of changes in practice and policy and future research questions for the research agenda;

Whereas, working with experiential learning programs, which are important components of professional education programs, has highlighted the limits of these types of arrangements for sustained research with complex data sets and the need to pay academic institutions for the types of skills that reside in programs with more purely research-driven professors and graduate students;

Whereas, supporting Town+Gown's systemic action research program and enhancing the culture of built environment research requires creating a procurement methodology and contract structure that makes it as easy as possible for City Agencies and, to the extent they would like to avail themselves of this Consortium Contract, Public Entities to access academic resources quickly during a single fiscal year, when both the need for research coincides with the availability of expense funds at a City Agency and/or a Public Entity;

Whereas, DDC received an Innovative Procurement Approval to establish this Consortium Contract as a multiple award task order/open-ended requirements contract to be available to all City Agencies pursuant to Sections 3-03(j) and 3-14 of the PPB Rules, as well as Public Entities, in order to support the goals of Town+Gown; and

Whereas, the Innovative Procurement Approval authorizes an open-ended solicitation for one year from the date of registration of this Consortium Contract and, if the PPB codifies the method contained in the Innovative Procurement Approval pursuant to Section 3-12(f) of the Rules, for the remainder of the term of this Consortium Contract, permitting all members of Gown, regardless of when they become members, to participate in this Consortium Contract's first level vendor pool to create a vendor pool as large and as robust as possible so that Task Orders receive the highest level of interest in, and competition among, those responding members of Gown;

NOW, THEREFORE, in consideration of the mutual covenants and conditions herein contained, the parties hereto agree as follows:

ARTICLE 1 Definitions

The capitalized terms appearing in this Consortium Contract shall have the meanings ascribed to them below, unless a different meaning is clear from the context. Defined terms expressed in the singular can include the plural when the context requires.

Since this Consortium Contract authorizes a process under which many Task Orders may be awarded during its term, there are several definitions that may apply to the parties to this Consortium Contract to reflect the nature of the functional roles as described below:

Any combination of a Requesting City Agency and/or Requesting Public Entity becomes a Requestor when it issues a Mini RFP pursuant to Section 3.2 of this Consortium Contract.

The Consultants submit Proposals in Response pursuant to Section 3.3 of this Consortium Contract.

The Requestor evaluates the Proposals in Response, negotiates with the apparent successful Consultant(s), awards the Task Order(s), which reflects any negotiated changes from the Proposal(s) in Response, to such Consultant(s), and registers the Task Order(s) with the Comptroller's Office.

A Requestor becomes a Practitioner Partner from the point of negotiating the terms of,

and awarding, the Task Order.

A Consultant becomes an Academic Partner from the point of negotiating the terms of and award of the Task Order.

“Academic Partner” shall mean the Consultant from the point of negotiating the terms and award of the Task Order.

“Academic Project Coordinator” shall mean the principal investigator(s) designated by the Consultant in the Proposal in Response and the related Task Order to supervise and coordinate the Research Project under the Task Order.

“Academic Team” shall mean the personnel resources the Consultant will assign to the Project, including any Subcontractors, as described in the Task Order, subject to the terms of this Consortium Contract and the applicable Task Order.

“ACCO” shall mean City personnel in the position known as Agency Chief Contracting Officer to whom each City Agency Commissioner has delegated authority to organize and supervise the procurement activity of subordinate staff at each City Agency in conjunction with the CCPO.

“Administrative Code” shall mean the New York City Administrative Code.

“Authorized Representative” shall mean a person who is duly designated and authorized to act, within the limits of his or her authority, on behalf of his or her City Agency, Public Entity or Consultant.

“CCPO” shall mean the person in the position known as the City Chief Procurement Officer to whom the Mayor has delegated authority to coordinate and oversee the procurement activity of City Agencies, including the ACCOs and any Authorized Representative.

“Certain Corporation” shall mean any corporation created by the City under the New York Not-for-Profit Corporation Law, the expenses of which are paid in whole or in part from the City treasury, that is not subject to the PPB Rules by matter of application of Law but may nonetheless agree to comply with certain or all of such PPB Rules under other contracts with the City. For illustrative purposes, the New York City Economic Development Corporation, the Hudson Yards Development Corporation and the NYC Technology Development Corporation are examples of a Certain Corporation.

“Charter” shall mean the New York City Charter.

“City” shall mean The City of New York.

“City Agency” shall mean an office, position, department, division, bureau, board or commission, or an institution or agency of government, the expenses of which are paid in whole or in part from the City treasury, and that is also not a Public Entity.

“City Agency Commissioner” shall mean the commissioner of any Requesting City Agency and any Authorized Representative of such commissioner.

“Comptroller” or “Comptroller’s Office” shall mean the Office of the Comptroller of The City of New York and any Authorized Representative.

“Consortium Contract” shall mean this (i) Academic Consortium Contract, (ii) all Appendices hereto, listed below, which are incorporated into and made part of this Consortium Contract, and (iii) all Task Orders, which will be “child” contracts, issued under Section 3.4 of this Consortium Contract and registered with the Comptroller’s Office.

Appendix A *General Provisions Governing Contracts for Consultants, Professional, Technical, Human and Client Services*

Appendix B *Innovative Procurement Approval*

Appendix C *Form of Proposal in Response/Task Order*

“Consultant” shall mean each academic institution participating in Town+Gown and entering into this Consortium Contract at any time pursuant to the open-ended solicitation authorized in the Innovative Procurement Approval. “Consultant” shall also mean more than one Consultant joining together to prepare a Proposal in Response to a Mini-RFP as permitted by Section 3.2 hereof. A Consultant becomes an Academic Partner from the point of negotiating the terms of and award of the Task Order.

“Consultants”, used as a collective term for the purposes of Sections 2.4 and 5.4 hereof, shall mean, at any particular time, all the academic institutions participating in Town+Gown and a party to this Consortium Contract pursuant to the open-ended solicitation authorized in the Innovative Procurement Approval.

“Day” shall mean a business day unless otherwise specifically noted to mean a calendar day. A business day refers to Monday to Friday, from 9:00 a.m. through 5:00 p.m. (EST), excluding the following City holidays: New Year’s Day, Martin Luther King, Jr. Birthday, President’s Day, Memorial Day, Independence Day, Labor Day, Columbus Day, Election Day, Veterans Day, Thanksgiving Day, and Christmas Day.

“DDC” or “Department” shall mean the Department of Design and Construction of The City of New York, acting by and through the DDC Commissioner.

“DDC Commissioner” shall mean the Commissioner of DDC and any Authorized Representative, in the role of administrator of this Consortium Contract;

“Director of Town+Gown” shall mean the person at DDC, or other City Agency, responsible for managing the City’s Town+Gown program in connection with this Consortium Contract, and any Authorized Representative.

“FMS” shall mean the City’s Financial Management System operated by and maintained at the City’s Financial Information Systems Agency.

“Gown” shall mean the academic institutions participating in Town+Gown.

“Gown Advisory Council” shall mean the advisory council consisting of representatives from each Consultant created and acting pursuant to Section 2.4 of this Consortium Contract.

“Innovative Procurement Approval” shall mean the CCPO’s approval, dated [], of DDC’s request to use an innovative procurement method, pursuant to Section 3-12 of the PPB Rules, to establish this Consortium Contract, attached hereto as Appendix B.

“Law” or “Laws” shall mean the Charter, the Administrative Code and Rules, the Constitutions and statutes of the United States and the State and any ordinance, rule or regulation having the force of law and adopted pursuant thereto, as amended, and common law.

“Mayor” shall mean the Mayor of The City of New York and any Authorized Representative.

“MOCS” shall mean the Mayor’s Office of Contract Services headed by the CCPO.

“Mini RFP” shall mean the solicitation document prepared by a Requestor pursuant to Sections 2.1 and 3.2 of this Consortium Contract.

“Modification” shall mean any written amendment of this Consortium Contract pursuant to the terms of Section 5.4 hereof and Article 9 of Appendix A.

“OMB Circular A-21” shall mean the federal Office of Management and Budget Circular A-21, as amended (See <http://www.whitehouse.gov/omb/circulars/index.html>).

“Organizational Character” shall mean collectively the following elements that inform Town+Gown’s program and processes:

(i) an open-source systemic action research process, open to membership and participation by built environment academics and practitioners, that aims at increasing built environment research as one way of increasing the common store of built environment knowledge;

(ii) operating from a research agenda, developed annually in collaboration with all participants, for the purposes of developing and supporting research projects, primarily of an applied nature, among its members;

(iii) disseminating the results of such research projects within the Town+Gown community, including publishing abstracts of research projects, making such research projects available on the Town+Gown website and sponsoring symposium and other types of events for the Town+Gown community to discuss the implications of such research projects in order to change practices and policies based on such work and/or develop follow-up research in a subsequent research agenda;

(iv) supporting academic-practitioner collaborations by bridging the academic-practitioner gap on particular research projects and highlighting the importance of practice as a source of knowledge, with Academic Partners and Practitioner Partners as equal partners in knowledge creation ; and

(v) conserving public sector resources for research activities by developing opportunities for research projects with the Consultant’s experiential learning programs, in addition to developing opportunities for applied research *via* this Consortium Contract.

“PPB” shall mean the City’s Procurement Policy Board, the board established pursuant to Charter § 311 the function of which is to establish comprehensive and consistent procurement policies and rules that have broad application throughout the City.

“PPB Rules” shall mean the rules of the PPB as set forth in Title 9 of the Rules, § 1-01 et seq.

“Practitioner Partner” shall mean the Requestor after the Task Order is negotiated and awarded.

“Practitioner Project Manager” shall mean the person or persons designated by the Requestor in the Mini RFP and the related Task Order to supervise and coordinate the Research Project from the Practitioner Partner’s perspective.

“Project Plan” shall mean the schedule for the Project and the plan describing the composition of the Academic Team and the collaborative relationship between members of the Academic Team, including any Subcontractors, and the Practitioner, set forth in a Proposal in Response and related Task Order and subject to the terms of this Consortium Contract.

“Proposals in Response” shall mean the proposal in response to a Mini RFP pursuant to Section 3.3 hereof, using the Proposal in Response/Task Order form on Appendix C.

“Public Entity” shall mean (i) any authority, corporation, agency, office, board, commission or similar entity created under State law, including an entity created under State law on behalf of the City, on behalf of any other local government and on behalf of the State that participates in Town+Gown and (ii) any Certain Corporation that participates in Town+Gown.

It is intended that this Consortium Contract be available for use by Public Entities that are permitted under applicable Laws to use this Consortium Contract; provided, however, that each such Public Entity shall be held solely responsible for any and all liabilities or payments due with respect to such Public Entity as a result of any Task Order it executes pursuant to the provisions of this Consortium Contract. For illustrative purposes, the New York City Health and Hospitals Corporation and the New York City Water Authority are examples of Public Entities created on behalf of the City, and the Metropolitan Transportation Authority and the Empire State Development Corporation are examples of Public Entities created on behalf of the State.

As provided in Section 2.8 of this Consortium Contract, to the extent provisions of Appendix A relating to the PPB Rules do not apply to a Public Entity pursuant to applicable Law or conflict with applicable Law, they shall not be effective with respect to such Public Entity, and the Public Entity shall indicate, in its related Task Order, the procurement-related Laws applicable to such Public Entity.

“Public Entity Executive” shall mean the chief executive officer of a Requesting Public Entity and any Authorized Representative.

“Requesting City Agency” shall mean a City Agency that participates in Town+Gown and wishes to solicit the Consultants for academic research services pursuant to a Task Order.

“Requesting Public Entity” shall mean a Public Entity that participates in Town+Gown and wishes to solicit the Consultants for academic services pursuant to a Task Order.

“Requestor” shall mean a Requesting City Agency, a Requesting Public Entity and any combination of either or both. Any number of Requesting City Agencies and/or Requesting Public Entities can prepare and submit a Mini RFP for academic research services for a Research Project under this Consortium Contract. A Requestor becomes a Practitioner Partner from the point of negotiating the terms of and awarding the Task Order.

“Research Project” or “Project” shall mean the academic research project specified by a Requestor in a Mini RFP and the resulting Task Order issued under this Consortium Contract.

“Rules” shall mean the Rules of The City of New York.

“Senior Project Personnel” shall mean the principal investigator(s), faculty associate members, postdoctoral researchers and other professionals designated by the Consultant, who will be responsible for and/or participate in a significant way in the scientific or technical direction of the Project. Faculty associate members are individual other than principal investigator(s) considered by the Consultant to be a member of its faculty or who holds an appointment as a faculty member at another institution, and who will participate in the Project. A postdoctoral researcher is an individual who has received a doctoral degree (or equivalent) and is engaged in a temporary and defined period of mentored advanced training to enhance the professional skills and research independence needed to pursue his or her chosen career path. Other professional(s) are people who may or may not hold a doctoral degree or its equivalent, who are considered a professional and are not reported as a principal investigator, faculty associate, postdoctoral scholar or student. Senior Project Personnel do not include graduate students or research assistants, working part-time or full-time on the Project in a research capacity who hold at least a bachelor’s degree and are enrolled in a degree program leading to an advanced degree or undergraduate students who are enrolled in a degree program (part-time or full-time) leading to a bachelor’s or associate’s degree.

“State” shall mean the State of New York.

“Subcontractor” shall mean any person, as an individual, a firm or corporation, providing professional or other skills, who is not an officer or employee of the Consultant or related to such officer or employee, with whom/which the Consultant intends to and/or actually contracts with to furnish academic services or services, labor, or labor and materials, or labor and equipment directly related to a Research Project as provided in Section 3.3 (e) (8) hereunder.

“Task Order” shall mean the agreement in the form of Appendix C, which, initiated by a Mini RFP complying with the provisions of Section 3.2 of this Consortium Contract and incorporating the terms and provisions of this Consortium Contract as required and provided therein, shall define the contractual relationship between the Requestor/Practitioner Partner and the Consultant/Academic Partner for the duration of the related Research Project, pursuant to Section 3.4 this Consortium Contract.

Subject to the identification of Appendix A provisions in a Mini RFP as required by Section 3.2 below, it is noted here for explanatory purposes that Appendix A contains (i) optional provisions that are available to both City Agencies and Public Entities to elect, (ii) provisions that do not apply as a matter of Law to Public Entities, and (iii) provisions that do not apply to Certain Corporations.

“Town” shall mean the non-academic entities participating in Town+Gown, including but not limited to the City Agencies and the Public Entities.

“Town+Gown” shall mean the systemic action research program established at DDC, aimed at collectively increasing evidence-based analysis, information transfer and understanding related to the City’s physical built environment.

ARTICLE 2 General Provisions

2.1 **The Requestor’s Role.** Any Requesting City Agency or Requesting Public Entity, singly or jointly, may use this Consortium Contract to procure academic research and related services in connection with Town+Gown, in accordance with and subject to the procedures and terms and conditions set forth, including but not limited to the provisions of Section 2.8 below.

To initiate the procurement process under this Consortium Contract, the Requestor shall notify the Director of Town+Gown and DDC's ACCO, as soon as practicable, that it intends to submit a draft Mini RFP to DDC for DDC's review, acceptance and submission to the Consultants pursuant to this Consortium Contract. After review required by the PPB Rules and this Consortium Contract is complete and the final Mini RFP has been accepted by DDC, DDC will send the Mini RFP to all Consultants in the vendor pool under this Consortium Contract. Pursuant to the definition of Public Entity in Article 1 of this Consortium Contract, DDC's review and acceptance of a Mini RFP shall be for the overlapping purposes of contract administration and Town+Gown program administration pursuant to Section 2.3; and, further, such review and acceptance shall not be construed to create any liability or payment obligation of the City with respect to such Public Entity as a result of any Task Order the Public Entity executes pursuant to the provisions of this Consortium Contract.

Each Research Project will be governed by a Task Order for the duration of that Research Project. As provided in Section 2.7 below, and subject to the provisions of Section 2.8 below, funding for each Research Project in a Task Order shall be provided by the Requestor. With respect to City Agency-funded Projects, the City Agency shall register the Task Order with the Comptroller's Office pursuant to Section 3.4 (d) below and shall cooperate with DDC to establish a user agency mechanism in FMS to enable the City Agency to encumber funds and make payments under its respective Task Order(s). The City Agency shall perform all vendor performance evaluations required by the PPB Rules for the Consultant.

2.2 The Consultant's Role. Each Consultant agrees to (i) receive, (ii) distribute within the Consultant academic institution to achieve the widest practicable exposure within such organization, and (iii) respond to every Mini RFP that the Director of Town+Gown sends to it under this Consortium Contract pursuant to Sections 2.1, 2.3 and 3.2 hereof. Section 3-03 (j)(2)(iii) of the Rules require that each vendor respond to every solicitation for an individual task order for which it is solicited, and that the DDC ACCO may, as provided further below, determine that a vendor is in default if it fails to bid without an adequate explanation for such failure.

A Consultant may decline to send a Proposal in Response to a Mini RFP by submitting a "no bid" response within the time for submission of the proposal in response to the Task Order, as specified therein; provided, however, that a Consultant's response indicating it could not assemble an Academic Team with the necessary expertise required to address a Mini RFP shall not be considered to be a "no bid" response. Since Town+Gown represents a collaborative community of academics and practitioners, the Director of Town+Gown may inquire into a Consultant's failure(s) to submit a "no bid" response and/or its submission of several "no bid" responses. A Consultant's failure(s) to submit a "no bid" response and/or submissions of "no bid" responses for at least seventy-five percent (75%) of the Task Orders issued in a three (3) year period may become the subject of a Gown Advisory Committee meeting with DDC to discuss, among other things, aspects of Town+Gown contributing to such results. The DDC ACCO shall exercise the provisions of Section 3-03(j)(2)(iii) in the context of the process established in this paragraph.

Each Consultant agrees to provide academic research services under each Task Order awarded to it on the terms and conditions specified in this Consortium Contract and in the applicable Task Order. The Consultant hereby certifies that it has the necessary experience, expertise, staff and resources to fulfill its obligations under this Consortium Contract and any Task Order to which it submits a Proposal in Response competently and efficiently. The obligations of each Consultant under this Consortium Contract and any Task Orders issued under this Consortium Contract are

subject to the provisions of Appendix A entitled *General Provisions Governing Contracts for Consultants, Professional, Technical, Human and Client Services*.

2.3 DDC's Role. As the administrator of this Consortium Contract, DDC shall perform tasks required of it by the PPB Rules, in addition to the tasks assigned to it in this Consortium Contract, for the overlapping purposes of administering this Consortium Contract and managing the Town+Gown program, as described in further detail below; provided, however, that none of these provisions shall be construed to create any liability or payment obligation of the City with respect to a Public Entity as a result of any Task Order the Public Entity executes pursuant to the provisions of this Consortium Contract.

Subject to the provisions in this Consortium Contract, DDC shall administer this Consortium Contract and monitor its use for purposes including, but not limited to:

- reviewing, pursuant to the provisions of Section 2.1 above, draft Mini RFPs and accepting final Mini RFPs,
- submitting, to the Consultants, final Mini RFPs that conform to the provisions of Section 3.2 below,
- being available to consult with Requestors in connection with the evaluation of Proposals in Response, negotiation and award of the Task Order, and
- payment by City Agencies of Consultants under relevant Task Orders.

After appropriate review required by the PPB Rules and this Consortium Contract is complete and DDC is in receipt of a final Mini RFP, the Director of Town+Gown will send the Mini RFP to all Consultants in the vendor pool under this Consortium Contract.

In its capacity of managing the Town+Gown program, the Director of Town+Gown shall work with the Gown Advisory Council pursuant to Section 2.4 below.

DDC may also be a Requesting City Agency and may use this Consortium Contract to procure academic research and related services in connection with Town+Gown pursuant to Section 2.1 above.

2.4 Gown Advisory Council. Each Consultant shall identify one representative to participate in the Gown Advisory Council, which will meet periodically with each other and with the Director of Town+Gown, to raise, discuss and resolve issues related to the Consultants in Town+Gown and under this Consortium Contract. The Gown Advisory Council shall develop a set of bylaws covering governance issues among the Consultants in the context of Town+Gown, including but not limited to (i) election of a chair and an executive committee, (ii) developing a process to support Town+Gown's systemic action research cycle, including the annual research agenda, (iii) developing a process aimed at refreshing the institutional memory at Consultant entities with respect to Town+Gown and this Consortium Contract, as the inevitable changes in personnel occur during the term of this Consortium Contract, including any issues related to Section 2.1 hereof, so that Mini RFPs receive the greatest exposure to and thus highest practicable level of competition within Gown, (iv) developing a mission statement and strategic plan related to increasing built environment applied research in the context of Town+Gown, including but not limited to collaborating on increasing third-party funding for such research, including any issues related to Section 2.7; and (v) working with the Director of Town+Gown to develop an open source platform within Town+Gown to facilitate multi-disciplinary collaborations across Consultant organizations, with members of Town.

2.5 Additional Consultants. The Innovative Procurement Approval authorizes an open-ended solicitation for one year from the date of registration of this Consortium Contract and, if the PPB codifies the method contained in the Innovative Procurement Approval pursuant to Section 3-12(f) of the Rules, for the remainder of the term of this Consortium Contract, permitting all academic institutions that participate in Town+Gown, regardless of time of membership, to enter into this Consortium Contract and participate in its first level vendor pool so that the pool is as large and as robust as possible and Task Orders receive the highest level of interest in, and competition among, those responding academic institutions.

For one year after the registration of this Consortium Contract with the Comptroller's Office, an academic institution that joins Town+Gown can become a Consultant under this Consortium Contract by completing an Interest in Participation form, executing this Consortium Agreement which becomes an amendment to this Consortium Contract, and fulfilling all the PPB Rule requirements for vendors. Upon DDC's registration of such amendment with the Comptroller, such academic institution will become a Consultant under this Consortium Contract.

If the PPB codifies the method contained in the Innovative Procurement Approval pursuant to Section 3-12(f) of the Rules, from such time of codification, an academic institution that joins Town+Gown can become a Consultant under this Consortium Contract by completing an Interest in Participation form, executing this Consortium Agreement which becomes an amendment to this Consortium Contract, and fulfilling all the PPB Rule requirements for vendors.

2.6 Term. This Consortium Contract shall commence on the date of registration by the Comptroller and shall remain in effect for a period of ten (10) years. The DDC Commissioner may, at his or her sole option, renew or extend the term of this Consortium Contract for a period of up to five (5) years from the date of initial expiration.

In the event (1) services are required for a Research Project, (2) a Task Order for the Research Project has been executed during the term of this Consortium Contract, including the last day thereof, and (3) the time frame for completion of the Research Project extends beyond the term of this Consortium Contract, this Consortium Contract shall remain in effect for purposes of such Task Order through the time frame for completion of the Research Project, as set forth in the Task Order. For the purpose of this provision, the term of this Consortium Contract shall mean whichever of the following is the latest and actual final period of this Consortium Contract: (1) the term of this Consortium Contract, (2) the renewal term of this Consortium Contract, and (3) the extended term of this Consortium Contract as provided above.

2.7 Funding. While DDC may fund this Consortium Contract in a nominal amount in order to enable the Comptroller to register it, the City makes no commitment or guaranty that City Agencies will issue Mini RFPs under this Consortium Contract. Requestors shall fund their Task Orders from available monies in their own budgets. Under no circumstances shall DDC be under any obligation to fund Task Orders other than those it submits on its own behalf.

City Agencies and Public Entities may use funds, such as grants from foundations, in addition to public funds, to support a Research Project related to a Task Order. The Consultant may also make available funds under its control, such as public funds other than from the City and grants from foundations, to support a Research Project related to a Task Order, whether as part of its Proposal in Response or during the pendency of a Research Project as such additional funds may become available, subject to the provisions of applicable law and Section 6.02 of Appendix A.

2.8 Applicable Procurement- and Budget-Related Laws. In the event of a Project jointly funded by any combination of City Agency and Public Entity, with an inter-agency transfer of funds from

a Public Entity to a City Agency, the Public Entity shall comply with the procurement and budget requirements, to the extent permitted by applicable Law, to which the City Agency is, by Law, subject. In the event of a Project solely funded by a Public Entity, the Public Entity shall not be subject, by operation of this Consortium Contract, to any of the procurement and budget requirements that apply by Law to City Agencies. The Mini-RFPs and resulting Task Orders shall reflect the operation of this requirement, so that the Consultants, for Mini-RFPs, and all parties in the Task Order understand the procurement- and budget-related procedures on Research Projects applicable to Public Entities.

ARTICLE 3 Procurement Process

3.1 **General.** This Consortium Contract will be available for use by any City Agency and Public Entity to procure academic research services of a Consultant pursuant to a process consisting of:

- the Requestor's issuance of a Mini RFP, *via* the Director of Town+Gown, to all Consultants,
- the Requestor's receipt and evaluation of Proposals in Response in the form of Appendix C hereto, and
- the Requestor's negotiation and award of a Task Order to the Consultant in the form of Appendix C, all as provided for below.

3.2 **Mini RFP.**

(a) After or coterminous with notifying DDC of its intent to make use of this Consortium Contract, a Requestor shall prepare, for review by DDC and, if requested, MOCS and acceptance by DDC, subject to the provisions of Section 2.3 above, a Mini RFP that includes all information the Requestor believes to be necessary and appropriate to provide.

(b) Mini RFPs issued by any Requesting City Agency, alone or with other City Agencies or Public Entities, shall comply with the requirements of PPB Rules Section 3-03, which requires, among other things, that a Mini RFP (i) indicate the due date for the receipt of Proposals in Response, (ii) specify qualitative and quantitative criteria, including price, and the respective weights of such criteria that the Requestor will use to evaluate all Proposals in Response it receives, and (iii) specify evaluation procedures and the basis for contract award that the Requestor will use in such evaluations and selection of a Consultant for an award of the Task Order.

(c) Mini RFPs issued solely by a Public Entity or Public Entities shall comply with applicable Laws, which the Public Entity or Entities shall set forth to the extent necessary or helpful in its Mini RFP. Review of such Task Orders by DDC shall not imply that DDC is passing on such compliance.

(d) As the result of provisions elsewhere in this Consortium Contract, as a guide for drafting Mini RFPs, the Mini RFP shall include:

- the name of the Requestor's Project Manager,
- the Requestor's expectation for the Project duration, noting whether the Requestor plans for the Project to be accomplished within the City fiscal year or over more than one (1) City fiscal year, subject to annual appropriation, and
- specific billing and invoicing requirements not otherwise provided for in this Consortium Contract.

(e) As the result of provisions elsewhere in this Consortium Contract, as a guide for drafting Mini RFPs, the Mini RFP may also provide:

- the Consultant with an option to use a percentage equivalent of academic contract effort when making requisitions for payment in place of using the hourly rate calculation required by Section 4.2(b)(3) below,
- for a process by which the Requestor may request the Consultant(s) to provide answers to additional questions and/or written clarifications, presentations and/or demonstrations related to their Proposal in Response, and
- that a Requestor can select more than one Consultant for a particular Project and make multiple awards under a Mini RFP.

If the Requestor wishes to have any of these provisions apply in the related Task Order, they must appear in the Mini RFP.

(f) Since as a result of Town+Gown's Organizational Character, Appendix A contains optional provisions that the Requestors must elect to be effective in the related Task Order, the Requestor must indicate, in the Mini-RFP, the election of such options, including but not limited to Sections 5.05, 5.08, 6.01 and 6.02 of Appendix A.

(g) Since the Consortium Contract is available for use by Public Entities, which are not subject to the PPB Rules, with respect to a Mini RFP made by a Public Entity Requestor alone, with other Public Entity Requestors, or with City Agency Requestor(s), the Public Entity Requestor(s) must indicate, in the Mini-RFP, the Consortium Contract provisions that do not apply to the Public Entity Requestor(s), including but not limited to Sections 8.09, 9.01, 11.01, 11.02, 12.02, 12.03, 12.04 and 13.06 of Appendix A, and indicate such analogous provisions, if any, that do apply under applicable Laws.

(h) After DDC accepts a final Mini RFP, pursuant to Sections 2.1 and 2.3 above, the Director of Town+Gown will distribute the final Mini RFP to all the Consultants:

- in the manner required by the PPB Rules for Requesting City Agencies,
- in the manner required by applicable Laws for Requesting Public Agencies, and
- in whatever additional manner the Gown Advisory Council agrees to pursuant to Section 2.4(iii) of this Consortium Contract, such as via e-mail and/or posting to a DDC-managed academic consortium website

3.3 Proposal in Response.

(a) The Consultant shall use the Mini RFP as the basis for developing its Proposal in Response, in the form of Appendix C.

(b) While it is a general requirement of this Consortium Contract that the work force to be utilized by the Consultant shall, wherever possible, consist of and be drawn from the faculty and students of the Consultant, a Consultant may join with one or more Consultants in preparing a Proposal in Response pursuant to Section 3.2 hereof, as well as provide for sub-contracts with Subcontractors as provided in Section 3.3 (e) (8) hereof. Consultants wishing to sub-contract with a Subcontractor as part of its Proposal in Response must disclose its intention to use the services of a Subcontractor in its Proposal in Response as provided in Section 3.3 (e) (8) of this Consortium Contract and Appendix C.

(c) Submission of curriculum vitae and resumes (of no more than three (3) pages per person) for the Senior Personnel on the Academic Team, whether they are the Consultant's direct employees or Subcontractors, with the Proposal in Response, implies that such individuals will be available to perform the services on the Project, subject to the approval by the Requestor as part of the award of the Task Order pursuant to Section 3.4 (c) of this Consortium. For the Consultant who is awarded the Task Order, it is expected that such members of the Academic Team will perform the services under the Task Order; provided, however, that such Consultant may replace Senior Personnel members of the Academic Team during the term of the Task Order with personnel who possess qualifications substantially similar to those being replaced, with prior written notice and justification to the Practitioner Partner. To the extent a Requestor/Practitioner Partner believes a member of the Academic Team is unable to perform services in a professional and competent manner according to the standards of the relevant field(s) and/or discipline(s), it shall have the right to raise such concerns with the Consultant/Academic Partner so that both parties have the opportunity to resolve such concerns in good faith, subject to the provisions of Section 10.02 of Appendix A.

(d) Each Proposal in Response shall contain a proposed Project budget for each City fiscal year anticipated by the Mini RFP as required by Section 3.2 above. With respect to the proposed Project budget submitted as part of the Proposal in Response, it is intended that the elements of cost and cost principles conform to standard practice in the academic community to the extent permitted by the PPB Rules. The Consultant shall document and justify, as specified in subsection (e) below, amounts proposed for each budget line item. The Consultant may estimate and allocate amounts to any proposed Project budget item under any of the categories listed below so long as the item and amount are considered necessary, reasonable, allocable, and allowable under cost principles applicable to research and development work performed by colleges and universities funded by the federal government, as set forth in OMB Circular A-21. Such amounts and expenses budgeted shall also be consistent with the Consultant's policies and procedures and cost accounting practices used in accumulating and reporting costs.

(e) The following elements of cost and related policies and procedures, adapted from the National Science Foundation's grant requirements, shall apply to all Proposals in Response and Task Orders to the extent permitted by the PPB Rules. In estimating its proposed Project budget costs for its Proposal in Response, however, the Consultant should note that City Agency Requestors will consider long-distance travel as a reimbursable service payable pursuant to the provisions of Section 4.2 (c) of this Consortium Contract.

(1) *Senior Project Personnel Salaries and Wages Policy.* The City regards research as one of the normal functions of faculty members at institutions of higher education. Compensation for time normally spent on research within the term of appointment is deemed to be included within the faculty member's regular organizational salary, and Task Orders are not intended to augment the total salary or salary rate of faculty members during the period covered by the term of faculty appointment or to reimburse faculty members for consulting or other time in addition to a regular full-time organizational salary covering the same general period of employment. Thus, a general policy of this Consortium Contract is to limit salary compensation for senior project personnel to no more than three (3) months of their regular salary in any one year for work occurring during the summer months, documented in accordance with the applicable cost principles. The Requestor may consider exceptions and approve such exceptions as part of the Task Order, so long as the Consultant discloses any compensation for such personnel in excess of three (3) months in the proposed Project budget or for times other than during the summer months, with appropriate justification,

which additional compensation would be subject to the Requestor's approval as part of the award of the Task Order pursuant to Section 3.4 (c) of this Consortium Contract.

If pursuant to Section 3.2 above, the Mini RFP provides the Consultant with an option to use a percentage equivalent of academic contract effort when making requisitions for payment in place of using the hourly rate calculation required by Section 4.2(b)(3) below, the Consultant shall indicate in its Proposal in Response the methodology for expressing and estimating such percentage equivalents of academic contract, which methodology and estimates shall be subject to Requestor's approval as part of the award of the Task Order pursuant to Section 3.4(c) of this Consortium Contract.

(2) *Administrative and Clerical Salaries and Wages Policy.* In most circumstances, salaries of administrative or clerical staff are included as part of indirect costs as provided in Section 3.3 (e) (10) below. The Consultant may request that salaries of administrative or clerical staff be treated as direct costs for a Project requiring an extensive amount of administrative or clerical support and where these costs can be readily and specifically identified with the Project with a high degree of accuracy. Salaries for administrative or clerical staff shall be budgeted as a direct cost only if this type of cost is consistently treated as a direct cost in like circumstances for the Consultant's other projects and cost objectives. The Consultant shall clearly describe the circumstances that require treating such salaries as direct costs and provide appropriate justification, which treatment would be subject to the Requestor's approval as part of the award of the Task Order pursuant to Section 3.4(c) of this Consortium Contract.

(3) *Academic Team Cost Procedures.* The Consultant shall list (A) the names of the principal investigators(s) and faculty associate members among the Senior Personnel assigned to the Academic Team, (B) the estimated number of full-time-equivalent person-months for each such Senior Personnel and (c) the total amount of salaries requested per year.

The Consultant shall list (A) the names and/or numbers of postdoctoral associates and other professional members of the Senior Personnel assigned to the Academic Team, (B) the number of full-time-equivalent person-months and (C) the total amount of salaries requested per year.

For graduate and undergraduate students, secretarial, clerical, technical etc. personnel whose time with the Academic Team will be charged directly to the Project, the Consultant shall provide the total number of persons and total amount of salaries requested per year in each category. Salaries requested must be consistent with the Consultant's regular practices. The related budget justification shall detail the rates of pay by individual for senior personnel, postdoctoral associates, and other professionals.

(4) *Confidential Budgetary Information.* The Consultant may request that the Requestor not release salary data on senior personnel to persons outside the Requestor entity during the evaluation and award process in Section 3.4 below, subject to any applicable requirements of the PPB Rules. In such cases, if the Requestor agrees, any public disclosure of the amounts of senior personnel salaries shall appear as a single figure and the person-months represented by that amount omitted, with such senior personnel salaries and person-months itemized in a separate statement provided to the Requestor, which includes all of the information required above for each such person to

whom confidentiality applies. The Requestor will hold such detailed information privileged only to the extent permitted by the PPB Rules and other applicable Law.

(5) *Fringe Benefits.* If the Consultant's usual accounting practices provide that its contributions to employee benefits (social security, retirement, other payroll-related taxes and time off including vacation, sick, and other leave, etc.) be treated as direct costs, the Consultant may include such fringe benefits as a direct cost. These would be determined by application of a calculated fringe benefit rate for a particular class of employee (full-time or part-time) applied to the estimated salaries and wages.

(6) *Equipment.* The Consultant may estimate the costs of research equipment and apparatus not already available for the conduct of the Research Project, which has an acquisition cost of \$5,000 or more (including modifications, attachments and accessories necessary to make the property usable for the purpose for which it was purchased) and an expected service life of more than one year. The Consultant may include costs for special purpose or scientific use computers or associated hardware and software as items of equipment when necessary to accomplish the project objectives and not otherwise reasonably available. The Consultant may include costs for leasing such equipment. General-purpose office equipment (including computers for word processing, spreadsheet and similar applications, office furnishings and communications equipment) may not be included in this item of direct cost. The Consultant must adequately justify such needed equipment in the context of the Project, listing each item individually by description and estimated cost, the purchase of which equipment will be subject to Requestor's approval as part of the award of the Task Order pursuant to Section 3.4(c) of this Consortium Contract.

All equipment purchased by the Academic Practitioner for the Project shall, unless otherwise directed by the Practitioner Partner, be the sole property of the Practitioner Partner upon delivery to the designated location. If the Practitioner Partner desires ownership of such equipment to be otherwise, it shall direct post-Project ownership of such equipment with the Academic Partner *via* the Task Order pursuant to Section 3.4 (c) hereof. Post-Project ownership of such equipment other than with the Academic Partner will be subject to Requestor's approval as part of the award of the Task Order pursuant to Section 3.4(c) of this Consortium Contract.

(7) *Long-Distance Travel.* It is expected that the Consultant and/or members of the Academic Team, as appropriate, will provide for transportation, including without limitation: (a) expenses for ordinary transportation (i.e., other than long-distance travel, as set forth below), (b) expenses for time spent by personnel commuting or traveling, and (c) related parking and toll expenses.

The Consultant may propose activities requiring long-distance travel, so long as the Consultant explains how it is necessary to accomplish the Research Project and estimates the cost. Such activities may include field work and attendance at meetings and conferences. Allowance for air travel normally will not exceed the cost of round-trip, economy airfares. Proposed activities requiring travel and related costs are subject to the Requestor's approval as part of the award of the Task Order pursuant to Section 4.3 (c) of this Consortium Contract.

When a City Agency is one of the Requestors, the following provisions apply:

For authorized long-distance travel, the Academic Practitioner will need separate written authorization from the City Agency before incurring expenses in excess of \$150 for long-distance travel and the City Agency will *reimburse* such expenses incurred in connection with such long-distance travel as provided below and in Section 4.2(e) of this Consortium Contract. Reimbursement for long distance travel shall be in accordance with the normal travel allowances of the City of New York for its own employees as provided in *Comptroller's Directive #6, Travel, Meals, Lodging and Miscellaneous Agency Expenses*. Long-distance travel shall mean travel which is in excess of 75 miles from whichever of the following locations is closer to the destination: (1) Columbus Circle, or (2) the home(s) of the Academic Practitioner's individual traveler(s). Academic Practitioners outside New York City and its vicinity shall not be entitled to reimbursement for long-distance transportation expenses to New York City, and no Academic Practitioner shall be entitled to any mark-up for overhead and/or profit on payments for long-distance travel.

(8) *Subcontractor Services*. While it is the intent of this Consortium Contract that the predominance of work on Research Projects be conducted by academic institutions and those entities that bridge pure academic research and practice, costs of Subcontractors providing professional and consultant services are allowable when reasonable in relation to the Proposal in Response. Fees for Subcontractor services should be comparable to the normal or customary fees charged and received by the Subcontractor for comparable services. The Consultant shall justify the proposed Subcontractor's services and provide the information for each Subcontractor employee on the Academic Team related to expertise, primary organizational affiliation, normal daily compensation rate, and number of days of expected service. At the Requestor's request, the Consultant must be able to justify that the proposed compensation rate is reasonable. The proposed Subcontractor members of the Academic Team and related costs are subject to the Requestor's approval as part of the award of the Task Order pursuant to Section 3.4 (c) of this Consortium Contract, which approval, for City Agency Requestors, shall be further subject to compliance with other PPB Rule vendor integrity-related requirements.

For the convenience of reference only, the Consultant should know that subcontracts shall comply with the requirements of Section 2.07, 3.02, 4.07, 7.03, 7.08, 7.09 and 13.06 of Appendix A and, further, that certain of this provisions apply to all proposed agreements with Subcontractors.

The Consultant shall be responsible for the performance of services by its Subcontractors. Further, expenses incurred by the Consultant in connection with furnishing Subcontractors for the performance of required services under a Task Order are deemed included in the payments to the Consultant as set forth in Article 4 of this Consortium Contract. While the Consultant may pay its Subcontractors first and then seek reimbursement pursuant to the applicable provisions of this Consortium Contract, in the event the Consultant does not pay its Subcontractors prior to seeking reimbursement, the Consultant shall pay its Subcontractors the full amount due them from their proportionate share of the requisition, as paid by the City. The Consultant shall make such payment not later than five Days after receipt of payment by the City.

(9) *Specialized Computer Services*. The Consultant may request the cost of specialized computer services, including computer-based retrieval of scientific, technical and educational information, only when it is the Consultant's institutional policy to charge such costs as direct charges. The Consultant must provide a justification based on the Consultant's established computer service rates. The inclusion of such costs will be subject to Requestor's approval as part of the award of the Task Order pursuant to

Section 3.4 (c) of this Consortium Contract.

(10) *Indirect Costs.* The Consultant shall apply the indirect cost rate(s) it has negotiated with a federal agency bound by the provisions of OMB Circular A-21 to obtain a proportional cost associated with the Requestor's facilities and administration. The amount for indirect costs shall be calculated by applying the current negotiated indirect cost rate(s) to the approved base(s), as provided by OMB Circular A-21, which resulting indirect costs will be subject to Requestor's approval as part of the award of the Task Order pursuant to Section 3.4 (c) of the Consortium Contract. If a Consultant does not have a current negotiated rate agreement with a federal agency, its business officer should prepare an indirect cost proposal based on expenditures for its most recently ended fiscal year, which proposal and the resulting indirect costs will be subject to Requestor's approval as part of the award of the Task Order pursuant to Section 3.4 (c) of this Consortium Contract.

3.4 Evaluation, Award and Execution of Task Order.

(a) The Requestor will evaluate the Proposals in Response in accordance with evaluation criteria expressed in the Task Order, which shall comply with the requirements of the PPB Rules, and select the proposal that best meets the Requestor's requirements pursuant to the terms of the Mini RFP and this Consortium Contract and consistent with the requirements of the PPB Rules. If, pursuant to Section 3.2 above, the Mini RFP provides for a process by which the Requestor may request the Consultant(s) to provide answers to additional questions and/or written clarifications, presentations and/or demonstrations related to their Proposal in Response, the Consultant may provide such additional information or clarification at the Requestor's request.

(b) Once the Requestor has selected the Consultant for the Research Project based on its Proposal in Response, with any negotiated changes if necessary, the Requestor shall award the Proposal in Response to such Consultant, and both Consultant and Request shall execute the Proposal in Response, reflecting any negotiated changes, which then becomes the Task Order that will govern the Consultant's work on the Research Project. The Consultant's preparation of the Proposal in Response and participation in negotiating and finalizing the Task Order shall be performed at no charge to the Requestor.

(c) Total payments for all services performed and all expenses incurred pursuant to a Task Order issued under this Consortium Contract shall not exceed the amount of total costs negotiated by the Practitioner Partner and the Academic Partner with respect to the award of the Task Order. Task Orders shall specify an overall "Not to Exceed" amount for the services to be performed, which will be further allocated among the Project budget items in the Task Order.

Execution of a Task Order by the Practitioner Partner shall be evidence of such Practitioner Partner's approval of:

- (1) subcontractors pursuant to Sections 3.3 (b) and (e)(8) above, subject to final compliance with PPB Rule requirements and Sections 2.07, 3.02 and 4.07 of Appendix A,
- (2) Senior Personnel pursuant to Section 3.3 (c) above,
- (3) compensation beyond three months and/or utilizing a percentage equivalent of academic contract effort pursuant to Section 3.3(e)(1) above,

- (4) treating components of an Academic Partner's facilities and administration as a direct cost pursuant to Section 3.3 (e)(2) above and/or,
 - (4) the purchase of equipment and post-Project ownership of such equipment pursuant to Section 3.3 (e)(6) above,
 - (5) the incurrence of expenses related to long-distance travel pursuant to Section 3.3 (e)(7), to be reimbursed, in the case of City Agency Requestors, pursuant to the provisions of Article 4 of this Consortium Contract,
 - (6) the incurrence of expenses related to computer services pursuant to Section 3.3 (e)(9) above, and
 - (7) the application of the formula to determine indirect costs pursuant to Section 3.3(e)(10) above.
- (d) DDC and, if requested, MOCS shall review the Task Order as necessary, with respect to any City Agency, to ensure that it meets the best interests of the City and is in accordance with the terms and conditions of this Consortium Contract and the PPB Rules, prior to the City Agency registering the Task Order with the Comptroller's Office.
- (e) The Academic Partner shall accomplish the Project for which a Task Order has been executed and registered, on time and within budget. The nature of academic research requires some flexibility in the timing of performance, with unforeseeable obstacles and delays. Section 4.03(a) of the PPB Rules is analogous to the National Science Foundation's practice with respect to delays in academic research and is available as a method of providing extensions of time on Task Orders for performance due to the typical delays in academic research. The Academic Partner shall not perform services under the Consortium Contract until a Task Order has been executed and registered with the Comptroller.
- (f) The parties shall execute as many original copies of the Task Order to permit the Academic Partner to retain one original, the Practitioner Partner to retain one original, DDC to retain one original and, for Task Orders involving City Agencies, one original to be filed with the Comptroller.
- (g) In the event of any conflict between any provision in a Task Order and any provision of this Consortium Contract, the provision in this Consortium Contract shall prevail.

ARTICLE 4 Payment Process

4.1 **Requisitions for Payment.** The Academic Partner may make requisitions for payment as its work on the Project progresses, but not more often than once a month, in the form authorized by the Practitioner Partner on Schedule 1 to the Task Order. Such requisitions for payment shall set forth the services performed by the Academic Partner and the total amount of partial payment requested, which shall be further allocated amount among the Project budget items in the Task Order set forth pursuant to Section 3.4 (c) of this Consortium Contract. The Academic Partner shall submit the number of originals and copies of each requisition for payment as required on such Schedule 1.

4.2 **Documentation with Requisition.** Requisitions for each time period must be accompanied by the documentation set forth below.

(a) *Project Status Report.* The Academic Partner shall submit a Project status report to indicate relation to the Project Plan in the Task Order. The nature of academic research may result in status reports being substantially the same for several months, so that an Academic Partner may, in a requisition, reference a prior status report submitted not more than 90 days before such requisition. If the date of the referenced status report is more than 90 days from the date of any requisition, payments will not be processed unless and until the Academic Partner submits an updated report.

(b) *Participation of Academic Team Members.* The Academic Partner shall submit documentation, consistent with its institutional policy, related to each member of the Academic Team whose salary or wages are the subject of the requisition, including:

- (1) Name(s) and title(s) of the Academic Team Member(s),
- (2) The hourly rate(s) applicable to such Academic Team Member(s)
- (3) The number of actual hours worked during such period on the Project by such Academic Team Member(s), or, if provided for pursuant to Sections 3.2 and 3.3(e)(1) above, the applicable percentage equivalent of academic contract effort (e.g., Dr. X, project director Academic Year Rate: \$90,000; equivalent level of effort 15% = \$13,500)
- (4) Relevant background documentation for actual hours (such as time sheets) or for academic contract effort in subsection (3) above.

(c) *Reimbursable Long-Distance Travel.* For any long-distance travel for which the Academic Partner is requesting reimbursement, the Academic Partner shall submit receipted bills or any other data required by the Comptroller's *Directive #6, Travel, Meals, Lodging and Miscellaneous Agency Expenses.*

4.3 Payment Contingent on Performance. All payments under a Task Order are contingent upon the Academic Partner's good faith effort to perform the elements described within the *Research Project Objectives* and *Work Products and Deliverables* in the Task Order in a professional and competent manner according to the standards of the relevant field(s) and/or discipline(s); provided however that, due to the nature of academic research and the value of academic freedom, the Practitioner's determination above shall not be related to or dependent on the Practitioner Partner's agreement with any of the Academic Partner's specific research results, findings, conclusions or opinions. As further provided in Appendix A to this Consortium Contract, the Academic Partner shall not be entitled to compensation or reimbursement with respect to any required element the Practitioner Partner determines did not reflect the Academic Partner's good faith effort to perform in a professional and competent manner according to the standards of the relevant field(s) and/or discipline(s), and the Practitioner Partner is authorized to make deductions for such elements.

ARTICLE 5 Miscellaneous

5.1. Affirmation. The Consultant affirms and declares that it is not in arrears to the City upon debt, contract or taxes, it is not a defaulter, as surety or otherwise, upon obligation to the City, it has not been declared "not responsible" or disqualified, by any agency of the City, and that, to its knowledge, there is no proceeding pending relating to its responsibility or qualification to receive public contract except as indicated in the space below:

5.2 Successors and Assigns. This Consortium Contract shall inure to the benefit of and shall be binding upon the City, the City Agencies, the Consultants, and, to the extent applicable, the Public Entities entering into Task Orders under this Consortium Contract, and their respective successors and permitted assigns.

5.3. Severability. In the event any one or more of the covenants, stipulations, promises, obligations and agreements herein on the part of the City, the City Agencies, the Consultants or the Public Entities to be performed should be contrary to law, then such covenant or covenants, stipulation or stipulations, promise or promises, obligation or obligations, or agreement or agreements shall be null and void, shall be deemed and construed to be severable from the remaining covenants, stipulations, promises, obligations and agreements herein contained and shall in no way affect the validity or enforceability of the other provisions hereof.

5.4. Amendments, Changes and Modifications. The City and the Consultants may amend, change or modify this Consortium Contract in any respect provided that each amendment, change or modification complies with the requirements of Section 9.01 of Appendix A and is in writing signed by an Authorized Party of DDC and the Authorized Parties of a majority of Consultants at the time of amendment, change or modification.

In addition, an amendment to accomplish the addition of a Consultant to the vendor pool pursuant to Section 2.5 of this Consortium Contract shall be evidenced by the execution of this Consortium Contract by the Authorized Party of DDC and the Authorized Party of such Consultant and be effective by the registration of such amendment with the Comptroller's Office.

5.5. Disclaimer of Personal Liability. No recourse shall be had against or liability incurred by any officer or employee of the City, a City Agency, a Consultant or a Public Entity, or any person executing this Consortium Contract for any covenants and provisions hereof or for any claims based thereon.

5.6 Counterparts. This Consortium Contract may be simultaneously executed in several counterparts, or later executed individually or simultaneously, pursuant to Section 2.5 of this Consortium Contract, each of which shall be an original and all of which shall constitute but one and the same instrument.

5.7. Headings. The headings preceding the text of the several Articles and Sections hereof and the exhibits appended hereto and any table of contents appended hereto or to copies hereof shall be solely for convenience of reference and shall not constitute a part hereof nor shall they affect its meaning, construction or effect.

5.8. Notices. Any notices or other instruments required to be given or delivered pursuant hereto and any Task Order issued hereunder shall be in writing and shall be delivered by hand against the written receipt therefor or sent by registered or certified mail as set forth below:

- To DDC, as manager of this Consortium Contract, addressed to the attention of Commissioner, New York City Department of Design and Construction, 30-30 Thomson Avenue, Long Island City, New York 11101;
- To Practitioner Partners, as provided in the applicable Task Order;
- To the Consultants, as members of the Gown Advisory Council, addressed to the attention of the Secretary of the Gown Advisory Council; and
- To Academic Partners, as provided on the signature page of the Consortium Contract and in the applicable Task Order.

5.9. Governing Laws. This Consortium Contract shall be governed and construed in accordance with the Laws of the State.

5.10 Executory Only. This Consortium Contract shall be deemed executory only to the extent of the moneys appropriated and available for the purpose of the Task Orders executed pursuant to this Consortium Contract, and no liability or account thereof shall be incurred beyond the amount of such moneys. It is therefore understood that neither this Consortium Contract nor any representation by any public employee or officer creates any legal or moral obligation to request, appropriate or make available moneys for the purpose of this Consortium Contract.

IN WITNESS WHEREOF, the parties hereto have executed original copies of this Consortium Contract, as of the day and year first above written or such other date as applicable, in quantities required by Section 3.4 (f) of this Consortium Contract.

THE CITY OF NEW YORK

By: _____
[Deputy] Commissioner

CONSULTANT:

By: _____

Print Name: _____

Title: _____

EIN: _____

Business contact information for the purposes of notice hereunder:

Approved as to Form and Certified
as to Legal Authority

Acting Corporation Counsel

Date: _____

ACKNOWLEDGMENT BY CORPORATION

State of _____ County of _____ ss:

On this ____ day of _____, _____ before me personally came _____, who being by me duly sworn, did depose and say that he/she resides in the City of _____ that he is the _____ of _____

_____, the corporation described in and which executed the foregoing instrument; that he knows the seal of said corporation; that the seal affixed to the said instrument is such corporate seal; that it was so affixed by order of the Board of Directors of said corporation; and that he signed his name thereto by like order.

Notary Public or Commissioner of Deeds

ACKNOWLEDGMENT BY COMMISSIONER

State of _____ County of _____ ss:

On this ____ day of _____, _____ before me personally came _____, to me known and known to me 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.

Notary Public or Commissioner of Deeds

Insert here

Appendix B

Insert Innovative Procurement Approval here

Template for Proposal in Response/Task Order * * *

** * * Note: Each of the Consultants and the Practitioner Partners will need to modify elements of this Appendix C template to reflect the nature of the document it is drafting—in the case of the Consultant, its Response to a Mini RFP from a Requestor, and in the case of the Practitioner Partner (which is the Requestor in the Mini RFP), its resulting Task Order with the Academic Partner (which is the Consultant winning the award). This Appendix C template will contain additional notes focusing on the nature of expected changes which are provided for illustrative or clarification purposes.*

Prepared by [Consultant Name] (on Consultant’s Letterhead)
[Date]

Article 1. Agreement. This [Proposal in Response/Task Order, [dated as of . . . , [by and between . . ./by and among . . .]] is [prepared/executed] pursuant to the Consortium Contract, made and entered into as of the thirtieth (30th) day of November 2012, by and between the City (the “Consortium Contract”; all capitalized terms used, but not defined, herein shall have the meanings ascribed to them in Article 1 of the Consortium Contract), acting by and through the Commissioner of DDC, on behalf of the City, and each academic institution participating in Town+Gown.

** * * Note: When a Practitioner Partner modifies this Appendix C template in drafting the Task Order, the Practitioner Partner should indicate names of the City Agency or Agencies and/or Public Entity or Entities that constitute the Practitioner Partner and are each a party to the Task Order, indicating the status of each party as a City Agency, Certain Corporation or Public Entity. As provided in Section 2.8 of the Consortium Contract in the event of a Project jointly funded by any combination of City Agency and Public Entity, with an inter-agency transfer of funds from a Public Entity to a City Agency, the Public Entity shall comply with the procurement and budget requirements, to the extent permitted by applicable Law, to which the City Agency is, by Law, subject. In the event of a Project solely funded by a Public Entity, the Public Entity shall not be subject, by operation of this Consortium Contract, to any of the procurement and budget requirements that apply by Law to City Agencies. The resulting Task Orders shall reflect the operation of Section 2.8 of the Consortium Contract, so that all parties in the Task Order understand the procurement- and budget-related procedures on Research Projects applicable to Public Entities.*

[Each/This] Research Project [will be/is] governed by a Task Order, negotiated and executed, pursuant to Section 3.4 of the Consortium Contract, by the Practitioner Partner and the Academic Partner, which Task Order [will define/defines] the contractual relationship between such Partners for the duration of that Research Project. The provision of services under this Task Order, which [will be/is] governed by the terms and conditions of the Consortium Contract, including but not limited to those in the Mini RFP complying with the provisions of Section 3.2 of the Consortium Contract and those in the Consortium Contract as required and provided therein.****

** * * Note: When drafting the Mini RFP and resulting Task Order from elements of this Appendix C template, it will be necessary to choose between the terms within brackets to reflect the related step in the process.*

The Academic Partner shall accomplish the Project for which a Task Order has been executed and registered, on time and within budget. The nature of academic research requires some flexibility in the timing of performance, with unforeseeable obstacles and delays. Section 4.03(a) of the PPB Rules is analogous to the National Science Foundation's practice with respect to delays in academic research and is available as a method of providing extensions of time on Task Orders for performance due to the typical delays in academic research. The Academic Partner shall not perform services under the Consortium Contract until a Task Order has been executed and registered with the Comptroller.

Article 2. Proposal in Response to Mini RFP. Subject to the requirements of the Consortium Contract and the Mini RFP issued by the Requestor, the Consultant's Proposal in Response shall be organized in a manner so as to provide the types of information as described below. Due to the standard of evaluation set forth in Section 4.3 of the Consortium Contract with respect to payment and the certification in Section 4.2 of this Proposal in Response/Task Order, it is especially important that the Consultant be as detailed, as specific and as clear as possible with respect to the elements set forth below.

** * * Note: After the award is made based on a particular Mini RFP, these Article 2 elements of the Mini RFP become the Academic Practitioner's obligations under the resulting Task Order.*

2.1 Research Project Objectives

Describe the overall objectives and goals.

Describe the scope, listing and describing the research approaches, work to be performed and the phases of the work.

Describe the nature of the collaboration between staffs of the Requestor, as practitioner, and the Consultant, identifying the elements of practitioner experience that would be useful for the research, as well as any other research needs with which the Requestor could provide assistance.

2.2. Work Products and Deliverables

Describe the anticipated work products and deliverables for the project, including interim reports if appropriate, with a sufficient level of detail, including the form and the nature of the content.

2.3. Project Plan and Estimated Duration of Project, including Schedule

Describe the plan for the Research Project, assigning time values for elements of the scope as a schedule for the Project. City Agencies must use expense funds in the City fiscal year they are appropriated; they are not permitted to roll unexpended expense funds into the following City fiscal year, but must appropriate expense funds anew in each succeeding City fiscal year. Thus, for Research Project funded with City tax levy funds, it is important to demonstrate an alignment between the proposed schedule in the Project Plan and the City Agency's expressed expectation for the project duration in the Mini RFP. Payment requisitions pursuant to Article 4 of the Consortium Contract require, among other things, a status report to indicate the relation of the payment requisition to the Project Plan.

2.4. Project Staffing and Organization.

List the members of the Academic Team, the costs of whose work will be estimated in the chart in Section 2.5 below, and provide an organizational chart showing the Academic Team’s organization for the Project.

One of the elements of Town+Gown’s Organizational Character is supporting academic-practitioner collaborations by highlighting the importance of practice as a source of knowledge, with Academics and Practitioners as equal partners in knowledge creation. Thus, it is important to describe how the Academic Team members will interact with the Requestor’s staff and other entities, including a narrative describing the organization and interactions as they support the nature of the academic-practitioner collaboration in Section 2.1 above which will become part of the Project Plan. In such Project Plan, it will be important to anticipate how the Academic Partner will work with the Practitioner Partner on a Research Project as the equivalent of a peer reviewer on any Task Order-generated work product as contemplated by Section 6.01 of Appendix A.

The Consultant will estimate costs associated with the Academic Team pursuant to the provisions of Section 3.3 (d) and (e) of the Consortium Contract and show them on the chart in Section 2.5 below. The Consultant shall include a curriculum vitae or resume of no more than three (3) pages for each Senior Personnel member of the Academic Team, including any Subcontractors.

As provided in Section 3.3 (e) (8) of the Consortium Contract, the Consultant may include, in the Academic Team, entities providing services as Subcontractors. To the extent a Task Order includes the services of Subcontractors, the Consultant shall be responsible for the performance of services thereby. For the convenience of reference only, the Consultant should know that subcontracts shall comply with the requirements of Section 2.07, 3.02, 4.07, 7.03, 7.08, 7.09 and 13.06 of Appendix A. Further, expenses incurred by the Consultant in connection with furnishing Subcontractors for the performance of required services under a Task Order are deemed included in the payments to the Consultant as set forth in Article 4 of this Consortium Contract. While the Consultant may pay its Subcontractors first and then seek reimbursement pursuant to the applicable provisions of this Consortium Contract, in the event the Consultant does not pay its Subcontractors prior to seeking reimbursement, the Consultant shall pay its Subcontractors the full amount due them from their proportionate share of the requisition, as paid by the City. The Consultant shall make such payment not later than five Days after receipt of payment by the City.

2.5. [Proposed] Project Budget [and Not to Exceed Amount].

Using this chart as a template, provide a proposed Project budget, estimating the costs of each component of the Project as provided in Section 3.3(e) of this Consortium Contract, and providing any require additional justification. Please provide a copy of an effective negotiated indirect cost rate with federal agency bound by the provisions of OMB Circular A-21 or a proposed indirect cost calculation methodology pursuant to Section 3.3(e)(xi) of the Consortium Contract.

Principal Investigator/Project Director:		

Headings under Section 3.3 (e)	[columns for calculations]			Costs
<u>Not to Exceed Amount</u>				\$ _____.

Article 3. Consultant’s Billing and Invoicing.

The general requirements of the Consortium Contract, including Article 4, and any specific requirements of the Mini RFP will govern the billing and invoicing process from the Requestor’s perspective.

The Consultant should list the personnel responsible for billing and invoicing functions at the Consultant organization and related contact information.

Article 4. Representations and Warranties.

4.1. Accuracy and Completeness of Statements. The Consultant/Academic Partner certifies that statements, representations and warranties contained in the Proposal in Response, the Task Order, and the Consortium Contract, including Appendix A thereto, were true and complete as of the date they were made and are true and complete as of the date it executes this Task Order.

**** Note: For convenience of reference only, the Academic Partner should know that Sections 2.01 (procurement of contract/task orders), 2.03 (fair practices), 2.04 (VENDEX), 2.07 (unlawful discriminatory practices), 3.02 (e) (subcontractor performance); 4.01 (independent contractor status), 4.02 (employees), 4.07 (E.O. 50), 6.01 (copyrights) and 7.08 (insurance certificate) contain specific representations and warranties.*

4.2. The Project. The Consultant/Academic Practitioner certifies that all elements of the work and costs necessary to perform the Project in a professional and competent manner according to the standards of the relevant field(s) and/or discipline(s), and to meet the requirements set forth in the Mini RFP have been included in this Proposal in Response/Task Order.

4.3. Academic Team Members. The Consultant/Academic Practitioner represents and warrants that the members of the Academic Team possess the experience, knowledge and character necessary to qualify them individually for the particular services they will perform on the Project in a professional and competent manner.

The submission of curriculum vitae and resumes for the Senior Personnel members of the Academic Team, whether they are the Consultant’s direct employees or Subcontractors, with the Proposal in Response, implies that such individuals will be available to perform the services on the Project. For the Consultant who is awarded the Task Order, it is expected that such members of the Academic Team will perform the services under the Task Order; provided, however, that such Consultant may replace members of the Academic Team on the Project during the term of the Task Order with personnel who possess qualifications substantially similar to those being replaced, with prior notice to the Practitioner Partner.

To the extent a Requestor/Practitioner Partner believes a member of the Academic Team is unable to perform services in a professional and competent manner according to the standards of the relevant field(s) and/or discipline(s), it shall have the right to raise such concerns with the Consultant/Academic Partner so that both parties have the opportunity to resolve such concerns in good faith, subject to the provisions of Section 10.02 of Appendix A.

4.4. Agreement to Comply with Terms of Task Order. The Consultant/Academic Partner agrees to comply with the terms and conditions of the Task Order and the Consortium Contract under which it was issued.

4.5. Conflicts of Interest—Gown. The Consultant/Academic Partner certifies that it has implemented and is enforcing a written policy on conflicts of interest, consistent with the provisions of the National Science Foundation’s AAG Chapter IV.A.; further, that, to the best of the undersigned Authorized Party’s knowledge, all financial disclosures required by the conflict of interest policy were made; and that conflicts of interest, if any, were, or prior to the institution’s expenditure of any funds under the award, will be, satisfactorily managed, reduced or eliminated in accordance with the Consultant’s conflict of interest policy.

4.6. Training and Oversight. To the extent the Academic Team includes any postdoctoral researchers, graduate students or undergraduate students, the Consultant/Academic Partner certifies that it has a plan to provide appropriate training and oversight in the responsible and ethical conduct of research to undergraduates, graduate students, and postdoctoral researchers.

4.7. Affirmation. The Consultant affirms and declares that it is [describe status under State corporations law and federal income tax law], and, further, that it is not in arrears to the City upon debt, contract or taxes, it is not a defaulter, as surety or otherwise, upon obligation to the City, it has not been declared “not responsible” or disqualified, by any agency of the City, and that, to its knowledge, there is no proceeding pending relating to its responsibility or qualification to receive public contract except as indicated in the space below:

Article 5. Task Order Execution. Execution of a Task Order by the Practitioner Partner shall be evidence of such Practitioner Partner’s approval of the following items:

- (1) subcontractors pursuant to Sections 3.3 (b) and (e)(8) of the Consortium Contract, subject to final compliance with PPB Rule requirements and Sections 2.07, 3.02 and 4.07 of Appendix A,
- (2) compensation beyond three months and/or utilizing a percentage equivalent of academic contract effort pursuant to Section 3.3(e)(1) of the Consortium Contract,
- (3) treating components of an Academic Partner's facilities and administration as a direct cost pursuant to Section 3.3 (e)(2) of the Consortium Contract,
- (4) the purchase of equipment and post-Project ownership of such equipment pursuant to Section 3.3 (e)(6) of the Consortium Contract,
- (5) the incurrence of expenses related to long-distance travel pursuant to Section 3.3 (e)(7) of the Consortium Contract, to be reimbursed, in the case of City Agency Requestors, pursuant to the provisions of Article 4 of the Consortium Contract,
- (6) the incurrence of expenses related to computer services pursuant to Section 3.3 (e)(9) of the Consortium Contract, and
- (7) the application of the formula to determine indirect costs pursuant to Section 3.3(e)(10) of the Consortium Contract.

Article 6. Relation of Task Order to Consortium Contract.

6.1 *Task Order Incorporates Terms of Consortium Contract.* This Task Order shall be deemed to incorporate all the terms and conditions of the Consortium Contract, including Appendix A thereto, even if such terms and conditions are not expressly reiterated in this Task Order.

** * * Drafters of the resulting Task Order should also reflect the following aspects resulting from various provisions of the Consortium Contract and decide how to reflect them in the remainder of this Appendix C template:*

Mini RFPs issued by any Requesting City Agency, alone or with other Requestors, shall comply with the requirements of PPB Rules as discussed in greater detail in Section 3.2 of the Consortium Contract, and the resulting Task Order will also be subject to the PPB Rules.

Pursuant to Section 2.8 of the Consortium Contract, Mini RFPs issued solely by a Public Entity or Public Entities shall comply with applicable Laws, and the Public Entity or Entities shall include references to such applicable Laws in its Task Order to the extent necessary or helpful for the Academic Practitioner. Further, as discussed in Section 3.2(g) of the Consortium Contract, the Public Entity or Entities shall also indicate, in the Task Order, provisions in the Consortium Contract that do not apply to the Public Entities, including but not limited to Sections 8.09, 9.01, 11.01, 11.02, 12.02, 12.03, 12.04 and 13.06 of Appendix A, and indicate such analogous provisions, if any, that do apply.

To the extent a Practitioner Partner elected, pursuant to Section 3.2(f), certain optional provisions in Appendix A, including but not limited to Sections 5.05, 5.08, 6.01 and 6.02 of Appendix A, the Practitioner Partner shall indicate in the Task Order such elected provisions.

6.2 Task Order Not an Amendment of Consortium Contract. Neither a Proposal in Response nor a Task Order may alter the terms and conditions of the Consortium Contract. The terms and conditions of the Consortium Contract Agreement can only be modified by the parties in an amendment pursuant to Section 6.4 of the Consortium Contract, and any provision of a Task Order that would have the effect of amending a term or condition of the Consortium Contract shall be null and void.

Any amendments, changes or modifications of this Task Order must comply with the provisions of Section 9.01 of Appendix A.

6.3 Conflict between Task Order and Consortium Contract. In the event of any conflict between any provision in this Task Order and any provision of the Consortium Contract, including Appendix A thereto, the provision in the Consortium Contract shall control.

Article 7. Notices. Any notices or other instruments required to be given or delivered pursuant this Task Order and the Consortium Contract under which it was issued shall be in writing and shall be delivered by hand against the written receipt therefor or sent by registered or certified mail as set forth below:

- To DDC, as manager of this Consortium Contract, addressed to the attention of Commissioner, New York City Department of Design and Construction, 30-30 Thomson Avenue, Long Island City, New York 11101;
- To the Practitioner Partner, [to come]; and
- To Academic Partners, [to come].

The parties hereto have executed original copies of this Consortium Contract, as of the last date below or such other date as applicable, in quantities required by Section 3.4 (f) of the Consortium Contract.

**[Academic Partner]
AGREED TO AND ACCEPTED BY:**

**[Practitioner Partner]
AGREED TO AND ACCEPTED BY:**

By: _____

By: _____

Name: _____

Name: _____

Title: _____

Title: _____

Date: _____

Date: _____

**DDC, as Administrator of Consortium Contract and Director of Town+Gown,
(for City Agencies: ACCEPTED BY)
(for Public Entities: ACKNOWLEDGED BY)**

By: _____

Name: _____

Title: _____

Date: _____

Payment/Reimbursement Requisition Form

Pursuant to Article 4 of the Consortium Contract, to the extent the Practitioner Partner has payment requirements beyond those set forth in Article 4, the Practitioner Partner shall set them forth in this Schedule 1, including but not limited to the number of originals and copies of each requisition for payment as required on such Schedule 1.