

MEMORANDUM OF UNDERSTANDING

-between-

**THE NEW YORK CITY
DEPARTMENT OF YOUTH AND COMMUNITY DEVELOPMENT**

-and-

BROOKLYN PUBLIC LIBRARY

-for the-

YOUNG ADULT LITERACY PROGRAM

THIS MEMORANDUM OF UNDERSTANDING (the "Agreement"), effective as of July 1, 2018, between the City of New York (the "City") acting by and through its Department of Youth and Community Development ("DYCD" or the "Department"), having an office located at 2 Lafayette Street, New York, New York 10007 and Brooklyn Public Library ("Contractor") a not-for-profit corporation having its principal office located at 10 Grand Army Plaza, Brooklyn, New York 11238.

WHEREAS, the Mayor's Office for Economic Opportunity, formerly known as the New York City Center for Economic Opportunity, and the Department have jointly developed a Young Adult Literacy Program ("YALP") consisting of Pre-High School Equivalency ("Pre-HSE") Tests Instruction Programs targeting youth sixteen (16) to twenty-four (24) years old from low-income communities who are not working, not enrolled in school, and who read between the fourth and eighth grade levels which has been and will continue to be delivered by The Brooklyn Public Library, The Queens Borough Public Library, and community-based organizations; and

WHEREAS, Contractor operates one (1) of the eight (8) current YALPs randomly selected by the Mayor's Office for Economic Opportunity and the Department, in support of the City's goal to build and the skills that advance careers and increase the earning potential for the City's working men and women, to participate in a pilot program to align their practices with Bridge Programs, as defined in the hereto attached Appendix B, Scope of Work, to connect low-literacy Participants to HSE Programs, colleges, training and employment opportunities; and

WHEREAS, the Mayor's Office for Economic Opportunity and the Department will continue to support and oversee Contractor's delivery of: i) YALP to disconnected youth consistent with the YALP model described in the Comprehensive Literacy Services Request for Proposals PIN 26014CLITRFP issued by the Department on October 28, 2013 and an addendum thereto dated November 20, 2013 and ii) Bridge Program, as defined in the hereto attached Appendix B, Scope of Work; and

WHEREAS, the Mayor's Office for Economic Opportunity wishes for Contractor to continue to provide YALP and Bridge Program services to disconnected youth; and

WHEREAS, the Mayor's Office for Economic Opportunity wishes for DYCD to administer the YALP and Bridge Program services provided by Contractor; and

WHEREAS, Contractor wishes to provide the YALP and Bridge Program services set forth in the hereto attached Appendix B, Scope of Work, and Appendix C, Budget, in accordance with the terms and conditions set forth herein

NOW, THEREFORE, the parties agree as follows:

ARTICLE I — DEFINITIONS

Section 1.01 Definitions

The following words and phrases, or pronouns used in their stead, shall, wherever they appear in this Agreement, be construed as follows, unless a different meaning is clear from the context:

A. “Board of Directors” or “Board” means the board of directors, board of trustees, or a similar body vested with the duty and responsibility for management and oversight of Contractor's affairs as they relate to its performance under this Agreement.

B. “Budget” means the line-item costs, performance based measures, or fee-for-service rate schedule attached hereto as Appendix C.

C. “Commissioner” or “Agency Head” means the head of the Department or his or her duly authorized representative. The term “duly authorized representative” shall include any person or persons acting within the limits of his or her authority.

D. “Comptroller” means the Comptroller of the City of New York.

E. “Fiscal Agent” means an entity (if any) retained by the Department, or retained by Contractor at the direction of the Department, to issue payments to third parties on behalf of Contractor or otherwise to assist Contractor in the administration of its financial affairs.

F. “Fiscal Manual” means a set of instructions provided by the Department to Contractor documenting the applicable policies and procedures of the Department for Contractor to use in such matters as record-keeping, bookkeeping, reporting, invoicing and claiming, budgeting, cost allocating, procurement, and payroll, as may be amended by the Department. The Fiscal Manual is incorporated by reference and may be found online at www.nyc.gov/dycd. The Fiscal Manual is not intended to amend the material terms of this Agreement with respect to the Scope of Work, the terms and conditions of this document, and Appendix A.

G. “Improper Related Party Transaction” means a Related Party Transaction that violates Not-for-Profit Corporation Law section 715.

H. “Law” or “Laws” means the New York City Charter (“Charter”), the New York City Administrative Code (“Admin. Code”), a local rule of the City of New York, the Constitutions of the United States and the State of New York, a statute of the United States or of the State of New York and any ordinance, rule, or regulation having the force of law and adopted pursuant thereto, as amended, and common law.

I. “Related Party” means any person associated with Contractor who is covered by the definition of “related party” in Not-for-Profit Corporation Law section 102. Related parties do not include City officials and employees acting within the scope of their official governmental duties.

J. “Related Party Transaction” means any transaction, agreement or any other arrangement in which Contractor or any affiliate of Contractor is a participant that is covered by the definition of “related party transaction” in Not-for-Profit Corporation Law section 102.

K. “State” means the State of New York.

ARTICLE II — TERM OF AGREEMENT

Section 2.01 Term. The term of this Agreement begins on July 1, 2018 for a period of one (1) years through June 30, 2019 (the “Term”).

Section 2.02 Renewal. This Agreement may not be renewed.

Section 2.03 Future funding. Contractor understands that the Department is under no obligation to continue its funding after the expiration of the term of this Agreement.

ARTICLE III — SCOPE OF WORK AND BUDGET

Section 3.01 Scope of work.

A. **Services and Activities.** Contractor shall provide the services and activities in program areas or programs listed and described in the Scope of Work attached hereto as Appendix B.

B. **Healthy food environment.** The City aims to reduce the prevalence of chronic disease, such as obesity, diabetes, and cardiovascular disease, by improving dietary intake of its residents. Accordingly, in addition to the services set forth in Appendix B, Contractor shall make best efforts to distribute to any staff members providing services to program participants under the Agreement and to program participants funded in whole or in part by this Agreement, any healthy food promotional materials provided to Contractor by the Department.

C. **New York City Food Standards.** This paragraph applies only if this Agreement includes a requirement that Contractor supply food to program participants as a material part of the client services funded by the Department. Contractor shall provide a healthy food environment in connection with the client services provided under this Agreement by complying with the attached New York City Agency Food Standards with regard to the provision of food to program participants under this Agreement, including compliance with the New York City Food Standards for beverage vending and food vending machines (<http://www.nyc.gov>, search term = “food standards”) for any vending machines to which program participants are granted access.

Section 3.02 Budget. Contractor shall provide such services and activities in accordance with the Budget. Contractor may request modifications to the Budget in the manner prescribed in the Fiscal Manual.

Section 3.03 Payment.

A. The Department shall pay Contractor an amount, in the aggregate, not to exceed four hundred forty thousand dollars (\$440,000.00) for the Term for all services provided under the Agreement comprised of:

1. For Program Services performed at the Facility located at the Bedford library branch during the period of July 1, 2018 through June 30, 2019, an amount not to exceed two hundred sixty-five thousand dollars (\$265,000.00); with such amount including ninety thousand dollars (\$90,000.00) for Bridge Program Services, of which amount forty-three thousand, two hundred dollars (\$43,200.00) is for stipends.
2. For Program Services performed at the Facility located at the New Lots library branch during the period of July 1, 2018 through June 30, 2019, an amount not to exceed one hundred seventy-five thousand dollars (\$175,000.00), of which amount twenty-one thousand, six hundred dollars (\$21,600.00) is for Group Projects stipends.

B. Payment shall be made in accordance with the Budget and the Fiscal Manual. Payment shall be made on a cost-reimbursement basis for expenditures made in accordance with Appendix B and the line-item budget approved by the Department and made a part hereof as Appendix C, Budget. Payments shall be made upon the Department's approval of timely, accurate, and complete payment expense reports with documentation as required by the Department, for the actual costs of line items set forth in the Budget, in accordance with applicable fiscal requirements of the Department and the City.

C. This Agreement shall not obligate the Department beyond the dollar amount designated as the maximum contract amount in the absence of a duly executed written contract amendment registered pursuant to Charter § 328.

Section 3.04 Cost allocating and duplication.

A. Duplication. Contractor represents and warrants that the work to be performed under this Agreement shall in no way duplicate any work performed under other agreements between the City and Contractor, nor under any agreement with any other governmental funding source, except upon the express written permission of the Department. Costs attributable to the program and not paid for by the City are not duplication (e.g., program enhancements, unreimbursed portions of staff salaries) but are subject to the cost allocation provisions set forth below. Noncompliance with this Section 3.04 shall constitute a material breach of this Agreement.

B. Cost allocation plan. Contractor shall accurately and equitably allocate costs that are attributable to the operation of two (2) or more programs among such programs, or that are costs attributable to two (2) or more governmental funding sources, by a method which represents the benefit of such costs to each program or funding source. Contractor shall upon commencement of services or as soon thereafter as practicable develop and deliver to the Department a cost allocation plan for the Department's approval.

C. No cost allocation plan shall be approved by the Department unless such a plan:

1. Relates to allowable costs as defined in Laws, regulations and policies of the federal, State and City governments;
2. Relates to costs necessary for Contractor's performance pursuant to this Agreement;
3. Fairly and accurately reflects the actual allocable share of such cost with respect to this Agreement;
4. Is developed in accordance with generally accepted accounting principles; and
5. Is accompanied by such supporting documentation as the Department deems necessary to evaluate the plan.

D. A cost allocation plan approved by the Department may be modified with the written approval of the Department.

E. Notwithstanding any provision in this Section 3.04 to the contrary, the Department further reserves the right to withhold payments to Contractor for allocated costs in accordance with the Fiscal Manual or if the Department determines that such allocated costs have been incorrectly determined, are not allowable, or are not properly allocable pursuant to this Agreement and/or approved cost allocation plan.

Section 3.05 Cost of living increases. Where Contractor's industry has experienced an increase in costs (e.g., salary, wage or fringe benefit cost of living increases, a change in the prevailing or living wage, a renegotiated collective bargaining agreement, an industry-wide increase in the Producer Price Index ("PPI") for fuel or energy) that exceeds the Budget, and the Office of Management and Budget ("OMB") or another independent agency has determined in writing that additional funds will be made available to a City agency for the class of contracts pursuant to which Contractor provides the same or substantially similar services, then the Department shall reimburse Contractor for such increases in costs to the extent that such increases have been authorized by the City for contracts within such class of contracts and to the extent that funds are appropriated for such purposes. Any cost of living increase will not be effective unless and until an amendment to the Agreement is registered pursuant to Charter §328.

ARTICLE IV — FISCAL PROCEDURES

Section 4.01 Cooperation and compliance. Contractor hereby agrees to fully cooperate and comply with the Fiscal Manual on all fiscal matters related to this Agreement.

Section 4.02 Accounts.

A. Contractor shall establish and maintain one (1) or more separate accounts for the funds obtained from or through the City of New York related to this and all other agreements with the City, and shall maintain records for such account to track and clearly identify the funds obligated through this Agreement.

B. Contractor shall notify the Department of the name, locations and account numbers of all bank accounts in which any funds pursuant to this Agreement are maintained, and of any change in the name, location, or account numbers of such accounts within five (5) days of such establishment or change. Such bank shall have a branch located in New York City unless otherwise approved by the Department.

C. Contractor shall notify the Department of the names, titles, and business addresses of such persons authorized by Contractor to receive, handle or disburse monies under this Agreement, including the company name and company address where such persons are not employees of Contractor. Such notification must be in writing and furnished to the Department within five (5) days from the execution of this Agreement and within five (5) days from any subsequent change or substitution of authorized signatories.

Section 4.03 Advance. The amount of any advance to be paid to Contractor under this Agreement shall be determined solely by the Department in accordance with its Fiscal Manual and any applicable Comptroller directives. Advanced funds shall be used exclusively for the payment of expenditures and obligations authorized by and properly incurred in accordance with the Budget.

Section 4.04 Financial reporting and invoicing. Contractor shall submit financial reports and invoices, along with required documentation, to the Department in accordance with the terms of the Fiscal Manual. Contractor acknowledges that repeated failure to submit required financial reports within the time limits prescribed may result in termination of this Agreement.

Section 4.05 Procurement requirements.

A. **Procurement records.** Contractor shall retain records that detail the method of procurement, the basis for selection or rejection of a contractor, consultant or supplier, and the basis for the contract price. Contractor shall retain proper and sufficient bills, vouchers, duplicate receipts, and documentation for any payments, expenditures or refunds made to or received by Contractor in connection with this Agreement. Contractor may maintain a petty cash fund in accordance with the Fiscal Manual; however, no expenditures may be made from such fund for procurements valued in excess of \$1,000. Contractor shall make all procurement expenditures in excess of \$1,000 by check or credit card.

B. **Extent of competition required.** Contractor shall comply with the following requirements concerning competition:

1. Contractor must solicit and document at least three (3) written estimates for any payment made or obligation undertaken in connection with this Agreement for any purchase of goods, supplies, or services (including but not limited to consulting services) for amounts in excess of \$25,000 or, if this Agreement is a federally funded subrecipient agreement, for amounts in excess of \$3,500. The monetary threshold applies to payments made or obligations undertaken in the course of a one (1) year period with respect to any one (1) person or entity. Payments made or obligations undertaken will not be artificially divided in order to avoid the requirements of this paragraph.
2. For any payment made or obligation undertaken in connection with this Agreement for any purchase of goods, supplies, or services (including but not limited to consulting services) for amounts between \$5,000 and \$25,000, Contractor shall conduct sufficient market research and/or competition to support its determination that the price of such purchased goods, supplies, services or equipment is reasonable. Notwithstanding the dollar amounts in the previous sentence, if this Agreement is a federally funded, subrecipient agreement, Contractor shall comply with the procurement methods required in 2 CFR section 200.320. The monetary thresholds apply to payments made or obligations undertaken in the course of a one (1) year period with respect to any one

(1) person or entity. Payments made or obligations undertaken will not be artificially divided in order to avoid the requirements of this paragraph.

3. The City may retain the services of a Group Purchasing Organization (GPO) to facilitate the purchase of supplies or other items. If the City retains such a GPO, the Department may direct Contractor to utilize the services of such GPO. If Contractor is directed by the Department to use the GPO or if Contractor becomes a member of and makes purchases through the GPO retained by the City with or without the City's direction, Paragraph B shall not apply to those purchases and the procurement requirements will be satisfied through the use of the GPO.

C. Compliance with State and Federal Law. If this Agreement is funded by a State or federal grant, additional procurement requirements may apply. To the extent that State and/or federal procurement requirements conflict with the procurement requirements herein, Contractor shall comply with the stricter requirement.

D. Equipment. If so directed by the Department, title to all equipment or other property purchased at a price in excess of \$5,000 with funds obtained through this Agreement shall be in the name of the City of New York and title shall pass to Contractor upon the end of the equipment's or property's useful life (as the phrase "useful life" is defined in Internal Revenue Code § 1.169-2). Contractor shall properly maintain and keep in good repair all equipment acquired with funds obtained through this Agreement. Contractor shall dispose of such equipment in the manner provided in the Fiscal Manual or as otherwise directed by the Department, and shall maintain detailed records concerning such dispositions. At the Department's request, Contractor must execute a UCC-1 to evidence the Department's interest in equipment purchased at a price in excess of \$25,000 and to enable the Department to perfect that interest by filing or otherwise

E. M/WBE suppliers. Contractor is encouraged to utilize businesses and individual proprietors listed on the NYC Online Directory of Certified M/WBE Businesses, available at www.nyc.gov/sbs, as sources for its purchases of goods, supplies, services, and equipment using funds obtained through this Agreement. Contractor is also encouraged to utilize businesses and individual proprietors owned/operated by people with disabilities as sources for its purchases of goods, supplies, services, and equipment using funds obtained through this Agreement.

F. Disputes with suppliers. Contractor, without recourse to the City or the Department, shall be responsible for the settlement and satisfaction of all contractual obligations and administrative issues arising out of any procurement or leasing contracts paid with funds obtained through this Agreement.

Section 4.06 Limitation on use of funds.

A. Proper purposes. No funds obtained through this Agreement shall be spent for any expense not incurred in accordance with the terms of the Agreement. All such funds shall be administered in accordance with the Fiscal Manual.

B. Real property. No funds obtained through this Agreement shall be spent for the purchase of any interest in or improvement of real property, unless included in the Budget or otherwise authorized in writing by the Department.

C. Disallowed costs. Any cost found by the Department, the City or any auditing authority that examines the financial records of Contractor to be improperly incurred, including but not limited to

Improper Related Party Transactions, shall be subject to reimbursement to the City. Failure to make said reimbursement shall be grounds for termination of this Agreement.

Section 4.07 Recoupment of disallowances, improperly incurred costs and overpayments. The Department may, at its option, either require Contractor to reimburse the Department or withhold for the purposes of set-off any monies due to Contractor under this Agreement up to the amount of any disallowance or improperly incurred costs resulting from any audits of Contractor, the amount of any overpayment to Contractor with regard to this Agreement or to any other agreement between the parties hereto, including any agreement(s) that commenced prior to the commencement date of this Agreement, and/or amounts incurred on any Improper Related Party Transaction. Prior to the imposition of withholding for the purposes of set-off, the Department will provide Contractor with an opportunity to be heard upon at least ten (10) days' prior written notice.

Section 4.08 Failure to spend funds. In the event that Contractor fails to spend funds for any part of the Budget within the time indicated therein (i.e., the fiscal year unless otherwise indicated) or at the level of expenditures indicated therein, the Department reserves the right, in its discretion, to recoup any funds advanced and not spent.

Section 4.09 Provisions Applicable When Fiscal Agent Disburses Funds to Contractors

A. Payment by Fiscal Agent. Where the Department has retained a Fiscal Agent to make payments to third parties on behalf of Contractor, then Contractor is obligated to use the Fiscal Agent to make payment to third parties at the Department's direction, including for the purchase of such goods, supplies, services, and/or equipment made by Contractor under this Agreement. Where the Department directs that Contractor utilize a Fiscal Agent, Contractor shall not pay any obligations on its own behalf except to the extent specifically allowed by this Agreement and the Fiscal Manual.

B. Payroll processing by Fiscal Agent. In the event that a Fiscal Agent is processing Contractor's payroll, Contractor shall deliver to the Fiscal Agent signed and dated time and attendance records for each staff member and consultant to be paid under this Agreement, in the form required and delivered at the time required by the Fiscal Agent and the Fiscal Manual. Subject to the Department's approval, the Fiscal Agent shall prepare the payroll checks and supporting materials based on the documents submitted.

C. Fiscal Agent documentation. Upon reasonable request and approval by the Department, Contractor shall have the right to inspect any fiscal documents relating to this Agreement as may be maintained by a Fiscal Agent, if applicable. Contractor may request from the Department copies of any or all the following documents relating to the funds to be provided hereunder, with said documents to be furnished by the Fiscal Agent, subject to the Department's approval, within a reasonable time of the request: monthly budget and expenditure reports; budgets and budget modifications; and audit reports, where available.

ARTICLE V — RECORDS, DELIVERABLES, AUDITS AND REPORTS

Section 5.01 Records to be maintained; inspection; observation.

A. Records to be maintained. In addition to any other records required to be maintained and/or provided for inspection pursuant to this Agreement, Contractor shall maintain and make available to the Department for inspection, upon reasonable request, the following documents: tax returns (not including Schedule B to IRS Form 990); audit reports; all programmatic records and accounts maintained in connection with this Agreement; publications, program research, and other reports prepared in connection with this Agreement; all financial books, records and accounts reflecting payments made by Contractor for petty cash expenditures in connection with this Agreement; all applicable licenses and permits; Board member lists and all minutes and attendance sheets (dated and signed) for meetings of the Board of Directors and any of its committees responsible for the oversight of the program(s) funded under this Agreement; governing documents (e.g., by-laws); all other contracts related to providing services under this Agreement, to which Contractor is a party and the contract terms coincide, in whole or in part, with the terms of this Agreement; and any other records or materials reasonably requested at such reasonable times and places and as often as may be reasonably requested. Upon request by the Department of a record that contains protected personally identifiable information as such phrase is defined in Admin. Code § 10-501 or a record that if disclosed would constitute a waiver of a legal privilege or violate the Law or an ethical obligation under the New York Rules of Professional Conduct for attorneys, National Association of Social Workers Code of Ethics or other similar code governing the provision of a profession's services in New York State, Contractor may redact such personally identifiable or privileged information or other information that if disclosed would violate the Law or such professional code. In addition, Contractor may, upon request to and written approval from the Department, which approval may not be unreasonably denied or delayed, withhold from disclosure to the Department certain categories of documents that are not protected by a legal privilege or other Law but where Contractor reasonably believes that disclosure of such documents would interfere with or impair the provision of services under this Agreement.

B. Records maintained in accordance with this Article V shall be subject to the retention period in Section 5.02 of Appendix A except that if this Agreement is a federally funded subrecipient agreement, the retention period shall be the maximum allowed under 2 CFR § 200.333.

C. Contractor shall permit the Department and its authorized representatives including the Department's Inspector General, the Comptroller, the New York City Department of Investigation, or their designees, or other interested federal, State or City agency representatives, to attend all meetings of the Board of Directors and to be present at the program site(s) to observe the work and activities being performed in connection with this Agreement. If observation of particular work or activity would constitute a waiver of a legal privilege or violate the Law or an ethical obligation under the New York Rules of Professional Conduct for attorneys, National Association of Social Workers Code of Ethics or other similar code governing the provision of a profession's services in New York State, Contractor shall promptly inform the Department or other entity seeking to observe such work or activity. Such restriction shall not act to prevent government representatives from inspecting the provision of services in a manner that allows the representatives to ensure that services are being performed in accordance with this Agreement.

Section 5.02 Deliverables and reports. Contractor shall submit the deliverables and periodic reports required by this Agreement, in accordance with the Scope of Work attached hereto. Contractor shall administer such assessment tools, collect and report such data, maintain records, make reports and take such other actions consistent with the Scope of Work as may be directed by the Department. The Department will evaluate Contractor's performance each year in the categories of timeliness, fiscal administration, and performance. Additional evaluation criteria or weighting of these subcategories may be specified in the Scope of Work.

Section 5.03 Audit disclaimers. If any audit of Contractor's records shall include a Disclaimer of Opinion relating to any contract with the Department or other funding sources, said Disclaimer shall be ground for termination of this Agreement.

Section 5.04 Federal audit requirements. If applicable, Contractor shall fulfill the audit requirements of 2 CFR Part 200, Subpart F, and shall provide such audit to the Department within thirty (30) days after its receipt of the final audit by Contractor from the preparing accountant.

Section 5.05 State charities registration and audit requirements. If Contractor is required by New York State law to register with and make annual filings to the Charities Bureau of the New York State Office of the Attorney General, timely compliance with such requirements shall be deemed a material term of this Agreement. Contractor shall make available to the Department all such filings (except the filing required by Executive Law § 172-e), including any audit and/or financial report required to be submitted with such filings, within thirty (30) days of receiving such final audit or financial report from its preparer, and in no event later than ten (10) days following the filing of such audit or financial report with the Charities Bureau.

Section 5.06 Additional audit and financial reporting requirements.

A. If any Contractor is exempt from making annual filings to the Charities Bureau of the New York State Office of the Attorney General, Contractor will, at direction of City, provide the City with annual disclosure reports equivalent to those filings that Contractor would have filed with the State had it been required to file, except the filing that would have been required by Executive Law § 172-e. As of the effective date of this Agreement, the requirements are as follows:

1. Contractors with gross revenues less than \$250,000 in any fiscal year shall file a copy of the annual unaudited financial report that it is required to file pursuant to Not-for-Profit Corporation Law section 172-b(2-a) with the Department.

2. Contractors with gross revenues between \$250,000 and \$750,000¹ in any fiscal year shall file an annual financial statement with the Department, which includes an independent certified public accountant's review report in accordance with the "Statement on Standards for Accounting and Review Services" issued by the American Institute of Certified Public Accountants. The financial statement shall be prepared in conformance with generally accepted accounting principles (GAAP), including compliance with all pronouncements of the Financial Accounting Standards Board and the American Institute of Certified Public Accountants that establish accounting principles relevant to not-for-profit organizations.

3. Contractors with gross revenues in excess of \$750,000² shall file with the Department an annual audit report by an independent certified public accountant. Said audit report shall contain an opinion, signed by such certified public accountant that the financial statements are presented fairly in all material respects and in conformity with GAAP, including compliance with all pronouncements of the Financial Accounting Standards Board and the American Institute of Certified Public Accountants that establish accounting principles relevant to not-for-profit organizations, and that the financial sheet and balance sheet present fairly the financial operations and position of the

¹ As of July 1, 2021, this provision applies to contractors with gross revenues between \$250,000 and \$1,000,000.

² As of July 1, 2021, this provision applies to contractors with gross revenues in excess of \$1,000,000.

organization. The financial report must be signed by the president or other authorized officer and the chief fiscal officer under penalties of perjury that the statements are true and correct to the best of their knowledge.

B. Contractors receiving funds pursuant to this Agreement in excess of \$1,000,000 will, at direction of City, provide to the Department an audit report from an independent certified public accountant containing an opinion that Contractor has appropriately allocated costs in accordance with the terms of the Agreement, including that the costs have not been improperly double-charged between multiple City and/or State contracts or between multiple governmental funding sources. Contractor may satisfy this requirement by including the appropriate analysis in any audits required pursuant to Section 5.04 or 5.05.

C. Contractor must submit all required audit and financial reports under this Section to the Department within thirty (30) days after receipt of the final audit from its accountant and, if no audit is required, within thirty (30) days of filing with the Attorney General, but in any event no later than twelve (12) months after close of the audit period, or such period as determined by the Department. The audit and financial reports shall comply with the applicable provisions in the Fiscal Manual throughout the term of this Agreement, including terms mandating the audit period and frequency of such audits and reports.

D. The Department may in its sole discretion conduct its own programmatic or financial audits of Contractor.

ARTICLE VI — PERSONNEL PRACTICES AND RECORDS

Section 6.01 Definition of employee. The term “employee” as used in this Article shall be limited to salaried personnel and shall include neither consultants under contract to Contractor to provide specified services nor participants in the program who are being paid as trainees.

Section 6.02 Compensation of certain employees; vacancies; and Board compensation.

A. Employee list. Contractor shall submit to the Department within thirty (30) days of the execution of this Agreement and upon request a list of certain employees, which shall include the Executive Director, Chief Financial Officer, Chief Operating Officer, and/or the functional equivalent of such positions, and key employees (as the phrase “key employee” is defined in the Instructions to IRS Form 990. For each listed employee, Contractor shall provide the current total compensation (including all benefits), all sources of the employee’s total compensation, whether from this Agreement or another City, State, Federal or private source, and the dollar amount of compensation from each such source.

B. Vacancies. Contractor shall notify the Department in writing within ten (10) days of their occurrence any appointments to or resignations from the positions of Executive Director, Chief Financial Officer, Chief Operating Officer, and/or the functional equivalent of such positions and appointments or resignations of key employees (as the phrase “key employee” is defined in the Instructions to IRS Form 990).

C. Board compensation. Contractor shall submit to the Department within thirty (30) days of the execution of this Agreement and at the beginning of each new fiscal year a listing of all members of its Board of Directors and identify any of its members who receive compensation in any form, including but not limited to salary, stipend, per diem payments, and/or payments for services rendered, from Contractor or its affiliates, together with the amount of any such compensation, regardless of the source of its payment, and a description of its purpose.

Section 6.03 Collective bargaining. Contractor acknowledges that neither the City nor the Department is responsible or shall be liable for any obligations contained in any agreement into which Contractor or a representatives of Contractor has entered concerning the collective bargaining rights or benefits of its employees paid in full or in part by funds provided through this Agreement. Furthermore, Contractor agrees to abide by all applicable Laws governing the use of funds in connection with union activities.

Section 6.04 Recruitment and hiring of staff.

A. Maintenance of skilled staff. Contractor shall maintain sufficient personnel and resources, including computer technology, to deliver the services described in the Scope of Work and perform necessary administrative functions throughout the term of this Agreement, including but not limited to: program evaluation; program monitoring; program research and development, including the preparation of reports required by this Agreement; fiscal reporting, review, audit, and close-out of the program; and implementation of any corrective actions required by the Department.

B. Background checks.

1. Recruitment; Screening; Fingerprinting: Contractor shall be responsible for the recruitment and screening of employees and volunteers performing work under the Agreement, including the verification of credentials, references, experience and skills necessary for working with clients and participants. Where consistent with State and federal law, if directed by the Department, Contractor will undertake the fingerprinting of employees and volunteers, including applicants, in accordance with instructions from the Department.

2. Convictions, Non-Pending Arrests and Criminal Accusations, and Pending Arrests: Contractor shall comply with Subdivisions 15 and 16 of Section 296 the New York Executive Law, Article 23-A of the New York Correction Law, and Subdivisions 11 and 11-a of the Admin Code. Such laws pertain to unlawful discriminatory employment practices in connection with individuals with convictions, non-pending arrests or criminal accusations, and/or pending arrests.

3. Review of Decision: Where practicable, Contractor shall provide for the review by a supervisor employed by Contractor of a decision not to hire based on convictions, non-pending arrests or criminal accusations, and/or pending arrests.

4. Consultation with the Department: Contractor may consult with the Department regarding the application of this Section 6.04.

C. Drug-free workplace.

1. Contractor shall conspicuously post at any facility at which activities funded in whole or in part through this Agreement occur or provide to employees performing services under this Agreement, a statement notifying employees performing services under this Agreement that the unauthorized use, possession, distribution, dispensing, and manufacture of controlled substances are prohibited.

2. Contractor shall require staff members who provide work under this Agreement to notify Contractor in writing of his/her arrest or conviction for violation of a criminal drug statute occurring in the workplace no later than five (5) calendar days after such arrest or conviction. Contractor shall thereafter notify the Department within ten (10) calendar days of Contractor's receipt of the above-described notice of conviction from a staff member or of the date Contractor otherwise received actual notice of such conviction.

3. Contractor shall take one of the following actions within thirty (30) calendar days of receiving notice of such a conviction with respect to any staff member who performs work under this Agreement so convicted: (i) appropriate personnel action, up to and including termination, consistent with the requirements of the Rehabilitation Act of 1973, as amended; or (ii) require such convicted staff member to participate satisfactorily in a drug abuse assistance or rehabilitation program approved for such purposes by a federal, State, or local health, law enforcement, or other appropriate agency, and to comply with Contractor's statement made in accordance with Article 6.04(C)(1).

4. Nothing in this Article 6.04(C) shall limit Contractor from providing a more stringent drug-free workplace policy.

Section 6.05 Board of Directors.

A. Except as provided in Paragraph B of this Section 6.05, Contractor's employees and members of their immediate families, as defined in Paragraph C of this Section 6.05, may not serve on the Board or any committee with authority to order personnel actions affecting his or her job, or which, either by rule or by practice, regularly nominates, recommends or screens candidates for employment in the program to be operated pursuant to this Agreement.

B. If the Board has more than five (5) members, then Contractor's employees and members of their immediate families may serve on the Board, or any committee with authority to order personnel actions affecting his or her job, or which, either by rule or by practice, regularly nominates, recommends or screens candidates for employment in the program to be operated pursuant to this Agreement, provided that (i) Contractor's employees and members of their immediate families are prohibited from deliberating and/or voting and being present during deliberation and/or voting on any such personnel matters, including but not limited to any matters directly affecting their own salary or other compensation, and shall fully disclose all conflicts and potential conflicts to the Board, and (ii) Contractor's employees and members of their immediate families may not serve in the capacity either of Chairperson or Treasurer of the Board (or equivalent titles), nor constitute more than one-third of either the Board or any such committee.

C. Without the prior written consent of the Commissioner, no person may hold a job or position with Contractor over which a member of his or her immediate family exercises any supervisory, managerial or other authority whatsoever whether such authority is reflected in a job title or otherwise, unless such job or position is wholly voluntary and unpaid. For the purposes of this Section 6.05, a member of an immediate family includes: husband, wife, domestic partner, father, father-in-law, mother, mother-in-law, brother, brother-in-law, sister, sister-in-law, son, son-in-law, daughter, daughter-in-law, niece, nephew, aunt, uncle, first cousin, and separated spouse. Where a member of an immediate family has that status because of that person's relationship to a spouse (e.g., father-in-law), that status shall also

apply to a relative of a domestic partner. For purposes of this paragraph, a member of the Board is deemed to exercise authority over all employees of Contractor.

D. If Contractor has contracts with the City that in the aggregate during any twelve-month period have a value of more than One Million Dollars (\$1,000,000) and such amount constitutes more than fifty percent (50%) of Contractor's total revenues, then Contractor must have a minimum of five (5) persons on its Board.

E. This Section 6.05 shall apply only if Contractor is a not-for-profit corporation.

Section 6.06 Conflict of interest policy.

A. If required by section 715-a(a) of the Not-for-Profit Corporation Law, Contractor shall maintain a Conflict of Interest Policy that includes, at a minimum, the following provisions:

1. A definition of the circumstances that constitute a conflict of interest;
2. Procedures for disclosing a conflict of interest;
3. A requirement that the person with the conflict of interest not be present at or participate in Board or committee deliberation or vote on the matter giving rise to such conflict;
4. A prohibition against any attempt by the person with the conflict to influence improperly the deliberation or voting on the matter giving rise to such conflict;
5. A requirement that the existence and resolution of the conflict be documented in Contractor's records, including in the minutes of any meeting at which the conflict was discussed or voted upon;
6. Procedures for disclosing, addressing, and documenting Related Party Transactions in accordance with section 715 of the Not-for-Profit Corporation Law; and
7. A requirement that each director annually submit the statement required pursuant to Section 6.06(B), below.

B. The Conflict of Interest Policy shall require that prior to the initial election of any director, and annually thereafter, such director shall complete, sign and submit to the Board Secretary or a designated compliance officer a written statement identifying, to the best of the director's knowledge, any entity of which such director is an officer, director, trustee, member, owner (either as a sole proprietor or a partner), or employee and with which Contractor has a relationship, and any transaction in which Contractor is a participant and in which the director might have a conflicting interest. The Board Secretary or designated compliance officer shall provide a copy of all completed statements to the chair of the audit committee or, if there is no audit committee, to the Board Chairperson.

ARTICLE VII — PROGRAM FACILITY

Section 7.01 Suitability. Contractor shall maintain all facilities used for the provision of services funded in whole or in part through this Agreement, whether owned, leased, or used pursuant to an in-kind agreement or arrangement, whether permanent or temporary, in a condition suitable to provide services pursuant to this Agreement.

Section 7.02 Signage. Upon request by the Department, and consistent with applicable Laws and applicable lease and license requirements, Contractor will prominently display signs inside and outside the facility(ies) used for the program indicating such information as the program name, its sponsorship by the Department, the program activity and the days and hours of operation. In addition,

Contractor shall prominently display inside the facility(ies) all signs, provided by the Department, if any, advising of any of Contractor's obligations with regard to Equal Employment Opportunity Laws. If Contractor is concerned that signage would adversely impact Contractor's services, it shall notify the Department of its concern and, if possible, recommend acceptable alternatives or modifications to the Department.

Section 7.03 Security and emergency plan.

A. Prior to the commencement of services under this Agreement, Contractor shall adopt, implement, and instruct staff regarding a written plan to provide for the safety and security of clients, participants, staff, and Contractor's facility, including procedures to follow during emergencies. Contractor shall maintain a current file of emergency contacts for each client and participant, which shall include, to the extent available, the names, addresses, telephone numbers, and locations where such contacts can be reached. A security plan applying to all of Contractor's operations rather than specifically to the City-funded operations shall be sufficient to comply with the terms of this requirement. Contractor shall cooperate with the City during any emergency affecting Contractor's services and/or facilities.

B. In the event that a State of Emergency ("SOE") is declared by the Mayor of the City, the City may suspend Contractor's normal operations until further notice. No damages shall be assessed for suspension of normal services during this time. All other terms and conditions of this Agreement shall remain in effect, except as modified by a contract amendment registered pursuant to Charter §328 or other appropriate contract action. Contractor may, at the request of and in a manner determined by the Department, assist the Department in carrying out emergency procedures during a State of Emergency. Emergency procedures shall remain in effect until the Mayor has determined that the SOE has expired. In consideration thereof, the City agrees to indemnify Contractor against all claims by third parties arising out of the actions of its employees during the SOE that are directed by the City and not otherwise required to be performed under this Agreement, except for those arising out of the employees' gross negligence or intentional misconduct.

ARTICLE VIII — CENTRAL INSURANCE PROGRAM

Section 8.01 Availability. If offered to Contractor by the Department, participation in the City-sponsored Central Insurance Program (CIP) plan shall satisfy Contractor's responsibility to obtain any of the types of insurance provided under such CIP plan. The Department may facilitate the provision of this insurance plan as a convenience for Contractor and for the protection of the City. Provision of these plans through the Department is in no way an admission by the Department or the City of liability for acts, omissions or negligence of Contractor or its employees.

Section 8.02 Cancellation. The Department reserves the right to cancel or modify any CIP plan offered to Contractor as it deems advisable, and at such time as it deems advisable, in its sole discretion. In such event, or in the event of cancellation by the insurers, the Department will promptly notify Contractor. Contractor must maintain all required insurance at all times during the term of this Agreement either through participation in the CIP plan or through insurance obtained separately by Contractor.

Section 8.03 Notification concerning occurrence of incidents. If Contractor is enrolled in the CIP plan, upon the occurrence of any injury to any client/participant, employee, volunteer, officer, visitor, or any other person, in conjunction with the services funded in whole or in part through this Agreement, and/or of any damage to the facility or any damage to or theft of equipment purchased with funds paid

under this Agreement, Contractor shall provide telephone notice to the Department within twenty-four (24) hours of the incident, followed by a written report on the approved Incident Report Form to be delivered to the Department within three (3) business days.

ARTICLE IX — REPRESENTATIONS AND COVENANTS OF CONTRACTOR

Section 9.01 Eligibility. Contractor represents and warrants that it has complied and continues to comply with the eligibility requirements set out in the solicitation document (e.g., the request for proposals) under which it proposed for and was awarded this Agreement. Any material change in the eligibility compliance information supplied in Contractor's contract proposal must be reported to the Department within a reasonable time thereof. Failure to do so will be deemed a material breach of this Agreement and could result in termination of this Agreement.

Section 9.02 Program services.

A. Unlawful discrimination. Except where expressly set forth in the Scope of Work and approved by the Department, Contractor represents and warrants that eligibility for admission to the services funded through this Agreement shall not be restricted on the basis of actual or perceived age, race, color, religion, creed, national origin, alienage or citizenship status, sex, gender, sexual preference or sexual orientation, disability (including presence of a service dog), marital status, partnership status, military status, or any other class protected from discrimination by Law.

B. Fee. Contractor further represents and warrants that no clients or participants shall be charged a fee or required to make any other payment or purchase or participate in any activity designed to raise funds as a condition of eligibility for or participation in the services funded through this Agreement, except as required by Law or unless a waiver of this provision is approved in writing by the Department. Waivers may be considered under the following conditions: (i) Contractor's total costs for the services set forth in the Scope of Work exceed the total value of the Agreement; (ii) Contractor's fees for services and/or the arrangements made to include those participants unable to pay such fees are deemed reasonable and appropriate by the Department; and (iii) the fees are set at a level that does not discourage or impede participation by members of the community to be served by the services.

C. Immigration status. In connection with the services provided under this Agreement, Contractor shall not inquire about a client or potential client's immigration status unless (i) it is necessary for the determination of program, service or benefit eligibility or the provision of City services or (ii) Contractor is required by Law to inquire about such person's immigration status.

Section 9.03 Allegations of abuse or maltreatment. Contractor will notify the Department within twenty-four (24) hours of promptly determining that reasonable cause exists to suspect that any of Contractor's administrators or staff, including both paid and volunteer, has abused, maltreated, neglected, assaulted or endangered the welfare of any program participant. In addition, if such reasonable cause is found, Contractor shall take appropriate action to remove the person from the proximity of program participants while the matter is being investigated by Contractor. The term abuse shall mean the infliction of physical injury by other than accidental means which causes or creates a substantial risk of death, or serious or protracted disfigurement, or protracted impairment of physical or emotional health or protracted loss or impairment of the function of any bodily organ. The term maltreatment shall mean (i) treatment that results in serious physical injury other than by accidental means, or (ii) neglect or failure to exercise a minimum degree of care that impairs, or places in imminent danger of being impaired, the physical, mental or emotional condition of a program participant. Contractor shall provide telephone notice to the

Department within twenty-four (24) hours of determining that reasonable cause exists, followed by a written report, to be delivered to the Department within three (3) business days. Compliance with this reporting requirement does not satisfy any other legally mandated reporting of abuse, such as to the New York State Central Registry ("SCR").

ARTICLE X — MISCELLANEOUS

Section 10.01 Headings. The article, section, and paragraph headings throughout this Agreement are for convenience and reference only and the words contained therein shall in no way be deemed to define, limit, describe, explain, modify or add to the interpretation or meaning of any provision of this Agreement or the scope or intent thereof, nor in any way affect this Agreement.

Section 10.02 Order of priority. During the term of the Agreement, conflicts between the various documents shall be resolved in the following order of precedence, such documents constituting the entire Agreement between the parties:

- Standard Human Services Agreement (this document) along with the attached riders;
- Appendix A (General Provisions Governing Contracts for Consultants, Professional, Technical and Human Client Services);
- Appendix B (Scope of Work);
- Appendix C (Budget); and
- Fiscal Manual.

ARTICLE XI— SUPPORTIVE SERVICES AND TECHNICAL ASSISTANCE

Section 11.01 Availability of supportive services and technical assistance. At its sole discretion, the City may provide, either directly or through its designee, technical assistance to Contractor in such areas as: (1) program planning, development, coordination, and dissemination of information; (2) preparation of reports and materials required by the City and/or other governmental entities with jurisdiction over Contractor's activities relating to the operation of services funded through this Agreement; (3) compliance with applicable Laws, guidelines, and administrative memoranda; and/or (4) issues or matters affecting Contractor's performance under this Agreement.

Section 11.02 Training. At its sole discretion, the City may provide, either directly or through its designee, training/technical assistance to Contractor's employees and Board members, relating to the management and operation of the program funded through this Agreement. If training and/or technical assistance is made available, Contractor must commit appropriate employees and Board members to attend/participate at training sessions, as instructed by the City or its designee.

Section 11.03 Capacity Building and Oversight ("CBO") Review for not-for-profit Contractors. If requested by the Department, Contractor must complete the Mayor's Office of Contract Services ("MOCS") Capacity Building and Oversight ("CBO") Review process. As part of that process, Contractor must submit specified documents to the CBO unit of MOCS, which then conducts an evaluation of Contractor and its operations for compliance with the terms of its contracts, its own by-laws, internal fiscal controls, applicable laws and regulations, and best practices in not-for-profit organization administration. The specified documents may include, but are not limited to, Contractor's Internal Revenue Service ("IRS") determination of tax exemption, the most recent IRS Form 990 filing (not including Schedule B to Form 990); the most recent audited financial statement (including the auditor's

letter to the management), the functional budget for the current fiscal year in the format approved by the Board of Directors, an organizational chart identifying key staff by title, a copy of the most recently-approved Board Minutes, the by-laws of the corporation, a roster of the membership of the Board of Directors, and a list of Board committees, Contractor's current policies and procedures as adopted, and any other organizational documents, whether or not they are specifically required to be maintained pursuant to this contract or applicable Laws and regulations. In the course of the CBO review process, MOCS may make recommendations to Contractor, request Contractor to take certain remedial actions and/or to implement certain policy changes. Any such recommendations, and Contractor's responses thereto, will be provided to the Department for its consideration and any appropriate actions under this Agreement.

Section 11.04 Disclaimer. The technical assistance and training that the City, in its sole discretion, may provide to Contractor shall not be construed to be a condition precedent to Contractor's obligation to provide the services funded through this Agreement in accordance with the Scope of Work.

ARTICLE XII – INDEMNIFICATION

Section 12.01 Indemnification. In accordance with Article 8 of the attached Appendix A, "General Provisions Governing Contracts for Consultants, Professional, Technical, Human and Client Services," Contractor shall defend and indemnify the City and, if applicable, the Board of Education of the City School District of the City of New York a/k/a the City of New York Department of Education or the New York City Housing Authority, including their respective officials and employees.

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

BROOKLYN PUBLIC LIBRARY

**CITY OF NEW YORK BY AND THROUGH
THE DEPARTMENT OF YOUTH AND
COMMUNITY DEVELOPMENT**


Authorized Signature


Caroline Press
General Counsel

Brett Robinson
Name

Executive Vice President, Finance &
Administration
Title

10/1/18
Date

11-1904261
Fed. Employer I.D. No. or Soc. Sec. No.

9/25/18
Date

ACKNOWLEDGMENT BY CITY

STATE OF NEW YORK)

:ss:

COUNTY OF NEW YORK)

On this 1st day of October 20 18, before me personally came CAROLINE PRESS, to me known and known to me to be GENERAL COUNSEL of the NEW YORK CITY DEPARTMENT OF YOUTH AND COMMUNITY DEVELOPMENT, the person described in and who is duly authorized to execute the foregoing instrument on behalf of the Commissioner, and she acknowledged to me that she executed the same for the purpose therein mentioned.

Barbara A. Lavandeira
Notary Public or Commissioner of Deeds.

BARBARA A. LAVANDEIRA
Notary Public, State of New York
No. 02LA6274821
Qualified in New York County
Commission Expires Jan. 14, 2021

ACKNOWLEDGMENT OF CONTRACTOR IF A CORPORATION

State of New York County of Kings ss:

On this 25 day of September 20 18 before me personally came Forrest J Robinson to me known, who, being by me duly sworn did depose and say that he/she resides at Brooklyn Public Library; that he/she is the of the corporation described in and which executed the foregoing instrument; and that he signed his name to the foregoing instrument by order of the directors of said corporation as the duly authorized and binding act thereof.

Jennifer R. Williams
Notary Public or Commissioner of Deeds.

Jennifer R. Williams
Notary Public, State of New York
No. 4739357
Qualified in Kings County
Commission Expires April 30, 2019

ACKNOWLEDGMENT OF CONTRACTOR IF A PARTNERSHIP

State of _____ County of _____ ss:

On this _____ day of _____ 20 _____ before me personally came _____

to me known, who, being by me duly sworn did depose and say that he/she resides at _____

_____ ; that he/she is _____ partner of _____, a limited/general partnership existing under the laws of the State of _____, the partnership described in and which executed the foregoing instrument; and that he/she signed his/her name to the foregoing instrument as the duly authorized and binding act of said partnership.

Notary Public or Commissioner of Deeds.

ACKNOWLEDGMENT OF CONTRACTOR IF AN INDIVIDUAL

State of _____ County of _____ ss:

On this _____ day of _____ 20 _____ before me personally came _____

to me known, who, being by me duly sworn did depose and say that he/she resides at _____

_____, and that he/she is the individual whose name is subscribed to the within instrument and acknowledged to me that by his/her signature on the instrument, said individual executed the instrument.

Notary Public or Commissioner of Deeds.

CONTINUITY OF OPERATIONS PLAN RIDER: TO BE USED FOR THOSE PROGRAMS WHERE CONTINUATION OF SERVICES IN THE IMMEDIATE AFTERMATH OF AN EMERGENCY IS ESSENTIAL FOR PUBLIC HEALTH OR SAFETY

Prior to the commencement of services under this Agreement, Contractor shall submit for the Department's review and approval a written Continuity of Operations Plan (COOP) for its business which indicates its ability to continue the provision of essential services to the Department in the event that a State of Emergency is declared by the Mayor. The vendor should seek guidance from the Department on how to develop a COOP plan. A COOP plan includes, but is not limited to: the identification of an alternate site of business; appointment of alternate personnel for identified essential staff; development of protocols for the safekeeping of vital business records; and, a transportation contingency plan for its employees.

RIDER TO HUMAN SERVICES CONTRACTS

ACCESS TO NON-PUBLIC AREAS

Effective April 16, 2018, Local Law 246 of 2017 is codified in the New York City Administrative Code at Section 4-210. The law in part applies to any contractor having regular contact with the public in the daily administration of human services at any location, whether or not on city property, where such services are provided under a City contract. Accordingly, Contractor agrees to the following requirements:

In connection with the services provided under this Agreement, Contractor shall not knowingly permit and shall ensure that its subcontractors do not knowingly permit Enforcement Personnel to have access to non-public areas of the facilities where the services are provided unless:

1. such Enforcement Personnel are authorized to have access pursuant to an agreement, contract, or subcontract;
2. such Enforcement Personnel present a judicial warrant;
3. access is otherwise required by law;
4. such Enforcement Personnel are accessing such non-public areas as part of a cooperative arrangement involving city, state, or federal agencies;
5. access furthers the purpose or mission of a city agency; or
6. exigent circumstances exist.

For the purposes of this rider, the phrase "Enforcement Personnel" means government personnel who are empowered to enforce civil or criminal laws, but excludes personnel of the City, the New York City Department of Education, or a local public benefit corporation or local public authority.

Identifying Information Rider

(To supplement the City Standard Human Services Contract,
the Discretionary Fund Contract for human services contracts less than \$100,000,
other human services contracts and other contracts designated by the Chief Privacy Officer)

Section 1.01 Background.

Local Laws 245 and 247 of 2017 (codified at New York City Charter (“Charter”) Section 8 subdivision (h) and the Administrative Code of the City of New York (“Admin. Code”) Sections 23-1201 to -1205) are effective June 15, 2018. Such laws apply to human services contracts and other contracts designated by the City Chief Privacy Officer that involve the collection, retention, or disclosure of “Identifying Information” in connection with services provided under a City contract. Accordingly, in connection with the services provided under this Agreement, Contractor may collect, retain, and disclose Identifying Information only in accordance with the requirements of this Identifying Information Rider, the policies and protocols adopted pursuant to Admin. Code Sections 23-1201 to -1205, the other provisions of this Agreement and as otherwise required by law.

Section 1.02 Definitions.

- A. “Agency” means the City agency or office through which the City has entered into this Agreement.
- B. “Agency Privacy Officer” means the person designated to exercise functions under Admin. Code Sections 23-1201 to -1205 by the Agency through which the City is a party to this Agreement.
- C. “City Chief Privacy Officer” means the person designated by the Mayor pursuant to Charter Section 8 subdivision (h) as the City’s Chief Privacy Officer or such person’s designee.
- D. “Exigent Circumstances” means circumstances where collection or disclosure is urgently necessary, such that procedures that would otherwise be required cannot be followed.
- E. “Identifying Information” means any information provided by the City to Contractor or obtained by Contractor in connection with this Agreement that may be used on its own or with other information to identify or locate an individual. Identifying Information includes, but is not limited to: name, sexual orientation, gender identity, race, marital or partnership status, status as a victim of domestic violence or sexual assault, status as a crime victim or witness, citizenship or immigration status, eligibility for or receipt of public assistance or city services, all information obtained from an individual’s income tax records, an individual’s Social Security number, information obtained from any

surveillance system operated by, for the benefit of, or at the direction of the New York City Police Department, motor vehicle information or license plate number, biometrics such as fingerprints and photographs, languages spoken, religion, nationality, country of origin, place of birth, date of birth, arrest record or criminal conviction, employment status, employer information, current and previous home and work addresses, contact information such as phone number and email address, information concerning social media accounts, date and/or time of release from the custody of the Administration for Children's Services, the Department of Correction, or the New York City Police Department, any scheduled court appearances, any scheduled appointments with the City, the Contractor or its subcontractor that provides human services or other services designated by the City Chief Privacy Officer, and any other category of information designated by the City Chief Privacy Officer.

Section 1.03 Collection.

Absent Exigent Circumstances, Contractor shall not collect Identifying Information unless such collection (a) has been approved by the Agency Privacy Officer or the City Chief Privacy Officer and the collection of such Identifying Information is in furtherance of Contractor's obligations under this Agreement; (b) is required by law or treaty; (c) is required by the New York City Police Department in connection with a criminal investigation; or (d) is required by a City agency in connection with the welfare of a minor or other individual who is not legally competent.

Section 1.04 Disclosure.

- A. Absent Exigent Circumstances, Contractor shall not disclose Identifying Information unless such disclosure (a) has been authorized in writing by the individual to whom such information pertains or, if such individual is a minor or is otherwise not legally competent, by such individual's parent, legal guardian, or other person with legal authority to consent on behalf of the individual; (b) has been approved by the Agency Privacy Officer or the City Chief Privacy Officer and the disclosure of such Identifying Information is in furtherance of Contractor's obligations under this Agreement; (c) is required by law or treaty; (d) is required by the New York City Police Department in connection with a criminal investigation; or (e) is required by a City agency in connection with the welfare of a minor or other individual who is not legally competent.
- B. If Contractor discloses an individual's Identifying Information in violation of this Rider, Contractor shall notify the Agency Privacy Officer. In addition, if such disclosure requires notification to the affected individual(s) pursuant to the policies and protocols promulgated by the City Chief Privacy Officer under subdivision 6 of Section 23-1203, in the discretion of the Agency Privacy Officer Contractor shall either (i) make reasonable efforts to notify such individual(s) in writing of the

Identifying Information disclosed and to whom it was disclosed as soon as practicable or (ii) cooperate with the Agency's efforts to notify such individual(s) in writing. The City shall have the right to withhold further payments under this Agreement for the purpose of set-off in sufficient sums to cover the costs of notifications and/or other actions mandated by any law, administrative or judicial order, or the City Chief Privacy Officer to address the disclosure, and including any fines or disallowances imposed by the State or federal government as a result of the disclosure. The City shall also have the right to withhold further payments hereunder for the purpose of set-off in sufficient sums to cover the costs of credit monitoring services for the victims of such a disclosure by a national credit reporting agency, and/or any other commercially reasonable preventive measure. The Agency shall provide Contractor with written notice and an opportunity to comment on such measures prior to implementation. Alternatively, at the City's discretion, or if monies remaining to be earned or paid under this Agreement are insufficient to cover the costs detailed above, Contractor shall pay directly for the costs, detailed above, if any.

- C. Section 1.04(B) shall not require any notification that would violate any law or interfere with an investigation or otherwise compromise public safety pursuant to subdivision e of Section 23-1204.

Section 1.05 Exigent Circumstances.

In the event Contractor collects or discloses Identifying Information due to Exigent Circumstances, with no other basis for collection or disclosure under subdivisions b or c of Section 23-1202, Contractor shall send to the Agency Privacy Officer information about such collection or request and disclosure, along with an explanation of why such Exigent Circumstances existed, as soon as practicable after such collection or disclosure. This section shall not require any such notification for collection or disclosure of Identifying Information that: (a) is required by the New York City Police Department in connection with an open criminal investigation; (b) is required by a City agency in connection with an open investigation concerning the welfare of a minor or other individual who is not legally competent; or (c) occurs in the normal course of performing Contractor's obligations under this Agreement and is in furtherance of law enforcement or public health or safety powers of the Agency under Exigent Circumstances.

Section 1.06 Retention.

Contractor shall retain Identifying Information as required by law or as otherwise necessary in furtherance of this Agreement, or as otherwise approved by the Agency Privacy Officer or the City Chief Privacy Officer.

Section 1.07 Reporting.

Contractor shall provide the Agency with reports as requested by the Agency Privacy

Officer or City Chief Privacy Officer regarding the collection, retention, and disclosure of Identifying Information by Contractor. Each such report shall include information concerning Identifying Information collected, retained, and disclosed, including: (a) the types of Identifying Information collected, retained, or disclosed; (b) the types of collections and disclosures classified as "routine" and any collections or disclosures approved by the Agency Privacy Officer or City Chief Privacy Officer; and (c) any other related information that may be reasonably required by the Agency Privacy Officer or City Chief Privacy Officer.

Section 1.08 Coordination with Agency Privacy Officer.

The Agency may assign powers and duties of the Agency Privacy Officer to Contractor for purposes of this Agreement. In such event, Contractor shall exercise those powers and duties in accordance with applicable law in relation to the Agreement, and shall comply with reasonable directions of the Agency Privacy Officer and City Chief Privacy Officer concerning coordination and reporting.

Section 1.09 Conflicts with Provisions Governing Records, Audits, Reports and Investigations.

To the extent allowed by law, the provisions of this Rider shall control if there is a conflict between any of the provisions of this Rider and, as applicable, either (i) Article 5 of Appendix A (General Provisions Governing Contracts for Consultants, Professional, Technical, Human, and Client Services); (ii) if the value of this Agreement is \$100,000 or less and the Agreement is funded by City Council Discretionary Funds, Article 7(E) and Rider 1, Article 1 of the Agreement; or (iii) if neither (i) nor (ii) apply, the Investigations Clause, and other provisions concerning records retention, inspections, audits, and reports designated elsewhere in the Agreement. The provisions of this Rider do not replace or supersede any other obligations or requirements of this Agreement.

Section 1.10 Subcontracts.

- A. Contractor shall include this Rider in all subcontracts to provide human services or other services designated in the policies and protocols of the City Chief Privacy Officer.
- B. Contractor agrees that it is fully responsible to the Agency for the compliance with this Rider by its subcontractors that provide human services or other services designated by the City Chief Privacy Officer.

Section 1.11 Disclosures of Identifying Information to Third Parties.

Contractor shall comply with the City Chief Privacy Officer's policies and protocols concerning requirements for a written agreement governing the disclosure of Identifying Information to a third party.

Public Assistance Hiring Commitment Rider

A. **Introduction.** The Public Assistance Hiring Commitment is an initiative administered by the Human Resources Administration (“HRA”) through its Business Link program, and seeks to match employers with qualified job-seekers.

B. **Requirements.**

1. For the duration of this Contract, and subject to any qualified exceptions listed in Section G below, Contractor shall hire at least one (1) Public Assistance Recipient (“PA Recipient”) for each two hundred fifty thousand dollars (\$250,000.00) in annual value of this Contract. If Contractor believes it should be exempted from the requirements of this Rider, Contractor may submit a request for an exemption based on the reasons outlined in Section G of this rider. **Any Human Services contract with less than \$250,000 of annual personnel costs, excluding fringe benefits and other than personal services (OTPS), is automatically exempt from the Public Assistance Hiring Commitment requirement.**
2. Contractor shall hire Public Assistance Recipients for employment of at least twenty (20) hours per week for the duration of at least one (1) year.
 - a. Public Assistance Recipients (PA Recipients) are defined as those with an active HRA Cash Assistance case at the time of hire.
 - b. Contractor shall pay hired PA Recipients at least the legally mandated State or federal minimum wage, whichever is higher.
 - c. Contractor may meet the requirements of this Rider through the hiring of PA Recipients by its subcontractors. Subcontractors who have their own hiring requirement may meet their obligation through the primary contractor.
 - d. If the Contractor’s organization is a parent organization – and legally owns or controls other organizations – or is itself a subsidiary of another parent organization, the Contractor may meet the requirements of this Rider through the hiring of PA Recipients in either the parent organization or its subsidiaries or both. This stipulation applies whether the organization is a for-profit business or a nonprofit organization. It is the obligation of the Contractor to make HRA aware of any legal relationships it has with a parent or subsidiary organizations.
 - e. Positions of employment may be at any site or within any program operated by the Contractor.

f. Contractor shall seek to retain hired PA Recipients beyond the one (1) year requirement of this Rider. In the event a PA Recipient hired by a Contractor is not retained for one (1) full year, the Contractor must hire and retain another PA Recipient for the remainder of the year in order to be credited for making one (1) required hire. When the Contractor replaces a hired PA Recipient before one (1) year has passed, this replacement will not count as an additional employee toward fulfilling Contractor's hiring requirement.

C. **Developing and Submitting the Implementation Plan.** Within sixty (60) calendar days of: (i) the start date of the Contract; or (ii) the date of program start (e.g., shelter opening), whichever date is later, and any subsequent anniversary date of the commencement date of this Contract, Contractor shall submit an implementation plan detailing how Contractor will meet the hiring requirements of this Rider, as specified in the HireNYC: Human Services manual provided on our website at <http://www1.nyc.gov/site/businesslink/employers/hirenyc.page>. Contractor may request the assistance of Business Link in developing its implementation plan. If Contractor is determined by HRA to be in compliance with this Rider during the previous Contract year, HRA will notify Contractor that it is not required to submit a new implementation plan.

D. **Instituting the Implementation Plan.** Contractor shall begin instituting the implementation plan within thirty (30) calendar days of submitting the implementation plan. Contractor shall send job listings to HRA for the life of this Contract. Contractor may request the assistance of Business Link in identifying potential employees. In such case, HRA will refer PA Recipients who meet Contractor's minimum qualifications as determined by Contractor for employment interviews.

E. **Deficiencies in Implementation Plan.** If Contractor fails to hire the specified number of PA Recipients by the later of either (i) the timeframe mutually agreed upon between HRA and Contractor or (ii) six (6) months from the commencement date; or fails to pay and retain PA Recipients in accordance with the requirements specified in Section B, HRA, will notify Contractor in writing, indicating what deficiencies are to be remedied. Within twenty (20) calendar days of its receipt of this notice, Contractor shall respond to HRA, in writing, and must identify with specificity the steps Contractor intends to take to remedy any deficiencies identified. HRA will investigate Contractor's compliance with Contractor's corrective action plan. If the identified deficiencies are not addressed to the satisfaction of HRA, HRA shall assess the agreed upon liquidated damages based on the calculation for each day and for each PA Recipient not hired or compensated in accordance with the provisions of this Rider, as follows:

1. Daily liquidated damages per PA Recipient will be calculated as the quotient of:

$$\frac{[(\text{current minimum wage as of the commencement date and any subsequent anniversary date}) * 20 \text{ hours per week} * 52 \text{ weeks per year}]}{365 \text{ days}}$$

2. HRA retains the option to require Contractor to directly pay to HRA, or to deduct from any payment due or to become due to Contractor, such amount as may be assessed for liquidated damages.

F. **Applying for an Exemption from the Rider.** Within thirty (30) calendar days after the end of the fiscal year, Contractor may apply to HRA, for a complete or partial exemption from, or best efforts compliance with the requirements of this Rider. Any application for an exemption must be in the form specified by HRA, accompanied by supporting documentation. Any exemption granted will be for the previous fiscal year only and will be effective for one (1) prior fiscal year only (July 1st until June 30th).

G. **Qualifying for an Exemption from the Rider.**

1. Contractor may qualify for a complete exemption if one (1) of the conditions below is demonstrated:

- a. Contractor's workforce within New York City is fewer than twenty (20) employees; or
- b. Contractor possesses no entry-level vacancies and can demonstrate that no positions are reasonably foreseen to be available within one (1) year of the commencement or anniversary date of this Contract; or
- c. Contractor is a party to a valid collective bargaining agreement covering all of Contractor's entry-level positions and such agreement limits Contractor to a hiring pool that does not include PA Recipients; or
- d. Complying with the hiring requirements of this Rider in any manner will cause extreme hardship; or
- e. Contractor retains or retained a PA Recipient hired pursuant to this Rider beyond one (1) year, and thus may qualify for a full or partial exemption of its hiring requirements in subsequent years.

2. Contractor may qualify for a partial exemption if one of the conditions below is demonstrated:

- a. The specified number of PA Recipients to be hired exceeds 10% of Contractor's workforce located within New York City; or
- b. A valid collective bargaining agreement covers some but not all entry-level positions and limits Contractor to a hiring pool which does not include PA Recipients.

- c. Contractor retains or retained a PA Recipient hired pursuant to this Rider beyond one (1) year, and thus may qualify for a partial exemption of its hiring requirements in subsequent years.
3. Beginning with Year 2 of the Contract, Contractor may qualify for either a full or partial exemption from its yearly hiring requirements to the extent that Contractor can demonstrate that it hired the required number of PA Recipients during the previous year and that these hires remain employed by Contractor as of the anniversary date. Contractor shall submit all appropriate documentation, as specified in the HireNYC: Human Services Manual, when seeking an exemption based on a retained PA Recipient, for the previous fiscal year. These hires must have been employed for one (1) full year.
4. At the end of each fiscal year, Business Link will notify Contractor as to whether the hiring requirements were met. Where the Contractor has failed to meet the requirements, Contractor may seek a modification to waive its unmet requirements if Contractor can demonstrate that it has made best efforts to meet the hiring requirements of this Rider. Evidence (via documentation submitted to Business Link) that Contractor utilized best efforts to meet the hiring requirements of this Rider includes the following:
 - a. Submitting job postings to Business Link of open positions within Contractors organization and;
 - b. Interviewing candidates submitted by Business Link and;
 - c. Providing feedback to Business Link regarding candidates interviewed and/or evaluated.
5. If the Contractor did not utilize Business Link but interviewed job applicants, then it may send a list of individuals interviewed, who have signed a consent as outlined in Section I below, via Hire Sheet to Business Link to verify that the individual is currently receiving PA or was receiving PA at time of hire. In this instance, the following information must be included:
 - a. The names, addresses, and telephone numbers for each PA Recipient interviewed; and
 - b. A job description and the specifications of the position(s) PA Recipients were interviewed for; and
 - c. An explanation detailing why any individuals identified by Contractor to be PA Recipients were rejected for that position.

H. Documentation of Hiring PA Recipients.

1. Recruitment through Business Link: If Contractor recruits and hires PA Recipients through Business Link, Contractor does not need to provide any documentation of its compliance with the PA hiring requirement for those individuals. However, Contractor must confirm which candidates it hires to Business Link.
2. Submission of Hire Sheets: If not recruiting and hiring through Business Link, Contractor may submit hire sheets to document its compliance with the PA hiring requirement, and may also do so in addition to recruiting candidates through Business Link. However, if Contractor submits any hires sheets, Contractor must do the following:
 - a. Obtain signed consents from any employee whose name appears on a hire sheet prior to submitting it to HRA;
 - b. Attest that it obtained signed consents; and
 - c. Make the signed consents available to HRA upon request.

I. Consents: A consent must be written and contain the following acknowledgments and/or permissions from the individual that he/she:

- a. Agrees to be screened for current or prior participation in the HireNYC: Human Services program so that the contractor may be evaluated for compliance with the HireNYC: Human Services requirement; and
- b. Understands that this information is solely used by HRA to confirm Contractor's compliance with its hiring obligation; and
- c. Understands that this information will be kept confidential by Contractor; and
- d. Understands that this information in no way will affect the hiring decision, employment status or conditions of employment, if hired.

J. Communication. Contractor shall send all documentation required in the HireNYC: Human Services Manual or by this Rider to: HRA's Business Link located at 123 William Street, 6th Floor, New York, N.Y. 10038. Documents may also be emailed to Business Link at HireNYC-HumanServices@hra.nyc.gov. Contractor shall submit any additional relevant information within ten (10) calendar days of a request from HRA.

APPENDIX A

**GENERAL PROVISIONS GOVERNING CONTRACTS FOR
CONSULTANTS, PROFESSIONAL, TECHNICAL
AND HUMAN CLIENT SERVICES**

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**GENERAL PROVISIONS GOVERNING CONTRACTS FOR
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ARTICLE 1 - DEFINITIONS

Section 1.01 Definitions

The following words and expressions, or pronouns used in their stead, shall, wherever they appear in this Agreement, be construed as follows, unless a different meaning is clear from the context:

A. "Agency Chief Contracting Officer" or "ACCO" means the position delegated authority by the Agency Head to organize and supervise the procurement activity of subordinate Agency staff in conjunction with the City Chief Procurement Officer.

B. "Agreement" means the various documents, including this Appendix A, that constitute the contract between the Contractor and the City.

C. "City" means the City of New York.

D. "City Chief Procurement Officer" or "CCPO" means the position delegated authority by the Mayor to coordinate and oversee the procurement activity of Mayoral agency staff, including the ACCOs.

E. "Commissioner" or "Agency Head" means the head of the Department or his or her duly authorized representative. The term "duly authorized representative" shall include any person or persons acting within the limits of his or her authority.

F. "Comptroller" means the Comptroller of the City of New York.

G. "Contractor" means the entity entering into this Agreement with the City.

H. "Days" means calendar days unless otherwise specifically noted to mean business days.

I. "Department" or "Agency" means the City agency or office through which the City has entered into this Agreement.

J. "Law" or "Laws" means the New York City Charter ("Charter"), the New York City Administrative Code ("Admin. Code"), a local rule of the City of New York, the Constitutions of the United States and the State of New York, a statute of the United States or of the State of New York and any ordinance, rule or regulation having the force of law and adopted pursuant thereto, as amended, and common law.

K. "Procurement Policy Board" or "PPB" means the board established pursuant to Charter § 311 whose function is to establish comprehensive and consistent procurement policies and rules that have broad application throughout the City.

L. "PPB Rules" means the rules of the Procurement Policy Board as set forth in Title 9 of the Rules of the City of New York ("RCNY"), § 1-01 *et seq.*

M. "SBS" means the New York City Department of Small Business Services.

N. "State" means the State of New York.

ARTICLE 2 – REPRESENTATIONS, WARRANTIES, CERTIFICATIONS, AND DISCLOSURES

Section 2.01 Procurement of Agreement

A. The Contractor represents and warrants that, with respect to securing or soliciting this Agreement, the Contractor is in compliance with the requirements of the New York State Lobbying Law (Legislative Law §§ 1-a *et seq.*). The Contractor makes such representation and warranty to induce the City to enter into this Agreement and the City relies upon such representation and warranty in the execution of this Agreement.

B. For any breach or violation of the representation and warranty set forth in Paragraph A above, the Commissioner shall have the right to annul this Agreement without liability, entitling the City to recover all monies paid to the Contractor; and the Contractor shall not make claim for, or be entitled to recover, any sum or sums due under this Agreement. The rights and remedies of the City provided in this Section 2.01(B) are not exclusive and are in addition to all other rights and remedies allowed by Law or under this Agreement.

Section 2.02 Conflicts of Interest

A. The Contractor represents and warrants that neither it nor any of its directors, officers, members, partners or employees, has any interest nor shall they acquire any interest, directly or indirectly, which conflicts in any manner or degree with the performance of this Agreement. The Contractor further represents and warrants that no person having such interest or possible interest shall be employed by or connected with the Contractor in the performance of this Agreement.

B. Consistent with Charter § 2604 and other related provisions of the Charter, the Admin. Code and the New York State Penal Law, no elected official or other officer or employee of the City, nor any person whose salary is payable, in whole or in part, from the City Treasury, shall participate in any decision relating to this Agreement which affects his or her personal interest or the interest of any corporation, partnership or other entity in which he or she is, directly or indirectly, interested; nor shall any such official, officer, employee, or person have any interest in, or in the proceeds of, this Agreement. This Section 2.02(B) shall not prevent directors, officers, members, partners, or employees of the Contractor from participating in decisions relating to this Agreement where their sole personal interest is in the Contractor.

C. The Contractor shall not employ a person or permit a person to serve as a member of the Board of Directors or as an officer of the Contractor if such employment or service would violate Chapter 68 of the Charter.

Section 2.03 Certification Relating to Fair Practices

A. The Contractor and each person signing on its behalf certifies, under penalties of perjury, that to the best of its, his or her knowledge and belief:

1. The prices and other material terms set forth in this Agreement have been arrived at independently, without collusion, consultation, communication, or agreement with any other bidder or proposer or with any competitor as to any matter relating to such prices or terms for the purpose of restricting competition;

2. Unless otherwise required by Law or where a schedule of rates or prices is uniformly established by a government agency through regulation, policy, or directive, the prices and other material terms set forth in this Agreement that have been quoted in this Agreement and on the bid or proposal submitted by the Contractor have not been knowingly disclosed by the Contractor, directly or indirectly, to any other bidder or proposer or to any competitor prior to the bid or proposal opening; and

3. No attempt has been made or will be made by the Contractor to induce any other person or entity to submit or not to submit a bid or proposal for the purpose of restricting competition.

B. The fact that the Contractor (i) has published price lists, rates, or tariffs covering items being procured, (ii) has informed prospective customers of proposed or pending publication of new or revised price lists for such items, or (iii) has sold the same items to other customers at the same prices and/or terms being bid or proposed, does not constitute, without more, a disclosure within the meaning of this Section 2.03.

Section 2.04 Disclosures Relating to Vendor Responsibility

The Contractor represents and warrants that it has duly executed and filed all disclosures as applicable, in accordance with Admin. Code § 6-116.2, PPB Rule § 2-08, and the policies and procedures of the Mayor's Office of Contract Services. The Contractor acknowledges that the Department's reliance on the completeness and veracity of the information stated therein is a material condition to the execution of this Agreement, and the Contractor represents and warrants that the information it and its principals have provided is accurate and complete.

Section 2.05 Disclosure Relating to Bankruptcy and Reorganization

If the Contractor files for bankruptcy or reorganization under Chapter Seven or Chapter Eleven of the United States Bankruptcy Code, the Contractor shall disclose such action to the Department within seven days of filing.

Section 2.06 Authority to Execute Agreement

The Contractor represents and warrants that: (i) its execution, delivery and performance of this Agreement have been duly authorized by all necessary corporate action on its part; (ii) it has all necessary power and authority to execute, deliver and perform its obligations under this Agreement; and (iii) once executed and delivered, this Agreement will constitute its legal, valid and binding obligation, enforceable in accordance with its terms.

ARTICLE 3 - ASSIGNMENT AND SUBCONTRACTING

Section 3.01 Assignment

A. The Contractor shall not assign, transfer, convey, or otherwise dispose of this Agreement, or the right to execute it, or the right, title, or interest in or to it or any part of it, or assign, by power of attorney or otherwise, any of the monies due or to become due under this Agreement, without the prior written consent of the Commissioner. The giving of any such consent to a particular assignment shall not dispense with the necessity of such consent to any further or other assignments. Any such assignment, transfer, conveyance, or other disposition without such written consent shall be void.

B. Before entering into any such assignment, transfer, conveyance, or other disposal of this Agreement, the Contractor shall submit a written request for approval to the Department giving the name and address of the proposed assignee. The proposed assignee's disclosure that is required by PPB Rule § 2-08(e) must be submitted within 30 Days after the ACCO has granted preliminary written approval of the proposed assignee, if required. Upon the request of the Department, the Contractor shall provide any other information demonstrating that the proposed assignee has the necessary facilities, skill, integrity, past experience, and financial resources to perform the specified services in accordance with the terms and conditions of this Agreement. The Department shall make a final determination in writing approving or disapproving the assignee after receiving all requested information.

C. Failure to obtain the prior written consent to such an assignment, transfer, conveyance, or other disposition may result in the revocation and annulment of this Agreement, at the option of the Commissioner. The City shall thereupon be relieved and discharged from any further liability and obligation to the Contractor, its assignees, or transferees, who shall forfeit all monies earned under this Agreement, except so much as may be necessary to pay the Contractor's employees.

D. The provisions of this Section 3.01 shall not hinder, prevent, or affect an assignment by the Contractor for the benefit of its creditors made pursuant to the Laws of the State.

E. This Agreement may be assigned, in whole or in part, by the City to any corporation, agency, or instrumentality having authority to accept such assignment. The City shall provide the Contractor with written notice of any such assignment.

Section 3.02 Subcontracting

A. In accordance with PPB Rule § 4-13, all subcontractors must be approved by the Department prior to commencing work under a subcontract.

1. *Approval when subcontract is \$20,000 or less.* The Department hereby grants approval for all subcontractors providing services covered by this Agreement pursuant to a subcontract in an amount that does not exceed \$20,000.00. The Contractor must submit monthly reports to the Department listing all such subcontractors and shall list the subcontractor in the City's Payee Information Portal (www.nyc.gov/pip).

2. *Approval when subcontract is greater than \$20,000.*

a. The Contractor shall not enter into any subcontract for an amount greater than \$20,000.00 without the prior approval by the Department of the subcontractor.

b. Prior to entering into any subcontract for an amount greater than \$20,000.00, the Contractor shall submit a written request for the approval of the proposed subcontractor to the Department giving the name and address of the proposed subcontractor, the portion of the work and materials that it is to perform and furnish, and the estimated cost of the subcontract. If the subcontractor is providing professional services under this Agreement for which professional liability insurance or errors and omissions insurance is reasonably commercially available, the Contractor shall submit proof of professional liability insurance in the amount required by Article 7. In addition, the Contractor shall list the proposed subcontractor in the City's Payee Information Portal (www.nyc.gov/pip) and provide the following information: maximum subcontract value, description of subcontractor work, start and end date of the subcontract, and the subcontractor's industry.¹

c. Upon receipt the information required above, the Department in its discretion may grant or deny preliminary approval for the Contractor to contract with the subcontractor.

¹ Assistance establishing a Payee Information Portal account and using the system may be obtained by emailing the Financial Information Services Agency Help Desk at pip@fisa.nyc.gov.

d. The Department shall notify the Contractor within 30 Days whether preliminary approval has been granted. If preliminary approval is granted, the Contractor shall provide such documentation as may be requested by the Department to show that the proposed subcontractor has the necessary facilities, skill, integrity, past experience and financial resources to perform the required work, including, the proposed subcontract and/or any of the items listed in PPB Rule 4-13(d)(3).

e. Upon receipt of all relevant documentation, the Department shall notify the Contractor in writing whether the proposed subcontractor is approved. If the proposed subcontractor is not approved, the Contractor may submit another proposed subcontractor unless the Contractor decides to do the work. No subcontractor shall be permitted to perform work unless approved by the Department.

f. For proposed subcontracts that do not exceed \$25,000.00, the Department's approval shall be deemed granted if the Department does not issue a written approval or disapproval within 45 Days of the Department's receipt of the written request for approval or, if PPB Rule 2-08(e) is applicable, within 45 Days of the Department's acknowledged receipt of fully completed disclosures for the subcontractor.

B. All subcontracts must be in writing. All subcontracts shall contain provisions specifying that:

1. The work performed by the subcontractor must be in accordance with the terms of the Agreement between the City and the Contractor;
2. Nothing contained in the agreement between the Contractor and the subcontractor shall impair the rights of the City;
3. Nothing contained in the agreement between the Contractor and the subcontractor, or under the Agreement between the City and the Contractor, shall create any contractual relation between the subcontractor and the City; and
4. The subcontractor specifically agrees to be bound by Section 4.05(D) and Article 5 of this Appendix A and specifically agrees that the City may enforce such provisions directly against the subcontractor as if the City were a party to the subcontract.

C. The Contractor agrees that it is as fully responsible to the Department for the acts and omissions of its subcontractors and of persons either directly or indirectly employed by such subcontractors as it is for the acts and omissions of any person directly employed by it.

D. For determining the value of a subcontract, all subcontracts with the same subcontractor shall be aggregated.

E. The Department may revoke the approval of a subcontractor granted or deemed granted pursuant to Section 3.02(A) if revocation is deemed to be in the interest of the City in writing on no less than 10 Days' notice unless a shorter period is warranted by considerations of health, safety, integrity issues, or other similar factors. Upon the effective date of such revocation, the Contractor shall cause the subcontractor to cease all work under the Agreement. The City shall not incur any further obligation for services performed by such subcontractor pursuant to this Agreement beyond the effective date of the revocation. The City shall pay for services provided by the subcontractor in accordance with this Agreement prior to the effective date of revocation.

F. The Department's approval of a subcontractor shall not relieve the Contractor of any of its responsibilities, duties, and liabilities under this Agreement. At the request of the Department, the Contractor shall provide the Department a copy of any subcontract.

G. Individual employer-employee contracts are not subcontracts subject to the requirements of this Section 3.02.

H. The Contractor shall report in the City's Payee Information Portal payments made to each subcontractor within 30 days of making the payment. If any of the information provided in accordance with Section 3.02(A)(2)(b) changes during the term of this Agreement, the Contractor shall update the information in such Portal accordingly. Failure of the Contractor to list a subcontractor and/or to report subcontractor payments in a timely fashion may result in the Department declaring the Contractor in default of the Agreement and will subject Contractor to liquidated damages in the amount of \$100 per day for each day that the Contractor fails to identify a subcontractor along with the required information about the subcontractor and/or fails to report payments to a subcontractor, beyond the time frames set forth herein or in the notice from the City.

ARTICLE 4 - LABOR PROVISIONS

Section 4.01 Independent Contractor Status

The Contractor and the City agree that the Contractor is an independent contractor and not an employee, subsidiary, affiliate, division, department, agency, office, or unit of the City. Accordingly, the Contractor and its employees, officers, and agents shall not, by reason of this Agreement or any performance pursuant to or in connection with this Agreement, assert the existence of any relationship or status on the part of the Contractor, with respect to the City, that differs from or is inconsistent with that of an independent contractor.

Section 4.02 Employees and Subcontractors

All persons who are employed by the Contractor and all the Contractor's subcontractors (including without limitation, consultants and independent contractors) that are retained to perform services under or in connection with this Agreement are neither employees of the City nor under contract with the City. The Contractor, and not the City, is responsible for their work, direction, compensation, and personal conduct while the Contractor is engaged under this Agreement. Nothing in this Agreement, and no entity or person's performance pursuant to or in connection with this Agreement, shall create any relationship between the City and the Contractor's employees, agents, subcontractors, or subcontractor's employees or agents (including without limitation, a contractual relationship, employer-employee relationship, or quasi-employer/quasi-employee relationship) or impose any liability or duty on the City (i) for or on account of the acts, omissions, liabilities, rights or obligations of the Contractor, its employees or agents, its subcontractors, or its subcontractor's employees or agents (including without limitation, obligations set forth in any collective bargaining agreement); or (ii) for taxes of any nature; or (iii) for any right or benefit applicable to an official or employee of the City or to any officer, agent, or employee of the Contractor or any other entity (including without limitation, Workers' Compensation coverage, Employers' Liability coverage, Disability Benefits coverage, Unemployment Insurance benefits, Social Security coverage, employee health and welfare benefits or employee retirement benefits, membership or credit). The Contractor and its employees, officers, and agents shall not, by reason of this Agreement or any performance pursuant to or in connection with this Agreement, (i) hold themselves out as, or claim to be, officials or employees of the City, including any department, agency, office, or unit of the City, or (ii) make or support in any way on behalf of or for the benefit of the Contractor, its employees, officers, or agents any demand, application, or claim upon or against the City for any right or benefit applicable to an official or employee of the City or to any officer, agent, or employee of the Contractor or any other entity. Except as specifically stated in this Agreement, nothing in the Agreement and no performance pursuant to or in connection with the Agreement shall impose any liability or duty on the City to any person or entity whatsoever.

Section 4.03 Removal of Individuals Performing Work

The Contractor shall not have anyone perform work under this Agreement who is not competent, faithful, and skilled in the work for which he or she shall be employed. Whenever the Commissioner shall inform the Contractor, in writing, that any individual is, in his or her opinion, incompetent, unfaithful, or unskilled, such individual shall no longer perform work under this Agreement. Prior to making a determination to direct a Contractor that an individual shall no longer perform work under this Agreement, the Commissioner shall provide the Contractor an opportunity to be heard on no less than five Days' written notice. The Commissioner may direct the Contractor to prohibit the individual from performing work under the Agreement pending the opportunity to be heard and the Commissioner's determination.

Section 4.04 Minimum Wage; Living Wage

A. Except for those employees whose minimum wage is required to be fixed in accordance with N.Y. Labor Law §§ 220 or 230 or by Admin. Code § 6-109, all persons employed by the Contractor in the performance of this Agreement shall be paid, without subsequent deduction or rebate, unless expressly authorized by Law, not less than the minimum wage as prescribed by Law. Any breach of this Section 4.04 shall be deemed a material breach of this Agreement.

B. If this Agreement involves the provision of homecare services, day care services, head start services, services to persons with cerebral palsy, building services, food services, or temporary services, as those services are defined in Admin. Code § 6-109 (“Section 6-109”), in accordance with Section 6-109, the Contractor agrees as follows:

1. The Contractor shall comply with the requirements of Section 6-109, including, where applicable, the payment of either a prevailing wage or a living wage, as those terms are defined in Section 6-109.

2. The Contractor shall not retaliate, discharge, demote, suspend, take adverse employment action in the terms and conditions of employment or otherwise discriminate against any employee for reporting or asserting a violation of Section 6-109, for seeking or communicating information regarding rights conferred by Section 6-109, for exercising any other rights protected under Section 6-109, or for participating in any investigatory or court proceeding relating to Section 6-109. This protection shall also apply to any employee or his or her representative who in good faith alleges a violation of Section 6-109, or who seeks or communicates information regarding rights conferred by Section 6-109 in circumstances where he or she in good faith believes it applies.

3. The Contractor shall maintain original payroll records for each of its covered employees reflecting the days and hours worked on contracts, projects, or assignments that are subject to the requirements of Section 6-109, and the wages paid and benefits provided for such hours worked. The Contractor shall maintain these records for the duration of the term of this Agreement and shall retain them for a period of four years after completion of this Agreement. For contracts involving building services, food services, or temporary services, the Contractor shall submit copies of payroll records, certified by the Contractor under penalty of perjury to be true and accurate, to the Department with every requisition for payment. For contracts involving homecare, day care, head start or services to persons with cerebral palsy, the Contractor shall submit either certified payroll records or categorical information about the wages, benefits, and job classifications of covered employees of the Contractor, and of any subcontractors, which shall be the substantial equivalent of the information required in Section 6-109(2)(a)(iii).

4. The Contractor and all subcontractors shall pay all covered employees by check and shall provide employees check stubs or other documentation at least once each month containing information sufficient to document compliance with the requirements of the Living Wage Law concerning living wages, prevailing wages, supplements, and health benefits. In addition, if this Agreement is for an amount greater than \$1,000,000.00, checks issued by the Contractor to covered employees shall be generated by a payroll service or automated payroll system (an in-house system may be used if approved by the Department). For any subcontract for an amount greater than \$750,000.00, checks issued by a subcontractor to covered employees shall be generated by a payroll service or automated payroll system (an in-house system may be used if approved by the Department).

5. The Department will provide written notices to the Contractor, prepared by the Comptroller, detailing the wages, benefits, and other protections to which covered employees are entitled under Section 6-109. Such notices will be provided in English, Spanish and other languages spoken by ten percent or more of a covered employer's covered employees. Throughout the term of this Agreement, the Contractor shall post in a prominent and accessible place at every work site and provide each covered employee a copy of the written notices provided by the Department. The Contractor shall provide the notices to its subcontractors and require them to be posted and provided to each covered employee.

6. The Contractor shall ensure that its subcontractors comply with the requirements of Section 6-109, and shall provide written notification to its subcontractors of those requirements. All subcontracts made by the Contractor shall be in writing and shall include provisions relating to the wages, supplements, and health benefits required by Section 6-109. No work may be performed by a subcontractor employing covered employees prior to the Contractor entering into a written subcontract with the subcontractor.

7. Each year throughout the term of the Agreement and whenever requesting the Department's approval of a subcontractor, the Contractor shall submit to the Department an updated certification, as required by Section 6-109 and in the form of the certification attached to this Agreement, identifying any changes to the current certification.

8. Failure to comply with the requirements of Section 6-109 may, in the discretion of the Department, constitute a material breach by the Contractor of the terms of this Agreement. If the Contractor and/or subcontractor receives written notice of such a breach and fails to cure such breach within 30 Days, the City shall have the right to pursue any rights or remedies available under this Agreement or under applicable law, including termination of the Agreement. If the Contractor fails to perform in accordance with any of the requirements of Section 6-109 and fails to cure such failure in accordance with the preceding sentence, and there is a continued need for the service, the City may obtain from another source the required service as specified in the original Agreement, or

any part thereof, and may charge the Contractor for any difference in price resulting from the alternative arrangements, and may, as appropriate, invoke such other sanctions as are available under the Agreement and applicable law. In addition, the Contractor agrees to pay for all costs incurred by the City in enforcing the requirements of Section 6-109, including the cost of any investigation conducted by or on behalf of the Department or the Comptroller, where the City discovers that the Contractor or its subcontractor(s) failed to comply with the requirements of this Section 4.04(B) or of Section 6-109. The Contractor also agrees, that should it fail or refuse to pay for any such investigation, the Department is hereby authorized to deduct from a Contractor's account an amount equal to the cost of such investigation.

Section 4.05 Non-Discrimination in Employment

A. **General Prohibition.** To the extent required by law, the Contractor shall not unlawfully discriminate against any employee or applicant for employment because of actual or perceived age, religion, religious practice, creed, sex, gender, gender identity or gender expression, sexual orientation, status as a victim of domestic violence, stalking, and sex offenses, familial status, partnership status, marital status, caregiver status, pregnancy, childbirth or related medical condition, disability, presence of a service animal, predisposing genetic characteristics, race, color, national origin (including ancestry), alienage, citizenship status, political activities or recreational activities as defined in N.Y. Labor Law 201-d, arrest or conviction record, credit history, military status, uniformed service, unemployment status, salary history, or any other protected class of individuals as defined by City, State or Federal laws, rules or regulations. The Contractor shall comply with all statutory and regulatory obligations to provide reasonable accommodations to individuals with disabilities, due to pregnancy, childbirth, or a related medical condition, due to status as a victim of domestic violence, stalking, or sex offenses, or due to religion.

B. **N.Y. Labor Law § 220-e.** If this Agreement is for the construction, alteration or repair of any public building or public work or for the manufacture, sale, or distribution of materials, equipment, or supplies, the Contractor agrees, as required by N.Y. Labor Law § 220-e, that:

1. In the hiring of employees for the performance of work under this Agreement or any subcontract hereunder, neither the Contractor, subcontractor, nor any person acting on behalf of such Contractor or subcontractor, shall by reason of race, creed, color, disability, sex or national origin discriminate against any citizen of the State of New York who is qualified and available to perform the work to which the employment relates;

2. Neither the Contractor, subcontractor, nor any person on his or her behalf shall, in any manner, discriminate against or intimidate any employee hired for the performance of work under this Agreement on account of race, creed, color, disability, sex or national origin;

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3. There may be deducted from the amount payable to the Contractor by the City under this Agreement a penalty of \$50.00 for each person for each calendar day during which such person was discriminated against or intimidated in violation of the provisions of this Agreement; and

4. This Agreement may be terminated by the City, and all monies due or to become due hereunder may be forfeited, for a second or any subsequent violation of the terms or conditions of this Section 4.05.

The provisions of this Section 4.05(B) shall be limited to operations performed within the territorial limits of the State of New York.

C. Admin. Code § 6-108. If this Agreement is for the construction, alteration or repair of buildings or the construction or repair of streets or highways, or for the manufacture, sale, or distribution of materials, equipment or supplies, the Contractor agrees, as required by Admin. Code § 6-108, that:

1. It shall be unlawful for any person engaged in the construction, alteration or repair of buildings or engaged in the construction or repair of streets or highways pursuant to a contract with the City or engaged in the manufacture, sale or distribution of materials, equipment or supplies pursuant to a contract with the City to refuse to employ or to refuse to continue in any employment any person on account of the race, color or creed of such person.

2. It shall be unlawful for any person or any servant, agent or employee of any person, described in Section 4.05(C)(1) above, to ask, indicate or transmit, orally or in writing, directly or indirectly, the race, color, creed or religious affiliation of any person employed or seeking employment from such person, firm or corporation.

Breach of the foregoing provisions shall be deemed a breach of a material provision of this Agreement.

Any person, or the employee, manager or owner of or officer of such firm or corporation who shall violate any of the provisions of this Section 4.05(C) shall, upon conviction thereof, be punished by a fine of not more than \$100.00 or by imprisonment for not more than 30 Days, or both.

D. E.O. 50 -- Equal Employment Opportunity

1. This Agreement is subject to the requirements of City Executive Order No. 50 (1980) ("E.O. 50"), as revised, and the rules set forth at 66 RCNY §§ 10-01 *et seq.* No agreement will be awarded unless and until these requirements have been complied with in their entirety. The Contractor agrees that it:

a. Will not discriminate unlawfully against any employee or applicant for employment because of race, creed, color, national origin, sex, age, disability,

marital status, sexual orientation or citizenship status with respect to all employment decisions including, but not limited to, recruitment, hiring, upgrading, demotion, downgrading, transfer, training, rates of pay or other forms of compensation, layoff, termination, and all other terms and conditions of employment;

b. Will not discriminate unlawfully in the selection of subcontractors on the basis of the owners', partners' or shareholders' race, color, creed, national origin, sex, age, disability, marital status, sexual orientation, or citizenship status;

c. Will state in all solicitations or advertisements for employees placed by or on behalf of the Contractor that all qualified applicants will receive consideration for employment without unlawful discrimination based on race, color, creed, national origin, sex, age, disability, marital status, sexual orientation or citizenship status, and that it is an equal employment opportunity employer;

d. Will send to each labor organization or representative of workers with which it has a collective bargaining agreement or other contract or memorandum of understanding, written notification of its equal employment opportunity commitments under E.O. 50 and the rules and regulations promulgated thereunder;

e. Will furnish before this Agreement is awarded all information and reports including an Employment Report which are required by E.O. 50, the rules and regulations promulgated thereunder, and orders of the SBS, Division of Labor Services ("DLS"); and

f. Will permit DLS to have access to all relevant books, records, and accounts for the purposes of investigation to ascertain compliance with such rules, regulations, and orders.

2. The Contractor understands that in the event of its noncompliance with the nondiscrimination clauses of this Agreement or with any of such rules, regulations, or orders, such noncompliance shall constitute a material breach of this Agreement and noncompliance with E.O. 50 and the rules and regulations promulgated thereunder. After a hearing held pursuant to the rules of DLS, the Director of DLS may direct the Commissioner to impose any or all of the following sanctions:

- a. Disapproval of the Contractor; and/or
- b. Suspension or termination of the Agreement; and/or
- c. Declaring the Contractor in default; and/or

d. In lieu of any of the foregoing sanctions, imposition of an employment program.

3. Failure to comply with E.O. 50 and the rules and regulations promulgated thereunder in one or more instances may result in the Department declaring the Contractor to be non-responsible.

4. The Contractor agrees to include the provisions of the foregoing Sections 4.05(D)(1)-(3) in every subcontract or purchase order in excess of \$100,000.00 to which it becomes a party unless exempted by E.O. 50 and the rules and regulations promulgated thereunder, so that such provisions will be binding upon each subcontractor or vendor. The Contractor will take such action with respect to any subcontract or purchase order as may be directed by the Director of DLS as a means of enforcing such provisions including sanctions for noncompliance. A supplier of unfinished products to the Contractor needed to produce the item contracted for shall not be considered a subcontractor or vendor for purposes of this Section 4.05(D)(4).

5. The Contractor further agrees that it will refrain from entering into any subcontract or modification thereof subject to E.O. 50 and the rules and regulations promulgated thereunder with a subcontractor who is not in compliance with the requirements of E.O. 50 and the rules and regulations promulgated thereunder. A supplier of unfinished products to the Contractor needed to produce the item contracted for shall not be considered a subcontractor for purposes of this Section 4.05(D)(5).

6. Nothing contained in this Section 4.05(D) shall be construed to bar any religious or denominational institution or organization, or any organization operated for charitable or educational purposes, that is operated, supervised or controlled by or in connection with a religious organization, from lawfully limiting employment or lawfully giving preference to persons of the same religion or denomination or from lawfully making such selection as is calculated by such organization to promote the religious principles for which it is established or maintained.

Section 4.06 Paid Sick Leave Law

A. Introduction and General Provisions.

1. The Earned Sick Time Act, also known as the Paid Sick Leave Law ("PSLL"), requires covered employees who annually perform more than 80 hours of work in New York City to be provided with paid sick time.² Contractors of the City or of other governmental entities may be required to provide sick time pursuant to the PSLL.

² Pursuant to the PSLL, if fewer than five employees work for the same employer, as determined pursuant Admin. Code § 20-912(g), such employer has the option of providing such employees uncompensated sick time.

2. The PSLL became effective on April 1, 2014, and is codified at Title 20, Chapter 8, of the Admin. Code. It is administered by the City's Department of Consumer Affairs ("DCA"). DCA's rules promulgated under the PSLL are codified at Chapter 7 of Title 6 of the Rules of the City of New York ("Rules").

3. The Contractor agrees to comply in all respects with the PSLL and the Rules, and as amended, if applicable, in the performance of this Agreement. The Contractor further acknowledges that such compliance is a material term of this Agreement and that failure to comply with the PSLL in performance of this Agreement may result in its termination.

4. The Contractor must notify the ACCO in writing within 10 Days of receipt of a complaint (whether oral or written) regarding the PSLL involving the performance of this Agreement. Additionally, the Contractor must cooperate with DCA's education efforts and must comply with DCA's subpoenas and other document demands as set forth in the PSLL and Rules.

5. The PSLL is summarized below for the convenience of the Contractor. The Contractor is advised to review the PSLL and Rules in their entirety. On the website www.nyc.gov/PaidSickLeave there are links to the PSLL and the associated Rules as well as additional resources for employers, such as Frequently Asked Questions, timekeeping tools and model forms, and an event calendar of upcoming presentations and webinars at which the Contractor can get more information about how to comply with the PSLL. The Contractor acknowledges that it is responsible for compliance with the PSLL notwithstanding any inconsistent language contained herein.

B. *Pursuant to the PSLL and the Rules: Applicability, Accrual, and Use.*

1. An employee who works within the City of New York for more than eighty hours in any consecutive 12-month period designated by the employer as its "calendar year" pursuant to the PSLL ("Year") must be provided sick time. Employers must provide a minimum of one hour of sick time for every 30 hours worked by an employee and compensation for such sick time must be provided at the greater of the employee's regular hourly rate or the minimum wage. Employers are not required to provide more than 40 hours of sick time to an employee in any Year.

2. An employee has the right to determine how much sick time he or she will use, provided that employers may set a reasonable minimum increment for the use of sick time not to exceed four hours per Day. In addition, an employee may carry over up to 40 hours of unused sick time to the following Year, provided that no employer is required to allow the use of more than 40 hours of sick time in a Year or carry over unused paid sick time if the employee is paid for such unused sick time and the employer provides the employee with at least the legally required amount of paid sick time for such employee for the immediately subsequent Year on the first Day of such Year.

3. An employee entitled to sick time pursuant to the PSLL may use sick time for any of the following:

a. such employee's mental illness, physical illness, injury, or health condition or the care of such illness, injury, or condition or such employee's need for medical diagnosis or preventive medical care;

b. such employee's care of a family member (an employee's child, spouse, domestic partner, parent, sibling, grandchild, or grandparent, or the child or parent of an employee's spouse or domestic partner) who has a mental illness, physical illness, injury or health condition or who has a need for medical diagnosis or preventive medical care;

c. closure of such employee's place of business by order of a public official due to a public health emergency; or

d. such employee's need to care for a child whose school or childcare provider has been closed due to a public health emergency.

4. An employer must not require an employee, as a condition of taking sick time, to search for a replacement. However, an employer may require an employee to provide: reasonable notice of the need to use sick time; reasonable documentation that the use of sick time was needed for a reason above if for an absence of more than three consecutive work days; and/or written confirmation that an employee used sick time pursuant to the PSLL. However, an employer may not require documentation specifying the nature of a medical condition or otherwise require disclosure of the details of a medical condition as a condition of providing sick time and health information obtained solely due to an employee's use of sick time pursuant to the PSLL must be treated by the employer as confidential.

5. If an employer chooses to impose any permissible discretionary requirement as a condition of using sick time, it must provide to all employees a written policy containing those requirements, using a delivery method that reasonably ensures that employees receive the policy. If such employer has not provided its written policy, it may not deny sick time to an employee because of non-compliance with such a policy.

6. Sick time to which an employee is entitled must be paid no later than the payday for the next regular payroll period beginning after the sick time was used.

C. *Exemptions and Exceptions.* Notwithstanding the above, the PSLL does not apply to any of the following:

1. an independent contractor who does not meet the definition of employee under N.Y. Labor Law § 190(2);

2. an employee covered by a valid collective bargaining agreement in effect on April 1, 2014, until the termination of such agreement;

3. an employee in the construction or grocery industry covered by a valid collective bargaining agreement if the provisions of the PSLL are expressly waived in such collective bargaining agreement;

4. an employee covered by another valid collective bargaining agreement if such provisions are expressly waived in such agreement and such agreement provides a benefit comparable to that provided by the PSLL for such employee;

5. an audiologist, occupational therapist, physical therapist, or speech language pathologist who is licensed by the New York State Department of Education and who calls in for work assignments at will, determines his or her own schedule, has the ability to reject or accept any assignment referred to him or her, and is paid an average hourly wage that is at least four times the federal minimum wage;

6. an employee in a work study program under Section 2753 of Chapter 42 of the United States Code;

7. an employee whose work is compensated by a qualified scholarship program as that term is defined in the Internal Revenue Code, Section 117 of Chapter 20 of the United States Code; or

8. a participant in a Work Experience Program (WEP) under N.Y. Social Services Law § 336-c.

D. *Retaliation Prohibited.* An employer may not threaten or engage in retaliation against an employee for exercising or attempting in good faith to exercise any right provided by the PSLL. In addition, an employer may not interfere with any investigation, proceeding, or hearing pursuant to the PSLL.

E. *Notice of Rights.*

1. An employer must provide its employees with written notice of their rights pursuant to the PSLL. Such notice must be in English and the primary language spoken by an employee, provided that DCA has made available a translation into such language. Downloadable notices are available on DCA's website at <http://www.nvc.gov/html/dca/html/law/PaidSickLeave.shtml>.

2. Any person or entity that willfully violates these notice requirements is subject to a civil penalty in an amount not to exceed \$50.00 for each employee who was not given appropriate notice.

F. *Records.* An employer must retain records documenting its compliance with the PSLL for a period of at least three years, and must allow DCA to access such records in furtherance of an investigation related to an alleged violation of the PSLL.

G. *Enforcement and Penalties.*

1. Upon receiving a complaint alleging a violation of the PSLL, DCA has the right to investigate such complaint and attempt to resolve it through mediation. Within 30 Days of written notification of a complaint by DCA, or sooner in certain circumstances, the employer must provide DCA with a written response and such other information as DCA may request. If DCA believes that a violation of the PSLL has occurred, it has the right to issue a notice of violation to the employer.

2. DCA has the power to grant an employee or former employee all appropriate relief as set forth in Admin. Code § 20-924(d). Such relief may include, among other remedies, treble damages for the wages that should have been paid, damages for unlawful retaliation, and damages and reinstatement for unlawful discharge. In addition, DCA may impose on an employer found to have violated the PSLL civil penalties not to exceed \$500.00 for a first violation, \$750.00 for a second violation within two years of the first violation, and \$1,000.00 for each succeeding violation within two years of the previous violation.

H. *More Generous Policies and Other Legal Requirements.* Nothing in the PSLL is intended to discourage, prohibit, diminish, or impair the adoption or retention of a more generous sick time policy, or the obligation of an employer to comply with any contract, collective bargaining agreement, employment benefit plan or other agreement providing more generous sick time. The PSLL provides minimum requirements pertaining to sick time and does not preempt, limit, or otherwise affect the applicability of any other law, regulation, rule, requirement, policy or standard that provides for greater accrual or use by employees of sick leave or time, whether paid or unpaid, or that extends other protections to employees. The PSLL may not be construed as creating or imposing any requirement in conflict with any federal or state law, rule, or regulation.

Section 4.07 Whistleblower Protection Expansion Act

A. In accordance with Local Laws 30 and 33 of 2012, codified at Admin. Code §§ 6-132 and 12-113, respectively,

1. Contractor shall not take an adverse personnel action with respect to an officer or employee in retaliation for such officer or employee making a report of information concerning conduct which such officer or employee knows or reasonably believes to involve corruption, criminal activity, conflict of interest, gross mismanagement or abuse of authority by any officer or employee relating to this Agreement to (i) the Commissioner of the Department of Investigation, (ii) a member of

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the New York City Council, the Public Advocate, or the Comptroller, or (iii) the City Chief Procurement Officer, ACCO, Agency head, or Commissioner.

2. If any of Contractor's officers or employees believes that he or she has been the subject of an adverse personnel action in violation of this Section 4.07, he or she shall be entitled to bring a cause of action against Contractor to recover all relief necessary to make him or her whole. Such relief may include but is not limited to: (i) an injunction to restrain continued retaliation, (ii) reinstatement to the position such employee would have had but for the retaliation or to an equivalent position, (iii) reinstatement of full fringe benefits and seniority rights, (iv) payment of two times back pay, plus interest, and (v) compensation for any special damages sustained as a result of the retaliation, including litigation costs and reasonable attorney's fees.

3. Contractor shall post a notice provided by the City (attached hereto) in a prominent and accessible place on any site where work pursuant to the Agreement is performed that contains information about:

a. how its employees can report to the New York City Department of Investigation allegations of fraud, false claims, criminality or corruption arising out of or in connection with the Agreement; and

b. the rights and remedies afforded to its employees under Admin. Code §§ 7-805 (the New York City False Claims Act) and 12-113 (the Whistleblower Protection Expansion Act) for lawful acts taken in connection with the reporting of allegations of fraud, false claims, criminality or corruption in connection with the Agreement.

4. For the purposes of this Section 4.07, "adverse personnel action" includes dismissal, demotion, suspension, disciplinary action, negative performance evaluation, any action resulting in loss of staff, office space, equipment or other benefit, failure to appoint, failure to promote, or any transfer or assignment or failure to transfer or assign against the wishes of the affected officer or employee.

5. This Section 4.07 is applicable to all of Contractor's subcontractors having subcontracts with a value in excess of \$100,000.00; accordingly, Contractor shall include this Section 4.07 in all subcontracts with a value in excess of \$100,000.00.

B. Section 4.07 is not applicable to this Agreement if it is valued at \$100,000.00 or less. Sections 4.07(A)(1), (2), (4), and (5) are not applicable to this Agreement if it was solicited pursuant to a finding of an emergency. Section 4.07(A)(3) is neither applicable to this Agreement if it was solicited prior to October 18, 2012 nor if it is a renewal of a contract executed prior to October 18, 2012.

ARTICLE 5 - RECORDS, AUDITS, REPORTS, AND INVESTIGATIONS

Section 5.01 Books and Records

The Contractor agrees to maintain separate and accurate books, records, documents, and other evidence, and to utilize appropriate accounting procedures and practices that sufficiently and properly reflect all direct and indirect costs of any nature expended in the performance of this Agreement.

Section 5.02 Retention of Records

The Contractor agrees to retain all books, records, documents, other evidence relevant to this Agreement, including those required pursuant to Section 5.01, for six years after the final payment or expiration or termination of this Agreement, or for a period otherwise prescribed by Law, whichever is later. In addition, if any litigation, claim, or audit concerning this Agreement has commenced before the expiration of the six-year period, the books, records, documents, and other evidence must be retained until the completion of such litigation, claim, or audit. Any books, records, documents, and other evidence that are created in an electronic format in the regular course of business may be retained in an electronic format. Any books, records, documents, or other evidence that are created in the regular course of business as a paper copy may be retained in an electronic format provided that they satisfy the requirements of N.Y. Civil Practice Law and Rules (“CPLR”) 4539(b), including the requirement that the reproduction is created in a manner “which does not permit additions, deletions, or changes without leaving a record of such additions, deletions, or changes.” Furthermore, the Contractor agrees to waive any objection to the admissibility of any such books, records, documents, or other evidence on the grounds that such documents do not satisfy CPLR 4539(b).

Section 5.03 Inspection

A. At any time during the Agreement or during the record retention period set forth in Section 5.02, the City, including the Department and the Department’s Office of the Inspector General, as well as City, State, and federal auditors and any other persons duly authorized by the City shall, upon reasonable notice, have full access to and the right to examine and copy all books, records, documents, and other evidence maintained or retained by or on behalf of the Contractor pursuant to this Article 5. Notwithstanding any provision herein regarding notice of inspection, all books, records, documents, and other evidence of the Contractor kept pursuant to this Agreement shall be subject to immediate inspection, review, and copying by the Department’s Office of the Inspector General, the Comptroller, and/or federal auditors without prior notice and at no additional cost to the City. The Contractor shall make such books, records documents, and other evidence available for inspection in the City of New York or shall reimburse the City for expenses associated with the out-of-City inspection.

B. The Department shall have the right to have representatives of the Department or of the City, State or federal government present to observe the services being performed. If

observation of particular services or activity would constitute a waiver of a legal privilege or violate the Law or an ethical obligation under the New York Rules of Professional Conduct for attorneys, National Association of Social Workers Code of Ethics or other similar code governing the provision of a profession's services in New York State, the Contractor shall promptly inform the Department or other entity seeking to observe such work or activity. Such restriction shall not act to prevent government representatives from inspecting the provision of services in a manner that allows the representatives to ensure that services are being performed in accordance with this Agreement.

C. The Contractor shall not be entitled to final payment until the Contractor has complied with any request for inspection or access given under this Section 5.03.

Section 5.04 Audit

A. This Agreement and all books, records, documents, and other evidence required to be maintained or retained pursuant to this Agreement, including all vouchers or invoices presented for payment and the books, records, and other documents upon which such vouchers or invoices are based (e.g., reports, cancelled checks, accounts, and all other similar material), are subject to audit by (i) the City, including the Comptroller, the Department, and the Department's Office of the Inspector General, (ii) the State, (iii) the federal government, and (iv) other persons duly authorized by the City. Such audits may include examination and review of the source and application of all funds whether from the City, the State, the federal government, private sources, or otherwise.

B. Audits by the City, including the Comptroller, the Department, and the Department's Office of the Inspector General, are performed pursuant to the powers and responsibilities conferred by the Charter and the Admin. Code, as well as all orders, rules, and regulations promulgated pursuant to the Charter and Admin. Code.

C. The Contractor shall submit any and all documentation and justification in support of expenditures or fees under this Agreement as may be required by the Department and by the Comptroller in the exercise of his/her powers under Law.

D. The Contractor shall not be entitled to final payment until the Contractor has complied with the requirements of this Section 5.04.

Section 5.05 No Removal of Records from Premises

Where performance of this Agreement involves use by the Contractor of any City books, records, documents, or data (in hard copy, or electronic or other format now known or developed in the future) at City facilities or offices, the Contractor shall not remove any such items or material (in the format in which it originally existed, or in any other converted or derived format) from such facility or office without the prior written approval of the Department's designated official. Upon the request by the Department at any time during the Agreement or after the

Agreement has expired or terminated, the Contractor shall return to the Department any City books, records, documents, or data that has been removed from City premises.

Section 5.06 Electronic Records

As used in this Appendix A, the terms “books,” “records,” “documents,” and “other evidence” refer to electronic versions as well as hard copy versions.

Section 5.07 Investigations Clause

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

B.

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

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

C.

6. The Commissioner or Agency Head whose agency is a party in interest to the transaction, submitted bid, submitted proposal, contract, lease, permit, or license shall convene a hearing, upon not less than five (5) Days written notice to the parties involved to determine if any penalties should attach for the failure of a person to testify.

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

D. The penalties that may attach after a final determination by the Commissioner or Agency Head may include but shall not exceed:

1. The disqualification for a period not to exceed five years from the date of an adverse determination for any person, or any entity of which such person was a member at the time the testimony was sought, from submitting bids for, or transacting business with, or entering into or obtaining any contract, lease, permit or license with or from the City; and/or

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

E. The Commissioner or Agency Head shall consider and address in reaching his or her determination and in assessing an appropriate penalty the factors in Paragraphs (1) and (2) below. He or she may also consider, if relevant and appropriate, the criteria established in Paragraphs (3) and (4) below, in addition to any other information that may be relevant and appropriate:

1. The party's good faith endeavors or lack thereof to cooperate fully and faithfully with any governmental investigation or audit, including but not limited to the discipline, discharge, or disassociation of any person failing to testify, the production of accurate and complete books and records, and the forthcoming testimony of all other members, agents, assignees or fiduciaries whose testimony is sought.

2. The relationship of the person who refused to testify to any entity that is a party to the hearing, including, but not limited to, whether the person whose testimony is sought has an ownership interest in the entity and/or the degree of authority and responsibility the person has within the entity.

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

4. The effect a penalty may have on an unaffiliated and unrelated party or entity that has a significant interest in an entity subject to penalties under Paragraph D above, provided that the party or entity has given actual notice to the Commissioner or Agency Head upon the acquisition of the interest, or at the hearing called for in Paragraph (C)(1) above gives notice and proves that such interest was previously acquired. Under either circumstance, the party or entity must present evidence at the hearing demonstrating the potential adverse impact a penalty will have on such person or entity.

F. Definitions

1. The term “license” or “permit” as used in this Section shall be defined as a license, permit, franchise, or concession not granted as a matter of right.

2. The term “person” as used in this Section shall be defined as any natural person doing business alone or associated with another person or entity as a partner, director, officer, principal or employee.

3. The term “entity” as used in this Section shall be defined as any firm, partnership, corporation, association, or person that receives monies, benefits, licenses, leases, or permits from or through the City, or otherwise transacts business with the City.

4. The term “member” as used in this Section shall be defined as any person associated with another person or entity as a partner, director, officer, principal, or employee.

G. In addition to and notwithstanding any other provision of this Agreement, the Commissioner or Agency Head may in his or her sole discretion terminate this Agreement upon not less than three (3) Days written notice in the event the Contractor fails to promptly report in writing to the City Commissioner of Investigation any solicitation of money, goods, requests for future employment or other benefits or thing of value, by or on behalf of any employee of the City or other person or entity for any purpose that may be related to the procurement or obtaining of this Agreement by the Contractor, or affecting the performance of this Agreement.

Section 5.08 Confidentiality

A. The Contractor agrees to hold confidential, both during and after the completion or termination of this Agreement, all of the reports, information, or data, furnished to, or prepared, assembled or used by, the Contractor under this Agreement. The Contractor agrees to maintain the confidentiality of such reports, information, or data by using a reasonable degree of care, and using at least the same degree of care that the Contractor uses to preserve the confidentiality of its own confidential information. The Contractor agrees that such reports, information, or data shall not be made available to any person or entity without the prior written approval of the Department. The obligation under this Section 5.08 to hold reports, information or data confidential shall not apply where the Contractor is legally required to disclose such reports, information or data, by virtue of a subpoena, court order or otherwise (“disclosure

demand”), provided that the Contractor complies with the following: (1) the Contractor shall provide advance notice to the Commissioner, in writing or by e-mail, that it received a disclosure demand for to disclose such reports, information or data and (2) if requested by the Department, the Contractor shall not disclose such reports, information, or data until the City has exhausted its legal rights, if any, to prevent disclosure of all or a portion of such reports, information or data. The previous sentence shall not apply if the Contractor is prohibited by law from disclosing to the Department the disclosure demand for such reports, information or data.

B. The Contractor shall provide notice to the Department within three days of the discovery by the Contractor of any breach of security, as defined in Admin. Code § 10-501(b), of any data, encrypted or otherwise, in use by the Contractor that contains social security numbers or other personal identifying information as defined in Admin. Code § 10-501 (“Personal Identifying Information”), where such breach of security arises out of the acts or omissions of the Contractor or its employees, subcontractors, or agents. Upon the discovery of such security breach, the Contractor shall take reasonable steps to remediate the cause or causes of such breach, and shall provide notice to the Department of such steps. In the event of such breach of security, without limiting any other right of the City, the City shall have the right to withhold further payments under this Agreement for the purpose of set-off in sufficient sums to cover the costs of notifications and/or other actions mandated by any Law, or administrative or judicial order, to address the breach, and including any fines or disallowances imposed by the State or federal government as a result of the disclosure. The City shall also have the right to withhold further payments hereunder for the purpose of set-off in sufficient sums to cover the costs of credit monitoring services for the victims of such a breach of security by a national credit reporting agency, and/or any other commercially reasonable preventive measure. The Department shall provide the Contractor with written notice and an opportunity to comment on such measures prior to implementation. Alternatively, at the City’s discretion, or if monies remaining to be earned or paid under this Agreement are insufficient to cover the costs detailed above, the Contractor shall pay directly for the costs, detailed above, if any.

C. The Contractor shall restrict access to confidential information to persons who have a legitimate work related purpose to access such information. The Contractor agrees that it will instruct its officers, employees, and agents to maintain the confidentiality of any and all information required to be kept confidential by this Agreement.

D. The Contractor, and its officers, employees, and agents shall notify the Department, at any time either during or after completion or termination of this Agreement, of any intended statement to the press or any intended issuing of any material for publication in any media of communication (print, news, television, radio, Internet, etc.) regarding the services provided or the data collected pursuant to this Agreement at least 24 hours prior to any statement to the press or at least five business days prior to the submission of the material for publication, or such shorter periods as are reasonable under the circumstances. The Contractor may not issue any statement or submit any material for publication that includes confidential information as prohibited by this Section 5.08.

E. At the request of the Department, the Contractor shall return to the Department any and all confidential information in the possession of the Contractor or its subcontractors. If the Contractor or its subcontractors are legally required to retain any confidential information, the Contractor shall notify the Department in writing and set forth the confidential information that it intends to retain and the reasons why it is legally required to retain such information. The Contractor shall confer with the Department, in good faith, regarding any issues that arise from the Contractor retaining such confidential information. If the Department does not request such information or the Law does not require otherwise, such information shall be maintained in accordance with the requirements set forth in Section 5.02.

F. A breach of this Section 5.08 shall constitute a material breach of this Agreement for which the Department may terminate this Agreement pursuant to Article 10. The Department reserves any and all other rights and remedies in the event of unauthorized disclosure.

ARTICLE 6 - COPYRIGHTS, PATENTS, INVENTIONS, AND ANTITRUST

Section 6.01 Copyrights and Ownership of Work Product

A. Any reports, documents, data, photographs, deliverables, and/or other materials produced pursuant to this Agreement, and any and all drafts and/or other preliminary materials in any format related to such items produced pursuant to this Agreement, shall upon their creation become the exclusive property of the City.

B. Any reports, documents, data, photographs, deliverables, and/or other materials provided pursuant to this Agreement ("Copyrightable Materials") shall be considered "work-made-for-hire" within the meaning and purview of Section 101 of the United States Copyright Act, 17 U.S.C. § 101, and the City shall be the copyright owner thereof and of all aspects, elements, and components thereof in which copyright protection might exist. To the extent that the Copyrightable Materials do not qualify as "work-made-for-hire," the Contractor hereby irrevocably transfers, assigns and conveys exclusive copyright ownership in and to the Copyrightable Materials to the City, free and clear of any liens, claims, or other encumbrances. The Contractor shall retain no copyright or intellectual property interest in the Copyrightable Materials. The Copyrightable Materials shall be used by the Contractor for no purpose other than in the performance of this Agreement without the prior written permission of the City. The Department may grant the Contractor a license to use the Copyrightable Materials on such terms as determined by the Department and set forth in the license.

C. The Contractor acknowledges that the City may, in its sole discretion, register copyright in the Copyrightable Materials with the United States Copyright Office or any other government agency authorized to grant copyright registrations. The Contractor shall fully cooperate in this effort, and agrees to provide any and all documentation necessary to accomplish this.

D. The Contractor represents and warrants that the Copyrightable Materials: (i) are wholly original material not published elsewhere (except for material that is in the public domain); (ii) do not violate any copyright Law; (iii) do not constitute defamation or invasion of the right of privacy or publicity; and (iv) are not an infringement, of any kind, of the rights of any third party. To the extent that the Copyrightable Materials incorporate any non-original material, the Contractor has obtained all necessary permissions and clearances, in writing, for the use of such non-original material under this Agreement, copies of which shall be provided to the City upon execution of this Agreement.

E. If the services under this Agreement are supported by a federal grant of funds, the federal and State government reserves a royalty-free, non-exclusive irrevocable license to reproduce, publish, or otherwise use and to authorize others to use, for federal or State government purposes, the copyright in any Copyrightable Materials developed under this Agreement.

F. If the Contractor publishes a work dealing with any aspect of performance under this Agreement, or with the results of such performance, the City shall have a royalty-free, non-exclusive irrevocable license to reproduce, publish, or otherwise use such work for City governmental purposes.

Section 6.02 Patents and Inventions

The Contractor shall promptly and fully report to the Department any discovery or invention arising out of or developed in the course of performance of this Agreement. If the services under this Agreement are supported by a federal grant of funds, the Contractor shall promptly and fully report to the federal government for the federal government to make a determination as to whether patent protection on such invention shall be sought and how the rights in the invention or discovery, including rights under any patent issued thereon, shall be disposed of and administered in order to protect the public interest.

Section 6.03 Pre-existing Rights

In no case shall Sections 6.01 and 6.02 apply to, or prevent the Contractor from asserting or protecting its rights in any discovery, invention, report, document, data, photograph, deliverable, or other material in connection with or produced pursuant to this Agreement that existed prior to or was developed or discovered independently from the activities directly related to this Agreement.

Section 6.04 Antitrust

The Contractor hereby assigns, sells, and transfers to the City all right, title, and interest in and to any claims and causes of action arising under the antitrust laws of the State or of the United States relating to the particular goods or services procured by the City under this Agreement.

ARTICLE 7 - INSURANCE

Section 7.01 Agreement to Insure

The Contractor shall maintain the following types of insurance if and as indicated in Schedule A (with the minimum limits and special conditions specified in Schedule A) throughout the term of this Agreement, including any applicable guaranty period. All insurance shall meet the requirements set forth in this Article 7. Wherever this Article 7 requires that insurance coverage be "at least as broad" as a specified form (including all ISO forms), there is no obligation that the form itself be used, provided that the Contractor can demonstrate that the alternative form or endorsement contained in its policy provides coverage at least as broad as the specified form.

Section 7.02 Workers' Compensation, Disability Benefits, and Employers' Liability Insurance

A. The Contractor shall maintain workers' compensation insurance, employers' liability insurance, and disability benefits insurance, in accordance with Law on behalf of, or in regard to, all employees providing services under this Agreement

B. Within 10 Days of award of this Agreement or as otherwise specified by the Department, and as required by N.Y. Workers' Compensation Law §§ 57 and 220(8), the Contractor shall submit proof of Contractor's workers' compensation insurance and disability benefits insurance (or proof of a legal exemption) to the Department in a form acceptable to the New York State Workers' Compensation Board. ACORD forms are not acceptable proof of such insurance. The following forms are acceptable:

1. Form C-105.2, *Certificate of Workers' Compensation Insurance*;
2. Form U-26.3, *State Insurance Fund Certificate of Workers' Compensation Insurance*;
3. Form SI-12, *Certificate of Workers' Compensation Self-Insurance*;
4. Form GSI-105.2, *Certificate of Participation in Worker's Compensation Group Self-Insurance*;
5. Form DB-120.1, *Certificate of Disability Benefits Insurance*;
6. Form DB-155, *Certificate of Disability Benefits Self-Insurance*;
7. Form CE-200 – *Affidavit of Exemption*;
8. Other forms approved by the New York State Workers' Compensation Board; or

9. Other proof of insurance in a form acceptable to the City.

Section 7.03 Other Insurance

A. *Commercial General Liability Insurance.* The Contractor shall maintain commercial general liability insurance in the amounts specified in Schedule A covering operations under this Agreement. Coverage must be at least as broad as the coverage provided by the most recently issued ISO Form CG 00 01, primary and non-contributory, and "occurrence" based rather than "claims-made." Such coverage shall list the City, together with its officials and employees, and any other entity that may be listed on Schedule A as an additional insured with coverage at least as broad as the most recently issued ISO Form CG 20 10 or CG 20 26 and, if construction is performed as part of the services, ISO Form CG 20 37.

B. *Commercial Automobile Liability Insurance.* If indicated in Schedule A and/or if vehicles are used in the provision of services under this Agreement, the Contractor shall maintain commercial automobile liability insurance for liability arising out of ownership, maintenance or use of any owned, non-owned, or hired vehicles to be used in connection with this Agreement. Coverage shall be at least as broad as the most recently issued ISO Form CA 00 01. If vehicles are used for transporting hazardous materials, the commercial automobile liability insurance shall be endorsed to provide pollution liability broadened coverage for covered vehicles (endorsement CA 99 48) as well as proof of MCS-90.

C. *Professional Liability Insurance.*

1. If indicated in Schedule A, the Contractor shall maintain and submit evidence of professional liability insurance or errors and omissions insurance appropriate to the type(s) of such services to be provided under this Agreement. The policy or policies shall cover the liability assumed by the Contractor under this Agreement arising out of the negligent performance of professional services or caused by an error, omission, or negligent act of the Contractor or anyone employed by the Contractor.

2. All subcontractors of the Contractor providing professional services under this Agreement for which professional liability insurance or errors and omissions insurance is reasonably commercially available shall also maintain such insurance in the amount specified in Schedule A. At the time of the request for subcontractor approval, the Contractor shall provide to the Department, evidence of such professional liability insurance on a form acceptable to the Department.

3. Claims-made policies will be accepted for professional liability insurance. All such policies shall have an extended reporting period option or automatic coverage of not less than two years. If available as an option, the Contractor shall purchase extended reporting period coverage effective on cancellation or termination of such insurance unless a new policy is secured with a retroactive date, including at least the last policy year.

D. *Crime Insurance.* If indicated in Schedule A, the Contractor shall maintain crime insurance during the term of the Agreement in the minimum amounts listed in Schedule A. Such insurance shall include coverage, without limitation, for any and all acts of employee theft including employee theft of client property, forgery or alteration, inside the premises (theft of money and securities), inside the premises (robbery or safe burglary of other property), outside the premises, computer fraud, funds transfer fraud, and money orders and counterfeit money. The policy shall name the Contractor as named insured and shall list the City as loss payee as its interests may appear.

E. *Cyber Liability Insurance.* If indicated in Schedule A, the Contractor shall maintain cyber liability insurance covering losses arising from operations under this Agreement in the amounts listed in Schedule A. The City shall approve the policy (including exclusions therein), coverage amounts, deductibles or self-insured retentions, and premiums, as well as the types of losses covered, which may include but not be limited to: notification costs, security monitoring costs, losses resulting from identity theft, and other injury to third parties. If additional insured status is commercially available under the Contractor's cyber liability insurance, the insurance shall cover the City, together with its respective officials and employees, as additional insured.

F. *Other Insurance.* The Contractor shall provide such other types of insurance in the amounts specified in Schedule A.

Section 7.04 General Requirements for Insurance Coverage and Policies

A. Unless otherwise stated, all insurance required by Section 7.03 of this Agreement must:

1. be provided by companies that may lawfully issue such policies;
2. have an A.M. Best rating of at least A- / VII, a Standard & Poor's rating of at least A, a Moody's Investors Service rating of at least A3, a Fitch Ratings rating of at least A- or a similar rating by any other nationally recognized statistical rating organization acceptable to the New York City Law Department unless prior written approval is obtained from the New York City Law Department; and
3. be primary (and non-contributing) to any insurance or self-insurance maintained by the City (not applicable to professional liability insurance/errors and omissions insurance) and any other entity listed as an additional insured in Schedule A.

B. The Contractor shall be solely responsible for the payment of all premiums for all required insurance policies and all deductibles or self-insured retentions to which such policies are subject, whether or not the City is an insured under the policy.

C. There shall be no self-insurance program, including a self-insurance retention, exceeding \$10,000.00, with regard to any insurance required under Section 7.03 unless approved in writing by the Commissioner. Any such self-insurance program shall provide the City and any other additional insured listed on Schedule A with all rights that would be provided by traditional insurance required under this Article 7, including but not limited to the defense obligations that insurers are required to undertake in liability policies.

D. The limits of coverage for all types of insurance for the City, including its officials and employees, and any other additional insured listed on Schedule A that must be provided to such additional insured(s) shall be the greater of (i) the minimum limits set forth in Schedule A or (ii) the limits provided to the Contractor as named insured under all primary, excess, and umbrella policies of that type of coverage.

Section 7.05 Proof of Insurance

A. For each policy required under Section 7.03 and Schedule A of this Agreement, the Contractor shall file proof of insurance and, where applicable, proof that the City, including its officials and employees, is an additional insured with the Department within ten Days of award of this Agreement. The following proof is acceptable:

1. A certificate of insurance accompanied by a completed certification of insurance broker or agent (included in Schedule A of this Agreement) and any endorsements by which the City, including its officials and employees, have been made an additional insured; or

2. A copy of the insurance policy, including declarations and endorsements, certified by an authorized representative of the issuing insurance carrier.

B. Proof of insurance confirming renewals of insurance required under Section 7.03 must be submitted to the Department prior to the expiration date of the coverage. Such proof must meet the requirements of Section 7.05(A).

C. The Contractor shall provide the City with a copy of any policy required under this Article 7 upon the demand for such policy by the Commissioner or the New York City Law Department.

D. Acceptance by the Commissioner of a certificate or a policy does not excuse the Contractor from maintaining policies consistent with all provisions of this Article 7 (and ensuring that subcontractors maintain such policies) or from any liability arising from its failure to do so.

E. If the Contractor receives notice, from an insurance company or other person, that any insurance policy required under this Article 7 shall expire or be cancelled or terminated for any reason, the Contractor shall immediately forward a copy of such notice to both the address referred to in Section 14.04 and Schedule A and to the New York City Comptroller, Attn: Office

of Contract Administration, Municipal Building, One Centre Street, Room 1005, New York, New York 10007.

Section 7.06 Miscellaneous

A. Whenever notice of loss, damage, occurrence, accident, claim, or suit is required under a policy required by Section 7.03 and Schedule A, the Contractor shall provide the insurer with timely notice thereof on behalf of the City. Such notice shall be given even where the Contractor may not be covered under such policy if this Agreement requires that the City be an additional insured (for example, where one of Contractor's employees was injured). Such notice shall expressly specify that "this notice is being given on behalf of the City of New York, including its officials and employees, as additional insured" (such notice shall also include the name of any other entity listed as an additional insured on Schedule A) and contain the following information to the extent known: the number of the insurance policy; the name of the named insured; the date and location of the damage, occurrence, or accident; the identity of the persons or things injured, damaged, or lost; and the title of the claim or suit, if applicable. The Contractor shall simultaneously send a copy of such notice to the City of New York c/o Insurance Claims Specialist, Affirmative Litigation Division, New York City Law Department, 100 Church Street, New York, New York 10007. If the Contractor fails to comply with the requirements of this paragraph, the Contractor shall indemnify the City, together with its officials and employees, and any other entity listed as an additional insured on Schedule A for all losses, judgments, settlements and expenses, including reasonable attorneys' fees, arising from an insurer's disclaimer of coverage citing late notice by or on behalf of the City together with its officials and employees, and any other entity listed as an additional insured on Schedule A.

B. The Contractor's failure to maintain any of the insurance required by this Article 7 and Schedule A shall constitute a material breach of this Agreement. Such breach shall not be waived or otherwise excused by any action or inaction by the City at any time.

C. Insurance coverage in the minimum amounts required in this Article 7 shall not relieve the Contractor or its subcontractors of any liability under this Agreement, nor shall it preclude the City from exercising any rights or taking such other actions as are available to it under any other provisions of this Agreement or Law.

D. With respect to insurance required by Section 7.03 and Schedule A (but not including professional liability/errors and omissions insurance), the Contractor waives all rights against the City, including its officials and employees, and any other entity listed as an additional insured on Schedule A for any damages or losses that are covered under any insurance required under this Article 7 (whether or not such insurance is actually procured or claims are paid thereunder) or any other insurance applicable to the operations of the Contractor and/or its subcontractors in the performance of this Agreement.

E. In the event the Contractor requires any subcontractor to maintain insurance with regard to any operations under this Agreement and requires such subcontractor to list the Contractor as an additional insured under such insurance, the Contractor shall ensure that such

entity also list the City, including its officials and employees, and any other entity listed as an additional insured on Schedule A as an additional insured. With respect to commercial general liability insurance, such coverage must be at least as broad as the most recently issued ISO form CG 20 26.

**ARTICLE 8 - PROTECTION OF PERSONS AND PROPERTY AND
INDEMNIFICATION**

Section 8.01 Reasonable Precautions

The Contractor shall take all reasonable precautions to protect all persons and the property of the City and of others from injury, damage, or loss resulting from the Contractor's and/or its subcontractors' operations under this Agreement.

Section 8.02 Protection of City Property

The Contractor assumes the risk of, and shall be responsible for, any loss or damage to City property, including property and equipment leased by the City, used in the performance of this Agreement, where such loss or damage is caused by negligence, any tortious act, or failure to comply with the provisions of this Agreement or of Law by the Contractor, its officers, employees, agents or subcontractors.

Section 8.03 Indemnification

To the fullest extent permitted by Law, the Contractor shall defend, indemnify, and hold harmless the City, including its officials and employees, against any and all claims (even if the allegations of the claim are without merit), judgments for damages on account of any injuries or death to any person or damage to any property, and costs and expenses to which the City or its officials or employees, may be subject to or which they may suffer or incur allegedly arising out of any of the operations of the Contractor and/or its subcontractors under this Agreement to the extent resulting from any negligent act of commission or omission, any intentional tortious act, and/or the failure to comply with Law or any of the requirements of this Agreement. Insofar as the facts or Law relating to any of the foregoing would preclude the City or its officials or employees from being completely indemnified by the Contractor, the City and its officials and employees shall be partially indemnified by the Contractor to the fullest extent permitted by Law.

Section 8.04 Infringement Indemnification

To the fullest extent permitted by Law, the Contractor shall defend, indemnify, and hold harmless the City, including its officials and employees, against any and all claims (even if the allegations of the claim are without merit), judgments for damages, and costs and expenses to which the City or its officials or employees, may be subject to or which they may suffer or incur allegedly arising out of any infringement, violation, or unauthorized use of any copyright, trade

secret, trademark or patent or any other property or personal right of any third party by the Contractor and/or its employees, agents, or subcontractors in the performance of this Agreement. To the fullest extent permitted by Law, the Contractor shall defend, indemnify, and hold harmless the City and its officials and employees regardless of whether or not the alleged infringement, violation, or unauthorized use arises out of compliance with the Agreement's scope of services/scope of work. Insofar as the facts or Law relating to any of the foregoing would preclude the City and its officials and employees from being completely indemnified by the Contractor, the City and its officials and employees shall be partially indemnified by the Contractor to the fullest extent permitted by Law.

Section 8.05 Indemnification Obligations Not Limited By Insurance Obligation

The Contractor's obligation to indemnify, defend and hold harmless the City and its officials and employees shall neither be (i) limited in any way by the Contractor's obligations to obtain and maintain insurance under this Agreement, nor (ii) adversely affected by any failure on the part of the City or its officials or employees to avail themselves of the benefits of such insurance.

Section 8.06 Actions By or Against Third Parties

A. If any claim is made or any action brought in any way relating to Agreement other than an action between the City and the Contractor, the Contractor shall diligently render to the City without additional compensation all assistance that the City may reasonably require of the Contractor.

B. The Contractor shall report to the Department in writing within five business days of the initiation by or against the Contractor of any legal action or proceeding relating to this Agreement.

Section 8.07 Withholding of Payments

A. If any claim is made or any action is brought against the City for which the Contractor may be required to indemnify the City pursuant to this Agreement, the City shall have the right to withhold further payments under this Agreement for the purpose of set-off in sufficient sums to cover the said claim or action.

B. If any City property is lost or damaged as set forth in Section 8.02, except for normal wear and tear, the City shall have the right to withhold payments under this Agreement for the purpose of set-off in sufficient sums to cover such loss or damage.

C. The City shall not, however, impose a set-off in the event that an insurance company that provided insurance pursuant to Section 7.03 above has accepted the City's tender of the claim or action without a reservation of rights.

D. The Department may, at its option, withhold for purposes of set-off any monies due to the Contractor under this Agreement up to the amount of any disallowances or questioned costs resulting from any audits of the Contractor or to the amount of any overpayment to the Contractor with regard to this Agreement.

E. The rights and remedies of the City provided for in this Section 8.07 are not exclusive and are in addition to any other rights and remedies provided by Law or this Agreement.

Section 8.08 No Third Party Rights

The provisions of this Agreement shall not be deemed to create any right of action in favor of third parties against the Contractor or the City or their respective officials and employees.

ARTICLE 9 - CONTRACT CHANGES

Section 9.01 Contract Changes

Changes to this Agreement may be made only as duly authorized by the ACCO or his or her designee and in accordance with the PPB Rules. Any amendment or change to this Agreement shall not be valid unless made in writing and signed by authorized representatives of both parties. The Contractor deviates from the requirements of this Agreement without a duly approved and executed change order document or written contract modification or amendment at its own risk.

Section 9.02 Changes Through Fault of Contractor

If any change is required in the data, documents, deliverables, or other services to be provided under this Agreement because of negligence or error of the Contractor, no additional compensation shall be paid to the Contractor for making such change, and the Contractor is obligated to make such change without additional compensation.

ARTICLE 10 - TERMINATION, DEFAULT, REDUCTIONS IN FUNDING, AND LIQUIDATED DAMAGES

Section 10.01 Termination by the City Without Cause

A. The City shall have the right to terminate this Agreement, in whole or in part, without cause, in accordance with the provisions of Section 10.05.

B. In its sole discretion, the City shall have the right to terminate this Agreement, in whole or in part, upon the request of the Contractor to withdraw from the Contract, in accordance with the provisions of Section 10.05.

C. If the City terminates this Agreement pursuant to this Section 10.01, the following provisions apply. The City shall not incur or pay any further obligation pursuant to this Agreement beyond the termination date set by the City pursuant to Section 10.05. The City shall pay for services provided in accordance with this Agreement prior to the termination date. In addition, any obligation necessarily incurred by the Contractor on account of this Agreement prior to receipt of notice of termination and falling due after the termination date shall be paid by the City in accordance with the terms of this Agreement. In no event shall such obligation be construed as including any lease or other occupancy agreement, oral or written, entered into between the Contractor and its landlord.

Section 10.02 Reductions in Federal, State, and/or City Funding

A. This Agreement is funded in whole or in part by funds secured from the federal, State and/or City governments. Should there be a reduction or discontinuance of such funds by action of the federal, State and/or City governments, the City shall have, in its sole discretion, the right to terminate this Agreement in whole or in part, or to reduce the funding and/or level of services of this Agreement caused by such action by the federal, State and/or City governments, including, in the case of the reduction option, but not limited to, the reduction or elimination of programs, services or service components; the reduction or elimination of contract-reimbursable staff or staff-hours, and corresponding reductions in the budget of this Agreement and in the total amount payable under this Agreement. Any reduction in funds pursuant to this Section 10.02(A) shall be accompanied by an appropriate reduction in the services performed under this Agreement.

B. In the case of the reduction option referred to in Section 10.02(A), above, any such reduction shall be effective as of the date set forth in a written notice thereof to the Contractor, which shall be not less than 30 Days from the date of such notice. Prior to sending such notice of reduction, the Department shall advise the Contractor that such option is being exercised and afford the Contractor an opportunity to make within seven Days any suggestion(s) it may have as to which program(s), service(s), service component(s), staff or staff-hours might be reduced or eliminated, provided, however, that the Department shall not be bound to utilize any of the Contractor's suggestions and that the Department shall have sole discretion as to how to effectuate the reductions.

C. If the City reduces funding pursuant to this Section 10.02, the following provisions apply. The City shall pay for services provided in accordance with this Agreement prior to the reduction date. In addition, any obligation necessarily incurred by the Contractor on account of this Agreement prior to receipt of notice of reduction and falling due after the reduction date shall be paid by the City in accordance with the terms of this Agreement. In no event shall such obligation be construed as including any lease or other occupancy agreement, oral or written, entered into between the Contractor and its landlord.

D. To the extent that the reduction in public funds is a result of the State determining that the Contractor may receive medical assistance funds pursuant to title eleven of article five of

the Social Services Law to fund the services contained within the scope of a program under this Agreement, then the notice and effective date provisions of this Section 10.02 shall not apply, and the Department may reduce such public funds authorized under this Agreement by informing the Contractor of the amount of the reduction and revising attachments to this Agreement as appropriate.

Section 10.03 Contractor Default

A. The City shall have the right to declare the Contractor in default:

1. Upon a breach by the Contractor of a material term or condition of this Agreement, including unsatisfactory performance of the services;

2. Upon insolvency or the commencement of any proceeding by or against the Contractor, either voluntarily or involuntarily, under the Bankruptcy Code or relating to the insolvency, receivership, liquidation, or composition of the Contractor for the benefit of creditors;

3. If the Contractor refuses or fails to proceed with the services under the Agreement when and as directed by the Commissioner;

4. If the Contractor or any of its officers, directors, partners, five percent or greater shareholders, principals, or other employee or person substantially involved in its activities are indicted or convicted after execution of the Agreement under any state or federal law of any of the following:

a. a criminal offense incident to obtaining or attempting to obtain or performing a public or private contract;

b. fraud, embezzlement, theft, bribery, forgery, falsification, or destruction of records, or receiving stolen property;

c. a criminal violation of any state or federal antitrust law;

d. violation of the Racketeer Influence and Corrupt Organization Act, 18 U.S.C. §§ 1961 *et seq.*, or the Mail Fraud Act, 18 U.S.C. §§ 1341 *et seq.*, for acts in connection with the submission of bids or proposals for a public or private contract;

e. conspiracy to commit any act or omission that would constitute grounds for conviction or liability under any statute described in subparagraph (d) above; or

f. an offense indicating a lack of business integrity that seriously and directly affects responsibility as a City vendor.

5. If the Contractor or any of its officers, directors, partners, five percent or greater shareholders, principals, or other employee or person substantially involved in its activities are subject to a judgment of civil liability under any state or federal antitrust law for acts or omissions in connection with the submission of bids or proposals for a public or private contract; or

6. If the Contractor or any of its officers, directors, partners, five percent or greater shareholders, principals, or other employee or person substantially involved in its activities makes or causes to be made any false, deceptive, or fraudulent material statement, or fail to make a required material statement in any bid, proposal, or application for City or other government work.

B. The right to declare the Contractor in default shall be exercised by sending the Contractor a written notice of the conditions of default, signed by the Commissioner, setting forth the ground or grounds upon which such default is declared ("Notice to Cure"). The Contractor shall have ten Days from receipt of the Notice to Cure or any longer period that is set forth in the Notice to Cure to cure the default. The Commissioner may temporarily suspend services under the Agreement pending the outcome of the default proceedings pursuant to this Section 10.03.

C. If the conditions set forth in the Notice to Cure are not cured within the period set forth in the Notice to Cure, the Commissioner may declare the Contractor in default pursuant to this Section 10.03. Before the Commissioner may exercise his or her right to declare the Contractor in default, the Commissioner shall give the Contractor an opportunity to be heard upon not less than five business days' notice. The Commissioner may, in his or her discretion, provide for such opportunity to be in writing or in person. Such opportunity to be heard shall not occur prior to the end of the cure period but notice of such opportunity to be heard may be given prior to the end of the cure period and may be given contemporaneously with the Notice to Cure.

D. After the opportunity to be heard, the Commissioner may terminate the Agreement, in whole or in part, upon finding the Contractor in default pursuant to this Section 10.03, in accordance with the provisions of Section 10.05.

E. The Commissioner, after declaring the Contractor in default, may have the services under the Agreement completed by such means and in such manner, by contract with or without public letting, or otherwise, as he or she may deem advisable in accordance with applicable PPB Rules. After such completion, the Commissioner shall certify the expense incurred in such completion, which shall include the cost of re-letting. Should the expense of such completion, as certified by the Commissioner, exceed the total sum which would have been payable under the Agreement if it had been completed by the Contractor, any excess shall be promptly paid by the Contractor upon demand by the City. The excess expense of such completion, including any and all related and incidental costs, as so certified by the Commissioner, and any liquidated damages assessed against the Contractor, may be charged against and deducted out of monies earned by the Contractor.

Section 10.04 Force Majeure

A. For purposes of this Agreement, a force majeure event is an act or event beyond the control and without any fault or negligence of the Contractor ("Force Majeure Event"). Such events may include, but are not limited to, fire, flood, earthquake, storm or other natural disaster, civil commotion, war, terrorism, riot, and labor disputes not brought about by any act or omission of the Contractor.

B. In the event the Contractor cannot comply with the terms of the Agreement (including any failure by the Contractor to make progress in the performance of the services) because of a Force Majeure Event, then the Contractor may ask the Commissioner to excuse the nonperformance and/or terminate the Agreement. If the Commissioner, in his or her reasonable discretion, determines that the Contractor cannot comply with the terms of the Agreement because of a Force Majeure Event, then the Commissioner shall excuse the nonperformance and may terminate the Agreement. Such a termination shall be deemed to be without cause.

C. If the City terminates the Agreement pursuant to this Section 10.04, the following provisions apply. The City shall not incur or pay any further obligation pursuant to this Agreement beyond the termination date. The City shall pay for services provided in accordance with this Agreement prior to the termination date. Any obligation necessarily incurred by the Contractor on account of this Agreement prior to receipt of notice of termination and falling due after the termination date shall be paid by the City in accordance with the terms of this Agreement. In no event shall such obligation be construed as including any lease or other occupancy agreement, oral or written, entered into between the Contractor and its landlord.

Section 10.05 Procedures for Termination

A. The Department and/or the City shall give the Contractor written notice of any termination of this Agreement. Such notice shall specify the applicable provision(s) under which the Agreement is terminated and the effective date of the termination. Except as otherwise provided in this Agreement, the notice shall comply with the provisions of this Section 10.05 and Section 14.04. For termination without cause, the effective date of the termination shall not be less than ten Days from the date the notice is personally delivered, or 15 Days from the date the notice is either sent by certified mail, return receipt requested, delivered by overnight or same day courier service in a properly addressed envelope with confirmation, or sent by email and, unless the receipt of the email is acknowledged by the recipient by email, deposited in a post office box regularly maintained by the United States Postal Service in a properly addressed postage pre-paid envelope. In the case of termination for default, the effective date of the termination shall be as set forth above for a termination without cause or such earlier date as the Commissioner may determine. If the City terminates the Agreement in part, the Contractor shall continue the performance of the Agreement to the extent not terminated.

B. Upon termination or expiration of this Agreement, the Contractor shall comply with the City close-out procedures, including but not limited to:

1. Accounting for and refunding to the Department, within 45 Days, any unexpended funds which have been advanced to the Contractor pursuant to this Agreement;
2. Furnishing within 45 Days an inventory to the Department of all equipment, appurtenances and property purchased through or provided under this Agreement and carrying out any Department or City directive concerning the disposition of such equipment, appurtenances and property;
3. Turning over to the Department or its designees all books, records, documents and material specifically relating to this Agreement that the Department has requested be turned over;
4. Submitting to the Department, within 90 Days, a final statement and report relating to the Agreement. The report shall be made by a certified public accountant or a licensed public accountant, unless the Department waives, in writing, the requirement that a certified public accountant or licensed public accountant make such report; and
5. Providing reasonable assistance to the Department in the transition, if any, to a new contractor.

Section 10.06 Miscellaneous Provisions

A. The Commissioner, in addition to any other powers set forth in this Agreement or by operation of Law, may suspend, in whole or in part, any part of the services to be provided under this Agreement whenever in his or her judgment such suspension is required in the best interest of the City. If the Commissioner suspends this Agreement pursuant to this Section 10.06, the City shall not incur or pay any further obligation pursuant to this Agreement beyond the suspension date until such suspension is lifted. The City shall pay for services provided in accordance with this Agreement prior to the suspension date. In addition, any obligation necessarily incurred by the Contractor on account of this Agreement prior to receipt of notice of suspension and falling due during the suspension period shall be paid by the City in accordance with the terms of this Agreement.

B. Notwithstanding any other provisions of this Agreement, the Contractor shall not be relieved of liability to the City for damages sustained by the City by virtue of the Contractor's breach of the Agreement, and the City may withhold payments to the Contractor for the purpose of set-off in the amount of damages due to the City from the Contractor.

C. The rights and remedies of the City provided in this Article 10 shall not be exclusive and are in addition to all other rights and remedies provided by Law or under this Agreement.

Section 10.07 Liquidated Damages

If Schedule A or any other part of this Agreement includes liquidated damages for failure to comply with a provision of this Agreement, the sum indicated is fixed and agreed as the liquidated damages that the City will suffer by reason of such noncompliance and not as a penalty.

ARTICLE 11 - PROMPT PAYMENT AND ELECTRONIC FUNDS TRANSFER

Section 11.01 Prompt Payment

A. The prompt payment provisions of PPB Rule § 4-06 are applicable to payments made under this Agreement. With some exceptions, the provisions generally require the payment to the Contractor of interest on payments made after the required payment date, as set forth in the PPB Rules.

B. The Contractor shall submit a proper invoice to receive payment, except where the Agreement provides that the Contractor will be paid at predetermined intervals without having to submit an invoice for each scheduled payment.

C. Determination of interest due will be made in accordance with the PPB Rules and the applicable rate of interest shall be the rate in effect at the time of payment.

Section 11.02 Electronic Funds Transfer

A. In accordance with Admin. Code § 6-107.1, the Contractor agrees to accept payments under this Agreement from the City by electronic funds transfer. An electronic funds transfer is any transfer of funds, other than a transaction originated by check, draft, or similar paper instrument, which is initiated through an electronic terminal, telephonic instrument or computer or magnetic tape so as to order, instruct, or authorize a financial institution to debit or credit an account. Prior to the first payment made under this Agreement, the Contractor shall designate one financial institution or other authorized payment agent and shall complete the "EFT Vendor Payment Enrollment Form" available from the Agency or at <http://www.nyc.gov/dof> in order to provide the commissioner of the Department of Finance with information necessary for the Contractor to receive electronic funds transfer payments through the designated financial institution or authorized payment agent. The crediting of the amount of a payment to the appropriate account on the books of a financial institution or other authorized payment agent designated by the Contractor shall constitute full satisfaction by the City for the amount of the payment under this Agreement. The account information supplied by the Contractor to facilitate the electronic funds transfer shall remain confidential to the fullest extent provided by Law.

B. The Agency Head may waive the application of the requirements of this Section 11.02 to payments on contracts entered into pursuant to Charter § 315. In addition, the

commissioner of the Department of Finance and the Comptroller may jointly issue standards pursuant to which the Department may waive the requirements of this Section 11.02 for payments in the following circumstances: (i) for individuals or classes of individuals for whom compliance imposes a hardship; (ii) for classifications or types of checks; or (iii) in other circumstances as may be necessary in the best interest of the City.

- C. This Section 11.02 is applicable to contracts valued at \$25,000.00 and above.

ARTICLE 12 - CLAIMS

Section 12.01 Choice of Law

This Agreement shall be deemed to be executed in the City and State of New York, regardless of the domicile of the Contractor, and shall be governed by and construed in accordance with the Laws of the State of New York (notwithstanding New York choice of law or conflict of law principles) and the Laws of the United States, where applicable.

Section 12.02 Jurisdiction and Venue

Subject to Section 12.03, the parties agree that any and all claims asserted by or against the City arising under or related to this Agreement shall solely be heard and determined either in the courts of the United States located in the City or in the courts of the State located in the City and County of New York. The parties shall consent to the dismissal and/or transfer of any claims asserted in any other venue or forum to the proper venue or forum. If the Contractor initiates any action in breach of this Section 12.02, the Contractor shall be responsible for and shall promptly reimburse the City for any attorneys' fees incurred by the City in removing the action to a proper court consistent with this Section 12.02.

Section 12.03 Resolution of Disputes

A. Except as provided in Subparagraphs (A)(1) and (A)(2) below, all disputes between the City and the Contractor that arise under, or by virtue of, this Agreement shall be finally resolved in accordance with the provisions of this Section 12.03 and PPB Rule § 4-09. This procedure shall be the exclusive means of resolving any such disputes.

1. This Section 12.03 shall not apply to disputes concerning matters dealt with in other sections of the PPB Rules or to disputes involving patents, copyrights, trademarks, or trade secrets (as interpreted by the courts of New York State) relating to proprietary rights in computer software, or to termination other than for cause.

2. For construction and construction-related services this Section 12.03 shall apply only to disputes about the scope of work delineated by the Agreement, the interpretation of Agreement documents, the amount to be paid for extra work or disputed work performed in connection with the Agreement, the conformity of the Contractor's

work to the Agreement, and the acceptability and quality of the Contractor's work; such disputes arise when the City Engineer, City Resident Engineer, City Engineering Audit Officer, or other designee of the Agency Head makes a determination with which the Contractor disagrees. For construction, this Section 12.03 shall not apply to termination of the Agreement for cause or other than for cause.

B. All determinations required by this Section 12.03 shall be clearly stated, with a reasoned explanation for the determination based on the information and evidence presented to the party making the determination. Failure to make such determination within the time required by this Section 12.03 shall be deemed a non-determination without prejudice that will allow application to the next level.

C. During such time as any dispute is being presented, heard, and considered pursuant to this Section 12.03, the Agreement terms shall remain in full force and effect and, unless otherwise directed by the ACCO or Engineer, the Contractor shall continue to perform work in accordance with the Agreement and as directed by the ACCO or City Engineer, City Resident Engineer, City Engineering Audit Officer, or other designee of the Agency Head. Failure of the Contractor to continue the work as directed shall constitute a waiver by the Contractor of any and all claims being presented pursuant to this Section 12.03 and a material breach of contract.

D. Presentation of Dispute to Agency Head.

1. Notice of Dispute and Agency Response. The Contractor shall present its dispute in writing ("Notice of Dispute") to the Agency Head within the time specified herein, or, if no time is specified, within 30 Days of receiving written notice of the determination or action that is the subject of the dispute. This notice requirement shall not be read to replace any other notice requirements contained in the Agreement. The Notice of Dispute shall include all the facts, evidence, documents, or other basis upon which the Contractor relies in support of its position, as well as a detailed computation demonstrating how any amount of money claimed by the Contractor in the dispute was arrived at. Within 30 Days after receipt of the complete Notice of Dispute, the ACCO or, in the case of construction or construction-related services, the City Engineer, City Resident Engineer, City Engineering Audit Officer, or other designee of the Agency Head, shall submit to the Agency Head all materials he or she deems pertinent to the dispute. Following initial submissions to the Agency Head, either party may demand of the other the production of any document or other material the demanding party believes may be relevant to the dispute. The requested party shall produce all relevant materials that are not otherwise protected by a legal privilege recognized by the courts of New York State. Any question of relevancy shall be determined by the Agency Head whose decision shall be final. Willful failure of the Contractor to produce any requested material whose relevancy the Contractor has not disputed, or whose relevancy has been affirmatively determined, shall constitute a waiver by the Contractor of its claim.

2. **Agency Head Inquiry.** The Agency Head shall examine the material and may, in his or her discretion, convene an informal conference with the Contractor and the ACCO and, in the case of construction or construction-related services, the City Engineer, City Resident Engineer, City Engineering Audit Officer, or other designee of the Agency Head, to resolve the issue by mutual consent prior to reaching a determination. The Agency Head may seek such technical or other expertise as he or she shall deem appropriate, including the use of neutral mediators, and require any such additional material from either or both parties as he or she deems fit. The Agency Head's ability to render, and the effect of, a decision hereunder shall not be impaired by any negotiations in connection with the dispute presented, whether or not the Agency Head participated therein. The Agency Head may or, at the request of any party to the dispute, shall compel the participation of any other contractor with a contract related to the work of this Agreement and that contractor shall be bound by the decision of the Agency Head. Any contractor thus brought into the dispute resolution proceeding shall have the same rights and obligations under this Section 12.03 as the Contractor initiating the dispute.

3. **Agency Head Determination.** Within 30 Days after the receipt of all materials and information, or such longer time as may be agreed to by the parties, the Agency Head shall make his or her determination and shall deliver or send a copy of such determination to the Contractor and ACCO and, in the case of construction or construction-related services, the City Engineer, City Resident Engineer, City Engineering Audit Officer, or other designee of the Agency Head, together with a statement concerning how the decision may be appealed.

4. **Finality of Agency Head Decision.** The Agency Head's decision shall be final and binding on all parties, unless presented to the Contract Dispute Resolution Board ("CDRB") pursuant to this Section 12.03. The City may not take a petition to the CDRB. However, should the Contractor take such a petition, the City may seek, and the CDRB may render, a determination less favorable to the Contractor and more favorable to the City than the decision of the Agency Head.

E. **Presentation of Dispute to the Comptroller.** Before any dispute may be brought by the Contractor to the CDRB, the Contractor must first present its claim to the Comptroller for his or her review, investigation, and possible adjustment.

1. **Time, Form, and Content of Notice.** Within 30 Days of receipt of a decision by the Agency Head, the Contractor shall submit to the Comptroller and to the Agency Head a Notice of Claim regarding its dispute with the Agency. The Notice of Claim shall consist of (i) a brief statement of the substance of the dispute, the amount of money, if any, claimed and the reason(s) the Contractor contends the dispute was wrongly decided by the Agency Head; (ii) a copy of the decision of the Agency Head; and (iii) a copy of all materials submitted by the Contractor to the Agency, including the Notice of Dispute. The Contractor may not present to the Comptroller any material not presented to the Agency Head, except at the request of the Comptroller.

2. **Agency Response.** Within 30 Days of receipt of the Notice of Claim, the Agency shall make available to the Comptroller a copy of all material submitted by the Agency to the Agency Head in connection with the dispute. The Agency may not present to the Comptroller any material not presented to the Agency Head, except at the request of the Comptroller.

3. **Comptroller Investigation.** The Comptroller may investigate the claim in dispute and, in the course of such investigation, may exercise all powers provided in Admin. Code §§ 7-201 and 7-203. In addition, the Comptroller may demand of either party, and such party shall provide, whatever additional material the Comptroller deems pertinent to the claim, including original business records of the Contractor. Willful failure of the Contractor to produce within 15 Days any material requested by the Comptroller shall constitute a waiver by the Contractor of its claim. The Comptroller may also schedule an informal conference to be attended by the Contractor, Agency representatives, and any other personnel desired by the Comptroller.

4. **Opportunity of Comptroller to Compromise or Adjust Claim.** The Comptroller shall have 45 Days from his or her receipt of all materials referred to in Paragraph (E)(3) above to investigate the disputed claim. The period for investigation and compromise may be further extended by agreement between the Contractor and the Comptroller, to a maximum of 90 Days from the Comptroller's receipt of all the materials. The Contractor may not present its petition to the CDRB until the period for investigation and compromise delineated in this Paragraph has expired. In compromising or adjusting any claim hereunder, the Comptroller may not revise or disregard the terms of the Agreement.

F. **Contract Dispute Resolution Board.** There shall be a Contract Dispute Resolution Board composed of:

1. the chief administrative law judge of the Office of Administrative Trials and Hearings ("OATH") or his or her designated OATH administrative law judge, who shall act as chairperson, and may adopt operational procedures and issue such orders consistent with this Section 12.03 as may be necessary in the execution of the CDRB's functions, including, but not limited to, granting extensions of time to present or respond to submissions;

2. the City Chief Procurement Officer ("CCPO") or his or her designee; any designee shall have the requisite background to consider and resolve the merits of the dispute and shall not have participated personally and substantially in the particular matter that is the subject of the dispute or report to anyone who so participated; and

3. a person with appropriate expertise who is not an employee of the City. This person shall be selected by the presiding administrative law judge from a prequalified panel of individuals, established, and administered by OATH, with appropriate background to act as decision-makers in a dispute. Such individuals may not

have a contract or dispute with the City or be an officer or employee of any company or organization that does, or regularly represent persons, companies, or organizations having disputes with the City.

G. **Petition to CDRB.** In the event the claim has not been settled or adjusted by the Comptroller within the period provided in this Section 12.03, the Contractor, within thirty (30) Days thereafter, may petition the CDRB to review the Agency Head determination.

1. **Form and Content of Petition by the Contractor.** The Contractor shall present its dispute to the CDRB in the form of a petition, which shall include (i) a brief statement of the substance of the dispute, the amount of money, if any, claimed, and the reason(s) the Contractor contends that the dispute was wrongly decided by the Agency Head; (ii) a copy of the decision of the Agency Head; (iii) copies of all materials submitted by the Contractor to the Agency; (iv) a copy of the decision of the Comptroller, if any, and (v) copies of all correspondence with, and material submitted by the Contractor to, the Comptroller's Office. The Contractor shall concurrently submit four complete sets of the petition: one to the Corporation Counsel (Attn: Commercial and Real Estate Litigation Division), and three to the CDRB at OATH's offices, with proof of service on the Corporation Counsel. In addition, the Contractor shall submit a copy of the statement of the substance of the dispute, cited in (i) above, to both the Agency Head and the Comptroller.

2. **Agency Response.** Within 30 Days of receipt of the petition by the Corporation Counsel, the Agency shall respond to the statement of the Contractor and make available to the CDRB all material it submitted to the Agency Head and Comptroller. Three complete copies of the Agency response shall be submitted to the CDRB at OATH's offices and one to the Contractor. Extensions of time for submittal of the Agency response shall be given as necessary upon a showing of good cause or, upon the consent of the parties, for an initial period of up to 30 Days.

3. **Further Proceedings.** The CDRB shall permit the Contractor to present its case by submission of memoranda, briefs, and oral argument. The CDRB shall also permit the Agency to present its case in response to the Contractor by submission of memoranda, briefs, and oral argument. If requested by the Corporation Counsel, the Comptroller shall provide reasonable assistance in the preparation of the Agency's case. Neither the Contractor nor the Agency may support its case with any documentation or other material that was not considered by the Comptroller, unless requested by the CDRB. The CDRB, in its discretion, may seek such technical or other expert advice as it shall deem appropriate and may seek, on its own or upon application of a party, any such additional material from any party as it deems fit. The CDRB, in its discretion, may combine more than one dispute between the parties for concurrent resolution.

4. **CDRB Determination.** Within 45 Days of the conclusion of all submissions and oral arguments, the CDRB shall render a decision resolving the dispute. In an unusually complex case, the CDRB may render its decision in a longer period of

time, not to exceed 90 Days, and shall so advise the parties at the commencement of this period. The CDRB's decision must be consistent with the terms of this Agreement. Decisions of the CDRB shall only resolve matters before the CDRB and shall not have precedential effect with respect to matters not before the CDRB.

5. Notification of CDRB Decision. The CDRB shall send a copy of its decision to the Contractor, the ACCO, the Corporation Counsel, the Comptroller, the CCPO, and, in the case of construction or construction-related services, the City Engineer, City Resident Engineer, City Engineering Audit Officer, or other designee of the Agency Head. A decision in favor of the Contractor shall be subject to the prompt payment provisions of the PPB Rules. The required payment date shall be 30 Days after the date the parties are formally notified of the CDRB's decision.

6. Finality of CDRB Decision. The CDRB's decision shall be final and binding on all parties. Any party may seek review of the CDRB's decision solely in the form of a challenge, filed within four months of the date of the CDRB's decision, in a court of competent jurisdiction of the State of New York, County of New York pursuant to Article 78 of the Civil Practice Law and Rules. Such review by the court shall be limited to the question of whether or not the CDRB's decision was made in violation of lawful procedure, was affected by an error of Law, or was arbitrary and capricious or an abuse of discretion. No evidence or information shall be introduced or relied upon in such proceeding that was not presented to the CDRB in accordance with PPB Rules § 4-09.

H. Any termination, cancellation, or alleged breach of the Agreement prior to or during the pendency of any proceedings pursuant to this Section 12.03 shall not affect or impair the ability of the Agency Head or CDRB to make a binding and final decision pursuant to this Section 12.03.

Section 12.04 Claims and Actions

A. Any claim, that is not subject to dispute resolution under the PPB Rules or this Agreement, against the City for damages for breach of contract shall not be made or asserted in any action, unless the Contractor shall have strictly complied with all requirements relating to the giving of notice and of information with respect to such claims, as provided in this Agreement.

B. No action shall be instituted or maintained on any such claims unless such action shall be commenced within six months after the final payment under this Agreement, or within six months of the termination or expiration of this Agreement, or within six months after the accrual of the cause of action, whichever first occurs.

Section 12.05 No Claim Against Officials, Agents, or Employees

No claim shall be made by the Contractor against any official, agent, or employee of the City in their personal capacity for, or on account of, anything done or omitted in connection with this Agreement.

Section 12.06 General Release

The acceptance by the Contractor or its assignees of the final payment under this Agreement, whether by check, wire transfer, or other means, and whether pursuant to invoice, voucher, judgment of any court of competent jurisdiction or any other administrative means, shall constitute and operate as a release of the City from any and all claims of and liability to the Contractor, of which the Contractor was aware or should reasonably have been aware, arising out of the performance of this Agreement based on actions of the City prior to such acceptance of final payment, excepting any disputes that are the subject of pending dispute resolution procedures.

Section 12.07 No Waiver

Waiver by either the Department or the Contractor of a breach of any provision of this Agreement shall not be deemed to be a waiver of any other or subsequent breach and shall not be construed to be a modification of the terms of the Agreement unless and until the same shall be agreed to in writing by the parties as set forth in Section 9.01.

ARTICLE 13 - APPLICABLE LAWS

Section 13.01 PPB Rules

This Agreement is subject to the PPB Rules. If there is a conflict between the PPB Rules and a provision of this Agreement, the PPB Rules shall take precedence.

Section 13.02 All Legal Provisions Deemed Included

Each and every provision required by Law to be inserted in this Agreement is hereby deemed to be a part of this Agreement, whether actually inserted or not.

Section 13.03 Severability / Unlawful Provisions Deemed Stricken

If this Agreement contains any unlawful provision not an essential part of the Agreement and which shall not appear to have been a controlling or material inducement to the making of this Agreement, the unlawful provision shall be deemed of no effect and shall, upon notice by either party, be deemed stricken from the Agreement without affecting the binding force of the remainder.

Section 13.04 Compliance With Laws

The Contractor shall perform all services under this Agreement in accordance with all applicable Laws as are in effect at the time such services are performed.

Section 13.05 Unlawful Discrimination in the Provision of Services

A. *Discrimination in Public Accommodations.* With respect to services provided under this Agreement, the Contractor shall not unlawfully discriminate against any person because of actual or perceived age, religion, creed, sex, gender, gender identity or gender expression, sexual orientation, partnership status, marital status, disability, presence of a service animal, race, color, national origin, alienage, citizenship status, or military status, or any other class of individuals protected from discrimination in public accommodations by City, State or Federal laws, rules or regulations. The Contractor shall comply with all statutory and regulatory obligations to provide reasonable accommodations to individuals with disabilities.

B. *Discrimination in Housing Accommodations.* With respect to services provided under this Agreement, the Contractor shall not unlawfully discriminate against any person because of actual or perceived age, religion, creed, sex, gender, gender identity or gender expression, sexual orientation, status as a victim of domestic violence, stalking, and sex offenses, partnership status, marital status, presence of children, disability, presence of a service or emotional support animal, race, color, national origin, alienage or citizenship status, lawful occupation, or lawful source of income (including income derived from social security, or any form of federal, state, or local public government assistance or housing assistance including Section 8 vouchers), or any other class of individuals protected from discrimination in housing accommodations by City, State or Federal laws, rules or regulations. The Contractor shall comply with all statutory and regulatory obligations to provide reasonable accommodations to individuals with disabilities.

C. *Admin. Code § 6-123.* In accordance with Admin. Code § 6-123, the Contractor will not engage in any unlawful discriminatory practice as defined in and pursuant to the terms of Title 8 of the Admin. Code. The Contractor shall include a provision in any agreement with a first-level subcontractor performing services under this Agreement for an amount in excess of \$50,000.00 that such subcontractor shall not engage in any such unlawful discriminatory practice.

D. *Immigration status.* In connection with the services provided under this Agreement, the Contractor shall not inquire about the immigration status of a recipient or potential recipient of such services unless (i) it is necessary for the determination of program, service or benefit eligibility or the provision of City services or (ii) the Contractor is required by law to inquire about such person's immigration status.

Section 13.06 Americans with Disabilities Act (ADA)

A. This Agreement is subject to the provisions of Subtitle A of Title II of the Americans with Disabilities Act of 1990, 42 U.S.C. §§ 12131 *et seq.* ("ADA") and regulations promulgated pursuant thereto, see 28 CFR Part 35. The Contractor shall not discriminate against an individual with a disability, as defined in the ADA, in providing services, programs, or activities pursuant to this Agreement. If directed to do so by the Department to ensure the

Contractor's compliance with the ADA during the term of this Agreement, the Contractor shall prepare a plan ("Compliance Plan") which lists its program site(s) and describes in detail, how it intends to make the services, programs and activities set forth in the scope of services herein readily accessible and usable by individuals with disabilities at such site(s). If the program site is not readily accessible and usable by individuals with disabilities, contractor shall also include in the Compliance Plan, a description of reasonable alternative means and methods that result in making the services, programs or activities provided under this Agreement, readily accessible to and usable by individuals with disabilities, including but not limited to people with visual, auditory or mobility disabilities. The Contractor shall submit the Compliance Plan to the ACCO for review within ten Days after being directed to do so and shall abide by the Compliance Plan and implement any action detailed in the Compliance Plan to make the services, programs, or activities accessible and usable by the disabled.

B. The Contractor's failure to either submit a Compliance Plan as required herein or implement an approved Compliance Plan may be deemed a material breach of this Agreement and result in the City terminating this Agreement.

Section 13.07 Voter Registration

A. *Participating Agencies.* Pursuant to Charter § 1057-a, if this Agreement is made by and through a participating City agency and the Contractor has regular contact with the public in the daily administration of its business, the Contractor must comply with the requirements of this Section 13.06. The participating City agencies are: the Administration for Children's Services; the City Clerk; the Civilian Complaint Review Board; the Commission on Human Rights; Community Boards; SBS; the Department of Citywide Administrative Services; the Department of Consumer Affairs; the Department of Correction; the Department of Environmental Protection; the Department of Finance; the Department of Health and Mental Hygiene; the Department of Homeless Services; the Department of Housing Preservation and Development; the Department of Parks and Recreation; the Department of Probation; the Taxi and Limousine Commission; the Department of Transportation; and the Department of Youth and Community Development.

B. *Distribution of Voter Registration Forms.* In accordance with Charter § 1057-a, the Contractor, if it has regular contact with the public in the daily administration of its business under this Agreement, hereby agrees as follows:

1. The Contractor shall provide and distribute voter registration forms to all persons together with written applications for services, renewal, or recertification for services and change of address relating to such services. Such voter registration forms shall be provided to the Contractor by the City. The Contractor should be prepared to provide forms written in Spanish or Chinese, and shall obtain a sufficient supply of such forms from the City.

2. The Contractor shall also include a voter registration form with any Contractor communication sent through the United States mail for the purpose of

supplying clients with materials for application, renewal, or recertification for services and change of address relating to such services. If forms written in Spanish or Chinese are not provided in such mailing, the Contractor shall provide such forms upon the Department's request.

3. The Contractor shall, subject to approval by the Department, incorporate an opportunity to request a voter registration application into any application for services, renewal, or recertification for services and change of address relating to such services provided on computer terminals, the World Wide Web or the Internet. Any person indicating that they wish to be sent a voter registration form via computer terminals, the World Wide Web or the Internet shall be sent such a form by the Contractor or be directed, in a manner subject to approval by the Department, to a link on that system where such a form may be downloaded.

4. The Contractor shall, at the earliest practicable or next regularly scheduled printing of its own forms, subject to approval by the Department, physically incorporate the voter registration forms with its own application forms in a manner that permits the voter registration portion to be detached therefrom. Until such time when the Contractor amends its form, the Contractor should affix or include a postage-paid City Board of Elections voter registration form to or with its application, renewal, recertification, and change of address forms.

5. The Contractor shall prominently display in its public office, subject to approval by the Department, promotional materials designed and approved by the City or State Board of Elections.

6. For the purposes of Paragraph A of this Section 13.06, the word "Contractor" shall be deemed to include subcontractors having regular contact with the public in the daily administration of their business.

7. The provisions of Paragraph A of this Section 13.06 shall not apply to services that must be provided to prevent actual or potential danger to life, health, or safety of any individual or of the public.

C. *Assistance in Completing Voter Registration Forms.* In accordance with Charter § 1057-a, the Contractor hereby agrees as follows:

1. In the event the Department provides assistance in completing distributed voter registration forms, the Contractor shall also provide such assistance, in the manner and to the extent specified by the Department.

2. In the event the Department receives and transmits completed registration forms from applicants who wish to have the forms transmitted to the City Board of Elections, the Contractor shall similarly provide such service, in the manner and to the extent specified by the Department.

3. If, in connection with the provision of services under this Agreement, the Contractor intends to provide assistance in completing distributed voter registration forms or to receive and transmit completed registration forms from applicants who wish to have the forms transmitted to the City Board of Elections, the Contractor shall do so only by prior arrangement with the Department.

4. The provision of Paragraph B services by the Contractor may be subject to Department protocols, including protocols regarding confidentiality.

D. *Required Statements.* In accordance with Charter § 1057-a, the Contractor hereby agrees as follows:

1. The Contractor shall advise all persons seeking voter registration forms and information, in writing together with other written materials provided by the Contractor or by appropriate publicity, that the Contractor's or government services are not conditioned on being registered to vote.

2. No statement shall be made and no action shall be taken by the Contractor or an employee of the Contractor to discourage an applicant from registering to vote or to encourage or discourage an applicant from enrolling in any particular political party.

3. The Contractor shall communicate to applicants that the completion of voter registration forms is voluntary.

4. The Contractor and the Contractor's employees shall not:

a. seek to influence an applicant's political preference or party designation;

b. display any political preference or party allegiance;

c. make any statement to an applicant or take any action the purpose or effect of which is to discourage the applicant from registering to vote; or

d. make any statement to an applicant or take any action the purpose or effect of which is to lead the applicant to believe that a decision to register or not to register has any bearing on the availability of services or benefits.

E. The Contractor, as defined above and in this Agreement, agrees that the covenants and representations in this Section 13.06 are material conditions of this Agreement.

F. The provisions of this Section 13.06 do not apply where the services under this Agreement are supported by a federal or State grant of funds and the source of funds prohibits the use of federal or State funds for the purposes of this Section.

Section 13.08 Political Activity

The Contractor's provision of services under this Agreement shall not include any partisan political activity or any activity to further the election or defeat of any candidate for public, political, or party office, nor shall any of the funds provided under this Agreement be used for such purposes.

Section 13.09 Religious Activity

There shall be no religious worship, instruction, or proselytizing as part of or in connection with the Contractor's provision of services under this Agreement, nor shall any of the funds provided under this Agreement be used for such purposes.

Section 13.10 Participation in an International Boycott

A. The Contractor agrees that neither the Contractor nor any substantially-owned affiliated company is participating or shall participate in an international boycott in violation of the provisions of the federal Export Administration Act of 1979, as amended, 50 U.S.C. Appendix. §§ 2401 *et seq.*, or the regulations of the United States Department of Commerce promulgated thereunder.

B. Upon the final determination by the Commerce Department or any other agency of the United States as to, or conviction of, the Contractor or a substantially-owned affiliated company thereof, of participation in an international boycott in violation of the provisions of the Export Administration Act of 1979, as amended, or the regulations promulgated thereunder, the Comptroller may, at his or her option, render forfeit and void this Agreement.

C. The Contractor shall comply in all respects, with the provisions of Admin. Code § 6-114 and the rules issued by the Comptroller thereunder.

Section 13.11 MacBride Principles

A. In accordance with and to the extent required by Admin. Code § 6-115.1, the Contractor stipulates that the Contractor and any individual or legal entity in which the Contractor holds a ten percent (10%) or greater ownership interest and any individual or legal entity that holds a ten percent (10%) or greater ownership interest in the Contractor either (a) have no business operations in Northern Ireland, or (b) shall take lawful steps in good faith to conduct any business operations they have in Northern Ireland in accordance with the MacBride Principles, and shall permit independent monitoring of their compliance with such principles.

B. The Contractor agrees that the covenants and representations in Paragraph A above are material conditions to this Agreement.

C. This Section does not apply if the Contractor is a not-for-profit corporation.

Section 13.12 Access to Public Health Insurance Coverage Information

A. **Participating Agencies.** Pursuant to Charter § 1069, if this Agreement is with a participating City agency and the Contractor is one to whom this Section 13.11 applies as provided in Paragraph B of this Section 13.11, the Contractor hereby agrees to fulfill the obligations in Paragraph C of this Section 13.11. The participating City agencies are: the Administration for Children's Services; the City Clerk; the Commission on Human Rights; the Department for the Aging; the Department of Corrections; the Department of Homeless Services; the Department of Housing Preservation and Development; the Department of Juvenile Justice; the Department of Health and Mental Hygiene; the Department of Probation; the Department of Social Services/Human Resources Administration; the Taxi and Limousine Commission; the Department of Youth and Community Development; the Office to Combat Domestic Violence; and the Office of Immigrant Affairs.

B. **Applicability to Certain Contractors.** This Section 13.11 shall be applicable to a Contractor operating pursuant to an Agreement which (i) is in excess of \$250,000.00 and (ii) requires such Contractor to supply individuals with a written application for, or written renewal or recertification of services, or request for change of address form in the daily administration of its contractual obligation to such participating City agency. "Contractors" to whom this Section 13.11 applies shall be deemed to include subcontractors if the subcontract requires the subcontractor to supply individuals with a written application for, or written renewal or recertification of services, or request for change of address form in the daily administration of the subcontractor's contractual obligation.

C. **Distribution of Public Health Insurance Pamphlet.** In accordance with Charter § 1069, when the participating City agency supplies the Contractor with the public health insurance program options pamphlet published by the Department of Health and Mental Hygiene pursuant to Section 17-183 of the Admin. Code (hereinafter "pamphlet"), the Contractor hereby agrees as follows:

1. The Contractor will distribute the pamphlet to all persons requesting a written application for services, renewal or recertification of services or request for a change of address relating to the provision of services.

2. The Contractor will include a pamphlet with any Contractor communication sent through the United States mail for the purpose of supplying an individual with a written application for services, renewal or recertification of services or with a request for a change of address form relating to the provision of services.

3. The Contractor will provide an opportunity for an individual requesting a written application for services, renewal or recertification for services or change of address form relating to the provision of services via the Internet to request a pamphlet, and will provide such pamphlet by United States mail or an Internet address where such

pamphlet may be viewed or downloaded, to any person who indicates via the Internet that they wish to be sent a pamphlet.

4. The Contractor will ensure that its employees do not make any statement to an applicant for services or client or take any action the purpose or effect of which is to lead the applicant or client to believe that a decision to request public health insurance or a pamphlet has any bearing on their eligibility to receive or the availability of services or benefits.

5. The Contractor will comply with: (i) any procedures established by the participating City agency to implement Charter § 1069; (ii) any determination of the commissioner or head of the participating City agency (which is concurred in by the commissioner of the Department of Health and Mental Hygiene) to exclude a program, in whole or in part, from the requirements of Charter § 1069; and (iii) any determination of the commissioner or head of the participating City agency (which is concurred in by the commissioner of the Department of Health and Mental Hygiene) as to which Workforce Investment Act of 1998 offices providing workforce development services shall be required to fulfill the obligations under Charter § 1069.

D. **Non-applicability to Certain Services.** The provisions of this Section 13.11 shall not apply to services that must be provided to prevent actual or potential danger to the life, health or safety of any individual or to the public.

Section 13.13 Distribution of Personal Identification Materials

A. **Participating Agencies.** Pursuant to City Executive Order No. 150 of 2011 (“E.O. 150”), if this Agreement is with a participating City agency and the Contractor has regular contact with the public in the daily administration of its business, the Contractor must comply with the requirements of this Section 13.12. The participating City agencies are: Administration for Children’s Services, Department of Consumer Affairs, Department of Correction, Department of Health and Mental Hygiene, Department of Homeless Services, Department of Housing Preservation and Development, Human Resources Administration, Department of Parks and Recreation, Department of Probation, and Department of Youth and Community Development.

B. **Policy.** As expressed in E.O. 150, it is the policy of the City to provide information to individuals about how they can obtain the various forms of City, State, and Federal government-issued identification and, where appropriate, to assist them with the process for applying for such identification.

C. **Distribution of Materials.** If the Contractor has regular contact with the public in the daily administration of its business, the Contractor hereby agrees to provide and distribute materials and information related to whether and how to obtain various forms of City, State, and Federal government-issued identification as the Agency directs in accordance with the Agency’s plans developed pursuant to E.O. 150.

ARTICLE 14 - MISCELLANEOUS PROVISIONS

Section 14.01 Conditions Precedent

A. This Agreement shall be neither binding nor effective unless and until it is registered pursuant to Charter § 328.

B. The requirements of this Section 14.01 shall be in addition to, and not in lieu of, any approval or authorization otherwise required for this Agreement to be effective and for the expenditure of City funds.

Section 14.02 Merger

This written Agreement contains all the terms and conditions agreed upon by the parties, and no other agreement, oral or otherwise, regarding the subject matter of this Agreement shall be deemed to exist or to bind either of the parties, or to modify any of the terms contained in this Agreement, other than a written change, amendment or modification duly executed by both parties pursuant to Article 9 of this Appendix A.

Section 14.03 Headings

Headings are inserted only as a matter of convenience and therefore are not a part of and do not affect the substance of this Agreement.

Section 14.04 Notice

A. The Contractor and the Department hereby designate the business addresses and email addresses specified in Schedule A (and if not specified in Schedule A, as specified at the beginning of this Agreement) as the places where all notices, directions, or communications from one such party to the other party shall be delivered, or to which they shall be mailed. Either party may change its notice address at any time by an instrument in writing executed and acknowledged by the party making such change and delivered to the other party in the manner as specified below.

B. Any notice, direction, or communication from either party to the other shall be in writing and shall be deemed to have been given when (i) delivered personally; (ii) sent by certified mail, return receipt requested; (iii) delivered by overnight or same day courier service in a properly addressed envelope with confirmation; or (iv) sent by email and, unless receipt of the e-mail is acknowledged by the recipient by email, deposited in a post office box regularly maintained by the United States Postal Service in a properly addressed, postage pre-paid envelope.

C. Nothing in this Section 14.04 shall be deemed to serve as a waiver of any requirements for the service of notice or process in the institution of an action or proceeding as provided by Law, including the New York Civil Practice Law and Rules.

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AFFIRMATION

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

Full name of Proposer or Bidder *[below]* _____

Address _____

City _____

State _____

Zip Code _____

CHECK ONE BOX AND INCLUDE APPROPRIATE NUMBER:

A - Individual or Sole Proprietorships

SOCIAL SECURITY NUMBER _____

B - Partnership, Joint Venture or other unincorporated organization

EMPLOYER IDENTIFICATION NUMBER _____

C - Corporation

EMPLOYER IDENTIFICATION NUMBER _____

By _____

Signature

Title

If a corporation place seal here

Must be signed by an officer or duly authorized representative.

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

SCHEDULE A

Article 7 – Insurance		
Types of Insurance (per Article 7 in its entirety, including listed paragraph)		Minimum Limits and Special Conditions
<input checked="" type="checkbox"/> Workers' Compensation	§7.02	Statutory amounts.
<input checked="" type="checkbox"/> Disability Benefits Insurance	§7.02	
<input checked="" type="checkbox"/> Employers' Liability	§7.02	
<input checked="" type="checkbox"/> Commercial General Liability	§7.03(A)	<p><u>\$1,000,000.00</u> per occurrence</p> <p><u>\$1,000,000.00</u> personal & advertising injury (unless waived in writing by the Department)</p> <p><u>\$2,000,000.00</u> aggregate</p> <p><u>\$0</u> products/completed operations</p> <p>Additional Insureds:</p> <p>1. City of New York, including its officials and employees, and</p> <p>2. _____</p> <p>3. _____</p>
<input type="checkbox"/> Commercial Auto Liability	§7.03(B)	<p><u>\$1,000,000.00</u> per accident combined single limit</p> <p>If vehicles are used for transporting hazardous materials, the Contractor shall provide pollution liability broadened coverage for covered vehicles (endorsement CA 99 48) as well as proof of MCS 90</p>
<input type="checkbox"/> Professional Liability/Errors & Omissions	§7.03(C)	<u>\$1,000,000.00</u> per claim
<input type="checkbox"/> Crime Insurance	§7.03(D)	\$ _____ Employee Theft/Dishonesty

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	<p>\$ _____ Computer Fraud</p> <p>\$ _____ Funds Transfer Fraud</p> <p>\$ _____ Client Coverage</p> <p>\$ _____ Forgery or Alteration</p> <p>\$ _____ Inside the Premises (theft of money and securities)</p> <p>\$ _____ Inside the Premises (robbery or safe burglary of other property)</p> <p>\$ _____ Outside the Premises</p> <p>\$ _____ Money Orders and Counterfeit Money</p> <p>City of New York is a loss payee as its interests may appear</p>
<p><input type="checkbox"/> Cyber Liability Insurance §7.03(E)</p>	
<p><input type="checkbox"/> [OTHER]</p>	
<p><input type="checkbox"/> [OTHER]</p>	
<p>Section 10.07 – Liquidated Damages</p>	
<ul style="list-style-type: none"> • Violation of Section 3.02(H), reporting subcontractors in the City’s Payee Information Portal • _____ 	<p>\$100 per day</p> <p>\$ _____</p>

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Section 14.04 – Notice	
Department’s Mailing Address and Email Address for Notices	New York City Department of Youth and Community Development Risk Management 123 William Street, 17th Floor New York, NY 10038 dycdinsurance@dycd.nyc.gov
Contractor’s Mailing Address and Email Address for Notices	

CERTIFICATES OF INSURANCE

Instructions to New York City Agencies, Departments, and Offices

All certificates of insurance (except certificates of insurance solely evidencing Workers' Compensation Insurance, Employer's Liability Insurance, and/or Disability Benefits Insurance) must be accompanied by one of the following:

- (1) the Certification by Insurance Broker or Agent on the following page setting forth the required information and signatures;

-- OR --

- (2) copies of all policies as certified by an authorized representative of the issuing insurance carrier that are referenced in such certificate of insurance. If any policy is not available at the time of submission, certified binders may be submitted until such time as the policy is available, at which time a certified copy of the policy shall be submitted.

**CITY OF NEW YORK
CERTIFICATION BY INSURANCE BROKER OR AGENT**

The undersigned insurance broker or agent represents to the City of New York that the attached Certificate of Insurance is accurate in all material respects.

[Name of broker or agent (typewritten)]

[Address of broker or agent (typewritten)]

[Email address of broker or agent (typewritten)]

[Phone number/Fax number of broker or agent (typewritten)]

[Signature of authorized official, broker, or agent]

[Name and title of authorized official, broker, or agent (typewritten)]

State of)

) ss.:

County of)

Sworn to before me this ____ day of _____ 20__

NOTARY PUBLIC FOR THE STATE OF _____

WHISTLEBLOWER PROTECTION EXPANSION ACT POSTER



REPORT
CORRUPTION, FRAUD, UNETHICAL CONDUCT
RELATING TO A NYC-FUNDED CONTRACT
OR PROJECT
CALL THE NYC DEPARTMENT OF INVESTIGATION
212-825-5959

DOI CAN ALSO BE REACHED BY MAIL
OR IN PERSON AT:
New York City Department of
Investigation (DOI)
80 Maiden Lane, 17th floor
New York, New York 10038
Attention: COMPLAINT BUREAU

OR FILE A COMPLAINT ON-LINE AT:
www.nyc.gov/doi

All communications are confidential



Or scan the QR Code above
to make a complaint

**THE LAW PROTECTS EMPLOYEES OF
CITY CONTRACTORS WHO REPORT CORRUPTION**

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

**PUBLIC ASSISTANCE HIRING COMMITMENT RIDER
FOR HRA, DHS, ACS, DYCD, DFTA, DOHMH AND SBS**

A. The Public Assistance Hiring Commitment is an initiative administered by the Human Resources Administration (“HRA”) through its Business Link program, and seeks to match employers with qualified job-seekers. For the duration of this Contract, and subject to any qualified exceptions listed in **Subsection H** below, Contractor shall hire at least one (1) Public Assistance Recipient (“PA Recipient”) for each two hundred fifty thousand dollars (\$250,000.00) in annual value of this Contract. If Contractor believes it should be exempted from the requirements of this Rider, Contractor may submit a request for an exemption based on the reasons outlined below in **Subsection H**.

B. Contractor shall hire PA Recipients for employment of at least twenty (20) hours per week for the duration of at least one (1) year.

1. Contractor shall pay hired PA Recipients at least the legally mandated minimum wage.
2. Contractor may meet the requirements of this Rider through the hiring of PA Recipients by its subcontractors.
3. Positions of employment may be at any site or within any program operated by the Contractor.
4. In the event a PA Recipient hired by a Contractor is not retained for one (1) full year, the Contractor must hire and retain another PA Recipient for the remainder of the year in order to be credited for making one (1) required hire. When the Contractor replaces a hired PA Recipient before one (1) year has passed, this replacement will not count as an additional employee toward fulfilling Contractor’s hiring requirement.
5. Contractor shall seek to retain hired PA Recipients beyond the one (1) year requirement of this Rider. In accordance with **Subsection H(3)** below, if Contractor retains a PA Recipient hired pursuant to this Rider beyond one (1) year, Contractor may qualify for a full or partial exemption of its hiring requirements in the subsequent year.

C. Business Link will consult with Contractor to assess Contractor’s employment needs and minimum job qualifications, as determined by Contractor. Business Link will make referrals appropriate to those needs. Within ten (10) calendar days of the commencement date and any subsequent anniversary date of the start date of this Contract, the Contractor shall submit (i) all Contract information where the counterparty is HRA, DHS, or ACS; and (ii) contact information for the Contractor’s primary human resources contact and his/her supervisor; an organization chart, job titles, duties and qualifications for the last three years of hires in Contractor’s organization; and the estimated volume of annual hires.

D. Within thirty (30) calendar days of: (i) the commencement date of the Contract; or (ii) the date of program start (e.g., shelter opening), whichever date is later, and any subsequent anniversary date of the commencement date of this Contract, Contractor shall submit an implementation plan detailing how Contractor will meet the hiring requirements of this Rider. If necessary, Contractor may request the assistance of Business Link in developing its implementation plan; however, Contractor must still submit its implementation plan within thirty (30) calendar days of the Contract commencement date and subsequent anniversary dates. If Contractor is determined by HRA, in consultation with DYCD, to be in compliance with this Rider during the previous Contract year, HRA will notify Contractor that it is not required to submit a new implementation plan.

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E. Contractor shall send all documentation to: HRA's Business Link – Contractor Hiring Unit, located at 348 West 34th Street, New York, New York 10001. Documents may also be emailed to the Contractor Hiring Unit of Business Link at businesslink@hra.nyc.gov. Contractor shall submit any additional relevant information within ten (10) calendar days of a request from HRA. In consultation with DYCD, HRA will review Contractor's documentation to determine the required number of PA Recipients Contractor shall hire and the allocated timeframe in which to hire these PA Recipients.

F. Contractor shall begin instituting the implementation plan within ninety (90) calendar days of the Contract commencement date and shall notify HRA of potential job openings and their minimum job qualifications as determined by Contractor. As other job openings arise, Contractor shall send appropriate listings to HRA for the life of this Contract. Contractor may request the assistance of HRA in identifying potential employees. In such case, HRA will refer PA Recipients who meet Contractor's minimum qualifications as determined by Contractor for employment interviews.

G. If Contractor fails to hire the specified number of PA Recipients by the later of either (i) the timeframe mutually agreed upon between HRA and Contractor or (ii) six (6) months from the commencement date; or fails to pay and retain PA Recipients in accordance with the requirements specified above, HRA in consultation with DYCD will notify Contractor in writing, indicating what deficiencies are to be remedied. Within ten (10) calendar days of its receipt of this notice, Contractor shall respond to DYCD and HRA in writing, and must include a corrective action plan identifying with specificity the steps Contractor intends to take to remedy any deficiencies identified. HRA will investigate Contractor's compliance with its corrective action plan and shall inform DYCD as to the Contractor's performance with its CAP. If the identified deficiencies are not addressed to the satisfaction of HRA and DYCD, DYCD shall assess the agreed upon liquidated damages based on the calculation in Paragraph G(1) for each day and for each PA Recipient not hired or compensated in accordance with the provisions of this Rider.

1. Daily liquidated damages per PA Recipient will be calculated as the quotient of:

[(current minimum wage as of the commencement date and any subsequent anniversary date) * 20 hours per week * 52 weeks per year]

365 days

2. DYCD retains the option to require Contractor to directly pay to DYCD, or to deduct from any payment due or to become due to Contractor, such amount as may be assessed for liquidated damages.

H. No later than ten (10) calendar days after the Contract commencement date and, for subsequent years, no later than the subsequent anniversary date of the commencement date of this Contract, Contractor may apply to HRA, for a complete or partial exemption from the requirements of this Rider. Any exemption granted will be effective for one (1) year only. Any application for an exemption must be in the form specified by HRA, accompanied by supporting documentation.

1. Contractor may qualify for a complete exemption if one (1) of the conditions below is demonstrated:

- a. The annual Contract amount is less than two hundred fifty thousand dollars (\$250,000.00) in annual value of personnel costs, excluding fringe benefits and other-than-personal-services (“OTPS”);
 - b. Contractor’s workforce within New York City is less than twenty (20) employees;
 - c. Contractor possesses no vacancies and can demonstrate that no positions are reasonably foreseen to be available within one (1) year of the commencement or anniversary date of this Contract;
 - d. Contractor is a party to a valid collective bargaining agreement covering all of Contractor’s entry-level positions and such agreement limits Contractor to a hiring pool which does not include PA Recipients; or
 - e. Complying with the hiring requirements of this Rider in any manner will cause extreme hardship.
2. Contractor may qualify for a partial exemption if one of the conditions below is demonstrated:
 - a. The specified number of PA Recipients to be hired exceeds 10% of Contractor’s workforce located within New York City; or
 - b. A valid collective bargaining agreement covers some but not all entry-level positions and limits Contractor to a hiring pool which does not include PA Recipients.
 3. Beginning with Year 2 of the Contract, Contractor may qualify for either a full or partial exemption from its yearly hiring requirements to the extent that Contractor can demonstrate that it hired the required number of PA Recipients during the previous year and that these hires remain employed by Contractor as of the anniversary date. Contractor shall submit all appropriate documentation when seeking an exemption based on a retained PA Recipient, including, but not limited to: payroll reports, pay stubs, and any other documentation HRA may require.
 4. HRA will review Contractor’s exemption request and will, in consultation and agreement with DYCD, notify Contractor whether its exemption request is approved or denied. If Contractor’s request is denied, Contractor shall: (i) within ten (10) calendar days of its receipt of notice from HRA, submit all documentation in accordance with **Section C**; and (ii) within thirty (30) calendar days of its receipt of notice from HRA, submit an implementation plan in accordance with **Section D**.

I. At the end of each fiscal year, the Contractor Hiring Unit of Business Link will in consultation with DYCD, notify Contractor as to whether the hiring requirements were met. Where the Contractor has failed to meet the requirements, Contractor may seek a modification to waive its unmet requirements if Contractor can demonstrate that it has made best efforts to meet the hiring requirements of this Rider. Evidence that Contractor utilized best efforts to meet the hiring requirements of this Rider include, but are not limited to:

1. Contractor contacted Business Link for assistance in identifying potential employees and cooperated with Business Link to identify possible openings within Contractor’s organization;
2. Contractor made efforts to interview PA Recipients for open positions; documentation of these efforts must include at a minimum:
 - a. The names, addresses, and telephone numbers for each PA Recipient interviewed, and whether they were referred to Contractor by HRA;
 - b. Job description and specifications of the position a PA Recipient was interviewed for; and
 - c. An explanation detailing why any PA Recipients interviewed were rejected for that position.

APPENDIX B
SCOPE OF WORK

APPENDIX B
SCOPE OF WORK

ARTICLE I — DEFINITIONS

As used in this Agreement, the following terms will have the meanings set forth below:

- 1) “ADA” means average daily attendance.
- 2) “Bridge Program” means a program that is designed and implemented to prepare individuals with low educational attainment and limited skills for entry into higher education, occupational skills training, or career-track jobs, building the competencies necessary for work and education alongside career and supportive services; and that contextualizes programming to a specific industry sector and has established relationships with partners, in areas such as occupational skills training, education, and/or specific sector employment, who inform program design and serve as the primary next step destination for Bridge Program Participants.
- 3) “Bridge Program College and Career Exploration” means the component of the Bridge Program designed to prepare young people for college and career pathways by offering Bridge Program Participants opportunities for job readiness training; college and career planning; and exposure to college and career activities that connect Bridge Program Participants to their college aspirations and goals.
- 4) “Bridge Program Services” means activities conducted by Contractor under this Agreement in its performance of the Bridge Program.
- 5) “Common Core State Standards” means the Common Core State Standards for English Language Arts and Literacy in History/Social Studies, Science, and Technical Subjects developed in 2010 by the Council of Chief State School Officers and the National Governors Association which have been adopted voluntarily by nearly all the states, including New York.
 - a) The Common Core State Standards are being incorporated into Kindergarten through grade twelve (12) [“K-12”] education and separate standards into adult education as well; and they will also be phased into the High School Equivalency (“HSE”) tests.
 - b) Reading and writing standards for each of the disciplines require differentiated literacy practices to enable students to integrate knowledge and ideas from multiple texts.
- 6) “Disconnected Youth” means youth sixteen (16) to twenty-four (24) years old who are not working and are not enrolled in school.
- 7) “Facilities” means the two (2) sites, identified in the Program Plans appended hereto as Schedule 1, at which Program Services, defined below, are provided.
- 8) “Group Projects” means theme-based activities for Participants, defined below, including, but not limited to exploration of career interests, educational opportunities and social issues, to promote critical thinking and problem solving skills that will enable Participants to advance their educational and career goals.

- 9) "Participant" means a member of the Target Population who is enrolled in the Program, as such terms are defined below.
- 10) "Pre-HSE Instruction" means intensive basic literacy and numeracy pre-HSE instruction provided to Disconnected Youth reading at pre-HSE levels, which are reading levels from the fourth through eighth grade levels, as measured by the TABE, defined below.
- 11) "Program" means a Pre-HSE Instruction Program seeking to meet the needs of the Target Population, defined below, which is considered hard-to-serve in terms of maturity and skill levels, by supplementing Pre-HSE instructional services with comprehensive support services, including the Bridge Program provided at one of the Facilities, to assist members of Target Population to successfully transition to programs that will prepare them for passing the HSE tests and thereby earn the high school credentials that will enable them to access jobs or higher education.
- 12) "Program Services" means activities conducted by the Contractor under this Agreement in its performance of the Program that do not duplicate those provided and paid for by other funding sources, including but not limited to, New York State Employment Preparation Education funds.
- 13) "Staff" means all persons, whether paid or volunteer, engaged by Contractor to provide Program Services.
- 14) "TABE" means Test of Adult Basic Education.
- 15) "Target Population" means Disconnected Youth from low-income communities who read at the 4.0 to 8.9 grade levels, as measured by the TABE, with a focus on Disconnected Youth who read at the fourth and fifth grade levels, as measured by the TABE.

ARTICLE II — PROGRAM SERVICES

Contractor shall provide Program Services at each of the Facilities pursuant to the terms of this Agreement, including but not limited to the Program Budget, Appendix C; and the Fiscal Manual, as follows:

- 1) Deliver Pre-HSE Instruction as follows:
 - a) Maintain an active enrollment of twenty (20) Participants at any given time and an ADA of fifteen (15) Participants at each of the Facilities.
 - i) Enrollment must be completed within the first three (3) weeks in each of the four (4) instructional cycles listed in Subsection b) below.
 - b) Provide basic literacy and numeracy Pre-HSE Instruction classes for the number of weeks set forth below in each of the following instructional cycles:
 - i) Eight (8) weeks of classes from July 1st through September 30th.
 - ii) Eleven (11) weeks of classes from October 1st through December 31st.

- iii) Eleven (11) weeks of classes from January 1st through March 31st.
 - iv) Eleven (11) weeks of classes from April 1st through June 30th.
 - c) Provide basic literacy and numeracy Pre-GED Instruction classes tailored to the needs and interests of youth and young adults that must meet a minimum of fifteen (15) hours per week at each of the Facilities.
 - i) Present curriculum topics in contexts such as work readiness, health and financial literacy, and other areas of particular interest to older adolescents.
 - ii) Obtain approval from the Mayor's Office for Economic Opportunity and DYCD for all curricula materials.
 - d) Incorporate Common Core State Standards in instruction.
 - e) Conduct outreach at each of the Facilities to target Participants who read at the fourth and fifth grade levels, as measured by the TABE, and work with them until they are able to successfully transition to programs that will prepare them for passing the HSE tests.
 - i) Partner with other organizations to identify eligible students.
 - f) Provide each Participant with Program Services until such Participant either achieves an 8.9 grade level in reading and math or the end of the Agreement term is reached.
 - g) Provide an orientation program for all newly enrolled Participants prior to class placement.
 - h) Place Participants in classes based on the results of intake literacy tests.
 - i) Implement appropriate testing procedures and regular assessment of Participant progress toward individual goals.
 - j) Use assessments to structure classes and design individual coaching strategies.
 - k) Foster the development of digital literacy skills through incorporation of computer-assisted instruction and computer skills training, as well as other strategies.
 - l) Provide all classes free of charge.
 - m) Provide classes year round (*e.g.*, offer several terms with short breaks between cycles).
 - n) Collaborate with the DYCD-funded technical assistance provider to incorporate high quality ongoing professional development for Staff.
- 2) Provide a case management approach that offers comprehensive ancillary services, including goal setting with Participants, work readiness, information on post-secondary education, workshops on life skills and conflict resolution, and other vocational and social services as

needed to ensure Participant retention; and provide each Participant with support services, including case management, for at least five (5) hours per week, comprised of three (3) hours of workshops and two (2) hours of one-on-one sessions of which sessions, a minimum of thirty (30) minutes per Participant is required and the remaining one and one half (1 ½) hours are provided on an as needed basis.

- 3) Establish linkages with appropriate community organizations, government agencies, education providers, and other service providers to help Participants achieve outcomes through supportive services not directly provided by the Program.
- 4) Provide Participants with modest incentives (e.g., MetroCards and recognition for good attendance) to support regular attendance.
- 5) Promote a youth development framework, including creating an environment of high expectations, establishing a “primary person system” that assures each Participant has a close adult support and contact, and focusing on Participant strengths and involvement.
- 6) Provide Participants who achieve a ninth grade reading level the opportunity for a smooth transition to HSE tests preparation classes or other education, training or employment.
- 7) Provide Participants who are not suited to the Program with counseling, information, and referrals to appropriate service providers.
- 8) Provide Group Projects, as follows:
 - a) Develop a time-limited Group Projects experience at the Facility not providing the Bridge Program with the following components only for those Participants who maintain attendance of at least seventy percent (70%) in the literacy and numeracy classes:
 - i) An orientation period focusing on academic and job skills necessary to prepare Participants for successful participation in the Group Projects.
 - ii) A range of options to promote career exploration and building new skills.
 - (1) Offer Participants the opportunity to participate in the Group Projects within the first three (3) weeks of each instructional cycle and maintain it until the end of the cycle.
 - (2) Participants will participate in Group Projects approximately six (6) hours per week for five (5) to nine (9) weeks and receive a stipend of fifty dollars (\$50.00) per week.
 - iii) Workshops on topics such as work readiness skills, problem solving, team building, and peer support.
 - iv) Maintenance of records of Participants’ time in Group Projects and Participant stipend receipts which would be available to DYCD upon request.

9) Provide Bridge Program Services, as follows:

a) Offer only those Participants who maintain attendance of at least seventy percent (70%) in the literacy and numeracy classes, within the first three (3) weeks of each instructional cycle and maintain it until the end of the cycle, the opportunity to participate in the Bridge Program College and Career Exploration activities.

b) Design and implement a Bridge Program with the following components:

i) Contextualized Instruction

Provide literacy instruction, using the curriculum provided DYCD, against the backdrop of a sector-specific context integrating basic reading and math skills with occupational knowledge.

(1) Utilize sector-focused instruction that grounds coursework in workforce applications and complements career counseling services by having Participants explore different facets of a career.

(2) Develop partnerships with employers, with the assistance of DYCD, to identify employers' needs and tailor the Bridge Program approach to better meet those needs; and to provide assistance in enhancing the Bridge Program curriculum and learning experiences in a way that would equip Participants with competencies and credentials that employers seek.

(a) DYCD will seek collaboration with the City's industry partnerships in order to assist the Bridge Program in developing programming informed by employers.

ii) Case Management and Support Services

Provide case management and support services which include college and career counseling with transition support services that allow Participants to move seamlessly between progressive levels of education, employment, and training.

iii) Bridge Program College and Career Exploration

(1) Slot Allotment

Allot twelve (12) slots per instructional cycle for Participants to participate in the Bridge Program College and Career Exploration activities; and maintain records of Participants' time in the Bridge Program College and Career Exploration activities.

(a) Each of the twelve slots will be for a period of ten (10) hours per week for up to nine (9) weeks.

(b) When a slot becomes available in to participate in the Bridge Program College and Career Exploration activities because a Participant drops out, the slot may be filled by another Participant who has maintained attendance of at least seventy percent (70%) in the literacy and numeracy classes.

- (2) **Bridge Program College and Career Exploration Design**
Participants will participate in the Bridge Program College and Career Exploration activities for ten (10) hours per week for up to nine (9) weeks in one or more of the four (4) instructional cycles listed above in Section 1) b) and receive a stipend of \$100.00 per week for Participants' participation.

 - (a) **Design Bridge Program College and Career Exploration activities that include the following elements:**

 - (i) **Job Readiness - opportunities for Participants to train in practical skills and increase their knowledge about the work place, such as resume building, mock interviews and communication in the workplace;**
 - (ii) **College and Career Planning – opportunities for Participants to research and learn about jobs and careers so that they may inform their career aspirations and goals, such as assessments of careers and self-assessments, college options, job market search, and researching career fields; and**
 - (iii) **College and Career Exposure – opportunities for Participants to plan, research, prepare and participate in ongoing activities that expose and connect Participants to their college and career aspirations and goals and career pathways, such as college trips, information interviews, career days/fairs/tours, and other project based activities.**
 - (b) **Provide each element listed above throughout the nine (9) weeks.**

 - (i) **Bridge Programs have the flexibility to plan and create a schedule for each element based on the specific needs of the Participants who have met the attendance requirement for the Bridge Program College and Career Exploration activities to ensure Participants receive the appropriate training to enable them to experience successful participation in the Bridge Program College and Career Exploration activities.**
 - (ii) **It is expected that the Bridge Program College and Career Exploration activities will be designed to gradually build the skills and competencies necessary to prepare Participants for a successful transition to higher education, occupational skills training or jobs.**
- (3) **Stipend Allocation**

- (a) Contractor will set aside an amount not to exceed \$43,200.00 for stipends provided to Participants for their participation in the Bridge Program College and Career Exploration activities.
 - (i) Contractor will provide stipends to Participants bi-weekly.
- (b) Contractor will keep records of Participants' time in the Bridge Program College and Career Exploration activities and Participant stipend receipts which would be available to DYCD upon request.
 - (i) Contractor shall maintain a log which shall include the following information:
 - 1. Name of Participant;
 - 2. Form of stipend provided (*e.g.*, check or gift card) and the identification number of the form of stipend provided (*e.g.*, check number or serial number);
 - 3. Amount of stipend;
 - 4. The date stipend was distributed;
 - 5. Participant's signature evidencing receipt of stipend; and
 - 6. Signature of Staff distributing stipend to Participant.
 - iv) Partnerships
Build strong "bridges" with Participant destination programs by building and maintaining strong partnerships with education, training and employment providers.
 - (1) Establish a comprehensive next-step system in order to support successful transition from Pre-HSE to HSE programs or employment training/employment at the end of each cycle; and track and report on Participants' placement into both of these destination programs.
- c) Staffing
Employ one (1) additional full-time or two (2) additional part-time staff, that in conjunction with existing Staff, will execute the following functions:
 - i) Bridge Program coordination;
 - ii) Instruction;
 - iii) Case management;
 - iv) Bridge Program College and Career Exploration activities coordination;

- v) "Bridge" partnership development with educational and employment services providers; and
 - vi) Bridge Program support, including data collection and analysis, recruitment, and intake.
- 10) Administer a post-test to seventy-five percent (75%) of enrolled Participants to assess improvements in literacy and numeracy skills levels ("Post-tested Participants").
- 11) Achieve the required outcomes ("Outcomes") listed below:
- a) Demonstrated improvements in literacy skill levels of one (1) or more grade levels in one (1) year by fifty-five percent (55%) of Post-tested Participants served annually, based on TABE test scores.
 - b) Demonstrated improvements in numeracy skill levels of one (1) or more grade levels in one (1) year by fifty-five percent (55%) of Post-tested Participants served annually, based on TABE test scores.
- 12) Participate in ongoing monitoring and evaluation activities led by the Mayor's Office for Economic Opportunity or its designated evaluator to determine whether the Program is achieving its goals, which said activities may include site visits, surveys, interviews, focus groups, administrative record reviews, and other data collection and rigorous evaluation strategies, and submission of Participant-level and Program data over and above what DYCD requires.
- 13) Maintain the Facilities and ensure that:
- a) The Facilities are easily accessible by public transportation; of appropriate size and design to accommodate Staff, Participants and Program Services, including private space for small group and individual tutoring; meets the local fire, health and safety standards; and complies with the federal Americans with Disabilities Act, or, with prior written approval from DYCD, alternative measures are in place to deliver Program Services to Participants with disabilities.
 - b) The Facilities are equipped with a computer for access by, and internet service is maintained for, Staff and Participants; and e-mail addresses are established for the Program Director and key Staff.
 - c) There is prominently posted in the Facilities a notice, in English and such other language(s) as are appropriate for Participants, giving the name, address, and telephone number of DYCD and stating that DYCD is the oversight agency for the Program, that complaints about the Program may be made anonymously to DYCD, and that DYCD will investigate and resolve such complaints.
- 14) Recruit, screen, hire, and supervise appropriately qualified Staff to provide Program Services, in compliance with applicable federal and local non-discrimination and equal employment laws, rules, and regulations, as follows:

- a) Ensure that:
 - i) Program administrators are knowledgeable in successful literacy and numeracy practices and youth development principles and approaches.
 - ii) Teachers and counselors have, at a minimum, bachelor's degrees and appropriate training and experience serving youth and young adults.
 - iii) Staff provide services in a manner that is sensitive to the backgrounds and cultures of Participants.
 - iv) Key Staff have at least three (3) years' experience in the last five (5) years providing literacy and numeracy instruction as well as workforce development for Disconnected Youth or a similar population
 - v) Staff meets at least once a month to review Participant progress, exchange information and share instructional strategies.
 - vi) Program directors attend periodic meetings sponsored by DYCD to share best practices and address issues that may arise in the course of delivering Program Services.

- b) Incorporate into the Program ongoing Staff professional development activities, as follows:
 - i) Provide activities in the following suggested areas:
 - (1) Common Core State Standards
 - (2) Digital literacy
 - (3) Student intake, outreach, and recruitment
 - (4) Curriculum development
 - (5) Assessment and outcomes
 - (6) Career exploration and post-secondary education planning
 - (7) Workplace readiness skills
 - (8) Exemplary instructional practices, including contextualization of instruction
 - ii) Deliver activities using modalities that may include, but are not limited to, the following:
 - (1) Training workshops
 - (2) Conferences
 - (3) Symposia
 - (4) Panel discussions
 - (5) Peer teaching observations

(6) Webinars

- iii) **Provide training at the following levels:**
 - (1) **Instructional Staff will receive a minimum of eighteen (18) hours of approved Staff development activities per year, in addition to instruction in the proper administration of assessment instruments.**
 - (2) **All new instructional Staff will receive pre-service training and a minimum of eighteen (18) hours of approved Staff development activities that are regularly scheduled during Staff's first calendar year of employment.**
 - (3) **All Staff involved in data collection and record keeping will receive training at DYCD.**
- iv) **Document and maintain on file all Staff development activities upon completion of approved workshops by Staff.**
 - (1) **Program managers and administrators will maintain a log of Staff development activities.**
- v) **May require Staff to participate in peer-based quality improvement exercises (such as workshops and site visits) and collect data to assess improvement.**
- c) **Screen the backgrounds and fingerprint all prospective Staff in accordance with all federal, State, and City regulations before hiring or retaining the same, as follows:**
 - i) **Make an inquiry into all of the following for each prospective employee whose position would hold the potential for regular and substantial contact with Participants under the age of eighteen (18):**
 - (1) **Criminal conviction history, including the facts and circumstances concerning the particular conduct which formed the basis for any criminal convictions, but with care taken to comply with the New York City Fair Chance Act; Article 23-A of the New York Correction Law; Section 6.04 - Recruitment and Hiring of Staff of the Agreement; and applicable law and regulations (including but not limited to New York State Human Rights Law, and New York City Human Rights Law), and with particular concern regarding the following offenses:**
 - (a) **sexual misconduct, especially involving minors;**
 - (b) **violent or assaultive behavior directed against persons or property which cause serious injury or damage;**
 - (c) **theft of public property;**
 - (d) **bribe receiving or bribe offering;**
 - (e) **possession or use of lethal weapons of any kind; and**
 - (f) **acts which have a direct relationship to the particular position sought or which involve an unreasonable risk to property or to the safety or welfare of Participants or other Staff.**
 - (2) **Employment history, including verification of each prospective staff member's previous work history;**

- (3) Employment eligibility, including, where appropriate, verification of educational credentials and certification status;
 - (4) Military service, including, where appropriate, verification of discharge status;
 - (5) Any other relevant information related to character, conduct or background.
- ii) Require that all Staff serving Participants less than twenty-one (21) years of age be fingerprinted, except that Staff who are seventeen (17) years old or younger and who are still attending school are not required to be fingerprinted.
- iii) Ensure compliance with all federal, State and City regulations, including 42U.S.C. §5119, the screening requirements in the Protection of People with Special Needs Act N.Y. Exec. Law §550 *et seq.* and N.Y. Soc. Serv. Law §488 *et seq.* (and any rules and regulations promulgated thereunder), and DYCD regulations, policies and procedures with respect to investigation for criminal conviction histories of Program Staff members, proposed or currently employed, including any required fingerprinting procedures for youth programs.
- iv) If after extending a conditional offer of employment or retaining a Staff member Contractor learns that such Staff member has a criminal conviction history, provide written notification to DYCD of such person's criminal conviction history and, if Contractor determines to move forward with employing such Staff member and if requested by DYCD, share with DYCD Contractor's rationale for moving forward with employment.
- v) Require that all Staff give immediate notice of any arrest, and, upon learning, at any time during the Term, that a Staff member has been arrested, notify DYCD of the arrest and the alleged conduct underlying the arrest;
 - (1) Assess whether the Staff member's presence at the Facilities poses any threat to Participants before allowing such Staff member to return to the Facilities where Participants are present;
 - (2) If Contractor determines that the presence of such Staff member at the Facilities poses a threat to Participants, such Staff member shall be barred from the Facilities pending resolution of the criminal matter;
 - (a) Ensure that any vacancy resulting from the barring of such Staff member is promptly filled with another appropriately qualified person; and
 - (b) Should the filling of such vacated position necessitate the employment or retention of additional Staff, select the same subject to all applicable provisions of this Article II.
- vi) To ensure that effective protection is afforded to Participants and Staff members, make diligent efforts to inform DYCD when Contractor becomes aware of the arrest or criminal conviction record of any Staff member.
- vii) Verify prior employment and references of all Staff through direct contact.
- viii) Provide rosters of all Staff in the Program whether funded directly by DYCD or otherwise.
- ix) Verify the actual existence of claimed Staff through an inspection by senior agency Staff.

- d) Maintain sufficient trained Staff and resources, including computer technology, to deliver Program Services and perform necessary administrative functions throughout the Term, including, but not limited to:
 - i) Program evaluation;
 - ii) Implementation of corrective action required by DYCD;
 - iii) Program monitoring;
 - iv) Program research and development, including the preparation of reports required by DYCD; and
 - v) Fiscal review, audit, and close-out of the Program.
- e) Provide a copy of its personnel manual to all Staff; require each Staff member to submit written acknowledgement thereof, to be kept in the Staff member's personnel file; and resolve all personnel matters in accordance with the procedures established in its personnel manual.

15) Maintain records and make reports as follows:

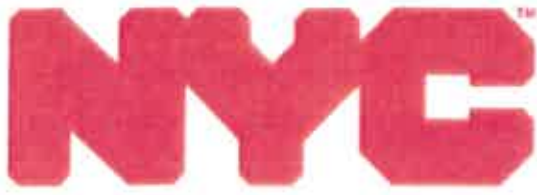
- a) Track and report data related to the required Outcomes listed in Article II, Section 10):
 - i) Maintain and submit Participant-level data, reflecting Participant and household characteristics, services provided, improvements in literacy and numeracy skills levels, and Outcomes achieved, on a monthly and quarterly basis in an electronic format to be designated by DYCD.
 - ii) Report, additionally, on Participant enrollment, attendance, contact hours per Participant, retention, promotion or referral to HSE classes, participation in the Bridge Program College and Career Exploration activities, and access of social services.
 - iii) Maintain an effective computerized system for data collection and management that meets the following specifications:
 - (1) A modern browser, such as Google Chrome, Apple Safari, Microsoft Edge, or Mozilla Firefox is required.
 - (2) A stable broadband Internet connection is required; dial-up modems are not sufficient.
 - (3) Up-to-date antivirus software is required.
 - (4) Firewall software or hardware is strongly recommended.
 - (5) A computer system that employs hierarchical password protection to define and restrict access to specified users who are Staff members is required.
- b) Submit all required fiscal and Program reports to DYCD in accordance with DYCD procedures and requirements set forth herein and in the Fiscal Manual.
- c) Comply with monitoring, evaluation, and reporting requirements as required by DYCD and the Mayor's Office for Economic Opportunity.
- d) Promptly report any information concerning corrupt or other criminal activity, conflicts of interest, unethical conduct, misconduct, or incompetence by any Staff to the Inspector General for DYCD at the City Department of Investigation.

- 16) Participate in the DYCD Public Health Insurance Options Plan in accordance with Local Law 1.
- 17) Notwithstanding any provision in Section 3.02 of Appendix A of this Agreement, Contractor shall ensure that with respect to subcontracts, linkages, referral and assistance, and service coordination:
 - a) Administrative functions, including but not limited to data entry and record keeping, shall not be subcontracted.
 - i) Contractor shall not enter into any subcontract for an amount greater than twenty thousand dollars (\$20,000.00) for the performance of its obligations, in whole or in part, without the prior written approval of DYCD.
 - ii) All subcontracts for an amount greater than twenty thousand dollars (\$20,000.00) and the subcontractors for such subcontracts are subject to DYCD approval before any expenses are incurred or any payments are made to them by Contractor.
 - b) All subcontract, linkage or referral agreements between Contractor and other service providers shall be in accordance with and subject to the terms of this Agreement.
 - i) Services provided by any subcontractor must be integrated into the overall Program design.
 - c) Nothing contained in any such subcontract, linkage or referral agreement shall:
 - i) impair the rights of DYCD under this Agreement;
 - ii) relieve Contractor of any responsibility under this Agreement;
 - iii) create any contractual relationship between any entity with which Contractor has entered into a subcontract, linkage or referral agreement and DYCD.
 - d) All subcontracts, linkages and referrals shall be monitored by Contractor to ensure satisfactory delivery of Program Services.
 - e) Contractor shall comply with the City of New York's Payee Information Portal ("PIP") subcontractor reporting requirements:
 - i) Contractor shall list all subcontractors in PIP.
 - ii) Contractor shall report payments made to a subcontractor in PIP within thirty (30) days of making the payment.
- 18) Contractor is encouraged to:
 - a) utilize businesses and individual proprietors listed on the NYC Online Directory of Certified MWBE Businesses, available at www.nyc.gov/sbs, as sources for their purchases of goods, supplies, services and equipment using funds obtained through this Agreement; and
 - b) utilize businesses and individual proprietors owned/operated by people with disabilities as sources for their purchases of goods, supplies, services and equipment using funds obtained through this Agreement.

- 19) Ensure that no person shall be hired for any position nor contract be entered into with any person for services in connection with the Program if an immediate family member and/or household member of that person is employed by Contractor in any management capacity, including as an officer or member of Contractor's board of directors. For purposes of this Agreement, the following are included within the definition of "immediate family and/or household member":
- a) Persons related by co-sanguinity, adoption and/or affinity including but not limited to the following: father, father-in-law, grandfather, mother, mother-in-law, grandmother, brother, step brother, brother-in-law, sister, step sister, sister-in-law, son, step son, son-in-law, daughter, step daughter, daughter-in-law, niece, nephew, aunt, uncle, cousin;
 - b) Persons who have a child in common regardless of whether such persons have been married or have lived together at any time;
 - c) Persons legally married to each other whether separated or not;
 - d) Persons living together and/or domestic partners regardless of whether such persons are registered as domestic partners in accordance with the New York City Administrative Code §3-240 and/or E. O. Number 123, dated August 7, 1989 and E. O. Number 48, dated January 7, 1993.
- 20) Maintain insurance in the amounts specified in Schedule A of Appendix A of this Agreement that names the City and, if applicable, DOE or NYCHA, including their respective officials and employees, as additional insured parties thereunder.

**APPENDIX B
SCHEDULE 1**

PROGRAM PLANS



Department of
Youth & Community
Development

Young Adult Literacy Program

FY 2019 Young Adult Literacy Program Workscope

Contract Number: _____

Agency Name: Brooklyn Public Library – 10 Grand Army Plaza
Brooklyn, NY 11238

Site Address: 496 Franklin Avenue, 2nd floor (Bedford Branch)

Contact Person: Kerwin Pilgrim, Director of Adult Learning

Telephone Number: 718-230-2212

Email: kpilgrim@bklynlibrary.org

Program Description

- **State your organization's mission and describe in what ways the YALP program furthers the mission.**

It is the mission of Brooklyn Public Library (BPL) to ensure the preservation and transmission of society's knowledge, history and culture, and to provide the people of Brooklyn with free and open access to information for education, recreation and reference. The YALP program supports BPL's goals by providing education classes for opportunity youth in a free, resource rich, and student-centered environment.

How does your program expect to meet the desired outcomes for the Opportunity Youth population served? Describe how the program activities are designed to help participants achieve the desired outcomes.

One of BPL's YALP program's guiding principles is based on a quote from Mark Twain that states: "I never let schooling get in the way of my education." In embracing the spirit of this quote, BPL's YALP is committed to providing the rigorous, structured learning environment conducive for purposeful learning and self-efficacy to meet the desired outcomes for opportunity youth. YALP's philosophy is aligned with the greater Adult Learning Department's goal of fostering lifelong learning habits to support self-sufficient adults in the 21st century economy.

A balanced literacy instructional approach (providing full scope literacy and math development) in a resource rich and technology equipped environment coupled with the holistic development of the participants via social and work readiness support, keeps the YALP program on track to meet the expectations of its participants as well as the mandated outcomes. Recognizing and rewarding positive behavior while encouraging creative expression are additional strategies used to achieve desired outcomes.

- **Describe the ways in which your agency plans to use the data to inform program management and decision making.**

Program data collection and evaluation are integral parts of YALP's program management and quality assurance. On a weekly, monthly and quarterly basis statistical data collected and synthesized through the yalponline.org database and BPL's internal tracking spreadsheets will be used to inform the YALP Coordinator and Director of Adult Learning of any trending YALP program concerns or needs.

Data driven decisions are made strategically to improve program or staffing structures to ensure the best possible outcome of student recruitment, retention, participation, program experience and academic and personal outcomes. We've recognized the tipping point where students drop off and have implemented strategies such as increasing off-site learning (most notably through weeks 6-9) and increased cross site learning (when New Lots and Bedford cohorts engage as a large group as opposed to individualized sites) opportunities. Through formal and informal surveys, participants report that the off-site and cross site learning keep them engaged and motivated to persist in the program. Participants note the comradery and connections made are impactful on both their confidence, sense of safety and belonging in YALP.

YALP has increased its use of social media and full initiative outing participation, noting these domains are trending as effective promotional tools.

- **Describe the strategies to build/strengthen partnerships to connect participants to services, leverage resources, and/or make referrals (i.e., HSE program, employment training programs etc.).**

Adult Learning Department of Brooklyn Public Library, has initiated and maintained long term professional/community partnerships with a plethora of adult education and social service organizations over the decade that YALP has been a part of its' portfolio. The partnerships are reflective of the Department's holistic approach, addressing all aspects of the YALP participant from post-secondary education options; CUNY Brooklyn College, City Tech and Medgar Evers, to social and community organizations such as; Restoration Plaza and Planned Parenthood, and lastly, personal/cultural enrichment; including Brooklyn Museum and East New York farms. YALP staff participate in community board meetings (some of which are held in the library branches that houses YALP) and other networking events to help expand awareness of YALP at the library.

The Adult Learning Department hired an Outreach Specialist in FY18, who complements standing efforts to retain external service relationships and also foster new ones. In recent months new partnerships with NYC Pride Center, Center for Community Alternatives, and Good Shepherd Services have emerged as formidable linkages that will enhance the development of YALP participants in FY'19.

Program Structure and Implementation

- **Describe the strategies the program will implement to ensure participants, staff and partners have a clear understanding of program goals and expected outcomes.**

Participants recruited and enrolled in YALP are invited to a mandated program orientation. The orientation is facilitated by the entire YALP team and is attended by students enrolled in both the Bedford and New Lots cohorts. During the session, participants are familiarized with program expectations, goals, and desired student outcomes. Engaging activities including ice breakers, paired work and academic mini lessons provide an overview of program expectations and experience and provide an opportunity for both participants and staff to gain clarity on what is expected during the cycle of YALP classes. Expectations and goals attainment are developed, monitored and re-assessed over the course of each cycle with the participants and instructional team; via conferences and check ins, to ensure that the participant is on track to reach their expressed goals. Individuals identified by YALP participants as their "parent, guardian, trusted adult" in their personal lives, are invited to a workshop facilitated by the YALP Coordinator and YALP Student Advisor. These informational sessions are designed to fortify the circle of support for participants, define the partnership relationship between YALP staff and the adults in the participants' lives, provide clarity of YALP as part of the adult education spectrum as well as YALP's connection with NYC Department of Education.

Staff receive a copy of the YALP program manual and other documentation to familiarize them with an overview of YALP, BPL's approach to serving opportunity youth, and the expectations and desired outcomes of the program. Before the start of each program quarter, the Coordinator will engage YALP staff members one on one and in a team meeting setting to review the previous quarter's performance and plan performance goals for the coming cycle, ensuring to align them to the broader goals established by the funder. YALP staff are also assigned to attend professional development workshops and trainings facilitated by the contract's technical assistance vendor.

The YALP Coordinator will visit other community agencies periodically to promote YALP and to discuss ways to collaborate. The program will also share email communication and print collateral promoting enrollment periods for YALP and other adult education offerings at the library.

- **Explain the program's plan for recruitment and retention (Include a description of your participant attendance policy).**

BPL has grown over the past calendar year to include a full spectrum of adult education offerings from ABE through TASC testing. The Department has capitalized on the growing awareness of the community to these offerings by re-designing the enrollment policy to include each program within the Department's portfolio, called HSE screenings. The brand of HSE has proven a successful draw of more traction at the screening but also helps identify on a larger scale, those who require additional preparation. As such, YALP has benefitted with a marginal increase in the enrollment numbers this past year. However, with refinement of the screenings as well as strategic promotion of the screening dates, YALP will reach its expectations of enrollment.

Capitalizing on participant voice, experience, and engagement, YALP participants led by YALP team members will provide community street outreach to increase community awareness of YALP at BPL and leverage the power of peer recruitment. Promotion will include posting flyers, YALP branded giveaways and engaging with the public about the program.

BPL's YALP program focuses on engaging youths on a daily basis in an environment that allows for creative expression, recognizing positive behaviors, and rewarding achievements. Staff are encouraged to be empathetic and understanding youth professionals who can connect with participants on many levels. The program also fosters a community so students can also play a role in holding each other accountable for achieving program goals including retention. YALP "sweats the small stuff", recognizing and celebrating small achievements (each YALP site is outfitted with a brag board) as well as utilizing check ins to formally address presenting behaviors or trends that are a barrier.

- **Describe your programs instructional approach/methodology (Include your syllabus, curriculum map, course outline, or curriculum guideline).**

YALP seeks to impact the self-efficacy of the "Opportunity Youth" population in Brooklyn, by the way of metacognitive, innovative, and technology-based learning experiences for young adults. The development of competent literacy, math, thinking, socialization and vocational skills lead to competent, self-sufficient, confident young people. Instructional routines and content blocks set a foundation of structure and the skilled BPL YALP team adapts the structure in response to unique cohorts needs, strengths and weaknesses and interests.

The learning culture in BPL's YALP has evolved organically in order to provide a plethora of successful pathways of achievement for young adults in academia, workplace readiness and personal development. It is cooperative and collaborative in theory, stresses the importance of shared experiences and meaningful use of individual skill sets and resources for the benefit of the entire cohort. Collaborative learning models suggest that learners in group settings who work cooperatively towards a set of shared goals are more likely to achieve them.

The Bridge site will utilize the LINCS curriculum as drafted by the contracted technical assistance provider, WPTI. BPL will maintain its' instructional approaches, routines and learning culture to provide a structure in which effective implementation of the curriculum will occur.

- **Provide an overview of the approach to social support (include a framework of the potential topics that will be covered and the case conferencing approach).**

Understanding that participant success in the program is measured not only by academic gains but also personal goal achievement, the social support component of YALP provides a space for students to self-assess their academic and personal pathways that led them to the YALP program and the steps they need to take to reach their goals. Social support will begin with the DYCD YALP intake in addition to a BPL Bedford-Bridge college and career per-assessment. This information will be gathered via appointment with the Pathways Coach during the first three weeks of the cycle. The initial intakes provide crucial background information about the current state of the students' aspirations, dream careers and thoughts about post-secondary education, military or career goals.

Based on initial assessment outcomes the Pathways Coach will meet with students 1:1 to develop concrete SMART goals, creating authentic means for participants to manage expectations, to monitor and take concrete steps towards their expressed goals. In addition, the Pathways Coach will lead student conferences with participants to review the students commitment and

Students will engage in full group forums led by the Pathways Coach (integrated at times – both cohorts come together) to discuss topics such as – stress management, recognizing, building and maintaining healthy relationships and social media and its impact on identity and body image, and community violence.

Social Support @ Bedford-Bridge		
Day	Support	Activity (ies)
Monday	Pathways Coach not on site	Instructor will check in with students as needed
Tuesday	Appointment check in	11a – 1:30p
Wednesday	Appointment check in Whole Group Support Forum (s)	11a – 1:30p College Readiness Workshop 2pm – 4pm
Thursday	Appointment check in	11a – 1:30p
Friday	Career Prep Workshop Career Prep Projects	10a – 11am 11am – 4p

- **Provide an overview of your College and Career component, including goals, trips, and potential projects. In addition, describe how students' needs will be assessed to inform the design each cycle.**

The Pathways Coach will administer a college and career assessment (need to identify) in the initial weeks of each quarter to determine the participants' current futures outlook. Although participants may not necessarily know what they want to do in the 6 to 9 months ahead of where they are at their current stage, the assessment will provide a context for them to think about and engage in the process of futures planning.

The Pathways Coach will lead two workshops a week to engage them in futures planning. One, the **career prep pathway**, will focus on a variety of career sectors reflective of the interests of the cohort at the time. The workshops are designed for students to explore the breadth of the field, investigate the variety of preparatory paths involved (are there additional degrees needed, specialty training?) and is capped by site visits to career locations or on-site visits and chats with professionals from the field.

The second workshop will focus on post-secondary options such as college, job training, and apprenticeships. These workshops will expose the participants to the world of "Final Steps", what happens after acquiring their HSE and they want to pursue additional credentials? This includes an overview of the college application, including drafting personal statements, assessing their personal resources for references, learning the financial aid processes, civic exam prep and options, college choice exploration – CUNY, SUNY and private schools, learning about proprietary schools and their predatory nature.

Participants will work collaboratively on a capstone project each quarter. The trajectory of the capstone project will reflect the outcomes of the participants' inquiry and learned information of a particular career sector. Their acquisition of career information will occur via employment site visits, meeting professionals in reflective of career sectors of interest of the participants, workplace challenges, including small projects students can complete to support private or public businesses (such as a site beautification project or tabling outreach/street fairs). The final projects can look like documentary styled videos of a "A Day in the Life of...." or the creation of a pamphlet or guide for young adults interested in a particular career. These products will require the collaborative contribution of the participants, providing an opportunity to apply learned hard and soft workplace skills.

- **Staffing Plan:** should include all staff directly and indirectly working to support the participants.

Title	Full Time/Part Time	Total Hours per Week	Role
YALP Coordinator	Full Time	35	Oversees quality implementation of youth program, supports and coaches staff in youth development theory and practices.
YALP Instructor	Full Time	35	Effectively implements LINCS contextualized curriculum, works collaboratively with the Pathways Coach to support the student led projects.
Pathways Coach	Part Time	T – 11 to 2 W - 10 to 4 Th – 11 to 2 Fr – 10 to 5 (19 hours a week)	Provides case management, readiness assessments, facilitate weekly college and career workshops to cohort members, works collaboratively with instructor to support student led projects. .
Office Associate	Full Time	35	Data and administrative tasks management, program promotion and operational support.

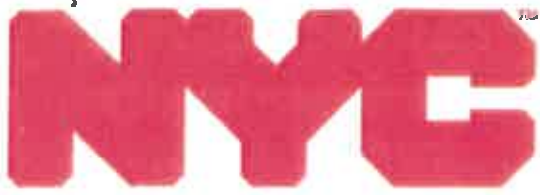
Program Schedule: Should include 15 hours of instruction (Math and Literacy), 5 hours of social support (include one – on-one sessions for 10hrs and 3hr group workshops), service learning/internship, and any additional activities the program offers.

Cycles	Activity Title	Start Date	End Date	# Weeks	Dates class are closed	Schedule	Total Hours
Cycle 1	Literacy	8/6/2018	9/27/2018	8	9/3 <i>Labor Day</i>	Mon 10a –1p Tues 10a – 2p Thurs 10a -12n	8 hours
	Numeracy	8/6/2018	9/27/2018	8		Mon 1p – 2p Wed 10a - 2p Thurs 12p - 2pm	7 hours
	College/Career Project	8/24/2018	9/21/2018	5		Fri 11a -4p	5 hours
	Social Support (one on one sessions)	8/7/2018	9/19/2018	7		Appt(s) Tues & Th: from 11am to 1:30pm and Wed: 11am to 1:30pm	Available 1:1 During the week
	Social Support (College/Career Exploration)	8/8/2018	9/19/2018	7		Wed: 2p to 4pm Fri: 10a to 11a	3 hours
Cycle 2	Literacy	10/9/2018	12/21/2018	11	11/12 <i>Veterans Day, 11/22 & 11/23 Thanksgiving & Post Thanksgiving Day</i>	Mon 10a –1p Tues 10a – 2p Thurs 10a -12n	8 hours
	Numeracy	10/9/2018	12/21/2018	11		Mon 1p – 2p Wed 10a - 2p Thurs 12p - 2pm	7 hours

	College/Career Project	10/26/2018	12/21/2018	9		Fri 11a -4p	5 hours
	Social Support (one on one sessions)	10/10/2018	12/13/2018	10		Appt(s) Tues & Th: from 11am to 1:30pm and Wed: 11am to 1:30pm	Available 1:1 12 hours a week
	Social Support (College/Career Exploration)	10/10/2018	12/12/2018	10		Wed: 1p to 4pm	3 hours
Cycle 3	Literacy	1/14/2019	3/28/2019	11	1/21 MLK Day 2/12 Presidents Day	Mon 10a –1p Tues 10a – 2p Thurs 10a -12n	8 hours
	Numeracy	1/14/2019	3/28/2019	11		Mon 1p – 2p Wed 10a - 2p Thurs 12p - 2pm	7 hours
	College/Career Project	2/1/2019	3/29/2019	9		Fri 11a -4p	5 hours
	Social Support (one on one sessions)	1/15/2019	3/19/2019	10		Appt(s) Tues & Th: from 11am to 1:30pm and Wed: 11am to 1:30pm	Available 1:1 12 hours a week
	Social Support (College/Career Exploration)	1/16/2019	3/20/2019	10		Wed: 1p to 4pm	3 hours
	Literacy	4/15/2019	6/28/2019	11	5/27 Memorial Day	Mon 10a –1p Tues 10a – 2p Thurs 10a -12n	8 hours

Cycle 4							
	Numeracy	4/15/2019	6/28/2019	11		Mon 1p – 2p Wed 10a - 2p Thurs 12p - 2pm	7 hours
	College/Career Project	5/3/2019	6/28/2019	9		Fri 11a -4p	5 hours
	Social Support (one on one sessions)	4/16/2019	6/19/2019	10		Appt(s) Tues & Th: from 11am to 1:30pm and Wed: 11am to 1:30pm	Available 1:1 12 hours a week
	Social Support (College/Career Exploration)	4/17/2018	6/19/2019	10		Wed: 1pm to 4pm	3 hours

***Note that the social support individual support schedule should reflect at least 10 hours to account for 20 students receiving the minimum service level.**



Department of
Youth & Community
Development

Young Adult Literacy Program

FY 2019 Young Adult Literacy Program Workscope

Contract Number: _____

Agency Name: Brooklyn Public Library – 10 Grand Army Plaza
Brooklyn, NY 11238

Site Address: 665 New Lots Avenue, 2nd floor (New Lots Branch)

Contact Person: Kerwin Pilgrim, Director of Adult Learning

Telephone Number: 718-230-2212

Email: kpilgrim@bklynlibrary.org

Program Description

- **State your organization's mission and describe in what ways the YALP program furthers the mission.**

It is the mission of Brooklyn Public Library (BPL) to ensure the preservation and transmission of society's knowledge, history and culture, and to provide the people of Brooklyn with free and open access to information for education, recreation and reference.

The YALP program supports BPL's goals by providing education classes for opportunity youth in a free, resource rich, and student-centered environment. YALP's culture of learning is cooperative and collaborative in theory, stressing the importance of shared experiences and meaningful use of individual skill sets and resources for the benefit of the entire cohort. Collaborative learning models suggest that learners in group settings who work cooperatively towards a set of shared goals are more likely to achieve them. The learning culture in BPL's YALP has evolved organically in order to provide a plethora of successful pathways of achievement for young adults in academia, workplace readiness and personal development.

- **How does your program expect to meet the desired outcomes for the Opportunity Youth population served? Describe how the program activities are designed to help participants achieve the desired outcomes.**

One of BPL's YALP program's guiding principles is based on a quote from Mark Twain that states: "I never let schooling get in the way of my education." In embracing the spirit of this quote, BPL's YALP's is committed to providing the rigorous, structured learning environment conducive for purposeful learning and self-efficacy to meet the desired outcomes for opportunity youth. YALP's philosophy is aligned with the greater Adult Learning Department's goal of fostering lifelong learning habits to support self-sufficient adults in the 21st century economy.

A balanced literacy instructional approach (providing full scope literacy and math development) in a resource rich and technology equipped environment coupled with the holistic development of the participants via social and work readiness support, keeps the YALP program on track to meet the expectations of its participants as well as the mandated outcomes. Recognizing and rewarding positive behavior while encouraging creative expression are additional strategies used to achieve desired outcomes.

- **Describe the ways in which your agency plans to use the data to inform program management and decision making.**

Program data collection and evaluation are integral parts of YALP's program management and quality assurance. On a weekly, monthly and quarterly basis statistical data collected and synthesized through the yalponline.org database and BPL's internal tracking spreadsheets will be used to inform the YALP Coordinator and Director of Adult Learning of any trending YALP program concerns or needs.

Data driven decisions are made strategically to improve program or staffing structures to ensure the best possible outcome of student recruitment, retention, participation, program experience and academic and personal outcomes. We've recognized the tipping point where students drop off and have implemented strategies such as increasing off-site learning (most notably through weeks 6-9) and increased cross site learning (when New Lots and Bedford cohorts engage as a large group as opposed to individualized sites)

opportunities. Through formal and informal surveys, participants report that the off-site and cross site learning keep them engaged and motivated to persist in the program. Participants note the comradery and connections made are impactful on both their confidence, sense of safety and belonging in YALP.

YALP has increased its' use of social media and full initiative outing participation, noting these domains are trending as effective promotional tools.

- **Describe the strategies to build/strengthen partnerships to connect participants to services, leverage resources, and/or make referrals (i.e., HSE program, employment training programs etc.).**

Adult Learning Department of Brooklyn Public Library, has initiated and maintained long term professional/community partnerships with a plethora of adult education and social service organizations over the decade that YALP has been a part of its' portfolio. The partnerships are reflective of the Department's holistic approach, addressing all aspects of the YALP participant from **post- secondary education options**; CUNY Brooklyn College, City Tech and Medgar Evers, to **social and community organizations** such as; Restoration Plaza and Planned Parenthood, and lastly, **personal/cultural enrichment**; including Brooklyn Museum and East New York farms. YALP staff participate in community board meetings (some of which are held in the library branches that houses YALP) and other networking events to help expand awareness of YALP at the library.

The Adult Learning Department hired an Outreach Specialist in FY18, who complements standing efforts to retain external service relationships and also foster new ones. In recent months new partnerships with NYC Pride Center, Center for Community Alternatives, and Good Shepherd Services have emerged as formidable linkages that will enhance the development of YALP participants in FY'19.

Program Structure and Implementation

- **Describe the strategies the program will implement to ensure participants, staff and partners have a clear understanding of program goals and expected outcomes.**

Participants recruited and enrolled in YALP are invited to a mandated program orientation. The orientation is facilitated by the entire YALP team and is attended by students enrolled in both the Bedford and New Lots cohorts. During the session, participants are familiarized with program expectations, goals, and desired student outcomes. Engaging activities including ice breakers, paired work and academic mini lessons provide an overview of program expectations and experience and provide an opportunity for both participants and staff to gain clarity on what is expected during the cycle of YALP classes. Expectations and goals attainment are developed, monitored and re-assessed over the course of each cycle with the participants and instructional team; via conferences and check ins, to ensure that the participant is on track to reach their expressed goals. Individuals identified by YALP participants as their "parent, guardian, trusted adult" in their personal lives, are invited to a workshop facilitated by the YALP Coordinator and YALP Student Advisor. These informational sessions are designed to fortify the circle of support for participants, define the partnership relationship between YALP staff and the adults in the participants' lives, provide clarity of YALP as part of the adult education spectrum as well as YALP's connection with NYC Department of Education.

Staff receive a copy of the YALP program manual and other documentation to familiarize them with an overview of YALP, BPL's approach to serving opportunity youth, and the expectations and desired outcomes of the program. Before the start of each program quarter, the Coordinator will engage YALP staff members one on one and in a team meeting setting to review the previous quarter's performance and plan performance

goals for the coming cycle, ensuring to align them to the broader goals established by the funder. YALP staff are also assigned to attend professional development workshops and trainings facilitated by the contract's technical assistance vendor.

The YALP Coordinator will visit other community agencies periodically to promote YALP and to discuss ways to collaborate. The program will also share email communication and print collateral promoting enrollment periods for YALP and other adult education offerings at the library.

- **Explain the program's plan for recruitment and retention (include a description of your participant attendance policy).**

BPL has grown over the past calendar year to include a full spectrum of adult education offerings from ABE through TASC testing. The Department has capitalized on the growing awareness of the community to these offerings by re-designing the enrollment policy to include each program within the Department's portfolio, called HSE screenings. The brand of HSE has proven a successful draw of more traction at the screening but also helps identify on a larger scale, those who require additional preparation. As such, YALP has benefitted with a marginal increase in the enrollment numbers this past year. However, with refinement of the screenings as well as strategic promotion of the screening dates, YALP will reach its expectations of enrollment.

Capitalizing on participant voice, experience, and engagement, YALP participants led by YALP team members will provide community street outreach to increase community awareness of YALP at BPL and leverage the power of peer recruitment. Promotion will include posting flyers and engaging with the public about the program.

BPL's YALP program focuses on engaging youths on a daily basis in an environment that allows for creative expression, recognizing positive behaviors, and rewarding achievements. Staff are encouraged to be empathetic and understanding youth professionals who can connect with participants on many levels. The program also fosters a community so students can also play a role in holding each other accountable for achieving program goals including retention. YALP "sweats the small stuff", recognizing and celebrating small achievements often (each YALP site is outfitted with a brag board) as well as utilizing check ins to formally address presenting behaviors or trends that are a barrier.

- **Describe your programs instructional approach/methodology (include your syllabus, curriculum map, course outline, or curriculum guideline).**

YALP seeks to impact the self-efficacy of the "Opportunity Youth" population in Brooklyn, by the way of metacognitive, innovative, and technology-based learning experiences for young adults. The development of competent literacy, math, thinking, socialization and vocational skills lead to competent, self-sufficient, confident young people. Instructional routines and content blocks set a foundation of structure and the skilled BPL YALP team adapts the structure in response to unique cohorts needs, strengths and weaknesses and interests.

Literacy (Reading)

A book (democratically chosen by cohort or a book pre-chosen due to a specific theme) read together in class for explicit and applied comprehension strategy

Independent Reading, is a book of any genre of interest to the participants, to read in and out of class time for entertainment purpose only, participants maintain a reading log throughout the cycle

Intentional word work to increase the grasp of academic, contextual, situational language

Comprehension skills and strategies facilitated in the class via guided, explicit instruction

Read and Response (content discussion and writing reflections of texts read or materials engaged with in class, central questions that elicit deep thinking, text to self, text to text and text to world connections)

Literacy (Writing)

Intentional walk through of the writing process.

Participants will "publish" at minimum ONE piece of writing by the end of each quarter (any genre – essay, poem, book review, op-ed)

Approaches:

Writing workshop model with grammar mini lessons.

Math

Decoding math language; written and symbolic
Development of:

- Mental Math
- Word Problems
- Algebraic thinking

Approaches:

Math riddles, puzzles and drills

Math concepts 'authentic mathematical situations for problem solving

Life Skills/Social Support

Student led discussions via deep thinking questions and reflections. Discussion topics of interests are reflective of and relevant to daily life, youth development, emerging adulthood

Approaches:

Roundtable discussions

Read and Response

Role Plays

Guest Speakers

Site Visits

Work Readiness

Development of interpersonal skills via the umbrellas of:

- i. Identifying work values
- ii. Interpersonal skills
- iii. Professionalism (presentation from resume,

to attire, to code switching, etc.)

iv. Technological Savviness

Approaches:

Role Plays

Student Led Discussions

Development of hard skills and career exploration via group project and workplace assignment (phased into the program)

- **Provide an overview of the approach to social support (include a framework of the potential topics that will be covered and the case conferencing approach).**

Understanding that participant success in the program is measured not only by academic gains but also personal goal achievement, the social support component of YALP provides a space for students to self-assess their academic and personal pathways that led them to the YALP program and the steps they need to take to reach their goals. Social support begins with the “interview” (Intake).

Goal setting is the cornerstone of social support and creates safe and authentic means for participants to manage expectations (social support forums) take concrete steps towards their goal and monitor their steps (1:1 follow up) and plan ahead via Next Steps Conferencing. 1:1 follow up, also known as a “touch session” allows the Student Advisor to check in on the students well-being, keep abreast of any present or brewing issues in the program or in the student’s home, social or work identities. Participants can schedule their appointments with the Advisor via a sign-up sheet that lives in the classes’ attendance book.

To assess student persistence and motivation throughout the cycle and to strategize about an individual circumstance that may hinder or enhance the students’ YALP experience, student conferences will be scheduled on an as needed basis. Conferences will include the participant, Student Advisor and Coordinator or participant, Student Advisor and Instructor. Conferences will be scheduled after class hours as not to compromise staffing requirements in the classroom. The YALP team goal will be to meet with each participant at least once between the 3rd and 9th week, but intensity of a participant’s case will inform frequency.

Next Steps Conferences are scheduled the last week of each quarter, after post assessments have been administered. Students meet with their instructional and support team to review their academic and social experiences, goal attainment over the cycle and consider and plan their academic and workplace options based on their post TABE scores and personal circumstances.

The Student Advisor will report to the New Lots site each day of the week.

Students engage in full group forums (integrated at times – both cohorts come together) to discuss topics such as – stress management, recognizing, building and maintaining healthy relationships and social media and its impact on self-identity and body image, and community violence.

YALP Social Support Schedule @ New Lots		
Day	Support	Activity (ies)
Monday	Appointment check in	11am – 1pm & 2:30pm – 4:30pm (as scheduled/as needed)
Tuesday	Appointment check in	11am – 1pm & 2:30pm – 4:30pm (as scheduled/as needed)
Wednesday	Appointment check in	11am – 1pm & 2:30pm – 4:30pm (as scheduled/as needed)
Thursday	Whole Group Support Forum (s)	Work readiness and social support workshops (1pm – 4pm)
Friday	SVL	Joint facilitation with instructor

- **Provide an overview of your Service Learning component, including goals, trips, and potential projects. In addition, describe how students' needs will be assessed to inform the design each cycle.**

Work readiness is folded into the week's instructional program, ensuring that the maximum number of participants engage in the crucial vocational development component of the program. Work readiness instruction focuses on the following:

- Development and identification of work values
- Career Exploration
- Soft and hard skill development
- Workplace etiquette (professionalism, communication)

Participants who meet the attendance and program participation criteria for service learning participate in the additional programming component between 5 to 8 weeks per quarter. Service Learning follows the Americorps model of service learning: <https://www.vistacampus.gov/utilizing-svl-service-learning-model>

- Connecting students to a community issue
- An inquiry and investigative process to explore the issue
- Action planning
- Action Implementation/demonstration

Students will work towards creating a capstone project, tangible services or an event or product. Service learning products in the past have included: a community event for young adults to learn about community arts and recreation programs in the East New York Community, participation in Prison Reform panels, and "a season of service", where participants provide a day of community service in various community organizations in the areas of their class sites.

- **Staffing Plan:** should include all staff directly and indirectly working to support the participants.

Title	Full Time/Part Time	Total Hours per Week	Role
YALP Coordinator	Full Time	35	Oversees quality implementation of youth program, supports and coaches staff in youth development theory and practices.
YALP Instructor	Part Time	M – 9:30 to 2:30 T – 9:30 to 2:30 W – 10:00 to 2:00 Fr – 10:00 to 3:30 (19 hours a week)	Develops and Implements effective, engaging, Pre-HSE level instruction, works collaboratively with the Student Advisor to lead cohort in Service Learning Process.
Student Advisor	Full Time	35	Provides case management and academic advisement to cohort members, facilitates social and work ready workshops, works collaboratively with Instructor to lead cohort in Service Learning Process.
Office Associate	Full Time	35	Data and administrative tasks management, program promotion and operational support.

Program Schedule: Should include 15 hours of instruction (Math and Literacy), 5 hours of social support (include one – on-one sessions for 10hrs and 3hr group workshops), service learning/internship, and any additional activities the program offers.

Cycles	Activity Title	Start Date	End Date	# Weeks	Dates class are closed	Schedule	Total Hours
Cycle 1	Literacy -	8/6/2018	9/20/2018	7	9/3 Labor Day	Mon 10a – 12n Tues 10a – 2p Thurs 10am – 1pm	9 hours
	Numeracy	8/6/2018	9/20/2018	7		Mon 12n – 2p Wed 10a – 2p	6 hours
	Service Learning	8/24/2018	9/21/2018	5		Fri 10a -4p	6 hours

	Social Support (one on one sessions)	8/13/2018	9/19/2018	6		Appt(s) Mon – Wed from 11am – 1p 2:30p – 4:30p	Available 1:1 12 hours a week
	Social Support (group workshops)	8/9/2018	9/13/2018	5		Thurs 1p - 4p	3 hours
Cycle 2	Literacy	10/9/2018	12/21/2018	11	11/12 Veterans Day, 11/22 & 11/23 Thanksgiving & Post Thanksgiving Day	Mon 10a – 12n Tues 10a – 2p Thurs 10am – 1pm	9 hours
	Numeracy	10/9/2018	12/21/2018	11		Mon 12n – 2p Wed 10a – 2p	6 hours
	Service Learning	10/26/2018	12/21/2018	9		Fri 10a -4p	6 hours
	Social Support (one on one sessions)	10/9/2018	12/13/2018	10		Appt(s) Mon – Wed from 11am – 1p 2:30p – 4:30p	Available 1:1 12 hours a week
	Social Support (group workshops)	10/11/2018	12/13/2018	9		Thurs 1p - 4p	3 hours
Cycle 3	Literacy	1/14/2019	3/28/2019	11	1/21 MLK Day 2/12 Presidents Day	Mon 10a – 12n Tues 10a – 2p Thurs 10am – 1pm	9 hours
	Numeracy	1/14/2019	3/28/2019	11		Mon 12n – 2p Wed 10a – 2p	6 hours
	Service Learning	2/1/2019	3/29/2019	9		Fri 10a -4p	6 hours
	Social Support (one on one sessions)	1/14/2019	03/21/2019	10		Appt(s) Mon – Wed from	Available 1:1 12 hours a week

						11am – 1p 2:30p – 4:30p	
	Social Support (group workshops)	1/17/2019	3/21/2019	10		Thurs 1p - 4p	3 hours
Cycle 4	Literacy	4/15/2019	6/27/2019	11	5/27 Memorial Day	Mon 10a – 12n Tues 10a – 2p Thurs 10am – 1pm	9 hours
	Numeracy	4/15/2019	06/21/2019	11		Mon 12n – 2p Wed 10a – 2p	6 hours
	Service Learning/	5/3/2019	6/28/2019	9		Fri 10a -4p	6 hours
	Social Support (one on one sessions)	4/15/2019	6/19/2019	10		Appt(s) Mon – Wed from 11am – 1p	Available 1:1 12 hours a week
	Social Support (group workshops)	4/18/2019	6/20/2019			2:30p – 4:30p Thurs 1p - 4p	3 hours

***Note that the social support individual support schedule should reflect at least 10 hours to account for 20 students receiving the minimum service level.**

APPENDIX C
BUDGET

**Department of Youth and Community Development
PROGRAM BUDGET SUMMARY FY 2019**

(FY 2019 - 7/1/2018 to 6/30/2019)

Revised March 2018

DYCD ID #:

--

Funding Component: DYCD Young Adult Literacy Program Budget Code:

--

Amendment #:

--

Name of CBO: Brooklyn Public Library

Address: 10 Grand Army Plaza
Brooklyn NY 11238

Tel #: 718-622-4460 Fax #: 718-622-0812

Ex. Director: Linda Johnson Tel #: 718-230-2494

E-Mail: ljohnson@bklynlibrary.org

Fiscal Officer: Brett Robinson Tel #: 718-230-2494

E-Mail: brobinson@bklynlibrary.org

EIN: 11-1904261 SUI #: 04-53584-3

Operating Period: 7/1/2018 Through: 6/30/2019

In-Kind Contribution: _____ Total CBO Budget (all sources) \$440,000.00

Cash Contribution: _____

<small>Fbt Official Use only: Approved by Program</small>	<small>Date Approved</small>	<small>Telephone #</small>
<small>Approved by CAPD</small>	<small>Date Approved</small>	
Fiscal Agent: []YES []No		
FA Name:		

Account Code	TOTAL DYCD BUDGET	PROGRAM ADMINISTERED	CENTRALLY ADMINISTERED
PERSONNEL SERVICES			
1100 Salaries and Wages	264,475	264,475	
1200 Fringe Benefits*	83,125	83,125	
1300 Central Insurance Program (CIP) **			
TOTAL PERSONNEL SERVICES	347,600	347,600	
NON STAFF SERVICES			
2100 Consultants			
2200 Subcontractors			
2300 Stipends	65,507	65,507	
2400 Vendors			
2500 Fiscal Conduit			
TOTAL NON STAFF SERVICES	65,507	65,507	
OTHER THAN PERSONNEL SERVICES			
3100 Consumable Supplies	8,893	8,893	
3200 Equipment Purchases			
3300 Equipment Other			
3400 Space Cost (total of Lines 3410 & 3420)			
3500 Travel			
3600 Utilities & Telephone			
3700 Other Operational Costs (total of Lines 3710 & 3720)	18,000	18,000	
3800 Van Maintenance			
3900 Fiscal Agent Services			
TOTAL OTHER THAN PERSONNEL SERVICES	26,893	26,893	
TOTAL DYCD COSTS	440,000	440,000	

* When NOT under DYCD'S Fiscal Agent, the maximum rate is 35% and the minimum rate is 7.99% of the total salaries and wages.

** CIP rate is 4.5% of total budget.

Note: Centrally Administered - Items covered by DYCD Policies are non-reimbursable items.

Please note: All highlighted fields (Blue) are calculated automatically from pages 2, 3, & 4 and cannot be changed manually.

Department of Youth and Community Development FY 2019

DYCD ID #:
 Budget Code:
 Amendment #:

SALARIES AND WAGES SUPPORT SHEET FY 2018

Full Time Employees Only

# Of Pos.	Title Code	Position/Title	# of Months	Annual Salary	% Applied to DYCD	Total DYCD Cost
1	CR -	COORDINATOR	12	\$69,520	100%	\$69,520
1	EA -	EDUCATIONAL ADVISOR	12	\$46,860	100%	\$46,860
1	IN -	INSTRUCTOR	12	\$43,869	100%	\$43,869
1	AA -	ADMINISTRATIVE ASSISTANT	12	\$37,042	100%	\$37,042
Sub-Total						\$197,291

Part Time Employees Only*

# Of Pos.	Title Code	Position/Title	Hourly Rate	Total Hours for Budget Period	Total Amount Part Time Staff
1	IN -	INSTRUCTOR	\$38.00	988	\$37,544
1	CA -	COACHES	\$30.00	988	\$29,640
Sub-Total					\$67,184
Total Budgeted Salaries					\$264,475

* Note: Part Time employees must work fewer than 35 hours per week
 Please note: All highlighted fields (Blue) are calculated automatically and cannot be changed manually.

Department of Youth and Community Development FY 2019

19800

DYCD ID #:
 Budget Code:
 Amendment #:

Acct Code	TOTAL BUDGET	PROGRAM ADMINISTERED	CENTRALLY ADMINISTERED
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FRINGE BENEFITS

Based on your total salaries the minimum amount for Fringe (if not under Fiscal Agent) is 7.99% \$ 21,132
 Based on your total salaries the minimum amount for Fringe (if under Fiscal Agent) is 12.99% \$ 34,355
 Based on your total salaries the maximum amount for Fringe is 35% \$ 92,588

1200 FRINGE BENEFITS	\$83,125	\$83,125	
----------------------	----------	----------	--

FICA at 7.65%, Unemployment Insurance, Medical, Workers Compensation, Disability, Life Insurance & Pension

1300 CENTRAL INSURANCE PROGRAM (CIP)			
--------------------------------------	--	--	--

Central Insurance Package CIP must be 4.5% of Total Budgeted Amount
 General Liability, Workers' Compensation and Disability are covered under the DYCD Central Insurance Program (CIP).

NON STAFF SERVICES

2100 CONSULTANTS (Attach Consultant Agreement)			
--	--	--	--

Consultant Name	Description of Service	Amount
Line 1		
Line 2		
Line 3		
Line 4		
Line 5		

2200 SUBCONTRACTORS (Attach Sub-Contractor Agreement)			
---	--	--	--

Subcontractor Name	Prov EIN	Amount
Line 1		
Line 2		
Line 3		

2300 STIPENDS	\$65,507	\$65,507	
---------------	----------	----------	--

1233 \$50 AMEX Cards + 3.95 purchase fee each

2400 Vendors (Maintain on Site- DO NOT ATTACH Vendor Agreements)			
--	--	--	--

Vendor Name	Type of service	Amount
Line 1		
Line 2		
Line 3		

2500 Fiscal Conduit (Discretionary Contracts Only)			
--	--	--	--

Sub Recipient Service Provider	Prov EIN	Amount
Line 1		
Line 2		
Line 3		

Department of Youth and Community Development FY 2019

DYCD ID #:	
Budget Code:	
Amendment #:	

TOTAL BUDGET	PROGRAM ADMINISTERED	CENTRALLY ADMINISTERED
--------------	----------------------	------------------------

Acct Code

OTHER THAN PERSONNEL SERVICES

3100 CONSUMABLE SUPPLIES Office, Program and Maintenance Supplies	\$8,893	\$8,893	
--	---------	---------	--

3200 EQUIPMENT PURCHASES <u>Attach Itemized equipment list.</u> Copiers, Computers, Printers, and Furniture, Etc.			
---	--	--	--

3300 EQUIPMENT OTHER Maintenance, Repairs, Rentals, & Computer Software			
--	--	--	--

3400 SPACE COST (total of Lines 3410 & 3420)			
--	--	--	--

3410 Public School **	
-----------------------	--

3420 Space / Other **	
-----------------------	--

3500 TRAVEL Staff Travel, Bus Trips, Other			
---	--	--	--

3600 TOTAL UTILITIES AND TELEPHONE Includes Cable, Telephone, Internet			
---	--	--	--

3700 OTHER OPERATIONAL COSTS (total of Lines 3710 & 3720) Liability Ins., Postage, Admission tickets, Printing & Publications Bank Charges, Training & Conferences, Audit Fee* Food & Refreshments, Participant Costs, Sports Supplies, Etc.	\$18,000	\$18,000	
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3710 Other Costs	\$18,000
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3720 Indirect Costs ***	
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For non-discretionary providers only- provide your Agency's actual indirect rate:

3800 VAN MAINTENANCE (For DYCD assigned vans)			
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3900 FISCAL AGENT SERVICES See Fee Scale on Page 16 of the Budget Instructions			
---	--	--	--

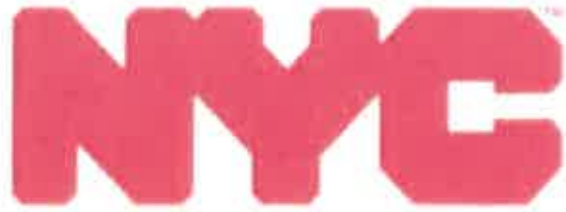
* Note: Attach Audit Allocation Form If applicable

** Note: If you are charging rent, attach a Space Cost Allocation Plan and a copy of your lease, mortgage statement, Department Of Education Permit and/or month to month rental agreement at the time of the budget submission.

*** Reimbursable up to 12%; must meet DYCD guidelines and subject to Uniform Guidance (see fiscal manual for details)

Please note: All highlighted fields (Blue) are calculated automatically and cannot be changed manually.

DYCD
FISCAL MANUAL



**Department of
Youth & Community
Development**

**123 WILLIAM STREET, 18TH FLOOR
NEW YORK, NEW YORK 10038**

**Comprehensive Contract Management System
(CCMS)/ Program Expense Summary Report
(PERS) Fiscal Manual**

***Users: Neighborhood Development Area, Literacy, Summer Youth Employment
Program (SYEP), Discretionary***

**BILL DE BLASIO
MAYOR**

**BILL CHONG
COMMISSIONER**

**JAGDEEN PHANOR
CHIEF FINANCIAL OFFICER
BUREAU OF BUDGET AND FINANCE**

**CAFD Help Desk
646-343-6960
OR
CAFDHELP@DYCD.NYC.GOV**

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Appendix of Forms:

The latest version of the forms and documents listed below are available on the DYCD website at:

<http://www.nyc.gov/html/dycd/html/resources/cbo.html>

- a. [Audit Cost Allocation Form](#)
- b. [Certificate of Liability Insurance Sample](#)
- c. [Certificate of Liability Insurance Listing DOE or NYCHA](#)
- d. [Certification by Broker](#)
- e. [Consultant Agreement](#)
- f. [Consultant Agreement Modification Form](#)
- g. [Request for Budget Modification](#)
- h. [EFT Enrollment Form \(Direct Deposit\)](#)
- i. [Petty Cash Voucher](#)
- j. [Space Rental Cost Allocation Form](#)
- k. [Subcontract Agreement](#)
- l. [Subcontract Agreement Modification Form](#)
- m. [Subcontract Agreement For Fiscal Conduit](#)
- n. [Subcontractor Approval Form](#)
- o. [10% De Minimis Decline Acknowledgement Form \(Indirect Cost\)](#)

Frequently Used Acronyms:

ACCO:	Agency Chief Contracting Officer
CAFD:	Contract Agency Finance Department
CIP:	Central Insurance Program
DYCD:	Department of Youth and Community Development
EFT:	Electronic Fund Transfer/Direct Deposit
EIN #:	Federal Employer Identification Number
FMS:	Financial Management System
PERS:	Program Expense Report Summary
PIP:	Payment Information Portal
PS:	Personnel Services
OTPS:	Other Than Personnel Services
SUI:	State Unemployment Insurance

Introduction and Overview

The Bureau of Budget and Finance (BBF) is responsible for monitoring the fiscal compliance of DYCD's human services contracts. Depending on the funding stream, there are different regulations which govern the administration and expenditure of program funds. To provide guidance to our Providers, DYCD has developed four fiscal manuals based on program and funding sources:

1. HHS Accelerator Financials (HHS)
2. Comprehensive Contract Management System (CCMS)/ Program Expense Summary Report (PERS)
3. Workforce Innovation Opportunity Act (WIOA)
4. Fiscal Agent (YMS)

All four manuals are available on DYCD's website in the Fiscal Manuals section under CBO Financial Services.

http://www.nyc.gov/html/dycd/html/resources/provider_budgets.shtml

The requirements outlined in this Fiscal Manual must be adhered to by all contracted service providers ("Providers") funded by DYCD other than those contracts administered under HHS Accelerator Financials and WIOA contracts.

Bureau of Budget and Finance (BBF) Overview

BBF has four units that interact with Providers. Below is a description of each unit and its functions.

Budget Review & Risk Management Unit

The Budget Review Unit is responsible for ensuring that budgets and budget modifications submitted by the funded Providers are in compliance with City of New York and DYCD rules and regulations regarding budgetary requirements and fiscal accountability. The Budget Review Unit is responsible for the final approval of all budgets and budget modifications.

Budgets and Budget Modifications must first be submitted to the assigned Program or Contract Manager. Once approved, budget and budget modifications will be forwarded to Budget Review for final approval.

The Risk Management Unit coordinates New York City's Central Insurance Program (CIP) for Providers that do not have their own general liability insurance. This program includes specific insurance (General Liability, Worker's Compensation and Disability) that pertains to DYCD funded activities.

This Unit is also responsible for collecting and maintaining the general liability insurance certificate of each Provider not participating in CIP to ensure compliance with the contract terms.

Program Expense Report Summary (PERS) Payment Unit:

The Contract Agency Finance Division (CAFD) PERS Payment Unit is responsible for receiving financial reports, analyzing data, issuing payments, and providing assistance and training for the preparation of financial reports. A Fiscal Analyst is assigned to each contract and is responsible for the fiscal management of the contract. The Fiscal Analyst serves as the Provider's contact person for payment inquiries.

The cash flow process begins after the registration of the contract with the Comptroller's Office. When the contract is registered, the PERS Payment Unit automatically issues a three month advance. The Program Expense Report Summary (PERS) is the financial tool used to reimburse Providers for contract expenses. The three-month advance will be recovered against PERS submitted in the last quarter of the fiscal year.

NOTE:

The NYC Department of Finance mandates that all Providers participate in the Electronic Fund Transfer (E.F.T. - Direct Deposit) Program. Payments are deposited directly into the Provider's designated bank account. Enrollment forms must be faxed to the NYC Department of Finance at (212) 361-7058.

The PERS Payment Unit offers workshops for Providers in preparing the PERS and understanding DYCD's requirements for reimbursement. You may register by calling the CAFD Helpdesk at 646-343-6960 or sending an email to CAFDhelp@dycd.nyc.gov.

DYCD also contracts with Providers that offer technical assistance services to funded programs. The assistance includes, but is not limited to: accounting, budget development, setting up general ledgers, financial books and records, bank reconciliations, and payroll processing. Providers interested in receiving these services must contact the assigned Program or Contract Manager, who will make the referral to a technical assistance program.

Contract Agency Audit Unit:

The Contract Agency Audit Unit is responsible for conducting Fiscal Field Reviews (FFRs) of funded programs as well as evaluating related audits and reviews performed by independent Certified Public Accountants. This unit also issues Corrective Action Plans, often in conjunction with program staff. Contract Agency Audit Unit staff also provide technical assistance to Providers.

SECTION ONE

THE BUDGET

BUDGET OVERVIEW

After a contract is awarded, a budget is prepared based on the proposed services, funding availability, and contract term. Budgets generally include an allocation for Staff, Non-Staff Services, and Other Than Personnel Services (OTPS).

Below are the categories used by DYCD and the relevant Budget Codes within each category:

Personnel Services Categories:

- 1100 Salaries and Wages
- 1200 Fringe Benefits
- 1300 Central Insurance Program (CIP)

Non-Staff Services Categories:

- 2100 Consultants
- 2200 Subcontractors
- 2300 Stipends
- 2400 Vendors
- 2500 Fiscal Conduit

Other Than Personnel Services Categories:

- 3100 Consumable Supplies
- 3200 Equipment Purchases
- 3300 Equipment Other
- 3400 Space Cost
- 3500 Travel
- 3600 Utilities and Telephone
- 3700 Other Operational Costs
- 3800 Van Maintenance (for DYCD issued vehicles only)
- 3900 Fiscal Agent Services

Completed budgets are submitted to the assigned Program Manager. The budget will be reviewed by program and fiscal staff within DYCD. A final budget, agreed to by DYCD and the Provider, is included in the Provider's contract.

COMPLETING THE DYCD BUDGET

The DYCD Budget Form is an Excel Spreadsheet which uses a series of individual worksheets (see tabs entitled Salary, Fringe, Non-Staff Services and OTPS). The first page (the Budget Summary) will automatically be completed as these worksheets are prepared. Most of the information requested is self-explanatory. Below is some information you should keep in mind as you complete the DYCD budget.

General Information

- **DYCD ID #, Budget Code #, and Amendment #:** This information will be provided to you by DYCD.
- **State Unemployment Insurance Number:** This number appears on all correspondence relating to SUI, and may be obtained by calling the New York State Department of Labor at 1-888-899-8810.
- **Operating Period:** The term of the contract, (start date to end date) may overlap Fiscal Years. The City's Fiscal Year runs from July 1 to June 30. In multi-year contracts or contracts spanning more than one City Fiscal Year, a separate budget must be submitted for each Fiscal Year, indicating the portion of the award spent in each year.
- **In-Kind Contributions:** DYCD recognizes that in some cases the funding received from DYCD does not represent the full amount needed to operate a program. Providers often provide additional funding; in some cases, additional funding is a requirement of the RFP. The dollar value of existing resources from other funders that are allocated to this contract must be reflected as In-Kind Contributions. The equivalent monetary value of volunteer service must be added to the In-Kind Contributions category.
- **Total Provider Budget (all sources):** This entry must reflect the total operating budget of the Provider, from all sources.
- **Total DYCD Budget:** This column reflects the total amount of DYCD funding allocated to each budget category. This column reflects the sum of the Program Administered and the Centrally Administered columns, described below.
- **Program Administered:** The portion of the budget that will be managed by the Provider.
- **Centrally Administered:** Specific items covered and paid by DYCD. These are non-reimbursable costs, and Providers will not have access to these funds. These costs include Fiscal Agent Service fees, Van Maintenance, and the Central Insurance Program (CIP). No other items may be included in this column.

PERSONNEL SERVICES (PS) refers to programmatic expenses for Salaries and Fringe Benefits. Please keep in mind the following information as you complete the DYCD budget:

1. An employee paid with DYCD funds must perform work related to the DYCD contract, directly or indirectly.

For DYCD contracts, a full-time employee is defined as one who works 35 hours or more per week, is paid on a salary or hourly basis and retains a full-time position with the Provider. A full-time employee shall not be claimed as a part-time employee because her hours are shared between contracts. For example, if the employee is full-time and is scheduled to work one-fifth of her time on a DYCD contract, she is still considered a full-time employee for DYCD contract and PERS claiming purposes.

A part-time employee is generally defined as an employee who is scheduled to work less than 35 hours per week and/or is paid on an hourly or seasonal basis, and retains a part-time employment status with the Provider. A part-time employee shall not be claimed as full-time, simply because he/she only works on a DYCD contract.

The PERS must reflect the correct employment status of each employee as defined above.

2. New York State's minimum wage will increase in a series of three annual changes as follows:

Effective Dates	Hourly Rate
December 31, 2016	\$11.00 per hour
December 31, 2017	\$13.00 per hour
December 31, 2018	\$15.00 per hour

3. DYCD has developed titles appropriate for the provision of contracted services. No other titles may be used on DYCD budgets. There is a list of approved titles and the respective title codes on DYCD's website.
4. The New York City Fiscal Year runs from July 1 through June 30.
5. If the contract period overlaps fiscal years, multiple budgets must be prepared. Each budget must reflect the number of months worked in the specific fiscal year to which the budget applies. For example, a 16-month contract starting May 1, 2017 and ending August 31, 2018 would have three budgets (one covering FY 2017 for 2 months, one covering FY2018 for 12 months and one covering FY 2019 for 2 months.)
6. An Annual Salary is the amount earned in a consecutive twelve month period, whether or not that is the contract term.
7. Some employees work on multiple programs. Estimate the percent of time devoted to each program and allocate only the appropriate amount to each contract. The total of all estimates (including programs not funded by DYCD) cannot exceed 100%.

Fringe Benefits

The maximum rate allowed for fringe benefits is 35%. The rate includes all benefits under the Fringe Benefits category. Fringe Benefits may include FICA, MTA Tax, Unemployment Insurance, Workers Compensation, Disability, Life Insurance, Pension, and Medical Benefits. Effective fiscal year 2017, the minimum Fringe Benefit rate of 7.99% for FICA and MTA tax is required for all contracts.

If a Provider utilizes the service of the Fiscal Agent the minimum allocation for fringe is 12.99%. This represents 7.65% for FICA, .34% for MTA Tax plus a 5% estimated Unemployment Insurance rate.

New York City's Central Insurance Program

Providers have the option of buying into New York City's Central Insurance Program (CIP). The package offered under this program includes General Liability Insurance, Workers Compensation, and Disability Insurance. This insurance does not cover incidents of child or sexual abuse.

The cost of the CIP Insurance Package is 4.5% of the contract's total budget. CIP cannot be purchased for a portion of the contract term. Entering into the Central Insurance Program covers the provider for the full contract year.

Providers That Provide Their Own Insurance

Providers that choose not to buy into the CIP Insurance Program must provide DYCD with an original Certificate of General Liability Insurance, as well as any renewal certificates required during the contract term. Providers are required to have General Liability Insurance in the sum of not less than one million dollars (\$1,000,000) per occurrence to protect Providers themselves and the City of New York and its officials and employees against claims, losses, damages, etc. Required certificates not presented in a timely manner may result in provider being placed on check hold. Non-compliance will also be reflected in the final VENDEX evaluation of the contract. The policy must include theft insurance to guard against loss of equipment as a result of a break-in or robbery. Each Provider must be covered for loss due to burglaries, vandalism, fire or floods that affect equipment or furniture that is leased or purchased with DYCD funds. If such equipment is lost or stolen, the Provider must obtain a police report detailing the nature of the incident as well as submit a claim to the insurance carrier. In addition, the Provider must submit an official report to DYCD. The Provider must replace lost or stolen DYCD equipment with funds obtained from settlement of the claim. The Risk Management Unit must receive written notification within fifteen (15) days if the policy is cancelled during the contract term.

Insurance Requirements as of FY2017 (01/05/17)

****CBOs are referred to as Providers in this manual***

The New York City Comptroller's Office now requires that the Certificates of General Liability Insurance have the National Association of Insurance Commissioner (NAIC #) included on the right of the page next to the insurer A box.

The City Law Department requires DYCD to ensure that all of the Certificates of General Liability for our contracted CBOs* contain the following statement in the box labeled "Description of Operations/Locations/Vehicles":

"The City of New York, including its officials and employees, is included as Additional Insured."

Furthermore, Programs located in Department of Education (DOE) or New York City Housing Authority (NYCHA) facilities must carry insurance that covers and names the City of New York and DOE or NYCHA, as the case may be, as Additional Insured. The Certificate for such a program must contain the following statement in the box labeled "Description of Operations/Locations/Vehicles":

"The City of New York, and the Department of Education of the City School District of the City of New York [or New York City Housing Authority], including their officials and employees, are included as an Additional Insured."

Additionally, each certificate of insurance must be accompanied by a copy of the endorsement that is used for the Provider's policy. If the endorsement contains a box titled "Location(s) Of Covered Operations," it must list the location where services are being provided.

If services are provided in multiple locations, under "Location(s) Of Covered Operations," the Provider must include the following language: "All locations of operations that are listed in the contract(s)" in lieu of having to list each location where services are provided.

DYCD no longer requires that the Certificate of General Liability Insurance and the Endorsement be sent directly from an insurance broker. Providers are able to email these proofs of insurance documents directly to DYCDInsurance@dycd.nyc.gov for review.

All other mandatory insurance policies must be made available for inspection by DYCD staff, CPA Auditors, or other authorized agents.

DYCD retains the right to enroll a non-compliant Provider in CIP and to withhold 4.5% of the contract.

Employer's FICA and MTA Tax are budgeted at 7.99% of total salaries. The maximum of wages taxed for the Social Security portion of FICA can be found at www.ssa.gov. Please note that these rates and dollar amounts are determined by the Federal government, and are subject to change.

The Metropolitan Commuter Transportation Mobility Tax is imposed on certain employers and self-employed individuals engaging in business within the Metropolitan Commuter Transportation District (MCTD). The MCTD consists of the five boroughs of New York City.

Employers:

- o This tax applies to you if you are required to withhold New York State income tax from wages and your payroll expense exceeds \$312,500 in any calendar quarter.
- o Tax rate: 0.34% (.0034) of your payroll expense for employees employed within the MCTD and allocated to your DYCD contract.

Please check the following link for a rate that applies to your organization:

<https://www.tax.ny.gov/forms/mctdwt/emp.htm>

State Unemployment Insurance (SUI). For calendar year 2018, SUI is budgeted at the Providers insurance rate for up to and including the first \$11,100 of an employee's salary. As a result of changes in NYS law, the wage bases will be adjusted annually on January 1. The wage base is the amount of an employee's wages used to calculate an employer's Unemployment Insurance contributions. The table below lists the wage bases for 2017-2026.

Please note: Terminated staff as well as new staff hired within the same calendar year must be covered by SUI.

January 2017	\$10,900	January 2024	\$12,500
January 2018	\$11,100	January 2025	\$12,800
January 2019	\$11,400	January 2026	\$13,000
January 2020	\$11,600		
January 2021	\$11,800		
January 2022	\$12,000		
January 2023	\$12,300		

After 2026, the wage base will be adjusted on the first day of January each year to 16 percent of the state's average annual wage.

Medical Benefits, Life Insurance, Pension, Workers Compensation, and Disability costs are to be calculated based upon the Provider's policies.

Administrative Practices Related to Personnel Services

Salary increases will be at the discretion of the Provider, provided they are within the scope of services and are pre-approved by the Program Operations Unit.

Time sheets for all full-time and part-time employees must be dated and signed by the employee and the employee's supervisor, and are subject to review by DYCD and its designees.

The Executive Director's time sheet must be signed by a member of the Board of Directors. The required director's signature may NOT be replaced by the signature of another member of management (e.g. comptroller or accountant).

Non-Staff Expenditures

Non-Staff Expenditures refers to the following categories: Consultants, Subcontractors, Stipend, Vendors and Fiscal Conduit.

Consultants

Consultants are individuals, with specific skills, retained to perform limited programmatic tasks or to complete program related projects on a temporary and/or limited basis, where the tasks or

projects cannot be accomplished by the Provider's staff. The services provided by the Consultant must be related to the program work scope described in the contract. All consultants paid by the DYCD contract are required to be an approved item within the budget under line 2100, pursuant to a consultant agreement (see below). Providers must receive the consent of DYCD to use a consultant, approval of which would be part of the regular budget approval process.

Consultants cannot be salaried employees of the contractor. Consultants are self-employed individuals who maintain their own service and financial records.

For each consultant listed, attach a signed, notarized Consultant Agreement and a resume. (If extra space is required to list the Consultants, please use the tab "Additional Info Page 3" of the Budget Spreadsheet.)

Consultants retained by a Provider must enter into a written agreement, detailing the specific tasks to be performed. Consultants will be allowed by DYCD only for those services that cannot be performed by Provider staff. If a consultant's services are required for an extended period, such an individual must be hired as an employee. Consultant Agreements and invoices must be maintained by the Provider for at least six (6) years. Consultant invoices must include the following details: rate, hours, type of services, date of service, consultant signature, and approval by the Provider's Executive Director or his/her designee. Consultant services are exempt from bidding requirements.

Subcontractors

Subcontractors

Subcontractors are independent entities retained to perform specific programmatic services. A Subcontract Agreement will be governed by the terms of the DYCD contract. The maximum percentage of subcontracting allowed is determined by the respective contract or program area contract based on the RFP.

Subcontractor with an annual budget of over \$100,000 will be required to complete the VENDEX (Vendor and Principal Questionnaires) and provide other information about the entity.

Subcontractors are to be listed in the Subcontractor section of the budget. For each Subcontractor listed attach a signed, notarized Subcontract Agreement with the subcontractor's EIN # and a listing of their Board of Directors. A prime Contractor shall not enter into any subcontract for the performance of its obligations without prior written approval from DYCD.



All subcontract agreements submitted for approval must be accompanied with the City of New York Subcontractor Approval Form. Upon approval, DYCD will forward a copy of the approval form to the prime contractor for their records and will also approve the subcontractor in the Payee Information Portal (PIP) system. For more information please visit the PIP system at www.nyc.gov/pip

The prime Contractor will be required to utilize the City's web based system, PIP, to identify all subcontractors in order to obtain subcontractor approval pursuant to PPB Rule section 4-13, and will also be required to enter all subcontractor payment information and other related information in such system during the contract term. Failure of the prime Contractor to list a subcontractor and/or to report subcontractor payments in a timely fashion may result in the Agency declaring the prime contractor in default of the contract and may subject the prime contractor to liquidated damages in the amount of \$100 per day for each day that the prime contractor fails to identify a subcontractor along with the required information about the subcontractor and/or fails to report payments to a subcontractor.

Client Stipend

Stipends are only allowed for the benefit of participants (clients) or volunteers of the program. Stipends may be included as a part of a training program, to assist a client in acquiring the skills necessary to obtain employment and to subsequently retain employment. A stipend is a nominal allowance and may be paid according to hourly, daily or weekly rates. A stipend may not be used to displace an employee or position, including partial displacement such as a reduction in hours and wages, to avoid hiring salaried workers, or to perform services that would otherwise be performed by an employee, including an employee who recently resigned or was discharged, an employee who is subject to reduction in workforce, or an employee who is on leave. Stipends may not be used to pay for service being received by the provider or to avoid payment of FICA, Unemployment Insurance, or Worker's Compensation Insurance. Additionally, any specific guidelines set forth by the respective DYCD Program area, must be followed. All stipends must be pre-approved by DYCD.

In some cases, it may be appropriate to provide *participant incentives*, other than stipends. Incentive Payments are non-monetary items (such as gift cards, metrocards) allowed only for the benefit of participants (clients) or volunteers of the program. All such expenses must be properly supported with documents, such as invoices, that validate the expenses and with signed receipts indicating beneficiaries and time period. Depending on the guidelines set forth by the respective DYCD Program area, additional supporting documents may also be required which may include but not limited to, the Provider's incentive plan and a participant award letter. All supporting documents are subject to audit.

Vendors

Vendors are entities or individuals retained to provide services to the Provider and who do not provide direct program services; examples of services provided by vendors are cleaning, security, accounting, etc. Vendor Agreements must be maintained on file at the Provider for a minimum of six (6) years. Providers must follow the purchasing procedures outlined in the Fiscal Manual for the procurement of services from vendors (Section 4).

Fiscal Conduit (FOR DISCRETIONARY AWARDS)

Fiscal Conduits are DYCD contractors acting as financial intermediaries to specific sub-contractor. Each sub-contractor must be listed and have a notarized Subcontract Agreement.

OTHER THAN PERSONNEL SERVICES (OTPS) – refers to programmatic expenses other than Salaries, Fringe Benefits or Non-Staff Services. The following is a description of the OTPS categories:

Consumable Supplies

Consumable supplies are supplies that do not last or are not permanent in nature. Consumable supplies include office and maintenance supplies, such as pens, stationery, chalk, erasers, towels, cleaning supplies, and books.

Equipment Purchases

Equipment purchases are supplies that are durable or permanent in nature, such as furniture, printers, fax machines, televisions, cameras, and computers, etc. All equipment purchased with DYCD funds must be listed on the budget.

All equipment and/or furniture purchased with DYCD funds is the property of the New York City Department of Youth and Community Development, and must be tagged "Property of DYCD." At the end of the contract, all non-depreciated equipment that still has a useful life and was purchased with DYCD funds must be returned if requested by DYCD. Contact the assigned Contract Manager regarding continued use or other disposition of equipment. DYCD will consider requests for continued use or other recommended disposition of such equipment, upon termination or non-renewal of a contract. Contact the assigned Contract Manager regarding continued use or other disposition of equipment.

Equipment purchase must be listed with an item description, equipment cost, DYCD cost, model number, manufacturer and serial number for equipment \$500 or more. Purchases under \$500 will require an item description, Equipment Cost and DYCD cost only. All equipment purchased shall be itemized in the equipment inventory list page available on the PERS.

Equipment-Other

Costs associated with equipment include rental, lease, licensing fees, computer software, repair and maintenance of office/programmatic equipment used in the performance of the Provider's operation. Maintenance service contracts and payments for equipment repair and maintenance may also be reflected in this category. (Equipment or furniture leased with an option to buy may also become the property of DYCD at the end of the contract.)

Space Cost

Space costs are those costs associated with paying for the space necessary for program operation. Space Cost is separated into two subcategories:

Public School

Opening fees and room rentals paid to the Department of Education for school rental costs. A Provider must complete a Space Cost Allocation Plan and provide the DOE permit.

Space Cost/Other

All rent, mortgage and other expenses associated with the use of a facility. Along with the budget, the Provider will be required to submit a copy of its mortgage, lease, or month-to-month rental

agreement. In addition, the Provider must submit a completed Space Cost Allocation Form. (Available on the DYCD website) The Agreement will reflect DYCD's allocated portion of the rental or mortgage charges. No renovation or construction projects may be paid for with DYCD's program funds. However, some repairs may be allowed, subject to prior written approval by DYCD.

Travel Costs

Travel costs refer to costs for local travel by the employees and, in some instances, participants of the Provider, to conduct official business related to the DYCD contract. Travel may be by public transportation, by a Provider's vehicle, or personal automobiles used for provider business. Costs for the use of a personal automobile will be reimbursed at the maximum rate provided on the IRS website [IRS Standard Mileage Rate](#). A mileage log must be maintained for both personal and business-owned vehicles used to conduct business related to the funded program.

All participant-related travel expenses, e.g., bus trips and local travel, is to be budgeted under this category. Bus companies must be insured.

Providers must charge expenses for business-owned vehicles such as car maintenance, gasoline, tolls and automobile insurance to this category. Provider-owned vehicles used for DYCD purposes must be co-insured with the City of New York as named beneficiary.

Tickets for traffic violations may not be paid for with program funds.

Utilities and Telephone

Utility, telephone, internet and cable service costs related to the DYCD program are allowable for reimbursement. This includes bundled packages of internet, telephone, and/or cable. Costs must be pro-rated over the operating period.

Other Operating Costs

Expenses which do not fall into any of the categories described above are referred to as Other Operating Costs. These expenses are further separated into two subcategories: Operating Costs and Indirect Costs.

Operating Costs

Costs such as printing, postage, admissions, publications, bank charges, subscription costs, and wiring associated with computer set up are considered operating costs. This category also includes the cost of general liability insurance for Providers not participating in the Central Insurance Program. Participant costs such as refreshments, entrance fees, awards, T-shirts, uniforms, sporting and recreational supplies are included in this category.

Trips

Expenditures must be incurred during the operating period in which goods and services are received or delivered. Tickets purchased for trips must be used for the participants under the program of that budgeted period. The Provider will not be reimbursed for tickets purchased in one contract year but used for participants of the subsequent contract year.

Audit Fees

DYCD will reimburse Providers for a portion of their audit fees. If the provider receives funding from other sources besides DYCD, the provider may only include DYCD's proportionate share. The proportionate share must be calculated by dividing the total DYCD budget by the Provider's total budget and applying that percentage to the total Audit Cost. Audit fees are to be budgeted and expensed in the contract year in which the audit is performed. For example, an audit for contract year 2010 must be budgeted for in contract year 2011. Providers that are including audit costs in their budget must submit an Audit Cost Allocation Plan with the budget.

Vehicle Maintenance

If the Provider has been assigned a city-owned van, DYCD will provide maintenance through the Department of Citywide Administrative Services. A total of \$2,000 will automatically be deducted annually from the contract for Van Maintenance. This cost is centrally administered and is not reimbursable.

Fiscal Agent Services

DYCD has contracted with a firm to provide fiscal agent services to DYCD funded contractors. All Providers have the option of purchasing the services of the Fiscal Agent who will:

- Establish financial records
- Maintain and report on available provider budget balance
- Verify invoices
- Provide payroll services and personnel reporting
- Ensure the timely filing and payment of employment-related taxes
- Ensure that Accounts Payable and Ledger system and activities are in accordance with generally accepted accounting practices and procedures
- File Federal Tax Form 941 and 941B
- Prepare W2s, W3s, and 1099s

Fiscal Agent Fees

Fiscal Agent Services fees must be allocated in the Fiscal Agent Service category. Separate fees must be allocated for each individual budget. Effective 7/1/18 the Fiscal agent fee has changed, see below.

Contract Dollar Value	Fiscal Agent Service Fees
\$2,500 - \$25,000	\$420
\$25,001 and over	3% (of each budget)

Note:

For Providers who only have standalone Discretionary contracts under \$25,000, there is no fee. A Provider that chooses to be placed under, or is mandated to use, the services of the Fiscal Agent must have all of its non WIOA DYCD contracts administered by the Fiscal Agent. The Fiscal Agent fees are centrally administered costs and are not reimbursable. Those Providers that are mandated for Fiscal Agent services will receive written notification from DYCD.

Indirect Costs

DYCD reimburses Providers for all contractual costs based on an expense line-item on the submitted invoice (this applies to both direct and indirect costs). While the Indirect Cost calculation is based on the percentage identified by the Provider for that contract, we reimburse Providers based on a monthly expense report submission where Providers would specify the amount under all items including the Indirect Cost line-item. A Provider may only claim the pro-rated monthly average for indirect cost (i.e., if a provider has an approved 12-month indirect allocation of \$12,000, the monthly claim should not exceed \$1,000 (1/12th). Front loading of indirect costs is not allowed.

The Indirect Rate category is used to capture overhead costs incurred by a Provider that operates several programs and has administrative costs that cannot be identified as a direct cost to a specific program. Providers with multiple programs where some administrative costs are shared may incur indirect costs.

Effective for all FY18 contracts and going forward, DYCD will be increasing the reimbursable provider Indirect Rate from 10% to 12%.

The maximum Indirect Cost rate allowed by DYCD is 12% of the total budget amount; except for those contracts utilizing federal funds subject to the federal Uniform Guidance at 2 CFR Part 200 (see below). All Indirect Cost over 10% requires documentation certifying the indirect cost rate.

Please see below for what is required for Federally-funded contracts as well as City Tax Levy (CTL) and other non-Federal contracts.

Federal Funded Contracts:

- If Provider has an approved federal indirect cost rate issued by a federal "cognizant agency", DYCD will honor the rate. A copy of the federal approved rate letter must be submitted to DYCD with the budget.
- If Provider has a federal indirect cost rate greater than 10% and is willing to accept a lower rate, the Provider must complete a DYCD decline form acknowledging its willingness to accept a lower rate. See: [10% De Minimis Decline Acknowledgement Form](#).
- If Provider never had a federal indirect cost rate, DYCD will allow up to 10% De Minimis Rate.
- If Provider has an indirect rate higher than 10% but does not have a federal approved rate, an independent CPA letter certifying the provider's indirect cost must be submitted to DYCD with the budget. DYCD will then allow reimbursement of indirect costs up to a

maximum of 12% utilizing CTL funds but in no event greater than an increase of two percent of the indirect costs.

Non-Federal Funded Contracts:

- If Provider does not have an indirect cost rate, DYCD will allow up to a maximum of 10% of indirect cost rate.
- If Provider has an indirect rate higher than 10%, DYCD will allow an increase up to a maximum of 12%. A CPA letter certifying the indirect cost rate must be submitted with the budget to DYCD.

Any of the generally accepted methods of calculating and allocating indirect cost may be used. It is the responsibility of the Provider to maintain documentation to justify the percentage and allocation plan used to arrive at the indirect cost rate. This documentation must be made available upon request.

Notes:

The category "Indirect Rate" cannot be used by Providers administered through the Fiscal Agent since all costs must be itemized.

Uniform Grant Guidance for Federally Funded Grants: Re Indirect Cost



Under the Uniform Grant Guidance, DYCD must honor a Provider's (subrecipient's) federally negotiated rate agreement, or use a 10% Modified Total Direct Cost (MTDC) *de minimis* rate if a Provider does not have one.

If the Provider never received a federally negotiated indirect cost rate, the Provider can elect to charge a *de minimis* rate of 10% of MTDC. A *de minimis* rate of 10% of MTDC is an automatic rate without any review of actual costs. This means that DYCD will honor your request for a 10% *de minimis* rate without requiring documentation of actual costs.

The federal definition of Modified Total Direct Cost (MTDC) includes:

- a. Direct salaries and wages
- b. Applicable fringe benefits
- c. Materials and supplies
- d. Services
- e. Travel
- f. Up to the first \$25,000 of each subcontract

MTDC excludes:

- Equipment that costs at least \$5,000
- Capital expenditures
- Charges for patient care
- Rental costs for off-site facilities
- Tuition remission, scholarships and fellowships.

To simplify the MTDC calculation, follow this process:

From the total contract budget amount:

- Deduct the dollar amount for any planned equipment purchase for an item(s) costing greater than \$5,000;
- Deduct the excess dollar amount of any subcontract valued at over \$25,000 – for example, deduct \$5,000 from a \$30,000 subcontract;
- Add these two amounts and then subtract the result from the total contract budget amount, this gives you the Modified Total Direct Cost (MTDC) base;
- Multiply the MTDC base by 10% to calculate the Indirect Cost amount for the DYCD federally funded contract.

Example:

If a Provider has a federally funded DYCD contract with a budget of \$100,000 and plans to buy a \$6,000 Supercomputer and to subcontract out \$29,000 worth of services, calculate the Modified Total Direct Cost (MTDC) by subtracting \$6,000 (equipment cost) and \$4,000 (excess over \$25,000) from the \$100,000 contract budget amount. This would result in \$100,000 minus \$10,000, resulting in **\$90,000** as the MTDC. Now calculate 10% of the MTDC (\$90,000) which in this case equals \$9,000. Enter \$9,000 in the Indirect Cost category.

Initial Scenario

Total DYCD CDBG contract	\$100,000
Supercomputer purchase	\$6,000
Subcontract out for services	\$29,000

How to Calculate MTDC

Total DYCD CDBG contract	\$100,000
Subtract \$6,000 for equipment	6,000
Subtract \$4,000 (excess over 25,000)	4,000
MTDC	\$90,000
Calculate 10% of MTDC	10%
Amount to be entered in Indirect Cost category	\$9,000

If, instead, there are no planned equipment purchases and no planned subcontracting, the MTDC would be \$100,000 and the Indirect Costs would be \$10,000.

In summary, you may budget 10% of your Modified Total Direct Costs, as described above, of your federally funded contract amount in the Indirect Cost category without having to provide DYCD with any documents or justification. However, please be aware that adherence to the MTDC guidelines are subject to audit.

If the Provider elects a rate lower than 10%, DYCD requires written acknowledgment that the Provider is declining the 10% de minimis rate and confirmation of the rate it will be claiming on the budget.

Note: The 10% De Minimis Decline Acknowledgement Form is available for download on the DYCD website under Budget Review & Risk Management and appears in the next page.

10% DE MINIMIS DECLINE ACKNOWLEDGEMENT FORM

I hereby confirm that (name of the Provider) _____ does not have an approved federally recognized indirect cost rate applicable for the period of [Insert budget period] _____ and understand that if no rate exists, that a de minimis indirect cost rate as defined in §200.414 of the Uniform Guidance in the amount of ten percent (10%) is available.

(Name of Provider) _____ voluntarily declines the ten percent (10%) de minimis indirect cost rate and confirms _____ % percentage as the rate to be claimed in the budgets for the following contracts (please list all contracts) that are applicable for the following budget period(s):

Program Area	Contract #

SECTION TWO

BUDGET MODIFICATIONS

BUDGET MODIFICATION POLICIES AND PROCEDURES OVERVIEW

A Budget Modification does not increase or decrease a contract award amount; it serves to reallocate money between line items of an already approved budget. Changes to the approved and registered budget may be submitted only as they relate directly to the accomplishment of services required in the contract. Providers must submit all modifications (both programmatic and budgetary) to the assigned DYCD Contract Manager in Program Operations. Budget modifications must not be implemented prior to approval by CAFD.

Forms to request a contract modification can be accessed through the DYCD website: <http://www1.nyc.gov/site/dycd/involved/funding-and-support/cbo-budget-review-risk-management.page>.

The number of budget modifications allowed is based on the term of the contract. Providers must plan their programs and budgets carefully, since there is a limit on the number of allowable budget modifications. The number of modifications accepted is based on the contract term, as follows:

Contract Term	Number of Budget Modifications Allowed
3 months or less	1 Modification
4 to 8 months	2 Modifications
9 to 12 months	3 Modifications

Requests are to be submitted to the assigned Contract Manager at least two weeks prior to their proposed effective date. No budget or programmatic changes may be made without prior written approval from DYCD.

Please note: The last day for budget modifications to be submitted is April 30 of the Fiscal Year. Providers with contracts that were registered after mid-March of the fiscal year are exempt from the above deadline.

Questions: regarding the budget modification process must be directed to your DYCD Contract Manager.

SECTION THREE

**INTERNAL CONTROLS
AND
GENERAL ACCOUNTING
PROCEDURES**

INTERNAL CONTROLS

The Providers' executive and management staff are responsible for establishing and maintaining an internal control structure. Internal controls will vary from one Provider to the next, depending on such factors as their size, nature of operations and objectives. However, the need for internal controls remains the same; a Provider should find the most efficient and effective way of implementing its needed internal control procedures.

DYCD expects all funded Providers to be in compliance with the new requirements of the New York Not-for-Profit Corporation Law, as mandated by the Non-Profit Revitalization Act signed into law in New York in 2013 and subsequent amendments passed in 2016. In particular (and without limitation), DYCD expects all funded not for profit Providers to maintain and follow a conflict of interest policy, and, if it is a Provider with 20 or more employees and annual revenue in excess of \$1,000,000, a whistleblower policy. Please note that compliance with the requirements of the Nonprofit Revitalization Act are subject to verification by DYCD staff and/or DYCD's contracted audit firms. There are many publicly available resources to help Providers understand the new governance requirements of New York law (which go beyond the points highlighted here); DYCD can suggest possible resources, if necessary.

The following are examples of internal control activities:

8. **Segregation of Duties:** Duties and responsibilities must be divided among different staff members to reduce the risk of error or fraud. In large Providers there are often different staff members responsible for procurement and for payment.
9. **Proper Execution of Transactions and Events:** Transactions and significant events must be authorized only by persons acting within the scope of their authority.
10. **Documentation of Transactions:** All transactions need to be clearly documented, and all documents must be readily available for inspection.
11. **Secure Physical and Financial Assets:** A Provider must safeguard its assets, including cash and equipment. Periodic inventory checks will help prevent loss or unauthorized use of the Provider's assets.

Retention of Accounting Records

In accordance with City contract requirements, Providers must retain all contract related financial records, including auditors' reports, for six (6) years after the final invoice of the contract is paid, and is subject to audit/or investigation for such an additional period.

Bookkeeping Practices and Procedures

Providers must maintain separate accounting records for funds received through each contract with DYCD. Accounting records must be established and maintained in accordance with Generally Accepted Accounting Principles. It is essential that the Provider maintain accurate, complete and permanent books and records, available for inspection by a DYCD staff member or its designee.

DYCD staff and its representatives will conduct both announced and unannounced site visits to Providers during the contract term to ensure that the books and records are being appropriately maintained.

Timesheets

Timesheets must be completed for all full and part-time employees. Each timesheet must be signed and dated by the employee and the employee's supervisor. The Executive Director's timesheet must be reviewed and approved by a member of the Board of Directors.

Electronic timesheets may be maintained if they are certified as accurate by the signature of the Executive Director or a senior level management designee.

Cost Allocation

Cost allocation is the distribution of one cost across multiple funded programs. A cost allocation methodology identifies the type of expenses that are being claimed, and establishes a basis for allocating costs to business units or cost centers based on an appropriate allotment of such cost.

1. Requirement:

Each provider must develop a written cost allocation plan. The plan must include an explanation of its methodology detailing the basis used in allocating cost to its various DYCD programs. Time distribution records must reflect an after-the-fact determination of the actual activity of each employee. Cost allocation is established on the premise that Providers maintain an adequate accounting system and accounting records to document costs and support claims. Allocation methods and distribution of cost must be based on a generally accepted accounting practice prescribed by OMB Super Circular regulatory guidance and in accordance with Generally Accepted Accounting Practice. Refer to Office of Management and Budget for guidance: 2 CFR Chapters I, and Chapter II, Parts 200, 215, 220, 225, and 230 Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards and promptly made available to DYCD or its contracted CPA firms.

2. Approach:

When allocating cost to a particular contract the following must be considered in determining an appropriate base for allocating costs:

- a. Allowable direct costs that apply to only one program must be charged directly to that program or contract and cannot be cost allocated.**
- b. Allowable direct costs that can be identified across multiple programs must be pro-rated using a base most appropriate to the particular cost being pro-rated.**
- c. Allowable indirect costs (cost that benefit all programs and cannot be identified to a specific program) are allocated to programs, grants, etc., using a base that results in an equitable distribution.**
- d. A provider is not allowed to charge more than 100% of a cost across programs.**

3. Documentation:

Regardless of the cost allocation method used, expenses claimed must be supported by documentation of cost distribution showing the ratio of the benefit each program received. Please note that approval of a DYCD budget does not constitute approval of a Provider's cost allocation plan and method used.

A reasonable cost allocation plan must be presented to show the basis used to allocate the amounts incurred in each of the funded programs. The basis applied cannot be based on the

budgeted amount; rather it must be based on the benefit derived by each program from that particular expense, (e.g. time, space, usage, etc.).

4. Audit:

All expenses submitted for reimbursement are subject to an audit to assess whether the expenses are allowable and reasonable based on the cost allocation method used. Unreasonable cost allocations will result in disallowed costs. See Section Eleven for additional details on audit requirements.

Employee Personnel Files:

Employees' personnel files must include all pertinent documents used in the hiring process. The hiring documents must include at the minimum, the following documents:

- Employment Application
- I-9 Employment Eligibility Verification
- Authorized working papers for individual under 18
- Job Description
- W-4 form
- Resume
- Copy of Educational Degree, Diplomas or Certificates
- Background Check
- Personnel Action Form

Resigned Employees:

Employee vacation and sick time accumulated during the course of employment are allowed to be paid to that employee under the DYCD contract upon separation from employment, when such separation occurs during the contract operating period and the Provider has a policy allowing for payment for such time. If the employee's time is cost allocated, it must be charged accordingly.

Vendor Invoices

All invoices maintained as documentation to support a claim must be in its original form, and must display the Provider's name as the recipient of the goods/services. All invoices must be maintained and made available for review, in accordance with Generally Accepted Accounting Principles.

If invoices do not need to be submitted, they must nevertheless be maintained and made available for review, in accordance with the record keeping requirements of the contract.

Bank Accounts

Providers are not required to maintain separate bank accounts for each contract award. Electronic Funds Transfers (EFT) of the contract award can now be made to a single provider bank account. The EFT Enrollment form can be found on DYCD's Help Desk webpage and via:

[EFT Enrollment Form \(Direct Deposit\)](#)

Providers are required to transfer all DYCD funds from the EFT account to the appropriate payroll and general accounts. Bank reconciliation of all accounts must be prepared on a monthly basis, reviewed by upper management, and kept on file for examination by DYCD or its designees.

Signatories

DYCD requires that a Provider have at least two signatures on each check. Every Provider is expected to comply with this policy unless it has received prior written authorization from DYCD stating otherwise.

Cash Flow

The cash flow process is initiated following registration of the contract with the New York City Comptroller's Office. DYCD is unable to release funds until the contract is registered.

Effective 7/1/17 the policy has changed from a two to a three month initial advance. An initial advance equivalent to three months of the Providers approved budget will be issued automatically by the Contract Agency Finance Department upon contract registration. If the contract term is less than six (6) months, the initial advance will be one-half of the budget. Funds are electronically transferred to the accounts of Providers enrolled in the EFT Program.

Disbursements

Disbursements, except those from petty cash funds and payment with the Provider's corporate credit or debit card, must be made by check. Providers must adhere to the following control functions when handling DYCD disbursements

12. The function of approving vouchers, preparing checks and recording disbursements must be handled by different employees.
- Employees handling disbursements should not have duties related to cash receipts or the reconciliation of bank accounts.
 - 1. Vouchers payable should be established for each payment and recorded promptly.
 - Payment should be made only after the original voucher and all copies of pertinent papers have been approved.
 - Invoices should be cancelled or stamped "Paid" in order to prevent duplication of payment.
 - Confirmation receipts for online purchases must be printed out and retained by Providers.
 - A periodic review of vouchers should be made by an authorized person to determine that all processing steps are being followed properly.

If a Provider is unable to comply with the control functions described above, comparable reasonable procedures must be developed to allow for proper accountability and segregation of duties in handling disbursements. A written description of these comparable procedures must be sent to your Contract or Program Manager.

Unclaimed Funds

Unclaimed funds are funds that become available in the Provider's bank account due to returned checks or checks that were never cashed by the intended recipient. Undistributed funds remain the property of DYCD and must be reimbursed to DYCD at the end of the fiscal year. The following steps must be taken to account for DYCD unclaimed funds:

- Providers are required to exhaust all efforts to contact the intended recipient, in a timely manner, within 90 days from the check date.
- After the 90 day period, the provider is required to place a stop payment on those checks and return the funds to DYCD within 10 days.

- **Providers are required to retain all evidence of the steps used to contact the intended recipients.**
- **Providers are not allowed, at any time, to submit DYCD unclaimed funds to New York State Office of Unclaimed Funds.**

SECTION FOUR

PURCHASING PROCEDURES

GENERAL PROCUREMENT POLICIES

Any procurement of goods and/or services is to be conducted in the Provider's name. The Provider is responsible for ordering, receiving, inspecting and accepting merchandise. The name of the Department of Youth and Community Development, its officials, employees, or the City of New York must not be used, under any circumstances, for the purpose of ordering and/or securing goods and services from a vendor. Invoices, bills, receipts, etc., must be issued in the name and address of the Provider or its immediate affiliate. All expenditures must comply with applicable laws and contract regulations, and are subject to audit.

Purchasing Requirements/Competitive Bidding

The procurement of goods shall be governed by the competitive bidding requirements described below. The purpose of competitive bidding requirements is to establish a procedure that will secure the best possible price for goods and services while allowing for appropriate competition. The procurement process must be open and competitive (that is, no vendor qualified to provide the goods or services may be restricted from bidding and there must be fair competition among those bidders). These procedures also apply to the rental or leasing of equipment. A procurement shall not be artificially divided in order to meet the requirements of this section. The monetary thresholds identified below refer to payments made or obligations undertaken in the course of a one (1) year period with respect to any one (1) person or entity.

- For purchases with a value of \$5,000 or less, no competitive bids are required unless federal funds are used. If federal funds are used the threshold is \$3,500 or below for noncompetitive bids, provided the price is reasonable, subject to the limitation below for CSBG funds.

Documentation of the purchase must be maintained by the Provider. This documentation must include the name of the vendor, the item purchased, the date and amount paid.

- Purchases from \$5,001 - 25,000

Contractor shall conduct sufficient market research and/or competition to support its determination that the price of such purchased goods, supplies, services or equipment is reasonable. Documentation of the market research and the purchase must be maintained by the Provider. This documentation must include the name of the entities contacted, the vendor, and the item purchased, the date and amount paid

- Purchases \$25,001 or greater

A minimum of three (3) written bids must be obtained for the purchase of goods, supplies or services of similar items where the cost can reasonably be expected to be \$25,001 or greater. The bids must contain a description of the item requested, the time, date, place and form of requested responses, and the name of the employee responsible for securing bids. The bids must be maintained by the provider.



Sole Source Procurement

Purchases exceeding \$5,000 of non-federal funds where a Provider is purchasing items that are considered to be sole source in nature, do not require bids. Sole source procurements are exceptions to normal purchasing procedures and are permitted only when there is one, and only one, potential bidder or offer for an item or service.

Examples of circumstances that could justify sole source procurements are:

- o Newspaper advertisements
- o Health and Liability Insurances, Workers Compensation
- o Tickets to sporting events or theme parks
- o One-time performances by artists for participants
- o Utilities (gas, electricity, telephone)

Note: The selection of Consultants and Subcontractors are not subject to the bidding process, but must demonstrate a prudent and reasonable degree of care.

Proof of Delivery Date:

DYCD may require proof of delivery date for goods purchased between June 20th and the 30th.

Inventory

Providers must maintain an inventory of all furniture and equipment purchased with DYCD funds. An inventory control decal must be placed on the equipment indicating that it is the property of New York City.

A physical inventory is required every year, and inventory records must include the date of the last physical inventory review.

Relinquishment or Disposal of Furniture and Equipment

All furniture and equipment purchased with DYCD funds remain the property of the City of New York and must be returned at the end of the contract. Providers must contact their DYCD Contract Manager to arrange for disposition of equipment.

If it is determined that the equipment bought with DYCD funds is fully depreciated and has no further useful value, please notify Contract Agency Finance, in writing, with a list of the equipment, serial number(s), model number(s) and purchase date. Providers will receive written notification with specific instructions regarding the disposal of equipment.

Inventory lists must include the method and reasons for disposition and the value of disposed equipment. In cases of loss or theft, property lists must include all pertinent information to support the claim. If appropriate, copies of police reports must be attached.

SECTION FIVE

CREDIT/DEBIT CARDS POLICIES AND PROCEDURES

Policies and Procedures for Use of Credit/Debit Cards

Credit cards must be established in the name of the Provider and solely for the use of carrying on the operation of the Provider. Written policies and procedures are necessary to establish an internal control structure for credit/debit card use. A Provider's Board of Directors must first determine whether to approve use of credit or debit cards; once the Provider's Board has approved the use of credit/debit cards, the Board must adopt a comprehensive credit/debit card policy that, at a minimum:

- A. Identifies all authorized users**
- B. Sets appropriate credit limits**
- C. Establishes custody of the cards when not in use**
- D. Requires proper documentation for all transactions**
- E. Establishes a means to recoup any unauthorized expenditures**
- F. Specifies that the safeguard of, and charges appearing on, each card, are the responsibility of the cardholder**
- G. Prohibits purchases that are personal in nature**
- H. Prohibits use of cards to split orders or otherwise circumvent bidding thresholds**
- I. Limits the use of staff and/or volunteer personal credit cards for Provider-related purchases to emergency situations (with emergencies to be defined) where standard procurement methods are unfeasible. Such expenditures, moreover, should be consistent with the Provider's purchasing policies and procedures**
- J. Sets limits on the amount that can be purchased in any individual transaction; and requires preapproval for purchases over that limit**
- K. Limits cash withdrawals/advances to emergency situations (with emergencies to be defined), and requires such withdrawals to be governed by the following rules:**
 - a. Amount may not exceed \$200 per ATM withdrawal.**
 - b. The Provider's Executive Director or a designee must authorize cash withdrawals. If the Provider's Executive Director is the individual making such cash withdrawals, the Provider's Executive Director must receive authorization from the Provider Board Chairperson.**
 - c. When a payment is made with cash from an ATM withdrawal a receipt from the transaction is filed and maintained in an ATM transaction and cash box (this must be a box kept separate and apart from the petty cash box).**
 - d. Any cash withdrawn from a credit/debit account that is not utilized in a purchase should be deposited in the ATM transaction and cash box or re-deposited in the agency credit/debit account.**
 - e. Each expense emanating from an ATM withdrawal should be recorded in the Provider's general ledger to its corresponding expense account, with an offsetting entry to the credit account associated with the credit/debit**

card. A monthly reconciliation of the ATM transaction box and the credit/debit general ledger account must be performed.

- f. The Provider is not allowed to commingle DYCD funds from cash balances related to ATM withdrawals with Non-DYCD funding streams. Separate general ledger accounts must be established to account for DYCD cash balances related to ATM withdrawals.

The CFO or Comptroller must ensure that a proper review of claims is performed prior to the payment of each credit card statement. This includes requiring that itemized receipts or other similar documents signed by the individual making the purchase adequately support all charges on the statements. In the case of debit card usage, bank statements must be regularly and timely reviewed and checked against supporting documentation.

SECTION SIX

PETTY CASH POLICY

A. Petty Cash Fund Use Establishment

To facilitate the payment of certain minimal charges that cannot be handled by check, Providers may establish a Petty Cash Fund for up to \$1,000.00. It is important to remember that items purchased with Petty Cash Funds are subject to the same regulations and accounting practices as expenses paid by check.

The Petty Cash Fund must be maintained in a secure place to safeguard against loss from unauthorized use or disposition. In the event of loss due to theft or fire, the Provider will NOT be reimbursed for loss of the Petty Cash Fund.

B. Petty Cash Fund Use

A Petty Cash Fund shall be governed by the following rules:

- A Petty Cash Expense may not exceed \$200 dollars per total purchase.
- The Provider Executive Director or a designee must authorize petty cash expenses.
- When a cash payment is made from the Petty Cash Fund, a Petty Cash Voucher (on DYCD's website) together with receipt is placed in the petty cash box.
- Therefore, the total of cash remaining in the box plus the total amount of vouchers therein must equal the petty cash fund amount.
- Each voucher must be supported with a receipt or invoice which shows the date of purchase, item purchased, the cost, and who made the purchase. Attach each receipt to its proper invoice.
- Each expense from the petty cash voucher must be journaled in the Provider's general ledger to the appropriate expense account with an offsetting entry to the petty cash account.
- Periodically, when the amount of cash remaining in the box requires replenishment, a check is drawn for the amount of all vouchers in the box. Cash from the check is placed in the petty cash box to replenish the Petty Cash Fund to its full amount. The reimbursement check amount is to be credited to the applicable operating cash account with an offsetting debit to the petty cash general ledger account. A separate Petty Cash Voucher Form must be used for the replenishment of the Petty Cash Fund.
- A monthly reconciliation of Petty Cash funds with the petty cash general ledger account must be performed.
- The Provider is not allowed to commingle DYCD funds used for petty cash. A separate general ledger account must be established to account for DYCD petty cash.

Examples of reimbursable expenses for which use of petty cash may be appropriate:

- Local travel by public transportation
- Programmatic supplies
- Postage (The purchase of one hundred stamps will be allowed through petty cash.)

Examples of non-reimbursable expenses are:

- Personal expenses
- Alcoholic beverages for a staff party

SECTION SEVEN

GENERATED INCOME

OVERVIEW OF GENERATED INCOME

Income derived by a Provider as a result of resources paid for by the Department of Youth and Community Development is considered Generated Income. Providers engaged in such income generating activities must maintain a monthly report of those activities. These reports must be made available to DYCD for review upon request.

Providers with income generating activities must adhere to the following bookkeeping standards:

- i. A separate bank account must be established;
- ii. All bank documents, such as deposit slips, reconciliations, statements, canceled checks;
- iii. Signature cards must be properly maintained on file;
- iv. A separate cash receipts journal must be established to record cash receipts generated;
- v. A separate cash disbursement journal must be maintained to record cash expenditures (the cash disbursement journal must be established in a form that reflects the nature of the expense);
- vi. Supporting documentation for each disbursement recorded in the cash disbursement journal must be properly maintained on file;
- vii. If appropriate, a general ledger must be maintained in order to summarize monthly transactions;
- viii. A monthly trial balance must be taken; and
- ix. All financial and accounting records relating to income-generating activities must be available for examination and audit by DYCD or its designees upon request.

Grants that a Provider receives from other government sources or foundations are not considered generated income.

SECTION EIGHT

PROGRAM EXPENSE REPORT SUMMARY (PERS)

PROGRAM EXPENSE REPORT SUMMARY (PERS) OVERVIEW¹

DYCD uses a document called the "Program Expense Report Summary (PERS)" to reimburse Providers for program expenditures. A Fiscal Analyst analyzes the information listed on the PERS to determine whether the expenses submitted are appropriate for its contracted services and comply with the approved budget. From this analysis, DYCD determines the reimbursement amount.

DYCD PERS must be prepared on a cash basis. Expenses must be reported on the PERS for the month in which the check was issued or, in the case of credit or debit cards, the month in which the payment was made. For example, a PERS submitted for the month of October must reflect checks issued in October.

There are circumstances where checks are allowed outside the PERS submission period. During the year end close out, a Provider may have a payroll service period or an invoice service period that crosses Fiscal Years. The prorated portion of that check must be charged to the appropriate Fiscal Year (or budget operating period if the budget ends prior to June 30, 2018). An example of this would be a payroll issued 07/13/18 with a payroll service period of 06/25/18 through 07/06/18. Only June 25 through June 30th may be reflected on the June-Final Invoice. The remainder of the payroll would be reflected on the July PERS.

The PERS submission is required once the contract has been registered.

Annual Contracts of \$50,000 or greater

A monthly PERS is required for contracts with annual budgets of \$50,000 or greater. Providers must submit their PERS listing the expenditures made during the month by the 10th day of the following month. PERS received after the 15th of the following month are considered late and may result in a negative contract performance rating.

Annual Contracts \$10,001 - \$50,000

Contracts in this range have the option of submitting PERS monthly or quarterly. Quarterly reports are due as follows:

July-September	Submission Date	October 10
October-December	Submission Date	January 10
January-March	Submission Date	April 10
April-June	Submission Date	July 10
Final PERS	Submission Date due	August 31

Annual Contracts of \$10,000 or less

A Provider with a contract of \$10,000 or less has the option of submitting PERS monthly, quarterly or one PERS for the full amount.

¹ WIOA CONTRACTS DO NOT USE THE PERS FORM.

Payment Information Tracking

Providers have two tracking methods to trace all payments against their DYCD contracts. Both methods require on line registration. Registration for both can be arranged through the DYCD website: www.nyc.gov/dycd

DYCD offers consolidated Expense and Payment History Reports to all Providers for all contracts. They are generated and emailed the third week of every month. (This service is not available for contracts under the Fiscal Agent.)

The City of New York offers the Payee Information Portal (PIP) that allows Providers to track all payments made through Department of Finance by any NYC Agency. It also allows a Provider to perform vendor maintenance on their records (address, telephone updates, etc.). The PIP website address is: <https://a127-pip.nyc.gov>.

Reimbursement of PERS

Reimbursement for a properly prepared PERS must be received within 20-25 days of submission to DYCD.

Blank PERS

The latest PERS form and instructions are available via email at PERS@dycd.nyc.gov. Do not correspond with this email address. It is an automatic reply and unmonitored inbox. The form and instructions are also available on DYCD's website.

A PERS must be submitted with two original signatures. Providers may develop their own PERS as long as it mirrors DYCD's PERS format. If the required fields are not on the Provider-created PERS, the Fiscal Analyst may reject the PERS and require resubmission in the correct format.

Overview of the PERS Processing by DYCD

The Fiscal Analyst reviews the PERS to determine whether expenses are appropriate, are within the scope of the contract, and are in compliance with DYCD's policy and procedures. If the PERS do not meet these requirements, the expenses are not eligible for reimbursement and are "*disallowed*."

If expenses are disallowed, a Status Report letter is sent to the Provider notifying them of the disallowance(s) and the reason. When the discrepancy has been corrected, Providers may resubmit the expense on the next upcoming PERS.

PERS with substantial errors or omissions will be rejected by the Fiscal Analyst and returned to the Provider for correction.

A payment voucher is processed, once DYCD approves the submitted PERS. It can take approximately 5-7 business days for an Electronic Funds Transfer (EFT) or check to be issued once the payment voucher is processed.

An initial advance is issued when a contract is registered. Generally, advances will be recovered in the last quarter of the operating budget period (approximately 1/3rd each month). However, DYCD has the option to recover advances earlier, based on the actual spending rate.

In some instances a Provider will be placed on "Check Hold." Among the reasons an Provider might be placed on check hold are: missing or expired insurance; a corrective action plan associated with the contract; funds due to DYCD from the Provider; or late submission of financial or program reports to DYCD.

If a Provider is on Check Hold, a submitted PERS will be reviewed, but not paid until the deficiency or discrepancy is rectified.

Non-Reimbursable Expenses (Disallowances):

A Status Report Letter will serve as notification to a provider of disallowed non-reimbursable expenses. The status letter will detail the reasons for the disallowance and will reflect the adjusted approved expenses for the PERS processed.

Expenditures for items neither budgeted nor allowable under DYCD Federal, State and City guidelines will not be reimbursed.

The following expenses are not allowed by DYCD:

1. Expenses outside of the budget operating period are not allowed. This includes payment of back tax obligations.
2. Funds cannot be used for litigation expenses, legal settlements, or legal judgements
3. Expenditures for items neither budgeted nor allowable under DYCD Federal, State and City guidelines for Providers
4. Purchase of land and buildings
5. Taxes from which municipalities are exempt (Sales Tax, NYS Franchise Tax, Federal Unemployment Tax (FUTA))
6. Capital improvements, which are defined to mean the erection of substantial structures which are capital in nature, or the valuable additions to or valuable modifications of real estate; this includes expenditures for hard surfacing, cement installations, substantial repairs to a building, basic heating, lighting or sanitary equipment and installation, permanent outdoor lighting systems, fencing (except for partial fencing justified as a safety device), swimming and wading pools and tennis courts;
7. Personal membership fees in any social, country, dining and lobbying clubs or professional associations
8. League franchise fees in the name of an individual
9. Interest and penalty costs
10. Activities for which a provider has already charged a fee to participants
11. Activities that are normally considered a part of the regular school day
12. Activities of a commercial nature
13. Expenditures for pre-paid payroll or consulting services. The date on the check (pay date) must be on or after the period of service
14. Expenditure for fund raising activities
15. Expenditures for stipends when used to replace existing staff and/or for the primary purpose of saving money by using low cost labor, and to avoid paying fringe benefits, or to replace other funding. Special exceptions may be made in advance with approval from DYCD and Office of Children and Family Services, when no other sources are available and stipends are critical for the implementation of the program model

16. Prizes other than inexpensive awards such as trophies, medals or ribbons
17. Medical liability insurance and fire insurance on capital structures
18. Security Deposits
19. Bonuses
20. Severance payment
21. Tips and Gratuity
22. Alcoholic Beverages
23. Bad Debt
24. If federal funds are used, Entertainment Costs are not reimbursable

Questions regarding acceptability of specific items may be emailed to your Fiscal Analyst or CAFDbelp@dycd.nyc.gov.

General Information to Avoid Disallowance

- **Contract amendments (budget increases) pending registration should not be included on your PERS until the amendment is registered. You may submit expenses on the next upcoming PERS once registered.**
 - **Title codes and position title must match DYCD's approved budget.**
 - **Salaries reported on the PERS include all withholding taxes**
 - **The maximum FICA amount allowed on a PERS is 7.65% of salaries**
 - **Indirect Costs may be claimed monthly or quarterly by prorating the amount based on your budget allocation and budget operating period. No payment details are required.**
 - **You should not submit expenses on categories modified through a budget modification until the modification is approved.**
- **Equipment purchase must be listed with an item description, equipment cost, DYCD cost, model number, manufacturer and serial number for equipment \$500 or more. Purchases under \$500 will require an item description, Equipment Cost and DYCD cost only. All equipment purchased shall be itemized in the equipment inventory list page available on the PERS.**
- **DYCD may require proof of delivery date for goods purchased between June 20th and the 30th.**

SECTION NINE

YEAR END CLOSE OUT

YEAR END CLOSE OUT

Contract Term

The Provider must perform all contract services and receive all goods and vendor services by the last day of the contracted operating period. Employer's FICA and New York State Unemployment Insurance (SUI) expenses applicable to salary expenditures incurred and paid through the last day of the contract period must be included. Any expenditure made for goods and services which are received after the last day of the contract/budget period will NOT be accepted as an authorized expenditure. There are no exceptions to this rule.

Deadline for Submission of Final PERS

The deadline for submission of a FINAL PERS is no later than (60) sixty days after the end date of the budget operating period. Budgets ending June 30th have a deadline of August 31st.

NOTE: Failure to meet this deadline may result in the rejection and disallowance of all expenses reported on the PERS.

Unpaid PERS

An Unpaid PERS is a document used to reflect expenses not paid due to insufficient funds. An Unpaid PERS is filled out on a regular PERS form. "UNPAID PERS" should be reflected in the month field. This report should only reflect bills that have not been paid and do not have unrecovered advances. Do not include paid expenses in this document. This "UNPAID PERS" will be reviewed by the fiscal analyst and if warranted will generate an advance.

Once the bills are paid by the Provider, a PERS must be submitted with the check numbers and all the required documentation for expenses previously reported on the "UNPAID PERS". If a PERS is not submitted, the advance will become a refund due DYCD.

Refunds Due

Any balance of funds issued by DYCD and not accounted for by an approved expenditure is a refund due to DYCD. Providers must make a refund due check payable to the NYC Department of Youth and Community Development. The check must be sent to: DYCD/CAFD 123 William Street, 18th Floor, New York, NY 10038-2609.

Annual Close Out Letter and Financial Recap Form

When all PERS have been processed, a fiscal analyst will officially close out the contract. A Close Out Letter and Financial Recap Form reflecting approved expenditures for each month and all payments issued from DYCD will be mailed to the Provider. It is extremely important that the Provider verify its expenditures and payments against the Financial Recap Form.

The Close Out Letter will inform the Provider of any amount owed to DYCD. A check for the refund due amount must be issued to DYCD within ten (10) days of receipt of the year end Close Out Letter. If the refund due amount is not received by that date, the Provider will automatically be placed on Check Hold for all future payments from DYCD.

If a check issued by DYCD is reflected on the financial recap but has not been received, notify the Providers Fiscal Analyst immediately by telephone, or e-mail the CAFD Help Desk at cafdhelp@dycd.nyc.gov. A stop payment request will be made to the Department of Finance and a new check will be issued.

Any discrepancy in expenditures must be explained in writing to DYCD's Contract Agency Finance Division, 123 William Street 18th floor, NY, NY 10038 (attach a Final PERS with the expenditures in question).

Refund Due - Non-Responsive Letter

If a refund check or Final PERS is not submitted in response to the Close Out Letter, your Provider will be referred to DYCD's Office of Legal Affairs for collection. Nonpayment may also result in the Provider being referred for a Caution Rating in the Performance Evaluation (VENDEX) system. This rating may have a negative impact upon the Provider's ability to secure future funding with DYCD or other City agencies. Providers having a poor Performance Evaluation (VENDEX) rating may also be mandated to use the services of DYCD's Fiscal Agent.

Recoupment Procedures

DYCD reserves the right to offset against another contract the amount of an unpaid refund due.

Close Out Procedures for Terminated Providers

Upon receipt of a termination notice and effective date of termination, the Provider shall comply with all applicable DYCD closeout procedures, which include, but are not limited to the following:

- Submit PERS accounting for expenditures prior to termination date
- Any balance of funds not accounted for by an approved expenditure is to be refunded to DYCD.
- Comply with guidelines outlined in Section Four of this manual pertaining to Relinquishment of Equipment.
- If assigned a DYCD Vehicle a Provider will immediately surrender the Van to DYCD pursuant to Paragraph 12(C) of the Van License agreement.

SECTION TEN

CENTRAL INSURANCE PROGRAM (CIP) FOR PARTICIPATING PROVIDERS

CENTRAL INSURANCE PROGRAM (CIP)

The Central Insurance Program (CIP) serves the insurance needs of not-for-profit contractors who do business with human services agencies in the City.

CIP provides comprehensive general liability, workers' compensation, and disability benefit programs to these vendor agencies. The Central Insurance Program is operated by the Mayor's Office.

DYCD will deduct 4.5% of a contract's total budget to cover the cost of the insurance. The 4.5% is non-reimbursable.

General Liability Insurance

General Liability Insurance is automatically assigned to Providers that opt to participate in the CIP.

The General Liability policy provides coverage limited to (\$1,000,000) million dollars per occurrence for incidents that occur in connection with program activities described in the Provider's contract with DYCD. The General Liability policy also provides coverage for the costs of defending claims or suits resulting from bodily injury or property damage.

The policy also provides coverage for verifiable medical expenditures for authorized participants injured in the program. All injuries, however slight, to any program participant, volunteer, visitor, or others must be reported on a DYCD Incident Report Form. The Incident Report Form must be on file with DYCD before submission of related medical bills.

Original medical and dental bills must be submitted with a second copy of the Incident Report Form.

Workers' Compensation and Disability Insurance

Workers' Compensation covers injuries suffered by employees while on the job. This coverage only pertains to employees listed on the DYCD budget.

Disability benefits to employees listed on the DYCD budget are provided in case of a non-work related illness or injury causing disability.

The Provider must submit the Employer's Report of Injury (C-2 Form) and/or the Form for Disability to the CIP Program.

Staff Changes made in contracts with CIP

When new staff is hired, the Provider must submit an Individual Enrollment Form to DYCD. When an employee is terminated or resigns, the Provider must submit a Termination Roster. The completion of this roster will ensure that the name(s) of former employees are removed from the Central Insurance Program. In both instances, the forms are to be returned to DYCD.

Exclusions

CIP insurance does not include coverage for allegations of child or sexual abuse. The Provider must immediately notify DYCD of any incident or allegation of abuse of a program participant by any of the Contract's administrators or staff, including both paid staff and volunteers. Written notification is to be submitted on DYCD's Incident Report Form.

The term "abuse" refers to any physical, sexual, emotional or verbal abuse, or any other maltreatment of a program participant. Compliance with this reporting requirement does not satisfy any other legally mandated reporting of abuse, such as notifying the law enforcement officials or notifying the NYS Central Register of Child Abuse and Maltreatment.

The CIP coverage terminates at the end of each fiscal year.

Forms and additional information related to CIP may be obtained from the Central Insurance Program.

Mayor's Office of Operations
Central Insurance Program
253 Broadway – 5th Floor
New York, New York 10007
Tel: (212) 788-7600

SECTION ELEVEN

AUDIT

Reporting and Audit Requirements

Not-for-Profit Providers that contract with DYCD are required to comply with all applicable state and federal laws with respect to required filings. For federal reporting purposes, Not-for Profit Providers may be required to file an information return (e.g. the I.R.S. Form 990). In accordance with New York law, Providers may be required to register with the Charities Bureau of the New York State Attorney General's Office; in addition, Providers that solicit from the public are required to file with the NYS Attorney General's Office financial forms that vary depending on the Provider's gross revenues.

The following chart summarizes the requirements of the Nonprofit Revitalization Act of 2013:

Effective Dates	Level of Gross Revenues	CPA Audit or CPA Review
July 1, 2014 through June 30, 2017	Less than \$250,000	No CPA Audit or CPA Review required, but must file an unaudited financial report on form provided by the Attorney General
	At least \$250,000 but not more than \$500,000	CPA Review
	More than \$500,000	CPA Audit
July 1, 2017 through June 30, 2021	Less than \$250,000	No CPA Audit or CPA Review required, but must file an unaudited financial report on form provided by the Attorney General
	At least \$250,000 but not more than \$750,000	CPA Review
	The \$500,000 threshold increases to \$750,000	CPA Audit
July 1, 2021 and forward	The \$250,000 threshold remains constant	No CPA Audit or CPA Review required, but must file an unaudited financial report on form provided by the Attorney General
	At least \$250,000 but not more than \$750,000	CPA Review
	The \$750,000 threshold increases to \$1,000,000	CPA Audit

Regardless of the size or type of a not-for-profit Provider, an annual audit can help to improve operations and provide proper accountability for public and private resources.

In addition, DYCD funded Providers are subject to the following requirements:

Contracts with DYCD Funding Greater Than \$75,000

Providers with aggregate DYCD funding greater than \$75,000 will be audited by a CPA firm under contract to DYCD. The Auditor will perform random verification checks of the expenditures claimed on the PERS. The audit is performed after the fiscal year is completed and relates only to DYCD contracts. The Provider will be notified of the findings and questioned costs. Unresolved questioned cost(s) may have to be reimbursed to DYCD.

Contracts with DYCD Funding Between \$25,000 and \$75,000

Providers with aggregate DYCD funding between \$25,000 and \$75,000 are subject to fiscal field reviews ("FFR"). A FFR evaluates a Provider's system of internal accounting and administrative controls. The objective of the FFR is to ensure that Providers adhere to the procedures and requirements cited in the Fiscal Manual and the contract. The FFR notes both administrative and fiscal findings. FFRs are performed either by DYCD Audit staff or CPA firms under contract to DYCD.

Audit Federal Requirements

Providers that expend \$750,000 or more in federal awards per fiscal year must have a single or program-specific audit conducted for that year in accordance with the provisions of Title 2 CFR 200.500, Subpart F of the OMB Uniform Administrative Requirements (Super Circular). Super Circular Subpart F replaces the previous OMB Circular A-133 to implement new requirements of the Single Audit Act which raised the single audit threshold from \$500,000 to \$750,000 effective for fiscal years beginning on or after December 26, 2014.

Technical Assistance

DYCD may be able to provide technical assistance to a Provider in matters that may affect contract performance, such as compliance with applicable laws and regulations, preparation of required reports, and dissemination of information necessary to keep the Provider abreast of changes that may affect the program operation and reporting requirements. The Provider should at all times feel free to contact DYCD with questions about applicable fiscal procedures.