MTA Bus Company

Contract Department
128-15 28th Avenue
Maintenance Building, 2nd Floor
Flushing NY 11354

Bid Quotation Sheet

Bid/Contract No. D162648

Advertise Date: March 28, 2016
Bid Opening Date: April 20, 2016

PROCUREMENT REPRESENTATIVE: **Nydia Colimon**
TELEPHONE **718-888-6278**

MTA BUS COMPANY (MTABC), a subsidiary of the Metropolitan Transportation Authority, hereby solicits a quotation to purchase the following material.

Item	Quantity	Description	Unit Price	Extended Price
1	420 each	MTABC Stock Number: 82-73-0002 Description: Hose Assembly, Stainless Steel Braded, 82.5" Long, B500R Transmission Cooler _____ **Manufacturers Part No.:** Aeroquip part #FL4460NNN0824 MCI part #13-10-1001 **Please circle the part # above on which you are quoting.**		

All prices quoted must be FOB Delivered prices. Payment terms Net 30, unless otherwise indicated.

Gross Sum Bid

Length of contract(s): 27 months from issue date of master contract

Insert start-up time here _____ days (max. 90 days).
Please Note: A Bid quoting a start-up time greater than 90 days will be declared non-responsive.

NOTE: A Bid quoting no start-up time shall be interpreted as no start-up time is required.

MTA Bus Company does not require all material to be delivered at one time. After notification of award, deliveries will be made to the requesting MTABC Depot within 14 days after start-up time and issuance of purchase order release.

Bidders are advised to complete and return this bid quotation sheet with your complete and executed bid.

Bidders who fail to meet this requirement may be determined by MTA Bus Company to have submitted a non-responsive bid and have such bid be rejected.

Vendor Name: _____

Quoted by: _____ _____
Printed Name **Signature**

Date: _____

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This bid solicitation package consists of the following documents:

1.	Bid Quotation Sheet	Dated 07/14	☒
2.	Important Notice to Bidders	Dated 07/14	☒
3.	Information for Bidders	Dated 07/14	☒
4.	Contract Terms and Conditions	Dated 07/14	☒
5.	Bid	Dated 07/14	☒
6.	Estimated Quantity Contract Terms and Conditions	Dated 10/11	☒
7.	Schedule G: Rider To Contract Documents	Dated 11/09	☒
8.	Schedule J: Responsibility Questionnaire	Dated 08/12	☐
9.	Schedule M: Utilization of Contract by other Agencies	Dated 01/08	☒
10.	Schedule N: Non-Bidders Response Form	Dated 01/08	☒
11.	Schedule O: Storeroom Delivery Information	Dated 08/12	☒
12.	Schedule S: Iran Energy Sector Divestment Certification	Dated 01/14	☒
13.	Schedule V: MTA Vendor Code Of Ethics Certification of Compliance	Dated 07/14	☒
14.	Schedule W: Compliance with NYS State Finance Law Sections 139-J and 139-K ("Lobbying Law")	Dated 01/08	☒
15.	Package 1 – Minority/Women-Owned Business Enterprise, No ("M/WBE") Goals	Dated 03/12	☒
16.	Attachment # 1 – MTABC Observed Holidays	Dated 11/09	☒
17.	Attachment # 2 – Application and Certification	Dated 09/14	☒

Bidders are responsible for ensuring that they have received all bid solicitation documents and must acknowledge all addenda in their bid. Bidders are reminded to examine all documents carefully before submitting a bid quotation. If any of the documents referenced above are missing from this package, contact the procurement representative shown above.

The following documents <u>must</u> be returned with your bid quotation:

1. Section entitled "Bid," Dated 07/14, pages 1-14 inclusive.
   Bidders are reminded to examine each page carefully and **<u>Execute/Sign all</u>** sections that apply to this solicitation.
2. The bid quotation sheet(s) (Original or exact duplicate):
   State on the bid quotation sheet(s) the unit price and the extended price for each item listed and, if required, answer any questions or fill in any blanks.
   Note: If more than one manufacturer and part number is indicated in bid **<u>please circle the manufacturer and respective part number on which you are quoting.</u>**
3. Schedule J – as required on bids greater than $250,000, Dated 08/12.
4. Schedule S – as required on all bids, Dated 01/14.
5. Schedule V – as required on all bids, Dated 07/14.
6. Schedule W – Compliance with NY State Finance Law Sections 139-J and 139-K ("Lobbying Law"), Dated 1/08.
7. Attachment # 2 – Application and Certification to MTA Contract.

<u>THIS IS AN M/W/S BUSINESS DISCRETIONARY PROCUREMENT:</u>
The following procurement is being conducted in accordance with Section 2879 paragraph (b)(3)(i) of the New York State Public Authorities Law relating to the purchase of goods or services from small business concerns or certified minority or women owned businesses. Any awards resulting from this procurement cannot exceed $200,000.00. In order to be eligible to receive a contract award or purchase order pursuant to this solicitation a bidder either must be:
1) a certified as a minority or women owned business by the New York State Empire State Development Corporation (ESD) or 2) a qualified small business concern as defined in section 160 of the State Finance Law (see Attachment 2). A copy of the bidder's minority or women owned business current certification by ESD must be provided by the apparent low bidder upon request.

Bus Company

IMPORTANT NOTICE TO BIDDERS

Bid Solicitation No. D162648

The attention of all bidders and prospective bidders is hereby drawn to important provisions relating to the following requirements:

CHANGES TO CONTRACT DOCUMENTS

Bidders are cautioned to read the contract documents carefully as there have been significant changes to the language especially relating to the submission of bids and MWBE issues.

NEW YORK STATE LOBBYING LAW OF 2005

Chapter 1 of the Laws of 2005, as amended by Chapter 596 of the Laws of 2005 (collectively referred to as the "Lobbying Law"), was signed into law by Governor George Pataki in August 2005. The Lobbying Law makes major changes to the Legislative Law and State Finance Law, which regulate lobbying on government procurement initiatives. In particular, the Lobbying Law creates two new sections in the State Finance Law: Section 139-j to address restrictions on "contacts" during the procurement process; and Section 139-k to address the disclosure of contacts and the responsibility of bidders and proposers during procurements. These sections are effective as of January 1, 2006.

SCHEDULE W, COMPLIANCE WITH NEW YORK STATE'S STATE FINANCE LAW SECTIONS 139-j AND 139-k, is attached and made part of this solicitation package in compliance with the Lobbying Law. For additional information, all Bidders/Proposers are urged to contact the New York State Office of General Services at (518) 474-5607, or access their website: http://www.ogs.state.ny.us/aboutOgs/regulations/defaultAdvisoryCouncil.html.

NEW YORK STATE EXECUTIVE ORDER 134

In accordance with New York State Executive Order 134, the MTA Bus Company is encouraging its Contractors/Consultants and their Subcontractors/Subconsultants and Suppliers, to select and procure environmentally preferred cleaning products. For more detailed information, including lists of approved "green" products see the New York State Office of General Services website: http://www.ogs.state.ny.us/bldgadmin/environmental/ProductLists.html.

REIMBURSEMENT OF RE-INSPECTION COSTS

Prospective bidders are advised to carefully review **ARTICLE 44, REIMBURSEMENT OF RE-INSPECTION COSTS,** of the **CONTRACT TERMS AND CONDITIONS**.

CONTRACTOR PERFORMANCE EVALUATION

Contractor performance will be evaluated by the Project Manager until completion or termination of the contract. The quality of contractor performance in a number of areas will be rated, at a minimum, as satisfactory, needs improvement, unsatisfactory, or not applicable. When evaluations are rated less than satisfactory, contractors will be notified. These notifications shall identify deficient areas in contract performance and afford the contractor the opportunity to correct or present its position

concerning items that were reported to be deficient. Each Contractor Performance Evaluation with correspondence documenting deficient performance will be made available to the MTA and affiliated Agencies for use in the Determination of Contractor Responsibility on future contracts. Contractors that are determined to be not responsible will not be eligible for contract award.

POST-EMPLOYMENT RESTRICTIONS ON FORMER EMPLOYEES

The State Ethics in Government Act, specifically, Public Officers Law section 73(8), prohibits (subject to certain exceptions) former employees from working as consultants or contractors or as employees to consultants or contractors on MTA Bus Company (MTABC) projects for a period of two years from his or her separation from MTABC employment. In addition, such former employees are permanently barred from working on any matter with which that employee was directly involved while an MTABC employee. If you are a former MTABC employee or you are planning to include a former MTABC employee as a member of the project team on any Bid or Proposal, that former employee should call the State Ethics Commission, 1-518-432-8207, to determine whether the post-employment restrictions referenced above would bar the former employee's work on the project. For any former employee proposed for a project, we require a statement that his/her employment on the project is not prohibited by the Ethics in Government Act.

METROPOLITAN TRANSPORTATION AUTHORITY VENDOR CODE OF ETHICS

The Metropolitan Transportation Authority has revised its Vendor Code of Ethics (the “Code”), and all Bidders will certify in their Bid as per Paragraph M of the Bid regarding their receipt of the Code, that they will comply with its provisions, and will provide the Code to their employees and will obtain their employee acknowledgment of receipt. Additional information concerning these requirements is contained in Paragraph M. The revised Code has been included in the solicitation documents.

MTA Bus Company

INFORMATION FOR BIDDERS

Bid Solicitation No. D162648

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1. RECEIPT OF BIDS

A. The MTA Bus Company (hereinafter referred to as MTABC) hereby solicits bids for the furnishing of the goods and/or services described in the Bid Quotation Sheet attached hereto. Bids may be submitted in person to the Procurement Representative located at the College Point Depot Maintenance Building, 128-15 28th Avenue, Flushing, NY 11354, Monday through Friday, between the hours of 10:00 a.m. and 3:00 p.m., excluding holidays observed by MTABC. Bids will be accepted up until the time and date indicated in the bid quotation sheet, at which time the Bid will be publicly opened (hereinafter, the "Bid Opening").

B. If additional time is required to bid, the potential Bidder should submit a written request to the Procurement Representative to obtain such additional time. MTABC will be the sole judge of whether a time extension will be granted.

C. Bids received after such time will be considered late and will not be considered for awards, except as otherwise permitted under MTABC written procurement procedures.

D. MTABC is responsible for all matters related to this solicitation/procurement and has designated an individual (the "Procurement Representative") as the "Point of Contact" to administer same. All contacts by the Bidder from solicitation inception through award shall be made only to such Procurement Representative.

2. CONTRACT DOCUMENTS/BID SOLICITATION PACKAGE

A. The Information for Bidders, the Bid (including the Bid Quotation Sheet), the Contract Terms and Conditions, the Special Terms and Conditions, all Schedules (excluding Schedule J, Responsibility Questionnaire), all Addenda (if any) issued, the Technical Specifications (if any), the Contract Drawings (if any), and the Acceptance and Order (Notice of Award) constitute the Contract and shall be referred to collectively as the "Contract" or the "Contract Documents."

B. The Contract Documents, including Schedule J, Responsibility Questionnaire, if attached, and the Important Notice to Bidders, excluding the Acceptance and Order (Notice of Award), shall be referred to collectively as the "Bid Solicitation Package."

3. SUBMISSION OF THE BID

A. A bid must be fully and properly completed and duly executed by a person with authority to legally bind the Bidder on the forms entitled "Bid" and "Bid Quotation Sheet" in accordance with the instructions set forth therein.

B. **BIDDERS MUST RETURN THE BID (AND ALL REQUIRED FORMS) WHICH INCLUDES THE BID QUOTATION SHEET IN ITS ENTIRETY. IN ADDITION, BIDDERS MUST ATTACH COPIES OF EACH ADDENDUM ISSUED OR OTHERWISE ACKNOWLEDGE RECEIPT OF EACH ADDENDUM AS INDICATED IN THE BID. AN ADDENDUM WHICH CHANGES ANY PART OF THE BID QUOTATION SHEET MUST BE ATTACHED OR THE CHANGE OTHERWISE**

CLEARLY INCORPORATED ON THE BID QUOTATION SHEET. MTABC, in its sole and absolute discretion, may treat a failure to annex or acknowledge receipt of addenda or to attach any part of the Bid as a minor informality where the addenda or portion of the Bid, as the case may be, is determined by MTABC not to be substantive in nature.

C. In order to prevent misrouting or premature opening of Bids, the envelope in which the Bid is submitted (along with any other documents required by the Bid Solicitation Package to be submitted) must state on its face the **Contract Number, Title, Bid Opening Date, Company Name and Address, and be sure to state the Building and Floor, (Maintenance Building., 2nd Floor).**

1. If the bid envelope is in turn enclosed in a special courier pouch or Express Mail envelope, such pouch or envelope should be denoted as a "BID" and labeled with all the same information. The envelope should bear the name and return address of the Bidder.
2. Bidders may submit no more than one (1) bid in a Bid envelope, courier pouch or express mail envelope.

D. It is the Bidder's responsibility to get its Bid to MTABC's Reception Desk in time for the Bid Opening. **Bids will be regarded as timely only if they in fact reach the Procurement Representative before the time of the Bid Opening, regardless of the method of delivery**.

1. **Note**: Due to the large volume of mail received at MTABC's office address, Bids received in MTABC's mailroom or other MTABC offices may not be sorted and transmitted to the Procurement Representative in time.

E. Depending on the method of delivery selected by the Bidder, the Bidder is to submit its Bid to MTABC by sending the Bid package to one of the following addresses, as appropriate.

1. Delivery in Person, by Messenger, US Postal Service (including Postal Service Express Mail), or Private Express Courier: Bids delivered in this manner should be addressed and delivered to:

MTA Bus Company
College Point Depot
Maintenance Building, 2nd Floor
128-15 28th Avenue
Flushing, NY 11354
Attention: Nydia Colimon

If a Bidder chooses to deliver its Bid to MTABC utilizing the USPS, Bidders are strongly advised to mail Bids to MTABC's address with sufficient time to allow sorting at the USPS facility and delivery to MTABC by the Bid Opening Date.

F. Bids submitted in person, by messenger or by private express courier are accepted by the Procurement Representative Monday through Friday, between the hours of 10:00 a.m. and 3:00 p.m., excluding MTABC-observed holidays.

G. All Bids will remain sealed until the date and time specified for public Bid Opening.

4. GOODS TO BE FURNISHED OR WORK OR SERVICES TO BE PERFORMED

A. If "Services" are the subject matter of this Contract they must be as specified in the Contract Documents and include the services to be furnished, together with any labor, material or other work necessary for satisfactory performance.

B. If "Goods" are the subject matter of this Contract they must be as specified in the Contract Documents and include the article to be furnished, together with any labor, service or other work necessary for satisfactory performance. Goods must be marked and packaged in accordance with U.S. Standard measurements and nomenclature, using the English language.

C. With respect to the Goods to be furnished hereunder, their quantities, delivery schedule, and delivery points are set forth in the Contract Documents and, unless otherwise specified, all Goods furnished to MTABC must be new and unused.

5. BRAND NAMES/SUBSTITUTION OF SPECIFIED MATERIAL

A. Wherever in the Contract Drawings or Specifications a particular brand, or make of material, or equipment is shown or specified, such material or equipment is to be regarded merely as a standard for the purpose of concisely indicating the requirements as to type, quality, performance, design and finish. Any material or equipment other than that specified will be acceptable if, in the opinion of MTABC, it is as satisfactory for the particular work for which it is intended as the material or equipment specified. Complete documentation in support of an "or equal" contention will be required. Bidders are obligated to furnish all data and information as MTABC in its discretion deems necessary to establish the equality of the alternative material or equipment. Any additional cost incurred by MTABC, other than for the initial review of documents submitted in connection with a request for approval of a proposed substitution, shall be borne by the requestor. MTABC may require that a presentation be made for any proposed substitution. MTABC reserves the right to reject any such other material or equipment offered which is not approved by MTABC as being in all respects equal to the named material or equipment for the work for which it is to be used. Such rejection may be for any reason deemed appropriate by MTABC including, without limitation, the expense and/or time needed to evaluate such material or equipment.

B. If Bidder desires to have an "or equal" approved, it shall notify MTABC, which shall thereupon advise the Bidder of any requirements for approval of such item including any required testing where appropriate. Unless there is a specific statement in the Contract Documents to the contrary, bidders are advised that requests for such approval of any alternative material or equipment may be made either prior to or after Bid Opening. If a request is made prior to Bid Opening, MTABC will endeavor to issue its approval of an alternate material or equipment by Addendum. <u>In the case where pre-Bid Opening approval or disapproval has not taken place, the Bidder will not be permitted to withdraw its Bid on the basis of a claimed mistake in this regard.</u>

C. The Bidder is obligated to furnish all data and information as MTABC in its discretion deems necessary to establish the equality of the alternative material or equipment. If the Bidder seeks reconsideration of any determination with respect to equivalency, MTABC shall have discretion to reconsider the matter. In the event of reconsideration the Bidder shall be obligated to pay all MTABC expenses in connection therewith.

D. MTABC shall be the sole judge of the acceptability of items offered as equal to that specified and may reject any item not considered as equal thereto. The Bidder must submit proof satisfactory to MTABC, including a non-returnable sample if requested by MTABC, that the item the Bidder offers is equal to the material or equipment specified in quality, performance and such other characteristics as MTABC may deem relevant.

E. MTABC may consider as evidence of equivalency an independent laboratory certification concluding that the Bidder's proposed item meets or exceeds all requirements and standards, including performance criteria, of the particular brand or make of material or equipment specified by MTABC. The laboratory must be accredited by the American Association for Laboratory Accreditation or be otherwise acceptable to MTABC.

F. If the Bid Solicitation Package identifies an item as a chemical commodity, see Paragraph 28.

G. In instances where bidders can satisfactorily prove that they have provided a product equal to that specified herein, and which is used in an environment similar to the MTA Bus Company System with an acceptable record of quality and use, the product may be considered de facto approved subject to first article acceptance. The provisions of this subparagraph are not applicable to products which are on NYCT's Qualified Products List, see Paragraph 27.

6. PRICING

A. ALL PRICES BID MUST BE FIRM, i.e., no price adjustments are allowed unless expressly permitted by the Bid Solicitation Package.

B. All bid prices shall include, without limitation, delivery charges, demurrage, insurance, packing, boxing, container charges or any other expenses incidental to the Work. All bid prices are deemed to be F.O.B. delivery point. Any bid other than F.O.B. delivery point or quoting additional charges or otherwise not in accordance with these requirements shall render the Bid **nonresponsive**.

C. All bid prices for the Work shall be deemed to include the cost of all work, labor and materials required by the Contract Documents, including all work necessary therefor or incidental thereto, as well as all expenses associated with compliance with laws, rules and regulations of Federal, State or local authorities.

D. Each prospective Bidder is advised that the provisions of the New York State Tax Law provide an exemption from sales and compensation use taxes on all tangible personal property (materials, equipment and components) sold to contractors or subcontractors in connection with the Work required by the Contract, and which will become an integral component part of that Work. Similarly, the Public Authorities Law exempts sales of goods to MTABC from New

York sales and compensating use taxes. Federal Law also affords MTABC an exemption from Federal excise taxes. No amount shall be included in the Bidder's price for any possible New York State sales or compensating use taxes as well as any Federal excise tax on such personal property or goods. MTABC's Tax Exemption Certificate No. is 34-2024274.

E. The Bidder must quote a price on every line item listed according to the units of measure set forth in the Bid Quotation Sheet, which it proposes to furnish. No unit price may be extended more than four decimal places. Any figure(s) shown beyond the fourth decimal will automatically be dropped (e.g., 1.2345678 will become 1.2345). The total value of the Bid will be expressed in figures containing not more than two decimal places. In the event of a tie bid, **PARAGRAPH 10.B.** will apply.

7. DISCOUNTS

Bidders may offer cash discounts for payment by MTABC earlier than the payment period set forth in **ARTICLE 11, INVOICES of the CONTRACT TERMS AND CONDITIONS**. However, such cash discounts will not be taken into account in determining the low Bidder.

8. RESPONSIVE BIDS

Bidders are advised that a qualified or conditional Bid, or one which is at variance with any provision of the Bid Solicitation Package, including the submission of a Bidder's own terms and conditions, or fails to meet any requirement thereof applicable to the Bid, may be rejected as **nonresponsive**. MTABC reserves the right to waive minor errors or omissions with respect to a Bid.

9. UNBALANCED BIDS

When a class bid is indicated for variable quantities of Goods and the Bid for the class shows evidence of unbalanced bid prices (e.g., some of the items represent nominal prices while others are grossly inflated), such Bid may be deemed **nonresponsive**.

10. AWARD PROCEDURE

A. Award of the Contract will be made by issuance of a written "Acceptance and Order" or "Notice of Award" informing the successful Bidder that its Bid has been accepted and that it has been awarded the Contract.

B. The Contract will be awarded to the lowest responsive and responsible Bidder, except as otherwise permitted by law. MTABC also reserves the right to reject any and all Bids in its sole and absolute discretion. In the event of tie Bids, MTABC reserves the right to determine the successful Bidder by lot or otherwise in its discretion.

C. MTABC reserves the right to conduct a cost analysis prior to award. Should MTABC determine to make such an analysis, the Bidder will be required to provide all appropriate information and/or data requested by MTABC in conducting the analysis. In addition, bidders are advised that prices submitted on an "Invitation for Bid" could be subject to audit if (a) the bid turns out to be the only bid and (b) the bid prices undergo negotiation.

11. ITEM AND CLASS AWARDS

A. Item Award: Except as otherwise expressly indicated in the Bid Quotation Sheet, the Contract(s) will be awarded on an "item" basis, i.e., a separate award will be made to the lowest responsive and responsible Bidder for each item set forth in the Bid Quotation Sheet. **The Bidder may bid on one or more or all of the items.** A Bidder will be considered only for the items(s) for which it has set forth a bid on the Bid Quotation Sheet. Where the Bid Quotation Sheet calls for a single lump sum price, this will be considered as an item award.

B. Class Award: If indicated in the Bid Quotation Sheet as a class award then this Contract will be awarded on a "class" basis, i.e., a single award will be made to the lowest responsive and responsible Bidder based upon the total aggregate price for all items set forth in the Bid Quotation Sheet. Where the Bid Quotation Sheet sets forth more than one class of items, the Bidder may bid on one or more or all of such classes, but **the Bidder must bid on each item within a given class.** A Bidder desiring to bid "no charge" on an item in a class must indicate this clearly. A submitted Bid Quotation Sheet not setting forth the Bidder's price for each item or "no charge" within a class may be deemed incomplete and is subject to being rejected regarding such class.

12. BIDDER'S QUALIFICATIONS

A. In order to qualify as a responsible bidder, in addition to the other requirements herein provided, a Bidder must be prepared to prove to the satisfaction of MTABC that it has the integrity, skill, and experience to faithfully perform the Contract and that it has the necessary facilities and financial resources to perform the Work in a satisfactory manner and within the time specified. All bidders, whose Bid equals or exceeds $250,000, shall complete and submit, Parts I, II and VII of the form entitled **RESPONSIBILITY QUESTIONNAIRE (SCHEDULE J)** with their Bid. The apparent low Bidder shall complete and submit Parts III, IV and V to the Procurement Representative within three (3) working days after receiving written notification.

B. The Bidder agrees to provide MTABC additional information, or to clarify or supplement information already furnished, including but not limited to information relating to its past performance, its plan for performing the Contract, investigations, indictments, convictions, the Bidder's safety practices and record, and financial conditions. The Bidder agrees to permit MTABC to conduct site visits to Bidder's plant, current work sites, and other locations.

C. To be considered skilled and experienced, the Bidder must show, among other requirements to MTABC, that it has satisfactorily supplied Goods or performed work or services as the same general type as that called for under the Contract.

D. Bidder shall also be required to secure the necessary insurance policies, as required by **SCHEDULE A, INSURANCE REQUIREMENTS**, or necessary licenses, permits or certificates, required by any legislative or regulatory body with jurisdiction of the subject matter and may be required to furnish evidence of same.

E. A Bidder in arrears in the payment of amounts due to the City of New York, the Metropolitan Transportation Authority, MTABC or any of its affiliated agencies will be required to pay said amounts in full in order to be considered a responsible Bidder, unless and to the extent that MTABC, upon satisfactory explanation made by the Bidder, excuses him from the payment thereof or permits further deferment of payment.

F. The apparent low Bidder may be required to appear at the office of the Chief Officer, Procurement for a qualification hearing, at such date and time that MTABC may select upon notice to the Bidder, to demonstrate that the Bidder is a responsible Bidder. At such time, the Bidder shall furnish bonds, proof of insurance, financial statements, or other documents as may be required by the Contract Documents. If the qualification hearing is held within ten (10) days of the Bid Opening, MTABC will accept as evidence of compliance with Performance and/or Payment Bond requirements a letter or certificate from an acceptable surety or sureties, as the case may be, which satisfactorily establishes to MTABC that an acceptable surety will issue the necessary bonds not later than thirty (30) days from the date of Bid Opening, in which event the Bidder shall furnish any such bonds within thirty (30) days after Bid Opening.

G. The Bidder is required to be adequately financed to pay promptly for all labor and materials as such obligations become due and to avoid the necessity for assignment of any monies payable. The Bidder must be prepared to submit a sworn statement, in the form furnished by MTABC (see paragraph 12.a. above), of the Bidder's financial condition, as of a date not more than sixty (60) days prior to the date when the bids are received, and to be examined thereon.

H. If attached, **SCHEDULE X, FEDERAL DRUG AND ALCOHOL TESTING REQUIREMENTS**, applies to this solicitation and any resultant Contract.

13. SECURITY FOR PERFORMANCE

Bidders are hereby notified that **SCHEDULE R, BONDING REQUIREMENTS AND FORMS OF BONDS**, if included in the LIST OF SCHEDULES sets forth the requirements for Performance or Payment Bonds or other security requirements.

14. BID WITHDRAWAL

A. By submitting the Bid, a Bidder irrevocably offers for a **ninety (90) day period,** commencing with the opening of bids, to enter into the Contract, if awarded, as hereinafter provided.

B. After the expiration of the aforesaid ninety (90) day period, the Bid may be withdrawn by a Bidder who has otherwise complied with all of the requirements of the Bid Solicitation package by serving MTABC with a written notice of withdrawal. An award made by MTABC prior to its receipt of the notice of withdrawal will be valid, notwithstanding that such award is made after expiration of the said ninety (90) day period. For such written notice of withdrawal to be effective it must be clear, unequivocal and without conditions.

15. BID MISTAKE

A. A Bidder who seeks to rescind its Bid due to a mistake or error in preparation thereof shall notify MTABC within two (2) business days of public Bid Opening, in writing. The notice shall specify the details of the claimed error or mistake. Thereafter, MTABC shall evaluate the matter and determine if the Bidder will be permitted to rescind its Bid.

B. To assist in its determination, MTABC may conduct a hearing on the matter, wherein the Bidder shall, if requested by MTABC, give testimony and present documentation including Bidder's original bid computation sheets and calculations.

16. BID SECURITY

A. Bidders are hereby notified that **SCHEDULE R, BONDING REQUIREMENTS AND FORMS OF BONDS,** if included in the LIST OF SCHEDULES, sets forth the requirements for Bid Security. The Bid Security must be submitted in the form of a certified or cashier's check or a bid bond in an amount equal to two percent (2%) of the Gross Sum Bid (defined in the **Bid, Section J paragraph 3**).

B. A certified or cashier's check shall be made payable to the order of the MTA Bus Company and shall be drawn upon a national or State bank or trust company. The bid deposit, in whatever form, must be enclosed in a separate envelope endorsed with the contract number and title, and the Bidder's name and submitted to MTABC upon presentation of the Bid.

C. If included in **SCHEDULE R, BONDING REQUIREMENTS AND FORMS OF BONDS,** a bid bond may be submitted as Bid Security in the form prescribed by MTABC, a copy of which is attached or appended to the Bid Solicitation Package, and shall be issued by a corporate surety in good standing and licensed to do business in the State of New York. Attorneys-in-fact who sign bid bonds or contract bonds must file with each bond a certified copy of their power of attorney to sign said bonds.

D. Deposits of certified or cashier's checks by bidders, except the apparent lowest and next to lowest Bidders, will be returned within ten (10) days after the opening of bids. The deposit of the apparent second lowest Bidder will be returned within five (5) days after the award of the Contract. The deposit, if it consists of the certified or cashier's check will be returned to the Contractor within five (5) days after the award of the Contract. All deposits will be returned without interest.

17. DEFAULT REGARDING A BID

A. A Bidder who fails to submit data required for, or to appear at any hearing to determine its responsibility, or fails to respond to questions regarding qualification for an award of the Contract herein, but who would otherwise have been eligible for the award of this Contract, will be in Default Regarding a Bid as expressly provided herein.

B. A Default Regarding a Bid shall occur by failure of such Bidder to timely submit (if required by the Contract Documents): (i) Performance and Payment Bonds; (ii) Minority and Women-

Owned Business Enterprise Submissions; (iii) insurance policies and certificates of insurance; or (iv) any other submission required to be submitted prior to an Award. Except with respect to a Bidder's failure to timely submit the completed MBE/WBE Submissions, a Bidder shall not be deemed in Default Regarding a Bid if any such failure is without the fault or neglect of the Bidder or Bidder's employees or agents.

C. Upon default, MTABC may retain the bid security, or as much thereof as may be necessary to cover the damages and proceed to contract with such, if any of the original Bidders as, in its opinion, will advance the interests of MTABC or may invite further bids. The defaulting Bidder shall thereupon, in either case, be liable to MTABC for all loss and damage sustained by it by reason of such default.

18. INSPECTION OF PROJECT SITE AND PRE-BID CONFERENCE

If a tour inspection of the project site is required or a pre-bid conference is to be held, further information concerning the date, time and place will be stated on the actual Bid Quotation Sheet.

19. ADDENDA AND REQUEST FOR CLARIFICATION

A. Prior to bidding, each prospective Bidder should examine the Bid Solicitation Package carefully and submit in writing to the Procurement Representative any requests for:

1. an interpretation or correction of any ambiguity, inconsistency, or error therein; or

2. any amendments which the Bidder desires to have made in the Bid Solicitation Package.

B. To be given consideration, any such request must be in writing and must be received by MTABC at least ten (10) working days prior to the date designated, for the opening of bids, or such shorter period as MTABC, in its sole discretion, shall allow.

C. Any such interpretation, correction or amendment, as well as any additional provision MTABC may decide to include in the Bid Solicitation Package, will be issued in writing by MTABC prior to Bid opening as an addendum to the Contract. Addenda are binding upon the Bidder upon issuance. Issuance of an addendum is defined as the filing of a copy of such addendum in the Contracts Department of MTABC located in the Maintenance Building 2nd fl of the College Point Depot 128-15 28th Avenue Flushing, NY 11354. A copy will be made available to any prospective Bidder so requesting. MTABC will endeavor to mail addenda or otherwise transmit to each person recorded as having been furnished a copy of the Bid Solicitation Package. Bidders, however, are responsible for insuring their receipt of all addenda. To request copies of Addenda, contact the Procurement Representative for this solicitation.

D. Only a written interpretation or correction issued by addendum by MTABC shall be binding. A Bidder's failure to request such an interpretation or correction will preclude such Bidder from thereafter claiming any ambiguity, inconsistency, or error which should have been discovered by a reasonably prudent Bidder.

20. OPPORTUNITIES FOR MINORITY AND WOMEN-OWNED BUSINESS ENTERPRISES PROGRAM GOALS

A. **Goals - If SCHEDULE K has been included in the Bid Solicitation Package, Bidder's attention is directed to SCHEDULE K, the goal(s) specified therein for the utilization of MBE/WBEs and the Contract terms therein.** Attention is also directed to the required submission by the apparent low Bidder of completed MBE/WBE utilization forms within seven (7) calendar days following the opening of bids. All submissions shall be delivered to MTABC's Procurement Representative.

21. COMPLIANCE WITH LAWS, RULES AND REGULATIONS

A. A Bidder must be prepared to comply with any and all local, State and Federal laws, rules and regulations applicable to the subject matter of this Contract, including those relating to environmental matters.

B. In accordance with the New York State Finance Law §165-2, MTABC is prohibited from purchasing any tropical hardwood or tropical hardwood products as defined in §165-1, b. Bidders are advised to review **ARTICLE 34, COMPLIANCE WITH APPLICABLE LAWS, REGULATIONS/ENVIRONMENTAL MATTERS, PARAGRAPH F "PROHIBITION ON THE PURCHASE OF TROPICAL HARDWOODS" OF THE CONTRACT TERMS AND CONDITIONS**.

C. If a Bidder believes that it may furnish or supply tropical hardwood under an exception to the provisions of §165-2, a request for a determination should be made in writing, to the Procurement Representative, at least ten (10) days prior to the scheduled Bid Opening.

22. PROMPT PAYMENT

Pursuant to Section 2880 of the Public Authorities Law, a copy of the MTA's Statement of Rules and Regulations with respect to prompt payment of invoices will be made available to any Bidder or prospective Bidder requesting same of the Procurement Representative.

23. BUY AMERICA STEEL PROVISIONS

A. This Contract is subject to Section 2603-a of the Public Authorities Law (Chapter 441, Laws of 1983) entitled "Letting of Certain Contracts Involving Steel Products." This provision, hereinafter called "Buy America Steel Provision," requires the Board of each Public Authority to implement such law and to determine whether application of the provisions thereof would result in unreasonable costs or that steel products or steel components cannot be produced or made in the United States in sufficient and reasonably available quantities or of satisfactory quality or design. MTABC has adopted the following guidelines with respect to the implementation of such provisions, which will be applicable to this Contract:

B. GUIDELINES

1. Definition. Steel component means a product rolled, formed, shaped drawn, extruded, forged, cast, fabricated or otherwise similarly processed or processed by a combination of two or more operations, from steel.

2. Supplies, material, or equipment shall be deemed to be made of, fabricated from or contain a steel component or steel components if the cost of the steel component or components exceeds fifty percent (50%) of the cost of the material content of the supplies, material or equipment. Such supplies, materials and equipment shall be referred to herein as "steel products."

3. A steel component, including structural steel and reinforcing steel, shall be deemed to have been produced or made in whole or in substantial part in the United States, its territories or possessions if the cost of the portion thereof, including both materials and processes, produced or made in the United States, its territories or possessions, exceeds fifty percent (50%) of the cost of the component. Such steel components shall be referred to herein as "domestic steel components."

4. Procedures.

   a. Bidders are permitted and are encouraged to utilize domestic steel and to submit bids for steel products containing domestic steel components. They may also submit bids for steel products not domestically produced.

   b. The provisions of this Paragraph 23 are applicable to the purchase of steel products estimated to cost in excess of $50,000 and for contracts for construction, reconstruction, alteration, repair, or maintenance of a facility estimated to be in excess of $l00, 000. Bidders must complete and return the Domestic Steel Certification, which is included in the Bid. Bidders shall state therein the amount of the Bid, which represents the cost of steel components, stated separately for domestic steel components and foreign steel components.

   c. In a competitively bid contract, the cost of a domestic steel component shall be deemed reasonable if the lowest responsive and responsible Bidder has offered all or substantially all domestic steel components.

   d. In a competitively bid contract, if a bid including domestic steel components is responsible and responsive, but not the lowest, a credit shall be allowed in the amount of six percent (6%) of the cost of the foreign steel components contained in the lowest responsible and responsive bid, and the Contract shall be awarded to the lowest responsible and responsive Bidder offering domestic steel components if the subtraction of such credit from the amount of its bid makes such bid the lowest responsible and responsive bid.

e. The procedures provided in (4) shall not be used if its application would result in the award of a contract utilizing domestic steel components of less total cost than if such procedure were not followed.

f. If no bid is received which includes steel components produced or made in the United States, a conclusive presumption shall be made that such steel component or components are not available domestically.

g. If a negotiation is undertaken with one party only, evidence must be submitted that the cost of a foreign steel component is at least six percent (6%) less than the cost of domestic steel components if foreign steel components are offered.

5. A determination that steel products or steel components are not produced or made in the United States of satisfactory quality or design shall be made by the Board of MTABC on a case by case basis.

6. Emergency Procurements. In an emergency, steel products shall be deemed not to be produced or made in the United States in sufficient and reasonable available quantities or of satisfactory quality or design if after reasonable inquiry, MTABC determines that such steel products cannot be obtained within the six percent (6%) cost differential referred to in subparagraph d. within the time required by the emergency.

7. Motor vehicles and automobile equipment assembled in Canada in conformity with the United States-Canadian trade agreement known as the "Automotive Products Trade Act of 1965" shall not be deemed of foreign origin.

C. <u>POST AWARD DETERMINATION</u>

1. If in submitting its Bid, the Contractor certified that it would supply domestic steel products or components but finds out after Contract award that the steel products or components cannot be produced or manufactured in the United States but may be obtained using foreign steel, the Contractor will make a request in writing, to MTABC's Chief Officer, Procurement with a copy to the Project Manager, that MTABC make a determination that the steel product(s) or steel component(s) are not produced or made in the United States of satisfactory quality or design. The Contractor's request will contain the following information:

a. MTABC's contract or purchase order number, and MTABC's part or specification number;

b. an explanation why the Contractor was unable to ascertain prior to award that it could not obtain the steel product(s) or components(s) of satisfactory quality or design produced or made in the United States;

c. for both the domestic steel supplier or manufacturer and the proposed foreign steel supplier or manufacturer the following:

i. supplier or manufacturer's name;

ii. supplier or manufacturer's part number;

iii. cost (including associated costs for the item such as shipping); and

iv. delivery schedule or time of availability;

d. a written statement from the domestic steel supplier or manufacturer that it is no longer manufacturing or producing the specified item(s), or a sworn statement from the Contractor that the domestic steel supplier or manufacturer is no longer in business;

e. an explanation as to what efforts the Contractor has made to obtain a substitute product manufactured or produced from domestic steel that meets or exceeds MTABC's requirements; and

f. any additional information that MTABC may request in support of the Contractor's request for a determination.

2. If MTABC in making the award to the Contractor allowed the Contractor a six percent (6%) credit against other bidder(s) offering foreign steel components and MTABC makes a determination that an exception to the Buy America requirements applies, then MTABC shall be entitled to a price adjustment reducing the total amount payable to the Contractor. The price adjustment shall be derived by taking the difference of the dollar value (if any) of the foreign steel components proposed by the Contractor in its Bid and the dollar value of foreign steel components proposed by the bidder against which the credit was taken; times (X) the sum of the six percent (6%) credit plus (+) a four percent (4%) administrative fee; times (X) a fraction of which the numerator is the dollar value of the domestic steel components proposed by the Contractor for the exception; the denominator of which is the dollar value of the domestic steel components proposed by the Contractor in its Bid.

Example:

$ value of foreign steel components proposed by the bidder against which the credit was taken
less (-)
$ value of foreign steel components proposed by the Contractor in its Bid (if any)
	X	**10%**	**X**	$ value of domestic steel components proposed by the Contractor for an exception
				divided by (□÷)
				$ value of domestic steel components proposed by the Contractor in its Bid

3. If MTABC determines that an exception to the Buy America requirements applies, a modification to this Contract will be executed allowing the use of foreign steel products or foreign steel components.

24. BID PROTEST

A. Protests will only be accepted from prospective or actual bidders whose direct economic interest would be affected by the award or non-award of the Contract. Protests must be in writing and will generally not be considered unless submitted within five (5) business days from the date the protestor knew or should have known the facts forming the basis of the protest. Protests prior to a bid due date should be filed not later than five (5) business days prior to the due date in order to be considered timely. Unsolicited supplemental protest submissions will generally not be considered. Protest must include at least the following information: name, address, telephone and fax numbers of the protestor, the solicitation bid or contract number, a detailed statement of the legal and factual grounds for the protest including copies of relevant documents and a statement as to what relief is requested. A protest found by the Chief Officer, Procurement or his or her designee (the "Protest Officer") in his or her sole discretion to be patently without merit or not brought in a timely manner shall be rejected without further consideration. The Protest Officer may take any action or make any requests he or she deems necessary in order to investigate the protest and develop a recommendation or disposition of the protest.

B. The Chief Officer, Procurement may determine that an award must be made prior to resolution of the protest when MTABC determines that:

1. the items to be procured are urgently required; or

2. delivery or performance will be unduly delayed by failure to make the award promptly; or

3. failure to make prompt award will otherwise cause undue harm to MTABC.

The protestor will be given a written notice of the decision to proceed with the award.

C. Post Award Protests. Protests after an award should be received by MTABC not later than two (2) calendar weeks after the award and are subject to the substantive requirements as provided in subparagraph a, above. Post-award protests received more than two (2) calendar weeks after the award of a contract shall be considered an "informal inquiry" and will be referred to the appropriate parties administering the contract.

D. A copy of MTABC's Protest Procedures may be obtained by contacting the Procurement Representative.

25. OMNIBUS PROCUREMENT ACT OF 1992

It is the policy of New York State to maximize opportunities for the participation of New York State Business Enterprises, including minority and women-owned business enterprises as bidders, subcontractors and suppliers on its procurement contracts. New York State Business Enterprises that participate as contractors, subcontractors and suppliers in the contracts of the Metropolitan Transportation Authority and its affiliated and subsidiary agencies ("MTA") strongly contribute to the economies of the state and the nation. In recognition of this contribution, Bidders for this Contract are strongly encouraged and expected to consider New York State Business Enterprises in the fulfillment of the requirements of this Contract. Such participation may be as subcontractors, suppliers, or other supporting roles. MTA, to the maximum extent practicable and consistent with legal requirements, desires to achieve participation of responsible and responsive New York State Business Enterprises in purchasing commodities and in utilizing services and technology. Furthermore, Bidders are reminded that they must continue to utilize small, minority and women-owned businesses, consistent with current State law. Utilizing New York State Business Enterprises in MTA projects will help create more private sector jobs, rebuild New York's infrastructure and maximize economic activity to the mutual benefit of the contractor, the participating New York State Business Enterprises, the public sector and the people of the State of New York. Public procurements can drive and improve the State's economic engine through promotion of the participation of New York State Business Enterprises by MTA contractors. MTA therefore strongly encourages Bidders to use New York State Business Enterprises in MTA contracts. The potential participation by all kinds of New York State Business Enterprises in MTA contracts will deliver great value to the MTA, the State and its taxpayers.

A. Definitions:

1. New York State Business Enterprise - shall mean a business enterprise, including a sole proprietorship, partnership, or corporation, which offers for sale or lease or other form of exchange, goods which are sought by a New York State public authority or public benefit corporation, which are substantially manufactured, produced or assembled in New York State, or services, which are sought by the public authority or public benefit corporation and which are substantially performed within New York State.

2. Foreign Business Enterprise - shall mean a business enterprise, including a sole proprietorship, partnership, or corporation, which offers for sale or lease or other form of exchange, goods sought by the Authority and which are substantially produced outside New York State, or services which are sought by the Authority and which are substantially performed outside New York State.

3. New York Resident - shall mean a natural person who maintains a fixed, permanent and principal home located within New York State and to which such person, whenever temporarily located, always intends to return.

4. Procurement Contract - shall mean any written agreement entered into by the Authority for the acquisition of goods or services of any kind, in the actual or estimated amount of $15,000 or more. The term does not include an agreement for employment in civil service.

B. **All Bidders submitting a bid equal or greater than one million dollars** shall provide notification to and shall make reasonable efforts to encourage the participation of New York State Business Enterprises of opportunities to participate, in the Contract, as subcontractors or suppliers.

C. Bidders are advised that information on the availability of New York State subcontractors and suppliers is available:

Online by going to the following address and signing up for a free account with the New York State Contract Reporter: https://www.nyscr.ny.gov/nysBusinessReg.cfm.

By telephoning the New York State Department of Economic Development, Division of Small Business at 518-292-5266.

D. A directory of New York State certified minority and women-owned business enterprises is available:

Online at http://esd.ny.gov/MWBE/directorySearch.html

By contacting the Empire State Development's Division of Minority and Women's Business Development:

Albany, NY 12245
(518) 292-5250
or
633 Third Avenue, 33rd Floor
New York, NY 10017
(212) 803-2414

By contacting the MTA's Department of Diversity and Civil Rights at 646-252-1385 for an appointment to inspect the directory at 2 Broadway, 16th floor, New York, NY 10004. At the Bidder's request, the Department of Diversity and Civil Rights will assist a firm in reviewing the directory.

E. Bidders and contractors that want to be informed by e-mail of future contracting opportunities that may be of interest to them that are advertised in the New York State Contract Reporter, may sign up for a free account by going to https://www.nyscr.ny.gov/contracts.cfm

F. Bidders and contractors that want to sign up, at no charge, to be included in the New York State Business Registry, which may be used by various New York State public agencies and by prime contractors who may contact the Contractor's business directly about subcontracting opportunities, may go to https://www.nyscr.ny.gov/nysBusinessReg.cfm. Requests for listing in this registry may be made by:

i) a New York State Business Enterprise that is not currently listed in this registry; and

ii) a business in any other state or country provided the state or country in which the company is located does not engage in discriminatory purchasing practices. These discriminatory jurisdictions are identified within the Business Registry application.

G. Bidder acknowledges that New York State may seek to obtain offset credits from foreign countries as a result of a Contract of $1,000,000 or more and agrees to cooperate with the State in these efforts, including but not limited to, executing any and all documents deemed by the State to be necessary or desirable to effectuate such assignment or transfer, and using their best efforts to obtain recognition and accession to such assignment or transfer by any applicable foreign government.

H. Bidders are hereby notified that state agencies and authorities are prohibited from entering into contracts with businesses whose principal place of business is located in a discriminatory jurisdiction. "Discriminatory jurisdiction" is defined as any other country, nation, province, state or political subdivision which employs a preference or price-distorting mechanism to the detriment of, or otherwise discriminates against, a New York State Business Enterprise in the procurement of commodities and services by the same or a non-governmental entity influenced by the same. A list of discriminatory jurisdictions is maintained by the Commissioner of the NYS Department of Economic Development.

26. RECYCLED PRODUCTS

Pursuant to Section 2878-a of the Public Authorities Law, all purchases of printing on recycled paper shall contain the official New York State recycling emblem established pursuant to subdivision two of Section 27-0717 of the New York State Environmental Conservation Law and Regulations, if such paper has been approved by the Department of Environmental Conversation as satisfying the requirements of such statute and regulations; or if such paper has not been approved, the printed material is to include a printed statement which indicates the percentage of pre-consumer recycled material content of the paper.

27. QUALIFIED PRODUCTS LIST

A. Please be advised that MTABC utilizes the Quality Products List (QPL) maintained by NYCT.

B. If the Bid Solicitation Package specifies that an item is on the QPL, then only the specified item will be considered for an award. The QPL is a list of brand products which have been evaluated and pre-qualified for reasons of standardization on the basis of test and/or past performance data, prior to receipt of bids. The purpose of the QPL is to expedite the procurement process while maintaining a high quality of goods by directing awards to manufacturers or suppliers of pre-qualified products only.

C. Under no circumstances will an equivalent or an "or equal" will be considered for a QPL award. Bids which offer an equivalent will be considered **non-responsive.**

D. MTABC shall be the sole judge of acceptability of products offered for QPL qualification. Vendors seeking qualification are obligated to furnish all data and information as NYCT deem necessary to establish the items on QPL. The submission of non-returnable samples may be required to enable NYCT to evaluate the viability of the item within the transit system. All costs associated with the qualification of candidate QPL items shall be borne by the requestor.

E. Copies of the QPL and a description of general qualifying procedures are available at NYCT's Bid Reception Desk, 3 Stone Street, New York, NY 10004. Vendors seeking additional information may write to the New York City Transit QPL Committee Chair, 2 Broadway, Room B18.52.

28. QUALIFICATION OF CHEMICAL PRODUCTS

A. If the Bid Quotation Sheet identifies an item as a chemical commodity (generally those covered by commodity class numbers with the prefix 62-, 69-, 70-, 71-, and 72-), bidders seeking qualification of an "or equal" may apply for same by complying with these procedures:

B. If the chemical commodity being offered by the Bidder is not currently listed as a pre-approved product by MTABC, the Bidder is required to submit the following information either with their quotation, or within three (3) business days of notification by the Procurement Representative, in order to be considered:

1. the required documentation specified in **SCHEDULE I, SUPPLYING HAZARDOUS SUBSTANCES**;

2. direct technical and performance comparisons between the Bidder's product and the pre-approved material or specification currently used by MTABC;

3. submission of proof which illustrates that the Bidder's product complies and adheres to the appropriate industry standards, including, but not limited to, ASTM, MIL, Federal, SAE, other industrial rules and regulations, and any current regulatory requirements for this material;

4. "Accredited Independent Laboratory" analysis reports on the Bidder's proposed product;

5. a specification sheet containing chemical and physical properties and comprehensive instructions for use;

6. a copy of the manufacturer's Quality Assurance Program and Quality Assurance Manual; and

7. contact names and telephone numbers of other municipalities with transit fleets and other organizations that utilize the Bidder's proposed product.

All seven (7) evaluation criteria must be identified by the Bidder by numbering all seven (7) points on the Bidder's submitted documentation. Failure to provide the required documentation in the time frame specified above will render the Bidder non-responsive and not eligible for award.

C. At the discretion of MTABC, bidders seeking qualification of an "or equal" may also be required to:

1. supply the necessary samples and/or personnel to perform a patch test at the User Department's request;

2. supply the necessary samples to Testing MTABC to perform a chemical analysis, and perform a Product Safety Review; and

3. consent to inspection and evaluation of manufacturer's facilities and technical staff by MTABC's personnel.

D. If the item solicited is listed on the QPL, see **PARAGRAPH 27.**

29. ASBESTOS CONTENT

A. It is the policy of MTABC not to use spare parts, assemblies or equipment that have measurable asbestos content.

B. Any goods or materials received by MTABC that are suspected of containing asbestos will be held pending analysis by MTABC. If the suspect goods or materials are found to contain asbestos, they will be rejected.

C. In some applications, asbestos may be the only material for the intended purpose. In such case, the Bidders must note this on the Bid Quotation Sheet.

D. Any goods or materials shipped containing asbestos must be accompanied by a material certification from an independent testing laboratory specifying the type and concentration of asbestos fibers. This certification must contain a clear, concise statement regarding the "asbestos" content of the subject goods or materials. If any doubt exists regarding the details of the certification, the goods or materials will be rejected.

E. In addition, a Material Safety Data Sheet which conforms to the U.S. Department of Occupational Safety and Health Administration Form No. 174 (see **SCHEDULE I, SUPPLYING HAZARDOUS SUBSTANCES**) must be supplied with any Bid.

30. METROPOLITAN TRANSPORTATION AUTHORITY VENDOR CODE OF ETHICS

Bidder's Certification of Compliance with the MTA Vendor Code of Ethics ("the Code"): All Vendors, as defined by the Code, involved in this Solicitation and during the performance of any resultant contract are subject to the Code, which is available for Bidder's immediate review on the MTA website at www.mta.info/mta/procurement/vendor-code.htm. Accordingly, all Bidders must certify compliance with the Code in the Bid which includes the Certification of Compliance with the MTA Vendor Code of Ethics.

[END OF SECTION]

CONTRACT TERMS & CONDITIONS

Bid Solicitation No. D162648

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Bid Package

LIST OF SCHEDULES

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ARTICLE 1 AGREEMENT

The Contractor agrees to perform the Work or provide the material in accordance with requirements and terms and provisions hereinafter set forth in the Contract Documents. In consideration for the complete, satisfactory and proper performance thereof by the Contractor, MTABC agrees to pay to the Contractor, and the Contractor agrees to accept as full compensation therefor, the sums of money set forth in the **BID QUOTATION SHEET** at the time and in the manner and upon the terms and conditions hereinafter set forth in the Contract Documents.

ARTICLE 2 NOTICES

Except as otherwise specifically provided, the delivery of any notice, direction or communication to the Contractor or MTABC shall be made by hand, mail, email, or facsimile transmission directed to the Contractor, at the address set forth in the Bid and to MTABC to the attention of the individual set forth in the Acceptance and Order and shall be deemed to be sufficient service thereof as of the date of such delivery by hand or transmission or three (3) days after mailing. With respect to notices to MTABC, the Contractor shall additionally send a copy of each notice to the Procurement Representative. The address may be changed at any time by notice in writing. Nothing contained herein shall be deemed to preclude or render inoperative the service of any notice, direction or other communication personally upon the Contractor, or if the Contractor be a corporation, upon any officer or director thereof. Nothing in this article shall be deemed as a waiver by MTABC of other requirements with respect to the service of process upon it.

ARTICLE 3 GENERAL RULES OF INTERPRETATION

A. The Information for Bidders, the Bid (including the Bid Quotation Sheet), the Contract Terms and Conditions, the Special Terms and Conditions, all Schedules (excluding Schedule J, Responsibility Questionnaire), all Addenda (if any) issued, the Technical Specifications (if any), the Contract Drawings (if any), and the Acceptance and Order (Notice of Award) constitute the Contract and shall be referred to collectively as the "Contract" or the "Contract Documents."

B. References to any agreement or other instrument shall be deemed to include such agreement or other instrument as it may, from time to time, be modified, amended, supplemented, or restated in accordance with its terms.

C. The word "Contractor" when used in this Contract shall mean the Bidder to whom MTABC awards this Contract.

D. The terms "hereof," "herein," "hereby," "herewith," "hereto," and "hereunder" shall be deemed to refer to this Contract.

E. The headings of the paragraphs or Articles are inserted for convenience only and shall not affect the construction or interpretation of this Contract.

F. All references to "days" shall be deemed to be calendar days, unless otherwise expressly indicated.

G. All references to "business days" shall be deemed to be references to the days of Mondays through Fridays, exclusive MTABC-observed holidays.

H. All notices hereunder must be in writing, in accordance with **ARTICLE 2**, **NOTICES,** unless expressly indicated otherwise.

I. As used herein, the singular shall mean and include the plural; the masculine gender shall mean and include the feminine and neuter genders; and vice versa.

ARTICLE 4 CONSENT OF MTABC REQUIRED FOR SUBCONTRACTING, SUBLETTING OR ASSIGNMENT

A. Contractor may not, by agreement, operation of law, or otherwise, assign, encumber, transfer, convey, sublet or otherwise dispose of this Agreement to any entity or person, in whole or in part, including but not limited to an assignment, transfer or conveyance by change in the control or change in the ownership of Contractor or a change in control or change in the ownership of any entity owning or controlling Contractor, without the prior written consent of the MTABC, which consent may be withheld, conditioned or delayed in the MTABC's sole discretion (provided that Contractor may assign monies due or to become due to Contractor under the Agreement upon prior written notice to MTABC and MTABC's written acknowledgment). A "change in control" includes, but is not limited to, any change in the ownership or control of Contractor or any entity owning or controlling Contractor, whether such change results from a merger, or a sale, assignment or transfer of stock, or a sale of assets, or a sale, transfer or assignment of assets to an affiliate or subsidiary, or a sale, transfer or assignment of assets to an affiliate or subsidiary with a subsequent sale or transfer of such affiliate or subsidiary, or a transfer or change in control by contract or other such agreement.

B. Any action by Contractor which violates the provisions of section A, above, shall be deemed to be a breach of the Agreement by Contractor and MTABC shall have all rights and remedies available to it under law and equity, including termination of the Agreement.

C. In the event of the assignment of monies due or to become due under this Agreement, the MTABC may require that Contractor provide the MTABC with such information, documentation, and authorization as the MTABC may deem appropriate.

ARTICLE 5 PERFORMANCE AND DELIVERY

A. Delivery by Contractor of Goods or Services shall be within the time specified in the schedule set forth in the Bid Quotation Sheet or the Special Terms and Conditions. If for any reason delivery cannot be made by the date or dates specified, Contractor must immediately furnish MTABC with written notice of such delay and the reason therefor.

B. Time of delivery is of the essence of this Contract. In the event of a delay in the delivery of the Goods or Services, for which the Contractor is not entitled to an extension of time in accordance with **ARTICLE 7, EXTENSIONS OF TIME**, MTABC may recover all damages for such delay, and may seek such other remedies, as are available under the Uniform Commercial Code or other laws of the State of New York.

C. If the delivery of Goods or Services under this Contract should be unavoidably delayed, MTABC may extend the time for completion in accordance with the terms and conditions set forth in **ARTICLE 7, EXTENSION OF TIME**.

D. The delivery and acceptance of any Goods after the date fixed for completion of performance shall not be deemed a waiver of the right of MTABC to terminate this Contract with respect to the undelivered portion or to require the delivery of any undelivered Goods in accordance with this Contract.

E. MTABC will not accept delivery of inventory material (material with an 8-digit MTABC stock number) earlier than fourteen (14) calendar days before the delivery date(s) shown on the purchase order, unless otherwise specified.

F. Delivery of goods in the purchase order must be made within the calendar year specified on the order. For example, an order requiring delivery in January of a given year cannot be made in December of the prior year, even if it is within fourteen (14) calendar days as described in Paragraph E, above, unless otherwise specified on the purchase order.

G. The delivery requirements stated in Paragraphs E and F may be waived if the Contractor is specifically requested to make an earlier delivery.

1. The purchase order text may specify when the material is required by MTABC in addition to the promised date given by the Contractor. In this case, the Contractor may deliver the order as of the date specified in the text.

2. If the Contractor is verbally requested to expedite delivery of goods of the purchase order, the Expeditor's name and phone number must appear on the packing slip to prevent the rejection of the delivery.

H. Unless otherwise stipulated in the Contract, delivery of goods shall be made between 8 a.m. and 3 p.m. on MTABC's business day. However, on Goods required for daily consumption, or where the delivery is an emergency, a replacement, or is overdue, the convenience of MTABC shall govern.

ARTICLE 6 CHANGES

A. This Contract may be modified and changed from time to time as agreed to in writing between the parties hereto, in a manner not materially affecting the substance hereof.

B. No change in or modification, termination or discharge of this Contract in any form whatsoever, shall be valid or enforceable unless it is in writing and signed by the party to be charged therewith or his duly authorized representative; provided, however, that any change in or modification, termination or discharge of this Contract expressly provided for in this Contract shall be effective as so provided.

C. It is agreed by the Contractor that any change resulting in additional goods/services shall be paid at the applicable rates set forth in the **BID QUOTATION SHEET** for equivalent items as determined by MTABC. In the event that MTABC shall order additional goods/services for which there are no applicable rates set forth in the **BID QUOTATION SHEET** for equivalent items, it is understood and agreed by Contractor that MTABC and Contractor shall negotiate a mutually agreeable price to be paid by MTABC for Contractor's supplying of such additional goods/services. In the event that the parties are unable to agree upon a price for the additional goods/services, MTABC may nevertheless direct the Contractor to proceed with supplying the additional goods/services. The Contractor shall diligently proceed with supplying the additional goods/services, but may initiate a dispute within five (5) days of MTABC's directive to proceed pursuant to **ARTICLE 12, DISPUTES,** for a determination by the Disputes Resolution Officer (DRO) as to a reasonable price therefor.

D. If as a result of the change or modification, MTABC determines that more time is required for the Contractor to complete performance than is specified within the Contract, MTABC will extend the time for Contractor's performance by the number of days actually required for Contractor to supply the goods/services.

ARTICLE 7 EXTENSIONS OF TIME

A. If the Contractor is delayed at any time during the progress of the Contract by the neglect or failure of MTABC or by a Force Majeure, then the time for completion and/or affected delivery date(s) shall be extended by MTABC subject to the following conditions:

1. the cause of the delay arises after the **ACCEPTANCE AND ORDER** or **NOTICE OF AWARD** and neither was nor could have been anticipated by the Contractor by reasonable investigation before such award;

2. the Contractor demonstrates that the completion of the Contract and/or affected delivery(s) will be actually and necessarily delayed;

3. the effect of such cause cannot be avoided or mitigated by the exercise of all reasonable precautions, efforts and measures whether before or after the occurrence of the cause of delay; and

4. the Contractor makes written request and provides other information to MTABC as described in Paragraph D below.

A delay meeting all the conditions of this Paragraph A shall be deemed an excusable delay. Any concurrent delay which does not constitute an excusable delay shall not be the sole basis for denying a request hereunder.

B. Any reference in this Article to the Contractor shall be deemed to include material men, Suppliers and Subcontractors, whether or not in privity of contract with the Contractor, all of whom shall be considered as agents of the Contractor for the purpose of this Article.

C. MTABC reserves the right to rescind or shorten any extension previously granted, if subsequently MTABC determines that any information provided by the Contractor in support of a request for an extension of time was erroneous; provided however, that such information or facts, if known, would have resulted in a denial of the request for an excusable delay. Notwithstanding the above, MTABC will not rescind or shorten any extension previously granted if the Contractor acted in reliance upon the granting of such extension and such extension was based on information which, although later found to have been erroneous, was submitted in good faith by the Contractor.

D. The request for an extension of time pursuant to Paragraph A above, shall be made within ten (10) days after the time when Contractor knows or should know any cause for which it may claim an excusable delay and shall provide any actual or potential basis for an extension of time, identifying such cause and describing, as fully as practicable at that time the nature and expected duration of the delay and its effect on the completion of that part of the Contract identified in the request. Contractor shall not be entitled to an extension of time unless it affirmatively demonstrates that it is entitled to such extension. MTABC may require the Contractor to furnish such additional information or documentation as MTABC shall reasonably deem necessary or helpful in considering the requested extension. The Contractor must also comply with requirements set forth in the Bid Quotation Sheet or Specifications (if any) regarding Contractor's detailed schedule for performance.

E. Within thirty (30) days of its receipt of all such information and documentation [or within thirty (30) days of Contractor's filing of the original request in the event MTABC requires no such additional material], MTABC shall advise the Contractor of its decision on such requested extension; except that, where it is not reasonably practicable for MTABC to render such decision in the thirty (30) day period, it shall, prior to the expiration of such period, advise the Contractor that it will require additional time and the approximate date upon which it expects to render such decision.

F. In regard to an injunction, strike or interference of public authority which may delay the Contract, the Contractor shall promptly give MTABC a copy of the injunction or other order and copies of the papers upon which the same shall have been granted. MTABC shall be accorded the right to intervene or become a party to any suit or proceeding in which any such injunction shall be obtained and to move to vacate the same or otherwise, as MTABC may deem proper.

G. Neither the permitting of the Contractor to proceed with the Contract subsequent to the date specified in the Contract (as such date may have been extended pursuant to this Article), the making of any payments to the Contractor thereafter, nor the issuance of any Change Order thereafter, shall operate as a waiver on the part of MTABC of any rights under this Contract, including but not limited to the assessment of liquidated damages (if any) or declaring Contractor in default.

H. In case the Contractor shall be delayed at any time or for any period by two or more of the causes above-mentioned in this Article, the Contractor shall not be entitled to a separate extension for each one of the causes but only one period of extension shall be granted for the delay.

I. The Contractor agrees to make no claim for damages for delay of any kind in the performance of this Contract whether occasioned by any act or omission of MTABC or any of its representatives and Contractor agrees that any such claim shall be compensated for solely by an extension of time to complete performance of the Contract as provided herein.

ARTICLE 8 REMEDIES IN CASE OF DEFAULT & TERMINATION FOR CAUSE

A. The Contractor shall be in default if it commits a breach of the Contract deemed material by MTABC. Without limiting the generality of the foregoing and in addition to those instances specifically referred to in the Contract, the Contractor shall be in such default if: (i) it fails to begin the Contract in accordance with the requirements of the Contract; (ii) it abandons the Contract; (iii) it assigns or subcontracts the Contract other than as provided in the Contract; (iv) at any time MTABC shall be of the opinion that performance of this Contract is unnecessarily or unreasonably delayed, or that the Contractor is willfully violating any of the provisions or covenants of this Contract or is not executing the same in good faith or in accordance with its terms; (v) the Contract is not completed within the time prescribed, as may be extended by MTABC; or (vi) the Contractor becomes insolvent (other than as a bankrupt), or assigns for the benefit of creditors, or takes advantage of any insolvency statute or debtor or creditor law or if its property of affairs are put in the hands of a receiver; or (vii) MTABC shall be of the opinion that the Contract cannot be completed within the time herein provided therefor or within the time to which such completion may have been extended provided, however, that the impossibility of timely completion is in MTABC's opinion, attributable to conditions within the Contractor's control.

B. In the event of a default by the Contractor, MTABC will notify the Contractor of the default, in writing, and the Contractor shall immediately cease performance of the Contract or any part thereof. MTABC shall thereupon have the right to take any action necessary to complete the Contract, including performing the Contract itself, or contracting with another individual or entity. In the event the Contract is completed by MTABC or others, Contractor shall be liable for the costs and expense of said labor, materials, plant, tools, equipment, supplies and property. The costs and expenses so charged may be deducted by MTABC and paid out of any monies otherwise payable to the Contractor.

C. MTABC may also bring any suit or proceeding to recover damages or to obtain any other relief or for any other purpose proper under this Contract.

D. MTABC may, in its sole discretion, waive a default by the Contractor, but such waiver, and failure by MTABC to take action in respect to any default, shall not be deemed a waiver of any subsequent default.

E. In case MTABC shall by Contract or otherwise complete the Contract or any part thereof under the provisions of Paragraph B above, MTABC from time to time during the course of the completion of the Contract or such part thereof or at any time thereafter, shall certify to the amount of the expense incurred by MTABC in the completion of the Contract or such part thereof. Said certificate shall be final and conclusive upon the Contractor and admissible in evidence against the Contractor, and his legal representatives, in any litigation arising or growing out of this Contract.

F. In the event that MTABC wrongfully terminates the Contract for default, such termination shall be deemed to be a termination for convenience in accordance with **ARTICLE 9, TERMINATION FOR CONVENIENCE BY MTABC**.

ARTICLE 9 TERMINATION FOR CONVENIENCE BY MTABC

A. In addition to any rights of termination by MTABC which may exist pursuant to this Contract or by law, MTABC may terminate performance of this Contract at any time for its own convenience upon giving written notice thereof specifying the effective date, whereupon all further liability of MTABC to the Contractor under this Contract shall cease. In the event of such termination, a proportionate part of the compensation due for Contract Work performed prior to the effective date of such termination and deemed acceptable to MTABC will be paid to the Contractor as determined by MTABC.

B. Upon receipt of a notice of termination under this Article, the Contractor shall cease performance of the Contract Work, shall cancel all cancelable orders and place no further orders. MTABC's only obligation with respect to such termination for convenience is to compensate the Contractor for the goods/services supplied up until the effective date of termination, provided, however, that in the event the termination for convenience is predicated on a cessation or reduction of funding earmarked for purposes hereof, MTABC's payment obligations with respect to such termination for convenience will be limited to the amount of such funding actually received herefor. The Contractor shall not be entitled to any other payment by virtue of MTABC's exercise of its right of termination as provided in Paragraph A of this Article and expressly waives and relinquishes any right to claim damages or pursue any other remedy at law or relief in equity including specific performance, by virtue of MTABC's exercise of such right of termination.

ARTICLE 10 Contract Null and Void Due To Debarment

This Contract will be deemed null and void if it is determined that at the time of either the Bid submission or "Award Date," the Contractor was debarred pursuant to Section 141-b of the Workers' Compensation Law or any other federal or New York state law from bidding on or being awarded a public agency contract in New York or was the substantially owned affiliate of a debarred party. Additionally, the Contractor shall replace any Subcontractor at no additional cost to the Authority, who the Authority or the Contractor determines was, at the time of either the Bid submission or Award Date, debarred from bidding on public agency contracts in New York.

ARTICLE 11 INVOICES

A. MTABC shall pay and the Contractor shall accept the amounts set forth in the Bid Quotation Sheet as full compensation for all costs and expenses of completing the Contract, including, but not limited to: all labor and material required to be done or furnished under this Contract; all overhead, expenses, fees and profits including the cost of providing storage yard or facilities; all risks and obligations set forth in the Contract; any applicable fees or taxes; and all expenses due to any unforeseen difficulty encountered in the prosecution of the Contract.

The MTA Business Service ("MTA BSC") is the component of the Metropolitan Transportation Authority that will make authorized payments to Contractor. All payments by the MTA BSC shall be made via Automated Clearing House ("ACH"). Contractor authorizes the MTA BSC to make payments to Contractor using an ACH designated by the MTA BSC. Upon award of this Contract, the Contractor shall provide ACH instructions to the MTA BSC or if the Contractor's previously provided ACH instructions have changed, promptly upon award, the Contractor shall prepare and submit current ACH information to the MTA BSC and update as necessary from time to time. The form for submitting that and other information, the Vendor Master Setup Maintenance form, is available online at http://www.mtabsc.info/vendors/ .

B. Invoices shall be submitted not more than once each month subject to the Contractor's compliance with the submission requirements contained hereunder and all other provisions of the Contract Documents.

1. **Proper Invoice:** In addition to any other requirement set forth in this Contract with respect to what constitutes a proper invoice or for the Contractor to be entitled to receive payment, the Contractor's invoice, in triplicate, must set forth: (a) MTABC's Purchase Order number, (b) a description, with specificity, of the goods delivered, services rendered, or other event initiating entitlement to payment pursuant to the terms of this Contract; (c) that portion of the Contract price related to such payment less any deductions such as retainage required pursuant to the terms hereof (if any). Should the invoice not be calculated correctly, such as not taking into account retainage as a deduction, MTABC may either reject the invoice or treat the invoice as proper only to the extent of the correct calculation of the amount thereof.

2. **Supporting Documentation:** The following are in addition to any other requirement set forth in this Contract with respect to what supporting documentation must accompany an invoice:

   a. In the event the Contract contains an inspection and acceptance procedure, the Contractor's invoice relating to delivered and/or installed goods, the goods/services covered by such invoice must be accompanied by a copy of MTABC's certificate of acceptance, or equivalent document, thereof.

   b. In the event the Contract provides for payment upon achieving stated milestones of performance, the Contractor's invoice relating to any milestone must be accompanied by a copy of MTABC's certificate, or equivalent document, that the milestone has been achieved.

   c. In the event the Contract provides for payment based upon a delivery schedule, the Contractor's invoice must be accompanied by appropriate documentation that the "deliverable" has been delivered in accordance with the schedule in the Contract, and if this Contract requires acceptance thereof as a condition precedent to payment, that the deliverable has been so accepted.

   d. Invoices must also be accompanied by all affidavits, time records, staffing and other records provided for or required by the contract to establish the amount of payment and/or performance of the Contract billed, as well as a statement with sufficient specificity which establishes the basis on which the payment is due according to the Contract. Any documentation generated by MTABC, such as certificate of acceptance, will be issued in accordance with the terms of the Contract.

3. **Inspection, Review and Audit:** In addition to any other requirements pertaining to the right of MTABC or other entity to perform inspections, reviews or audits with respect to any payment or to the Contract as a whole, MTABC reserves the right to inspect, review and/or audit each invoice for payment to verify that the invoice amount is consistent with the materials, labor, goods, and/or services provided and is in accordance with the provisions of the Contract, as well as to determine the resources applied or used by the Contractor in fulfilling the terms of the Contract or otherwise to verify that the goods or services billed for were provided in accordance therewith. MTABC will require ten (10) MTABC business days from the Receipt of Invoice Date within which to perform this function.

4. **Set-off:** MTABC shall have the right to set-off against any payment due the Contractor under this Contract any unpaid legally enforceable debt owed by the Contractor to MTABC as outlined in the MTA's Statement of Rules and Regulations.

5. **Designated Payment Office:** One original invoice must be submitted for each delivery made to each delivery point. The Designated Payment Office, to which all

invoices and supporting documentation are required to be submitted under this Contract, is as follows:

a. If mailing, please send via e-mail or facsimile, all invoices to:
Email: invoice@mtabsc.org
Fax: 212-971-5060
Address: MTA Business Service Center
Accounts Payable
333 W. 34th Street
9th Floor
New York, NY 10001-2402

(Procurement specialist should either delete or change the following information as applicable – and delete this sentence)

b. In addition, one (1) copy of all invoices to the designated Project Manager for this Contract at his or her mailing address.

MTA Bus Company, Eastchester Depot
Central Maintenance Facility, Buses
3320 Hutchinson Avenue
Bronx, NY 10475
Attn: Project Manager

C. Unless otherwise stipulated in writing by the parties, MTABC shall make payment subject to the following conditions, which are, unless waived in whole or in part by MTABC in writing, conditions precedent to payment:

1. The Contractor is not, in the User Department and/or Procurement Representative's opinion, in breach of any terms or provision of this Contract;

2. MTABC has accepted the goods/services.

D. MTABC may withhold sums equal to any claims of MTABC against the Contractor, for indemnification or otherwise, pending settlement or other disposition of such claim. MTABC may withhold from any payment otherwise due the Contractor as much as may be necessary to protect MTABC and if it so elects may also withhold any amounts due from the Contractor to any Subcontractors or Suppliers for work performed or material furnished by them. The foregoing provisions shall be construed solely for the benefit of MTABC and will not require MTABC to determine or adjust any claims or disputes between the Contractor and his Subcontractors or Suppliers, or to withhold any monies for their protection unless MTABC elects to do so. The failure or refusal of MTABC to withhold any monies from the Contractor shall in no way impair the obligations of any surety or sureties under any bond or bonds furnished under this Contract. MTABC may withhold payment to the Contractor, if the Contractor fails to remedy unsuitable conditions. The Contractor shall be given written notice of any unsuitable conditions.

E. MTABC will pay proper invoices within the time periods provided in the Prompt Payment Rules and Regulations. Payment will be deemed to have been made upon being mailed by MTABC.

ARTICLE 12 DISPUTES

A. In the event the Contractor and MTABC are unable to resolve their differences concerning a determination by MTABC's representative set forth in the Acceptance and Order, the Contractor may initiate a dispute in accordance with the procedure set forth in this Article. Exhaustion of these dispute resolution procedures shall be a precondition to any lawsuit permitted hereunder.

B. The parties to this Contract authorize the Disputes Resolution Officer (DRO), acting personally, to decide all questions of any nature whatsoever arising out of, under or in connection with, or in any way related to or on account of, this Contract (including claims in the nature of breach of Contract or fraud or misrepresentation before or subsequent to Contract award) and it's decision shall be conclusive, final and binding on the parties. The DRO's decision may be based on such assistance as the DRO may find desirable, including advice of engineering or other experts. The effect of the DRO's decision shall not be impaired or waived by any negotiations or settlement offers in connection therewith, or by any prior decision of others, which prior decisions shall be deemed subject to review, or by any termination or cancellation of this Contract. All such disputes shall be submitted in writing by either party to the DRO, acting personally, for its decision, together with all evidence and other pertinent information in regard to such questions, in order that a fair and impartial decision may be made. The DRO shall render its decision in writing and deliver a copy of same to the parties.

C. If the Contractor protests the determination of the DRO, the Contractor may commence a lawsuit in Supreme Court, New York County under Article 78 of the New York Civil Practice Law and Rules, it being understood the review of the Court shall be limited to the question of whether or not the DRO's determination is arbitrary, capricious or so grossly erroneous as to evidence bad faith. No evidence or information shall be introduced or relied upon in such an action or proceeding that has not been presented to the DRO personally prior to the DRO making its decision.

D. Neither the requirements of this Article nor the time necessary for compliance therewith however, shall affect the time to have accrued for purpose of any statute controlling actions/proceedings against MTABC, and the time of such accrual shall be determined without reference to this Article.

ARTICLE 13 WITHHOLDING MONEY DUE CONTRACTOR TO MEET CLAIMS OR LIENS

A. If at any time a claim, lien or judgment shall be made by any person or corporation against MTABC, for which Contractor is liable under this Contract or, otherwise by law, with respect to matters pertaining to this Contract, MTABC shall have the right to withhold an amount it deems

reasonably necessary to satisfy such claim, in addition to the other sums herein authorized by the Contract to be so retained, out of any monies then due or thereafter becoming due to the Contractor hereunder, as security for the payment of such claim. If the liability of any such party on such claim or claims shall have been finally adjudicated by a judgment of a court of competent jurisdiction or such claim or claims shall have been admitted by the Contractor to be valid, then the claim may, if determined by MTABC to be in its best interest, be paid from the amount so retained hereunder, credited against the payments due Contractor, and the balance, if any, paid to the Contractor.

B. Should any such claim remain unsatisfied at the time the final payment is due the Contractor, MTABC shall have the right to retain out of said final payment a sum in its judgment sufficient to protect MTABC in regard to all unsatisfied claims. In lieu of the foregoing, MTABC may require other security.

C. In case the amount thus retained should be insufficient to pay the amount adjudicated to be due upon such claim, the Contractor shall pay the amount of the deficiency to MTABC. Upon the failure of the Contractor so to do, MTABC may sue for and recover from the Contractor the amount or balance as a debt from the Contractor.

D. Notwithstanding anything in this Article to the contrary, in the event of a claim for injury to persons or damage to property by persons or corporations other than MTABC, MTABC shall not withhold money due the Contractor provided MTABC receives adequate written assurance from the Contractor's insurance carrier that it will assume all responsibility in connection with the claim including defending the Contractor or MTABC in any lawsuit, and paying any judgment based on said claim. MTABC shall have sole discretion to determine the adequacy of the assurance furnished.

ARTICLE 14 CLAIMS BY CONTRACTOR

If the Contractor shall have a claim for compensation against MTABC for any loss or damage of any nature arising under this Contract by reason of any act, neglect, fault or default of MTABC or its agents, the Contractor shall, within fifteen (15) days after the sustaining of such damage, furnish a written statement to MTABC detailing the nature and amount of damage sustained. Compliance with the provisions hereof shall constitute a condition to Contractor's submission of a dispute pursuant to **ARTICLE 12, DISPUTES**, with respect to any claim for compensation and the Contractor shall be deemed to have waived any claim not submitted in accordance therewith. The provisions of this Article shall not be construed as a recognition or admission of any legal liability on the part of MTABC to pay any sum on account of any damage suffered in connection with or arising out of the performance of this Contract or any part thereof.

ARTICLE 15 SHIPMENT AND DELIVERY

A. Packing lists are required to be attached to the outside of the shipping carton, container, or box. The packing slip will reflect MTABC's Acceptance and Order Number, Stock Number (if applicable) and/or MTABC's product description, Item Number, and Quantity being shipped. If

the shipping carton contains more than one Acceptance and Order line item, each line item in the container will have a second copy of the packing slip attached. The shipping box will also have the Acceptance and Order Number(s) written on the outside for material contained within the box.

B. Multi-box shipments of the same Acceptance and Order line item are to be packed with the same quantity of parts in each box. If the quantity shipped cannot be divided equally into the number of shipping containers, one box is to be clearly marked as having a different quantity. All shipping cartons will reflect the quantity of parts contained in it.

C. Goods not packaged in accordance with industry standards or as specified in the Bid Quotation Sheet or the Special Terms and Conditions will be subject to rejection.

ARTICLE 16 SUBCONTRACTOR DELIVERIES (VENDOR DROP SHIPMENTS)

A. A Subcontractor who delivers goods for the primary Contractor will be required to provide a packing slip on the outside of the shipping container, box or carton. The packing slip will reflect MTABC's Acceptance and Order Number, Stock Number, Item Number and the Quantity being shipped.

B. The primary Contractor, who will be billing MTABC, must indicate the Subcontractor's packing slip number on the invoice.

C. All packaging requirements identified in **ARTICLE 15, SHIPMENT AND DELIVERY** must be adhered to.

ARTICLE 17 STATUTE OF LIMITATIONS ON RIGHT TO SUE MTABC/ NO CLAIM AGAINST MTABC OFFICERS, AGENTS OR EMPLOYEES

A. No actions shall lie or be maintained by the Contractor against MTABC upon any claim arising out or based upon this Contract or by reason of any act or omission or requirement of MTABC or its agents, unless such actions shall be commenced within six (6) months after completion of the Contract, other than warranty work, or earlier termination of the Contract. No additional time shall be allowed to begin anew any other action if an action commenced within the time herein limited be dismissed or discontinued, notwithstanding any provision in the Civil Practice Law and Rules (CPLR) to the contrary. Nothing herein shall extend the time, as provided in the CPLR, to commence a lawsuit.

In the event that the Contractor has filed with MTABC a statement of claim pursuant to **ARTICLE 14, CLAIMS BY CONTRACTOR**, the Contractor's statute of limitations with respect to said claim(s) only shall be tolled until the final determination by MTABC under **ARTICLE 12, DISPUTES**.

B. No member, officer, agent or employee of MTABC shall be liable personally hereunder or by reason hereof.

ARTICLE 18 MTABC MAY AVAIL ITSELF OF ALL REMEDIES

MTABC may avail itself of each and every remedy herein specifically given to it or now or hereafter existing at law or in equity, and each and every such remedy shall be in addition to every other remedy so specifically given or otherwise so existing and may be exercised from time to time and as often and in such order as may be deemed expedient by MTABC and the exercise, or the beginning of the exercise of one remedy shall be deemed to be a waiver of the right to exercise, at the same time or thereafter, any other remedy.

ARTICLE 19 RELATIONSHIP BETWEEN MTABC AND OTHERS

Nothing contained herein shall be deemed to give any third party a claim or cause of action against MTABC beyond such as may otherwise exist without regard to this Contract.

ARTICLE 20 LIABILITY AND INDEMNIFICATION

A. The term "Indemnified Parties," whenever referred to in this Article, shall be deemed to mean the MTA Bus Company, the MTA and it subsidiaries and affiliates, the City of New York, New York State, PBS Capital LLC, MIU Realty, LLC, JLK Capital, LLC, Green Bus Holding Corp., Jamaica Bus Holding Corp., Triboro Coach Holding Corp., and their members, officers, employees, and agents.

B. The Contractor shall be solely responsible for all physical injuries (including death) to person(s) (including, but not limited to, employees of MTABC, Contractor or Subcontractors) and damage to property (including, but not limited to, property of MTABC or the Contractor or Subcontractors), occurring on account of or in connection with the performance of the Contract hereunder or sustained by any employee of MTABC or Contractor or of Subcontractor. The Contractor shall indemnify and save harmless the Indemnified Parties, to the fullest extent permitted by law, from loss and liability upon any and all claims and expenses, including but not limited to attorneys fees, on account of such injuries to persons or such damage to property, irrespective of the actual cause of the accident, irrespective of whether it shall have been due in part to negligence of the Contractor or its Subcontractors or negligence of the Indemnified Parties, or of any other persons, but excepting bodily injuries and property damage to the extent caused by the sole negligence of MTABC.

C. The term "loss and liability," as used herein, shall be deemed to include, but not be limited to, liability for the payment of Workers' Compensation and disability benefits under the Workers' Compensation Law of the State of New York or similar statutes.

D. Except as otherwise provided in paragraph B above, the liability of the Contractor under this Article is absolute and is not dependent upon any question of negligence on its part or on the part of its agents, officers or employees. The approval of MTABC of the methods of performing the Contract or the failure of MTABC to call attention to improper or inadequate methods or to require a change in methods or to direct the Contractor to take any particular

precautions or to refrain from doing any particular thing shall not excuse the Contractor in case of any such injury to person or damage to property.

E. In case any damage shall occur to any part of MTABC or MTA Bus Company System (except only for the removal of such parts thereof as the Contractor is specifically required by this Contract to remove) in performance of the Contract, and the Contractor is responsible therefor, MTABC shall have the right to cause such damage to be repaired and to charge the expense of such repairs to the Contractor. In the event that such work is performed by MTABC, then MTABC shall deduct the amount of such expense that may be incurred in repairing any such damage from any monies due or to become due to the Contractor under this Contract or any other agreement between the Contractor and MTABC.

ARTICLE 21 PATENTS, COPYRIGHTS AND INFRINGEMENT CLAIMS

A. All inventions, ideas, designs and methods contained in the Contract Documents in which MTABC has, or acquires patent, copyright or other intellectual property rights (hereinafter referred to as "IPR") shall remain reserved for the exclusive use of MTABC and may not be utilized, reproduced or distributed by or on behalf of the Contractor, or any employee, Subcontractor or agent without the prior written consent of MTABC except to the extent necessarily required in connection with performance of the Contract.

B. If, pursuant to performance of the Contract, the Contractor or any of its agents, officers, employees or Subcontractors shall produce any patentable or copyrightable subject matter as to which MTABC does not gain ownership rights, MTABC and its affiliates shall thereupon have, without cost or expense, an irrevocable, non-exclusive, royalty-free license to make, have made or use, either themselves or by another contractor or other party on their behalf, such subject matter in connection with any work or any activity now or hereafter undertaken by or on behalf of MTABC or any of its affiliates or subsidiaries. The license herein granted shall not be transferable and shall not extend to contractors or other parties except to the extent of their work or activity on behalf of MTABC or such affiliates or subsidiaries.

C. Except to the extent that rights are held by Contractor or others under existing valid patents or copyrights and are not given to MTABC, MTABC shall have the right to use or permit the use of all such drawings, data, and other papers, and also any oral information of any nature whatsoever received by MTABC, and any ideas or methods represented by such papers and information, for any purposes and at any time without other compensation than that specifically provided herein, and no such papers or information shall be deemed to have been given in confidence and any statement or legend to the contrary on any of said drawings, data, or other papers shall be void and of no effect.

D. The Contractor warrants that all goods/services provided shall be free from any claims made against MTABC or Indemnified Parties of IPR from any other person or entity. The Contractor shall save harmless and indemnify the Indemnified Parties from and against all costs, expenses and damages which any of them shall incur or be obligated to pay by reason of any such

infringement or claim of infringement, and shall, at the election of MTABC, defend at the Contractor's sole expense all such claims in connection with any alleged infringement.

E. If MTABC be enjoined from using any portion of the Work as to which the Contractor is to indemnify MTABC against IPR claims, MTABC may at its option and without thereby limiting any other right it may have hereunder or at law or in equity, require the Contractor to supply at its own expense, temporarily or permanently, facilities not subject to such injunction and not infringing any IPR, and if the Contractor shall fail to do so, the Contractor shall, at its expense, remove such offending facilities and refund the cost thereof to MTABC or take such steps as may be necessary to ensure compliance by MTABC with such injunction, to the satisfaction of MTABC.

F. The Contractor is responsible to determine whether a prospective Supplier or Subcontractor is a party to any litigation involving IPR infringement claims, including antitrust or other trade regulation claims, or is subject to any injunction which may prohibit it under certain circumstances from selling equipment to be used or installed under this Contract. The Contractor enters into any agreement with a party to such litigation at its own risk and MTABC will not undertake to determine the merits of such litigation. MTABC, however, reserves the right to reject any article which is the subject of such litigation or injunction or in its judgment use of such article as a result of such circumstances, would delay the Contract or be unlawful.

ARTICLE 22 QUANTITIES ARE APPROXIMATE / VARIABLE QUANTITIES CLAUSE

A. The Contractor understands that the quantities of the various unit price items specified in the Bid (if any) are the approximate quantities of such items for the Work as estimated by MTABC, and are not in any way guaranteed or represented as correct or intended to be relied upon and they shall not be taken as final and shall form no basis for any claims for damages including, but not limited to anticipated profits in case they do not correspond with the final quantities actually ordered and that MTABC reserves the right to increase or to diminish or to omit entirely any of the quantities or items as therein stated in the Price Schedule or these Contract Documents.

B. With respect to any unit price item as to which an estimated quantity is set forth in the Price Schedule, such unit price shall apply regardless of the actual quantity of such item ultimately utilized in, or required by, the Work; except that, if the actual quantity for a unit price item differs from the estimated quantity in the Price Schedule by more than twenty percent (20%), then the Project Manager shall review whether application of the unit price would cause a substantial inequity to either party, and, if so, the unit price for such item will be equitably adjusted, upward or downward, as determined by the Project Manager.

C. This is not an exclusive contract or a requirements contract, and does not obligate MTABC to fill through the Contractor all its needs for the goods or services covered by the Contract. MTABC is free to obtain these goods or services from other sources to the extent it sees fit.

ARTICLE 23 GENERAL REPRESENTATIONS AND WARRANTIES

In order to induce MTABC to enter into and perform this Contract, Contractor represents and warrants to MTABC that:

A. Existence; Compliance with Law. The Contractor: (i) if it is a corporation, is duly incorporated, organized, validly existing and in good standing as a corporation under the laws of the jurisdiction of its incorporation; (ii) if it is a partnership, non-profit organization, individual or sole proprietorship is duly organized and validly existing under the laws of the jurisdiction in which it was organized; (iii) is duly qualified and in good standing under the laws of each jurisdiction where its existing ownership, lease or operation of property in the conduct of its property or business requires; and (iv) has the power and authority and the legal right to conduct the business in which it is currently engaged and to enter into this Contract.

B. Authority. The Contractor has full power, authority and legal right to execute, deliver and perform the Contract. The Contractor has taken all necessary action to authorize the execution, delivery and performance of the Contract.

C. No Legal Bar. The execution, delivery and performance of the Contract does not and will not violate any provision of any existing law, regulation, or of any order, judgment, award or decree of any court or government applicable to the Contractor or the charter or by-laws of the Contractor or of any mortgage, indenture, lease, contract, or other agreement or undertaking to which the Contractor is a party or by which the Contractor or any of its properties or assets may be bound, and will not result in the creation or imposition of any lien on any of its respective properties or assets pursuant to the provisions of any such mortgage, indenture, lease, contract or other agreement or undertaking.

D. No Litigation. Except as specifically disclosed to MTABC in writing prior to the date hereof, no claim, litigation, investigation or proceeding of or before any court, arbitrator or governmental authority is currently pending nor, to the knowledge of the Contractor, is any claim, litigation or proceeding threatening against the Contractor or against its properties or revenues (i) which involves a claim of defective design or workmanship in connection with any contract entered into by the Contractor or (ii) which, if adversely determined, would have an adverse effect on the business, operations, property or financial or other condition of the Contractor. For purposes of this Article, a claim, litigation, investigation or proceeding may be deemed disclosed to MTABC if MTABC has received, prior to the date hereof, detailed information concerning the nature of the matter involved, the relief requested, and a description of the intention of the Contractor to controvert or respond to such matter.

E. No Default. The Contractor is not in default in any respect in the payment or performance of any of its obligations or in the performance of any mortgage, indenture, lease, contract or other agreement or undertaking to which it is a party or by which it or any of its properties or assets may be bound, and no such default or Event of Default (as defined in any such mortgage, indenture, lease, contract, or other agreement or undertaking) has occurred and is continuing or would occur solely as a result of the execution and performance of this Contract. The

Contractor is not in default under any order award, or degree of any court, arbitrator, or government binding upon or affecting it or by which any of its properties or assets may be bound or affected, and no such order, award or decree would affect the ability of the Contractor to carry on its business as presently conducted or the ability of the Contractor to perform its obligations under this Contract or any of the other financing to which it is a party.

F. No Inducement or Gratuities

1. Contractor warrants that no person or selling agency has been employed or retained to solicit or secure this Contract upon any agreement or understanding for a commission, percentage, brokerage, or contingent fee, excepting bona fide employees or bona fide established commercial or selling agencies maintained by Contractor for the purpose of securing business.

2. Additionally, Contractor warrants that no inducements (in the form of entertainment, gifts, offers of employment, or any other thing of value) or gratuities have been offered or given or will be offered or given to any official or employee of MTABC (including individuals who were recent employees of MTABC). The Contractor further warrants that during the term of the contract it shall not make any offers of employment of any MTABC employee, or solicit or interview therefor, without obtaining the written approval of the employee's Department Head.

3. For breach or violation of the foregoing warranties, MTABC shall have the right to cancel the Contract without liability or, at its discretion, to deduct from the Total Contract Price or otherwise to recover the full amount of such commission, percentage, brokerage or contingent fee, or gratuities, and to include the occurrence of such a breach or violation in assessments of the Contractor's responsibility in future bids.

G. Conflict of Interest. Contractor covenants that neither it nor any officer of the corporation or partner of the partnership, as the case may be if Contractor be a corporation or partnership, has any interest, nor shall it acquire any interest, either directly or indirectly, which would conflict in any manner or degree with the performance of the Contract hereunder. It further covenants that, in the performance hereof, no person having such interest shall be employed by it. It is expressly understood that breach of any of the covenants contained in this paragraph is a material breach hereof and shall entitle MTABC to immediately recover damages, as well as all monies paid hereunder.

H. No Conviction or Indictment. Contractor hereby represents that to the best of its knowledge neither it nor any of its personnel or shareholders has been the subject of any investigation nor has any of them been convicted or indicted for commission of any crime involving misconduct, corruption, bribery, or fraud in connection with any public contract in the State of New York or any other jurisdiction, except as has been specifically disclosed in writing to MTABC, and that, should any such conviction or indictment be obtained or any such investigation commenced prior to the expiration of the term hereof, regardless of the date of the occurrence giving rise to

the subject matter of such conviction, indictment or investigation, it will be disclosed in writing to MTABC.

ARTICLE 24 NO ESTOPPEL AND NO WAIVER

A. MTABC shall not, nor shall any department or officer thereof be precluded or estopped by any return or certificate made or given by MTABC, MTABC's representative or other officer, agent, or appointee thereof under any provision of this Contract from at any time either before or after the final completion and acceptance of the goods/services and payment therefor pursuant to any such return or certificate, showing the true and correct classification, amount, quality and character of the goods/services provided done and materials furnished by the Contractor or any other person under this Contract or from showing at any time that such return or certificate is untrue and incorrect or improperly made in any particular, or that the goods or services, or any part thereof, do not in fact conform to the Contract; and MTABC shall not be precluded or estopped, notwithstanding any such return or certificate and payment in accordance therewith, from demanding and recovering from the Contractor such damages as it may sustain by reason of his failure to comply with this Contract.

B. Neither the acceptance of MTABC or MTABC's representative or any of the employees of MTABC, nor any order, measurement or certificate by MTABC's representative nor any order by MTABC for payment of money nor any payment for, nor acceptance of, the whole or part of the goods or services nor any extension of time, nor any possession taken by MTABC or the employees of MTABC shall operate as a waiver of any portion of this Contract or of any power herein reserved to MTABC or of any right to damages herein provided; nor shall any waiver of any breach of this Contract be held to be a waiver of any other or subsequent breach.

C. In the event that MTABC is entitled to any rights under any statute, whether or not expressly referenced in the Contract Documents, nothing shall be deemed to constitute a waiver by MTABC thereof.

ARTICLE 25 SAFETY PRECAUTIONS

The Contractor will provide at his own cost and expense such safety devices for the protection of his employees, and those of the Subcontractor(s), MTABC, the public and any other persons as may be necessary and as may be required by MTABC. Any failure to provide such proper protection for his employees, and those of the Subcontractor(s), MTABC, the public and any other persons whether or not required by MTABC, will be deemed to be a material violation by the Contractor of his responsibility and obligation hereunder. The Contractor shall comply with all pertinent regulations of the Occupational Safety and Health Act (OSHA).

ARTICLE 26 RISK OF LOSS

Contractor shall bear the risk of loss of all Goods until delivery to the delivery point. Contractor shall bear the risk of loss upon being notified of rejection or revocation of acceptance by MTABC.

ARTICLE 27 BOOKS AND RECORDS / AUDIT AND EXAMINATION

The Contractor shall permit authorized representatives of MTABC and of the State and Government having jurisdiction over this Contract, to examine and review all of Contractor's books and records, including but not limited to payrolls, records of personnel, invoices and other relevant data, and to audit the books and records pertaining to this Contract. All such books and records shall be retained for such examination, review and audit for a period of three (3) years from the earlier of termination of the Contract or completion of the Contract.

ARTICLE 28 SUBCONTRACTOR/SUPPLIER BOOKS AND RECORDS

The Contractor shall keep and shall cause each Subcontractor/Supplier to keep accurate books and records in accordance with "generally accepted accounting principles."

ARTICLE 29 BRAND NAMES / SUBSTITUTION OF SPECIFIED MATERIAL

A. The provisions of this Article shall only become effective after the award of the Contract if the Contractor proposes to substitute material or equipment other than the material or equipment that was specified in the Contractor's Bid and accepted by MTABC at the time of the award of the Contract. MTABC will only accept a substitution of alternate material or equipment when: (i) the Contractor submits documentation acceptable to MTABC attesting that the material or equipment specified in the Contractor's Bid is no longer available; (ii) the alternate material or equipment will be supplied at no additional cost; and (iii) the alternate material or equipment meets the requirements and or specifications set forth in this Article and in the Bid Quotation Sheet. Documentation supporting the non-availability of material or equipment may include but not be limited to one of the following: certification from the manufacturer that the item has been discontinued or that there has been a substantial change in its specifications; the manufacturer has gone out of business; or new import restrictions have been imposed on the item.

B. Wherever in the Contract a particular brand or make of material or equipment is shown or specified, such material or equipment is to be regarded merely as a standard for the purpose of concisely indicating the requirements as to type, quality, performance, design and finish. Any material or equipment other than that specified will be acceptable if, in the opinion of MTABC, it is as satisfactory for the particular work for which it was intended as the material or equipment specified. Complete documentation in support of an "or equal" contention will be required. MTABC may require that a presentation be made for any proposed substitution. MTABC reserves the right to reject any such other material or equipment offered which is not approved by MTABC as being in all respects equal to the named material or equipment for the work for which it is to be used. Such rejection may be for any reason including without limitation MTABC's determination that the evaluation would result in excessive expense and/or time needed to evaluate such material or equipment.

C. The Contractor is obligated to furnish all data and information as MTABC in its discretion deems necessary to establish the equality of the alternative material or equipment. If the Contractor seeks reconsideration of any determination with respect to equivalency, MTABC

shall have discretion to reconsider the matter. In the event of reconsideration the Contractor shall be obligated to pay all MTABC expenses in connection therewith.

D. MTABC shall be the sole judge of the acceptability of items offered as equal to that specified and may reject any item not considered as equal thereto. The Contractor must submit proof satisfactory to MTABC, including a non-returnable sample if requested by MTABC, that the item the Contractor offers is equal to the material or equipment specified in quality, performance and such other characteristics as MTABC may deem relevant.

D. MTABC will consider as evidence of equivalency an independent laboratory certification concluding that the Contractor's proposed item meets or exceeds all requirements and standards, including performance criteria, of the particular brand or make of material or equipment specified by MTABC. The laboratory must be accredited by the American Association for Laboratory Accreditation or be otherwise acceptable to MTABC.

ARTICLE 30 QUALIFIED PRODUCTS LIST

A. Please be advised that MTABC utilizes NYC Transit's (NYCT) Qualified Products List (QPL).

B. If the Bid Solicitation Package specifies that an item is on the NYCT's QPL, then only the specified item will be considered for an award. The QPL is a list of brand products which have been evaluated and pre-qualified for reasons of standardization on the basis of test and/or past performance data, prior to receipt of bids. The purpose of the QPL is to expedite the procurement process while maintaining a high quality of goods by directing awards to manufacturers or suppliers of pre-qualified products only.

C. Under no circumstances will an equivalent or an "or equal" will be considered for a QPL award. Bids that offer an equivalent will be considered non-responsive.

D. NYCT shall be the sole judge of acceptability of products offered for QPL qualification. Vendors seeking qualification are obligated to furnish all data and information, as NYCT may deem necessary to establish the item on QPL. The submission of non-returnable samples may be required to enable NYCT to evaluate the viability of the item within the transit system. All costs associated with the qualification of candidate QPL items shall be borne by the requestor.

E. Copies of the QPL and a description of general qualifying procedures are available at the Bid Reception Desk, 3 Stone Street, New York, NY 10004. Vendors seeking additional information may write to the NYC Transit QPL Committee Chair, 2 Broadway, Room B18.62, New York, NY 10004.

ARTICLE 31 QUALIFICATION OF CHEMICAL PRODUCTS

A. If the Bid Quotation Sheet identifies an item as a chemical commodity (generally those covered by commodity class numbers with the prefix 62-, 69-, 70-, 71-, and 72-), Bidders seeking qualification of an "or equal" may apply for same by complying with these procedures:

B. If the chemical commodity being offered by the Bidder is not currently listed as a pre-approved product by NYCT, and the item solicited is not listed on the NYCT's QPL, the Bidder is required to submit the following information either with their quotation, or within three (3) business days of notification by the Procurement Representative, in order to be considered:

1. the required documentation specified in **SCHEDULE I, SUPPLYING HAZARDOUS SUBSTANCES**;

2. direct technical and performance comparisons between the Bidder's product and the pre-approved material or specification currently used by NYCT;

3. submission of proof which illustrates that the Bidder's product complies and adheres to the appropriate industry standards, including, but not limited to, ASTM, MIL, Federal, SAE, other industrial rules and regulations, and any current regulatory requirements for this material;

4. "Accredited Independent Laboratory" analysis reports on the Bidder's proposed product;

5. a specification sheet containing chemical and physical properties and comprehensive instructions for use;

6. a copy of the manufacturer's:

   a. Quality Assurance Program; and

   b. Quality Assurance Manual;

7. contact names and telephone numbers of other municipalities with transit fleets and other organizations that utilize the Bidder's proposed product.

All seven (7) evaluation criteria must be identified by the Bidder by numbering all seven (7) points on the Bidder's submitted documentation. Failure to provide the required documentation in the time frame specified above will render the Bidder nonresponsive and not eligible for award.

C. At the discretion of MTABC, Bidders seeking qualification of an "or equal" may also be required to:

1. supply the necessary samples and/or personnel to perform a patch test at the User Department's request;

2. supply the necessary samples to MTABC to perform a chemical analysis, and for NYCT's Office of System Safety to perform a Product Safety Review;

3. consent to inspection and evaluation of manufacturer's facilities and technical staff by the Authority's personnel.

D. If the item solicited is listed on the QPL, see **ARTICLE 30, QUALIFIED PRODUCTS LIST.**

ARTICLE 32 WARRANTIES

The warranties, express and implied, created or recognized by the Uniform Commercial Code or other laws of the State of New York shall apply to all Goods furnished and delivered hereunder (including Goods which relate to services performed), and may not be excluded or modified unless such exclusion or modifications are specifically agreed to in writing by MTABC. Contractor agrees to replace, at MTABC's option, any Goods which fail to satisfy such warranties and to pay all transportation charges for the replacement of such Goods. Contractor shall bear the risk of loss to, and expense to retain, such Goods while held by MTABC pending Contractor's disposition thereof.

ARTICLE 33 QUALITY ASSURANCE

The Contractor shall be responsible for quality assurance and for assuring that the Goods or services conforms to Specifications. The Contractor shall maintain an effective and economical quality control program planned and developed in conjunction with other Contractor functions necessary to satisfy the Contract requirements. The quality control program shall establish and implement procedures to ensure that only acceptable supplies are presented to MTABC, and shall demonstrate both recognition of the quality requirements of the Contract and an organized approach to satisfy these requirements. The program shall ensure that quality requirements are determined and satisfied throughout all phases of Contract performance, including, as applicable, design development, purchasing, fabrication, processing, assembly, inspection, testing, packaging, delivery, storage and systems check and shall provide for the early and prompt detection of actual or potential deficiencies, trends, or conditions which could result in unsatisfactory quality and the Contractor must be prepared to demonstrate to MTABC's satisfaction the program is effective and in operation.

ARTICLE 34 COMPLIANCE WITH APPLICABLE LAWS, REGULATIONS/ ENVIRONMENTAL MATTERS

A. The Contractor and all persons employed upon the work of the Contract, including its Subcontractors, agents, officers, and employees shall comply with all applicable laws, rules and regulations, including all applicable requirements of governmental agencies and departments in the jurisdiction in which the work of the Contract is performed, and all safety regulations of MTABC.

B. The Contractor, Subcontractor and all Suppliers must submit evidence that all standards, orders and regulations issued pursuant to the Clean Air Act of 1970 will be met. If either the State or City air pollution control agency has more restrictive standards, they shall be enforced. The evidence and related documents will be retained by MTABC for on-site examination by appropriate enforcement agencies.

C. The Contractor, and any Subcontractor, must comply with all local, State and Federal laws, rules and regulations applicable to this Contract and to the goods or services provided hereunder, including but not limited to the Federal Occupational Safety and Health Act of 1970 and the Construction Safety Act of 1969, as amended.

D. Attention is called regarding environmental matters that must be observed by the Contractor in the prosecution of the Contract, consisting, among others, of safety of operations, noise control, prevention and/or control of air pollution, removal of waste materials, storage of construction materials, protection against fire, minimum disturbance to pedestrian and vehicular traffic, maintaining use of public facilities, and protection against dust hazards. These matters are specifically enumerated merely as a guide. The enumeration is not a complete list of environmental matters to be observed and does not exclude matters contained in this Contract or matters applicable by virtue of City, State or Federal law, rule or regulation which is not specifically designated in this Article. All environmental provisions will be strictly enforced.

E. As between inconsistent provisions among Federal State and local laws, the Contractor should generally comply with the more stringent requirement, unless a Federal law, rule or regulation requires that the affected Federal provision be observed, notwithstanding the existence of a more stringent applicable State or local requirement.

F. Prohibition on Purchase of Tropical Hardwoods

1. Except as hereinafter provided, New York State Finance Law §165-2, prohibits public benefit corporations (MTABC) from purchasing or obtaining for any purpose any tropical hardwoods or tropical hardwood products in any form.

2. The provisions of the subsection F of this Article shall not apply to:

   a. any hardwoods purchased from a sustained, managed forest; or

   b. the purchase of any tropical hardwood or tropical hardwood product for which there is no acceptable non-tropical hardwood species; or

   c. where the Contracting Officer finds that no person or entity doing business in the State is capable of providing acceptable non-tropical hardwood species sufficient to meet these particular contract requirements; or

   d. the restriction would violate the terms of a grant to MTABC from the Federal Government; or

   e. where the inclusion of such provisions results in a substantial cost increase to MTABC.

3. As used in this subsection F:

a. "Non-tropical hardwood species" shall mean any and all hardwood that grows in any geographically temperate regions, as defined by the United States Forest Service, and is similar to tropical hardwood in density, texture, grain, stability or durability. Non-tropical hardwood, the use or purchase of which is preferred under this Article, shall include, but not be limited to those species listed in New York State Finance Law Section 165, paragraph 1.

b. "Tropical hardwood" shall mean any and all hardwood, scientifically classified as angiosperme that grows in any tropical moist forest. A list of tropical hardwoods is found in New York State Finance Law Section 165, paragraph 1.

c. "Tropical rainforests" shall mean any and all forests classified by the scientific term "Tropical moist forests," the classification determined by the equatorial region of the forest and average rainfall.

d. "Tropical wood products" shall mean any wood products, wholesale or retail, in any form, including but not limited to veneer, furniture, cabinets, paneling, mouldings, doorskins, joinery, or sawnwood, which are composed of tropical hardwood except plywood.

G. Omnibus Procurement Act of 1992

1. If this Contract is awarded in an amount equal to or greater than one million dollars, the Contractor will be required to document its efforts to encourage the participation of New York State business enterprises as Suppliers and Subcontractors by showing that the Contractor has:

a. solicited bids, in a timely and adequate manner, from New York State business enterprises including certified minority and women-owned business;

b. contacted the New York State Department of Economic Development to obtain listings of New York State business enterprises;

c. placed notices for Subcontractors and Suppliers in newspapers, journals and other trade publications distributed in New York State; or

d. participated in bid outreach conferences.

If the Contractor determines that the New York State business enterprises are not available to participate on the Contract as Subcontractors or Suppliers, the Contractor shall provide a statement indicating the method by which such determination was made. If the Contractor does not intend to use Subcontractors on the Contract, the Contractor shall provide a statement verifying such.

2. If this Contract is Awarded in an amount equal to or greater than one million dollars, the Contractor will be required to notify New York State residents of employment opportunities through listing any such positions with Community Services Division of the New York Department of Labor or providing for such notification in such manner as is consistent with existing collective bargaining contracts or agreements.

ARTICLE 35 FINAL PAYMENT TO ACT AS RELEASE

The acceptance by Contractor or any person claiming under Contractor of the final payment hereunder, whether such payment be made pursuant to any judgment or order of any court or otherwise, shall be and shall operate as a release to MTABC from all claim and liability to Contractor for anything theretofore done or furnished for or related to the Contract or for any prior act, neglect, fault or default of MTABC or of any person relating to or affecting the Contract, except only such claims against MTABC as have been asserted in accordance with **ARTICLE 14, CLAIMS BY CONTRACTOR**, above, or as are specifically reserved in writing prior to accepting the final payment hereunder.

ARTICLE 36 INDEPENDENT CONTRACTOR

The Contractor agrees that, in accordance with its status as an independent contractor, it will conduct itself consistent with such status, that it will neither hold itself out as nor claim to be an officer or employee of MTABC, State or City, by reason hereof, and that it will not by reason hereof, make any claim, demand or application to or for any right or privilege applicable to an officer or employee of MTABC, State or City, including, but not limited to, Worker's Compensation coverage, Unemployment Insurance Benefits, Social Security coverage or Retirement membership or credit.

ARTICLE 37 CONTRACTOR'S EMPLOYEES

A. All experts or consultants or employees of the Contractor who are employed by the Contractor to provide the Goods or services under this Agreement are neither employees of MTABC nor under contract to MTABC and the Contractor alone is responsible for their work, direction, compensation and personal conduct while engaged under this Agreement. Nothing in this Agreement shall impose any liability or duty on MTABC for the acts, omissions, liabilities or obligations of the Contractor or any other person, firm, company, agency, association, corporation, or organization engaged by the Contractor as expert, consultant, independent contractor, specialist, trainee, employee, servant, or agent, or for taxes of any nature including but not limited to unemployment insurance, workers' compensation, disability benefits and social security, or, except as specifically stated in this Agreement, to any person, firm or corporation.

B. All employees of the Contractor or Subcontractor shall wear a visible identification badge at all times while on MTABC property and shall observe all rules and regulations applicable to MTABC employees. The identification badge shall contain the employee's name, picture, title of position, name of company and address of company.

C. Employees of the Contractor who are found to be intoxicated, or who have been found partaking of or appear to be under the influence of intoxicating or alcoholic beverages or controlled substances while engaged in the performance of their duties or during their break period shall be summarily removed by the Contractor from the project for the duration of the Contract because of the stringent safety precautions required.

D. Whenever MTABC shall notify the Contractor in writing that in his/her opinion any worker employed for this Contract is incompetent, unfaithful or disorderly, such individual shall be discharged from the Work and shall not again be employed on it.

ARTICLE 38 CONFIDENTIALITY / ADVERTISING LIMITATION

A. Contractor, its employees, and Subcontractors shall keep confidential all information furnished to it (them) by MTABC or otherwise learned by it (them) in the course of performance hereunder.

B. Except as may be required by law, Contractor shall not make any announcement or release any information concerning this Contract or any part thereof to any member of the public, press, or any official body, unless prior written consent is obtained from MTABC.

ARTICLE 39 TAX EXEMPTION

MTABC, a public benefit corporation, is a wholly owned subsidiary of the Metropolitan Transportation Authority, a public authority and public benefit corporation of the State of New York, is exempt from New York State and local sales and compensating use taxes pursuant to Sections 1266 and 1275 of the Public Authorities Law of the State of New York, and the Contractor shall be responsible for all franchise fees and taxes of any kind whatsoever.

Contractor warrants to MTABC that Contractor's pricing to MTABC pursuant to this Agreement excludes any taxes that are eligible for exemption.

ARTICLE 40 EQUAL EMPLOYMENT OPPORTUNITIES FOR MINORITY GROUP MEMBERS AND WOMEN

The provisions of this Article apply if the award for this Contract is in excess of $25,000 for labor, services, supplies, equipment, material or any combination of the foregoing; or in excess of $100,000 for the acquisition, construction, demolition, replacement, major repair or renovation of real property and improvement thereon.

A. The Contractor will not discriminate against employees or applicants for employment and will undertake or continue existing programs of affirmative action to ensure that minority group members and women are afforded equal employment opportunities without discrimination. For purposes of this Article affirmative action shall mean recruitment, employment, job assignment, promotion, upgradings, demotion, transfer, layoff, or termination and rates of pay or other form of compensation.

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

C. The Contractor shall state, in all solicitations or advertisements for employees, that, in the performance of this Contract, all qualified applicants will be afforded equal employment opportunities without discrimination.

D. After award of this Contract, the Contractor shall submit to MTABC a workforce utilization report, in a form and manner required by MTABC, of the work force actually utilized on this Contract, broken down by specified ethnic background, gender, and Federal Occupational Categories or other appropriate categories specified by MTABC.

ARTICLE 41 ANTITRUST ASSIGNMENT

The Contractor hereby assigns, sells and transfers to MTABC all right, title and interest in and to any claims and causes of action arising under the antitrust laws of New York State or of the United States relating to the particular goods or services purchased or procured by MTABC under this Contract.

ARTICLE 42 GRAND JURY TESTIMONY

A. Upon refusal of the Contractor as an individual or as member, partner, director or officer of the Contractor, if the Contractor be a firm, partnership or corporation, when called before a grand jury, governmental department, commission, agency or any other body which is empowered to compel the attendance of witnesses and examine them under oath, to testify in an investigation or to answer any relevant questions concerning any transaction or contract entered into with the State, or any political subdivision thereof, or a public authority or with any public department, agency or official of the State or any political subdivision thereof, when immunity has been granted to the witness against subsequent use of such testimony, or any evidence derived therefrom in any subsequent criminal proceeding:

1. Such individual, or any firm, partnership or corporation of which he is a member, partner, director or officer shall be disqualified for a period of five (5) years after such refusal from submitting bids for, or entering into or obtaining any contracts, leases, permits or licenses with the City of New York, the Metropolitan Transportation Authority or MTABC or submitting bids for or entering into, or obtaining any contracts, leases, permits or licenses which will be paid out of any monies under the control of or collected by the City, the Metropolitan Transportation Authority, MTABC and/or shall be subject to such other action appropriate under the circumstances; and

2. this Contract and any and all such existing contracts, leases, permits or licenses made with or obtained by any such individual or with or by the firm, partnership, or corporation of which he/she is a member, partner, director or officer may be cancelled or terminated by the City, the Metropolitan Transportation Authority or MTABC or the contracting agency or be subject to such action appropriate under the circumstances thereto without incurring any penalty or damages on account of such cancellation or termination, but any monies owing for goods delivered, work done, or rentals, permit or license fees due, prior to the cancellation or termination, shall be paid.

ARTICLE 43 INSPECTION OF AND ACCEPTANCE OR REJECTION OF GOODS

A. MTABC reserves the right to inspect the Goods delivered under this Contract within a reasonable time after delivery.

B. MTABC may make additional inspections at the plant of the Contractor or at the plant of the Manufacturer of the Goods. Where plant inspection has been stipulated in the Contract, the Contractor must advise MTABC at least forty-eight (48) hours in advance of the beginning of manufacture.

C. Any cost incurred in the preparation of Goods for inspection by MTABC's User Department shall be borne entirely by the Contractor.

D. MTABC will determine whether to accept or reject delivered Goods after MTABC has fully inspected the Goods.

E. If the Contractor fails to make delivery within the time specified in, or if the Goods delivered fail to conform to the Contract requirements in quality, number or otherwise, or are found at any time to be defective in material or workmanship, MTABC may reject the Goods or may accept any commercial unit and reject the rest. If the quality of the Goods is not satisfactory, MTABC shall have the right to reject the Goods. MTABC shall notify Contractor of any such rejections.

F. The exercise by MTABC of its right of inspection hereunder or MTABC's acceptance of the Goods shall in no way be deemed a waiver by MTABC of (1) MTABC's right to later reject, revoke acceptance, or recover damages for Goods accepted which are not free from patent or latent defects, or (2) the Contractor's obligation to deliver conforming Goods. If the quantity of conforming units shown on the Packing Slip is not equal to the quantity actually delivered by the Contractor, MTABC will ignore the Packing Slip and will apply the terms and conditions of this agreement to the quantity actually delivered.

G. The Contractor shall remove from MTABC's property at its own expense and within a reasonable time (not to exceed fifteen (15) days after notification of rejection), any Goods rejected by MTABC as non-conforming, as an overshipment or due to late delivery. Such Goods shall be deemed abandoned and MTABC shall have the right to dispose of any such Goods left longer than fifteen (15) days after notification of rejection and apply the proceeds, if any, of such disposition to Contractor's account, after deducting reasonable expenses for such

disposal, without any further liability or responsibility on the part of MTABC. Contractor shall bear the risk of loss of all conforming Goods until delivery. Contractor shall bear the risk of loss of non-conforming Goods, including Goods on which acceptance was revoked, at all times. If acceptance is revoked, the Contractor bears the risk of loss thereafter. If MTABC rejects the same Goods from the same Contractor for the second time, the Contractor shall be liable to MTABC for all charges incurred by MTABC in connection with inspection of the Goods. In addition to actual out-of-pocket costs incurred by MTABC, the Contractor will be charged MTABC's reasonable costs for each laboratory analysis performed including analysis performed directly by MTABC. The Contractor shall promptly pay such amounts to MTABC. Delivery accepted with deductions due to difference in commercial value shall not be considered as rejects under this Article.

ARTICLE 44 REIMBURSEMENT OF RE-INSPECTION COSTS

The Contractor is responsible for providing conforming material to MTABC and for presenting conforming material for inspection by MTABC or its agents. MTABC will bear the cost of the initial inspection. If material fails inspection in whole or in part, or the full quantity of material requiring inspection is not presented for inspection as scheduled, and a subsequent or delayed inspection ("Re-inspection") becomes necessary as determined by MTABC, MTABC shall be damaged thereby and the Contractor shall pay MTABC's actual costs associated with the re-inspection including, but not limited to, payroll costs and travel expenses with respect to MTABC employees and travel expenses and fees payable to MTABC's inspection consultant. The Contractor shall pay such costs immediately upon written request, or, MTABC may, in its discretion, deduct such costs from any payment due or to become due to the Contractor. Failure to promptly reimburse MTABC may be considered grounds for a future finding of non-responsibility to receive award of contracts.

ARTICLE 45 DIESEL EMISSION REDUCTION ACT

If attached, Schedule Y, regarding the Diesel Emissions Reduction Act (DERA) Requirements, shall be deemed included in this Contract.

ARTICLE 46 NEW YORK LAWS / CHOICE OF LAW, CONSENT TO JURISDICTION AND VENUE

A. This Contract shall be deemed to be executed in the City of New York, State of New York, regardless of the domicile of the Contractor and shall be governed by and construed in accordance with the laws of the State of New York except to the extent of the law of the Sate of New York is superseded by federal law.

B. The parties agree that any and all claims asserted by or against MTABC arising hereunder or related hereto shall be heard and determined either in the courts of the United States located in New York City ("Federal Courts") or in the courts of the State of New York ("New York State Courts") located in New York County. To effect this agreement and intent, the Contractor agrees:

1. If MTABC initiates any action against the Contractor in Federal Court or in New York State Court, service of process may be made on the Contractor either in person, wherever such Contractor may be found, or by Certified Mail addressed to the Contractor at its address as set forth herein or to such other address as the Contractor may provide to MTABC in writing.

2. With respect to any action between MTABC and the Contractor in a New York State Court, the Contractor hereby expressly waives and relinquishes any rights he may otherwise have: (a) to move to dismiss on grounds of forum non conveniens; (b) to remove to Federal Court; and (c) to move for a change of venue to a New York State Court outside New York County.

3. With respect to any action between MTABC and the Contractor in Federal Court located in New York City, the Contractor expressly waives and relinquishes any right it might otherwise have to move to transfer the action to a Federal Court outside the City of New York.

4. If the Contractor commences any action against MTABC in a court located other than as provided for herein, upon request, the Contractor shall either consent to a transfer of the action to a court of competent jurisdiction, as set forth herein, or, if the court where the action is initially brought will not or cannot transfer the action, shall consent to dismiss such action without prejudice and thereafter reinstitute the action in a court of competent jurisdiction as provided for herein.

ARTICLE 47 CONTRACT DOCUMENTS CONTAIN ALL TERMS / CONTRACTOR HAS EXAMINED CONTRACT

A. These Contract Documents contain all the terms and conditions agreed upon by the parties hereto, and no other agreement, oral or otherwise, regarding the subject matter of this Contract shall be deemed to exist or to bind any of the parties hereto, or to vary any of the terms contained herein.

B. The Contractor hereby represents that prior to the execution of this Contract he read each and every clause and section of the Contract and had full opportunity to consider the same and make necessary investigations relating thereto; and he shall not make any claim for, or have any right to, damages or an extension of time for completion of the Contract or any other concession because of any misinterpretation or misunderstanding of this Contract or because of any lack of information.

ARTICLE 48 ALL LEGAL PROVISIONS INCLUDED

It is the intent of the parties that each and every provision of law required to be inserted in this Contract should be and is inserted herein. Every such provision is to be deemed to be inserted herein, and if any such provision is not inserted or is not inserted in correct form, then this contract shall be deemed

amended by such insertion so as to comply strictly with the law and without prejudice to the rights of either party hereunder.

ARTICLE 50 SEVERABILITY

If the Contract contains any unlawful provisions, the same shall be deemed of no effect, and shall upon the application of either party be stricken from the Contract without affecting the binding force of the Contract as it shall remain after omitting such provision.

ARTICLE 51 SURVIVAL

In addition to any provision expressly set forth as surviving the expiration or termination of this Contract, any provision of this Contract whose purpose would be defeated or rendered meaningless by the expiration or earlier termination hereof shall be deemed to survive any such expiration or termination.

[END OF SECTION]

Bus Company

BID

Bid Solicitation No. D162648

BID OPENING INFORMATION

CONTRACT/BID NO.: D162648

Date: April 20, 2016

LOCATION: 128-15 28th Avenue
Flushing, NY 11354
Maintenance Building, 2nd Floor

TIME: 11:00 a.m.
Local Time

A. Bids must be made on this form which includes the enclosed Price Schedule. In order to be a responsive bid, all parts of the Bid must be submitted. **BIDDERS MUST ATTACH COPIES OF ALL ADDENDA ISSUED OR ACKNOWLEDGE RECEIPT THEREOF WHERE INDICATED IN THE BID. AN ADDENDUM WHICH CHANGES ANY PART OF THE BID MUST BE ATTACHED OR THE CHANGE OTHERWISE CLEARLY INCORPORATED IN THE BID**. MTABC, in its sole and absolute discretion, may treat a failure to annex or acknowledge receipt of Addenda or to attach any part of the Bid as a minor informality where the Addenda or portion of the Bid, as the case may be, is determined by MTABC not to be substantive in nature. MTABC may also treat any failure of the Bidder to fully complete any portion of the Bid as a minor informality.

B. Execution of Bid must be made in Paragraph P, below.

C. See **PARAGRAPH 3 of the INFORMATION FOR BIDDERS** for instructions on submission of Bids by mail.

D. The undersigned Bidder, acknowledging that it has carefully examined the Bid Solicitation Package, offers to fully perform as set forth therein, at the price(s) stated in the **BID QUOTATION SHEET** attached hereto.

E. The undersigned hereby designates the following office as its office for the purpose of receiving any written notice permitted or required to be served upon the Bidder by any provision of the Contract Documents, including Notice of Award of the Contract:

Street Address: _____

City, State Zip Code: _____

Telephone No. ( ) _____ Facsimile No. ( ) _____

Electronic Mail Address: _____

F. (Check where indicated below if the Bidder is a foreign corporation, or entity, in which case the Bidder agrees to accept process as provided herein). The undersigned, a corporation not organized and existing under the laws of the State of New York, agrees that personal service of process in any action, suit or proceeding instituted by MTABC against the undersigned on or in connection with this Bid or the Contract may be made by certified or registered mail addressed to the undersigned at the address referred to in Section E above of this Bid, unless a different address within the State of New

York be specified below, in which event service as aforesaid may be made only at the address specified below or at such other mailing address within the State of New York as is substituted therefor by the undersigned by notice in writing to MTABC as provided in the Contract Documents. Failure of the Bidder to check the box below shall constitute the Bidder's statement that it is not a foreign corporation, and may, if untrue, be a ground for disqualification.

☐ **Bidder is a foreign corporation**

Street Address: _____

City, State Zip Code: _____

Telephone No. ( ) Facsimile No. ( ) _____

Electronic Mail Address: _____

G. Bidders Representations: A Bidder who has submitted a Schedule J, Responsibility Questionnaire to MTABC within six (6) months of the present date, unless there have been material changes in the information specified on that Responsibility Questionnaire, shall complete and submit Part VIII of Schedule J, the Affidavit of No Change, rather than completing Paragraphs G and H of this Bid.

1. By submission of this Bid, the undersigned and each person signing on behalf of the undersigned certifies, and in the case of a joint bid each party thereto certifies, as to its own organization, as required by Section 2878 of the Public Authorities Law of the State of New York, under penalty of perjury, that to the best of its knowledge and belief:

   a. 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;

   b. unless otherwise required by law, the prices which have been quoted in this Bid have not been knowingly disclosed by the Bidder and will not knowingly be disclosed by the undersigned prior to opening, directly or indirectly, to any other bidder or to any competitor;

   c. no attempt has been or will be made by the Bidder to induce any other person, partnership or corporation to submit or not to submit a bid for the purpose of restricting competition;

A Bid shall not be considered for award nor shall any award be made where a, b, and c, above, have not been complied with; provided, however, that if in any case the Bidder cannot make the foregoing certification, the Bidder shall so state and shall furnish with the Bid a signed and notarized statement which sets forth in detail the reasons therefor. Where a, b, and c, above, have not been complied with, the Bid shall not be considered for award nor shall any award be made unless MTABC's Chief Officer, Procurement or his or her designee, determines that such disclosure was not made for the purpose of restricting competition.

The fact that a Bidder (i) has published price lists, rates, or tariffs covering items being procured, (ii) has informed prospective customers of proposed or pending publication of new or revised price lists for such items, or (iii) has sold the same items to other customers at the same prices being bid, does not constitute, without more, a disclosure within the meaning of a, b, and c above.

2. Statement of no-conflict of interest

a. No appointed or elected official, member or other officer or employee of the City or State of New York, or of the Metropolitan Transportation Authority (MTA), or MTA's affiliates and subsidiaries which consist of the MTA Bus Company (MTABC), New York City Transit Authority (NYCTA), Manhattan & Bronx Surface Transit Operating Authority (MABSTOA), Staten Island Rapid Transit Operating Authority (SIRTOA), Metro-North Commuter Railroad (MNCR), Long Island Rail Road (LIRR), Triborough Bridge and Tunnel Authority (TBTA), Metropolitan Suburban Bus Authority (MSBA), MTA Capital Construction Company (MTACC), First Mutual Transportation Assurance Company (FMTAC) and Metropolitan Transportation Authority Card Company: (i) is interested directly or indirectly, in any manner whatsoever in or in the performance of the Contract or in the supplies, work or business to which it relates or in any portion of the profits thereof; or (ii) has been or will be offered or given any tangible consideration in connection with this bid/Contract.

b. Bidder covenants that neither Bidder nor, to the best of the Bidder's knowledge after diligent inquiry, any director, officer, owner or employee of the Bidder, or any person or entity with a 10% or more interest in Bidder, has any interest nor shall they acquire any interest, directly or indirectly, which would conflict in any manner or degree with the faithful performance of the Contract hereunder.

c. In the event Bidder has no prior knowledge of a conflict of interest as set forth in "a" and "b" above and hereafter acquires information which indicates that there may be an actual or apparent violation of any of the above, Bidder shall promptly bring such information to the attention of the MTABC's Chief Officer, Procurement. Bidder shall thereafter cooperate with the MTABC's review and investigation of such information, and comply with any instruction it receives from the Chief Officer, Procurement in regard to remedying the situation.

3. The following statements apply to any bid or contract between Bidder and the City or State of New York, any other state, any public authority or other public entity, the United States government, the MTA and MTA's affiliates and subsidiaries which are MTABC, NYCTA, MABSTOA, SIRTOA, MNCR, LIRR, TBTA, MSBA, MTACC, FMTAC, and Metropolitan Transportation Authority Card Company. **For all questions, matters on appeal must be disclosed. Unless otherwise noted, all questions relate to the previous ten (10) years.**

(Check "Yes" or "No," as appropriate.)

a. Within the past five (5) years, has the Bidder been declared not responsible? **YES** ☐ **NO** ☐

b. Has the Bidder been debarred, suspended, or otherwise disqualified from bidding, proposing, or contracting? **YES** ☐ **NO** ☐

c. Is there a proceeding pending relating to Bidder's responsibility, debarment, suspension or qualification to receive a public contract? **YES** ☐ **NO** ☐

d. Within the past five (5) years has the Bidder defaulted on a contract or been terminated for cause? **YES** ☐ **NO** ☐

e. Has the government or other public entity requested or required enforcement of nay of its rights under a surety agreement on the basis of the Bidder default or in lieu of declaring Bidder in default? **YES** ☐ **NO** ☐

f. Within the past five (5) years, has the Bidder been required to engage the services of an Integrity Monitor, in connection with the award of, or in order to complete any public or private contract? **YES** ☐ **NO** ☐

g. Within the past five (5) years, have the Bidder's safety practices/procedures been evaluated and ruled as less than satisfactory by the City or State of New York, any other state, any public Authority or any public entity, the United States government, the MTA, MTA affiliates or subsidiaries? **YES** ☐ **NO** ☐

h. Has Bidder's Workers Compensation Experience Rating been 1.2 or greater at any time in the last five (5) years? **YES** ☐ **NO** ☐

i. Statements a, b, c, d, e and f above also apply to: (i) Bidder's parent, subsidiaries and affiliates (if any); (ii) any joint venture (including its individual members and any other form of partnership (including its individual members) which includes Bidder's or Bidder's parent, subsidiaries, or affiliates; (iii) Bidder's directors, officers, principals, and managerial employees and any person or entity with a ten percent (10%) or more interest in Bidder; (iv) any legal entity controlled, or ten percent (10%) or more of which is owned, by Bidder, or by any director, officer, principal or managerial employee of Bidder, or by any person or entity with a ten percent (10%) or more interest in Bidder; or (v) any parent, subsidiary or affiliate of any legal entity controlled, or ten percent (10%) or more of which is owned, by Bidder, or by any director, officer, principal or managerial employee of Bidder, or any person or entity with a ten percent (10 %) or more interest in Bidder.

j. List the name and business address of each person or legal entity which has a ten percent (10%) or more ownership or control interest in Bidder (attach additional pages as needed).

_____ _____

_____ _____

_____ _____

k. Explain any "Yes" answers to a, b, c, d, e and f in the space provided below (attach additional pages as needed).

_____

_____

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4. If the statements made in Paragraphs G.1., G.2. and G.3. are not accurate or complete, Bidder must explain in the space provided below (attach additional pages as needed).

_____

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H. Questions which must be answered "Yes" or "No." (In the event of a "Yes," the MTABC reserves the right to inquire further with respect thereto.)

To the best of your knowledge after diligent inquiry, in connection with the business of Bidder or any other firm which is related to Bidder by any degree of common ownership, control, or otherwise, do any of the following statements apply to: (i) Bidder; (ii) Bidder's parent; (iii) any Bidder subsidiary or affiliate; (iv) any joint venture (including its individual members) or any other partnership (including its individual members) which includes Bidder or Bidder's parent, subsidiaries, or affiliates; (v) any legal entity, or parent, subsidiary or affiliate of any legal entity, controlled, or ten percent (10%) or more of which is owned, by Bidder, or by any director, officer, principal or managerial employee of Bidder, or by any person or entity with a ten percent (10%) or more interest in Bidder; or (vi) any person who is a director, officer, principal, or, managerial employee, or person or entity with a ten percent (10%) or more interest in any of the aforesaid:

(Check "Yes" or "No," as appropriate.)

1. Has been convicted by a plea or guilty verdict of, or pleaded nolo contendere

to, a misdemeanor or felony in any federal, state or local court? **YES** ☐ **NO** ☐

2. Have pending any state or federal grand jury or court an indictment or information for the commission of a crime which has not been favorably terminated? **YES** ☐ **NO** ☐

3. Is the subject of any pending investigation by any grand jury, commission, committee or other entity or agency or authority of any state or the Federal government in connection with the commission of a crime? **YES** ☐ **NO** ☐

4. Is currently disqualified from selling or submitting bids/proposals to or receiving awards from or entering into any contracts with any federal, state or local governmental entity, any public authority or any public entity? **YES** ☐ **NO** ☐

5. Within the past five years, has refused to testify or to answer any question concerning a bid or contract with any federal, state, or local governmental entity, any public authority or other public entity when called before a grand jury or other committee, agency or forum which is empowered to compel the attendance of witnesses and examine them under oath, upon being advised that neither the person's statement nor any information or evidence derived from such statement will be used against that person in any subsequent criminal proceeding? **YES** ☐ **NO** ☐

6. Is currently disqualified from selling or submitting a bid to, or receiving an award from, or entering into any contract with any public entity or public authority within the State of New York because, within the past five years, such entity or person refused to testify or to answer any relevant question concerning a transaction or contract with the State of New York, any political subdivision of the State of New York, or a public authority or a public department, agency or official of the State of New York or of a political subdivision of the State of New York, when called before a grand jury or other state or local department, commission or agency which is empowered to compel the attendance of witnesses and examine them under oath, upon being advised that neither that person's statement nor any information or evidence derived from such statement will be used against that person in any subsequent criminal proceeding? **YES** ☐ **NO** ☐

7. Has within a ten (10) year period preceding this Bid been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, State or local) transaction or contract under a public transaction; violation of Federal or State antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property. **YES** ☐ **NO** ☐

8. Explain any "Yes" answers to 1, 2, 3, 4, 5, 6 or 7, in the space provided below (attach additional pages as needed).

_____

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If during the performance of this Contract, either of the following occurs, Bidder shall promptly give notice in writing of the situation to the MTABC's Chief Officer, Procurement and therefore cooperate with the MTABC's review and investigation of such information.

a) Bidder has reason to believe that any representation or answer to any question contained in Paragraphs G and H of the Bid or the information contained in Schedule J Responsibility Questionnaire was not accurate or complete at the time the Bid was signed; or

b) events occur or circumstances change so that an answer to any question in Paragraph H of the Bid or Schedule J Responsibility Questionnaire is no longer accurate or complete.

In the MTABC's sole discretion, the following shall constitute grounds for MTABC to take remedial action up to and including immediate termination of the Contract for convenience without payment for profit and overhead for work not performed if: (i) Bidder fails to notify the Sr. Director Procurement/Contracts as required above; or (ii) Contractor fails to cooperate with the MTABC's request for additional information as required above.

I. MBE/WBE Certification

1. The Bidder agrees to the terms and conditions of non-discrimination as set forth in Paragraph 20 of the Information for Bidders and in Article 38 of the Contract Terms and Conditions. The Bidder, as a precondition to entering into a valid and binding Contract, shall during the performance of the Contract, agree to the provisions set forth in paragraphs A to D of Article 40 of the Contract Terms and Conditions.

2. If **SCHEDULE K, OPPORTUNITIES FOR MINORITY AND WOMEN-OWNED BUSINESS ENTERPRISES ("SCHEDULE K")** has been included in the Contract Documents, the MBE/WBE goals shall be as set forth in SCHEDULE K. Assurance is hereby given that the undersigned will make every good faith effort to meet the MBE/WBE goal(s), and to timely submit completed MBE/WBE documentation, all in accordance with SCHEDULE K.

J. Bid Quotation Sheet

1. All bid prices must be set forth on the **BID QUOTATION SHEET** in figures. In case a bid is submitted in both words and figures and there is a discrepancy between the price in words and that in figures, the price in words will generally be taken as the bid price. MTABC reserves the right, however, to treat the price in figures as the bid price where it is evident that the Bidder has made a mistake in writing the bid price in words. MTABC also reserves the right in its sole and absolute discretion to:

   a. waive informalities or inconsistencies in any Bid submitted;

   b. reject all Bids submitted; and

   c. take any other action with respect to contract award as permitted by law.

2. In the event that the **BID QUOTATION SHEET** reflects any item(s) as to which quantities are estimated, the Bidder acknowledges that the quantities as thus specified in the **BID QUOTATION SHEET** are given only as a basis for the Bid evaluation and are not in any way guaranteed or represented as correct or intended to be relied upon, and they shall not be taken as final and shall form no basis for any claim in case they do not correspond with the final measurements or quantities. It is further acknowledged that MTABC reserves the right to increase or to diminish or to omit entirely any of the quantities or items as herein stated.

3. The Gross Sum Bid is the aggregate total of the bid price(s) for the individual item(s) set forth in the Bid Quotation Sheet extended by the estimated quantities, where applicable. In the event that the Gross Sum Bid or any extended unit prices reflect a clear mathematical error, then the correct calculation shall govern.

The **BID QUOTATION SHEET** is attached as part of the Bid.

K. Domestic Steel Certification

If this Contract calls for the purchase of "steel products" (as defined in **PARAGRAPH 23 of the INFORMATION FOR BIDDERS**) estimated to cost in excess of $50,000, or for the utilization of structural or reinforcing steel for the construction, reconstruction, alteration, repair, or maintenance of a facility estimated to be in excess of $100,000, the Bidder shall certify below the amount of its Bid, if any, which represents the cost of such steel components and the cost of such structural or reinforcing steel and also shall separately certify below the cost of such steel, if any, representing Domestic Steel and the cost of such steel, if any, representing Foreign Steel.

1. Total Cost of Steel Components $ _____ and/or
   Structural or Reinforcing Steel $ _____

2. Cost of Domestic Steel Components $ _____ and/or
   Structural or Reinforcing Steel $ _____

3. Cost of Foreign Steel Components $ _____ and/or
   Structural or Reinforcing Steel $ _____

The Bidder, by signing the Bid, certifies that the foregoing is to the best of Bidder's knowledge true and correct.

IF THE BIDDER FAILS TO PROVIDE ANY OF THE PRICING DATA REQUIRED ABOVE, MTABC WILL ASSUME THAT THE BID IS BASED ON THE USE OF DOMESTIC STEEL PRODUCTS. IN SUCH CASE, IF SUCH BIDDER IS AWARDED THE CONTRACT, THE BIDDER WILL BE REQUIRED TO FURNISH DOMESTIC STEEL PRODUCTS AT THE BID PRICE.

L. Omnibus Procurement Act – Certification and Related Matters

(1) All Bidders submitting a Bid **equal to or exceeding $15,000** must check either box a or b as appropriate:

☐ a. the goods which are supplied hereunder are substantially manufactured or produced or assembled in New York State, or the services which are provided hereunder will substantially be performed within New York State;

Or

☐ b. the goods which are supplied hereunder are substantially produced outside New York State, or the services which are provided hereunder will substantially be performed outside New York State.

(2). The bidder/proposer that is awarded and enters into the contract (the "Contract") that is the subject of this solicitation ("Contractor") agrees by so entering into such contract to the following, which is incorporated into and made a part of the Contract:

a. Contractor agrees to furnish to MTA information regarding its use of New York State Business Enterprises in the performance of this Contract, including by reporting to MTA, in response to MTA's request, whether New York State Business Enterprises are being, have been or are anticipated to be, used in the performance of the Contract, and, if so, by providing identifying information about each such New York State Business Enterprise.

(3) Bidders, submitting a total Bid **greater than $1 million (a "Large Contract")**, by signing this Bid certify that:

a. Bidder shall:
   i. upon entering into the Large Contract provide to MTA documentation of its effort to encourage use of New York State Business Enterprises and

ii. thereafter also report the extent of such use for each such New York State Business Enterprise (a) in response to a request of the MTA project manager and (b) at the time of Contract close-out.

b. The Bidder has made and will continue to make reasonable efforts to encourage the participation of New York State Business Enterprises as suppliers and subcontractors on such Large Contract. Bidder is required to document its efforts to encourage the participation of New York State Business Enterprises as Suppliers and Subcontractors by showing that it has:

(i) solicited bids/proposals, in a timely and adequate manner from New York State Business Enterprises including certified minority and women-owned business,

(ii) contacted the New York State Dept. of Economic Development to obtain listings of New York State Business Enterprises,

(iii) placed notices for subcontractors and suppliers in newspapers, journals or other trade publications distributed in New York State, or

(iv) participated in bidder/proposer outreach conferences. Documentation of such efforts of the Bidder must be provided to the MTA upon MTA's request. If the Bidder determines that New York State Business Enterprises are not available to participate on the Contract as subcontractors or suppliers, the Bidder shall provide a statement to the MTA indicating the method by which such determination was made. If the Bidder does not intend to use subcontractors, the Bidder shall provide a statement to the MTA verifying same.

c. The Bidder has complied with the Federal Equal Opportunity Act of 1972 (P.L. 92-261), as amended;

d. The Bidder agrees to make reasonable efforts to provide notification to New York State residents of employment opportunities on this Contract through listing any such positions with the Division of Employment and Workforce Solutions of the New York State Department of Labor, or providing such notification in such manner as is consistent with existing collective bargaining contracts or agreements. The Bidder agrees to document these efforts and to provide said documentation to the MTA or the State upon request.

e. Bidder acknowledges that New York State may seek to obtain offset credits from foreign counties as a result of this contract and agrees to cooperate with the State in these efforts.

(4) A Bidder responding to this Bid may answer the question below to demonstrate its voluntary commitment to the use of New York State Business Enterprises. While support of New York State Business Enterprises is encouraged, how a Bidder responds to this question will have no impact on the award of the subject procurement (except for certain

rolling stock procurements where the law expressly permits New York State content to be part of the evaluation criteria for award):

Does Bidder anticipate that one or more New York State Enterprises will be used in the performance of this Contract?

_____ _____
Yes **No**

(5) **If Bidder's answer in subparagraph (4), is 'Yes'**, please identify below the New York State Business Enterprises that the Bidder anticipates will be used, to the extent known, and provide the requested identifying name and address information about each such New York State Business Enterprise:

NEW YORK STATE BUSINESS ENTERPRISE NAME(S) AND ADDRESS(ES)

M. Certification of Compliance with the Metropolitan Transportation Authority Vendor Code of Ethics

Consistent with the terms of the MTA Vendor Code of Ethics (the "Code"), which are incorporated herein by reference, the Bidder, by signing the Bid, certifies that during the course of this Solicitation and any resultant Contract:

a. the Bidder has been provided with a copy of the Code and will comply with all provisions of the Code;

b. no Gift, as defined by the Code, has been or will be offered to the Authority in connection with this Solicitation or any resultant contract;

c. no conflicts of interest exist or will exist;

d. prior to any interaction with the Authority, the Bidder will provide its Participating Employees, as defined in the Code, with a copy of the Code. The Bidder will obtain their acknowledgement, as required by the Code, that they have received, read, understand, and

will comply with the Code. Receipt and retention of the acknowledgements shall be subject to audit by the Authority; and

e. the Bidder will obtain certifications similar to those made herein from any and all of its lower tier subcontractors, subconsultants and suppliers that the Bidder engaged or being solicited for work under any contract resulting from this procurement, whose employees may communicate with the Authority. Receipt and retention of these lower tier certifications shall be subject to audit by the Authority.

N. Iran Energy Sector Divestment - Certification

Pursuant to New York State Finance Law § 165–a, Iran Divestment Act of 2012, the Office of General Services is required to post on its web site a list of persons who have been determined to engage in investment activities in Iran ("the List"), as defined in that Act. Under Public Authorities Law § 2879-c, Iranian Energy Sector Divestment, the Authority may not enter into or award a Contract unless it obtains a certification from the Bidder that it is not on the List.

By executing a Contract with the Authority each person and each person signing on behalf of any other party, certifies, **under penalty of perjury**, to the best of its knowledge and belief that each person is not on the list created pursuant to paragraph (b) of subdivision 3 of section 165-a of the State Finance Law, located at http://ogs.ny.gov/about/regs/docs/ListofEntities.pdf. For the purposes of this certification a person shall mean as defined in paragraph (e) of subdivision one of section one hundred sixty-five-a of the state finance law, any natural person, corporation, company, limited liability company, business association, partnership, society, trust, or any other nongovernmental entity, organization, or group. In the case of a joint bid or proposal or partnership each party thereto certifies as to its own organization.

In the event a Bidder is unable to certify that it is not on the List, it must furnish a signed statement along with its BID setting forth in detail the reasons therefor. Such statement will be evaluated by the Authority, and the Authority may enter into a contract with the Bidder if it is able to demonstrate that: a) its investment activities in Iran were made before April 12, 2012; b) its investment activities in Iran have not been expanded or renewed after April 12, 2012; and c) it has adopted, publicized and is implementing a formal plan to cease its investment activities in Iran and to refrain from engaging in any new investments in Iran. **If the Bidder's statement is not found satisfactory in the opinion of the Authority, the Bidder may not be eligible for award of this Contract.**

O. The following information is to be completed:

CHECK ONE BOX AND INCLUDE APPROPRIATE NUMBER:

☐ A - Individual or Sole Proprietorship*
SOCIAL SECURITY NUMBER _____

☐ B – Partnership, Joint Venture or other unincorporated organization
EMPLOYER IDENTIFICATION NUMBER _____

☐ C – Corporation
EMPLOYER IDENTIFICATION NUMBER _____

P. Acknowledgment of Addenda

The Bidder hereby acknowledges receipt of all Contract Documents and Addenda through and including

ADDENDUM NO. _____.

(Bidder to insert number of last Addendum received.)

* Under the Federal Privacy Act, the furnishing of Social Security numbers by Bidders on this Contract is voluntary. Failure to provide a Social Security number will not result in a Bidder's disqualification. Social Security numbers will be used to identify bidders, proposers or vendors to ensure their compliance with laws, to assist the Contracting Party in enforcement of laws as well as to provide the Contracting Party a means of identifying businesses which seek contracts therewith.

Q. Execution of Bid

Bidder is to complete and sign before a Notary Public or Commissioner of Deeds the following Affidavit of Verification section:

Type or Print Bidder's Full Legal Name*: _____

***** Exact Name of Individual, Firm or Corporation or Partnership.

Address: _____

_____

Business Telephone Number: (____) _____

Facsimile Number: (____) _____

Electronic Mail Address: _____

Type or Print Name and Title of Person Executing Bid _____

STATE OF _____)
) **SS.:**
COUNTY OF _____)

The undersigned, being duly sworn says: (a) I am duly authorized by the Bidder to execute this Bid; (b) I have examined all parts of the Contract Documents, Bid and Bid Quotation Sheet and hereby certify that the foregoing Bid and Bid Quotation Sheet is in all respects true and correct and (c) the Bidder hereby authorizes MTABC to make any necessary examination or inquiry in order to make a determination as to the qualifications and responsibility of the Bidder, as well as the authority of the person executing the Bid.

_____
(Signature of Person Executing Bid)

Sworn to before me this _____ day of _____, 20___

_____
(Notary Public or Commissioner of Deeds)

****FAILURE TO COMPLETE AND RETURN MAY DEEM BID NONRESPONSIVE****

Bus Company

ESTIMATED QUANTITY CONTRACT

SPECIAL TERMS AND CONDITIONS FOR ITEMS SUPPLIED FROM NON-GUARANTEED QUANTITY MASTER CONTRACTS

DELIVERY: AS SPECIFIED IN BID DOCUMENTS

QUANTITIES: NO GUARANTEED QUANTITIES

I. CONTRACT TERM

Contract will be in effect for the length of time specified in the Bid documents and the resulting Purchase Order and is not limited to a dollar amount. All bidders hereby agree that they will commence shipments in accordance with Paragraphs IV. "Purchase Order Releases"; V. "Packaging, Labeling and Invoice Notations"; VI. "Specific Delivery Requirement", all contained herein, upon the effective date of MTA Bus Company's (MTABC) master contract purchase order. This resulting order will be an **ESTIMATED QUANTITY CONTRACT without limitation on the quantity of orders or total dollar amount expended.**

Bidders are required to indicate a start-up time. This is the time at which the successful bidder must be able to commence shipments. Failure to agree to the bid requirements to commence shipments within the time specified, after the date of MTABC's master contract, shall result in the bidder(s) quotation being declared non-responsive and ineligible for award.

NOTE: If bidder(s) can start the program sooner than the time specified in the Bid documents, this should be indicated on the bid submission, but will not be a factor in bid evaluation. The contract term will remain in effect for the specified time regardless of the start-up time.

IMPORTANT NOTICE TO BIDDERS:

The estimated quantities and total contract dollar amounts are for bid evaluation purposes only. MTABC reserves the right to increase/decrease those amounts at its discretion.

II. PRICING

Bidder(s) is required to quote a **FIRM PRICE** supporting MTABC requirements for the contract period as specified in the Bid documents.

All pricing to include tax exempt prepaid transportation charges (F.O.B. Delivered).

Net prices must only be quoted according to MTABC's unit of measure and should not exceed four digits after decimal point. Any figures beyond four (4) figures after the decimal point will be disregarded.

III. QUANTITY/USAGE

The quantity of each item requested is based on projected usage for the specified contract period. MTABC is under NO obligation to purchase residual stock remaining in seller's inventory at the conclusion of the contract term, unless stipulated elsewhere.

QUANTITY IS APPROXIMATE:

The bidder further understands that the quantity of the item (s) specified in the Bid Quotation Sheets is given only as a basis for the uniform comparison of bids, and is not in any way represented as correct or intended to be relied upon, and shall not be taken as final and shall form no basis for any claim in damages or for anticipated profits or for loss of profit in case they do not correspond with the final measurement or quantity of the item purchased or if such quantity is omitted in whole or in part.

QUANTITY SURGING:

The contract quantity is calculated for the time specified in the Bid documents, exclusive of the specified start-up time. The quantity of each item is based on projected (forecasted) usage for the contract term. The seller must maintain an inventory level equal to two (2) months of the contract quantity at all times in order to meet the specified release lead time as specified in the Bid documents. However, if the minimum release quantity is greater than a two month supply, vendor must maintain an inventory of at least the minimum release quantity (unless otherwise specified). MTABC may, upon ninety (90) days prior written notice to seller, increase the estimated monthly usage.

IV. PURCHASE ORDER RELEASES

Releases signed by MTABC under the resulting master contract will require the seller to deliver, as required, various quantities of the material specified to any MTA Bus Company location within the boroughs of Manhattan, Staten Island, Brooklyn, Queens, Bronx and the city of Yonkers in Westchester County. Releases will specify the delivery location, quantity, and required date.

SHIPPING, AND PACKING INSTRUCTIONS FOR CONTRACT RELEASE ITEMS

All material must be provided and delivered to specified MTABC storeroom(s) or location(s), in accordance with the shipping instructions as stated on the master contract and subsequent Purchase Order Releases.

V. PACKING, LABELING AND INVOICE NOTATIONS

To ensure smooth receipt and payments, all packing lists * and invoices must reference the Release Purchase Order number. The master contract number shall be referenced only in cases when seller is specifically requested to do so.

*Two (2) packing lists must be provided, (one on the inside of the shipping container (box or carton) and one on the outside of the shipping container). The unit of measure on the packing list must agree with the unit of measure on the Release Purchase Order. On multi-pack shipments, inside packing lists must be affixed to material and not thrown loose into carton. The packing list and invoices must reflect the proper Release Purchase Order number and line item number, MTABC stock number and quantity being shipped. Partial deliveries are allowed on individual line items.

All containers must be marked or labeled with the MTABC stock number.

On multi-lot shipments against some Release Purchase Orders, each carton must be marked “1 of X”, “2 of X”, etc.

Any additional packing requirements will be stated in the ordering description of the item (e.g. palletizing, shrink wrapping, etc.)

VI. SPECIFIC DELIVERY REQUIREMENT

After the award of the master contract, and completion of the start-up time, delivery shall be required to the designated MTABC storeroom within the calendar days specified on **the release purchase order.**

Bids offering delivery beyond the number of days specified in the bid documents shall be considered non-responsive and ineligible for award.

Subsequent to the award of the Master APOP Contract and issuance of Release Purchase Orders, if for any reason delivery cannot be made within this period of time, seller must expeditiously furnish the

Procurement Specialist/Manager with written notice of such delay, and the reason therefor. Extension of time will be granted only if the delay is deemed by MTABC to be unavoidable. A delay is unavoidable only if the cause of the delay was beyond the seller's reasonable control; was not caused directly or substantially by acts, omissions, negligence, or mistakes of the seller, the seller's suppliers, or their agents, in fact caused the seller to miss the scheduled delivery date, the cause arising after award neither was nor could have been anticipated by the seller by reasonable investigation before such award, and could not have been avoided by the exercise of reasonable precautions, efforts and agreed that the seller shall not be entitled to damages or compensation, and shall not be reimbursed for losses, on account of delays determined by the MTABC to be unavoidable under this provision and shall only be entitled to receive an extension of time for any such unavoidable delay.

VII. QUALITY PROVISION

Timely delivery and quality of goods are both the essence of the master contract. Repeated rejection of delivered goods due to late delivery or non-conformity will be grounds for holding the seller in default under the Master APOP Contract, as well as under the affected Release Purchase Order.

DELIVERY DELAYS:

If the seller cannot meet delivery requirements, he or she must notify MTABC immediately. Calls can be made to the Procurement Representative. In addition, the seller must furnish, in writing, the reasons for the delay and the expected delivery date to:

MTA BUS COMPANY
128-15 28TH AVE
FLUSHING, NEW YORK 11354
MAINTENANCE BUILDING, 2ND FLOOR
ATTENTION: NYDIA COLIMON CONTRACT #D162648

SCHEDULE G

CONTRACT No. D162648

The following changes, deletions and/or additions to the Contract Documents are hereby deemed included in the Contract by the attachment of this Rider:

1. Contract Terms and Conditions

Article 12 Disputes
The Disputes Resolution Officer for this contract is James P. Curry, Chief Officer, Procurement.

Article 22 Quantities are Approximate/Variable Quantities Clause
Paragraph B is deleted in its entirety.

[END OF SECTION]

MTA Bus Company

Schedule M

UTILIZATION OF CONTRACT BY OTHER AGENCIES

Bid Solicitation No. D162648

Bid No. D162648

If the Bidder is agreeable to permitting any of the listed Authority affiliates or non-affiliates to place orders with it in accordance with the specifications and terms of any contract resulting from this Bid, the Bidder should indicate such agreement by checking the appropriate boxes below. By doing so, the Bidder agrees to permit the affiliates or non-affiliates, indicated by the checked boxes, to buy additional items of the materials, equipment, supplies or services which are the subject of this Bid and agrees further to sell and deliver such item(s) to the ordering affiliate at the same unit price, to the same specifications and otherwise upon the same terms and conditions as are proposed to MTABC under this bid, all on condition that its Bid is accepted in whole or substantial part by MTABC. In the event an affiliate or non-affiliate places such an order, the Bidder agrees to look only to that affiliate or non-affiliate, and not to MTABC, for payment on such order or for the resolution of any dispute and for any other performance required of the purchaser of such order.

AFFILIATES

- ☐ Metropolitan Transportation Authority
- ☐ Metro-North Commuter Railroad
- ☐ Metropolitan Suburban Bus Authority
- ☐ Triborough Bridge and Tunnel Authority
- ☐ Long Island Rail Road
- ☐ Staten Island Rapid Transit Operating Authority
- ☐ MTA Capital Construction Company
- ☐ New York City Transit Authority
- ☐ South Brooklyn Rail Road
- ☐ First Mutual Transportation Assurance Company

NON-AFFILIATES

- ☐ Any other public authority, municipality or state agency within New York State.

_____ _____

Name & Title (Type or Print) Signature

_____ _____ _____

Date Telephone Company Name

NOTE: It is understood and agreed by the Contractor that the Contractor shall perform the work at sites owned and/or operated by the affiliates and/or non-affiliates.

IF APPLICABLE, PLEASE RETURN FORM WITH BID

Bus Company

Schedule N

NON-BIDDER'S RESPONSE FORM

Bid Solicitation No. D162648

Bid No: D162648

Description: Hose Assembly, Stainless Steel Braded, 82.5" Long, B500R Transmission Cooler

In order to maintain up-to-date bidder's lists, the MTA Bus Company (MTABC) requests that all prospective bidders respond to each solicitation. Failure to submit a Bid, or to reply as to the reason for not bidding, may result in removal of your firm from our bidder's list.

If you are not submitting a Bid, please indicate the reason(s) by checking off one or more of the items below and return this form to us.

1. We received the "Bid" but elected not to bid at this time because:
   a. Plant was operating at capacity. ____
   b. We could not bid competitively. ____
   c. We could not meet delivery requirements. ____
   d. We could not meet specifications. ____
2. We received the "Bid" but did not bid because:
   a. We did not receive bid on time. ____
   b. We do not handle type of material listed on bid. ____
   c. We do not want to do business with MTABC. ____
   d. Other reasons as specified._____

_____

_____

You may remove our name from the bid list for: _____

Check One ___ This type of item or material.
___ All bids.

_____	_____	_____
Firm Name	Authorized Signature	Date

NOTE: Completion and submission of this form is not necessary if you are quoting on one or more items in the attached "Bid".

Bus Company

Schedule O

Delivery Information

Bid Solicitation No. D162648

MTA BUS COMPANY DELIVERY ADDRESSES

Depot	Address & Phone
Baisley Park	114-15 Guy R Brewer Blvd Jamaica, NY 11434 718-557-1403
College Point	128-15 28th Avenue Flushing, NY 11354 718-888-6247
Eastchester	I-95 @ Exit 13 Bronx, NY 10475 718-696-3650
East New York	1720 Bushwick Avenue Brooklyn, NY 11207 718-566-3893
Far Rockaway	49-19 Rockaway Beach Blvd. Far Rockaway, NY 11691 718-945-6327
JFK	165-25 147th Avenue Jamaica, NY 11434 718-553-4274
LaGuardia	85-01 24th Avenue Jackson Heights, NY 11369 718-565-3553
Spring Creek	12755 Flatlands Avenue Brooklyn, NY 11208 718-348-8648
Yonkers	59 Babcock Place Yonkers, NY 10701 914-964-7212

Receiving hours at all locations are 7:00 am- 3:00 PM

MTA BUS

Schedule S

IRAN ENERGY SECTOR DIVESTMENT CERTIFICATION

Bid Solicitation No. D162648

IRAN ENERGY SECTOR DIVESTMENT CERTIFICATION

Pursuant to New York State Finance Law § 165–a, Iran Divestment Act of 2012, the Office of General Services is required to post on its web site a list of persons who have been determined to engage in investment activities in Iran ("the List"), as defined in that Act. Under Public Authorities Law § 2879-c, Iranian Energy Sector Divestment, the Authority may not enter into or award a Contract unless it obtains a certification from the Bidder or Proposer that it is not on the List.

By executing this Schedule S, each person and each person signing on behalf of any other party, certifies, **under penalty of perjury,** to the best of its knowledge and belief that each person is not on the list created pursuant to paragraph (b) of subdivision 3 of section 165-a of the State Finance Law, located at http://ogs.ny.gov/about/regs/docs/ListofEntities.pdf. For the purposes of this certification, a person shall mean, as defined in paragraph (e) of subdivision 1 of section 165-a of the State Finance Law, any natural person, corporation, company, limited liability company, business association, partnership, society, trust, or any other nongovernmental entity, organization, or group. In the case of a joint bid or proposal or partnership each party thereto certifies as to its own organization,

In the event a Bidder or Proposer is unable to certify that it is not on the List, it must furnish in place of this Schedule S a signed statement along with its BID or Proposal setting forth in detail the reasons therefor. Such statement will be evaluated by the Authority, and the Authority may enter into a contract with the Bidder or Proposer if it is able to demonstrate that: a) its investment activities in Iran were made before April 12, 2012; b) its investment activities in Iran have not been expanded or renewed after April 12, 2012; and c) it has adopted, publicized and is implementing a formal plan to cease its investment activities in Iran and to refrain from engaging in any new investments in Iran. **If the Bidder or Proposer's statement is not found satisfactory in the opinion of the Authority, the Bidder or Proposer may not be eligible for award of this Contract.**

Full Legal Name of Certifying Entity: _____

Name of Person Executing Certification: _____

Title of Person Executing Certification: _____

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

The undersigned, being duly sworn says: (a) I am duly authorized to execute this Certification; (b) I hereby certify, under penalty of perjury, that the foregoing Certification is in all respects true and correct.

_____
(Signature of Person Executing Certification)

Sworn to and subscribed before me this _____ day of _____, 20____

_____
(Notary Public)

Notary Public _____County

My Commission expires: _____

Vendor Code of Ethics

Metropolitan Transportation Authority

New York City Transit
Long Island Rail Road
Metro-North Railroad
Bridges and Tunnels
Capital Construction
Bus Company

Metropolitan Transportation Authority

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Chapter 1: DEFINITIONS

As used in this Code, the following terms have the following meanings:

Contact means any oral or written communication with any officer, member of the Board or other employee of the MTA, other than the Designated Point(s) of Contact, where it could be reasonably inferred that such contact was intended to influence, or could reasonably be expected to influence, the subject of an MTA procurement.

Designated Point(s) of Contact means the individual(s) designated to be a Vendor's only contact with the MTA following the public advertisement of a solicitation or the issuance of a request for a bid, proposal, or quote for small purchases, until the award of a resulting contract.

Employee means any officer or employee of the MTA and also includes any member of the Board.

Family Member means (i) an MTA Employee's Spouse, Domestic Partner, Child or Sibling; (ii) a person who is a direct descendant (or the spouse of a direct descendant) of a Grandparent of the MTA Employee or a Grandparent of the MTA Employee's Spouse or Domestic Partner; or (iii) a person living in the same household as an MTA Employee.

Gift means the transfer, without equivalent consideration, of any thing or benefit, tangible or intangible, having more than nominal value, including, but not limited to, loans, forbearance, services, travel, gratuities of any kind, favors, money, meals, refreshments, entertainment, hospitality, promises, tickets to entertainment or sporting events, weekend trips, golf outings, loans of equipment, or other thing or benefit. A Gift need not be intended to influence or reward any individual or entity.

MTA Agency or MTA means any of the following: Metropolitan Transportation Authority Headquarters, MTA New York City Transit, Manhattan and Bronx Surface Transit Operating Authority, MTA Long Island Rail Road, MTA Metro-North Railroad, MTA Bus Company, MTA Capital Construction Company, the Staten Island Rapid Transit Operating Authority, the First Mutual

Transportation Assurance Company, MTA Bridges and Tunnels and any future subsidiary or affiliated Agency.

Participating Employee means any Vendor employee who engages in any written or oral communication of a non-clerical or administrative nature with the MTA or with an MTA employee(s) as part of the procurement.

Participating MTA Employee means any MTA Employee who the Vendor knows, has reason to know, or can reasonably anticipate is involved in a specific procurement, in either a direct or decision-making capacity, but not in a clerical capacity. This includes but is not limited to the Designated Point of Contact, the project manager, the project manager's staff to the extent that they are involved in the procurement, members of selection committees, technical experts and negotiating teams.

Primary Contracting Party means a Vendor who intends to directly enter into or has a contract with the MTA.

State Ethics Law means New York State Public Officers Law Sections 73, 73-a, 74, and the rules and regulations promulgated thereunder as may be amended or modified by the New York State Legislature or the Joint Commission on Public Ethics.

State Procurement Lobbying Law means New York State Finance Law Sections 139-j and 139-k, and the rules and regulations promulgated thereunder as may be amended or modified.

Vendor means any individual or entity seeking to or doing business with the MTA within the scope of this Code, including, without limitation, contractors, consultants, suppliers, manufacturers seeking to act as the primary contracting party, officers and employees of the foregoing, as well as any subcontractors, subconsultants and suppliers at all lower tiers.

Chapter 2: LIMITATIONS AND REPORTING OF CONTACTS WITH THE MTA

Section 2.01 Designated Point(s) of Contact

Each procurement solicitation issued by MTA will identify the MTA's Designated Point(s) of Contact for that solicitation as required by the State

Procurement Lobbying Law. Once the Designated Point(s) of Contact is/are established, the Vendor and any person or entity acting on the Vendor's behalf, including without limitation, those providing compensated or uncompensated lobbying, advocacy, consulting or other services should ensure that its contacts with the MTA are in compliance with the requirements of the State Procurement Lobbying Law.

Chapter 3: NON-COLLUSION

Section 3.01 Independent Bid Assessment

The Vendor will calculate the price(s) contained in any bid or proposal independently, without collusion, consultation, communication, or agreement with any other competing Vendor for the purpose of restricting competition.

Section 3.02 Non-Communication of Bid

Unless otherwise required by law, the price(s) which the Vendor quotes in its bid or proposal will not knowingly be disclosed by the Vendor, directly or indirectly, to any other competing Vendor prior to the closing date for bids or proposals.

Section 3.03 Bid Submission

The Vendor will not make any attempt to induce any other individual or entity to submit or not to submit a bid or proposal.

Chapter 4: GIFTS OR CONTINGENT FEES

Section 4.01 Zero Tolerance

No Vendor may offer or give any Gift, directly or indirectly, to an MTA Employee. Similarly, no Vendor may offer or give any Gift, directly or indirectly, to any family member of an MTA employee where such Gift is made because of the Vendor's relationship with the MTA Employee.

Section 4.02 Personal Relationships

Notwithstanding the foregoing, if a Vendor has a family or personal relationship with the employee, a gift that is unconnected with the employee's duties at the MTA is not necessarily prohibited.

In determining whether the giving of an item was motivated by personal rather than business concerns, the following factors are considered:

(a) the history of the relationship between the donor and the recipient; and

(b) whether the item was purchased by the donor.

The giving of an item shall not be considered to be motivated by a family or personal relationship if the donor seeks to charge or deduct the value of the item as a business expense or seeks reimbursement from a client.

However, regardless of the family or personal relationship between a Vendor and an employee, a Gift is strictly forbidden where it is being given under circumstances where it can reasonably be inferred that it was intended to influence the employee in the performance of his or her official duties.

Section 4.03 Contingent Fees

The Vendor will not employ or retain any individual or entity for the purpose of soliciting or securing an MTA contract upon any agreement or understanding for a commission, percentage, brokerage, or fee that is contingent or dependent upon the outcome of the procurement.

Chapter 5: NEGOTIATIONS FOR FUTURE EMPLOYMENT

Section 5.01 General

MTA Employees are subject to the restrictions set forth below in connection with negotiations for future employment with Vendors. It is expected that Vendors will approach any such solicitation or negotiation with knowledge and understanding of these restrictions and will conduct themselves accordingly.

With regard to specific procurements, Vendors shall not discuss future employment with Participating MTA Employees from the date the procurement is advertised or solicited through the date that the procurement is awarded, even if an MTA Participating Employee contacts the Vendor regarding employment. Questions regarding whether a particular MTA employee is a Participating MTA Employee for a specific procurement should be directed to the Designated Point of Contact for the procurement.

Section 5.02 Restrictions

(a) Solicited

Employees are prohibited from soliciting an employment opportunity with a non-governmental individual or entity that has a specific pending matter before the Employee.

Those Employees seeking employment outside of government with an entity or individual that has a specific pending matter before the Employee may only solicit an employment opportunity with the non-governmental individual or entity after waiting:

(i) 30 days from the time the matter before the Employee is closed, or

(ii) 30 days from the time the Employee has no further involvement with the matter because of recusal or reassignment.

(b) Unsolicited

Employees who receive an unsolicited post-government employment-related communication from a non-governmental individual or entity that has a specific pending matter before the Employee cannot pursue employment with the non-governmental entity or individual unless the following occurs:

(i) they recuse themselves from the matter and any further official contact with the entity or individual and

(ii) they wait 30 days from such recusal to enter into post-government employment communications with the entity or individual.

(c) Notification

Employees must promptly notify their supervisor and Agency ethics officer of such outside employment related communications whether or not they intend to pursue the post-government employment opportunity.

In the event of such notification of a solicitation and Employee's desire to pursue the solicitation, the Employee's supervisor is obligated to advise such supervisor's superiors, in writing, up to and including the Department Head, of the Employee's desire to pursue the solicitation and the manager's intention to establish recusal procedures, if practical, to reassign the individual or to refuse reassignment.

(d) Recusal

Recusal procedures shall be applied only if practical and in the best interests of the applicable MTA Agency. Reassignment shall be refused when the manager determines that reassignment would be impractical or inappropriate. The manager may not take action with respect to notifying the Employee of such manager's decision until approved by the Department Head. If recusal procedures are not practical and in the best interests of the applicable MTA Agency or if reassignment is refused, the Employee is prohibited from pursuing the solicitation.

Chapter 6: CONFLICT OF INTEREST

Section 6.01 Financial Interest

Neither the Vendor, nor any director, officer, principal, or partner thereof, as the case may be, may have a 10% or greater interest, nor shall the Vendor, nor any director, officer, principal, or partner thereof, acquire a 10% or greater interest, either directly or indirectly, in any company or firm that would conflict in any manner or degree with the performance of the MTA contract.

The Vendor will not permit an employee having a 10% or greater interest, either directly or indirectly, in any company or firm that would conflict in any manner or degree with the performance of the MTA contract to be employed in the performance of the MTA contract.

Section 6.02 Disclosure and Cooperation

The Vendor shall provide to the MTA, at the MTA's request and upon such forms as may be furnished by the MTA, a disclosure of organizational, financial, contractual or other affiliations with any organization that has interests that may be substantially affected by the procurement solicitation. The Vendor shall cooperate in any inquiry or investigation undertaken by the MTA to determine whether any such affiliations present a conflict of interest.

Chapter 7: FORMER MTA EMPLOYEES

Section 7.01 Appearance Before Former Agency-Two Year Bar

Except as provided for in Section 73 of the State Ethics Law, the Vendor will not permit a former officer or employee of the MTA to appear or practice before the agency that employed the officer or employee in relation to any case, proceeding or application or other matter before that agency, either prior to award or in the performance of an MTA contract, for a period of two years after termination of the officer's or employee's services with the agency.

Section 7.02 Appearance Before Former Agency-Life Time Bar

Except as provided for in Section 73 of the State Ethics Law, the Vendor will not permit a former officer or employee of the MTA to appear, practice, communicate or otherwise render service before the agency that employed the officer or employee or any other agency of the MTA, either prior to award or in the performance of an agency's contract in relation to any case, proceeding, application or transaction with respect to which such former officer or employee was directly concerned and in which he or she personally participated, or which was under his or her active consideration during the period of his or her employment. This provision is a lifetime bar on projects that the former employee previously worked on while employed by the agency.

Chapter 8: DISTRIBUTION AND CERTIFICATION

Section 8.01 Gift Certification

Every bid or proposal made to and every contract with the MTA above the small purchase threshold must contain a certification that no individual or entity has been or will be offered or given any Gift in connection with such bid or contract and that no conflicts of interest exist.

Section 8.02 Distribution of Vendor Code of Ethics and Vendor's Participating Employee Acknowledgements

As a condition of being considered for the award of any contract above the MTA's small purchase threshold, the Vendor will be required to distribute copies of the MTA Vendor Code of Ethics to all Participating Employees prior to any of those employee's participation in the procurement. The Code may be distributed either in hard copy or electronically as a separate PDF.

Additionally, as a condition of being considered for the award of any contract above the MTA's small purchase threshold, the Vendor will be required to obtain an acknowledgement from each of its Participating Employees ("Participating Employee Acknowledgements") that they have received, read, understand, and will comply with the MTA Vendor Code of Ethics.

The Vendor's responsibility for distributing copies of the MTA Vendor Code of Ethics, obtaining such signed Participating Employee Acknowledgements, and retaining said acknowledgements is ongoing and shall last through the completion of performance of the contract.

Receipt and retention of Participating Employee Acknowledgments by the Vendor shall be subject to audit by the MTA.

Section 8.03 Vendor Certifications

As a condition of being considered for the award of any contract above the MTA's small purchase threshold, the Vendor will be required to submit with its bid or proposal and include in its contract a further certification executed by an authorized official of that Vendor.

This certification must attest that:

(a) The Vendor has been provided with a copy of the MTA Vendor Code of Ethics and will comply with all of the provisions of the Code;

(b) All of its Participating Employees during the course of the procurement or contract have been provided with a copy of the MTA Vendor Code of Ethics prior to any of those employee's participation in the procurement;

(c) All Participating Employees have completed the acknowledgement required by Section 8.02 of this Code;

(d) The Vendor will retain all of the signed Participating Employee Acknowledgements through the completion of performance of the contract; and

(e) The Vendor will continue to distribute the MTA Vendor Code of Ethics, obtain signed Participating Employee Acknowledgements as new Participating Employees are added or changed during the contract period, and retain all of the signed acknowledgements through the completion of performance of the contract.

Section 8.04 Subcontractor Certifications

As a condition of being considered for the award of any contract above the MTA's small purchase threshold, the Vendor will obtain certifications executed by authorized officials from all of its lower tier subcontractors, subconsultants and suppliers (as well as from any other subcontractors, subconsultants and suppliers from whom that Vendor is soliciting or has received proposals for work on an MTA contract) whose employees have communicated or may communicate with MTA employees. This obligation is ongoing and shall last through the completion of performance of the contract. Receipt and retention of lower tier certifications by the Vendor shall be subject to audit by the MTA.

Chapter 9: PENALTIES

Section 9.01 Responsibility Determination

For violation of any provision of the MTA Vendor Code of Ethics, the MTA may avail itself of every remedy in law or equity, or as agreed to by parties in any contract, including but not limited to declaring the Vendor non-responsible, debarred or in material breach of the contract.

Section 9.02 Civil/Criminal Penalties

Additionally, violation of the MTA Vendor Code of Ethics or a provision thereof may subject the Vendor to criminal or civil penalties under State or Federal law.

Chapter 10: REPORTING OBLIGATION

Section 10.01 Reporting Gift Requests

Notwithstanding the provisions of Chapter 4 above, the Vendor is obligated to immediately report to the MTA's Chief Compliance Officer and senior procurement official of the MTA, any and all requests made to the Vendor by any officer, employee of the MTA, or member of the Board for a Gift.

Section 10.02 Reporting Material Changes

The Vendor is under a continuing obligation to report any change in circumstances that materially affects any prior report to the MTA, including but not limited to disclosure of conflicts of interest and representations made in the Contractor Responsibility Form.

MTA BUS

Schedule V

MTA VENDOR CODE OF ETHICS CERTIFICATION OF COMPLIANCE*

Bid Solicitation No. D162648

*** Schedule V, Certification of Compliance is used with all procurement contracts above $15K**

CERTIFICATION OF COMPLIANCE WITH THE METROPOLITAN TRANSPORTATION AUTHORITY VENDOR CODE OF ETHICS:

A. Consistent with the terms of the MTA Vendor Code of Ethics (the "Code"), which are incorporated herein by reference, by executing this Schedule V, the Bidder, Proposer or Vendor certifies that during the course of this Solicitation and/ or during the course of any Contract:

1. the Bidder, Proposer or Vendor has been provided with a copy of the Code and will comply with all provisions of the Code;

2. no Gift, as defined by the Code, has been or will be offered to the Authority in connection with this Solicitation and/or during the course of any resultant contract;

3. no conflicts of interest exist or will exist;

4. prior to any interaction with the Authority, the Bidder, Proposer or Vendor will provide its Participating Employees, as defined in the Code, with a copy of the Code. The Bidder, Proposer or Vendor will obtain their acknowledgement, as required by the Code, that they have received, read, understand, and will comply with the Code. Receipt and retention of the acknowledgements shall be subject to audit by the Authority; and

5. the Bidder, Proposer or Vendor will obtain certifications similar to those made herein from all of its lower tier subcontractors, subconsultants and suppliers that the Bidder, Proposer or Vendor engaged or that are being solicited for work under any contract resulting from this procurement, whose employees may communicate with the Authority. Receipt and retention of these lower tier certifications shall be subject to audit by the Authority.

B. The Code is available for Bidder, Proposer or Vendor's immediate review in the Solicitation or procurement package and is also available on the MTA website at: http://www.mta.info/mta/compliance/pdf/Vendor_Code_of_Ethics.pdf.

Full Legal Name of Certifying Entity: _____

Name of Person Executing Certification:_____

Title of Person Executing Certification: _____

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

The undersigned, being duly sworn says: (a) I am duly authorized to execute this Certification; (b) I hereby certify that the foregoing Certification is in all respects true and correct.

_____
(Signature of Person Executing Certification)

Sworn to and subscribed before me this _____ day of _____, 20____

_____
(Notary Public)

Notary Public _____County

My Commission expires: _____

Bus Company

Schedule W

Compliance with NYS State Finance Law Sections 139-j and 139-k ("Lobbying Law")

Bid Solicitation No. D162648

NEW YORK STATE'S STATE FINANCE LAW SECTIONS 139-J AND 139-K

All procurements by MTABC in excess of $15,000 annually, are subject to New York State's State Finance Law Sections 139-j and 139-k, effective January 1, 2006 ("Lobbying Law").

Pursuant to the Lobbying Law, all "contacts" (defined as oral, written or electronic communications with MTABC intended to influence a procurement) during a procurement must be made with the designated Point of Contact only. Exceptions to this rule include written questions during the bid or proposal process, communications with regard to protests, contract negotiations and RFP conference participants. Nothing in the Lobbying Law inhibits any rights to make an appeal, protest or complaint under existing administrative or judicial procedures.

Violations of the policy regarding permissible contacts must be reported to the appropriate MTABC officer and investigated accordingly. First violation may result in a determination of non-responsibility and ineligibility for award to the violator and its subsidiaries, affiliates and related or successor entities. The penalty for a second violation within four (4) years is ineligibility for bidding/proposing on a procurement and/or ineligibility from being awarded any contract for a period of four (4) years. MTABC will notify the New York State Office of General Services ("OGS") of any determinations of non-responsibility or debarments due to violations of the Lobbying Law. Violations found to be "knowing and willful" must be reported to the MTABC President and OGS.

Moreover, the statutes require MTABC to obtain certain affirmation and certifications from bidders and proposers. This **SCHEDULE W** contains the forms to comply with the Lobbying Law and additional information and instructions.

NOTE: Failure to complete and return the required forms with your Proposal may cause the Proposer to be deemed non-responsible.

DISCLOSURE OF PRIOR NON-RESPONSIBILITY DETERMINATIONS

Instructions:

New York State Finance Law §139-k(2) obligates MTABC to obtain specific information regarding prior non-responsibility determinations. This information must be collected in addition to the information that is separately obtained pursuant to State Finance Law §163(9). In accordance with State Finance Law §139-k, an offeror must be asked to disclose whether there has been a finding of non-responsibility made within the previous four (4) years by any Governmental Entity due to: (a) a violation of State Finance Law §139-j or (b) the intentional provision of false or incomplete information to a Governmental Entity.

As part of its responsibility determination, State Finance Law §139-k(3) mandates consideration of whether an offeror fails to timely disclose accurate or complete information regarding the above non-responsibility determination. In accordance with law, no procurement contract shall be awarded to any offeror that fails to timely disclose accurate or complete information under this section, unless the factual elements of the limited waiver provision can be satisfied on the written record.

THE FORM IS ON THE NEXT PAGE.

DISCLOSURE OF PRIOR NON-RESPONSIBILITY DETERMINATIONS

Name of Bidder/Proposer: _____

Address: _____

_____

Name and Title of Person Submitting this Form: _____

(Please circle)

Has any governmental entity* made a finding of non-responsibility regarding the Bidder/Proposer in the previous four years? No Yes

If yes: Was the basis for the finding of the Bidder's/Proposer's non-responsibility due to a violation of State Finance Law §139-j? No Yes

Was the basis for the finding of Bidder's/Proposer's non-responsibility due to the intentional provision of false or incomplete information to a governmental entity? No Yes

If yes, please provide details regarding the finding of non-responsibility below.

Governmental Entity: _____

Year of Finding of Non-responsibility: _____

Basis of Finding of Non-Responsibility: _____

_____

_____

(Add additional pages as necessary)

Has any governmental entity terminated, or withheld award of, a procurement contract with the Bidder/Proposer due to the intentional provision of false or incomplete information? No Yes

If yes, provide the information below.

Governmental Entity; _____

Year Procurement Terminated or Award Withheld:_____

Basis for Termination of Procurement or Withholding Award:_____

_____

_____==

(Add additional pages as necessary.)

* A "government entity" is: (1) any department, board, bureau, commission, division, office, council, committee or officer of New York State, whether permanent or temporary; (2) each house of the New

York State Legislature; (3) the unified court system; (4) any public authority, public benefit corporation or commission created by or existing pursuant to the public authorities law; (5) any public authority or public benefit corporation, at least one of whose members is appointed by the governor or who serves as a member by virtue of holding a civil office of the state; (6) a municipal agency, as that term is defined in paragraph (ii) of subdivision (s) of section one-c of the Legislative Law; or (7) a subsidiary or affiliate of such a public authority. (SFL §139-j, paragraph 1.a.)

BIDDER'S/PROPOSER'S AFFIRMATION AND CERTIFICATION

By signing below, the Bidder/Proposer:

a) Affirms that the Bidder/Proposer understands and agrees to comply with the policies regarding permissible contacts in accordance with State Finance Law Sections 139-j and 139-k of New York State.

b) Certifies that all information provided to MTABC with respect to State Finance Law §139-j and §139-k is complete, true and accurate.

By: _____
(Signature of Person Certifying)

Date: _____

Print Name: _____

Print Title: _____

Bidder/Proposer or
Contractor/Consultant: _____
(Full Legal Name)

Address: _____
_____
_____

Business
Telephone Number: _____

MTABC'S RIGHT TO TERMINATE

MTABC reserves the right to terminate a Contract in the event it is found that the certification filed by the Contractor/Consultant, as Bidder/Proposer, in accordance with New York State Finance Law §139-k was intentionally false or intentionally incomplete. Upon such finding, MTABC may exercise its termination right by providing written notification to the Contractor/Consultant in accordance with the written notification terms of the Contract.

MTA Bus Company

PACKAGE 1

FOR USE WITH CONTRACTS AND PURCHASES THAT DO NOT HAVE MINORITY/WOMEN-OWNED BUSINESS ENTERPRISE ("M/WBE") GOALS

Bid Solicitation No. D162648

THIS PACKAGE CONTAINS THE FOLLOWING FORMS:

- **FORM EEO-1 (EMPLOYER INFORMATION REPORT)**
- **FORM WF-257 (WORK FORCE UTILIZATION REPORT - SERVICE AND/OR CONSULTANT FIRMS)**
- **FORM WF-257 (MONTHLY WORK FORCE UTILIZATION REPORT - CONSTRUCTION)**
- **STAFFING PLAN FORM**

METROPOLITAN TRANSPORTATION AUTHORITY
Office of Civil Rights

EQUAL EMPLOYMENT OPPORTUNITY

EMPLOYER INFORMATION REPORT EEO-1

Section A - TYPE OF REPORT

1. Indicate by marking in the appropriate box the type of reporting unit for which this copy of the form is submitted (MARK ONLY ONE BOX.)

(1) ☐ Single-establishment Employer Report

Multi-establishment Employer:

(2) ☐ Consolidated Report (Required)

(3) ☐ Headquarters Unit Report (Required)

(4) ☐ Individual Establishment Report (submit one for each establishment with 50 or more employees)

(5) ☐ Special Report

2. Total number of reports being filed by this Company (Answer on Consolidated Report only)

SECTION B -- COMPANY IDENTIFICATION (To be answered by all employers)					Office Use Only
1. Parent Company					
a. Name of parent company (owns or controls establishment in item 2) omit if same as above					a.
Address (Number and street)					b.
City or town	State		ZIP code		c.
2. Establishment for which this report is filed. (Omit if same as above)					
a. Name of establishment					d.
Address (Number and street)	City or Town	County	State	ZIP code	e.
b. Employer Identification No. (IRS 9-DIGIT TAX NUMBER)					f.

c. Was an EEO-1 report filed for this establishment last year? ☐ 1 YES ☐ 2 NO

6/00

METROPOLITAN TRANSPORTATION AUTHORITY
Office of Civil Rights
EQUAL EMPLOYMENT OPPORTUNITY
EMPLOYER INFORMATION REPORT EEO-1
Section C - EMPLOYMENT DATA

Employment at this establishment-Report all permanent full-time and part-time employees including apprentices and on-the-job trainees unless specifically excluded as set forth in the instructions. Enter the appropriate figures on all lines and in all columns. Blank Spaces will be considered as zeros.

Job Categories	**NUMBER OF EMPLOYEES**										
		MALE					**FEMALE**				
	Overall Totals (Sum of Col. B thru K) A	White (Not of Hispanic Origin) B	Black (Not of Hispanic Origin) C	Hispanic D	Asian or Pacific Islander E	American Indian or Alaskan Native F	White (Not of Hispanic Origin) G	Black (Not of Hispanic Origin) H	Hispanic I	Asian or Pacific Islander J	American Indian or Alaskan Native K
Officials and Managers 1											
Professionals 2											
Technicians 3											
Sale Workers 4											
Office and Clerical 5											
Craft Workers (Skilled)											
Operatives (Semi-Skilled) 7											
Laborers (Unskilled) 8											
Service Workers 9											
TOTAL 10											
Total employment reported in previous EEO-1 report 11											

NOTE: Omit questions 1 and 2 on the Consolidated Report.

1. Date(s) of payroll period used: _____

2. Does this establishment employ apprentices?

1 ☐ Yes 2 ☐ No

METROPOLITAN TRANSPORTATION AUTHORITY
Office of Civil Rights

EQUAL EMPLOYMENT OPPORTUNITY

EMPLOYER INFORMATION REPORT EEO-1

Section D -ESTABLISHMENT INFORMATION (Omit on the Consolidated Report)

1. What is the major activity of this establishment? (Be specific, i.e., manufacturing steel castings, retail grocer, wholesale plumbing supplies, title insurance, etc. Include the specific type of product or type of service provided, as well as the principal business or industrial activity).	OFFICE USE ONLY g.

Section E-REMARKS

Use this item to give any identification data appearing on last report which differs from that given above, explain major changes in composition or reporting units and other pertinent information.

Section F-CERTIFICATION

Check one
1 ☐ All reports are accurate and were prepared in accordance with the instructions (check on consolidated only)
2 ☐ This report is accurate and was prepared in accordance with the instructions.

Name of Certifying Official	Title	Signature	Date
Name of person of contact regarding this report (type or print)	Address (Number and Street)		
Title	City and State	ZIP Code	Telephone Number (Including Area Code)

All reports and information obtained from individual reports will be kept confidential as required by Section 709(e) of Title VII. WILLFULLY FALSE STATEMENTS ON THIS REPORT ARE PUNISHABLE BY LAW, U.S. CODE, TITLE 18, SECTION 1001.

6/00

WORK FORCE UTILIZATION REPORT

SERVICE and/or CONSULTANT FIRMS

Agency _____ /Code _____ Reporting Period _____

Check one: ☐ Quarterly Report ☐ Semi-Annual Report

Contractor Firm Name _____ Address _____

City State Zip

Type of Report: ☐ Contract Specific Work Force ☐ Total Work Force

Check if NOT-FOR-PROFIT ☐

Federal Id/Payee Id No.

Check One: ☐ Prime Contractor ☐ Subcontractor

Contract Amount: $_____

Contract No. _____ Location of Work _____

County ZIP

Product/Service Provided: _____

Contract Start Date: _____ Percent of Job Completed _____

Federal Occupational Category	Number of Employees: Total Number of Employees		Black (Not of Hispanic Origin)		Hispanic		Asian or Pacific Islander		Native American/ Alaskan Native		Total Percent Minority Employees	Total Percent Female Employees
	Male	Female	Male	Female	Male	Female	Male	Female	Male	Female		
Officials/Admin												
Professionals												
Technicians												
Sales Workers												
Office & Clerical												
Craft Workers												
Operatives												
Laborers												
Service Workers												
TOTALS												

Company Official's Name _____ Title _____

Company Official's Signature _____ Date _____

Telephone Number (_____)_____

WORK FORCE UTILIZATION REPORT
SERVICE and/or CONSULTANT FIRMS
INSTRUCTIONS FOR COMPLETION

PURPOSE: The *Work Force Utilization Report for Service and/or Consultant Firms* is prepared by all contractors, and subcontractors if any, providing services (skilled or non-skilled) or professional consulting services to a state agency to document their actual employment of minority group members and women during the period covered by the report. The report has a format similar to forms used by the Federal government for reporting equal employment opportunity data. When the *contract specific work force* can be identified, the report covers all employees (including apprentices or trainees) working on the project. If the contract specific work force *cannot* be separated out, the contractor's *total work force* is reported. The completed reports are used by the contracting state agency to monitor the contractor's and subcontractor's compliance with the contract's equal employment opportunity requirements.

GENERAL INFORMATION:

1. ***Name of contracting state agency*** and state agency code (five digit code).
2. ***Reporting period*** covered by report (mm/dd/yy to mm/dd/yy); **check** to indicate *Quarterly* or *Semi-Annual* Report.
3. ***Contractor firm name*** (prime contractor on summary report submitted to agency) and ***address*** (including city name, state and zip code); **check** if the contractor is a NOT-FOR-PROFIT.
4. ***Type of Report***: **check** to indicate whether report covers (i) the *Contract Specific Work Force* or (ii) the *Company's Total Work Force* (in the event the contract specific work force cannot be separated out).
5. Contractor ***Federal Employer Identification number*** or payee identification number (prime contractor i.d. on summary report); **check** to indicate prime or subcontractor report.
6. ***Contract Amount*** is dollar amount based on terms of the contract.
7. ***Contract number*** is the agency assigned number given to the contract (seven digits).
8. ***Location of work*** including county and zip code where work is performed.
9. Indicate ***Product or Service provided*** by contractor (brief description).
10. ***Contract start date*** is month/day/year work on contract actually began.
11. Contractor's ***estimate of the percentage of work completed*** at the end of this reporting period.

FEDERAL OCCUPATIONAL CATEGORIES: The contractor's work force is broken down and reported by the nine *Federal Occupational Categories (FOC's)* consistent with the Federal government's EEO-1 categories for the private sector labor force. These are: *Officials and Managers, Professionals, Technicians, Sales, Office & Clerical (Administrative Support), Craft Workers, Operatives, Laborers and Service Workers*. The categories are general in nature, and include all related occupational job titles. The contracting agency can provide assistance in categorizing specific jobs.

TOTAL NUMBER OF EMPLOYEES: Record the *total number of all persons employed* in each FOC during the reporting period, regardless of ethnicity (either working on the specific contract OR in the contractor's total work force, based on the type of report indicated above). Report the total number of male (M) employees in column (1) and the total number of female (F) employees in column (2) for each FOC. In columns (3) thru (10) report the numbers of male and female *minority group members* employed, based on the following defined groups:

- ***Black (not of Hispanic origin)***: all persons having origins in any of the Black African racial groups;
- ***Hispanic***: all persons of Mexican, Puerto Rican, Dominican, Cuban, Central or South American descent of either Indian or Hispanic origin, regardless of race;
- ***Asian or Pacific Islander***: all persons having origins in any of the Far East countries, South East Asia, the Indian subcontinent or the Pacific Islands;
- ***Native American or Alaskan Native***: all persons having origins in any of the original peoples of North America.

TOTAL % MINORITY = sum of all minority group members (male and female) employed in the FOC divided by the total number of all employees in that FOC (column 1 + column 2).

TOTAL % FEMALE = total number of female employees in the FOC (column 2) divided by the total number of all employees in that FOC (column 1 + column 2).

TOTALS: column totals should be calculated (sum each column) for all FOC's combined. Total minority and female percentages should be calculated as shown above, based on the column totals.

SUBMISSION: The work force utilization report is to be completed by both prime and subcontractors and **signed and dated** by an *authorized representative* before submission. This **Company Official's name, offical title and telephone number** should be printed or typed where indicated on the bottom of the form.

The ***prime contractor*** shall complete a report for its own work force, **collect** reports completed by each subcontractor, and **prepare a summary report for the entire combined contract work force**. The reports shall include the total number of employees in each occupational category for all payrolls completed in the reporting period. The prime contractor shall submit the summary report to the contracting agency as required by *Part 142 of Title 5 of the NYCRR* pursuant to *Article 15-A of the Executive Law*.

MONTHLY WORK FORCE UTILIZATION REPORT - FORM WF-257 - *CONSTRUCTION*

Agency _____ /Code _____ Reporting Period _____

Contractor Firm Name _____ Address _____

City State ZIP

Federal Id/Payee Id No. _____

Check One: Prime Contractor ☐ Subcontractor ☐

Contract Amount: $ _____

Contract No. _____ Location of Work _____

County ZIP

Contract Start Date: _____ Percent of Job Completed _____

** F=Foreman/ Supervisor J=Journeyworker A=Apprentice/ Trainee		Total Hours Worked During Reporting Period												Total Number of Employees		Total Number of Minority Employees	
Job or Trade Category	**	Total Hours Worked All Employees		Black (Not of Hispanic Origin)		Hispanic		Asian or Pacific Islander		Native American/ Alaskan Native		Minority %	Female %				
		M	F	M	F	M	F	M	F	M	F			M	F	M	F
Field Office Staff:																	
Professionals																	
Office/Clerical																	
Laborers	F																
	J																
	A																
Equipment Operators	F																
	J																
	A																
Surveyors	F																
	J																
	A																
Truck Drivers	F																
	J																
	A																
Iron Workers	F																
	J																
	A																
Carpenters	F																
	J																
	A																
Cement Masons	F																
	J																
	A																

Painters	F																
	J																
	A																
Electricians	F																
	J																
	A																
Plumbers	F																
	J																
	A																
Other:	F																
	J																
	A																
GRAND TOTALS																	

Company Official's Name _____ Title _____

Company Official's Signature _____ Date _____

Telephone Number (_____)_____

MONTHLY WORK FORCE UTILIZATION REPORT - CONSTRUCTION
INSTRUCTIONS FOR COMPLETION

PURPOSE: The *Monthly Work Force Utilization Report* is prepared by all construction contractors and subcontractors to document their actual employment of minority group members and women during the period covered by the report. The report has a format similar to forms used by the Federal government (e.g. U.S. Department of Labor) for reporting equal employment opportunity data. The report covers all hourly workers, including foremen, supervisors or crew chiefs, journey workers and apprentices or trainees working on the project. Professional and office clerical field office staff working on the contract shall also be reported. The completed reports are used by the contracting state agency to monitor the contractor's and subcontractor's compliance with the contract's equal employment opportunity requirements.

GENERAL INFORMATION:

1. ***Name of contracting state agency*** and state agency code (five digit code).
2. ***Reporting period*** covered by report (month/year).
3. ***Contractor or subcontractor firm name*** (prime contractor on summary report submitted to agency) and ***address*** (including city name, state and zip code).
4. Contractor or subcontractor ***Federal Employer Identification number*** or payee identification number (prime contractor i.d. on summary report); **check** to indicate prime or subcontractor report.
5. ***Contract Amount*** is dollar amount based on terms of the contract.
6. ***Contract number*** is the agency assigned number given to the contract (seven digits).
7. ***Location of work*** including county and zip code where work is performed.
8. ***Contract start date*** is month/day/year work on contract actually began.
9. Contractor's ***estimate of the percentage of work completed*** at the end of this reporting period.

JOB OR TRADE CATEGORIES: A field office staff category plus ten job categories are printed on the form. These are trades commonly used in construction. The categories are intended to be general in nature, and may include several occupational job titles. *IF trades other than those identified are required to perform work on the contract*, this work should be combined and reported in the *"Other"* category. Work level designations of foreman/supervisor (F), journeyworker (J), and apprentice/trainee (A) are included as separate entries for each standard job category; hours worked must be recorded opposite the appropriate work level for each.

TOTAL HOURS WORKED DURING REPORTING PERIOD: Report the total hours worked by **all** employees during the reporting period, regardless of ethnicity, under each job category in column (1) for males (M) and column (2) for females (F). In columns (3) thru (10) report the total hours worked by male and female *minority group members* of one of the following defined groups:

- ***Black (not of Hispanic origin)***: all persons having origins in any of the Black African racial groups;
- ***Hispanic***: all persons of Mexican, Puerto Rican, Dominican, Cuban, Central or South American descent of either Indian or Hispanic origin, regardless of race;
- ***Asian or Pacific Islander***: all persons having origins in any of the Far East countries, South East Asia, the Indian subcontinent or the Pacific Islands;
- ***Native American or Alaskan Native***: all persons having origins in any of the original peoples of North America.

MINORITY % = sum of all employment of minority group members (M and F) in the job category divided by the total hours worked by all employees in that job category (column 1 + column 2).
FEMALE % = total hours worked by all female employees in the job category (column 2) divided by the total hours worked by all employees in that job category (column 1 + column 2).

TOTAL NUMBER OF EMPLOYEES: record the *total number of all persons employed* during the reporting period, regardless of ethnicity; report the numbers of male (M) and female (F) employees separately.
TOTAL NUMBER OF *MINORITY* EMPLOYEES: record the *total number of minority persons employed* during the reporting period; report the numbers of minority male (M) and minority female (F) employees separately.

GRAND TOTALS: column totals should be calculated for all job categories combined. Total minority and female percentages should be calculated as shown above, based on the column grand totals.

SUBMISSION: The monthly work force utilization report is to be completed by both prime and subcontractors and **signed and dated** by an *authorized representative* before submission. This **Company Official's name, offical title and telephone number** should be printed or typed where indicated on the bottom of the form.

The ***prime contractor*** shall complete a report for its own work force, **collect** reports completed by each subcontractor, and **prepare a summary report for the entire combined contract work force**. The reports shall include the total work hours for all employees in each work category for all payrolls completed in the monthly reporting period. The prime contractor shall submit the summary report to the contracting agency as required by *Part 142 of Title 5 of the NYCRR* pursuant to *Article 15-A of the Executive Law*.

STAFFING PLAN

Project/RFP Title:_____ **Location of Contract:**_____
County ZIP

Contractor/Firm Name _____ **Address** _____
City State ZIP

Check applicable categories: **(1) Staff Estimates include:** ˆ **Contract/ Project Staff** ˆ **Total Work Force** ˆ **Subcontractors**
(2) Type of Contract : ˆ **Construction Consultants** ˆ **Commodities** ˆ **Services/Consultants**

Total Anticipated Work Force											Total Percent Minority Employees	Total Percent Female Employees
Federal Occupational Category	Total Number of Employees		Black (Not of Hispanic Origin)		Hispanic		Asian or Pacific Islander		Native American/ Alaskan Native			
	Male	Female	Male	Female	Male	Female	Male	Female	Male	Female		
Officials/Admin												
Professionals												
Technicians												
Sales Workers												
Office & Clerical												
Craft Workers												
Operatives												
Laborers												
Service Workers												
TOTALS												

Company Official's Name _____ **Title** _____

Company Official's Signature _____ **Date** _____

Telephone Number (_____) _____

MTA Bus Company

ATTACHMENT 1

MTABC Observed Holidays

Bid Solicitation No. D162648

Agency Observed Holidays

New Year's Day

Martin Luther King, Jr.'s Birthday

Presidents' Day

Memorial Day

Independence Day

Labor Day

Veterans Day

Thanksgiving Day

Day after Thanksgiving

Christmas Day

ATTACHMENT 2: APPLICATION AND CERTIFICATION
FOR CONTRACT No. D162648

Instructions:

Please complete all information requested on this form and submit it with your bid or proposal, as applicable. Information on this form is subject to audit, and false or misleading information on this form may be the basis for (1) termination of any contract the firm is awarded based upon the information on this form, (2) the firm's disqualification from being considered for any future awards from the MTA or its subsidiaries and affiliates and/or (3) the firm and/or its owners being subjected to criminal prosecution and/or civil liability.

Legal Name of Applicant Firm: D.B.A. (if different from above):		
Address:	City:	State/Zip:
Business Phone: ( )	Fax: ( )	
E-Mail:	Business Website:	
Employer Identification Number:	Owner's Social Security Number (if no EIN):	
Contact Person & Title:	Contact Phone:	
Trade Description: Date Business was established: _____/_____/_____ *Month Day Year*		
Type of Business Entity (check one): ☐ Corporation (indicate State of incorporation) ☐ Partnership ☐ Sole Proprietorship ☐ Joint Venture ☐ Other (Describe):		
Applicant Firm's principal place of business (location of the primary control, direction and management of the firm) is in the State of _____.		
Number of employees: None: _____ Full-time: _____ Part-time: _____ Contract: _____ Total: _____		
Is Applicant Firm listed in the Empire State Development Directory of Certified Minority and Women Owned Businesses? ☐ YES ☐ NO If YES, check all certifications and listings that apply: ☐ MBE ☐ WBE		
Does Applicant Firm meet all the requirements listed in the definition of "Small Business Concern" below? ☐ YES ☐ NO		

"Small Business Concern" is defined as a business which:

(a) is resident in New York State;
(b) is independently owned and operated;
(c) is not dominant in its field; and
(d) employs one hundred or fewer persons.

Print the name of the individual whose interest comprises majority ownership in the firm:

_____

PERSONAL PRIVACY PROTECTION LAW NOTIFICATION

The information you are providing on this application is requested pursuant to the New York State Public Authorities Law for the purposes of our determining your eligibility to contract with the MTA or an MTA operating agency, and administering MTA's business functions and other authorized activities and programs pursuant to federal, state or local law. Your failure to provide the information requested may, in the sole discretion of the MTA or the MTA operating agency, prevent your firm from contracting with the MTA or the agency. If your company is awarded a contract, the information will be kept in a file maintained by the MTA Department of Diversity and Civil Rights or other files, separately maintained under the authority of the Chief Diversity Officer.

CERTIFICATION OF APPLICANT FIRM

I, (Full Printed Name)_____, swear or affirm under penalty of law that I am (Title) _____ of Applicant Firm (Legal Name of Applicant Firm) _____ and that I have read and understood all of the questions in this application and that all of the foregoing information submitted in this application is true and correct to the best of my knowledge and information and that all responses to the questions are accurate and complete.

I recognize that the information submitted in this application is made for the purpose of inducing MTA and its subsidiaries and affiliates (the "MTA Agencies") to award Contract No. D162648 ("the Contract") to Applicant Firm. I authorize the MTA Agencies to conduct a background check to verify the information in the certification and the Applicant Firm's eligibility for award of the Contract. I agree to provide written notice to the Procurement Manager for the Contract of any material change in the information contained in this application within 30 calendar days of such change. I acknowledge and agree that this information is subject to audit and any misrepresentations in this application or in records pertaining to the Contract will be grounds for terminating the Contract, and may result

in my firm being disqualified from receiving any future awards from the MTA and its subsidiaries and affiliates and/or subject me and/or my firm to criminal and civil liability.

Executed this _____ day of _____, 20_____,

By _____
(Signature of Authorized Official of Applicant Firm)

_____
(Printed Name and Title of Authorized Official of Applicant Firm)

Sworn to before me

this ___day of _____

_____

Notary Public