

BOARD OF ELECTIONS  
IN THE CITY OF NEW YORK



**COMPETITIVE SEALED BID**

**CONTRACT FOR VOTER BALLOT BOXES**

CONTRACTOR: \_\_\_\_\_

ADDRESS: \_\_\_\_\_

\_\_\_\_\_

Amount of Contract \_\_\_\_\_

**Procurement Identification Number: (PIN#) 003202320**

The New York City Comptroller is charged with the audit of contracts in New York City. Any vendor who believes that there has been unfairness, favoritism or impropriety in the bid process should inform the Comptroller, Office of Contract Administration, One Centre Street, Room 1225, New York, New York; telephone number (212) 669-3000.

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**PART I. INFORMATION FOR BIDDERS**

**PLEASE NOTE:** The following pages contain blanks to be completed by the bidder or spaces for the bidder's signature: Pg 13-18; 46; and 67-71

**IMPORTANT NOTICE TO ALL PROSPECTIVE BIDDERS**

In the event that your organization is submitting a bid in response to this Invitation for Bids, you are hereby notified to return the appropriately executed sealed bid in its entirety, and in its original page order. This includes Bid Pages, Specifications, MacBride Principles and any other documentation that you may have received along with the Solicitation package. Any additional documentation requested within the IFB is to be included in the envelope with the sealed bid.

1. ***Description of Procurement:***

**CONTRACT FOR PURCHASE OF ABSENTEE BALLOT  
BOXES FROM April 1, 2024, THROUGH March 31, 2025**

2. ***Bid opening will be held October 5, 2023, at 1:00PM at the following location:***

**New York City Board of Elections  
42 Broadway, 6th Floor, Conference Room NY, NY 10004**

a. Sealed bids and sample box shall be received by the Board of Elections in the City of New York (hereinafter "Board") on or before the day, at the time and at the location set forth below:

Time: 11:00AM  
Date: October 5, 2023  
Place: BOARD OF ELECTIONS Procurement Dept.  
32 BROADWAY 7<sup>th</sup> FLOOR  
NEW YORK, NY 10004  
Attention: Sherwin A. Suss  
Agency Chief Contracting Officer  
[BidResponse@boe.nyc](mailto:BidResponse@boe.nyc)

b. The completed bid must be submitted in a sealed envelope on or before the time and the place indicated in the Invitation for Bids. The envelope must be marked with the name of the person, firm or corporation presenting it, the bid opening date, bid number and bid title. The bid and all other documents requiring signature must be signed and notarized. If submitted electronically, original paper work must be received within 7 days of bid close date.

3. ***Definitions***

a) The definitions set forth in Chapter 1, Section 1-01(e) of the Procurement Policy Board Rules shall apply to this invitation for Bids.

**4. Invitation/or Bid Document**

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

The Advertisement and Proposal for Bids.

- 1. The Bid.
  - 2. The Agreement.
  - 3. The Specifications.
  - 4. All addenda issued by the Executive Director prior to the receipt of all bids
  - 5. All provisions required by law to be inserted in this contract whether actually inserted or not.
  - 6. The Notice of Award.
  - 7. Notice to Proceed with Work.
- b) For particulars as to this procurement, including quantity and quality of the purchase, extent of the work or labor to be performed, delivery and performance schedule, and any other special instructions, prospective bidders are referred to the Invitation For Bids documents. A copy of such documents can be obtained at the location set forth in Part II.
  - c) IFBs or notices of their availability shall be mailed, faxed, emailed, hand delivered, or otherwise furnished to a sufficient number of vendors. An agency may, upon request of a vendor provide IFBs or notices electronically. Where notice does not include all IFB documents and additional five (5) days shall be allowed.
  - d) Additional Copies - Additional copies of the Invitation for Bids document may be obtained, subject to the conditions set forth in the advertisement for bids.

**5. Board Contact**

Bidders should submit questions in writing no later than 10 days prior to due date

and shall be addressed to: Name: Carlos Rodriguez, Contract

Manager Address: Board of Elections, 42

Broadway W<sup>th</sup> Floor),  
New York, NY 10004

Email: [Crodriguez@boe.nyc](mailto:Crodriguez@boe.nyc)

**6. Examination of Proposed Contract**

- a) Request for Interpretation or Correction - Prospective bidders must examine the Contract Documents carefully and before bidding must request the Executive Director in writing for an

4. *Invitation for Bid Document*

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- d) Additional Copies - Additional copies of the Invitation for Bids document may be obtained, subject to the conditions set forth in the advertisement for bids.

5. *Board Contact*

Any questions or correspondence relating to this bid solicitation must be in writing

and shall be addressed to: Name: Carlos Rodriguez, Contract Manager

Address: Board of Elections, 42 Broadway (6<sup>th</sup> Floor),  
New York, NY 10004

Email: [Crdriguez@boe.nyc](mailto:Crdriguez@boe.nyc)

6. *Examination of Proposed Contract*

- a) Request for Interpretation or Correction - Prospective bidders must examine the Contract Documents carefully and before bidding must request the Executive Director in writing for an

Contract for Purchasing of Absentee Ballot Boxes for Board of Elections

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interpretation or correction of every patent ambiguity, inconsistency or error therein which should have been discovered by a reasonably prudent bidder. Such interpretation or correction, as well as any additional contract provisions the Executive Director may decide to include, will be issued in writing and will be sent by mail or delivered to each person recorded as having received a copy of the contract documents from the ACCO, and which will also be posted at the place where the contract documents are available for the inspection of prospective bidders. Upon such mailing or delivery and posting, such addendum shall become a part of the contract documents, and binding on all bidders whether or not actual notice of such addendum is shown.

**7. Form of Bid**

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

**8. Bidder's Oath**

- a) The bid shall be properly signed by an authorized representative of the bidder and the bid shall be verified by the written oath of the authorized representative who signed the bid, that the several matters stated and information furnished therein are in all aspects true.
- A materially false statement willfully or fraudulently made in connection with the bid or any of the forms completed and submitted with the bid may result in the termination of any contract between the City and the Bidder. As a result, the Bidder may be barred from participating in future City contracts as well as be subject to possible criminal prosecution.

**9. Site Visit**

Where the Invitation For Bids, involves performance of services at City Facilities, all bidders are urged and expected to inspect the site where services are to be performed and to satisfy themselves as to all general and local conditions that may affect the cost of performance of the Contract. In no event will a failure to inspect a site constitute grounds for withdrawal of a bid after opening or for a claim after award of the Contract.

**10. *Bids Shall Be Typewritten or Written Legibly in Ink***

The Bid shall be typewritten or written legibly in ink. The Bid shall be signed in ink. Erasures or alterations shall be initialed.

**11. *Telegraphic or Mailgram Bids (Optional)***

If so provided in the solicitation, sealed bids may be submitted electronically.

**12. *Irrevocability of Bid***

A notice that prices are irrevocable until contract award, unless the bid is withdrawn, and that bids may be withdrawn only after the expiration of forty-five days from bid opening and only in writing received by the agency and in advance of award;

**13. *Acknowledgment of Amendments***

The receipt of any amendment to the contract documents shall be acknowledged by the bidder.

**14. *Bid Samples and Descriptive Literature***

Bid samples are required.

**15. *Proprietary Information/Trade Secrets***

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

**16. *Pre-Opening Modification or Withdrawal of Bids***

Bids may be modified or withdrawn by written notice received in the office designated in IFB, before the time and date set for the bid opening. If a bid is withdrawn in accordance with this Section, the bid security, if any, shall be returned to the bidder.

**17. *Bid Evaluation and Award***

In accordance with the New York City Charter, the Procurement Policy Board Rules and the terms and conditions of this Invitation for Bids, in particular Part II of this Invitation to Bids, this contract shall be awarded, if at all, only to responsible and responsive bidders whose bids meet the requirements and evaluation criteria set forth in the Invitation for Bids. A bid may not be evaluated for any requirement or criterion that is not disclosed in the Invitation for Bids.



**18. Awards**

*The Award shall be based on best value to the city as determined under section 3-02 of PPB Rules.*

**19. Late Bids, Late Withdrawals and Late Modifications**

Any bid received at the place designated in the solicitation after the time and date set for receipt of bids is late and shall not be considered. Any request for withdrawal or modification received at the place designated in the solicitation after the time and date set for receipt of bids is late and shall not be considered.

The exception to this provision is that a late modification of a successful bid that makes the bid terms more favorable to the City shall be considered at any time it is received.

**20. Withdrawal of Bids**

Except as provided for in Section 17, above a bidder may not withdraw its bid before the expiration of forty-five (45) days after the date of the opening of bids; thereafter, a bidder may withdraw its bid only in writing and in advance of an actual award.

If within sixty (60) days after execution of the contract, the Executive Director fails to fix the date for commencement of work by written notice to the bidder, the bidder, at his option, may ask to be relieved of his obligation to perform the work called for by written notice to the Executive Director. If such notice is given, the bidder waives all claims in connection with this contract.

**21. Mistake in Bids**

In accordance with Chapter Three, Section 3-02(m) of the Procurement Policy Board Rules, if a bidder alleges a mistake in bid after bid opening and before award, the bid may be corrected or withdrawn upon written approval of the Board's Chief Contracting Officer and Board's General Counsel if the following conditions are met:

i. **Minor Informalities.**  
Minor informalities in bids are matters of form rather than substance evident from the bid document, or insignificant mistakes that can be waived or corrected without prejudice to other bidders; that is, the effect on price, quantity, quality, delivery, or contractual conditions is negligible. The Contracting Officer may waive such informalities or allow the bidder to correct them depending on which is in the best interest of the City.

ii. **Mistakes Where Intended Correct Bid is Evident.**  
If the mistake and the intended correct bid are clearly evident on the face of the bid document, the bid shall be corrected to the intended correct bid and may not be withdrawn.

**Mistakes Where Intended Correct Bid is Not Evident.**

- a) Mistakes may not be corrected after bid opening.

A bidder may be permitted to withdraw a bid where a unilateral error or mistake has been discovered in the bid and the Contracting Officer makes the following determination according to PPB Rule 3-02(m)(3)(iii)(A)(B)(C)(D)(E) which shall be approved by the ACCO;

- 1v Mistakes Discovered after Vendor Selection.

Mistakes shall not be corrected after vendor selection except where the ACCO, subject to the approval of the CCPO, makes a determination that it would be unconscionable not to allow the mistake to be corrected.

## 22. *Low Tie Bids*

- a) When two or more low responsive bids from responsible bidders are identical in price, meeting all the requirements and criteria set forth in the Invitation For Bids, the Board's Chief Contracting Officer will break the tie in the following manner and order of priority:

(i) Award to a certified New York City small minority or woman-owned business entity bidder:

(ii) Award to a New York City bidder:

(iii) Award to a certified New York State small, minority or woman-owned business bidder:

(iv) Award to a New York State bidder.

b) If two or more bidders still remain equally eligible after application of paragraph (a) above, award shall be made by a drawing by lot limited to those bidders. The bidders involved shall be invited to attend the drawing. A witness shall be present to verify the drawing and shall certify the results on the bid tabulation sheet.

## 23. *Rejection of Bids*

- a) Rejection of individual Bids. The Board's Executive Director may reject bid if:

(1) The bidder fails to furnish any of the information required pursuant to Section 25 hereof; or if

(2) The bidder is determined to be not responsible pursuant to the Procurement Policy Board Rules; or if

(3) The bid is determined to be non-responsive pursuant to the Procurement Policy Board Rules.

b) Rejection of All Bids. The Board's, upon written approval by the Board's Chief Contracting Officer, may reject all bids and may elect to re-solicit by bid in accordance with the Procurement Policy Board Rules or by other method authorized by such Rules.

## 24. *Right to Appeal Determinations and Non-Responsiveness or Non-Responsibility and Right to Protest Solicitations and Award.*

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The bidder has the right to appeal a determination of non-responsiveness or non-responsibility and has the right to protest a solicitation and award, pursuant to Chapter 2, Sections 2-08 of the Procurement Policy Board Rules.

**25. *Affirmative Action and Equal Employment Opportunity***

This Invitation for Bids is subject to applicable provisions of Federal, State and Local Laws and executive orders requiring affirmative action and equal employment opportunity.

**26. *Passport Account***

Pursuant to Administrative Code §6-116.2 and Section 2-08 of the Rules of the Procurement Policy Board (9 RCNY§S-02), bidders may be obligated to submit completed passport account with this bid. Generally, if this bid is \$100,000 or more, or if this bid when added to the sum total of all contracts, concessions and franchises the bidder has received from the City and any subcontract received from City contractors over the past twelve months, equals or exceeds \$100,000 VENDEX questionnaires must be completed and submitted with this bid. Any questions concerning this requirement must be submitted to the Agency Chief Contracting Officer or the contact person for this contract.

**27. *Audit by Comptroller***

The New York City Comptroller is charged with the audit of contracts in New York City. Any vendor who believes that there has been unfairness, favoritism or impropriety in the bid process should inform the Comptroller. Office of Contract Administration, One Centre Street, Room 1225, New York, New York; telephone number (212) 669-3000.

**28. *Bid Security***

NOT APPLICABLE

**29. *Performance Bond***

NOT APPLICABLE

**30. *Payment Bond***

NOT APPLICABLE

**31. *Deposits***

NOT APPLICABLE

**32. *Failure to Execute Contract***

In the event of failure of the successful bidder to execute the contract and furnish any required security and insurance, within ten (10) days after notice of the award of the contract, the deposit of the successful bidder or so much thereof as shall be applicable to the amount of the award

Contract for Purchasing of Absentee Ballot Boxes for Board of Elections

made shall be retained by the City, and the successful bidder shall be liable for and hereby agrees to pay on demand the difference between the price bid and the price for which such contract shall be subsequently relet, including the cost of such reletting and less the amount of such deposit. No plea of mistake in such accepted bid shall be available to the bidder for the recovery of the deposit or as a defense to any action based upon such accepted bid.

33. *Fines and Penalties*

The service provider bears sole responsibility for any fines or penalties assessed against the Board because of the vendor's action or inaction, willful or otherwise.

34. *Power of Attorney*

NOT APPLICABLE

35. *Financial Qualifications*

- a. The Board may require any bidder or prospective bidder to furnish all books of account, records, vouchers, statements or other information concerning the bidder's financial status for examination as may be required by the Board to ascertain bidder's responsibility and capability to perform the contract.
- b. If the bidder fails or refuses to supply any of the documents or information set forth in paragraph (a) hereof or fails to comply with any of the requirements thereof, the Board's may reject the bid.

36. *Bureau of Labor Services Information*

c. Who Must File a Complete Employment Report  
In accordance with Executive Order No. 50 (1980) and its implementing Regulations, the filing of a completed Employment Report (ER) is a requirement of doing business with the City of New York if you meet all of the following conditions:

- (1) you have been identified as the lowest bidder for a supply or service contract or your proposal for supplies or services had been accepted;
- (2) the contract value exceeds \$100,000;
- (3) your firm employs 50 or more people, and please note that fact
- (4) suppliers, subcontractors or vendors performing on the contract who meet conditions 2 and 3, also must file an ER.

*If you are the low bidder, ER will be sent to you under separate cover.*

b) Who Must File a Less Than 50 Employees Certificate

- (1) If your company or any of its facilities performing on the contract has fewer than 50 employees, although the contract value excess \$100,000, you need only submit a "Less Than 50 Employees Certificate".

Contract for Purchasing of Absentee Ballot Boxes for Board of Elections

(2) If there is a subcontractor, supplier or vendor to the prime contractor and any of its facilities performing on the contract has fewer than 50 employees, although the subcontract value exceeds \$100,000, it need only submit the "Less than 50 Employees Certificate".

**37. Procurement Policy Board Rules**

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

***PART II SPECIFICATIONS***  
**SPECIFICATIONS, ADDITIONAL PROVISIONS, AND BID CONTRACT FOR  
BALLOT BOXES FROM APRIL 1, 2024 THROUGH MARCH 31, 2025**

**BIDDER:** \_\_\_\_\_

**BUSINESS ADDRESS:** \_\_\_\_\_

**TELEPHONE NO.:** \_\_\_\_\_ **EMAIL:** \_\_\_\_\_

1. This is a requirements contract for the Purchase of Absentee Ballot Boxes by the Board of Elections in the City of New York (hereinafter "the Board of Elections" or "Board").
2. The type of ballot boxes requested are specified in contract requirements.
3. For Early Voting and Election Day, the Voting Equipment Operations Unit (VEOU) of the Board of Elections in the City of New York, is responsible for supplying poll sites with voting equipment and supplies. The ballot boxes are used by voters at the poll sites. The voter will use the boxes as external receptacles for absentee ballots at Election Day sites, while poll sites are open.
4. This is a requirements contract and as such, the Board of Elections does not guarantee the number of ballot boxes to be purchased. To the extent described herein, and/or at the estimated quantities set forth in the Bid Sheet the purchases will be made on an as-needed basis only. Should the Board of Elections require services of the type covered by this contract at a level less than or exceeding the estimated quantities, the vendor must be

ready and willing to supply such products and services. Therefore, The Board desires to contract for the above mentioned services via Competitive Sealed Bid Method.

Description of Goods

**A. Contract Requirements**

The purpose of this contract is to provide the Board of Elections of NYC with ballot boxes as specified below.

1. The custom ballot box should be:
  - a) Constructed of Steel, Aluminum extrusion and molded polypropylene. Fully recyclable at end of life with an Aluminum mount for signage (if required)
  - b) Dimensions: Height 37.75 inches (not including sign holder) Width 17.5 inches  
Depth 17.5 inches
  - c) Weight 29.5 lb.
  - d) **Door opening aperture: 10 inches x 29 inches** that opens outward for access to ballots.
  - e) **Letter plate opening aperture: 12 inches x 1.5 inches** ADA-compliant (push-in) slot window <4lbs.
  - f) **Locking and security** - keyed lock on letter plate, **all keys must be the same to all locks.** 2 keyed door locks and chain provided on rear surface to allow Curbside to be secured to a fixed object. In addition, there are 'D' rings on the door and frame to allow the use of tamper evident seals as an extra level of security.
  - g) Wrapping affixed to front and side panels customized with NYCBOE logo and wording requirements.
  - h) Unified English Braille embossed on lightweight metal that is adhered to the plastic top surface.
  - i) Heavy duty commercial grade caster wheels
  - j) Mounted signage on top customized to NYCBOE wording/logo requirements. Bowl T-sign holder, depth 2-7/8" to hold insert size up to 14" x 14"
  - k) See attached- Sample box does not need logo or wording.



Contract for Purchasing of Absentee Ballot Boxes for Board of Elections

2. The Board will be ordering in quantities of 1,300 for the first order.
3. All pricing to include shipping, handling and inside delivery
4. All product is to be shipped to the Board's warehouse at 4312 2<sup>nd</sup> Avenue Brooklyn, NY 11232
5. Graphics on Box must be approved before start of production,
6. Boxes must pass testing to be considered

Bidders can submit more than one ballot box for consideration. Each ballot box submitted must have a separate bid sheet and accompanying samples.



Contract for Purchasing of Absentee Ballot Boxes for Board of Elections

BID SHEET

VENDOR NAME & ADDRESS:		DATE:		
		CARLOS RODRIGUEZ		
		42 BROADWAY, 7TH FLOOR		
CONTACT PERSON		NEW YORK, NY 10004		
PHONE	EMAIL:	EMAIL: Cradriguez@bae.hyc		
	ITEM DESCRIPTION	EST. QUANTITY	UNIT PRICE	LINE AMOUNT
	THE BOARD OF ELECTIONS IN THE CITY OF NEW YORK IS SOLICITING BIDS FROM QUALIFIED VENDORS FOR : BALLOT BOXES	1,500		
	PLEASE MAKE SURE TO PUT YOUR BUSINESS ADDRESS AND CONTACT INFORMATION AT THE TOP OF THIS BID SHEET.			
	MUST MEET SPECIFICATION ON PREVIOUS PAGE, AND PASS BOARD TESTING			
SHIPPING LOCATION WILL BE: 4312 2 <sup>ND</sup> AVENUE. BROOKLYN, NY 11232				
IF SUBMITTING BID VIA EMAIL ORIGINALS MUST BE RECEIVED WITHIN 7 DAYS OF BID CLOSING DATE				
EACH BOX SUBMITTED MUST HAVE A SEPARATE BID SHEET AND SAMPLES				
TOTAL BID PRICE MUST INCLUDE SHIPPING AND HANDLING \$ _____.				
ADDRESS ALL TECHNICAL QUESTIONS TO REQUISITIONER ALL OTHER CORRESPONDENCE AND BIDS TO: PROCUREMENT AND SUBMISSION OF PURCHASING DEPARTMENT BOARD OF ELECTIONS IN THE CITY OF NEW YORK 32 BROADWAY, 7TH FLOOR New York, N.Y 10004 BIDRESPONSE@BOE.NYC				
THE BID MUST MEET THE SPECIFICATIONS				
ALL BIDS ARE SUBJECT TO TERMS & CONDITIONS ATTACHED TO THIS REQUEST TO BID		SUBMITTED BY _____ DATE: _____		

PLEASE RESPOND VIA EMAIL (BIDRESPONSE@BOE.NYC) OR SUBMISSION OF PACKAGE  
NO LATER THAN , October 5, / / 2023 11:00AM EST  
BIDS RECEIVED AFTER THE DEADLINE WILL NOT BE CONSIDERED

Contract for Purchasing of Absentee Ballot Boxes for Board of Elections

2. Bid Affirmation

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

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

Bidder Organization: \_\_\_\_\_

The above-named bidder affirms and declares:

1. The said bidder is of lawful age and the only one interested in this bid; and that no person, firm or corporation other than herein above-named has any interest in the bid, or in the contract proposed to be taken.
2. By submission of this bid, each bidder and each person signing on behalf of any bidder certifies, and in the case of a joint bid each party thereto certifies as to its own organization under penalty of perjury that to the best of knowledge and belief:
  - a) The prices in this bid have been arrived at independently without collusion, consultation, communication, or agreement, for the purpose of restricting competition, as with any competitor or potential competitor;
  - b) Unless otherwise required by law, the prices which have been quoted in this bid have not been knowingly disclosed by the bidder and will not knowingly be disclosed by the bidder prior to opening, directly or indirectly to any other bidder or to any competitor or potential competitor.
  - c) No attempt has been made or will be made by the bidder to induce any other person, partnership or corporation to submit or not to submit a bid for the purpose of restricting competition.
2. That no member of the City Council or other officer or employee or person whose salary is payable in whole or in part from the City Treasury is directly or indirectly interested in this bid, or in the supplies, materials, equipment, work or labor to which it relates, or in any of the profits thereof.
3. Said bidder is not in arrears to the City of New York upon any debt, contract or taxes, and is not a defaulter, as surety or otherwise, upon obligation to the City of New York, and has not been

Contract for Purchasing of Absentee Ballot Boxes for Board of Elections

declared not responsible, or disqualified, by any agency of The City of New York, nor is there any proceeding pending relating to the responsibility or qualification of the bidder to receive public contracts except \_\_\_\_\_

4. The bidder shall file with the bid an affirmation that it has paid all applicable City income, excise and other taxes for all years it has conducted business activities in New York City, and indicate on its bid its Tax Identification Number.
5. The bidder, as an individual, or as a member, partner director or officer of the bidder, if the same be a firm, partnership or corporation, executes this document expressly warranting and representing that should this bid be accepted by the City and the contract awarded him, he and his subcontractors engaged in the performance thereof:
  - a) will comply with the provisions of Section 6-108 of the Administrative Code of the City of New York and the non-discrimination provisions of Section 220-a of the New York Labor Law as more expressly and in detail set forth in the contract form; and
  - b) will comply with the provisions of Section 6-109 of the Administrative Code of the City of New York in relation to minimum wages and other stipulations as more expressly and in detail set forth in the Agreement; and
  - c) have complied with the provisions of the aforesaid laws since their respective effective dates; and
  - d) will post notices to be furnished by the Department setting forth the requirements of the aforesaid laws in prominent and conspicuous places in each and every plant, factory, building and structure where employees engaged in the performance of the Contract can readily view it, and will continue to keep such notices posted until the supplies, materials and equipment, or work, labor and services required to be furnished or rendered by the Contractor have been finally accepted by the Department. In the event of breach or violation of any of the foregoing, the bidder may be subject to damages, liquidated or otherwise, cancellation of the Contract and suspension as a bidder for a period of three years. (The words "the bidder" vendor, "he", "his",

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and "him" where used herein shall mean the individual bidder, firm, partnership, or corporation executing this bid).

Compliance Reports: The bidder, as an individual, or as a member, partner, director or officer of the bidder, if the same be a firm, partnership or corporation:

- a) represents that his attention has been specifically drawn to Executive Order No. 50, dated April 25, 1980, on Equal Employment Compliance of the Contract Agreement; and
- b) warrants that he will comply with the provisions of Executive Order No. 50 as set forth herein. The apparent low bidder must, if required, submit the Employment Report pursuant to Executive Order No. 50 within five (5) days after the bid opening.
6. The bidder, as an individual, or as a member, partner, director, or officer of the bidder, if the same be a firm, partnership, or corporation, executes this document expressly warranting that he will comply with the provision of the contract agreement on providing records as set forth herein.
7. That said bidder has carefully examined the contract in the form approved by the Corporation Counsel, and will execute the contract and perform all its items, covenants and conditions, and will provide, furnish and deliver all the work, materials, supplies, tools and appliances for all labor and materials necessary or required hereunder, all in strict conformity with the contract, in accordance with the schedule of prices annexed hereto.
8. The names and address of all persons interested in this bid are as follows:
9. The bid is made without any connection with any other person making a bid for the same purpose and it is in all respects fair and without collusion and fraud.
10. My name, residence and place of business are as follows:
11. Name: \_\_\_\_\_  
Address: \_\_\_\_\_  
Signature: \_\_\_\_\_  
Title: \_\_\_\_\_

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3. **Statement of Bid, Signature and Notarization**

Total of Bid: \$ \_\_\_\_\_ for term of contract,

Date of Award through \_\_\_\_\_

Total of Bid (in Words):

\_\_\_\_\_ Dollars

Bidder's name (printed): \_\_\_\_\_

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

Address: \_\_\_\_\_

Bidder's Signature: \_\_\_\_\_

Bidder's Title: \_\_\_\_\_

(\* Note: In the case of any discrepancy between the bid price in words and that in figures, the lowest bid will be considered the price bid. All additions and extensions are subject to audit. The appropriate affidavit on the following pages should be subscribed and sworn to before a Notary Public or Commissioner of Deeds.)

| TAX IDENTIFICATION NUMBER | \_\_\_\_\_

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**AFFIDAVIT WHERE THE BIDDER IS A PARTNERSHIP**

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

On this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, before me personally came

\_\_\_\_\_, who is being by me duly sworn, did depose and say: that they reside in the City of

\_\_\_\_\_, that they are the \_\_\_\_\_ of the firm

Described in the foregoing instrument whose name is subscribed to and which executed the foregoing

bid, that they resides at \_\_\_\_\_ that they have

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

\_\_\_\_\_  
(Signature of the person who is signed the bid)

Subscribed to and sworn to before me this

\_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_

*PART III*

AGREEMENT

THIS AGREEMENT, is made and entered into this \_\_\_\_\_ day of \_\_\_\_\_ 2019 by and between the City of New York acting through the Board of Elections in the City of New York located at 42 Broadway, New York, New York 10004 and \_\_\_\_\_ ("Contractor") located at \_\_\_\_\_

ARTICLE 1. DEFINITIONS

As used throughout this Agreement, the following terms shall have the meaning set forth below:

- a. "City" shall mean the City of New York, and its agencies as defined in Section 1150 of the City Charter.
- b. "Comptroller" shall mean the Comptroller of the City of New York.
- c. "Department" shall mean the Board of Elections in the City of New York, the Board of Elections, and/or the Board.
- d. "Administrator" shall mean the Executive Director and Deputy Executive Director of the Board of Elections.
- e. "Law" or "Laws" shall include but not be limited to the New York City Charter, the New York City Administrative Code, any local law of the of the City of New York, any State or Federal Law, and any ordinance, rule or regulation having the force of law.
- f. The Contractor shall also be referred to as "it", whether such Contractor be an individual, partnership or corporation.
- g. "Contract," except for titles, sub-titles, headings, running deadlines, tables of contents and indices (all of which are printed herein merely for convenience) shall include the following (except for such portions thereof as may be specifically excluded):
  - 1. The Advertisement and Proposal for Bids.
  - 2. The Bid
  - 3. The Agreements
  - 4. The Specifications;
  - 5. The Contract Drawings;

6. All addenda issued by the Administrator prior to the receipt of all bids;
7. All provisions required by law to be inserted in this contract whether actually inserted or not;
8. The notice of award.
9. Instructions to bidders; Invitation for Bids; information for bidders; terms denoted as "Agreement".

#### ARTICLE 2. SCOPE OF SERVICES

The contractor agrees to perform all the services described in the specifications attached hereto as Part II of the proposal for bid.

#### ARTICLE 3. PERIOD OF PERFORMANCE

The period of performance of this contract shall be from April 1, 2024 through March 31, 2025

#### ARTICLE 4. CONSIDERATION

The City agrees to pay, and the Contractor agrees to accept, as full consideration for the complete and satisfactory performance of the services required herein, an amount not to exceed \$\_\_\_\_\_ such amount being based upon the Contractor's Bid for the work or services required as set forth in Part III (BID) of the Proposal for Bid, and in the case where such bid is a unit price, upon the quantity, volume, amount or period of work or services or materials estimated by the Department to be required multiplied by such unit Bid Price. Any such estimated quantity, volume, amount or period of work or services or materials is an estimate based upon experience. The Department shall neither be required to order any quantity, amount, or period thereof, nor shall it be limited by any such estimate, but the quantity, amount, or period ordered and paid for shall be that which actually required by the Department and provided by the Contractor.

The Contractor shall submit numbered invoices for payment on a monthly basis, unless otherwise agreed. Such invoices shall set forth the services for which payment is requested, and approval thereof by the Department shall be a prerequisite to payment. All payments shall be subject to such provisions for set-off as may be set forth in this Agreement and in the Specifications attached hereto.

#### ELECTRONIC FUNDS TRANSFER

- A. In accordance with Section 6-107 of the New York City Administrative Code, the Contractor agrees to accept payments under this Agreement from the City by electronic funds transfer. An electronic funds transfer is any transfer of funds, other than a transaction originated by check, draft or similar paper instrument, which is initiated through an electronic terminal, telephone instrument or computer or magnetic tape so as to order, instruct or authorize a financial institution to debit or credit an account. Prior to the first payment made under this Agreement, Contractor shall designate one financial



institution or other authorized payment agent and shall complete "EFT vendor payment information in order to provide the Commissioner of Finance with information necessary for Contractor to receive electronic funds transfer payments through the designated financial institution or authorized payment agent . The crediting of the amount of a payment to the appropriate account on the books of a financial institution or other authorized payment agent designated by the Contractor shall constitute full satisfaction by the City for the amount of the payment under this agreement. The account information supplied by the Contractor to facilitate the electronic funds transfer shall remain confidential to the fullest extent provided by law.

- B. The agency head may waive the application of the requirements herein to payments on contracts entered into pursuant to §315 of the City Charter. In addition, the Commissioner of the Department of Finance and the Comptroller may jointly issue standards pursuant to which the contracting agency may waive the requirements hereunder for payments in the following circumstances (i) for individuals or classes of individuals for whom compliance impose a hardship; (ii) for classification or types of checks; or (iii) in other circumstances as may be necessary in the interest of the City.

## ARTICLE 5. LIABILITY OF CONTRACTOR

### GENERAL LIABILITY

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

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

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

- C. In the event that any claim is made or any action is brought against the City arising out of this Agreement, then the City shall have the right to withhold further payments hereunder for the purpose of set-off in sufficient sums to cover the said claim or action. The rights and remedies of the City provided for in this clause shall not be exclusive and are in addition to any other rights and remedies provided by law or this Agreement.

#### 5.2 PROTECTION OF CITY PROPERTY

A. The Contractor assumes the risk of, and shall be responsible for, any loss or damage to City property, including property and equipment leased by the City, used in the performance of this Agreement, and caused, either directly or indirectly, by the acts, conduct, omissions or lack of good faith of the Contractor, its officers, managerial personnel and employees, or any person, firm, company, agent or others engaged by the Contractor as expert, consultant, specialist or subcontractor hereunder.

B. In the event that any such City property is lost or damaged, except for normal wear, or to the extent that such property is consumed in the performance of this Agreement then the City shall have the right to withhold further payments hereunder for the purpose of set-off, in sufficient sums to cover such loss or damage.

C. The rights and remedies of the City provided herein shall not be exclusive and are in addition to any other rights and remedies provided by law or by this Agreement.

[NJ]

#### ARTICLE 6. BONDS, INSURANCE AND UNLIQUIDATED DAMAGES

6.1 (see Part VI herein)

#### 6.2 INSURANCE

Contract for Purchasing of Absentee Ballot Boxes for Board of Elections

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- A. The Contractor shall procure and maintain during the entire term of this contract the insurance coverage prescribed hereinafter in this Article 6.
- B. Upon written demand, the Contractor shall furnish to the Agency a schedule of current insurance covering this contract, showing coverage amount, expiration date, carrier and policy number, which said schedule shall be maintained and updated, when applicable.
- C. The Contractor shall also require any subcontractor hereunder to procure and maintain the insurance required herein during the entire period of its performance. A schedule of current insurance showing the above information shall be furnished to the Agency, at least 5 days prior to commencement of subcontractor's work on this Agreement

6.3 WORKER'S COMPENSATION AND DISABILITY BENEFITS

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

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

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

6.4 GENERAL REQUIREMENTS FOR INSURANCE COVERAGE AND POLICIES

All required insurance policies shall be maintained with companies that may lawfully issue the required policy and have an A.M. Best rating of at least A-/ VII, a Standard & Poor's rating of at least A, a Moody's Investors Service rating of at least A3, a Fitch Ratings rating of at least A- or a similar rating by any other nationally recognized statistical rating organization acceptable to the New York City Law Department unless prior written approval is obtained from the New York City Law Department

B. All insurance policies shall be primary (and non-contributing) to any insurance or self-insurance maintained by the City.

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

D. There shall be no self-insurance program with regard to any insurance required under this Article unless approved in writing by the Administrator. Any such self-insurance program shall provide the City with all rights that would be provided by traditional insurance required under this Article, including but not limited to the defense obligations that insurers are required to undertake in liability policies.

E. The City's limits of coverage for all types of insurance required under this Article shall be the greater of (i) the minimum limits prescribed in the Schedule of Bonds and Liability Insurance attached hereto (see Part VI herein ), or (ii) the limits provided to the Contractor as Named Insured under all primary, excess, and umbrella policies of that type of coverage.

F. All insurance policies required pursuant to Sections 6.5 and 6.6 shall contain an endorsement requiring that the issuing insurance company endeavor to provide the City with advance written notice in the event such policy is to expire or be cancelled or terminated for any reason, and to mail such notice to both the Administrator [New York City Board of Election, 42 Broadway 7<sup>th</sup> floor, New York, NY 10004], and the New York City Comptroller, Attn: Office of Contract Administration, Municipal Building, One Centre Street, Room 1005, New York, New York 10007. Such notice is to be sent at least (30) days before the expiration, cancellation or termination date, except in cases of non-payment, where at least ten (10) days written notice would be provided.

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G. For each policy required under this Agreement, except for those required by Section 6.3, the Contractor shall file a Certificate of Insurance with the Department within ten (10) Days of award of this Agreement. All Certificates of Insurance shall be (a) in a form acceptable to the City and certify the issuance and effectiveness of such policies of insurance, each with the specified minimum limits; and (b) accompanied by the endorsement in the Contractor's general liability policy by which the City, including its officials and employees have been made an additional insured pursuant to this Article. All Certificate(s) of Insurance shall be accompanied by either a duly executed "Certification by Broker" or complete copies of all policies referenced in the Certificate of Insurance. If complete policies have not yet been issued, binders are acceptable, until such time as the complete policies have been issued, at which time such policies shall be submitted.

H. Certificates of Insurance confirming renewals of insurance shall be submitted to the Administrator prior to the expiration date of coverage of policies required under this Article.

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

6.5. COMMERCIAL GENERAL LIABILITY INSURANCE

A. The Contractor shall maintain Commercial General Liability Insurance covering the Contractor as Named Insured and the City as an Additional Insured in the amount of at least One Million Dollars (\$1,000,000) per occurrence. Such insurance shall protect the City and the Contractor from claims for property damage and/or bodily injury, including death that may arise from any of the operations under this Agreement. Coverage under this insurance shall be at least as broad as that provided by the most recently issued Insurance Services Office ("ISO") Form CG 00 01, shall contain no exclusions other than as required by law or as approved by the Department, and shall be "occurrence" based rather than "claims-made."

B. Such Commercial General Liability Insurance shall name the City, together with its officials and employees, as an Additional Insured with coverage at least as broad as the most recently issued ISO Form CG 20 10 or CG 20 26.

C. The Contractor shall ensure that each subcontractor adds the City, together with its officials and employees, as an Additional Insured under all Commercial General Liability Insurance policies obtained by a subcontractor covering work performed by such subcontractor under this Agreement with coverage at least as broad as the most recently issued ISO Form CG 20 26.

6.7 MOTOR VEHICLE LIABILITY INSURANCE

A. If vehicles are used in the provision of services under this Agreement, then the Contractor shall maintain Business Automobile Liability insurance in the amount of at least One Million Dollars (\$1,000,000) each accident combined single limit for liability arising out of ownership, maintenance or use of any owned, non-owned, or hired vehicles to be used in connection with this Agreement. Coverage shall be at least as broad as the most recently issued version of ISO Form CA0001.

B. If vehicles are used for transporting hazardous materials, the Business Automobile Liability Insurance shall be endorsed to provide pollution liability broadened coverage for covered vehicles (endorsement CA 99 48) as well as proof of MCS-90.

ARTICLE 7. BOOKS AND RECORDS

6.1 MAINTENANCE

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

6.2 RETENTION OF RECORDS

The Contractor agrees to retain all books, records, and other documents relevant to this Agreement for six years after the final payment or termination of this Agreement, whichever is later. City, State and Federal auditors and any other persons duly authorized by the Department shall have full access to and the right to examine any of said materials during said period.

6.3 NO REMOVAL OF RECORDS FROM PREMISES

Where performance of this Agreement involves use by the Contractor of Departmental papers, files data or records at Departmental facilities or offices, the Contractor shall not remove any such papers, files data or records there from without the prior approval of the Department's designated official.

6.4 AUDIT BY THE DEPARTMENT AND CITY

A. All vouchers or invoices presented for payment to be made hereunder, and the books, records and accounts upon which said vouchers or invoices are based are subject to audit by the

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Department and by the Comptroller of the City of New York pursuant to the powers and responsibilities as conferred upon said Department and said Comptroller by the New York City Charter and the Administrative Code of the City of New York, as well as all orders and regulations promulgated pursuant thereto.

B. The Contractor shall submit any and all documentation and justification in support of expenditures or fees under this Agreement as may be required by said Department and said Comptroller so that they may evaluate the reasonableness of the charges and shall make its records available to the Department and to the Comptroller as they consider necessary.

C. All books, vouchers, records, reports, canceled checks and any and all similar material may be subject to periodic inspection, review and audit by the State of New York, Federal Government and other persons duly authorized by the City. Such audit may include examination and review of the source and application of all funds whether from the City, and State, the Federal Government, private sources or otherwise.

D. The Contractor shall not be entitled to final payment under the Agreement until all requirements have been satisfactorily met.

## ARTICLE 8. REPRESENTATIONS AND WARRANTIES

### 8.1 PROHIBITION OF AGREEMENT

A. The Contractor represents and warrants that no person or selling agency has been employed or retained to solicit or secure this Agreement upon an agreement or understanding for a commission, percentage, brokerage fee, contingent fee or any other compensation. The Contractor further represents and warrants that no payment, gift or thing of value has been made, given or promised to obtain this or any other agreement between the parties. The Contractor makes such representations and warranties to induce the City to enter into this Agreement and the City relies upon such representations and warranties in the execution hereof.

B. For a breach or violation of such representations or warranties, the Administrator shall have the right to annul this Agreement without Liability, entitling the City to recover all monies and hereunder and the Contractor shall not make claim for, or be entitled to recover, any sum or sums due under this Agreement. This remedy, if affected, shall not constitute the sole remedy afforded the City for the falsity or breach, nor shall it constitute a waiver of the City's right to claim damages or refuse payment or to make any other action provided for by law or pursuant to this Agreement.

### 8.2 CONFLICT OF INTEREST

The Contractor represents and warrants that neither it nor any of its directors, officers, members, partners or employees, has any interest nor shall they acquire any interest, directly or indirectly which would or may conflict in any manner or degree with the performance or rendering of the services herein provided. The Contractor further represents and warrants that in the performance of this Agreement no person having such interest or possible interest shall be employed by it. No elected official or other officer or employee of the City of Department, nor any person whose salary participate in any decision relating to this Agreement which affects his/her personal interest or the interest of any corporation, partnership or association in which he/she is, directly or indirectly, interested nor shall any such person have any interest, direct or indirect, in this Agreement or in the proceeds thereof.

### 8.3 FAIR PRACTICES

The Contractor and each person signing on behalf of any Contractor represent and warrants and certifies, under penalty of perjury, that to the best of its knowledge and belief:

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

B. Unless otherwise required by law, the prices which have been quoted in this Agreement and on the proposal submitted by the Contractor have not been knowingly disclosed by the Contractor prior to the proposal opening, directly or indirectly, to any other bidder or to any competitor; and

C. No attempt has been made or will be made by the contractor to induce any other person, partnership or corporation to submit or not to submit a proposal for the purpose of restricting competition. The fact that the Contractor (a) has published price lists, rates, or tariffs covering items being procured, (b) has informed prospective customers of proposed or pending publication of new or revised price lists for such items, or (c) has sold the same items to other customers at the same prices being bid, does not constitute, without more, a disclosure within the meaning of the above.

### 9. COMPLIANCE WITH LAW

Contractor shall render all services under this Agreement in accordance with the applicable provision of Federal, State and Local Laws, rules and regulations as are in effect at the time such services are rendered.



10. FEDERAL EMPLOYMENT PRACTICES

Contractor and its subcontractors shall comply with the Civil Rights Act of 1964 and any amendment thereto, and the rules and regulations thereunder.

11. ASSIGNMENT

A. The Contractor shall not assign, transfer, convey, sublet or otherwise dispose of this Agreement, or of the Contractor's right, title, interest, obligations or duties herein, or the Contractor's power to execute such Agreement, or assign, by power of attorney or otherwise, any of its rights to receive monies due or to become due under this Agreement, unless the prior written consent of the Department shall be obtained. Any such assignment, transfer, conveyance, sublease or other disposition without such consent shall be void.

B. In the event that the Contractor assigns, transfers, conveys, sublets or otherwise disposes of this Agreement as specified in subsection A above, without the prior written consent of the Department, shall revoke and annul this Agreement and the Department shall be relieved and discharged from any and all liability and obligations growing out such Agreement to the Contractor, its assignees, transferees or subleases, shall forfeit and lose all monies theretofore earned under this section shall not hinder, prevent or affect an assignment by the Contractor for the benefit of its creditors made pursuant to the laws of the State of New York.

C. This Agreement may be assigned by the City to any corporation, agency or instrumentality having authority to accept such assignment.

13. SUBCONTRACTOR

A. The Contractor agrees not to enter into any sub-contracts for the performance of the obligations, in whole or in part, under this Agreement without the prior written approval of the Department. Two copies of each such proposed sub-contract shall be submitted to the Department with the Contractor's written request for approval.

B. All such subcontracts shall contain provisions specifying:

1. that the work performed by the subcontractor must be in accordance with the terms of the Agreement between the Department and the Contractor.

2. that nothing contained in such contract shall impair the rights of the Department.

3. that nothing contained therein, or under the Agreement between the Department and the Contractor, shall create any contractual relationship between the subcontractor and the Department, and

4. that the subcontractor specifically agrees to be bound by the confidentiality provision set forth in this Agreement between the Department and the Contractor.

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

D. The aforesaid approval is required in all cases other than individual employer-employee contracts.

E. The Contractor shall not in any way be relieved of any responsibility under this Agreement by any subcontract.

11. PUBLICITY

A. The two business days' prior written notice to the Department is required before the Contractor or any of its employees, servants, agents, or independent contractors, at any time, either during or after completion or termination of this Agreement, makes any statement to the press or issue any material for publication through the media of communication bearing on the work performed or data collected under this Agreement

B. If the Contractor publishes a work dealing with any aspect of performance under this Agreement, or of the results and accomplishments attained in such performance, the Department shall have a royalty free, non-exclusive and irrevocable license to reproduce, publish or otherwise use and to authorize others to use the publication.

12. PARTICIPATION IN AN INTERNATIONAL BOYCOTT

A. The Contractor agrees that neither the Contractor nor any substantially-owned affiliated company is participating or shall participate in an international boycott in violation of the provisions of the Export Administration Act of 1969, as amended, of the regulations of the United States Department of Commerce promulgated there under.

B. Upon the final determination by the Commerce Department or any other agency of the United States as to, or conviction of the Contractor or a substantially-owned affiliated company thereof, of participation in an international boycott in violation of the provisions of the Export Administration Act of 1969, as amended, or the regulations promulgated there under, the Comptroller may, at his option, render forfeit and void this contract.

C.....The Contractor shall comply in all respects, with the provisions of Section 343-10.0 of the Administrative Code of the City of New York and the rules and regulations issued by the Comptroller thereunder.

13. INVENTIONS, PATENTS AND COPYRIGHTS

A. Any discovery or invention arising out of or developed in the course of performance of this Agreement shall be promptly and fully reported to the Department, and if this work is supported by a federal grant of funds, it shall be promptly and fully reported to the Federal Government for determination as to whether patent protection on such invention or discovery, including rights under any patent issued thereon, shall be disposed of an administered in order to protect the public interest.

B. No report, document or other data produced in whole or in part with contract funds shall be copyrighted by the Contractor nor shall any notice of copyright be registered by the Contractor in connection with any report, document or other data developed for the Agreement.

C. If any copyrightable material is developed under, or in the course of performing this Agreement, any Federal Agency providing federal financial participation for the Agreement shall have a royalty-free, non-exclusive and irrevocable right to reproduce, publish or otherwise use, and to authorize others to use, the work for governmental purpose.

D. In no event shall Subsections A, B and C of this Section be deemed to apply to any report, document or other data, or any invention of the Contractor which existed prior to or was developed or discovered independently from, its activities related to or funded by this Agreement.

14. ANTI-TRUST

The Contractor hereby assigns, sells, and transfers to the City all right, title and interest in and to any claims and causes of action arising under the anti-trust laws of the State of New York or of the United States relating to the particular goods or services purchased or produced by the City under this agreement.

15. TERMINATION

15.1 A. At any time during the period of performance the Department upon ten days' written notice to the Contractor may cancel the Agreement. In such event the Contractor shall be paid whatever sum has become due to him for goods delivered prior to the effective date of the cancellation without further liability to the City.

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- B. The Contractor shall be entitled to apply to the Department to have this Agreement terminated by said Department by reason of any failure in the performance of this Agreement (including any failure by the Contractor to make progress in the prosecution of work hereunder which endangers such performance), if such failure arises out of causes beyond the control and without the fault or negligence of the Contractor. Such causes may include, but are not restricted to: acts of God or of the public enemy; acts of the Government in either its sovereign or contractual capacity; fires; flood; epidemics; quarantine restrictions; strikes; freight embargoes, or any other cause beyond the reasonable control of the Contractor. The determination that such failure arises out of causes beyond the control and without the fault or negligence of the Contractor shall be made by the Department which agrees to exercise reasonable judgment therein. If such a determination is made and the Agreement terminated by the Department pursuant to such application by the Contractor, such termination shall be deemed to be without cause.
- C. All payments pursuant to this section 12.1 shall be accepted by the Contractor in full satisfaction of all claims against the City arising out of termination.

15.2 The Contractor may be declared in default by this Administration and the Department may terminate the Agreement in whole or in part by written notice to the Contractor if:

- A. The Contractor becomes insolvent; or
- B. The Contractor makes an assignment for the benefit of creditors pursuant to the Statutes of the State of New York; or
- C. A voluntary or involuntary petition in bankruptcy be filed by or against the Contractor; or
- D. A receiver or receivers are appointed to take charge of the Contractor's property or affairs; or
- E. The Contractor sublets, assigns, transfers, conveys or otherwise disposes of this Agreement other than as herein specified; or
- F. The Contractor fails or refuses to proceed with the work when and as directed by the Administrator; or
- G. The Contractor is or has been unnecessarily or unreasonably or willfully delaying (i) the performance and completion of the work, or (ii) the award or necessary subcontracts, or (iii) the placement of necessary material and equipment order; or

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H. The Contractor, without just cause, reduces his working force to a number which, if maintained, would jeopardize the timely performance of the contract, and fails or refuses to increase such working force when ordered to do so by the Administrator; or

I. The work cannot be completed or is not completed within the time herein provided therefore or within the time to which such completion may have been extended; unless, the delay is caused by circumstances under the Administrator's control; or

J. The Contractor abandons the work; or

K. The Contractor is or has been willfully or in bad faith violating any of the provisions of this contract.

15.3 Before the Commissioner shall exercise his right to declare the Contractor in default by reason of the conditions set forth in Section 12.2 A, F, G, H, I and K, he shall give the Contractor an opportunity to be heard, on 2 day's written notice, at which hearing the Contractor may have a stenographer present; provided, however, that a copy of such stenographic notes, if any, shall be furnished to the Administrator.

15.4 In the event the Administrator terminates this Agreement in whole or in part as provided in section 12.2 above, the City may procure, upon such terms and in such manner deemed appropriate, supplies or services similar to those so terminated, and the Contractor shall be liable to the City for any excess costs for such similar supplies or services; provided that, the Contractor shall continue the performance of this Agreement to the extent not terminated hereby.

15.5 Notwithstanding any other provisions of this Agreement, the Contractor shall not be relieved of liability to the City for damages sustained by the City by virtue of Contractor's default, and the City may withhold payments to the Contractor for the purpose of setoff until such time as the exact amount of damages due to the City from the Contractor is determined.

15.6 The provisions of the Agreement regarding confidentiality of information shall remain in full force and effect following any termination.

15.7 The rights and remedies of the City provided in this article shall not be exclusive and are in addition to all other rights and remedies provided by law or under this Agreement.

ARTICLE 18. MISCELLANEOUS

18.1 CHOICE OF LAW, CONSENT TO JURISDICTION AND VENUE

Contract for Purchasing of Absentee Ballot Boxes for Board of Elections

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This Agreement shall be deemed to be executed in the City of New York, regardless of the domicile of the Contractor, and shall be governed by and construed in accordance with the laws of the State of New York.

The parties agree that any and all claims asserted by or against the City arising under this Agreement or related thereto shall be heard and determined either in the courts of the United States located in New York City ("Federal Courts") or in the courts of the State of New York ("New York State Courts") located in the City and County of New York. To effectuate this agreement and intent, the Contractor agrees:

A. If the City initiates any action against the Contractor in Federal Court or in New York State Court, service of process may be made on the Contractor either in person, wherever such Contractor may be found, or by registered mail addressed to the Contractor at its address as the Contractor may provide to the City in writing; and

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

C. With respect to any action between the City and the Contractor in Federal Court located in New York City, the Contractor expressly waives and relinquishes any right it might otherwise have to move to transfer the action to a United States Court outside the City of New York.

D. If the Contractor commences any action against the City in a court located other than in the City and State of New York, upon request of the City, the Contractor shall either consent to a transfer of the action to a court of competent jurisdiction located in the City and State of New York or, if the court where the action is initially brought will not or cannot transfer the action, the Contractor shall consent to dismiss such action, the Contractor shall consent to dismiss such action without prejudice and may thereafter reinstitute the action in a court of competent jurisdiction in New York City. If any provision(s) of this Article is held unenforceable for any reason, each and all other provision(s) shall nevertheless remain in full force and effect.

## 18.2 GENERAL RELEASE

The acceptance by the Contractor or its assignees of the final payment under this Agreement, whether by voucher, judgment of any court of competent jurisdiction or any other administrative means, shall constitute and operate as a general release to the City from any and all claims of and liability to the Contractor arising out of the performance of this Agreement.

## 18.3 CLAIMS AND ACTIONS THEREON

Contract for Purchasing of Absentee Ballot Boxes for Board of Elections

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A. No action at law or proceeding in equity against the City or Department shall lie or be maintained upon any claim based upon Agreement or arising out of this Agreement or in any way connected with this Agreement unless the Contractor shall have strictly complied with all requirements relating to the giving of notice and of information with respect to such claims, all as herein provided.

B. No action at law or proceeding in equity shall lie or be maintained against the Department or the City upon any claim based upon this Agreement or arising out of this Agreement unless such action shall be commenced within six (6) months of accrual of the cause of action, whichever is earliest.

C. In the event any claim is made or any action brought in any way relating to the Agreement herein, the Contractor shall diligently render to the Department and/or the City of New York without additional compensation any and all assistance which the Department and/or the City of New York may require of the Contractor.

D. The Contractor shall report to the Department in writing within three (3) working days of the initiation by or against the Contractor of any legal action or proceeding in connection with or relating to this Agreement.

18.4 NO CLAIM AGAINST OFFICERS, AGENTS OR EMPLOYEES

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

18.5 WAIVER

Waiver by the Department of a breach of any provision of this Agreement shall not be deemed to be a waiver of any other or subsequent breach and shall not be construed to be a modification of the terms of the Agreement unless and until the same shall be agreed to in writing by the Department or City as required and attached to the original agreement.

18.6 NOTICE

The Contractor and the Department hereby designate the business addresses specified in the Proposal for Bid as the places where all notices, directions or communications from one such party to the other party shall be delivered, or to which they shall be mailed. Actual delivery of any such notice, direction or communication to a party at the aforesaid place, or delivery by certified mail shall be conclusive and deemed to be sufficient service thereof upon such party as of the date such notice, direction or communication is received by the party. Such address may be changed at any time by an instrument in writing executed and acknowledged by the party

making such change and delivered to the other party in the manner as specified above. Nothing in this section shall be deemed to serve as a waiver of any requirements for the service of notice or process in the institution of an action or proceeding as provided by law

18.7 ALL LEGAL PROVISIONS DEEMED INCLUDED

It is the intent and understanding of the parties to this Agreement that each and every provision of law required to be inserted in this Agreement shall be and is inserted herein. Furthermore, it is hereby stipulated that every such provision is not inserted, or is not inserted in correct form, than this Agreement shall forthwith upon the application of either party be amended by such insertion so as to comply strictly with the law and without prejudice to the rights of either party hereunder.

18.8 SEVERABILITY

If this Agreement contains any unlawful provision not an essential part of the Agreement and which shall not appear to have been a controlling or material inducement to the making thereof, the same shall, upon notice by either party, be deemed stricken from the Agreement without affecting the binding force of the remainder.

18.9 AVAILABILITY OF FUNDS

In the event that the period of performance contemplated by this Agreement involves performance by the Contractor in a subsequent City Fiscal Year(s) funding for such period is subject to the availability and appropriation of funds for such subsequent City Fiscal Year(s)

18.10 PARAGRAPH HEADINGS

Paragraph headings are inserted only as a matter of convenience and for reference and in no way define, limit or describe the scope of intent of this Agreement and in no way affect this Agreement.

18.11 INSPECTION AT SITE

The Department shall have the right to have representatives of the Department or of the City or of the State or Federal governments present at the site of the engagement to observe the work being performed.

ARTICLE 19. APPROVALS



19.1 THE CITY OF NEW YORK

This Agreement shall not become effective or binding unless:

- A. the Comptroller shall have endorsed his certificate that there remains unexpended and unapplied a balance of the appropriation of funds applicable hereto sufficient to pay the estimated expense of executing this Agreement; and
- B. approved by the Mayor pursuant to the provisions of Executive Order No. 42, dated October 9, 1975 in the event the Executive Order requires such approval; and
- C. certified by the Mayor (Mayor's Fiscal Committee created pursuant to Executive Order No. 43, dated October 14, 1975) that performance thereof will be in accordance with the City's financial plan.

19.2 OTHER APPROVALS OR AUTHORIZATIONS

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

ARTICLE 20. ENTIRE AGREEMENT

This written agreement including any attachments or references which have been incorporated herein contains all the terms and conditions agreed upon by the parties hereto, and no other agreement, oral or otherwise, regarding the subject matter of this agreement shall be deemed to exist or to bind any of the parties herein, or to vary any of the terms contained herein.

PPB Rules

21. ARTICLE

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

22. **PRICING**

A. The Contractor shall whenever required during the contract, including but not limited to the time of bidding, submit cost or pricing data and formally certify that, to the best of its knowledge and belief, the cost or pricing data submitted was accurate, complete, and current as of a specified date. The contractor shall be required to keep its submission of cost or pricing data current until the contract has been completed.

B. The price of any change order, or contract modification subject to the conditions of paragraph A, shall be adjusted to exclude any significant sums by which the City finds that such price was based on cost or price data furnished by the supplier which was inaccurate, incomplete, or not current as of the date agreed upon between the parties.

C. Time for Certification. The Contractor must certify that the cost or pricing data submitted are accurate, complete, and current as of a mutually determined date.

D. Refusal to Submit Data. When an contractor refuses to submit the required data to support a price, the Contracting Officer shall not allow the price.

E. Certificate of Current Cost or Pricing Data.

Form of Certificate. In those cases when cost or pricing data is required, certification shall be made using a certificate substantially similar to the one contained in Chapter 4 of the PPB rules and such certification shall be retained in the agency contract file.

23. **AGREEMENTS FOR GOODS AND SERVICES**

**PROMPT PAYMENT**

The Prompt Payment provisions set forth in Chapter 5, Section 5-07 of Procurement Policy Board Rules in effect at the time of this solicitation shall apply.

**ARTICLE 24. PAID SICK LEAVE LAW**

**NYC EARNED SAFE AND SICK TIME ACT CONTRACT RIDER**

(To supersede Section 4.06 of the January 2018 Appendix A and Section 35.5 of the March 2017 Standard Construction Contract and to be attached to other City contracts and solicitations)

A. *Introduction and General Provisions.*

1. The Earned Safe and Sick Time Act (“ESSTA”), codified at Title 20, Chapter 8 of the New York City Administrative Code, also known as the “Paid Safe and Sick Leave Law,” requires covered employees (as defined in Admin. Code § 20-912) in New York City (“City”) to be provided with paid safe and sick time. Contractors of the City or of other governmental entities may be required to provide safe and sick time pursuant to the ESSTA. The ESSTA is enforced by the City’s Department of Consumer and Worker Protection (“DCWP”), which has promulgated 6 RCNY §§ 7-101 and 201 *et seq.* (“DCWP Rules”).

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

3. The Contractor must notify (with a copy to DCWP at [ComplianceMonitoring@dcwp.nyc.gov](mailto:ComplianceMonitoring@dcwp.nyc.gov)) the Agency Chief Contracting Officer of the City Agency or other entity with whom it is contracting in writing within 10 days of receipt of a complaint (whether oral or written) or notice of investigation regarding the ESSTA involving the performance of this agreement. Additionally, the Contractor must cooperate with DCWP’s guidance and must comply with DCWP’s subpoenas, requests for information, and other document demands as set forth in the ESSTA and the DCWP Rules. More information is available at <https://www1.nyc.gov/site/dca/about/paid-sick-leave-what-employers-need-to-know.page>.

4. Upon conclusion of a DCWP investigation, Contractor will receive a findings letter detailing any employee relief and civil penalties owed. Pursuant to the findings, Contractor will have the opportunity to settle any violations and cure the breach of this agreement caused by failure to comply with the ESSTA either i) without a trial by entering into a consent order or ii) appearing before an impartial judge at the City’s administrative tribunal. In addition to and notwithstanding any other rights and remedies available to the City, non-payment of relief and penalties owed pursuant to a consent order or final adjudication within 30 days of such consent order or final adjudication may result in the termination of this agreement without further opportunity to settle or cure the violations.

5. The ESSTA is briefly summarized below for the convenience of the Contractor. The Contractor is advised to review the ESSTA and the DCWP Rules in their entirety. The Contractor may go to [www.nyc.gov/PaidSickLeave](http://www.nyc.gov/PaidSickLeave) for resources for employers, such as Frequently Asked Questions, timekeeping tools and model forms, and an event calendar of upcoming presentations and webinars at which the Contractor can get more information about how to comply with the ESSTA and the DCWP Rules. The Contractor acknowledges that it is responsible for compliance with the ESSTA and the DCWP Rules notwithstanding any inconsistent language contained herein.

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

1. An employee who works within the City must be provided paid safe and sick time.<sup>1</sup> Employers with one hundred or more employees are required to provide 56 hours of safe and sick time for an employee each calendar year. Employers with fewer than one hundred employees are required to provide 40 hours of sick leave each calendar year. Employers must provide a minimum of one hour of safe and sick time for every 30 hours worked by an employee and compensation for such safe and sick time must be provided at the greater of the employee's regular hourly rate or the minimum wage at the time the paid safe or sick time is taken. Employers are not discouraged or prohibited from providing more generous safe and sick time policies than what the ESSTA requires.

2. Employees have the right to determine how much safe and sick time they will use, provided that an employer may set a reasonable minimum increment for the use of safe and sick time not to exceed four hours per day. For the use of safe time or sick time beyond the set minimum increment, an employer may set fixed periods of up to thirty minutes beyond the minimum increment. In addition, an employee may carry over up to 40 or 56 hours of unused safe and sick time to the following calendar year, provided that no employer is required to carry over unused paid safe and sick time if the employee is paid for such unused safe and sick time and the employer provides the employee with at least the legally required amount of paid safe and sick time for such employee for the immediately subsequent calendar year on the first day of such calendar year.

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

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

b. such employee's care of a family member (an employee's child, spouse, domestic partner, parent, sibling, grandchild, or grandparent, the child or parent of an employee's spouse or domestic partner, any other individual related by blood to the employee, and any other individual whose close association with the employee is the equivalent of a family relationship) who has a mental illness, physical illness, injury or health condition or who has a need for medical diagnosis or preventive medical care;

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<sup>1</sup> Pursuant to the ESSTA, if fewer than five employees work for the same employer, and the employer had a net income of less than one million dollars during the previous tax year, such employer has the option of providing such employees uncompensated safe and sick time.

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

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

e. when the employee or a family member has been the victim of a family offense matter, sexual offense, stalking, or human trafficking:

1. to obtain services from a domestic violence shelter, rape crisis center, or other shelter or services program for relief from a family offense matter, sexual offense, stalking, or human trafficking;
2. to participate in safety planning, temporarily or permanently relocate, or take other actions to increase the safety of the employee or employee's family members from future family offense matters, sexual offenses, stalking, or human trafficking;
3. to meet with a civil attorney or other social service provider to obtain information and advice on, and prepare for or participate in any criminal or civil proceeding, including but not limited to, matters related to a family offense matter, sexual offense, stalking, human trafficking, custody, visitation, matrimonial issues, orders of protection, immigration, housing, discrimination in employment, housing or consumer credit;
4. to file a complaint or domestic incident report with law enforcement;
5. to meet with a district attorney's office;
6. to enroll children in a new school; or
7. to take other actions necessary to maintain, improve, or restore the physical, psychological, or economic, health or safety of the employee or the employee's family member or to protect those who associate or work with the employee.

4. An employer must not require an employee, as a condition of taking safe and sick time, to search for a replacement. However, where the employee's need for safe and sick time is foreseeable, an employer may require an employee to provide reasonable notice of the need to use safe and sick time. For an absence of more than three consecutive work days, an employer may require reasonable documentation that the use of safe and sick time was needed for a reason listed in Admin. Code § 20-914; and/or written confirmation that an employee used safe and sick time pursuant to the ESSTA. However, an employer may not require documentation specifying the nature of a medical condition, require disclosure of the details of a medical condition, or require disclosure of the details of a family offense matter, sexual offense, stalking, or human trafficking, as a condition of providing safe and sick time. Health information and information concerning family offenses, sexual offenses, stalking or human trafficking obtained solely due to an

employee's use of safe and sick time pursuant to the ESSTA must be treated by the employer as confidential. An employer must reimburse an employee for all reasonable costs or expenses incurred in obtaining such documentation for the employer.

5. An employer must provide to all employees a written policy explaining its method of calculating sick time, policies regarding the use of safe and sick time (including any permissible discretionary conditions on use), and policies regarding carry-over of unused time at the end of the year, among other topics. It must provide the policy to employees using a delivery method that reasonably ensures that employees receive the policy. If such employer has not provided its written policy, it may not deny safe and sick time to an employee because of non-compliance with such a policy.

6. An employer must provide a pay statement or other form of written documentation that informs the employee of the amount of safe/sick time accrued and used during the relevant pay period and the total balance of the employee's accrued safe/sick time available for use.

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

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

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

2. an employee covered by a valid collective bargaining agreement, if the provisions of the ESSTA are expressly waived in such agreement and such agreement provides a benefit comparable to that provided by the ESSTA for such employee;

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

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

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

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

D. *Retaliation Prohibited.* An employer shall not take any adverse action against an employee that penalizes the employee for, or is reasonably likely to deter the employee from or interfere with the employee exercising or attempting in good faith to exercise any right provided by the ESSTA. In addition, an employer shall not interfere with any investigation, proceeding, or hearing pursuant to the ESSTA.

E. *Notice of Rights.*

1. An employer must provide its employees with written notice of their rights pursuant to the ESSTA. Such notice must be in English and the primary language spoken by an employee, provided that DCWP has made available a translation into such language. Downloadable notices are available on DCWP's website at <https://www1.nyc.gov/site/dca/about/Paid-Safe-Sick-Leave-Notice-of-Employee-Rights.page>. The notice must be provided to the employees by a method that reasonably ensures personal receipt by the employee.

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

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

G. *Enforcement and Penalties.*

1. Upon receiving a complaint alleging a violation of the ESSTA, DCWP must investigate such complaint. DCWP may also open an investigation to determine compliance with the ESSTA on its own initiative. Upon notification of a complaint or an investigation by DCWP, the employer must provide DCWP with a written response and any such other information as DCWP may request. If DCWP believes that a violation of the ESSTA has occurred, it has the right to issue a notice of violation to the employer .

2. DCWP has the power to grant an employee or former employee all appropriate relief as set forth in Admin. Code § 20-924(d). Such relief may include, but is not limited to, treble damages for the wages that should have been paid; statutory damages for unlawful retaliation; and damages, including statutory damages, full compensation for wages and benefits lost, and reinstatement, for unlawful discharge. In addition, DCWP may impose on an employer found to have violated the ESSTA civil penalties not to exceed \$500.00 for a first violation, \$750.00 for a second violation within two years of the first violation, and \$1,000.00 for each succeeding violation within two years of the previous violation. When an employer has a policy or practice of not providing or refusing to allow the use of safe and sick time to its employees, DCWP may seek penalties and relief on a per employee basis.

3. Pursuant to Admin. Code § 20-924.2, (a) where reasonable cause exists to believe that an employer is engaged in a pattern or practice of violations of the ESSTA, the Corporation Counsel may commence a civil action on behalf of the City in a court of competent jurisdiction by filing a complaint setting forth facts relating to such pattern or practice and requesting relief, which may include injunctive relief, civil penalties and any other appropriate relief. Nothing in § 20-924.2 prohibits DCWP from exercising its authority under section 20-924 or the Charter, provided that a civil action pursuant to § 20-924.2 shall not have previously been commenced.

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

#### ARTICLE.25. WHISTLEBLOWER PROTECTION EXPANSION ACT

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

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

2. If any of Contractor's officers or employees believes that he or she has been the subject of an adverse personnel action in violation of this Article 25,



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

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

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

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

4. For the purposes of this Article 25, "adverse personnel action" includes dismissal, demotion, suspension, disciplinary action, negative performance evaluation, any action resulting in loss of staff, office space, equipment or other benefit, failure to appoint, failure to promote, or any transfer or assignment or failure to transfer or assign against the wishes of the affected officer or employee.

5. This Article 25 is applicable to all of Contractor's subcontractors having subcontracts with a value in excess of \$100,000.00; accordingly, Contractor shall include this Article 25 in all subcontracts with a value in excess of \$100,000.00.

B. Article 25 is not applicable to this Agreement if it is valued at \$100,000.00 or less. Article 25 (A)(1), (2), (4), and (5) are not applicable to this Agreement if it was solicited pursuant to a finding of an emergency. Article 25 (A)(3) is neither applicable to this Agreement if it was solicited prior to October 18, 2012 nor if it is a renewal of a contract executed prior to October 18, 2012.

ARTICLE 26. IRAN DIVESTMENT ACT

IRAN DIVESTMENT ACT COMPLIANCE RIDER FOR NEW YORK CITY CONTRACTORS  
The Iran Divestment Act of 2012, effective as of April 12, 2012, is codified at State Finance Law ("SFL") §165-a and General Municipal Law ("GML") §103-g. The Iran Divestment Act, with certain exceptions, prohibits municipalities, including the City, from entering into contracts with persons engaged in investment activities in the energy sector of Iran. Pursuant to the terms set forth in SFL §165-a and GML §103-g, a person engages in investment activities in the energy sector of Iran if:

(a) the person provides goods or services of twenty million dollars or more in the energy sector of Iran, including a person that provides oil or liquefied natural gas tankers, or products used to construct or maintain pipelines used to transport oil or liquefied natural gas, for the energy sector of Iran; or

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

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

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

(1) The investment activities in Iran were made before the effective date of this section (i.e., April 12, 2012), the investment activities in Iran have not been expanded or renewed after the effective date of this section and the person has adopted, publicized and is implementing a formal plan to cease the investment activities in Iran and to refrain from engaging in any new investments in Iran: or

(2) The City makes a determination that the goods or services are necessary for the City to perform its functions and that, absent such an exemption, the City would be unable to obtain the goods or services for which the contract is offered. Such determination shall be made in writing and shall be a public document.

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**BIDDER'S CERTIFICATION OF COMPLIANCE WITH IRAN DIVESTMENT ACT**  
Pursuant to General Municipal Law §103-g, which generally prohibits the City from entering into contracts with persons engaged in investment activities in the energy sector of Iran, the bidder/proposer submits the following certification:

[Please Check One] BIDDER'S

**CERTIFICATION**

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

Dated:

\_\_\_\_\_  
SIGNATURE

\_\_\_\_\_  
PRINTED NAME

\_\_\_\_\_  
TITLE

STATE OF .....)

ss:

COUNTY OF .....)

Subscribed and sworn or affirmed to before me this \_\_\_\_\_ day of \_\_\_\_\_ 202\_ by

\_\_\_\_\_  
Notary Public State of \_\_\_\_\_

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ARTICLE 27. HIRENYC

This Article shall apply to all contracts for goods, services, and construction with a value of one million dollars (\$1,000,000.00) or more, provided, however, that certain requirements of this Article shall only apply as indicated below. This Article addresses the HireNYC process, including reporting obligations under the HireNYC process, and certain other reporting requirements imposed by law. In general, the HireNYC process under this Article requires the Contractor to enroll with the HireNYC portal for the City of New York ("the City") found within the Department of Small Business Services' ("SBS") website, to disclose all entry to mid-level job opportunities described in this Rider arising from this contract and located in New York City, and to agree to interview qualified candidates from HireNYC for those opportunities.

**A. Enrollment**

The Contractor shall enroll with the HireNYC system, found at [www.nyc.gov/sbs](http://www.nyc.gov/sbs), within thirty (30) days after the registration of this Contract pursuant to Section 328 of the New York City Charter. The Contractor shall provide information about the business, designate a primary contact and say whether it intends to hire for any entry to mid-level job opportunities arising from this contract and located in New York City, and, if so, the approximate start date of the first hire.

**B. Job Posting Requirements**

Once enrolled in HireNYC, the Contractor agrees to update the HireNYC portal with all entry to mid-level job opportunities arising from this contract and located in New York City, if any, which shall be defined as jobs requiring no more than an associate degree, as provided by the New York State Department of Labor (see Column F of <https://labor.ny.gov/stats/2012-2022-NYS-Employment-Prospects.xls>). The information to be updated includes the types of entry and mid-level positions made available from the work arising from the contract and located in New York City, the number of positions, the anticipated schedule of initiating the hiring process for these positions, and the contact information for the Contractor's representative charged with overseeing hiring. The Contractor must update the HireNYC portal with any hiring needs arising from the contract and located in New York City, and the requirements of the jobs to be filled, no less than three weeks prior to the intended first day of employment for each new position, except with the permission of SBS, not to be unreasonably withheld, and must also update the HireNYC portal as set forth below.

After enrollment through HireNYC and submission of relevant information, SBS will work with the Contractor to develop a recruitment plan which will outline the candidate screening process, and will provide clear instructions as to when, where, and how interviews will take place. HireNYC will screen applicants based on employer requirements and refer applicants whom it believes are qualified to the Contractor for

interviews. The Contractor must interview referred applicants whom it believes are qualified.

After completing an interview of a candidate referred by HireNYC, the Contractor must provide feedback via the portal within twenty (20) business days to indicate which candidates were interviewed and hired, if any. In addition, the Contractor shall provide the start date of new hires, and additional information reasonably related to such hires, within twenty (20) business days after the start date. In the event the Contractor does not have any job openings covered by this Rider in any given year, the Contractor shall be required to provide an annual update to HireNYC to that effect. For this purpose, the reporting year shall run from the date of the registration of the contract and each anniversary date.

These requirements do not limit the Contractor's ability to assess the qualifications of prospective workers, and to make final hiring and retention decisions. No provision of this Rider shall be interpreted so as to require the Contractor to employ any particular worker.

In addition, the provisions of this Rider shall not apply to positions that the Contractor intends to fill with employees employed pursuant to the job retention provision of Section 22-505 of the Administrative Code of the City of New York. The Contractor shall not be required to report such openings with HireNYC. However, the Contractor shall enroll with the HireNYC system pursuant to Section A, above, and, if such positions subsequently become open, then the remaining provisions of this Rider will apply.

**C. Breach and Liquidated Damages**

If the Contractor fails to comply with the terms of the contract and this Rider (1) by not enrolling its business with HireNYC; (2) by not informing HireNYC, as required, of open positions; or (3) by failing to interview a qualified candidate, the contracting agency may assess liquidated damages in the amount of two-thousand five hundred dollars (\$2,500.00) per breach. For all other events of noncompliance with the terms of this Rider, the agency may assess liquidated damages in the amount of five hundred dollars (\$500) per breach.

Furthermore, in the event the Contractor breaches the requirements of this Rider during the term of the contract, the City may hold the Contractor in default of this contract.

**Audit Compliance**

In addition to the auditing requirements set forth in other parts of the contract, the Contractor shall permit SBS and the City to inspect any and all records concerning or relating to job openings or the hiring of individuals for work arising from the contract and

located in New York City. The Contractor shall permit an inspection within seven (7) business days of the request.

Other Reporting Requirements

The Contractor shall report to the City, on a monthly basis, all information reasonably requested by the City that is necessary for the City to comply with any reporting requirements imposed by law or rule, including any requirement that the City maintain a publicly accessible database. In addition, the Contractor agrees to comply with all reporting requirements imposed by Law or rule, or as otherwise requested by the City.

Construction Requirements

Construction contractors shall comply with the HireNYC requirements set forth above for all non-trades jobs (e.g., for an administrative position arising out of the work of the contract and located in New York City) as set forth above.

In addition, construction contractors shall reasonably cooperate with SBS and the City on specific outreach events, including Hire on the Spot events, for the hiring of trades workers for the work of this contract.

Further, this contract shall be subject to a project labor agreement if so required elsewhere in this contract.

Federal Hiring Requirements

The Contractor shall comply with all federal hiring requirements as may be set forth elsewhere in this contract, including, as applicable:

- Section 3 of the HUD Act of 1968, which requires, to the greatest extent feasible, economic opportunities for 30 percent of new hires be given to low- and very low- income persons, particularly persons who are recipients of HUD assistance for housing.
- Executive Order 11246, which prohibits discrimination in employment due to race, color, religion, sex or national origin, and requires the implementation of goals for minority and female participation for work involving any Construction trade.

ARTICLE 28. SUBCONTRACTOR REPORTING

As of March 2013 the City has implemented a new web based subcontractor reporting system through the City's Payee Information Portal (PIP), available at [www.nyc.gov/pip](http://www.nyc.gov/pip). In order to use the new system, a PIP account will be required. Detailed instructions on creating a PIP account and using the new system are also available at that site. Additional assistance with PIP may be received by emailing the Financial Information Services Agency Help Desk at [pip@fisa.nyc.gov](mailto:pip@fisa.nyc.gov).

Contract for Purchasing of Absentee Ballot Boxes for Board of Elections

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In order to obtain subcontractor approval under section 3.02 of Appendix A or Article 17 of the Standard Construction Contract and PPB Rule§ 4-13 Contractor is required to list the subcontractor in the system. For each subcontractor listed, Contractor is required to provide the following information: maximum contract value, description of subcontractor work, start and end date of the subcontract and identification of the subcontractor's industry. Thereafter, Contractor will be required to report in the system the payments made to each subcontractor within 30 days of making the payment. If any of the required information changes throughout the term of the contract, Contractor will be required to revise the information in the system.

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

Contractor hereby agrees to these provisions.

CERTIFICATES OF INSURANCE

Instructions to New York City Agencies, Departments, and Offices

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

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

-- OR--

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





AFFIDAVIT WHERE BIDDER IS A CORPORATION

STATE OF NEW YORK                    )  
  ss:  
COUNTY OF \_\_\_\_\_)

On this \_\_\_\_\_ day of \_\_\_\_\_, 20 \_\_\_\_\_ before me personally came \_\_\_\_\_, who being by me duly sworn, did depose and say: that he resides in the City of \_\_\_\_\_, that he is the \_\_\_\_\_ of the corporation described in the foregoing instrument whose name is subscribed to and which executed the foregoing bid, that he has knowledge of the several matters therein stated, and that they are in all respects true.

\_\_\_\_\_  
(Signature of the person who signed the bid)

Subscribed to and sworn to before me this  
\_\_\_\_\_ day of \_\_\_\_\_, 20 \_\_\_\_\_.

\_\_\_\_\_  
Notary Public or Commissioner of Deeds

**AFFIDAVIT WHERE THE BIDDER IS A PARTNERSHIP**

STATE OF NEW YORK                    )  
  ss:  
COUNTY OF \_\_\_\_\_)

On this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, before me personally came \_\_\_\_\_, who being by me duly sworn, did depose and say: that he resides in the City of \_\_\_\_\_, that he is the \_\_\_\_\_ of the firm described in the foregoing instrument whose name is subscribed to and which executed the foregoing bid, that he resides at \_\_\_\_\_, that he has knowledge of the several matters therein stated, and that they are in all respects true.

\_\_\_\_\_  
(Signature of the person who signed the bid)

Subscribed to and sworn to before me this

\_\_\_\_\_ day of \_\_\_\_\_, 20 \_\_\_\_\_

\_\_\_\_\_  
Notary Public or Commissioner of Deeds

**AFFIDAVIT WHERE THE BIDDER IS AN INDIVIDUAL**

STATE OF NEW YORK                    )  
  ss:  
COUNTY OF \_\_\_\_\_)

On this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_ before me personally  
came \_\_\_\_\_, to me known and known to  
me to be the same person described in and who executed the foregoing instrument and that he  
acknowledged to me that the several matters therein are in all respects true.

\_\_\_\_\_  
(Signature of the person who signed the bid)

Subscribed to and sworn to before me this

\_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_

\_\_\_\_\_  
Notary Public or Commissioner of Deeds

Contract for Purchasing of Absentee Ballot Boxes for Board of Elections

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

BOARD OF ELECTIONS  
CITY OF NEW YORK

By \_\_\_\_\_

Executive Director  
Board of Elections

Contractor

By \_\_\_\_\_

Title \_\_\_\_\_  
(President or Vice President if a Corporation)

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*PART IV. RESOLUTION OF DISPUTES*

1. Except as provided in l(a) and l(b) below, all disputes between the City and the vendor that arise under, or by virtue of, this contract shall be finally resolved in accordance with the provisions of this section and Section 4-09 of the Rules of the Procurement Policy Board ("PPB Rules"). This procedure shall be the exclusive means of resolving any such disputes.

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

(b) For construction and construction-related services this section shall apply only to disputes about the scope of work delineated by the contract, the interpretation of contract documents, the amount to be paid for extra work or disputed work performed in connection with the contract, the conformity of the vendor's work to the contract, and the acceptability and quality of the vendor's work; such disputes arise when the Engineer, Resident Engineer, Engineering Audit Officer, or other designee of the Commissioner makes a determination with which the vendor disagrees.

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

3. During such time as any dispute is being presented, heard, and considered pursuant to this section, the contract terms shall remain in full force and effect and the vendor shall continue to perform work in accordance with the contract and as directed by the Agency Chief Contracting Officer ("ACCO") or Engineer, Resident Engineer, Engineering Audit Officer, or other designee of the Commissioner. Failure of the vendor to continue the work as directed shall constitute a waiver by the vendor of any and all claims being presented pursuant to this section and a material breach of contract.

4. Presentation of Dispute to Agency Head.

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

the Agency Head whose decision shall be final. Willful failure of the vendor to produce any requested material whose relevancy the vendor has not disputed, or whose relevancy has been affirmatively determined, shall constitute a waiver by the vendor of its claim.

- (b) **Agency Head Inquiry.** The Agency Head shall examine the material and may, in his or her discretion, convene an informal conference with the vendor and the ACCO and, in the case of construction or construction-related services, the Engineer, Resident Engineer, Engineering Audit Officer, or other designee of the Commissioner, to resolve the issue by mutual consent prior to reaching a determination. The Agency Head may seek such technical or other expertise as he or she shall deem appropriate, including the use of neutral mediators, and require any such additional material from either or both parties as he or she deems fit. The Agency Head's ability to render, and the effect of, a decision hereunder shall not be impaired by any negotiations in connection with the dispute presented, whether or not the Agency Head participated therein. The Agency Head may or, at the request of any party to the dispute, shall compel the participation of any other vendor with a contract related to the work of this contract and that vendor shall be bound by the decision of the Agency Head. Any vendor thus brought into the dispute resolution proceeding shall have the same rights and obligations under this section as the vendor initiating the dispute.
- (c) **Agency Head Determination.** Within thirty (30) days after the receipt of all materials and information, or such longer time as may be agreed to by the parties, the Agency Head shall make his or her determination and shall deliver or send a copy of such determination to the vendor and ACCO and, in the case of construction or construction-related services, the Engineer, Resident Engineer, Engineering Audit Officer, or other designee of the Commissioner, together with a statement concerning how the decision may be appealed.
- (d) **Finality of Agency Head Decision.** The Agency Head's decision shall be final and binding on all parties, unless presented to the Contract Dispute Resolution Board ("CDRB") pursuant to this section. The City may not take a petition to the CDRB. However, should the vendor take such a petition, the City may seek, and the CDRB may render, a determination less favorable to the vendor and more favorable to the City than the decision of the Agency Head.
5. **Presentation of Dispute to the Comptroller.** Before any dispute may be brought by the vendor to the CDRB, the vendor must first present its claim to the Comptroller for his or her review, investigation, and possible adjustment.
- (a) **Time, Form, and Content of Notice.** Within thirty (30) days of receipt of a decision by the Agency Head, the vendor shall submit to the Comptroller and to the Agency Head a Notice of Claim regarding its dispute with the agency. The Notice of Claim shall consist of (i) a brief statement of the substance of the dispute, the amount of money, if any, claimed and the reason(s) the vendor contends the dispute was wrongly decided by the Agency Head; (ii) a copy of the decision of the Agency Head, and (iii) a copy of all materials submitted by the vendor to the agency, including the Notice of Dispute. The vendor may not present to the Comptroller any material not presented to the Agency Head, except at the request of the Comptroller.

Contract for Purchasing of Absentee Ballot Boxes for Board of Elections

- (b) Agency Response. Within thirty (30) days of receipt of the Notice of Claim, the agency shall make available to the Comptroller a copy of all material submitted by the agency to the Agency Head in connection with the dispute. The agency may not present to the Comptroller any material not presented to the Agency Head, except at the request of the Comptroller.
- (c) Comptroller Investigation. The Comptroller may investigate the claim in dispute and, in the course of such investigation, may exercise all powers provided in sections 7-201 and 7-203 of the New York City Administrative Code. In addition, the Comptroller may demand of either party, and such party shall provide, whatever additional material the Comptroller deems pertinent to the claim, including original business records of the vendor. Willful failure of the vendor to produce within fifteen (15) days any material requested by the Comptroller shall constitute a waiver by the vendor of its claim. The Comptroller may also schedule an informal conference to be attended by the supplier, agency representatives, and any other personnel desired by the Comptroller.
- (d) Opportunity of Comptroller to Compromise or Adjust Claim. The Comptroller shall have forty-five (45) days from his or her receipt of all materials referred to in 5(c) to investigate the disputed claim. The period for investigation and compromise may be further extended by agreement between the vendor and the Comptroller, to a maximum of ninety (90) days from the Comptroller's receipt of all the materials. The vendor may not present its petition to the CDRB until the period for investigation and compromise delineated in this paragraph has expired. In compromising or adjusting any claim hereunder, the Comptroller may not revise or disregard the terms of the contract between the parties.
6. Contract Dispute Resolution Board. There shall be a Contract Dispute Resolution Board composed of:
- (a) the chief administrative law judge of the Office of Administrative Trials and Hearings ("OATH") or his/her designated OATH administrative law judge, who shall act as chairperson, and may adopt operational procedures and issue such orders consistent with this section as may be necessary in the execution of the CDRB's functions, including, but not limited to, granting extensions of time to present or respond to submissions;
- (b) the City Chief Procurement Officer ("CCPO") or his/her designee, or in the case of disputes involving construction, the Director of the Office of Construction or his/her designee; any designee shall have the requisite background to consider and resolve the merits of the dispute and shall not have participated personally and substantially in the particular matter that is the subject of the dispute or report to anyone who so participated, and
- (c) A person with appropriate expertise who is not an employee of the City. This person shall be selected by the presiding administrative law judge from a prequalified panel of individuals, established and administered by OATH, with appropriate background to act as decision-makers in a dispute. Such individuals may not have a contract or dispute with the City or be an officer or employee of any company or organization that does, or regularly represent persons, companies, or organizations having disputes with the City.



7. Petition to CDRB. In the event the claim has not been settled or adjusted by the Comptroller within the period provided in this section, the vendor, within thirty (30) days thereafter, may petition the CDRB to review the Agency Head determination.

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

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

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

(d) CDRB Determination. Within forty-five (45) days of the conclusion of all submissions and oral arguments, the CDRB shall render a decision resolving the dispute. In an unusually complex case, the CDRB may render its decision in a longer period of time, not to exceed ninety (90) days, and shall so advise the parties at the commencement of this period. The CDRB's decision must be consistent with the terms of the contract. Decisions of the CDRB shall only resolve matters before the CDRB and shall not have precedential effect with respect to matters not before the CDRB.

- (e) Notification of CDRB Decision. The CDRB shall send a copy of its decision to the vendor, the ACCO, the Corporation Counsel, the Comptroller, the CCPO, the Office of Construction, the PPB, and, in the case of construction or construction-related services, the Engineer, Resident Engineer, Engineering Audit Officer, or other designee of the Commissioner. A decision in favor of the vendor shall be subject to the prompt payment provisions of the PPB Rules. The Required Payment Date shall be thirty (30) days after the date the parties are formally notified of the CDRB's decision.
- (f) Finality of CDRB Decision. The CDRB's decision shall be final and binding on all parties. Any party may seek review of the CDRB's decision solely in the form of a challenge, filed within four months of the date of the CDRB's decision, in a court of competent jurisdiction of the State of New York, County of New York pursuant to Article 78 of the Civil Practice Law and Rules. Such review by the court shall be limited to the question of whether or not the CDRB's decision was made in violation of lawful procedure, was affected by an error of law, or was arbitrary and capricious or an abuse of discretion. No evidence or information shall be introduced or relied upon in such proceeding that was not presented to the CDRB in accordance with Section 4-09 of the PPB Rules.
7. Any termination, cancellation, or alleged breach of the contract prior to or during the pendency of any proceedings pursuant to this section shall not affect or impair the ability of the Agency Head or CDRB to make a binding and final decision pursuant to this section.
- 8.

**PART V. CONTRACT CHANGES**

Changes may be made to this contract only as duly authorized by the Agency Chief Contracting Officer or his or her designee. Vendors deviating from the requirements of an original purchase order or contract without a duly approved change order document, or written contract modification or amendment, do so at their own risk. All such changes, modifications and amendments will become a part of the original contract.

Contract changes will be made only for work necessary to complete the work included in the original scope of the contract, and for non-material changes to the scope of the contract. Changes are not permitted for any material alteration in the scope of work. Contract changes may include any contract revision deemed necessary by the Contracting Officer.

The contractor may be entitled to a price adjustment for extra work performed or to be performed pursuant to a written change order. If any part of the contract work is necessarily delayed by a change order, the contractor may be entitled to an extension of time for performance. Adjustments to price shall be validated for reasonableness by using appropriate price and cost analysis.

**(Non-Construction)**

Except in the case of requirements contracts, any contract increases which cumulatively exceed the greater of 10% or 100,000 must be approved in writing by the City Chief Procurement Officer.

**PART VI. SCHEDULE OF BONDS AND LIABILITY INSURANCE**

.t:1.2m: All certificate(s) of insurance submitted pursuant to Article 55.3.3 must be submitted to the Office of the ACCO accompanied by a Certification by a Broker consistent with Attachment 2c and include the following information:

- For each insurance policy, the name and NAIC number of issuing company, number of policy, and effective dates;
- Policy limits consistent with the requirements listed below;
- Additional insureds or loss payees consistent with the requirements listed below; and
- The number assigned to the Contract by the City (in the "Description of Operations" field). Insurance indicated by a blackened box (■) or by X in a □ to left will be required under this contract

Types of Insurance (per Article 55 in its entirety, including listed paragraphs below)	Minimum Limits and Special Conditions
<p>■ Commercial General Liability      Article 55.1.1</p>	<p>If the Work requires a permit from the Department of Buildings pursuant to 1 RCNY section 101-08, available at <a href="https://www.nyc.gov/html/dob/downloads/rules/1RCNY_101-08.pdf">https://www.nyc.gov/html/dob/downloads/rules/1RCNY_101-08.pdf</a>, the Contractor shall provide Commercial General Liability Insurance with limits of at least those by 1 RCNY section 101-08.</p> <p>If the Work does not require such a permit, the minimum limits shall be <del>\$1,000,000</del> per occurrence and <del>\$3,000,000</del> per project aggregate applicable to this Contract.</p> <p>Additional Insureds:</p> <ol style="list-style-type: none"> <li>1. City of New York, including its officials and employees, with coverage at least as broad as ISO Forms CG 20 10 and CG 20 37, and</li> <li>2. All person(s) or organization(s), if any, that Article 55.1.1.2 of the Contract requires to be named as Additional Insured(s), with coverage at least as broad as ISO Form CG 20 26. The Additional Insured endorsement shall either specify the entity's name, if known, or the entity's title (e.g., Project Manager).</li> </ol>

<input type="checkbox"/> Workers Compensation Article 55.1.2 <input type="checkbox"/> Disability Benefits Insurance Article 55.1.2 <input type="checkbox"/> Employers Liability Article 55.1.2 <input type="checkbox"/> Jones Act Article 55.1.3 <input type="checkbox"/> U.S. Longshoremen's and Harbor Workers Compensation Act Article 55.1.3	<p>Workers' Compensation, Employers' Liability, and Disability Benefits Insurance: Statutory per New York State law without regard to jurisdiction.</p> <p>: The following forms are acceptable: (1) New York State Workers' Compensation Board Form No. C-105.2, (2) State Insurance Fund Form No. U-26.3, (3) New York State Workers' Compensation Board Form No. DB-120.1 and (3) Request for WC/DB Exemption Form No. CE-200. The City will not accept an ACORD form as proof of Workers' Compensation or Disability Insurance.</p> <p>Jones Act and U.S. Longshoremen's and Harbor Workers' Compensation Act: Statutory per U.S. law.</p>
D Builders Risk Article 55.1.4	<p>100 % of total value of Work</p> <p>Contractor the Named Insured; the City both an Additional Insured and one of the loss payees as its interests may appear.</p> <p>If the Work does not involve construction of a new building or gut renovation work, the Contractor may provide an installation floater in lieu of Builders Risk insurance.</p> <p>Note: Builders Risk Insurance may terminate upon Substantial Completion of the Work in its entirety.</p>
D Commercial Auto Liability Article 55.1.5	<p>\$1,000,000 per accident combined single limit</p> <p>If vehicles are used for transporting hazardous materials, the Contractor shall provide pollution liability broadened coverage for covered vehicles (endorsement CA 99 48) as well as proof of MCS 90</p>

Contract for Purchasing of Absentee Ballot Boxes for Board of Elections

<p>D Contractors Pollution Liability</p>	<p>Article 55.1.6</p>	<p>\$ _____ per occurrence</p> <p>\$ _____ aggregate Additional I</p> <p>1. City of New York, including its officials and employees, and</p> <p>2.</p> <p>3.</p>
<p>D Marine Protection and Indemnity</p>	<p>Article 55.1.7.1</p>	<p>\$ _____ per occurrence</p> <p>\$ _____ aggregate Additional I</p> <p>1. City of New York, including its officials and employees, and</p> <p>2.</p> <p>3.</p>
<p>D Hull and Machinery Insurance</p>	<p>Article 55.1.7.2</p>	<p>\$ _____ per occurrence</p> <p>\$ _____ aggregate Additional I</p> <p>1. City of New York, including its officials and employees, and</p> <p>2.</p> <p>3.</p>

Contract for Purchasing of Absentee Ballot Boxes for Board of Elections

<b>D Marine Pollution Liability</b>	<b>Article 55.1.7.3</b>	<b>\$</b> <b>each occurrence</b>  <b>Additional Insureds:</b> <b>1. City of New York, including</b> <b>its officials and employees, and</b> <b>2.</b>
		<b>3.</b>

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PART VII. MACBRIDE PRINCIPLES PROVISIONS FOR NEW YORK CITY CONTRACTORS

ARTICLE 1 MACBRIDE PRINCIPLES

NOTICE TO ALL PROSPECTIVE CONTRACTORS

Local Law No. 34 of 1991 became effective on September 10, 1991 and added Section 6-115.1 to the Administrative Code of the City of New York. The local law provides for certain restrictions on City contracts to express the opposition of the people of the City of New York to employment discrimination practices in Northern Ireland and to encourage companies doing business in Northern Ireland to promote freedom of workplace opportunity.

Pursuant to Section 6-115.1, prospective contractors for contracts to provide goods or services involving an expenditure of an amount greater than ten thousand dollars, or for construction involving an amount greater than fifteen thousand dollars, are asked to sign a rider in which they covenant and represent, as a material condition of their contract, that any business in Northern Ireland operations conducted by the contractor and any individual or legal entity in which the contractor holds a ten percent or greater ownership interest and any individual or legal entity that holds a ten percent or greater ownership interest in the contractor will be conducted in accordance with the MacBride Principles of non-discrimination in employment.

Prospective contractors are not required to agree to these conditions. However, in the case of contracts let by competitive sealed bidding, whenever the lowest responsible bidder has not agreed to stipulate to the conditions set forth in this notice and another bidder who has agreed to stipulate to such conditions has submitted a bid within five percent of the lowest responsible bid for a contract to supply goods, services or construction of comparable quality, the contracting entity shall refer such bids to the Mayor, the Speaker or other officials, as appropriate, who may determine, in accordance with applicable law and rules, that it is in the best interest of the city that the contract be awarded to other than the lowest responsible bidder pursuant to Section 313(b)(2) of the City Charter.

In the case of contracts let by other than competitive sealed bidding, if a prospective contractor does not agree to these conditions, no agency, elected official or the Council shall award the contract to that bidder unless the entity seeking to use the goods, services or constructions certifies in writing that the contract is necessary for the entity to perform its functions and there is no other responsible contractor who will supply goods, service or construction of comparable quality at a comparable price.

PART A

In accordance with Section 6-115.1 of the Administrative Code of the City of New York, the contractor stipulates that such contractor and any individual or legal entity in which the contractor holds a ten percent or greater ownership interest and any individual or legal entity that holds a ten percent or greater ownership interest in the contractor either (a) have no business operations in Northern Ireland, or (b) shall take lawful steps in good faith to conduct any business operations they have in Northern Ireland in accordance with the MacBride Principles, and shall permit independent monitoring of their compliance with such principles.

PARTS

For purposes of this section, the following terms shall have the following meanings:

1. "MacBride Principles" shall mean those principles relating to nondiscrimination in employment and freedom of work place opportunity which require employers doing business in Northern Ireland to:

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1. increase the representation of individuals from underrepresented religious groups in the work force, including managerial, supervisory, administrative, clerical and technical jobs;
2. take steps to promote adequate security for the protection of employees from underrepresented religious groups both at the workplace and while traveling to and from work;
3. ban provocative religious or political emblems from the workplace;
4. publicly advertise all job openings and make special recruitment efforts to attract applicants from underrepresented religious groups;
5. establish layoff, recall and termination procedures which do not in practice favor a particular religious group;
6. abolish all job reservations, apprenticeship restrictions and different employment criteria which discriminate on the basis of religion;
7. develop training programs that will prepare substantial numbers of current employees from underrepresented religious groups for skilled jobs, including the expansion of existing programs and the creation of new programs to train, upgrade and improve the skills of workers from underrepresented religious groups;
8. establish procedures to assess, identify and actively recruit employees from underrepresented religious groups with potential for further advancement; and
9. appoint a senior management staff member to oversee affirmative action efforts and develop a timetable to ensure their full implementation.

ARTICLE II. ENFORCEMENT OF ARTICLE I

The contractor agrees that the covenants and representations in Article I above are material conditions to this contract. In the event the contracting entity receives information that the contractor who made the stipulations required by this section is in violation thereof, the contracting entity shall review such information and give the contractor an opportunity to respond. If the contracting entity finds that a violation has occurred, the entity shall have the right to declare the contractor in default and/or terminate this contract for cause and procure the supplies, services or work from another source in any manner the entity deems proper. In the event of such termination, the contractor shall pay to the entity, or the entity in its sole discretion may withhold from any amounts otherwise payable to the contractor, the difference between the contract price for the uncompleted portion of this contract and the cost to the contracting entity of completing performance of this contract either itself or by engaging another contractor or contractors. In the case of a requirements contract, the contractor shall be liable for such difference in price for the entire amount of supplies required by the contracting entity for the uncompleted terms of its contract. In the case of a construction contract, the contracting entity shall also have the right to hold the contractor in partial or total default in accordance with the default provisions of this contract, and/or may seek debarment or suspension of the contractor. The rights and remedies of the entity hereunder shall be in addition to, and not in lieu of, any rights and remedies the entity has pursuant to this contract or by operation of law.

AGREED:

BY: \_\_\_\_\_

TITLE: \_\_\_\_\_

DATE: \_\_\_\_\_



Contract for Purchasing of Absentee Ballot Boxes for Board of Elections

PART VIII. AFFIRMATION

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

Full name of Proposer or Bidder \_\_\_\_\_

Address \_\_\_\_\_

City \_\_\_\_\_ State \_\_\_\_\_ Zip Code \_\_\_\_\_

CHECK ONE BOX AND INCLUDE APPROPRIATE NUMBER

D A INDIVIDUAL - Social Security Number\*: \_\_\_\_\_

D B PARTNERSHIP, JOINT VENTURE or INCORPORATED ORGANIZATION  
Employer Identification Number: \_\_\_\_\_

D C CORPORATION - Employer Identification Number: \_\_\_\_\_

BY \_\_\_\_\_  
Signature

\_\_\_\_\_  
Title  
*If a corporation, place seal here:*

Must be signed by an office or duly authorized representative.

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

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**PART IX. STATEMENTS AND REPRESENTATIONS OF BIDDER**

THE BIDDER MAKES THE FOLLOWING STATEMENTS AND REPRESENTATIONS AS PART OF THIS BID.

1. That the bidder, if an individual, is a lawful age. That the bidder is the only one interested in this bid; and that no person, firm or organization other than hereinabove named has any interest in this bid, or in the contract propose to be taken.
2. That the bidder and each person signing on behalf of any bidder certified; and in the case of a joint bid each party thereto certifies as to its own organization, under penalty of perjury that to the best of knowledge and belief.
  - (a) The prices in this bid have been arrived at independently without collusion, consultation, communication, or agreement for the purpose of restricting competition as to any matter relating to such process with any other bidder or with any competitor.
  - (b) Unless otherwise required by law, the prices which have been quoted in this bid have not been knowingly disclosed by the Bidder and will not knowingly be disclosed by the bidder prior to bid opening, directly or indirectly to any other bidder or to any competitor; and
  - (c) No attempt has been made or will be made by the bidder to induce any other person, partnership or corporation to submit or not to submit a bid for the purpose of restricting competition:
  - (d) That no council person or other officer or employee or person whose salary is payable in whole or in part from the City Treasury is directly or indirectly interested in this bid, or in the supplies, materials, equipment, work or labor to which it relates, or in any of the profits thereof
  - (e) That said bidder is not is not in arrears to the City of New York upon any debt or contract and is not a defaulter, as surety or otherwise, upon any obligation to the City of New York, and has not been declared not responsible, or disqualified, by any agency of the City of New York, of State of New York, nor is there any proceeding pending relating to the responsibility or qualification of the bidder to receive public contracts except:

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(if none, bidder will insert ("none"))

3. That the said bidder has inspected the site where the services are to be performed and is satisfied as to all general and local conditions that may affect the cost of performance of the contract.
4. Said bidder is not in arrears in the City of New York upon any debt, contract or taxes and is not a defaulter, as surety or otherwise, upon obligation to the City of New York, and has not been declared not responsible, or disqualified, by any agency of the City of New York, nor is there any proceeding pending relating to the responsibility or qualification of the bidder to receive public contracts except

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Bidder shall indicate Tax Identification Number on Bid.

5. That the bidder has examined all parts of this Proposal for Bid, including but not limited to the Agreement and the terms and conditions thereof; and if the bid is accepted as submitted, the bidder shall execute the Agreement as set forth herein.

Contract for Purchasing of Absentee Ballot Boxes for Board of Elections

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6. That the bidder certifies that it is duly licensed to do business in the City of New York and holds or agrees to obtain all necessary permits required by law or regulation for the performance of the contract.

7. The bidder, executes this document expressly warranting and representing that should this bid be accepted by the City and the contract awarded to it, the bidder and its sub-contractors engaged in this performance of the contract: (1) will comply with the provisions of Section 343-9.0 of the Administrative Code of the City of New York in relation to minimum wages and other stipulations and the rules and regulations of the Board of Estimate adopted pursuant thereto as more expressly and in detail set forth in the contract form.

In the event of breach or violation of any of the foregoing, the bidder may be subject to damages, liquidation or otherwise, cancellation of the contract and suspension as a bidder for a period of three (3) years.

8. The bidder, (1) represents that its attention has been specifically drawn to the Equal Employment Provisions of the Contract Agreement, and (2) warrants that it will comply with all the terms and provisions prescribed therein.

9. The bidder executes this document expressly warranting and representing that should this bid be accepted and the contract awarded to the bidder, the bidder and its sub-contractors engaged in the performance (1) will comply with the provisions of Section 343-8.0 of the Administrative Code of the City of New York and the non-discrimination provisions of the Section 220 and 239 of the New York Labor Law as more expressly and in detail set forth in the contract form: and (2) will post notices to be furnished by the City, setting forth the requirements of the aforesaid law in prominent and conspicuous places in each and every plant, factory, building and structure where employees engaged in the performance of the contract can readily view it, and will continue to keep such notices posted until supplies materials and equipment, or work, labor and services required by the Contractor have been finally accepted by the City.

10. The names and addresses of all persons interested in this bid are as follows:

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11. This bid is made without any connection with any other person making a bid for the same purpose and is in all respects fair and without collusion or fraud.

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12. My name, residence, and place of business are as follows:

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13. The bidder agrees that if this bid or any part of it is accepted, it will within ten days after receipt of notice of award, furnish such performance bond, payment bond, and executed copies of insurance policies as may be required, execute the agreement set forth in the invitation for bids, and will proceed, when directed to do so, with the work required hereunder in strict compliance with the terms and conditions set forth in the invitation for bids at the unit prices set forth in its bid.

14. The undersigned certifies to the truth and accuracy of all figures contained herein and authorizes the Board of Elections to make any necessary examination of the books of amount, records, and vouchers of the bidder or other investigations to determine its responsibility, or for any other reason in connection with the award and performance of the contract.

Signature

Title

Name of Bidder

Business Address

Telephone Number

Approved as to Form  
Certified as to Legal Authority



Acting Corporation Counsel

6/22/23

KL

LM# 2023-027611



## **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.

