



# REQUEST FOR PROPOSALS

## File Storage

### RFP# 22-31906

KEY DATES/EVENTS:	
Event	Date/Time
RFP Publication Date	Monday March 28th 2022
Request for Information Cutoff Date	April 7 <sup>th</sup> , 2022
RFI Responses posted by	April 14 <sup>th</sup> , 2022
<b>RFP Due Date*</b>	<b>Friday, April 22<sup>nd</sup> 11:00AM</b>
Anticipated Award	The week of May 2 <sup>nd</sup>

**IMPORTANT NOTICE:** A restricted period under the Procurement Lobbying Law is currently in effect for this Request for Proposals (RFP). Bidders are prohibited from contact related to this procurement with any New York State employee other than the designated contact(s) as described in this Request for Proposals.

**\*RFP proposals are due on or before 3:00 p.m. EST. Proposals submitted past this deadline cannot be accepted.**

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## I. PROPOSAL CHECKLIST

Bidders must submit this completed checklist with their Bid Proposal. Failure to include this Form may result in Bidder's disqualification in bidding on this RFP.

I, \_\_\_\_\_, a principal of the Bidder \_\_\_\_\_, certify that the following information has been submitted as part of the response to this Request for Proposals.

*As a reminder to the Bidder, all forms contained in the list below can be found on RIOC's web site at <http://rioc.ny.gov/proposalform.htm>*

### Required Submissions

- Submitted all required information with respect to Required Proposal Contents, including but not limited to Basic Bidder Information, Additional Bidder Information, Fee Proposal and Required Forms. (Section VIII)
- Submitted three (3) physical copies and one electronic copy on CD of the Proposal to the listed address (Section XI)
- Completed and submitted State Finance Law Sections 139-j and 139-k forms (Section XVI.1)
- Submitted Copy of VendRep receipt OR Hard Copy of VendRep Questionnaire (Section XVI.2)
- Completed and submitted Iran Divestment Act Certification (Section XVI.3)
- Completed and Submitted M/WBE 100 – M/WBE Participation/Equal Employment Opportunity Policy Statement (See Section XVI.4.)
- Completed and Submitted M/WBE 101 – Staffing Plan (See Section XVI.4)
- Completed and Submitted M/WBE 103 – Utilization Plan (Where M/WBE goals have been established by RIOC, see Section XVI.4)
- Completed and Submitted M/WBE 104 Waiver Request AND Accompanying Proof of "Good Faith Efforts" (Where Bidder is seeking a partial or total waiver from M/WBE goals established by RIOC, see Section XVI.4)
- Completed and Submitted SDVOB 103 – Utilization Plan (Where SDVOB goals have been established by RIOC, See Section XVI.5)
- Completed and Submitted SDVOB 104 – Waiver Request AND Accompanying Proof of "Good Faith Efforts" (Where Bidder is seeking a partial or total waiver from SDVOB goals established by RIOC, see Section XVI.5)

## Required Submissions

- Completed and Submitted SDVOB 109 – SDVOB Contractor Unavailability Certification (Where Bidder is unable to subcontract/partner with SDVOB's contacted to meet goals established by RIOC, see Section XVI.5)**
- Completed and submitted Use of NYS Business Form (Section XVI.6)**
- Completed and submitted ST-220-CA Form or Affidavit (Section XVI.7)**
- Completed Non-Collusive Bidding Certification Required by Section 139-D of the State Finance Law (see Section XVI.10)**
- Completed and Submitted Appendix A – Cost Proposal (see Section XVI.11)**
- Completed and Submitted Schedule C of Appendix B AND all supplemental information required to be provided with Schedule C (see Section XVI.12)**
- Completed and Submitted MacBride Fair Employment Principles Stipulation (see Section XVI.13)**

Signed: \_\_\_\_\_

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

Date: \_\_\_\_\_

## II. INTRODUCTION

The Roosevelt Island Operating Corporation (“RIOC”) was created by New York State as a public benefit corporation and charged with the duty to develop, operate and manage Roosevelt Island. To date, these broad goals have furthered the development of seven residential complexes, including a build-out that provides approximately 5,758 units of housing to this thriving mixed-income community. The Island’s 147 acres support a population of approximately 14,000 residents. RIOC operates an Aerial Tramway, an on-Island bus service, and maintains a safe environment for the Island’s residents, workers and visitors.

As part of its mission, RIOC strives to enhance the quality of life of Roosevelt Island residents and the people of New York State, by promoting public facilities, open spaces and commercial facilities on the Island. These include the Aerial Tramway, sanitary and safety departments, pedestrian walkways, Sportspark, outdoor fields, streets, and a variety of storefronts along the Island’s Main Street.

Further information about RIOC can be found at <https://rioc.ny.gov/>

## III. OVERVIEW

The Roosevelt Island Operating Corporation (RIOC) was created in 1984 by the State of New York as a public benefit corporation with a mission to plan, design, develop, operate, and maintain Roosevelt Island. With a focus on innovative and environmentally friendly solutions, RIOC is committed to providing services that enhance the island's residential community. RIOC manages the two-mile long island's roads, parks, buildings, a sports facility, and public transportation, including the iconic Roosevelt Island Tramway.

The Corporation is required to maintain certain hardcopy files to align with New York State record retention guidelines. Due to limited space on the island for safe storage RIOC would like to move these files offsite as well as scan them so they may be accessed virtually.

### Quality Assurance

The selected firm shall provide all digital security protocols and experience working with New York State or City agencies. All digital security protocols must satisfy NYS ITS and NYS archive guidelines for both physical record retention and digital record retention. The firm must successfully be experienced in the field of record retention (digital/physical) for a minimum of 5 -7 years. The contractor shall be well versed in handling confidential materials/historical documents/document preservation, etc. along with a demonstrated ability for their technology systems to be compatible with our network and programs. The contractor shall provide qualified and competent personnel to manage all services offered herein. The contractor’s customer service department shall be available and accessible at minimum five days a week between the hours of 9:00am and 5:00pm. The contractor shall be prepared to mobilize within 15 days of award.

### Base Services

Approximate list of files for physical storage and scanned accessibility is below:

Department	Approximate Number of Boxes	Approx. number of pages (Est. 2,500 pages per box)
Human Resources	100 - 125	300,000 – 350,000
Legal	200 - 250	600,000 - 625,000
Finance	50 - 75	160,000 - 180,500

\*Other departments may be added by RIOC if needed.

**Item 1. Contract Duration.** The contract duration shall be for three years with three additional one-year options to renew. RIOC reserves the right to terminate this contract at any time with 30 days written notice to the contractor. The contractor shall return all digital and physical files within a reasonable amount of time if termination occurs.

**Item 2. Physical Storage.** Contractor shall provide secure document storage for all physical files (including CD's and Cassettes) removed from RIOC and provide a location address for the storage center. The storage center must be temperature-controlled and prepared to successfully store confidential and historical documents. Storage Files will be stored in a manner where boxes can be retrieved and delivered to a RIOC team member's attention within 24 – 48 hours of the request being made. The Contractor shall provide a price for packing up files into boxes if RIOC should request this option.

Pricing shall include but is not limited to:

- Per box rate (should new boxes be added to the system)
- Destruction rate
- Box retrieval rate
- Monthly rate for storage
- Annual total

**Item 3. Document Scanning and Imaging.** Contractor shall prepare documents received in paper form for scanning and shall reassemble the documents after the scanning process has been completed. Conversion shall be done expeditiously, and the contractor will provide status updates to RIOC upon request, to show progression. Scanned files shall be indexed (primary and secondary index points) per each department's category system. One sample scan of one box of files from each department will be provided to the RIOC contact person from each department for review and approval. Upon this approval, the contractor may proceed with scanning the remaining documents in the same fashion.

The files and items being collected also include approximately 50 CD's and 20 cassettes. A price shall be provided to create image files from these if possible.

Scanned images shall be verified and reviewed. Images shall be checked for skewed pages, contrast, blank pages, cutoffs, and inconsistencies. Documents will be indexed based on two index points if required by the department. If not required, one index point, the folder tab shall be acceptable. All files will be reassembled in their original state and boxes to be filed at the contractor's record retention center. The contractor shall provide, if available, a price to integrate with RIOC's current scanners and copiers to scan documents to their digital storage portal.

Access to the Contractor's digital site to view documents will be available to a minimum of ten (10) RIOC users.

**Item 4. Optical Character Recognition (OCR) Text Conversion & Accessibility.** The contractor shall zone images for Optical Character Recognition (OCR) conversion to create searchable text. The contractor shall provide either a site or process for RIOC personnel to easily search and access all digitally scanned files.

**Item 5. Training.** The Contractor shall provide an estimate 10 hours of training for RIOC personnel. This will include initial interaction with the software, integration, and other necessary items to fully utilize the

Contractor's digital platform. Training shall be scheduled within a reasonable amount of time from the beginning of the conversion process.

**Item 6. Digital Security.** The Contractor shall provide all digital storage security information for review by RIOC's IT Director. Basic requirements include but are not limited to confidentiality, integrity and availability of the data stored. The security information provided must satisfy all NYS ITS security policies.

## Add Alternate Service

If available, firms shall provide an estimate to upgrade services for a virtual Human Resources management and workflow component. This service will allow the Human Resources department to become a secured digital and paper free operation. The contractor shall provide all materials currently offered pertaining to this initiative.

Neither the submission of a response to this Request for Proposal ("RFP") by any entity nor the acceptance of such response by RIOC will obligate RIOC in any manner whatsoever. RIOC reserves the right to accept or reject any or all proposals received in response to this RFP. Legal obligations will only arise upon execution of a formal agreement by RIOC and the Respondent(s) selected by RIOC.

## IV. TERM

RIOC is seeking the Services for a contract term of three (3) years with RIOC's option to renew for three additional one-year terms.

## V. RFP KEY POINTS

- **Read the RFP in its entirety.** Note key items such as: schedule of dates, scope of services, and required proposal contents.
- **Only correspond with the "Designated Contact" For Bidders.** Note the name and e-mail address of the "Designated Contact(s)," i.e., the only individual(s) you are allowed to contact regarding this RFP — as specified in the "Questions" section.
- **Check the RIOC website often.** All amendments, clarifications, Bidder questions with RIOC responses, along with any announcements relating to this bid will be posted on RIOC's web site at <http://rioc.ny.gov/proposal.htm>. It is the Bidder's responsibility to check RIOC's website periodically for any updates. All applicable amendment information must be incorporated into the Bidder's proposal. Failure to include this information in your proposal may result in disqualification or a reduced technical score.
- **Take advantage of the question and answer period.** Submit your questions to the Designated Contact by the date listed in the "Schedule of Dates" section.
- **Provide complete answers/descriptions.** Bidder must completely answer all questions and provide all mandatory documents. To ensure you are not disqualified from the bid evaluation process, thoroughly read all proposal requirements and provide complete responses.
- **Review the RFP document and your proposal.** Make sure all requirements are addressed and files sent on time.
- **Package your proposal as specified in section VIII of the RFP.** Make sure your proposal conforms to the packaging requirements. Proposals not packaged accordingly may be deemed non-responsive leading to disqualification of the bid.
- **Submit your proposal on time.** Proposals received after the date and time listed in the "Schedule of Dates" may not be considered for award at the discretion of RIOC.

## VI. SCHEDULE OF DATES

KEY DATES/EVENTS:	
Event	Date/Time
RFP Publication Date	Monday March 28th 2022
Request for Information Cutoff Date	April 7 <sup>th</sup> , 2022
RFI Responses posted by	April 14 <sup>th</sup> , 2022
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Anticipated Award	The week of May 2 <sup>nd</sup>

RIOC reserves the right to modify this schedule at its discretion. Notification of changes in connection with this RFP will be made available to all interested parties via RIOC's website at <http://rioc.ny.gov/proposal.htm>

This RFP complies with the 2014 New York State Office of General Services (OGS) Procurement Guidelines.

## VII. REQUIRED PROPOSAL CONTENTS

Bidders are required to follow the guidelines and instructions contained in this RFP. In the event it becomes necessary to revise any part of this RFP, revisions will be provided by addenda posted on the NYS Contract Reporter website (<http://www.nyscr.ny.gov>) and the RIOC website <http://rioc.ny.gov/proposal.htm>

Bidders **MUST** submit:

- One (1) digital submission via the designated contact listed in this RFP.

The cover page of each proposal should state “RFP# #22-31906 – File Storage”

Bidders must provide the information and documents below in the order in which it is requested, and label it with the appropriate section number at the beginning of each section. Information should be typed in 12 point font, with standard margins printed on two-sided 8 ½ X 11 inch pages, and bound in a single package. Do not submit oversized or laminated proposals. Proposals that do not comply with the stated requirements may be rejected.

### Section 1: Basic Bidder Information

- Submittal Content
  - Outside Cover – The Outside Cover and First Page shall contain:
    - The title: “RFP# #22-31906 – File Storage”
    - The Submittal date
  - Table of Contents
  - Transmittal Letter – The short transmittal letter shall:
    - Summarize why the Respondent believes itself to be the most qualified.
    - Contain a statement that to the best of the Respondent’s abilities all information contained in the RFP submittal is complete and accurate;

- iii. Contain a statement granting Roosevelt Island Operating Corporation and its representatives authorization to contact any previous client of the Respondent (or a Respondent's Team Member) for purposes of ascertaining an independent evaluation of the Respondent's or a Respondent's Team member's performance;
- iv. At least one copy of the transmittal letter must have the original signature of an officer of the principal responding firm.
- d. Description of the respondent – This section shall include a complete narrative description of the Respondent's firm (or firms if the Respondent is a Joint Venture entity.) Information should include:
  - i. The Respondent's areas of secure digital and physical file storage
  - ii. Firm history
  - iii. Honors and awards
  - iv. Location of main and branch offices
  - v. Names of the principal officers of the firm
  - vi. Identification of the major consultants if known
  - vii. Proposed point of contact
- e. Organization Chart – Include a simple organization chart showing how the Respondent, if selected as the Architect/Engineer, would organize its personnel for the project. If Respondent is a Joint Venture entity, please show combined staff hierarchy.
- f. Key Professionals – Identify the key members of your team that would be involved in the project and describe their area of expertise and what role they will perform in the Architect's team. Indicate their availability for this project schedule. Identify and provide contact information for the person(s) in the firm who will be RIOC's primary point(s) of contact.
- g. Resumes – Provide resumes of any person identified as key professional. The resumes should contain the following:
  - i. Name
  - ii. Educational background
  - iii. Employment history
  - iv. Proposed role in the Project
  - v. An identification of other relevant projects in which the person has been involved and a name/phone number of a representative of any project cited that can be contacted for a reference
  - vi. Other information you believe to be relevant
- h. Narrative – Your proposal should be organized to clearly address:
  - i. Design philosophy and approach to document storage
  - ii. Prior document storage experience with projects of similar nature
  - iii. Prior experience with 'public-sector' clients and processes including experience with NYS Procurement Guidelines, and compliance with New York State's State Finance law
  - iv. Clear understanding of the functional and operational aspects of Roosevelt Island and the role of the Roosevelt Island Operating Corporation
  - v. Professional qualifications of individuals assigned to the Project
  - vi. History of effective document storage capabilities
- i. Relevant Experience of the Respondent – Include a brief description of representative projects and specify the firm's role, including relevant dates, and a description of the client for each. List no more

than three relevant projects. A relevant project is one which best exemplifies the firm's qualifications for this Project. Examples should include:

- i. File Storage
- ii. Type of temperature-controlled buildings
- iii. Project location
- iv. Total project cost
- v. Project description
- vi. Project delivery method
- vii. Describe the services your firm provided
- viii. Indicate which team members were actually involved in the project and specify their role
- ix. Provide a statement acknowledging if the project was completed on time/on budget

2) Indicate whether you have previously provided services to RIOC or any other New York State, local or federal entities. If so, list and describe any and all work performed, including: (a) the date(s) such work was performed, (b) the entity for which such work was performed, (c) the area of expertise for the work performed, and (d) references for such work, including phone numbers and e-mail addresses for the references.

3) If the Bidder is a State-Certified MWBE or SDVOB entity, provide a copy of such certification. Entities that are not certified, but have applied for certification, should provide a copy of such application.

4) Provide a description of the instances, if any, in which the Bidder has worked with certified MWBE or SDVOB entities on previous projects by engaging in joint ventures or other partnering or subcontracting arrangements. Responses should include the nature of the engagement, how such arrangement was structured and a description of how the services and fees were allocated.

5) Provide at least three general references with contact information, including phone numbers and e-mail addresses, in addition to any contacts listed in Subsection 2(d) of this Section.

Item	Cost					
Physical box storage						
Fee per image conversion						
Relocation fee for contractor to pack up files from RIOC and relocate to storage facility						
Copier and scanner integration						
Training fee						
Total initial bulk file retrieval and conversion cost						
Monthly and Annual Fees <i>*Escalation shall not exceed 3% annually</i>	1 <sup>st</sup> Year	2 <sup>nd</sup> Year	3 <sup>rd</sup> Year	4 <sup>th</sup> Year	5 <sup>th</sup> Year	6 <sup>th</sup> Year
Lump sum annual fee						
Fee per image conversion						
Per box storage rate						
Box destruction rate						
Box retrieval rate						
Monthly rate physical storage						
Annual total physical storage						
Monthly fee digital storage						
Annual fee digital storage						
Add Alternate Services						
Virtual Human Resources Software						

### Section 3: Required Forms

The forms and statements described later in Section XVI, Procurement Forms and Requirements, should be completed, executed, and included in the Bid Proposal as Section 4.

## VIII. SELECTION CRITERIA

Proposal Evaluation Criteria	Maximum Points
<p><b>1. <u>Experience and Qualifications:</u></b> This criterion will consider the Bidder's description of its experience and qualifications stated in the cover letter that MUST be included, as outlined above. Bidder should clearly delineate the role of any proposed subcontractors in the performance of the services. Qualifications will include a minimum of three (3) business references and work samples, as applicable. Specifically, RIOC will evaluate the Bidder's experience by the number of years the Bidder (or its key personnel that will perform the work) has conducted the specified work along with performance on past, similar projects. A minimum of 5 – 7 years' experience in the field of file storage is required. RIOC will also consider affiliations or partnerships that may contribute to the Bidder's qualifications.</p>	20
<p><b>2. <u>Ability to Perform the Required Services:</u></b> RIOC will conduct an evaluation of the bidder's approach to meeting the needs specified in the Scope of Services. RIOC will consider the relative experience demonstrated by the bidder in providing the services, as well as the degree to which the bidder's capability meets RIOC's needs. Depending on the nature of the project, RIOC may also consider whether the bidder's proposal demonstrates an efficient and practicable approach. Please see a sample "Consultant Evaluation Form" attached as "Appendix D" for typical criteria that RIOC will use internally to rate the bidders.</p>	20
<p><b>3. <u>Financial Capability:</u></b> RIOC will examine the financial information provided with the proposal (as specified in Appendix B, Schedule C), as well as pertinent information provided in the VendRep form to determine the Bidder's ability to perform the services. <u>This criteria is evaluated by RIOC's Fiscal Department.</u></p>	20
<p><b>4. <u>Fee:</u></b> Bidder should include their fees for services in the Fee Proposal Form (Appendix A). The Bidder with the lowest fee to RIOC will receive 40 points. All other Bidders will receive a percentage of points based on the variance of the compensation from the lowest proposal. Cost score is a calculation, not an analysis. RIOC will use the New York State Office of the State Comptroller's recommended formula for cost scores: <b>Max Points x (Lowest Bid ÷ Bid Being Evaluated).</b></p> <p><u>This criteria is calculated by Fiscal Department.</u></p>	40
<b>Maximum Available Points:</b>	100

Staff responsible for the review and evaluation of proposals will independently review each proposal based on the criteria listed above. Each reviewer's score for criteria 1 and 2, will be combined to provide an average score. Scores for "Financial Capability" and "Fee" (criteria 3 and 4) are provided by RIOC's Fiscal Department and added one time to the average score.

## IX. INSURANCE REQUIREMENTS

Prior to entering into any contract with RIOC, the Selected Bidder shall be required to comply with RIOC's

insurance requirements. **Schedule A, Section 14 of Appendix B** outlines the specific insurance coverages that the successful Bidder will be required to obtain.

## X. SUBMISSION OF PROPOSALS

Due to the ongoing COVID -19 Pandemic, digital submission are the only accepted submission. Confidential proposals **MUST** be delivered in digital copy to [rfpbids@rioc.ny.gov](mailto:rfpbids@rioc.ny.gov) and must be submitted by the deadline.

Proposals are due and **MUST** be received at the location designated below no **later than 11:00 AM . on Friday , April 22<sup>nd</sup>** . Proposals received after the indicated date and hour may not be considered. It is the sole responsibility of each Bidder to ensure that its proposal is received before the submission deadline. Bidders shall bear the risk associated with delays in mail, courier services or hand delivery.

Proposals **MUST** be submitted to: [rfpbids@rioc.ny.gov](mailto:rfpbids@rioc.ny.gov)

**ATTN:** Amy Firestein  
RFP# #22-31906 – File Storage  
Confidential Bid – RFP# 22-31906 – [FILE STORAGE]  
Roosevelt Island Operating Corporation

RIOC reserves the right, at its discretion, to postpone the date for submission and opening of proposals. Any proposal submitted prior to notice of such postponement may be withdrawn without prejudice.

Bidders will be notified of any postponements via Addendum posted on RIOC's website and may also be contacted by RIOC's designated contact person(s) of the same.

Addenda to this RFP, including responses to any questions submitted in writing, will be posted on the RIOC website as set forth below.

**A public bid opening will be conducted at the appointed Bid Submission date and time. Due to the COVID-19 Pandemic, bid openings are conducted virtually. Please use the below WebEx meeting link to attend the public opening. [Public bid openings are required under §144 of New York State Finance Law for Public Works contracts. As a best practice, RIOC strives to conduct public bid openings for all procurements where feasible/practicable.]**

**Bid Opening - RFP# 22-31906 File Storage**

**Hosted by RIOC Meetings**

<https://rioc.my.webex.com/rioc.my/j.php?MTID=m890170b6e28873a81f19f7178fa347d9>

**Friday, Apr 22, 2022 11:00 am | 30 minutes | (UTC-04:00) Eastern Time (US & Canada)**

**Meeting number: 2632 701 5432**

**Password: STORAGE (7867243 from phones and video systems)**

**Join by video system**

**Dial 26327015432@webex.com**

**You can also dial 173.243.2.68 and enter your meeting number.**

**Join by phone**

**+1-510-338-9438 USA Toll**

**+1-646-992-2010 United States Toll (New York City)**

**Access code: 263 270 15432**

## **XI. QUESTIONS**

All questions, comments, requests for clarification (RFI – request for information), and other communications regarding this RFP **MUST** via e-mail to [rfpbids@rioc.ny.gov](mailto:rfpbids@rioc.ny.gov) no later than **April 7<sup>th</sup>, 2022 at 4:00 P.M. EST.**

Answers will be posted no later **than April 14<sup>th</sup>, 2022 at 4:00 P.M. EST** via RIOC's website at:

<http://rioc.ny.gov/proposal.htm>

In addition, any changes, additions or deletions to this RFP will also be posted on RIOC's website, along with the electronic version of this RFP. Bidders should note that any necessary clarification **MUST** be sought by the deadline for questions set forth in Section VII, Schedule of Dates. Bidders are urged to check RIOC's web site frequently for notices of any clarification of or changes, additions or deletions to the RFP.

The Designated Contact person for this solicitation is:

Amy Firestein, Roosevelt Island Operating Corporation, 524 Main Street, New York, NY 10044.

Mr. Melendez may be reached by email at: [rfpbids@rioc.ny.gov](mailto:rfpbids@rioc.ny.gov).

OTHER THAN THROUGH THE CONTACT PERSONS IDENTIFIED HEREIN, PROSPECTIVE BIDDERS SHALL NOT APPROACH RIOC'S EMPLOYEES OR COMMUNICATE WITH RIOC DURING THE RESTRICTED PERIOD OF THIS RFP PROCESS ABOUT ANY MATTERS RELATED TO THIS RFP OR ANY PROPOSALS SUBMITTED PURSUANT THERETO.

**\*\* Please read Section XVI.1 below and State Finance Law §§ 139-j and 139-k carefully in this regard. Any violation of the State Finance Law may result in the proposal being rejected without consideration, as well as other consequences. \*\***

## **XII. DEBRIEFING**

According to State Finance Law §163(9)(c), as amended by Section 3 of Chapter 137 of the Laws of 2008, RIOC shall, upon request, provide a debriefing to any unsuccessful Bidder that responded to a request for proposal or an invitation for bids, regarding the reasons that the proposal or bid submitted by the unsuccessful Bidder was not selected for an award. A Bidder will be accorded fair and equal treatment with respect to its opportunity for debriefing.

Debriefing shall be requested in writing by the unsuccessful Bidder within 15 calendar days of the RIOC notifying the unsuccessful Bidder(s) that another vendor was selected.

An unsuccessful Bidder's written request for a debriefing shall be submitted via e mail to:

**ATTN:** Amy Firestein  
RFP# #22-31906 – File Storage  
Roosevelt Island Operating Corporation  
[rfpbids@rioc.ny.gov](mailto:rfpbids@rioc.ny.gov)

The debriefing shall be scheduled within 15 calendar days of receipt of written request by RIOC or as soon after that time as practicable under the circumstances.

### **XIII. GENERAL PROVISIONS**

- 1) The issuance of this RFP and the submission of a response by a Bidder or the acceptance of such a response by RIOC does not obligate RIOC in any manner.
- 2) RIOC reserves the right to:
  - Accept or reject any or all proposals received in response to the RFP;
  - Amend, modify or withdraw the RFP at any time, at RIOC's sole discretion;
  - Make an award under the RFP in whole or in part;
  - Disqualify any Bidder whose conduct and/or proposal fails to conform to the requirements of the RFP;
  - Seek clarifications and revisions of proposals;
  - Use proposal information obtained through site visits, management interviews and the State's investigation of a Bidder's qualifications, experience, ability or financial standing, and any material or information submitted by the Bidder in response to RIOC's request for clarifying information in the course of evaluation and/or selection under the RFP;
  - Prior to the bid opening, amend the RFP specifications to correct errors or oversights, or to supply additional information, as it becomes available;
  - Prior to the bid opening, direct Bidders to submit proposal modifications addressing subsequent RFP amendments;
  - Extend the deadline for submission of responses to this RFP or otherwise modify the schedule of dates set forth in this RFP;
  - Eliminate any mandatory, non-material specifications that cannot be complied with by all of the prospective Bidders;
  - Waive any requirements that are not material;
  - Require supplemental statements or information from any responsible party;
  - Negotiate with the successful Bidder within the scope of the RFP in the best interests of RIOC;
  - Conduct contract negotiations with the next responsible Bidder, should RIOC be unsuccessful in negotiating with the selected Bidder;
  - Negotiate potential contract terms with any Bidder;
  - Utilize any and all ideas submitted in the proposals received; and
  - Require clarification at any time during the procurement process and/or require correction of arithmetic or other apparent errors for the purpose of assuring a full and complete understanding

of Bidder's proposal and/or to determine Bidder's compliance with the requirements of the solicitation

- 3) RIOC may exercise the foregoing rights at any time without notice and without liability to any Bidder or any other party for its expenses incurred in preparation of responses hereto or otherwise. All costs associated with responding to this RFP will be at the sole cost and expense of the responding Bidder.
- 4) All information submitted in response to this RFP is subject to the Public Officers Law Article 6, Sections 84-90 ("Freedom of Information Law"), which generally mandates the disclosure of documents in the possession of RIOC upon the request of any person unless the content of the document falls under a specific exemption. In addition, all responses may be discussed at meetings of the RIOC Board of Directors and Committees meetings, which are subject to the Public Officers Law Article 7, Sections 100-111 ("Open Meetings Law").

## **XIV. FORM OF CONTRACT**

After the Bidder is selected, RIOC will prepare a contract defining all terms and conditions of the engagement and the selected Bidder's responsibilities in conformance with Schedule A of RIOC's Standard Form of Contract attached hereto as Appendix B. Bidders are encouraged to review this document prior to submitting proposals as the successful Bidder will be required to execute this standard contract.

## **XV. PROCUREMENT FORMS AND REQUIREMENTS**

Additional requirements for this RFP are listed below in the bulleted list (*with additional information for Submissions 1-11 listed in the corresponding subsection below*).

**Forms required to be submitted MUST be executed and included with the proposal in the same order as listed below (a copy of all required forms may be found at <http://rioc.ny.gov/proposalform.htm>):**

1. Proposal Checklist
2. State Finance Law Sections 139-j and 139-k forms
  - a. Offerer Disclosure of Prior Non-Responsibility Determinations
  - b. Offerer's Affirmation of Understanding of and Agreement pursuant to State Finance Law 139-j(6)(b)
  - c. Offerer's Certification of Compliance with State Finance Law 139-k(5)
3. Vendor Responsibility Questionnaire
4. Iran Divestment Act Certification
5. Minority- and Women-Owned Business Enterprises and Equal Employment Opportunities Forms
6. New York State Certified Service-Disabled Veteran Owned Business Participation Forms
7. Encouraging the Use of NYS Businesses in Contract Performance Form
8. Certification under State Tax Law Section 5-a
9. INTENTIONALLY OMITTED
10. Non-collusive Bidding Certification Required by Section 139-D of the State Finance Law
11. Schedule C of Appendix B
12. MacBride Fair Employment Principles Stipulation

### **1. State Finance Law Sections 139-j and 139-k Forms**

State Finance Law Sections 139-j and 139-k apply to this RFP. These sections govern: (1) permissible communications between potential Bidders and RIOC or other involved governmental entities with respect to this RFP; (2) disclosure in the public procurement process through identification of persons or organizations whose function is to influence procurement contracts, public works agreements and real property transactions; and (3) sanctions for knowing and willful violations of the provisions of these laws. Sanctions

may include disqualification from eligibility for an award of any contract pursuant to this RFP. **Sections 139-j and 139-k require that all communications regarding this RFP, from the time of its issuance through final award and execution of any resulting contract (the “Restricted Period”), be conducted only with the designated contact listed in this Section XII above.**

Bidders **MUST** submit the: (a) “Offerer Disclosure of Prior Non-Responsibility Determinations”; (b) “Offerer’s Affirmation of Understanding and Agreement pursuant to State Finance Law § 139-j(3) and § 139-j(6)(b)”; and (c) Offerer’s Certification of Compliance with State Finance Law 139-k(5) as part of their submittal.

State Finance Law Sections 139-j and 139-k also require that RIOC staff obtain and report certain information when contacted by Bidders during the Restricted Period. RIOC **MUST** also make a determination of the responsibility of Bidders and make all such information publicly available in accordance with applicable law. If a Bidder is found to have knowingly and willfully violated the State Finance Law provisions, that Bidder and its subsidiaries, related or successor entities will be determined to be a non-responsible Bidder and will not be awarded a contract. In addition, two such findings of non-responsibility within a four-year period can result in being barred from obtaining any New York State governmental procurement contract.

The designated contact person for this solicitation is: Amy Firestein, who may be reached at: [rfpbids@rioc.ny.gov](mailto:rfpbids@rioc.ny.gov).

The above is not a complete representation of the provisions set forth in State Finance Law Sections 139-j and 139-k. A copy of Section 139-j can be found <https://www.nysenate.gov/legislation/laws/STF/139-J> and a copy of Section 139-k can be found <https://www.nysenate.gov/legislation/laws/STF/139-K> or by e-mailing the designated contact. All Bidders are solely responsible for full compliance with these laws.

## 2. Vendor Responsibility Questionnaire

All Bidders **MUST** be “responsible,” which in this context means that they **MUST** have the requisite financial ability, organizational capacity and legal authority to carry out its obligations under this RFP. In addition, Bidders **MUST** demonstrate that both the Bidder and its principals have and will maintain the level of integrity needed to contract with New York State entities such as RIOC. Further, the Bidder **MUST** show satisfactory performance of all prior government contracts. Accordingly, the contract to be entered into between RIOC and the Bidder, if any, shall include clauses providing that the Bidder remain “responsible” throughout the term of the contract; that RIOC may suspend the contract if information is discovered that calls into question the responsibility of the Bidder, and that RIOC may terminate the contract based on a determination that the Bidder is non-responsible. Language to this effect may be found in Schedule A of Appendix B.

To assist in the determination of responsibility, **RIOC requires that all Bidders register in the State’s Vendor Responsibility System (“Vend-Rep System”).** The Vend-Rep System allows business entities to enter and maintain their Vendor Responsibility Questionnaire information in a secure, centralized database. Bidders are to file the required Vendor Responsibility Questionnaire online via the Vend-Rep System or may choose to complete and submit a paper questionnaire. **INCLUDE a copy of your Vend-Rep submission receipt or paper questionnaire with your proposal.** A link to the Vend-Rep System may be found at <http://rioc.ny.gov/proposalform.htm>

## 3. Iran Divestment Act

By submission of this bid, each Bidder and each person signing on behalf of any Bidder certifies, and in the

case of a joint bid each party thereto certifies as to its own organization, under penalty of perjury, that to the best of its knowledge and belief that each Bidder is not on the list created pursuant to paragraph (b) of subdivision 3 of section 165-a of the State Finance Law.

The above referenced list is maintained by the Office of General Services. For further information and to view this list please go to: <http://www.ogs.ny.gov/about/regs/ida.asp>

**Required Form:** Iran Divestment Act Certification form, accessible at <http://rioc.ny.gov/proposalform.htm>

**4. Compliance with NYS Executive Law Article 15-A: Participation by Minority Group Members and Women with Respect to State Contracts**

RIOC is required to implement the provisions of New York State Executive Law Article 15-A and 5 NYCRR Parts 142-144 (“MWBE Regulations”) for all State contracts as defined therein, with a value (1) in excess of \$25,000 for labor, services, equipment, materials, or any combination of the foregoing or (2) in excess of \$100,000 for real property renovations and construction.

The Bidder to this RFP agrees, in addition to any other nondiscrimination provisions of Appendix B and at no additional cost to RIOC, to fully comply and cooperate with RIOC in the implementation of New York State Executive Law Article 15-A. These requirements include equal employment opportunities for minority group members and women (“EEO”) and contracting opportunities for New York State certified minority and women-owned business enterprises (“MWBEs”).

If awarded a Contract, Bidder shall submit a Workforce Utilization Report and shall require each of its Subcontractors to submit a Workforce Utilization Report, in such format as shall be required by RIOC on a [MONTHLY/QUARTERLY] basis during the term of the Contract.

Pursuant to Executive Order #162, Bidders and their subcontractors will also be required to report the gross wages paid to each of their employees for the work performed by such employees on the contract utilizing the Workforce Utilization Report on a quarterly basis.

Bidder’s demonstration of “good faith efforts” pursuant to 5 NYCRR § 142.8 shall be a part of these requirements. These provisions shall be deemed supplementary to, and not in lieu of, the nondiscrimination provisions required by New York State Executive Law Article 15 (the “Human Rights Law”) or other applicable federal, state or local laws.

For purposes of this procurement, Bidders should make good faith efforts to use MWBE sub-contractors, sub-consultants, suppliers, and/or enter into joint venture or teaming agreements with MWBEs in order to comply with RIOC’s **30%** overall MWBE participation contract goal, based on the current availability of qualified MBEs and WBEs. MWBEs are also encouraged to respond.

Failure to comply with all of the requirements of the MWBE Regulations may result in a finding of non-responsiveness, non-responsibility and/or a breach of contract, leading to the withholding of funds or such other actions, liquidated damages pursuant to and/or enforcement proceedings as allowed by the Contract.

**Required Forms (all available at <http://rioc.ny.gov/proposalform.htm> ):**

- **Form M/WBE 100** – M/WBE Participation/Equal Employment Opportunity Policy Statement
- **Form M/WBE 101** – Staffing Plan
- **Form M/WBE 103** – Utilization Plan (Where M/WBE goals have been established by RIOC above or Bidder/Bidder’s subcontractors(s) is a NYS certified M/WBE
- **Form M/WBE 104** – Waiver Request AND Accompanying Proof of Good Faith Efforts (where Bidder seeks a partial or total waivers from M/WBE goals established by RIOC above)

**Note:** For additional guidance on the Bidder's specific responsibilities for this RFP and any resultant contract, see the Proposal Checklist in Section I as well as Appendix C: Contractor Requirements And Procedures For Equal Employment And Participation Opportunities For Minority Group Members And New York State Certified Minority And Women-Owned Business Enterprise (*available at <http://rioc.ny.gov/proposalform.htm>* ). The Directory of New York State Certified MWBEs can be viewed at: <https://ny.newcontracts.com/FrontEnd/VendorSearchPublic.asp?N=ny&XID=2528>

General inquiries or questions relating to the aforementioned policies, MWBE participation, and the goals specified herein may be addressed to [rfpbids@rioc.ny.gov](mailto:rfpbids@rioc.ny.gov). For guidance on how RIOC will determine "good faith efforts" refer to 5 NYCRR § 142.8.

## 5. Participation Opportunities for New York State Certified Service-Disabled Veteran Owned Businesses

Article 17-B of the New York State Executive Law provides for more meaningful participation in public procurement by certified Service-Disabled Veteran-Owned Businesses ("SDVOB"), thereby further integrating such businesses into New York State's economy. RIOC recognizes the need to promote the employment of service-disabled veterans and to ensure that certified service-disabled veteran-owned businesses have opportunities for maximum feasible participation in the performance of RIOC contracts.

In recognition of the service and sacrifices made by service-disabled veterans and in recognition of their economic activity in doing business in New York State, Bidders are expected to consider SDVOBs in the fulfillment of the requirements of the Contract. Such participation may be as subcontractors or suppliers, as protégés, or in other partnering or supporting roles.

For purposes of this procurement, Bidders should make good faith efforts to use SDVOB sub-contractors, sub-consultants, suppliers, and/or enter into joint venture or teaming agreements with SDVOBs in order to comply with RIOC's overall SDVOB participation contract goal, based on the current availability of qualified SDVOBs. SDVOBs are also encouraged to respond.

For purposes of providing meaningful participation by SDVOBs, the Bidder/Contractor should reference the directory of New York State Certified SDVOBs found at: [https://ogs.ny.gov/Veterans/docs/certifiednys\\_SDVOB.pdf](https://ogs.ny.gov/Veterans/docs/certifiednys_SDVOB.pdf) . This contract carries a **0% SDVOB goal**. Additionally, following Contract execution, Contractor is encouraged to contact the Office of General Services' Division of Service-Disabled Veterans' Business Development at 518-474-2015 or [VeteransDevelopment@ogs.ny.gov](mailto:VeteransDevelopment@ogs.ny.gov) to discuss additional methods of maximizing participation by SDVOBs on the Contract.

### Required Forms (all available at <http://rioc.ny.gov/proposalform.htm> ):

- **Form SDVOB 103** – Utilization Plan (Where SDVOB goals have been established by RIOC above or Bidder/Bidder's subcontractors(s) is a NYS certified SDVOB)
- **Form SDVOB 104** – Waiver Request AND Accompanying Proof of Good Faith Efforts (where Bidder seeks a partial or total waivers from SDVOB goals established by RIOC above)
- **Form SDVOB 109** – SDVOB Contractor Unavailability Certification (Where Bidder is unable to subcontract/partner with SDVOB's contacted to meet SDVOB goals established by RIOC above)

**N**OTE: For additional guidance on the Bidder's specific responsibilities for this RFP and any resultant contract, see Appendix D (*available at <http://rioc.ny.gov/proposalform.htm>* ) and the Proposal Checklist contained in Section I.

General inquiries or questions relating to the aforementioned policies, SDVOB participation, and the goals specified herein may be addressed to [rfpbids@rioc.ny.gov](mailto:rfpbids@rioc.ny.gov).

## **6. Encouraging the Use of NYS Businesses in Contract Performance Form**

New York State businesses have a substantial presence in State contracts and strongly contribute to the economies of the state and the nation. In recognition of their economic activity and leadership in doing business in New York State, Bidders/proposers for contracts resulting from this RFP for commodities, services or technology are strongly encouraged and expected to consider New York State businesses in the fulfillment of the requirements of the contracts. In order for RIOC to assess the use of New York State businesses in each Proposal, each Bidder **MUST** complete the Encouraging Use of New York State Businesses in Contract Performance form, available at <http://rioc.ny.gov/proposalform.htm>

## **7. Certification under State Tax Law Section 5-a – (ST-220-CA)**

Any contract resulting from this solicitation is also subject to the requirements of State Tax Law Section 5-a ("STL 5-a"). STL 5-a prohibits RIOC from approving any such contract with any entity if that entity or any of its affiliates, subcontractors or affiliates of any subcontractor makes sales within New York State of tangible personal property or taxable services having a value over \$300,000 and is not registered for sales and compensating use tax purposes. To comply with STL 5-a, **all Bidders to this solicitation MUST include in their Proposals a properly completed Form ST-220-CA (available at <http://rioc.ny.gov/proposalform.htm> ) or an affidavit that the Bidder is not required to be registered with the State Department of Taxation and Finance.** Also in accordance with the requirements of STL 5-a, any contract resulting from this solicitation will require periodic updating of the certifications contained in Form ST-220-CA. Solicitation responses that do not include a properly completed ST-220-CA will be considered incomplete and non-responsive and will not be considered for contract award. Only the prime consultant completes Form ST 220-CA, but Schedule A to Form ST 220-CA requires detailed information from the sub-consultants, such as tax ID number, etc., if applicable.

**Moreover, if applicable, certificates of authority **MUST** be attached by the prime consultant and all the sub-consultants.**

## **8. INTENTIONALLY OMITTED**

## **9. NYS Department of Labor Prevailing Wage Rates (for review only – no submission requirement)**

Prevailing Wage Rate, as part of the requirements of Article 8 and Article 9 of the New York State Labor Law, requires public work Contractors and Sub-Contractors to pay laborers, workers or mechanics employed in the performance of a public work contract not less than the prevailing rate of wage and to provide supplements (fringe benefits) in accordance with prevailing practices in the locality where the work is performed. Work being bid is subject to the Prevailing Wage Rate provisions of New York State Labor Law Article 8. Any Federal or State determination of a violation of any public works law or regulation, or labor law or regulation, or any OSHA violation deemed "serious or willful" may be grounds for a determination of vendor non-responsibility and rejection of bid. Please note: Contractors are required to be familiar with the applicable Living Wage rate requirements throughout the state and to pay its employees accordingly.

Prevailing wage requirements for this RFP are contained herein. The Prevailing Wage Schedule for this Project may also be viewed on the NYS Department of Labor website at <https://applications.labor.ny.gov/wpp/showFindProject.do?method=showIt> and entering PRC# N/A.

Contracts awarded for applicable projects in will require the contractor and subcontractors to submit a certified payroll with each of their invoices.

**10. Non-collusive Bidding Certification Required by Section 139-D of the State Finance Law**

As part of this submission the Bidder **MUST** submit a signed and notarized copy of the Non-Collusive Bidding Certification Required by Section 139-D of the State Finance Law (available at <http://rioc.ny.gov/proposalform.htm> ).

**11. Schedule C of Appendix B**

As part of this submission the Bidder **MUST** submit a signed and notarized copy of Schedule C of Appendix B (a clean copy of Schedule C is available at <http://rioc.ny.gov/proposalform.htm> ).

**12. Cost Proposal**

As part of this submission the Bidder is responsible for a completed and signed Cost Proposal, annexed hereto as Appendix A.

**13. NONDISCRIMINATION IN EMPLOYMENT IN NORTHERN IRELAND: MacBRIDE FAIR EMPLOYMENT PRINCIPLES**

In accordance with Chapter 807 of the Laws of 1992 the bidder, by submission of this bid, certifies that if it or any individual or legal entity in which the bidder holds a 10% or greater ownership interest, or any individual or legal entity that holds a 10% or greater ownership interest in the bidder has business operations in Northern Ireland, such bidder, shall take lawful steps in good faith to conduct any business operations in Northern Ireland in accordance with the MacBride Fair Employment Principles relating to non-discrimination in employment and freedom of workplace opportunity regarding such operations in Northern Ireland, and shall permit independent monitoring of their compliance with such Principles.

**XVI. APPENDICES**

## APPENDIX B – STANDARD CONTRACT

### ROOSEVELT ISLAND OPERATING CORPORATION

#### STANDARD FORM CONTRACT FOR SERVICES

DATE OF CONTRACT: **XXXXX**

1. CONTRACT NO.: **XXXXXX**

2. PROJECT NAME: **XXXXXX**

3. CONTRACTOR: ***Entity Name***

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4. ROOSEVELT ISLAND OPERATING CORPORATION  
591 MAIN STREET  
ROOSEVELT ISLAND, NEW YORK 10044

ATTENTION: **XXXXXX** Tel. **xxx.xxx.xxxx**

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5. HEREBY REQUESTS YOU

***Entity Name***

**Address 1**

**Address 2**

**Attn: *Contact***

**Tel. xxx.xxx.xxxx Fax xx.xxx.xxxx**

**E-mail:**

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6. TO PROVIDE the Services described in Schedule B1 annexed hereto and in any other documents listed in Schedule B1, in accordance with Schedules A, B2, C, and D, attached hereto. All of the annexed Exhibits and Schedules and other documents listed or otherwise referenced therein are hereby expressly made a part of this Contract as fully as if set forth at length herein. Schedule A contains standard provisions required by law to be incorporated into all agreements entered into by the State of New York public entities, and pertains to the extent applicable, to this Contract.

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7. YOU shall commence the Services on or before **xxx x, 20xx**, and complete said Services on or before **xxxx xx, 20xx**.

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8. YOUR COMPENSATION for the above Services shall not exceed xxxxxxxxxxxxxxxx dollars (\$xxx,xxx,xx.00) (hereinafter referred to as the “Contract Sum”), as further specified in Schedule B2 annexed hereto. The Contract Sum is either a fixed price, or a not-to-exceed price based on hourly rates, as stated in Schedule B2. The Contract Sum shall include all costs necessary to perform the Services described in Schedule B1 of this Contract. All invoices shall be submitted in accordance with Exhibit 1, annexed hereto.

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9. YOU may refer any questions related to this Contract to RIOC **XXXXXX** Department, at **xxx.xxx.xxxx**.

## APPENDIX B – STANDARD CONTRACT

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10. Upon the submission of proper monthly invoices to the Project Manager and the Finance Department, in conformity with Exhibit 1 annexed hereto, RIOC shall make monthly payments to the Contractor in accordance with Schedule B2 within 30 days. Acceptance of the final monthly payment by the Contractor shall release RIOC from any and all claims for payment for services rendered pursuant to this Contract. This Contract shall be deemed executory only to the extent of money available to RIOC for the performance of the terms hereof and no liability on account thereof shall be incurred by RIOC beyond moneys available for the purpose thereof.

---

11. YOU SHALL execute and return three copies of this Contract to RIOC. RIOC shall provide you with a copy of the fully executed Contract, which will constitute your authorization to proceed with the Services described herein.

---

AGREED TO AND ACCEPTED THIS      DAY OF      201\_\_.

**Entity Name**

---

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

ROOSEVELT ISLAND OPERATING CORPORATION

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By: Susan G. Rosenthal  
President/Chief Executive Officer

Attachments:

Exhibit "1":	Sample Invoice
Schedule "A":	General Conditions
Schedule "B1":	Scope of Services and Additional Terms
Schedule "B2":	Contract Sum Breakdown and Retainage
Schedule "C":	Financial Disclosure
Schedule "D":	Definitions Under Article 15-A Regulations; Definitions Under Article 17-B Regulations

## APPENDIX B – STANDARD CONTRACT

### EXHIBIT "1"

#### Sample Invoice Satisfying RIOC Informational Requirements For Contractual Invoice Processing

CORPORATION NAME

ADDRESS

ADDRESS

TELEPHONE NUMBER

Department of Finance

DATE

Roosevelt Island Operating Corporation

591 Main Street

Roosevelt Island, New York 10044

Attn: Chief Financial Officer

and

Roosevelt Island Operating Corporation

591 Main Street

Roosevelt Island, New York 10044

Attn: (Project Manager)

This is our invoice for work performed during December 2003. Complete documentation for services and disbursements is attached. All information required for your processing of this contractual invoice is provided.

Invoice No. 1825

Contract No.:

Contract Limit (including Change Orders): \$50,000

Initial Contract Amount: \$45,000

Change Order 6/15/0X: \$ 5,000

Period of Work Covered: December 1, 2015 to December 31, 2015.

Total Invoice Amount: \$ 5,625

Services: \$ 5,225 (Hours and rates for various staff who worked on project)

Disbursements: \$ 400 (Complete documentation must be provided – photocopies of bills)

Detailed Description of Services Provided:

What was produced by the work performed, etc. There should be a substantial amount of detail. Complete documentation in product-form must be provided.

All Invoices to Date:

Date	Invoice #	Invoice Amount (\$)	Services(\$)	Disb.(\$)
2/15/15	1234	12,659	12,500	159
3/15/15	1340	1,760	1,750	10
4/15/15	1498	4,111	4,000	111
5/15/15	1525	7,123	7,000	123
6/15/15	1625	11,750	11,500	250
7/15/15	1710	3,600	3,500	100

## APPENDIX B – STANDARD CONTRACT

Totals	41,003	40,250	753
Current Invoice			
12/15/15	1825	5,625	5,225
			400
Totals	46,628	45,475	1,153

Balance Remaining Under Contract: (For Contracts limiting Service Amount Only) \$4,525

Contract Amount: \$50,000

Minus Total Services Invoiced to Date Including Current Invoice: \$46,628

SAMPLE

## APPENDIX B – STANDARD CONTRACT

### SCHEDULE A

#### GENERAL CONDITIONS

##### SECTION 1- DEFINITIONS

Whenever used in this Contract:

- (a) The term "RIOC" means Roosevelt Island Operating Corporation.
- (b) The term "Change Order" means a written order signed by RIOC as described in Section 3.
- (c) The term Contractor shall mean **Entity Name**
- (d) The term "Contract" means and includes:
  1. Exhibit-1 - Sample Invoice
  2. Standard Form Contract for Services;
  3. General Conditions - Schedule A;
  4. Scope of Services and Additional Terms - Schedule B1;
  5. Contract Sum Breakdown and Retainage - Schedule B2;
  6. Disclosure Statements - Schedule C;
  7. Definitions under Articles 15-A and 17-B Regulations - Schedule D.
- (e) The term "Contract Sum" means the fixed price or not-to-exceed price payable to the Contractor for the Services as provided in paragraph 8 of the Standard Form Contract for Services and Schedule B2, subject to adjustment only by Change Order as provided in Section 3 hereof.
- (f) The term "Contract Time" means the time for completion of the Services as set forth in paragraph 7 of the Standard Form Contract for Services, subject to extension only by Change Order as provided in Sections 3 and 7 hereof.
- (g) The term "Indemnities" means the persons identified as such in Section 13 hereof.
- (h) The term "Services" means the services specified and the obligations imposed upon the Contractor under this Contract.

##### SECTION– 2 - CONFLICTING TERMS

In the event of a conflict between the terms of the Contract (including any and all attachments hereto and amendments thereof) and the terms of this Schedule A, the specific terms of this Contract shall control.

##### SECTION– 3 - CHANGE ORDERS

Changes or extra services, beyond the Services specified under the Contract, and resulting in extensions of the Contract Time, may be authorized only by a written Change Order issued and signed by the President/Chief Executive Officer of RIOC or RIOC's Vice President of Operations, or their designee, and co-signed by the Contractor. The written Change Order shall specify: (a) the change in the Services, (b) the amount of adjustment

## **APPENDIX B – STANDARD CONTRACT**

of the Contract Sum, if applicable, and/or (c) any extension of the Contract Time. Adjustments to the Contract Sum pursuant to this paragraph, shall be made in accordance with the procedures set forth in Schedule B2. The Parties will cooperate to agree on adjustments to the Contract Sum and Contract Time. Parties will cooperate regarding any extension required of the Contract Time.

### **SECTION-4 - ORDER TO PROCEED**

Delivery to the Contractor of a fully executed copy of this Contract shall constitute authorization to proceed with the Services, unless a different commencement date is otherwise provided. If otherwise provided, RIOC will issue an order to proceed in writing which will set forth the date upon which the Services are to commence. All orders to proceed are subject to the Contractor's compliance with the insurance requirements of Section 14 hereof.

### **SECTION-5 - PERFORMANCE**

The Contractor shall supervise, direct and perform the Services, using the Contractor's best skill and attention. If Services are to be performed on-site, the Contractor shall be fully responsible for the safety of all persons engaged in the performance of such Services and the public as well as all property that may be affected by the Services.

The Contractor shall keep RIOC informed of the progress and quality of the Services. The Contractor shall attend progress meetings as required by RIOC.

The Contractor shall perform the Services in accordance with all applicable federal, state and local laws, ordinances, codes, rules, regulations, lawful orders and standards.

### **SECTION-6 - PROGRESS AND COMPLETION**

The Contractor shall at all times during the Contract term remain responsible. The Contractor agrees, if requested by President/Chief Executive Officer of RIOC or his or her designee, to present evidence of its continuing legal authority to do business in New York State, integrity, experience, ability, prior performance, and organizational and financial capacity.

By executing the Contract, the Contractor confirm that the Contract Time is a reasonable period for performing the Services. The Contractor shall proceed expeditiously with adequate work force and shall complete the Services within the Contract Time.

### **SECTION 7 – DELAYS, EXTENSIONS OF TIME AND SUSPENSIONS**

If the Contractor's Services are delayed by an act of RIOC or of another contractor employed by RIOC or by changes ordered by RIOC in the Services, or by labor disputes, fires, or other causes beyond the Contractor's control, or by delay authorized by RIOC, then the Contract Time shall be extended by Change Order for such reasonable time as RIOC may determine. The Contractor shall not be entitled to any extension of the Contract Time unless claim therefor is presented to RIOC as provided in Section 26.

Extension of the Contract Time as provided in this Section 7 shall be the Contractor's sole and exclusive remedy and compensation for delays, disruptions and hindrances of any kind. The Contractor agrees that it will make

## APPENDIX B – STANDARD CONTRACT

no claim against RIOC for increased compensation (other than extension of the Contract Time) or damages on account of any delay, disruption or hindrance due to any cause.

The President/Chief Executive Officer of RIOC, or his or her designee, in his or her sole discretion, reserves the right to suspend any or all activities under this Contract, at any time, when he or she discovers information that calls into question the responsibility of the Contractor. In the event of such suspension, the Contractor will be given written notice outlining the particulars of such suspension. Upon issuance of such notice, the Contractor must comply with the terms of the suspension order. Contract activity may resume at such time as the President/Chief Executive Officer of RIOC, or his or her designee, issues a written notice authorizing a resumption of performance under the Contract.

### **SECTION-8 - COMPTROLLER'S APPROVAL**

In accordance with Section 2879-a of the Public Authorities Law, if this contract exceeds \$1,000,000, and is not competitively bid, it may be subject to the Comptroller's approval.

### **SECTION-9 - TERMINATION**

RIOC may terminate the Contract prospectively upon five (5) business days' written notice, for convenience or for any other reason whatsoever. In the event that the Contract is terminated, for default or cause, prior to any such termination RIOC shall give the Contractor written notice of the breach and five (5) business days to cure the breach (a "Cure Period"). Notwithstanding the foregoing, if RIOC in its sole discretion determines that a Cure Period would be futile, RIOC may terminate for default or cause without granting a Cure Period. However, if RIOC grants a Cure Period it is solely within RIOC's discretion to determine whether the breach has been cured. Additionally, RIOC may, upon determining that the Contractor's performance hereunder will endanger the public health or safety, terminate the Contract immediately. Upon termination for any reason, Contractor shall deliver all Records as defined in Sections 15 and 16 of this Schedule A within five (5) business days of termination.

To the extent this agreement is a "procurement contract" as defined by State Finance Law Sections 139-j and 139-k, by signing this agreement the Contractor certifies and affirms that all disclosures made in accordance with State Finance Law Sections 139-j and 139-k are complete, true and accurate. In the event such certification is found to be intentionally false or intentionally incomplete, RIOC may terminate the agreement by providing written notification to the Contractor in accordance with the terms hereof.

In addition, upon written notice to the Contractor, and a reasonable opportunity to be heard with appropriate RIOC officials or staff, the Contract may be terminated by President/Chief Executive Officer of RIOC, or his or her designee, at the Contractor's expense where the Contractor is determined to the President/Chief Executive Officer of RIOC, or his or her designee, to be non-responsible. In such event, the President/Chief Executive Officer of RIOC, or his or her designee, may complete the contractual requirements in any manner he or she may deem advisable and pursue available legal or equitable remedies for breach.

### **SECTION 10 - PAYMENTS**

Payments will be made only upon the receipt by the Vice President of Operations (or his/her designee) and the Finance Department, of a proper invoice submitted by the Contractor and that has been approved by the Vice President of Operations (or his/ her designee), in accordance with Schedule A and Schedule B2. The receipt of

## APPENDIX B – STANDARD CONTRACT

final payment electronically or the deposit of final payment by paper check by the Contractor shall constitute a waiver of any claims for payment for services rendered arising from this Contract by the Contractor against RIOC.

Payment for invoices submitted by the Contractor shall only be rendered electronically unless payment by paper check is expressly authorized by RIOC's President, in his or her sole discretion, due to extenuating circumstances. Such electronic payment shall be made in accordance with ordinary RIOC procedures and practices. The Contractor shall comply with RIOC's procedures to authorize electronic payments. Contractor acknowledges that it will not receive payment on any invoices submitted under this Contract if it does not comply with RIOC's electronic payment procedures, except where the RIOC President has expressly authorized payment by paper check as set forth above.

All payments for Work will be subject to the inspection, determination, and approval of Work by the Vice President of Operations (or his/her designee). RIOC may withhold payment, in whole or in part, to the extent reasonably necessary to protect RIOC from loss for which the Contractor is responsible, including loss because of: defective Work not remedied; third party claims filed or reasonable evidence indicating probable filing of such claims unless security acceptable to RIOC is provided by the Contractor; failure of the Contractor to make payments properly to subcontractors for labor, materials or equipment; reasonable evidence that the Work cannot be completed for the Contract Sum; damage to RIOC or another contractor; reasonable evidence that the Work cannot be completed within the Contract Time, and that the unpaid balance would not be adequate to cover actual or liquidated damages for the anticipated delay; or failure to carry out the Work in accordance with the Contract.

### **SECTION 11 - SET-OFF RIGHTS**

RIOC shall have all of its common law, equitable and statutory rights of set-off. These rights shall include, but not be limited to, RIOC's option to withhold for the purposes of set-off any moneys due to the Contractor under this contract, or any other contract with RIOC up to any amounts due and owing to RIOC with regard to this contract, any other contract with RIOC, plus any amounts due and owing to RIOC for any other reason including, without limitation, tax delinquencies, fee delinquencies or monetary penalties.

### **SECTION 12 - EXECUTORY CLAUSE**

In accordance with Section 41 of the State Finance Law, RIOC shall have no liability under this Contract to the Contractor or to anyone else beyond funds appropriated and available for this Contract.

### **SECTION 13 - INDEMNIFICATION**

To the fullest extent permitted by law, and in addition to any liability or obligation of the Contractor to RIOC that may exist under the Contract or by statute or otherwise, the Contractor hereby agrees to hold harmless, indemnify and defend RIOC, the New York State Urban Development Corporation d/b/a Empire State Development, the Division of Housing and Community Renewal, the State of New York, the City of New York, and any others listed in Schedule B1 and in each and every case, their directors, officers, employees, agents, consultants or contractors (hereinafter, collectively referred to as "Indemnitees"), from and against any damages, costs, claims or liabilities which Indemnitees may sustain as a result of any and all liabilities, losses, damages, interests, judgments, liens, costs and expenses (including without limitation, reasonable counsel fees and disbursements) claims, demands, suits, actions, or proceedings which may be made or brought against

## APPENDIX B – STANDARD CONTRACT

Indemnitees in any way arising out of or relating to the Contract or the Services, including without limitation, the negligent acts or omissions, willful misconduct or unauthorized acts of the Contractor in the performance of the Services hereunder or of any subcontractor or other entity hired, obtained, or employed by the Contractor to provide Services in connection with the Contract. However, the Contractor shall not be obligated to hold harmless, indemnify and defend an Indemnitee to the extent of the Indemnitee's comparative negligence or willful misconduct. As a condition of the foregoing obligation, RIOC shall give the Contractor prompt notice of any claim for which indemnification is sought.

Indemnitees' directors, officers, and employees shall not be personally or individually liable to Contractor, and shall be held harmless, for any actions, losses, damages, claims, liabilities, costs or expenses (including without limitation, reasonable counsel fees and disbursements) in any way arising out of or relating to the Contract or the Services performed pursuant to it.

The Contractor agrees that this Section 13 of the General Conditions shall survive the expiration or termination of the Contract and is so noted in the insurance.

### **SECTION 14 - INSURANCE**

The Contractor shall insure and carry the following insurance, shall require each of its subcontractors to carry the following insurance, and agrees that the following insurance shall survive the expiration or termination of the Contract:

Commercial General Liability Insurance providing both bodily injury including death and property damage insurance in a limit of not less than two million dollars (\$2,000,000.00) combined single limit basis. Such insurance is to be written on an occurrence basis and shall name each of the Indemnitees as an additional insured.

Automobile Liability and Property Damage Insurance in an amount not less than five hundred thousand dollars (\$500,000.00) combined single limit for both bodily injury and property damage;

Professional Liability Insurance is required if the Contractor is providing any type of design work in a limit of not less than two million dollars (\$2,000,000.00) and with tail coverage for two (2) years.

The Contractor shall provide Worker's Compensation Insurance and Employer's General Liability Insurance as required under the Worker's Compensation Law.

Certificates of Insurance for all aforementioned coverages shall be provided to RIOC prior to the commencement of Services under the Contract and bear notations evidencing a minimum of 10 day cancellation notice to RIOC. The Contractor's Commercial General Liability Insurance policy shall name RIOC, the New York State Urban Development Corporation d/b/a Empire State Development, the Division of Housing and Community Renewal, the State of New York, the City of New York and any others listed in Schedule B1 as additional insureds.

### **SECTION 15 - RECORDS AND ACCOUNTS**

Contractor shall maintain accurate books, records, documents, accounts, maintenance manuals, warranties, blueprints, photographs, other materials and all evidence of the Services (hereinafter, collectively, "Records"). Contractor shall also maintain and provide accurate Records that provide an accounting of the specific Services

## **APPENDIX B – STANDARD CONTRACT**

performed in such form as to demonstrate the actual Services rendered to perform this Contract; and shall furnish or make available such Records or other information as may be required to substantiate any report or invoice submitted to RIOC's Project Manager assigned to supervise the Services, for payment and will also provide a copy to the Finance Department.

The Records must be kept for the balance of the calendar year in which they were made and for six (6) additional years thereafter. The State Comptroller, the Attorney General and any other person or entity authorized to conduct an examination, as well as RIOC, shall have access to the Records during normal business hours at an office available, at a mutually agreeable and reasonable venue within the State of New York, for the term specified above for the purposes of inspection, auditing and copying. RIOC shall take reasonable steps to protect from public disclosure any of the Records which are exempt from disclosure under Section 87 of the Public Officers Law ("Freedom of Information Law or FOIL") provided that: (i) the Contractor shall timely inform an appropriate RIOC official, in writing, that said records should not be disclosed; and (ii) said records shall be sufficiently identified; and (iii) designation of said records as exempt under FOIL is reasonable. Nothing contained herein shall diminish, or in any way adversely affect, RIOC's right to discovery in any pending or future litigation.

### **SECTION 16 - OWNERSHIP OF MATERIALS**

The Contractor shall provide all labor, materials and equipment necessary to perform and complete all Services. All machinery and/or replacement parts installed by the Contractor in the performance of Services pursuant to this Contract shall become and remain the exclusive property of RIOC.

Upon completion of the Services or upon termination of this Contract, all Records, products and materials, including software, collected and prepared pursuant to this Contract shall become the exclusive property of RIOC, shall be delivered to RIOC (preliminary, final or otherwise), within five (5) business days of termination and any and all rights of the Contractor to such materials shall immediately be extinguished. RIOC shall have the sole and exclusive right to utilize such materials in any way it chooses.

The Contractor agrees that it shall not use, publish, transfer or license any Services, without the prior written approval of the President/Chief Executive Officer of RIOC. The Contractor shall not use any material in any way which discloses the identity of RIOC without prior written approval from the President/Chief Executive Officer of RIOC.

### **SECTION 17 – ASSIGNMENT AND SUBCONTRACTING**

The Contractor shall not assign, transfer, subcontract or otherwise dispose of its rights, privileges or responsibilities under the terms of this Contract, without RIOC's prior written consent, which shall be in RIOC's sole discretion. In the event there is no prior written consent from RIOC, such assignment, transfer, subcontract or other disposition shall be void.

### **SECTION 18 - CONFLICTS OF INTEREST**

The Contractor represents that:

- (a) No officer, employee, agent or director of RIOC, shall participate in any decision relating to this Contract which affects his personal interest or the interests of any corporation, partnership, or association in which he is

## APPENDIX B – STANDARD CONTRACT

directly or indirectly interested; nor shall any officer, agent, director or employee of RIOC have any interest, direct or indirect, in this Contract.

(b) The Contractor shall cause, for the benefit of RIOC, every contract with any subcontractor to include the representations contained in subsection (a) of this Section. The Contractor will take such action in enforcing such provisions as RIOC may direct, or, at its option, assign such rights as it may have to RIOC for enforcement by RIOC.

### **SECTION 19 - NON-COLLUSIVE BIDDING CERTIFICATION**

If this contract was awarded based upon the submission of bids, Contractor affirms, under penalty of perjury, that its bid was arrived at independently and without collusion aimed at restricting competition. Contractor further affirms that, at the time Contractor submitted its bid, an authorized and responsible person executed and delivered to RIOC a non-collusive bidding certification on Contractor's behalf.

### **SECTION 20 - AFFIRMATIVE ACTION AND NON-DISCRIMINATION AND NEW YORK STATE BUSINESS ENTERPRISES REQUIREMENTS**

Pursuant to New York State Executive Law Article 15-A, RIOC recognizes its obligation under the law to promote opportunities for maximum feasible participation of certified minority and women-owned business enterprises and the employment of minority group members and women in the performance of RIOC contracts. The Contractor agrees to be bound by the provisions of Article 15-A and the M/WBE Regulations promulgated by the Division of Minority and Women's Business Development of the Department of Economic Development (the "Division"). If any of the terms or provisions of this Contract conflict with applicable law or regulations, such laws and regulations shall supersede these requirements.

In 2006, the State of New York commissioned a disparity study to evaluate whether minority and women-owned business enterprises had a full and fair opportunity to participate in state contracting. The findings of the study were published on April 29, 2010, under the title "The State of Minority and Women-Owned Business Enterprises: Evidence from New York ("Disparity Study"). The report found evidence of statistically significant disparities between the level of participation of minority and women-owned business enterprises in state procurement contracting versus the number of minority and women-owned business enterprises that were ready, willing and able to participate in state procurements. As a result of these findings, the Disparity Study made recommendations concerning the implementation and operation of the statewide certified minority and women-owned business enterprises program. The recommendations from the Disparity Study culminated in the enactment and the implementation of New York State Executive Law Article 15-A, which requires, among other things, that RIOC establish goals for maximum feasible participation of New York State Certified minority and women-owned business enterprises ("M/WBE") and the employment of minority group members and women in the performance of New York State contracts.

It is the policy of RIOC to comply with all federal, State and local law, policy, orders, rules and regulations which prohibit unlawful discrimination because of race, creed, color, national origin, sex, sexual orientation, age, military status, disability, predisposing genetic characteristic, marital status or domestic violence victim status, prior criminal conviction and prior arrest, and to take affirmative action in working with contracting parties to ensure that qualified State certified Minority Business Enterprises, and qualified State certified Women-owned Business Enterprises (MBEs/WBEs), Minority Group Members and women share in the economic opportunities generated by RIOC's participation in projects or initiatives, and/or the use of RIOC funds (from any source,

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including the United States of America).

RIOC is required to implement the provisions of New York State Executive Law Article 15-A and 5 NYCRR Parts 142-144 ("M/WBE Regulations") for all State contracts as defined therein, with a value (1) in excess of \$25,000 for labor, services, equipment, materials, or any combination of the foregoing or (2) in excess of \$100,000 for real property renovations and construction. The Contractor shall inform RIOC in writing of the individual designated as the Minority Business Enterprise Liaison responsible for administering the M/WBE and EEO programs.

For the purposes of this Contract, RIOC hereby establishes an overall goal of **30%** for M/WBE participation, for New York State-certified minority-owned business enterprise ("MBE") participation and for New York State-certified women-owned business enterprise ("WBE") participation (collectively "M/WBE Contract Goals") based on the current availability of MBEs and WBEs.

The Contractor agrees to use good faith efforts (5 NYCRR Part 142.8) to achieve utilization of MBEs and WBEs equal to **30%** of the total value of the Services under the Contract.

Information on the availability of New York State subcontractors and suppliers is available from:

NYS Department of Economic Development  
Division for Small Business  
One Commerce Plaza  
Albany, NY 12245  
Phone: (518) 474-7756 Fax: (518) 486-6416

The directory of minority and women-owned business enterprises is available from:

NYS Department of Economic Development  
Minority and Women's Business Development Division  
at 30 South Pearl Street  
Albany, NY 12245  
Phone: (518) 474-6346 Fax: (518) 473-0665

or 633 Third Avenue,  
New York, New York 10017  
Phone: (212) 803-2414 Fax: (212) 803-3888

Copies of the directory are also available for inspection at RIOC's main office. A current listing of certified M/WBEs may also be obtained online at <https://ny.newnycontracts.com> .

The directory and any listing of certified M/WBEs should not be construed as an endorsement or recommendation of any particular Contractor and is for use only as a resource that lists the names of businesses that qualify as M/WBE's under the definition set forth in Schedule D.

In order to maximize participation of Certified M/WBE's as subcontractors and suppliers with respect to this Contract, the Contractor is required to make the following efforts:

## **APPENDIX B – STANDARD CONTRACT**

- (1) attend meetings scheduled by RIOC where Bidders will be advised of general contract requirements and M/WBE program;
- (2) advertise, where appropriate, in general circulation media, trade association publications and small business media;
- (3) notify small, minority and women contractor associations by written solicitation of specific subcontracts;
- (4) send written notification to Certified M/WBEs that their interest in the Services is solicited;
- (5) actively and affirmatively solicit bids for contracts and subcontracts from qualified State certified MBEs or WBEs, including solicitations to M/WBE contractor associations;
- (6) ensure that plans, specifications, request for proposals and other documents used to secure bids will be made available in sufficient time for review by prospective M/WBEs;
- (7) where feasible, divide the work into smaller portions to enhance participation by M/WBEs and encourage the formation of joint venture and other partnerships among M/WBE contractors to enhance their participation;
- (8) document and maintain records of bid solicitation, including those to M/WBEs and the results thereof. The Contractor will also maintain records of actions that its subcontractors have taken toward meeting M/WBE contract participation goals; and
- (9) ensure that progress payments to M/WBEs are made on a timely basis so that undue financial hardship is avoided, and, where appropriate, that bonding and other credit requirements are waived or appropriate alternatives developed to encourage M/WBE participation.

The Contractor shall include a list of subcontractors and suppliers to demonstrate that the goals of this section for participation of M/WBEs will be achieved on the form entitled "Vendor/Contractor's Utilization Form".

RIOC will review the submitted utilization plan and advise the Contractor of RIOC's acceptance or issue a notice of deficiency within 30 days of receipt. If a notice of deficiency is issued, the Contractor agrees that it shall respond to the notice of deficiency within seven (7) business days of receipt by submitting to RIOC a written remedy in response to the notice of deficiency. If the written remedy that is submitted is found by RIOC to be inadequate despite good faith efforts having been made by the Contractor, RIOC shall notify the Contractor and may direct the Contractor to submit, within five (5) business days, a request for a partial or total waiver of M/WBE participation goals. Without limiting any other provisions contained in the Contract Documents, RIOC may disqualify a Contractor as being non-responsive under the following circumstances: (a) a Contractor fails to timely submit a Vendor/Contractor's Utilization Form; (b) a Contractor fails to timely submit a written remedy to a notice of deficiency; (c) a Contractor fails to timely request a waiver; or (d) RIOC determines that the Contractor has failed to document good faith efforts. Such documentation shall include, but not necessarily be limited to:

- a) Evidence of outreach to M/WBEs;
- b) Any responses by M/WBEs to the Contractor's outreach;
- c) Copies of advertisements for participation by M/WBEs in appropriate general circulation, trade, and minority or women-oriented publications;

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- d) The dates of attendance at a pre-bid, pre-award, or other meetings, if any, schedules by RIOC with M/WBEs; and
- e) Information describing specific steps undertaken by the Contractor to reasonably structure the Contract scope of work to maximize opportunities for M/WBE participation.

The Contractor shall use good faith efforts to utilize any MBE or WBE identified on the Vendor/Contractor's Utilization Form during the performance of the Contract. Requests for a partial or total waiver of established goal requirements made subsequent to the award of the Contract may be made at any time during the term of the Contract to RIOC in writing, but must be made no later than prior to the submission of a request for final payment on the Contract. For guidance on how RIOC will determine a Contractor's "good faith efforts", refer to N.Y. Comp. Codes R. & Regs. Tit. 5, Ch. 1, Pt. 142.8. Joint ventures with Minority and Women-Owned Business Enterprises will be considered toward meeting the goals.

Commencing not more than 30 days after (i) execution of the Contract, or (ii) start of the work, the Contractor shall submit to the RIOC a Contractor's Quarterly M/WBE Contractor Compliance & Payment Report of the workforce actually utilized on the project, itemized by ethnic background, gender, and Federal Occupational Categories or other appropriate categories specified by RIOC. Contractor shall also submit a Workforce Utilization Report, and shall require each of its subcontractors to submit a Workforce Utilization Report, in such form as shall be required by RIOC on MONTHLY/QUARTERLY basis during the term of the Contract. Separate forms shall be completed by the Contractor and any subcontractors. Pursuant to Executive Order #162, contractors and subcontractors are also required to report the gross wages paid to each of their employees for the work performed by such employees on the Contract on a quarterly basis.

Accuracy of the information contained in the reporting documentation (Workforce Utilization Report and Contractor's Quarterly M/WBE Contractor Compliance & Payment Report) shall be certified to by an owner or officer of the Contractor.

In accordance with Article 15 of the Executive Law (also known as the Human Rights Law) and all other State and Federal statutory and constitutional non-discrimination provisions, the Contractor will not discriminate against any employee or applicant for employment because of race, creed, color, sex, national origin, age, disability or marital status. Furthermore, in accordance with Section 220-e of the Labor Law, if this is a contract for the construction, alteration or repair of any public building or public work or for the manufacture, sale or distribution of materials, equipment or supplies, and to the extent that this Contract shall be performed within the State of New York, the Contractor agrees that neither it nor its subcontractors shall, by reason of race, creed, color, disability, sex or national origin: (a) discriminate in hiring against any New York State citizen who is qualified and available to perform the work; or (b) discriminate against or intimidate any employee hired for the performance of work under this Contract. If this is a building service contract as defined in Section 230 of the Labor Law, then, in accordance with Section 239 thereof, the Contractor agrees that neither it nor its subcontractors shall, by reason of race, creed, color, national origin, age, sex or disability: (a) discriminate in hiring against any New York State citizen who is qualified and available to perform the work; or (b) discriminate against or intimidate any employee hired for the performance of work under this Contract.

In the event RIOC determines a Contractor to be non-compliant with Article 15-A M/WBE requirements, RIOC will notify said Contractor in writing of the delinquency. The written notice will provide a specified time within which the Contractor may cure any delinquency, as outlined in section 142.12 of Title 5 of the New York Codes, Rules and Regulations. In addition, the notice may propose an action to correct the problem and also provide the contractor an opportunity to propose a suitable, alternative corrective action. In the event that the parties

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are unable to resolve the dispute, RIOC may refer the matter to the Division of Minority and Women's Business Development for resolution in accordance with section 142.12 of Title 5 of the New York Codes, Rules and Regulations.

RIOC and the Contractor recognize the necessity of correcting the effects of discrimination in public procurement and that the socio-economic benefits and enforcement of the non-discrimination provisions set forth herein are significant but will include items of loss whose amounts will be incapable or very difficult of accurate estimation. As such, in accordance with 5 NYCRR §142.13, the Contractor acknowledges that if it is found by RIOC to have willfully and intentionally failed to use good faith efforts (as defined in N.Y. Comp. Codes R. & Regs. Tit. 5, Ch. 1, Pt. 142.8) in order to comply with the M/WBE participation goals set forth in the Contract, such finding constitutes a material breach of contract and RIOC may withhold payment from the Contractor not as a penalty, but as liquidated damages. Such liquidated damages shall be calculated as ten percent (10%) of the difference between (1) all sums identified for payment to M/WBEs had the Contractor achieved the contractual M/WBE goals and (2) all sums actually paid to M/WBEs for work performed or materials supplied under the Contract. In the event a determination has been made which requires the payment of liquidated damages and such sums have not been withheld by RIOC, the Contractor shall pay such liquidated damages to RIOC within sixty (60) days after they are assessed unless prior to the expiration of such sixtieth day, the Contractor shall file a complaint with the Director of the Division of Minority and Women's Business Development in the Department of Economic Development (the "Director") pursuant to subdivision 8 of section 313 of the Executive Law in which event the liquidated damages shall be payable if Director renders a decision in favor of RIOC.

### **NONDISCRIMINATION IN EMPLOYMENT IN NORTHERN IRELAND: MacBRIDE FAIR EMPLOYMENT PRINCIPLES**

In accordance with Chapter 807 of the Laws of 1992 the Contractor certifies that if it or any individual or legal entity in which the Contractor holds a 10% or greater ownership interest, or any individual or legal entity that holds a 10% or greater ownership interest in the Contractor has business operations in Northern Ireland, such Contractor, shall take lawful steps in good faith to conduct any business operations in Northern Ireland in accordance with the MacBride Fair Employment Principles relating to nondiscrimination in employment and freedom of workplace opportunity regarding such operations in Northern Ireland, and shall permit independent monitoring of their compliance with such Principles.

The Omnibus Procurement Act of 1992, requires that by signing this bid/proposal, Contractors certify that whenever the total bid amount is greater than \$1 million:

1. The Contractor has made reasonable efforts to encourage the participation of New York State Business Enterprises as suppliers and subcontractors on this project, and has retained the documentation of these efforts to be provided upon request to RIOC;
2. The Contractor has complied with the Federal Equal Opportunity Act of 1972 (P.L. 92-261), as amended;
3. The Contractor agrees to make reasonable efforts to provide notification to New York State residents of employment opportunities on this project through listing of any such positions with the Job Service Division of the New York State Department of Labor, or providing such notification in such manner as is consistent with existing collective bargaining contracts or agreements. The contractor agrees to document these efforts and to provide said documentation to RIOC upon request;

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4. The Contractor acknowledges notice that New York State may seek to obtain offset credits from foreign countries as a result of this Contract and agrees to cooperate with the State in these efforts.

### EEO POLICY STATEMENT

(1) The Contractor and subcontractors shall undertake or continue existing programs of affirmative action to ensure that minority group members and women are afforded equal employment opportunities without discrimination because of race, creed, color, national origin, sex, age, disability or marital status. For these purposes, affirmative action shall apply in the areas of recruitment, employment, job assignment, promotion, upgradings, demotion, transfer, layoff, or termination and rates of pay or other forms of compensation.

(2) Prior to the award of the Contract, the Contractor shall submit an Equal Employment Opportunity ("EEO") Policy Statement to RIOC within the time frame established by RIOC.

(3) The Contractor's EEO Policy Statement shall contain, but not necessarily be limited to, and the Contractor, as a precondition to entering into a valid and binding Contract, shall, during the performance of the Contract, agree to the following:

(a) The Contractor will not discriminate against any employee or applicant for employment because of race, creed, color, national origin, sex, age, disability, sexual orientation, or marital status, will undertake or continue existing programs of affirmative action to ensure that minority group members and women are afforded equal employment opportunities without discrimination, and shall make and document its conscientious and active efforts to employ and utilize minority group members and women in its work force on Contract. Affirmative action pertains to recruitment, employment, job assignment, promotion, upgradings, demotion, transfer, layoff, or termination and rates of pay or other forms of compensation.

(b) The Contractor shall state in all solicitations or advertisements for employees that, in the performance of the Contract, all qualified applicants will be afforded equal employment opportunities without discrimination because of race, creed, color, national origin, sex, age, disability or marital status.

(c) At the request of RIOC, the Contractor shall request each employment agency, labor union, or authorized representative of workers with which it has a collective bargaining or other agreement or understanding, to furnish a written statement that such employment agency, labor union, or representative will not discriminate on the basis of race, creed, color, national origin, sex, age, disability or marital status and that such union or representative will affirmatively cooperate in the implementation of the Contractor's obligations herein.

(d) The Contractor shall comply with the provisions of the Human Rights Law, all other State and Federal statutory and constitutional non-discrimination provisions. The Contractor and subcontractors shall not discriminate against any employee or applicant for employment because of race, creed (religion), color, sex, national origin, sexual orientation, military status, age, disability, predisposing genetic characteristic, marital status or domestic violence victim status, and shall also follow the requirements of the Human Rights Law with regard to non-discrimination on the basis of prior criminal conviction and prior arrest.

(e) The Contractor will include the provisions of subdivisions (a) through (d) immediately above in every subcontract in such a manner that the requirements of the subdivisions will be binding upon each subcontractor as to work in connection with the Contract.

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### SERVICE-DISABLED VETERAN-OWNED BUSINESS ACT REQUIREMENTS

Pursuant to New York State Executive Law Article 17-B, also known as "Service-Disabled Veteran-Owned Business Act," ("Article 17-B") RIOC recognizes its obligation under the law to promote opportunities for maximum feasible participation of certified Service-Disabled Veteran-Owned Business Enterprises (SDVOBs) and the employment of service-disabled veterans in the performance of RIOC contracts. The Contractor agrees to be bound by the provisions of Article 17-B and the Service-Disabled Veteran-Owned Business Enterprise Program (9 NYCRR Part 252), promulgated by the Division of Service-Disabled Veterans' Business Development in the Office of General Services (the "Division"). If any of the terms or provisions of this Contract conflict with applicable law or regulations, such laws and regulations shall supersede these requirements.

New York State (the "State") is home to more than 900,000 veterans, seventy-two percent of whom have served during periods of conflict. Additionally, the State is home to approximately 30,000 active duty military personnel as well as 30,000 national guard and reserve personnel. In honor of their service to and sacrifice for our nation, New York State declared that it is the public policy of the State to promote and encourage the continuing economic development of service-disabled veteran-owned businesses. In the furtherance of this policy, the state aims to assist service-disabled veterans in playing a greater role in the economy of the state and to provide additional assistance and support to disabled veterans to better equip them to form and expand small businesses, thereby enabling them to realize the American dream they fought to protect. To achieve this objective without disrupting the procurement practice and priorities already in law, the legislature finds that it is in the best interest of the economic development of the state to enact the "Service-Disabled Veteran-Owned Business Act".

The Contractor agrees, to the maximum extent practical and consistent with legal requirements of the State Finance Law, the Executive Law and any implementing regulations, to use NYS certified Service-Disabled Veteran-Owned Business Enterprises in purchasing and utilizing commodities, services and technology that are of equal quality and functionality to those that may be obtained from non-SDVOBs. Contractor acknowledges being subject to the provisions of Executive Law Article 17-B and the applicable regulations (9 NYCRR Part 252), and that the directory of NYS certified SDVOBs is located at: [http://ogs.ny.gov/Core/docs/CertifiedNYS\\_SDVOB.pdf](http://ogs.ny.gov/Core/docs/CertifiedNYS_SDVOB.pdf).

The Contractor acknowledges that the SDVOB utilization goal for this Contract is 0%. Contractor further acknowledges that this requirement is separate and distinct from the similar requirement elsewhere in this Contract to utilize minority and women-owned businesses (M/WBEs), consistent with current State law (Executive Law, Article 15-A).

The Contractor agrees to report on actual participation by each SDVOB during the term of the contract to RIOC on a quarterly basis.

The Contractor agrees that, following contract execution, if RIOC determines that the Contractor may not have acted in good faith, has failed, is failing, or is refusing to comply with the participation or utilization contractual goals for SDVOB participation, RIOC may after giving the Contractor an opportunity to be heard, make a determination that Contractor has failed to meet the contract goals and may be in breach of contract.

Upon determination that the Contractor is in breach of contract, as set forth in this Section, RIOC may require the submission of a corrective action plan for meeting the contractual goals, and may also assess actual damages as authorized by regulation [9NYCRR Section 252.2 (s)] based on the actual cost incurred by RIOC, related to

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RIOC's expenses for personnel, supplies and overhead related to establishing, monitoring, and reviewing certified service-disabled veteran-owned business enterprise programmatic goals.

**Failure to comply with the foregoing requirements may result in a finding of non-responsiveness, non-responsibility or breach of the Contract, leading to the withholding of funds, suspension or termination of the Contract or such other actions or enforcement proceedings as allowed by the Contract and at law.**

### **SECTION 21 – ENVIRONMENTAL PROTECTION**

The Contractor certifies and warrants that all heavy duty vehicles, as defined in New York State Environmental Conservation Law ("ECL") §19-0323, to be used under this Contract, will comply with the specifications and provisions of ECL §19-0323 and any regulations promulgated pursuant thereto, which requires the use of Best Available Retrofit Technology ("BART") and Ultra Low Sulfur Diesel ("ULSD"), unless specifically waived by the New York State Department of Environmental Conservation ("DEC"). Qualifications for a waiver under this law will be the responsibility of the Contractor.

### **SECTION 22 - MATERIALS AND WORKMANSHIP**

The Contractor hereby agrees and guarantees that all Services furnished under the Contract will conform to the terms of this Contract, as to kind, quality, function, design and characteristics of materials and workmanship. The Contractor shall adhere to professional standards and shall reprocess at its expense, all work necessary to correct errors directly caused by malfunction of the Contractor's machines or mistakes of Contractor's Personnel. RIOC agrees to cooperate with the Contractor in the performance of the Services hereunder, including without limitation and upon prior consent of RIOC's designated representative, providing consultant with reasonable and timely access to facilities, data, information, and RIOC personnel.

The Contractor shall promptly correct Services rejected by RIOC, or deemed by RIOC to be defective or failing to conform to the requirements of the Contract. The Contractor shall bear all costs of correcting such Services, including, without limitation, additional testing and inspections.

The Contractor warrants that the Services will be of good quality and new unless otherwise required or permitted by the Contract, and that the Services will be free from defects not inherent in the quality required or permitted and will conform to the requirements of the Contract.

If, within one (1) year after substantial completion, the Services are found to be not in accordance with the Contract requirements, the Contractor shall correct it promptly after receipt of written notice from RIOC.

Nothing contained herein shall be construed to establish a period of limitation with respect to other obligations the Contractor might have under the Contract. Establishment of the time period of one (1) year as provided above relates only to the specific obligation of the Contractor to correct the Services, and has no relationship to the time within which proceedings may be commenced to establish the Contractor's liability with respect to the Contractor's obligations.

If the Contractor fails to correct defective or non-conforming Services as required or fails to carry out Services in accordance with the Contract, RIOC, by written order, may order the Contractor to stop the Services, or any portion thereof, until the cause for such order has been eliminated.

## APPENDIX B – STANDARD CONTRACT

If the Contractor defaults or neglects to carry out the Services in accordance with the Contract and fails within five (5) business days after receipt of written notice from RIOC to commence and continue correction of such default or neglect with due diligence and promptness, RIOC may, without prejudice to other remedies RIOC may have, correct such deficiencies and the costs of correcting such deficiencies shall be deducted from payments to the Contractor. If the payments then or thereafter due the Contractor are not sufficient to cover such costs, the Contractor shall pay the difference to RIOC.

### **SECTION 23 - PROHIBITION ON PURCHASE OF TROPICAL HARDWOODS**

The Contractor certifies and warrants that all wood products to be used under this contract award will be in accordance with, but not limited to, the specifications and provisions of Section 165 of the State Finance Law, (Use of Tropical Hardwoods) which prohibits purchase and use of tropical hardwoods, unless specifically exempted, by RIOC. Qualification for an exemption under this law will be the responsibility of the Contractor to establish to meet with the approval of RIOC.

In addition, when any portion of this Contract involving the use of woods, whether supply or installation, is to be performed by any subcontractor, the prime Contractor will indicate and certify in the submitted bid proposal that the subcontractor has been informed and is in compliance with specifications and provisions regarding use of tropical hardwoods as detailed in Section 165 of the State Finance Law. Any such use must meet with the approval of RIOC; otherwise, the bid may not be considered responsive. Under Bidder certifications, proof of qualification for exemption will be the responsibility of the Contractor to meet with the approval of RIOC.

### **SECTION 24 - IRAN DIVESTMENT ACT**

By entering into this Agreement, Contractor certifies in accordance with State Finance Law Section 165-a that it is not on the “Entities Determined to be Non-Responsive Bidders/Offerors pursuant to the New York State Iran Divestment Act of 2012” (“Prohibited Entities List”) posted at:

[Contractor further certifies that it will not utilize on this Contract any subcontractor that is identified on the Prohibited Entities List. Contractor agrees that should it seek to renew or extend this Contract, it must provide the same certification at the time the Contract is renewed or extended. Contractor also agrees that any proposed Assignee of this Contract will be required to certify that it is not on the Prohibited Entities List before the contract assignment will be approved by RIOC.](http://www.ogs.ny.gov/about/regs/docs>ListofEntities.pdf</a></p></div><div data-bbox=)

During the term of the Contract, should RIOC receive information that a person (as defined in State Finance Law Section 165-a) is in violation of the above-referenced certifications, RIOC will review such information and offer the person an opportunity to respond. If the person fails to demonstrate that it has ceased its engagement in the investment activity which is in violation of the Act within 90 days after the determination of such violation, then RIOC shall take such action as may be appropriate and provided for by law, rule, or contract, including, but not limited to, imposing sanctions, seeking compliance, recovering damages, or declaring the Contractor in default.

RIOC reserves the right to reject any bid, request for assignment, renewal or extension for an entity that appears on the Prohibited Entities List prior to the award, assignment, renewal or extension of a contract, and to pursue a responsibility review with respect to any entity that is awarded a contract and appears on the Prohibited

## APPENDIX B – STANDARD CONTRACT

Entities List after contract award.

### **SECTION 25 - CONFIDENTIALITY**

The Contractor agrees that all deliverables, developed in the course of providing the services, are strictly confidential between the Contractor and RIOC, and except as specified herein the Contractor may not reveal or disclose such work product, without permission from RIOC, or unless ordered by a court of competent jurisdiction, governmental authority or administrative agency or required to be disclosed by law, subpoena, or similar process.

### **SECTION 26 - LABOR LAW**

If this Contract involves the employment of laborers, workmen or mechanics under Articles 8 or 9 of the Labor Law or constitutes a building service contract covered by Article 9 thereof, neither the Contractor's employees nor the employees of its subcontractors may be required or permitted to work more than the number of hours or days set forth therein, except as otherwise provided in the Labor Law and as set forth in prevailing wage and supplement schedules issued by the New York State Labor Department. Furthermore, the Contractor and its subcontractors must pay at least the prevailing wage rate and pay or provide the prevailing supplements, including the premium rates for overtime pay, as determined by the New York State Labor Department in accordance with the Labor Law.

### **SECTION 27 - CLAIMS AND DISPUTE RESOLUTION**

(a) The Contractor shall proceed with the Services promptly as instructed or ordered by RIOC. The Contractor shall have no right to suspend all or any part of the Services or refuse to comply with any written instruction, direction or order of RIOC pending resolution of any dispute or for any other reason, provided that RIOC continues to make payments of undisputed amounts as provided in the Contract. Any such suspension or refusal will be a material breach of the Contract. The Contractor may preserve whatever right, if any, the Contractor may have to make claim with respect to any written instruction, order, direction, action or inaction of RIOC or others by giving notice as required by paragraph (b) of this Section 27 and by advising RIOC in writing, prior to proceeding with the Services in question, that the Contractor is proceeding under protest.

(b) The Contractor must give written notice to RIOC of any claim by the Contractor for extension of time, extra compensation, price increase or damages of any sort within five (5) business days after the Contractor first learns of the act, omission, occurrence or circumstance on which the claim is based. The purpose of this notice is to give RIOC prompt opportunity (a) to cancel or revise orders or directions, change plans, mitigate or remedy circumstances giving rise to the claim or to take other action that may be desirable; (b) to monitor and verify the facts and circumstances as they occur; and (c) to verify any costs and expenses claimed by the Contractor contemporaneously as they are incurred. Written notice is required whether or not RIOC is aware of the facts and circumstances that constitute the basis of the Contractor's claim, and no action, inaction, or conduct of RIOC or any other person will be regarded as a waiver of such notice requirement except only a statement to that effect signed by RIOC. Failure of the Contractor to give written notice as required shall be deemed conclusively to be a waiver and release of any claim, and such notice shall be a condition precedent to the Contractor's right to make any claim arising out of, under or in connection with the Contract or its performance of the Services. Notice pursuant to this paragraph (b) of Section 27 shall be addressed and sent to RIOC in accordance with Section 36 of these General Conditions. Notice of claim given to any person other than RIOC shall not constitute notice to RIOC.

## APPENDIX B – STANDARD CONTRACT

(c) It shall be within RIOC's sole discretion whether to submit to arbitration any dispute, claim or controversy arising out of, or relating to, the Contract or the breach, termination, enforcement, interpretation or validity thereof (including the determination whether work performed under the Contract is within the Scope of Work) and including the determination of the scope or applicability of this arbitration provision (collectively, referred to as "Claims"). If RIOC determines that a Claim shall be submitted to arbitration, such arbitration shall be before the American Arbitration Association ("AAA") in New York County (or another arbitration tribunal of RIOC's choosing) with the parties sharing equally in the costs of the arbitration process and each party bearing their own legal costs and expenses. Further, it shall be in RIOC's sole discretion whether the arbitration shall be before one or three arbitrators. Judgement on an arbitration award may be entered in any court having jurisdiction. This clause shall not preclude parties from seeking provisional remedies in aid of arbitration from a court of competent jurisdiction.

### **SECTION 28 - INTERNATIONAL BOYCOTTS**

(a) In accordance with Section 220-f of the Labor Law and Section 139-h of the State Finance Law and the regulations of the Comptroller of the State of New York promulgated thereunder, where the Contract is for the construction, reconstruction, maintenance and/or repair of public work or for services performed or to be performed in an amount exceeding five thousand dollars, the Contractor hereby promises, asserts and represents that neither the Contractor nor any substantially owned or affiliated person, Contractor partnership or corporation has participated, is participating or shall participate in an international boycott in violation of the provisions, of the United States Export Administration Act of 1969, as amended, or the United States Export Administration Act of 1979, or the regulations of the United States Department of Commerce promulgated under either act.

(b) RIOC awards this Contract in material reliance upon the promise and representation made by the Contractor in the foregoing paragraph. This Contract shall be rendered void by the State Comptroller if subsequent to the execution of this Contract, the Contractor or such owned or affiliated person, Bidder, partnership or corporation has been convicted of a violation of the above Acts or Regulations or has been found upon final determination of the United States Commerce Department or any other appropriate agency of the United States to have violated such Acts or Regulations.

(c) The Contractor shall notify the State Comptroller of any such conviction or final determination of violation in the manner prescribed by the Comptroller's regulations after such determination within five (5) days. The Contractor shall deliver a copy of the notice to RIOC.

### **SECTION 29 - GRAND JURY, INVESTIGATIONS, TESTIMONY**

The Contractor agrees to comply with the provisions of Sections 2876 and 2877 of the Public Authorities Law, and any subsequent amendments. The provisions require that upon the refusal of a person, when called before a grand jury, head of a state department, temporary state commission or other state agency, the organized crime task force in the department of law, head of a city department, or other city agency, which is empowered to compel the attendance of witnesses and examine them under oath, to testify in an investigation concerning any transaction or contract with the state, any political subdivision thereof, a public authority or with any public department, agency or official of the state, any political subdivision thereof, or a public authority, to sign a waiver of immunity against subsequent criminal prosecution or to answer any relevant questions concerning such transaction or contract,

## **APPENDIX B – STANDARD CONTRACT**

(a) such person, and any Contractor, partnership or corporation of which (s)he is a member, partner, director or officer shall be disqualified from thereafter selling to or submitting bids to or receiving awards from or entering into any contracts with any public authority or public benefit corporation or any official thereof for goods, work or services, for the period of five years after such refusal or until such disqualification shall be removed pursuant to Public Authorities Law Section 2877, and

(b) any and all contracts with any public authority or public benefit corporation or official thereof, since the effective date of this law, by such person and by any Contractor, partnership, or corporation of which he or she is a member, partner, director or officer, may be canceled or terminated, but any monies owing by the public authority or public benefit corporation for goods delivered or work done prior to the cancellation or termination shall be paid.

### **SECTION 30 - ILLEGALITY**

If this Contract contains any unlawful provision, the same shall be deemed of no effect and shall, upon the application of either party, be deemed stricken from this Contract without affecting the binding force of the remainder.

### **SECTION 31 - ENTIRE AGREEMENT**

This Contract integrates all agreements, representations and warranties prior to the date hereof, whether oral or written, between the parties, and constitutes the entire Contract between the parties hereto.

### **SECTION 32 - GOVERNING LAW**

This Contract shall be construed in accordance with the laws of the State of New York.

### **SECTION 33 - COUNTERPARTS**

This Contract may be executed in any number of counterparts, each of which shall be deemed an original, but all of which shall constitute one and the same instrument.

### **SECTION 34 - MODIFICATIONS**

This Contract shall not be modified except by amendment or Change Order in writing dated and signed by all parties hereto.

### **SECTION 35 - BINDING EFFECT**

This Contract shall be binding upon, extend to, and inure to the benefit of the legal representatives, successors and valid assigns of the respective parties.

### **SECTION 36- NOTICE**

Except where otherwise provided, any written notice or communication required or permitted pursuant hereto by either party to the other party shall be in writing and either:

## APPENDIX B – STANDARD CONTRACT

- (1) delivered by certified mail, postage prepaid, return receipt requested to the parties at their respective addresses set forth at page 1 of this Contract; or
- (2) provided by fax transmission and confirmed by regular mail, if to RIOC, at (212) 832-4582, and if to the Contractor, at the number supplied by the Contractor to RIOC; or
- (3) provided by email, if to RIOC, to Chief Financial Officer at [John.Oreilly@rioc.ny.gov](mailto:John.Oreilly@rioc.ny.gov) with a copy to General Counsel at [Gretchen.Robinson@rioc.ny.gov](mailto:Gretchen.Robinson@rioc.ny.gov), and if to the Contractor, at the email address supplied by the Contractor to RIOC.

### **SECTION 37 - ALL LEGAL PROVISIONS DEEMED INCLUDED**

It is the intent and understanding of the parties to this Contract that each and every provision of law required to be inserted in this Contract shall and is inserted herein, and if, through mistake or otherwise, any such provision is not inserted, or is not inserted in correct form, then this Contract shall forthwith upon the application of either party be amended by such insertion so as to comply strictly with the law and without prejudice to the rights of either party hereunder.

### **SECTION 38 - COMPLIANCE WITH NEW YORK STATE INFORMATION SECURITY BREACH AND NOTIFICATION ACT**

Contractor shall comply with the provisions of the New York State Information Security Breach and Notification Act (General Business Law Section 899-aa; State Technology Law Section 208).

### **SCHEDULE B1**

#### **SCOPE OF SERVICES AND ADDITIONAL TERMS**

Description of the Services:

Special Instructions and Requirements:

Additional Terms:

1. Scheduling. Scheduling of the Services shall be as follows: [Insert reference to any written schedule and or scheduling and updating requirements.]
2. Deliverables. The deliverables required to be submitted by the Contractor are as follows:  
[ ].

## APPENDIX B – STANDARD CONTRACT

3. Indemnitees. The following are additional Indemnitees under Section 13 of Schedule A: [REDACTED].
4. Additional Insureds. The following shall also be named as additional insureds on the Contractor's Commercial General Liability Insurance and Automobile Liability Insurance, in addition to those listed under Section 14 of Schedule A: [REDACTED].
5. Key Personnel. The Contractor shall assign the following key personnel to performance of the Services: [REDACTED]. The Contractor shall not change its key personnel without RIOC's written consent, which may be granted or withheld in RIOC's sole discretion.

**SAMPLE**

## APPENDIX B – STANDARD CONTRACT

## SCHEDULE B2

## CONTRACT SUM BREAKDOWN AND RETAINAGE

The Contract Sum is:

- (a) a fixed price
- (b) a not-to-exceed price

[Strike either (a) or (b).]

If the Contract Sum is a fixed price, payments shall be based on percentages of completion of the Services using the following schedule of values:

If the Contract Sum is a not-to-exceed price, payments shall be based on Services performed using the following hourly rates:

Such not-to-exceed price represents the maximum sum payable to the Contractor for performance of the Services.

All hours billed must be supported by copies of actual timesheets signed by Contractor's employee, his or her respective supervisor, and approved by a RIOC project manager.

## APPENDIX B – STANDARD CONTRACT

Retainage of [REDACTED] percent ([REDACTED]%) will be withheld from all payments until substantial completion of the Services. When the Services are substantially complete, RIOC shall pay the Contractor the retainage, less any amount determined by RIOC to be sufficient to cover completion of all remaining Services. Final payment of such withheld sum shall be made upon final completion of all Services.

There is no obligation whatsoever on the part of RIOC to pay any amounts beyond those stated above. The Contractor shall have no claim to any additional amounts except as expressly authorized by written Change Order executed by RIOC.

Change Orders (if any) will be priced on the following basis: [REDACTED].

SAMPLE

**APPENDIX B – STANDARD CONTRACT**  
***TO BE FILLED OUT AND SUBMITTED WITH BID PROPOSAL***

**SCHEDULE C**

**PREVIOUS PARTICIPATION AND DISCLOSURE STATEMENT<sup>1</sup>**

**PROJECT NAME:**

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**1. ENTITY EXECUTING THIS STATEMENT**

**A. NAME AND ADDRESS**

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**B. NATURE OF INTEREST IN PROJECT**

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**C. TYPE OF DISCLOSURE (Check One)**

Individual  Corporation

Partnership  Joint Venture

or other Unincorporated  
Business Association  
(Other than Partnership)

**D. STATE AND LAW UNDER WHICH; THE DATE ORGANIZED; OR APPLICANT IS ORGANIZED TO COMMENCE BUSINESS:**

**2. VERIFICATION OF PRINCIPALS - CORPORATION, PARTNERSHIP, OTHER ORGANIZATION**

**A.** List on the following page(s) (or attach separate page(s)) the names and home addresses of principals in the following:

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<sup>1</sup>A notarized certification must be made on the last page of this statement.

## **APPENDIX B – STANDARD CONTRACT**

i) BUSINESS CORPORATION - The principal officers, directors and each stockholder owning or controlling 10% or more of any class of stock. Relatives by blood or marriage and/or any fiduciaries, agents or nominees who, together with or on behalf of a single individual or family, control, in the aggregate, 10% or more of any class of stock should also be listed.

(ii) NON-PROFIT CORPORATION OR ORGANIZATION - The principal officers and members of the board of trustees or board of directors or similar governing body.

(iii) PARTNERSHIP - Each general partner and either the percent of interest or a description of the character and extent of interest.

(iv) JOINT VENTURE OR OTHER UNINCORPORATED BUSINESS ASSOCIATION - Each participant and either the percent of interest or a description of the character and extent of interest.

### **A. PRINCIPAL(S) NATURE OF INTEREST**

Name and Home Address, Position, Title (if any) and including Zip Code Percent or Character of interest:

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### **B. RELATIONSHIP TO OTHER ORGANIZATIONS**

Is the entity a parent of, subsidiary of, or affiliated with any other corporation(s), Bidder(s), or organization(s)?

YES        NO       

If YES, list each such corporation, Bidder or organization by name and address, specify its relationship to the entity, and identify the officers, stockholders, trustees common to the principal and such other corporation, Bidder or organization.

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### **C. PRIOR INTEREST IN THE PROJECT**

Has the entity or any person or entity listed in Section 2A or 2B hereof, or any relative thereof, owned, controlled or had any interest in the past with the design, construction, operation and/or maintenance of this project?

YES        NO

## APPENDIX B – STANDARD CONTRACT

If YES, fully identify the parties, setting forth all details of such prior interests.

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### 3. FINANCIAL RESPONSIBILITIES

A. The financial status of the Entity, for the period ending \_\_\_\_\_ is as reflected in the attached financial statement.

**(NOTE)** Attach to this statement a certified financial statement showing assets and liabilities, including contingent liabilities, income and expenditures, fully itemized in acceptance with generally accepted accounting principles. Publicly owned companies shall also submit the latest stockholders report. If the date of the certified financial statement or stockholders report precedes the date of this submission by more than six months, also attach a certified interim balance sheet reflective of the financial status of the Entity as of the end of the most recent quarter.

B. Has the Entity or any of its subsidiaries ever filed a petition in bankruptcy (either voluntary or involuntary) or been adjudicated a bankrupt, or filed for reorganization within the last ten years.

YES \_\_\_\_ NO \_\_\_\_

C. List all major creditors of the Entity. As used, herein, major creditor means any person or party who has loaned money to or guaranteed obligations of the Entity in the cumulative amount of \$50,000 or more within the last six months. As to each such major creditor, state name address description and amount of loan and/or guarantee and the present balance of the loan or guarantee. If none, so state here.

NONE \_\_\_\_\_

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D. Has the Entity or any of its subsidiaries been involved in any default, warranty or union dispute or malperformance proceedings during the past five years (either as plaintiff or defendant). Is there any litigation pending or threatened with regard to the entity or its subsidiaries or other event which may affect its financial status.

YES \_\_\_\_ NO \_\_\_\_

If YES, explain fully.

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## APPENDIX B – STANDARD CONTRACT

E. Provide five fiscal references including banks, suppliers and client(s).

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F. Note approximate value of largest Contract performed during the past two years. Describe scope of work and services provided thereunder.

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### 4. **EXPERIENCE AND QUALIFICATIONS** - (Answer on separate attachment)

A. List all current and prior projects in which relevant experience and expertise can be demonstrated. Describe the scope of work, the contracting parties and the dollar value of work undertaken. Also, specifically recount any and all contracts entered into with any other Federal, State or Municipal agency during the past five years, indicating the scope of work, the contracting parties and the dollar value of work thereof. If any litigation resulted from any of the contracts, it must be noted and explained.

B. Cite number of employees and technical specialists who will contribute to this project.

C. Cite number of technical, administrative and managerial personnel who will be assigned to this project. List titles, qualifications, applicable experience and number of hours they will be assigned to the project. Also cite number of new employees required to be hired for this project.

D. List number of employees who will be represented by union bargaining units and list bargaining units.

E. Note any other information which would serve to qualify the Entity to perform this project.

### 5. **ASSURANCES**

Entity Must Agree:

A. To comply with all applicable laws, rules and regulations. Specifically, Entity will comply in both letter and spirit with rules and order that implement the Federal, State and Local Laws and directives with respect to non-discrimination by reason of race, color, creed, religion, national origin, sex, age, marital status or disability,

## **APPENDIX B – STANDARD CONTRACT**

as well as the provisions of the equal opportunity laws.

B. To furnish such additional information or documentation as RIOC may require.

**APPENDIX B – STANDARD CONTRACT**  
**TO BE FILLED OUT AND SUBMITTED WITH BID PROPOSAL**

**CERTIFICATION**

I certify that the information set forth in or attached to this Statement is true and correct.

I understand that RIOC and/or its assignees will rely on the information in or attached to this Statement and that this Statement is submitted and will be relied upon for the purposes of qualifying as a Bidder. I also understand that as a result of information which is contained or omitted herein, RIOC may at its sole discretion determine that the qualifications presented are not suitable for the project. I further understand that the submission of this disclosure statement in no way obligates RIOC to issue a Contract thereafter.

I understand that this Statement is part of a continuing application, and until such time as a Contract is finally awarded I will report any changes in or additions to the information herein, and will furnish such further documentation or information as may be requested. I understand that this Statement is intended to be a written instrument under article 175 of the New York Penal Law, and that the making of any false statement or the omission of any material fact may subject me to prosecution under the law.

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Signature & Title / Organization

STATE OF \_\_\_\_\_

SS

COUNTY OF \_\_\_\_\_

On this \_\_\_\_\_ day of \_\_\_\_\_, 2017 before me personally came \_\_\_\_\_

\_\_\_\_\_, known to me to be the person who executed the foregoing certification, and  
(s)he duly acknowledged to me that (s)he executed the same.

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**NOTARY PUBLIC**

## APPENDIX D – CONSULTANT EVALUATION FORM

### SCHEDULE D

#### DEFINITIONS UNDER ARTICLE 15-A REGULATIONS

The following definitions set forth in Executive Law Article 15-A are provided to the Contractor for ease of reference only:

- (a) “Certified business” shall mean a business verified by New York State as a minority or women owned business enterprise pursuant to Section 314 of the Executive Law.
- (b) “Minority group member” shall mean a United States citizen or permanent resident alien who is and can demonstrate membership in one of the following groups:
  - (i) Black persons having origins in any of the Black African racial groups;
  - (ii) Hispanic persons of Mexico, Puerto Rican, Dominican, Cuban, Central or South American of either Indian or Hispanic origin, regardless of race;
  - (iii) Native American or Alaskan native persons having origins in any of the original peoples of North America;
  - (iv) Asian and Pacific Islander persons having origins in any of the Far East countries, Southeast Asia, the Indian subcontinent or the Pacific Islands.
- (c) “Minority-owned business enterprise” shall mean a business enterprise, including a sole proprietorship, partnership, limited liability company or corporation that is:
  - (i) at least fifty-one percent owned by one or more minority group members;
  - (ii) an enterprise in which such minority ownership is real, substantial and continuing;
  - (iii) an enterprise in which such minority ownership has and exercises the authority to control independently the day-to-day business decisions of the enterprise;
  - (iv) an enterprise authorized to do business in this state and independently owned and operated;
  - (v) an enterprise owned by an individual or individuals, whose ownership, control and operation are relied upon for certification, with a “personal net worth” (as defined in subdivision 19 of Section 310 of the Executive Law) that does not exceed three million five hundred thousand dollars, as adjusted annually on the first of January for inflation according to the consumer price index of the previous year; and
  - (vi) an enterprise that is a “small business” pursuant to subdivision 20 of Section 310 of the Executive Law.
- (d) “Women-owned business enterprise” shall mean a business enterprise, including a sole proprietorship, partnership, limited liability company or corporation that is:
  - (i) at least fifty-one percent owned by one or more United States citizens or permanent resident aliens who are women;
  - (ii) an enterprise in which the ownership interest of such women is real, substantial and continuing;
  - (iii) an enterprise in which such women ownership has and exercises the authority to control independently the day-to-day business decisions of the enterprise;

## APPENDIX D – CONSULTANT EVALUATION FORM

- (iv) an enterprise authorized to do business in New York State and independently owned and operated;
- (v) an enterprise owned by an individual or individuals, whose ownership, control and operation are relied upon for certification, with a “personal net worth” (as defined in subdivision 19 of Section 310 of the Executive Law) that does not exceed three million five hundred thousand dollars, as adjusted annually on the first of January for inflation according to the consumer price index of the previous year; and
- (vi) an enterprise that is a “small business” pursuant to subdivision 20 of Section 310 of the Executive Law.

### DEFINITIONS UNDER ARTICLE 17-B REGULATIONS

The following definitions set forth in Executive Law Article 17-B are provided to the Contractor for ease of reference only:

“Certified service-disabled veteran-owned business enterprise” shall mean a business enterprise, including a sole proprietorship, partnership, limited liability company or corporation that is:

- (a) at least fifty-one percent owned by one or more service-disabled veterans;
- (b) an enterprise in which such service-disabled veteran ownership is real, substantial, and continuing;
- (c) an enterprise in which such service-disabled veteran ownership has and exercises the authority to control independently the day-to-day business decisions of the enterprise;
- (d) an enterprise authorized to do business in this state and is independently-owned and operated;
- (e) an enterprise that is a small business which has a significant business presence in the state, not dominant in its field and employs, based on its industry, a certain number of persons as determined by the director, but not to exceed three hundred, taking into consideration factors which include, but are not limited to, federal small business administration standards pursuant to 13 CFR part 121 and any amendments thereto; and
- (f) certified by the Office of General Services.