



Cyber **NYC**

Catalyzing Innovation. Creating Jobs.

## REQUEST FOR PROPOSALS

RELEASE DATE  
NOVEMBER 16, 2017

SUBMISSION DEADLINE  
FEBRUARY 16, 2018

Dear Reader:

In June 2017, NYCEDC announced bold plans for New York City to become a global capital for cybersecurity. Today, we are taking an exciting first step towards realizing this goal and announcing a request for proposals (RFP) to further catalyze the growth of the cybersecurity industry.

New York City has all the ingredients needed to achieve a comparative advantage in the growing cybersecurity industry: It has large corporations that purchase cybersecurity technologies, a burgeoning tech ecosystem with thousands of startups, and world-class academic institutions that train students and spur innovation; and it also attracts diverse and dynamic talent from all over the world. Moreover, Mayor Bill de Blasio and his administration are fully committed to investing in cybersecurity to improve the city's economy and the lives and businesses of all those affected by it.

Through this RFP, we expect to unleash innovation from startups and universities and to train talent from diverse backgrounds with the skills needed to get good-paying cyber jobs.

The RFP outlines the goals of the Cyber NYC initiative and describes the scope of opportunities for enterprising stakeholders to contribute to the development of an important part of the city's tech industry. These opportunities include the creation of a Cyber Center, home to New York City's first cyber-dedicated accelerator and an anchor for the industry. The Cyber Center will provide a much-needed hub for the industry, bringing people together from across sectors and connecting startups to New York City's Fortune 500 companies.

There are also opportunities to help NYCEDC develop Cyber NYC's Applied Learning Initiative. This initiative will connect talent with New York City's world-class educational opportunities and hands-on experiences needed to enter this industry. By aligning the interests of industry and academia, and by integrating experimental learning into the program, this initiative will shape how students are trained for cybersecurity jobs.

In New York City, we never do anything small. That's why we're encouraging you to think big about these opportunities. These core programs, in conjunction with a talent development boot camp and entrepreneurial support programs at our universities, will be transformative for the city's cybersecurity industry. Cyber NYC will forge new partnerships, unlock new investments, and grow new jobs.

The NYCEDC team and I look forward to seeing your plans to further position our city as the world's cybersecurity leader.

Sincerely,

A handwritten signature in black ink, appearing to read "JP", with a long horizontal line extending to the right.

**James Patchett**  
President  
New York City Economic Development Corporation

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# I. EXECUTIVE SUMMARY

## A. Project Context: The Value of Cybersecurity in New York City

Cybersecurity is of increasing strategic importance to companies, institutions, and consumers. Recent cyberattacks on financial institutions, retail businesses, media companies, and healthcare institutions underscore the increased importance for businesses and institutions to invest in protecting against cyberattacks. Consequently, cybersecurity is a major area of economic growth and is projected to reach \$170 billion in global spending by 2020.<sup>1</sup>

New York City (the “City”) is well positioned to become the global hub for cybersecurity. The City is home to anchor industries that are among the largest buyers of cybersecurity technologies: financial services, media, retail, healthcare, law, and others. The City is also home to one of the largest and most diverse workforces in the world.

In June 2017, Mayor Bill de Blasio released the [New York Works](#) plan, which highlights the City’s commitment to seed the growth of a local cybersecurity industry. The City and New York City Economic Development Corporation (NYCEDC) recognize cybersecurity as a sector with the potential to create high-quality jobs and see an opportunity to develop a robust pipeline of skilled talent to fill the increasing number of cybersecurity jobs in New York City.

New York City is already home to more than 6,000 cybersecurity jobs, and local businesses are eager to add more. Cybersecurity jobs pay good wages, provide a range of entry points, and offer promising career ladders.<sup>2</sup> Many types of cybersecurity roles exist, including security and network engineers, IT security analysts, vulnerability testers, software developers, risk auditors, and compliance analysts. These jobs pay a median annual starting salary of \$65,000.<sup>3</sup>

NYCEDC and the City also recognize the importance of providing new resources to spur innovation and develop diverse talent in cybersecurity. If the growth of demand for cybersecurity jobs keeps pace with the recent trend, the City will need more than 10,000 cybersecurity professionals over the next ten years.<sup>4</sup>

NYCEDC, on behalf of the City, is launching “Cyber NYC” – a catalytic investment in new services and programs to support the development of New York City’s cybersecurity industry.

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<sup>1</sup> March 2016 Forbes article cites Gartner research for 2015 global cyber spending and a Market and Markets Report for expected 2020 global cyber spending: <https://www.forbes.com/sites/stevemorgan/2016/03/09/worldwide-cybersecurity-spending-increasing-to-170-billion-by-2020/#8a23cd868323>

<sup>2</sup> Research conducted by NYCEDC and cited in New York Works Plan: <https://newyorkworks.cityofnewyork.us/>

<sup>3</sup> Ibid

<sup>4</sup> Ibid

## B. Overview of Request for Proposals

NYCEDC is issuing this Request for Proposals (“RFP”) to seek proposals from respondents (“Respondents”) with proven track records to develop and launch the scope of services (the “Services”) as one or more Operators (as defined below).

NYCEDC expects to enter into a contract (the “Contract”) with one or more selected Respondent(s) for a contemplated term of three years, if any, pursuant to this RFP (any such selected Respondent(s) hereinafter referred to as the “Operator(s)”) to launch and operate the Cyber Center, Talent Partnerships, and Academic Innovation Exchanges, as further described herein, or any other program as a result of Cyber NYC. Depending on the Services provided by the Operator(s), the Contract may refer to more than one legally binding agreement, including without limitation a consultant contract (between NYCEDC and the successful Respondent).

Over the course of interviewing more than 100 stakeholders, including leaders in industry, universities, nonprofits, and government, NYCEDC identified several key opportunities to address:

- **Community:** The New York City cybersecurity community needs greater diversity and would benefit from increased collaborations among industry, academia, and investors,
- **Talent:** While New York City offers thousands of cybersecurity jobs, they take approximately 8% longer to fill than other tech jobs because applicants often lack the right mix of skills and experiences<sup>5</sup>, and
- **Innovation:** New York City has trailed Silicon Valley and the Washington D.C. and Boston areas in new cybersecurity startups, VC deals, and total VC funding. New York City has the potential to increase the presence and strength of cybersecurity startups.<sup>6</sup>

NYCEDC welcomes creative, ambitious, and bold approaches from Respondents to address the challenges above and to meet the goals below.

**Through this RFP, NYCEDC seeks to establish New York City as a recognized global leader in cybersecurity by advancing three goals:**

- **Community:** Establish New York City as a world class leader in cybersecurity by connecting, convening, and fostering creative, cutting-edge collaborations between the business community, academic institutions, innovators, leaders, and investors. Support the cybersecurity industry ecosystem, including a diverse talent pool, and foster innovative cross-sector efforts that reflect the interdisciplinary nature and wide-reaching impact of cybersecurity,
- **Talent:** Foster New York City’s academic leadership in cybersecurity by launching new industry-informed learning initiatives that reflect world-class approaches to cybersecurity education. Grow the diversity, quality, and volume of talent to meet employer needs and increase the accessibility of jobs across a range of educational attainment, and

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<sup>5</sup> Research conducted by Burning Glass Technologies in the Job Market Intelligence: Cybersecurity Jobs, 2015 report: [http://burning-glass.com/wp-content/uploads/Cybersecurity\\_Jobs\\_Report\\_2015.pdf](http://burning-glass.com/wp-content/uploads/Cybersecurity_Jobs_Report_2015.pdf)

<sup>6</sup> Research conducted by PitchBook using data spanning five years from 2012 to 2017: <https://pitchbook.com/>

- **Innovation:** Spur jobs and innovations in cybersecurity technologies through new initiatives that connect growth-stage cybersecurity startups to New York City’s large customer base of Fortune 500 companies, and pair New York City’s academic talent with experienced business leaders to commercialize research and development, and launch and grow new startups.

Within the multiple work streams outlined below, NYCEDC has identified the Cyber Center, hosting New York City’s first cybersecurity-dedicated accelerator and Cyber NYC’s Applied Learning Initiative as the core components that have the greatest potential to drive impact with the cybersecurity sector.

We welcome ambitious and innovative responses for those two initiatives to ensure that Cyber NYC will forge new partnerships, unlock new investments, and grow new jobs, thereby positioning New York City as a global leader in cybersecurity.

The Services detailed in this RFP will comprise three (3) “Work Streams” with a total of six (6) programs (“Sub-Work Streams”) that are detailed further in the RFP. For each of the Sub-Work Streams, Respondents will propose locations from which to provide Services, if appropriate.

# Cyber NYC Overview

## Work Stream 1



## Work Stream 2



## Work Stream 3



## **Work Stream 1**

**Cyber Center:** The Cyber Center (the “Center”) is a signature component of Cyber NYC and serves as the primary hub of New York City’s cybersecurity community. The Center shall also serve as a potential home for other (Sub) Work Streams within this RFP. The Center will include **(1) Community Programs** (as defined below) to offer work space for community stakeholders and host programs and events to foster new networks, synergies, and experiences across industry, academia, and investors. Located in the Center, the **(2) Accelerator** (as defined below) will be New York City’s first accelerator focused on scaling cybersecurity startups. The Accelerator will offer growth-stage startups access to potential customers, investors, mentors, space, training, and other resources.



## **Work Stream 2**

**Talent Partnerships:** The Talent Partnerships (the “Talent Partnerships”) are critical to differentiate New York City’s value proposition relative to other cybersecurity markets and to attract, retain, and grow jobs. Along with the Center, the Talent Partnerships will position New York City as a global leader in cybersecurity. The key component of the Talent Partnerships is the **(3) Applied Learning Initiative**, which will deliver industry-informed curriculum and innovative academic collaborations across New York City institutions and educational providers. It will offer students experienced-based programs that should lead to cybersecurity jobs.



Another component of the Talent Partnerships is a **(4) Cyber Boot Camp** to strengthen the pipeline of talent by training a diverse pool of candidates with industry-informed skills critical to securing and succeeding in cybersecurity jobs in New York City.

## **Work Stream 3**

**Academic Innovation Exchanges:** The Academic Innovation Exchanges (the “Academic Innovation Exchanges”) will develop targeted programs to ensure commercialization of cutting-edge cybersecurity research and development (“R&D”) from New York City academic institutions. The Academic Innovation Exchanges will include **(5) Cyber IP Link**, which will connect university-affiliated creators of commercialization-ready intellectual property (“IP”) with experienced entrepreneurs to launch new cybersecurity ventures and startups and **(6) Cyber Innovation Bridge**, which will provide growth opportunities for academia-led startups through a program offering access to entrepreneurship training and early-stage funding.

NYCEDC welcomes proposals that meet the goals of multiple Work Streams and/or Sub-Work Streams. Respondents may submit proposals for all Work Streams, individual Work Streams (e.g., Cyber Center) and/or Sub-Work Streams (e.g., Community Programs, but not the Accelerator) as appropriate given Respondent’s capacity and area of expertise. Respondents shall clearly indicate which Work Streams and/or Sub-Work Streams their proposal addresses. Each proposal for each (Sub) Work Stream will be evaluated independently; however, NYCEDC reserves the right to award one or more Work Streams(s) to the same Operator.



## C. Timeline

<b>Time Period</b>	<b>Milestone</b>
November 16, 2017	Release RFP
November 28, 2017	Optional Informational Session for Potential Respondents at NYCEDC
December 6, 2017	Deadline for Question Submittal
December 13, 2017	Answers to Submitted Questions Posted Publically on NYCEDC Website
February 16, 2018	Due Date for Respondent Proposals
Q1 – Q2 2018	Anticipated Selection and Announcement of Operators (All Work Streams)
Q4 2018	Expected Launch of Programs

## **D. Respondent Profile**

Respondents may be, but are not limited to, corporations, industry groups, nonprofit organizations, academic or research institutions, venture capitalists, incubator managers, or individuals affiliated with relevant organizations.

Respondents may respond to more than one Work Stream and/or Sub-Work Stream with more than one partnership and/or joint venture. Respondents shall clearly identify the participants, members, or partners in each joint venture and/or partnership in each Work Stream (or Sub-Work Stream) the proposal addresses.

While the lead Respondent to a Work Stream or Sub-Work Stream must be a single entity, NYCEDC strongly encourages responses from joint ventures and partnerships to successfully accomplish the Scope of Services (e.g., corporates, venture capital firms, non-profits, real estate/co-working space, academic institutions). In particular, NYCEDC will look favorably upon proposals that include identified corporate and other industry participants and sponsors.

## **E. NYCEDC's Role**

NYCEDC may play a variety of roles depending on the needs of the Work Stream, selected Operator, and the details of the proposed Service. NYCEDC will oversee the selected Operators and provide strategic support and serve as facilitator where necessary. NYCEDC may serve on an executive and/or advisory board. NYCEDC may provide publicity and marketing support.

Subject to the availability of funds and the responses to this RFP, NYCEDC will select Service Operator(s) to provide the Services. Each Operator shall be experienced in all aspects of the Services it has been selected to undertake. The Operator(s) will commence the respective Services upon a written Notice to Proceed from NYCEDC or upon execution of a consultant contract by the Operator(s) and NYCEDC substantially in the form of the draft of the consultant contract attached hereto as Appendix 6 (the "Contract Draft"). The Contract Draft is an initial draft subject to further review and revision by NYCEDC prior to execution. NYCEDC shall not be bound to the terms of any aspect of the Contract Draft, and the final acceptance of any successful proposal shall be subject to, and contingent upon, the negotiation between the parties of a contract in form and substance acceptable to NYCEDC.

**Respondents should review the Contract Draft and be familiar with all of the terms and conditions set forth therein prior to submitting a proposal.**

## II. SPECIFIC SCOPE OF SERVICES

For each Work Stream, the Operator shall deliver a series of tasks (“Tasks”) under the direction of the project team (the “Project Team”), which will comprise NYCEDC representatives working with selected Operators to complete the program. The Operator’s implementation of each Task shall be subject to the Project Team’s approval, each such approval.

The responsibilities of the Operator(s) in delivering the services in the Work Streams include identifying, designing, launching, and managing services or set of services.

In addition, the Operators are expected to make direct investments upfront and provide financial contributions from industry stakeholders and fundraising. NYCEDC may, in its sole discretion, provide some funding commensurate with those financial contributions.

All work product created as part of the Services are the exclusive property of NYCEDC. The pre-existing analytical concepts, approaches, methodologies, or other IP of any entity (other than any Operator or its subcontractors) participating in any of the three Work Streams described above (“Participant IP”) are not work product created as part of the Services. Unless otherwise agreed, mere participation in any of the three Works Streams neither grants NYCEDC ownership rights in Participant IP nor grants NYCEDC equity interest in the entity that owns Participant IP. Respondents should review the Contract Draft for more information about work product.

The Services include the following three (3) Work Streams and six (6) Sub-Work Streams to accomplish the aforementioned goals of Cyber NYC:

### **1. Cyber Center**

1. Community Programs
2. Accelerator

### **2. Talent Partnerships**

3. Applied Learning Initiative
4. Cyber Boot Camp

### **3. Academic Innovation Exchanges**

5. Cyber IP Link
6. Cyber Innovation Bridge

## Work Stream 1: Cyber Center

### THINK BIG!

NYCEDC encourages respondents to the **Cyber Center** work stream to **THINK BIG** in their proposals. Using the work stream and sub-work stream goals as your guide, NYCEDC encourages respondents to be **creative, ambitious, and bold** in their proposals to create a Cyber Center that establishes NYC as a global leader in cybersecurity, and serves as the primary home for NYC's cybersecurity community.

**The Center** is a signature component of Cyber NYC and shall include the Community Programs and the Accelerator to establish New York City as a global leader in cybersecurity and serve as the primary hub of the local cybersecurity community.

The Center will be a physical space dedicated to the cybersecurity community and host a suite of programs and events to foster new networks, synergies, and experiences within cybersecurity and across industry, academia, and investors. The Center will support the growth of the cybersecurity industry by creating a shared, flex-space with equipment and programs to grow and diversify the sector and host a cybersecurity startup accelerator. The Center may also host programs and Sub-Work Streams outlined in other sections of this RFP.



#### **The primary goals of the Center are to:**

- Establish New York City as a global leader in cybersecurity by catalyzing investment and innovation,
- Establish the Center as the primary location for New York City cybersecurity events,
- Strengthen the New York City cybersecurity ecosystem by convening the academic, entrepreneurship, and business communities, and
- Provide supportive programming to a wide range of audiences, including students, job-seekers, investors, startups, entrepreneurs, cybersecurity companies, and corporates.

The Center shall offer community programs (“**Community Programs**”) for a diverse range of audiences and collaborate with industry and educational institutions. The programs and events shall develop the local cybersecurity industry, foster new cross-sector relationships, and offer resources to support cybersecurity innovation and talent. The Center shall also offer working space for industry stakeholders that may include corporate innovation teams, cybersecurity companies, startups, and entrepreneurs.

The Operator(s) shall design, launch, and manage the accelerator (**the “Accelerator”**), which shall be located in the Center. The Accelerator will catalyze growth-stage startups by providing them access to potential customers, investors, industry mentors, space, training, and other resources.

It is expected that the Accelerator support growth-stage cybersecurity startups through a selective cohort model and include cybersecurity startups impacting different sectors (e.g., finance, health, media, retail, etc.). It is vital that the Operator(s) develop a compelling value proposition to differentiate the Accelerator

from the current landscape of startup accelerators and prioritize ways to connect growth-stage startups with New York City's large customer base of Fortune 500 companies.

Participating startups in the Accelerator do not have to be based in New York City. However, it is expected that the Accelerator's Operator and programming be located in New York City.

The Operator(s) will be responsible for ensuring the ongoing success of the Center, which includes the Community Programs and the Accelerator. This work requires creating and implementing business development services and programs, conducting strategic planning, and overseeing day-to-day operations. Before, during, and after the delivery of Services, the Operator(s) will develop methods to regularly capture and understand the impact of the Community Programs and the Accelerator. At the conclusion of each Task, or another point of time determined by the Project Team, the Operator(s) will deliver a final report with recommendations on how the Center should continue to develop and operate.

The responsibilities of the Operator in delivering the Services outlined in the Tasks below include identifying, designing, launching, running, and evaluating well-managed services or set of services and spaces that complement and strengthen any currently available resources within the City. Although the Operator is expected to provide the Services outlined in the Tasks below, the Operator may suggest alternative approaches to the (Sub) Work Stream and additional Tasks, if these alternatives effectively achieve the goals of Cyber NYC and the Work Stream.

The Operator shall prepare and deliver to the relevant members of the Project Team at NYCEDC each of the deliverables required for the completion of each Task, Sub-Work Stream and/or Work Stream as outlined below. All deliverables shall be submitted to the Project Team in both written and electronic format and initially in draft form for review and comment. The Operator shall, without additional compensation, make any modifications to the deliverables that the Project Team may require and submit a revised draft(s) of the deliverables to the Project Team for its further review and comment until the Project Team finally approves such deliverables.

NYCEDC welcomes proposals from Respondents that meet the goals of multiple Work Streams, a single Work Stream, or only a single Sub-Work Stream. Respondents may respond to more than one Work Stream and/or Sub-Work Streams with more than one partnership and/or joint venture.

**Responses and joint ventures may reflect the following structures:**

- One Respondent to manage and deliver services for the Cyber Center Work Stream,
- Two Respondents to manage and deliver services in a partnership or joint venture relationship with each other, where one entity provides the Community Programs Sub-Work Stream and the other focuses on the Accelerator Sub-Work Stream, or
- One Respondent to deliver services for a single Sub-Work Stream (either the Accelerator or Community Programs) without a partnership or joint venture. These Respondents shall expect to be paired with another Respondent to fulfill the Scope of Services for the entire Work Stream.

The Services for the Cyber Center Work Stream and each Sub-Work Stream shall be performed as a series of specific Tasks, as follows.

# Sub-Work Stream 1.1: Community Programs

## Task 1: Design and Manage Program Activities

The primary goals of the Community Programs are:

- Establish the Center as the hub for the cybersecurity community in New York City,
- Build a vibrant, global cybersecurity community that is innovative, inclusive, and mutually supportive of Cyber NYC initiatives described below, and
- Foster a virtuous cycle of innovation, investment, and job creation by fostering collaboration between innovators, investors, academia and industry, including events and programs involving startups, corporations, venture capitalists, academics, students, and jobseekers.

The Operator is expected to achieve those goals while in the performance of the Tasks that follow.

At a minimum, the Center's Community Programs shall:

- Develop a series of events that emphasize the cross-sector application of cybersecurity on industries, including but not limited to: financial services, media, healthcare, public safety, infrastructure, and smart cities technologies. Events shall convene industry leaders, startups, and academia to collaborate on:
  - Challenges around market opportunities and access to non-public datasets,
  - Opportunities to test, refine, and present prototypes and validate new technologies,
  - Opportunities to attract employers, corporations, funders, and investors,
- Host regular events, demos, hackathons, competitions, and other programming, including events that are open to the public, showcasing the local cybersecurity ecosystem,
- Offer entrepreneurs, startups, and students opportunities to meaningfully engage with executive-level leaders from a wide range of industries and Fortune 500 companies,
- Offer programs targeted to diversify, develop, and strengthen the talent pipeline in partnership with academic and industry experts, employer and corporate partners, NYCEDC, and other relevant government agencies,
- Offer workspace to cyber industry stakeholders, including cybersecurity startups, entrepreneurs, companies, and corporate innovation and R&D teams,
- Offer Fortune 500 or corporate innovation and R&D teams opportunities to meaningfully engage with startups and entrepreneurs in the Center, and vice versa,
- Develop programs to connect the cybersecurity community within New York City and with U.S.-based and international leaders in the field, and
- Create a long-term plan to ensure the economic viability of the Center, including strategic planning, corporate matching grants and sponsorships, and other forms of fundraising.

In addition, the Center's Community Programs may also:

- Offer entrepreneurs, startups, and students access to state-of-the-art technology infrastructure (e.g., cyber range<sup>7</sup>) to test, refine, and demonstrate new products and conduct exercises,
- Offer early-stage fellowships, funding, or other grants to help cybersecurity entrepreneurs launch and grow their businesses,
- Develop programs to encourage applied research and development in cybersecurity through projects pairing students with corporations and industry stakeholders, and

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<sup>7</sup> Definition from National Institute of Standards and Technology (NIST) Glossary of Key Information

- Provide ongoing networking, coaching, mentoring, training, educational seminars, and/or other related services on topics relevant to cybersecurity start-ups, entrepreneurs, and businesses.

**Other Innovation Resources:** NYCEDC welcomes creative, bold, and ambitious proposals for the Community Programs that includes services not included in Tasks 1 and 2 that meet the goals of Cyber NYC as outlined in Section I(B).

### **Task 2: Engage Stakeholders Across Sectors**

NYCEDC will look favorably upon engaging the following groups of stakeholders to accomplish Task 1:

- Fortune 500 enterprises and other large corporations,
- Investors and venture capitalists,
- Academic institutions,
- Tech and cybersecurity community groups, and
- Government agencies (e.g., city, state, and federal).

### **Task 3: Develop Relationships and Sponsorships**

NYCEDC will look favorably upon the following support and sponsorship efforts:

- Corporate partnership and/or sponsorships,
- International and non-NYC collaborations,
- Academic partnerships and collaborations,
- Nonprofit and philanthropic partnerships, and
- Other cybersecurity initiatives (e.g., incubators, accelerators, etc.).

In particular, NYCEDC will look favorably upon proposals that include identified corporate and other industry partners and sponsors.

### **Task 4: Staffing and Management**

The Operator shall create a staffing plan and appoint appropriate staff for the Center's Community Programs. The Respondent should include a proposed team in its submission, outlining time allocation, organizational structure, roles, responsibilities, and credentials for each role.

- **Managing Director(s):** The Operator is expected to have/hire at least one dedicated, full-time Managing Director or a position of a similar role and title who will serve as the primary manager of the Center and its Community Programs. This individual will be responsible for executing on the deliverables outlined in the Operator's Contract with NYCEDC. The Operator and Managing Director(s) will spearhead the multi-year strategic and financial planning for the Center and its Community Programs. This shall include an operational staffing plan beyond the Managing Director(s) and Community Manager, as well as a strategic and programmatic plan outlined in all Tasks for this Work Stream.
- **Community Manager:** The Operator is expected to have/hire a dedicated Community Manager or a position of similar role, who will serve as the primary community and programming manager for the Center. This individual, along with the Operator, shall plan and implement a robust, consistent series of events and programs to effectively connect and catalyze the cybersecurity industry in New York City. Please refer to Tasks 1, 2, and 3 for additional description of activities and stakeholder engagement.

## **Task 5: Manage Operating Activities**

The Operator(s) are expected to undertake the following activities (as appropriate): strategic and financial planning, procurement outreach, marketing and publicity, tracking and reporting on progress, managing the Community Programs, building community through stakeholder engagements, and developing alliances and sponsorships.

NYCEDC will look favorably upon efforts to form alliances with existing local operators (incubators, accelerators, etc.), academic institutions, or corporations and participation in other Cyber NYC Work Streams described within this RFP.

**5.1 Program Activities:** The Operator(s) are expected to manage and implement the Program Activities as outlined in Tasks 1, 2 and 3.

**5.2 Financial Sustainability:** The Operator shall develop a long-term financial sustainability plan for the Center, including setting revenue targets and financial milestones. The Operator is expected to generate significant funds for the Center through revenue generating activities, charitable donations (including in-kind donations), sponsorships, self-funding, or other means to ensure the successful launch of the Center and its on-going operations. The Operator may offer financial sponsors of the Center a suite of services, such as co-branding and marketing opportunities. In the event that the Operator elects to undertake charitable fundraising in connection with the Center (and/or elects to subcontract with a third party provider in connection with such fundraising activities), certain restrictions and regulations may apply to such activity, including but not limited to the following: (1) the Operator shall ensure that each fundraiser has all required registrations, including any required registration with the New York State Charities Bureau, (2) donated funds may be required to be deposited with NYCEDC and donated property may become the property of NYCEDC, and (3) prospective donors and sponsors shall be subject to NYCEDC's approval prior to any solicitation.

**5.3 Official Launch Event:** The Operator will plan and hold official publicity events (with substantial media coverage) to launch the Center and its Community Programs in conjunction with NYCEDC. The Operator will promote the events via social media and other networks to attract a relevant audience of 100+ people and garner high-quality media coverage. The official launch events will take place at a date/time to be determined by NYCEDC.

## **Task 6: Marketing and Publicity Activities**

The Operator(s) are expected to generate media coverage and respond to all publicity requests in coordination with, and subject to the approval of NYCEDC. Media coverage may include:

- **Digital:** Mainstream publications, industry-specific publications (e.g., TechCrunch, VentureBeat, etc.), social media, podcast, blogs,
- **Print:** Mainstream and industry specific publications,
- **Televised:** Televised / livestreamed press coverage (e.g., launch event), and
- **Other Media:** Other media publications and mediums well-aligned with Cyber NYC.

## **Task 7: Program Monitoring, Evaluation Metrics, and Reports**

The Operator(s) shall be responsible for monitoring, evaluating, and reporting on the progress of the activities to NYCEDC. NYCEDC expects regular progress updates from the Operator, but these updates should not be limited to status reports. NYCEDC will be a collaborative participant in forming strategy



for and implementing the programs, especially prior to the launch, and expects to develop a close working relationship with consistent communications with the Operator.

NYCEDC will develop a monitoring and evaluation plan with activities, processes, methodologies, timelines, and metrics in coordination with the Operator the (“Monitoring and Evaluation Plan”). As part of the Monitoring and Evaluation Plan, NYCEDC will provide templates and guidelines for all reporting requirements.

**7.1 Output and Outcome Metrics:** The Operator shall collect information on a number of metrics providing evidence of the delivery of the program (outputs, e.g., number of program participants, number/type of events, member turnover rate) as well as evidence of the results (outcomes, e.g., number/type of new partnerships formed, number of individuals hired), to be detailed in the Monitoring and Evaluation Plan.

**7.2 Reports:** The Operator shall provide regular reports on an agreed upon frequency with NYCEDC in the Monitoring and Evaluation Plan. These reports will include, but will not be limited to:

- Pre-launch status reports (monthly): with strategic plans, targets, estimates, and all relevant performance metrics, including raw data, and
- Post-launch status reports (quarterly) and annual reports: with a qualitative assessment of progress against the strategic plan as well as the pre-established performance metrics, including raw data.

NYCEDC will work with the Operator to determine the content and structure of the reports.

## **Task 8: Identify, Design, and Secure Physical Site**

In order to accomplish the goals and Tasks of the Community Programs, the Operator is assumed to have identified and secured a location that can serve as the Center. In the event that the Respondent does not have physical space in which it can perform the Services, the Respondent must identify a location for the Center, which shall include space for the Accelerator. If selected, such a Respondent shall also have the Task of identifying, designing, and securing a physical site for the Center. NYCEDC encourages creative designs that meet the following requirements.

### **At a minimum, the Center shall include:**

- **Working Space:** Dedicated space tailored to the needs of cybersecurity stakeholders, including startups, entrepreneurs, and students as well as corporate security and innovation teams,
- **Convening Space:** Dedicated space, which may include food and beverage options, for community and social events large enough to accommodate at least 75 people (e.g., employer and thought leadership panels, challenges and competitions, workshops, conferences, demonstrations, and networking events), and
- **Demonstration Space:** This space is expected to require approximately the same square footage as the Convening Space (or could occupy the same space as the Convening Space) and shall be customized to demonstrate and exhibit technologies, products or services to investors, customers, and the industry.

Respondents shall be required to provide or describe the information below.

- **Location:** The Operator shall identify a site for the Center and should consider factors such as accessibility, use, size, and layout when selecting a site,
- **Affiliation:** The Center may be a stand-alone facility or part of a larger site. The Operator may also own the property outright,
- **Site:** The Operator may select the site and a design team, provided they meet the requirements outlined in this RFP. Respondents shall detail the specific equipment they would offer and basic office amenities for potential users. The site can range from “turn-key” to one that requires some investment to prepare for occupancy as the Center. NYCEDC is not prescriptive as to the size and location of the site, and
- **Fit-Out and Build-Out of the Space; Equipment:** The Operator is expected to finalize a budget, project plan, construction schedule, cash flow, and revenue analysis for the term of any lease, including without limitation:
  - Finalize design plans and specifications,
  - Sign a lease or other occupancy agreement, if the Respondent has no property right in the proposed site, for at least the term of the Contract with the owner/manager of the site, or, if the Respondent has a property right in the proposed site, provide evidence (e.g., a deed) that the Center can be located at the proposed site,
  - Equip the Center with the furniture, resources, and equipment to serve emerging start-ups and members of the broader cybersecurity community,
  - Oversee fit-out and build-out of the Center according to proposed plans, and
  - Obtain all necessary approvals, permits and certificates of occupancy and/or completion for the occupancy of the Center for the intended uses.

It is contemplated that NYCEDC shall retain ownership of any equipment purchased for the Center with Contract funds, and the equipment shall be licensed to the Operator during the term of the Contract for use in the Center. Upon the expiration of the Contract, it is contemplated that NYCEDC may elect to sell the equipment to the Operator pursuant to a purchase option on terms to be mutually agreed upon by NYCEDC and the Operator. To the extent possible, Respondents should propose the terms under which they would expect to buy the equipment from NYCEDC upon the expiration of the Contract.

## **Sub-Work Stream 1.2: Accelerator**

The Accelerator will be New York City's first accelerator focused on supporting enterprise-ready, growth-stage cybersecurity startups. The Accelerator will offer participating startups unparalleled access to potential clients, industry leaders and mentors, venture capital investors, and other resource partners.

The success of the Accelerator shall be assessed by its ability to grow and scale participating startups, create new jobs through startup growth, and strengthen the New York City cybersecurity ecosystem. Startups do not necessarily need to be originally located in New York City, however, it is expected that the Accelerator management and programming will take place in New York City.

The Accelerator shall also serve as a means to attract top-tier cybersecurity startups to New York City from around the world. The Operator(s) shall work with corporate and institutional partners, fellow tech incubators and accelerators, or other initiatives to create a robust cohort of startups.

### **The primary goals of the Accelerator are to:**

- Grow enterprise-ready cybersecurity startups by connecting them with New York City's large corporate base of Fortune 500 companies and other industry purchasers of cyber technologies, products and services, and
- Connect enterprise-ready cybersecurity startups with key stakeholders and resource partners across sectors to foster collaborations.

### **Task 1: Develop and Manage a Cohort Model**

The Operator is expected to develop a model of participation that ensures that the Accelerator meets the primary goals. The Operator is expected to offer the Accelerator services to at least ten (10) growth-stage startups per year. This may be accomplished by implementing one or more cohorts per year. The Operator is expected to undertake extensive recruitment activities to reach the target participant number. The Operator shall design and implement a competitive application and vetting process to carefully select and curate each cohort based on the quality and potential of a startup's team and product. All Accelerator programming and membership shall be subject to NYCEDC's prior written approval.

### **Task 2: Manage Program Activities**

#### **At a minimum, the Accelerator shall:**

- Provide Accelerator participants with resources critical to successfully growing their businesses, including opportunities to meaningfully engage with:
  - Potential clients and consumers as appropriate for each product and business (e.g., Fortune 500 companies),
  - Executive-level industry leaders from Fortune 500 companies as mentors and advisors,
  - Investors and venture capital firms, and
  - Other resource partners which may include law firms and regulation experts.
- Host events for Accelerator participants to:
  - Conduct product pitches and demonstrations,
  - Strengthen business relationships among startups, investors, and corporations,
- Offer growth-stage cybersecurity startups working space, training, and other resources critical to accomplishing the primary goals of the Accelerator, and

- Implement efforts that ensure the long-term economic viability of the Accelerator, including strategic planning, grants and sponsorship, and fundraising.

**In addition, the Accelerator may also:**

- Offer Accelerator participants access and opportunities to meaningfully engage with:
  - R&D and corporate innovation teams,
  - Academic researchers, faculty, and students, and
- Any additional activities that achieve the goals of the Work Stream and Cyber NYC.

**Task 3: Engage Stakeholders Across Sectors**

The Operator(s) must engage, at a minimum, the following groups to accomplish the Program Activities outlined in Task 2:

- Fortune 500 enterprises and other large corporations,
- Investors and venture capitalists, and
- Tech and cybersecurity community groups.

**Task 4: Develop Relationships and Sponsorships**

NYCEDC will look favorably upon the following corporate and sponsorship efforts:

- Corporate partnership and/or sponsorships,
- International and non-New York City collaborations,
- Academic partnerships and collaborations,
- Nonprofit and philanthropic partnerships,
- Government agencies (city, state, and federal), and
- Other cybersecurity initiatives (e.g., incubators, accelerators, etc.).

In particular, NYCEDC will look favorably upon proposals that include identified corporate and other industry partners and sponsors.

**Task 5: Staffing and Management**

The Operator shall create a staffing plan and appoint appropriate staff for the Center’s Accelerator. The Respondent should include a proposed team in its submission, outlining time allocation, organizational structure, roles, responsibilities, and credentials for each role.

- **Managing Director(s):** The Operator is expected to have/hire at least one dedicated, full-time Managing Director or a position of a similar role and title who will serve as the primary manager of the Accelerator. This individual will be responsible for executing on the deliverables outlined in the Operator’s Contract with NYCEDC, including managing the Accelerator’s strategic direction and financial viability.
- **Technical Advisor:** The Operator is expected to have/hire a dedicated Technical Advisor, or a position of a similar role and title, who will serve as the primary technical expert for the Accelerator. This individual will be responsible for ensuring that the Accelerator considers the startups’ technology, product, and technical team when determining acceptance into the cohort.

## **Task 6: Manage Operating Activities**

The Operator(s) are expected to undertake the following activities (as appropriate): strategic and financial planning, procurement outreach, and marketing and publicity, track and report on progress.

**6.1 Operating Activities:** The Operator(s) are expected to: manage the Center's Accelerator and build community through stakeholder engagements and develop partnerships and sponsorships. NYCEDC will look favorably upon efforts to form partnerships with local academic institutions and corporations and participate in other Cyber NYC Work Streams described within this RFP.

**6.2 Participant Selection Process:** The Operator is expected to develop an Accelerator participant selection process which may include an application process, referral system, and/or an independent selection panel with appropriate stakeholders. All participants in the Accelerator shall require the prior written approval of the Project Team.

**6.3 Programming Activities:** The Operator(s) are expected to manage and implement the Program Activities as outlined in Tasks 2.

**6.4 Financial Sustainability:** The Operator shall develop a long-term financial sustainability plan for the Accelerator, including setting revenue targets and financial milestones. The Operator is expected to generate significant funds for the Accelerator through revenue generating activities, charitable donations (including, in-kind donations), sponsorships, self-funding, or other means to ensure the successful launch of the Accelerator and its on-going operations. The Operator may offer financial sponsors of the Accelerator a suite of services, such as co-branding and marketing opportunities. In the event that the Operator elects to undertake charitable fundraising in connection with the Accelerator (and/or elects to subcontract with a third party provider in connection with such fundraising activities), certain restrictions and regulations may apply to such activity, including but not limited to the following: (1) the Operator shall ensure that each fundraiser has all required registrations, including any required registration with the New York State Charities Bureau, (2) donated funds may be required to be deposited with NYCEDC and donated property may become the property of NYCEDC, and (3) prospective donors and sponsors shall be subject to NYCEDC's approval prior to any solicitation.

**6.5 Official Launch Event:** The Operator will plan and hold publicity events (with substantial media coverage) to launch the Accelerator, in conjunction with NYCEDC. The Operator will promote the events via social media and other networks to attract a relevant audience of 75+ people and garner high-quality media coverage. The official launch events will take place at a date/time to be determined by NYCEDC.

## **Task 7: Manage Marketing and Publicity Activities**

**7.1: Program Branding:** The Operator(s) are expected to use the Cyber NYC brand, including name, logo and website, to be developed and owned by NYCEDC for branding and marketing materials.

It is contemplated that NYCEDC shall own all intellectual property created in connection with branding and marketing of the Cyber Center, which intellectual property may be licensed to the Operator for continued operations in connection with the Cyber Center upon the expiration of the Contract pursuant to terms to be mutually agreed upon by NYCEDC and the Operator. To the extent possible, Respondents should propose the terms under which they would expect to license the intellectual property from NYCEDC upon the expiration of the Contract.

The Operator(s) are expected to generate media coverage, in coordination with, and subject to the approval of NYCEDC and the Project Team, and respond to all publicity requests, in coordination with, and subject to the approval of NYCEDC. Media coverage may include:

- **Digital:** Mainstream publications, industry-specific publications (e.g., TechCrunch, VentureBeat, etc.), social media, podcast, blogs,
- **Print:** Mainstream and industry specific publications,
- **Televised:** Televised / livestreamed press coverage (e.g., launch event), and
- **Other Media:** Other media publications and mediums well-aligned with Cyber NYC.

## **Task 8: Program Monitoring, Evaluation Metrics, and Reports**

The Operator(s) shall be responsible for monitoring, evaluating, and reporting on the progress of the activities to NYCEDC. NYCEDC expects regular progress updates from the Operator, but these updates should not be limited to status reports. NYCEDC will be a collaborative participant informing strategy for, and implementation of the program, especially prior to the launch, and expects to develop a close working relationship with consistent communications with the Operator.

NYCEDC will develop a Monitoring and Evaluation Plan with activities, processes, methodologies, timelines, and metrics, in coordination with the Operator. As part of the Plan, NYCEDC will provide templates and guidelines for all reporting requirements.

**8.1 Output and Outcome Metrics:** The Operator shall collect information on a number of metrics providing evidence of the delivery of the program activities (outputs, e.g., number of startups participated, number of industry mentors participated) as well as evidence of the results (outcomes, e.g., amount/type of investment garnered, number of new customers and contracts, number of new hires) to be detailed in the Monitoring and Evaluation Plan.

**8.2 Reports:** The Operator shall provide regular reports on an agreed upon frequency with NYCEDC in the Monitoring and Evaluation Plan. These reports will include, but will not be limited to:

- Pre-launch status reports (monthly): with strategic plans, targets, estimates, and all relevant performance metrics, including raw data, and
- Post-launch status reports (quarterly) and annual reports: with a qualitative assessment of progress against the strategic plan, as well as the pre-established performance metrics, including raw data.

NYCEDC will work with the Operator to determine the content and structure of the reports.

## Work Stream 2: Talent Partnerships

The Talent Partnerships shall strengthen New York City’s value proposition relative to other cybersecurity markets and attract, retain, and grow jobs. Along with the Center, the Talent Partnerships will position New York City as a global leader in cybersecurity. NYCEDC encourages educational institutions to be creative in developing industry-informed and cross-institutional approaches to cybersecurity curricula and training to impact students and individuals per year.



The key component of the Talent Partnerships is the Applied Learning Initiative, which will offer interdisciplinary, industry-informed and experience-based curricula that reflect close collaborations between academic institutions, faculty, students, and industry. The program will create world-class educational offerings that may include new cross-institutional cybersecurity curricula, certificate programs, as well as credit-bearing and credit-sharing programs.

Another component of the Talent Partnerships is the Cyber Boot Camp, which will strengthen the pipeline of talent by training a diverse pool of candidates with industry-informed skills critical to securing and succeeding in targeted cybersecurity jobs in New York City.

### **The primary goals of the Talent Partnerships are to:**

- Establish New York City as a global leader in cybersecurity education, training, and talent,
- Impact thousands of students per year through increasing interest in and raising the baseline of cybersecurity skills and awareness across disciplines,
- Develop differentiated learning opportunities that are industry-informed and experienced-based,
- Establish a network of universities and educational service providers that collaborates on curricula and builds industry partnerships,
- Increase the number of individuals, including individuals who may not traditionally seek opportunities in cybersecurity and technology, who are trained, equipped, and connected to a spectrum of cybersecurity jobs (e.g., Hunt Analyst, Vulnerability & Penetration Tester, Cybersecurity Analyst and Specialist) to expand and diversify the industry, and
- Strengthen New York City’s cybersecurity community and encourage collaborations between academia, industry, and investors to attract global talent and resources.

Operators for the Talent Partnerships may include academic institutions, vocational institutions, nonprofit organizations, and for-profit organizations dedicated to increasing diversity within and access to training in cybersecurity, technology, and related disciplines. In collaboration with the Project Team, Operator(s) should expect to convene with fellow Operators in the Talent Partnerships to share best practices and lessons learned and to collaborate with Operator(s) of the Cyber Center.

The Operator(s) will be responsible for accomplishing Tasks required to administer the Talent Partnerships, including developing and implementing well-aligned services and programs, conducting strategic planning, developing and strengthening corporate and employer alliances, and overseeing day-to-day operations. Before, during, and after the implementation of each Sub-Work Stream, the Operator(s), in collaboration with the Project Team, will develop methods to capture and understand the impact of the Operators’ plans to implement the Talent Partnerships as further described in the Program Monitoring, Evaluation Metrics, and Reports Tasks. At the conclusion of

each Sub-Work Stream, the Operator(s) will deliver a final report with recommendations on how the Talent Partnerships should continue to develop and operate.

The responsibilities of the Operator(s) in delivering the Services outlined in the Tasks below include identifying, designing, launching, running, and evaluating well-managed services or set of services and spaces that complement and strengthen any currently available resources within the City. Although the Operator(s) are expected to provide the Services outlined in the Tasks below, the Operator(s) may suggest additional and alternative approaches to the program and additional Tasks, if these alternatives effectively achieve program goals.

NYCEDC welcomes proposals that meet the goals of multiple Work Streams. Respondents may respond to more than one Work Stream and/or Sub-Work Stream with more than one partnership and/or joint venture.

The Services shall be performed as a series of specific Tasks, as follows.



## Sub-Work Stream 2.1: Applied Learning Initiative



### THINK BIG!

NYCEDC strongly encourages respondents to the **Applied Learning Initiative** sub-work stream to **THINK BIG** in their proposals. Using the sub-work stream goals as your guide, NYCEDC encourages respondents to be **creative, ambitious, and bold** in their proposals to create an Applied Learning Initiative that establishes NYC as a global leader in cybersecurity education and talent.

### Task 1: Design and Develop the Applied Learning Initiative

The Applied Learning Initiative will strengthen the New York City cybersecurity talent pipeline through innovative curriculum and academic collaborations between local universities, educational service providers, and the cybersecurity industry that offer experience-based and industry-informed methods to teaching cybersecurity and connecting students to jobs.

The Operator(s) are encouraged to develop systems-changing approaches for applied learning that leverage New York City's industries that drive demand for cybersecurity solutions and talent. The Operator(s), in conjunction with NYCEDC, are expected to design the services with employers and provide students, alumni, career changers, and/or IT professionals with career-advancing cybersecurity skills and experiences.

The Operator(s) are expected to develop a program scope for the Applied Learning Initiative describing their intended vision. This shall include the curricula and program services, program beneficiaries, employers and industry partners, and employer needs. This shall also include a program implementation strategy and staffing plan. It is expected that the Operator(s) work in collaboration with industry and employer partners to ensure that program beneficiaries receive learning experiences that lead to cybersecurity jobs. In collaboration with the Project Team, the Operator(s) shall provide metrics, further detailed in Task 6 below, that include program beneficiaries, curricula and content, as well as individuals placed in cybersecurity jobs.

### NYCEDC welcomes creative, bold and ambitious proposals to accomplish the following primary goals of the Applied Learning Initiative:

- Establish world-class applied learning programs to position New York City as a global leader in cybersecurity education,
- Increase the number of students, including students who may not traditionally seeks opportunities in cybersecurity and technology, graduating from New York City educational institutions with hands-on cybersecurity experiences required to secure cybersecurity jobs, and
- Expand and / or create interdisciplinary, experience-based cybersecurity curricula reflecting partnerships between university faculty, educational service providers, and industry partners.

## **Task 2: Manage Program Activities**

### **At minimum, the Applied Learning Initiative shall:**

- Develop new educational experiences – inside and outside of the classroom – for students to learn from industry leaders through experience-based, skills-focused cybersecurity practicums and projects that teach students how cybersecurity challenges are tackled by teams in the work place,
- Develop opportunities for faculty and students to partner with startups, corporations, and industry stakeholders on experience-based cybersecurity projects,
- Develop educational offerings (e.g., new cross-institutional cybersecurity curricula as well as certificate and credit-bearing programs), and
- Strengthen the cybersecurity talent pipeline in partnership with academic and industry experts, employer and corporate partners, and relevant government agencies.

Operator(s) should expect to collaborate and network with peer organizations in the Applied Learning Initiative and Talent Partnerships. This may include attending events, sharing best practices, and hosting events collaboratively, hosted by NYCEDC and / or participating entities of the Applied Learning Initiative and/or Talent Partnerships.

### **In addition, the Operator(s) within the Applied Learning Initiative may also:**

- Hire adjunct faculty and instructors specializing in cybersecurity and related fields,
- Create new dynamics between faculty, students, and industry to conduct applied research designed to solve complex challenges in cybersecurity and related fields,
- Create experiential learning opportunities with employers to provide undergraduate, Masters, and PhD level students and alumni with tailored research opportunities in cybersecurity,
- Offer courses that educates non-technical professionals on the importance of cybersecurity, which may include a course on the relationship between cybersecurity and law, healthcare, and / or public policy and international relations,
- Attract and engage former cybersecurity and defense professionals (e.g., veterans, transitioning U.S. Federal Government or law enforcement workers) from other U.S. and global cybersecurity hubs with compelling cybersecurity educational opportunities,
- Develop an open-sourced platform to catalogue industry challenges, and
- Any other programming activities that demonstrably aligns with and accomplishes the goals of the Talent Partnerships.

## **Task 3: Develop Employer Relationships and Sponsorships Across Sectors**

NYCEDC will look favorably upon the following corporate and sponsorship efforts:

- Employer and industry partnerships,
- Corporate funding partnerships and sponsorships,
- Nonprofit and philanthropic organizations, and
- Other academic institutions or training programs and organizations.

In particular, NYCEDC will look favorably upon proposals that include identified corporate and other industry partners and sponsors.

## **Task 4: Manage Operating Activities**

The Operator(s) are expected to deliver the Services and undertake participant management activities throughout the duration of the program.

**4.1 Managerial Activities:** The Operator(s) are expected to undertake the following activities (as appropriate): strategic and financial planning, procurement outreach, marketing and publicity, and tracking and reporting on progress.

**4.2 Operating Activities:** The Operator(s) are expected to manage the commitments expressed and agreed upon by the Project Team as part of the Talent Partnerships. The Operator may generate funds for the Talent Partnerships through revenue generating activities, charitable donations (including, in-kind donations), sponsorships, self-funding, or other means to ensure the successful launch of the Talent Partnerships and its on-going operations. The Operator may offer financial sponsors of the Talent Partnerships a suite of services, such as co-branding and marketing opportunities. This may include implementing project services, providing basic support services, building community through stakeholder engagements, and developing relationships and sponsorships. NYCEDC will look favorably upon efforts to form partnerships with employers and industry leaders and to participate in other Cyber NYC Work Streams described within this RFP, especially the Cyber Center as a community hub. NYCEDC will look favorably upon efforts to form partnerships with employers and industry leaders and to participate in other Cyber NYC Work Streams described within this RFP.

**4.3 Program Activities:** The Operator(s) are expected to manage and implement the Program Activities as outlined in Task 2.

**4.4 Financial Sustainability:** The Operator shall develop a long-term financial sustainability plan for participation in the Talent Partnerships, including setting revenue targets and financial milestones. In the event that the Operator elects to undertake charitable fundraising in connection with the Talent Partnerships (and/or elects to subcontract with a third party provider in connection with such fundraising activities), certain restrictions and regulations may apply to such activity, including but not limited to the following: (1) the Operator shall ensure that each fundraiser has all required registrations, including any required registration with the New York State Charities Bureau, (2) donated funds may be required to be deposited with NYCEDC and donated property may become the property of NYCEDC, and (3) prospective donors and sponsors shall be subject to NYCEDC's approval prior to any solicitation.

## **Task 5: Manage Marketing, Branding, and Publicity Activities**

**5.1 Program Marketing:** Operator(s) are expected to develop a marketing plan to identify, recruit, and select appropriate program participants and perform outreach to potential program participants, employer partners, and industry stakeholders.

Operator(s) shall develop a plan to engage program participants, raise interest in cybersecurity, and explain how specific employment needs are being addressed.

**5.2 Program Branding:** The Operator(s) are expected to use the Cyber NYC brand, including name, logo, and website, to be developed and owned by NYCEDC for branding and marketing materials.

It is contemplated that NYCEDC shall own all intellectual property created in connection with branding and marketing of the Talent Partnerships, which intellectual property may be licensed to the Operator for continued operations in connection with the Talent Partnerships upon the expiration of the Contract pursuant to terms to be mutually agreed upon by NYCEDC and the Operator. To the extent possible, Respondents should propose the terms under which they would expect to license the intellectual property from NYCEDC upon the expiration of the Contract.

**5.3 Publicity:** The Operator(s) are expected to generate media coverage, in coordination with, and subject to the approval of NYCEDC and the Project Team, and respond to all publicity requests, in coordination with, and subject to the approval of NYCEDC. Media coverage may include:

- **Digital:** Mainstream publications, industry-specific publications (e.g., TechCrunch, VentureBeat, etc.), social media, podcast, blogs,
- **Print:** Mainstream and industry specific publications,
- **Televised:** Televised / livestreamed press coverage (e.g., launch event), and
- **Other Media:** Other media publications and mediums well-aligned with Cyber NYC.

## **Task 6: Program Monitoring, Evaluation Metrics, and Reports**

The Operator shall be responsible for monitoring, evaluating, and reporting on the progress of the activities to NYCEDC. NYCEDC expects regular progress updates from the Operator, but these updates should not be limited to status reports. NYCEDC will be a collaborative participant in forming the strategy for and implementing the program, especially prior to the launch, and expects to develop a close working relationship with consistent communications with the Operator.

NYCEDC will develop a Monitoring and Evaluation Plan with activities, processes, methodologies, timelines, and metrics, in coordination with the Operator. As part of the Plan, NYCEDC will provide templates and guidelines for all reporting requirements.

**6.1 Output and Outcome Metrics:** The Operator shall collect information on a number of metrics providing evidence of the delivery of the program activities (outputs, e.g., number of program participants) as well as evidence of the results (outcomes, e.g., number of individuals placed in cybersecurity and/or related positions), to be detailed in the Monitoring and Evaluation Plan.

**6.2 Reports:** The Operator shall provide regular reports on an agreed upon frequency with NYCEDC in the Monitoring and Evaluation Plan. These reports will include, but will not be limited to:

- Pre-launch status reports (monthly): with strategic plans, targets, estimates, and all relevant performance metrics, including raw data, and
- Post-launch status reports (quarterly) and annual reports: with a qualitative assessment of progress against the strategic plan, as well as the pre-established performance metrics including raw data.

NYCEDC will work with the Operator to determine the content and structure of the reports.

## **Sub-Work Stream 2.2: Cyber Boot Camp**

### **Task 1: Design and Develop the Cyber Boot Camp**

The Cyber Boot Camp aims to strengthen the pipeline of cybersecurity talent by training a diverse pool of candidates with industry-informed skills critical to securing and succeeding in cybersecurity jobs in New York City. The Operator(s), in conjunction with NYCEDC, are expected to design a practicum-based learning program, in partnership with employers to provide career-advancing skills and experiences to individuals who may not traditionally seek opportunities in cybersecurity.

The Operator(s) are expected to develop a program scope describing their intended vision for the program, including the employer needs being addressed, approaches to attract and serve a diverse group of program beneficiaries, as well as employer and industry partners.

This program scope shall include a program implementation strategy and staffing plan. It is expected that the Operator(s) will serve at least 50 individuals per year and aim to achieve 80% completion rate and placement of 80% of graduates into cybersecurity related positions within three (3) months.

#### **The primary goals of the Cyber Boot Camp are to:**

- Train, support, teach relevant skills to individuals who may not traditionally seek opportunities in cybersecurity and technology related fields and connect them to cybersecurity positions in New York City; training should include technical, security, risk, business, interpersonal, and problem-solving skills, and
- Offer professional development training and job placement services for program participants in collaboration with industry and employer partners to program graduates to help them secure and succeed in New York City cybersecurity jobs.

### **Task 2: Manage Program Activities**

#### **At minimum, the Cyber Boot Camp shall:**

- Offer at least one course focused on a specific cybersecurity specialty and/or job reflecting potential for participants to gain employment; Respondents shall indicate the near and medium-term industry demand for such specialties in New York City and demonstrate employer validation of the course's curriculum,
- Offer a course, in collaboration with employer partners, that trains participants on a range of established and emerging tools and techniques relevant to the specific cybersecurity job identified in the training,
- Offer training and support, in collaboration with employer partners, for program participants on job-seeking, business, and professional skills,
- Develop an application / assessment process, in collaboration with employer partners, to ensure that participants gain the appropriate skills and experiences required to benefit from the program and meet the hiring needs of employer partners,
- Offer at least one accessible, foundational cybersecurity course that prepares individuals to succeed in the Cyber Boot Camp. This includes "pre-training" courses, where students are offered early foundational and contextualized skills training in order to qualify for continued cyber training and job placement (see below), and
- On an ongoing basis, engage industry to review program graduates and curricular offerings and content, identify shifting industry and employment needs and existing and anticipated job

gaps, and modify trainings accordingly to ensure alignment between boot camp and industry/employer partners.

**In addition, the Operator(s) of the Cyber Boot Camp may also:**

- Attract and engage former cybersecurity and defense professionals (e.g., veterans, transitioning U.S. Federal Government or law enforcement workers) from other U.S. and global cybersecurity hubs with compelling New York City cybersecurity educational opportunities, and
- Any other programming activities that accomplish the goals.

**Task 3: Develop Employer Partnerships and Sponsorships Across Sectors**

NYCEDC will look favorably upon the following partnership and sponsorship efforts:

- Employer and industry partnerships,
- Corporate partnerships and sponsorships,
- Nonprofit and philanthropic organizations, and
- Other academic institutions or training programs and educational service providers.

In particular, NYCEDC will look favorably upon proposals that include identified corporate and other industry partners and sponsors.

**Task 4: Manage Operating Activities**

The Service Provider(s) are expected to deliver the Services and undertake participant management activities throughout the duration of the program.

**4.1 Managerial Activities:** The Operator(s) are expected to undertake the following activities (as appropriate): strategic and financial planning, procurement outreach, and marketing and publicity, track and report on progress.

**4.2 Operating Activities:** The Operator(s) are expected to manage the commitments expressed and agreed upon by the Project Team as part of the Talent Partnerships. This may include implementing project services, providing basic support services, and building community through stakeholder engagements. NYCEDC will look favorably upon efforts to form partnerships with employers and industry leaders and to participate in other Cyber NYC Work Streams described within this RFP, especially the Cyber Center as a community hub.

**4.3 Program Activities:** The Operator(s) are expected to manage and implement the Program Activities as outlined in Task 2.

**4.4 Financial Sustainability:** The Operator shall develop a long-term financial sustainability plan for participation in the Talent Partnerships, including setting revenue targets and financial milestones. The Operator is expected to generate funds for the Talent Partnerships through revenue generating activities, charitable donations (including, in-kind donations), sponsorships, self-funding, or other means to ensure the successful launch of the Talent Partnerships and its on-going operations. The Operator may offer financial sponsors of the Talent Partnerships a suite of services, such as co-branding and marketing opportunities. In the event that the Operator elects to undertake charitable fundraising in connection with the Talent Partnerships (and/or elects to subcontract with a third party provider in connection with such fundraising activities), certain restrictions and regulations may apply to such activity, including but not

limited to the following: (1) the Operator shall ensure that each fundraiser has all required registrations, including any required registration with the New York State Charities Bureau, (2) donated funds may be required to be deposited with NYCEDC and donated property may become the property of NYCEDC, and (3) prospective donors and sponsors shall be subject to NYCEDC's approval prior to any solicitation.

## **Task 5: Manage Marketing, Branding, and Publicity Activities**

**5.1 Program Marketing:** Operator(s) are expected to develop a marketing plan to identify, recruit, and select appropriate program participants and perform outreach to potential program and employer partners and industry stakeholders.

Operator(s) shall develop a plan to engage program participants, raise interest in the field of cybersecurity, and make the case for how specific employment needs Talent Partnerships addresses will offer high-quality career pathways in cybersecurity.

**5.2 Program Branding:** The Operator(s) are expected to use the Cyber NYC brand, including name, logo, and website, to be developed and owned by NYCEDC for branding and marketing materials.

It is contemplated that NYCEDC shall own all intellectual property created in connection with branding and marketing of the Talent Partnerships, which intellectual property may be licensed to the Operator for continued operations in connection with the Talent Partnerships upon the expiration of the Contract pursuant to terms to be mutually agreed upon by NYCEDC and the Operator. To the extent possible, Respondents should propose the terms under which they would expect to license the intellectual property from NYCEDC upon the expiration of the Contract.

**5.3 Publicity:** The Operator(s) are expected to generate media coverage, in coordination with, and subject to the approval of NYCEDC and the Project Team, and respond to all publicity requests, in coordination with, and subject to the approval of NYCEDC. Media coverage may include:

- **Digital:** Mainstream publications, industry-specific publications (e.g., TechCrunch, VentureBeat, etc.), social media, podcast, blogs,
- **Print:** Mainstream and industry specific publications,
- **Televised:** Televised / livestreamed press coverage (e.g., launch event), and
- **Other Media:** Other media publications and mediums well-aligned with Cyber NYC.

## **Task 6: Program Monitoring, Evaluation Metrics, and Reports**

The Operator shall be responsible for monitoring, evaluating, and reporting on the progress of the activities to NYCEDC. NYCEDC expects regular progress updates from the Operator, but these updates should not be limited to status reports. NYCEDC will be a collaborative participant informing the strategy for and implementing the program, especially prior to the launch, and expects to develop a close working relationship with consistent communications with the Operator.

NYCEDC will develop a Monitoring and Evaluation Plan with activities, processes, methodologies, timelines, and metrics, in coordination with the Operator. As part of the Plan, NYCEDC will provide templates and guidelines for all reporting requirements.

**6.1 Output and Outcome Metrics:** The Operator shall collect information on a number of metrics providing evidence of the delivery of the program activities (outputs, e.g., number of program participants, number of employer partners) as well as evidence of the results (outcomes, e.g., number of participants employed in cyber and related fields), to be detailed in the Monitoring and Evaluation Plan.

**6.2 Reports:** The Operator shall provide regular reports on an agreed upon frequency with NYCEDC in the Monitoring and Evaluation Plan. These reports will include, but will not be limited to:

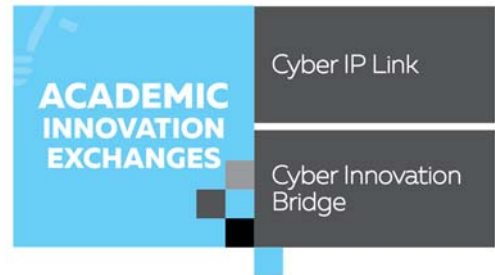
- Pre-launch status reports (monthly): with strategic plans, targets, estimates, and all relevant performance metrics, including raw data, and
- Post-launch status reports (quarterly) and annual reports: with a qualitative assessment of progress against the strategic plan, as well as the pre-established performance metrics outlined in 4.1, including raw data.

NYCEDC will work with the Operator to determine the content and structure of the reports.



## Work Stream 3: Academic Innovation Exchanges

The Academic Innovation Exchanges will develop targeted programs to commercialize cutting-edge cybersecurity research and development and will operate across New York City-based academic institutions. The programs will offer new services tailored to scale and commercialize IP, develop new products, and launch new and/or grow existing academia-led startups in cybersecurity.



The Academic Innovation Exchanges shall include two programs: **Cyber IP Link**, which will connect academic researchers with experienced entrepreneurial and managerial talent to help bring patented and commercialization-ready IP to market and the **Cyber Innovation Bridge**, which will focus on growing early-stage, academia-led startups.

Both programs will support the launch, growth, and commercialization of cutting-edge research and development in cybersecurity by faculty, students, post-docs, and alumni entrepreneurs. The programs will forge new partnerships between academia, industry, and entrepreneurs. Participating Operator(s) in the Academic Innovation Exchanges are expected to collaborate across academic institutions, service providers, and industry actors.

### **The primary goals of the Academic Innovation Exchanges are to:**

- Support academic institutions to develop a pipeline of innovation in cybersecurity,
- Connect world-class faculty and students with entrepreneurs and industry leaders, and
- Increase the number of cybersecurity entrepreneurs and startups offering cutting-edge technologies in the cybersecurity field.

The Operator(s) will be responsible for accomplishing all Tasks of the Academic Innovation Exchanges, including developing and implementing well-aligned services and programs, conducting strategic planning, and overseeing day-to-day operations. Before, during, and after each program, the Operator will develop methods to capture and understand the impact of the Operator's plans to implement the Academic Innovation Exchanges on a regular basis. At the conclusion of each cohort or program, the Operator will deliver a final report with recommendations on how the Academic Innovation Exchanges should continue to develop and operate.

The responsibilities of the Operator in delivering the Services outlined in the Tasks below include identifying, designing, launching, running, and evaluating well-managed services. Although the Operator is expected to provide the Services outlined in the Tasks below, the Operator may suggest alternative approaches to the program and additional Tasks, if these alternatives effectively achieve program goals.

NYCEDC welcomes proposals that meet the goals of multiple Work Streams. Respondents may respond to more than one Work Stream and/or Sub-Work Stream with more than one partnership and/or joint venture.

The Services shall be performed as a series of specific Tasks, as follows.

## **Sub-Work Stream 3.1: Cyber IP Link**

### **Task 1: Design and Develop Cyber IP Link**

The Operator(s) are expected to develop a program scope and intended vision for the program, which includes program beneficiaries they plan to target, how they anticipate engaging program participants, as well as potential corporate allies and industry collaborations. The Operator(s) will be strongly encouraged to develop connections across participating academic institutions and organizations in the Academic Innovation Exchanges.

#### **The primary goals of the Cyber IP Link are to:**

- Pair high-potential cybersecurity IP and technologies created by faculty, post-doc, and student researchers with experienced entrepreneurial and managerial talent to test, refine, and create new academia-led cybersecurity technologies; and
- Commercialize academia-based IP to create new startup companies and jobs.

### **Task 2: Manage Program Activities**

#### **At minimum, the Operator(s) of the Cyber IP Link shall:**

- Develop a program to match commercialization-ready IP with entrepreneurs and business experts who are seeking new venture opportunities to form and launch new startups,
- Cultivate a growing network of entrepreneurial and managerial talent who are able to:
  - Develop new prototypes and products,
  - Conduct early feasibility studies, technical validation, proof-of-concepts, and early marketing testing, and
  - Build investor relationships for new ventures to secure early-stage funding.

#### **In addition, the Operator(s) of the Cyber IP Link may also:**

- Develop and launch networking and educational events bringing together academic and entrepreneurial communities,
- Connect participants with legal experts to support academics through the patenting and incorporation processes and negotiate business contracts, such as licensing deals,
- Create and maintain a platform that provides participating research institutions access to available IP, entrepreneurial and managerial talent, and a catalogue of investors, and
- Offer fellowships and/or grants to help startups formed as a result of Cyber IP Link to further develop, launch, and grow their products and businesses.

### **Task 3: Develop Relationships and Sponsorships**

NYCEDC will look favorably upon the following cooperative and sponsorship efforts:

- Corporate partnerships and sponsorships,
- Government and public sector partnerships and sponsorships,
- Non-profits that support the start-up ecosystem or the cybersecurity community, and
- Other academic institutions or training programs and organizations.

### **Task 4: Manage Operating Activities**

The Operator(s) are expected to deliver the Services and undertake participant management activities throughout the duration of the program cycle.

**4.1 Managerial Activities:** The Operator(s) are expected to undertake the following activities (as appropriate): strategic and financial planning, marketing and publicity, and tracking and reporting on progress.

**4.2 Operating Activities:** The Operator(s) are expected to manage the commitments expressed and agreed upon by the Project Team as part of the Academic Innovation Exchanges. This may include implementing project services, providing basic support services, building community through stakeholder engagements, and developing relationships and sponsorships. NYCEDC will look favorably upon efforts to form partnerships with peer institutions and industry leaders as well as participate in other Cyber NYC Work Streams described within this RFP.

**4.3 Program Activities:** The Operator(s) are expected to manage and implement the Program Activities as outlined in Task 2.

**4.4 Financial Sustainability:** The Operator(s) shall develop a long-term financial sustainability plan for participation in the Academic Innovation Exchanges, including setting revenue targets and financial milestones. The Operator may generate funds for the Academic Innovation Exchanges through revenue generating activities, charitable donations (including, in-kind donations), sponsorships, self-funding, or other means to ensure the successful launch of the Academic Innovation Exchanges and its on-going operations. The Operator may offer financial sponsors of the Academic Innovation Exchanges a suite of services, such as co-branding and marketing opportunities. In the event that the Operator(s) elect(s) to undertake charitable fundraising in connection with the Academic Innovation Exchanges (and/or elects to subcontract with a third party provider in connection with such fundraising activities), certain restrictions and regulations may apply to such activity, including but not limited to the following: (1) the Operator(s) shall ensure that each fundraiser has all required registrations, including any required registration with the New York State Charities Bureau, (2) donated funds may be required to be deposited with NYCEDC and donated property may become the property of NYCEDC, and (3) prospective donors and sponsors shall be subject to NYCEDC's approval prior to any solicitation.

## **Task 5: Manage Marketing, Branding, and Publicity Activities**

**5.1 Program Marketing:** Operator(s) are expected to develop a marketing plan to identify, recruit, and select appropriate program participants and perform outreach to potential program participants, employer partners, and industry stakeholders.

**5.2 Program Branding:** The Service Provider(s) are expected to use the Cyber NYC brand, including name, logo, and website, to be developed and owned by NYCEDC for branding and marketing materials.

It is contemplated that NYCEDC shall own all intellectual property created in connection with branding and marketing of the Academic Innovation Exchanges, which intellectual property may be licensed to the Operator for continued operations in connection with the Innovation Exchange upon the expiration of the Contract pursuant to terms to be mutually agreed upon by NYCEDC and the Operator. To the extent possible, Respondents should propose the terms under which they would expect to license the intellectual property from NYCEDC upon the expiration of the Contract.

**5.3 Publicity:** The Operator(s) are expected to generate media coverage, in coordination with, and subject to the approval of NYCEDC and the Project Team, and respond to all publicity requests, in coordination with, and subject to the approval of NYCEDC. Media coverage may include:

- **Digital:** Mainstream publications, industry-specific publications (e.g., New York Times, Wall Street Journal, TechCrunch, VentureBeat, etc.), social media, podcast, blogs,
- **Print:** Mainstream and industry specific publications,
- **Televised:** Televised / livestreamed press coverage (e.g., launch event), and
- **Other Media:** Other media publications and mediums well-aligned with Cyber NYC.

## **Task 6: Program Monitoring, Evaluation Metrics, and Reports**

The Operator shall be responsible for monitoring, evaluating, and reporting on the progress of the activities to NYCEDC. NYCEDC expects regular progress updates from the Operator, but these updates should not be limited to status reports.

NYCEDC will be a collaborative participant in forming strategy for and implementing the program, especially prior to the launch, and expects to develop a close working relationship with consistent communications with the Operator.

NYCEDC will develop a Monitoring and Evaluation Plan with activities, processes, methodologies, timelines, and metrics, in coordination with the Operator. As part of the Plan, NYCEDC will provide templates and guidelines for all reporting requirements.

**6.1 Output and Outcome Metrics:** The Operator shall collect information on a number of metrics providing evidence of the delivery of the program activities (outputs, e.g., number of faculty/student research team and entrepreneur introductions, number of matches between emerging academic ventures and entrepreneurial talent) as well as evidence of the results (outcomes, e.g., number of new startups formed, number of new hires), to be detailed in the Monitoring and Evaluation Plan.

**6.2 Reports:** The Operator shall provide regular reports on an agreed upon frequency with NYCEDC in the Monitoring and Evaluation Plan. These reports will include, but will not be limited to:

- Pre-launch status reports (monthly): with strategic plans, targets, estimates, and all relevant performance metrics, including raw data, and
- Post-launch status reports (quarterly) and annual reports: with a qualitative assessment of progress against the strategic plan, as well as the pre-established performance metrics, including raw data.

NYCEDC will work with the Operator to determine the content and structure of the reports.

## **Sub-Work Stream 3.2: Cyber Innovation Bridge**

### **Task 1: Design and Develop Cyber Innovation Bridge**

The Operator(s) are expected to develop a program scope and intended vision for the program, which includes program beneficiaries they plan to target, how they anticipate engaging program participants, as well as potential corporate partners and industry collaborations. The Operator(s) will be strongly encouraged to develop relationships across participating institutions and organizations in the Academic Innovation Exchanges. NYCEDC welcomes innovative approaches to connecting academic talent with industries and additional resources provided to execute on this vision.

#### **The primary goal of the Cyber Innovation Bridge is to:**

- Offer early-stage faculty, post-doc, alumni, and/or student-led startups a cohort-based early-stage program to support the growth of new businesses and technologies in cybersecurity.

### **Task 2: Manage Program Activities**

#### **At minimum, the Operator(s) of the Cyber Innovation Bridge shall:**

- Offer early-stage, faculty, post-doc, alumni, and/or student-led startups a cohort-based accelerator program to support the continued growth and development of emerging technologies and businesses; the program shall aim to increase the likelihood of early-stage concepts and startups to garner seed and / or angel venture capital investments,
- Develop mentorships between early-stage academia-led startups and business experts, experienced entrepreneurs, and industry leaders, and
- Offer early-stage academia-led startups access to potential angel and venture capital investors, potential clients and consumers, and other resource partners for early-stage startups to refine their products and technologies.

#### **In addition, the Operator(s) of the Cyber Innovation Bridge may also:**

- Offer fellowships, grants, and / or angel capital to help academia-based entrepreneurs develop, launch, and grow their businesses, and
- Develop opportunities for academia-based entrepreneurs to partner with corporations, startups, and industry stakeholders on cybersecurity projects.

### **Task 3: Develop Relationships and Sponsorships Across Sectors**

NYCEDC will look favorably upon the following cooperative and sponsorship efforts:

- Corporate partnerships and sponsorships,
- Government and public sector partnerships and sponsorships, and
- Other academic institutions or training programs and organizations.

In particular, NYCEDC will look favorably upon proposals that include identified corporate and other industry partners and sponsors.

### **Task 4: Manage Operating Activities**

The Operator(s) are expected to deliver the Services and undertake participant management activities throughout the duration of the program cycle.

**4.1 Managerial Activities:** The Operator(s) are expected to undertake the following activities (as appropriate): strategic and financial planning, procurement outreach, marketing and publicity, and tracking and reporting on progress.

**4.2 Operating Activities:** The Operator(s) are expected to: manage the commitments expressed and agreed upon by the Project Team as part of the Academic Innovation Exchanges. This may include implementing project services, providing basic support services, building community through stakeholder engagements, and developing relationships and sponsorships. NYCEDC will look favorably upon efforts to form relationships with employers and industry leaders and participate in other Cyber NYC Work Streams described within this RFP.

**4.4 Financial Sustainability:** The Operator(s) shall develop a long-term financial sustainability plan for participation in the Academic Innovation Exchanges, including setting revenue targets and financial milestones. The Operator may generate funds for the Academic Innovation Exchanges through revenue generating activities, charitable donations (including, in-kind donations), sponsorships, self-funding, or other means to ensure the successful launch of the Academic Innovation Exchanges and its on-going operations. The Operator may offer financial sponsors of the Academic Innovation Exchanges a suite of services, such as co-branding and marketing opportunities. In the event that the Operator(s) elect(s) to undertake charitable fundraising in connection with the Academic Innovation Exchanges (and/or elects to subcontract with a third party provider in connection with such fundraising activities), certain restrictions and regulations may apply to such activity, including but not limited to the following: (1) the Operator(s) shall ensure that each fundraiser has all required registrations, including any required registration with the New York State Charities Bureau, (2) donated funds may be required to be deposited with NYCEDC and donated property may become the property of NYCEDC, and (3) prospective donors and sponsors shall be subject to NYCEDC's approval prior to any solicitation.

## **Task 5: Manage Marketing, Branding, and Publicity Activities**

**5.1 Program Marketing:** Operator(s) are expected to develop a marketing plan to identify, recruit, and select appropriate program participants and perform outreach to potential program participants, employer partners, and industry stakeholders.

**5.2 Program Branding:** The Service Provider(s) are expected to use the Cyber NYC brand, including name, logo, and website, to be developed and owned by NYCEDC for branding and marketing materials.

It is contemplated that NYCEDC shall own all intellectual property created in connection with branding and marketing of the Academic Innovation Exchanges, which intellectual property may be licensed to the Operator for continued operations in connection with the Academic Innovation Exchanges upon the expiration of the Contract pursuant to terms to be mutually agreed upon by NYCEDC and the Operator. To the extent possible, Respondents should propose the terms under which they would expect to license the intellectual property from NYCEDC upon the expiration of the Contract.

**5.3 Publicity:** The Operator(s) are expected to generate media coverage, in coordination with, and subject to the approval of NYCEDC and the Project Team, and respond to all publicity requests, in coordination with, and subject to the approval of NYCEDC. Media coverage may include:

- **Digital:** Mainstream publications, industry-specific publications (e.g., New York Times, Wall Street Journal, TechCrunch, VentureBeat, etc.), social media, podcast, blogs,
- **Print:** Mainstream and industry specific publications,

- **Televised:** Televised / livestreamed press coverage (e.g., launch event), and
- **Other Media:** Other media publications and mediums well-aligned with Cyber NYC.

## **Task 6: Program Monitoring, Evaluation Metrics, and Reports**

The Operator shall be responsible for monitoring, evaluating, and reporting on the progress of the activities to NYCEDC. NYCEDC expects regular progress updates from the Operator, but these updates should not be limited to status reports. NYCEDC will be a collaborative participant in forming strategy for, and implementation of the Program, especially prior to the launch, and expects to develop a close working relationship with consistent communications with the Operator.

NYCEDC will develop a Monitoring and Evaluation Plan with activities, processes, methodologies, timelines, and metrics, in coordination with the Operator. As part of the Plan, NYCEDC will provide templates and guidelines for all reporting requirements.

**6.1 Output and Outcome Metrics:** The Operator shall collect information on a number of metrics providing evidence of the delivery of the program activities (outputs, e.g., number of startups participating, number of employees of these companies, number of mentors participating) as well as evidence of the results (outcomes, e.g., amount of funding garnered, number of jobs created), to be detailed in the Monitoring and Evaluation Plan.

**6.2 Reports:** The Operator shall provide regular reports on an agreed upon frequency with NYCEDC in the Monitoring and Evaluation Plan. These reports will include, but will not be limited to:

- Pre-launch status reports (monthly): with strategic plans, targets, estimates, and all relevant performance metrics, including raw data, and
- Post-launch status reports (quarterly) and annual reports: with a qualitative assessment of progress against the strategic plan, as well as the pre-established performance metrics, including raw data.

NYCEDC will work with the Operator to determine the content and structure of the reports.

### III. PROPOSAL REQUIREMENTS

Respondents must submit a business plan for the Cyber NYC RFP that includes the information outlined below. NYCEDC shall not be liable for any costs incurred by the Respondent in the preparation of its Proposal. All Proposals shall become the property of NYCEDC.

- **Cyber NYC Concept and Program**

The project description must include a detailed narrative describing the following relevant aspects of relevant Cyber NYC Work Streams:

- **General Concept:** Respondents must include a detailed description of the proposed project, market demand for the proposed services, as well as a stated vision, purpose, and mission of the Cyber Center, Academic Innovation Exchanges, and Talent Partnerships,
- **Programming Concept:** Respondents must describe the programming and services to be offered and how the proposed programming will achieve the programmatic goals of encouraging innovation and content creation, strengthening community and networking opportunities, and encouraging investments in cybersecurity ecosystem in the City,
- **Outreach/Marketing/Sponsorship Plan:** Respondents must describe their plan for conducting outreach to potential users, stakeholders, investors, and corporate sponsors,
- **Management and Operations Plan:** Respondents must specify staffing and operations plans, a timeline for proposed services, and ways to define and capture program evaluations metrics, and
- **Impacts:** Respondents must include a detailed description of the quantitative and qualitative impacts of the project, as reflected in the stated goals of each Sub-Work Stream as described in the Program Monitoring, Evaluation Metrics, and Reports Tasks.

- **Site Plan**

Respondents must provide a description of the proposed site for the Cyber Center and other components of Cyber NYC as necessary, including specific potential location(s), size, layout, and equipment required for the proposed programming. Respondents may also provide a strategy that considers local community involvement and how to deliver unique mission-aligned impact.

- **Construction Plan**

If construction, improvements and/or space fit out are envisioned, Respondents must provide a summary of the proposed development and space program. While conceptual drawings, site-use plans, and floor plans, are not required, Respondents are encouraged to include some or all of these as part of the proposal submission.

- **Proposed Lease Terms**

If Respondents plan to rent space, Respondents must include the anticipated lease terms including length of term, renewal options, amount of rent, and timing of rent payments, and other available pertinent details.



- **Monetization and Pricing Plan**

The Respondent must detail a plan to generate revenues from the space, outlining the different income sources and preliminary pricing associated with each revenue stream.

- **Financial Information**

The Operator is expected to develop a self-sustaining operation within three (3) years of Cyber NYC's launch. Respondents must demonstrate their ability to successfully launch the project and support its ongoing operations.

Respondents must state (i) the amounts they will invest to cover Cyber NYC start-up and/or operating costs, (ii) the amounts they intend to raise from outside sources to cover the Cyber NYC's start-up and/or operating costs, (iii) names of identified potential outside sources, (iv) the amounts they are requesting through the proposal to cover specific start-up costs and operating expenses, and (iv) the timing thereof.

Applicable respondents must submit a pro-forma cash flow analysis for a period of ten (10) years from the official Cyber NYC launch date, including capital and operating budgets. The capital and operating budgets must detail expenses for space layout and any capital improvements; all expenses including staff salaries, any rent to landlord, and other upfront and ongoing expenses; revenue streams, including workspace rents, membership or programming fees, and other potential funding sources for any operating expense funding gaps, such as donations, grants or sponsorships.

A table of all assumptions used in the pro-forma cash flow must be included. Respondents must submit the cash flow and revenue analysis in Excel format with a link to the table of assumptions.

If applicable, Respondents may include:

- Letters of interest from potential partners or sponsors, and
- Letters of recommendation from industry stakeholders.

To the extent possible, Respondents should propose the terms under which they would expect to purchase from NYCEDC any of the Cyber NYC's equipment purchased with Contract funds upon the expiration of the Contract.

To the extent possible, Respondents should propose the terms under which they would expect to license from NYCEDC any intellectual property created in connection with Cyber NYC Lab upon the expiration of the Contract.

- **Respondent Description**

Each Respondent submitting a proposal must demonstrate sufficient financial resources and professional ability to develop Cyber NYC in a manner consistent with its proposal. Each Respondent must complete and submit a Local Law 34 Forms (see **Appendix 1**).

Respondents are encouraged to develop proposals that reflect distinct points of view based on their own assessment of the City’s business, research and technology landscape, Respondent’s own capabilities, and a Respondent’s perspective on the future of the cybersecurity landscape in the City, as well as domestically and globally.

In addition, each proposal must include:

- Name, address, telephone number, and qualifications for each member of the Respondent team,
- Background information on all members of the Respondent team, including the relevant experience of all principal members involved in the development and operation of Cyber NYC, and
- Any additional documentation or information evidencing the strength of the Respondent and its ability to manage Cyber NYC. If applicable, this should include any past experience in endeavors similar to the Cyber NYC, business development, workforce development, training programs and placement programs, and any partnerships with community, educational, or other organizations that would support the long-term viability of the project.

- **Statement of Agreement**

Respondent must provide a statement signed by an authorized principal or officer stating that the Respondent has read this RFP and the Appendices fully and agrees to the terms and conditions set forth herein and therein. See **Appendix 2** for the form of the Statement of Agreement.

- **Minority and Women-Owned Business Enterprise Narrative**

Respondent must provide the Minority and Women-Owned Business Enterprise Narrative Form. See **Appendix 3** for the form.

- **Wage Regulations and Requirements**

Living Wage and Prevailing Wage

The Living Wage Act, as expanded by Executive Order No. 7 (collectively, the “Living Wage Requirements”), as well as the Prevailing Wage Law (collectively, the “Prevailing Wage Law”), all as hereinafter defined in *Appendix 5 – Living Wage and Prevailing Wage Requirements*, apply to certain companies that receive at least \$1 million of financial assistance from the City and/or NYCEDC. The Developer will be subject to the Living Wage Requirements, and the Prevailing Wage Law, as applicable.

In addition, NYCEDC is committed to ensuring its projects meet wage goals set forth in the Living Wage Requirements and the Prevailing Wage Law, regardless of applicability. NYCEDC will give preference to Proposals in which Respondents demonstrate wages and benefits paid to all employees of the Respondent will meet or exceed the living wage

and wages and benefits paid to building service employees at the Receiver Site will meet the prevailing wage.

Respondent's Proposal should include the proposed wages to be paid and supplemental benefits to be provided to employees of the Respondent who are expected to be employed at the Receiver Site.

Please be sure that you review and understand all of the Living Wage Requirements and the requirements of the Prevailing Wage Law to understand how these requirements will affect the project. Additional details are provided in *Appendix 5 – Living Wage and Prevailing Wage Requirements*.

Contractual provisions implementing the Living Wage Requirements and the requirements of the Prevailing Wage Law will be incorporated into the Transaction Agreements.

## IV. SELECTION CRITERIA

There is no financial obligation by NYCEDC following the selection of an RFP proposal. NYCEDC will evaluate each proposal according to the criteria listed below, taking into account the information provided in the proposal and any other information about the Respondent and its performance available to NYCEDC. Proposals that are not complete or do not conform to the requirements of this RFP may not be considered.

NYCEDC reserves the right to request additional information, site visits, interviews, or presentations, from one or more of the Respondents.

**The selection criteria for each Sub-Work Stream is detailed below.** Respondent proposals will be evaluated by each Sub-Work Stream. In other words, while a Respondent may apply for an entire Work Stream, to be selected to operate the entire Work Stream, the Respondent must be selected for both Sub-Work Streams, which will be evaluated independently from each other. The Selection Committee will evaluate and select Operators based on distinct selection criteria for each Sub-Work Stream:

In addition, each Respondent is required to include the following table clearly indicating every Sub-Work Stream the proposal addresses:

Proposal (Y/N)	Sub-Work Stream	Work Stream
	1. Community Programs	Cyber Center
	2. Accelerator	
	3. Applied Learning Initiative	Talent Partnerships
	4. Cyber Boot Camp	
	5. Cyber IP Link	Academic Innovation Exchanges
	6. Cyber Innovation Bridge	

The Selection Committee will evaluate and select Operators based on the distinct selection criteria for each Sub-Work Stream:

### **Cyber Center: Community Programs**

1. **The quality of the proposal (30%):** The quality of the proposed services, including the degree to which it accomplishes the goals of Cyber NYC and the Community Programs and demonstrates the Respondent's full understanding of the service(s); its ability to execute the proposed service(s); and its full understanding of the expertise necessary to successfully fulfill the services. This includes the Respondent's demonstrated relationships with key stakeholders in cybersecurity. This also includes the potential impact of a proposal's service(s) on the target program beneficiaries and the extent to which proposed program(s) are creating opportunities for a diverse group of individuals.

2. **The quality of Respondent team (30%):** The Respondent's demonstrated experience and reputation in the development and management of industry-focused community programs, innovative partnerships, and management and outreach in the area(s) of each Task. Please note that prior to award, Respondents will be expected to complete a Background Investigation Form (see **Appendix 4**).
3. **Operational and Financial Feasibility Schedule (30%):** The Respondent's financial information must demonstrate the capacity to successfully launch Cyber NYC and develop a self-sustaining operation within three (3) years of Cyber NYC's launch; sufficient revenue to support the launch and ongoing operation of Cyber NYC; appropriate sponsors and financial contributions by the Respondent and financial partners; and the availability of additional funding sources to finance the project beyond the requested contribution. Respondent will also be evaluated on the proposed schedule for implementation of Cyber NYC and demonstration of ability to launch Cyber NYC in a timely fashion.
4. **MWBE Narrative (10%):** This shall include the assessment of the Respondent's Minority and Women-Owned Business Enterprise Narrative Form.

#### **Cyber Center: Accelerator**

1. **The quality of the proposal (30%):** The quality of the proposed services, including the degree to which it accomplishes the goals of Cyber NYC and the Accelerator and demonstrates the Respondent's full understanding of the service(s); its ability to execute the proposed service(s); and Respondent's full understanding of the expertise necessary to successfully fulfill the services.
2. **The quality of Respondent team (30%):** The Respondent's demonstrated experience and reputation in program development, management and outreach in the area(s) of each Task. This includes the Respondent's demonstrated expertise and knowledge of the startup, tech, and entrepreneurship fields locally and globally and demonstrated relationships with key stakeholders across sectors, including entrepreneurial, venture capital, and academia. Please note that prior to award, Respondents will be expected to complete a Background Investigation Form (see **Appendix 4**).
3. **Operational and Financial Feasibility Schedule (30%):** The Respondent's financial information must demonstrate the capacity to successfully launch Cyber NYC and develop a self-sustaining operation within three (3) years of Cyber NYC's launch; sufficient revenue to support the launch and ongoing operation of Cyber NYC; appropriate sponsors and financial contributions by the Respondent and financial partners; and the availability of additional funding sources to finance the project beyond the requested contribution. Respondent will also be evaluated on the proposed schedule for implementation of Cyber NYC and demonstration of ability to launch Cyber NYC in a timely fashion.
4. **MWBE Narrative (10%):** This shall include the assessment of the Respondent's Minority and Women-Owned Business Enterprise Narrative Form.

## Talent Partnerships: Applied Learning Initiative

1. **The quality of the proposal (40%):** The quality of the proposed services, including the degree to which it accomplished the goals of Cyber NYC and the Applied Learning Initiative and demonstrates the Respondent's full understanding of the service(s); its ability to execute the proposed service(s); and its full understanding of the expertise necessary to successfully fulfill the services.
2. **The quality of Respondent team (25%):** The Respondent's demonstrated experience and reputation in program development, management, and outreach in the area(s) of each Task. This includes the Respondent's demonstrated expertise and knowledge of the technology startup and cybersecurity industry locally and globally and demonstrated relationships with key stakeholders across sectors, including entrepreneurial, venture capital, and academia. Please note that prior to award, Respondents will be expected to complete a Background Investigation Form (see **Appendix 4**).
3. **Operational and Financial Feasibility Schedule (25%):** The Respondent's financial information must demonstrate the capacity to successfully launch Cyber NYC and develop a self-sustaining operation within three (3) years of Cyber NYC's launch; sufficient revenue to support the launch and ongoing operation of Cyber NYC; appropriate sponsors and financial contributions by the Respondent and financial partners; and the availability of additional funding sources to finance the project beyond the requested contribution. Respondent will also be evaluated on the proposed schedule for implementation of Cyber NYC and demonstration of ability to launch Cyber NYC in a timely fashion.
4. **MWBE Narrative (10%):** This shall include the assessment of the Respondent's Minority and Women-Owned Business Enterprise Narrative Form.

## Talent Partnerships: Cyber Boot Camp

1. **The quality of the proposal (40%):** The quality of the proposed services, including the degree to which it accomplishes the goals of Cyber NYC and the Cyber Boot Camp and demonstrates the Respondent's full understanding of the service(s); its ability to execute the proposed service(s); and its full understanding of the expertise necessary to successfully fill the services.
2. **The quality of Respondent team (25%):** The Respondent's demonstrated experience and reputation in program development, management, and outreach in the area(s) of each Task. This includes the Respondent's demonstrated expertise and knowledge of the technology startup and cybersecurity industry locally and globally and demonstrated relationships with key stakeholders across sectors including entrepreneurial, venture capital, and academia. Please note that prior to award, Respondents will be expected to complete a Background Investigation Form (see **Appendix 4**).
3. **Operational and Financial Feasibility Schedule (25%):** The Respondent's financial information must demonstrate the capacity to successfully launch Cyber NYC and develop a self-sustaining operation within three (3) years of Cyber NYC's launch; sufficient revenue to support the launch and ongoing operation of Cyber NYC; appropriate sponsors and financial contributions by the Respondent and financial partners; and the availability of additional funding

sources to finance the project beyond the requested contribution. Respondent will also be evaluated on the proposed schedule for implementation of Cyber NYC and demonstration of ability to launch the Cyber NYC in a timely fashion.

4. **MWBE Narrative (10%):** This shall include the assessment of the Respondent's Minority and Women-Owned Business Enterprise Narrative Form.

#### **Academic Innovation Exchanges: Cyber IP Link**

1. **The quality of the proposal (50%):** The quality of the proposed services, including the degree to which it accomplishes the goals of Cyber NYC and Cyber IP Link and demonstrates the Respondent's full understanding of the service(s); its ability to execute the proposed service(s); and its full understanding of the expertise necessary to successfully fill the services.
2. **The quality of Respondent team (20%):** The Respondent's demonstrated experience and reputation in program development, management, and outreach in the area(s) of each Task. This includes the Respondent's demonstrated expertise and knowledge of the technology startup and cybersecurity industry locally and globally, and demonstrated relationships with key stakeholders across sectors including entrepreneurial, venture capital, and academia. Please note that prior to award, Respondents will be expected to complete a Background Investigation Form (see **Appendix 4**).
3. **Operational and Financial Feasibility Schedule (20%):** The Respondent's financial information must demonstrate the capacity to successfully launch Cyber NYC and develop a self-sustaining operation within three (3) years of Cyber NYC's launch; sufficient revenue to support the launch and ongoing operation of Cyber NYC; appropriate sponsors and financial contributions by the Respondent and financial partners; availability of additional funding sources to finance the project beyond the requested contribution. Respondent will also be evaluated on the proposed schedule for implementation of Cyber NYC and demonstration of ability to launch Cyber NYC in a timely fashion.
4. **MWBE Narrative (10%):** This shall include the assessment of the Respondent's Minority and Women-Owned Business Enterprise Narrative Form.

#### **Academic Innovation Exchanges: Cyber Innovation Bridge**

1. **The quality of the proposal (50%):** The quality of the proposed services, including the degree to which it accomplishes the goals of Cyber NYC and the Cyber Innovation Bridge and demonstrates the Respondent's full understanding of the service(s); its ability to execute the proposed service(s); and its full understanding of the expertise necessary to successfully fill the services.
2. **The quality of Respondent team (20%):** The Respondent's demonstrated experience and reputation in program development, management, and outreach in the area(s) of each Task. This includes the Respondent's demonstrated expertise and knowledge of the technology startup and cybersecurity industry locally and globally and demonstrated relationships with key stakeholders across sectors including entrepreneurial, venture capital, and academia. Please note that prior to

award, Respondents will be expected to complete a Background Investigation Form (see **Appendix 4**).

3. **Operational and Financial Feasibility Schedule (20%):** The Respondent's financial information must demonstrate the capacity to successfully launch Cyber NYC and develop a self-sustaining operation within three (3) years of Cyber NYC's launch; sufficient revenue to support the launch and ongoing operation of Cyber NYC; appropriate sponsors and financial contributions by the Respondent and financial partners; and the availability of additional funding sources to finance the project beyond the requested contribution. Respondent will also be evaluated on the proposed schedule for implementation of Cyber NYC and demonstration of ability to launch Cyber NYC in a timely fashion.
4. **MWBE Narrative (10%):** This shall include the assessment of the Respondent's Minority and Women-Owned Business Enterprise Narrative Form.



## V. SUBMISSIONS

### **How to Submit**

Proposals must be submitted to and received by NYCEDC no later than **4:00pm on Friday, February 16, 2018**. Eight (8) hard copies of the Proposal in paper form and one copy of the Proposal in electronic format (either USB device or CD-ROM) must be received by NYCEDC, at the address below, in a package with the Respondent's name and address clearly written on the outside and labeled "Cyber NYC" by the Submission Deadline in order to be accepted for the subsequent review period:

New York City Economic Development Corporation  
110 William Street, 4<sup>th</sup> Floor  
New York, NY 10038  
Attn: Maryann Catalano, Chief Procurement Officer, Contracts

NYCEDC Cyber NYC RFP  
New York City Economic Development Corporation  
[CyberNYCRFP@edc.nyc](mailto:CyberNYCRFP@edc.nyc)

### **Doing Business Data Form; Statement of Agreement; M/WBE Narrative Form**

All Proposals should also include: (a) Local Law 34 Forms (Appendix 1), and (b) Statement of Agreement (Appendix 2); (c) M/WBE Narrative Form (Appendix 3)

### **Further Information/Questions and Answers**

An optional informational session will be held on **Tuesday, November 28, 2017** at 2:30pm at NYCEDC (110 William Street, 6<sup>th</sup> Floor, New York, NY 10038).

Respondents may submit questions and/or request clarification from NYCEDC no later than **5:00pm on Wednesday, December 6, 2017**. Please send questions regarding this RFP to [CyberNYCRFP@edc.nyc](mailto:CyberNYCRFP@edc.nyc). All questions will be answered and posted to [www.nycedc.com/RFP](http://www.nycedc.com/RFP) on **Wednesday, December 13, 2017**.

For all questions that do not pertain to the subject matter of this RFP, please contact NYCEDC's Contracts Hotline at (212)-312-3969.

## VI. TERMS AND CONDITIONS

**Proposal as Offer to Contract.** Unless a specific exception is noted, submission of a proposal in response to this RFP shall constitute an offer on the part of the successful respondent to execute the Contract substantially in the form annexed hereto as Exhibit 5. Any supporting documents or other items attached as exhibits to this RFP shall be incorporated into the Contract. The successful respondent shall cooperate in supplying any information as may be required with respect to the Background Clearance Package, which is available on the PASSPort website at <http://www1.nyc.gov/site/passport/index.page> (the "PASSPort Website"), and any other government review and approval forms. Respondent's proposal shall remain open for acceptance by NYCEDC and shall remain firm and binding upon the respondent for at least sixty (60) days after the date on which the proposals are received by NYCEDC, except that NYCEDC may by written notice to the respondent extend that date for an additional forty-five (45) days.

**News Releases.** Recipients of this RFP shall make no news or press release pertaining to this RFP or anything contained or referenced herein without prior written approval from NYCEDC. All news and press releases pertaining to this RFP must be made in coordination with NYCEDC.

**Investigations/Derogatory Information.** The respondent, the members of its Respondent Team, and all officers, principals, principal shareholders, partners and members thereof, if applicable, must complete a background questionnaire and shall be subject to investigation by NYCEDC and the City's Department of Investigation. The selection of a respondent may be rejected or revoked, or the Contract, if awarded, terminated for cause, in NYCEDC's sole discretion, in the event any materially derogatory information is revealed by such investigation or otherwise including, without limitation, that any such persons or any other persons substantially involved in the respondent's activities has committed any of the acts or omissions specified as the grounds for debarment in the City's *Procurement Policy Board Rules*.

**Freedom of Information Law.** All proposals submitted to NYCEDC in response to this RFP may be disclosed in accordance with the standards specified in the Freedom of Information Law, Article 6 of the Public Officers Law of the State of New York ("FOIL"). A respondent may provide in writing, at the time of its submission, a detailed description of the specific information contained in its submission which it has determined is a trade secret and which, if disclosed, would substantially harm such entity's competitive position. This characterization shall not be determinative, but will be considered by NYCEDC when evaluating the applicability of any exemptions in response to a FOIL request.

**Costs.** NYCEDC shall not be liable for any cost incurred by the respondent in the preparation of its proposal or for any work or services performed by the respondent prior to the execution and delivery of the Contract. NYCEDC is not obligated to pay any costs, expenses, damages or losses incurred by any respondent at any time unless NYCEDC has expressly agreed to do so in writing.

**NYCEDC Rights.** This is a "Request for Proposals" and **not** a "Request for Bids". NYCEDC shall be the sole judge of whether a proposal conforms to the requirements of this RFP and of the merits and acceptability of the individual proposals. Notwithstanding anything to the contrary contained herein, NYCEDC reserves the right to take any of the following actions in connection with this RFP: amend, modify or withdraw this RFP; waive any requirements of this RFP; require supplemental statements and information from any respondents to this RFP, including, if the proposer is a joint venture, a copy of a joint venture agreement; award a contract to as many or as few or none of the respondents as NYCEDC may select; accept or reject any or all proposals received in response to this RFP; extend the deadline for

submission of proposals; negotiate or hold discussions with one or more of the respondents; permit the correction of deficient proposals that do not completely conform with this RFP; waive any conditions or modify any provisions of this RFP; reject any or all proposals and cancel this RFP, in whole or in part, for any reason or no reason, in NYCEDC's sole discretion. NYCEDC may exercise any such rights at any time, without notice to any respondent or other parties and without liability to any respondent or other parties for their costs, expenses or other obligations incurred in the preparation of a proposal or otherwise. All proposals become the property of NYCEDC.

**Applicable Law.** This RFP and any Contract, Subcontract or any other agreement resulting herefrom are subject to all applicable laws, rules, regulations and executive orders, policies, procedures and ordinances of all Federal, State and City authorities, as the same may be amended from time to time, including without limitation, equal employment opportunity laws.

### **Modifications and Questions.**

NYCEDC will advise RFP respondents of any modifications to this RFP by posting them on the Website. Nothing stated at any time by any representative of NYCEDC or of any other entity shall effect a change in, or constitute a modification to this RFP unless posted on the Website or confirmed in writing by NYCEDC.

Respondents may submit questions and/or request clarifications from NYCEDC by submitting them *in writing* to the Recipient at the Recipient's Mailing Address or E-Mail Address listed in Part VI of the RFP. All questions and requests for clarifications must be submitted no later than the Question/Clarification Deadline listed in Part VI of the RFP. Any questions or requests for clarifications received after this date will not be answered. All questions received through the Question/Clarification Deadline will be answered no later than the Question Response Date listed in Part VI of the RFP, and NYCEDC shall post such answers on the Website, so as to be available to all respondents, if NYCEDC determines that such answers provide material clarification to the RFP.

Respondents are reminded to check the Website periodically to view updated information and answers to questions posed by other respondents.

While NYCEDC may send Notices, addenda or other information related to this RFP to respondents via e-mail alerts or otherwise in writing, such e-mail alerts and other written materials shall be considered courtesy copies only. In the event any conflict exists between any information set forth on the Website and any Notice, addendum or other information provided to a respondent by NYCEDC in writing via e-mail or otherwise, the information set forth on the Website will govern and be definitive. NYCEDC is not obligated to provide the respondent with any Notices, addendum or other information that appears on the Website in writing, and the fact that NYCEDC may have sent one or more e-mails, Notices, addenda or other written information to a respondent shall not be deemed to imply that NYCEDC has any duty or obligation to continue to do so.

**City Not a Party.** The City is not a party to this RFP, has made no representation to any prospective respondent and shall have no liability whatsoever in connection with this RFP.

**Brokerage Fees or Commissions.** The City and NYCEDC shall not be obligated to pay any fee, cost or expense for brokerage commissions or finder's fees with respect to the execution of the Contract. The respondent agrees to pay the commission or other compensation due to any broker or finder in connection with the Contract, and to indemnify and hold harmless the City and NYCEDC from any

obligation, liability, cost and/or expense incurred by the City or NYCEDC as a result of any claim for commission or compensation brought by any broker or finder in connection with the Contract.

**Proposals From Principals.** Only proposals from principals and authorized officers will be considered responsive.

**Disclaimer.** NYCEDC and the City, and their respective officers, directors, agents, members and employees make no representation or warranty and assume no responsibility for the accuracy of the information set forth in this RFP. Further, NYCEDC and the City do not warrant or make any representations as to the quality, content, accuracy or completeness of the information, text, graphics, links or any other facet of this RFP once it has been downloaded or printed from this or any server, and hereby disclaim any liability for any technical errors or difficulties of any nature that may arise in connection with the Website on which this RFP is posted, or in connection with any other electronic medium utilized by respondents or potential respondents in connection with or otherwise related to the RFP.

**Protest Procedures.** The procedures set forth in this section shall apply to all protests (collectively, “Protests” and each individually, a “Protest”) related to this procurement. NYCEDC will not entertain any Protest that is untimely or fails in any manner to comply fully with the procedures set forth in this section.

**Types of Protests.** There are three types of procurement Protests:

Pre-Proposal Protest: A protest submitted prior to the Submission Deadline to challenge the notice procedures followed by the Corporation;

Pre-Award Protest: A protest submitted after the Submission Deadline but before Contract execution; and

Post-Award Protest: A protest submitted after the Contract has been executed, but only to the extent that the protest is based on newly discovered information that was not available prior to execution of a Contract.

**Submission of Protests/Deadlines.** All Protests must be in writing and must be submitted in accordance with the following timeline for the following types of Protests:

A Pre-Proposal Protest must be submitted at least two (2) business days prior to the Submission Deadline set forth in Part I, Section 2.2.6.3 of the RFP;

A Pre-Award Protest must be submitted five (5) business days from the later of receipt of Notice of the Corporation’s contingent award of the Contract and the date proposals are made publicly available; and

A Post-Award Protest must be submitted five (5) working days from the date the protesting party knew or should have known the newly discovered evidence that serves as the grounds of its Protest.

A Protest will be considered submitted when the Protest is received by the Corporation.

**Contents of Protest:** The Protest should include, without limitation, the following information:

name, address and telephone number of the protester;

appropriate identification of the procurement, including the Contract Number;  
statement of the basis of the Protest;  
supporting exhibits and documentary evidence to substantiate the grounds for the Protest; and  
form of relief requested.

Address for Submission of Protests:

NYCEDC

110 William Street

New York, NY 10038

Attention: Maryann Catalano, Senior Vice President, Chief Procurement Officer

Method of Submission: By Hand or U.S. Mail

Envelope: The envelope enclosing the Protest must be clearly labeled "PROTEST" and must list the contract number to which the Protest relates.

Additional Information: The Corporation may request that the protestor submit additional information that it may need in order to consider the Protest. Any additional information requested by the Corporation must be submitted within the time period established by the Corporation in order to expedite consideration of the Protest. Failure of the protestor to comply with a request for information within the specified time period will result in a resolution of the Protest without consideration of any information subsequently submitted by the protestor in an untimely manner.

Determinations. The President or his/her designee has the authority to make a final determination. The Corporation will respond to each substantive issue in the Protest. The Corporation may, in its sole discretion, meet with the protesting respondent and any affected party to discuss the Protest. The Corporation shall have the right to take such appropriate action as may be in the best interests of the Corporation and the City in light of the determination.

The Corporation's determination shall be final. The respondent shall have been deemed to have received NYCEDC's determination notice no later than five (5) days from the date of mailing or upon delivery, if delivered by hand of NYCEDC's determination.

## VII. DEFINITIONS

**Cyberattack**<sup>8</sup>: An attack, via cyberspace, targeting an enterprise's use of cyberspace for the purpose of disrupting, disabling, destroying, or maliciously controlling a computing environment/infrastructure; or destroying the integrity of the data or stealing controlled information.

**Cybersecurity**<sup>9</sup>: The ability to protect or defend the use of cyberspace from cyberattacks.

**Cyberspace**<sup>10</sup>: A global domain within the information environment consisting of the interdependent network of information systems infrastructures including the Internet, telecommunications networks, computer systems, and embedded processors and controllers.

**Growth-Stage Startup**: An enterprise-ready startup that has already received, or is very near completing, a Series A round of funding.

**Hacker**<sup>11</sup>: Unauthorized user who attempts to or gains access to an information system.

**Startup**: A privately-held, entrepreneurial company.

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<sup>8</sup> Definition from National Institute of Standards and Technology (NIST) Glossary of Key Information Security Terms: <http://nvlpubs.nist.gov/nistpubs/ir/2013/NIST.IR.7298r2.pdf>

<sup>9</sup> Ibid

<sup>10</sup> Ibid

<sup>11</sup> Definition from National Institute of Standards and Technology (NIST) Glossary of Key Information Security Terms: <http://nvlpubs.nist.gov/nistpubs/ir/2013/NIST.IR.7298r2.pdf>

## VIII. APPENDICES

### APPENDIX 1: LOCAL LAW 34 FORMS

The Operator shall complete and submit a Doing Business Data Form which can be found at [www.nycedc.com](http://www.nycedc.com) in the following section:

“Resource/Vendor Resources”

If the Respondent cannot access or download these forms, NYCEDC may, upon request, send the Respondent the required forms. The text of said section provides as follows:

#### **Doing Business Accountability Project Forms**

Local Law 34 of 2007 (LL 34) requires the creation of a database containing information about entities that do business with the City as defined by the law, and principal officers, owners and senior managers of these entities. This information will be collected on Doing Business Data Forms that are distributed, collected and reviewed by agencies, and forwarded to the Doing Business Accountability Project (DBAP) at MOCS for processing. Collected data will be used to identify entities and people who are subject to LL 34’s limitations on campaign contributions in municipal elections.

The submission of a Doing Business Data Form that is not accurate and complete may result in appropriate sanctions. Respondents are encouraged to consult legal counsel with respect to the impact of LL34. Respondents may also wish to review the document “Q&A: The Doing Business Data Form and the Doing Business Database” available at the Website and described in for further information. Note that responding to this RFP constitutes “doing business with the city” under LL34.

If you have any questions or concerns, please contact the Doing Business Accountability Project at 212-788-8104 or [DoingBusiness@cityhall.nyc.gov](mailto:DoingBusiness@cityhall.nyc.gov).

[Doing Business Form](#)

[Doing Business Form-Real Property](#)

[Q&A General](#)

[Q&A Real Property](#)

## **APPENDIX 2: STATEMENT OF AGREEMENT**

### **SAMPLE**

(On company letterhead)

Date:

New York City Economic Development Corporation  
110 William Street, 4<sup>th</sup> Floor  
New York, NY 10038  
Attn: Maryann Catalano, Chief Procurement Officer, Contracts

Dear Ms. Catalano:

This letter hereby certifies that [Respondent] has read this RFP and the Appendices fully and agrees to the terms and conditions set forth in this RFP and Appendices.

Sincerely,

Operator

Operator Title [*must be authorized principal or officer of the Respondent*]



# APPENDIX 3: MINORITY AND WOMEN-OWNED BUSINESS ENTERPRISE NARRATIVE FORM



## M/WBE Narrative Form

NYCEDC is dedicated to furthering the participation of minority- and women-owned businesses in its work. Each RFP Respondent must submit this form together with its proposal to indicate how M/WBE participation will be achieved if it is selected.

Construction Manager/Lead Respondent:

Project Number:

### A. Establishment of numerical MWBE contracting utilization goals or targets

*The Participation Goal Range for this contract is set in Part I Section 2.2.7 of the RFP. Please indicate the goal you commit to reaching on this contract by entering your M/WBE Participation Commitment Percentage below Please note, if you are selected this goal will become part of your contract.*

#### MWBE Participation Commitment Percentage\*:

\*M/WBE Participation Commitment Percentage = Projected Payments to MWBEs/Total Contract Payments

### B. Prequalified list information (Construction Management contracts only)

**What is the size of your list of prequalified subcontractors?**

**How many M/WBE's are on your list of prequalified subcontractors?**

**Please fill out table below so that we may determine how well M/WBEs represented on your prequalified list for trades that are key to this project.**

	1. Trade	2. No. of Prequalified Contractors/Respondents for Trade	3. No. of Firms in Previous Column (#2) that is M/WBE
Key Trade #1			
Key Trade #2			
Key Trade #3			
Key Trade #4			
Key Trade #5			

**C. List of Subcontractors (Retainers, On-Call and CM contracts)**

*Please separately attach the Subcontractors Participation Plan (SPP) listing all subcontractors, both M/WBE and non-M/WBE, that will be used on this contract. For CMs, list all the members of the team included in proposal. The SPP will be reviewed and rated based on:*

- *Percentage of subcontractors who are certified as M/WBE with the appropriate agency*
- *Number of M/WBE firms on the SPP*
- *Type of work M/WBE firms will provide—Are they critical tasks integral to the project? Are they providing support services? Are there multiple firms on the SPP for a task that an MWBE is slated to provide?*

**D. Strategies and methods that will facilitate participation by M/WBE firms**

*Please separately attach a narrative that lists the specific measures that will be taken to fulfill the M/WBE requirements of this contract and the goals established. Below are some recommended methods for engaging M/WBE firms. In the narrative, be sure to indicate which of the methods will be incorporated into your M/WBE outreach efforts as well as any additional strategies. These strategies should be specific and easily verifiable. Also include detailed information about any MWBE programming offered by your firm. Note that specific actions committed to in the narrative must be documented sufficiently so that proof of their application can be readily obtained. As this narrative will be a factor in selection, it is critical that respondents fulfill every aspect of the narrative set forth in the response to the RFP.*

- Advertise opportunities for M/WBEs
- Hold direct subcontractors accountable to meeting Participation Goals
- Engage in direct outreach to M/WBEs
- Hold informational meetings with M/WBEs
- Work with M/WBE and community organizations to enhance outreach
- Reach out to vendors on the NYCEDC Interested Subcontractor List
- Seek assistance from NYCEDC Opportunity M/W/DBE staff
- Carve out specific work for M/WBE contractors
- Unbundle bid packages to engage more subcontractors

**E. Provide the name and contact information of in-house M/WBE contact.**

**F. Attestation**

I acknowledge that all the information provided herein is true and correct. In addition, I confirm the following:

- I have read and understand the M/WBE requirements for this contract.
- I will make and thoroughly document Good Faith Efforts utilized in encouraging M/WBE participation.

I understand that I must notify NYCEDC of any material changes to the information submitted herein.

## **APPENDIX 4: BACKGROUND INVESTIGATION FORMS**

The successful Respondent shall cooperate in supplying any information as may be required with respect to the Vendex Clearance Forms, which are available online at [www.nyc.gov/vendex](http://www.nyc.gov/vendex) (the “Vendex Website”), and any other government review and approval forms. If the Respondent cannot access or download these forms, NYCEDC may, upon request, send the Respondent the required forms.

## **APPENDIX 5: LIVING WAGE AND PREVAILING WAGE REQUIREMENTS**

The living wage and prevailing wage laws and regulations described below help guarantee that City development efforts encourage the creation of jobs that provide economic opportunity and benefit for all New Yorkers while serving as models to employers across the City. Local Law No. 37 of 2012 added the Fair Wages for New Yorkers Act as Section 6-134 of the New York City Administrative Code (the “Living Wage Act”), which was broadened when the Mayor issued Executive Order No. 7 (the “Executive Order,” the obligations imposed on a successful Respondent pursuant to the Living Wage Act and the Executive Order are collectively referred to as the “Living Wage Requirements”). The Living Wage Requirements require companies that receive at least \$1 million of “financial assistance” (as such term is defined in the Living Wage Act) from the City or NYCEDC to pay their employees at the project site no less than a “living wage,” unless the company qualifies for an exemption under the Living Wage Requirements. As of April 1, 2017, the “living wage” is equal to the sum of \$11.90 per hour with health benefits or \$13.40 per hour without health benefits, subject to annual inflation based adjustments (the Commissioner of the Department of Consumer Affairs will announce the new rates each January 1, which will go into effect on April 1 of each such year). Additionally, other “additional covered employers” (as such term is defined in the Executive Order) at the project site are required to pay their employees at the project site no less than a living wage, unless those employers qualify for an exemption under the Living Wage Requirements. Copies of the Living Wage Act and the Executive Order are available for download at <https://www.nycedc.com/about-nycedc/economic-workforce-opportunity>.

Local Law No. 27 of 2012 added Section 6-130 of the New York City Administrative Code (the “Prevailing Wage Law”). Like the Living Wage Requirements, the Prevailing Wage Law applies to certain companies that receive at least \$1 million of “financial assistance” (as such term is defined in the Prevailing Wage Law) from the City or NYCEDC for projects that are expected to be larger than 100,000 square feet or to include more than 100 residential units, unless the company and/or project qualifies for an exemption under the Prevailing Wage Law (a nonexempt company is referred to as a “covered developer”). A covered developer must ensure that all “building service employees” performing “building service work” (as such terms are defined in the Prevailing Wage Law) at the project location are paid no less than the “prevailing wage.” The “prevailing wage” means the rate of wage and supplemental benefits paid to workers in the same trade or occupation in the New York City locality, as determined annually by the City Comptroller. The current prevailing wage schedule is available for download at <http://comptroller.nyc.gov/general-information/prevailing-wage/>.

A copy of the Prevailing Wage Law is available for download at <https://www.nycedc.com/about-nycedc/economic-workforce-opportunity>.

**APPENDIX 6: CONSULTANT CONTRACT DRAFT**

**NEW YORK CITY ECONOMIC DEVELOPMENT CORPORATION  
CYBER NYC  
PROFESSIONAL SERVICES CONSULTANT CONTRACT  
FOR THE PROVISION OF OPERATION SERVICES  
NYCEDC CONTRACT NO. 7102  
PROJECT CODE NO. 7102**

***CONSULTANT CONTRACT***

**NEW YORK CITY ECONOMIC DEVELOPMENT CORPORATION  
CYBER NYC  
PROFESSIONAL SERVICES CONSULTANT CONTRACT  
FOR THE PROVISION OF OPERATION SERVICES  
NYCEDC CONTRACT NO. 7102**

**PROJECT CODE NO. 7102**

**PART I SPECIFIC TERMS AND CONDITIONS**

**PART II GENERAL TERMS AND CONDITIONS**

**PART III APPENDICES**

**NEW YORK CITY ECONOMIC DEVELOPMENT CORPORATION  
CYBER NYC  
PROFESSIONAL SERVICES CONSULTANT CONTRACT  
FOR THE PROVISION OF OPERATION SERVICES  
NYCEDC CONTRACT NO. 7102  
PROJECT CODE NO. 7102**

**PART I  
SPECIFIC TERMS AND CONDITIONS**

New York City Economic Development Corporation (the “Corporation” or “NYCEDC”) and the Consultant identified below, in consideration of the mutual covenants contained in this Contract (as defined below) and other valuable and good consideration, do hereby agree to all of the terms and conditions set forth in (i) these Specific Terms and Conditions (Part I) set forth immediately below, (ii) the General Terms and Conditions (Part II) annexed hereto and made a part hereof and (iii) the Appendices (Part III) annexed hereto and made a part hereof. Capitalized terms shall have the meaning set forth in Appendix A (Definitions) unless otherwise defined in this Contract or the context otherwise requires.

**1. The Contract**

- 1.1 **Contract:** These Specific Terms and Conditions (Part I), the General Terms and Conditions (Part II) and the Appendices (Part III)
- 1.2 **NYCEDC Contract No.** [\_\_\_\_\_]
- 1.3 **Contract Date:** The date of the Contract is as of [\_\_\_\_\_]
- 1.4 **Commencement Date:** [\_\_\_\_\_]
- 1.5 **Term:** [\_\_\_\_\_]
- 1.6 **Maximum Contract Price:** [\_\_\_\_\_]
- 1.7 **Project:** [\_\_\_\_\_]
- 1.8 **Project Site:** [\_\_\_\_\_]
- 1.9 **Allowable Additional Costs:** The Allowable Additional Costs are defined in Appendix B (Scope of Services) and the amount set forth in Appendix C (Payments). **[NOT APPLICABLE]**
- 1.10 **Retainage:** [\_\_\_\_\_] (\_\_\_%) to be paid in accordance with Appendix C **[NOT APPLICABLE]**
- 1.11 **Retainage Payment Date** **[NOT APPLICABLE]**
- 1.12 **M/WBE Participation Goal:** \_\_\_\_\_%

**2. Parties**

- 2.1 **The Corporation:** New York City Economic Development Corporation, a not-for-profit corporation, organized under the laws of the State of New York.
- 2.2 **Director:** [\_\_\_\_\_]



2.3 **The Consultant:** [ \_\_\_\_\_ ], a **[INSERT STATE CONSULTANT WAS ORGANIZED AND TYPE OF BUSINESS ENTITY)],** having an office at:

**[ADDRESS:** \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_ ]

**[FEDERAL TAX ID#** \_\_\_\_\_ ]

2.4 **Principal:** **[INSERT NAME OF CONSULTANT’S MOST SENIOR OFFICER RESPONSIBLE FOR THE PERFORMANCE OF THE SERVICES]**

2.5 **Person in Charge:** **[INSERT NAME OF THE MEMBER OF THE CONSULTANT’S PROFESSIONAL STAFF WHO WILL HAVE PRIMARY RESPONSIBILITY TO PERFORM AND/OR SUPERVISE AND COORDINATE PERFORMANCE OF THE SERVICES]**

3. **Notice Parties and Addresses**

3.1 **Notices to the Corporation:**

New York City Economic Development Corporation  
110 William Street  
New York, NY 10038  
Attn: General Counsel

with a copy to:

New York City Economic Development Corporation  
110 William Street  
New York, NY 10038  
Attn: **[NAME:** \_\_\_\_\_ ]

3.2 **Notices to the Consultant:**

**[NAME:** \_\_\_\_\_ ]

**[ADDRESS:** \_\_\_\_\_  
\_\_\_\_\_

Attn: **[NAME:** \_\_\_\_\_ ]

This Contract may be executed in counterparts, all of which counterparts, when taken together, shall be deemed a fully executed instrument.

**IN WITNESS WHEREOF**, the parties hereto have caused this Contract to be duly executed as of the Contract Date hereinabove written.

**NEW YORK CITY ECONOMIC  
DEVELOPMENT CORPORATION**

**[INSERT CONSULTANT NAME]**

By: \_\_\_\_\_

By: \_\_\_\_\_

Name: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

Title: \_\_\_\_\_

**NEW YORK CITY ECONOMIC DEVELOPMENT CORPORATION  
CYBER NYC  
PROFESSIONAL SERVICES CONSULTANT CONTRACT  
FOR THE PROVISION OF OPERATION SERVICES  
NYCEDC CONTRACT NO. 7102  
PROJECT CODE NO. 7102**

**PART II  
GENERAL TERMS AND CONDITIONS**

ARTICLE 1 PERFORMANCE OF SERVICES .....1  
ARTICLE 2 COMPENSATION .....4  
ARTICLE 3 SUSPENSION OR TERMINATION .....5  
ARTICLE 4 PERSONNEL AND SUBCONTRACTORS.....8  
ARTICLE 5 DOCUMENTS AND MATERIALS .....10  
ARTICLE 6 INDEMNIFICATION, CLAIMS AND INSURANCE .....13  
ARTICLE 7 REPRESENTATIONS AND WARRANTIES.....17  
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**NEW YORK CITY ECONOMIC DEVELOPMENT CORPORATION**  
**CYBER NYC**  
**PROFESSIONAL SERVICES CONSULTANT CONTRACT**  
**FOR THE PROVISION OF OPERATION SERVICES**  
**NYCEDC CONTRACT NO. 7102**  
**PROJECT CODE NO. 7102**

**PART II**  
**GENERAL TERMS AND CONDITIONS**

The Corporation and the Consultant agree as follows:

**ARTICLE 1**  
**PERFORMANCE OF SERVICES**

1.1 Services. The Corporation hereby retains and engages the Consultant and the Consultant agrees to perform the Services as described in **Appendix B** (Scope of Services), attached hereto.

1.2 Time for Performance of Services/Term/Delays and Force Majeure.

1.2.1 The Consultant shall commence the Services upon or promptly after the Commencement Date and shall complete the Services and each phase of the Services within the time or times stated for Final Completion as set forth in **Appendix B**, and in accordance with any directive given and Progress Schedule approved by the Corporation, unless this Contract is earlier terminated pursuant to Article 3 hereof.

1.2.2 This Contract shall be for the Term as set forth in Part I, Section 1.5 unless sooner terminated pursuant to Article 3 hereof.

1.2.3 If the Consultant has been delayed and as a result will be unable to complete performance fully and satisfactorily within the time fixed therefor, the Consultant may be granted an extension of time fixed for performance equal to the period the Consultant was actually and necessarily delayed upon submission of evidence of the causes of the delay, subject to the written approval of the Director in his or her sole discretion. The decision of the Director as to the granting of the extension and its length shall be binding upon the Consultant.

1.2.4 Subject to the Corporation's determination and approval, the Corporation may extend the time or times for performance of the Services where such performance has been substantially obstructed, hindered or delayed by reason of acts of Force Majeure. The Consultant shall have no claim against the Corporation or the City for any loss or damage sustained by the Consultant nor for any extra compensation in the form of an increase in the Maximum Contract Price, or otherwise, through such delay, hindrance or obstruction.

1.3 Complete Work and Timing and Sequence/Meetings. It is the intent of the parties that the provisions of this Contract shall not be construed so as to limit the Services, but that the

Services shall include all acts necessary to fully and finally complete the work described in **Appendix B** hereof. The Consultant shall schedule and perform the Services in a manner so as to permit their completion diligently and expeditiously. The Principal, the Person in Charge and such other Representatives of the Consultant as may be required under the circumstances shall be available to meet with the Director or her or his designee as often as necessary to effectively perform the Services, and as often as may be specified in **Appendix B**.

#### 1.4 Authority of Director/Performance of Services.

1.4.1 The Services to be performed by the Consultant shall at all times be subject to the review, direction and control of the Director, whose decision shall be final and binding upon the Consultant. The Director shall have the right to determine the amount, quality, acceptability and fitness of the Services and her or his approval shall be a condition precedent to the right of the Consultant to receive any compensation under this Contract. The Director shall act reasonably in exercising her or his authority under this Contract. The Director and any other person or agent duly authorized to act for and on behalf of the Corporation shall not, by virtue of such authority or action, be liable in any manner to the Consultant.

1.4.2 The Consultant shall perform all of the Services in a prudent and professional manner and in accordance with standards and practices as are customary for such Services in the New York City Metropolitan Statistical Area.

#### 1.5 Changes to the Services.

1.5.1 The Consultant shall not make any changes in the Services without prior written authorization from the Director. The Consultant shall revise or correct any Work Product submitted in accordance with this Contract until accepted by the Director and accepted by all agencies whose approval is required by law, without additional compensation or time extension. Any changes to the performance of the Services or the Work Product which are necessary due to improper performance of the Services, a defect of design, unworkability of details or other fault or error of the Consultant shall be made by the Consultant, also without additional compensation or time extension.

1.5.2 The Director shall have the right to alter the Services, provided however, that if the Consultant believes that any work or services that it has been directed to perform as a result of such alteration is beyond the Scope of Services and constitutes Extra Work, the Consultant shall so Notify the Director within three (3) days of such directive. The Director shall determine whether such altered Services are (i) within the Scope of Services; or (ii) Extra Work requiring an amendment to the Scope of Services and the Contract. The Director's determination shall be final, binding and conclusive.

1.5.3 The Director reserves the right to reduce the Scope of Services under this Contract by Notice to the Consultant specifying the nature and extent of such reduction. The Consultant shall be compensated for all Services satisfactorily performed prior to the reduction and for Services satisfactorily performed thereafter. If said reduction results in a credit for the Corporation, such credit shall be immediately due and owing to Corporation, and the Consultant shall either pay such credit to the Corporation or the Corporation may withhold the credit amount

from any future payments by the Corporation to the Consultant, at the exclusive option of the Corporation.

## 1.6 Equipment.

1.6.1 The Consultant, at its own expense, shall secure all supplies, materials and equipment required to perform and complete the Services.

1.6.2 The Consultant, at its sole cost and expense, shall bear the risk of loss for any supplies, materials and equipment used to perform the Services whether such loss arises by reason of fire, theft, vandalism, negligence or any other cause whatsoever. Consultant, at its sole cost and expense, shall promptly replace or repair all such lost, stolen or damaged supplies, materials and equipment.

1.6.3 The Consultant, at its sole cost and expense, shall maintain all of its supplies, materials and equipment in good working and serviceable order so as to enable the Consultant to perform the Services in a first-class and professional manner.

1.6.4 The Consultant shall be solely responsible for the means and methods and the safety and protection of all its employees and shall assume all liability for injuries, including death, that may occur to such employees due to the act, omission, negligence, fault or default of the Consultant.

1.7 Services Subject to City Contract, Indemnification and Third Party Beneficiary. This Contract is a subcontract under the City Contract. The Consultant acknowledges that it has reviewed the City Contract and agrees to comply with the City Contract with respect to the Services and not to violate, or through its acts or failure to act cause the Corporation to violate, the City Contract. The Consultant agrees to defend, indemnify and hold harmless the Corporation from any claim, liability or judgment to which the Corporation may be subject because of any such action or failure to act. The City shall be a third party beneficiary of this Contract and shall have a direct cause of action against the Consultant in the event that any claim be made or any cause of action be brought against the Corporation or City or if the Consultant breaches this Contract.

1.8 Acts to be Performed by the Corporation. The Corporation shall perform the following acts in connection with this Contract:

1.8.1 The Corporation shall make available to the Consultant all relevant technical data (subject to the provisions of Part II, Section 5.3 herein) in regard to the Contract which is in the possession of the Corporation.

1.8.2 The Corporation shall designate a Project Manager to serve as a liaison between the Corporation and the Consultant.

## **ARTICLE 2** **COMPENSATION**

### 2.1 Payments.

2.1.1 Subject to, and in accordance with this Article 2, the Corporation shall pay to the Consultant, and the Consultant agrees to accept, in full consideration for the Services, and for all expenses of the Consultant in connection therewith, including Subcontractors' Costs and Allowable Additional Costs, an amount not to exceed the Maximum Contract Price, payable as provided for in this Section 2.1 and in Appendix C.

2.1.2 Requisitions shall be in a form reasonably acceptable to the Corporation and shall be supported by any appropriate or necessary documentation or other evidence relating to the amounts set forth in the Requisition, as the Corporation may reasonably require including, but not limited to invoices, receipts and vouchers from Subcontractors and suppliers, information related to M/WBEs required under Section 9.5 and, where applicable, the time sheets and/or certified payroll reports of the Consultant's staff and its Principal.

2.1.3 Each Requisition submitted to the Corporation by the Consultant shall constitute a representation that, except as specifically set forth in the Requisition, as of the date of the Requisition, all representations and warranties made by the Consultant in Article 7 are true, complete and accurate as if made as of the date of the submission of the Requisition.

2.1.4 The Director shall review the Requisitions and the Work Product. If, in her or his judgment, the Services have been satisfactorily performed in accordance with this Contract, the Director will approve the Requisition. All payments to the Consultant will be made in accordance with this Article 2.

2.1.5 Subject to Section 3.5, Final Payment will be due only upon Final Completion.

2.1.6 The Consultant, with the Director's prior approval, may exceed the Maximum Payment allocated to a particular Portion of the Services if the Consultant by Notice determines that the Maximum Payment initially allocated to the Portion is insufficient to adequately perform the Portion of the Services and if the Consultant demonstrates to the Director a savings with respect to another Portion of the Services which is at least equal to the amount of such excess. However, notwithstanding the above, in no event shall the Corporation pay the Consultant more than the Maximum Contract Price.

2.1.7 All Requisitions must be submitted to the Corporation's Accounts Payable Department.

### 2.2 Miscellaneous Payment Provisions.

2.2.1 In addition to its rights under Section 9.10, if the Corporation shall have reasonable grounds for believing that:

(i) the Consultant will be unable to perform the Services or any Portion thereof fully and satisfactorily in accordance with any Progress Schedule, or

(ii) a meritorious claim exists or will exist against the Corporation, the Consultant or the City arising out of the act, omission or negligence of the Consultant or the Consultant's breach of any provision of this Contract,

then the Corporation may withhold payment of any amount otherwise due and payable to the Consultant hereunder. Any amount so withheld may be retained by the Corporation for such period as it may deem advisable to protect the Corporation and the City against any loss and may, after Notice to the Consultant, be applied in satisfaction of any claim herein described.

2.2.2 The Corporation shall not be deemed to have released the Consultant from any claim or liability, or to have waived any cause of action arising from any breach of this Contract by virtue of making payments to the Consultant.

2.2.3 Upon acceptance by the Consultant of the Final Payment to be paid pursuant to this Contract, the Consultant agrees that it shall be deemed to have fully released the Corporation and the City from any and all claims, demands and causes of action whatsoever which the Consultant has or may have against the Corporation or the City in connection with this Contract and, upon the request of the Corporation, shall execute a release to such effect.

2.2.4 All payments to the Consultant under this Contract shall be subject to all applicable Legal Requirements.

2.3 Electronic Funds Transfers. All payments due under this Contract in excess of \$100,000 shall be made by Electronic Funds Transfer ("EFT"). Upon execution of this Contract, and in no event later than its submission of its first Requisition, the Consultant shall complete and submit to the Corporation the "EFT Vendor Payment Enrollment Form" annexed to Appendix C. The Consultant shall update such information to the extent necessary for EFT payments to be made. The Corporation shall not be obligated to make any payment in excess of \$100,000 unless such information is provided and shall be entitled to rely solely on the information provided by the Consultant. Payments to the Corporation shall be made by check unless the Corporation Notifies the Consultant to make payments by EFT.

### **ARTICLE 3**

#### **SUSPENSION OR TERMINATION**

#### 3.1 Delay, Postponement or Suspension of Work.

3.1.1 The Corporation shall have the right to delay, postpone or suspend the Services, or any Portion thereof, immediately or upon a specified date, for a period of not more than ninety (90) days, upon Notice to the Consultant, for any reason deemed by the Corporation to be in its interest. The Consultant and all of its Subcontractors and Representatives shall cease all Services, or any specified Portion thereof, immediately or as of the date specified in the Notice.

3.1.2 Any such delay, postponement or suspension shall not give rise to any cause of action for damages against the Corporation or the City, but the Term specified in Part I of this Contract and the Consultant's time for performance of the Services shall be extended for the period of the delay, postponement or suspension.



3.1.3 In the event of any delays, postponements or suspensions, the Consultant shall resume the Services upon the date specified in the Notice or upon such other date as the Corporation may thereafter specify by Notice.

3.2 Termination for Convenience. The Corporation shall have the right to terminate the Services, or any Portion thereof, immediately or upon a specified date, upon Notice to the Consultant and for any reason deemed by the Corporation to be in its interest.

3.3 Defaults and Termination for Cause.

3.3.1 In addition to any other right that the Corporation may have, upon the occurrence of an Event of Default, the Corporation shall have the right to declare the Consultant in default and terminate this Contract, in whole or in part, for cause, by giving Notice to the Consultant of the cause and the date of such termination.

3.3.2 An Event of Default shall be deemed to have occurred if any of the following events has occurred, each an "Event of Default":

- (i) The Consultant fails to assign workers, order materials or enter into subcontracts in a manner sufficient to permit completion of the Services, or any Portion thereof, within the time limits of the Progress Schedule or in accordance with any Progress Schedule approved by the Corporation;
  - (ii) The Consultant fails to complete the Services, or any Portion thereof, within the time limits provided in this Contract or any Progress Schedule approved by the Corporation;
  - (iii) The Consultant materially violates any term, covenant or provision of this Contract;
  - (iv) The Consultant materially fails to comply with any Applicable Requirements or any Applicable Agreements;
  - (v) Any representation or warranty made by the Consultant in Article 7 or in any other Article in this Contract shall prove to be untrue or be breached;
  - (vi) The Consultant becomes insolvent, files for bankruptcy or is adjudged a debtor in possession;
  - (vii) The Consultant voluntarily, or by operation of law, assigns, transfers, conveys or otherwise disposes of its interest in this Contract or its right to receive funds hereunder without the prior written consent of the Corporation;
  - (viii) The Consultant fails to comply with the M/WBE Requirements in Article 9;
- or
- (ix) The Consultant or any of its officers, directors, partners, members, five (5%) percent shareholders, principals or other persons substantially involved in its activities, commits any of the acts or omissions specified as the grounds for debarment in the City's *Procurement Policy Board Rules*.

3.4 Effects of Termination for Convenience or for Cause.

3.4.1 The Contract, or such portion of the Contract described in the Notice of termination, shall terminate as of the termination date set forth in the Notice given pursuant to Section 3.3.1, or immediately if no date is specified.

3.4.2 Upon receipt of a Notice of termination for cause or for convenience, the Consultant shall cease any or all Services, immediately or on the date specified, in accordance with the terms of the Notice.

3.4.3 Termination, whether for convenience or for cause, shall not give rise to any cause of action for damages against the Corporation or the City.

3.4.4 Within ten (10) days after the effective date of termination, the Consultant shall surrender and turn over to the Corporation all Work Product and any other materials related to this Contract requested by the Corporation including, without limitation, all materials, equipment and supplies purchased by the Consultant on behalf of the Corporation in connection with this Contract.

### 3.5 Payment Upon Termination.

3.5.1 Upon termination with or without cause, the Consultant shall promptly present to the Corporation a verified statement of all costs actually incurred prior to the date of termination, together with all documents in the Consultant's possession related thereto that the Corporation may demand in order to verify such statement of costs including, without limitation, canceled checks, subcontracts, and paid receipts and bills from Subcontractors. The Corporation will review the statement of costs and review or audit any supporting documentation provided by or in the Consultant's possession. The Corporation will Notify the Consultant of the results of such review or audit and the amount approved for payment.

3.5.2 If the termination was without cause, the Consultant shall receive such equitable compensation for such Services as shall, in the judgment of Director, have been satisfactorily performed by the Consultant up to the date of the termination, such compensation to be fixed by the Corporation after consultation with the Consultant, subject to any rights of audit provided herein. Such payment will be processed by the Corporation after Consultant provides all information and documentation required hereunder. Such payment shall constitute full and Final Payment to the Consultant.

3.5.3 If the termination was for cause, the Consultant shall receive such equitable compensation for such Services as shall, in the judgment of Director, have been satisfactorily performed by the Consultant up to the date of the termination, such compensation to be fixed by the Corporation, subject to any rights of audit provided herein, and subject to set-off by the Corporation for any additional expenses the Corporation incurs to complete the Project satisfactorily, including the expenses of engaging another consultant and the costs set forth in Section 9.10(ii). The sum of (i) such additional expenses incurred to the Corporation for the completion of the Project, and (ii) payments made to the Consultant prior to the termination of the Contract shall hereafter be referred to as the "Contract Completion Costs".

(i) If the Contract Completion Costs exceed the Maximum Contract Price, Consultant shall pay such difference to the Corporation, as described in Section 3.5.4 below.

(ii) If the Contract Completion Costs are less than the Maximum Contract Price, provided that the Consultant has provided all information and documentation required by this Section, the Corporation will pay to the Consultant, an amount equal to the lesser of (a) the

difference between the Maximum Contract Price and the Contract Completion Costs, or (b) such amount, when added to sums previously paid to Consultant, equitably compensates Consultant for Services satisfactorily performed up to the date of termination. Such payment will be made as further described in Section 3.5.4 below.

3.5.4 If the termination was for cause, the Corporation will, upon full completion of the Project, deliver a written notice to the Consultant advising the Consultant that the Project has been completed and setting forth the Contract Completion Costs. If the Contract Completion Costs exceed the Maximum Contract Price, the Consultant shall promptly pay such difference to the Corporation upon receipt of such notice. If the Contract Completion Costs are less than the Maximum Contract Price, then, subject to (i) the Consultant's providing to the Corporation all information and documentation required by this Section, and (ii) any other applicable provisions of this Contract including, without limitation, Sections 3.5.5 and 3.5.6 hereof, the Corporation will pay the Consultant the amount described in Section 3.5.3(ii). Such payment shall constitute full and Final Payment to the Consultant.

3.5.5 The Corporation need not wait until the completion of the Services to seek the enforcement of its rights against the Consultant if there has been a termination for cause, but no monies shall be due or payable to the Consultant terminated for cause until the Services are completed.

3.5.6 The provisions of this Section 3.5 shall be in addition to any other rights the Corporation may have under this Contract, any Applicable Requirement, any Applicable Agreement, or otherwise, in law or in equity.

3.6 No Release. Termination of this Contract, whether by expiration of its Term or otherwise, shall not release the Consultant from any liability to the Corporation or from the Consultant's indemnification and other obligations under this Contract that have not been specifically terminated pursuant to this Article of the Contract.

#### **ARTICLE 4**

#### **PERSONNEL AND SUBCONTRACTORS**

##### 4.1 Personnel.

4.1.1 The Consultant shall employ at its own expense all personnel and retain all Subcontractors as may be required to perform the Services, and shall be solely responsible for their work, compensation, direction and conduct during the performance of this Contract. The personnel of the Consultant and any Subcontractor shall cooperate fully with the personnel of the Corporation including, without limitation, the Director, and, in the event any personnel of the Consultant or any Subcontractor fails to cooperate, the Consultant shall relieve them of their duties of performance under this Contract.

4.1.2 The Consultant shall submit to the Director, prior to performance of Services by such personnel, resumes of the Consultant's personnel and those of its Subcontractors' personnel who will perform the Services. The experience and training of such personnel is a material inducement for the Corporation to enter into this Contract and make payment for the Services.

The Consultant and its Subcontractors are expected to use such personnel to perform the Services. If the Consultant or a Subcontractor proposes to substitute any other personnel for those heretofore identified, it shall assign persons with equivalent or better experience and training and shall submit the resumes of such proposed substitute personnel to the Director and obtain the Director's prior approval of the substitution. Notwithstanding anything contained herein to the contrary, all personnel furnished by the Consultant as required under this Contract shall be employees of the Consultant or approved Subcontractors of the Consultant and not employees or subcontractors of the Corporation or the City.

#### 4.2 Subcontractors.

4.2.1 The Consultant is authorized to enter into subcontracts for specialized professional services as required for performance of the Services subject to the prior written approval of the Director as to the Subcontractor, the scope of services, compensation, and the Principal or other member(s) of the Consultant's staff responsible for supervising the performance of the Subcontractor's activities. The Consultant, and not the Corporation, is responsible for the Subcontractor's work, acts and omissions.

4.2.2 The Consultant shall pay any Subcontractors approved by the Corporation for work that has been satisfactorily performed no later than thirty (30) days from the date of Consultant's receipt of payments from the Corporation.

4.2.3 The Consultant is solely responsible for the payments to the Subcontractors. Upon receipt of evidence of Consultant default hereunder with respect to its obligations to make payments to its Subcontractors, the Corporation reserves the right, after three (3) calendar days prior Notice, to retain any money due the Consultant and pay directly for labor, materials, equipment, Services and all other obligations of the Consultant and to deduct the amount of any such direct payments from any payments or amounts then due or thereafter to become due to the Consultant.

4.2.4 The Consultant shall inform all Subcontractors fully of the terms and conditions of this Contract. All subcontracts shall provide that:

- (i) there is no privity of contract between the Subcontractor and the Corporation or the City;
- (ii) neither the Corporation nor the City will incur any liability by virtue of any act, omission, negligence, or obligation of the Subcontractor or the Consultant;
- (iii) the Subcontractor shall indemnify, defend and hold harmless the Corporation and the City, their agents, employees, members, directors, officials and officers against any and all claims, judgments or liabilities to which they may be subject (including, without limitation, any and all claims for injuries to persons (including death) and damage to property) because of any negligence or any fault or default of the Subcontractor, its agents, employees or subcontractors or the breach of the Subcontractor's obligations under the subcontract;
- (iv) the Subcontractor's Requisitions shall conform to the same requirements and include the representations, warranties and agreements set forth in Sections 2.1.2 and 2.1.3;
- (v) the "Events of Default" set forth in Section 3.3.2 as grounds for termination for cause shall be "Events of Default" and grounds for termination of the Subcontractor for cause;

(vi) the subcontract may be assigned without the written consent of the Subcontractor to the City, NYCEDC or any other corporation, agency or instrumentality having authority to accept the assignment; and

(vii) all work and services performed under the subcontract shall strictly comply with the requirements of this Contract.

If the Consultant fails to include the provisions set forth in this Section 4.2.4 in any subcontract, the Consultant hereby agrees to indemnify, defend and hold harmless the Corporation and the City and their Representatives against any and all claims, damages, awards, judgments, liabilities, expenses, fines, penalties, costs and/or fees incurred by or imposed upon the Corporation and the City and their Representatives, including reasonable fees, as a result of said failure.

4.2.5 The Consultant shall provide the Corporation with a list of all Subcontractors employed for the performance of the Services whose subcontract amount totals \$25,000 or more. The Consultant will furnish each such Subcontractor whose Subcontract amount totals less than \$100,000 with the Corporation's internal qualification and background investigation forms. The Consultant will furnish each such subcontractor whose subcontract amount totals \$100,000 or more with the Mayor's Office of Contracts Investigations Forms. These forms will be provided by the Corporation to the Consultant. The Consultant shall cause each such Subcontractor to fill out and complete the forms in a timely fashion but in no event later than the commencement of the Services performed by such Subcontractor pursuant to its subcontract.

4.3 Person in Charge. The Consultant has designated a Person-in-Charge who will have primary responsibility to perform and/or supervise and coordinate the performance of the Services. Substitution of said person shall be made only with the prior written approval of the Director. Failure to make such person(s) available to the extent necessary to perform the Services skillfully and promptly shall be a material violation of the terms of this Contract.

## **ARTICLE 5** **DOCUMENTS AND MATERIALS**

5.1 Approval. All Work Product to be prepared or furnished by the Consultant pursuant to this Contract or publicizing the work of the Consultant hereunder must be:

- (i) approved in writing by the Director before any Work Product or publication as to the work of the Consultant shall be considered accepted and before any distribution;
- (ii) revised by the Consultant in accordance with the directions of the Director prior to approval; and
- (iii) prepared so as not to violate any provisions of law including, without limitation, the City Charter and the Administrative Code of the City.

5.2 Work Product.

5.2.1 All Work Product is the exclusive property of the Corporation. The Corporation may use any Work Product prepared by the Consultant in such manner, for such purposes, and as often as the Corporation may deem advisable, in whole, in part or in modified form, in all

formats now known or hereafter to become known, without further employment of or additional compensation to the Consultant.

5.2.2 The Consultant shall not use, transmit, display, publish or otherwise license such Work Product without the Corporation's prior written consent.

5.2.3 The Work Product 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 Corporation is the copyright owner thereof and of all aspects, elements and components thereof in which copyright protection might subsist. To the extent that the Work Product does not qualify as a "work-made-for-hire", the Consultant hereby irrevocably transfers, assigns and conveys exclusive copyright ownership in and to the Work Product to the Corporation, free and clear of any liens, claims or other encumbrances. The Consultant shall retain no copyright or other intellectual property interest in the Work Product.

5.2.4 To the extent that the Work Product does not qualify as a "work-made-for-hire", Consultant acknowledges the existence, if any, of its statutory moral rights as those rights are described in 17 U.S.C. § 106A(a), and knowingly executes this Contract on the following terms: (i) this waiver applies to the Work Product and to any promotional materials connected with the Work Product; (ii) the Consultant hereby expressly and forever waives any and all rights under 17 U.S.C. § 106A, and any rights arising under U.S. federal or state law or under the laws of any other country that conveys rights of the same nature as those conveyed by 17 U.S.C. § 106A, or any other type of moral right or *droit moral*.

5.2.5 The Consultant represents and warrants that, except for material which is in the public domain and non-original material that meets the requirements of §5.2.6, the Work Product

- (i) shall be wholly original material not published elsewhere;
- (ii) shall not violate any copyright, trademark or other applicable law; and
- (iii) shall not, to the best of Consultant's knowledge, constitute a defamation or invasion of the right of privacy or publicity, or an infringement of any kind, of any rights of any third party.

5.2.6 The Consultant represents and warrants that to the extent that the Work Product incorporates non-original material, the Consultant shall obtain and provide the Corporation with copies of all necessary permissions and clearances, in writing, for the use of such non-original material under this Contract. Since some licenses for materials may be for a limited duration, the Consultant shall provide and/or specify the following to the Corporation with respect to all non-original materials included in its Work Product:

- (i) all information as to any durational limitations on use;
- (ii) any requirement that a notice be displayed in connection with display, including the specific owner of the rights to be credited, and any limitation on the use under the Consultant's license; and
- (iii) a statement certified by the Principal verifying the foregoing in the form annexed hereto as Appendix D.

Consultant will update the foregoing information and promptly provide such updates to the Corporation during the Contract Term.

5.2.7 The Consultant acknowledges that the Corporation or the City may, in their sole discretion, register copyright in the Work Product with the U.S. Copyright Office or any other government agency authorized to grant registrations to copyright. The Consultant will cooperate in this effort, and agrees to provide any further documentation necessary to accomplish this.

5.2.8 The Consultant agrees that the Corporation and the City may use the Consultant's name and the names, biographies and likenesses of its members, in advertising and promotion related to the Work Product, and in any and all ancillary products related to the Services regardless of the format in which such use occurs.

5.2.9 Prior to acceptance of any Work Product by the Director, upon the Director's request and within a reasonable time following delivery of the Work Product, the Consultant shall submit revised Work Product incorporating any revisions, changes or alterations reasonably requested by the Director. If the original Work Product or the revised Work Product is not acceptable to the Director, the Corporation shall have the right to use the Work Product, to prepare or finalize the Work Product or to commission a third party to do so without further employment of or compensation to the Consultant.

5.2.10 The Consultant acknowledges that the decision to accept the Work Product for use, incorporation, transmission, display or publication is within the sole discretion of the Director.

5.2.11 Consultant agrees that it will cooperate in providing any other documentation necessary to effectuate the intent of this Section of the Contract.

5.2.12 The Consultant shall not make any unauthorized use of copyrighted, trademarked or other protected materials or intellectual property and agrees to defend, indemnify and hold harmless the Corporation and the City and their respective officers, officials, agents, members, directors, and employees against any damage or liability arising out of the Consultant's infringement or unauthorized use of any such material or property.

### 5.3 Confidential Information.

5.3.1 The Consultant shall hold all Confidential Information provided by the Corporation in the strictest confidence. Consultant agrees to:

- (i) use the Confidential Information solely for evaluation and the performance of the Services under this Contract;
- (ii) not disclose the Confidential Information outside of its Subcontractors who have agreed in advance in writing to be bound by the terms of this Section 5.3 and its employees and to limit dissemination to only those Subcontractors and employees who have a need to know it in order to accomplish the Services;
- (iii) execute any confidentiality agreements required by any governmental or other entities or individuals which provide any information, records, data, materials, documents or electronic files to Consultant for use in performance of the Services; and

(iv) not disclose the Confidential Information for three (3) years following Final Completion.

5.3.2 Consultant represents that it has adequate safeguards and procedures to protect the confidentiality of records and information and to limit dissemination only to authorized employees as necessary for the performance of the Services. All Confidential Information provided to Consultant shall remain the property of the Corporation.

5.3.3 Consultant agrees that money damages would not be a sufficient remedy in the event of any breach of this Section 5.3 and that, in addition to all other remedies which may be available, the Corporation shall be entitled to specific performance and injunctive or other equitable relief as a remedy for any such breach. Consultant shall defend, hold harmless and indemnify the Corporation for any and all claims, losses, expenses and/or damages arising out of breach of this Section 5.3 or unauthorized use of the Confidential Information.

## **ARTICLE 6**

### **INDEMNIFICATION, CLAIMS AND INSURANCE**

#### 6.1 Indemnification of the Corporation and the City.

6.1.1 The Consultant shall indemnify, defend and hold harmless the Corporation and the City, their agents and employees from any and all claims, judgments or liabilities to which they may be subject because of any negligence or any fault or default of the Consultant, its agents, employees or subcontractors or the breach of the Consultant's obligations under the Contract.

6.1.2 The Consultant shall be solely responsible for all injuries to persons, including death, or damage to property sustained during its operations and work under this Contract resulting from any negligence, fault or default of the Consultant or of its employees, authorized agents, servants, independent contractors or subcontractors retained by the Consultant pursuant to this Contract. The Consultant agrees to indemnify, defend and hold the Corporation and the City harmless from any liability upon any and all claims for injuries to persons (including death) and damage to property on account of negligence, fault or default of the Consultant, its employees, authorized agents, servants, independent contractors and subcontractors retained by the Consultant.

#### 6.2 Claims or Actions Against the Corporation.

6.2.1 The Consultant shall look solely to the funds appropriated by the Corporation for this Contract for the satisfaction of any claim or cause of action the Consultant may have against the Corporation in connection with this Contract or the failure of the Corporation to perform any of its obligations hereunder. In no event shall the Corporation's aggregate liability hereunder in connection herewith or related to the performance of the Services exceed the Maximum Contract Price.

6.2.2 Upon acceptance by the Consultant of the Final Payment to be paid pursuant to this Contract, the Consultant agrees that it shall be deemed to have released the Corporation from



any and all claims, causes of action, and liability to the Consultant, its Representatives, successors and assigns, in connection with this Contract or the performance of the Services.

6.2.3 No member, director, employee, servant, officer, agent or other person authorized to act on behalf of the Corporation shall have any personal liability in connection with this Contract or any failure of the Corporation to perform its obligations hereunder.

6.2.4 No person or entity shall have any right against the Director or any member, director, employee, servant or officer, agent of the City or the Corporation or other person authorized to act on their behalf or any claim against the City or the Corporation by reason of the failure or refusal to withhold money pursuant to Section 2.2.1 hereof.

6.2.5 The Consultant agrees that no cause of action against the Corporation in connection with this Contract or the Services shall lie or be maintained by the Consultant, its successors or assigns unless such action is commenced within six months after (i) the termination of this Contract, or (ii) the accrual of the cause of action, whichever is earlier.

6.2.6 If any claim is made or any action brought relating to this Contract or the Services, whether or not the Consultant is a party, the Consultant shall diligently render to the Corporation any and all assistance that the Corporation may require of the Consultant, without compensation.

6.2.7 The provisions of this Section shall not waive, limit or in any way prejudice any other right of the Corporation or the City.

### 6.3 Insurance.

6.3.1 At all times during the performance of the work or Services in connection with this Contract or for such other time periods as the Corporation may require, the Consultant, at its sole cost and expense, shall purchase and maintain the insurance described in this Section 6.3 and the annexed Appendix E, as may be applicable and as may be required by the Corporation.

6.3.2 Consultant shall purchase and maintain insurance with insurance companies that:

- (i) are acceptable to the Corporation;
- (ii) are rated A-:VII or better by A.M. Best Company; and
- (iii) are licensed to issue such insurance by the New York State Department of

Insurance.

6.3.3 The insurance policies purchased and maintained by the Consultant shall:

- (i) be in form and substance satisfactory to the Corporation;
- (ii) be in the minimum face policy amounts set forth in Appendix E;
- (iii) list all individuals and entities identified in Appendix E as Additional Insureds except in the case of any workers' compensation, automobile liability and professional liability policies required to be maintained hereunder;
- (iv) include a waiver of the right of subrogation with respect to all additional insureds named therein as well as the required Workers' Compensation coverage; and

(v) contain the provisions set forth in Appendix E.

6.3.4 Coverage for the individuals and entities identified in Appendix E as Additional Insureds shall be written into those policies set forth in Section 6.3.3 above as an endorsement at least as broad as ISO Form CG 20 10 (07/04 ed.).

6.3.5 The Consultant shall make and maintain timely premium payments for all policies required hereunder.

6.3.6 The Consultant shall require that each of its Subcontractors, prior to the commencement of their work, purchase and maintain, or be covered by, at no cost or expense to the Corporation or the City, the same types and amounts of insurance and meet all of the same requirements as required of the Consultant as set forth in this Article 6 and Appendix E. The Consultant hereby covenants and warrants that its Subcontractors shall purchase and maintain the policies required by this Section in the amounts and for the periods required by this Section.

6.3.7 Prior to the commencement of the Services the Consultant shall forward to the Corporation's Contract Administration and Procurement Department at least three (3) original certificates of insurance for each policy required for compliance with this Contract, for itself and its Subcontractors substantially as set forth in Appendix E. The Consultant shall also provide an original certificate of insurance to each of the Additional Insureds.

6.3.8 The Consultant shall provide the Corporation and the Additional Insureds written confirmation of the renewal of any policy required hereunder no less than five (5) days prior to the expiration of any such policy.

6.3.9 Unless otherwise agreed to in writing by the Corporation, the types of insurance to be purchased and maintained by the Consultant and its Subcontractors are as follows:

(i) Workers' Compensation, Disability Benefits, and Employer's Liability Insurance. The Consultant shall purchase and maintain and shall require each of its Subcontractors to purchase and maintain workers' compensation, disability benefits insurance in statutory amounts, and employer's liability insurance in the amounts set forth in Appendix E, for all of its employees engaged in the Services. The failure of the Consultant to comply with this Section 6.3.9(i) shall make this Contract voidable at the option of the Corporation.

(ii) Commercial General Liability. The Consultant shall purchase and maintain commercial general liability insurance to protect the Corporation, the City and the Additional Insureds, the Consultant and its Subcontractors against any and all claims for property damage, personal injury and death arising out of the Services performed by the Consultant and its Subcontractors, and any work incidental thereto. The commercial general liability insurance policy must also include products and completed operations coverage, which shall include a provision that coverage will extend for a period of at least twelve (12) months from the date of final completion and acceptance by the Corporation of all of the Services. The certificate of insurance must indicate that such insurance is on a "per occurrence" and an aggregate basis. The commercial general liability policy shall be in a form at least as broad in coverage as the most current ISO Form CG 00 01. The additional insured protection must be as broad as coverage that would be afforded through use of ISO Forms CG 20 26, CG 20 33 and CG 20 37. The liability

policy(ies) certificate of insurance must indicate cross-liability coverage providing severability of interests so that, except with respect to the limits of insurance, and any rights or duties specifically assigned to the first named insured, coverage will respond as if separate policies were in force for each insured. If at any time the commercial general liability policy should be canceled, terminated, or modified so that the insurance is not in effect as above required, then the Consultant shall suspend performance of the Services if the Corporation shall so direct. If the Contract is so suspended, no extension of time shall be due on account thereof. If the Contract is not suspended, whether or not because of omission of the Corporation to order suspension, then the Corporation may, at its sole option, obtain insurance affording coverage equal to that required hereunder, the cost of such insurance to be payable by the Consultant to the Corporation.

(iii) Automobile Liability Insurance. The Consultant shall purchase and maintain automobile liability insurance covering all automobiles used in connection with the work or Services under this Contract whether owned, non-owned and/or hired automobiles.

(iv) Umbrella/Excess Liability Coverage. If the Consultant purchases or maintains umbrella/excess liability insurance, such insurance should specifically list the Consultant's commercial general liability, comprehensive automobile liability and employer's liability as primary coverages, to protect the Corporation, the City, the Additional Insureds, the Consultant and its Subcontractors from any and all claims in excess of the underlying policy limits for such primary coverages. The certificate of insurance must indicate that such insurance afforded by this Section 6.3.9(iv) is on a "per occurrence" basis and an aggregate basis.

(v) If applicable, any additional policies as may be described in Appendix E.

6.3.10 As a condition precedent to payment of any amounts owing to the Consultant by the Corporation, the Consultant shall, unless otherwise expressly agreed to in writing by the Corporation, provide to the Corporation the original certificates of insurance required under this Contract and shall on demand provide true copies of policies and endorsements to policies showing compliance with the insurance requirements set forth in this Article 6 and Appendix E.

6.3.11 The policies to be maintained by the Consultant hereunder that are subject to the Additional Insured requirements set forth in Section 6.3.3 (iii) above shall constitute the primary coverage for claims arising out of this Contract, and shall state that insurance, if any, carried by the Corporation, the City or the Additional Insureds will not be called upon to contribute to a loss that would otherwise be paid by the Consultant's insurer. The Consultant shall comply with the provisions of all policies required pursuant to this Contract, and shall give the insurer, the Corporation, the City and the Additional Insureds due and timely Notice of all claims, accidents and losses promptly upon its acquiring knowledge of the same.

6.3.12 The insurance provisions of this Article 6 shall be in addition to any rights that the Corporation, the City and the Additional Insureds may have under any hold harmless and indemnification provisions of this Contract and any other right provided by this Contract or by law. The Consultant shall not violate or permit to be violated any term or condition of the policies.

6.3.13 The Commercial General Liability and Umbrella Excess Liability Coverage polices must be endorsed to show that these primary and/or excess policies are to be considered primary and non-contributory. In addition, the Commercial General Liability and Umbrella/Excess Liability Coverage policies must provide that (i) the Additional Insured

protection afforded under the Consultant's policies shall be primary and not on an excess or contributing basis with any policies which may be available to the Corporation, and (ii) that the Consultant's policies, primary and excess, must be exhausted before implicating any Corporation policy available.

6.3.14 In order to ensure vertical erosion of liability limits provided by the Consultant under this Contract, the Consultant agrees to permit the Corporation's staff and/or the Corporation's insurance consultants to review the Consultant's liability policy language for all liability policies and to endorse those policies to clarify the hierarchy of policies in the event of a claim.

## **ARTICLE 7**

### **REPRESENTATIONS AND WARRANTIES**

The Consultant represents and warrants that:

7.1 The Consultant is duly organized, validly existing and in good standing under the laws of its jurisdiction of formation, and has all requisite power and authority to authorize, execute, deliver and perform this Contract in accordance with its terms. The Consultant is authorized to do business in the City of New York.

7.2 The authorization, execution and delivery of this Contract, and compliance with the provisions hereof, do not and will not conflict with or constitute a violation of or default under any statute, indenture, mortgage, deed of trust or other agreement or instrument to which the Consultant is bound, or, to the knowledge of the Consultant, any order, rule or regulation of any court or governmental agency or body having jurisdiction over the Consultant or any of its activities or properties.

7.3 The Consultant has not been asked to pay, and has neither offered to pay, nor paid, any illegal consideration, whether monetary or otherwise, in connection with the procurement of this Contract.

7.4 The Consultant has not employed any person to solicit or procure this Contract, and has not made and shall not make, except to full-time employees of the Consultant, any payment or any agreement for the payment of any commission, percentage, brokerage, contingent fee or any other compensation in connection with the procurement of this Contract.

7.5 The Consultant has not acquired nor will it acquire any interest of any nature, direct or indirect (including any interest in land in an area related to the Services or any interest in any corporation, partnership, or other entity with any such interest), which would conflict in any manner or degree with the performance of the Services. The Consultant further represents and covenants that in the performance of this Contract no person having any such conflicting interest shall be employed by the Consultant.

7.6 The Consultant is not in arrears to the City upon any debt, contract or taxes and is not a defaulter, as surety or otherwise, upon any obligation to the City, and has not been declared not responsible, or disqualified, by any agency of the City, nor is there any proceeding pending relating to the responsibility or qualification of the Consultant to receive public contracts. The

Consultant represents that it has paid all applicable New York City income, excise and other taxes for all years it has conducted business activities in New York City.

7.7 All questionnaires and/or disclosure forms delivered by the Consultant and its Representatives to the Corporation to date are, to the best of the Consultant's knowledge, true and correct in all material respects; no material change has occurred in the circumstances of the Consultant, or any of its principals or affiliated persons or entities since the respective dates upon which such disclosure forms were executed that would otherwise require disclosure on such forms; and such disclosure forms do not contain any untrue statement of a material fact or omit to state a material fact necessary in order to make any statement contained in such form not misleading.

## **ARTICLE 8**

### **APPLICABLE LAWS, RULES AND REGULATIONS**

8.1 New York Law Governs; New York Courts. The Contract shall be governed by and construed in accordance with the laws of the State of New York. Any and all claims asserted by or against the Corporation arising under this Contract or related hereto shall be heard and determined either in the Federal Courts, located in the City or in the New York State Courts located in the City and County of New York. To effect this agreement and intent, the Consultant agrees as follows:

8.1.1 If the Corporation initiates any action against the Consultant in Federal Court or in New York State Court, service of process may be made on the Consultant in person, wherever the Consultant may be found, or by registered mail addressed to the Consultant at its address as set forth in this Contract, or to such other address as the Consultant shall have provided to the Corporation in writing.

8.1.2 With respect to any action between the Corporation and the Consultant in New York State Court, the Consultant hereby expressly waives and relinquishes any rights it might otherwise have (i) to move to dismiss on grounds of forum non conveniens, and (ii) to move for a change of venue to a New York State Court outside New York County.

8.1.3 With respect to any action between the Corporation and the Consultant in Federal Court located in the City, the Consultant expressly waives and relinquishes any right it might otherwise have to move to transfer the action to a Federal Court outside the City.

8.1.4 If the Consultant commences any action against the Corporation in a court located other than in the City and State of New York, then, upon request of the Corporation, the Consultant shall either consent to a transfer of the action to a court of competent jurisdiction located in the City and State of New York or, if the court where the action is pending will not or cannot transfer the action, the Consultant shall consent to dismiss such action without prejudice and may thereafter reinstitute the action in a court of competent jurisdiction in the City.

8.2 Modification Required by Law. The parties agree that each and every provision of federal or state or local law, rule, regulation or order, required to be inserted in this Contract, is deemed by this reference to be so inserted in its correct form, and upon the application of either party, this Contract shall be amended by the express insertion of any such provision not so

inserted or so inserted incorrectly so as to comply strictly with the law, without prejudice to the rights of either party.

8.3 Compliance with the Law. The Consultant agrees that all acts to be performed by it in connection with this Contract shall be performed in strict conformity with all Legal Requirements, including without limitation, Applicable Requirements and Applicable Agreements. Failure by the Consultant to abide by such Legal Requirements shall be a material default under this Contract.

8.4 Equal Employment Opportunity/Employment Reports.

8.4.1 The Consultant shall comply with the applicable provisions of the Equal Employment and Affirmative Action Compliance for Non-Construction Contracts Addendum (the "Executive Order No. 50 (1980) Supply and Service Rider" or "E.O. 50") attached hereto as Appendix F and made a part hereof. Appendix F shall be attached to and made a part of any subcontract entered into by the Consultant pursuant to this Contract that exceeds \$100,000.

8.4.2 The Consultant covenants that it shall complete and submit and shall require all Subcontractors to complete and submit Employment Reports (as required by E.O. 50) to the Corporation which can be found at [www.nycedc.com](http://www.nycedc.com) in the section identified in Appendix G. If the Consultant cannot access or download these forms, the Corporation may, upon request, send the Consultant the required forms.

8.4.3 The Consultant and any subcontractor that provide any on-site construction activity shall complete and submit the Payroll Report to the Corporation in the form annexed to this Contract as Appendix C.

8.4.4 The Consultant shall give consideration to employing City residents who are economically disadvantaged or are eligible under any applicable Legal Requirements including, without limitation, the Workforce Investment Act of 1998, and who have qualifications and skills commensurate with the requirements for the position available. To the greatest extent feasible, the Consultant shall give opportunities for training and employment to lower income persons in the Project area.

8.4.5 The provisions of this Section 8.4 shall be deemed supplementary to, and not in lieu of, or in substitution for, the applicable provisions of the New York State Labor Law relating to non-discrimination, and other applicable Legal Requirements.

8.5 Minimum Wages. Except for any employees whose prevailing wage is required to be fixed pursuant to Section 220, et seq. and Section 230, et seq. of the New York State Labor Law, which employees shall be paid such prevailing wage, all persons employed by the Consultant or any subcontractor in the manufacture or furnishing of the supplies, materials, or equipment, or the furnishing of work, labor or services, used in the performance of this Contract, shall be paid, without subsequent deduction or rebate unless expressly authorized by law, not less than the minimum hourly rate required by law, unless a higher amount is required pursuant to any other provision of this Contract.

8.6 No Tropical Hardwoods. Tropical hardwoods, as defined in Section 165 of the New York State Finance Law, shall not be used in the performance of this Contract except as expressly permitted by the foregoing provision of law.

8.7 Sales and Use Tax.

8.7.1 The Consultant acknowledges that the Corporation and the City are exempt from sales and use taxes imposed by Article 28 of the New York State Tax Law for purchases of tangible personal property, to the extent that such property is used to alter, maintain or improve, and becomes an integral component part of real property. This exemption does not apply to tools, machinery, equipment or other property leased by the Corporation's contractors and subcontractors or to supplies, materials or other property that are consumed in the construction or for any reason not incorporated into real property.

8.7.2 The Consultant shall inform its Subcontractors of this exemption and shall advise its Subcontractors to exclude sales and use taxes from their bids, as applicable.

8.8 Whistleblowers.

8.8.1 In accordance with Section 12-113 of the New York City Administrative Code (the "Administrative Code"),

8.8.1.1 The Consultant 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 of the Consultant or any of its Subcontractors to (i) the Corporation, (ii) the City's Department of Investigation, (iii) a member of the New York City Council, the City's Public Advocate or the Comptroller, or (iv) the City Chief Procurement Officer, DSBS Chief Contracting Officer ("DSBS ACCO") or DSBS Commissioner.

8.8.1.2 If any of the Consultant's officers or employees believes that s/he or has been the subject of an adverse personnel action in violation of paragraph 8.8.1.1 above, s/he shall be entitled to bring a cause of action against the Consultant 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. An officer or employee described in this paragraph may bring an action in any court of competent jurisdiction for such relief. An officer or employee who brings a cause of action pursuant to this paragraph shall notify the DSBS ACCO or DSBS Commissioner of such action; provided, however, that failure to provide such notice shall not be a jurisdictional defect, and shall not be a defense to an action brought pursuant to this paragraph. This paragraph shall not be deemed to create a right of action against the City, any public agency or other public entity, or the Corporation, nor shall any such public agency, entity or corporation be made a party to an action brought pursuant to this subdivision.

8.8.2 In accordance with Section 6-132 of the Administrative Code, the Consultant shall post a notice in the form annexed hereto at Exhibit L

8.8.3 For purposes of this Section, “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.

8.9 MacBride Principles. The Consultant stipulates and agrees to comply with the MacBride Principles.

8.10 Iran Divestment Act. The Contractor shall comply with Section 165-a of the New York State Finance Law.

8.11 Paid Sick Leave Law. The Consultant shall comply with Title 20, Chapter 8 of the New York City Administrative Code related to paid sick leave for Consultant’s employees.

8.12 Doing Business Data Form Requirements.

8.12.1 Local Law No. 34 of 2007 amended the City’s Campaign Finance Law and required the City to establish a database containing the names of any “person” that has “business with the city”, as such terms are defined in LL 34. The Consultant shall comply with all requirements of LL 34 applicable to this Contract.

8.12.2 The Consultant shall complete and submit a Doing Business Data Form which can be found at [www.nycedc.com](http://www.nycedc.com). If the Consultant cannot access or download these forms, the Corporation may, upon request, send the Consultant the required forms.

8.12.3 The Consultant’s failure to complete and submit a Doing Business Data Form and/or its submission of a form that is not accurate or complete may result in appropriate sanctions.

## **ARTICLE 9**

### **M/WBE REQUIREMENTS**

9.1 M/WBE Program. Local Law No. 129 of 2005 added and Local Law 1 of 2013 amended Section 6-129 of the Administrative Code of the City of New York (hereinafter “Section 6-129”). Section 6-129 establishes a program for participation in City procurement by minority-owned business enterprises (“MBEs”) and women-owned business enterprises (“WBEs”, together with “MBEs” collectively referred to as “M/WBEs”), certified in accordance with Section 1304 of the City Charter. As stated in the Section 6-129, the intent of the program is to address the impact of discrimination on the City’s procurement process, and to promote the public interest in avoiding fraud and favoritism in the procurement process, increasing competition for City business and lowering contract costs. The Corporation endorses these goals and has adopted an M/WBE Program to further participation by MBEs and WBEs in the provision of the Services. All Consultants shall comply with all requirements of the Corporation’s M/WBE Program applicable to this Contract.



9.2 Minority and Women -Owned Business Enterprises. M/WBE firms must be certified by DSBS to credit such firms' participation toward attainment of the Participation Goals. Such certification must occur prior to the firms' commencement of work.

9.3 Participation Goal.

9.3.1 The Participation Goal for this Contract is set forth in Part I, Section 1.12. The Participation Goal represents a percentage of the total dollar value of the Contract that may be achieved by awarding subcontracts to firms certified with DSBS as MBEs or WBEs, and/or by crediting the participation of the Consultant.

9.3.2 The Participation Goal is a material term of the Contract and the Consultant shall be subject to the Participation Goal.

9.3.3 A consultant that is an M/WBE shall be permitted to count its own participation toward fulfillment of the Participation Goal, provided that the value of the Consultant's participation shall be determined by subtracting from the total value of the Contract any amounts that the Consultant pays to direct Subcontractors. A Consultant may not subcontract more than 50% of the total value of the Contract unless it working under a retainer contract or a construction management contract. The value of an M/WBE Consultant's participation shall be determined by subtracting from the total value of the Contract any amounts that the respondent will pay to direct Subcontractors. If the Consultant is not an M/WBE, it must meet the Participation Goal through the awarding of subcontracts to firms certified with DSBS as MBEs or WBEs.

9.3.4 A Consultant that is a Qualified Joint Venture shall be permitted to count a percentage of its own M/WBE participation toward fulfillment of the Participation Goal. The value of the Qualified Joint Venture's participation shall be determined by first subtracting from the total value of the Contract, any amounts that the Qualified Joint Venture will pay to direct Subcontractors. Thereafter, the M/WBE percentage of the Qualified Joint Venture shall be applied to the remaining value of the Contract to determine the overall Participation Goal.

9.4 M/WBE Narrative /Subcontractors Participation Plan.

9.4.1 The M/WBE Narrative, Subcontractors Participation Plan and applicable forms for this Contract are attached hereto as Appendix H. If this is a retainer, the Consultant shall submit a Subcontractor Participation Plan on a task by task basis as required.

9.4.2 Subcontractors Participation Plan for this Contract is annexed hereto as Appendix H.

9.4.3 In the event that the Corporation does not approve a Subcontractor proposed by the Consultant, the Consultant shall have a reasonable time to propose alternate Subcontractors.

9.5 M/WBE Compliance Reports.

9.5.1 The Consultant shall provide the Corporation with written statements (“M/WBE Compliance Reports”), certified under penalty of perjury, reporting the status of the Consultant’s compliance with its M/WBE Subcontractor Participation Plan as set forth in this Section 9.5.

9.5.2 The Consultant shall submit a M/WBE Compliance Report to the Corporation:

- (i) with each Requisition for payment; and/or
- (ii) on a periodic basis as the Corporation may require.

9.5.3 Each M/WBE Compliance Report shall set forth the following for the period covered by the report:

- (i) the total amount paid to Subcontractors (including Subcontractors that are not MBEs or WBEs);
- (ii) the names, addresses and contact numbers of each MBE or WBE hired as a Subcontractor pursuant to such plan as well as the dates and amounts paid to each MBE or WBE.

9.5.4 In addition to the foregoing, the Consultant shall submit a final, cumulative M/WBE Compliance Report to the Corporation with its Requisition for Final Payment. The Consultant shall set forth in such final report the information required by Section 9.5.3 in connection with all Services rendered by the Consultant and its Subcontractors during the entire Contract Term.

9.6 Subcontractor Payment Tracking. NYCEDC requires contractors and consultants to track subcontractor award and payment information online through the Compliance Tracking System (CTS). Prime Contractors and Consultants are responsible for entering contact and award information on all subcontractors associated with the project, and ensuring that any direct subcontractors do the same for second-tier subcontractors they are using on the project. When Prime Consultants/Contractors receive payments from NYCEDC, they will receive a system-generated notification prompting them to access CTS and enter information on how much of that payment was retained and the amounts paid to each subcontractor, along with dates of payment. Prime Consultants/Contractors have seven days from receipt of this notification to enter the required information in the CTS. In addition, any changes to subcontractors and award amounts must be tracked in this system.

The compliance tracking system can be accessed by following this link:  
<https://nycedc.mwdb.com/>

9.7 Change Orders. If the Consultant requests a change order having a value that exceeds ten percent (10%) of the Contract, the Corporation will establish an M/WBE participation goal for the work to be performed pursuant to the change order.

9.8 Modification of the Consultant’s Subcontractors Participation Plan.

9.8.1 The Consultant may request modification of its Subcontractors Participation Plan after the award of the Contract. The Corporation may grant such request if it determines that the Consultant has established, with appropriate documentary and other evidence, that the

Consultant has made all reasonable, good faith efforts to meet the Participation Goal set for the Contract.

9.8.2 Good Faith Efforts. Good faith efforts should be documented by Consultant requesting a modification and such documentation provided to the Corporation upon the Corporation's request. In determining whether the Consultant has made all reasonable good faith efforts to meet the Participation Goal, the Corporation will consider, along with any other relevant factors, evidence submitted by the Consultant showing that the Consultant has, without limitation, conducted the following:

9.8.2.1 Direct Outreach. The Consultant provided timely notice to M/WBEs of specific opportunities to participate in the Contract;

9.8.2.2 NYCEDC Assistance. The Consultant submitted timely requests for assistance to the Corporation's M/WBE liaison officer and provides the Corporation with a description of how the Corporation's recommendations were acted upon and an explanation of how action upon such recommendations did not lead to the desired level of participation of M/WBEs;

9.8.2.3 Advertised Opportunities. The Consultant advertised opportunities to participate in the Contract in general circulation media, trade and professional association publications, small business media and publications of M/WBE organizations;

9.8.2.4 Follow Up with M/WBEs. The Consultant sent timely written notices to advise M/WBEs that their interest in the Contract was solicited;

9.8.2.5 Substitution of Work. The Consultant made efforts to identify portions of the Contract Work that could be substituted for portions originally designated for the participation by M/WBEs in the M/WBE Subcontractors Participation Plan and for which the Consultant claims an inability to retain M/WBEs;

9.8.2.6 Meeting with M/WBEs. The Consultant held meetings with M/WBEs prior to the date their proposals were due, for the purpose of explaining in detail the scope and requirements of the work for which their proposals were solicited;

9.8.2.7 Negotiated with M/WBEs. The Consultant made efforts to negotiate with M/WBEs as relevant to perform specific subcontracts, or acts as suppliers or service providers; and

9.8.2.8 Interested Subcontractor List. The Consultant made efforts to contact interested M/WBEs listed on the Website's Interested Subcontractor list.

9.8.3 The Corporation's M/WBE Director and Chief Contracting Officer will provide written notice to the Consultant of the determination on whether the Consultant has made all reasonable good faith efforts to meet the Participation Goal.

9.9 Compliance Audits. This Contract may be audited by the Corporation, DSBS and the City Comptroller to determine the Consultant's compliance with the requirements of the Corporation's M/WBE Program and the Consultant's M/WBE Subcontractors Participation Plan.

9.10 Enforcement. In the event the Corporation determines that the Consultant or its Subcontractors have violated the requirements of the Corporation's M/WBE Program or the M/WBE Subcontractors Participation Plan including, without limitation, a determination that the Consultant has made payments to or awarded work to M/WBE Subcontractors in amounts less than the amounts specified in the Consultant's M/WBE Subcontractor Participation Plan (unless the Corporation has permitted the Consultant to modify the Consultant's M/WBE Subcontractors Participation Plan in accordance with Section 9.8), the Corporation may:

- (i) terminate the Contract;
- (ii) assess actual and consequential damages for and/or exercise its right to set off any additional expenses the Corporation incurs to complete the Project satisfactorily in accordance with the Corporation's M/WBE Program and in order to meet the Participation Goal including, without limitation, the actual and administrative costs of:
  - (a) meeting the Participation Goal through additional procurements;
  - (b) payments made to any other consultant retained to complete the Services; and
  - (c) investigation and enforcement; or
- (iii) assert any other right or remedy it has under the Contract.

9.11 Liquidated Damages for Failure to Fulfill Approved Participation Goals. If the Consultant fails to fulfill its Participation Goals set forth in its Subcontractors Participation Plan or the Participation Goals as modified by the Corporation pursuant to Section 9.8, the Corporation may assess liquidated damages in the amount of ten percent (10%) of the difference between the dollar amount of work required to be awarded to M/WBEs to meet the Participation Goal and the dollar amount the Consultant actually awarded and paid to M/WBEs. In view of the difficulty of accurately ascertaining the loss which the Corporation will suffer by reason of the Consultant's failure to meet the Participation Goals, the foregoing amount is hereby fixed and agreed as the liquidated damages that the Corporation will suffer by reason of such failure, and not as a penalty. The Corporation may deduct and retain out of any monies which may become due under this Contract the amount of any such liquidated damages; and in case the amount which may become due under this Contract shall be less than the amount of the liquidated damages suffered by the Corporation, the Consultant shall be liable to pay the difference.

9.12 Statements. Statements made in any instrument submitted to the Corporation in connection with the Corporation's M/WBE Program shall be submitted under penalty of perjury and any false or misleading statement or omission shall be grounds for the application of any applicable criminal and/or civil penalties for perjury.

9.13 Evaluations. The Consultant's record in implementing its M/WBE Subcontractor Participation Plan shall be a factor in the evaluation of its performance.

**ARTICLE 10**  
**MISCELLANEOUS**

10.1 Consultant as Independent Contractor. Notwithstanding anything contained herein to the contrary including, without limitation, the provisions of Section 5.2 hereof, it is specifically understood and agreed that in the performance of the terms, covenants and conditions of this Contract, the Consultant and its Representatives shall not be deemed to be acting as agents, servants or employees of the Corporation or the City by virtue of this Contract or by virtue of any approval, permit, license, grant, right, or other authorization given by the City or the Corporation or any of their Representatives in connection with this Contract, but shall be deemed to be independent contractors performing work or professional services for the Corporation, and shall be deemed solely responsible for all acts taken by them pursuant to this Contract.

10.2 Assignment. This Contract is intended to secure the Services of the Consultant or a competent Representative or Representatives of the Consultant approved by the Director. The Consultant shall not assign, convey, subcontract, or transfer this Contract or the Consultant's rights hereunder without the written consent of the Director, which consent shall be manifested by Notice. The Corporation shall have the right to assign, convey, subcontract or transfer this Contract or the Corporation's rights hereunder without the written consent of the Consultant to the City or any other corporation, agency or instrumentality having authority to accept the assignment.

10.3 Right to Inspect. The Corporation, the City Comptroller, the Inspectors and any other individual or entity authorized under any Legal Requirement shall have the right on reasonable Notice to inspect the operations and records of the Consultant and its Subcontractors relating to this Contract.

10.4 Maintenance of Records. In order to facilitate any audit provided herein, the Consultant agrees to maintain accurate, readily auditable records and accounts with supporting documentation in accordance with generally accepted accounting principles of the Services performed by it, its employees, and its Subcontractors under this Contract and of all financial accounts and transactions maintained or undertaken in connection with this Contract, including, but not limited to, time cards and records reflecting the nature of the work performed and time consumed, bank statements, cancelled checks, bills and receipts, Requisitions, and deposit slips, and to make such records available for inspection and audit in the City by the Corporation, the City, the Inspectors and any other individual or entity authorized under any Applicable Statute or Applicable Agreement upon reasonable Notice. Said records shall be maintained for a period of six (6) years after termination of this Contract.

10.5 Modification in Writing. No modification, amendment, waiver or release of any provision of this Contract or of any right, obligation, claim or cause of action arising hereunder shall be valid or binding for any purpose unless in writing and duly executed by the party against whom the same is asserted.

10.6 Captions. The tables of contents and captions of this Contract are for convenience of reference only and in no way define, limit or describe the scope or intent of the Contract or in any way affect this Contract.

10.7 Completeness. This Contract contains all the terms and conditions agreed upon by the parties hereto, and no other agreement, oral or otherwise, regarding the subject matter of this Contract shall be deemed to exist or to bind either of the parties hereto.

10.8 Severability. If any clause, provision or section of this Agreement be ruled invalid by any court of competent jurisdiction, the invalidity of such clause, provision or section shall not affect any of the remaining provisions hereof.

10.9 Notices.

10.9.1 Each Notice, demand, request or other communication in connection with this Contract shall be either: (i) served in person, with delivery of service acknowledged in writing by the party receiving the same; (ii) sent by nationally known overnight delivery service or telefax; or (iii) deposited in the U.S. mails, first class mail, postage prepaid, and addressed to the respective address herein set forth in Part I, Section 3 or to such other address as may be specified by Notice sent in accordance herewith.

10.9.2 Every Notice hereunder shall be deemed to have been given: (i) at the date of receipt by the respective party in the case of personal delivery, overnight delivery or telefax and (ii) five (5) business days after the date of deposit in the first class U.S. mails.

10.10 Non-Waiver. Failure of the Corporation or its Representatives to enforce or otherwise require the performance of any of the terms and conditions of this Contract, at the time or in the manner that said terms and conditions are set forth herein, shall not be deemed a waiver of any such terms or conditions by the Corporation and the same may be selectively enforced or raised as a basis of a claim or cause of action at the option of the Corporation.

10.11 Refusal to Testify.

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

10.11.2 If:

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

(ii) any person refuses to testify for a reason other than the assertion of her or his 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 the Corporation, or any local development corporation within the City,

then the commissioner or agency head (each of which is hereinafter referred to as the “Commissioner”) whose agency is a party in interest to the transaction, submitted bid, submitted proposal, contract, lease, permit, or license involved in such investigation, audit or inquiry 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.

10.11.3 If any non-governmental party to the hearing requests an adjournment, the Commissioner who convened the hearing or the Corporation may, upon the Commissioner granting the adjournment, suspend any contract, lease, permit, or license pending the final determination pursuant to subsection 10.11.5 below without the City or the Corporation incurring any penalty or damages for delay or otherwise.

10.11.4 The Corporation or the City may impose the following penalties after a final determination by the Commissioner that penalties should attach for the failure of a person to testify:

(i) the disqualification for a period not to exceed five (5) years from the date of an adverse determination of 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 or the Corporation, as the case may be; and/or

(ii) the cancellation or termination of any and all such existing City or Corporation contracts, leases, permits or licenses that the refusal to testify concerns and that have not been assigned as permitted under this Contract, 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 or the Corporation 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 or the Corporation, as the case may be.

10.11.5 The Commissioner shall consider and address, in reaching her or his determination, and the Corporation and the Commissioner shall consider and address, in assessing an appropriate penalty, the factors in subparagraphs (i) and (ii) below. The Commissioner and the Corporation may also consider, if relevant and appropriate, the criteria established in subparagraphs (iii) and (iv) below in addition to any other information which may be relevant and appropriate:

(i) The entity'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.

(ii) 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.

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

(iv) 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 subsection 10.11.4 above), provided that the party or entity has given actual notice to the Commissioner upon the acquisition of the interest, or at the hearing called for in subsection 10.11.2(2) 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.

10.11.6 The term "license" or "permit" as used herein shall be defined as a license, permit, franchise or concession not granted as a matter of right.

10.11.7 The term "entity" as used herein shall mean any firm, partnership, corporation, association, joint venture or person that receives monies, benefits, licenses, leases or permits from or through the City or otherwise transacts business with the City.

10.11.8 The term "member" as used herein shall mean any person associated with another person or entity as a partner, director, officer, principal or employee.

10.11.9 The term "person" as used herein shall mean any natural person doing business alone or associated with another person or entity as a partner, director, officer, principal or employee.

10.12 No Political Activity. The Consultant agrees that there shall be no political activity or any activity to further the election or defeat of any candidate for public, political or party office as a part of or in connection with this Contract, nor shall any of the funds provided under this Contract be used for such purposes.



**NEW YORK CITY ECONOMIC DEVELOPMENT CORPORATION  
CYBER NYC  
PROFESSIONAL SERVICES CONSULTANT CONTRACT  
FOR THE PROVISION OF OPERATION SERVICES  
NYCEDC CONTRACT NO. 7102  
PROJECT CODE NO. 7102**

**PART III  
APPENDICES**

<b>APPENDIX A</b>	<b>DEFINITIONS</b>
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**APPENDIX A**  
**DEFINITIONS**

**APPENDIX A****DEFINITIONS**

The defined terms listed below shall have the following corresponding meanings in the annexed Contract (as defined herein) unless otherwise defined or the context otherwise requires. The singular shall include the plural and vice versa as the context may dictate. The gender used in the annexed Contract shall be deemed to refer to the masculine, feminine, or neuter gender, as the context or the identity of the persons being referred to may require.

Additional Insured	All individuals and entities listed in Appendix E
Allowable Additional Costs	As defined in Appendix B Scope of Services
Applicable Agreements	Various governing agreements related to the Funds, the Project and/or this Contract, including, without limitation, any specific “Applicable Agreements” identified in Part I, and any other governing agreement or MOU with the City, State and/or federal governments, or any agency thereof
Applicable Requirements	Any and all federal, state and local laws, statutes, rules, regulations and orders applicable to this Contract, the Funds or the Project, including, without limitation, any specific “Applicable Requirements” identified in Part I
Borough	The City borough where the Project is located
City	The City of New York
City Contract	The Amended and Restated Contract between the City and the Corporation, dated as of June 30, 2013 and the Amended and Restated Maritime Contract between the City and the Corporation, dated as of June 30, 2013, as applicable, as each may be amended, restated and/or revised from time to time
City Comptroller	Comptroller of the City or his or her designee
Commencement Date	The date upon which the Consultant shall commence the Services as stated in Part I, Section 1.4
Comptroller General	The United States Comptroller General

Confidential Information	Any and all information, records, data, materials, documents, electronic files or Work Product provided by NYCEDC and/or the City or any of its agencies to the Consultant except that which (i) shall have otherwise become publicly available through no fault of Consultant or its Representatives; (ii) becomes available to the Consultant on a nonconfidential basis from a source other than NYCEDC, the City or any of its agencies; or (iii) is known by the Consultant prior to its receipt from NYCEDC, the City or any of its agencies without any obligations of confidentiality with respect thereto
Consultant	The entity or person contracted by the Corporation to perform the Services pursuant to this Contract, as identified in Part I, Section 2.3
Consultant's Underlying Intellectual Property	The Consultant's analytical concepts, approaches, methodologies, or formats developed by the Consultant's staff, and to other materials not prepared for delivery to the Corporation and also including any derivatives, improvements, enhancements or extensions of the Consultant's Underlying Intellectual Property conceived, reduced to practice, or developed during the term of this Contract that are not uniquely applicable to the Corporation
Contract	The Contract between the Consultant and the Corporation to which this Appendix A is annexed, as defined in Part I, Section 1.1
Contract Completion Costs	As defined in Section 3.5.3
Contract Date	The date of this Contract, as stated in Part I, Section 1.3
Corporation	New York City Economic Development Corporation, a not-for-profit corporation organized pursuant to laws of the State of New York
CPL	Contractor Pollution Liability Insurance
DBEs	Disadvantaged Business Enterprises
Director	The person set forth in Part I, Section 2.2, or such other person as may be subsequently designated by the Corporation
Disability Benefit	A type of insurance to be purchased and maintained by the Consultant and its Subcontractors, in statutory amounts, for

	all of its employees engaged in the Services
DCAS	New York City Department of Citywide Administrative Services
DCP	New York City Department of City Planning
DEP	New York City Department of Environmental Protection
Division	Division of Labor Services of DSBS
DOB	New York City Department of Buildings
Doing Business Data Form	The form available at <a href="http://www.nycedc.com">www.nycedc.com</a> to be completed by the Consultant and submitted to the Corporation pursuant to LL 34
DOT	New York City Department of Transportation
DPR	New York City Department of Parks and Recreation
DSBS	New York City Department of Small Business Services
DSNY	New York City Department of Sanitation
Electronic Funds Transfer (EFT)	Any transfer of funds, other than a transaction originated by check, draft or similar paper instrument, that is initiated through an electronic terminal, telephonic instrument or computer or magnetic tape so as to order, instruct or authorized a financial institution to debit or credit an account
E.O. 50	Executive Order No. 50 (1980), as amended or revised from time to time
Employment Report(s)	The reports described in Appendix G and available at <a href="http://www.nycedc.com">www.nycedc.com</a> to be completed and submitted to the Corporation pursuant to Executive Order 50
Event of Default	As described in Part II, Section 3.3.2
Extra Work	A significant alteration to the work or Services that the Consultant has been directed to perform by the Director as described in Part II, Section 1.5.2
FDNY	New York City Fire Department
Federal Courts	United States Federal Courts located in New York City

FHWA	United States Federal Highway Administration
Final Completion	The performance of all Services contemplated in this Contract to the satisfaction of the Director
Final Payment	The last payment by the Corporation to the Consultant under the Contract upon Final Completion or as provided in Part II, Sections 3.5.2 and 3.5.4
Force Majeure	Any of the following acts and events that occur without the negligence or fault, and beyond the reasonable control, of Consultant and that of any of its successors, heirs, assigns, and/or Representatives and of which Consultant has given the Corporation express written notice within three (3) days after the commencement of the alleged cause of the delay, hindrance, or obstruction: governmental preemption in connection with a national emergency, war or act of war, insurrection, riot, act of public enemy, terrorist acts, labor disputes, accidents, mechanical failure and acts of God (including fire, flood or abnormal adverse weather conditions not reasonably anticipatable)
FTA	United States Federal Transit Administration
Funding Agencies	All federal, State or local agencies or entities that are the source of the Funds including, without limitation, any specific "Funding Agencies" identified in Part I
Funds	All funds from the federal, State or local sources to be applied to payments for Services under this Contract including, without limitation, any specific "Funds" identified in Part I
IDA	New York City Industrial Development Agency, a corporate governmental agency constituting a body corporate and politic and a public benefit corporation organized pursuant to Article 18-A of the General Municipal Law of the State of New York
Inspectors	All individuals or entities specifically identified as "Inspectors" in Part I, if any
Insurer	Any insurance company retained by the Consultant pursuant to Part II, Section 6.3.2
Joint Venture	An association, of limited scope and duration, between two or more persons who have entered into an agreement to perform and/or provide services required by a contract, in

	which each such person contributes property, capital, effort, skill and/or knowledge, and in which each such person is entitled to share in the profits of the venture in reasonable proportion to the economic value of its contribution.
Landmarks Preservation Commission (LPC)	The City of New York Landmarks Preservation Commission
Legal Requirements	All applicable laws, rules, regulations, ordinances, codes and orders of all federal, state and local governmental authorities, agencies, departments or bureaus having jurisdiction over and which affect the work and/or Services under this Contract including, without limitation, all Applicable Agreements and all Applicable Requirements
Local Law 34 (LL 34)	Local Law No. 34 of 2007, as it may be amended or superseded
MacBride Principles	Those principles relating to nondiscrimination in employment and freedom of workplace opportunities that requires employers doing business in Northern Ireland to comply with specific terms set forth in Section 6-115.1 of the City's Administrative Code
Maximum Contract Price	The maximum amount that may be paid for the Services under the Contract, as stated in Part I, Section 1.6
Maximum Payment	The maximum amount payable for each Portion of the Services during a billing period
MBEs	Minority-owned Business Enterprises
M/WBE Compliance Reports	As described in Part II, Section 9.5
M/WBEs	MBEs and WBEs, collectively
M/WBE Subcontractors Participation Plan	As described in Part II, Section 9.5
MOU	Memorandum of Understanding
New York State Courts	Courts of the State of New York in the City and County of New York
Notice	Any written notice, demand, request, instruction, advice, directive or other communication in connection with this Contract to be delivered to a party designated in Part I, Section 3, for the receipt of notice in the manner set forth in Part II, Section 10.9.1

Notice to Proceed	Written Notice from the Corporation to the Consultant to proceed with the Services or any portion thereof
Notify	To give a Notice pursuant to Part II, Section 10.9.1
NYCEDC	The Corporation
NYCTA	New York City Transit Authority
NYPD	New York City Police Department
NYSDEC	New York State Department of Environmental Conservation
NYSDOH	New York State Department of Health
NYSDOS	New York State Department of State
NYSDOT	New York State Department of Transportation
OMB	New York City Office of Management and Budget
OPRHP	New York State Office of Parks, Recreation and Historic Preservation
PANYNJ	The Port Authority of New York and New Jersey
Participation Goal	The Corporation's goal for M/WBE participation related to the Contract, as defined in Part II, Section 9.3.
Payment Schedule	Schedule listing Maximum Payment for each Portion of the Services, appended to Appendix C when payment for Services or a Portion of the Services is on a Tasks completed basis
Payroll Report	Forms that the Consultant and any Subcontractors that provide any on-site construction activity must complete
Percentage of Completion	An amount equal to the percentage of completion of each Portion of the Services
Person In Charge	As identified in Part I, Section 2.5, the member(s) of the Consultant's professional staff who will have primary responsibility to perform and/or supervise and coordinate the performance of the Services
PLL	Pollution Legal Liability Insurance Policy
Portion	Each portion, task or phase of the Services as described in



	Appendix B and/or Appendix C
Principal	The Consultant's most senior officer of the Consultant's staff responsible for the performance of Services as identified in Part I, Section 2.4
Progress Reports	Reports which Consultant is obligated to prepare that show the status of the Services in accordance with the Progress Schedule
Progress Schedule	Any schedule issued or approved by the Corporation for the performance of the Services, including, without limitation, Project or Services milestones, deadlines or delivery dates
Project	As identified in Part I, Section 1.7, and described in detail in Appendix B
Project Manager	A person designated by the Corporation to serve as a liaison between the Corporation and the Consultant
Project Site	The location of the Project as identified in Part I, Section 1.8 and described in detail in Appendix B
Public Design Commission ("PDC")	Public Design Commission of the New York City (f/k/a The Art Commission)
Qualified Joint Venture ("QJV")	A Joint Venture between one or more MBEs and/or WBEs and another person, in which the percentage of profit to which the certified firm or firms is entitled for participation in the Contract, as set forth in the joint venture agreement, is at least 25% of the total profit.
RAP	Remedial action plan
Representatives	The employees, agents, servants, officers, directors, members, independent contractors and subcontractors of a person or entity
Requisition	A request for payment, to be submitted by Consultant not more than once per month, setting forth in detail, for the billing period for which partial payment is requested, the amount requested and Services performed during the billing period
Retainage	Any sum withheld from any payment to the Consultant including, without limitation, those set forth in Part II, Sections 1.5.3, 2.2.1 and 4.2.3
Retainage Payment Date	The date by which any Retainage identified in Part I,

Section 1.10 will be paid to the Consultant, as identified in Part I, Section 1.11, subject to the provisions of Part II, Article 2 and Part III, Appendix C

Scope of Services	The Services to be provided by the Consultant in connection with this Contract, as set forth in Appendix B
Services	All of the services to be provided to the Corporation by the Consultant pursuant to the Contract, as described in greater detail in Appendix B
SHPO	State Historic Preservation Officer
Specific Terms and Conditions	Part I of this Contract
Fee and Cost Schedule	Schedule listing names of Consultant's staff, hourly rates and estimated number of days to be spent providing Services, appended to Appendix C when payment for Services or a Portion of the Services is on an hourly rate basis
State	State of New York
Subcontractor	Any person or entity including, without limitation, contractors, consultants, subconsultants, vendors and subcontractors of such persons or entities, employed or retained by the Consultant in accordance with the Contract to provide any services, work, materials, equipment or supplies in connection with the Services
Subcontractors' Costs	The compensation payable by the Consultant to any subcontractor(s) of the Consultant pursuant to a contract(s) entered into pursuant to Part II, Section 4.2
Term	The duration of this Contract, as stated in Part I, Section 1.5
USACOE	United States Army Corps of Engineers
USDOT	United States Department of Transportation
UST	Underground storage tanks
WBEs	Women-owned Business Enterprises
Worker's Compensation	A type of insurance to be purchased and maintained by the Consultant and its Subcontractors, in statutory amounts, for all of its employees engaged in the Services

Work-Made-For-Hire

As defined in Section 101 of the United States Copyright Act, 17 U.S.C. § 101

Work Product

All reports, plans, studies, surveys, data, databases, programs, processes, systems, drawings, tracings, blueprints, photographs, computer drawings, schematics, specifications, log books, correspondence, models, studies, permits approvals, designs, deliverables, samples, presentation materials, analyses, punch lists, submissions, filings, applications, schedules, documents and materials, including, without limitation, those related to inspections, tests and test results, in all formats now known or hereinafter known, prepared or furnished by the Consultant pursuant to this Contract, provided however that Work Product shall not include any Consultant's Underlying Intellectual Property

**APPENDIX B**  
**SCOPE OF SERVICES**

**APPENDIX C**  
**PAYMENTS**

## APPENDIX C

### PAYMENTS BASED ON TASKS COMPLETED

The Maximum Payment for each Portion of the Services shall be the respective amounts set forth for in the Payment Schedule annexed hereto as Exhibit 1 to this Appendix C.

Interim payments shall be made to the Consultant. The interim payments will be made no more frequently than once a month in an amount equal to the Percentage of Completion of each Portion of the Services, multiplied by the Maximum Payment for each Portion performed during the billing period, less any Retainage. The Consultant shall also be reimbursed for Allowable Additional Costs as such costs accrue. Except as may permitted under Part II, Section 2.2.1 of the Contract, Retainage will not be applied against Allowable Additional Costs.

To request an interim payment, the Consultant shall submit to the Corporation's **Accounts Payable Department**, not more than once per month, a Requisition setting forth in detail, for the period for which partial payment is requested, the following:

- (i) the Percentage of Completion for each Portion of the Services performed by the Consultant during the billing period;
- (ii) Allowable Additional Costs incurred during the billing period;
- (iii) the amount of partial payment requested; and
- (iv) a representation and warranty that, except as set forth in the Requisition, the representations and warranties made by the Consultant in Article 7 of the Contract are true and correct as of the date of the Requisition as if made on the date of the Requisition.

An EFT Enrollment Form is attached as Exhibit 2 to this Appendix C and must be completed and returned to the Corporation prior to Consultant's submission of its first Requisition.

In addition, the Consultant shall submit Progress Reports to the Director at least monthly or in accordance with any other schedule approved by the Director, or at the Director's request. Such Progress Reports shall clearly state the reasons for any actual or anticipated delays in completion of the Services.

## APPENDIX C

### PAYMENTS BASED ON HOURLY RATES

Interim payments shall be made to the Consultant no more frequently than monthly based on the number of hours members of the Consultant's staff, as shown on the Staff and Fee Schedule annexed hereto as Exhibit 1 to this Appendix C, spent providing the Services, multiplied by the hourly rate and applicable multiplier for each such member of the Consultant's staff on the Staff and Fee Schedule, less any Retainage. The Consultant shall also be reimbursed for Allowable Additional Costs incurred.

On or before the Commencement Date, the Consultant shall provide to the Director an estimate of the number of hours members of the Consultant's staff, as set forth on the annexed Staff and Fee Schedule ( Exhibit 1), and its Principal are anticipated to spend providing the Services. Such estimate shall be subject to the Director's approval.

To request an interim payment, the Consultant shall submit to the Corporation's **Accounts Payable Department**, not more than once per month, a Requisition setting forth in detail, for the period for which partial payment is requested, the following:

- (i) Services performed by Consultant's Principal and by its professional and technical staff;
- (ii) the number of hours worked by each such Principal and its professional and technical staff in connection with the Services performed during the billing period;
- (iii) actual salaries incurred during such month;
- (iv) Allowable Additional Costs incurred;
- (v) Subcontractors' Costs incurred during the billing period;
- (vi) the amount of partial payment requested; and
- (vii) a representation and warranty that, except as set forth in the Requisition, the representations and warranties made by the Consultant in Article 7 of the Contract are true and correct as of the date of the Requisition as if made on the date of the Requisition.

An EFT Enrollment Form is attached as Exhibit 2 to this Appendix C and must be completed and returned to the Corporation prior to Consultant's submission of its first Requisition.

No multiplier overhead, administrative fee or other mark up will be paid to Consultant for Subcontractors' Costs or Allowable Additional Costs. Except as may permitted under Part II, Section 2.2.1 of the Contract, Retainage will not be applied against Allowable Additional Costs.

In addition, the Consultant shall submit Progress Reports to the Director at least monthly or in accordance with any other schedule approved by the Director, or at the Director's request. Such Progress Reports shall clearly state the reasons for any actual or anticipated delays in completion of the Services.

**EXHIBIT 1 TO APPENDIX C**

**[INSERT CONSULTANT’S FINAL SCHEDULE; BELOW IS ONLY A SAMPLE AND SHOULD BE MODIFIED PER PROJECT ACCORDINGLY]**

**PAYMENT SCHEDULE**

SAMPLE; TASKS SET FORTH BELOW ARE EXAMPLES ONLY

<b>Task</b>	<b>Maximum Payment</b>
<b><i>Task 1 – Concept Development and Review</i></b>	
Information Gathering	\$
Analysis and Surveys (including Utilities)	\$
Conceptual Design	\$
Concept Book	\$
<b>Task 1 Total</b>	\$
 <b><i>Task 2 – Schematic Design</i></b>	
Three Schematic Designs	\$
One Schematic Design	\$
Schematic Book	\$
<b>Task 2 Total</b>	\$
 <b><i>Task 3 – Preliminary Design Development</i></b>	
Preliminary Design Development	\$
Agency Approvals	\$
Preliminary DD Package	\$
<b>Task 3 Total</b>	\$
 <b><i>Task 4 – Final Design Development</i></b>	
Final Design Development	\$
Final Design Development Package	\$
Additional Documents	\$
<b>Task 4 Total</b>	\$
 <i>Total Tasks 1-4</i>	
	\$
<i>Allowable Additional Costs</i>	
	\$
<b>Total Amount</b>	
	\$



**EXHIBIT 1 TO APPENDIX C****FEE AND COST SCHEDULE**

SAMPLE, POSITIONS AND OFFICES ARE EXAMPLES ONLY

<b>Position</b>	<b>Name</b>	<b>Hourly Rate</b>	<b># of days</b>	<b>Estimated Multiplier</b>
-----------------	-------------	--------------------	------------------	-----------------------------

**A. SITE OFFICE EMPLOYEES**

Project Manager  
 Engineer/Contract Administrator  
 Engineer  
 Architect  
 Field Superintendent  
 Field Superintendent  
 Other (Specify)

**B. HOME OFFICE EMPLOYEES**

Chief Estimator  
 Senior Estimator  
 Estimating Engineer  
 Other (Specify)

**C. PRINCIPAL/PROJECT EXECUTIVE****D. PROJECT ACCOUNTANT**

**EXHIBIT 2 TO APPENDIX C**  
**EFT ENROLLMENT FORM**



**NEW YORK CITY ECONOMIC DEVELOPMENT CORPORATION**  
**DIRECT DEPOSIT/ELECTRONIC FUNDS TRANSFER (EFT)**  
**VENDOR PAYMENT ENROLLMENT FORM**

**INSTRUCTIONS:** Please complete all sections of this Enrollment Form and attach a voided check or a copy of an encoded deposit slip that includes an imprinted vendor's name. See the reverse side for more information and instructions.

**Mail to:** New York City Economic Development Corporation, 110 William Street, 4<sup>th</sup> Floor, New York, NY 10038  
 Attention: Controller, Accounting Dept. or Fax to: 212-312-3914

**SECTION I – VENDOR INFORMATION**

1. SOCIAL SECURITY NUMBER OR TAXPAYER ID NUMBER: (AS IT APPEARS ON W-9 FORM)	<table border="1" style="width:100%; height: 20px; border-collapse: collapse;"> <tr> <td style="width: 12.5%;"></td><td style="width: 12.5%;"></td><td style="width: 12.5%;"></td><td style="width: 12.5%;"></td><td style="width: 12.5%;"></td><td style="width: 12.5%;"></td><td style="width: 12.5%;"></td><td style="width: 12.5%;"></td><td style="width: 12.5%;"></td><td style="width: 12.5%;"></td><td style="width: 12.5%;"></td><td style="width: 12.5%;"></td> </tr> </table>												
2. VENDOR NAME (AS IT APPEARS ON W-9 FORM); (AS IT APPEARS ON W-9 FORM)													
3. VENDOR'S PRIMARY ADDRESS:													
4. VENDOR'S EMAIL ADDRESS:													
5. CONTACT PERSON NAME:	6. CONTACT PERSON TELEPHONE NUMBER:												

**SECTION II – FINANCIAL INSTITUTION INFORMATION**

1. BANK ACCOUNT NUMBER:	2. ACCOUNT NAME:												
3. BANK NAME:													
4. BANK BRANCH ADDRESS:													
5. ROUTING TRANSIT NUMBER: (LOCATED AT THE BOTTOM OF YOUR CHECK)	6. ACCOUNTING TYPE: (CHECK ONE)												
<table border="1" style="width:100%; height: 20px; border-collapse: collapse;"> <tr> <td style="width: 12.5%;"></td><td style="width: 12.5%;"></td><td style="width: 12.5%;"></td><td style="width: 12.5%;"></td><td style="width: 12.5%;"></td><td style="width: 12.5%;"></td><td style="width: 12.5%;"></td><td style="width: 12.5%;"></td><td style="width: 12.5%;"></td><td style="width: 12.5%;"></td><td style="width: 12.5%;"></td><td style="width: 12.5%;"></td> </tr> </table>													<input type="checkbox"/> CHECKING <input type="checkbox"/> SAVINGS
7. DIRECT DEPOSIT/ACH/EFT COORDINATOR'S NAME:	8. TELEPHONE NUMBER:												

**SECTION III – VENDOR SIGNATURE**

VENDOR SIGNATURE	PRINT NAME	DATE


**NEW YORK CITY ECONOMIC DEVELOPMENT CORPORATION**
**DIRECT DEPOSIT/ELECTRONIC FUNDS TRANSFER (EFT)  
VENDOR PAYMENT ENROLLMENT FORM**
**GENERAL INSTRUCTIONS**

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

New York City Economic Development Corporation, 110 William St., Room 400  
New York, NY 10038 – Attention: Controller, Accounting Dept or Fax to: 212-312-3914.

**SECTION I – VENDOR INFORMATION**

1. Enter the vendor's social security number or taxpayer ID number, the 9-digit number reported on W-9 form.
2. Provide the name of the vendor (as it appears on the W-9).
3. Enter the vendor's complete address for EFT correspondence associated with this account.
4. Provide the vendor's E-mail address, if you have one.
5. Indicate the name and telephone number of the vendor's contact person. (If you are enrolling yourself individually, you are the contact person).

**SECTION II – FINANCIAL INSTITUTION INFORMATION**

1. Indicate the vendor's bank account number.
2. Indicate the vendor's account name.
3. Provide bank's name.
4. Provide the complete address of your bank.
5. Indicate 9-digit routing (ABA) transit number (located at the bottom of your check).
6. Indicate type of account: (Check one box only).
7. List name and telephone number of your bank's Direct Deposit/EFT Coordinator.

**SECTION III – VENDOR SIGNATURE**

Sign and date where indicated.

**EXHIBIT 3 TO APPENDIX C**

THE CITY OF NEW YORK • OFFICE OF THE COMPTROLLER • BUREAU OF LABOR LAW

**PAYROLL REPORT**

TO BE SUBMITTED WITH REQUISITION FOR PAYMENT

NAME OF PRIME CONTRACTOR		NAME OF CONTRACTOR/SUBCONTRACTOR		ADDRESS		PHONE #		AGENCY				
CONTRACT REGISTRATION #		JOB CODE		WEEK ENDING DATE		PROJECT NAME & LOCATION		PAYROLL #				
TAX I.D. #		TAX I.D. #		TAX I.D. #		TAX I.D. #		TAX I.D. #				
(1) NAME ADDRESS LAST FOUR DIGITS OF SOCIAL SECURITY NUMBER	(2) LIST TRADE & CHECK CLASSIFICATION: JOURNEYPERMANENT APPRENTICE (NYS DOL ASSIGNED) HELPER	(3) T I M E	(4) DAY AND DATE	(5) TOTAL HOURS	(6) BASE RATE OF PAY PER HOUR	(7) TOTAL BASE PAY	(8) SUPPLEMENTAL BENEFITS		(10) TOTAL BENEFITS PAID	(11) GROSS PAY	(12) TOTAL TAX & OTHER DEDUCTIONS	(13) NET PAY
							(9) RATE PER HOUR	(9) PAID TO (Local # if Union is checked)				
	<input type="checkbox"/> J <input type="checkbox"/> A <input type="checkbox"/> H	RT					U Local#					
	<input type="checkbox"/> J <input type="checkbox"/> A <input type="checkbox"/> H	RT					U Local#					
	<input type="checkbox"/> J <input type="checkbox"/> A <input type="checkbox"/> H	RT					U Local#					
	<input type="checkbox"/> J <input type="checkbox"/> A <input type="checkbox"/> H	RT					U Local#					
	<input type="checkbox"/> J <input type="checkbox"/> A <input type="checkbox"/> H	RT					U Local#					
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	<input type="checkbox"/> J <input type="checkbox"/> A <input type="checkbox"/> H	RT					U Local#					

INSTRUCTIONS ON REVERSE SIDE

**FALSIFICATION OF THIS STATEMENT IS A PUNISHABLE OFFENSE**

This certified payroll has been prepared in accordance with the instructions contained on the reverse side of this form. I certify that the above information represents wages and supplemental benefits paid to all persons employed by my firm for construction work on the above project during the period shown. I understand that falsification of this statement is a punishable offense.

SIGNATURE

NAME (Print)

TITLE

DATE

20



**Instructions for the Preparation and Submission of a Payroll Report**

1. All persons who performed any on-site construction activity, during the period of the requisition, shall be listed on the Payroll Report.
2. Separate Payroll Reports shall be submitted by the prime contractor and each subcontractor who performed any on-site construction activity during the period of the requisition.
3. Failure to provide the required Payroll Report may result in the requisition for payment being returned unpaid or the payment being reduced.

**4. PAYROLL REPORT HEADING:** The Payroll Report Heading shall require the following information:

**NAME OF PRIME CONTRACTOR:** Enter the name of the firm that has entered into the contract with the New York City government agency.  
**NAME OF CONTRACTOR / SUBCONTRACTOR:** The legal name of the firm submitting the Payroll Report shall be placed immediately below this designation. Circle either the word **CONTRACTOR** or **SUBCONTRACTOR** as applicable.  
**ADDRESS:** Insert the current address (i.e., street, city, state and zip code) of the firm submitting the Payroll Report.  
**PHONE NO.:** Enter the telephone number of the firm submitting the Payroll Report in the space provided.  
**AGENCY:** Enter the name of the New York City government agency that has the contract with the Prime Contractor.  
**PAYROLL NO.:** In the space provided, enter the Payroll Number of the Contractor or Subcontractor.  
**CONTRACT REG. NO.:** Enter the Contract Registration Number here. This may be obtained from the "Notice of Award" and/ or the "Order to Commence Work" letters.  
**JOB CODE:** In the space provided, enter the Contractor/ Subcontractor's in-house labor distribution code or job number where applicable.  
**WEEK ENDING DATE:** In the space provided, enter the last date of the pay-week (i.e., month, day, year).  
**PROJECT NAME & LOCATION:** In this space, enter the Project Name and Location where contract work is being performed.  
**TAX I.D. NO.:** Enter in this space the Federal Tax Identification Number of the firm submitting the Payroll Report.

5. For every employee who performed any on-site construction activity during the period of the Payroll Report, the following information shall be provided:
  - 1) **NAME, ADDRESS, LAST FOUR DIGITS OF THE SOCIAL SECURITY NO.:** The legal name, current address and the last four digits of the social security number of each employee. (Employers must keep the full social security number on file for each of their covered workers.) If the employee has no social security number, please list his/her IRS Individual Taxpayer Identification Number and mark it "TIN".
  - 2) **LIST TRADE & CHECK WORK CLASSIFICATION:** Specify and insert the Trade applicable to the work performed by each employee. The Trade identified must be one listed on the Prevailing Wage & Supplemental Benefits Schedule of the Comptroller, i.e., Electrician, Laborer, etc. Check next to the letter J if the individual is a Journeyman. Check next to the letter A if the person is a Registered Apprentice with the Department of Labor of the State of New York. Check next to the letter H only if the person is a Helper in a trade classification that has Helper rates listed in the Comptroller's Schedule of Prevailing Wages.
  - 3) **TIME:** RT indicates Regular Time, and OT indicates Overtime.
  - 4) **DAY AND DATE:** Below this heading, in the first row, enter the appropriate sequence of the contractor's pay records. MTWTFSS, for example, is the sequence to use if the workweek ends on a Sunday, and SSMTWTFF is the sequence if the workweek ends on a Friday. In the second row, below each letter representing the day of the workweek, insert the corresponding date. Below the heading **HOURS WORKED EACH DAY**, at the intersection of the column of the particular day and date and the horizontal row of the employee's name, insert the hours worked each day in the appropriate box either for RT (Regular Time) and/ or OT (Overtime). If an employee worked Shift Time, the RT (Regular Time) row shall be used and adjusted accordingly.
  - 5) **TOTAL HOURS:** Add the hours worked for Regular and/ or Shift Time with the hours worked for Overtime, and enter separate totals in this column.
  - 6) **BASE RATE OF PAY PER HOUR:** Specify the actual base rate of pay per hour paid to the employee. Do not include supplemental benefits in this amount.
  - 7) **TOTAL BASE PAY:** Total amount earned by the employee, not including benefits.

**SUPPLEMENTAL BENEFITS:**

- 8) **RATE PER HOUR:** Amount of supplemental benefits paid / provided per hour.
- 9) **PAID TO:** Place a check mark in the appropriate box: U for Union if benefits paid to a Union, E for Employee if benefits paid in cash (or check) directly to the Employee, or O for Other, if benefits are otherwise paid / provided to the employee. If U is checked, you must insert the "Local" number of the union in that box.
- 10) **TOTAL BENEFITS PAID:** Total amount of supplemental benefits paid / provided for the workweek to the employee.
- 11) **GROSS PAY:** Total amount earned for workweek. This amount comprises the Total Base Pay plus any benefit paid in cash (or check) directly to the employee [i.e., column (7) + column (9) E if Box E is checked and payment made directly to employee]. No other type of benefit should be included in this column's total.
- 12) **TOTAL TAX AND OTHER DEDUCTIONS:** Enter the sum total of all deductions in this column (including FICA, Federal, State and City Taxes, etc.). This does not absolve you from maintaining appropriate tax and other records required by law).
- 13) **NET PAY:** Total amount of pay after all deductions (i.e., the actual Take-Home Pay).

**APPENDIX D**

**FORM OF CERTIFIED STATEMENT REGARDING  
USE OF NON-ORIGINAL MATERIALS**



**APPENDIX D**

**FORM OF CERTIFIED STATEMENT REGARDING  
USE OF NON-ORIGINAL MATERIALS**

STATE OF \_\_\_\_\_ )  
 ) ss.:  
 COUNTY OF \_\_\_\_\_ )

The undersigned, being first duly sworn, deposes and states as follows:

1. I am the Principal of the Consultant named below in connection with the contract (the "Contract") identified below between the Consultant and New York City Economic Development Corporation ("NYCEDC").
2. I make this affidavit pursuant to Section 5.2.6(iii) of the Contract to verify certain information regarding non-original materials included in the Work Product (as defined in the Contract) furnished by the Consultant to NYCEDC pursuant to the Contract.
3. I hereby certify that the information set forth on the "List of Rights, Limitations and Requirements Regarding the Use and Display of Non-Original Materials Included in Consultant's Work Product" (the "Non-Original Materials List") annexed hereto and made a part hereof, and the licenses, releases, permissions, clearances and other documents (collectively, the "Licenses") annexed thereto, are complete, true and accurate as of the date of this affidavit, and I acknowledge and understand that NYCEDC shall rely thereon in connection with any use and display of such materials.
4. In particular, I hereby certify that the annexed Non-Original Materials List and Licenses set forth (i) all non-original materials included in Consultant's Work Product; (ii) all information as to the source of such materials; (iii) all information as to any durational limitations on use of such materials; (iv) all requirements as to notices that must be displayed in connection with display, including the specific owner of the rights to be credited; and (v) all other limitations on the use and display under the Licenses.

Dated: \_\_\_\_\_ Signature: \_\_\_\_\_

Consultant: \_\_\_\_\_ Printed Name: \_\_\_\_\_

NYCEDC Contract No.: \_\_\_\_\_ Title: \_\_\_\_\_

Sworn to before me this  
 day of \_\_\_\_\_, 20\_\_\_\_

\_\_\_\_\_  
 Notary Public



**APPENDIX E**

**INSURANCE REQUIREMENTS**

- 1. Required Policies and Amounts**
- 2. Additional Insureds**
- 3. Required Provisions**
- 4. Sample Form of Insurance Certificate**

**APPENDIX E****INSURANCE REQUIREMENTS**

## 1. Required Policies and Amounts\*

<u>Workers' Compensation/ Disability Benefits:</u>	In statutory amounts
<u>Employer's Liability:</u>	The greater of statutory amounts or \$1,000,000
<u>Commercial General Liability:</u>	A minimum of \$1,000,000 per occurrence, with an annual aggregate of not less than \$2,000,000 in the aggregate  The maximum deductible or self-insured retention ("SIR") for the Commercial General Liability policy shall be \$25,000
<u>Automobile Liability:</u>	\$1,000,000 combined single limit per occurrence
<u>Umbrella/Excess Liability:</u>	\$10,000,000 on a per occurrence and aggregate basis, and shall be excess of primary general, automobile and employer's primary liability limits

If the Consultant or its Subcontractors use floating equipment, barges or floats, or performs marine-related construction, the Consultant and as applicable, its Subcontractors, shall purchase and maintain additional insurance of the following types and in the following amounts in connection with the performance of the Services:

<u>U.S. Harbor Workers' Long Shoremens' Compensation Act:</u>	In statutory amounts
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<u>Marine Protection and Indemnity:</u>	\$25,000,000 per occurrence, but if an annual aggregate is applicable to the policy not less than \$25,000,000 in the aggregate per year
---	--

If the Project is adjacent to or includes an existing railroad or subway line, the Consultant, or its Subcontractors, shall purchase and maintain the following insurance in the following amounts in connection with the performance of the Services by the Consultant and its Subcontractors, and any work incidental thereto:

Railroad Protective Liability: \$1,000,000 per occurrence, but if an annual aggregate is applicable to the policy not less than \$2,000,000 in the aggregate

If the Consultant or any of its Subcontractors is performing asbestos or other toxic or hazardous materials remediation, removal, abatement, storage or disposal work including, without limitation, related demolition work, the Consultant or its Subcontractors shall purchase and maintain additional insurance of the following types and in the following amounts in connection with the performance of the Services and any work incidental thereto:

Contractor Pollution Liability (“CPL”) Policy and, as applicable, Asbestos Abatement Liability Policy, Lead Abatement Contractors Liability Policy, Stop Loss Policy, Professional Services Policy, Pollution Legal Liability (“PLL”) Policy, Transportation Coverage and Non-Owned Disposal <u>Site Coverage:</u>	\$5,000,000 combined single limit per occurrence for bodily injury or death, and property damage, but if an annual aggregate is applicable to the policy not less than \$5,000,000 in the aggregate per year dedicated to this Project, on an “occurrence” basis, with a term of not less than ten (10) years
---	---

Such CPL and PLL policies shall be for a term of not less than (10) years, on an “occurrence” basis, and any aggregate applicable to such policies shall be dedicated to this Project. In addition, such policies shall include, without limitation, and as applicable, (a) bodily injury and defense coverage for asbestos and lead; (b) coverage for unknown UST’s; (c) a definition of “property damage” that includes diminution in value of third-party properties; (d) a statement that such insurance is primary and over any surety contracts or bonds covering the Services; (e) a statement that the insured’s rights will not be prejudiced if there is a failure to give notice due to the insured’s belief that the occurrence was not covered; (f) coverage for products brought onto the work site where Services are being performed; (g) a definition of “stop loss” or “cleanup cost cap” that includes monitoring activities; (h) a definition of “cleanup costs” that includes any costs associated with natural resources damages; and (i) a statement that exclusions for modifications of remedial action plans (“RAP”) shall not include changes required by regulatory agencies (either via a change in regulations or as a result of governmental entity oversight, increased levels or quantities of pollutants within the boundary of the RAP, discovery of pollutants not identified in the exclusion, and amendments to the RAP because of a change in technological approach).

If the Consultant or any of its Subcontractors is performing professional services in its capacity as a professional, including as may be evidenced by a license to practice that profession, the Consultant or its Subcontractors shall purchase and maintain additional insurance of the following type and in the following amount in connection with the performance of the Services and any work incidental thereto:

Professional Liability/Errors & Omissions Insurance:

Professional liability (“PL”) and/or errors and omissions (“E & O”) insurance policies shall be written with a minimum amount of \$2,000,000 per claim and in the aggregate.

If the Consultant cancels its PL or E & O policy during, or lets its PL or E & O policy coverage lapse after, the policy period in which the term for services under the Consultant Contract ends, the Consultant must obtain tail coverage, or an extended reporting period endorsement, that extends coverage of the professional liability insurance for a period of at least three years.

**\*All required policies shall include a waiver of the right of subrogation with respect to all additional insureds named therein as well as the required Workers’ Compensation coverage.**

**APPENDIX E**

**INSURANCE REQUIREMENTS**

2. Additional Insureds

For the purposes of this Contract and the requirements of Article 6 thereof including, without limitation, Section 6.3.3 (iii), the term “Additional Insureds” shall include the following individuals and entities:

New York City Economic Development Corporation  
The City of New York

and such other entities and individuals as the Corporation may direct from time to time.

## APPENDIX E

### INSURANCE REQUIREMENTS

#### 3. Required Provisions

The policies required under Section 6.3.9 (ii) of the Contract shall contain the following provisions, if available:

“A. Notices from the insurer (the “Insurer”) to the New York City Economic Development Corporation (the “Corporation”) and the City of New York (the “City”), in connection with this policy, shall be addressed to the General Counsel, New York City Economic Development Corporation, at 110 William Street, New York, New York 10038 (with a copy to the Corporation’s Contract Administrator at the same address), and to the Commissioner, New York City Department of Small Business Services, at 110 William Street, New York, New York 10038 or such other addresses as may be specified by the Corporation;

B. The Insurer shall accept notice of accident from the Corporation or the City as soon as practicable after receipt by an official of such Additional Insured (as identified in Appendix E of the Contract between the Corporation and the Consultant to which this policy applies) of notice of such accident as valid and timely notice under this policy;

C. The Insurer shall accept notice of claim from the City as soon as practicable after such claim has been filed with the Comptroller of the City and notice of claim from the Corporation, as soon as practicable after receipt by such party as valid and timely notice under this policy;

D. Notice of accident or claim to the Insurer by the Consultant, the Corporation or the City shall be deemed notice by all under this policy;

E. This policy shall not be canceled, terminated or modified by the Insurer or the Consultant unless thirty (30) days prior written notice is sent by registered mail to the Corporation or the City;

F. The presence of engineers, inspectors or other employees or agents of the Consultant, the Corporation or the City at the site of the Services performed by the Consultant shall not invalidate this policy of insurance; and

G. Violation of any of the terms of any other policy issued by the Insurer to the Consultant or a subcontractor of the Consultant shall not invalidate this policy; and

H. Insurance, if any, carried by the Corporation, the City or the Additional Insureds will not be called upon to contribute to a loss that would otherwise be paid by the Insurer.”



**APPENDIX E**

**INSURANCE REQUIREMENTS**

4. Sample Form of Insurance Certificate



**APPENDIX F**

**E.O. 50 SUPPLY & SERVICE RIDER**

**EQUAL EMPLOYMENT OPPORTUNITY**

**APPENDIX F****E.O. 50 SUPPLY & SERVICE RIDER****EQUAL EMPLOYMENT OPPORTUNITY**

**[Note: for purposes of this rider, the “contractor” means the Consultant identified in this Contract]**

This contract is subject to the requirements of Executive Order No. 50 (April 25, 1980) (§10-14) as revised (“E.O.50”) and the Rules and Regulations promulgated thereunder. No contract will be awarded unless and until these requirements have been complied with in their entirety. By signing this contract, the contractor agrees that it:

- (1) will not discriminate unlawfully against any employee or applicant for employment because of race, creed, color, national origin, sex, age, handicap, 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;
- (2) will not discriminate in the selection of subcontractors on the basis of the owner’s, partners’ or shareholders’ race, color, creed, national origin, sex, age, handicap, marital status or sexual orientation or citizenship status;
- (3) will state in all solicitations or advertisements for employees placed by or on behalf of the contractor that all qualified applicants will receive consideration for employment without regard to race, creed, color, national origin, sex, age, handicap, marital status, sexual orientation or citizenship status, or it is an equal employment opportunity employer;
- (4) will send to each labor organization or representative of workers with which it has a collective bargaining agreement or other contract or memorandum of understanding, written notification of its equal employment opportunity commitments under E.O. 50 (§10-14) and the rules and regulations promulgated thereunder; and
- (5) will furnish before the contract is awarded all information and reports including an Employment Report which are required by E.O. 50 (§10-14), the rules and regulations promulgated thereunder, and orders of the Director of the Division of Labor Services (the “Division”). Copies of all required reports are available upon request from the contracting agency; and
- (6) will permit the Division to have access to all relevant books, records and accounts for the purposes of investigation to ascertain compliance with such rules, regulations, and orders.

The contractor understands that in the event of its noncompliance with the nondiscrimination clauses of this contract or with any such rules, regulations, or orders, such noncompliance shall constitute a material breach of the contract and noncompliance with E.O. 50 (§10-14) and the rules and regulations promulgated thereunder. After a hearing held pursuant to the rules of the Division, the Director may direct the imposition by the contracting agency head of any or all of the following sanctions:

- (i) disapproval of the contractor;
- (ii) suspension or termination of the contract;
- (iii) declaring the contractor in default; or
- (iv) in lieu of any of the foregoing sanctions, the Director may impose an employment program.

The Director of the Division may recommend to the contracting agency head that a contractor who has repeatedly failed to comply with E.O 50 (§10-14) and the rules and regulations promulgated thereunder be determined to be nonresponsible.

The contractor agrees to include the provisions of the foregoing paragraphs in every subcontract or purchase order in excess of New York City's small purchase limit established by rule of New York City's Procurement Policy Board to which it becomes a party unless exempted by E.O. 50 (§10-14) 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 the Division of Labor Services as a means of enforcing such provisions including sanctions for noncompliance.

The contractor further agrees that it will refrain from entering into any contract or contract modification subject to E.O. 50 (§10-14) and the rules and regulations promulgated thereunder with a subcontractor who is not in compliance with the requirements of E.O. 50 (§10-14) and the rules and regulations promulgated thereunder.

## **APPENDIX G**

### **E.O. 50 EMPLOYMENT REPORT FORM**

The Consultant shall complete and submit, and if applicable, shall require its Subcontractors to complete and submit, Employment Reports (as required by E.O. 50) to the Corporation which can be found at [www.nycedc.com](http://www.nycedc.com) in the following section:

“Resources/Vendor Resources”

If the Consultant cannot access or download these forms, the Corporation will, upon request, send the Consultant the required forms. The text of said section reads as follows:

#### **Non-Construction Consulting Contracts**

Non-construction consulting contracts require a Supply & Service employment report. Generally, the “under 50 employees” form should be used by companies with fewer than 50 employees, and the longer “full form” should be used for companies with more than 50 employees. Please refer to the Supply & Service instructions document to learn more about the forms.

[Supply & Service Employment Report Instructions](#)

[Supply & Service – under 50 employees](#)

[Supply & Service – full form](#)

**APPENDIX H**

**M/WBE SUBCONTRACTORS PARTICIPATION PLAN**

**[INSERT CONSULTANT’S COMPLETED PLAN; IF NOT APPLICABLE INSERT  
“INTENTIONALLY DELETED”]**

**APPENDIX I**

**OUTSIDE FUNDING SOURCES**

**[NOTE: IF NOT APPLICABLE, ADD THE FOLLOWING:  
“INTENTIONALLY DELETED”]**



**APPENDIX I****OUTSIDE FUNDING SOURCE PROVISIONS**

**[NOTE: IF NOT APPLICABLE, ADD THE FOLLOWING:  
“INTENTIONALLY DELETED”]**

1. General Terms.

This Contract will be funded in whole or in part by the Funds identified in Part I, Section 4.1 of this Contract. The receipt of such Funds is conditioned upon the Consultant’s compliance with certain mandatory federal, State and City terms and conditions. The Consultant must comply with all applicable mandatory terms and conditions set forth in the Applicable Requirements and Applicable Agreements including, without limitation, those set forth in Part I, Section 4.3, 4.4, this Appendix, Appendix J and in Appendix K. This Appendix shall be annexed to and made a part of any subcontract entered into by the Consultant pursuant to this Contract, and shall be binding on any Subcontractor. To the extent any terms and conditions set forth in this Appendix conflict with any other terms of this Contract, the terms and conditions of this Appendix shall govern. In the event any terms and conditions set forth in this Appendix conflict with the terms and conditions of Appendix J or Appendix K, the more stringent of the conflicting provisions shall govern.

Consultant acknowledges and agrees that the Corporation has the right to delegate the responsibilities of the Director to the City or such agency of the City as may be appropriate.

The Funds have been made available for the Project under the Applicable Requirements and Applicable Agreements including, without limitation, those listed in Part I, Section 4.4 and 4.5, and any other governing statute or agreement related to the Funds, the Project and/or the Contract.

Notwithstanding anything to the contrary in this Contract, the Corporation shall be under no obligation to make such payments except when, and to the extent, such Funds are available. The Corporation shall not be liable to the Consultant in the event any or all of such Funds are not made available.

2. Termination or Suspension Related to Unavailability of Funds.

In addition to any other right to postpone, delay suspend or terminate the Services or the Contract set forth in this Contract, if, pursuant to the Applicable Requirements or Applicable Agreements or otherwise, there shall be a suspension, termination or reduction of the Funds funding this Contract as a result of which Funds are not available for some or all payments under this Contract, the Corporation shall so notify the Consultant and the Consultant shall, and agrees to, cease to perform the activities specified in the notice (permanently or temporarily, as specified in the notice) on the date set forth therein, which may be immediately. The Consultant shall assume no further binding obligations in connection with any Services specified in the notice to be stopped, after the date set forth in the notice, except that such cessation need only be for the period of suspension if the Services are suspended rather than terminated. The award of

Funds funding this Contract may be suspended or terminated if the Consultant materially fails to comply with any term of such award. The award may also be terminated for convenience in accordance with the Applicable Requirements and Applicable Agreements.

**APPENDIX J**

**APPLICABLE REQUIREMENTS**

**[NOTE: IF NOT APPLICABLE, ADD THE FOLLOWING:  
“INTENTIONALLY DELETED”]**

**APPENDIX K**

**APPLICABLE AGREEMENTS**

**[NOTE: IF NOT APPLICABLE, ADD THE FOLLOWING:  
“INTENTIONALLY DELETED”]**

**APPENDIX L****WHISTLEBLOWER POSTER**

**REPORTING INFORMATION TO THE  
NEW YORK CITY DEPARTMENT OF  
INVESTIGATION**

If you have information of any corrupt or fraudulent activities or unethical conduct relating to a New York City funded project or contract, contact:

**Department of Investigation (DOI) Complaint Bureau  
212-825-5959**

or by mail or in person at:

**DEPARTMENT OF INVESTIGATION  
80 MAIDEN LANE, 17th FLOOR  
NEW YORK, NEW YORK 10038  
Attention: COMPLAINT BUREAU**

or file a complaint on-line at:

[www.nyc.gov/doi](http://www.nyc.gov/doi)

*All communications are confidential.*

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

- Any employee of a contractor or subcontractor that has a contract with the City or a City contractor of 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 information about fraud, false claims, corruption, criminality, conflict of interest, gross mismanagement, or abuse of authority relating to a City contract over \$100,000 to DOI or to certain other government officials all of whom must forward the report to DOI.
- Any employee who has made 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.



**APPENDIX M**

**RESERVED**

**[RESERVED FOR ANY ADDITIONAL EXHIBITS THAT MAY BE REQUIRED;  
IF NONE, THEN DELETE THIS APPENDIX]**



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Catalyzing Innovation. Creating Jobs.