

REQUEST FOR PROPOSALS
for
YEAR 45 HOUSING COUNSELING ACTIVITIES

The City of Philadelphia's Division of Housing and Community Development (DHCD) is soliciting proposals for Housing Counseling activities for Fiscal Year 2020 beginning July 1, 2019. Funding will be provided through the federal Community Development Block Grant (CDBG) program for services to residents of Philadelphia. Eligible applicants must be non-profit, in accordance with the federal tax code 501(c) (3).

DHCD intends to assist low and moderate-income residents by providing comprehensive housing counseling services to encourage responsible homeownership, curtail the loss of a home through foreclosure, and prevent homelessness. Specifically, DHCD requests proposals for housing counseling services in the areas of foreclosure prevention in owner occupied homes (both in mortgage and tax foreclosures), first time homebuyer opportunities, and assistance to the City's tenant population.

In addition, DHCD expects to continue to provide settlement grants to first time homebuyers through the Settlement Assistance Program. DHCD is also committed to funding housing counseling services specifically targeted to populations such as the disabled or the elderly.

Housing counseling agencies proposing to carry out mortgage foreclosure prevention activities in the Court of Common Pleas are required to employ a minimum of two housing counselors certified in Philadelphia's foreclosure prevention program.

All housing counselors must be nationally certified by a recognized certifying institute and all housing counseling agencies must also adopt the National Industry Standards for Homeownership Education. In addition, all housing counseling agencies must become HUD approved, which is required to help leverage other sources of funding (HUD approved agencies are eligible to apply for HUD housing counseling grants). HUD approval demonstrates that your agency meets certain industry standards and federal guidelines.

PROPOSAL DEADLINE AND DELIVERY

This RFP is available on the DHCD web site at www.phila.gov/DHCD. Copies of the primary RFP documents will also be available at the DHCD reception desk, 1234 Market Street, 17th Floor during normal business hours. However, Appendix F, the General Provisions for Housing and Economic Development contracts will only be available on the web.

Proposals must be delivered to the DHCD no later than **5:00 p.m. on Tuesday, March 31, 2015.** Proposals received after this time will not be considered. There will be no exceptions to this deadline.

Ten (10) copies of the proposal, including one unbound copy, must be delivered to the following address:

Division of Housing and Community Development (DHCD)
1234 Market Street, 17th floor
Philadelphia, PA 19107

Attn.: Hiram Carmona

BRIEFING SESSION

Applicants are encouraged to attend a briefing session on the RFP requirements on Wednesday March 11, 2015 at 9:30 a.m. The briefing will be held in the 17th floor Boardroom at DHCD, 1234 Market Street. Prospective applicants are encouraged to obtain and review a copy of this RFP and bring it with you to the briefing.

PROGRAM CONTEXT

DHCD's comprehensive approach to housing counseling is the result of many years of experience providing key and effective housing counseling services to the residents of Philadelphia, as the needs arose, from services aimed at confronting predatory lending practices, to the creation of both the mortgage and tax foreclosure prevention programs. More recently, tenant evictions have been identified as another mayor threat towards homelessness.

During the last two years the City has seen a decrease in owner occupied mortgage foreclosure filings, from one-hundred (100) in October 2016 to approximately fifty (50) per week as in October 2018. The City celebrated its 10th year of the mortgage prevention program, and as of October 2018 the housing counseling services along with that of the legal advocates have saved over 12,000 homes. Despite the reduction of mortgage foreclosure filings in Philadelphia, homeowners facing foreclosures also have less workout options at their disposal with the ending of President Obama's Home Affordable Mortgage Program (HAMP) in 's unemployment rate in November 2014 was 6.7 %, a reduction of 2.6 percentage points compared to November 2013 (the unemployment rate had peaked in April 2010 at 11.3 %). Home ownership has also risen an estimated 11% for the last three months of 2014 when compared with the last three months of 2013. Mortgage interest rates remain low, hovering under 4%, which should stimulate first-time homeownership. Sales in lower income neighborhoods also rose over the past 18 months. Just last December Fannie Mae and Freddie Mac eased their mortgage rules as a way to encourage first-time homeownership opportunities. These factors all indicate prepurchase counseling will show a greater demand.

The City's Mortgage Foreclosure Prevention Program has documented thousands of cases where homeowners were able to save their homes by becoming re-employed. Combined with a reduction of the mortgage interest rates by greater than 3% through loan modifications, more families in foreclosure are able to become stable once again. Yet the workforce returning to work remains hampered by lower paying jobs, requiring adjustments be made to family spending. This is why DHCD supports budgeting and debt management as an integral part of every housing counseling service. Programs such as Tools for Financial Capability and The Financial Empowerment Centers are excellent sources of additional budgeting and debt management services.

While data also indicate that foreclosure filings have been on the decline compared to 2010, filings have remained consistent throughout 2014 requiring a steady availability of foreclosure prevention services. In this regard the City remains committed to provide the services of the Mortgage Foreclosure Prevention Program in partnership with the First Judicial District of Pennsylvania. Since the program began in 2008, DHCD-funded housing counseling agencies have saved over 8,500 homes from Sheriff's Sales. Foreclosure prevention in both mortgage and tax delinquencies remains a priority for DHCD-funded housing counseling services.

DHCD seeks to fund housing counseling agencies that possess a demonstrated ability to provide quality counseling services to ensure continued successes in budgeting, the Mortgage Foreclosure Prevention Program and pre-foreclosure remedies, and also to help homeowners in their efforts to resume real estate tax payments. DHCD will also continue to fund pre-and post- purchase counseling services as they are an integral part of foreclosure prevention. Foreclosure prevention services begin at the time of prepurchase counseling, when homebuyers are instructed how to purchase within their means and how to budget in times of difficulty. Group counseling sessions are strongly encouraged, particularly in pre-purchase counseling, as a way to free up housing counselor time to meet other demands.

The tenant population in Philadelphia also faces hardships as a result of the economy, as rents are on the rise in many areas of the city. DHCD intends to fund housing counseling services to tenants in an effort to prevent homelessness.

DHCD also seeks housing counseling agencies willing to perform home visits when the need arises. DHCD will continue to use CounselorMax as the required data management and reporting system.

GEOGRAPHIC CONTEXT

The following seven (7) zip codes have had the largest foreclosure filings in numerical order: 19120, 19124, 19149, 19134, 19111, 19143, and 19135. DHCD seeks to continue funding foreclosure prevention and intervention activities in neighborhoods identified as having a higher number of foreclosure filings and Sheriff's Sales. DHCD welcomes applicants to expand their traditional geographic target areas to include other parts of the City with high foreclosure rates.

DHCD also provides a wide range of program and services to revitalize low and moderate income neighborhoods in the City. Therefore, DHCD will continue to fund pre-purchase activities throughout the City, particularly in neighborhoods in transition with rapidly appreciating housing values.

DHCD encourages housing counseling services to be provided in support of the City's Place-Based Strategies. Priority will be given to housing counseling services provided in the North Central Choice Neighborhood, the Promise Zone, and the 22nd Police District (see Exhibit C).

PROPOSAL EVALUATION CRITERIA AND PROCESS

A review committee composed of representatives from the City and partner agencies shall review proposals for funding consideration. Generally, the City will base its selection on criteria that include, but are not limited to:

1. Superior ability to conduct housing counseling services in Philadelphia including utilization of best practices in housing counseling
2. Superior documented prior experience and skill of Applicant and staff
3. Superior plan to conduct housing counseling services in Philadelphia including superior staffing model
4. Administrative and operational efficiency, requiring less City oversight and administration
5. Ability to document other resources to leverage City funds in program
6. Ability to offer other supportive services to housing counseling clients
7. Cost effectiveness as illustrated through proposed budget and units of services to be completed
8. Eligibility under Code provisions relating to campaign contributions
9. Benefit of promoting long-term competitive development and allocation of experience to new or small businesses, including those with minority or disabled persons or by women

10. Applicant is in good standing with City of Philadelphia and illustrates that it can meet City contract requirements

Proposals will be evaluated in a two-stage process. Each proposal will be reviewed first for completeness and eligibility under the RFP (see “Threshold Criteria” below). **Proposals that are incomplete or that do not meet the minimum threshold requirements listed below will not be considered for funding.**

Applicants should review the threshold criteria carefully. It is recommended that applicants use the checklist below to verify that their proposals are complete before submitting them to DHCD.

A. THRESHOLD REVIEW

If the answer to any of the following questions is "no," the proposal will be rejected automatically and will not receive further consideration:

- Is the applicant eligible to respond to this RFP?
- Is the applicant HEMAP certified? (Foreclosure prevention only)
- Is the applicant a non-profit organization in accordance with the federal tax code 501(c)(3).
- Does the proposal include each of the following sections?

1. Checklist

Proposal Cover Page (filled out completely with core counseling group selected).

Applicant Information

Qualifications of Applicant

Staffing

Supervision of Housing Counseling Services

Program Description and Goals

Geographic Area (needs of target population, and outreach plans).

In-Kind Services (agency complements housing counseling services).

Budget

Technology

2. Organizational Required Documents

Articles of Incorporation	ATTACHMENT	1*
Bylaws	ATTACHMENT	2*
501(c)(3) determination	ATTACHMENT	3
List of board members	ATTACHMENT	4
Organizational Chart	ATTACHMENT	5

* only one copy of Articles of Incorporation and Bylaws need to be submitted

3. Other City Required Documents

City of Philadelphia Tax/Regulatory Status	APPENDIX A	To Complete
Local Business Entity or Local Impact Cert	APPENDIX B	To Complete
Diversity Report of Nonprofit Organizations	APPENDIX B-2	To Complete
General Disclaimer of the City of Philadelphia	APPENDIX C	Info Only
Anti-Discrimination Policy	APPENDIX D	Info Only
Campaign Contribution Disclosure Forms	APPENDIX E	To Complete
City of Philadelphia General Provisions	APPENDIX F	Info Only

B. PROPOSAL CONTENT REVIEW

Please limit your proposal to ten (10) pages, double-spaced, not including appendices/ attachments. The following information must be included in the proposal. Applicants must use section headings and section order as indicated below.

1. **Cover Page:** DHCD identifies four (4) core groups of housing counseling services. Applicants must identify the core group for which they are applying:
 - a. **Foreclosure Intervention:** counseling services aimed predominately at homeowners facing foreclosures.
 - b. **Comprehensive Housing Counseling:** traditional housing counseling services including pre-purchase counseling and homeownership services, but with no less than 50% of the units of services in Default and Delinquency counseling including mortgage and tax foreclosure prevention.
 - c. **Tenant Services:** counseling primarily targeted to solving tenant/landlord problems.
 - d. **Special Needs Populations:** traditional housing counseling services targeted to a specific population such as the elderly and/or disabled.
2. **Applicant Information.** Describe briefly your organization and its mission. State location of services and hours services will be made available. Indicate whether the agency owns or rents the facility, or shares any part with other organizations and if so, identify the organizations and explain the relationship that exists with your agency. Describe accessibility features for disabled and elderly clients, or how your organization makes alternate accommodations to serve their needs. Describe what space is available for one-on-one counseling and group education. Explain your agency's plans to avoid conflicts of interest.
3. **Qualifications of Applicant.** Describe your agency's administrative and financial capability, and your agency's experience with other federal, state, city and private sector funding resources. Include a description of appropriate accounting, reporting and program management systems that will enable an immediate implementation of the housing counseling program. State your agency's housing counseling accomplishments. State whether you agency has adopted the National Standards and whether the applicant is HUD approved, with corresponding dates.

4. **Staffing.** List with titles all staff involved in the housing counseling program (supervisors, housing counselors, and clerical support staff). State whether the position is full-time or part-time, is paid or volunteer capacity. Include length of employment. Identify counselors fluent in other languages. List the non-English languages available for each office. List all active national certifications obtained by the agency housing counselors, including a plan to ensure that appropriate certifications are maintained.
5. **Supervision of Housing Counseling Services.** Provide a written supervisory, monitoring, and quality control compliance procedures plan for supervising the work of the housing counselors. Describe in detail the review procedures and outline corrective actions.
6. **Program Description and Goals.** Explain the reason you chose the specific counseling core group. Provide a detailed description of your housing counseling program. State how many units of service your agency plans to complete and how many households you will serve in twelve month time using Exhibit “A”. Discuss how your agency will work with the client to develop a plan of action to achieve the client’s objectives. Please indicate whether your counselors will perform home visits if the need arises. Subcontracting direct client services and/or administration of program management is not allowed.
7. **Geographic Area, Needs of Target Population, and Outreach Plan.** Identify the geographic area (include zip codes) and the housing counseling needs of the population in the area your agency seeks to serve. Discuss how your program will meet these needs. Provide a plan to reach the residents of the target area or target population. If you do not currently have a site office in the target area, please explain how you will reach out to those needing assistance.
8. **In-Kind Services.** Describe the nature and extent of any additional programs or activities that your agency offers such as social services, financial literacy, administering home retention programs and down payment assistance, and developing housing projects.
9. **Budget.** Prepare a budget using Exhibit “B”, by which your agency will be reimbursed for actual allowable costs incurred in providing housing counseling services. Clearly specify all sources and funding amounts your agency expects to receive for counseling activities. Training costs for counselors to maintain certifications should be incorporated into budgets.
10. **Technology.** Housing counseling agencies will be responsible for having the following technology capabilities and resources in performing the work: Computers for all staff with internet access, appropriate office software, and ability to use CounselorMax. Please provide information on your organization’s technology capabilities and ability to meet this objective. Include a detailed plan on how your agency will enter client data and report outcomes in CounselorMax.

OTHER REQUIREMENTS AND INFORMATION

DHCD will award contracts under this RFP with an option to renew the contracts for up to three successive one-year renewal terms.

Applicants are encouraged to review the relevant federal regulations to ensure compliance with all program requirements. Regulations for the CDBG program can be found at 24 CFR part 570, as amended. Copies of these regulations are available on the internet at <http://www.gpoaccess.gov/cfr/retrieve.html>.

All applicants agree to comply with all State, Federal and Local laws, executive orders, regulations or other

mandates. Each successful organization must complete a Program Management Systems Review if the agency has not held a contract with DHCD in the last three years. “The City of Philadelphia Professional Services Contract General Provisions for Housing and Economic Development Services” state DHCD contract provisions, and are available for review on the RFP website.

PROCUREMENT OF GOODS OR SERVICES

Recipients of funding under this RFP shall exhibit best efforts to include minority, women and disabled-owned business when procuring goods or services that may be required in the implementation of this project. A listing of the City’s Office of Opportunity certified consultants and vendors may be found on their web site at <http://oeo.phila.gov/>.

DESCRIPTION OF HOUSING COUNSELING SERVICES

Following are the types of housing counseling services which are offered under DHCD.

- A. **Mortgage Foreclosure Prevention Counseling:** assist owner-occupants served with a foreclosure complaint with participating with the Diversion Program. Includes preparation for client conciliation conferences, attendance at conciliation conferences and loan negotiations with the lender attorney.
- B. **Default and Delinquency Counseling:** negotiate an array of remedies to cure mortgage defaults outside the Diversion Program.
- C. **HEMAP Application:** assist homeowners with assembling and completing a HEMAP application.
- D. **Pro Sé Petition to Postpone:** assist owner-occupants with the filing and presentation of a Pro Sé Petition to Postpone Sheriff Sale.
- E. **Home Purchase Counseling:** provide home purchase and money management instructions with emphasis on foreclosure prevention, the City Settlement Grant Program requirements, and the selection of an appropriate mortgage loan. Group sessions are encouraged.
- F. **Anti-Predatory Lending Counseling:** assist homeowners in understanding home equity and/or home improvement loans, refinancing loans, and other loans.
- G. **Real Estate Tax Delinquency Counseling and Other City Liens:** advocating and negotiating hardship payment arrangements.
- H. **Equity, Deed, and Other Homeownership Problems:** information and/or assistance with tangled titles, reverse mortgages, as well as others.
- I. **Tenant Counseling:** information on rights and responsibilities of tenant and landlord, Fair Housing Laws, rent subsidy programs, and assist with rental delinquency and eviction prevention options.

J. Housing Consumer Education: includes budgeting, credit repair (face to face counseling required) and extensive money management, plus assistance with receiving public entitlements, as well as others.

ADDITIONAL REQUIREMENTS

Compliance with Applicable Federal, State and Local Laws, Regulations and Executive Orders

Applicants are encouraged to review the relevant federal regulations to ensure compliance with all program requirements. Regulations for the CDBG program can be found at 24 CFR part 570, as amended. Copies of these regulations are available on the Internet at <http://www.gpoaccess.gov/cfr/retrieve.html>. All applicants agree to comply with all State, Federal and Local laws, executive orders, regulations or other mandates.

FAIR HOUSING AND ECONOMIC OPPORTUNITY

All federal, state, and local fair housing requirements apply. Housing beneficiaries may not be discriminated against on the basis of race, color, religion, sex, sexual orientation, national origin, age, familial status, or disability. Project sponsors must adopt procedures to ensure that persons in these protected classes who qualify for assistance know of the availability of the federally funded program.

THE PHILADELPHIA TAX AND REGULATORY STATUS AND CLEARANCE STATEMENT

It is the policy of the City of Philadelphia to ensure that each contractor and subcontractor has all required licenses and permits and is current with respect to the payment of City taxes or other indebtedness owed to the City (including, but not limited to, taxes collected by the City on behalf of the School District of Philadelphia), and is not in violation of other regulatory provisions contained in The Philadelphia Code. To assist the City, through its Department of Revenue and Department of Licenses and Inspection, in determining this status, each Applicant is required to submit with its Proposal the certification statement entitled City of Philadelphia Tax and Regulatory Status and Clearance Statement which is attached to this RFP as **Appendix A**.

If the Applicant is not in compliance with the City's tax and regulatory codes, an opportunity will be provided to enter into satisfactory arrangements with the City. If satisfactory arrangements cannot be made, Applicants will not be eligible for award of the contract contemplated by this RFP.

The selected Applicant will also be required to assist the City obtaining the above information from its proposed subcontractors (if any). If a proposed subcontractor is not in compliance with City Codes and fails to enter into satisfactory arrangements with the City, the non-compliant subcontractor will be ineligible to participate in the contract contemplated by this RFP and the selected applicant may find it necessary to replace the non-compliant subcontractor with a compliant subcontractor. Applicants are advised to take these policies into consideration when entering into their contractual relationships with proposed subcontractors.

If an Applicant or proposed subcontractor is not currently in compliance with the City's tax and regulatory codes, please contact the Revenue Department to make arrangements to come into compliance with at 1-215-686-6600 or revenue@phila.gov.

LOCAL BUSINESS ENTITY OR LOCAL IMPACT CERTIFICATION

Pursuant to Mayoral Executive Order No. 04-12, the City Department will, in selection of the successful Applicant, consider whether that Applicant has certified that either (1) Applicant meets the criteria stated in Section 17-109(3)(b) of the Philadelphia Code to qualify as a Local Business Entity or (2) in the performance of the resulting contract, Applicant will employ City residents, or perform work in the City. Any Applicant who wishes to demonstrate its eligibility for this consideration shall do so by completing, executing and attaching to its application a completed Local Business Entity or Local Impact Certification, the form of which is attached to this RFP as **Appendix B**. The Applicant shall then also include in a separate section of the application, labeled "Local Business Entity or Local Impact Certification," a statement that the Applicant believes it has met the Local Business Entity or Local Impact criteria "as set forth in the attached Local Business Entity or Local Impact Certification." The City Department shall deem it a positive factor where the Applicant has, in the City's sole discretion, met the Local Business Entity or Local Impact criteria.

GENERAL DISCLAIMER OF THE CITY AND RESERVATION OF RIGHTS

This RFP does not commit the City of Philadelphia to award a contract. This RFP and the process it describes are proprietary to the City and are for the sole and exclusive benefit of the City. No other party, including any Applicant, is intended to be granted any rights hereunder. Any response, including written documents and verbal communication, by any Applicant to this RFP, shall become the property of the City and may be subject to public disclosure by the City, or any authorized agent of the City.

This RFP states requirements for the project, including the services and tangible work products to be delivered, and the tasks the Department has identified as necessary to meet those requirements, based on changed circumstances (such as a change in business or technical environments), the proposal selection process and contract negotiations with the Applicant(s) selected for negotiations, and to do so with or without issuing a revised RFP.

The City reserves the right to condition payments on the satisfactory completion of the specified milestones, tasks, services and/or work products listed above.

The City reserves and may exercise, at its sole discretion, the following rights and options with respect to the selection process outlined in this RFP as indicated in the **Appendix C** of this RFP.

OFFICE OF ECONOMIC OPPORTUNITY – PARTICIPATION COMMITMENT

Each Applicant is subject to the provisions of Mayoral Executive Order 03-12, the City's Antidiscrimination Policy for participation by Minority Business Enterprises ("MBE"), Woman Business Enterprises ("WBE") and Disabled Business Enterprises ("DSBE")(collectively, "M/W/DSBE") as those terms are defined in Executive Order 03-12. While there are no specific participation ranges established for this RFP, Applicants are required to exercise their "Best and Good Faith Efforts" to provide meaningful opportunities for the participation on M/W/DSBEs in their Proposals. Forms, instructions and special contract provisions which explain the requirements of the Antidiscrimination Policy for City contracts in more detail are included in **Appendix D** to this RFP, including the "Solicitation for Participation and Commitment Form." A list of certified minority and women consultants and vendors can be found on the Office of Economic Opportunity's web site at <http://www.oeo.phila.gov>.

The successful Applicant must submit an **Equal Opportunity Plan** to the Compliance Unit before a contract is awarded.

MONITORING; SECURITY

By submission of a Proposal in response to this RFP, the Applicant agrees that it will comply with all contract monitoring and evaluation activities undertaken by the City of Philadelphia, and with all security policies and requirements of the City.

REPORTING REQUIREMENTS

The successful Applicant shall report to the City of Philadelphia on a regular basis regarding the status of the project and its progress in providing the contracted services and/or products. At a minimum, the successful Applicant shall submit a monthly invoice detailing the services and/or products provided, the goals/tasks accomplished, and the associated costs. If hourly rates are charged, the invoice must detail the number of hours, the hourly rate, and the individual who performed the service. The Department reserves the right to condition payments on the satisfactory completion of the housing counseling units of service and data entered into CounselorMax.

CAMPAIGN CONTRIBUTION DISCLOSURE FORMS

Each Applicant must complete the attached Campaign Contribution Disclosure Forms (**Appendix E**) and attach it to its Proposal. All Applicants for contract opportunities must disclose any contributions made to:

- A candidate for nomination or election in any public office in the Commonwealth or Pennsylvania
- An incumbent in any public office in the Commonwealth of Pennsylvania
- A political committee or state party in the Commonwealth of Pennsylvania
- A group, committee or association organized in support of any candidate, office holder, political committee or state party in the Commonwealth of Pennsylvania

NOTICE TO APPLICANTS TO STATE REQUESTED EXCEPTIONS TO CONTRACT TERMS IN PROPOSAL

The City's standard contract terms and conditions for services of the type sought by this contracting opportunity (Contract Terms) are set forth in the General Provisions attached to this RFP as **Appendix F**. By submitting a Proposal in response to this contract opportunity, the Applicant agrees that, except as provided herein, it will enter into a contract with the City containing substantially the Contract Terms.

Applicants must state clearly and conspicuously and modifications, waivers, objections or exceptions they seek ("Requested Exceptions") to the Contract Terms in a separate section of the Proposal entitled "Requested Exceptions to Contract Terms". For each Requested Exception, the Applicant must identify the pertinent Contract Term by caption and section number, state the reasons for the request, and propose alternative language or terms. Requested Exceptions to the City's Contract Terms will be approved only when the City determines in its sole discretion that a Requested Exception makes business sense, does not pose unacceptable risk to the City, and is in the best interest of the City. By submitting its Proposal, the Applicant agrees to accept all Contract Terms to which it does not expressly seek a Requested Exception in its Proposal. The City reserves the right, in its sole discretion, to evaluate and reject Proposals based in part on whether the Applicant's Proposal contains Requested Exceptions to Contract Terms, and the number and type of such requests and alternative terms proposed.

If, after the City issues its Notice of Intent to Contract to an Applicant, the Applicant seeks Requested Exceptions to Contract Terms that were not stated in its Proposal, the City may, in its sole discretion, deny the Requested Exceptions without consideration or reject the Proposal.

The City reserves the right, in its sole discretion, (i) to waive any failure to comply with the terms of this Notice to Applicants if it determines it is in the best interest of the City to do so; and (ii) to require or negotiate terms and conditions different from and/or additional to the Contract Terms in any final contract resulting from this contract opportunity, without notice to other Applicants and without affording other Applicants any opportunity to revise their Proposals based on such different or additional terms.

EXHIBIT "A"

Costs per Unit:

Housing counseling contracts are awarded on the number of units of services and type of counseling an agency proposes to perform for a specific dollar amount. OHCD places a dollar value on the housing counseling services as listed below (home visits are captured with a higher cost per unit than client office visits).

Mortgage Foreclosure Prevention Counseling (A)	\$250 per unit
Default and Delinquency Counseling (B and C)	\$200 per unit
Pro Sé Petition to Postpone (D)	\$200 per unit
Home Purchase and Anti-Predatory Lending, (E and F)	\$150 per unit
Real Estate Tax Delinquency Counseling (G)	\$150 per unit
Equity, Deed, and other Related Problems (H)	\$100 per unit
Tenant Counseling and Housing Consumer Education (I and J)	\$100 per unit

To qualify as a unit of service the agency must have face-to-face contact with the client and take specific action to achieve the client's goal.

Group sessions are encouraged; one counseling unit per session (workshop, training, etc.) will be credited for every three (3) participants. Group sessions are to be reported under Housing Consumer Education only. Facilitator and audience interaction is required.

Please indicate the number of units of service and number of households you intend to serve:

TYPE OF COUNSELING		NUMBER OF UNITS OF SERVICE	NUMBER OF HOUSEHOLDS
A.	Mortgage Foreclosure Prevention Counseling		
B	Default and Delinquency Counseling		
C.	HEMAP Application		
D.	Pro Sé Petition to Postpone		
E.	Home Purchase Counseling		
F.	Anti-Predatory Loan Counseling		

G.	Real Estate Tax Delinquency Counseling		
H	Equity, Deed, and other Related Problems		
I.	Tenant Counseling		
J.	Housing Consumer Education		
	TOTAL	0	0

EXHIBIT "B"
RFP BUDGET FORMAT

BUDGET SUMMARY

CONTRACT PERIOD:

CONTRACT BUDGET: **\$**

EIN NUMBER: **#**

	C	D	E	F
CATEGORY OF COST	CDBG	OTHER PROJECT RESOURCES	TOTAL RESOURCES A+B	AGENCY LINE ITEM BUDGET
OPERATING BUDGET				
A. DIRECT PERSONNEL	\$0	\$0	\$0	\$0
B. DIRECT FRINGE BENEFITS	\$0	\$0	\$0	\$0
C. PROFESSIONAL SERVICES CONSULTANTS	\$0	\$0	\$0	\$0
D. TRAVEL - LOCAL	\$0	\$0	\$0	\$0
E. COUNSELOR TRAINING	\$0	\$0	\$0	\$0
F. OCCUPANCY	\$0	\$0	\$0	\$0
G. CONSUMABLE SUPPLIES	\$0	\$0	\$0	\$0
H. EQUIPMENT - LEASE/MAINTENANCE	\$0	\$0	\$0	\$0
I. EQUIPMENT - PURCHASE	\$0	\$0	\$0	\$0
J. PROGRAM EXPENSES	\$0	\$0	\$0	\$0
K. INSURANCE	\$0	\$0	\$0	\$0
CONTRACT TOTAL*	\$0	\$0	\$0	\$0

INSTRUCTIONS: Enter the dollar amounts on the Budget Detail pages only (pages 2 and 3). Do not type any data on the Summary page (page 1); the Summary page will automatically capture the data entered.

Budgets should reflect all costs required to operate the program you are proposing. Under the Personnel cost category, list the title of the staff person(s) you are seeking to fund (no personal names). FICA budgeted items should reflect 7.65% of the personnel salary costs listed in the budget. If selected for funding, appropriate procurement documentation will be reviewed at contract start.

BUDGET DETAIL

Instructions: Enter CDBG funding sought in Column C. If your agency anticipates funding from other resources for housing counseling (ie. HUD, PHFA, Neighborworks, NCLR, etc.), use Column (D). Please identify the sources of funding for Column (D) in the last page, Other Project Resources. Do not enter data in Column (E), as it will be entered automatically. The Agency Line Item budget in Column (F).

DETAIL

	C	D	E	F
CATEGORY OF COST	CDBG	OTHER PROJECT RESOURCES	TOTAL RESOURCES A+B	AGENCY LINE ITEM BUDGET
OPERATING BUDGET				
A. DIRECT PERSONNEL				
1	\$	\$	\$0	\$
2	\$	\$	\$0	\$
3.	\$	\$	\$0	\$
4.	\$	\$	\$0	\$
5	\$	\$	\$0	\$
6	\$	\$	\$0	\$
SUBTOTAL	\$0	\$0	\$0	\$0
B. DIRECT FRINGE BENEFITS				
1. FICA - Employer's Contribution	\$	\$	\$0	\$
2. Workman's Compensation	\$	\$	\$0	\$
3. Unemployment	\$	\$	\$0	\$
4. Medical/ Dental	\$	\$	\$0	\$
5. Life/Disability	\$	\$	\$0	\$
SUBTOTAL	\$0	\$0	\$0	\$0
C. PROFESSIONAL SERVICES CONSULTANTS				
1	\$	\$	\$0	\$
2.	\$	\$	\$0	\$
SUBTOTAL	\$0	\$0	\$0	\$0
D. TRAVEL LOCAL				
	\$	\$	\$0	\$
SUBTOTAL	\$0	\$0	\$0	\$0

E. COUNSELOR TRAINING				
	\$	\$	\$0	\$
SUBTOTAL	\$0	\$0	\$0	\$0
BUDGET DETAIL				
	C	D	E	F
CATEGORY OF COST	CDBG	OTHER PROJECT RESOURCES	TOTAL RESOURCES A+B	AGENCY LINE ITEM BUDGET
F. OCCUPANCY				
1	\$	\$	\$0	\$
2	\$	\$	\$0	\$
3	\$	\$	\$0	\$
4	\$	\$	\$0	\$
SUBTOTAL	\$0	\$0	\$0	\$0
G. CONSUMABLE SUPPLIES				
1	\$	\$	\$0	\$
2	\$	\$	\$0	\$
3	\$	\$	\$0	\$
SUBTOTAL	\$0	\$0	\$0	\$0
H. LEASE/RENTAL OF EQUIPMENT/MAINTENANCE				
	\$	\$	\$0	\$
SUBTOTAL	\$0	\$0	\$0	\$0
I. EQUIPMENT PURCHASE				
	\$	\$	\$0	\$
SUBTOTAL	\$0	\$0	\$0	\$0
J. PROGRAM EXPENSES				
	\$	\$	\$0	\$
SUBTOTAL	\$0	\$0	\$0	\$0
K. INSURANCE				
1. Liability	\$	\$	\$0	\$
2. Fidelity Bonding	\$	\$	\$0	\$
3. General	\$	\$	\$0	\$
SUBTOTAL	\$0	\$0	\$0	\$0

**BUDGET
DETAIL**

Other Project Resources

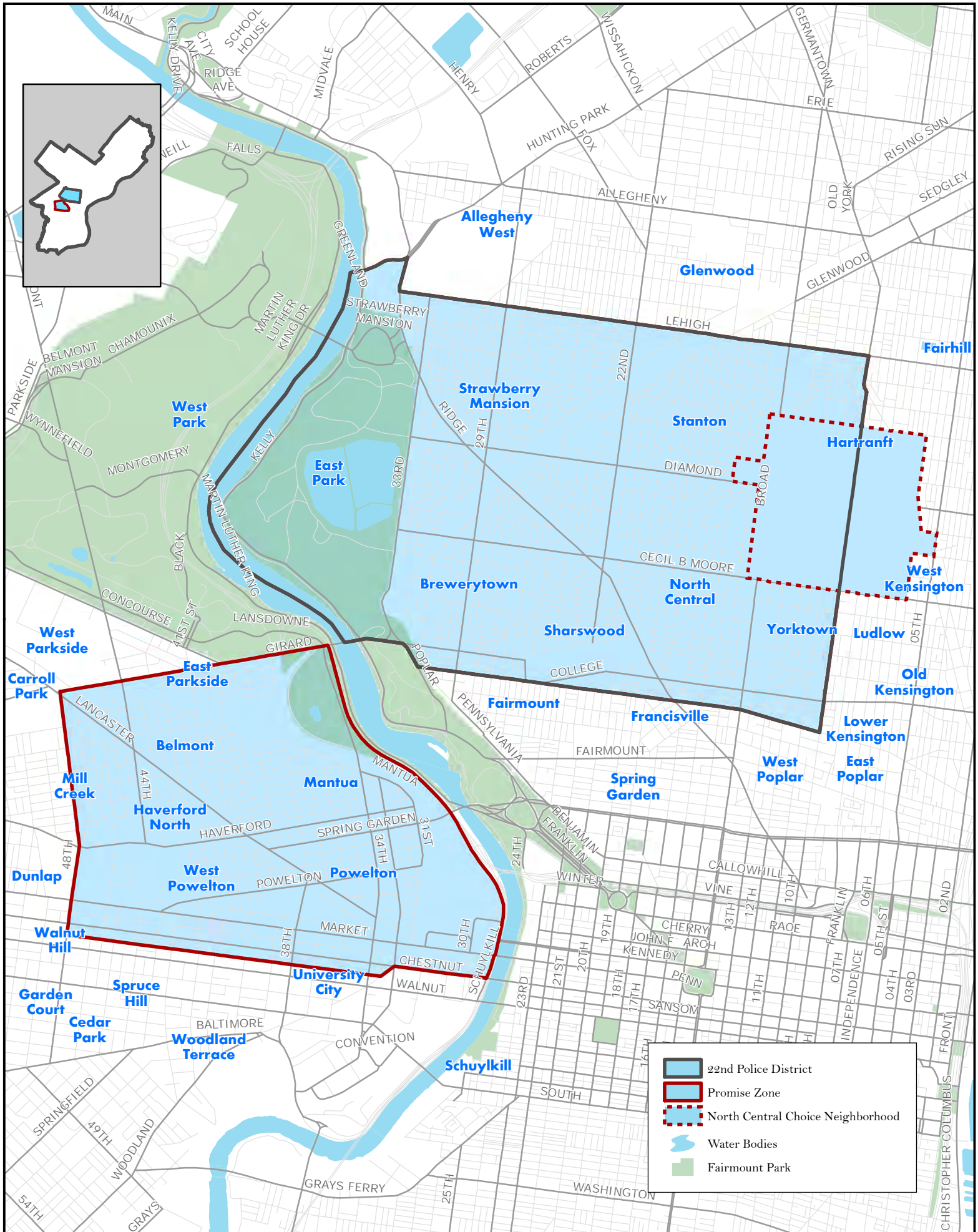
Funding Source

Amount of Funding

1.	\$ -
2.	\$ -
3.	\$ -
4	\$ -
Total	\$ -

The City minimum wage effective 1/2015 is \$12 hour for nonprofits with City of Philadelphia contracts. The nonprofit must have more than five employees and hold City funded contracts totaling \$100,000 in the given City fiscal period.

Exhibit C



APPENDIX A

CITY OF PHILADELPHIA TAX AND REGULATORY STATUS AND CLEARANCE STATEMENT FOR APPLICANTS

THIS IS A CONFIDENTIAL TAX DOCUMENT NOT FOR PUBLIC DISCLOSURE

This form must be completed and returned with Applicant's proposal in order for Applicant to be eligible for award of a contract with the City. Failure to return this form will disqualify Applicant's proposal from further consideration by the contracting department. Please provide the information requested in the table, check the appropriate certification option and sign below:

Applicant Name	
Contact Name and Title	
Street Address	
City, State, Zip Code	
Phone Number	
Federal Employer Identification Number or Social Security Number:	
Philadelphia Business Income and Receipts Tax Account Number (a/k/a Business Privilege Tax) (if none, state "none")*	
Commercial Activity License Number (a/k/a Business Privilege License) (if none, state "none")*	

____ I certify that the Applicant named above has all required licenses and permits and is current, or has made satisfactory arrangements with the City to become current with respect to the payment of City taxes or other indebtedness owed to the City (including, but not limited to, taxes collected by the City on behalf of the School District of Philadelphia), and is not in violation, or has made satisfactory arrangements to cure any violation, or other regulatory provisions applicable to Applicant contained in The Philadelphia Code.

____ I certify that the Applicant named above does not currently do business, or otherwise have an economic presence in Philadelphia. If Applicant is awarded a contract with the City, it promptly will take all steps necessary to bring it into compliance with the City's tax and other regulatory requirements.

Authorized Signature

Date

Print Name and Title

* You can apply for a City of Philadelphia Business Income and Receipts Tax Account Number or a Commercial Activity License on line after you have registered your business on the City's Business Services website located at <http://business.phila.gov/Pages/Home.aspx>. Click on "Register" or "Register Now" to register your business.

APPENDIX B

LOCAL BUSINESS ENTITY OR LOCAL IMPACT CERTIFICATION

Instructions: Applicants who seek as a positive factor in the City's consideration of their application that they meet the Local Business Entity or Local Impact criteria as provided in Mayoral Executive Order No. 04-12 should complete this Certification and return it with their application. Applicants providing this Certification should also include in a separate section of their application labeled "Local Business Entity or Local Impact Certification," a statement that the Applicant believes it has met the Local Business Entity or Local Impact criteria "as set forth in the attached Local Business Entity or Local Impact Certification." Check all appropriate certification options that are applicable to Applicant and sign below:

Applicant Name: _____

Local Business Entity Certification

___ I certify that the Applicant named above is a Local Business Entity because Applicant complies with the following criteria set forth in Section 17-109 (3) (b) of The Philadelphia Code:

I. During the preceding 12 months, Applicant has filed a Commercial Activity or Business Privilege tax return with the City establishing that Applicant conducted business within the City within the calendar year preceding the filing of the return; and

II. During the preceding 18 months, Applicant:

A. Has continuously maintained a valid Commercial Activity or Business Privilege License and all other licenses and permits necessary to conduct business with the City;

B. Has continuously occupied an office within the City, where business is conducted; and

C. Satisfies at least one of the following requirements (*Check those applicable to Applicant*):

___ (1) More than half of Applicant's full-time employees work in the City at least 60% of the time;

___ (2) More than 50 of Applicant's full-time employees work in the City at least 60% of the time; or

___ (3) Applicant's principal place of business is located in the City.

Local Impact Certification

___ I certify that in the performance of a contract resulting from this RFP, the Applicant named above will employ City residents

____ I certify that in the performance of a contract resulting from this RFP, the Applicant will perform the work in the City.

Authorized Signature

Date

Print Name and Title

Diversity Report of Nonprofit Organizations

Please provide the following demographic breakdown of your workforce by race/ethnicity/gender/disability:

[illegible]

Please provide the following demographic breakdown of your Board of Directors or Trustees by race/ethnicity/gender/disability:

	Males	Females
#		
%		

Please check the appropriate box to indicate if you have a supplier diversity policy. If "no," please explain on your letterhead.

If you maintain a supplier diversity policy, please attach a copy of your supplier diversity policy.

Please identify below, your agency's five (5) highest minority, woman, and/or disabled owned business suppliers of products or services, indicating your estimated annual expenditure(s) with the firm:

Company Name		Company Address	Company Telephone	Minority	Woman	Disabled	Annual Expenditures
1							
2							
3							
4							
5							
Signature:		Date:	None, Partial, Minor, etc.				

Signature:

Date:**Non-Profit Name:**

APPENDIX C

General Disclaimer of the City of Philadelphia

This RFA does not commit the City of Philadelphia/OHCD to award a contract. This RFA and the process it describes are proprietary to the City and are for the sole and exclusive benefit of the City. No other party, including any Applicant, is intended to be granted any rights hereunder. Any response, including written documents and verbal communication, by any Applicant to this RFA, shall become the property of the City and may be subject to public disclosure by the City, or any authorized agent of the City.

This RFA states requirements for the project, including the services and the tangible work products to be delivered, and the tasks the Department has identified as necessary to meet those requirements. The City Department reserves the right, however, to modify specific requirements, based on changed circumstances (such as a change in business or technical environments), the proposal selection process, and contract negotiations with the Applicant(s) selected for negotiations, and to do so with or without issuing a revised RFA.

The City Department reserves the right to condition payments on the satisfactory completion of the specified milestones, tasks, services and/or work products listed above. In addition to describing how each proposed milestone will be accomplished, the scope of work proposed by Applicant should identify the milestones the Applicant proposes as payment milestones and the amount it proposes for each milestone payment. Applicants may propose alternative means of payment, but should explain their reasons for the alternative and how it will facilitate completion of the work

1. Disclosure of Litigation: Disclosure of Administrative Proceedings

State, for the 5-year period preceding the date of this RFA, a description of any judicial or administrative proceeding that is material to Applicant's business or financial capability or to the subject matter of this RFA, or that could interfere with Applicant's performance of the work requested by this RFA, including, but not limited to, any civil, criminal or bankruptcy litigation; any debarment or suspension proceeding; any criminal conviction or indictment; and any order or agreement with or issued by a court or local, state or federal agency. For each such proceeding, state the name of the case or proceeding, the parties involved, the nature of the claims involved, its current status and the final disposition, if any. Provide the same information for any officer, director, principal, or partner of Applicant's organization, and for any subcontractor Applicant plans to use to perform the services described in this RFA.

1. This Notice of Contract Opportunity

The City reserves and may, in its sole discretion, exercise any one or more of the following rights and options with respect to this notice of contract opportunity:

- (a) to reject any and all proposals and to reissue this notice of contract opportunity at any time prior to execution of a final contract;

- (b) to issue a new notice of contract opportunity with terms and conditions substantially different from those set forth in this or a previous notice of contract opportunity;
- (c) to issue a new notice of contract opportunity with terms and conditions that are the same or similar as those set forth in this or a previous notice of contract opportunity in order to obtain additional proposals or for any other reason the City determines to be in the City's best interest;
- (d) to extend this notice of contract opportunity in order to allow for time to obtain additional proposals prior to the notice of contract opportunity application deadline or for any other reason the City determines to be in the City's best interest;
- (e) to supplement, amend, substitute or otherwise modify this notice of contract opportunity at any time prior to issuing a notice of intent to contract to one or more Applicants;
- (f) to cancel this notice of contract opportunity at any time prior to the execution of a final contract, whether or not a notice of intent to contract has been issued, with or without issuing, in the City's sole discretion, a new notice of contract opportunity for the same or similar services;
- (g) to do any of the foregoing without notice to Applicants or others, except such notice as the City, in its sole discretion, elects to post on eContractPhilly.

2. Proposal Selection and Contract Negotiation

The City reserves and may, in its sole discretion, exercise any one or more of the following rights and options with respect to proposal selection:

- (a) to reject any proposal if the City, in its sole discretion, determines the proposal is incomplete, deviates from or is not responsive to the requirements of this notice of contract opportunity, does not comply with applicable law (including, without limitation, Chapter 17-1400 of The Philadelphia Code), is conditioned in any way, or contains ambiguities, alterations or items of work not called for by this notice of contract opportunity, or if the City determines it is otherwise in the best interest of the City to reject the proposal;
- (b) to reject any proposal if, in the City's sole judgment, the Applicant has been delinquent or unfaithful in the performance of any contract with the City or with others; is delinquent, and has not made arrangements satisfactory to the City, with respect to the payment of City taxes or taxes collected by the City on behalf of the School District of Philadelphia, or other indebtedness owed to the City; is not in compliance with City regulatory codes applicable to Applicant; is financially or technically incapable; or is otherwise not a responsible Applicant;
- (c) to waive any defect or deficiency in any proposal, including, without limitation, those identified in subsections 1) and 2) preceding, if, in the City's sole judgment, the defect or deficiency is not material to the proposal;
- (d) to require, permit or reject, in the City's sole discretion, amendments (including, without limitation, information omitted), modifications, clarifying information, and/or corrections to their proposals by some or all of the Applicants at any time following proposal submission and before the execution of a final contract;
- (e) to issue a notice of intent to contract and/or execute a contract for any or all of the items in any proposal, in whole or in part, as the City, in its sole discretion, determines to be in the City's best interest;

- (f) to enter into negotiations with any one or more Applicants regarding price, scope of services, or any other term of their proposals, and such other contractual terms as the City may require, at any time prior to execution of a final contract, whether or not a notice of intent to contract has been issued to any Applicant and without reissuing this notice of contract opportunity;
- (g) to enter into simultaneous, competitive negotiations with multiple Applicants or to negotiate with individual Applicants, either together or in sequence, and to permit or require, as a result of negotiations, the expansion or reduction of the scope of services or changes in any other terms of the submitted proposals, without informing other Applicants of the changes or affording them the opportunity to revise their proposals in light thereof, unless the City, in its sole discretion, determines that doing so is in the City's best interest;
- (h) to discontinue negotiations with any Applicant at any time prior to the execution of a final contract, whether or not a notice of intent to contract has been issued to the Applicant, and to enter into negotiations with any other Applicant, if the City, in its sole discretion, determines it is in the best interest of the City to do so;
- (i) to rescind, at any time prior to the execution of a final contract, any notice of intent to contract issued to an Applicant, and to issue or not issue a notice of intent to contract to the same or a different Applicant and enter into negotiations with that Applicant, if the City, in its sole discretion, determines it is in the best interest of the City to do so;
- (j) to elect not to enter into any contract with any Applicant, whether or not a notice of Intent to Contract has been issued and with or without the reissuing this notice of contract opportunity, if the City determines that it is in the City's best interest to do so;
- (k) to require any one or more Applicants to make one or more presentations to the City at the City's offices or other location as determined by the City, at the Applicant's sole cost and expense, addressing the Applicant's proposal and its ability to achieve the objectives of this notice of contract opportunity;
- (l) to conduct on-site investigations of the facilities of any one or more Applicants (or the facilities where the Applicant performs its services);
- (m) to inspect and otherwise investigate projects performed by the Applicant, whether or not referenced in the proposal, with or without consent of or notice to the Applicant;
- (n) to conduct such investigations with respect to the financial, technical, and other qualifications of each Applicant as the City, in its sole discretion, deems necessary or appropriate; and,
- (o) to do any of the foregoing without notice to Applicant or others, except, such notice as the City, in its sole discretion, elects to post on eContractPhilly.

3. Miscellaneous

- (a) Interpretation; Order of Precedence. In the event of conflict, inconsistency or variance between the terms of this Reservation of Rights and any term, condition or provision contained in any notice of contract opportunity, the terms of this Reservation of Rights shall govern.
- (b) Headings. The headings used in this Reservation of Rights do not in any way define, limit, describe or

amplify the provisions of this Reservation of Rights or the scope or intent of the provisions, and are not part of this Reservation of Rights.

B. Confidentiality and Public Disclosure

The successful Applicant shall treat all information obtained from the City which is not generally available to the public as confidential and/or proprietary to the City. The successful Applicant shall exercise all reasonable precautions to prevent any information derived from such sources from being disclosed to any other person. The successful Applicant agrees to indemnify and hold harmless the City, its officials and employees, from and against all liability, demands, claims, suits, losses, damages, causes of action, fines and judgments (including attorney's fees) resulting from any use or disclosure of such confidential and/or proprietary information by the successful Applicant or any person acquiring such information, directly or indirectly, from the successful Applicant.

By submission of a proposal, Applicants acknowledge and agree that the City, as a municipal corporation, is subject to state and local public disclosure laws and, as such, is legally obligated to disclose to the public documents, including proposals, to the extent required thereunder. Without limiting the foregoing sentence, the City's legal obligations shall not be limited or expanded in any way by an Applicant's assertion of confidentiality and/or proprietary data

Appendix E

CAMPAIGN CONTRIBUTIONS Disclosure Forms

DISCLOSURE FORMS

Directions

1. Please read the following information regarding the completion of these disclosure forms. Please review the definitions prior to completing any form.
2. Date and initial the top of each form after you have completed it and sign the form on the last page.
3. NOTE: There are two different types of campaign contribution disclosure forms: one for those who are applying as individuals and one for those applying as businesses. Only fill out one type of form. (If you have used a consultant with respect to applying for this non-competitively bid contract you will have to fill out a campaign contribution disclosure form for them as well.)

Getting Started

There are five sets of disclosure forms enclosed in this packet. You must provide information for each disclosure form. The information you must disclose includes:

1. Any contributions (defined as a provision of money, in-kind assistance, discounts, forbearance or any other valuable thing) made during the two years prior to the application deadline for this non-competitively bid contract opportunity;
2. The name of any consultant(s) you used to help in obtaining the non-competitively bid contract and any campaign contributions they have made during the two years prior to the application deadline;
3. Any subcontractors you are planning to use if awarded this contract;
4. Whether a City of Philadelphia or contracting organization employee or official asked you to give money, services, or any other thing of value to any individual or entity; and
5. Whether a City of Philadelphia or contracting organization employee or official gave you any advice on how to satisfy any minority, women, disabled or disadvantaged business participation goals.

More information on Disclosing Campaign Contributions

Applicants for contract opportunities must disclose any contributions they made to:

- A candidate for nomination or election in any public office in the Commonwealth of Pennsylvania
- An incumbent in any public office in the Commonwealth of Pennsylvania
- A political committee or state party in the Commonwealth of Pennsylvania
- A group, committee, or association organized in support of any candidate, office holder, political committee or state party in the Commonwealth of Pennsylvania

Attribution Rules. In addition to disclosing contributions made directly by the applicant, the applicant will be asked to supply information on other types of contributions. The campaign contribution disclosure forms will include questions that specifically ask for information on these other types of contributions. These contributions will be attributed to the individual or business and will be used to determine the applicant's eligibility to be awarded a contract.

Businesses (i.e. corporation, limited liability company, partnership association, joint venture, or any other legal entity) have to disclose contributions made by the following:

- Applicant business
- Parent, subsidiary, or otherwise affiliated entity of the applicant business ("affiliate")
- An individual or business that is then reimbursed by the applicant business or affiliate
- Officers, directors, controlling shareholders, or partners of the for-profit applicant business or for-profit affiliate
- Political action committee controlled by applicant business or affiliate
- Political action committee controlled by officer, director, controlling shareholder, or partner of the for-profit applicant business or for-profit affiliate

Individuals have to disclose contributions made by the following:

- Applicant individual
- Member of individual's immediate family (i.e., spouse, life partner, or dependent child living at home), when contributions are in excess of \$2600

In addition to direct contributions to candidates, incumbents, or political committees in the Commonwealth of Pennsylvania, applicants are also required to disclose:

1. Contributions not directly given to a candidate, incumbent, or political committee but made with the intent that the contribution will benefit the candidate, incumbent, or political committee;
2. Solicitation of contributions on behalf of a candidate, incumbent, or political committee, including the hosting of or solicitation at fundraising events (required to disclose details regarding the date of event and amount raised); and
3. Contributions not made directly by the individual/business to a candidate, incumbent, or political committee but furnished by the individual/business (as an "intermediary").

Eligibility Restrictions

If an individual makes contributions totaling over \$2,600 in one calendar year to a candidate for City elective office or to an incumbent, the individual is not eligible to receive a non-competitively bid contract during that candidate's or incumbent's term of office.

If a business makes contributions totaling over \$10,600 in one calendar year to a candidate for City elective office or to an incumbent, the business is not eligible to receive a non-competitively bid contract during that candidate's or incumbent's term of office.

DEFINITIONS

Affiliate	A parent, subsidiary, or otherwise affiliated entity of a business
Applicant	An individual or business who has filed an application to be awarded a non-competitively bid contract
Business	A corporation, limited liability company, partnership, association, joint venture or any other legal entity (including non-profit organizations) that is not an individual
Candidate	Any individual who seeks nomination or election to public office, other than a judge of elections or inspector of elections, whether or not such individual is nominated or elected. An individual shall be deemed to be seeking nomination or election to such office if he or she has (1) received a contribution or made an expenditure or has given his consent for any other person or committee to receive a contribution or make an expenditure, for the purpose of influencing his or her nomination or election to such office, whether or not the individual has made known the specific office for which he or she will seek nomination or election at the time the contribution is received or the expenditure is made; or (2) taken the action necessary under the laws of the Commonwealth of Pennsylvania to qualify himself or herself for nomination or election to such office.
Consultant	A person used by an applicant to assist in obtaining a non-competitively bid contract through direct or indirect communication by such individual or business with any City agency or City officer or employee or any contracting organization officer or employee, if the communication is undertaken by such individual or business in exchange for, or with the understanding of receiving, payment from the applicant; provided, however, that "Consultant" shall not include a full-time employee of the applicant.
Contributions	<p>The provision of money, in-kind assistance, discounts, forbearance or any other valuable thing, during the two years prior to the deadline for the filing of the application for the contract opportunity, to any of the following:</p> <ul style="list-style-type: none"> - a candidate for nomination or election to any public office in the Commonwealth of Pennsylvania; - an incumbent in any public office in the Commonwealth; - a political committee or state party in the Commonwealth; or - a group, committee or association organized in support of any candidate, office holder, political committee or state party in the Commonwealth.
Immediate family	A spouse or life partner residing in the individual's household or minor dependent children
Incumbent	An individual who holds elective office
Intermediary	A person, who, other than in the regular course of business as a postal, delivery or messenger service, delivers a contribution from another individual or business to the recipient of such contribution
Non- Competitively Bid	A contract for the purchase of goods or services to which the City or City Agency is a party that is not subject to the lowest responsible bidder requirements of Section 8- 200 of the Home Rule Charter, including, but not limited to, a Professional Services Contract, and any renewal of such a contract (other than a renewal term pursuant to an option to renew contained in an executed contract)
Person	An individual, corporation, limited liability company, partnership, association, joint venture, or any other legal entity
Political committee	Any committee, club, association or other group of persons which receives money or makes expenditures for purposes of influencing any election
Professional Services Contract	A contract to which the City or a City Agency is a party that is not subject to the lowest competitive bidding requirements of Section 8-200 of the Home Rule Charter because it involves the rendition of professional services, including any renewal of such a contract (other than a renewal term pursuant to an option to renew contained in an executed contract)
Solicit a Contribution	Requesting or suggesting that a person make a contribution. The sponsoring or hosting of a fundraising event is considered soliciting a contribution from the attendees of the event. Any contributions raised at such event are counted as a contribution made by the host of the event.

Date: _____

Initials: _____

If Applying as an Individual:
Campaign Contribution Disclosure Form

Please read through the directions and definitions before filling out this disclosure form to make sure that each question is answered appropriately and thoroughly. Note that you must provide information for the two years prior to the application deadline.

	Yes	No
Have you made any contributions?	<input type="checkbox"/>	<input type="checkbox"/>
Have you solicited or served as an intermediary for any contributions?	<input type="checkbox"/>	<input type="checkbox"/>
Has a member of your immediate family made any contributions over and above \$2,600?	<input type="checkbox"/>	<input type="checkbox"/>
Has a member of your immediate family solicited or served as an intermediary for contributions over and above \$2,600?	<input type="checkbox"/>	<input type="checkbox"/>
<i>Check here to certify that no contributions were made.</i>	<input type="checkbox"/>	

Additional information on every contribution must be disclosed.
Please use the table provided on the next page.

Date: _____

Initials: _____

If Applying as an Individual
Campaign Contributions Disclosure Form

For relationship, indicate whether the contributor was the individual or family member.

Name of Contributor	Relationship (to individual completing this form)	Name of Recipient	Date of Contribution	Amount of Contribution

Please use additional pages as needed.

Date: _____

Initials: _____

If Applying as a Business:
Campaign Contribution Disclosure Form

Please read through the directions and definitions before filling out this disclosure form to make sure that each question is answered appropriately and thoroughly. Where "non-profit" is an option, indicate whether the business is a non-profit; non-profits are not required to disclose contribution information on these questions. Note that you must provide information for the two years prior to the application deadline.

	Yes	No	Nonprofit
Has the business made any contributions?	<input type="checkbox"/>	<input type="checkbox"/>	
Has the business solicited or served as an intermediary for any contributions?	<input type="checkbox"/>	<input type="checkbox"/>	
Has an officer, director, controlling shareholder, or partner of the business made contributions? See note below.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Has an officer, director, controlling shareholder, or partner of the business solicited or served as an intermediary for any contributions? See note below.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Has an affiliate of the business made any contributions?	<input type="checkbox"/>	<input type="checkbox"/>	
Has an affiliate of the business solicited or served as an intermediary for any contributions?	<input type="checkbox"/>	<input type="checkbox"/>	
Has an officer, director, controlling shareholder, or partner of a for-profit affiliate of the business, made any contributions? See note below.	<input type="checkbox"/>	<input type="checkbox"/>	
Has an officer, director, controlling shareholder, or partner of a for-profit affiliate of the business, solicited or served as an intermediary for any contributions? See note below.	<input type="checkbox"/>	<input type="checkbox"/>	
Has the business or an affiliate of the business reimbursed another individual or business for a contribution that the individual or business has made?	<input type="checkbox"/>	<input type="checkbox"/>	
Has an officer, director, controlling shareholder, or partner of a for-profit business, or of a for-profit affiliate of the business, reimbursed another individual or business for a contribution that the individual or business has made?	<input type="checkbox"/>	<input type="checkbox"/>	
Has a political committee controlled by the business or by an affiliate of the business made any contributions?	<input type="checkbox"/>	<input type="checkbox"/>	
Has a political committee controlled by an officer, director, controlling shareholder, or partner of the for-profit business, or of a for-profit affiliate of the business, made any contributions?	<input type="checkbox"/>	<input type="checkbox"/>	
<i>Check here to certify that no contributions were made.</i>	<input type="checkbox"/>		

Note: Applicants must disclose all contributions to candidates or incumbents which are attributed to an immediate family member of an officer, director, controlling shareholder or partner of the for-profit Applicant or the for-profit affiliate of the Applicant. Please disclose the full amount of the contribution, although only the amount above \$2600 will be attributed to the officer, director, controlling shareholder or partner (and, by extension, the Applicant business).

Additional information on every contribution must be disclosed.
Please use the table provided on the next page.

Date: _____

Initials: _____

If Applying as a Business
Campaign Contributions Disclosure Form

For relationship, indicate whether the contributor was the Business, Affiliate, Controlled Political Committee, Controlling Shareholder, Director, Officer, Parent, Partner, Reimbursed Contributor, Solicited Contributor, Subsidiary, or Other.

Name of Contributor	Relationship (to business completing this form)	Name of Recipient	Date of Contribution	Amount of Contribution

Please use additional pages as needed.

Date: _____

Initials: _____

Use of Consultant Disclosure Form

Please list all consultant(s) used in the year prior to the application deadline for this contract opportunity and the corresponding information for that consultant in the space provided below.

Please note that a Consultant, for the purposes of the required disclosures, is defined as an individual or business used by an applicant or contractor to assist in obtaining a non-competitively bid contract through direct or indirect communication by such individual or business with a City agency or City employee or official, if the communications is undertaken in exchange for, or with the understanding of receiving, payment from the applicant or contractor or any other individual or business (however, "Consultant" shall not include a full-time employee of the Applicant or Contractor).

Check here to certify that no consultant(s) was used in the year prior to the application deadline for this contract opportunity.		<input type="checkbox"/>
Consultant 1		
Consultant Name		
Address 1		
Address 2		
City, State, Zip		
Phone		
Amount Paid or to be Paid		
Consultant 2		
Consultant Name		
Address 1		
Address 2		
City, State, Zip		
Phone		
Amount Paid or to be Paid		
Consultant 3		
Consultant Name		
Address 1		
Address 2		
City, State, Zip		
Phone		
Amount Paid or to be Paid		
Consultant 4		
Consultant Name		
Address 1		
Address 2		
City, State, Zip		
Phone		
Amount Paid or to be Paid		

Date: _____

Initials: _____

Consultant: Individual Campaign Contribution Disclosure Form

Use this form if the Consultant used is an Individual. Please read through the directions and definitions before filling out this disclosure form to make sure that each question is answered appropriately and thoroughly. Note that you must provide information for the two years prior to the application deadline.

	Yes	No
Has the Consultant made any contributions?	<input type="checkbox"/>	<input type="checkbox"/>
Has the Consultant solicited or served as an intermediary for any contributions?	<input type="checkbox"/>	<input type="checkbox"/>
Has a member of the Consultant's immediate family made any contributions over and above \$2,600?	<input type="checkbox"/>	<input type="checkbox"/>
Has a member of the Consultant's immediate family solicited or served as an intermediary for contributions over and above \$2,600?	<input type="checkbox"/>	<input type="checkbox"/>
<i>Check here to certify that no contributions were made.</i>	<input type="checkbox"/>	

Additional information on every contribution must be disclosed.
Please use the table provided on the next page.

Date: _____

Initials: _____

Consultant: Individual Campaign Contribution Disclosure Form

Use this form if the Consultant used is an Individual. For relationship, indicate whether the contributor was the Individual or Family Member. .

Name of Contributor	Relationship to Consultant	Name of Recipient	Date of Contribution	Amount of Contribution

Please use additional pages as needed.

Date: _____

Initials: _____

Consultant: Business Campaign Contribution Disclosure Form

Use this form if the Consultant used is a Business. Please read through the directions and definitions before filling out this disclosure form to make sure that each question is answered appropriately and thoroughly. Where “non-profit” is an option, indicate whether the business is a non-profit; non-profits are not required to disclose contribution information on these questions. Note that you must provide information for the two years prior to the application deadline.

	Yes	No	Non-Profit
Has the Consultant business made any contributions?	<input type="checkbox"/>	<input type="checkbox"/>	
Has the Consultant business solicited or served as an intermediary for any contributions?	<input type="checkbox"/>	<input type="checkbox"/>	
Has an officer, director, controlling shareholder, or partner of the Consultant business made any contributions? <u>See note below.</u>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Has an officer, director, controlling shareholder, or partner of the Consultant business solicited or served as an intermediary for any contributions? <u>See note below.</u>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Has an affiliate of the Consultant business made any contributions?	<input type="checkbox"/>	<input type="checkbox"/>	
Has an affiliate of the Consultant business solicited or served as an intermediary for any contributions?	<input type="checkbox"/>	<input type="checkbox"/>	
Has an officer, director, controlling shareholder, or partner of a for-profit affiliate of the Consultant business made any contributions? <u>See note below.</u>	<input type="checkbox"/>	<input type="checkbox"/>	
Has an officer, director, controlling shareholder, or partner of a for-profit affiliate of the Consultant business solicited or served as an intermediary for any contributions? <u>See note below.</u>	<input type="checkbox"/>	<input type="checkbox"/>	
Has the Consultant business or an affiliate of the business reimbursed another individual or business for a contribution that the individual or business has made?	<input type="checkbox"/>	<input type="checkbox"/>	
Has an officer, director, controlling shareholder, or partner of the for-profit Consultant business, or of a for-profit affiliate of the Consultant business, reimbursed another individual or business for a contribution that the individual or business has made?	<input type="checkbox"/>	<input type="checkbox"/>	
Has a political committee controlled by the Consultant business or by an affiliate of the business made any contributions?	<input type="checkbox"/>	<input type="checkbox"/>	
Has a political committee controlled by an officer, director, controlling shareholder, or partner of the for-profit Consultant business, or of a for-profit affiliate of the Consultant business, made any contributions?	<input type="checkbox"/>	<input type="checkbox"/>	
<i>Check here to certify that no contributions were made.</i>		<input type="checkbox"/>	

Note: Consultants must disclose all contributions to candidates or incumbents which are attributed to an immediate family member of an officer, director, controlling shareholder or partner of the for-profit Consultant or the for-profit affiliate of the Consultant. Please disclose the full amount of the contribution, although only the amount above \$2600 will be attributed to the officer, director, controlling shareholder or partner (and, by extension, the Consultant business).

Additional information on every contribution must be disclosed.
Please use the table provided on the next page.

Date: _____

Initials: _____

Consultant: Business Campaign Contribution Disclosure Form

Use this form if the Consultant used is a Business. For relationship, indicate whether the contributor was the Consultant Business, Affiliate, Controlled Political Committee, Controlling Shareholder, Director, Officer, Parent, Partner, Reimbursed Contributor, Solicited Contributor, Subsidiary, or Other.

Name of Contributor	Relationship to Consultant	Name of Recipient	Date of Contribution	Amount of Contribution

Date: _____

Initials: _____

Please use additional pages as needed.

Date: _____

Initials: _____

Use of Subcontractor Disclosure Form

Please list all subcontractor(s) you are planning to use if awarded this non-competitively bid contract by filling out the appropriate information in the space provided below.

Check here to certify that no subcontractor(s) are to be used.	<input type="checkbox"/>
Subcontractor Name	
Address 1	
Address 2	
City, State, Zip	
Phone	
Amount Paid or to be Paid, or Percentage to be Paid	
Subcontractor Name	
Address 1	
Address 2	
City, State, Zip	
Phone	
Amount Paid or to be Paid, or Percentage to be Paid	
Subcontractor Name	
Address 1	
Address 2	
City, State, Zip	
Phone	
Amount Paid or to be Paid, or Percentage to be Paid	
Subcontractor Name	
Address 1	
Address 2	
City, State, Zip	
Phone	
Amount Paid or to be Paid, or Percentage to be Paid	

Date: _____

Initials: _____

Employee Request Disclosure Form

Please list any City of Philadelphia employees or officers who have asked you (the Applicant), any officer director, or management employee of the Applicant, or any person representing the Applicant to give money, services, or any other thing of value (other than contributions as defined above) during the two years prior to the application deadline for this contract opportunity.

Check here to certify that no City of Philadelphia employees or officers who have asked you (the Applicant), any officer director, or management employee of the Applicant, or any person representing the Applicant to give money, services, or any other thing of value (other than contributions as defined above) during the two years prior to the application deadline for this contract opportunity.	<input type="checkbox"/>
Name of Employee/Officer	
Title	
Money Services, or Thing of Value Requested	
Money, Services, or Thing of Value Given (If none, write "none")	
Date Requested	
Date of Payment	
Name of Employee/Officer	
Title	
Money Services, or Thing of Value Requested	
Money, Services, or Thing of Value Given (If none, write "none")	
Date Requested	
Date of Payment	
Name of Employee/Officer	
Title	
Money Services, or Thing of Value Requested	
Money, Services, or Thing of Value Given (If none, write "none")	
Date Requested	
Date of Payment	

Date: _____

Initials: _____

Employee Participation Advice Disclosure Form

Please list any City of Philadelphia employees or officers who gave you (the Applicant), any officer director, or management employee of the Applicant, or any person representing the Applicant advice that a particular individual or business could be used by the Applicant to satisfy any goals established in the contract for the participation of minority, women, disabled, or disadvantaged business enterprises during the two years prior to the application deadline for this contract opportunity.

Check here to certify that no City of Philadelphia employees or officers gave you (the Applicant), any officer director, or management employee of the Applicant, or any person representing the Applicant advice that a particular individual or business could be used by the Applicant to satisfy any goals established in the contract for the participation of minority, women, disabled, or disadvantaged business enterprises during the two years prior to the application deadline for this contract opportunity.	<input type="checkbox"/>
Name of Employee/Officer	
Title	
Date of Advice	
Individual or Business Recommended to Satisfy Participation Goals	
Name of Employee/Officer	
Title	
Date of Advice	
Individual or Business Recommended to Satisfy Participation Goals	
Name of Employee/Officer	
Title	
Date of Advice	
Individual or Business Recommended to Satisfy Participation Goals	
Name of Employee/Officer	
Title	
Date of Advice	
Individual or Business Recommended to Satisfy Participation Goals	

Date: _____

Initials: _____

Signature Page

In order for the submission of these disclosure forms to be considered valid, they must be properly signed below by the respondent. Disclosure forms **that are not signed will be rejected**. By signing your name and title in the signature space below, you, as the applicant, signify your intent to sign these disclosure forms. The signatory hereby declares and certifies themselves to be the applicant, declares and certifies that they are properly authorized to execute these disclosure forms, and represents and covenants that all of the information and disclosures provided to the best of their knowledge are true and contain no material misstatements or omissions. Breach of such representation and covenant may render any subsequent contract voidable, and entitle the City of Philadelphia to all rights and remedies provided by law or equity.

If these disclosure forms are being submitted by an INDIVIDUAL, PARTNERSHIP, LIMITED LIABILITY COMPANY OR MANAGED LIMITED LIABILITY COMPANY, sign the forms here:

Signature

Date

Name

Title

If these disclosure forms are being submitted by a CORPORATION, sign the forms here, with signatures by (a) President or Vice-President of the corporation AND (b) Secretary, Assistant Secretary, Treasurer or Assistant Treasurer of the corporation. If the disclosure forms are not signed by the above mentioned, you hereby certify that you are authorized pursuant to a certified corporate resolution to sign in place of such officers.

Signature

Date

Name

President/Vice President, if other, please specify

Signature

Date

Name

**Secretary/Asst. Secretary/Treasurer/Asst. Treasurer
If other, please specify**



THE CITY OF PHILADELPHIA

PROFESSIONAL SERVICES CONTRACT

GENERAL PROVISIONS

FOR

**HOUSING AND ECONOMIC DEVELOPMENT
SERVICES**

TABLE OF CONTENTS

	Page(s)
Article I: Definitions	1
1.1 ADA	1
1.2 Additional Services and Materials	1
1.3 Additional Term, Additional Terms	1
1.4 Appropriated Fiscal Year	1
1.5 Amendment	1
1.6 Applicable Law	1
1.7 Applicant	1
1.8 Certification of Restrictions on Lobbying	1
1.9 Charter	2
1.10 City	2
1.11 City Council	2
1.12 Code	2
1.13 Consultant	2
1.14 Contract	2
1.15 Contract Cost Principles	2
1.16 Contract Documents	2
1.17 Contributions	2
1.18 Department	3
1.19 Event of Default	3
1.20 Event of Insolvency	3
1.21 Fiscal Year	3
1.22 Funding Source General Terms and Conditions	3
1.23 General Provisions	3
1.24 Independent Audit Report	3
1.25 Initial Term	3
1.26 Interpretation; number, gender	4
1.27 Materials	4
1.28 Non-Competitively Bid Contract	4
1.29 Party; Parties	4
1.30 Person	4
1.31 Provider	4
1.32 Provider Agreement	4
1.33 Responsible Official	4

1.34	Scope of Services	4
1.35	Services	5
1.36	Subcontract.....	5
1.37	Subcontractor	5
1.38	Subrecipient Audit Guide	5
1.39	Suspension Notice	5
1.40	Suspension Period	5
1.41	Term	5
1.42	Termination Notice	5
Article II:	Term	5
2.1	Initial Term.....	5
2.2	Additional Terms.....	5
Article III:	Provider’s Duties and Covenants.....	6
3.1	Performance Requirements	6
3.2	Compliance with Applicable Law	6
3.3	Additional Services and Materials; Change in Scope of Services	6
3.4	Responsibility.....	6
3.5	Subcontracts	7
3.6	Relationship with the City	10
3.7	Time Frame for Submissions	10
3.8	Prompt Payment by Provider.....	10
3.9	Sales and Use Tax	10
Article IV:	Provider’s Representations and Covenants	10
4.1	Provider’s Representations and Covenants	10
(a)	Good Standing	10
(b)	Authority to Act	11
(c)	Legal Obligation	11
(d)	No Litigation Preventing Performance	11
(e)	Requisite Licensure and Qualifications	11
(f)	No Adverse Interests	12
(g)	No Indebtedness to the City	12
(h)	Commercial Activity License	12
(i)	Subcontractor Licensure; No Indebtedness to the City	12
(j)	Non-Suspension; Debarment	12

(k) Non-Lobbying Certification	13
Article V: Compensation	13
5.1 Certification of Available Funds	13
5.2 Unavailability of Funds	14
5.3 Crossing Fiscal Years	14
5.4 Allowability of Cost Items	14
5.5 Income From Contract Funds	15
Article VI: Audits; Inspection Rights; Records	15
6.1 City Audit	15
6.2 Independent Audit	15
6.3 Inspection	16
6.4 Availability of Records	16
6.5 Retention of Records	16
6.6 Additional Audit Requirements	16
6.7 Audits Pursuant to Section 6-400 of the Home Rule Charter	17
Article VII: Assignment.....	17
7.1 Assignment By Provider	17
7.2 Applicability in Case of Bankruptcy or Insolvency.....	17
7.3 Personal Services.....	17
Article VIII: Independent Contractor; Indemnification; Litigation Cooperation	18
8.1 Independent Contractor	18
8.2 Indemnification	18
8.3 Litigation Cooperation	18
8.4 Notice of Claims	18
Article IX: Insurance	18
9.1 Insurance	18
(a) Workers' Compensation and Employers' Liability.....	19
(b) General Liability Insurance.....	19
(c) Automobile Liability.....	19
(d) Professional Liability Insurance	20
9.2 Self-Insurance	20
9.3 Evidence of Insurance Coverage	20

9.4	Fidelity Bond	21
Article X:	Ownership of Materials; Proprietary Information;	
	Confidentiality	21
10.1	Ownership of Materials	21
10.2	Non-Disclosure.....	22
Article XI:	Events of Default	22
11.1	Events of Default.....	22
11.2	Notice and Cure.....	23
Article XII:	Remedies	24
12.1	The City’s Remedies	24
12.2	Concurrent Pursuit of Remedies; No Waiver.....	25
Article XIII:	Termination and Suspension.....	25
13.1	Termination or Suspension for Convenience	25
13.2	Provider Responsibilities upon Termination or Suspension	25
13.3	Payment of Provider upon Termination or Suspension	26
13.4	Suspension.....	27
Article XIV:	Additional Representations and Covenants of Provider Relating to	
	Certain Applicable Laws	27
14.1	Non-Discrimination; Fair Practices.....	27
14.2	Chapter 17-400 of the Philadelphia Code – Exclusionary Private Organizations	28
14.3	Executive Order 03-12: Minority, Woman and Disabled Business Enterprise Participation	28
	(a) General Requirements.....	29
	(b) Special Requirements Applicable to Non Profit Providers.....	30
	(c) Criminal Liability for Fraudulent Conduct or False Statements	30
14.4	Federal Laws	31
14.5	Americans With Disabilities Act.....	31
14.6	Northern Ireland	31
14.7	Limited English Proficiency.....	32
14.8	Business, Corporate and Slavery Era Insurance Disclosure.....	32
14.9	Protected Health Information	33

14.10	Chapter 17-1300 of the Philadelphia Code: Philadelphia 21st Century Minimum Wage and Benefits Standard	33
14.11	Chapter 17-1400 of the Philadelphia Code: Contributions and Other Mandatory Diclosures	35
14.12	Executive Order 03-11: Gifts	38
14.13	Chapter 17-1900 of the Philadelphia Code: Equal Benefits Ordinance	38
Article XV: Miscellaneous.....		39
15.1	Governing Law	39
15.2	Amendments; Waiver.....	39
15.3	Integration	39
15.4	No Joint Venture	40
15.5	No Third Party Beneficiaries.....	40
15.6	Counterparts	40
15.7	Severability and Partial Invalidity	40
15.8	Survival	40
15.9	Determination of Disputes	40
15.10	Interpretation; Order of Precedence	41
15.11	Headings.....	41
15.12	Statutory and other Citations	41
15.13	Days.....	41
15.14	Forum Selection Clause; Consent to Jurisdiction	41
15.15	Waiver of Jury Trial	41
15.16	Notices.....	42

GENERAL PROVISIONS

ARTICLE I: DEFINITIONS

1.1 **ADA.** “ADA” shall have the meaning set forth in Section 14.5 (Americans with Disabilities Act) below.

1.2 **Additional Services and Materials.** “Additional Services and Materials” shall have the meaning set forth in Section 3.3 (Additional Services and Materials; Change in Scope of Services) below.

1.3 **Additional Term, Additional Terms.** “Additional Term” and “Additional Terms” shall have the meanings set forth in Section 2.2 (Additional Terms) below.

1.4 **Appropriated Fiscal Year.** “Appropriated Fiscal Year” shall have the meaning set forth in Section 5.3 (Crossing Fiscal Years) below.

1.5 **Amendment.** “Amendment” means a written modification or change to any Contract Document signed by both Parties.

1.6 **Applicable Law.** “Applicable Law” means all applicable present and future federal, state or local laws, ordinances, executive orders, rules, regulations, directives, guidelines, circulars, and all court orders, injunctions, decrees and other official interpretations thereof of any federal, state or local court, administrative agency or governmental body, including the City, the Commonwealth and the United States of America. Applicable Law includes, without limitation, the Philadelphia Home Rule Charter, as amended from time to time, The Philadelphia Code, as amended from time to time, and the specific laws set forth in Article XIV (Terms and Conditions Relating to Certain Applicable Laws) below, each as amended from time to time.

1.7 **Applicant.** “Applicant” means a Person who has filed an application to be awarded a Non-Competitively Bid Contract.

1.8 **Certification of Restrictions on Lobbying.** “Certification of Restrictions on Lobbying,” if required in the Provider Agreement, means a certificate in the form attached to the Provider Agreement.

1.9 **Charter.** The “Charter” means the Philadelphia Home Rule Charter, as it may be amended from time to time.

1.10 **City.** The “City” means The City of Philadelphia, a corporation and body politic existing under the laws of the Commonwealth of Pennsylvania, and includes its various executive and administrative departments, agencies, boards and commissions, including the Department, and its legislature, City Council (defined below). The City is a City of the First Class under the laws of the Commonwealth of Pennsylvania.

1.11 **City Council.** “City Council” means the Council of The City of Philadelphia, as described in Article II of the Philadelphia Home Rule Charter, as it may be amended from time to time. City Council is the legislature of the City.

1.12 **Code.** The “Code” means The Philadelphia Code of Ordinances, as it may be amended from time to time.

1.13 **Consultant.** “Consultant” means any Person used by Provider to assist in obtaining a Non-Competitively Bid Contract through direct or indirect communication by such Person with any City Agency or any City officer or employee, if the communication is undertaken by such Person in exchange for, or with the understanding of receiving, payment from the Provider or any other Person; provided, however, that “Consultant” shall not include a full-time employee of the Provider.

1.14 **Contract.** The “Contract” means the agreement of the Parties evidenced by the Contract Documents. References to this “Contract” shall mean this Contract as the same may be in effect at the time such reference becomes operative.

1.15 **Contract Cost Principles.** The “Contract Cost Principles,” means the “City of Philadelphia Contract Cost Principles and Guidelines,” as it may be amended from time to time, which specifies the Department’s guidelines for the qualitative and quantitative evaluation of contract services and materials, the determination of allowable costs, and the standards to determine the allowability of individual cost items, (copies are available from the Department upon request). If the Contract is solely or partially funded with federal or Commonwealth monies, then the “Contract Cost Principles” in relation to those funds means the applicable U.S. Office of Management and Budget Circular, unless otherwise provided in the Contract.

1.16 **Contract Documents.** The “Contract Documents” means these General Provisions, the Provider Agreement, the Funding Source General Terms and Conditions, and any and all other documents or exhibits incorporated by reference in either the General Provisions, the Provider Agreement, or the Funding Source General Terms and Conditions, and any and all Amendments to any of these documents.

1.17 **Contributions.** “Contributions” shall have the meaning set forth in the

Pennsylvania Election Code, 25 P.S. §3241.

1.18 **Department.** The “Department” means the department, board, commission or agency of the City of Philadelphia defined as the Department in the heading of the Provider Agreement.

1.19 **Event of Default.** “Event of Default” means those events defined and identified in Section 11.1 (Events of Default) of these General Provisions.

1.20 **Event of Insolvency.** “Event of Insolvency” means (a) the filing of a voluntary petition by Provider under the Federal Bankruptcy Code or any similar state or federal law; or (b) the filing of an involuntary petition against Provider under the Federal Bankruptcy Code or any similar state or federal law which remains undismissed for a period of forty-five (45) days; or (c) Provider’s making of an assignment for the benefit of creditors; or (d) the appointment of a receiver for Provider or for the property or assets of Provider, if such appointment is not vacated within forty-five (45) days thereafter; or (e) any other proceeding under any bankruptcy or insolvency law or liquidation law, voluntary or otherwise; or (f) Provider proves unable to pay its obligations as they mature; or (g) Provider is insolvent as otherwise defined under any Applicable Law.

1.21 **Fiscal Year.** “Fiscal Year” means the fiscal year of the City, which commences on July 1 of each calendar year and expires on June 30 of the next succeeding calendar year.

1.22 **Funding Source General Terms and Conditions.** “Funding Source General Terms and Conditions” means the document having such same name attached as an exhibit to the Provider Agreement and incorporated therein by reference.

1.23 **General Provisions.** “General Provisions” means these “The City of Philadelphia Professional Services Contract General Provisions for Housing and Economic Development Services”, which contains the standard provisions required by the City in its professional housing and economic development services contracts, and any exhibits identified in these General Provisions.

1.24 **Independent Audit Report.** “Independent Audit Report” means a report prepared by a Certified Public Accountant who, pursuant to AICPA Professional Standards, is not (a) a member of the board of Provider, (b) an officer or employee of Provider, or (c) a partner, director, officer or employee of a partnership, corporation or association who is a member of the board of Provider, or a director, officer or employee of Provider.

1.25 **Initial Term.** “Initial Term” shall have the meaning set forth in Section 2.1 (Initial Term.) below.

1.26 **Interpretation; number, gender.** The words “herein” “hereof” and “hereunder” and other words of similar import refer to this Contract as a whole, including the all of the Contract Documents, and not to any particular article, section, subsection or clause contained in the Contract Documents. Whenever the context requires, words used in the singular shall be construed to include the plural and vice versa, and pronouns of any gender shall be deemed to include the masculine, feminine and neuter genders.

1.27 **Materials.** “Materials” means any and all reports, records, documents, documentation, information, supplies, plans, original drawings, specifications, computations, sketches, renderings, arrangements, videos, pamphlets, advertisements, statistics, and other data, computer tapes, computer software, and other tangible work product or materials prepared or developed by Provider in connection with the Services, or for Provider by a Subcontractor in connection with the Services, and supplied to the City by Provider or its Subcontractor pursuant to this Contract.

1.28 **Non-Competitively Bid Contract.** “Non-Competitively Bid Contract” means a contract for the purchase of goods or services to which the City or a City Agency is a party that is not subject to the lowest responsible bidder requirements of Section 8-200 of the Charter, including, but not limited to, a Professional Services Contract, and any renewal of such a contract (other than a renewal term pursuant to an option to renew contained in an executed contract).

1.29 **Party; Parties.** A “Party” means either the City or Provider; the “Parties” means the City and Provider.

1.30 **Person.** “Person” means any individual, sole proprietorship, association, company, firm, partnership, limited partnership, joint venture, corporation, limited liability company or other form of entity or association recognized at law.

1.31 **Provider.** “Provider” means the Person providing Services and Materials to the City as defined in the heading of the Provider Agreement.

1.32 **Provider Agreement.** The “Provider Agreement” means the instrument, part of the Contract Documents, which sets forth the terms, covenants and conditions specific to Provider's engagement.

1.33 **Responsible Official.** The “Responsible Official” means the director, commissioner or other head of the Department.

1.34 **Scope of Services.** “Scope of Services” means the document(s) attached as an exhibit (or as exhibits) to the Provider Agreement, which set(s) forth the Services to be rendered and Materials to be provided under this Contract, the time frames within which the Services are to be rendered and the Materials are to be provided, and other requirements Provider must satisfy in rendering the Services and providing the Materials.

1.35 **Services.** “Services” means the work to be performed under this Contract as specified in the Provider Agreement.

1.36 **Subcontract.** “Subcontract” means a contract made between Provider and a Subcontractor providing for the completion of some part or parts of the Services or Materials by a Subcontractor.

1.37 **Subcontractor.** “Subcontractor” means a person performing under a contract with Provider some part of the Services or Materials.

1.38 **Subrecipient Audit Guide.** “Subrecipient Audit Guide” means the document named “City of Philadelphia Subrecipient Audit Guide” which specifies the City’s audit requirements, as it may be amended from time to time. (Copies are available in the Office of the Director of Finance of the City).

1.39 **Suspension Notice.** “Suspension Notice” means a written notice from the City to Provider pursuant to Section 13.1 (Termination or Suspension for Convenience) below suspending Provider’s performance under this Contract.

1.40 **Suspension Period.** “Suspension Period” means the period designated by the City in a Suspension Notice during which the City has suspended Provider’s performance under this Contract.

1.41 **Term.** “Term” has the meaning set forth in Section 2.1 (Initial Term) of the Provider Agreement.

1.42 **Termination Notice.** “Termination Notice” means a written notice from the City to Provider pursuant to Section 13.1 (Termination or Suspension for Convenience) below terminating this Contract.

ARTICLE II: TERM

2.1 **Initial Term.** The initial term (“Initial Term”) of this Contract is set forth in Section 2.1 of the Provider Agreement. In no event shall the Initial Term exceed one (1) year.

2.2 **Additional Terms.** The City may, at its sole option, amend this Contract to add on an annual basis up to three (3) successive one (1) year terms (“Additional Terms”), unless any shorter term (or terms) is specified in the Provider Agreement. Unless otherwise stated in the Provider Agreement, the same terms and conditions applicable in the Initial Term shall be applicable in the Additional Term(s). The City shall give Provider thirty (30) days written notice of its intent to amend this Contract to add an Additional Term prior to each annual Additional

Term. Each Additional Term shall be subject to appropriation of funds by City Council for such Additional Term. There shall be no liability or penalty to the City for electing not to amend the term of this Contract to add Additional Terms. Each Additional Term of this Contract shall be deemed to constitute a separate contract, whose term shall not exceed one (1) year.

ARTICLE III: PROVIDER'S DUTIES AND COVENANTS

3.1 **Performance Requirements.** Provider shall provide all Services and Materials in accordance with this Contract and applicable professional standards. All payments to Provider are contingent upon satisfactory performance of the terms and conditions set forth in this Contract, as determined by the Responsible Official in his or her sole discretion.

3.2 **Compliance with Applicable Law.** Provider shall comply with the requirements of all Applicable Law with respect to Provider's activities, Services, Materials and facilities used in connection with any aspect of this Contract. Provider shall inform the Responsible Official, in writing, of any notices of violations of any Applicable Law within forty-eight (48) hours of Provider's receipt thereof, and shall correct any violations within the time prescribed by law, or immediately in the case of any emergency.

3.3 **Additional Services and Materials; Change in Scope of Services.** At any time during the Term of this Contract, the City may, by written change order or request delivered by notice to Provider, make changes to the Scope of Services under this Contract, and the Parties will, if appropriate, negotiate an adjustment in compensation, subject to appropriation of funds therefor by City Council, if necessary. Provider shall not commence to perform or provide, and the City shall not pay for, any services or materials not included in this Contract (the "Additional Services and Materials") unless and until Provider receives written pre-authorization (by change order or other request) from the Responsible Official that specifies the Additional Services and Materials to be provided. In no event shall the rates charged by Provider for said Additional Services and Materials exceed the lowest of (a) Provider's then current standard rates for such Services or Materials, (b) such rates as the City and Provider may have negotiated for this Contract, as set forth in the Provider Agreement, or (c) the lowest rate or rates that Provider may then be charging to other purchasers of like Services and Materials. If Provider requests changes to the Scope of Services, Provider must demonstrate to the satisfaction of the City, in its sole discretion, that the changes are necessary and not due to the acts or omissions of Provider. The City shall pay Provider additional compensation above the limit set forth in the Provider Agreement only if and when an Amendment to this Contract is duly executed by the Parties. The City shall have no responsibility or liability whatsoever for any fee, or for costs incurred by Provider for any services, materials or other costs or expenses, other than the Services and Materials and any duly approved Additional Services and Materials.

3.4 **Responsibility.**

(a) Notwithstanding the acceptance and approval by the City of any Services

performed or Materials provided, Provider shall continue to be responsible for the professional quality, technical accuracy and the coordination of all Materials and Services provided by Provider under this Contract. Provider shall, without additional compensation, correct any errors, defects, deficiencies or omissions in Provider's Materials and Services.

(b) The City's review, approval or acceptance of, or payment for, any of the Materials and Services required under this Contract shall not constitute any representation, warranty or guaranty by the City as to the substance or quality of the matter reviewed, approved or accepted and shall not be construed to operate as a waiver or estoppel of any of the City's rights or privileges under this Contract or of any cause of action arising out of the performance of this Contract. No Person shall have any right to rely in any way on the City's review, approval or acceptance of Provider's Services or Materials. Provider shall be and remain liable in accordance with this Contract and Applicable Law for all damages to the City caused by Provider or the Services or Materials provided by Provider. Review, approval or acceptance by the City or the Responsible Official under this Contract shall not constitute approval otherwise required by any City department, board, commission, or other regulatory agency in the exercise of such department's, board's, commission's or agency's independent regulatory authority or police powers under Applicable Law.

(c) Without limiting Provider's responsibility as set forth above, if any act or omission of Provider or error or deficiency or omission in the Services or Materials provided by Provider requires any change in the Scope of Services or any portion thereof, Provider shall promptly complete such change at no additional cost to the City.

3.5 **Subcontracts.**

(a) Provider shall not delegate or enter into any Subcontract for the performance of any of its obligations under this Contract, in whole or in part, without on each occasion first obtaining the written consent of the Responsible Official.

(b) Provider shall submit to the Responsible Official copies of all proposed Subcontract(s) to be entered into by Provider, along with Provider's written request for the City's consent. All such Subcontracts must specify that:

- (1) work performed by Subcontractor shall be in conformity with the terms of this Contract;
- (2) nothing contained in such Subcontract shall be construed to impair the rights of the City under this Contract;
- (3) the City's consent to or approval of any Subcontract shall not create any obligation of the City to any Subcontractor;

- (4) nothing contained in such Subcontract, or under this Contract, shall create any obligation of the City to any Subcontractor;
- (5) the City shall be expressly designated a third party beneficiary of the Subcontract;
- (6) upon request by the City (at the City's sole option) and upon receipt of written notice from the City stating that this Contract between the City and Provider has been terminated, Subcontractor agrees that it will continue to perform its obligations under the Subcontract for the benefit of the City in conformity with the terms and conditions of this Contract, provided the City pays Subcontractor for the Services rendered and Materials provided by Subcontractor from and after the date of the termination of this Contract between the City and Provider at the same rate or in the same amount as set forth in the Subcontract for those Services and Materials provided by Subcontractor after such date of termination;
- (7) Subcontractor shall be bound by the same terms, covenants and conditions as Provider under this Contract; including, without limitation, confidentiality, maintenance and preservation of records, and audit by government representatives, under this Contract;
- (8) Subcontractor shall, effective on the date of the Subcontract, presently, fully and unconditionally assign, transfer and set over to the City all of Subcontractor's right, title and interest in and to any sales and use tax which may be refunded as a result of a claim for refund for any materials purchased in connection with the Subcontract or this Contract, and Subcontractor shall covenant and agree that, (i) other than as directed by the City, it will not file a claim for refund for any sales or use tax which is the subject of this assignment; and (ii) the City, in its own name or in the name of Subcontractor, may file a claim for a refund of any sales or use tax covered by this assignment;
- (9) Subcontractor shall not be indebted to the City (to satisfy this requirement, Provider shall include subsection 4.1(g) (No Indebtedness to the City) below, with appropriate adjustments for the identity of the parties, in all Subcontracts that are entered into for work to be performed pursuant to this Contract);
- (10) Subcontractor shall comply with Chapter 17-400 of the Philadelphia Code (to satisfy this requirement, Provider shall include subsection 14.3 (a) (the Philadelphia Code, Chapter 17-400) below, with

appropriate adjustments for the identity of the parties, in all Subcontracts that are entered into for work to be performed pursuant to this Contract); and

- (11) Subcontractor shall comply with Chapter 17-104 of the Philadelphia Code (to satisfy this requirement, Provider shall include subsection 14.6 (b) (the Philadelphia Code, Chapter 17-104) below, with appropriate adjustments for the identity of the parties, in all Subcontracts that are entered into for work to be performed pursuant to this Contract).
- (12) Subcontractor shall comply with Chapter 17-1300 of the Code to the extent it is applicable to a Subcontractor that is also a Service Contractor (as defined in Chapter 17-1300) providing Services under the Subcontract, and to subcontractors at any tier that are also Service Contractors providing Services under this Contract. To satisfy these requirements, Provider shall notify its Subcontractors of these provisions; shall incorporate this paragraph and Section 14.10 below, with appropriate adjustments for the identity of the parties, in each Subcontract; and shall require its Subcontractors to include such terms in any lower-tier subcontract that is, or may become, covered by Chapter 17-1300.

(c) No permitted Subcontract shall relieve Provider of any obligation under this Contract. Provider shall be as fully responsible for the acts and omissions of its Subcontractors and Persons either directly or indirectly employed or retained by them as it is for the acts and omissions of Provider and Persons directly or indirectly employed or retained by Provider.

(d) Any purported Subcontract made in violation of this Section or of any other Section in this Contract shall be null and void.

(e) City-Related Agencies.

- (1) If Provider is a City-Related Agency, as defined at Subsection 17-1401(9) of the Code, Provider shall abide by the provisions of Chapter Section 17-1400 of the Code in awarding any contract(s) pursuant to this Contract as though such contracts were directly subject to the provisions of Chapter 17-1400, except that the exception set forth at Subsection 17-1406(8) shall apply to Provider as if Provider were listed in that subsection.
- (2) Unless approved by the City to the contrary, any approvals required by the Chapter 17-1400 of the Code to be performed by the City Solicitor shall be performed by Provider by its General Counsel; any

approvals required to be performed by the Director of Finance shall be performed by Provider by its Chief Financial Officer; and any approvals required to be performed by the Mayor shall be performed by Provider by its Executive Director.

3.6 **Relationship with the City.** Neither Provider's personnel nor any Subcontractor personnel shall be employees of the City. Provider shall notify the City of any Provider personnel or any Subcontractor personnel who have any employment or other contractual relationship or agency relationship with the City.

3.7 **Time Frame for Submissions.** Provider shall perform any and all Services and shall submit any and all Materials required by this Contract within the time frames set forth in the Scope of Services attached as an exhibit to the Provider Agreement or as mutually agreed upon in writing by the City and Provider. Absent any such written time frames, Provider shall perform its obligations under this Contract diligently and promptly and in any and all events before the scheduled expiration of the Term.

3.8 **Prompt Payment by Provider.** Provider agrees to pay promptly all Persons which have furnished labor or supplies in connection with the Services, the Materials or this Contract, including, without limitation, Subcontractors and suppliers. Provider shall provide, upon request of the City, reasonable evidence that these Persons have been fully and timely paid.

3.9 **Sales and Use Tax.** The City is not subject to federal, state or local sales or use taxes or federal excise tax. Provider hereby assigns to the City all of its right, title and interest in any sales or use tax which may be refunded as a result of any materials, including any Materials, purchased or services, including any Services, rendered in connection with this Contract and unless directed otherwise by the City, Provider shall not file a claim for any sales or use tax refund subject to this assignment. Provider authorizes the City, in its own name or the name of Provider, to file a claim for a refund of any sales or use tax subject to this assignment.

ARTICLE IV: PROVIDER'S REPRESENTATIONS AND COVENANTS

4.1 **Provider's Representations and Covenants.** Provider makes the following representations and covenants upon which the City has relied as a material consideration for the execution and delivery by the City of this Contract. The representations, warranties, and covenants stated below shall continue throughout the Term of this Contract. In the event said representations, warranties, and covenants are or become untrue or inaccurate, Provider shall promptly give notice thereof to the City, specifying the manner in which said representation, warranty, or covenant is untrue or inaccurate.

(a) **Good Standing.** If Provider is not an individual, Provider is a business corporation, limited liability company, partnership, limited partnership or other business entity

duly organized, validly existing and in good standing under the laws of the state of its incorporation or organization. Provider is duly licensed, qualified and in good standing in the Commonwealth of Pennsylvania and in all jurisdictions in which it conducts business activities relating in any way to the performance of the Services and delivery of the Materials under this Contract, including, but not limited to, the jurisdiction in which Provider is organized. If Provider is a not-for-profit corporation or otherwise an entity determined to be tax exempt pursuant to Section 501(c) of the Internal Revenue Code by the Internal Revenue Service, then Provider has procured, and shall maintain in full force and effect, all consents and approvals necessary in connection with such tax-exempt and non-profit status.

(b) **Authority to Act.** Provider has full legal power and authority to execute and deliver this Contract, and provide the Services and Materials as set forth herein. Provider has duly authorized by all necessary actions the execution and delivery of this Contract on behalf of Provider by the individual or individuals signing the Provider Agreement. This Contract is the legal, valid and binding obligation of Provider, enforceable against Provider in accordance with the terms set forth herein. The execution and delivery of this Contract by Provider will not result in a default under or a breach or violation of (1) Provider's certificate or articles of incorporation or bylaws, partnership agreement, limited liability company operating agreement or other pertinent organizational documents, as applicable; (2) any Applicable Law or any judgment, decree order, license, permit or other instrument or obligation to which Provider is now a party or by which Provider may be bound or affected; and (3) Provider's tax exempt status, if applicable. No consent, approval or authorization is required of any regulatory authority or governmental agency, or of any shareholder, partner, member, manager or other party related to Provider.

(c) **Legal Obligation.** This Contract has been duly authorized, executed and delivered by Provider, by and through individuals duly authorized to execute this Contract on behalf of Provider, and constitutes the legal, valid and binding obligation of Provider, enforceable against Provider in accordance with its terms.

(d) **No Litigation Preventing Performance.** There is no litigation, claim, consent order, settlement agreement, arbitration, agency proceeding, investigation, challenge or other proceeding pending or threatened against Provider, its properties or business or any individuals acting on Provider's behalf, including, without limitation, Subcontractors, in which any Person seeks to enjoin or prohibit Provider from entering into or performing its obligations under this Contract.

(e) **Requisite Licensure and Qualifications.** Provider and all of the Persons acting on Provider's behalf, including, without limitation, Subcontractors, in connection with the Services and Materials under this Contract, possess and, at all times during the Term of this Contract, shall possess all licenses, certifications, qualifications or other credentials required in accordance with Applicable Law and the terms of this Contract, to perform the Services and provide the Materials. Provider shall provide the City with copies of all licenses, credentials and certifications required under this Section within five (5) days of request by the City.

(f) **No Adverse Interests.** Except as disclosed in writing and approved in advance by the Responsible Official, neither Provider nor any of its directors, officers, members, partners or employees, has any interest, or will acquire any interest, directly or indirectly, that would or may conflict in any manner or degree with the performance or rendering of the Services and Materials.

(g) **No Indebtedness to the City.** Provider and any and all entities controlling Provider, under common control with Provider or controlled by Provider are not currently indebted to the City, and will not at any time during the Term of this Contract (including any Additional Term(s)) be indebted to the City, for or on account of any delinquent taxes (including, but not limited to, taxes collected by the City on behalf of the School District of Philadelphia), water bills, sewer bills, liens, judgments, fees or other debts for which no written agreement or payment plan satisfactory to the City has been established. Provider shall remain current during the Term of this Contract under all such agreements and payment plans, and shall inform the Responsible Official in writing of Provider's receipt of any notices of delinquent payments under any such agreement or payment plan within five (5) days after receipt. In addition to any other rights or remedies available to the City at law or in equity, Provider acknowledges that any breach or failure to conform to this representation, warranty and covenant may, at the option of the City, result in the withholding of payments otherwise due to Provider under this Contract or any other agreement with the City under which the City may then owe payment of any kind, and, if such breach or failure is not resolved to the City's satisfaction within a reasonable time frame specified by the City in writing, may result in the offset of any such indebtedness against said payments or the termination of this Contract for default (in which case Provider shall be liable for all excess costs and other damages resulting from the termination), or both. In addition, Provider understands that false certification, representation or warranty by it is subject to prosecution under Title 18 Pa.C.S.A. § 4904.

(h) **Commercial Activity License.** If Provider is a "business" as defined in Section 19-2601 of the Code, Provider has and shall maintain during the Term of this Contract, a valid, current Commercial Activity License, issued by the City's Department of Licenses and Inspections, to do business in the City.

(i) **Subcontractor Licensure; No Indebtedness to the City.** Each Subcontractor, if any, holds and shall maintain during the term of the Subcontract a valid, current Commercial Activity License to do business in the City, if required by Applicable Law. To the best of Provider's knowledge, information and belief, the representations made in any Subcontract that Subcontractor is not indebted to the City are true and correct.

(j) **Non-Suspension; Debarment.** Provider and all of the individuals acting on Provider's behalf including, without limitation, Subcontractors, are not under suspension or debarment from doing business with the Commonwealth of Pennsylvania, any other state, or the federal government, or any department, agency or political subdivision of any of the foregoing. If Provider cannot so warrant, then Provider shall submit to the Responsible Official a full, complete

written explanation as to why Provider cannot so warrant. Provider shall reimburse the City for the reasonable cost of investigation incurred by the City or the Commonwealth of Pennsylvania Office of Inspector General for investigation of Provider's compliance with the terms of this or any other contract between Provider and the City which results in the suspension or debarment of Provider. Such costs shall include, but are not limited to, salaries of investigators, including overtime, travel and lodging expenses, expert witness and documentary fees and attorney fees and expenses. Provider shall not be responsible for costs of investigations which do not result in Provider's suspension or debarment.

(k) **Non-Lobbying Certification.** No federally appropriated funds have been paid, by or on behalf of Provider, to any person for influencing or attempting to influence an officer or employee of any agency, a member of Congress, an officer or employee of Congress, or an employee of a member of Congress in connection with the awarding of any federal contract, the making of any federal grant, the making of any federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any federal contract, grant, loan or cooperative agreement.

If any funds other than federally appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a member of Congress, an officer or employee of Congress, or an employee of a member of Congress in connection with this Contract, Provider shall complete and submit Standard Form LLL, "Disclosure of Lobbying Activities," in accordance with its instructions.

If this Contract or any Subcontract is funded with federal funds, Provider shall require that this language be included in the award documents for all subawards at all tiers (including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements) and that all subrecipients and Subcontractors shall certify and disclose accordingly.

Provider understands that this is a material representation of fact upon which reliance was placed when this Contract was entered into. Submission of this certification is a prerequisite for making or entering into this Contract imposed under Section 1352, Title 31, U.S. Code, and Provider agrees that the execution of this Contract shall constitute the requisite submission.

The above representations, warranties and covenants shall continue throughout the Term of this Contract. In the event said representations, warranties and covenants are or become untrue or inaccurate, Provider shall promptly give notice thereof to the City, specifying the manner in which said representation, warranty or covenant is untrue or inaccurate.

ARTICLE V: COMPENSATION

5.1 **Certification of Available Funds.** Provider acknowledges that payments under

this Contract shall not exceed the amount certified by or on behalf of the City's Director of Finance as available for this Contract. A copy of the form signed by the Office of the Director of Finance showing the amount of currently available funds will be attached to the fully executed Contract returned to Provider. During the Initial Term and any Additional Term(s) of this Contract, the City reserves the right to fund any remaining balance of this Contract amount in varying amounts from time to time as funds become available, not to exceed in total the maximum amount stated in this Contract. Provider agrees that the City shall not be obligated to fund this Contract except out of funds certified by or on behalf of the City's Director of Finance as currently available, even if those funds are less than the maximum amount stated in this Contract. If sufficient funds are not certified as available at any time, the City may exercise its options described in Section 5.2 (Unavailability of Funds) below.

5.2 **Unavailability of Funds.** If funding for this Contract from any source is not obtained and continued at an aggregate level sufficient to allow for payment for the Services performed and Materials delivered under this Contract, the City may exercise one of the following options without liability or penalty to the City:

(a) Terminate this Contract effective upon a date specified in a Termination Notice; or

(b) Continue this Contract by reducing, through written notice to Provider, the amount of this Contract and Services and Materials, consistent with the nature, amount and circumstances of available funding.

The City's exercise of either option under this Section shall not affect any obligations or liabilities of either Party accruing prior to such termination or reduction of Services or Materials. Provider shall be compensated in accordance with the terms of this Contract for Services and Materials satisfactorily performed and delivered prior to such termination or modification of this Contract under this Section.

5.3 **Crossing Fiscal Years.** If any portion of the compensation set forth in this Contract is to be paid in any City fiscal year following the fiscal year in which the Initial Term or any Additional Term of this Contract commences (in either case, "Appropriated Fiscal Year"), Provider understands and agrees that the portion of the compensation under this Contract payable with City funds for any period following the Appropriated Fiscal Year is subject to the discretion of City Council as to future appropriations. If, for any reason, funds for any such portion of the compensation are not appropriated by City Council in any Fiscal Year following the Appropriated Fiscal Year, this Contract and the City's liability under this Contract shall automatically terminate at the end of the then current Appropriated Fiscal Year; provided, however, that Provider shall be compensated in accordance with the terms of this Contract for Services and Materials satisfactorily performed and delivered prior to the end of the then current Appropriated Fiscal Year.

5.4 **Allowability of Cost Items.** All payments by the City to Provider under this Contract shall be subject to the limitations on the allowability of cost items imposed by the

Contract Cost Principles.

5.5 **Income From Contract Funds.** Provider shall provide a written report to the City accounting for all income derived either directly or indirectly by Provider from the use of funds paid to Provider under the Contract or with respect to any activities of Provider in connection with the Contract, including, but not limited to sale, publication, registration fees, interest, program service fees and service charges on fees. If required by the City, at the City's sole discretion, Provider shall use all such income to setoff against and reduce payments to Provider otherwise due under the Contract. Income derived from state or federal funds shall be reported and used in accordance with the Contract and Applicable Law.

ARTICLE VI: AUDITS; INSPECTION RIGHTS; RECORDS

6.1 **City Audit.** From time to time during the Initial Term and any Additional Term(s) of this Contract, and for a period of five (5) years after the expiration or termination of this Contract, the City may audit any and all aspects of Provider's performance under this Contract, including but not limited to its billings and invoices. Audits may be conducted by representatives, agents or contractors of the City, including the Department, or other authorized City representatives including, without limitation, the City Controller. If requested by the City, Provider shall submit to the City all vouchers or invoices presented for payment pursuant to this Contract, all cancelled checks, work papers, books, records and accounts upon which the vouchers or invoices are based, and any and all documentation and justification in support of expenditures or fees incurred pursuant to this Contract. All books, invoices, vouchers, records, reports, cancelled checks and other materials shall be subject to periodic review or audit by the City.

6.2 **Independent Audit.** If requested by the City, Provider shall submit to the City an Independent Audit Report prepared and certified by a Certified Public Accountant (CPA) acceptable to the City. The Independent Audit Report shall be prepared in accordance with the following audit requirements:

(a) Provider shall ensure that a final audit of the financial transactions relating to the Contract shall be performed in compliance with all requirements of the City of Philadelphia Subrecipient Audit Guide, which is incorporated in the Contract by reference. This audit shall verify that all invoiced costs are actual, authorized and eligible for reimbursement in accordance with the Contract requirements.

(b) Provider agrees to make full and prompt restitution to the City of such amounts of money which result from audit exceptions due to Provider's performance and/or non-compliance with Applicable Law and the Contract, including, without limitation, the City of Philadelphia Contract Cost Principles and Guidelines.

(c) The City reserves the right to disallow fees paid by Provider for audit services under the Contract if the final audit report is not submitted in the manner and time frame prescribed in this Section or if subsequent review of audit workpapers discloses deficiencies in required performance.

(d) Provider shall submit all audit documentation, as described above, pertaining to the Contract no later than four (4) months after the end of the term of the Contract, unless a different time is approved, in writing, by the Responsible Official. Provider's failure to submit the audit documentation in the time required shall be a basis for withholding processing of invoices for payment.

6.3 **Inspection.** All Services and Materials shall be subject to inspection and review by City, federal and state representatives, as may be applicable, or their designees, at the offices of Provider in the City, or in another location with the City's consent. Provider shall cooperate with all City, state and federal inspections and reviews conducted in accordance with the provisions of this Contract. Such inspection and review of Provider's Services and Materials, including, without limitation, programs and facilities, shall be in the sole discretion of the inspecting or reviewing entity. Such inspection or review may include, without limitation, meetings with consumers, review of staffing ratios and job descriptions, and meetings with any of Provider's staff members who are either directly or indirectly involved in providing Services or Materials.

6.4 **Availability of Records.** Provider shall make available, in the City at reasonable times during the Term of this Contract and for the period set forth in Section 6.5 (Retention of Records) below, all records pertaining to this Contract for the purpose of inspection, audit or reproduction by any authorized representative (including any agent or contractor and the City Controller) of the City, the Commonwealth of Pennsylvania Auditor General, and any other federal and state auditors, as may be applicable.

6.5 **Retention of Records.** Provider shall retain all records, books of account and documentation pertaining to this Contract for a period of five (5) years following expiration or termination of this Contract; however, if any litigation, claim or audit is commenced prior to expiration of said five (5) year period, then the records shall be retained until all litigation, claims or audit findings have been completely terminated or resolved, without right of further appeal, or if Applicable Law requires a longer period, then the records shall be retained for such longer period.

6.6 **Additional Audit Requirements.** If requested by the City, Provider shall submit the following documents to the Responsible Official within six (6) months of the close of Provider's fiscal year:

(a) Copies of Internal Revenue Service Form 990 filed with the Internal Revenue Service, by or on behalf of Provider; or a certification that Provider was not required to file this Form with the Internal Revenue Service under the Applicable Law.

(b) Copies of any financial audit report of Provider's finances prepared in the normal

course of Provider's business; or a certification that no such report was prepared by or on behalf of Provider.

6.7 **Audits Pursuant to Section 6-400 of the Home Rule Charter.** Any Provider that is an Agency, as defined in Section 6-400 of the Charter, shall permit the City Controller to audit its affairs as authorized in Section 6-400 during the Initial Term or any Additional Term. Under Section 6-400, an Agency is any entity that a) receives funds from the City, and either b) is created by, or whose board of directors is in whole or part appointed by, one or more City officials or bodies; or c) is organized pursuant to legal authority granted to it by City ordinance.

ARTICLE VII: ASSIGNMENT

7.1 **Assignment By Provider.** Provider shall not assign this Contract, or any part of this Contract, or delegate performance of this Contract (other than to its own work forces), without obtaining the prior written consent of the Responsible Official. The decision whether to consent to an assignment, the timing of consent (if any), and conditions to such consent, if any, shall each be at the City's sole discretion. Any consent to the assignment of any monies to be paid under this Contract shall not relieve Provider from the faithful performance of any of its obligations under this Contract or change any of the terms and conditions of this Contract. Any purported assignment in violation of this provision shall be void and of no effect. The City's consent to an assignment shall not release the assignor from any liability accrued or thereafter accruing under this Contract. Any assignment or purported assignment shall be in writing and shall contain an express assumption by the assignee of all liability accrued or thereafter accruing under this Contract. Consent by the City to any assignment shall not be deemed a course of conduct, dealing or performance with respect to any other assignment or proposed assignment. For purposes of this Section 7.1 (Assignment by Provider), an assignment includes the acquisition of the Provider, or a controlling interest therein, through a corporate or other merger, and the appointment of a receiver or bankruptcy trustee, and the transfer of this Contract or Provider in any bankruptcy or other insolvency proceeding.

7.2 **Applicability in Case of Bankruptcy or Insolvency.** A receiver or trustee of or for Provider in any federal or state bankruptcy, insolvency or other proceedings concerning Provider shall comply with the requirements set forth in Section 7.1 (Assignment by Provider) above.

7.3 **Personal Services.** Provider acknowledges that the Services and Materials are the personal services of Provider and the City shall have no obligation to accept performance by a third party without the Responsible Official's prior and express written consent.

ARTICLE VIII: INDEPENDENT CONTRACTOR; INDEMNIFICATION; LITIGATION COOPERATION

8.1 **Independent Contractor.** Provider is an independent contractor and shall not in any way or for any purpose be deemed or intended to be an employee or agent of the City. Neither Provider nor its agents, employees or Subcontractors shall in any way represent that they are acting as employees, officials or agents of the City.

8.2 **Indemnification.** Provider shall indemnify, defend and hold harmless the City, its officers, employees and agents, from and against any and all losses, costs (including, but not limited to, litigation and settlement costs and counsel fees and expenses), claims, suits, actions, damages, liability and expenses, occasioned wholly or in part by Provider's act or omission or negligence or fault or the act or omission or negligence or fault of Provider's agents, Subcontractors, independent contractors, suppliers, employees or servants in connection with this Contract, including, but not limited to, those in connection with loss of life, bodily injury, personal injury, damage to property, contamination or adverse effects on the environment, intentional acts, failure to pay any Subcontractors and suppliers, any breach of this Contract, and any infringement or violation of any proprietary right (including, but not limited to, patent, copyright, trademark, service mark and trade secret).

8.3 **Litigation Cooperation.** If, at any time, the City becomes involved in a dispute or receives notice of a claim or is involved in litigation concerning the Services and Materials provided under this Contract, the resolution of which requires the services or cooperation of Provider, and Provider is not otherwise obligated to indemnify and defend the City pursuant to the provisions of Section 8.2 (Indemnification) above, Provider agrees to provide such services and to cooperate with the City in resolving such claim or litigation as Additional Services and Materials under Section 3.3 (Additional Services and Materials; Change in Scope of Services) above.

8.4 **Notice of Claims.** If Provider receives notice of a legal claim against it in connection with this Contract, Provider shall submit appropriate written notice of such claim to its insurance carrier within the time frame required for submission of claims by the applicable insurance policy and, within ten (10) business days of receipt of notice of the claim, to the Responsible Official.

ARTICLE IX: INSURANCE

9.1 **Insurance.** Unless otherwise approved by the City's Risk Management Division in writing, Provider shall, at its sole cost and expense, procure and maintain, or cause to be procured and maintained, in full force and effect, the types and minimum limits of insurance specified below, covering Provider's performance of the Services and the delivery of the Materials. Provider shall procure, or cause to be procured, all insurance from reputable insurers admitted to do business on a direct basis in the Commonwealth of Pennsylvania or otherwise

acceptable to the City. All insurance herein, except Professional Liability insurance, shall be written on an “occurrence” basis and not a “claims-made” basis. In no event shall Provider perform any Services or other work until Provider has delivered or caused to be delivered to the City’s Risk Management Division the required evidence of insurance coverages. All insurance coverages shall provide for at least thirty (30) days prior written notice to be given to the City in the event coverage is materially changed, cancelled, or non-renewed. The City, its officers, employees, and agents, shall be named as additional insureds on the General Liability Insurance policy. Provider shall also deliver or cause to be delivered to the City an endorsement stating that the coverage afforded the City and its officers, employees and agents, as additional insureds, will be primary to any other coverage available to them and that no act or omission of the City, its officers, employees or agents shall invalidate the coverage.

(a) **Workers' Compensation and Employers' Liability.**

- (1) Workers' Compensation: Statutory Limits
- (2) Employers' Liability: \$100,000 Each Accident - Bodily Injury by Accident; \$100,000 Each Employee - Bodily Injury by Disease; and \$500,000 Policy Limit - Bodily Injury by Disease.
- (3) Other states insurance including Pennsylvania.

(b) **General Liability Insurance.**

- (1) Limit of Liability: \$1,000,000 per occurrence combined single limit for bodily injury (including death) and property damage liability; \$1,000,000 advertising injury; \$2,000,000 general aggregate and \$1,000,000 aggregate for products and completed operations. The City may require higher limits of liability if, in the City’s sole discretion, the potential risk warrants.
- (2) Coverage: Premises operations; blanket contractual liability; personal injury liability; products and completed operations; independent contractors, employees and volunteers as additional insureds; cross liability; and broad form property damage (including completed operations).

(c) **Automobile Liability Insurance.**

- (1) Limit of Liability: \$1,000,000 per occurrence combined single limit for bodily injury (including death) and property damage liability.

- (2) Coverage: Owned, non-owned, and hired vehicles.

(d) **Professional Liability Insurance.**

- (1) Limit of Liability: \$1,000,000 with a deductible not to exceed \$50,000.
- (2) Coverage: Errors and omissions including liability assumed under Contract.
- (3) Professional Liability Insurance may be written on a claims-made basis provided that coverage for occurrences happening during the performance of the Services required under this Contract shall be maintained in full force and effect under the policy or “tail” coverage for a period of at least two (2) years after completion of the Services.

9.2 **Self-Insurance.** Provider may not self-insure any of the coverages required under this Contract without the prior written approval of the Responsible Official and the City’s Risk Manager. In the event that Provider wants to self-insure any of the coverages listed above, it shall submit to the Responsible Official and the City’s Risk Management Division, prior to Provider’s commencement of Services or delivery of any Materials hereunder, a certified copy of Provider’s most recent audited financial statement, and such other evidence of its qualifications to act as self-insurer (e.g. state approval) as may be requested by the Responsible Official or the City’s Risk Manager. In the event the City grants such approval, Provider understands and agrees that the City, its officers, employees and agents shall be entitled to receive the same coverages and benefits under Provider’s self-insurance program that they would have received had the insurance requirements set forth above been satisfied by a reputable insurer admitted and duly authorized to do business in the Commonwealth of Pennsylvania or otherwise acceptable to the City. If at the time of commencement of the Term of this Contract, Provider self-insures its professional liability or workers' compensation and employers' liability coverage, Provider may, in lieu of the foregoing, furnish to the City a current copy of the state certification form for self-insurance or a current copy of the State Insurance Commissioner's letter of approval, whichever is appropriate. The insurance (including self-insurance) requirements set forth herein are not intended and shall not be construed to modify, limit or reduce the indemnifications made in this Contract by Provider to the City, or to limit Provider’s liability under this Contract to the limits of the policies of insurance (or self-insurance) required to be maintained by Provider hereunder.

9.3 **Evidence of Insurance Coverage.** Certificates of insurance evidencing the required coverages must specifically reference the City contract number for which they are being submitted. The original certificates of insurance must be submitted to the City's Risk Manager at the following address:

The City of Philadelphia
Office of the Director of Finance
Division of Risk Management
1515 Arch Street, 14th Floor
Philadelphia, PA 19102-1579
(Fax No.: 215-683-1705).

A copy of the certificates of insurance shall be submitted to the Responsible Official at the address of the Department set forth in the Notice Section of the Provider Agreement. Both submissions must be made at least ten (10) days before work is begun and at least ten (10) days before each Additional Term. The City, in its sole discretion, may waive the ten (10) day requirement for advance documentation of coverage in situations where such waiver will benefit the City, but under no circumstances shall Provider actually begin work (or continue work, in the case of an Additional Term) without providing the required evidence of insurance. The actual endorsement adding the City as an additional insured must specifically reference the City contract number and be submitted to the City's Risk Management Division at the above address. The City reserves the right to require Provider to furnish certified copies of the original policies of all insurance required under this Contract at any time upon ten (10) days written notice to Provider.

9.4 **Fidelity Bond.** When required by the City, Provider shall, at its sole cost and expense, obtain and maintain during the Initial Term and any Additional Term(s) of this Contract, a fidelity bond in an amount equal to the greater of (a) Ten Thousand Dollars (\$10,000) or (b) the amount specified in the Provider Agreement, covering Provider's employees who have financial responsibilities related to the receipt and disbursement of funds under this Contract. In lieu of a fidelity bond, Provider may obtain coverage for crime insurance with limits that are the greater of (a) \$10,000 or (b) the amount specified in the Provider Agreement. The fidelity bond or crime insurance, whichever is obtained by Provider, shall name the City as a beneficiary. Evidence of the existence of the fidelity bond or crime insurance shall be submitted to the City prior to the commencement of Services in conformity with the requirements of Section 9.3 (Evidence of Insurance Coverage) above.

ARTICLE X: OWNERSHIP OF MATERIALS; PROPRIETARY INFORMATION; CONFIDENTIALITY

10.1 Ownership of Materials.

(a) Subject to Applicable Law, all Materials shall be the sole and absolute property of the City and the City shall have title thereto and unrestricted use thereof. To the extent that any Materials relating to this Contract developed by or for Provider embody a copyrightable work, including, but not limited to, a "compilation" as that term is used in 17 U.S.C. §101, as amended from time to time, the City and Provider agree that such copyrightable work(s) shall be considered as one or more "works made for hire" by Provider for the City, as that term is used in

17 U.S.C. §§101 and 201(b), as amended from time to time. To the extent that any Materials relating to this Contract developed by or for Provider embody one or more copyrightable works but are neither a “compilation” nor any other form of “work made for hire,” Provider hereby assigns, and agrees to execute instruments evidencing such assignment, all copyrights in all of such works to the City. Provider shall cause all Materials developed or produced by Provider and any Subcontractor in connection with this Contract which embody a copyrightable work to bear the following designation: “© _____ The City of Philadelphia” [complete then current year in blank line].

(b) Provider shall make available to the City, upon the City’s request, a copy of any Materials prepared by or for Provider in performance of this Contract, at no cost to the City.

(c) All computer programs, tapes and software developed under this Contract shall be compatible with specifications set by the Department.

(d) Provider hereby grants, and shall require its Subcontractors to grant, to the City a royalty-free, nonexclusive and irrevocable right to publish, translate, reproduce, deliver, perform and authorize others to do so, all studies, media, curricula, reports and other Materials not owned by the City under this Contract but which relate to the performance of the Services, Materials or this Contract; provided, however, that Provider shall not be required to grant such right to the City with respect to any Materials for which Provider would be liable to pay compensation to third parties because of such grant.

10.2 **Non-Disclosure.** During the Initial Term and any Additional Term(s) of this Contract and thereafter, except with the prior written consent of the Responsible Official, Provider will not:

(a) Issue, publish or divulge any Services or Materials developed or used in the performance of this Contract in any public statement, thesis, writing, lecture or other verbal or written communication; or

(b) Disclose, or use to its advantage or gain, confidential information of any nature acquired from the City or acquired as a result of Provider’s activities in connection with this Contract.

ARTICLE XI: EVENTS OF DEFAULT

11.1 **Events of Default.** Each of the following shall be an Event of Default by Provider under this Contract:

(a) Failure by Provider to comply with any provision of this Contract;

- (b) Occurrence of an Event of Insolvency with respect to Provider;
- (c) Falseness or inaccuracy of any warranty or representation of Provider contained in this Contract or in any other document submitted to the City by Provider;
- (d) Any act, omission, or misrepresentation which renders the Provider ineligible for a City contract or renders the contract voidable under Chapter §17-1400 of the Code;
- (e) Misappropriation by Provider of any funds provided under this Contract or failure by Provider to notify the City upon discovery of any misappropriation;
- (f) A violation of law which results in a guilty plea, a plea of nolo contendere, or conviction of a criminal offense by Provider, its directors, employees, or agents (1) directly or indirectly relating to this Contract or the Services or Materials provided under this Contract, whether or not such offense is ultimately adjudged to have occurred; or (2) which adversely affects the performance of this Contract;
- (g) Indictment of or other issuance of formal criminal charges against Provider, its directors, employees or agents for any criminal offense or any other violation of Applicable Law directly relating to this Contract or Services or Materials, or which adversely affects Provider's performance of this Contract in accordance with its terms, whether or not such offense or violation is ultimately adjudged to have occurred; and/or
- (h) Debarment or suspension of Provider or any agent, employee or Subcontractor of Provider under a federal, state or local law, rule or regulation.

11.2 Notice and Cure. The City agrees that the City will not exercise any right or remedy provided for in Section 12.1 (The City's Remedies) below because of any Event of Default unless the City shall have first given written notice of the Event of Default to Provider, and Provider, within a period of ten (10) days thereafter, or such additional cure period as the City may authorize, shall have failed to correct the Event of Default; provided, however, that no such notice from the City shall be required nor shall the City permit any period for cure if:

- (a) Provider has temporarily or permanently ceased providing Services and Materials;
- (b) The Event of Default creates an emergency which requires, as determined by the City in the City's sole discretion, immediate exercise of the City's rights or remedies;
- (c) The City has previously notified Provider in the preceding twelve (12) month period of any Event of Default under this Contract;
- (d) An Event of Default occurs as described in Sections 11.1(e) or 11.1(f)

above; or

(e) Provider has failed to obtain or maintain the insurance or any bond required under this Contract.

Nothing contained in this Section shall limit the City's rights under Article XII (Remedies) below.

ARTICLE XII: REMEDIES

12.1 The City's Remedies.

(a) In the event Provider has committed or permitted an Event of Default and has been notified thereof in accordance with Section 11.2 (Notice and Cure) above, then the City may, but shall not be obligated to, without further notice to or demand on Provider and without waiving or releasing Provider from any of its obligations under this Contract:

- (1) perform (or cause a third party to perform) this Contract, in whole or in part, including, without limitation, obtaining or paying for any required insurance or performing other acts capable of performance by the City. Provider shall be liable to the City for all sums paid by the City and all expenses incurred by the City (or a third party) pursuant to this Section 12.1(a)(1), together with interest at the highest legal rate permitted in the Commonwealth of Pennsylvania thereon from the date the City or its agent incurs such costs. The City shall not in any event be liable for inconvenience, expense or other damage incurred by Provider by reason of the City's performance or paying such costs or expenses, and the obligations of Provider under this Contract shall not be altered or affected in any manner by the City's exercise of its rights under this Section 12.1 (The City's Remedies).
- (2) withhold payment of, or offset against, any funds payable to or for the benefit of Provider;
- (3) collect, foreclose or realize upon any bond, collateral, security or insurance provided by or on behalf of Provider; or
- (4) exercise any other right the City has or may have at law, in equity, or under this Contract.

(b) In the event Provider has committed or permitted an Event of Default and

has been notified thereof in accordance with Section 11.2 (Notice and Cure) above, then the City may, but shall not be obligated to, without waiving or releasing Provider from any of its obligations under this Contract, terminate or suspend this Contract in whole or in part, as set forth more fully in Article XIII (Termination and Suspension) below. In the event of partial termination or suspension, Provider shall continue the performance of this Contract to the extent not terminated or suspended. If this Contract is terminated, the City shall issue a written Termination Notice which shall set forth the effective date of the termination.

(c) The Services and Materials purchased from Provider are unique and not otherwise readily available. Accordingly, Provider acknowledges that, in addition to all other remedies to which the City is entitled, the City shall have the right, to the fullest extent permitted under Applicable Law, to enforce the terms of this Contract without limitation, by a decree of specific performance or by injunction restraining a violation, or attempted or threatened violation, of any provision of this Contract.

12.2 **Concurrent Pursuit of Remedies; No Waiver.** The City may exercise any or all of the remedies set forth in this Article XII (Remedies), each of which may be pursued separately or in conjunction with such other remedies as the City in its sole discretion shall determine. No extension or indulgence granted by the City to Provider shall operate as a waiver of any of the City's rights in connection with this Contract. The rights and remedies of the City as described in this Article XII (Remedies) and as described elsewhere in this Contract shall not be exclusive and are in addition to any other rights or remedies available to the City under this Contract at law or in equity.

ARTICLE XIII: TERMINATION AND SUSPENSION

13.1 **Termination or Suspension for Convenience.** In addition to its rights under Articles V (Compensation) and XII (Remedies) above, the City shall have the right to terminate this Contract or suspend Provider's performance under this Contract at any time during the Initial Term or any Additional Term(s) of this Contract, for any reason, including, without limitation, the convenience of the City. If this Contract is terminated solely for the City's convenience, the City shall issue a written Termination Notice, which shall set forth the effective date of the termination. If this Contract is suspended solely for the City's convenience, the City shall issue a written Suspension Notice, which shall set forth the effective date of the suspension.

13.2 Provider Responsibilities Upon Termination or Suspension.

(a) Upon the City's transmission of a Termination Notice or a Suspension Notice under any provision of this Contract, Provider and its agents, employees and Subcontractors, shall

- (1) take immediate action in an orderly manner to discontinue Services and Materials, and demobilize work forces to minimize the incurrence of costs; and

- (2) upon request by the City by notice to Provider, collect, assemble and transmit to the City all Materials in such state of completion as may exist as of the effective date of the termination or suspension. All such Materials shall be clearly labeled and indexed to the satisfaction of the Responsible Official and delivered to the Responsible Official by Provider on or before the date set forth in the Termination Notice for delivery of the Materials or, if no such date is set forth in the Termination Notice, then before the effective date of termination set forth in the Termination Notice. Provider waives and releases any and all right to any retaining or charging liens or similar right or remedy in favor of Provider.

(b) The City's termination or suspension of this Contract shall not affect any obligations or liabilities of either Party accruing prior to the effective date of such termination or suspension.

(c) There shall be no liability, cost or penalty to the City for termination or suspension of this Contract.

13.3 **Payment of Provider upon Termination or Suspension.**

- (a) Upon termination or suspension of this Contract by the City for an Event of Default, Provider shall be entitled to payment of such an amount, to be determined by the City and subject to audit, as shall compensate it for the work satisfactorily performed prior to the termination date; provided, however, that:

- (1) no allowance shall be included for termination expenses or for anticipated profits, unabsorbed or underabsorbed overhead, or unperformed Services; and
- (2) the City shall deduct from any amount due and payable to Provider prior to the termination date, but withheld or not paid, the total amount of fees, costs or additional expenses incurred by the City in order to satisfactorily complete the Services and Materials required to be performed by Provider under this Contract, including the expense of engaging another provider for this purpose, and such other damages, costs, losses and expenses of the City as may be incurred or result from such termination for an Event of Default.

(b) In the event of termination or suspension of this Contract by the City for the City's convenience, Provider shall be paid such an amount as shall compensate Provider for the portion of the Services satisfactorily performed and Materials satisfactorily delivered prior to the date of termination. The City shall not pay Provider any amount for Provider's termination or

suspension expenses or anticipated profits, unabsorbed or underabsorbed overhead or unperformed Services and Materials not satisfactorily delivered.

13.4 **Suspension.** Suspension of Provider's performance under this Contract after an Event of Default shall not constitute a waiver or release of any liability of Provider for such Event of Default or any of the City's damages or other remedies arising out of such Event of Default; nor shall such suspension be deemed an election of remedies in derogation of any other remedy. Provider acknowledges that the City shall have the right, at its sole discretion, to suspend Provider's performance in the event City Council does not appropriate funds for the performance of this Contract. In the event that the City issues a Suspension Notice to Provider, such suspension shall continue from the effective date specified in the Suspension Notice until a date specified in the Suspension Notice which shall be not more than one hundred and eighty (180) days after the effective date (such period, the "Suspension Period"). On or prior to the expiration of the Suspension Period, the City shall either terminate this Contract by giving a Termination Notice pursuant to Section 13.1 (Termination or Suspension for Convenience) above, or by notice to Provider, instruct Provider to resume the delivery of Services and Materials pursuant to this Contract upon the expiration of the Suspension Period. After issuing a Suspension Notice, the City shall pay any invoices submitted by Provider for services rendered prior to the commencement of the Suspension Period or otherwise payable by the City to Provider under this Contract, subject to all of the City's rights and remedies against Provider, including but not limited to its rights of set off and its right to review and accept Services and Materials prior to payment therefor.

ARTICLE XIV: ADDITIONAL REPRESENTATIONS AND COVENANTS OF PROVIDER RELATING TO CERTAIN APPLICABLE LAWS

In addition to the representations, warranties and covenants made by Provider in Article IV, Provider further represents, warrants and covenants that, to the extent of their applicability to Provider, Provider is in compliance with the laws, ordinances, regulations and executive orders described below. By executing this Contract, Provider thereby certifies to such compliance. Provider further certifies that the representations, warranties, and covenants provided pursuant to this Article shall continue to remain true throughout the Term of this Contract or any other period of time required by such laws. In the event said representations, warranties, and covenants are or become untrue or inaccurate, Provider shall promptly give notice thereof to the City, specifying the manner in which said representation, warranty, or covenant is untrue or inaccurate. The provisions of this Article are not intended to limit the applicability of the other provisions of this Contract, including, without limitation, Provider's agreement to comply with all Applicable Law.

14.1 **Non-Discrimination; Fair Practices.** This Contract is entered into under the terms of the Charter, the Fair Practices Ordinance (Chapter 9-1100 of the Code) and the Mayor's Executive Order No. 04-86 (the "Executive Order"), as they may be amended from time to time, and in performing this Contract, Provider shall not discriminate or permit discrimination against any individual because of race, color, religion, ancestry or national origin, sex, gender identity, sexual orientation, age or disability. Nor shall Provider discriminate or permit discrimination against

individuals in employment, housing and real property practices, and/or public accommodation practices whether by direct or indirect practice of exclusion, distinction, restriction, segregation, limitation, refusal, denial, differentiation or preference in the treatment of a person on the basis of actual or perceived race, ethnicity, color, sex, sexual orientation, gender identity, religion, national origin, ancestry, age, disability, marital status, source of income, familial status, genetic information or domestic or sexual violence victim status, Human Immunodeficiency Virus (HIV) infection, or engage in any other act or practice made unlawful under the Charter, Chapter 9-1100, the Executive Order, or under the nondiscrimination laws of the United States or the Commonwealth of Pennsylvania. In the event of any breach of this Section 14.1 (Non-Discrimination; Fair Practices), the City may, in addition to any other rights or remedies available under this Contract, at law or in equity, suspend or terminate this Contract forthwith.

14.2 Chapter 17-400 of the Philadelphia Code: Exclusionary Private Organizations.

(a) In accordance with Chapter 17-400 of the Code, Provider agrees that its payment or reimbursement of membership fees or other expenses associated with participation by its employees in an exclusionary private organization, insofar as such participation confers an employment advantage or constitutes or results in discrimination with regard to hiring, tenure of employment, promotions, terms, privileges or conditions of employment on the basis of race, color, sex, sexual orientation, religion, national origin or ancestry, constitutes, without limiting the applicability of Articles XI (Events of Default) and XII (Remedies) above, a substantial breach of this Contract entitling the City to all rights and remedies provided in this Contract or otherwise available at law or in equity.

(b) Provider agrees to cooperate with the Commission on Human Relations of the City in any manner which the Commission deems reasonable and necessary for the Commission to carry out its responsibilities under Chapter 17-400 of the Code. Provider's failure to so cooperate shall constitute, without limiting the applicability of Articles XI (Events of Default) and XII (Remedies) above, a substantial breach of this Contract entitling the City to all rights and remedies provided in this Contract or otherwise available at law or in equity.

14.3 Executive Order 03-12: Minority, Woman and Disabled Business Enterprise Participation. In accordance with Executive Order 03-12 (the "Antidiscrimination Policy"), the City, acting through its Office of Economic Opportunity ("OEO"), has established an antidiscrimination policy that relates to the solicitation and participation of Minority Business Enterprises ("MBE"), Woman Business Enterprises ("WBE"), and Disabled Business Enterprises ("DSBE") (collectively, "M/W/DSBE") in City contracts. The purpose of this Antidiscrimination Policy is to ensure that all businesses desiring to do business with the City have an equal opportunity to compete by creating access to the City's procurement process and meaningfully increasing opportunities for the participation by M/W/DSBEs in City contracts at all tiers of contracting, as prime contractors, subcontractors and joint venture partners. In furtherance of this policy, the City will, from time to time, establish participation ranges for City Contracts and City Related Special Projects. Provider agrees to comply with the requirements of the Antidiscrimination Policy by exercising its Best and Good Faith Efforts to include M/W/DSBEs in

its contract, and where participation ranges are established by OEO, Provider agrees, without limitation, to submit documentation responsive to each of the participation ranges established for the Contract.

(a) **General Requirements.** In furtherance of the purposes of the Antidiscrimination Policy, Provider agrees to the following:

(1) Provider, if it has achieved participation commitments with M/W/DSBEs, represents that it has entered into legally binding agreement(s) (“M/W/DSBE Subcontract(s)”) with M/W/DSBEs as participants under this Contract for the services and in the dollar amount(s) and percentage(s) as specified in the M/W/DSBE Participation Exhibit to this Contract (the “Contract Commitment(s)”).

(2) Provider shall secure the prior written approval of OEO before making any changes or modifications to any Contract Commitments made by Provider herein, including, without limitation, substitutions for its MBEs, WBEs and/or DSBEs, changes or reductions in the services provided by its M/W/DSBE participants, or changes or reductions in the dollar amounts and/or percentage value paid to its M/W/DSBE participants.

(3) Unless otherwise specified in the M/W/DSBE Subcontract between the Provider and its M/W/DSBE participant as described in (a) (1) above, Provider shall, within five (5) business days after receipt of a payment from the City for services performed under the Contract, deliver to its M/W/DSBE participant, its proportionate share of such payment for services performed by the M/W/DSBE participant. In connection with payment of its M/W/DSBE participants, Provider agrees to fully comply with the City’s payment reporting process which may include the use of electronic payment verification systems.

(4) Provider shall, in the event of an increase in units of work and/or compensation under the Contract, increase its Contract Commitment(s) with its M/W/DSBE participants proportionately, which increase shall be reflected in the M/W/DSBE Subcontract(s) described in (a) (1) above. OEO may from time to time request documentation from Provider evidencing compliance with this provision.

(5) Provider shall submit, within the time frames prescribed by the City, any and all documentation the City may request, including, but not limited to, copies of M/W/DSBE Subcontracts, participation summary reports, M/W/DSBE participant invoices, telephone logs and correspondence with M/W/DSBE participants, cancelled checks and certification of payments. Provider shall maintain all documentation related to this Section for a period of five (5) years from the date of Provider’s receipt of final payment under the Contract.

(6) Provider agrees that the City may, in its sole discretion, conduct periodic reviews to monitor Provider’s compliance with the terms of this Antidiscrimination Policy.

(7) Provider agrees that in the event the City determines that Provider has failed to comply with any of the requirements of this Antidiscrimination Policy, including

substantial compliance with any Contract Commitment, the City may, in addition to any other rights and remedies it may have under the Contract which includes termination of the Contract, exercise one or more of the following remedies which shall be deemed cumulative and concurrent:

(.a) Debar Provider from proposing on and/or participating in any future contracts for a maximum period of three (3) years.

(.b) Withhold payment(s) or any part thereof until corrective action is taken. If corrective action is not taken to the satisfaction of OEO, the City may, without institution of a lawsuit, deduct money in an amount equal to the M/W/DSBE shortfall which amount shall be collected and considered not as a penalty but as liquidated damages for the Provider's failure to comply with the contract.

(8) No privity of contract exists between the City and any M/W/DSBE participant identified herein and the City does not intend to give or confer upon any such M/W/DSBE participant(s) any legal rights or remedies in connection with the subcontracted services pursuant to the Antidiscrimination Policy or by reason of this Contract except such rights or remedies that the M/W/DSBE participant may seek as a private cause of action under any legally binding contract to which it may be a party. The remedies enumerated above are for the sole benefit of the City and City's failure to enforce any provision or the City's indulgence of any non-compliance with any provision hereunder, shall not operate as a waiver of any of the City's rights in connection with this Contract nor shall it give rise to actions by any third parties including identified M/W/DSBE participants.

(b) **Special Requirements Applicable to Non-Profit Providers.** In the event the Provider is a non-profit, the Contract may not be subject to M/W/DSBE participation ranges, but Provider shall demonstrate its compliance with the Antidiscrimination Policy by providing annually to OEO, the following information:

- (1) a statement identifying the race, gender, disability status and ethnic composition of its workforce and board of directors; and
- (2) a list of the nonprofit's five highest dollar value M/W/DSBE suppliers of products and services; and
- (3) the nonprofit's written "equal opportunity statement," an assurance of the nonprofit's efforts to maintain a diverse workforce and board of directors and operate a fair and effective supplier diversity program.

(c) **Criminal Liability for Fraudulent Conduct or False Statements.**

Provider hereby verifies that all information submitted to the City in connection with the Antidiscrimination Policy, is true and correct and is notified that the submission of false information is subject to the penalties of 18 Pa.C.S. §4904 relating to unsworn falsification to authorities, which may include payment of a fine of at least \$1,000 and a term of imprisonment of

not more than two years. Provider also acknowledges that under 18 Pa.C.S. §4107.2 (a)(4) it is a felony in the third degree, punishable by a term of imprisonment of not more than seven years in addition to the payment of any fines or restitution, if, under this Contract, Provider fraudulently obtains public moneys reserved for or allocated or available to minority business enterprises or women's business enterprises.

14.4 **Federal Laws.** Provider shall comply with the provisions of Title VI of the Civil Rights Act of 1964 (42 U.S.C. §§ 2000d - 2000d.7), Section 504 of the Federal Rehabilitation Act of 1973 (29 U.S.C. § 794), the Age Discrimination Act of 1975, (42 U.S.C. §§ 6101 - 6107), Title IX of the Education Amendments of 1972 (20 U.S.C. § 1681), and 45 C.F.R. Part 92, as they may be amended from time to time, which together prohibit discrimination on the basis of race, color, national origin, sex, handicap, age and religion.

14.5 **Americans With Disabilities Act.** Provider understands and agrees that no individual with a disability shall, on the basis of the disability, be excluded from participation in this Contract or from providing Services or Materials under this Contract. By executing and delivering this Contract, Provider covenants to comply with all provisions of the Americans With Disabilities Act (the "ADA"), 42 U.S.C. §§12101 - 12213, and all regulations promulgated thereunder, as the ADA and regulations may be amended from time to time, which are applicable (a) to Provider; (b) to the benefits, Services, Materials, activities, facilities and programs provided in connection with this Contract; (c) to the City, or the Commonwealth of Pennsylvania; (d) to the benefits, services, activities, facilities and programs of the City or of the Commonwealth; and (e) if any funds under this Contract are provided by the federal government, which are applicable to the federal government and its funds, benefits, services, activities, facilities and programs applicable to this Contract. Without limiting the applicability of the preceding sentence, Provider shall comply with the "General Prohibitions Against Discrimination," 28 C.F.R. Part 35.130, and all other regulations promulgated under Title II of the ADA, as they may be amended from time to time, which are applicable to the benefits, services, facilities, programs and activities provided by the City through contracts with outside contractors.

14.6 **Northern Ireland.**

(a) In accordance with Section 17-104 of the Code, Provider (including any parent company, subsidiary, exclusive distributor or company affiliated with Provider) (1) confirms that it does not have, and agrees that it will not have at any time during the Term of this Contract (including any extensions of the Term), any investments, licenses, franchises, management agreements or operations in Northern Ireland and (2) agrees that no product to be provided to the City under this Contract will originate in Northern Ireland, unless Provider has implemented the fair employment principles embodied in the MacBride Principles.

(b) In the performance of this Contract, Provider agrees that it will not use any suppliers, Subcontractors or subconsultants at any tier (1) who have (or whose parent, subsidiary, exclusive distributor or company affiliate have) any investments, licenses, franchises, management agreements or operations in Northern Ireland or (2) who will provide products originating in

Northern Ireland unless said supplier, subconsultant or Subcontractor has implemented the fair employment principles embodied in the MacBride Principles.

(c) Provider agrees to cooperate with the City's Director of Finance in any manner which the said Director deems reasonable and necessary to carry out the Director's responsibilities under Section 17-104 of the Code. Provider expressly understands and agrees that any false certification or representation in connection with this Section 14.6 (Section 17-104 of the Code) and any failure to comply with the provisions of this Section 14.6 (the Section 17-104 of the Code) shall constitute a substantial breach of this Contract entitling the City to all rights and remedies provided in this Contract or otherwise available at law (including, but not limited to, Section 17-104 of the Code) or in equity. In addition, Provider understands that false certification or representation is subject to prosecution under Title 18 Pa. C.S. Section 4904.

14.7 **Limited English Proficiency.** Provider understands and agrees that no individual who is limited in his or her English language proficiency shall be denied access to Services provided under this Contract on the basis of that limitation. As a condition of accepting and executing this Contract, Provider shall comply with all provisions of Title VI of the Civil Rights Act of 1964, Executive Order No. 12250 of the President of the United States, publication of the Mayor of the City of Philadelphia's Executive Order entitled, "Access to Federally Funded City Programs and Activities for Individuals with Limited English Proficiency" dated September 29, 2001, and all regulations promulgated thereunder, as the Act and regulations may be amended from time to time, which are applicable (a) to Provider, (b) to the benefits, services, activities and programs provided in connection with this Contract, (c) to the City, or the Commonwealth of Pennsylvania, and (d) to the benefits, services, activities and programs of the City or of the Commonwealth, and if any funds under this Contract are provided by the federal government, which are applicable to the federal government and its benefits, services, activities and programs. Without limiting the applicability of the preceding sentence, Provider shall comply with 45 C.F.R. 80 et. seq. and all other regulations promulgated under Title VI of the Civil Rights Act of 1964, as they may be amended from time to time, which are applicable to the benefits, services, programs and activities provided by the City through contracts with outside contractors.

14.8 **Business, Corporate and Slavery Era Insurance Disclosure.** In accordance with Section 17-104 of the Code, the Provider, after execution of this Contract, will complete an affidavit certifying and representing that the Provider (including any parent company, subsidiary, exclusive distributor or company affiliated with Provider) has searched any and all records of the Provider or any predecessor company regarding records of investments or profits from slavery or slaveholder insurance policies during the slavery era. The names of any slaves or slaveholders described in those records must be disclosed in the affidavit.

The Provider expressly understands and agrees that any false certification or representation in connection with this Section and/or any failure to comply with the provisions of this Section shall constitute a substantial breach of this Contract entitling the City to all rights and remedies provided in this Contract or otherwise available in law (including, but not limited to, Section 17-104 of the Code) or equity and the Contract will be deemed voidable. In addition, it is

understood that false certification or representation is subject to prosecution under Title 18 Pa. C.S. Section 4904.

14.9 Protected Health Information

(a) The City of Philadelphia is a “Covered Entity” as defined in the regulations issued pursuant to the federal Health Insurance Portability and Accountability Act of 1996 (“HIPAA”). The City’s business activities include both (1) functions which make the City a Covered Entity, and, therefore, subject to HIPAA, and (2) functions that are not subject to HIPAA. In accordance with 45 CFR §164.105(a)(2)(iii)(D), the City has designated certain departments and units of the City as health care components that must comply with HIPAA (“Covered Components”). The Covered Components of the City as of August 1, 2013 include: Ambulatory Health Services, a unit of the Philadelphia Department of Public Health (“PDPH”); the Office of Behavioral Health and Intellectual disAbility Services; the Philadelphia Nursing Home (a unit of PDPH); the Benefits Administration Unit of the Office of Human Resources; Emergency Medical Services (a unit of the Philadelphia Fire Department); and the Philadelphia Public Health Laboratory (a unit of PDPH). This list is subject to change, and any department or unit of the City that the City in the future determines to be a Covered Component under HIPAA shall be deemed to be a Covered Component for purposes of this Section 14.9

(b) To the extent (1) this Contract is entered into by the City for or on behalf of a Covered Component and/or requires the performance of services that will be delivered to or used by a Covered Component (whether or not the City department or unit through which the City entered the Contract is a Covered Component), and (2) Provider is a “Business Associate” of the City, as defined in 45 CFR §160.103, Provider shall comply with the City’s Terms and Conditions Relating to Protected Health Information (“City PHI Terms”) posted on the City’s website (at <https://secure.phila.gov/eContract/> under the “About” link). The City PHI Terms are hereby incorporated in this Section 14.9 as if fully set forth herein. (A printed version of the City PHI Terms, in the City’s sole discretion, also may be attached to this Contract.)

14.10 Chapter 17-1300 of The Philadelphia Code: Philadelphia 21st Century Minimum Wage and Benefits Standard.

(a) Provider is a “Service Contractor” in that by virtue of entering into this Contract, Provider has entered into a “Service Contract,” as those terms are defined in Chapter 17-1300 of the Code. Any Subcontract between Provider and a Subcontractor to perform Services under this Contract is a “Service Contract” and such Subcontractors are also “Service Contractors” for purposes of Chapter 17-1300 as are any subcontract and subcontractor at any tier providing Services under this Contract. (Chapter 17-1300 is accessible at <http://www.amlegal.com/library/pa/philadelphia.shtml>.) If such Service Contractor (Provider or any subcontractor at any tier) is also an “Employer,” as that term is defined in Section 17-1302 (more than 5 employees), and further described in Section 17-1303 of the Code, then absent a waiver, during the Initial Term and any Additional Term, in addition to any applicable state and federal requirements, Provider shall provide, and shall enter into Subcontracts and otherwise cause

any subcontractors at any tier that are also Service Contractors to provide, their respective covered Employees (persons who perform work for a covered Employer that arises directly out of a Service Contract), with at least the minimum wage standard and minimum benefits standard, and required notice thereof, stated in federal and state law and in Chapter 17-1300 of the Code. A summary of the current requirements is as follows:

(1) Minimum Wage

(.a) for the period through December 31, 2014, provide covered Employees with an hourly wage, excluding benefits, that is no less than \$10.88/hour;

(.b) as of January 1, 2015, provide their covered Employees with an hourly wage, excluding benefits, that is no less than \$12/hour;

(.c) commencing as of January 1, 2016, for wages to be provided on and after January 1 of each year during which the Initial Term and any Additional Term is in effect, provide their covered Employees with an hourly wage, excluding benefits, that is no less than the result of multiplying \$12 by the then current CPI Multiplier as annually adjusted. For purposes of determining the minimum hourly wage required, the CPI Multiplier is calculated annually by the City's Director of Finance by dividing the most recently published Consumer Price Index for all Urban Consumers (CPI-U) as of each January 1 by the CPI-U most recently published as of January 1, 2015. The then current minimum hourly wage applicable to City contractors and subcontractors will be posted on the City's web site.

(2) Minimum Benefits

(.a) to the extent an Employer provides health benefits to any of its employees, provide each full-time, non-temporary, non-seasonal covered Employee with health benefits at least as valuable as the least valuable health benefits that are provided to any other full-time employees of the Employer; and

(.b) provide to each full-time, non-temporary, non-seasonal covered Employee at least the minimum number of earned sick leave days required by Code Section 17-1305(2).

(3) Generally. Notwithstanding the above requirements, to the extent a change in law would require an increase in wages or benefits under Chapter 17-1300 (for example, an increase in the federal minimum wage to \$9.00/hour, which would increase the required City minimum wage to \$13.50 due to the Chapter's requirement of \$150% of the federal minimum wage), such new requirement will take effect only at the start of an Additional Term, if any, commencing on or after the date of the new legal requirement.

(b) If covered, absent a waiver, Provider shall promptly provide to the City all documents and information as the City may require verifying its compliance, and that of all Service Contractors providing Services under the Contract, with the requirements of Chapter 17-

1300. Each covered Service Contractor shall notify each affected Employee what wages and benefits are required to be paid pursuant to Chapter 17-1300.

(c) Absent a waiver, a Provider subject to Chapter 17-1300 shall comply with all of its requirements as they exist on the date when the Provider entered into this Contract with the City or into an amendment thereto. Provider shall take such steps as are necessary to notify its Subcontractors of these requirements, and to cause such Subcontractors to notify lower-tier subcontractors that are Service Contractors of these requirements, including, without limitation, by incorporating this Section 14.10, with appropriate adjustments for the identity of the parties, in its Subcontracts with such Subcontractors. A Provider or subcontractor at any tier subject to Chapter 17-1300 that fails to comply with these provisions may, after notice and hearing before the Director of Finance or such other officer or agency designated by the Mayor, be suspended from receiving financial assistance from the City or from bidding on and/or participating in future City contracts, whether as a prime contractor or a subcontractor, for up to three (3) years. City Council may also initiate a similar suspension or debarment process. Such suspension or debarment shall be in addition to any of the other sanctions or remedies set forth in Chapter 17-1300 or this Contract.

(d) Without limiting the applicability of Articles XI (Events of Default) and XII (Remedies) above, Provider's failure to comply, or the failure of subcontractors at any tier to comply, with the requirements of Chapter 17-1300 shall constitute a substantial breach of this Contract entitling the City to all rights and remedies provided in this Contract or otherwise available at law or in equity.

(e) Provider's covered Employees shall be deemed third-party beneficiaries of Provider's representation, warranty, and covenant to the City under this Section 14.10 only, and the covered Employees of a subcontractor at any tier that is also a covered Employer performing Services directly or indirectly under a subcontract at any tier shall be deemed third-party beneficiaries of their Employer's representation, warranty and covenant to Provider or such subcontractors at any tier, as the case may be, under this Section.

(f) The Office of Labor Standards may grant a partial or total waiver of Chapter 17-1300 based on specific stipulated reasons elaborated in Section 17-1304 of the Code. An overview offering guidance on the applicability of, and requirements placed on City contractors and subcontractors by Chapter 17-1300 of the Code is available on the City's website at <https://secure.phila.gov/eContract/> under the "About" link; see "Minimum Wage and Equal Benefits Ordinances Impacting Some City Contractors."

14.11 Chapter 17-1400 of the Philadelphia Code: Contributions and Other Mandatory Disclosures.

(a) Provider confirms on behalf of itself and its Subcontractor(s) that no contribution(s) have been made, and agrees that none shall be made during the Term of this Contract, and any Additional Term, by Provider, any Subcontractor, or any party from which a contribution can be attributed to the Provider or Subcontractor, that would render the Provider or

Subcontractor, as applicable, ineligible to apply for or enter into a Non-Competitively Bid Contract under the provisions of Sections 17-1404(1) and 17-1405 of the Code; and that disclosures made as part of its application to receive a Non-Competitively Bid Contract contain no material misstatements or omissions. Breach of this covenant shall constitute an event of default and render the Contract voidable at the City's option, and, as to contributions made by or attributable to Provider, shall make the Provider liable for liquidated damages to the City in the amount of ten percent (10%) of the maximum payments to the Provider allowed under the Contract, regardless whether actually paid. The City may exercise any or all of the remedies set forth in this Section 14.11 (Contributions and Other Mandatory Disclosures), each of which may be pursued separately or in conjunction with such other remedies as the City in its sole discretion shall determine. No extension or indulgence granted by the City to Provider shall operate as a waiver of any of the City's rights in connection with this Contract. The rights and remedies of the City as described in this Section 14.11, and as described elsewhere in this Contract, shall not be exclusive and are in addition to any other rights or remedies available to the City under this Contract at law or in equity.

(b) Provider shall, during the term of the Contract, any Additional Term, and for one year thereafter, disclose any contribution of money or in-kind assistance the Provider, or any Subcontractor or Consultant utilized by Provider in connection with this Contract, has made, or any individual or entity has made if such contributions can be attributed to Provider, or such Subcontractor or Consultant pursuant to the attribution rules of Section 17-1405, during such time period to a candidate for nomination or election to any public office in the Commonwealth of Pennsylvania or to an individual who holds such office, or to any political committee or state party in the Commonwealth of Pennsylvania, or to any group, committee or association organized in support of any such candidate, office holder, political committee or state party, and the date and amount of such contribution.

(1) It shall not be a violation of Section 14.11(b) if Provider fails to disclose a contribution made by a Consultant because the Provider was unable to obtain such information from the Consultant, provided the Provider demonstrates that it used reasonable efforts to attempt to obtain such information, including, at a minimum:

(.a) Entering into a written agreement with the Consultant for such Consultant's services, before the filing of the application for the Contract, and before the Consultant communicated with a City department or office, official or employee on behalf of the Provider;

(.b) Including in such agreement a provision requiring the Consultant to provide the Provider in a timely manner with all information required to be disclosed under the provisions of Chapter 17-1400 of the Code, and providing, in effect, that the agreement will be terminated by the Provider if the Consultant fails to provide all required information on a timely basis and that no further payments, including payments owed for services performed prior to the date of termination, will be made to the Consultant by or on behalf of the Provider as of the date of such termination;

(c) Communicating regularly with the Consultant concerning the Consultant's obligations to provide timely information to permit the Provider to comply with the provisions of Chapter 17-1400; and

(d) Invoking the termination provisions of the written agreement in a full and timely manner.

(c) The Provider shall, during the Term of the Contract, any Additional Term, and for one year thereafter, disclose the name and title of each City officer or employee who, during such time period, asked the Provider, any officer, director or management employee of the Provider, or any Person representing the Provider, to give money, services, or any other thing of value (other than a Contribution as defined in Section 17-1401) to any Person, and any payment of money, provision of services, or any other thing of value (other than a Contribution as defined in Section 17-1401) given to any Person in response to any such request. The Provider shall also disclose the date of any such request, the amount requested, and the date and amount of any payment made in response to such request.

(d) The Provider shall, during the Term, and any Additional Term, of the Contract disclose the name and title of each City officer or employee who directly or indirectly advised the Provider, any officer, director or management employee of the Provider, or any Person representing the Provider that a particular Person could be used by the Provider to satisfy any goals established in the Contract for the participation of minority, women, disabled or disadvantaged business enterprises. The Provider shall also disclose the date the advice was provided, and the name of such particular Person.

(e) The disclosures required by Sections 14.11(b), (c) and (d) shall be made utilizing the online disclosure update process through Provider's eContract Philly account which can be accessed on the City's website at www.phila.gov/contracts by clicking on eContract Philly. Such disclosures shall be made within five (5) business days of the action or event requiring Provider to update its disclosures. In the case of updates to political contributions made by Provider required by Section 14.11(b), the attribution rules of Section 17-1405 shall apply to determine what contributions must be disclosed under this provision as contributions of the Provider or of a Consultant. Provider is advised that any individual who submits an update on eContract Philly must be an authorized signatory of the Provider, authorized to make the required updated disclosures.

(f) Reports generated automatically by the online process for the updated disclosures required by Sections 14.11(b), (c) and (d) will be automatically forwarded to the President and Chief Clerk of Council, and to the Mayor, Director of Finance, Procurement Department, and the Department of Records.

14.12 **Executive Order 03-11: Gifts.**

(a) Pursuant to Executive Order 03-11, no official or employee in the Executive and Administrative Branch of the City shall solicit or accept, directly or indirectly, anything of value, including any gift, gratuity, favor, entertainment, invitation, food, drink or loan, unless consideration of equal or greater value is conveyed in return, from any of the following sources:

(1) A person seeking to obtain business from, or who has financial relations with the City;

(2) A person whose operations or activities are regulated or inspected by any City agency;

(3) A person engaged, either as principal or attorney, in proceedings before any City agency or in court proceedings in which the City is an adverse party;

(4) A person seeking legislative or administrative action by the City; or

(5) A person whose interests may be substantially affected by the performance or nonperformance of the official's or employee's official duties.

(b) Provider understands and agrees that if it offers anything of value to a City official or employee under circumstances where the receipt of such item would violate the provisions of this Executive Order, Provider shall be subject to sanctions with respect to future City contracts. Such sanctions may range from disqualification from participation in a particular contract to debarment, depending on the nature of the violation.

14.13 **Chapter 17-1900 of the Philadelphia Code: Equal Benefits Ordinance.**

(a) Unless Provider is a government agency, this is a "Service Contract" as that term is defined in Section 17-1901(4) of the Code. If the Service Contract is in an amount in excess of \$250,000, then pursuant to Chapter 17-1900 of the Code, Provider shall, for any of its employees who reside in the City, or any of its employees who are non-residents subject to City wage tax under Section 19-1502(1)(b) of the Code, extend the same employment benefits the Provider extends to spouses of its employees to life partners of such employees. Provider certifies that (i) it is in compliance with the requirements of Chapter 17-1900, (ii) its employees have been notified of the employment benefits available to life partners pursuant to Chapter 17-1900, and (iii) such employment benefits are currently, or will be made available within the time required by Section 17-1902(2), or that the Provider does not provide employment benefits to the spouses of married employees.

(b) Provider acknowledges and agrees that the following terms are included in this Contract:

(1) Provider shall notify its employees of the employment benefits available to life partners pursuant to Chapter 17-1900 of the Code.

(2) Noncompliance by the Provider with the requirements of Chapter 17-1900 of the Code shall be a material breach of this Contract.

(3) Discrimination or retaliation by the Provider against any employee on account of having claimed a violation of Chapter 17-1900 shall be a material breach of this Contract.

(4) In addition to any other rights and remedies available to the City pursuant to this Contract at law or in equity, a material breach of this Contract related to Chapter 17-1900 may result in the suspension or debarment of Provider from participating in City contracts for up to three (3) years.

(c) An overview offering guidance on the applicability of, and requirements placed on City contractors by Chapter 17-1900 of the Code is available on the City's website (at <https://secure.phila.gov/eContract/> under the "About" link) (see "Minimum Wage and Equal Benefits Ordinances Impacting Some City Contractors").

ARTICLE XV: MISCELLANEOUS

15.1 **Governing Law.** This Contract shall be deemed to have been made in Philadelphia, Pennsylvania. This Contract and all disputes arising under this Contract shall be governed, interpreted, construed and determined in accordance with the laws of the Commonwealth of Pennsylvania, without giving effect to principles of Pennsylvania law concerning conflicts of laws.

15.2 **Amendments; Waiver.** This Contract may not be amended, supplemented, altered, modified or waived, in whole or in part, except by a written Amendment signed by the Parties. Except to the extent that the Parties may have otherwise agreed in writing in an Amendment, no waiver, whether express or implied, by either Party of any provision of this Contract shall be deemed: (a) to be a waiver by that Party of any other provision in this Contract; or (b) to be a waiver by that Party of any breach by the other Party of its obligations under this Contract. Any forbearance by a Party in seeking a remedy for any noncompliance or breach by the other Party shall not be deemed to be a waiver of rights and remedies with respect to such noncompliance or breach.

15.3 **Integration.** The Contract Documents forming this Contract, including the Provider Agreement and the General Provisions and the exhibits incorporated by reference therein, contain all the terms and conditions agreed upon by the Parties, constitute the entire agreement among the Parties pertaining to the subject matter hereof, and supersede all prior agreements,

understandings, negotiations and discussions, whether oral or written, of the Parties (except to the extent specifically set forth herein). No other prior or contemporaneous agreements, covenants, representations or warranties, oral or otherwise, regarding the subject matter of this Contract shall be deemed to exist or to bind any Party or to vary any of the terms contained in this Contract.

15.4 **No Joint Venture.** The Parties do not intend to create, and nothing contained in this Contract shall be construed as creating, a joint venture arrangement or partnership between the City and Provider with respect to the Services or the Materials.

15.5 **No Third Party Beneficiaries.** With the exception of the remedy provided to third party beneficiaries by Section 14.10(e), nothing in this Contract, express or implied, is intended or shall be construed to confer upon or give to any Person, other than the Parties, any rights, remedies, or other benefits, including but not limited to third-party beneficiary rights, under or by reason of this Contract. This Contract shall not provide any third party with any remedy, claim, liability, reimbursement, cause of action or other right other than any such remedy, claim, etc. existing without reference to the term of or the existence of this Contract.

15.6 **Counterparts.** This Contract may be executed in one or more counterparts, each of which shall be deemed an original, but all of which, taken together, shall constitute one and the same instrument.

15.7 **Severability and Partial Invalidity.** The provisions of this Contract shall be severable. If any provision of this Contract or the application thereof for any reason or in any circumstance shall to any extent be held to be invalid or unenforceable, the remaining provisions of this Contract and the application of such provision to Persons, or circumstances, other than those as to which it is held invalid or unenforceable, shall not be affected thereby, and each provision of this Contract shall be valid and enforceable to the fullest extent permitted by law.

15.8 **Survival.** Any and all provisions set forth in this Contract which, by its or their nature, would reasonably be expected to be performed after the termination of this Contract shall survive and be enforceable after such termination. Any and all liabilities, actual or contingent, which shall have arisen in connection with this Contract shall survive the expiration or earlier termination of this Contract, along with the following: Provider's representations, warranties and covenants set forth in Article IV (Provider's Representations, Warranties and Covenants) above; Provider's obligation to indemnify, defend and hold harmless the City, its officers, employees and agents as set forth in Section 8.2 (Indemnification) above; and the Parties' rights and obligations set forth in Article X (Ownership of Materials; Proprietary Information; Confidentiality) above.

15.9 **Determination of Disputes.** Any dispute arising between the City and Provider under or with respect to either Party's covenants, obligations, powers, rights or duties under this Contract shall be submitted to and decided by the Responsible Official or his or her designee. The Responsible Official or his or her designee shall render and reduce to writing his or her decision, and furnish a copy to Provider by notice under this Contract. In connection with any dispute under this Contract, the Responsible Official shall offer Provider an opportunity to offer evidence in

support of its position concerning the subject matter of the dispute. This section shall not be construed to limit the benefit to the City of Articles XI (Events of Default) or XII (Remedies) above.

15.10 **Interpretation; Order of Precedence.** In the event of a conflict or inconsistency between the terms of these General Provisions and the terms of the Provider Agreement, the terms of these General Provisions shall control, except to the extent (if any) that the Provider Agreement contains an express change, by specific reference, to the General Provisions. In the event that the terms of these General Provisions and the terms of the Funding Source General Terms and Conditions cannot both be fully performed, the more stringent standard, as determined solely by the City, shall control.

15.11 **Headings.** The titles, captions or headings of Articles, Sections and Exhibits or schedules in this Contract are inserted for convenience of reference only; do not in any way define, limit, describe or amplify the provisions of this Contract or the scope or intent of the provisions, and are not a part of this Contract.

15.12 **Statutory and other Citations.** All statutory or other citations of law referenced in the Contract shall refer to the statute referenced, as it may be amended or superseded from time to time.

15.13 **Days.** Any references to a number of days in this Contract shall mean calendar days unless this Contract specifies business days.

15.14 **Forum Selection Clause; Consent to Jurisdiction.** The Parties irrevocably consent and agree that any lawsuit, action, claim, or legal proceeding involving, directly or indirectly, any matter arising out of or related to this Contract, or the relationship created or evidenced thereby, shall be brought exclusively in the United States District Court for the Eastern District of Pennsylvania or the Court of Common Pleas of Philadelphia County. It is the express intent of the Parties that jurisdiction over any lawsuit, action, claim, or legal proceeding shall lie exclusively in either of these two (2) forums. The Parties further irrevocably consent and agree not to raise any objection to any lawsuit, action, claim, or legal proceeding which is brought in either of these two (2) forums on grounds of venue or *forum non conveniens*, and the Parties expressly consent to the jurisdiction and venue of these two (2) forums. The Parties further agree that service of original process in any such lawsuit, action, claim, or legal proceeding may be duly effected by mailing a copy thereof, by certified mail, postage prepaid to the addresses specified in Section 5.1 (Notice) of the Provider Agreement.

15.15 **Waiver of Jury Trial.** Provider hereby waives trial by jury in any legal proceeding in which the City is a party and which involves, directly or indirectly, any matter (whether sounding in tort, contract or otherwise) in any way arising out of or related to this Contract or the relationship created or evidenced hereby. This provision is a material consideration upon which the City relied in entering into this Contract.

15.16 **Notices**. All notices, demands, requests, waivers, consents, approvals or other communications which are required or may be given under this Contract shall be in writing and shall be deemed to have been duly made (a) when received or refused if delivered by hand with receipt given or refused; (b) on the next business day if delivered by a nationally recognized overnight courier service (*e.g.*, Federal Express or United Parcel Service); (c) on the date confirmed for receipt by facsimile if delivered by facsimile; and (d) upon receipt or refusal of delivery if sent by certified or registered United States mail, return receipt requested. In each case notices shall be sent to the addresses set forth in Section 5.1 (Notice) of the Provider Agreement, or to such other address as either Party may specify to the other by a notice complying with the terms of this Section 15.16 (Notices).