

PART II:  
GENERAL PROVISIONS GOVERNING CONTRACTS WITH DIRECTLY AND INDIRECTLY FUNDED CONTRACT AGENCIES  
TABLE OF CONTENTS

ARTICLE I — DEFINITIONS .....	1
ARTICLE II — PROGRAM ACTIVITY DESCRIPTIONS .....	1
ARTICLE III — FISCAL PROCEDURES.....	1
I. APPLICABLE TO DIRECTLY FUNDED CONTRACTORS .....	1
A. COOPERATION AND COMPLIANCE .....	1
B. BANK ACCOUNT .....	2
C. INITIAL ADVANCE.....	2
D. CONTRACTOR MONTHLY FINANCIAL REPORT .....	2
E. PAYROLL .....	2
F. PETTY CASH FUNDS.....	2
G. FISCAL RECORDS AND ACCOUNTS.....	2
H. TAXES.....	3
I. PURCHASE AND LEASE OF SUPPLIES, SERVICES, OR EQUIPMENT .....	3
J. INCOME GENERATING ACTIVITIES.....	3
K. LIMITATIONS ON USE OF FUNDS.....	3
L. IMPROPER USE OF FUNDS .....	4
M. RECOUPMENT OF DISALLOWANCES, IMPROPERLY INCURRED COST AND OVERPAYMENT .....	4
N. RIGHT OF INSPECTION .....	4
O. AMENDMENTS AND MODIFICATIONS OF PROGRAM BUDGET .....	4
P. FAILURE TO EXPEND FUNDS.....	5
Q. AUDIT BY THE DEPARTMENT AND CITY.....	5
R. ELECTRONIC FUNDS TRANSFER.....	7
II. APPLICABLE TO ALL CONTRACTORS RECEIVING FUNDS THROUGH THE FISCAL AGENT.....	7
A. GENERAL .....	7
B. COOPERATION AND COMPLIANCE .....	7
C. PURCHASE AND LEASE OF SUPPLIES, SPACE, SERVICES, OR EQUIPMENT.....	7
D. INCOME GENERATING ACTIVITIES.....	7
E. PAYROLL PAYMENT .....	7
F. PETTY CASH FUND – ESTABLISHMENT, USE, REIMBURSEMENT AND LIQUIDATION .....	8
G. LIMITATIONS ON USE OF FUNDS.....	8
H. RIGHT TO INFORMATION IN THE POSSESSION OF THE FISCAL AGENT .....	9
I. RIGHT TO INSPECTION.....	9
J. AMENDMENTS AND MODIFICATIONS OF PROGRAM BUDGET.....	9
K. FAILURE TO EXPEND FUNDS.....	9
L. RECOUPMENT OF DISALLOWANCES, IMPROPERLY INCURRED COST AND OVERPAYMENT .....	9
M. AUDIT BY THE DEPARTMENT AND CITY.....	10
R. ELECTRONIC FUNDS TRANSFER.....	14
ARTICLE IV — INSURANCE .....	11
A. CENTRALIZED INSURANCE PROGRAM OPTION .....	11
B. DIRECTLY FUNDED CONTRACTORS MAY CHOOSE TO OBTAIN THEIR OWN INSURANCE.....	12
C. MOTOR VEHICLE LIABILITY INSURANCE .....	12
D. PROFESSIONAL LIABILITY INSURANCE .....	12
E. WORKER’S COMPENSATION .....	12
F. UNEMPLOYMENT INSURANCE .....	12
ARTICLE V — CONFLICT OF INTEREST .....	13
ARTICLE VI — PROCUREMENT REQUIREMENTS.....	14
ARTICLE VII — PERSONNEL PRACTICES .....	14
A. GENERAL .....	14
B. COMPENSATION OF KEY EMPLOYEES .....	14
C. FRINGE BENEFITS.....	15
D. COLLECTIVE BARGAINING.....	15
E. ANNUAL LEAVE – FOR AGENCIES UNDER FISCAL AGENT.....	15
F. NON LIABILITY OF DYCD .....	16
G. MINIMUM WAGE.....	16
H. NOTIFICATION OF APPOINTMENT OF KEY PERSONNEL .....	16

PART II:  
GENERAL PROVISIONS GOVERNING CONTRACTS WITH DIRECTLY AND INDIRECTLY FUNDED CONTRACT AGENCIES  
TABLE OF CONTENTS

I. CONSULTANTS .....	17
ARTICLE VIII — SUPPORTIVE SERVICES.....	17
B. TRAINING .....	17
C. DISCLAIMERS .....	17
D. ADEQUACY OF PROGRAM FACILITY.....	17
ARTICLE IX — DELIVERABLES, REPORTING, REVIEW INSPECTION AND RETENTION REQUIREMENTS .....	18
A. DELIVERABLES .....	18
B. MANAGEMENT INFORMATION SYSTEM (M.I.S.).....	18
C. INSPECTION RIGHTS .....	18
D. ACCESS TO RECORDS .....	18
E. INSPECTOR GENERAL REVIEWS .....	19
F. RETENTION OF RECORDS .....	19
G. OTHER GRANTS.....	19
H. PROGRAM INCOME .....	19
I. LAW SUITS.....	19
J. CONFIDENTIALITY .....	19
K. PUBLICITY .....	20
L. NO REMOVAL OF RECORDS FROM PREMISES.....	20
ARTICLE X — TERMINATION OF AGREEMENT .....	20
A. EXPIRATION OF THE CONTRACT.....	20
B. DYCD'S RIGHT TO TERMINATE .....	20
C. CONTRACTOR'S RIGHT TO TERMINATE.....	21
D. PROCEDURE UPON TERMINATION – CONTRACTOR.....	21
E. LIABILITY FOR BREACH, SET-OFF.....	21
ARTICLE XI — MISCELLANEOUS .....	22
A. COMPLIANCE WITH LAW .....	22
B. RELIGION.....	22
C. PARTICIPATION IN AN INTERNATIONAL BOYCOTT .....	22
D. UNION ACTIVITIES .....	22
E. DIRECT ACTION .....	22
F. UNLAWFUL DEMONSTRATION, RIOTING AND CIVIL DISTURBANCES.....	22
G. PUBLICATION CREDITS.....	23
H. INVENTIONS, PATENTS AND COPYRIGHTS.....	23
I. INFRINGEMENTS.....	23
J. PROCUREMENT OF AGREEMENT.....	23
K. ACTIONS .....	24
L. WAIVER.....	24
M. HOLD HARMLESS/INDEPENDENT CONTRACTOR STATUS .....	24
N. NOTICE .....	24
O. ASSIGNMENT/SUBCONTRACTING.....	25
P. MODIFICATION.....	26
Q. GOVERNING LAW .....	26
R. INVESTIGATION CLAUSE.....	26
S. DUPLICATION .....	28
T. HEADINGS .....	28
V. RESOLUTION OF DISPUTES .....	28
W. ANTI-TRUST .....	32
X. CHOICE OF LAW, CONSENT TO JURISDICTION AND VENUE .....	32
Y. ELIGIBILITY .....	33
Z. CONDITIONS PRECEDENT .....	33
AA. GENERAL RELEASE.....	33
BB. PROTECTION OF CITY PROPERTY .....	33
CC. AFFIRMATION OF RESPONSIBILITY AND PAID TAXES .....	34
DD. VENDEX QUESTIONNAIRES .....	34

PART II:  
GENERAL PROVISIONS GOVERNING CONTRACTS WITH DIRECTLY AND INDIRECTLY FUNDED CONTRACT AGENCIES  
TABLE OF CONTENTS

EE. PROCUREMENT POLICY BOARD RULES .....	34
ARTICLE XII — EQUAL EMPLOYMENT OPPORTUNITY .....	34
A. REQUIREMENTS OF EXECUTIVE ORDER NO. 50.....	34
B. NONCOMPLIANCE .....	35
C. BOARD OF RESPONSIBILITY .....	35
D. INCLUSION OF PROVISIONS IN CONTRACTS .....	35
E. NONCOMPLIANT SUBCONTRACTORS .....	35
F. FEDERAL EMPLOYMENT PRACTICES.....	36
G. AMERICANS WITH DISABILITIES ACT.....	36
H. WHERE REQUIRED BY NEW YORK STATE LABOR LAW SECTION 220-e THE CONTRACTOR AGREES: .....	36
I. WHERE REQUIRED BY NEW YORK CITY ADMINISTRATIVE CODE SECTION 6 -108 THE CONTRACTOR AGREES THAT:.....	36
ARTICLE XIII — CONSULTANT REPORT INFORMATION .....	37
ARTICLE XIV — ENTIRE AGREEMENT .....	37
ART II RIDER — A: COMPLIANCE FOR SPECIFIC PROGRAMS .....	1-a
I. APPLICABLE TO YOUTH CONTRACTS .....	
A. PROHIBITIONS .....	1-a
B. RENEWAL OF AGREEMENT.....	1-a
C. PAST PERFORMANCE.....	1-a
D. REDUCTION IN FUNDING.....	1-a
E. RESERVATION OF RIGHTS AND INTERESTS .....	1-a
F. INCIDENT REPORTING APPLICABLE TO YOUTH SERVICES CONTRACTS .....	2-a
G. BACKGROUND CHECKS .....	2-a
II. APPLICABLE TO COMMUNITY SERVICES BLOCK GRANT CONTRACTS .....	
A. ADDITIONAL RIGHTS TO TERMINATE .....	3-a
B. COMPLIANCE WITH NYS DEPARTMENT OF STATE .....	3-a
C. POLITICAL ACTIVITY .....	3-a
D. LOBBYING ACTIVITIES .....	3-a
ART II RIDER — B: VOTER REGISTRATION .....	
ARTICLE I. VOTER REGISTRATION.....	1-b
ARTICLE II.ENFORCEMENT OF ARTICLE I.....	3-b
ART II RIDER — C: MACBRIDE PRINCIPLES, PROVISIONS FOR NEW YORK CITY CONTRACTORS .....	
ARTICLE I.....	1-c
ARTICLE II. ENFORCEMENT OF ARTICLE I.....	2-c
ART II RIDER — D: PROGRAM ACTIVITY DESCRIPTIONS .....	

PART II:

GENERAL PROVISIONS GOVERNING CONTRACTS WITH DIRECTLY AND INDIRECTLY FUNDED CONTRACT AGENCIES

**PART II: GENERAL PROVISIONS GOVERNING CONTRACTS WITH DIRECTLY AND INDIRECTLY FUNDED CONTRACT AGENCIES**

**ARTICLE I — 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, its departments and political subdivisions.
- B. "Comptroller" shall mean the Comptroller of the City of New York.
- C. "Department" or "DYCD" shall mean the Department of Youth and Community Development including its constituent departments.
- D. "Commissioner" shall mean the Commissioner of the Department of Youth and Community Development or duly authorized representative. The term "duly authorized representative" shall include any person or persons acting within the limits of his/her authority.
- E. "Law" or "Laws" shall include, but not be limited to the laws of the State of New York, the New York City Charter, the New York City Administrative Code, a local law of the City of New York, and any ordinance, rule or regulation having the force of law.
- F. "Board of Directors" or "Board" means the board of directors, board of trustees or a similar body vested with the duty and responsibility for management and oversight of Contractor's affairs as they relate to its performance under this Agreement.
- G. "Contract Agency," "Contractor" or CBO shall refer to the entity providing activities and services funded under this Agreement.
- H. "Fiscal Agent" shall mean the entity contracted by DYCD to assist in the administration of the Fiscal Affairs of DYCD contractors.

**ARTICLE II — PROGRAM ACTIVITY DESCRIPTIONS**

Contractor shall provide the services and activities in program areas or programs listed and described in the Workscope (or "Work Program") attached hereto, and in accordance with the descriptions set forth in the Program Activities Descriptions rider to this Part II.

**ARTICLE III — FISCAL PROCEDURES**

**I. APPLICABLE TO DIRECTLY FUNDED CONTRACTORS**

**A. COOPERATION AND COMPLIANCE**

Contractor hereby agrees to fully cooperate and comply with the New York City Department of Youth and Community Development (DYCD) directives and guidelines on all fiscal matters related to this Agreement.

PART II:

GENERAL PROVISIONS GOVERNING CONTRACTS WITH DIRECTLY AND INDIRECTLY FUNDED CONTRACT AGENCIES

**B. BANK ACCOUNT**

1. Contractor shall establish and maintain a separate bank account for the funds obligated through each budget for this Agreement and identify each one by separate budget identification number.
2. If interest bearing depository accounts are used, then all earnings from such funds must be apportioned to the applicable program as a reduction of program costs.

**C. INITIAL ADVANCE**

1. The amount of any initial advance to be paid to Contractor under this Agreement shall be determined solely by DYCD in accordance with the comptroller's directives.
2. The initial advance shall be deposited in the bank account maintained pursuant to Section I, B of this Article III. The funds shall be used exclusively for the payment of expenditures and obligations authorized by and properly incurred pursuant to the Budget attached hereto.

**D. CONTRACTOR MONTHLY FINANCIAL REPORT**

1. Contractor shall submit monthly to DYCD a Monthly Financial Report in the form and manner required by DYCD.
2. Contractor shall retain with its copy of each Monthly Financial Report proper and sufficient evidence, voucher, bills and receipts showing the propriety of all expenditures. These supporting documents shall be made available for inspection and reproduction by DYCD, the City Comptroller, and such other persons as authorized by DYCD, including the Inspector General for DYCD and the Department of Investigation.
3. Contractor acknowledges that repeated failure to submit its Monthly Financial Report(s) within the time limits imposed by DYCD may result in termination of its contract.

**E. PAYROLL**

Contractor shall be responsible for maintaining signed time and attendance reports for each staff member and consultant to be compensated with funds received under this Agreement. Contractor shall be solely responsible for payment of its staff.

**F. PETTY CASH FUNDS**

1. Contractor may maintain a petty cash fund of up to \$200 for paying expenses in the categories of "local travel," "local telephone," "programmatic supplies" and "postage" as prescribed in the fiscal manual. Petty cash may be used for purchases of up to \$100 per purchase.
2. Contractor shall maintain records of all transactions involving petty cash funds, specifically itemizing the expenditures by the four (4) categories described in sub-section 1 of this Section F.

**G. FISCAL RECORDS AND ACCOUNTS**

Contractor shall establish and maintain, in compliance with applicable Federal, State and City regulations and DYCD directives and guidelines, records and accounts relating to this Agreement which shall include, but not be limited to, property and personnel records, cash receipts and disbursements, journals, and general and subsidiary ledgers.

PART II:

GENERAL PROVISIONS GOVERNING CONTRACTS WITH DIRECTLY AND INDIRECTLY FUNDED CONTRACT AGENCIES

**H. TAXES**

Contractor shall be solely responsible for withholding all payroll taxes applicable to its employees and for timely filing of the appropriate payroll tax form(s) and payment of the required payroll taxes applicable to its employees.

**I. PURCHASE AND LEASE OF SUPPLIES, SERVICES, OR EQUIPMENT**

1. Contractor hereby agrees to abide by the purchasing procedures, guidelines and regulations set forth in the DYCD CBO Fiscal Manual applicable to directly funded Contract Agencies. Contractor shall be advised of any changes made in the above procedures, guidelines and regulations and agrees to be bound thereby.
2. DYCD will not reimburse payments for purchases of services and/or supplies made by Contractor outside of the stipulated procedure.
3. For the purpose of this Agreement, title to all property acquired with funds received under this Agreement shall be in the City of New York and such property shall not be disposed of without the written approval of DYCD. Contractor hereby represents that it will properly maintain and keep in good repair all equipment so acquired. Upon termination or conclusion of this Agreement, all property purchased with funds provided hereunder shall be returned to DYCD or disposed of in the manner in which DYCD directs.
4. Contractor, without recourse to the City or DYCD, shall be responsible for the settlement and satisfaction of all contractual obligations and administrative issues arising out of procurement made or leasing contracts paid with funds received under this Agreement.

**J. INCOME GENERATING ACTIVITIES**

Contractor shall report to DYCD all program activities it engages in which result in income to Contractor, in accordance with Article IX (H) and in compliance with the CBO Fiscal Manual.

**K. LIMITATIONS ON USE OF FUNDS**

No contract funds shall be spent for any of the following:

1. Any expense not necessarily and properly incurred in accordance with the Program Operating Plan and the appropriate budget period of this Agreement.
2. Purchase or improvement of real property, unless authorized by DYCD.
3. Cost of meals for employees except during travel as a travel expense to the extent allowed by paragraph (6) of this Section K.
4. Payment to any profit-making firm, company, association, corporation, or organization in which a member of the Board of Directors of Contractor or a member of his immediate family has any ownership or control or financial interest resulting from employment or the rendering of services. For the purposes of this paragraph 4, "ownership" means ownership of more than three percent (3%) of the assets, stocks, bonds, or other dividend or interest-bearing securities, "control" means serving as a member of the board of directors or other governing body, or serving as an officer. "Immediate family" may include but is not limited to spouse, parents\*, siblings\*, in-laws, or other members of one's household. (\*Natural, foster or step).

PART II:

GENERAL PROVISIONS GOVERNING CONTRACTS WITH DIRECTLY AND INDIRECTLY FUNDED CONTRACT AGENCIES

5. Payment to any member of Contractor's board of directors of any fee, remuneration, salary, stipend or other payment from funds received under this Agreement unless approved in writing by DYCD.
6. Any expense incurred for travel in excess of travel expenses allowable under the rules and regulations governing travel for employees of the City of New York.
7. Any expense that violates any other provision of this Agreement or that is prohibited by federal, state, or local laws, or the rules and regulations promulgated thereunder.
8. Any expense not directly related to Contractor's delivery of the services and activities as set forth in herein in Part I and in the Workscope.

**L. IMPROPER USE OF FUNDS**

Any cost found to be improperly incurred by DYCD, the City, or any auditing entity that examines the fiscal records of the agency shall be subject to reimbursement to the City. Failure to make said reimbursement shall be grounds for termination of this Agreement.

**M. RECOUPMENT OF DISALLOWANCES, IMPROPERLY INCURRED COST AND OVERPAYMENT**

The Department may, at its option, withhold for the purposes of set-off any monies due to Contractor under this Agreement up to the Amount of any disallowance or improperly incurred billing resulting from any audits of Contractor or to the amount of any overpayment to Contractor with regard to this Agreement or any other Agreement between the parties hereto, including any Agreement for the term commencing prior to the commencement date of this Agreement.

**N. RIGHT OF INSPECTION**

Upon reasonable request, DYCD shall have the right to inspect any fiscal documents relating to this Agreement, including bank statements, cancelled checks, invoices, receipts, payroll reports, ledgers, book of account, tax returns, and audit reports.

**O. AMENDMENTS AND MODIFICATIONS OF PROGRAM BUDGET**

1. This Agreement shall not obligate DYCD beyond the dollar amount designated as the maximum contract amount in Part I of this Agreement regardless of any unanticipated price increases or expenses that might occur.
2. DYCD may require Contractor to increase or reduce the scope of services as set forth in the Workscope and may amend this Agreement and modify the budget consistent with the change. Any such changes shall be subject to any governmental approval, which may be required.
3. Contractor may submit to DYCD, on forms to be supplied by DYCD, a request for a modification of its budget for this Agreement. Contractor shall not put into effect the budget modification unless it is approved in writing by DYCD and has received all governmental approvals, which may be required.
4. DYCD shall have the right to reduce the budget if there is a reduction, in whole or in part, of a grant pursuant to which this Agreement is funded or as a result of an administrative determination, court order, judgment, or legal settlement.

PART II:

GENERAL PROVISIONS GOVERNING CONTRACTS WITH DIRECTLY AND INDIRECTLY FUNDED CONTRACT AGENCIES

**P. FAILURE TO EXPEND FUNDS**

If Contractor fails to expend funds for any part of the budget within the time indicated therein or at the level of expenditures indicated therein, DYCD reserves the right to reduce the budget by the amount not expended.

**Q. AUDIT BY THE DEPARTMENT AND CITY**

1. All vouchers or invoices processed for payment hereunder, and the books, records and accounts upon which said vouchers or invoices are based, are subject to audit by the 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 Administrative Code of the City of New York, as well as all orders and regulations promulgated pursuant thereto.
2. 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.
3. All books, vouchers, records, reports, cancelled checks, and any and all similar material related to this contract and the work thereunder 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 including the Department's Office of the Inspector General. Such audit may include examination, review and copying of the source and application of all funds whether from the City, State, the Federal Government, private sources or otherwise.
4. Contractor shall not be entitled to final payment under the Agreement until all requirements have been satisfactorily met.
5. The fiscal records of Contractor under this Agreement shall be examined by the Department at such times as the Department considers necessary.
6. If any auditor performing an audit of Contractor's records shall issue a Disclaimer of Opinion relating to any contract with DYCD or other funding sources, said Disclaimer shall be ground for termination of this Agreement.
7. Contractor shall be subject to an A-133 Audit if it receives an aggregate of \$500,000 or more in Federal funds during the contract year. Audits are conducted annually. The figures may change, but the following rules apply:

<b>Total Federal Awards</b>	<b>One Program</b>	<b>More Than One Program</b>
\$0 - \$499,999	No Audit	No Audit
\$500,000 and More	Program-Specific or A-133 Single Audit	A-133 Single Audit

8. Certified Public Accountant audits are required on all DYCD funded programs that do not fall under the A-133 guidelines. These audits must be conducted annually.
9. Recipients of DYCD grants classified **Direct-Funded** are responsible for the procurement of an audit. Audit costs may be charged to the grant award and fiscal period immediately following the fiscal period to be audited. **There is no separate appropriation for such costs.**

PART II:

GENERAL PROVISIONS GOVERNING CONTRACTS WITH DIRECTLY AND INDIRECTLY FUNDED CONTRACT AGENCIES

**R. ELECTRONIC FUNDS TRANSFER**

1. In accordance with Section 6-107.1 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, telephonic instrument or computer or magnetic tape so as to order, instruct or authorize a financial institution to debit or credit an account. Prior to the first payment made under this Agreement, Contractor shall designate one financial institution or other authorized payment agent and shall complete the attached "EFT Vendor Payment Enrollment Form" 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.
  
2. 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 imposes a hardship; (ii) for classifications or types of checks; or (iii) in other circumstances as may be necessary in the interest of the City.

PART II:

GENERAL PROVISIONS GOVERNING CONTRACTS WITH DIRECTLY AND INDIRECTLY FUNDED CONTRACT AGENCIES

**II. APPLICABLE TO ALL CONTRACTORS RECEIVING FUNDS THROUGH THE FISCAL AGENT**

**A. GENERAL**

1. DYCD has engaged a Fiscal Management Agent ("Fiscal Agent") to perform fiscal administrative services on behalf of DYCD, Community Action Program citizen participation entities and DYCD Contract Agencies in accordance with DYCD fiscal procedures and Federal, State and City audit regulations and guidelines.
2. Contractor shall have the right to require the Fiscal Agent to make payment for the purchase of such services and/or supplies made by Contractor as are necessary and proper under its budget. Contractor shall not pay any obligations on its own behalf except to the extent allowed by Section F of this Article III (Petty Cash Fund).

**B. COOPERATION AND COMPLAINTS**

Contractor hereby agrees to cooperate fully with the Fiscal Agent and to comply with DYCD directives and guidelines on all fiscal matters related to this Agreement.

**C. PURCHASE AND LEASE OF SUPPLIES, SPACE, SERVICES, OR EQUIPMENT**

1. Contractor hereby agrees to abide by the purchasing procedures, guidelines and regulations set forth in the DYCD Fiscal Operating Procedures Manual applicable to programs funded through the Fiscal Agent. Contractor shall be advised of any changes made in the above procedures, guidelines and regulations and agrees to be bound thereby.
2. DYCD shall not reimburse Contractor for payments for purchases of services and/or supplies made by Contractor outside of the stipulated procedure.
3. For the purposes of this Agreement, title to all personal property acquired with funds received under this Agreement shall be in the City of New York and such property shall not be disposed of without the written approval of DYCD. Contractor hereby represents that it will properly maintain and keep in good repair all Equipment so acquired. Upon termination or conclusion of this Agreement, all property purchase with funds provided hereunder shall be returned to DYCD or disposed of in such manner as DYCD directs.
4. Contractor shall be solely responsible for the settlement and satisfaction of all contractual obligations and administrative issues arising out of procurement made or leasing contracts paid with funds received under this Agreement.

**D. INCOME GENERATING ACTIVITIES**

Contractor shall report to DYCD all program activities it engages in which result in income to Contractor, in accordance with Article IX (H) and in compliance with the CBO Fiscal Manual.

**E. PAYROLL PAYMENT**

Contractor shall deliver to the Fiscal Agent signed and dated time and attendance records for each staff member and consultant to be paid under this Agreement. The records will be prepared in the form required and delivered at the time required by the Fiscal Agent and DYCD. The Fiscal Agent shall prepare the payroll checks and supporting materials based on the documents submitted.

PART II:

GENERAL PROVISIONS GOVERNING CONTRACTS WITH DIRECTLY AND INDIRECTLY FUNDED CONTRACT AGENCIES

**F. PETTY CASH FUND – ESTABLISHMENT, USE, REIMBURSEMENT AND LIQUIDATION**

1. Contractor is limited in its expenditure of petty cash to one hundred dollars (\$100) per single item of expenditure (restricted categories of "local travel," "local telephone," "programmatic supplies" and "postage" as prescribed in the fiscal manual.).
2. Contractor hereby agrees to abide by the petty cash fund establishment, use, reimbursement, and liquidation procedures, guidelines, and regulations set forth in the DYCD CBO Fiscal Manual applicable to programs funded through the Fiscal Agent. Contractor shall be advised of any changes made in the above procedures, guidelines, and regulations and agrees to be bound thereby.
3. DYCD assumes no responsibility for petty cash transactions made by Contractor outside of the stipulated procedures.
4. Contractor shall maintain records of all transactions involving the petty cash funds, specifically itemizing the expenditures by the four cost categories described in Section F (1.). Contractor shall submit on a monthly basis to the Fiscal Agent written requests for reimbursements of the petty cash amount expended for the previous month. All requests shall be in the form directed by DYCD. Contractor shall not be entitled to petty cash reimbursement if the request is submitted to the Fiscal Agent after the last submission date stipulated by DYCD.

**G. LIMITATIONS ON USE OF FUNDS**

No contract funds shall be expended for any of the following:

1. Any expense not necessarily and properly incurred in accordance with the budget and the budget period for this Agreement.
2. Purchase or improvement of real property, unless authorized by DYCD.
3. Cost of meals for employees except during travel as a travel expense to the extent allowed by paragraph (7) of this Section G.
4. Payment to any profit-making firm, company, association, corporation, or organization in which a member of the Board of Directors of the Fiscal Agent or Contractor or a member of his immediate family has any ownership or control or financial interest resulting from employment or the rendering of services.

For the purposes of this paragraph 4, "ownership" means ownership of more than three (3) percent of the assets, stocks, bonds, or other dividend or interest-bearing securities, "control" means serving as a member of the board of directors or other governing body, or serving as an officer. "Immediate family" may include but is not limited to spouse, parent\*, children\*, siblings\*, in-laws, or other members of one's household. (\*Natural, foster or step).

5. Payment to any member of Contractor's board of directors of any fee, remuneration, salary stipend or other payment from funds received under this Agreement unless approved in writing by DYCD.
6. Any expense incurred for travel in excess of travel expenses allowable under the rules and regulations governing travel for employees of the City of New York.
7. Any expense that violates any other provision of this Agreement or that is prohibited by federal, state, or local laws, or the rules and regulations promulgated thereunder.

PART II:

GENERAL PROVISIONS GOVERNING CONTRACTS WITH DIRECTLY AND INDIRECTLY FUNDED CONTRACT AGENCIES

8. Any expense not directly related to Contractor's delivery of the services and activities as set forth in herein in Part I and in the Workslope.

**H. RIGHT TO INFORMATION IN THE POSSESSION OF THE FISCAL AGENT**

Contractor shall have the right to demand of the Fiscal Agent copies of any or all the following documents relating to the funds to be provided hereunder, with said documents to be furnished by the Fiscal Agent within a reasonable time of the request:

1. Monthly budget vs. expenditure reports;
2. Budgets and budget modifications; and
3. Audit reports, where available.

**I. RIGHT TO INSPECTION**

Upon reasonable request, Contractor shall have the right to inspect any fiscal documents relating to this Agreement, including cancelled checks, invoices, receipt, payroll reports, ledgers, and books of account.

**J. AMENDMENTS AND MODIFICATIONS OF PROGRAM BUDGET**

1. This Agreement shall not obligate DYCD beyond the dollar amount designated as the maximum contract amount in Part I of this Agreement regardless of any unanticipated price increases or expenses that might occur.
2. DYCD may require Contractor to increase or reduce the scope of services as set forth in the Workslope of this Agreement and may amend this Agreement and modify the budget consistent with the change. Any such changes shall be subject to any governmental approval, which may be required.
3. Contractor may submit to DYCD, on forms to be supplied by DYCD, a request for a modification of its budget for this Agreement. Contractor shall not put into effect the budget modification unless it is approved in writing by DYCD and has received all governmental approvals which may be required.
4. DYCD shall have the right to reduce the budget if there is a reduction, in whole or in part, of a grant pursuant to which this Agreement is funded or as a result of an administrative determination, court order, judgment or legal settlement.

**K. FAILURE TO EXPEND FUNDS**

If Contractor fails to expend funds for any part of the budget within the time indicated therein or at the level of expenditures indicated therein, DYCD reserves the right to reduce the budget by the amount not expended.

**L. RECOUPMENT OF DISALLOWANCES, IMPROPERLY INCURRED COST AND OVERPAYMENT**

The Department may, at its option, withhold for the purposes of potential set-off any monies due to Contractor under this Agreement up to the Amount of any disallowances or improperly incurred billing resulting from any audits of Contractor or to the amount of any overpayment to Contractor with regard

PART II:

GENERAL PROVISIONS GOVERNING CONTRACTS WITH DIRECTLY AND INDIRECTLY FUNDED CONTRACT AGENCIES

to this Agreement or any other Agreement between the parties hereto, including any Agreement for the term commencing prior to the commencement date of this Agreement.

**M. AUDIT BY THE DEPARTMENT AND CITY**

1. 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 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 City Charter and Administrative Code of the City of New York, as well as all orders and regulations promulgated pursuant thereto.
2. 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.
3. All books, vouchers, records, reports, cancelled checks and any all similar material related to this contract and the work thereof, 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, review and copying of the source and application of all funds whether from the City, State, the Federal Government, private sources or otherwise.
4. Contractor shall not be entitled to final payment under the Agreement until all requirements have been satisfactorily met.
5. The fiscal records of Contractor under this Agreement shall be examined by the Department at such time as the Department considers necessary.
6. If any auditor performing an audit of Contractor's records shall issue a Disclaimer of Opinion relating to any contract with DYCD or other funding sources, said Disclaimer shall be ground for termination of this Agreement.
7. Contractor shall be subject to an A-133 Audit if it receives an aggregate of \$500,000 or more in Federal funds during the contract year. Audits are conducted annually. The figures may change, but the following rules apply:

<b>Total Federal Awards</b>	<b>One Program</b>	<b>More Than One Program</b>
\$0 - \$499,999	No Audit	No Audit
\$500,000 and More	Program-Specific or A-133 Single Audit	A-133 Single Audit

**N. ELECTRONIC FUNDS TRANSFER**

1. In accordance with Section 6-107.1 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, telephonic

PART II:

GENERAL PROVISIONS GOVERNING CONTRACTS WITH DIRECTLY AND INDIRECTLY FUNDED CONTRACT AGENCIES

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 the attached "EFT Vendor Payment Enrollment Form" 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.

2. 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 imposes a hardship; (ii) for classifications or types of checks; or (iii) in other circumstances as may be necessary in the interest of the City.

**ARTICLE IV — INSURANCE**

**A. CENTRALIZED INSURANCE PROGRAM OPTION**

1. Participation in the Mayor's Office of Operations sponsored commercial comprehensive general liability insurance plan for bodily injury and property damage, and a centralized medical and accident insurance plan for injuries to program participants and volunteers, will satisfy Contractor's responsibility to obtain these types of insurance. DYCD may facilitate the provision of this insurance plan as a convenience for Contractor and for the protection of the City. Provision of these plans through DYCD is in no way an admission by DYCD or the City of liability for acts, omissions or negligence of Contractor or its employees.
2. DYCD reserves the right to cancel any centralized insurance plan as it deems advisable, and at such time as it deems advisable. In such event, or in the event of cancellation by the insurers, DYCD will promptly

PART II:

GENERAL PROVISIONS GOVERNING CONTRACTS WITH DIRECTLY AND INDIRECTLY FUNDED CONTRACT AGENCIES

notify Contractor, and DYCD will obtain insurance in an appropriate manner, on behalf of the contracting agency. Contractor must maintain insurance at all times during the term of this Agreement.

**B. DIRECTLY FUNDED CONTRACTORS MAY CHOOSE TO OBTAIN THEIR OWN INSURANCE**

Contractors must carry paid up Commercial General Liability insurance, in the sum of not less than one million (\$1,000,000) dollars per occurrence with a two million (\$2,000,000) aggregate minimum to protect DYCD and the City of New York against any and all claims, loss or damage, whether in contract or tort, including claims for injuries to, or death of persons, or damage to property, whether such injuries, death or damages be attributable to the statutory or common law negligence or any acts of Contractors, its employees, or otherwise. Such policy or policies of insurance shall be obtained from a company or companies that may lawfully issue the required policy/ies and have an A.M. Best rating of at least A-7 or a Standard and Poors rating of at least AA, unless prior written approval is obtained from the Mayor's Office of Operations. Such policy/ies shall name DYCD and the City of New York as additional parties insured thereunder, shall provide that in the event of cancellation thereof that DYCD shall be notified at least thirty (30) days in advance thereof, and shall provide that the carrier shall appear, defend and indemnify DYCD and the City, including the agents, servants and employees of DYCD and City, in connection with all such claims, loss or damage. Two (2) executed copies of all insurance policies shall be delivered to DYCD for approval as to form prior to the effective date of this Agreement.

**C. MOTOR VEHICLE LIABILITY INSURANCE**

If the performance of this Agreement involves the use of a motor vehicle, Contractor shall obtain motor vehicle liability insurance in amounts acceptable to the Department and which includes the Department and the City as an additional named insured parties. If the vehicles are buses, whether owned by Contractor or leased, the amount of insurance coverage must be a least five million dollars (\$5,000,000) combined bodily injury and property damage. During the performance and until the date of termination of this Agreement, Contractor or the Bus Company from which Contractor leases buses will maintain such required insurance with an insurer(s) satisfactory to the Department. Contractor will furnish the Department with Certificates of Insurance for all vehicles to be used before any program participants are transported and before any Department funds are released. This section will apply to all programs receiving Department funding, regardless of whether Department funds are used to pay for transportation costs.

**D. PROFESSIONAL LIABILITY INSURANCE**

If the Department determines that Contractor is performing services where professional liability insurance is appropriate, Contractor will carry said insurance in an amount to be determined by the Department.

**E. WORKER'S COMPENSATION**

If this Agreement be of such a character that the employees engaged thereon are required to be insured by the provisions of Chapter 615 of the Laws of 1922, known as the "**Worker's Compensation Law**" and acts amendatory thereto, the Agreement shall be void and of no effect unless Contractor shall secure compensation for the benefit of, and keep insured during the life of this Agreement such employees in compliance with the provisions of said law, inclusive of Disability Benefits.

**F. UNEMPLOYMENT INSURANCE**

If this Agreement be of such a character that the employees engaged thereon are required to be covered by unemployment insurance, then the Agreement shall be void and of no effect unless Contractor shall make arrangements for such coverage.

PART II:

GENERAL PROVISIONS GOVERNING CONTRACTS WITH DIRECTLY AND INDIRECTLY FUNDED CONTRACT AGENCIES

**ARTICLE V — CONFLICT OF INTEREST**

- A.** 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. 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 or Department, nor any person whose salary is payable, in whole or in part, from the City Treasury, shall participate in any decision relating to this Agreement which affects his personal interests or the interest of any corporation, partnership or association in which he is, directly or indirectly, interested nor shall any such person have any interest, direct or indirect, in this Agreement or in the proceeds thereof.
- B.** The names and addresses of the members of the Board of Directors of Contractor shall be delivered to the Department upon execution of this Agreement. Any changes to the makeup of the Board shall be reported to the Department within ten (10) working days of such change.
- C.** Except as provided in paragraph D below, Contractor's employees and members of their immediate families may not serve on:
1. The Board of Directors of Contractor, or
  2. Any committee with authority to order personnel actions affecting his or her job, or which, either by rule or by practice, regularly nominates, recommends or screens candidates for employment in the program.
- D.** If the Board of Directors of Contractor has more than five (5) members, then Contractor's employees may serve on:
1. The Board of Directors of Contractor, or
  2. Any committee with authority to order personnel actions affecting his or her job, or which, either by rule or by practice, regularly nominates, recommends or screens candidates for employment in the program,
- provided that (i) Contractor's employees are prohibited from voting on any such matters, including but not limited to any matters directly affecting the salary or other compensation of the employee, and shall fully disclose all conflicts and potential conflicts to the Board of Directors, and (ii) Contractor's employees may not serve in the capacity either of Chairperson or Treasurer of the Board of Directors (or equivalent titles), nor constitute more than one-third of either the Board of Directors or any such committee.
- E.** No person may hold a job or position over which a member of his immediate family exercises any supervisory, managerial or other authority whatsoever whether such authority is reflected in a job title or otherwise. A member of an immediate family includes: husband, wife, domestic partner, father, father-in-law, mother, mother-in-law, brother, brother-in-law, sister, sister-in-law, son, son-in-law, daughter, daughter-in-law, niece, nephew, aunt, uncle, first cousin, and separated spouse unless such job or position is wholly voluntary and unpaid. For purposes of this section, a member of a Board of Directors of Contractor is deemed to exercise authority over all employees of Contractor.
- F.** Contractor shall not employ a person or permit a person to serve as a member of the Board of Directors or as an Officer of Contractor if such employment or service would violate Chapter 68 of the New York City Charter
- G.** If the Contractor has contracts with the City that in the aggregate during any twelve-month period have a value of more than \$1,000,000 (One Million Dollars) and such amount constitutes more than fifty percent (50%) of the Contractor's total revenues, then the Contractor must have a minimum of five (5) persons on its Board of Directors.

PART II:

GENERAL PROVISIONS GOVERNING CONTRACTS WITH DIRECTLY AND INDIRECTLY FUNDED CONTRACT AGENCIES

**ARTICLE VI — PROCUREMENT REQUIREMENTS**

- A. Contractor shall retain proper and sufficient bills, vouchers, duplicate receipts and documentation for any payments or refunds made to or received by Contractor in connection with this Agreement.
- B. For any payment made or obligation undertaken in connection with this Agreement, three (3) written estimates must be solicited and documented for the purchase of services (including by not limited to consulting services) and equipment for amounts in excess of \$1000.00 and for security related services in excess of \$1,500.00. The above-stated amounts apply to payments made or obligations undertaken in the course of a one (1) year period with respect to one (1) person or entity. Any records must be maintained which detail the method of procurement, the basis for selection or rejection of a contractor and the basis for the contract price.
- C. Contractor agrees to make positive efforts to utilize small businesses, womens' business enterprises and minority owned businesses as sources for supplies and services.
- D. Detailed records shall be maintained as to the acquisition, use, and disposition of property, on forms acceptable to the Department.
- E. In addition, any payments made for consultant services must be pursuant to a written agreement between Contractor and the consultant, which shall contain provisions specifying the following;
  - 1. The scope of the work to be performed under the contract;
  - 2. The rate of compensation which the consultant shall receive pursuant to the contract;
  - 3. The term of the consultant agreement;
  - 4. The date or dates of the deliverables under the contract.
- F. No payment shall be made to or obligation undertaken in connection with this Agreement with (including but not limited to consulting services) (1) any person who is a relative of a director or officer or principal of Contractor, or (2) any entity that has a director, officer or principal who is a relative of the director, officer or principal of Contractor. As used herein, the term "relative" means husband, wife, father, father-in-law, mother-in-law, niece, nephew, aunt, uncle, cousin and separated spouse.

**ARTICLE VII — PERSONNEL PRACTICES**

**A. GENERAL**

- 1. The recruitment, hiring, supervision and termination of personnel whose salaries are supported with funds provided under this Agreement is the sole responsibility of Contractor.
- 2. The term "**employee**" as used in this Article shall be limited to salaried personnel and shall include neither consultants under contract to the agency to provide specified services nor participants in the program who are being paid as trainees.

**B. COMPENSATION OF KEY EMPLOYEES**

Contractor shall submit to the Department within thirty (30) days of the execution of this Agreement and at the beginning of each new fiscal year a list of key personnel which include, but not limited to all officers, directors, fiscal staff and supervisory personnel involved directly or indirectly in the performance of this Agreement. For

PART II:

GENERAL PROVISIONS GOVERNING CONTRACTS WITH DIRECTLY AND INDIRECTLY FUNDED CONTRACT AGENCIES

each such employee, provide the current salaries, all sources of their compensation, whether from this contract or another City, State, Federal or private source, and the dollar amount of compensation from each such source.

**C. FRINGE BENEFITS**

The cost of fringe benefits payable under this Agreement for those employees of Contractor who are to be compensated from funds under this Agreement cannot exceed the maximum percentage established in the DYCD Fiscal Operating Procedures Manual.

**D. COLLECTIVE BARGAINING**

Contractor hereby acknowledges that neither the City nor DYCD is responsible for any agreement into which it has entered concerning the collective bargaining rights of its employees paid by funds provided hereunder. Furthermore, Contractor agrees to abide by all applicable Federal, State and Local Laws and regulations which govern the use of community action program funds in connection with union activities.

**E. ANNUAL LEAVE – FOR AGENCIES UNDER FISCAL AGENT**

The accrual of annual and sick leave is now only prescribed for Contract Agencies funded through the fiscal agent. All other Contract Agencies shall develop their own personnel policies and procedures.

1. Contractor hereby acknowledges that during the course of the period covered by this contract, annual leave earned by any employee of Contractor whose salary is paid with funds provided under this Agreement shall be charged against this Agreement only according to the following schedule:
  - a. For employees hired before October 1, 1986: no more than twenty (20) days per twelve (12) month period.
  - b. For employees hired on or after October 1, 1986, per twelve (12) month period:

<u>Years in Service</u>	<u>Annual Leave Allowance</u>	<u>Monthly Accrual</u>
At the beginning of the employee's first year	Ten (10) work days	One (1) day per month, after first two (2) months (ten (10) days per year)
At the beginning of the employee's second year	Thirteen (13) work days	One (1) day per month plus one (1) additional day at the start of the second year (thirteen (13) days per year)
At the beginning of employee's third year	thirteen (13) work days	one (1) day per month plus one (1) additional day at the end of the third (3rd) year (thirteen (13) days per year)
At the beginning of employee's fourth year	fifteen (15) work days	1 <sup>1</sup> / <sub>4</sub> days per month (fifteen (15) days per year)
At the beginning of the employee's fifth year	twenty (20) work days	1 <sup>2</sup> / <sub>3</sub> days per month (twenty (20) days per year)

PART II:

GENERAL PROVISIONS GOVERNING CONTRACTS WITH DIRECTLY AND INDIRECTLY FUNDED CONTRACT AGENCIES

Part-time employees shall accrue annual leave on a pro-rata basis in proportion to the scheduled number of hours worked.

2. Annual leave earned during the term of this contract by any employees of Contractor whose salary is paid with funds provided under this Agreement must be exhausted during the term of this contract. Any annual and/or compensatory leave balance remaining at the end of that term shall not be carried over into the next fiscal period. Sick leave may, however, be carried over from one fiscal period to the next.
3. Contractor acknowledges that any annual leave time which has not been taken by an employee cannot be liquidated in the form of a payment unless approved in writing by DYCD.

**F. NON LIABILITY OF DYCD**

1. All employees of Contractor shall be within the employ of Contractor only, and are neither the employees of DYCD nor the City, nor under contract with DYCD or the City and Contractor alone shall be responsible for their work, direction, and their compensation. Nothing in this Agreement shall impose any liabilities, or duty on, DYCD or the City for the acts, omissions, liabilities, or obligations of Contractor or any person, firm, company, agency, association, corporation, or organization engaged by Contractor as expert consultant, independent contractor, specialist, trainee, employee, servant, or agent, or for taxes of any nature including, but not limited to, unemployment insurance, worker's compensation, disability benefits, or social security, or except as specifically provided in this Agreement to any person, firm or corporation. Without limiting the foregoing, neither DYCD nor the City shall be liable for any payment made or any obligation incurred in connection with the suspension or termination of any employee by Contractor.
2. Contractor shall be solely responsible for all physical injuries or death to its agents, servants, or employees or to any other person or damage to any property sustained during its operations and work under this Agreement resulting from any act of omission or commission or error in judgment of any of its officers, trustees, employees, agents, servants, or independent contractors and shall hold harmless and indemnify the City from liability upon any and all claims for damages on account of such injuries or death to any such person or damages to property on account of any neglect, fault or default of Contractor, its officers, trustees, employees, agents, servants or independent contractors. Contractor shall be solely responsible for the safety and protection of all its employees whether due to the negligence, fault or default of Contractor or not.
3. In the event that any claim is made or any action is brought against the City arising out of negligent or careless acts of an employee of Contractor, either within or without the scope of his employment, or arising out of Contractor's negligent 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 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.

**G. MINIMUM WAGE**

All persons, except for the employees whose minimum wage is required to be fixed pursuant to the Labor Law, employed by Contractor in the performance of this Agreement shall be paid, without subsequent deduction or rebate, unless expressly authorized by law, not less than the minimum wage as prescribed by law. Any breach or violation of the foregoing shall be deemed a breach or violation of a material provision of this Agreement.

**H. NOTIFICATION OF APPOINTMENT OF KEY PERSONNEL**

The Board of Directors of Contractor will notify the Department in writing within five (5) days of appointments to or resignations from the positions of Executive Director and Fiscal Officer. In addition, Contractor will notify

PART II:

GENERAL PROVISIONS GOVERNING CONTRACTS WITH DIRECTLY AND INDIRECTLY FUNDED CONTRACT AGENCIES

the Department in writing, within ten (10) days of the occurrence, of any change in the individuals who serve as directors and officers of Contractor.

**I. CONSULTANTS**

For any consultant service obtained by Contractor, the payment for which is to be made with Department funds, Contractor shall obtain the prior written approval of the Department and provide, within ten (10) days of its procurement of such services, an executed copy of a consultant's contract or agreement and one copy of all resumes or other documentation evidencing the consultant's capacity in providing the contracted services.

**ARTICLE VIII — SUPPORTIVE SERVICES**

**A. TECHNICAL ASSISTANCE**

When possible, DYCD or its designee may provide to Contractor technical assistance in the following areas:

1. Program planning, development, coordination and dissemination of information;
2. Preparation of reports and materials required by DYCD, and other governmental entities with jurisdiction over Contractor's activities relating to the operation of the community action program(s) funded hereunder;
3. Compliance with applicable laws, regulations, guidelines and administrative memoranda; or
4. Problems or matters affecting Contractor's performance under this Agreement.

**B. TRAINING**

DYCD, or its designee, at the time of an identified need, may provide training/technical assistance to Contractor's employees and Board members, relating to the management and operation of the program funded through this Agreement.

If training and/or technical assistance is identified as a need and as a result is made available, Contractor must commit appropriate staff to participate in the specified training. Contractor will be required to implement training schedules as well as commit employees and board members to attend/participate at training sessions. Failure to do so, may negatively affect Contractor's performance rating, which could in turn lead to contract termination.

**C. DISCLAIMERS**

The technical assistance and training which DYCD, in its sole judgment, may provide to Contractor is not and shall not be construed to be a condition precedent to Contractor's obligation to operate the community action program(s) funded by this Agreement in accordance with the Workscope.

**D. ADEQUACY OF PROGRAM FACILITY**

1. Contractor warrants that the facility used for central, satellite or occasional operations, whether owned, leased, or used pursuant to an in-kind agreement or arrangement, whether permanent or temporary, shall be maintained in a condition suitable for the Agreement contained herein. DYCD shall not waive any part or portion of this Agreement, nor release any CSBG funds for payment purposes due to any failure, default, or delay occasioned by a facility mishap.

PART II:

GENERAL PROVISIONS GOVERNING CONTRACTS WITH DIRECTLY AND INDIRECTLY FUNDED CONTRACT AGENCIES

2. Contractor also warrants that it has complied with any and all City, State, Federal regulations pertaining to the operation of its particular program facility.

**ARTICLE IX — DELIVERABLES, REPORTING, REVIEW INSPECTION  
AND RETENTION REQUIREMENTS**

**A. DELIVERABLES**

Contractor shall submit deliverables at the time directed by DYCD. Deliverables shall consist of the objective evidentiary programmatic records denoted in Section D of this Article.

**B. MANAGEMENT INFORMATION SYSTEM (M.I.S.)**

Contractor shall prepare the monthly MIS reports in the form and manner required by DYCD and submit them at the time directed to DYCD. Administrative changes in the MIS process shall affect Contractor only upon written notice from DYCD, and only after Contractor has been provided with a reasonable opportunity to obtain appropriate forms.

**C. INSPECTION RIGHTS**

Contractor shall permit DYCD and its authorized representatives including the Department's Inspector General, the Comptroller of the City of New York, the New York City Department of Investigation, or other interested City, State or Federal agencies or their designees to attend all meetings of the Board of Directors and to be present at the program site(s) to observe the work and activities being performed in connection with this Agreement.

**D. ACCESS TO RECORDS**

Contractor shall make available to DYCD and its authorized representatives, including the Department's Inspector General, the Comptroller of the City of New York, the New York City Department of Investigation, or other interested City, State and Federal agencies or their designees, for review audit inspection and copying, upon reasonable notice, subject to the provisions of Section E below, the following:

1. All programmatic records and accounts maintained in connection with this Agreement, whether or not specially named herein;
2. All fiscal books, records and accounts reflecting payments made by Contractor for petty cash expenditures;
3. All books, records, documents and other evidence and accounting procedures and practices which sufficiently and properly reflect all direct and indirect cost of any nature expended in the performance of this Agreement.
4. All minutes and dated signed attendance sheets for meetings of the board of directors and other component committees responsible for the oversight of the program(s) funded under this Agreement;
5. All program, research and other reports and publications prepared in connection with this Agreement;
6. All contracts to which Contractor is a party and the contract terms coincide, in whole or in part, with the term of this Agreement;

PART II:

GENERAL PROVISIONS GOVERNING CONTRACTS WITH DIRECTLY AND INDIRECTLY FUNDED CONTRACT AGENCIES

7. Any other records or materials reasonably requested at such reasonable times and places and as often as may be reasonably requested.

**E. INSPECTOR GENERAL REVIEWS**

Notwithstanding any provision herein regarding notice of inspections, all records of Contractor kept pursuant to this Agreement shall be subject to immediate inspection, review and copying by the Department's Office of the Inspector General without notice.

**F. RETENTION OF RECORDS**

Contractor agrees to retain all books, records, and other documents relating to this Agreement for six (6) years after final payment or termination of this Agreement, date of this Agreement, whichever is later. City, State and Federal Auditors and any other person duly authorized by the Department, including the Department's Inspector General shall have full access to and the right to examine and copy any of said materials during said period.

**G. OTHER GRANTS**

1. Contractor shall report in writing to DYCD within ten (10) days from the date it first is notified of all grants, commitments or funds to be received during the term of this Agreement without regard to source, for the operation of a program or activity other than the grant of funds received pursuant to this Agreement.
2. Contractor shall provide DYCD, upon request, with access to all fiscal books, records and accounts reflecting expenditures made pursuant to all grants received from sources other than DYCD during the course of the contract period.

**H. PROGRAM INCOME**

Contractor shall promptly report to DYCD, in writing, any activity it intends to conduct during the term of this Agreement which will result in program income. Contractor shall also maintain records of any program income earned from any activity, solicitation or operation supported by funds received under this Agreement. The records shall reflect the amount earned and the activity, solicitation or operation engaged in by which Contractor earned the program income reported. Program income shall include, but not be limited to, income earned from service fees, sale of commodities, usage or rental fees and royalties on patents and copyrights. **Failure to comply with this Section** shall constitute a material breach of this Agreement and subject this Agreement to termination pursuant to Article X herein below.

**I. LAW SUITS**

Contractor shall report in writing to DYCD the initiation by or against Contractor of any legal or administrative action or proceeding related to or affecting this Agreement within three (3) days from the date Contractor first acquires knowledge of such an action or proceeding.

**J. CONFIDENTIALITY**

All of the reports, information or data, furnished to or prepared, assembled or used by Contractor under this Agreement are to be held confidential, and Contractor agrees that the same shall not be made available to any individual or organization without the prior written approval of the Department. This clause shall survive termination of or cessation of, the services required by this Agreement.

PART II:

GENERAL PROVISIONS GOVERNING CONTRACTS WITH DIRECTLY AND INDIRECTLY FUNDED CONTRACT AGENCIES

**K. PUBLICITY**

1. The prior written approval of the Department is required before Contractor or any of its employees, servants, agents, or independent contractors may, at any time, either during or after completion or termination of this Agreement, make any statement to the press or issue any material for publication through any media of communication bearing on the work performed or data collected under this Agreement.
2. If 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 fee, non-exclusive and irrevocable license to reproduce, publish or otherwise use and to authorize others to use the publication.

**L. NO REMOVAL OF RECORDS FROM PREMISES**

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

**ARTICLE X — TERMINATION OF AGREEMENT**

**A. EXPIRATION OF THE CONTRACT**

Contractor understands that DYCD is under no obligation to continue its funding after the expiration of the term of this Agreement as set forth above.

**B. DYCD'S RIGHT TO TERMINATE**

1. DYCD and/or the City shall have the right to terminate this Agreement in whole or in part:
  - i. Upon failure of Contractor to fulfill in a timely and proper manner its obligations under this Agreement.
  - ii. Upon material breach of the terms and conditions of this Agreement by Contractor.
  - iii. Upon Contractor becoming insolvent.
  - iv. Upon the commencement under the Bankruptcy Act of any proceeding by or against Contractor, either voluntarily or involuntarily.
  - v. Upon attachment or other diversion of DYCD funds from the program.
  - vi. Upon any other right to terminate as may be specified in this Agreement.
  - vii. Upon termination of any grant pursuant to which this Agreement is funded in whole or in part.
  - viii. Under other circumstances which cause DYCD to determine it is in the best interest of the City to terminate this Agreement.
2. DYCD shall give Contractor written notice of any termination hereof, specifying therein the applicable provision of paragraph 1 of this Section B and the effective date thereof, which shall not be less than ten (10) working days from the date the notice is issued.

PART II:

GENERAL PROVISIONS GOVERNING CONTRACTS WITH DIRECTLY AND INDIRECTLY FUNDED CONTRACT AGENCIES

**C. CONTRACTOR'S RIGHT TO TERMINATE**

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 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 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; floods; epidemics; quarantine restrictions; strikes; freight embargoes; or any other cause beyond the reasonable control of Contractor. The determination that such failure arises out of causes beyond the control and without the fault or negligence of 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 Contractor, such termination shall be deemed to be without cause.

**D. PROCEDURE UPON TERMINATION – CONTRACTOR**

1. Upon either the receipt of the termination notice or thirty (30) days prior to the conclusion of this Agreement, Contractor shall comply with all applicable Federal, State and City regulations and with DYCD close-out procedures, which include, but are not limited to, the following:
2. Listing all bank accounts (name of bank, address, account number) which contain community action funds.
3. Promptly notifying all creditors which are being paid from the funds received under this Agreement, (e.g. landlord, utility company, suppliers) of the impending termination of community action funding.
4. Accounting for and refunding to DYCD within thirty (30) calendar days from the date of termination or conclusion of this Agreement, any unexpended petty cash funds and unexpended advances of funds provided under this Agreement.
5. Furnishing to DYCD, within (30) calendar days from the date of termination or conclusion of this Agreement an inventory of all equipment, appurtenances, and property purchased or leased with funds provided under this Agreement and carry out any DYCD directives concerning the disposition thereof.
6. Not incurring any further obligations pursuant to this Agreement beyond the termination, except that those incurred by Contractor on account of this Agreement prior to receipt of notice of termination and falling due after such date shall be paid by the Department or City in accordance with the terms of this Agreement. In no event shall the "obligation," as used herein, be construed as including any lease Agreement, oral or written, entered into between Contractor and its landlord.
7. Make available to DYCD or its designee all documents, reports and materials related to this Agreement.
8. Submit, within ninety (90) days, a final statement and request relating to the Agreement. The report shall be made by a certified public accountant or a licensed public accountant.

**E. LIABILITY FOR BREACH, SET-OFF**

Notwithstanding anything in this Agreement to the contrary, Contractor shall not be relieved by termination of liability to DYCD for damages sustained by DYCD arising out of any breach of this Agreement by Contractor, and DYCD may withhold payment to Contractor for the purpose of set-off until the exact amount of damages due DYCD is agreed upon or otherwise determined.

**ARTICLE XI — MISCELLANEOUS**

**A. COMPLIANCE WITH LAW**

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

**B. RELIGION**

1. Contractor represents and warrants that no religious worship, instruction or proselytization will be conducted as part of or in connection with the performance of this Agreement.
2. If Contractor is a church or church related organization, Contractor represents and warrants that funds received under this Agreement will be used only to support the activities and/or expenditures related to programs which are entirely non-sectarian in content and purpose.
3. Violation of this Section B is deemed a material breach of this Agreement.

**C. PARTICIPATION IN AN INTERNATIONAL BOYCOTT**

1. Contractor agrees that neither it 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 1979, as amended, or the regulations of the United States Department of Commerce promulgated thereunder.
2. Upon the final determination by the Commerce Department or any other agency of the United States as to, or conviction of Contractor or a substantially-owned affiliated company thereof, of participation in an international boycott in violation of the provisions of the Export Administration Act of 1979, as amended, or the regulations promulgated thereunder, the Comptroller may, at his option, render forfeit and void this Agreement.
3. Contractor shall comply in all respects with the provisions of Section 6-114 of the Administrative Code of the City of New York and the rules and regulations issued by the City Comptroller thereunder.

**D. UNION ACTIVITIES**

Contractor shall not utilize any funds received under this Agreement nor permit the use of equipment or facilities purchased or leased with funds received under this Agreement for any union activity.

**E. DIRECT ACTION**

Contractor warrants that neither it nor its employees or volunteers shall participate in, plan or otherwise assist in any unlawful picketing or protest or other unlawful forms of direct action while performing duties or rendering services in connection with this Agreement.

**F. UNLAWFUL DEMONSTRATION, RIOTING AND CIVIL DISTURBANCES**

Contractor agrees that it will take appropriate measures to insure that funds received under this Agreement are not employed to aid or assist in the conduct of any unlawful demonstration, rioting or civil disturbance and that persons employed in connection with the programs supported by this Agreement, including volunteers, do not initiate, participate in or otherwise assist in rioting or civil disturbance.

PART II:

GENERAL PROVISIONS GOVERNING CONTRACTS WITH DIRECTLY AND INDIRECTLY FUNDED CONTRACT AGENCIES

**G. PUBLICATION CREDITS**

If Contractor or any of its employees publishes a work dealing with the functions or operations of any program conducted pursuant to this Agreement or the result and accomplishments attained in the performance of this Agreement or of the participation of Contractor or its employees in any program, the publication shall acknowledge that the program is supported by funds granted by DYCD or the State of New York or the Federal Government or any combination of the three, and ten (10) copies of the publication shall be furnished to DYCD at no charge. DYCD shall have a royalty-free, nonexclusive, and irrevocable license to reproduce, publish or otherwise use, and to authorize others to use the publication.

**H. INVENTIONS, PATENTS AND COPYRIGHTS**

1. Any discovery or invention arising out of or developed in the course of work aided by this Agreement shall be promptly and fully reported to DYCD 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, shall be sought and how the rights in the invention or discovery, including rights under any patent issued thereon, shall be disposed of and administered, in order to protect the public interest.
2. No report, document or other data produced in whole or in part with contract funds shall be copyrighted by Contractor nor shall any notice of copyright be registered by Contractor in connection with any report, document or other data developed for the Agreement.
3. 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, the New York State Department of Children and Family Services and the City of New York 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 purposes.
4. In no case shall Sub-sections 1, 2 and 3 of this Section apply to, or prevent Contractor from, asserting or protecting its rights in any report, document or other data, or any invention which existed prior to or was developed or discovered independently from the activities directly related to this Agreement.

**I. INFRINGEMENTS**

Contractor shall be liable to the Department and hereby agrees to indemnify and hold the Department harmless for any damage or loss or expense sustained by the Department from any infringement by Contractor of any copyright, trademark or patent rights of design, systems, drawings, graphs, charts, specifications or printed matter furnished or used by Contractor in the performance of this Agreement.

**J. PROCUREMENT OF AGREEMENT**

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. 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. 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.

1. For a breach or violation of such representations or warranties, the Commissioner shall have the right to annul this Agreement without liability, entitling the City to recover all monies paid hereunder and Contractor shall not make claim for, or be entitled to recover, any sum or sums due under this Agreement. This remedy, if effected, shall not constitute the sole remedy afforded the City's right to

PART II:

GENERAL PROVISIONS GOVERNING CONTRACTS WITH DIRECTLY AND INDIRECTLY FUNDED CONTRACT AGENCIES

claim damages or refuse payment or to take any other action provided for by law or pursuant to this Agreement.

**K. ACTIONS**

1. No action at law or proceeding in equity against the City or Department shall lie or be maintained upon any claim based upon this Agreement or arising out of this Agreement or in any way connected with this Agreement unless Contractor shall have strictly complied with all requirements relating to the giving of notice and of information with respects to such claims, all as herein provided.
2. No Action shall lie or be maintained against the City or DYCD or the Fiscal Agent by Contractor for any claims based upon this Agreement unless such action shall be commenced within six (6) months after the date of filing in the Office of the City Comptroller of the certificate for the final payment hereunder, or within six (6) months of the termination or conclusion of this Agreement, or within six (6) months after the accrual of the cause of action, whichever first occurs.
3. In the event any claim is made or any action brought in any way relating to the Agreement herein, 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 Contractor.
4. The rights and remedies of the City provided in this section shall not be exclusive and are in addition to all other rights and remedies provided by law or under this Agreement.
5. 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.

**L. WAIVER**

Waiver by the Department of a breach of any provision of this Agreement shall not be deemed to be 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.

**M. HOLD HARMLESS/INDEPENDENT CONTRACTOR STATUS**

Contractor and the Department agree that Contractor is an independent contractor, and not an employee of the Department or the City of New York, and that in accordance with such status as an independent contractor, the contractor covenants and agrees that neither it nor its employees or agents will hold themselves out as, an nor claim to be, officers or employees of the City of New York, or of any department, agency or unit thereof, by reason hereof, and that they will not, by reason hereof, make any claim, demand or application to or for any right or privilege applicable to an officer or employee of the City of New York, including, but not limited to, Worker's Compensation coverage, Unemployment Insurance benefits, Social Security coverage or employee retirement membership or credit.

**N. NOTICE**

Contractor and the Department hereby designate the business addresses herein above specified 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 addresses 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 specified above. Nothing in this section shall be deemed to

PART II:

GENERAL PROVISIONS GOVERNING CONTRACTS WITH DIRECTLY AND INDIRECTLY FUNDED CONTRACT AGENCIES

serve as a waiver of any requirements for the service of notice or process in the institution of an action or proceeding as provided by law, including the Civil Practice Law and Rules.

**O. ASSIGNMENT/SUBCONTRACTING**

1. **Assignment**

- (a) Contractor shall not assign, transfer, convey, sublet or otherwise dispose of this Agreement, or of Contractor's right, title, interest obligations or duties herein, in whole or in part or 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 Commissioner shall have been obtained. Any such assignment, transfer, conveyance, sublease or other disposition without such consent shall be void.
- (b) In the event that Contractor assign, transfers, conveys, sublets or otherwise disposes of this Agreement as specified in subdivision a, above, without the prior written consent of the Department, the Department shall be relieved and discharged from any and all liability and obligations growing out of such Agreement to Contractor, its assignees, transferees or sublease, and Contractor shall lose all monies heretofore earned under this Agreement, except so much thereof as may be required to pay Contractor's employees.
- (c) The provisions of this section shall not hinder, prevent or affect an assignment by Contractor for the benefit of its creditors made pursuant to the laws of the State of New York.
- (d) This Agreement may be assigned by the City to any corporation, agency or instrumentality having authority to accept such assignment.

2. **Subcontracting**

- (a) Contractor agrees not to enter into any subcontracts for the performance of its obligations, in whole or in part, under this Agreement without the prior written approval of the Department. Two copies of each such proposed subcontract shall be submitted to the Department with 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 Contractor;
  - (2) That nothing contained in such contract shall impair the rights of the Department;
  - (3) That nothing contained therein, or in the Agreement between the Department and 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 provisions set forth in the Agreement between the Department and Contractor.
- (c) 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.

PART II:

GENERAL PROVISIONS GOVERNING CONTRACTS WITH DIRECTLY AND INDIRECTLY FUNDED CONTRACT AGENCIES

- (e) Contractor shall not in any way be relieved of any responsibility under this Agreement by any subcontract.

**P. MODIFICATION**

This Agreement may be modified by the parties in writing in a manner not materially affecting the substance hereof. It may not be altered or modified orally.

**Q. GOVERNING LAW**

All disputes arising out of this Agreement shall be governed by and construed in accordance with the laws of the State of New York.

**R. INVESTIGATION CLAUSE**

1. The parties to this Agreement agree to cooperate fully and faithfully with any investigation, audit or inquiry conducted by a State of New York (State) or City of New York (City) governmental agency or authority that is empowered directly or by designation to compel the attendance of witnesses and to examine witnesses under oath, or conducted by the Inspector General of a governmental agency that is a party in interest to the transaction, submitted bid, submitted proposal, contract, lease, permit, or license that is the subject of the investigation, audit or inquiry.
- 2(a) If any person who has been advised that his or her statement, and any information from such statement, will not be used against him or her in any subsequent criminal proceeding refuses to testify before a grand jury or other Governmental Agency or authority empowered directly or by designation to compel the attendance of witnesses and to examine witnesses under oath concerning the award of or performance under any transaction, agreement, lease, permit, contract, or license entered into with the City, the State, or any political subdivision or public authority thereof, or the Port Authority of New York and New Jersey, or any local development corporation within the City, or any public benefit corporation organized under the laws of the State of New York, or
- (b) If any person refuses to testify for a reason other than the assertion of his or her privilege against self-incrimination in an investigation, audit or inquiry conducted by a City or State governmental agency or authority empowered directly or by designation to compel the attendance of witnesses and to take testimony under oath, or by the Inspector General of the governmental agency that is a party in interest in, and is seeking testimony concerning the award of, or performance under, any transaction, agreement, lease, permit, contract, or license entered into with the City, the State, or any political subdivision thereof or any local development corporation within the City, then
- 3(a) The Commissioner or agency head whose agency is a party in interest to the transaction, submitted bid, submitted proposal, contract, lease, permit, or license shall convene a hearing, upon not less than five (5) days written notice to the parties involved to determine if any penalties should attach for the failure of a person to testify.
- (b) If any non-governmental party to the hearing requests an adjournment, the commissioner or agency head who convened the hearing may, upon granting the adjournment, suspend any contract, lease, permit, or license pending the final determination pursuant to paragraph 5 below without the City incurring any penalty or damages for delay or otherwise.
4. The penalties which may attach after a final determination by the commissioner or agency head may include but shall not exceed:

PART II:

GENERAL PROVISIONS GOVERNING CONTRACTS WITH DIRECTLY AND INDIRECTLY FUNDED CONTRACT AGENCIES

- (a) The disqualification for a period not to exceed five (5) years from the date of an adverse determination for any person, or any entity of which such person was a member at the time the testimony was sought, from submitting bids for, or transacting business with, or entering into or obtaining any contract, lease, permit or license with or from the City; and/or
  - (b) The cancellation or termination of any and all such existing City contracts, leases, permits or licenses that the refusal to testify concerns and that have not been assigned as permitted under this Agreement, nor the proceeds of which pledged, to an unaffiliated and unrelated institutional lender for fair value prior to the issuance of the notice scheduling the hearing, without the City incurring any penalty or damages on account of such cancellation or termination; monies lawfully due for goods delivered, work done, rentals, or fees accrued prior to the cancellation or termination shall be paid by the City.
5. The commissioner or agency head shall consider and address in reaching his or her determination and in assessing an appropriate penalty the factors in paragraphs (a) and (b) below. He or she may also consider, if relevant and appropriate, the criteria established in paragraphs (c) and (d) below in addition to any other information which may be relevant and appropriate:
- (a) The party's good faith endeavors or lack thereof to cooperate fully and faithfully with any governmental investigation or audit, including but not limited to the discipline, discharge, or disassociation of any person failing to testify, the production of accurate and complete books, and records, and the forthcoming testimony of all other members, agents, assignees or fiduciaries whose testimony is sought.
  - (b) The relationship of the person who refused to testify to any entity that is a party to the hearing, including, but not limited to, whether the person whose testimony is sought has an ownership interest in the entity and/or the degree of authority and responsibility the person has within the entity.
  - (c) The nexus of the testimony sought to the subject entity and its contracts, leases, permits or licenses with the City.
  - (d) The effect a penalty may have on an unaffiliated and unrelated party or entity that has a significant interest in an entity subject to penalties under paragraph 4 above, provided that the party or entity has given actual notice to the commissioner, or agency head upon the acquisition of the interest, or at the hearing called for in paragraph 3(a) above gives notice and proves that such interest was previously acquired. Under either circumstance the party or entity must present evidence at the hearing demonstrating the potential adverse impact a penalty will have on such person or entity.
- 6.
- (a) The term "license" or "permit" as used herein shall be defined as a license, permit, franchise or concession not granted as a matter of right.
  - (b) The term "person" as used herein shall be defined as any natural person doing business alone or associated with another person or entity as a partner, director, officer, principal or employee.
  - (c) The term "entity" as used herein shall be defined as any firm, partnership, corporation, association, or person that receives monies, benefits, licenses, leases, or permits from or through the City or otherwise transacts business with the City.
  - (d) The term "member" as used herein shall be defined as any person associated with another person or entity as a partner, director, officer, principal or employee.

PART II:

GENERAL PROVISIONS GOVERNING CONTRACTS WITH DIRECTLY AND INDIRECTLY FUNDED CONTRACT AGENCIES

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

**S. DUPLICATION**

Contractor represents and warrants that the work to be performed under this Agreement shall in no way duplicate any work performed under other agreements between the City and Contractor. Non compliance with this Section "S" shall constitute a material breach of this Agreement.

**T. HEADINGS**

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

**V. RESOLUTION OF DISPUTES**

1. Except as provided in 1(a) and 1(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.**

PART II:

GENERAL PROVISIONS GOVERNING CONTRACTS WITH DIRECTLY AND INDIRECTLY FUNDED CONTRACT AGENCIES

- (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.

PART II:

GENERAL PROVISIONS GOVERNING CONTRACTS WITH DIRECTLY AND INDIRECTLY FUNDED CONTRACT AGENCIES

- (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.
  - (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

PART II:

GENERAL PROVISIONS GOVERNING CONTRACTS WITH DIRECTLY AND INDIRECTLY FUNDED CONTRACT AGENCIES

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.

PART II:

GENERAL PROVISIONS GOVERNING CONTRACTS WITH DIRECTLY AND INDIRECTLY FUNDED CONTRACT AGENCIES

(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.

8. 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..

**W. ANTI-TRUST**

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

**X. CHOICE OF LAW, CONSENT TO JURISDICTION AND VENUE**

This Agreement shall be deemed to be executed in the City of New York, State of New York, regardless of the domicile of 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") located in the City and County of New York. To effect this Agreement and intent, Contractor agrees:

- (a) If the City initiates any action against Contractor in Federal Court or in New York State Court, service of process may be made on Contractor either in person, wherever such Contractor may be found, or by registered mail addressed to Contractor at its address as set forth in this Agreement, or to such other address as Contractor may provide to the City in writing; and
- (b) With respect to any action between the City and Contractor in New York State Court, 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 Court outside New York County.
- (c) With respect to any action between the City and Contractor in Federal Court located in New York City, 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 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, 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, Contractor shall consent to dismiss such action, without prejudice and may thereafter re-institute the action in a court of competent jurisdiction in New York City.

If any provision(s) of this Article is(are) held unenforceable for any reason, each and all other provision(s) shall nevertheless remain in full force and effect.

PART II:

GENERAL PROVISIONS GOVERNING CONTRACTS WITH DIRECTLY AND INDIRECTLY FUNDED CONTRACT AGENCIES

**Y. ELIGIBILITY**

Contractor represents and warrants that it has complied and continues to comply with the eligibility requirements set out in the Request for Proposals under which it bid for and was awarded this contract. Any change in the eligibility compliance information supplied in Contractor's contract proposal must be reported to DYCD within a reasonable time thereof. Failure to do so will be deemed a material breach of this Agreement and could result in contract termination.

**Z. CONDITIONS PRECEDENT**

This contract shall neither be binding nor effective unless:

- (a) 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
- (b) 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; and
- (c) Approved by the New York State Financial Control Board (Board) pursuant to the New York State Financial Emergency Act for the City of New York, as amended, (the "Act"), in the event regulations of the Board pursuant to the Act require such approval.
- (d) It has been authorized by the Mayor and the Comptroller shall have endorsed his certificate that there remains unexpended and unapplied a balance of the appropriation of funds applicable thereto sufficient to pay the estimated expense of carrying out this Agreement.

The requirements of this section of the contract shall be in addition to, and not in lieu of, approval or authorization otherwise required for this contract to be effective and for the expenditure of City funds.

**AA. GENERAL RELEASE**

The acceptance by Contractor or its assignees of the final payment under this contract, 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 Contractor arising out of the performance of this contract.

**BB. PROTECTION OF CITY PROPERTY**

- 1. Contractor assumes of 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 Contractor, its officers, managerial personnel and employees, or any person, firm, company agent or others engaged by Contractor as expert, consultant, specialist or subcontractor hereunder.
- 2. In the event that any such City property is lost or damaged, except for normal wear and tear, 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.
- 3. Contractor agrees to indemnify the City and hold it harmless from any and all liability or claim for damages due to any such loss or damage to any such City property described in subsection 1 above.
- 4. 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.

PART II:

GENERAL PROVISIONS GOVERNING CONTRACTS WITH DIRECTLY AND INDIRECTLY FUNDED CONTRACT AGENCIES

**CC. AFFIRMATION OF RESPONSIBILITY AND PAID TAXES**

Contractor affirms and declares that it 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 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, nor is there any proceeding pending relating to the responsibility or qualification of Contractor to receive public contracts, except as otherwise stated in the affirmation pertaining to the foregoing which has been furnished to the Department.

**DD. VENDEX QUESTIONNAIRES**

Where a contractor or subcontractor becomes obligated to submit information required by this subdivision by reason of having been awarded a contract or subcontract, the value of which, when aggregated with the value of all other contracts or subcontracts awarded to that contractor or subcontractor during the immediately preceding twelve-month period, is valued at one hundred thousand dollars (\$100,000) or more, such information shall be submitted no later than thirty days after registration of the contract which resulted in the obligation to submit such information. A contractor or subcontractor who fails to provide such information as required by this paragraph shall be ineligible to bid or propose on a contract or subcontract until such information is provided and shall be subject to such other penalties as may be prescribed by Rule of the Procurement Policy Board, where applicable, or any rule of the council relating to procurement. Contractor understands that the Department's reliance upon the veracity of the information stated therein is a material condition to the execution of the Agreement. Contractor further states that the information stated therein is in no respect misleading.

In the event any responses to the Vendex Questionnaire change in any material respect, Contractor shall promptly furnish the Department with a sworn statement setting forth the nature of such changes. This contract shall be a nullity until Contractor complies with all the requirements set forth in the Vendex Questionnaires to the satisfaction of the Department.

**EE. PROCUREMENT POLICY BOARD RULES**

This contract is subject to the Rules of the Procurement Policy Board of the City of New York effective August 1, 1990, as amended. In the event of a conflict between said Rules and a provision of this contract; the Rules shall take precedence.

**ARTICLE XII — EQUAL EMPLOYMENT OPPORTUNITY**

**A. REQUIREMENTS OF EXECUTIVE ORDER NO. 50**

This Agreement is subject to the requirements of Executive Order No. 50 (April 25, 1980) ("E.O. 50") as revised and the Rules and Regulations promulgated thereunder. No contract will be awarded unless and until these requirements have been complied with in their entirety. By signing this Agreement, Contractor agrees that it:

1. Will not engage in any unlawful discrimination against any employee or applicant for employment because of race, creed, color, national origin, sex, age, disability, marital status or sexual orientation with respect to all employment decisions including, but not limited to, recruitment, hiring, upgrading, demotion, downgrading, transfer, training, rates of pay or other forms of compensation, layoff, termination, and all other terms and conditions of employment;
2. Contractor agrees that when it subcontracts it will not engage in any unlawful discrimination in the selection of subcontractors on the basis of the owner's race, color, creed, national origin, sex age, disability, marital status or sexual orientation;

PART II:

GENERAL PROVISIONS GOVERNING CONTRACTS WITH DIRECTLY AND INDIRECTLY FUNDED CONTRACT AGENCIES

3. Will state in all solicitations or advertisements for employees placed by or on behalf of the contractor that all qualified applicants will receive consideration for employment without unlawful discrimination based on race, creed, color, national origin, sex, age, disability, marital status or sexual orientation, or that it is an equal employment opportunity employer;
4. Will send to each labor organization or representative of workers with which it has a collective bargaining agreement or other contract or memorandum of understanding, written notification of its equal employment opportunity commitments under E.O. 50 and the rules and regulations promulgated thereunder; and
5. Will furnish all information and reports including an Employment Report before the award of the contract which are required by E.O. 50, the rules and regulations promulgated thereunder, and orders of the Director of the Division of Labor Services ("Division"), and will permit access to its books, records and accounts by the Division for the purposes of investigation to ascertain compliance with such rules, regulations, and orders.

**B. NONCOMPLIANCE**

Contractor understands that in the event of its noncompliance with the nondiscrimination clauses of this Agreement or with any of such rules, regulations or orders, such noncompliance shall constitute a material breach of the Agreement and Non-compliance with E.O. 50 and the rules and regulations promulgated thereunder. After a hearing held pursuant to the rules of the Division, the Director may direct the imposition by the contracting agency head of any or all of the following sanctions:

1. Disapproval of Contractor
2. Suspension or termination of the Agreement
3. Declaration of Contractor's default; or
4. In lieu of any of the foregoing sanctions, the Director may impose an employment program.

**C. BOARD OF RESPONSIBILITY**

The Director of the Office may recommend to the contracting agency head that a Board of Responsibility be convened for purposes of declaring a contractor who has repeatedly failed to comply with E.O. 50 and the rules and regulations promulgated thereunder to be non-responsible.

**D. INCLUSION OF PROVISIONS IN CONTRACTS**

Contractor agrees to include the provisions of the foregoing paragraphs in every subcontract or purchase order in excess of \$50,000 to which it becomes a party unless exempted by E.O. 50 and the rules and regulations promulgated thereunder, so that such provisions will be binding upon each subcontractor or vendor. Contractor will take such action with respect to any subcontract or purchase order as may be directed by the Director of the Division of Labor Services as a means of enforcing such provisions including sanctions for noncompliance.

**E. NONCOMPLIANT SUBCONTRACTORS**

Contractor further agrees that it will refrain from entering into any contract or contract modification subject to E.O. 50 and the rules and regulations promulgated thereunder with a subcontractor who is not in compliance with the requirements of E.O. 50 and the rules and regulations promulgated thereunder.

PART II:

GENERAL PROVISIONS GOVERNING CONTRACTS WITH DIRECTLY AND INDIRECTLY FUNDED CONTRACT AGENCIES

**F. 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 promulgated thereunder.

**G. AMERICANS WITH DISABILITIES ACT**

This Agreement is subject to the provisions of Subtitle A of title II of the Americans with Disabilities Act of 1990, 42 U.S.C. 12132 (“ADA”) and regulations promulgated pursuant thereto, see CFR Part 35. Contractor shall not discriminate against an individual with a disability, as defined in the ADA, in providing services, programs or activities pursuant to this Agreement.

**H. WHERE REQUIRED BY NEW YORK STATE LABOR LAW SECTION 220-E THE CONTRACTOR AGREES:**

1. That in the hiring of employees for the performance of work under this Agreement or any subcontract hereunder, neither the contractor, subcontractor, nor any person acting on behalf of such Contractor or subcontractor shall by reason of race, creed, color, sex or national origin discriminate against any citizen of the State of New York who is qualified and available to perform the work to which the employment relates;
2. That neither Contractor, subcontractor, nor any person on behalf thereof shall, in any manner, discriminate against or intimidate any employee hired for the performance of work under this Agreement on account of race, creed, color, sex or national origin;
3. That there may be deducted from the amount payable to Contractor by the City under the Agreement a penalty of five dollars for each person for each calendar day during which such person was discriminated against or intimidated in violation of the provisions of this Agreement; and
4. That this Agreement may be cancelled or terminated by the City and all moneys due or to become due hereunder may be forfeited, for a second or any subsequent violation of the terms or conditions of this section of the Agreement.
5. The aforesaid provisions of this section covering every contract for or on behalf of the State or a municipality for the manufacture, sale or distribution of materials, equipment or supplies shall be limited to operations performed within the territorial limits of the State of New York.

**I. WHERE REQUIRED BY NEW YORK CITY ADMINISTRATIVE CODE SECTION 6 -108 THE CONTRACTOR AGREES THAT:**

1. It shall be unlawful for any person engaged in the construction, alteration or repair of buildings or engaged in the construction or repair of streets or highways pursuant to a contract with the City or engaged in the manufacture, sale or distribution of materials, equipment or supplies pursuant to a contract with the City to refuse to employ or to refuse to continue in any employment any person on account of the race, color or creed of such person.
2. It shall be unlawful for any person or any servant, agent or employee of any person, described in subdivision (1) above, to ask, indicate or transmit orally or in writing, directly or indirectly, the race color, or creed or religious affiliation of any person employed or seeking employment from such person, firm or corporation.
3. Disobedience of the foregoing provisions shall be deemed a violation of a material provision of this Agreement.

PART II:

GENERAL PROVISIONS GOVERNING CONTRACTS WITH DIRECTLY AND INDIRECTLY FUNDED CONTRACT AGENCIES

4. Any person, or the employee, manager or owner of or officer of such firm or corporation who shall violate any of the provisions of this section shall, upon conviction thereof, be punished by a fine or not more than one hundred dollars or by imprisonment for not more than thirty days, or both.

**ARTICLE XIII — CONSULTANT REPORT INFORMATION**

A copy of each consultant report submitted by a consultant to any City official or to any officer, employee, agent or representative of a City department, agency, commission or body or to any corporation, association or entity whose expenses are paid in whole or in part from the City Treasury shall be furnished to the Commissioner of the Department to which such report was submitted or, if not a City department, then to the chief controlling officer or officers of such other office or entity. A copy of such report shall also be furnished to the Director of the Mayor's Office of Construction for matters related to construction or to the Director of the Mayor's Office of Operations for all other matters.

**ARTICLE XIV — ENTIRE AGREEMENT**

- A.** It is the intention and understanding of the parties hereto 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 deemed to be inserted herein, and if, through mistake or otherwise, any such provision is not inserted herein, or is not inserted in the correct form, then 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.
- B.** If this Agreement contains any unlawful provision that is 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 be deemed to be of no effect and shall, upon notice by either party, be stricken from this Agreement without affecting the binding force of the remainder of the Agreement.
- C.** This Agreement contains all the terms and conditions agreed upon by the parties hereto, and no other agreement, oral or otherwise, regarding the subject matter of this Agreement shall be deemed to exist or to bind any of the parties hereto, or to vary any of the terms contained. herein.

## **PART II RIDER — A: COMPLIANCE FOR SPECIFIC PROGRAMS**

### **I. APPLICABLE TO YOUTH CONTRACTS**

#### **A. PROHIBITIONS**

**Annulment of Agreement** For a breach or violation of any of the provisions of Article V or of the provisions of Article XII of Part II of this Agreement, the Department will have the right to annul this Agreement without liability, entitling the City to recover all monies paid hereunder and Contractor will not make claim for, or be entitled to recover, any sum due under this Agreement. This remedy, if effected, will not constitute the sole remedy afforded the City for violation or breach, nor will it constitute a waiver of the City's right to claim damages or refuse payment or to take any other action provided for by law or by this Agreement.

#### **B. RENEWAL OF AGREEMENT**

The Department, in its sole discretion, may offer to renew its funding of the program upon expiration of this Agreement for the renewal term set forth in Part I of this Agreement and pursuant to the Procurement Policy Board ("PPB") Rules. Any such renewal will not be effective except upon (a) compliance by Contractor with all Department procedures for the renewal of funding; (b) satisfactory programmatic and fiscal compliance under this Agreement, as determined by the Department; (c) execution by the Department and Contractor of a new Agreement; and (d) all appropriations and approvals required by law for the commitment and expenditure of funds by the Department.

#### **C. PAST PERFORMANCE**

If Contractor has had prior Agreements with the Department, this Agreement will not be binding on the Department or the City until the Department has certified that all requirements of previous contracts have been complied with, including the submission of all statistical reports and P.E.R.S., and payment of all refunds due the Department. In its sole discretion, the Department, upon prior written notice to Contractor, may permit commencement of this program subject to the withholding of funds under this Agreement in an amount to be determined by the Department to be sufficient to insure Contractor's compliance with the requirements of prior agreements with the Department.

#### **D. REDUCTION IN FUNDING**

Funding to be provided by the Department for the performance of this Agreement is subject to the availability of funds. In such instances where the Department is unable to provide the full amount of funding pursuant to this Agreement, the Department shall provide written notice to Contractor, identifying the dollar amount of the reduction in Contractor's funding and the reduced amount. Such reduction shall take effect immediately upon written notice to Contractor. The Department's reduction in funds provided pursuant to this Contract shall in no way constitute a breach of this Agreement by the Department or the City.

#### **E. RESERVATION OF RIGHTS AND INTERESTS**

##### **1. Public Events**

Contractor will give the Department timely written notice in advance of all press conferences, public ceremonies, or other public or planned news events relating to the program. All such events shall clearly and conspicuously acknowledge that the program is funded by the New York City Department of Youth and Community Development.

PART II RIDER — A:  
COMPLIANCE FOR SPECIFIC PROGRAMS

2. **Public Communications**

Contractor, in any statement or release made to the public relating to the program, will conspicuously acknowledge that the program is funded by the New York City Department of Youth and Community Development.

3. **Signs**

Upon provision of such signs by the Department, Contractor will prominently display signs inside and outside the facility used for the program indicating such information as the program name, New York City Department of Youth and Community Development sponsorship, the program activity and the days and hours of operation.

**F. INCIDENT REPORTING APPLICABLE TO YOUTH SERVICES CONTRACTS**

1. Contractor will notify the Department of any injuries to any program participant, staff person, volunteer, administrator, director, visitor, or any other person, which occurs in conjunction with the program, in any way, and of any damage to the program site, or any damage or theft of equipment purchased with Department funds. Telephone notification must be given to the Department within 24 hours of the incident, followed by a written report on the Department's Incident Report Form delivered to the Department within 3 working days.
2. Contractor will notify the Department of any incident or allegation of abuse of a program participant by any of Contractor's administrators or staff, including both paid and volunteer. The term abuse here refers to any physical, sexual, emotional, or verbal abuse, or any other maltreatment of a program participant. This notification must be made by telephone to the Department immediately upon discovery, followed by a written report on the Department's Incident Report Form within 3 working days. Compliance with this reporting requirement does not satisfy any other legally mandated reporting of abuse, such as to the New York State Central Register of Child Abuse and Maltreatment (SCR).

**G. BACKGROUND CHECKS**

For purposes of this section, the word "personnel" will include all employees and volunteers and all applicants for employment or for volunteer work. Contractor will be responsible for the recruitment and screening of appropriate personnel and verification of credentials, references, and suitability for working with children. Contractor agrees to comply with all guidelines and procedures of the Department concerning the screening and employment of personnel, including, but not limited to the following:

1. Contractor will be responsible for obtaining consent and for screening of all personnel, including:  
(a) substantiating credentials; (b) reference checks.
2. Contractor agrees not to hire or retain any personnel who refuse to: (a) provide the names of references; (b) provide documentation of credentials; (c) provide information on criminal conviction records; (d) provide other requested information which may bear on the applicant's fitness to work with children.
3. Contractor agrees not to hire or retain any personnel: (a) who have not completely and truthfully reported information concerning their criminal convictions; (b) whose criminal conviction record directly bears on a person's fitness to work with children, or whose employment would involve an unreasonable risk to the safety or welfare of children, subject to and consistent with Article 23-A of the New York State Correction Law; (c) who have been the subject of an indicated child abuse

PART II RIDER — A:  
COMPLIANCE FOR SPECIFIC PROGRAMS

and maltreatment report on file with the SCR, or are the subject of an ongoing investigation pursuant to a child abuse and maltreatment report on file with the SCR.

**II. APPLICABLE TO COMMUNITY SERVICES BLOCK GRANT CONTRACTS**

**A. ADDITIONAL RIGHTS TO TERMINATE**

DYCD shall have the additional right to terminate this Agreement if Contractor fails to comply with one or more of the funding eligibility criteria required by the Community Action Program in New York City, as set forth in the Request for Proposals pursuant to which this Agreement was initially awarded.

**B. COMPLIANCE WITH NYS DEPARTMENT OF STATE**

This Agreement funded is pursuant to Community Services Block Grant Act (“CSBG”) grant administered by Department of State of the State of New York (“DOS”). The City, acting through DYCD and DOS have entered into an agreement governing the requirements of this CSBG grant (“CSBG Agreement”), copies of which are available for review at DYCD by Contractor’s officers and board members. Contractor hereby agrees to comply with all applicable terms set forth in the CSBG Agreement, and the rules and regulations promulgated thereunder. Contractor’s failure to comply with this Paragraph B shall constitute a Material Breach of this Agreement.

**C. POLITICAL ACTIVITY**

Contractor represents and warrants that the use of funds provided hereunder and the provision of services or the employment or assignment of personnel in connection with this Agreement shall not be in a manner so as to support or appear to support or to identify the community action program(s) funded hereby with:

1. Any partisan or nonpartisan political activity or any other political activity associated with a candidate or contending faction or group in an election for public or party office; or
2. Any activity to provide voters or prospective voters with transportation to the polls or similar assistance in connection with any such election or any voter registration activity.
3. In accordance with CSBG rules and regulations, CSBG-funded agreements are expressly exempt from the requirements set forth in the Voter Registration Rider to this Part.
4. Contractor’s failure to comply with this Paragraph C shall constitute a Material Breach of this Agreement.

**D. LOBBYING ACTIVITIES**

Contractor shall comply with the restrictions on lobbying activities governing the Community Services Block Grant.

PART II RIDER — B:  
VOTER REGISTRATION

**PART II RIDER — B: VOTER REGISTRATION**

**ARTICLE I. VOTER REGISTRATION**

**NOTICE TO ALL PROSPECTIVE CONTRACTORS**

Local Law No. 29 of 2000, effective August 23, 2000, added Section 1058 to the Charter of the City of New York. The local law provides for, among other things, the distribution of voter registration forms by City contractors, under certain circumstances, in the performance of their services under City agreements. The Department hereby provides fair notice to prospective contractors that they may be required to comply with the provisions of Section 1058 for contracts entered into on or after August 23, 2000.

Pursuant to Section 1058, participating City agencies are required to include in all new or renewed agreements with contractors having regular contact with the public in the daily administration of their business a mandate that they follow the guidelines of the Section. The participating City agencies are: the Administration for Children's Services; the City Clerk; the Civilian Complaint Review Board; the Commission on Human Rights; the community boards; the Department of Business Services; the Department of Citywide Administrative Services; the Department of Consumer Affairs; the Department of Correction; the Department of Employment; the Department of Environmental Protection; the Department of Finance; the Department of Health; the Department of Homeless Services; the Department of Housing Preservation and Development; the Department of Mental Health, Mental Retardation and Alcoholism Services; the Department of Parks and Recreation; the Department of Probation; the Taxi and Limousine Commission; the Department of Transportation; and the Department of Youth and Community Development.

As detailed in Article I, Part A, below, contractors with these agencies (or subcontractors, as appropriate), if they have regular contact with the public in the daily administration of their business, shall be required to provide and distribute voter registration forms to all persons together with written applications for services, renewal or recertification for services and change of address relating to such services, whether in person or through the United States mail, provided that this requirement does not apply to services that must be provided to prevent actual or potential danger to the life, health or safety of any individual or of the public. In addition, these contractors shall incorporate an opportunity to request a voter registration application into any application for services, renewal or recertification for services and change of address relating to such services provided on computer terminals, the World Wide Web or the Internet. In response to such request, these contractors must send a voter registration form to the person requesting it, or direct that person to where the form may be downloaded.

As detailed in Article I, Part B, contractors or subcontractors may also provide certain other services related to voter registration. Specifically, these contractors may provide assistance to applicants in completing voter registration forms, and may receive and transmit completed forms for transmittal to the New York City Board of Elections.

As detailed in Article I, Part C, Section 1058 bars contractors from taking certain actions, such as seeking to influence an applicant's political preference or party designation, displaying any political preference or party allegiance, making any statement to an applicant or taking any action the purpose or effect of which is to discourage the applicant from registering to vote, or making any statement to an applicant or taking any action the purpose or effect of which is to lead the applicant to believe that a decision to register or not register has any bearing on the availability of services or benefits.

**PART A**

In accordance with Section 1058 of the Charter of the City of New York, Contractor, if a contractor having regular contact with the public in the daily administration of its business under this Agreement, hereby agrees as follows:

PART II RIDER — B:  
VOTER REGISTRATION

1. Contractor shall provide and distribute voter registration forms to all persons together with written applications for services, renewal or recertification for services and change of address relating to such services. Such voter registration forms shall be provided to Contractor by the City. Contractor should be prepared to provide forms written in Spanish or Chinese, and shall obtain a sufficient supply of such forms from the City.
2. Contractor shall also include a voter registration form with any Contractor communication sent through the United States mail for the purpose of supplying clients with application, renewal or recertification for services and change of address relating to such services materials. If forms written in Spanish or Chinese are not provided in such mailing, Contractor shall provide such forms upon request.
3. Contractor shall, subject to approval by the Department, incorporate an opportunity to request a voter registration application into any application for services, renewal or recertification for services and change of address relating to such services provided on computer terminals, the World Wide Web or the Internet. Any person indicating that they wish to be sent a voter registration form, via computer terminals, the World Wide Web or the Internet shall be sent such a form by Contractor or be directed, in a manner subject to approval by the Department, to a bank on that system where such a form may be downloaded.
4. Contractor shall, at the earliest practicable or next regularly scheduled printing of its own forms, subject to approval by the Department, physically incorporate the voter registration forms with its own application forms in a manner that permits the voter registration portion to be detached therefrom. Until such time when Contractor amends its form, Contractor should affix or include a postage paid New York City Board of Elections voter registration form to or with its application, renewal, recertification and change of address forms.
5. Contractor shall prominently display in its public office, subject to approval by the Department, promotional materials designed and approved by the New York City or New York State Board of Elections.
6. For the purposes of Part A, the word “contractor” shall be deemed to include subcontractors having regular contract with the public in the daily administration of their business.
7. The provisions of Part A shall not apply to services that must be provided to prevent actual or potential danger to life, health, or safety of any individual or of the public.

PART B

In accordance with Section 1058 of the Charter of the City of New York, Contractor hereby agrees as follows:

1. In the event the Department provides assistance in completing distributed voter registration forms, Contractor shall also provide such assistance, in the manner and to the extent specified by the Department.
2. In the event the Department receives and transmits completed registration forms from applicants who wish to have the forms transmitted to the New York City Board of Elections, Contractor shall similarly provide such service, in the manner and to the extent specified by the Department.
3. If, in connection with the provision of services under this Agreement, Contractor intends to provide assistance in completing distributed voter registration forms or to receive and transmit completed registration forms from applicants who wish to have the forms transmitted to the New York City Board of Elections, Contractor shall do so only by prior arrangement with the Department.
4. The provision of Part B services by Contractor may be subject to Department protocols, including one on confidentiality.

PART C

PART II RIDER — B:  
VOTER REGISTRATION

In accordance with Section 1058 of the Charter of the City of New York, Contractor hereby agrees as follows:

1. Contractor shall advise all persons seeking voter registration forms and information, in writing together with other written materials provided by Contractor or by appropriate publicity, that Contractor's or government services are not conditioned on being registered to vote.
2. No statement shall be made and no action shall be taken by Contractor or an employee of Contractor to discourage an applicant from registering to vote or to encourage or discourage an applicant from enrolling in any particular political party.
3. Contractor shall communicate to applicants that the completion of voter registration forms is voluntary.
4. Contractor and Contractor's employees shall not:
  - (a) seek to influence an applicant's political preference or party designation;
  - (b) display any political preference or party allegiance;
  - (c) make any statement to an applicant or take any action the purpose or effect of which is to discourage the applicant from registering to vote; or
  - (d) make any statement to an applicant or take any action the purpose or effect of which is to lead the applicant to believe that a decision to register or not to register has any bearing on the availability of services or benefits.

## **ARTICLE II. ENFORCEMENT OF ARTICLE I**

Contractor, as defined above and in this Agreement, agrees that the covenants and representations in Article I are material conditions of this Agreement. In the event the Department receives information that Contractor is in violation of the provisions of Article I, the Department shall review such information and give Contractor an opportunity to respond. If the Department finds that a violation has occurred, the Department shall have the right to terminate this Agreement and procure the services or work from another source in any manner the Department deems proper. In the event of such termination, Contractor shall pay to the Department, or the Department in its sole discretion may withhold from any amounts otherwise payable to Contractor, the difference between the contract price for the uncompleted portion of this Agreement and the cost to the Department of completing performance of this Agreement either itself or by engaging another contractor or contractors.

PART II RIDER — C:  
MACBRIDE PRINCIPLES, PROVISIONS FOR NEW YORK CITY CONTRACTORS

**PART II RIDER — C: MACBRIDE PRINCIPLES, PROVISIONS FOR NEW  
YORK CITY CONTRACTORS**

**ARTICLE I.**

**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 nondiscrimination 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 construction 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, services 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.

**PART B**

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

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

PART II RIDER — C:

MACBRIDE PRINCIPLES, PROVISIONS FOR NEW YORK CITY CONTRACTORS

- (1) Increase the representation of individuals from under represented 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 under represented 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 under represented 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 under represented 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 under represented religious groups;
- (8) Establish procedures to assess, identify and actively recruit employees from under represented 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**

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 Contractor who made the stipulation required by this section is in violation thereof, the contracting entity shall review such information and give 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, 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, Contractor shall be liable for such difference in price for the entire amount of supplies required by the contracting entity for the uncompleted term 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.

PART II RIDER — D:  
PROGRAM ACTIVITY DESCRIPTIONS

## **PART II RIDER — D: PROGRAM ACTIVITY DESCRIPTIONS**

### **Access Services for Seniors (I.R.A.)**

(423)

Provide information, referral, and assistance to seniors: information consists of providing explanation in areas such as entitlement programs, housing, immigration, general social services; half-fare card program, Medicare and health services; referral consists of arranging appointments on behalf of clients with the appropriate service provider(s); assistance includes needs assessment interviews and pre-screening for eligibility under benefit or service programs, completing application forms, translation services, escort services, making telephone calls and writing letters on behalf of the clients.

### **Advocacy**

(002)

Provide advocacy services to clients: consists of making available representatives to directly accompany the client to mediate or negotiate for corrective action on his/her behalf at: housing court hearings; landlord management meetings; immigration proceedings or hearings; fair hearing, disability claims hearings; school suspension/truancy/school re-assignments; discrimination hearings; court hearing; administrative proceedings and other meetings or proceedings, conduct follow-up on each case through final disposition.

### **Adult Basic Education (A.B.E.)**

(209)

Provide Basic Adult Education instruction for individuals: consists of providing instruction appropriate to learner's academic level in the following subject areas: writing, reading, and mathematics, the administration of a pre-test, periodic assessments, and a post test to each enrolled participant. Upon completion of the objectives, Contractor will refer participants to G.E.D. preparation classes, or other adult education programs, or promote them to other classes offered by Contractor.

### **Adult Basic Education (A.B.E.) II**

(219)

Sponsor Basic Adult Education classes for individuals: consists of instruction provided by a New York City Board of Education teacher in the subject areas of writing, reading and mathematics; monitor classes, provide educational counseling, conduct individual exit conferences at the end of each course period, and make referrals consistent with each participant's levels or skills or needs to G.E.D. preparation classes, OR adult education programs, OR promote them to other classes offered by Contractor.

### **Basic Education in Native Language (B.E.N.L.)**

(213)

See Basic Adult Education; definition the same with the exception that classes are conducted in a foreign language.

### **Community Intervention and/or Group Advocacy**

(801)

Intervene and negotiate on behalf of a community group or organization through telephone calls, and/or correspondence; provide advocacy services.

PART II RIDER — D:  
PROGRAM ACTIVITY DESCRIPTIONS

**Congregate Meal**  
**(313)**

Provide breakfast/lunch/snack/dinner meals to enrolled senior citizens participants: consists of family budgeting and financial counseling, comparison shopping, informing clients as to their rights as consumers.

**Consumer Assistance**  
**(318)**

Provide consumer education to clients: consists of family budgeting and financial counseling, comparison shopping, informing clients as to their as consumers.

**Cooperative/Buyers Club**  
**(315)**

Purchase high quality goods at wholesale prices through group buying.

**Counseling Services**  
**(004)**

Provide counseling to individuals/groups in planned sessions: involve the clients in the process of self-evaluation in order to identify their problem(s) and examine available solutions.

**Day Care/Pre-School Education**  
**(210)**

Provide a classroom environment for pre-school children: consists of collages, painting, water and sand playing, table games, role-playing, group activities and field trips. Must secure all licenses required to operate this program.

**Emergency Clothing**  
**(007)**

Provide clothing to individuals and families as a result of an emergency situation (i.e., fire): consists of collection and distribution of clothing.

**Emergency Food**  
**(005)**

Provide to individuals and families emergency food through soup kitchens, food pantries.

**Emergency Shelter**  
**(006)**

Provide emergency housing to individuals and families.

**Employment Assistance**  
**(105)**

Provide employment assistance to individuals: consists of assessing each client's employment readiness and providing help in areas such as: resume preparation, interview techniques, (how to) completing job applications, job retention skills (i.e. proper work habits).

PART II RIDER — D:  
PROGRAM ACTIVITY DESCRIPTIONS

**English As A Second Language (ESOL)**  
**(208)**

Conduct English As A Second Language courses for individuals: consists of providing instruction in the English language to enable the participants to communicate in the English language in one or more of the following manners: reading, writing, and speech; administering a pre-test, periodic assessments and a post test to all enrolled participants; providing education counseling and making referrals for further educational study consistent with each participant's needs and/or levels of skills.

**English As A Second Language (ESOL)**  
**(218)**

Sponsor a Beginner's English As A Second Language course for individuals: consists of classroom instruction provided by a New York City Board of Education teacher, in the English language in the areas of reading, writing and speech; monitoring classes, preparing quarterly progress reports for each participant and making referrals for further educational study consistent with each participant's need and/or level of skills.

**Errands/Shopping**  
**(420)**

Provide errand/shopping assistance to handicapped and/or senior citizens.

**Escort Program**  
**(419)**

Provide escort services to individuals/senior citizens: consists of accompanying individuals and/or senior citizens (walking or non-funded transportation) to such facilities as stores, medical services, recreational services, etc.

**Family Budgeting Assistance and Education**  
**(316)**

Provide instruction in learning how to budget income to meet bills, daily needs (food, clothing, shelter), and emergency needs.

**Friendly Visiting**  
**(416)**

Provide friendly visits to the homebound in order to provide them with social and emotional support.

**General Equivalency Diploma/High School Equivalency Program (H.S.E.)**  
**(207)**

Conduct a General Educational Development course for individuals preparing for the general educational development examination which is administered by The New York State Department of Education. Consists of providing instruction in the subject areas of: reading, mathematics, writing, science and social studies and administering a pre-test, periodic assessment in each subject area, and a practice G.E.D. post test to all enrolled participants.

PART II RIDER — D:  
PROGRAM ACTIVITY DESCRIPTIONS

**General Equivalency Diploma (G.E.D.) II**  
**(217)**

Sponsor a general educational preparatory course for individuals preparing for the General Educational Development examination which is administered by The New York State Department of Education: consists of classroom instruction in the subject areas of reading, mathematics, writing, science and social studies, provided by a New York City Board of Education teacher.

**Group Organizing**  
**(803)**

Help organize and assist groups; instruct them on how to impact on local and state decision-making and to support neighborhood organizations designed to empower neighborhood residents (i.e., group purpose and objectives, strategies that can be employed and implemented, structural and legal basis of group, training on the functions and objectives of group members, etc.).

**Health/Nutrition Services**  
**(312)**

Provide instruction on health and nutrition related issues; utilize health providers to conduct blood pressure readings, blood tests, etc.

**Home Repairs & Renovations**  
**(730)**

Provide to individuals/families home renovations and repairs. (This is a direct service).

**Homemaker/Housekeeping**  
**(421)**

Provide home care services to the homebound: includes light housekeeping chores, shopping and small errands, escort services, meal preparation, personal grooming and care on each home visit.

**Homework Assistance**  
**(525)**

Provide individual/group homework assistance to youth: consists of assisting youth in completing their homework assignments, providing individual or group counseling in the areas of personal development and conducting weekly workshops on how to develop good study habits, student rights and responsibilities, educational goals and careers, etc.

**Housing Management**  
**(729)**

Provide housing management services to individuals: consists of providing housing monitoring services to individuals residing in city-owned buildings which are under the Special Projects Program. Services include monitoring the collection of rents from the tenants residing in these buildings: contacting tenants who have rent arrears to investigate the reason(s) for late or non-payment of the rental fee, and providing appropriate intervention assistance to these tenants.

PART II RIDER — D:  
PROGRAM ACTIVITY DESCRIPTIONS

**Housing Relocation Assistance**  
**(732)**

Provide relocation assistance to individuals residing in buildings that are targeted for demolition or sites for urban renewal.

**Individual Housing Assistance**  
**(727)**

Provide housing management and assistance services to individuals: provide assistance in completing application forms for: tenancy in New York City Housing or Section 8 housing, rent increase exemptions for senior citizens, homeowners loan programs under HPD or HUD; rent stabilization and control (MER determination), alternative management programs under HPD/HUD; housing advocacy in the areas of housing code violation complaints, dispossession, and evictions.

**Information, Referral and Assistance**  
**(001)**

Provide information, and assistance to individuals: information consists of providing explanation in areas such as entitlement programs, housing, immigration, general social services, half-fare card program for seniors, Medicare and health services; referral consists of arranging appointments in behalf of clients with the appropriate service provider(s); assistance includes a needs assessment interview and one or more of the following: pre-screening for eligibility under benefit or service programs, completing application forms, translation services, escort services, making telephone calls and writing letters on behalf of the clients.

**Meals-on-Wheels**  
**(314)**

Provide meals to senior citizens enrolled in the meals-on-wheels program: consists of the pick-up of meals/delivery of meals to the homebound senior citizens.

**Meetings With Other Service Providers**  
**(806)**

Conduct meetings with service providers in the neighborhood to facilitate integration, coordination and linkages of services offered within the community and to facilitate methods of follow-up for referral clients.

**Meetings With Parents**  
**(805)**

Schedule meetings between staff and parents of enrolled children to discuss issues related to each child's progress, development, and/or areas in need of improvement.

**Meetings With School Representatives**  
**(804)**

Schedule meetings between staff and school representatives of enrolled children to discuss issues related to each child's progress, development and/or areas in need of improvement.

PART II RIDER — D:  
PROGRAM ACTIVITY DESCRIPTIONS

**On-The-Job Training**  
**(107)**

Provide employment skills development through actual work experiences: provide assistance in the development of employment skills (i.e. job responsibilities, appropriate attire, co-worker relationships, attendance, attitude, etc.) and conduct weekly follow-up on each "placed" participant.

**On-The-Job-Training (Stipend Only)**  
**(111)**

On the job definition above plus: Stipends are defined as the provision of money to employment program participants and are provided as an incentive. The stipend/wage rate per hour for each trainee is three dollars and fifty cents (\$3.50) for a minimum of ten (10) hours per week. The length of each training cycle shall not exceed six (6) months and a total of seven hundred (700) hours. See also: Policies and Guidelines for Employment Programs.

**Other Educational Instruction**  
**(211)**

Provide individual/group instruction: consists of developing lesson plan in specific subject area and a method of assessment to evaluate progress of individual's knowledge of material presented.

**Parenting/Child Rearing Classes**  
**(212)**

Conduct parenting/child rearing workshops on topics related to issues of understanding children as they progress through various stages, the role of the parent, etc.; provide practical and useful instruction in the art of parenting.

**Performing Arts**  
**(526)**

Conduct performing arts classes: consists of providing instruction in areas such as dance, drama, music, marching bands, etc.

**Senior Social, Cultural and Recreational Services**  
**(422)**

Provide recreational activities to seniors in a group setting which may include quiet games, exercise classes, arts and crafts, cultural activities, cultural and recreational trips, birthday parties and informal discussion groups.

**Service Coordination**  
**(802)**

Assist local service providers in dealing with problems and issues relevant to their community: consist of the cataloging of information on neighborhood, borough and city-wide services and the distribution of service information to residents, CBOs, APBs, and DYCD for improved information flows; conducting meetings, seminars and workshops; and referrals of community residents to community based service providers.

PART II RIDER — D:  
PROGRAM ACTIVITY DESCRIPTIONS

**Special Projects**  
**(900)**

Pertains to special activities described in contract (i.e. neighborhood improvement projects, surveys, newsletters, publications, street fairs, concerts, etc.).

**Summer Camp**  
**(527)**

Provides a planned day camp program for youth which includes recreation, cultural education and/or trips.

**Summer Youth Employment Program (S.Y.E.P) Application Assistance**  
**(108)**

Provide assistance to youth in completing applications for summer employment: consists of clarifying questions pertaining to the applications and ensuring accurate, complete responses on an individual and/or group basis.

**Summer Youth Employment Program (S.Y.E.P.) Job Placement**  
**(109)**

Place youth in summer jobs; monitor and evaluate their progress.

**Tax Assistance**  
**(317)**

Provide individuals with assistance in completing tax returns and clarify issues relating to tax.

**Telephone Reassurance**  
**(417)**

Make telephone calls to homebound (individuals/senior citizens) to maintain friendly contact and perform needs assessment.

**Tenant/Block Association**  
**(728)**

Provide housing assistance to tenant associations and/or block associations: consists of organizing new tenant associations through the coordination of initial meetings and membership drives, and providing technical assistance in developing the constitution, by laws, advocacy and mediation techniques and the elections of officers and proficiency in other group organizing skills.

Providing technical assistance to newly organized and established tenant and/or block associations in such areas as tenant/landlord rights and liabilities, tenants responsibility in the community, housing regulations, building security, housing management programs and current issues in housing.

**Tenant/Landlord Relations**  
**(731)**

Provides assistance on tenant/landlord relations, acting as liaison, when necessary; negotiating in matters of rent increases, apartment repairs, utilities, dispossesses, eviction, etc.

PART II RIDER — D:  
PROGRAM ACTIVITY DESCRIPTIONS

**Transportation**  
**(418)**

Provide transportation services to ambulatory/handicapped/frail senior citizens: includes transportation services to scheduled appointments for entitlement benefits, hospitals, doctors, dentist appointments, shopping centers and recreational/excursion trips.

**Tutoring**  
**(524)**

Provide individual/group tutorial assistance: consists of developing lesson plans in the subject areas of: reading, mathematics, English, science, history, which specifically addresses the grade level skills weaknesses of the participants; diagnostic assessment tests to be administered to each enrolled participant; administering periodic assessments to evaluate progress and an appropriate post-test to establish improvement in the level of skills of each participant as a result of the tutorial assistance.

**Vocational Training**  
**(106)**

Provide vocational training to individuals: consists of providing instruction and practical experience in the designated area.

**Vocational Training Stipend Only**  
**(112)**

See Vocational Training definition above, plus: stipends are defined as the provision of money to employment program participants and are provided as an incentive. The stipend wage rate per hour for each trainee is three dollars and fifty cents (\$3.50) for a minimum of ten (10) hours per week. The length of each training cycle shall not exceed six (6) months and a total of seven hundred (700) hours. See also: Policies and Guidelines for Employment Training Programs.

**Volunteer Training Program and Assistance**  
**(110)**

Provide instruction and training for volunteers in various community programs/services. This may include recruitment, interviewing, placement, supervision, evaluation, staff-volunteer relationship and chore services for seniors.

**Workshops**  
**(707)**

Plan, organize and conduct workshops for individuals in designated topic areas.

**Youth Social, Cultural and Recreational Services**  
**(523)**

Provide recreational activities to youth in a group setting which may include games, team sports, cultural activities, arts and crafts, cultural/recreational trips, informal discussion groups, etc.