REQUEST FOR PROPOSALS
for a
Lower Frankford Creek Watershed
Brownfields Area-Wide Plan
for The
CITY OF PHILADELPHIA

Issued by:
THE CITY OF PHILADELPHIA (“City”)
Philadelphia City Planning Commission

All proposals must be submitted electronically through the eContract Philly online application process at www.phila.gov/contracts, choose eContract Philly. Applicants who have failed to file complete applications through the eContract Philly online application process will not be considered for the contract.

Proposals must be received no later than 5:00 p.m. Philadelphia, PA, local time, on November 8, 2013.

Pre-Proposal Conference:
Date: October 17, 2013
Time: 10:00am
Location: 1515 Arch Street, 13th Floor

Michael A. Nutter, Mayor
Alan Greenberger, Deputy Mayor for Economic Development

Revised: October 2, 2013
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I. Project Overview

A. Introduction; Statement of Purpose

The Philadelphia City Planning Commission (PCPC) has received an EPA Brownfields Area-Wide Planning Grant for the Lower Frankford Creek Watershed. The EPA’s Brownfields Area-Wide Planning Program is designed to help communities confront local environmental and public health challenges related to brownfields, and benefit underserved or economically disadvantaged communities. Area-wide planning for brownfields encourages community-based involvement in site assessment, cleanup and reuse planning, as well as overall neighborhood revitalization.

The result of the work to be completed is an EPA-accepted Brownfields Area Wide Plan for the Lower Frankford Creek Watershed based on market and environmental conditions, which successfully balances the needs of the City of Philadelphia, landowners, and the community at large. The activities and information gathered for this project will be done in a manner that facilitates subsequent assessment, cleanup, and redevelopment of brownfields sites.

About the EPA’s Brownfields Area-Wide Planning Program:

The Small Business Liability Relief and Brownfields Revitalization Act was signed into law on January 11, 2002. The Act amends the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA), as amended, by adding Section 104(k). Section 104(k) authorizes the U.S. Environmental Protection Agency (EPA) to provide funding to eligible entities to inventory, characterize, assess, conduct planning related to, remediate, or capitalize revolving loan funds for, eligible brownfield sites. Entities are selected from proposals prepared in accordance with the Request for Proposals for the Brownfields Area-Wide Planning Grant and submitted in a national competition. The PCPC was selected as a Brownfields Area-Wide Planning Program grant recipient by the EPA in the FY 2013 competition.

B. Department Overview

The Philadelphia City Planning Commission (PCPC) is the City agency responsible for guiding the orderly growth and development of the City of Philadelphia.

To carry out these duties in the 21st century, under Mayor Michael A. Nutter, the PCPC coordinated the Integrated Planning and Zoning Process – comprised of the Citizens Planning Institute, Philadelphia2035 (the city’s comprehensive plan), and a new zoning code. These activities educated hundreds of citizens and professionals, engaged thousands in envisioning the future of Philadelphia, and improved the way development is regulated. This April, Philadelphia’s Integrated Planning and Zoning Process received the 2013 National Planning Excellence Award for a Best Practice from the American Planning Association for its innovative approach at leveraging the synergy between citizen education, planning, and zoning reform.

This project is an implementation effort of the Lower Northeast District Plan, a component of Philadelphia2035. This project will be managed by an interdisciplinary Project Team comprised
of staff from the PCPC with assistance from the office of the Deputy Mayor for Economic Development and the Department of Parks and Recreation.

C. Project Background

This Brownfields Area-Wide Planning grant comes at a fortuitous time when investment in and around the project area is mounting. As new transportation investments are made, including bike and pedestrian trails that can contribute positively to the health and wellbeing of local residents, the City must maintain improving public health, environmental conditions, and public access to its riverfronts as guiding principles. This grant will start a vigorous public engagement campaign in the Bridesburg, Frankford, and Juniata Park neighborhoods and enable the City and its development partners to prioritize social, economic development, and open space needs of residents. In turn, the process will develop a land development matrix that effectively balances equity, environment, and economics on a parcel-by-parcel level.

The project area for the Brownfield Area-Wide Plan lies in the City of Philadelphia’s lower northeast section along two intersecting water bodies: the Frankford Creek and the Delaware River. The study area includes the lower, channelized portion of the Frankford Creek and extends northward along the Delaware River to the sewerized outfall of the historic Frankford Creek (for map, see appendix E).

Three (3) brownfield sites are considered catalyst sites within the project area. The reuse strategies or plans developed for these brownfields through this project will facilitate site assessment and cleanup. The three (3) catalyst, high priority sites are:

- Philadelphia Coke Co., Inc. (4501 Richmond St., Philadelphia PA 19137)
- Rohm and Haas (Dow) Site (5000 Richmond St., Philadelphia PA 19137)
- Edgewater Dyeing and Finishing Co. Site (4080 Frankford Ave. and 4076 Torresdale Ave., Philadelphia, PA 19124)

In coordination with the EPA’s Office of Brownfields and Land Revitalization and EPA Region III staff, the selected Consultant Team will work with the PCPC to develop an area-wide plan and implementation strategy for the assessment, cleanup, and subsequent redevelopment of brownfields within the Lower Frankford Creek Watershed in accordance with the EPA’s Brownfields Area-Wide Planning Program.

D. Request for Proposals

PCPC intends to obtain a highly capable, interdisciplinary Consultant Team which preferably will have experience in either the EPA’s Brownfields Area-Wide Planning Program pilot round (FY 2010) or the State of New York’s Brownfield Opportunity Areas (BOA) Program. The Consultant Team ideally will have experience in all of the following specialties: community outreach, environmental assessment, economic analysis, transportation planning, urban design, site planning, and the finance of brownfields redevelopment projects.
E. General Disclaimer of the City

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

This Section II, Scope of Work states requirements for the project, including the services and the tangible work products to be delivered, and the tasks the PCPC has identified as necessary to meet those requirements. PCPC reserves the right, however, to modify specific requirements, based on changed circumstances (such as a change in business or technical environments), the proposal selection process, and contract negotiations with the Applicant(s) selected for negotiations, and to do so with or without issuing a revised RFP. The Applicant must provide in its proposal a detailed proposed scope of work showing how it will meet the project requirements stated in this Section II.

A. Definitions

Unless specified otherwise, words, phrases, abbreviations and/or acronyms have the following meanings:

- **BF AWP:** Brownfields Area-Wide Plan
- **Brownfield:** Real property, the expansion, redevelopment, or reuse of which may be complicated by the presence or potential presence of a hazardous substance, pollutant, or contaminant.
- **Catalyst Sites:** High priority sites within the community which, once remediated and reused, have the potential to spur additional revitalization within the area.
- **CERCLA:** Comprehensive Environmental Response, Compensation and Liability Act
- **Consultant Team:** The team of consultants ultimately rewarded the contract to complete the Brownfields Area-Wide Plan.
- **CSO:** A Combined Sewer Outfall is a discharge point where both stormwater and wastewater may, during serious rain events, enter larger waterways.
- **DRCC:** Delaware River City Corporation
- **EPA:** Environmental Protection Agency
- **PCPC:** Philadelphia City Planning Commission
- **Project Team:** Interdisciplinary team of staff from various city agencies responsible for managing the Brownfields Area-Wide Planning grant.

B. Project Details

PCPC’s objectives for this project include the following:

- Gain a full understanding of environmental constraints, market conditions, and community preference in order to prioritize development strategies for the three catalyst sites;
- Analyze and forecast the impact motorized and non-motorized transportation network improvements will have on the catalyst sites’ development trajectory;
- Develop a robust “sustainable parcel” model of development—one that reduces environmental burdens, supports economic growth, and enhances local health and well-being while restoring ecosystems damaged by industrial processes; and
Build the capacity of the Delaware River City Corporation (DRCC) (City-funded non-profit tasked with building and maintaining the North Delaware Greenway) and other community groups.

Successful implementation of this Brownfields Area-Wide Plan will lead to:

- Environmental remediation of the three catalyst / high priority sites commensurate with their eventual redevelopment and reuse;
- Reduced stormwater runoff from the catalyst / high priority sites and therefore a reduced impact on CSOs in the project area;
- Reduced exposure to contaminants for residents of the affected neighborhoods.
- Reduction of greenhouse gas emissions via more direct and efficient truck access and therefore lower levels of particulate matter in the residential and commercial portions of Bridesburg;
- Increased public access to and incremental naturalization of both the Frankford Creek and Delaware River waterfronts; and
- Improvements to public health within the project area through increased access to recreational amenities and fresh, healthy food sources.

The Applicant’s proposed scope of work should address each objective specifically and describe in detail how the Applicant will achieve the objective, or how the Applicant will enable the Department to achieve the objective.

C. Services and Tangible Work Products

1. Services
PCPC requires at least the services listed below, including the specific tasks and work activities described. Applicant’s proposed scope of work should state in detail how it will carry out each task, including the personnel/job titles (as identified in Section K, Organizational and Personnel Requirements) responsible for and number of hours to complete the task. For each service specified, the Applicant should propose criteria to determine when the tasks comprising the service are satisfactorily completed. Applicants may propose additional or revised tasks and activities, but should explain why each is necessary to achieve the project objectives.

PCPC envisions a project divided into 3 project phases. Phases are designed to build upon each other with most deliverables the responsibility of the Consultant Team. The result of the work will be a completed Brownfields Area Wide Plan for the Lower Frankford Creek Watershed.

The Consultant Team will complete all tasks with oversight by the Project Team, except where noted.
PHASE 1: Research and Analysis [months 1-6]
Phase 1 tasks establish a baseline knowledge of the catalyst / high priority sites and the general project area in order to formulate community and economic development goals.

Task 1a) Review Existing Plans and Projects:
Review all existing and proposed plans for the project area, meet with stakeholders, and develop a thorough contextual knowledge of the project area.

Task 1b) Brownfields Inventory:
Utilizing existing data, the Consultant Team will create a GIS database of brownfields within the project area. Data should include, but is not limited to, site area, ownership, vacancy, existing zoning, Philadelphia2035 proposed zoning (if applicable), AVI market value, impervious coverage area, redevelopment eligibility, and tax liens.

Task 1c) Environmental Conditions Analysis:
The Consultant Team will review and synthesize all available plans, assessments, and state and Federal remediation documentation* to develop a land suitability framework. The result will be a statement of environmental constraints on the project area, and specifically the catalyst / high priority sites, with implications for redevelopment options.

*Existing data only. Environmental assessment and testing is not part of this scope.

Task 1d) Urban Land Market Analysis:
The Consultant Team will analyze existing trends in urban land utilization in the project area while acknowledging the vision and objectives of PIDCs Industrial Land and Market Strategy and PCPC’s Philadelphia2035 Comprehensive Plan. The Consultant Team will note the locational advantages and disadvantages of the sites and the carrying capacity of the properties to support residential, commercial, port, logistics, or other industrial activities. The Consultant Team will also analyze trends in commercial and residential markets. Lastly, the Consultant Team will identify any institutional, political, or regulatory barriers to development.

Task 1e) Public Health / Built Environment Analysis:
The Consultant Team will engage a public health expert to identify correlations between built environment conditions and deficiencies in public health including issues of walkability, food access, open space availability, and air quality.

CM1) Community Meeting 1 [month 6]:
The Consultant Team, Project Team, and PCPC staff will prepare and present the findings of Research and Analysis phase. Community members and key project stakeholders will be briefed on environmental, economic, and public health conditions. Through community mapping, small group discussions, and budgeting
scenarios, community members will form and present catalyst site development scenarios.

*The Consultant Team, Project Team, and PCPC staff will prepare for, run, and synthesize the findings from the community meeting.*

**PHASE 2: Visioning and Planning [months 7-12]**
Phase 2 activities will include the work of integrating the data collected in Phase 1 into frameworks and matrices, which will form the basis for the area-wide plan to be developed in Phase 4.

**Task 2a) Transportation Framework:**
The Consultant Team will analyze the impacts of the emerging transportation infrastructure improvements in and around the project area. This analysis will be synchronized with the Environmental Conditions, Urban Land and Market, and Public Health / Built Environment analyses to determine how catalyst site development can best capitalize on these new transportation investments. The Transportation Framework will be presented in both narrative and graphic forms.

**Task 2b) Open Space Framework:**
The Consultant Team will analyze existing and planned open space conditions. Community needs, floodplain protection, protection of critical habitat, tree cover, environmental site conditions, and public health indicators will factor into open space and community riverfront access recommendations. The Open Space Framework will be presented in both narrative and graphic forms.

**Task 2c) Site Development Decision Making Matrix:**
The Consultant Team will produce a Site Development Decision Making Matrix which ranks site development scenarios according to land capacity, market conditions, transportation connections, community interests, and public health impacts. This matrix will be crucial in implementing the “sustainable parcel” development approach.

**Task 2d) Conceptual Designs for Catalyst Sites:**
Together, the Consultant and Project Teams will develop conceptual designs for the catalyst / high priority Sites. These designs will employ best practices in urban design and sustainability in order to graphically represent the “sustainable parcel” balance.

*This task will be a joint effort of the Project and Consultant Teams.*

**Task 2e) Recommendations to Enhance DRCC Capacity:**
The Consultant Team will produce recommendations to enhance the capacity of the non-profit Delaware River City Corporation, a significant change-agent bringing open space and trails to the North Delaware River waterfront.
CM 2) Community Meeting 2 [month 12]:
Based on outcomes of the decision making matrix, the consultant(s) will produce schematics and renderings of several site development schemes which achieve the “sustainable parcel” balance. These scenarios will be presented to the public for comment. The online project database will host all development schemes and help capture community reactions to these schemes. Also, the roadmap and capacity enhancement recommendations will be presented.

The Consultant Team, Project Team, and PCPC staff will prepare for, run, and synthesize the findings from the community meeting.

PHASE 3: Area-Wide Plan and Implementation Strategy [months 13-20]
Phase 3 activities will culminate in the release of the completed Brownfield Area-Wide Plan and Implementation Strategy for the Lower Frankford Creek Watershed. Phase 4 tasks include:

Task 3a) Revise Transportation Framework, Open Space Framework, and Conceptual Designs for Catalyst / High Priority Sites:
The Consultant and Project Teams will revise the Transportation Framework, Open Space Framework, and conceptual designs for Catalyst / High Priority Sites for inclusion in the Area-Wide Plan based on input from the community and BAC.

This task will be a joint effort of the Project and Consultant Teams.

Task 3b) Revise Site Development Decision Making Matrix:
The Consultant Team will revise the Site Development Decision Making Matrix taking into account feedback from project stakeholders and the second public meeting or publication in the Area-Wide Plan.

Task 3c) Produce Community Roadmap:
To assure the site development balance required in the “sustainable parcel” approach, the Consultant Team will produce and maintain a roadmap to enable the community to track implementation progress and remain active and present in further site development phases. This roadmap will include specific roles for community groups going forward.

Task 3d) Draft BF-AWP:
With oversight from the Project Team, the Consultant Team will produce the DRAFT Area-Wide plan, incorporating the Transportation Framework, Open Space Framework, Site Development Decision Making Matrix, Conceptual Designs for Catalyst / High Priority Sites, recommendations to enhance DRCC Capacity, Community Roadmap, and Implementation Strategy. The plan will be posted on the project website and printed for distribution with a targeted outreach strategy including traditional and social media.
Task CM 3) Community Meeting 3 [month 18]:
The DRAFT Area-Wide Plan will be presented at the fourth community meeting so that feedback can be collected and incorporated into the final plan. The fourth public meeting(s) will be run in an open house format and may be held in multiple locations.

_The Consultant Team, Project Team, and PCPC staff will prepare for, run, and synthesize the findings from the community meeting._

Task 3e) Plan Finalization and Reveal:
The Consultant Team will revise and finalize the Area-Wide plan taking into account feedback from stakeholders and the fourth public meeting. The final plan will then be presented to the Planning Commission for adoption and printed for distribution with a targeted outreach strategy including traditional and social media.

_This task will be a joint effort of the Project and Consultant Teams._

PROJECT MANAGEMENT AND MEETINGS: The Consultant Team will be expected to participate in steering committee meetings and EPA Coordination Meetings. In addition, the Consultant Team may be called upon to assist the Project Team prepare for and present project updates to the DRCC Board and at the monthly public meeting of the PCPC.

2. Tangible Work Products
The PCPC requires completion and delivery of at least the tangible work products listed below. The proposed scope of work should state in detail how the Applicant will produce each work product, including the personnel/job titles (as identified in Section K, Organizational and Personnel Requirements), that will be responsible for delivering the work product. For each work product, the Applicant should propose criteria for satisfactory completion and delivery. Applicants may propose additional or revised tangible work products, but should explain why each is necessary to achieve the project objectives.

PHASE 1: Research and Analysis [months 1-6]
Phase 1 deliverables will establish a baseline knowledge of the catalyst / high priority sites and the general project area in order to formulate community and economic development goals. Major deliverables for Phase 2 include:

- GIS Brownfields Inventory database (task 1b)
- Environmental Conditions Analysis memo (task 1c)
- Urban Land Market Analysis memo (task 1d)
- Public Health / Built Environment Analysis memo (task 1e)
- PowerPoint (or similar software) presentation with graphics (task CM 1)
PHASE 2: Visioning and Planning [months 7-12]

Phase 2 deliverables include the work of integrating the data collected in Phase 1 into frameworks and matrices, which will form the basis for the plan to be developed in Phase 3. Major deliverables for Phase 3 include:

- Draft Transportation Framework map and narrative (task 2a)
- Draft Open Space Framework map and narrative (task 2b)
- Draft Site Development Decision Making Matrix (task 2c)
- Draft Conceptual Designs for Catalyst Sites (task 2d)
- Recommendations to Enhance DRCC Capacity memo (task 2e)
- PowerPoint (or similar software) presentation with graphics (task CM 2)

PHASE 3: Months 13-20:

Phase 3 deliverables will culminate in the release of the completed Brownfield Area-Wide Plan and Implementation Strategy for the Lower Frankford Creek Watershed. Major deliverables for Phase 3 include:

- Final Transportation and Open Space Framework maps and narratives (task 3a)
- Final Site Development Decision Making Matrix (task 3b)
- Community Roadmap (task 3c)
- Draft Brownfields Area-Wide Plan (task 3d)
- PowerPoint (or similar software) presentation with graphics (task CM 3)
- Final Brownfields Area-Wide Plan (task 3e)
D. Timetable

The PCPC anticipates that the work required under this RFP will be completed within approximately 20 months after project start and according to the approximate schedule in the table below, based on PCPC’s identification of critical milestones and tasks. The scope of work proposed by Applicant should include a detailed project schedule that identifies all tasks, activities, deliverables, and milestones the Applicant proposes to carry out for the project and a time of completion (measured from project start date) for each. The Applicant should state the number of days following PCPC’s authorization to proceed under the City contract by which it will be ready to start the work, including any mobilization time. If the Applicant proposes a different overall time of performance, it should state its reasons.

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<tr>
<th>Task</th>
<th>Task Description</th>
<th>Work Product</th>
<th>Completion</th>
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<tbody>
<tr>
<td><strong>PHASE 1: Research and Analysis</strong></td>
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<tr>
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<td>Review Existing Plans and Projects</td>
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<td>1b</td>
<td>Brownfields Inventory</td>
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<tr>
<td>1c</td>
<td>Environmental Conditions Analysis</td>
<td>Memo: Environmental Conditions</td>
<td>Month 6</td>
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<tr>
<td>1d</td>
<td>Urban Land Market Analysis</td>
<td>Memo: Urban Land Market Analysis</td>
<td>Month 6</td>
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<tr>
<td>1e</td>
<td>Public Health / Built Environment Analysis</td>
<td>Memo: Public Health / Built Environment</td>
<td>Month 6</td>
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<td>CM1</td>
<td>Community Meeting</td>
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<td>Month 6</td>
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<td><strong>PHASE 2: Visioning and Planning</strong></td>
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<td>2a</td>
<td>Transportation Framework</td>
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<td>2b</td>
<td>Open Space Framework</td>
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<td><strong>PHASE 3: Area-Wide Plan and Implementation Strategy</strong></td>
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<td>3a</td>
<td>Revise Transportation Framework, Open Space Framework, and Conceptual Designs for Catalyst / High Priority Sites</td>
<td>Final Transportation and Open Space Framework maps and narratives</td>
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<td>3b</td>
<td>Revise Site Development Decision Making Matrix</td>
<td>Final Site Development Decision Making Matrix</td>
<td>Month 15</td>
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<td>Produce Community Roadmap</td>
<td>Community Roadmap Narrative w/ charts and graphics</td>
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<td>3d</td>
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<td>Draft Brownfields Area-Wide Plan</td>
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<td>CM3</td>
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<td>Plan Finalization and Reveal</td>
<td>Final Brownfields Area-Wide Plan</td>
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<td>EPA Coordination Meetings (6)</td>
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<tr>
<td>PM</td>
<td>DRCC / PCPC Update Meetings (6)</td>
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E. Hours and Location of Work

The hours of operation for the PCPC are Monday through Friday 9am – 5pm. Non-electronic correspondence and deliverables should be scheduled between these hours when possible.

PCPC’s offices are located at:
One Parkway Building
1515 Arch Street, 13th Floor
Philadelphia PA, 19102

F. Monitoring; Security

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

G. Reporting Requirements

The successful Applicant shall report to the City of Philadelphia on a regular basis regarding the status of the project and its progress in providing the contracted services and/or products. At a minimum, the successful Applicant shall submit a quarterly invoice detailing the services and/or products provided, the goals/tasks accomplished, and the associated costs. If hourly rates are charged, the invoice must also detail the number of hours, the hourly rate, and the individual who performed the service.

As part of its cooperative agreement with the EPA, PCPC will complete and submit to EPA quarterly reports. Quarterly reports will include information on work status, work progress, difficulties encountered, preliminary results, and a statement of activity anticipated during the subsequent reporting period. A discussion of expenditures, a comparison of the percentage of the project completed to the project schedule, changes in key personnel concerned with the project, an explanation of discrepancies, and any other information requested through terms and conditions will also be included in the report. In addition, deliverables (see II.C) will be submitted with quarterly reports.

Each quarterly report to the EPA will also include information on the following:

- all community involvement activities held during the reporting period and those expected in the next reporting period;
- initiation or completion of key project deliverables and milestones, as identified in this workplan (e.g., existing conditions report, market study, infrastructure analysis, project mapping, etc);
- existing, planned or desired partnership and coordination activities with other entities (e.g., report on efforts to coordinate this project with community-based organizations, local, regional, state, tribal or federal agencies, foundations, etc., and briefly explain why these are relevant to this project);
- leveraged funds or resources for the project/affecting the project area; and any unique project approaches PCPC wishes to highlight.
The selected Consultant Team will be expected to participate in meetings with the EPA and assist PCPC in preparing quarterly reports.

**H. Cost Proposal**

*Fixed Price Compensation:*

Applicants must provide a detailed cost proposal, with a line-item breakdown of the costs for specific services and work products proposed. Cost proposals must be “fixed price” proposals. The proposed price must include all costs that will be charged to the City for the services and tangible work products the Applicant proposes to perform and deliver to complete the project and including, but not limited to, costs for the following, if the PCPC is to pay for them: employee compensation and fringe benefits; communication; printing; administrative expenses; bonding; acquisition of real estate; rent, utilities, maintenance and security related to real estate; travel (reimbursable only at rates approved by the PCPC and in accordance with current City policies, which can be obtained from the PCPC); project management; development; testing; implementation; maintenance; training; and all other work proposed. Any contract resulting from this RFP will provide for a not-to-exceed amount in the compensation section of the contract.

Proposed costs shall not exceed:

- Phase 2: $40,000
- Phase 3: $45,000
- Phase 4: $70,000
- Project Management: $5,000

PCPC will not consider proposals in excess of $160,000, including all compensation, expenses, and any other amounts to be paid by the department.

*Please see Appendix F for the Budget Form, which must be used by all applicants as a uniform method of obtaining the cost information required to evaluate competing cost proposals.*

**I. Organization and Personnel Requirements**

The proposal must identify all personnel who will perform work on the project, by education level, skill set (described in detail), experience level, and job title. Resumes of all personnel so identified should be included in Applicant’s proposal. The PCPC expects the following with respect to the successful Applicant’s organizational structure and personnel:

- Organization history/experience
- Experience with EPA’s Brownfields Area-Wide Planning Program pilot round (FY 2010) or the State of New York’s Brownfield Opportunity Areas (BOA) Program.
- Organization’s references (at least three)
- Technical expertise of personnel: licenses, certifications, years of experience
J. Technology Capabilities

The successful Applicant will be responsible for having and using the following technology capabilities and resources in performing the work: ArcGIS, Adobe Creative Suite, Microsoft Office, and Google Drive.

The City will provide the following technology capabilities and resources: GIS files for property ownership, street centerlines, hydrology features, aerial photography, and other applicable geo-referenced files.

K. Available Information

EPA Brownfields Area-Wide Planning Program:
http://www.epa.gov/brownfields/areawide_grants.htm

EPA Region III Office of Brownfields & Land Revitalization
http://www.epa.gov/reg3hwmd/bf-lr/

Philadelphia City Planning Commission:
http://phila.gov/cityplanning

Philadelphia2035 Comprehensive Plan:
http://phila2035.org/
III. Proposal Format, Content, and Submission Requirements; Selection Process

A. Proposal Format
Proposals submitted in response to this RFP must include a cover letter signed by the person authorized to issue the proposal on behalf of the Applicant, and the following information, in the sections and order indicated. Please do not exceed 150 pages.

In addition to a PDF file, 8 bound hard copies should be delivered by the deadline to:
Philadelphia City Planning Commission
Attn: Ian Litwin
One Parkway Building
1515 Arch Street, 13th Floor
Philadelphia PA, 19102

1. Table of Contents

2. Introduction/Executive Summary

3. Applicant Profile
   Provide a narrative description of the Applicant itself, including the following:
   a. Applicant’s business identification information, including name, business address, telephone number, website address, and federal taxpayer identification number or federal employer identification number;
   b. A primary contact for the Applicant, including name, job title, address, telephone and fax numbers, and email address;
   c. A description of Applicant’s business background, including, if not an individual, Applicant’s business organization (corporation, partnership, LLC, for profit or not for profit, etc.), whether registered to do business in Philadelphia and/or Pennsylvania, country and state of business formation, number of years in business, primary mission of business, significant business experience, whether registered as a minority-, woman-, or disabled-owned business or as a disadvantaged business and with which certifying agency, and any other information about Applicant’s business organization that Applicant deems pertinent to this RFP.

4. Project Understanding
   Provide a brief narrative statement that confirms Applicant’s understanding of, and agreement to provide, the services and/or tangible work products necessary to achieve the objectives of the project that is the subject of this RFP. Applicant shall describe how the Applicant’s business experience will benefit the project.

5. Proposed Scope of Work
   Provide a proposed scope of work, including a cost proposal and project timetable (schedule), in accordance with Section II, “Scope of Work,” of this RFP. For the cost proposal, please include the following:
   - standard budget form from Appendix F of this RFP
   - hourly rates and number of hours for all staff that will work on this project
6. **Statement of Qualifications; Relevant Experience**

Provide a statement of qualifications and capability to perform the services sought by this RFP, including a description of relevant experience with projects that are similar in nature, size and scope to that which is the subject of this RFP. If any minimum qualifications for performance are stated in this RFP, Applicant must include a statement confirming that Applicant meets such minimum requirements.

Applicant shall specifically detail experience in either the EPA’s Brownfields Area-Wide Planning Program pilot round (FY 2010) or the State of New York’s Brownfield Opportunity Areas (BOA) Program.

7. **References**

Provide at least three references, preferably for projects that are similar in type, scope, size and/or value to the work sought by this RFP. If applicable, Applicant should provide references for projects with other municipalities that are similar in size to the City of Philadelphia. For each reference, include the name, address and telephone number of a contact person.

8. **Proposed Subcontractors**

State the intention to use subcontractors to perform any portion of the work sought by this RFP. For each such subcontractor, provide the name and address of the subcontractor, a description of the work Applicant intends the named subcontractor to provide, and whether the subcontractor can assist with fulfilling goals for inclusion of minority, woman, or disabled-owned businesses or disadvantaged businesses as stated in Appendix B.

9. **Requested Exceptions to Contract Terms**

State exceptions, if any, to City Contract Terms that Applicant requests, including the reasons for the request and any proposed alternative language. (See Section III.B for more information.)

10. **Solicitation for Participation and Commitment Form**

As a separate document, include a completed Solicitation for Participation and Commitment Form. The form is provided with Appendix B to this RFP. (See Section III.D for more information.)

11. **Tax and Regulatory Status and Clearance Statement**

Include a statement, in the form requested in Appendix C, attesting to Applicant’s tax and regulatory compliance with the City. (See Section III.E for more information.)

12. **Disclosure of Litigation; Disclosure of Administrative Proceedings**

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

13. Statement of Financial Capacity
Provide documentation demonstrating fiscal solvency and financial capability to perform the work sought by this RFP. Consider providing one or more of the following:
- General statement of the Applicant’s financial condition;
- Applicant’s most recent audited or unaudited financial statements;
- Disclosure of any bankruptcy filings over the past five years;
- Most recent IRS Form 990 (for non-profit organizations only).

14. Local Business Entity or Local Impact Certification.
(Optional if applicable to Applicant)
If applicable, Applicant may elect to provide the certification statement in the form of Appendix D as to Applicant’s status as a Local Business Entity or its local impact if awarded the contract. (See Section III.G for more information.)

15. Disclosure Requirements
Disclose all information required under Chapter 17-1400 of the Philadelphia Code, including any local and state political campaign contributions, on the forms provided through eContract Philly. (See Section III.H for more information.)

16. Defaults
Provide a description, in detail, of any situation occurring within the past five (5) years in which the Applicant, or a joint venture or partnership of which Applicant was a part, defaulted or was deemed to be in noncompliance of any contractual obligations, explaining the issues involved in the default, the outcome, the actions taken by Applicant to resolve the matter. Also provide the name, title and telephone number of the party to the contract who asserted the event of default or noncompliance or the individual who managed the contract for that party.

B. No Exceptions to Contract Terms in Proposal
The City’s standard contract terms and conditions for services of the type sought by this contracting opportunity (General Consultant Services) are set forth in the General Provisions attached to this RFP as Appendix A. By submitting a proposal in response to this contract opportunity, the Applicant agrees that it will enter into a contract with the City containing the Contract Terms.

If, after the City issues its Notice of Intent to Contract to an Applicant, the Applicant seeks Requested Exceptions to Contract Terms that were not stated in its proposal, the City may, in its sole discretion, deny the Requested Exceptions without consideration or reject the proposal.
The City reserves the right, in its sole discretion, (i) to waive any failure to comply with the terms of this Notice to Applicants if it determines it is in the best interest of the City to do so; and (ii) to require or negotiate terms and conditions different from and/or additional to the Contract Terms in any final contract resulting from this contract opportunity, without notice to other Applicants and without affording other Applicants any opportunity to revise their proposals based on such different or additional terms.

C. Office of Economic Opportunity – Participation Commitment
Each Applicant is subject to the provisions of Mayoral Executive Order 03-12, the City’s Antidiscrimination Policy, and is required to exercise its “Best and Good Faith Efforts” in response to the ranges specified in Appendix B included with this RFP for participation by Minority Business Enterprises (“MBE”), Woman Business Enterprises (“WBE”) and Disabled Business Enterprises (“DSBE”) (collectively, “M/W/DSBE”) as those terms are defined in Executive Order 03-12. Forms, instructions and special contract provisions for the Antidiscrimination Policy explain these requirements in more detail and are included in Appendix B to this RFP. Applicants are required to complete and return with their proposals the “Solicitation for Participation and Commitment Form” which is included in Appendix B.

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

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

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

If an Applicant or a proposed subcontractor is not currently in compliance with the City’s tax and regulatory codes, please contact the Revenue Department to make arrangements to come into compliance at 215-686-6600 or revenue@phila.gov.
Applicants need not have a City of Philadelphia Business Income and Receipts Tax Account Number (formerly Business Privilege Tax Account Number) and Commercial Activity License Number (formerly Business Privilege License Number) to respond to this RFP, but will, in most circumstances, be required to obtain one or both if selected for award of the contract contemplated by the RFP. Applications for a Business Income and Receipts Tax Account Number or a Commercial Activity License may be made online by visiting the City of Philadelphia Business Services Portal at http://business.phila.gov/Pages/Home.aspx and clicking on “Register Now.” If you have specific questions, call the Department of Revenue at 215-686-6600 for questions related to City of Philadelphia Business Income and Receipts Tax Account Number or the Department of Licenses and Inspections at 215-686-2490 for questions related to the Commercial Activity License.

E. Certification of Compliance with Equal Benefits Ordinance

If this RFP is a solicitation for a “Service Contract” as that term is defined in Philadelphia Code Section 17-1901(4) (“A contract for the furnishing of services to or for the City, except where services are incidental to the delivery of goods. The term does not include any contract with a governmental agency.”), and will result in a Service Contract in an amount in excess of $250,000, pursuant to Chapter 17-1900 of The Philadelphia Code, the successful Applicant shall, for any of its employees who reside in the City, or any of its employees who are non-residents subject to City wage tax under Philadelphia Code Section 19-1502(1)(b), be required to extend the same employment benefits the successful Applicant extends to spouses of its employees to life partners of such employees, absent a waiver by the City under Section 17-1904. By submission of their Proposals in response to this RFP, all Applicants so acknowledge and certify that, if awarded a Service Contract pursuant to this RFP, they will comply with the provisions of Chapter 17-1900 of The Philadelphia Code and will notify their employees of the employment benefits available to life partners pursuant to Chapter 17-1900. Following the award of a Service Contract subject to Chapter 17-1400 and prior to execution of the Service Contract by the City, the successful Applicant shall certify that its employees have received the required notification of the employment benefits available to life partners and that such employment benefits will actually be available, or that the successful Applicant does not provide employment benefits to the spouses of married employees. The successful Applicant’s failure to comply with the provisions of Chapter 17-1900 or any discrimination or retaliation by the successful Applicant against any employee on account of having claimed a violation of Chapter 17-1900 shall be a material breach of the any Service Contract resulting from this RFP.

F. Local Business Entity or Local Impact Certification

Pursuant to Mayoral Executive Order No. 04-12, the City Department will, in the selection of the successful Applicant, consider whether that Applicant has certified that either (1) Applicant meets the criteria stated in Section 17-109(3)(b) of the Philadelphia Code to qualify as a Local

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1 Applicants that have a Business Privilege Tax Number should use that number, as it is automatically their Commercial Activity License Number, and need not apply for a new Commercial Activity License Number. Similarly, Applicants with a Business Privilege Tax Account Number should use that number as their Business Income and Receipts Tax Account Number.

2 Commercial Activity Licenses are not typically required for non-profit organizations; however, Business Income and Receipts Tax Account Numbers typically are required.

3 A link to the Philadelphia Code is available on the City’s official web site, www.phila.gov. Click on “City Code and Charter,” located to the bottom right of the welcome page under the box, “Transparency.”
Business Entity or (2) in the performance of the resulting contract, Applicant will employ City residents, or perform the work in the City. Any Applicant who wishes to demonstrate its eligibility for this consideration shall do so by completing, executing and attaching to its application a completed Local Business Entity or Local Impact Certification, the form of which is attached to this RFP as Exhibit D. The Applicant shall then also include in a separate section of the application, labeled “Local Business Entity or Local Impact Certification,” a statement that the Applicant believes it has met the Local Business Entity or Local Impact criteria “as set forth in the attached Local Business Entity or Local Impact Certification.” The City Department shall deem it a positive factor where the Applicant has, in the City’s sole discretion, met the Local Business Entity or Local Impact criteria.

G. Mandatory Online Application Requirements
You must apply online in order to be eligible for award of the non-competitively bid contract opportunity described in this RFP; proposals and any other related documents prepared in response to this RFP will not be considered unless they are filed, within the prescribed time period, through eContract Philly, which can be accessed on the City’s website at www.phila.gov/contracts by clicking on eContract Philly. The posting of this RFP on eContract Philly is also referred to as a Notice of Contracting Opportunity.

The City requires that any Applicant who establishes an account on eContract Philly and utilizes that account for the purpose of responding to a particular contract opportunity is the same individual or business entity that, if awarded the contract, will enter into and perform the resulting contract with the City. Except in the case of joint ventures, applications posted on eContract Philly from Applicants that purport to be filing an application on behalf of another individual or business entity will not be considered, even if the other business entity is an affiliate of the Applicant.

In the case of multiple business entities that if awarded a contract have formed, or intend to form a joint venture to perform the contract, a single business entity may file an application on behalf of all such business entities so long as (i) the filing business entity is or will be a member of the joint venture, (ii) the application is made in the name of the existing or proposed joint venture, (iii) documentation is submitted with the application identifying all business entities that comprise, or will comprise, the joint venture, and demonstrating a binding agreement among those business entities to perform the contract as the joint venture identified in the application (for a joint venture that has not yet been formed, documentation signed by each identified business entity evidencing a commitment to form the joint venture if awarded the contract is sufficient), and (iv) the non-filing business entities are eligible for award of a City contract and make the disclosures required by Chapter 17-1400 of The Philadelphia Code (described in greater detail below) within fourteen (14) days after the joint venture receives notice that it has been awarded the contract.

Pursuant to Chapter 17-1400 of The Philadelphia Code, Applicants and their subcontractors are required to disclose their campaign contributions to political candidates and incumbents who are running for, or currently serving in, a local (Philadelphia) or state-wide elected office anywhere

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4 The eContract Philly website requires Internet Explorer 5.0 or greater running on Microsoft Windows to ensure full functionality.
within the Commonwealth of Pennsylvania (federal campaign contributions are not included); any consultants used in responding to the RFP and contributions those consultants have made; prospective subcontractors; and whether Applicant or any representative of Applicant has received any requests for money or other items of value or advice on particular firms to satisfy minority-, woman- or disabled-owned business participation goals from City employees. This information, as well as a proposal or any other response document required, is part of the online application. For more information, please consult the reference materials found on the website, e-mail econtractphilly@phila.gov or call 215-686-4914.

**Applicants who have failed to file complete applications – including the online disclosure forms – through the eContract Philly online application process prior to the closing date and time will not be considered for the contract.**

You are encouraged to start and complete your online application on eContract Philly as early as possible. Please be aware that internet connection speed depends on a variety of factors including: configuration of your computer, configuration of your business or home network, the condition of the wiring at your location, network or internet congestion (available bandwidth). Please prepare and plan accordingly to ensure a timely submission. Your proposal and other application documents will not be considered submitted until you sign the application and click on the “submit” button at the conclusion of the eContract Philly process.

You can begin uploading (or attaching) your proposal and other application materials at any time. It is especially prudent for you to start uploading your attachments earlier if you have a large number of attachments (e.g. over five documents) or larger-sized attachments (e.g. above 5 MB). Please be advised that the eContract Philly website will not accept documents larger than 8 MB. If you have documents larger than 8 MB, you must separate them into smaller documents in order to successfully upload them to the system. Until you sign and submit your application, your materials are not accessible to any staff with the City of Philadelphia. Once you have signed and submitted your application, your application is accessible only to appropriate contract staff within the City of Philadelphia.

You are advised that any individual who signs and submits an application on eContract Philly must be an authorized signatory of the Applicant, authorized to both bind the Applicant to its proposal and to make the disclosures required to complete the eContract Philly process. Therefore, in conjunction with their electronic signatures provided at the conclusion of the submission of their applications online, signatories will be required to certify that they are the Applicant or are employees or officers of the Applicant duly authorized to execute the application and make disclosures on the Applicant’s behalf; and they represent and covenant that, to the best of their knowledge after appropriate inquiry, all of the information and disclosures provided are true and contain no material misstatement or omissions.

**H. Selection Process**
The City will base its selection on criteria that include, but are not limited to:

1. Superior ability or capacity to meet particular requirements of contract and needs of City Department and those it serves
2. Eligibility under Code provisions relating to campaign contributions
3. Superior prior experience of Applicant and staff
   Preference will be given to Applicants with:
   - Experience in either the EPA’s Brownfields Area-Wide Planning Program pilot round (FY 2010) or the State of New York’s Brownfield Opportunity Areas (BOA) Program.
   - Documented prior experience in performing project(s) of similar size and scope to the work sought by the RFP
   - Demonstrated ability to meet project deadlines

4. Superior quality, efficiency and fitness of proposed solution for City Department
   - Utilization of most efficient methodology
   - Innovativeness of solution
   - Utilization of best practices
   - Ability to meet project deadlines under proposed solution/project plan
   - Staffing model
   - Expressed willingness to comply with City and/or department standard contract terms (e.g., indemnification, insurance, nondiscrimination)

5. Superior skill and reputation, including timeliness and demonstrable results

6. Special benefit to continuing services of incumbent, such as operational difficulties with transition or needs of population being served

7. Benefit of promoting long-term competitive development and allocation of experience to new or small businesses, including those owned by minority or disabled persons or by women

8. Lower cost

9. Administrative and operational efficiency, requiring less City oversight and administration

10. Anticipated long-term cost effectiveness

11. Meets prequalification requirements

12. Applicant’s certification that it is a Local Business Entity under Section 17-109(3)(b) of the Philadelphia Code or, in the performance of the resulting contract, it will employ City residents, or perform the work in the City

If a contract is awarded pursuant to this RFP, in compliance with Section 17-1402 (c) of The Philadelphia Code, a notice will be published on the City’s eContract Philly website (go to http://www.phila.gov/contracts and click on eContract Philly) listing the names of all Applicants and identifying the successful Applicant and the basis for the award to that Applicant. This notice will appear on the City’s website for at least one week before the contract is executed. In no event, however, shall the City Department or City Agency issuing this RFP be obligated to debrief unsuccessful Applicants as to the basis for its decision not to award a contract to them.
IV. Proposal Administration

A. Procurement Schedule

<table>
<thead>
<tr>
<th>Event</th>
<th>Date</th>
</tr>
</thead>
<tbody>
<tr>
<td>RFP Posted</td>
<td>October 7, 2013</td>
</tr>
<tr>
<td>Pre-Proposal Meeting</td>
<td>October 17, 2013</td>
</tr>
<tr>
<td>Site Visit</td>
<td>N/A</td>
</tr>
<tr>
<td>Applicant Questions Due</td>
<td>October 24, 2013</td>
</tr>
<tr>
<td>Answers Posted on eContract Philly Website</td>
<td>October 28, 2013</td>
</tr>
<tr>
<td>Proposals Due</td>
<td>November 8, 2013</td>
</tr>
<tr>
<td>Applicant Interviews, Presentations</td>
<td>November 18 -22, 2013</td>
</tr>
<tr>
<td>Applicant Selection</td>
<td>December 9, 2013</td>
</tr>
<tr>
<td>Contract Execution</td>
<td>February 1, 2014</td>
</tr>
<tr>
<td>Commencement of Work</td>
<td>March 1, 2014</td>
</tr>
</tbody>
</table>

The above dates are estimates only and the City reserves the right, in its sole discretion, to change this schedule. Notice of changes in the pre-proposal meeting date/time or location, the due date for Applicant questions, and the date for proposal submission will be posted on the City’s website at [www.phila.gov\contracts](http://www.phila.gov\contracts) (click on eContract Philly). The other dates/times listed may be changed without notice to prospective Applicants.

B. Questions Relating to the RFP

All questions concerning this RFP must be submitted in writing via email to Ian Litwin at ian.litwin@phila.gov no later than October 24, 2013 at 5pm, and may not be considered if not received by then. The City will respond to questions it considers appropriate to the RFP and of interest to all Applicants, but reserves the right, in its discretion, not to respond to any question. Responses will be posted on the City’s website at [www.phila.gov\contracts](http://www.phila.gov\contracts) (click on eContract Philly and go to the Opportunity Details page for this notice of contracting opportunity) on October 28, 2013. Responses posted on the City’s website become part of the RFP upon posting. The City reserves the right, in its discretion, to revise responses to questions after posting, by posting the modified response. No oral response to any Applicant question by any City employee or agent shall be binding on the City or in any way considered to be a commitment by the City.

C. Pre-Proposal Conference

A pre-proposal meeting to review the requirements of this RFP will be held in Philadelphia, Pennsylvania on October 17, 2013, starting at 10am, at the following location: 1515 Arch Street, 13th floor, Philadelphia, PA 19102.

The City believes that attendance at the pre-proposal meeting is essential for successful participation in this RFP procurement and expects every Applicant to attend. The City reserves the right, in its sole discretion, to reject without evaluation the proposal of any Applicant that does not attend the meeting.
D. Interviews; Presentations
The costs of interviews and presentations (including travel) are the sole responsibility of the applicant. The City reserves the right, in its discretion, to only invite select applicants for interviews or presentations.

E. Term of Contract
It is anticipated that the initial term of the Contract shall commence on March 1, 2013 (the “Initial Term”) and, unless sooner terminated by the City pursuant to the terms of the Contract, shall expire up to twelve months thereafter, on March 1, 2014 – February 28, 2015. The City may, at its sole option, amend the Contract to add up to three (3) additional successive one-year terms (“Additional Terms”). Except as may be stated otherwise in such amendment, the terms and conditions of this Contract shall apply throughout each Additional Term.
V. General Rules Governing RFPs/Proposals; Reservation of Rights and Confidentiality

A. Revisions to RFP
The City reserves the right to change, modify or revise the RFP at any time. Any revision to this RFP will be posted on eContract Philly with the original Opportunity Details. It is the Applicant’s responsibility to check the eContract Philly website frequently to determine whether additional information has been released or requested.

B. City Employee Conflict Provision
City of Philadelphia employees and officials are prohibited from submitting a proposal in response to this RFP. No proposal will be considered in which a City employee or official has a direct or indirect interest.

C. Proposal Binding
By submitting its proposal, each Applicant agrees that it will be bound by the terms of its proposal for a minimum of 180 calendar days from the application deadline for this RFP. An Applicant’s refusal to enter into a contract which reflects the terms and conditions of this RFP or the Applicant’s proposal may, in the City’s sole discretion, result in rejection of Applicant’s proposal.

D. Contract Preparation Fee
Pursuant to Chapter 17-700 of The Philadelphia Code, the successful Applicant must generally pay a contract preparation fee. Regulations promulgated by the City Solicitor currently establish the following schedule of fees for preparation of the initial contract and subsequent amendments, based upon the amounts involved and whether the successful Applicant is a for-profit or nonprofit entity:

<table>
<thead>
<tr>
<th>Amount of Contract or Amendment</th>
<th>For-Profit Fees</th>
<th>Non-Profit Fees</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Contract</td>
<td>Amendment</td>
</tr>
<tr>
<td>$0-$30,000</td>
<td>$50</td>
<td>$50</td>
</tr>
<tr>
<td>$30,001-$100,000</td>
<td>$200</td>
<td>$170</td>
</tr>
<tr>
<td>$100,001-$500,000</td>
<td>$500</td>
<td>$340</td>
</tr>
<tr>
<td>$500,001-$1,000,000</td>
<td>$900</td>
<td>$520</td>
</tr>
<tr>
<td>Over $1,000,000</td>
<td>$1,500</td>
<td>$1,000</td>
</tr>
</tbody>
</table>

In its discretion, the Law Department may grant a full or partial waiver of any of the above fees in exceptional cases for good cause shown, such as violation of a grant covenant. Governmental entities are exempt from the fees. The Law Department reserves the right to collect up to twice the stated fee if extensive negotiation is required to reach a final contract with the successful Applicant.

E. Reservation of Rights
By submitting its response to this notice of contract opportunity as posted on the eContract Philly web site (“eContractPhilly”), the Applicant accepts and agrees to this Reservation of Rights. The term “notice of contract opportunity,” as used herein, means this RFP and includes all
information posted on eContract Philly in relation to this “New Contract Opportunity” as published on eContract Philly, including, without limitation, the information posted for this opportunity on the “Detailed Information for Opportunity” page, in the eContractPhilly “Opportunity List,” and including in addition to this RFP, any other document linked to the Detailed Information for Opportunity Page or otherwise displayed on or linked to this notice of contract opportunity.

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

2. **Proposal Selection and Contract Negotiation**
   The City reserves and may, in its sole discretion, exercise any one or more of the following rights and options with respect to proposal selection:
   
   (a) to reject any proposal if the City, in its sole discretion, determines the proposal is incomplete, deviates from or is not responsive to the requirements of this notice of contract opportunity, does not comply with applicable law (including, without limitation, Chapter 17-1400 of The Philadelphia Code), is conditioned in any way, or contains ambiguities, alterations or items of work not called for by this notice of contract opportunity, or if the City determines it is otherwise in the best interest of the City to reject the proposal;

   (b) to reject any proposal if, in the City’s sole judgment, the Applicant has been delinquent or unfaithful in the performance of any contract with the City or with others; is delinquent, and has not made arrangements satisfactory to the City, with respect to the payment of City taxes or taxes collected by the City on behalf of the School District of Philadelphia, or other indebtedness owed to the City; is not in
compliance with City regulatory codes applicable to Applicant; is financially or technically incapable; or is otherwise not a responsible Applicant;

(c) to waive any defect or deficiency in any proposal, including, without limitation, those identified in subsections 1) and 2) preceding, if, in the City’s sole judgment, the defect or deficiency is not material to the proposal;

(d) to require, permit or reject, in the City’s sole discretion, amendments (including, without limitation, information omitted), modifications, clarifying information, and/or corrections to their proposals by some or all of the Applicants at any time following proposal submission and before the execution of a final contract;

(e) to issue a notice of intent to contract and/or execute a contract for any or all of the items in any proposal, in whole or in part, as the City, in its sole discretion, determines to be in the City’s best interest;

(f) to enter into negotiations with any one or more Applicants regarding price, scope of services, or any other term of their proposals, and such other contractual terms as the City may require, at any time prior to execution of a final contract, whether or not a notice of intent to contract has been issued to any Applicant and without reissuing this notice of contract opportunity;

(g) to enter into simultaneous, competitive negotiations with multiple Applicants or to negotiate with individual Applicants, either together or in sequence, and to permit or require, as a result of negotiations, the expansion or reduction of the scope of services or changes in any other terms of the submitted proposals, without informing other Applicants of the changes or affording them the opportunity to revise their proposals in light thereof, unless the City, in its sole discretion, determines that doing so is in the City’s best interest;

(h) to discontinue negotiations with any Applicant at any time prior to the execution of a final contract, whether or not a notice of intent to contract has been issued to the Applicant, and to enter into negotiations with any other Applicant, if the City, in its sole discretion, determines it is in the best interest of the City to do so;

(i) to rescind, at any time prior to the execution of a final contract, any notice of intent to contract issued to an Applicant, and to issue or not issue a notice of intent to contract to the same or a different Applicant and enter into negotiations with that Applicant, if the City, in its sole discretion, determines it is in the best interest of the City to do so;

(j) to elect not to enter into any contract with any Applicant, whether or not a notice of Intent to Contract has been issued and with or without the reissuing this notice of contract opportunity, if the City determines that it is in the City’s best interest to do so;

(k) to require any one or more Applicants to make one or more presentations to the City at the City’s offices or other location as determined by the City, at the Applicant’s sole cost and expense, addressing the Applicant’s proposal and its ability to achieve the objectives of this notice of contract opportunity;

(l) to conduct on-site investigations of the facilities of any one or more Applicants (or the facilities where the Applicant performs its services);

(m) to inspect and otherwise investigate projects performed by the Applicant, whether or not referenced in the proposal, with or without consent of or notice to the Applicant;
(n) to conduct such investigations with respect to the financial, technical, and other qualifications of each Applicant as the City, in its sole discretion, deems necessary or appropriate; and,
(o) to do any of the foregoing without notice to Applicants or others, except such notice as the City, in its sole discretion, elects to post on eContractPhilly.

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

F. Confidentiality and Public Disclosure

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

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

THE CITY OF PHILADELPHIA PROFESSIONAL SERVICES CONTRACT
GENERAL PROVISIONS FOR GENERAL CONSULTANT SERVICES
THE CITY OF PHILADELPHIA

PROFESSIONAL SERVICES CONTRACT

GENERAL PROVISIONS

FOR

GENERAL CONSULTANT SERVICES
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GENERAL PROVISIONS

ARTICLE I: DEFINITIONS

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

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

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

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

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

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

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

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

1.9 **Charter.** The “Charter” means the Philadelphia Home Rule Charter, as it may be amended from time to time.
1.10 **City.** The “City” means The City of Philadelphia, a corporation and body politic existing under the laws of the Commonwealth of Pennsylvania, and includes its various executive and administrative departments, agencies, boards and commissions, including the Department and its legislature, City Council. The City is a City of the First Class under the laws of the Commonwealth of Pennsylvania.

1.11 **City Council.** “City Council” means the Council of The City of Philadelphia, as described in Article II of the Charter. City Council is the legislature of the City.

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

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

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

1.15 **Contract Cost Principles.** The “Contract Cost Principles,” means the “City of Philadelphia Contract Cost Principles and Guidelines,” as it may be amended from time to time, which specifies the Department’s guidelines for the qualitative and quantitative evaluation of contract services and materials, the determination of allowable costs, and the standards to determine the allowability of individual cost items, (copies are available from the Department upon request).

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

1.17 **Contributions.** “Contributions” shall have the meaning set forth in the Pennsylvania Election Code, 25 P.S. Section 3241.

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

1.19 **Event of Default.** “Event of Default” means those events defined and identified in Section 11.1 (Events of Default) of these General Provisions.
1.20 **Event of Insolvency.** “Event of Insolvency” means (a) the filing of a voluntary petition by Provider under the Federal Bankruptcy Code or any similar state or federal law; or (b) the filing of an involuntary petition against Provider under the Federal Bankruptcy Code or any similar state or federal law which remains undismissed for a period of forty-five (45) days; or (c) Provider’s making of an assignment for the benefit of creditors; or (d) the appointment of a receiver for Provider or for the property or assets of Provider, if such appointment is not vacated within forty-five (45) days thereafter; or (e) any other proceeding under any bankruptcy or insolvency law or liquidation law, voluntary or otherwise; or (f) Provider proves unable to pay its obligations as they mature; or (g) Provider is insolvent as otherwise defined under any Applicable Law.

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

1.22 **General Provisions.** “General Provisions” means these “The City of Philadelphia Professional Services Contract General Provisions for General Consultant Services”, which contains the standard provisions required by the City in its general consultant professional services contracts, and any exhibits identified in these General Provisions.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1.38 **Term.** “Term” has the meaning set forth in Section 2.1 (Initial Term) of the Provider Agreement.
1.39 **Termination Notice.** “Termination Notice” means a written notice from the City to Provider pursuant to Section 13.1 (Termination or Suspension for Convenience) below terminating this Contract.

**ARTICLE II: TERM**

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

2.2 **Additional Terms.** The City may, at its sole option, amend this Contract to add on an annual basis up to three (3) successive one (1) year terms (“Additional Terms”), unless any shorter term (or terms) is specified in the Provider Agreement. Unless otherwise stated in the Provider Agreement, the same terms and conditions applicable in the Initial Term shall be applicable in the Additional Term(s). The City shall give Provider thirty (30) days written notice of its intent to amend this Contract to add an Additional Term prior to each annual Additional Term. Each Additional Term shall be subject to appropriation of funds by City Council for such Additional Term. There shall be no liability or penalty to the City for electing not to amend the term of this Contract to add Additional Terms. Each Additional Term of this Contract shall be deemed to constitute a separate contract, whose term shall not exceed one (1) year.

**ARTICLE III: PROVIDER'S DUTIES AND COVENANTS**

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

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

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

3.4 Responsibility.

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

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

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

3.5 Subcontracts.

(a) Provider shall not delegate or enter into any Subcontract for the performance of any of its obligations under this Contract, in whole or in part, without on each occasion first obtaining the written consent of the Responsible Official.
(b) Provider shall submit to the Responsible Official copies of all proposed Subcontract(s) to be entered into by Provider, along with Provider’s written request for the City’s consent. All such Subcontracts must specify that:

1. work performed by Subcontractor shall be in conformity with the terms of this Contract;

2. nothing contained in such Subcontract shall be construed to impair the rights of the City under this Contract;

3. the City’s consent to or approval of any Subcontract shall not create any obligation of the City to any Subcontractor;

4. nothing contained in such Subcontract, or under this Contract, shall create any obligation of the City to any Subcontractor;

5. the City shall be expressly designated a third party beneficiary of the Subcontract;

6. upon request by the City (at the City’s sole option) and upon receipt of written notice from the City stating that this Contract between the City and Provider has been terminated, Subcontractor agrees that it will continue to perform its obligations under the Subcontract for the benefit of the City in conformity with the terms and conditions of this Contract, provided the City pays Subcontractor for the Services rendered and Materials provided by Subcontractor from and after the date of the termination of this Contract between the City and Provider at the same rate or in the same amount as set forth in the Subcontract for those Services and Materials provided by Subcontractor after such date of termination;

7. Subcontractor shall be bound by the same terms, covenants and conditions as Provider under this Contract; including, without limitation, confidentiality, maintenance and preservation of records, and audit by government representatives, under this Contract;

8. Subcontractor shall, effective on the date of the Subcontract, presently, fully and unconditionally assign, transfer and set over to the City all of Subcontractor’s right, title and interest in and to any sales and use tax which may be refunded as a result of a claim for refund for any materials purchased in connection with the Subcontract or this Contract, and Subcontractor shall covenant and agree that, (i) other than as directed by the City, it will not file a claim for refund for any sales or use tax which is the subject of this assignment; and (ii) the City, in its own name or in the name of Subcontractor, may file a claim for a refund of any sales or use tax covered by this assignment;
(9) Subcontractor shall not be indebted to the City (to satisfy this requirement, Provider shall include Subsection 4.1(g), “No Indebtedness to the City,” below, with appropriate adjustments for the identity of the parties, in all Subcontracts that are entered into for work to be performed pursuant to this Contract);

(10) Subcontractor shall comply with Chapter 17-400 of the Code (to satisfy this requirement, Provider shall include Subsection 14.2 (a), Chapter 17-400 of the Code, below, with appropriate adjustments for the identity of the parties, in all Subcontracts that are entered into for work to be performed pursuant to this Contract); and

(11) Subcontractor shall comply with Section 17-104 of the Code (to satisfy this requirement, Provider shall include subsection 14.6 (b) (Section 17-104 of the Code) below, with appropriate adjustments for the identity of the parties, in all Subcontracts that are entered into for work to be performed pursuant to this Contract).

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

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

(e) City-Related Agencies.

(1) If Provider is a City-Related Agency, as defined in Subsection 17-1401(9) of the Code, Provider shall abide by the provisions of Chapter 17-1400 of the Code in awarding any contract(s) pursuant to this Contract as though such contracts were directly subject to the provisions of Chapter 17-1400, except that the exception set forth at Subsection 17-1406(8) shall apply to Provider as if Provider were listed in that subsection.

(2) Unless approved by the City to the contrary, any approvals required by Chapter 17-1400 of the Code to be performed by the City Solicitor shall be performed by Provider by its General Counsel; any approvals required to be performed by the Director of Finance shall be performed by Provider by its Chief Financial Officer; and any approvals required to be performed by the Mayor shall be performed by Provider by its Executive Director.

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

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

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

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

**ARTICLE IV: PROVIDER’S REPRESENTATIONS AND COVENANTS**

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

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

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

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

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

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

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

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

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

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

(j) **Non-Suspension; Debarment.** Provider and all of the individuals acting
on Provider's behalf including, without limitation, Subcontractors, are not under suspension or
debarment from doing business with the Commonwealth of Pennsylvania, any other state, or the
federal government, or any department, agency or political subdivision of any of the foregoing. If
Provider cannot so warrant, then Provider shall submit to the Responsible Official a full, complete
written explanation as to why Provider cannot so warrant. Provider shall reimburse the City for
the reasonable cost of investigation incurred by the City or the Commonwealth of Pennsylvania
Office of Inspector General for investigation of Provider's compliance with the terms of this or any
other contract between Provider and the City which results in the suspension or debarment of
Provider. Such costs shall include, but are not limited to, salaries of investigators, including
overtime, travel and lodging expenses, expert witness and documentary fees and attorney fees and
expenses. Provider shall not be responsible for costs of investigations which do not result in
Provider's suspension or debarment.

**ARTICLE V: COMPENSATION**

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

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

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

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

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

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

5.4 **Allowability of Cost Items.** All payments by the City to Provider under this Contract shall be subject to the limitations on the allowability of cost items imposed by the Contract Cost Principles.
ARTICLE VI: AUDITS; INSPECTION RIGHTS; RECORDS

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

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

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

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

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

ARTICLE VII: ASSIGNMENT

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

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

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

ARTICLE VIII: INDEPENDENT CONTRACTOR; INDEMNIFICATION; LITIGATION COOPERATION

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

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

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

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

**ARTICLE IX: INSURANCE**

9.1 **Insurance.** Unless otherwise approved by the City’s Risk Management Division in writing, Provider shall, at its sole cost and expense, procure and maintain, or cause to be procured and maintained, in full force and effect, the types and minimum limits of insurance specified below, covering Provider’s performance of the Services and the delivery of the Materials. Provider shall procure, or cause to be procured, all insurance from reputable insurers admitted to do business on a direct basis in the Commonwealth of Pennsylvania or otherwise acceptable to the City. All insurance herein, except Professional Liability insurance, shall be written on an “occurrence” basis and not a “claims-made” basis. In no event shall Provider perform any Services or other work until Provider has delivered or caused to be delivered to the City’s Risk Management Division the required evidence of insurance coverages. All insurance coverages shall provide for at least thirty (30) days prior written notice to be given to the City in the event coverage is materially changed, cancelled, or non-renewed. The City, its officers, employees, and agents, shall be named as additional insureds on the General Liability Insurance policy. Provider shall also deliver or cause to be delivered to the City an endorsement stating that the coverage afforded the City and its officers, employees and agents, as additional insureds, will be primary to any other coverage available to them and that no act or omission of the City, its officers, employees or agents shall invalidate the coverage.

(a) **Workers’ Compensation and Employers' Liability.**
(1) Workers' Compensation: Statutory Limits

(2) Employers' Liability: $100,000 Each Accident - Bodily Injury by Accident; $100,000 Each Employee - Bodily Injury by Disease; and $500,000 Policy Limit - Bodily Injury by Disease.

(3) Other states insurance including Pennsylvania.

(b) General Liability Insurance.

(1) Limit of Liability: $1,000,000 per occurrence combined single limit for bodily injury (including death) and property damage liability; $1,000,000 advertising injury; $2,000,000 general aggregate and $1,000,000 aggregate for products and completed operations. The City may require higher limits of liability if, in the City’s sole discretion, the potential risk warrants.

(2) Coverage: Premises operations; blanket contractual liability; personal injury liability; products and completed operations; independent contractors, employees and volunteers as additional insureds; cross liability; and broad form property damage (including completed operations).

(c) Automobile Liability Insurance.

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

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

(d) Professional Liability Insurance.

(1) Limit of Liability: $1,000,000 with a deductible not to exceed $50,000.

(2) Coverage: Errors and omissions including liability assumed under Contract.

(3) Professional Liability Insurance may be written on a claims-made basis provided that coverage for occurrences happening during the performance of the Services required under this Contract shall be maintained in full force and effect under the policy or “tail” coverage for a period of at least two (2) years after completion of the Services.

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

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

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

A copy of the certificates of insurance shall be submitted to the Responsible Official at the address of the Department set forth in the Notice Section of the Provider Agreement. Both submissions must be made at least ten (10) days before work is begun and at least ten (10) days before each Additional Term. The City, in its sole discretion, may waive the ten (10) day requirement for advance documentation of coverage in situations where such waiver will benefit the City, but under no circumstances shall Provider actually begin work (or continue work, in the case of an Additional Term) without providing the required evidence of insurance. The actual endorsement adding the City as an additional insured must specifically reference the City contract number and be submitted to the City's Risk Management Division at the above address. The City reserves the right to require Provider to furnish certified copies of the original policies of all insurance required under this Contract at any time upon ten (10) days written notice to Provider.
9.4 **Fidelity Bond.** When required by the City, Provider shall, at its sole cost and expense, obtain and maintain during the Initial Term and any Additional Term(s) of this Contract, a fidelity bond in an amount equal to the greater of (a) Ten Thousand Dollars ($10,000) or (b) the amount specified in the Provider Agreement, covering Provider's employees who have financial responsibilities related to the receipt and disbursement of funds under this Contract. In lieu of a fidelity bond, Provider may obtain coverage for crime insurance with limits that are the greater of (a) $10,000 or (b) the amount specified in the Provider Agreement. The fidelity bond or crime insurance, whichever is obtained by Provider, shall name the City as a beneficiary. Evidence of the existence of the fidelity bond or crime insurance shall be submitted to the City prior to the commencement of Services in conformity with the requirements of Section 9.3 (Evidence of Insurance Coverage) above.

**ARTICLE X: OWNERSHIP OF MATERIALS; PROPRIETARY INFORMATION; CONFIDENTIALITY**

10.1 **Ownership of Materials.**

(a) Subject to Applicable Law, all Materials shall be the sole and absolute property of the City and the City shall have title thereto and unrestricted use thereof. To the extent that any Materials relating to this Contract developed by or for Provider embody a copyrightable work, including, but not limited to, a “compilation” as that term is used in 17 U.S.C. §101, as amended from time to time, the City and Provider agree that such copyrightable work(s) shall be considered as one or more “works made for hire” by Provider for the City, as that term is used in 17 U.S.C. §§101 and 201(b), as amended from time to time. To the extent that any Materials relating to this Contract developed by or for Provider embody one or more copyrightable works but are neither a “compilation” nor any other form of “work made for hire,” Provider hereby assigns, and agrees to execute instruments evidencing such assignment, all copyrights in all of such works to the City. Provider shall cause all Materials developed or produced by Provider and any Subcontractor in connection with this Contract which embody a copyrightable work to bear the following designation: “© _____ The City of Philadelphia” [complete then current year in blank line].

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

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

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

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

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

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

**ARTICLE XI: EVENTS OF DEFAULT**

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

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

   (b) Occurrence of an Event of Insolvency with respect to Provider;

   (c) Falseness or inaccuracy of any warranty or representation of Provider contained in this Contract or in any other document submitted to the City by Provider;

   (d) Any act, omission, or misrepresentation which renders the Provider ineligible for a City contract or renders the contract voidable under Chapter 17-1400 of the Code;

   (e) Misappropriation by Provider of any funds provided under this Contract or failure by Provider to notify the City upon discovery of any misappropriation;

   (f) A violation of law which results in a guilty plea, a plea of nolo contendere, or conviction of a criminal offense by Provider, its directors, employees, or agents (1) directly or indirectly relating to this Contract or the Services or Materials provided under this Contract, whether or not such offense is ultimately adjudged to have occurred; or (2) which adversely affects the performance of this Contract;

   (g) Indictment of or other issuance of formal criminal charges against Provider, its directors, employees or agents for any criminal offense or any other violation of Applicable Law directly relating to this Contract or Services or Materials, or which adversely affects
Provider’s performance of this Contract in accordance with its terms, whether or not such offense or violation is ultimately adjudged to have occurred; and/or

  (h) Debarment or suspension of Provider or any agent, employee or Subcontractor of Provider under a federal, state or local law, rule or regulation.

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

  (a) Provider has temporarily or permanently ceased providing Services and Materials;

  (b) The Event of Default creates an emergency which requires, as determined by the City in the City’s sole discretion, immediate exercise of the City’s rights or remedies;

  (c) The City has previously notified Provider in the preceding twelve (12) month period of any Event of Default under this Contract;

  (d) An Event of Default occurs as described in 11.1(e) above or 11.1(f) above; or

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

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

**ARTICLE XII: REMEDIES**

12.1 **The City’s Remedies.**

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

     (1) perform (or cause a third party to perform) this Contract, in whole or in part, including, without limitation, obtaining or paying for any required insurance or performing other acts capable of performance by the City. Provider shall be liable to the City for all sums
paid by the City and all expenses incurred by the City (or a third party) pursuant to this Section 12.1(a)(1), together with interest at the highest legal rate permitted in the Commonwealth of Pennsylvania thereon from the date the City or its agent incurs such costs. The City shall not in any event be liable for inconvenience, expense or other damage incurred by Provider by reason of the City’s performance or paying such costs or expenses, and the obligations of Provider under this Contract shall not be altered or affected in any manner by the City’s exercise of its rights under this Section 12.1; (The City’s Remedies).

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

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

13.2 **Provider Responsibilities Upon Termination or Suspension.**

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

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

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

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

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

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

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

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

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

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

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

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

14.1 Non-Discrimination; Fair Practices. This Contract is entered into under the terms of the Charter, the Fair Practices Ordinance (Chapter 9-1100 of the Code) and the Mayor’s Executive Order No. 04-86 (the “Executive Order”), as they may be amended from time to time, and in performing this Contract, Provider shall not discriminate or permit discrimination against any individual because of race, color, religion or national origin. Nor shall Provider discriminate or permit discrimination against individuals in employment, housing and real property practices, and/or public accommodation practices whether by direct or indirect practice of exclusion, distinction, restriction, segregation, limitation, refusal, denial, differentiation or preference in the treatment of a person on the basis of actual or perceived race, ethnicity, color, sex, sexual orientation, gender identity, religion, national origin, ancestry, age, disability, marital status, source of income, familiar status, genetic information or domestic or sexual violence victim status, Human Immunodeficiency Virus (HIV) infection, or engage in any other act or practice made unlawful under the Charter, Chapter 9-1100, the Executive Order, or under the nondiscrimination laws of the United States or the Commonwealth of Pennsylvania. In the event of any breach of this Section 14.1 (Non-Discrimination; Fair Practices), the City may, in addition to any other rights or remedies available under this Contract, at law or in equity, suspend or terminate this Contract forthwith.


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

(b) Provider agrees to cooperate with the Commission on Human Relations of the City in any manner which the Commission deems reasonable and necessary for the Commission to carry out its responsibilities under Chapter 17-400 of the Code. Provider’s failure to so cooperate shall constitute, without limiting the applicability of Articles XI (Events of Default) and XII (Remedies) above, a substantial breach of this Contract entitling the City to all rights and remedies provided in this Contract or otherwise available at law or in equity.
14.3 **Executive Orders 02-05 and 14-08: Minority, Woman and Disabled Business Enterprise Participation.** In accordance with Executive Orders 02-05 and 14-08 (the “Antidiscrimination Policy”), the City, acting through its Office of Economic Opportunity (“OEO”), has established an antidiscrimination policy that relates to the solicitation and inclusion of Minority Business Enterprises (“MBE”), Woman Business Enterprises (“WBE”), and Disabled Business Enterprises (“DSBE”) (collectively, “M/W/DSBE”) in City contracts. The purpose of this Antidiscrimination Policy is to ensure that all businesses desiring to do business with the City have an equal opportunity to compete by creating access to the City’s procurement process and meaningfully increasing opportunities for the participation by M/W/DSBEs in City contracts at all tiers of contracting, as prime contractors, subcontractors and joint venture partners. In furtherance of this policy, the City will, from time to time, establish participation ranges for City Contracts and City Related Special Projects. Provider agrees to comply with the requirements of the Antidiscrimination Policy, and where participation ranges are established by OEO, Provider agrees, without limitation, to submit documentation responsive to each of the participation ranges established for the Contract.

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

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

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

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

4. Provider shall, in the event of an increase in units of work and/or compensation under the Contract, increase its Contract Commitment(s) with its M/W/DSBE Subcontractors proportionately, which increase shall be reflected in the Participant Agreement(s). OEO may from time to time request documentation from Provider evidencing compliance with this provision.
(5) Provider shall submit, within the time frames prescribed by the City, any and all documentation the City may request, including, but not limited to, copies of Participant Agreements, participation summary reports, M/W/DSBE Subcontractor invoices, telephone logs and correspondence with M/W/DSBE Subcontractors, cancelled checks and certification of payments. Provider shall maintain all documentation related to this Section for a period of five (5) years from the date of Provider’s receipt of final payment under the Contract.

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

(7) Provider agrees that in the event the City determines that Provider has failed to comply with any of the requirements of this Antidiscrimination Policy, including substantial compliance with any Contract Commitment, the City may, in addition to any other rights and remedies it may have under the Contract which includes termination of the Contract, exercise one or more of the following remedies which shall be deemed cumulative and concurrent:

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

   (.b) Recover as liquidated damages, i.e., without institution of a civil lawsuit, one percent (1%) of the total dollar amount of the Contract, which amount shall include any increase by way of amendments to the Contract, for each one percent (1%) (or fraction thereof) of the shortfall in Contract Commitment(s) to Provider’s M/W/DSBE Subcontractors.

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

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

   (1) Provide to the OEO annually, a written diversity program identifying the race, gender and ethnic composition of its board of directors, its employment profile, a list of all vendors that the non-profit does business with in its M/W/DSBE procurement
program (e.g., “M/W/DSBE Supplier Diversity Program”) and a statement of the geographic area(s) where its services are most concentrated; and

(2) Demonstrate, to the OEO’s satisfaction, that the non-profit’s organization makes appropriate efforts to maintain a diverse workforce and board of directors and operates a fair and effective M/W/DSBE procurement program.

(c) **Criminal Liability for Fraudulent or False Statements.** It is understood that false certification or representation made in connection with this Antidiscrimination Policy may be subject to prosecution under Title 18 Pa.C.S. Sections 4107.2 and 4904.

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

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

14.6 **Northern Ireland.**

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

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

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

14.8 **Business, Corporate and Slavery Era Insurance Disclosure.** In accordance with Section 17-104 of the Code, the Provider, after execution of this Contract, will complete an affidavit certifying and representing that the Provider (including any parent company, subsidiary, exclusive distributor or company affiliated with Provider) has searched any and all records of the Provider or any predecessor company regarding records of investments or profits from slavery or slaveholder insurance policies during the slavery era. The names of any slaves or slaveholders described in those records must be disclosed in the affidavit.
The Provider expressly understands and agrees that any false certification or representation in connection with this Section and/or any failure to comply with the provisions of this Section shall constitute a substantial breach of this Contract entitling the City to all rights and remedies provided in this Contract or otherwise available in law (including, but not limited to, Section 17-104 of the Code) or equity and the Contract will be deemed voidable. In addition, it is understood that false certification or representation is subject to prosecution under Title 18 Pa. C.S. Section 4904.

14.9 **Protected Health Information**

(a) The City of Philadelphia is a “Covered Entity” under the federal Health Insurance Portability and Accountability Act (HIPAA). The City has designated the following certain City agencies as covered healthcare components of the City (“Covered Components”): the Ambulatory Health Services Unit of the Department of Public Health (DPH), the Office of Behavioral Health/Intellectual disAbility Services (OBH/IDS), the Riverview Home managed by the Office of Supportive Housing, the Philadelphia Nursing Home managed by DPH, the Benefits Administration Unit of the Office of Human Resources, and the Emergency Medical Services Unit of the Philadelphia Fire Department. This list is subject to change, and any component of the City that the City in the future determines to be a Covered Component under HIPAA shall be deemed to be a Covered Component for purposes of this Section 14.9.

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


(a) Provider is a “Service Contractor” in that by virtue of entering into this Contract, Provider has entered into a “Service Contract” as those terms are defined in Section 17-1302 of the Code; excluded from those terms is any Subcontractor and its employees and any Subcontract entered into by Provider pursuant to this Contract. If Provider is also an “Employer,” as that term is defined in Section 17-1302, and as the term “Employer” is further described in Section 17-1303 of the Code, Provider shall provide its covered Employees (persons who perform work for a covered Employer that arises directly out of a Service Contract with the City) with the minimum wage standard and minimum benefits standard stated in Section 17-1305 of the Code, which are summarized below and as further set forth in the remaining provisions of Chapter 17-1300 of the Code:
(1) provide its covered Employees with an hourly wage, excluding benefits, that is at least 150 percent of the federal minimum wage;

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

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

(b) Provider shall promptly provide to the City all documents and information as the City may require verifying its compliance with the requirements of Chapter 17-1300. Provider shall notify each affected employee what wages are required to be paid pursuant to Chapter 17-1300.

(c) A Provider subject to Chapter 17-1300 shall comply with all its requirements as they exist on the date when the Provider entered into this Contract with the City or when this Contract is amended. A Provider subject to Chapter 17-1300 who fails to comply with its provisions may, after notice and hearing before the Director of Finance or such other officer or agency designate by the Mayor, be suspended from receiving financial assistance from the City or from bidding on and/or participating in future City contracts for up to three (3) years. Furthermore, the Council may, by resolution adopted after a public hearing, determine that there are reasonable grounds to believe that an employer subject to Chapter 17-1300 has failed to comply with its provisions, and that if such failure is established, then debarment would be an appropriate remedy for such failure. A copy of any such adopted resolution shall be forwarded to the Director of Finance, or such other officer or agency designated by the Mayor, who shall without undue delay provide appropriate notice and opportunity for hearing, and after such hearing, make a final determination as to whether there has been a violation of Chapter 17-1300 and whether debarment, as provided by Chapter 17-1300, should be imposed. Such debarment shall be in addition to any of the other sanctions or remedies set forth in Chapter 17-1300. The debarment procedure by Council resolution shall be in addition to any other procedure for debarment established under Chapter 17-1300.

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

14.11 Chapter 17-1400 of the Philadelphia Code: Contributions and Other Mandatory Disclosures.
(a) Provider confirms on behalf of itself and its Subcontractor(s) that no contribution(s) have been made, and agrees that none shall be made during the Term of this Contract, and any Additional Term, by Provider, any Subcontractor, or any party from which a contribution can be attributed to the Provider or Subcontractor, that would render the Provider or Subcontractor, as applicable, ineligible to apply for or enter into a Non-Competitively Bid Contract under the provisions of Code Sections 17-1404(1) and 17-1405; and that disclosures made as part of its application to receive a Non-Competitively Bid Contract contain no material misstatements or omissions. Breach of this covenant shall constitute an event of default and render the Contract voidable at the City’s option, and, as to contributions attributable to Provider, shall make the Provider liable for liquidated damages to the City in the amount of ten percent (10%) of the maximum payments to the Provider allowed under the Contract, regardless whether actually paid. The City may exercise any or all of the remedies set forth in this Section 14.11 (Contributions and Other Mandatory Disclosures), each of which may be pursued separately or in conjunction with such other remedies as the City in its sole discretion shall determine. No extension or indulgence granted by the City to Provider shall operate as a waiver of any of the City’s rights in connection with this Contract. The rights and remedies of the City as described in this Section 14.11 and as described elsewhere in this Contract shall not be exclusive and are in addition to any other rights or remedies available to the City under this Contract at law or in equity.

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

(1) Such disclosure shall be made on a form provided by the Department awarding the Contract, and the form shall be signed and filed with such Department within five (5) business days of the contribution. The Department receiving the disclosure form shall forward copies to the President and Chief Clerk of Council, and to the Mayor, Finance Director, Procurement Department, and the Department of Records. The attribution rules of Section 17-1405 shall apply to determine what contributions must be disclosed under this provision as contributions of the Provider or of a Consultant.

(2) It shall not be a violation of Section 14.11(b)(1) if Provider fails to disclose a contribution made by a Consultant because the Provider was unable to obtain such information from the Consultant, provided the Provider demonstrates that it used reasonable efforts to attempt to obtain such information, including, at a minimum:
(a) Entering into a written agreement with the Consultant for such Consultant’s services, before the filing of the application for the Contract, and before the Consultant communicated with a City department or office, official or employee on behalf of the Provider;

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

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

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

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

(1) Such disclosure shall be made on a form provided by the Department awarding the contract, and the form shall be signed and filed with the Department within five (5) business days after a request was made or a payment in response to a request was made, as the case may be.

(2) The Department receiving the disclosure form shall forward copies to the President and Chief Clerk of Council, and to the Mayor, Director of Finance, Procurement Department, and the Department of Records.

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

(1) Such disclosure shall be made on a form provided by the Department awarding the contract, and the form shall be signed and filed with the Department within five business days after the Provider was so advised.

(2) The Department receiving the disclosure form shall forward copies to the President and Chief Clerk of Council, and to the Mayor, Finance Director, Procurement Department, and the Department of Records.

14.12 Executive Order 02-04: Gifts.

(a) Pursuant to Executive Order 02-04, no official or employee in the Executive and Administrative Branch of the City shall solicit or accept, directly or indirectly, anything of value, including any gift, gratuity, favor, entertainment or loan from any of the following sources:

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

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

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

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

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

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


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

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

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

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

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

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

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

ARTICLE XV: MISCELLANEOUS

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

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

15.3 **Integration.** The Contract Documents forming this Contract, including the Provider Agreement and the General Provisions and the exhibits incorporated by reference therein, contain all the terms and conditions agreed upon by the Parties, constitute the entire agreement among the Parties pertaining to the subject matter hereof, and supersede all prior agreements, understandings, negotiations and discussions, whether oral or written, of the Parties (except to the extent specifically set forth herein). No other prior or contemporaneous agreements, covenants, representations or warranties, oral or otherwise, regarding the subject matter of this Contract shall be deemed to exist or to bind any Party or to vary any of the terms contained in this Contract.

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

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

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

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

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

15.9 **Determination of Disputes.** Any dispute arising between the City and Provider under or with respect to either Party’s covenants, obligations, powers, rights or duties under this Contract shall be submitted to and decided by the Responsible Official or his or her designee. The Responsible Official or his or her designee shall render and reduce to writing his or her decision, and furnish a copy to Provider by notice under this Contract. In connection with any dispute under this Contract, the Responsible Official shall offer Provider an opportunity to offer evidence in support of its position concerning the subject matter of the dispute. This section shall not be construed to limit the benefit to the City of Articles XI (Events of Default) or XII (Remedies) above.

15.10 **Interpretation; Order of Precedence.** In the event of a conflict or inconsistency between the terms of these General Provisions and the terms of the Provider Agreement, the terms of these General Provisions shall control, except to the extent (if any) that the Provider Agreement contains an express change, by specific reference, to the General Provisions.

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

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

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

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

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

CITY OF PHILADELPHIA
OFFICE OF ECONOMIC OPPORTUNITY
ANTIDISCRIMINATION POLICY- MINORITY, WOMAN AND DISABLED
OWNED BUSINESS ENTERPRISES

FORMS, INSTRUCTIONS AND SPECIAL CONTRACT PROVISIONS

Revised: October 2, 2013
APENDIX B
CITY OF PHILADELPHIA
OFFICE OF ECONOMIC OPPORTUNITY
ANTIDISCRIMINATION POLICY- MINORITY, WOMAN AND DISABLED OWNED BUSINESS ENTERPRISES
FORMS, INSTRUCTIONS AND SPECIAL CONTRACT PROVISIONS
(Lower Frankford Creek Watershed Brownfields Area-Wide Plan for The City of Philadelphia)

Under the authority of Executive Order No. 03-12, the City of Philadelphia has established an antidiscrimination policy ("Policy") relating to the participation of Minority (MBE), Woman (WBE) and Disabled (DSBE) Owned Business Enterprises in City contracts. Executive Order 03-12 is administered by the City's Office of Economic Opportunity ("OEO").

The purpose of this Policy is to provide equal opportunity for all businesses and to assure that City funds are not used, directly or indirectly, to promote, reinforce or perpetuate discriminatory practices. The City is committed to fostering an environment in which all businesses are free to participate in business opportunities without the impediments of discrimination and participate in all City contracts on an equitable basis. In accordance with the contracting requirements of the City, the City's antidiscrimination policy is applicable to this Notice of Contracting Opportunity (hereinafter, "NOCO").

The Office of Economic Opportunity has approved the following projected ranges of participation for this NOCO which serve as a guide in determining each applicant's responsibility:

\[
\begin{array}{c}
\text{MBE} & 10\% - 15\% \\
\text{And/or} & \\
\text{WBE} & 10\% - 15\%
\end{array}
\]

These ranges represent the percentage of MBE, WBE and/or DSBE (collectively, "MW/DSBE") participation that should be attained by MW/DSBEs from business opportunities existing in the available market absent discrimination in the solicitation and selection of these businesses and through applicant's exercise of Best and Good Faith Efforts. Best and Good Faith Efforts are those efforts, the scope, intensity and appropriateness of which are taken to achieve meaningful and representative opportunities for participation by MW/DSBEs. These ranges are derived from an analysis of factors such as the size and scope of the contract and the availability of certified MW/DSBEs to perform various elements of the contract. The submission of a Solicitation For Participation and Commitment Form and any supporting documentation (more fully discussed below) is an element of responsiveness to the NOCO and failure to submit the required information will result in rejection of your proposal.

Applicant hereby verifies that all forms, information and documentation submitted to OEO are true and correct and is notified that the submission of false information by applicant is subject to the penalties of 18 Pa.C.S. §4904 relating to unsworn falsification to authorities which may include payment of a fine of at least $1,000 and a term of imprisonment of not more than two years. Applicant also acknowledges that under 18 Pa.C.S. §4107.2 (a)(4) it is a felony in the third degree, punishable by a term of imprisonment of not more than seven years in addition to the payment of any fines or restitution, if, under any contract awarded pursuant to this NOCO, applicant fraudulently obtains public moneys reserved for or allocated or available to minority business enterprises or women's business enterprises.

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1 The term "Notice of Contracting Opportunity," shortened to the acronym "NOCO," refers to the City's contract solicitation documents and information posted on eContract Philly. Generally, these documents take the form of a Request for Proposals (RFP), Request for Qualifications (RFQ) or Request for Expression of Interest (RFI) and include any other document or information (for example, exhibits, appendices) related to the posting of the new contract opportunity.
A. MW/DSBE PARTICIPATION

1. Only firms that are certified by an approved certifying agency and identified in the OEO Certification Registry by the time of contract award will be credited toward the participation ranges on City contracts. An OEO Certification Registry is maintained by the OEO and is available online at www.phila.gov/OEO/directory. Firms owned and controlled by minority persons, women or disabled persons, which are certified as MBE, WBE, DSBE or DBE by an approved certifying agency may apply to the OEO for listing in its OEO Certification Registry.

2. No applicant that seeks to meet the participation range(s) for participation by entering into a subcontract with any MW/DSBE participant shall be considered to meet the range(s) if the MW/DSBE participant does not perform a commercially useful function (“CUF”). An MW/DSBE performs a Commercially Useful Function when it performs a distinct element of a City Contract (as required by the services to be performed in accordance with the NOCO) which is worthy of the dollar amount of the MW/DSBE Subcontract and the MW/DSBE carries out its responsibilities by managing and supervising the services involved and actually self-performing at least twenty percent (20%) of the services of the Subcontract with its own employees. For suppliers, an MW/DSBE performs a Commercially Useful Function when it is responsible for sourcing the material, negotiating price, determining quality and quantity, ordering the material and paying for it from its own funds. Commercial usefulness will be evaluated and determined by the OEO on a proposal by proposal basis as informed by prevailing industry standards and the MW/DSBE’s NAIC codes. Participation that is not commercially useful will not be counted.

3. In order to maximize opportunities for as many businesses as possible, a firm that is certified in two or more categories (e.g. MBE and WBE and DSBE or WBE and DSBE) will only be credited toward one participation range as either an MBE or WBE or DSBE. The firm will not be credited toward more than one category. Applicants will note with their submission which category, MBE or WBE or DSBE, is submitted for credit.

4. An MBE/WBE/DSBE submitting as the prime applicant is required, like all other applicants, to submit a proposal that is responsive to the Policy. The MW/DSBE Applicant will receive credit towards the participation range for its certification category (e.g., MBE range or WBE range or DSBE range). In addition, the participation of an MW/DSBE partner, as part of a joint venture created for this contract, may be credited towards the participation ranges only to the extent of the MW/DSBE partner’s ownership interest in the joint venture in accordance with the following criteria:

   • The MBE, WBE or DSBE partner(s) must be identified in the OEO Registry prior to contract award;
   • The MW/DSBE partner(s) must derive substantial benefit from the arrangement;
   • The MW/DSBE partner(s) must be substantially involved in all phases of the contract including planning, staffing and daily management;
   • The business arrangement must be customary (i.e., each partner shares in the risk and profits of the joint venture commensurate with their ownership interest, contributes working capital and other resources, etc).

5. MW/DSBE Subcontractors must perform at least twenty percent (20%) of the total amount of work to be performed under the Subcontract with their own employees.

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2 Approved certifying agencies are identified on the OEO webpage found at www.phila.gov/OEO. Applicant is strongly encouraged to search the Pennsylvania Unified Certification Program (“PaUCP”) Directory which offers a robust listing of DBEs; the PaUCP Directory is found at www.paucp.com.
6. In listing participation commitments on the Solicitation for Participation and Commitment Form, applicants are required to list a detailed description of the services or supply effort, the dollar amount of the quotation, and percentage of the contract the participation represents. In calculating the percentage amount, applicants may apply the standard mathematical rules in rounding off numbers. The OEO reserves the right to request clarifying information from applicants in the event of an inconsistency or ambiguity in the Solicitation For Participation and Commitment Form.

B. RESPONSIVENESS

1. A proposal responsive to the Policy is one which contains documentary evidence of the MW/DSBEs that have been solicited and that will be used by the applicant on the contract, if awarded; where the proposal satisfies the MW/DSBE participation ranges for that contract, the applicant is rebuttably presumed not to have discriminated in its selection of contract participants.

2. Applicants must submit documentary evidence of MBE, WBE and DSBEs who have been solicited and with whom commitments have been made in response to each of the participation ranges included in this NOCO. Failure to submit the Solicitation For Participation and Commitment Form will result in the rejection of the proposal as nonresponsive, although the City, at its sole discretion, may allow applicants to submit or amend the Solicitation For Participation and Commitment Form at any time prior to award. The Solicitation For Participation and Commitment Form must contain the following information:

   • Documentation of all solicitations (regardless of whether commitments resulted therefrom) as well as all commitments made on the enclosed document entitled “Solicitation For Participation and Commitment Form”. Applicants should only make actual solicitations of MW/DSBEs whose services or materials are within the scope of this NOCO. Mass mailing of a general nature to MW/DSBEs or similar methods will not be deemed solicitation, but rather will be treated as informational notification only. A reasonable period of time should be given to all solicited firms to ensure that they have sufficient time to adequately prepare their quotes/subproposals. The applicant's listing of a commitment with an MW/DSBE constitutes a representation that the applicant has made a legally binding commitment to contract with such firm, upon receipt of a contract award from the City (“Contract Commitment”).

   • If the applicant has entered into a joint venture with an MBE, WBE and/or DSBE partner, the applicant is also required to submit along with the Solicitation For Participation and Commitment Form, a document entitled “Joint Venture Eligibility Information Form,” available at OEO, for the City’s review and approval of the joint venture arrangement.

3. If Applicant does not fully meet each of the range(s) for participation established for this NOCO, applicant must demonstrate that it exercised Best and Good Faith Efforts to achieve the MW/DSBE participation ranges along with a written request, on its letterhead, for the reduction of part or all of the MW/DSBE participation ranges (“Request For Reduction/Waiver”). Applicant, through the submission of documentary evidence must show that applicant took all necessary steps and made reasonable efforts to achieve the MW/DSBE participation ranges, even if these efforts were not fully successful. OEO will evaluate the scope, intensity and appropriateness of these efforts to ascertain whether they could reasonably be expected to achieve MW/DSBE participation commensurate with the ranges. Failure to submit the documentary evidence will result in rejection of the proposal as nonresponsive; the City, at its sole discretion, may allow applicants to submit or amend their submission at any time prior to award which may result in revision to Applicant’s participation commitments. The submission shall contain and discuss, at a minimum, the following:

   • Reasons for not committing with any MBE/WBE/DSBEs that submitted a quote/subproposal, regardless of whether the quote/subproposal was solicited by applicant.
   • Any additional evidence pertinent to applicant’s conduct relating to this NOCO including sufficient evidence which demonstrates to the OEO that applicant has not engaged in discriminatory practices in the solicitation of and commitment with contract participants. In describing applicant's efforts
to achieve participation within the ranges, applicant may submit any corroborating documentation (e.g., copies of advertisements for participation).

The applicant’s documentary evidence will be reviewed by the OEO to determine whether applicant exercised Best and Good Faith Efforts in response to the participation ranges. Applicant’s expressed desire to self-perform services with its own employees will not excuse applicant from exercising Best and Good Faith Efforts to include M/W/DSBEs in its proposal and cannot be used as a basis for requesting a reduction or waiver of the participation ranges. OEO’s review will include consideration of the following:

- Applicant’s contracting activities and business practices on similar public and private sector contracts. For example, if applicant rejects any M/W/DSBE based on price, applicant must fully document its reasons for the rejection and also demonstrates that applicant subjects non-M/W/DSBEs to the same pricing standards. OEO will investigate whether there was any attempt at good faith negotiation of price.

- Whether M/W/DSBEs were treated as equally as other businesses in the solicitation and commitment process. For example, the OEO will investigate whether M/W/DSBEs are given the same information, access to the plans and requirements of the contract and given adequate amount of time to prepare a quote/subproposal as others who were solicited by applicant. The OEO will also investigate whether M/W/DSBEs were accorded the same level of outreach as non-M/W/DSBEs, for example whether applicant short listed M/W/DSBEs for participation or solicited M/W/DSBEs at any pre-proposal meetings.

- Whether the applicant’s contracting decisions were based upon policies which disparately affect M/W/DSBEs. OEO will ascertain whether applicant selected portions of work or material needs consistent with the capacity of available M/W/DSBE subcontractors and suppliers. OEO will consider whether applicant employed policies which facilitate the participation of M/W/DSBEs on City contracts such as segmentation of the contract or prompt payment practices.

4. After review of the applicant’s submission and other information the OEO deems relevant to its evaluation, the OEO will make a written determination that will be forwarded to the awarding City Department.

- If the proposal is determined nonresponsive by the OEO, the applicant will be notified and may file a written appeal with the Executive Director of OEO within forty-eight (48) hours of the date of notification; the decision of the Executive Director of OEO shall be final.

C. RESPONSIBILITY

1. Upon award, the completed Solicitation For Participation and Commitment Form and accompanying documents regarding solicitation and commitments with MBEs, WBEs and DSBEs become part of the contract and the successful applicant is required to enter into legally binding agreement(s) (“M/W/DSBE Subcontract(s)”)* with its M/W/DSBE participants for the services and in the dollar amount(s) and percentage(s) as so committed (the “Contract Commitment(s)”)*. M/W/DSBE percentage commitments are to be maintained throughout the term of the contract and shall apply to the total contract value (including amendments). Any change in commitment, including but not limited to, substitutions for the listed firm(s), changes or reductions in the work and/or listed dollar/percentage amounts, must be pre-approved in writing by the OEO.

2. Unless otherwise specified in the M/W/DSBE Subcontract, the successful applicant shall, within five (5) business days after receipt of a payment from the City for services performed under the contract, deliver to its M/W/DSBE participants, their proportionate share of such payment for services performed (including the supply of materials). In connection with the payment of its M/W/DSBE participants, the successful applicant agrees to fully comply with the City’s payment reporting process which may include the use of electronic payment verification systems.
3. No privity of contract exists between the City and any M/W/DSBE participant identified in any contract resulting from this NOCO. The City does not intend to give or confer upon any such M/W/DSBE participant(s) any legal rights or remedies in connection with the subcontracted services pursuant to Executive Order 03-12 or by reason of any contract resulting from the NOCO except such rights or remedies that the M/W/DSBE subcontractor may seek as a private cause of action under any legally binding contract to which it may be a party.

4. If the OEO determines that the applicant has discriminated against a M/W/DSBE at any time during the term of the contract, the OEO may recommend to the Director of Finance the imposition of sanctions on the applicant including debarment of the applicant from submitting and/or participating in future City contracts for a period of up to three (3) years.

D. ACCESS TO INFORMATION

1. The OEO shall have the right to make site visits to the applicant’s place of business and/or job site and obtain documents and information from any applicant, subcontractor, supplier, manufacturer or contract participant that may be required in order to ascertain applicant’s responsiveness and responsibility.

2. Failure to cooperate with the OEO in its review may result in a recommendation to terminate the contract.

E. RECORDS AND REPORTS

1. The successful applicant shall maintain all books and records relating to its M/W/DSBE commitments (e.g. copies of quotations, subcontracts, joint venture agreement, correspondence, cancelled checks, invoices, telephone logs) for a period of at least three (3) years following acceptance of final payment from the City. These records shall be made available for inspection by the OEO and/or other appropriate City officials. The successful applicant agrees to submit reports and other documentation to the OEO as deemed necessary by the OEO to ascertain the successful applicant’s fulfillment of its M/W/DSBE commitments.

F. REMEDIES

1. The successful applicant’s compliance with the requirements of Executive Order 03-12 is material to the contract. In the event the City determines that the successful applicant has failed to comply with any of the requirements of this Antidiscrimination Policy, including substantial compliance with any Contract Commitment, the City may, in addition to any other rights and remedies it may have under the Contract which includes termination of the Contract, exercise one or more of the following remedies which shall be deemed cumulative and concurrent:

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

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

The remedies enumerated above are for the sole benefit of the City and City’s failure to enforce any provision or the City’s indulgence of any non-compliance with any provision hereunder, shall not operate as a waiver of any of the City’s rights in connection with any contract resulting from this NOCO nor shall it give rise to actions by any third parties including identified M/W/DSBE participants.
Should you have any questions related to the Contract Provisions, please call Ekpenyong Oji, OEO at (215) 683-2078 or facsimile (215) 683-2151.
**ANTIDISCRIMINATION POLICY SOLICITATION FOR PARTICIPATION AND COMMITMENT FORM**

*Minority (MBE), Woman (WBE), Disabled (DSBE) and Disadvantaged (DBE) Business Enterprises*²

<table>
<thead>
<tr>
<th>Work or Supply Effort to be Performed</th>
<th>Date Solicited</th>
<th>Commitment Made</th>
<th>Give Reason(s)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Company Name</td>
<td>By Phone</td>
<td>Yes</td>
<td>If No Commitment</td>
</tr>
<tr>
<td>Contact Person</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Address</td>
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<td>Telephone Number</td>
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<td>Fax Number</td>
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<td>Email Address</td>
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<tr>
<td>OEO REGISTRY #</td>
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<tr>
<td>CERTIFYING AGENCY</td>
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</tr>
</tbody>
</table>

List below ALL MBE/WBE/DBE/DSBEs that were solicited regardless of whether a commitment resulted therefrom. - Photocopy this form as necessary.

<table>
<thead>
<tr>
<th>Work or Supply Effort to be Performed</th>
<th>Date Solicited</th>
<th>Commitment Made</th>
<th>Give Reason(s)</th>
</tr>
</thead>
<tbody>
<tr>
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<td>Address</td>
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<tr>
<td>CERTIFYING AGENCY</td>
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</tbody>
</table>

1. If Bidder/Proposer makes solicitation(s) and commitment(s) with a DBE, Bidder/Proposer shall indicate which class type, M-DBE or W-DBE, is submitted for credit.

2. Attach all quotations to this form.

09/2010
APPENDIX C

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

THIS IS A CONFIDENTIAL TAX DOCUMENT NOT FOR PUBLIC DISCLOSURE

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

<table>
<thead>
<tr>
<th>Applicant Name</th>
<th>Contact Name and Title</th>
<th>Street Address</th>
<th>City, State, Zip Code</th>
<th>Phone Number</th>
</tr>
</thead>
<tbody>
<tr>
<td>Federal Employer Identification Number or Social Security Number:</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Philadelphia Business Income and Receipts Tax Account Number (f/k/a Business Privilege Tax) (if none, state “none”)*</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Commercial Activity License Number (f/k/a Business Privilege License) (if none, state “none”)*</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

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

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

________________________________________  __________________________
Authorized Signature                              Date

________________________________________
Print Name and Title

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

LOCAL BUSINESS ENTITY OR LOCAL IMPACT CERTIFICATION

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

Applicant Name: ________________________________

Local Business Entity Certification

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

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

II. During the preceding 18 months, Applicant:

   A. Has continuously maintained a valid Commercial Activity or Business Privilege License and all other licenses and permits necessary to conduct business with the City;
   B. Has continuously occupied an office within the City, where business is conducted; and
   C. Satisfies at least one of the following requirements (Check those applicable to Applicant):

      ___ (1) More than half of Applicant’s full-time employees work in the City at least 60% of the time;
      ___ (2) More than 50 of Applicant’s full-time employees work in the City at least 60% of the time; or
      ___ (3) Applicant’s principal place of business is located in the City.

Local Impact Certification

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

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

Authorized Signature ________________________________ Date ________________________________

Print Name and Title ________________________________

Revised: October 2, 2013
Appendix E: Project Area Map

Improving the Confluence: Planning for Brownfields in the Lower Frankford Creek Watershed

Priority Sites:
A. Philly Coke (63 ac.)
B. Rohm and Haas (63 ac.)
C. Edgewater Dyeing and Finishing (1.6 ac.)

Project Area = 2 sq. mi.

Revised: October 2, 2013
# Appendix F: Budget Form

<table>
<thead>
<tr>
<th>Task</th>
<th>Task Description</th>
<th>Work Product</th>
<th>Not to Exceed Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>1a</td>
<td>Review Existing Plans and Projects</td>
<td>none specified</td>
<td></td>
</tr>
<tr>
<td>1b</td>
<td>Brownfields Inventory</td>
<td>GIS database</td>
<td></td>
</tr>
<tr>
<td>1c</td>
<td>Environmental Conditions Analysis</td>
<td>Memo: Environmental Conditions</td>
<td></td>
</tr>
<tr>
<td>1d</td>
<td>Urban Land Market Analysis</td>
<td>Memo: Urban Land Market Analysis</td>
<td></td>
</tr>
<tr>
<td>1e</td>
<td>Public Health / Built Environment Analysis</td>
<td>Memo: Public Health / Built Environment</td>
<td></td>
</tr>
<tr>
<td>CM1</td>
<td>Community Meeting</td>
<td>PowerPoint Presentation</td>
<td></td>
</tr>
</tbody>
</table>

**TOTAL PHASE 1**

<table>
<thead>
<tr>
<th>Task</th>
<th>Task Description</th>
<th>Work Product</th>
<th>Not to Exceed Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>2a</td>
<td>Transportation Framework</td>
<td>Draft Transportation Framework map and narrative</td>
<td></td>
</tr>
<tr>
<td>2b</td>
<td>Open Space Framework</td>
<td>Draft Open Space Framework map and narrative</td>
<td></td>
</tr>
<tr>
<td>2c</td>
<td>Site Development Decision Making Matrix</td>
<td>Draft Site Development Decision Making Matrix</td>
<td></td>
</tr>
<tr>
<td>2d</td>
<td>Conceptual Designs for Catalyst Sites</td>
<td>Draft Conceptual Designs for Catalyst Sites</td>
<td></td>
</tr>
<tr>
<td>2e</td>
<td>Recommendations to Enhance DRCC Capacity</td>
<td>Memo: Recommendations to Enhance DRCC Capacity</td>
<td></td>
</tr>
<tr>
<td>CM2</td>
<td>Community Meeting</td>
<td>PowerPoint Presentation</td>
<td></td>
</tr>
</tbody>
</table>

**TOTAL PHASE 2**

<table>
<thead>
<tr>
<th>Task</th>
<th>Task Description</th>
<th>Work Product</th>
<th>Not to Exceed Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>3a</td>
<td>Revise Transportation Framework, Open Space Framework, and Conceptual Designs for Catalyst / High Priority Sites</td>
<td>Revised Transportation and Open Space Framework maps and narratives</td>
<td></td>
</tr>
<tr>
<td>3b</td>
<td>Revise Site Development Decision Making Matrix</td>
<td>Revised Site Development Decision Making Matrix</td>
<td></td>
</tr>
<tr>
<td>3c</td>
<td>Produce Community Roadmap</td>
<td>Community Roadmap Narrative w/ charts and graphics</td>
<td></td>
</tr>
<tr>
<td>3d</td>
<td>Draft BF-AWP</td>
<td>Draft Brownfields Area-Wide Plan</td>
<td></td>
</tr>
<tr>
<td>CM3</td>
<td>Community Meeting</td>
<td>PowerPoint Presentation</td>
<td></td>
</tr>
<tr>
<td>3e</td>
<td>Plan Finalization and Reveal</td>
<td>Final Brownfields Area-Wide Plan</td>
<td></td>
</tr>
</tbody>
</table>

**TOTAL PHASE 3**

**PROJECT MANAGEMENT AND MEETINGS:**

PM

- Steering Committee Meetings (10)
- EPA Coordination Meetings (6)
- DRCC / PCPC Update Meetings (6)

**TOTAL PROJECT MANAGEMENT AND MEETINGS**

**PROJECT TOTAL (not to exceed $160,000)**