



Brooklyn Navy Yard
Development Corporation
BrooklynNavyYard.org

Building 77
141 Flushing Ave, Suite 801
Brooklyn, NY 11205

INVITATION FOR BIDS

Building 77 – 2nd Floor Storage Buildout

Contact Information:

Colin Saint-Vil
Associate Project Manager
bid@bnydc.org

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A. PROJECT INFORMATION

The Brooklyn Navy Yard Development Corporation (“BNYDC”) is issuing this Invitation for Bids (“IFB”) to seek bids (“Bids” and each, a “Bid”) from entities (“Bidders” and each, a “Bidder”) interested in providing construction services for the project described below, known as the Building 77 2nd Floor Storage Buildout (the “Project”).

1. PROJECT SITE(S): Building 77, 141 Flushing Avenue, 2nd Floor, Brooklyn, NY 11205
2. DESCRIPTION OF PROJECT:

Building 77 is an 18-story, one million square foot industrial building originally constructed in 1941 by the U.S. Navy for storage and office uses. BNYDC completed a comprehensive renovation of the building in 2017: the upper floors were converted into offices and light industrial tenant



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spaces, and the ground floor was remade into a publicly-accessible lobby with spaces for food and beverage manufacturing and retailing.

The second floor of Building 77 primarily houses building management equipment, such as the electrical substation, mechanical rooms, building engineer's office, and a bike storage room. The remainder of the second floor is currently unoccupied with minimal utilities and has not been upgraded in the past five years.

BNYDC is now seeking to develop the available second floor space into storage spaces for tenants and the BNYDC Property Management department, and an archive room. The space to be renovated is approximately 38,000 square feet.

3. SCOPE OF WORK; PROJECT DRAWINGS & SPECIFICATIONS DOCUMENTS:

The scope of work shall include demolition of the existing conditions on the Building 77 second-floor space and construction of the new storage, office, and archive spaces, as described further in the project drawings and specifications.

The project drawings (the "Project Drawings") and specifications (the "Project Specification Documents") are available electronically from the following link:

https://brooklynnavyyard.sharepoint.com/:f/s/external_sharing/dnc/EpU3u-eBg8BEIj5X72yfDXsBv1Q3KQInnKGf4Kd0gvwytw?e=piUhb9

4. All such documents are incorporated herein by reference and form a part of this IFB.

B. PERTINENT DATES & CONDITIONS PRECEDENT FOR BNYDC TO CONSIDER A BID

1. MANDATORY PRE-BID SITE VISIT: A **mandatory** pre-bid conference and site walk-through will be held at **11:00 AM on November 21, 2025**. All prospective Bidders who plan to attend should contact Colin Saint-Vil via email (bid@bnydc.org) to provide names of attendees and email addresses so that attendees can receive details for attending the site walk-through. Please indicate the name of the project in the subject line of your email when requesting attendance at the walk-through.
2. INQUIRIES. Any explanation desired by Bidders regarding the meaning or interpretation of this IFB must be emailed and received by BNYDC no later than **5:00 PM on December 1, 2025**. BNYDC will evaluate the need to respond to inquiries received. No verbal responses will be provided, and any information given to a prospective Bidder will be furnished to all prospective Bidders as an addendum to this IFB (an "Addendum"). Except as provided below, all questions must be directed only to Colin Saint-Vil via email (bid@bnydc.org). Please indicate the name of the project in the subject line of your email when submitting any questions regarding this IFB.



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3. **BID SUBMISSION DEADLINE.** Written sealed Bids must be received at BNYDC's office on or no later than **5:00 PM on December 19th, 2025.**

Bid should be submitted to:

Brooklyn Navy Yard Development Corporation
141 Flushing Avenue, Suite 801
Brooklyn, NY 11205
Attn: Colin Saint Vil

If Bidder is submitting a request for a full or partial waiver of the M/WBE Participation Goal set forth in Section D hereof, they shall submit such waiver request no later than December 12, 2025, seven (7) calendar days prior to the Bid Submission Deadline.

4. **BID SECURITY.** Bidder must submit with the Bid either a bid deposit by certified check or a bid bond in the form attached hereto as Exhibit B in an amount of ten percent (10%) of the Bid. Note that Bid Security is not required for any Bid submitted for an amount under Two Hundred Fifty-Thousand Dollars (\$250,000.00).
5. **PASSPORT COMPLIANCE.** Bidders are required to be registered and up-to-date in PASSPort prior to submitting a Bid to this IFB. Each Bidder must include its PASSPort identification number on the Confirmation of PASSPort Compliance form attached hereto as Exhibit E.
6. **NEW YORK STATE DEPARTMENT OF LABOR ("DOL") CONTRACTOR REGISTRATION COMPLIANCE:** Bidders and their subcontractors are required to be registered with the DOL prior to submitting a Bid to this IFB. Each Bidder must attach the applicable Certificate(s) of Registration to the Confirmation of DOL Contractor Registration Compliance Form attached hereto as Exhibit H.
7. **PROJECT SCHEDULE.** Below are the following pertinent dates:
- Anticipated notification from BNYDC to selected contractor on or about **February 2026;**
 - Upon selection, the selected Bidder must execute a Contract substantially in the form attached hereto as Exhibit I. Please note that, if any Bidder desires any change(s) to the Contract form attached as Exhibit I, it must include any such proposed change(s) as part of its Bid. BNYDC does not agree to necessarily accept any such proposed Contract changes, but BNYDC will not consider any Contract changes that are not provided as part of a Bid. The contents of the selected Bid, together with this IFB and any formal questions and answers provided during the bid process may be incorporated into any final Contract at BNYDC's discretion;
 - Commence work on Project on or about **March 2, 2026** or as otherwise stated in the Notice to Proceed issued by BNYDC following execution of the Contract;
 - Substantial completion of the Project (as defined in the Contract attached as Exhibit I hereto) no later than **September 2, 2026** and
 - Complete all inspections and sign-offs no later than **October 3, 2026** (the "Final Completion Date").



C. CONTRACT PARTICULARS

1. TIME OF COMPLETION. Final completion will occur after 215 consecutive calendar days.
2. Timely performance and completion of Project is of the essence, and such time of the essence requirement shall apply to all dates, time limits, schedules and time requirements set forth in the Contract attached hereto and as further described in this IFB.
3. RETAINAGE. As provided in the Contract attached hereto as Exhibit I.
4. CONTRACT LENGTH. The anticipated Contract length is 7 months.
5. LIQUIDATED DAMAGES. The Contractor shall be charged \$1,000.00 per calendar day for each day that Substantial Completion is delayed beyond the Substantial Completion Date. Failure to comply with the M/WBE requirements described in this IFB may also result in liquidated damages, as described further in Exhibit J.
6. PAYMENT & PERFORMANCE BOND. The selected bidder must provide Payment and Performance Bonds in accordance with the Contract prior to execution of the Contract.

D. MINORITY AND WOMEN-OWNED BUSINESS ENTERPRISE PARTICIPATION

The specific requirements of minority-owned business enterprises (“MBEs”) and women-owned business enterprises (“WBEs”) participation for this Contract are detailed below. Additional provisions regarding this IFB’s requirements relating to M/WBEs can be found in Exhibit J (Additional M/WBE Provisions) attached hereto.

Bidders must comply with all applicable MBE and WBE requirements for this Contract.

1. M/WBE PROGRAM. Section 6-129 of the Administrative Code of the City of New York (“Section 6-129”) establishes the program for participation in City procurement (“M/WBE Program”) by “MBEs and WBEs, certified in accordance with Section 1304 of the New York City Charter. As stated in Section 6-129, the intent of the program is to address the impact of discrimination on the City’s procurement process, and to promote the public interest in avoiding fraud and favoritism in the procurement process, increasing competition for City business, and lowering contract costs. BNYDC endorses these goals and has adopted an M/WBE Program to further participation by MBEs and WBEs for its projects. All Bidders shall comply with all requirements of BNYDC’s M/WBE Program applicable to this IFB.
2. M/WBE PARTICIPATION GOAL:
 - a. The percentage goal for M/WBE participation (the “Participation Goal”) for the Contract is **sixteen percent (16%)** of the total dollar value of the Contract. The Participation Goal represents a percentage of the total dollar value of the Contract that may be achieved by awarding subcontracts to firms certified with DSBS or DMWBD (each as defined below) as MBEs or WBEs, and/or by crediting the participation of prime contractors and/or qualified joint ventures as provided in Section D.2.d and Section D.2.e below, unless the goals have been waived or modified by BNYDC in accordance with Exhibit J, Section A.



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- b. M/WBE firms must be certified by either (i) the NYC Department of Small Business Services (“DSBS”), or (ii) Empire State Development’s Division of Minority and Women’s Business Development (“DMWBD”) to credit such firms’ participation toward attainment of the Participation Goal. Such certification must occur prior to the firms’ commencement of work. A list of M/WBE firms may be obtained (i) from the DSBS website at www.nyc.gov/buycertified, by emailing DSBS at buyer@sbs.nyc.gov, by calling (212) 513-6356, or by visiting or writing DSBS at 110 William Street, New York, New York, 10038, 7th Floor, and (ii) from the ESD website at www.ny.newnycontracts.com. Eligible firms that have not yet been certified may contact DSBS or DMWBD for additional information on how to get certified. No credit shall be given for participation by a graduate M/WBE, as defined in Section 6-129(c)(20).
 - c. The Participation Goal is a material term of the Contract and the selected Bidder shall be subject to the BNYDC approved Participation Goal, unless the goals have been waived or modified by BNYDC in accordance with Exhibit J, Section A.
 - d. An M/WBE Bidder shall be permitted to count its own participation toward fulfillment of the Participation Goal. The value of an M/WBE Bidder’s participation shall be determined by subtracting from the total value of the Contract any amounts that the Bidder will pay to direct Subcontractors. A Bidder that is certified as both an MBE and a WBE may count its own participation either toward the goal for MBEs or the goal for WBEs, but not both. If a Bidder is not an M/WBE, it must meet the Participation Goal through the awarding of subcontracts to firms certified with DSBS or DMWBD as MBEs or WBEs.
 - e. A Bidder that is a Qualified Joint Venture (as defined in Section 6-129, and as discussed further in Section 5) shall be permitted to count a percentage of its own M/WBE participation toward fulfillment of the Participation Goal. The value of Bidder’s participation shall be determined by subtracting from the total value of the Contract any amounts that Bidder pays to direct Subcontractors, and then multiplying the remainder by the percentage to be applied to total profit to determine the amount to which an MBE or WBE is entitled pursuant to the joint venture agreement, provided that where a participant in a joint venture is certified as both an MBE and a WBE, such amount shall be counted either toward the goal for MBEs or the goal for WBEs, but not both.
3. M/WBE PROPOSAL SUBMISSION FORMS.
- a. Bidders shall be required to submit with its bid a completed M/WBE Utilization Plan in the form attached as Exhibit K indicating:
 - i. whether the Bidder is an MBE or WBE, or Qualified Joint Venture;
 - ii. the percentage of work it intends to award to direct Subcontractors;
 - iii. in cases where the Bidder intends to award direct subcontracts, a description of the type and dollar value of work designated for participation by MBEs



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and/or WBEs, and the time frames in which such work is scheduled to begin and end; as well as the name, addresses, and telephone numbers of the M/WBE subcontractors if required by the solicitation; and copies of DSBS or DMWBD certifications for each proposed MBE or WBE subcontractor listed in its M/WBE Utilization;

- iv. the Bidder's required certification and affirmations, as attached as Exhibit K to this IFB. In the event that this M/WBE Utilization Plan indicates that the bidder does not intend to meet the Participation Goal, the bid shall be deemed non-responsive, unless the goals have been waived or modified by BNYDC in accordance with Exhibit J, Section A.
 - b. **THE BIDDER MUST COMPLETE AN M/WBE UTILIZATION PLAN IN THE FORM ATTACHED HERETO AS EXHIBIT K. AN M/WBE UTILIZATION PLAN SUBMITTED BY THE BIDDER WHICH DOES NOT INCLUDE THE VENDOR CERTIFICATION AND REQUIRED AFFIRMATIONS WILL BE DEEMED TO BE NON-RESPONSIVE, UNLESS A FULL WAIVER OF THE PARTICIPATION GOAL IS GRANTED IN ACCORDANCE WITH EXHIBIT J, SECTION A. IN THE EVENT THAT BNYDC DETERMINES THAT THE BIDDER HAS SUBMITTED AN M/WBE UTILIZATION PLAN WHERE THE VENDOR CERTIFICATION AND REQUIRED AFFIRMATIONS ARE COMPLETED BUT OTHER ASPECTS OF THE M/WBE UTILIZATION PLAN ARE NOT COMPLETE, OR CONTAIN A COPY OR COMPUTATION ERROR THAT IS AT ODDS WITH THE VENDOR CERTIFICATION AND AFFIRMATIONS, THE BIDDER WILL BE NOTIFIED BY BNYDC AND WILL BE GIVEN FOUR (4) CALENDAR DAYS FROM RECEIPT OF NOTIFICATION TO CURE THE SPECIFIED DEFICIENCIES AND RETURN A COMPLETED M/WBE UTILIZATION PLAN TO BNYDC. FAILURE TO DO SO WILL RESULT IN A DETERMINATION THAT THE BID IS NON-RESPONSIVE. RECEIPT OF NOTIFICATION IS DEFINED AS THE DATE NOTICE IS E-MAILED (IF THE BIDDER HAS PROVIDED AN E-MAIL ADDRESS), OR NO LATER THAN FIVE (5) CALENDAR DAYS FROM THE DATE OF MAILING OR UPON DELIVERY, IF DELIVERED.**
 - c. The successful Bidder (each Bidder who is awarded a Contract, a "Contractor") shall, within 30 days of contract signing, send a list of proposed persons or entities to which it intends to award subcontracts within the subsequent 12 months. In the case of multi-year contracts, such list shall also be submitted every year thereafter. BNYDC may also require the Contractor to report periodically about the contracts awarded by its direct Subcontractors to indirect subcontractors (as defined in Section 6-129(c)(22)). In the event that the Contractor's selection of a Subcontractor is disapproved, the Contractor shall have a reasonable time to propose alternate subcontractors.
4. STATEMENTS SUBMITTED WITH REQUESTS FOR PAYMENT.
- a. The Contractor shall, with each voucher for payment, and/or periodically as BNYDC may require, submit statements, certified under penalty of perjury, which shall include, but not be limited, to:



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- i. the total amount the Contractor paid to its direct subcontractors, and, where applicable pursuant to Section 6-129(j), the total amount direct subcontractors paid to indirect subcontractors;
 - ii. the names, addresses and contact numbers of each MBE or WBE hired as a subcontractor by the Contractor, and, where applicable, hired by any of the Contractor's direct subcontractors; and
 - iii. the dates and amounts paid to each MBE or WBE.
 - b. The Contractor shall also submit, along with its voucher for final payment:
 - i. the total amount it paid to subcontractors, and, where applicable pursuant to Section 6- 129(j), the total amount its direct subcontractors paid directly to their indirect subcontractors; and
 - ii. a final list, certified under penalty of perjury, which shall include the name, address and contact information of each subcontractor that is an MBE or WBE, the work performed by, and the dates and amounts paid to each.
 - c. If payments made to, or work performed by, MBEs or WBEs are less than the amount specified in the Contractor's M/WBE Utilization Form, BNYDC shall take appropriate action, in accordance with the enforcement provisions described in the Contract and in Exhibit J, Section G, unless the goals have been waived or modified by BNYDC in accordance with Exhibit J, Section A.
5. **MODIFICATIONS BASED ON CHANGE ORDERS.** Where an M/WBE Utilization Plan has been submitted, and the Bidder requests a change order the value of which exceeds the greater of 10 percent of the Contract, as applicable, or \$500,000, BNYDC shall review the scope of work for the Contract or Task Order, as applicable, and the scale and types of work involved in the change order, and determine whether the Participation Goals should be modified.
6. **OTHER M/WBE REQUIREMENTS.** The Contract and Exhibit J contain additional provisions related to the M/WBE requirements applicable to this IFB regarding, without limitation, waivers, modifications, substitutions, indefinite quantity contracts, progress reviews, evaluations and assessments, and enforcement. **PLEASE BE SURE THAT YOU REVIEW AND UNDERSTAND ALL OF THE REQUIREMENTS APPLICABLE TO THIS IFB AND THE CONTRACT PRIOR TO SUBMITTING YOUR PROPOSAL.**

E. SPECIAL REQUIREMENTS

1. MISCELLANEOUS CONDITIONS

- a. **NON-BINDING ACCEPTANCE OF QUALIFICATIONS.** This IFB does not commit BNYDC to award a contract for any work or services described herein.
- b. **MODIFICATIONS.** Bidders may be asked to make such revisions, additions or deletions to their Bids as may be required by BNYDC.
- c. **RESERVED RIGHTS.** All Bid material submitted becomes the property of BNYDC and BNYDC reserves the right at its sole discretion to:



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- i. Reject any and all Bids received in response to this IFB at any time prior to signing of a contract with respect to the Project;
- ii. Award a contract to other than the lowest Bidder;
- iii. Waive, modify or correct any irregularities in Bids received, after notification to the Bidder;
- iv. Change the structure of the proposed Bid, if such is in the interest of BNYDC;
- v. Negotiate the final scope, staff participation, and Bid before entering into contract with successful Bidder;
- vi. Revise the Bid as BNYDC may require subsequent to receipt of a competitively bid proposal for the Project;
- vii. Extend the time for submission of all Bids after notification to all prospective Bidders;
- viii. Terminate negotiations with a selected Bidder and select the next most responsive Bidder, or take such other action as deemed appropriate if negotiations fail to result in a signed contract within a reasonable amount of time from the commencement of negotiations;
- ix. Terminate or modify the IFB process at any time and reissue the IFB;
- x. Approve or reject any sub-contractor proposed by the Bidder; and
- xi. Request a change of any sub-contractor at any time in the contract process.

2. CONTRACT REQUIREMENTS.

- a. Any Bidder awarded a contract as a result of this IFB process will be required to sign a contract substantially in the form as attached hereto as Exhibit I (the "Contract"). If a Bidder desires any material or substantive change(s) to the Contract, it must include any such proposed change(s) in its response to this IFB. The contents of the selected Bid, together with this IFB and any formal questions and answers provided during the Bid processes, may be incorporated into any final Contract at BNYDC's discretion.
- b. Any information which may have been released verbally or in writing prior to the issuance of the IFB shall be deemed preliminary in nature and bind neither BNYDC nor the Bidder.
- c. Any Bidder awarded a contract as a result of this IFB will be required to obtain clearance through the City's Procurement and Sourcing Solutions Portal ("PASSPort"). PASSPort moves the VENDEX process online, eliminating paper submissions. Since PASSPort clearance is a pre-requisite to BNYDC's award of a contract, Bidders are required to be registered and up-to-date in PASSPort prior to submitting their response to this IFB and to include their PASSPort identification number with submission of their Bid. Non-compliance with these submission requirements shall result in the disqualification of the Bid and/or the Bidder and/or the cancellation of any contract after its award.
- d. Notice to Bidders: Pursuant to Local Law 34 of 2007, amending the City's Campaign Finance Law, the City is required to establish a computerized database containing the names of any "person" that has "business dealings with the city" as such terms are defined in the Local Law. In order for the City to obtain necessary information to



establish the required database, vendors responding to this solicitation are required to complete the Doing Business Data Form attached as Exhibit F hereto and return it with the Bid. (If the responding vendor is a proposed joint venture, the entities that comprise the proposed joint venture must each complete a Data Form.) If the City determines that a vendor has failed to submit a Data Form or has submitted a Data Form that is not complete, the vendor will be notified by the agency and will be given four (4) calendar days from receipt of notification to cure the specified deficiencies and return a complete Data Form to the agency. Failure to do so will result in a determination that the Bid is non-responsive. Receipt of notification is defined as the day notice is e-mailed or faxed (if the vendor has provided an e-mail address or fax number), or no later than five (5) days from the date of mailing or upon delivery, if delivered.

- e. Any Bidder awarded a contract as a result of this IFB will be required to register with the DOL and provide a copy of their Certificate of Registration. The same requirement applies to any subcontractors that Bidder may use. Since registration with the DOL is a pre-requisite to BNYDC's award of a contract, Bidders and their subcontractors (if applicable) are required to be registered with the DOL prior to submitting their response to this IFB and must include copies of their Certificates of Registration with submission of their Bid. Non-compliance with these submission requirements shall result in the disqualification of the Bid and/or the Bidder and/or the cancellation of any contract after its award.

F. BID SUBMISSION DOCUMENTS ("BSDs")

BNYDC requires that all BSDs listed below be completed and submitted as instructed in this IFB. Failure to submit the below forms, or submitting them improperly, may result in BNYDC's rejection of the Bid.

1. Bid Form: Properly executed and sealed in the form attached as Exhibit A.
2. Bid Security: If required per the IFB, completed form attached as Exhibit B.
3. Experience Questionnaire: Completed form attached as Exhibit C.
4. Declaration of Understanding: Completed and executed declaration attached as Exhibit D.
5. Confirmation of PASSPort Compliance: Completed confirmation attached as Exhibit E.
6. Doing Business Data Form: Completed form attached as Exhibit F.
7. M/WBE Information Form: Completed form attached as Exhibit G.
8. Confirmation of DOL Contractor Registration Compliance Form: Completed confirmation attached as Exhibit H, along with copies of the Certificates of Registration for Bidder and Bidder's subcontractors.
9. M/WBE Utilization Plan: Completed form attached as Exhibit K.
10. Addenda: Acknowledged receipt of any Addendum to this IFB by attaching a signed copy of the Addendum to Bidder's Bid.
11. Contract Revisions: If a Bidder desires any material or substantive change(s) to the Contract, Bidder must include any such proposed change(s) in its response to this IFB.



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BNYDC appreciates your interest in this IFB and looks forward to receiving your Bid.

**EXHIBIT A
BID FORM
BROOKLYN NAVY YARD DEVELOPMENT CORPORATION
BID FOR FURNISHING ALL LABOR AND MATERIAL FOR:**

PROJECT: Building 77 2nd Floor Storage

CONTRACT #: TBD

Name of Bidder: _____

Bidder is a(n): Individual ☐ Partnership ☐ Corporation ☐ LLC ☐
(Check one, whichever applies)

Business Address: _____

Business Telephone Number: _____

Federal Tax Identification Number: _____

Home Address (If Individual): _____

If Bidder is a Partnership or an LLC, fill in the following blanks:

Name of Partners/Member	Home Address of Partner/Member
1. _____	_____ _____
2. _____	_____ _____
3. _____	_____

If Bidder is a Corporation, fill in the following blanks:

Organized under the laws of the State of: _____

Admitted to do business in New York on: _____



Name and Home Address of President: _____

Name and Home Address of Secretary: _____

Name and Home Address of Treasurer: _____

Other Interested Parties, Persons, or Companies (State None if None.)

Name: _____

Address: _____

Name: _____

Address: _____

Bidder certifies, under penalty of perjury (New York State Penal Law §210.45), that:

- a) Bidder, if an individual or a partner in a partnership, is of lawful age and the only one interested in this bid; and no other person, firm partnership LLC or corporation other Bidder has any interest in this bid, or in the Contract if awarded; and
- b) The prices in this Bid have been arrived at independently without collusion, consultation, communication or agreement, for the purpose of restricting competition, as to any matter relating to such prices with any other bidder or with any competitor; and
- c) Unless otherwise required by law, the prices quoted in this bid have not been disclosed by the bidder and will not be disclosed by the bidder prior to bid opening, directly or indirectly, to any other bidder or to any competitor; and
- d) No attempt has been made or will be made by the Bidder to induce any other person, partnership, LLC or corporation to submit or not to submit a bid for the purpose of restricting competition; and
- e) No councilman or other officer, director or employee or person whose salary is payable in whole or in part from the Treasury of the City of New York or BNYDC is directly or indirectly interested in this bid, or in the supplies, materials, equipment, work or labor to which it relates, or in any of the profits thereof; and



- f) Bidder is not in arrears to the City of New York or BNYDC upon debt or contract or taxes, and is not a defaulter, as surety or otherwise, upon any obligation of the City of New York or BNYDC and has not been declared not responsible, or disqualified, by BNYDC or any agency of the City of New York or State of New York, nor is there any proceeding pending relating to the responsibility of qualification of the bidder to receive public contracts except _____; and
- g) Bidder has paid all applicable City income, excise and other taxes for all years it has conducted business activities in New York City; and
- h) Bidder has complied with since its effective date and will continue to comply with the provisions of §6-108 of the Administrative Code of the City of New York; and
- i) Bidder has complied with since its effective date and will continue to comply with the provisions of §220, §220a and §230 of the New York State Labor Law; and
- j) Bidder has complied with since its effective date and will continue to comply with §6-109 of the Administrative Code of the City of New York; and
- k) Bidder has complied with since its effective date and will continue to comply with § 24-216 of the Administrative Code of the City of New York; and
- l) Bidder agrees to post notices setting forth the requirements of the aforesaid laws (items h, i, j and k above) in prominent and conspicuous places in each and every plant, factory, building and structure where employees engaged in the performance of the Contract can readily view it and will continue to keep such notices posted until the supplies, materials and equipment, or work labor and services required to be furnished or rendered by the Bidder have been finally accepted by BNYDC; and
- m) Bidder has complied with since its effective date and will continue to comply with Executive Order No. 50, dated, April 25, 1980, on Equal Employment Compliance of the Contract. The required Employment Report must be submitted as part of the bid.
- n) Bidder by submitting this bid certifies that it now has and will continue to have the financial capability to fully perform the Project required for the Contract. The award of the Contract will be made in reliance upon such certification. Therefore, upon request by BNYDC, Bidder will submit proof of financial capability, as BNYDC requires.

Bidder understands that any breach or violation of the foregoing may subject Bidder to damages, liquidated or otherwise, cancellation of the Contract, if awarded, and suspension of Bidder for a period of three years.



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BID PRICE – BASE BID TOTAL

BASE BID TOTAL PRICE (EXCLUDING ALTERNATES)

\$ _____

Indicate BASE BID TOTAL PRICE (EXCLUDING ALTERNATES) in words:



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BID PRICE – BREAKDOWN

TRADE	PRICE
EXISTING CONDITIONS (Division 2)	\$
CONCRETE (Division 3)	\$
THERMAL & MOISTURE PROTECTION (Division 7)	\$
OPENINGS (Division 8)	\$
FINISHES (Division 9)	\$
SPECIALTIES (Division 10)	\$
FIRE SUPPRESSION (Division 21)	\$
PLUMBING (Division 22)	\$
HVAC (Division 23)	\$
ELECTRICAL (Division 26)	\$
FIRE ALARMS (Division 28)	\$
TRADE SUBTOTAL	\$
GENERAL CONDITIONS	\$
PAYMENT & PERFORMANCE BOND	\$
OVERHEAD & PROFIT	\$
BID PRICE (TOTAL OF ALL ITEMS ABOVE)	\$
ADD ALT 1: ALTERNATE STORAGE LAYOUT (Please see A-802.00 in Project Drawings)	\$
ADD ALT 2: WIRE MESH CEILING (Please see Note 229 on page A 201 in Project Drawings)	\$



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IN WITNESS WHEREOF, Bidder states that they have visited and examined the site of the Project. Bidder affirms that they have carefully examined the Contract form provided. Bidder agrees that it will execute the Contract unchanged in form and faithfully perform the Project required thereunder for the price set forth above, and have executed this Bid Form on the ____ day of _____, 2021.

Bidder's Name: _____

By: _____
(Signature of Individual, Partner, Member or Corporate Officer)

Title: _____

Address: _____

_____ (Corporate or LLC Seal)

Attest: Secretary of Corporate or LLC Bidder

ACKNOWLEDGMENT, IF AN INDIVIDUAL

STATE OF NEW YORK)

ss.:

COUNTY OF _____)

On this ____ day of _____, 20____, before me personally came _____ to me known, who, being by me duly sworn, did depose and say that he/ she resides at _____ and that he/she is the Individual described in and who executed the foregoing instrument and that the several matters therein stated are in all respects true.

Notary Public

ACKNOWLEDGMENT, IF A PARTNERSHIP

STATE OF NEW YORK)

ss.:

COUNTY OF _____)



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On this _____ day of _____, 20____, before me personally came _____ to me known, who, being by me duly sworn, did depose and say that he/ she resides at _____ and that he/she is a member of, the firm described in and which executed the foregoing instrument and that the several matters therein stated are in all respects true.

Notary Public

ACKNOWLEDGMENT, IF A LIMITED LIABILITY COMPANY

STATE OF NEW YORK)
: ss.:
COUNTY OF _____)

On the ____ day of _____ in the year 20____, before me personally came _____, to me known, who, being by me duly sworn, did depose and say that that he/she is a member of _____ the limited liability company described in and which executed the foregoing instrument; and that he/she signed his/her name thereto by authority of the members of said limited liability company and that the several matters therein stated are in all respects true.

Notary Public

ACKNOWLEDGMENT, IF A CORPORATION

STATE OF NEW YORK)
: ss.:
COUNTY OF _____)

On the ____ day of _____ in the year 20____, before me personally came _____, to me known, who, being by me duly sworn, did depose and say that that he/she is the _____ of _____ the business described in and which executed the foregoing instrument; and that he/she signed his /her name thereto by authority of the Board of Directors of said corporation and that the several matters therein stated are in all respects true.

Notary Public



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EXHIBIT B FORM OF BID BOND

KNOW ALL MEN BY THESE PRESENTS, that we, the undersigned, _____ as Principal, (hereinafter called "Principal") and _____ a corporation duly organized under the laws of the State of _____ as Surety, (hereinafter called "Surety") are hereby held and firmly bound unto the Brooklyn Navy Yard Development Corporation, the City of New York, and the City of New York Department of Small Business Services or their successors and assigns collectively, as Obligee (hereinafter called ("Obligee") in the full and just sum of _____ Dollars (\$_____) (hereinafter called "Penal Sum"), to the payment of which, well and truly to be made, the Principal and Surety hereby bind themselves, their heirs, executors, administrators, successors, and assigns, jointly and severally, firmly by these presents:

Signed and sealed with our seals and dated this _____ day of _____, 20__.

WHEREAS, the Principal has submitted a bid to Obligee based on:

1. Obligee's Request for Bids; and
2. Obligee's Information for Bidders; and
3. Obligee's Bid submission Documents; and
4. The Project Specification Documents issued by Obligee; and
5. Any addenda issued by Obligee in connection with the above documents.
6. Documents 1 through 5 above are incorporated herein by reference

For _____

_____(Project)



WHEREAS, the Condition of the above obligation is such that the Principal has submitted to Obligee the id which requires Principal to enter into a written contract for the performance of the Project.

NOW, THEREFORE,

- A. If the BID is rejected, or
- B. If the BID is accepted and the Principal and Obligee have executed and delivered the required contract in the form set forth in the Information for Bidders, in accordance with the accepted BID (Contract); and
- C. If the Principal furnishes Obligee with the required bond for Principal’s faithful performance the Contract; and
- D. If the Principal furnishes Obligee with the required bond for the payment of all persons performing labor or furnishing materials in connection with the Contract; and
- E. If the Principal shall in all other respects perform the agreements created by Obligee’s acceptance of the Bid
- F. If the Principal shall pay to the Obligee an amount equaling the difference, not to exceed the Penal Sum hereof, between the amount specified in said BID and such larger amount for which the Obligee may in good faith contract with another party to undertake the Project covered by said Bid.

Then this obligation shall be null and void, otherwise to remain in full force and effect.

It is understood and agreed that the liability of the Surety for any and all claims hereunder shall in no event exceed the Penal Sum as shown herein.

The Surety, for value received, hereby stipulates and agrees that the obligations of said Surety under this Bond shall be in no way impaired or affected by any extension of the time within which the Obligee may accept the Bid; and said Surety does hereby waive notice of any such extension.

(Principal)

{SEAL}

By: _____
Title: _____
Address _____

(Surety)

{SEAL}



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By: _____
 (Attorney-In-Fact)
Address _____

IMPORTANT

- A. Surety companies executing this bond must be certified and appear on the United States Treasury Department's most recent Circular 570 as amended.
 - B. Surety companies can execute this bond only in the amount certified on the United States Treasury Department's most recent Circular 570 as amended.
- Sureties executing this bond must be licensed as a surety by the State of New York.



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EXHIBIT C EXPERIENCE QUESTIONNAIRE

As used in the questions below the words “YOU” or “YOUR” means, the bidding individual or bidding entity and each and every one of such bidding entity’s officers, directors, partners, members or principals (any shareholder owning 10% or more of the company stock is deemed a principal).

Date: _____

Bidder’s Name: _____

Bidder’s Office Address: _____

Bidder’s Telephone Number: _____

Bidder’s Federal Taxpayer Identification Number: _____

Bidder is a(n): Individual ☐ Partnership ☐ Corporation ☐ LLC ☐
(Check one, whichever applies)

A. What type of construction work are YOU primarily engaged in? _____

B. You have been engaged in such construction work for a) as a Prime Contractor? ____ years
and/or b) as a Subcontractor ____ years

C. Have YOU or any organization YOU have been affiliated with in any capacity ever failed to complete a Contract awarded to YOU? Yes ☐ No ☐

If Yes, for whom, where, when and why? _____



D. Have YOU or any organization YOU have been affiliated with in any capacity ever been declared in default by any City, State or Federal Agency or on any Contract?

Yes ☐ No ☐

If Yes where, when, by whom and why? _____

E. Have YOU or any organization YOU have been affiliated with in any capacity ever been investigated by any City, State or Federal Agency? Yes ☐ No ☐

If Yes where, when, by whom and why? _____

F. Have YOU or any organization YOU have been affiliated with in any capacity ever when called before a GRAND JURY to testify, refused to sign a WAIVER OF IMMUNITY or answer any relevant questions or have been indicted for any reason whatsoever? Yes ☐ No ☐

If Yes where, when and why? _____

G. List the names of all organization YOU have been affiliated with in any capacity that are not listed in paragraphs D. E. or F. above.



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H. Have YOU ever appeared before the Board of Responsibility of the City of New York? Yes ☐
No ☐

If Yes when and why _____

I. In what other businesses do YOU have a financial interest? _____

REFERENCES

List all corporations and individuals for whom YOU have performed significant work for and an official from whom BNYDC can obtain a reference. YOU must include a current address and telephone number for each reference.

List all cities for which YOU have performed significant work for and an official from whom BNYDC can obtain a reference. YOU must include a current address and telephone number for each reference.



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List all counties for whom YOU have performed significant work for and an official from which BNYDC can obtain a reference. YOU must include a current address and telephone number for each reference.

List all States have YOU performed work and an official from whom BNYDC can obtain a reference. YOU must include a current address and telephone number for each reference.

List all Federal construction projects YOU have performed work on and an official from whom BNYDC can obtain a reference. YOU must include a current address and telephone number for each reference.



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Have YOU filed Performance Record reports with the Bureau of Contract Information, Inc., Washington, D.C.? Yes ☐ No ☐ if Yes list Date(s) _____

PROJECT EXPERIENCE FORMS AND RESUMES

Individual Construction Experience

For each key individual in your organization please attach a resume providing at a minimum the following information:

- Name
- Education
- Professional designations
- Professional affiliations
- Awards
- Relevant experience including size of previous projects, cost of such project, location of such projects, a description of such projects and the key individuals position for each project

I (We) have read and understood all the questions in the foregoing Experience Questionnaire and that I (We) have supplied true, full and complete information and answers I (We) understand that BNYDC will rely on the information contained herein.



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Bidder

Name: _____

By: _____
(Signature of Individual, Partner, Member or Corporate Officer)

Title: _____

Address: _____

Attest: Secretary of Corporate or LLC Bidder (Corporate or LLC Seal)



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ACKNOWLEDGMENT, IF AN INDIVIDUAL

STATE OF NEW YORK)

ss.:

COUNTY OF _____)

On this _____ day of _____, 20____, before me personally came _____
to me known, who, being by me duly sworn, did depose and say that he/ she resides at
_____ and that he/she is the Individual
described in and who executed the foregoing instrument and that the several matters therein stated
are in all respects true.

Notary Public

ACKNOWLEDGMENT, IF A PARTNERSHIP

STATE OF NEW YORK)

ss.:

COUNTY OF _____)

On this _____ day of _____, 20____, before me personally came
_____ to me known, who, being by me duly sworn, did
depose and say that he/ she resides at
_____ and that he/she is a member
of, the firm described in and which executed the foregoing instrument and that the several matters
therein stated are in all respects true.

Notary Public



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ACKNOWLEDGMENT, IF A LIMITED LIABILITY COMPANY

STATE OF NEW YORK)

: ss.:

COUNTY OF _____)

On the ____ day of _____ in the year 20__, before me personally came _____, to me known, who, being by me duly sworn, did depose and say that that he/she is a member of _____ the limited liability company described in and which executed the foregoing instrument; and that he/she signed his/her name thereto by authority of the members of said limited liability company and that the several matters therein stated are in all respects true.

Notary Public

ACKNOWLEDGMENT, IF A CORPORATION

STATE OF NEW YORK)

: ss.:

COUNTY OF _____)

On the ____ day of _____ in the year 20__, before me personally came _____, to me known, who, being by me duly sworn, did depose and say that that he/she is the _____ of _____ the business described in and which executed the foregoing instrument; and that he/she signed his /her name thereto by authority of the Board of Directors of said corporation and that the several matters therein stated are in all respects true.

Notary Public



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PROJECT EXPERIENCE FORM (To be completed for each of three projects completed within the last 5 years)

Name of Project: _____

Location of Project: _____

Owner or Owner's representative familiar with the work performed:

Name: _____

Title: _____

Phone number: _____

Brief description of work completed: _____

Was the work was performed as a prime subcontractor, or joint venture: _____

Dollar amount of Contract or subcontract: \$_____

Date Started: _____

Original Scheduled Completion Date: _____

Actual Completion Date: _____

If Not Completed By Original Scheduled Date, Give Reasons Therefore:



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PROJECT EXPERIENCE FORM (To be completed for each of three projects)

Name of Project: _____

Location of Project: _____

Owner or Owner's representative familiar with the work performed:

Name: _____

Title: _____

Phone number: _____

Brief description of work completed: _____

Was the work was performed as a prime subcontractor, or joint venture: _____

Dollar amount of Contract or subcontract: \$_____

Date Started: _____

Original Scheduled Completion Date: _____

Actual Completion Date: _____

If Not Completed By Original Scheduled Date, Give Reasons Therefore:



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PROJECT EXPERIENCE FORM (To be completed for each of three projects)

Name of Project: _____

Location of Project: _____

Owner or Owner's representative familiar with the work performed:

Name: _____

Title: _____

Phone number: _____

Brief description of work completed: _____

Was the work was performed as a prime subcontractor, or joint venture: _____

Dollar amount of Contract or subcontract: \$ _____

Date Started: _____

Original Scheduled Completion Date: _____

Actual Completion Date: _____

If Not Completed By Original Scheduled Date, Give Reasons Therefore:



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EXHIBIT D
DECLARATION OF UNDERSTANDING

DECLARATION OF UNDERSTANDING

By signing in the space provided below, the undersigned certifies that the Bidder (i) has read and understands the scope and requirements of this Project, as described in the IFB and all attachments; (ii) has the capacity to execute this Project, (iii) agrees to accept payment in accordance with the requirements of this IFB and the standard Contract, attached hereto as Exhibit J, and (iv) will, if its Bid is accepted, enter into the attached Contract with the Brooklyn Navy Yard Development Corporation.

The undersigned further stipulates that the information in his/her Bid is, to the best of his/her knowledge, true and accurate.

_____	_____
Authorized Signature, Title	Date

Consultant Firm

Business Address

_____	_____	_____
City	State	Zip

_____	_____
Telephone Number	Fax Number

Federal Tax Identification Number

- | | |
|--------------------------------------|--|
| ☐ Corporation | ☐ Partnership |
| ☐ Individual | ☐ Other (State) |

(Seal, if a Corporation)



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EXHIBIT E
CONFIRMATION OF PASSPORT COMPLIANCE

CONFIRMATION OF PASSPORT COMPLIANCE

Respondent hereby certifies that:

(Check appropriate box)

☐

The Respondent has submitted PASSPort questionnaire information through the link below but has not yet received confirmation of PASSPort Compliance. Respondent acknowledges and agrees that Confirmation of PASSPORT Compliance will be required prior to award of any On-Call Contract.

☐

The Respondent has received Confirmation of PASSPort Compliance. Its PASSPort identification number is _____.

All VENDEX processes are now completed in the PASSPort Portal, this replaces the paper forms. Please register and complete new questionnaires as soon as possible. PASSPort will not be importing any information from VENDEX. The main purpose of PASSPort is to be a completely paperless interactive system.

Please access to the NYC.gov PASSPort website thru the link below:
<https://www.nyc.gov/site/mocs/passport/about-passport.page>



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EXHIBIT F DOING BUSINESS DATA FORM

This exhibit can be found at the following link:

https://brooklynnavyyard.sharepoint.com/:f:/s/external_sharing/dnc/EpU3u-eBg8BEIj5X72yfDXsBv1Q3KQInnKGf4Kd0gvwytw?e=piUhb9



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EXHIBIT G

M/WBE INFORMATION FORM

This exhibit can be found at the following link:

https://brooklynnavyyard.sharepoint.com/:f:/s/external_sharing/dnc/EpU3u-eBg8BEIj5X72yfDXsBv1Q3KQInnKGf4Kd0gvwytw?e=piUhb9



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EXHIBIT H

CONFIRMATION OF DOL CONTRACTOR REGISTRATION COMPLIANCE FORM

In connection with Section 220-I of the Labor Law, Bidders must provide a copy of their and their contractors' (if applicable) Certificate of Registration(s) from the DOL.

- ☐ By checking this box, Bidder hereby certifies that Bidder and its subcontractors (if applicable) are registered with the DOL and have received Certificate(s) of Registration. Such certificate(s) are attached hereto.

More information about the [required materials](#) for registration can be found here:

https://dol.ny.gov/what-you-need-register-contractor-and-subcontractor-registry?utm_medium=email&utm_source=govdelivery

More information about how to register can be found here: https://dol.ny.gov/how-register-contractor-and-subcontractor-registry?utm_medium=email&utm_source=govdelivery

More information on how to acquire your certificate of registration can be found here:

https://dol.ny.gov/after-you-register-contractor-and-subcontractor-registry?utm_medium=email&utm_source=govdelivery



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EXHIBIT I FORM OF CONTRACT

This exhibit can be found at the following link:

https://brooklynnavyyard.sharepoint.com/:f:/s/external_sharing/dnc/EpU3u-eBg8BEIj5X72yfDXsBv1Q3KQInnKGf4Kd0gvwytw?e=piUhb9



EXHIBIT J

ADDITIONAL M/WBE PROVISIONS

A. Pre-award waiver of the Participation Goals.

1. A Bidder may seek a pre-award full or partial waiver of the Participation Goals in accordance with Section 6-129, which requests that BNYDC change the Participation Goal on the grounds that the Participation Goal is unreasonable in light of the availability of certified firms to perform the services required, or by demonstrating that it has legitimate business reasons for proposing a lower level of subcontracting in its M/WBE Utilization Plan.
2. To apply for a full or partial waiver of the Participation Goal, a bidder must complete Part B of Exhibit K and submit such request no later than seven (7) calendar days prior to the date and time the bids are due, in writing to the BNYDC by email at dmagdich@bnydc.org and mwbe@bnydc.org. Full or partial waiver requests that are received later than seven (7) calendar days prior to the date and time the bids are due may be rejected as untimely. Bidders who have submitted timely requests will receive a BNYDC response by no later than two (2) calendar days prior to the due date for bids; provided, however, that if that date would fall on a weekend or holiday, a BNYDC response will be provided by close-of-business on the business day before such weekend or holiday date.
3. If BNYDC determines that the Participation Goal is unreasonable in light of the availability of certified firms to perform the services required, it shall revise the solicitation and extend the deadline for bids.
4. BNYDC may grant a full or partial waiver of the Participation Goal to a bidder who demonstrates—before submission of the bid—that it has legitimate business reasons for proposing the level of subcontracting in its M/WBE Utilization Plan. In making its determination, BNYDC shall consider factors that shall include, but not be limited to, whether the bidder has the capacity and the bona fide intention to perform the Contract without any subcontracting, or to perform the Contract without awarding the amount of subcontracts represented by the Participation Goal. In making such determination, BNYDC may consider whether the M/WBE Utilization Plan is consistent with past subcontracting practices of the bidder whether the bidder has made efforts to form a joint venture with a certified firm, and whether the bidder has made good faith efforts to identify other portions of the Contract that it intends to subcontract.

B. Modification of M/WBE Utilization Plan.

1. A Contractor may request a modification of its M/WBE Utilization Plan (a “Modification”) after award of this Contract. BNYDC may grant a request for Modification of a Contractor’s M/WBE Utilization Plan if it determines that the Contractor has established, with appropriate documentary and other evidence, that it made reasonable, good faith efforts to meet the Participation Goal. In making such determination, BNYDC shall consider evidence of the following efforts, as applicable, along with any other relevant factors:



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- a. The Contractor advertised opportunities to participate in the Contract, where appropriate, in general circulation media, trade and professional association publications and small business media, and publications of minority and women's business organizations;
- b. The Contractor provided notice of specific opportunities to participate in the Contract, in a timely manner, to minority and women's business organizations;
- c. The Contractor sent written notices, by certified mail or facsimile, in a timely manner, to advise MBEs or WBEs that their interest in the Contract was solicited;
- d. The Contractor made efforts to identify portions of the work that could be substituted for portions originally designated for participation by MBEs and/or WBEs in the M/WBE Utilization Plan, and for which the Contractor claims an inability to retain MBEs or WBEs;
- e. The Contractor held meetings with MBEs and/or WBEs prior to the date their bids were due, for the purpose of explaining in detail the scope and requirements of the work for which their bids were solicited;
- f. The Contractor made efforts to negotiate with MBEs and/or WBEs as relevant to perform specific subcontracts, or act as suppliers or service providers;
- g. Timely written requests for assistance made by the Contractor to BNYDC's M/WBE liaison officer at mwbe@bnydc.org and to DSBS and DMWBD;
- h. Description of how recommendations made by DSBS, DMWBD and BNYDC were acted upon and an explanation of why action upon such recommendations did not lead to the desired level of participation of MBEs and/or WBEs.

BNYDC's M/WBE liaison officer shall provide written notice to the Contractor of the determination.

2. BNYDC may modify the Participation Goal when the scope of the work has been changed by BNYDC in a manner that affects the scale and types of work that the Contractor indicated in its M/WBE Utilization Plan would be awarded to subcontractors.

C. Substitutions

Substitutions to the MBEs and/or WBEs that Contractor identified as firms they intended to use in connection with the performance of the Contract may only be made with the approval of BNYDC, which shall only be given when the Contractor has proposed to use a firm that would satisfy the Participation Goal to the same extent as the firm previously identified, unless BNYDC determines that the Contractor has established, with appropriate documentary and other evidence, that it made reasonable, good faith efforts. In making such determination, BNYDC shall require evidence of the efforts listed in Section B(1) above, as applicable, along with any other relevant factors.

D. Indefinite Quantity Contracts

If this Contract is for an indefinite quantity of construction or is a requirements type contract and the Contractor has submitted an M/WBE Utilization Plan and has committed to subcontract work to



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MBEs and/or WBEs in order to meet the Participation Goal, the Contractor will not be deemed in violation of the M/WBE Program requirements for this Contract with regard to any work which was intended to be subcontracted to an MBE and/or WBE to the extent that BNYDC has determined that such work is not needed.

E. Progress Review, Evaluation and Assessment

At least once annually during the term of the Contract, BNYDC shall review the Contractor's progress toward attainment of its M/WBE Utilization Plan, including but not limited to, by reviewing the percentage of work the Contractor has actually awarded to MBE and/or WBE subcontractors and the payments the Contractor made to such subcontractors.

BNYDC shall evaluate and assess the Contractor's performance in meeting those goals, and such evaluation and assessment shall become part of the Contractor's overall contract performance evaluation.

F. Miscellaneous Provisions

1. The Contractor shall take notice that the resulting contract may be audited. Furthermore, such resulting contract may also be examined by the City's Comptroller to assess compliance with its M/WBE Utilization Plan.
2. DSBS and DMWBD are available to assist contractors and potential contractors in determining the availability of MBEs and/or WBEs to participate as subcontractors, and in identifying opportunities that are appropriate for participation by MBEs and/or WBEs in contracts.
3. Prospective contractors are encouraged to enter into qualified joint venture agreements with MBEs and/or WBEs as defined by Section 6-129(c)(30).
4. By submitting a bid the Contractor hereby acknowledges its understanding of the M/WBE Program requirements set forth herein, and if awarded this Contract, the Contractor hereby agrees to comply with the M/WBE Program requirements of this Contract, all of which shall be deemed to be material terms of this Contract. The Contractor hereby agrees to make all reasonable, good faith efforts to solicit and obtain the participation of MBEs and/or WBEs to meet the required Participation Goals.

G. Enforcement

1. If BNYDC determines that a bidder has, in relation to this procurement, violated the M/WBE Program requirements of this Contract, BNYDC may disqualify such bidder from competing for this Contract and BNYDC may revoke such bidder's prequalification status, if applicable.
2. Whenever BNYDC believes that the Contractor or a subcontractor is not in compliance with the M/WBE Program or its M/WBE Utilization Plan, BNYDC shall send a written notice to the Contractor describing the alleged noncompliance and offering the Contractor an opportunity to be heard. BNYDC shall then conduct an investigation to determine whether such Contractor or subcontractor is in compliance.
3. In the event that the Contractor has been found to have violated the M/WBE Program or



its M/WBE Utilization Plan, BNYDC may determine that one of the following actions should be taken:

- a. entering into an agreement with the Contractor allowing the Contractor to cure the violation;
 - b. revoking the Contractor's pre-qualification to bid for future contracts;
 - c. making a finding that the Contractor is in default of the Contract;
 - d. terminating the Contract;
 - e. declaring the Contractor to be in breach of Contract;
 - f. withholding payment or reimbursement;
 - g. determining not to renew the Contract;
 - h. assessing actual and consequential damages;
 - i. assessing liquidated damages or reducing fees, provided that liquidated damages may be based on amounts representing costs of delays in carrying out the purposes of the M/WBE Program, or in meeting the purposes of the Contract, the costs of meeting utilization goals through additional procurements, the administrative costs of investigation and enforcement, or other factors set forth in the Contract;
 - j. exercising rights under the Contract to procure goods, services or construction from another contractor and charge the cost of such contract to the Contractor that has been found to be in noncompliance; or
 - k. taking any other appropriate remedy.
4. If the Contractor has been found to have failed to fulfill its Participation Goals contained in its M/WBE Utilization Plan or the Participation Goal as modified by BNYDC pursuant to Section B of this Exhibit J, BNYDC may assess liquidated damages in the amount of ten percent (10%) of the difference between the dollar amount of work required to be awarded to MBE and/or WBE firms to meet the Participation Goal and the dollar amount the Contractor actually awarded and paid, and/or credited, to MBE and/or WBE firms. In view of the difficulty of accurately ascertaining the loss which BNYDC will suffer by reason of Contractor's failure to meet the Participation Goal, the foregoing amount is hereby fixed and agreed as the liquidated damages that BNYDC will suffer by reason of such failure, and not as a penalty. BNYDC may deduct and retain out of any monies which may become due under this Contract the amount of any such liquidated damages; and in case the amount which may become due under this Contract shall be less than the amount of liquidated damages suffered by BNYDC, the Contractor shall be liable to pay the difference.
 5. Whenever BNYDC has reason to believe that an MBE and/or WBE is not qualified for certification, or is participating in a contract in a manner that does not serve a commercially useful function (as defined in Section 6-129(c)(8)), BNYDC shall notify the Commissioner of DSBS or DMWBD, as applicable, who shall determine whether the certification of such business enterprise should be revoked.



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6. Statements made in any instrument submitted to BNYDC pursuant to the M/WBE Program shall be submitted under penalty of perjury and any false or misleading statement or omission shall be grounds for the application of any applicable criminal and/or civil penalties for perjury. The making of a false or fraudulent statement by an MBE and/or WBE in any instrument submitted pursuant the M/WBE Program shall, in addition, be grounds for revocation of its certification.
7. The Contractor's record in implementing its M/WBE Utilization Plan shall be a factor in the evaluation of its performance. Whenever BNYDC determines that a Contractor's compliance with an M/WBE Utilization Plan has been unsatisfactory, BNYDC shall, after consultation with the BNYDC M/WBE liaison officer, file an advice of caution form for inclusion in PASSPort as caution data.



Brooklyn Navy Yard
Development Corporation
BrooklynNavyYard.org

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EXHIBIT K

M/WBE UTILIZATION PLAN

This exhibit can be found at the following link:

https://brooklynnavyyard.sharepoint.com/:f:/s/external_sharing/dnc/EpU3u-eBg8BEIj5X72yfDXsBv1Q3KQInnKGf4Kd0gvwytw?e=piUhb9