



RON KIM  
MAYOR

MINITA SANGHVI  
COMMISSIONER OF FINANCE

JASON GOLUB  
COMMISSIONER OF PUBLIC WORKS

JAMES MONTAGNINO  
COMMISSIONER OF PUBLIC SAFETY

DILLON MORAN  
COMMISSIONER OF ACCOUNTS

# City of Saratoga Springs, NY

## Request for Proposal

# Auditing Services

*PREPARED BY: Christine Gillmet-Brown, Director of Finance  
February 22, 2023*

**ALL BIDS SHALL BE ENCLOSED IN A SEALED ENVELOPE MARKED:**

**RFP #: 2023-09 – Auditing Services**

**Name of Bidder: \_\_\_\_\_**

**RFP Opening: Tuesday, March 14, 2023 at 2:00 p.m.**

**AND RETURN TO:**

**City of Saratoga Springs  
Department of Accounts  
474 Broadway Suite 14  
Saratoga Springs, NY 12866**

## **NOTICE TO BIDDERS**

The City of Saratoga Springs, New York, will receive sealed bids for Auditing Services. Sealed bids must be received in its' entirety by the City of Saratoga Springs, Office of the Commissioner of Accounts, 474 Broadway Suite 14, Saratoga Springs, New York, 12866, by Tuesday March 14, 2023 at 2:00 p.m. at which time they will be publicly opened and read.

Copies of the Request for Proposal (RFP) may be obtained on the City's web page at [www.saratoga-springs.org](http://www.saratoga-springs.org), under current bids. There is no fee for these documents.

Addenda, if any, will be issued only to those persons whose name and address are on record with the City as having obtained a bid packet. Addenda to the bid, when issued, will be on file in the City Clerk's Office at least five (5) days before the bid opening date. If you have obtained a bid packet through the City's web site and would like to be on record for any Addenda please email [stefanie.richards@saratoga-springs.org](mailto:stefanie.richards@saratoga-springs.org) with your name, the name of the bid packet obtained and email address.

Questions regarding the bid should be directed to Stefanie Richards in writing at [stefanie.richards@saratoga-springs.org](mailto:stefanie.richards@saratoga-springs.org). All bids must be made on the official bid form or an exact copy by reproduction thereof and enclosed in a sealed envelope.

No Bidder may withdraw his/her bid within sixty (60) calendar days after the actual date of the opening thereof. A Bidder may withdraw their bid response in writing immediately following this sixty (60) day per New York State Finance Law §163(9)(e). The City reserves the right to reject any and all bids, to waive any and all informalities and the right to disregard all nonconforming, non-responsive or conditional bid documents per New York State Finance Law §163(9)(d).

## **INSTRUCTIONS TO BIDDERS**

### **1. RFP DOCUMENTS**

This document includes a complete set of the RFP specifications and required documents, which are for the convenience of Bidders and are not to be detached from the bid. ***Failure to submit the required forms at the time of bid submission may disqualify the bid submission.***

### **2. INTERPRETATION OR ADDENDA**

No oral interpretation will be made to any Bidder as to the meaning of the bid or any part thereof. Every request for such an interpretation shall be made in writing to the City. Any inquiry received seven (7) or more days prior to the date fixed for opening of bids shall be given consideration. Every interpretation made to a Bidder shall be in the form of Addenda to the bid, and when issued, shall be on file in the City Clerk's Office at least five (5) days before bids are opened. All Addenda shall be emailed to each person whose name and address are on record with the City as having obtained a bid packet or has attended a pre-bid meeting. All such Addenda shall become part of the bid and all Bidders shall be bound by such Addenda, whether or not received by the Bidders.

### **3. BIDS**

All bids shall be submitted on documents supplied by the City and shall be subject to all requirements of the bid, including any plans, and these Instructions to Bidders. All bids shall be regular in every respect and no interlineations, excisions or special conditions shall be made or included in the bid documents by the Bidder. The City may consider as irregular any bid on which there is an alteration of or departure from the bid forms hereto attached and at its' option may reject the same. Purchases by the City of Saratoga Springs are not subject to any sales or federal excise taxes.

### **4. NON-COLLUSIVE BIDDING AND VENDOR CERTIFICATIONS:**

Each Bidder submitting a bid to the City for the work contemplated by the documents on which bidding is based shall execute and attach thereto, the **Non-Collusion and Vendor Code of Conduct Affidavit** on the form

herein provided, to the effect that he/she has not colluded with any other person, firm or corporation in regard to any bid submitted.

**5. RISK AND SAFETY AGREEMENT AND CERTIFICATE OF INSURANCE:**

Bidder must execute the Risk and Safety Agreement and include the agreement with the bid response submission. A Certificate of Insurance providing proof of the required insurance as outlined in the Risk and Safety Agreement with the bid response submission

**6. APPRENTICESHIP PROGRAM:**

The City of Saratoga Springs hereby requires any contractor on a project in excess of Two Hundred Thousand Dollar (\$200,000.00) aggregate, at the time of bid date, or submission of quote, and prior to entering into a construction contract with the City of Saratoga Springs, or any sub-contractor on such a project with a sub-contract in excess of Fifty Thousand Dollar (\$50,000.00) aggregate, at the time of bid date, or submission of quote, and prior to entering into a sub-contract with a contractor who has a construction contract with the city of Saratoga Springs on a project in excess of Two Hundred Thousand Dollar (\$200,000.00) aggregate, to have apprenticeship agreements traditionally and historically appropriate for the type and scope of work to be performed, which have been registered with, and approved by, the New York State Commissioner of Labor, and which have a graduation rate of at least thirty percent (30%).

**7. CORRECTIONS:**

The Bidder must initial erasures or other changes in the bid.

**8. RECEIVING BIDS:**

Bids received prior to the advertised time of opening shall be securely kept, sealed. The City Clerk's office, whose duty it is to open them shall decide when the specified time has arrived to open bids, and no bid received thereafter will be considered. **LATE BIDS shall be rejected. E-mail or faxed bid submissions are not acceptable and shall not be considered.**

**9. OPENING OF BIDS:**

At the time and place fixed for the opening of bids, the City shall cause to be opened and publicly read aloud every bid that was received within the time set for receiving bids. Bidders and other persons properly interested may be present, in person or by representative.

**10. WITHDRAWAL OF BIDS:**

Bids may be withdrawn on written request dispatched by the Bidder in time for delivery in the normal course of business prior to the time fixed for opening; provided that written confirmation of withdrawal over the signature of the Bidder is placed in the mail and postmarked prior to the time set for bid opening.

**11. EVALUATION PROCESS:**

After the bid opening, each Bidder's proposal will be screened for completeness and conformance with the requirements for this bid submission as set forth under the **Bidders Submittal Instructions**. Written bid amounts are the legally binding bid amount. Numeric bid amounts are viewed as a convenience. Proposals that do not meet the City's requirements, as outlined in the RFP, may be deemed nonresponsive and given no further consideration. Proposals meeting the City's requirements shall be evaluated first on technical information (i.e. operational plan, company background, staffing and personnel biographies, relevant experience, references) and then on the cost proposal.

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## **12. AWARD OF CONTRACT: REJECTION OF BIDS**

If the contract is awarded, it shall be awarded to the responsive and responsible Bidder submitting the best value bid complying with the conditions and qualifications of the Notice to Bidders and Instructions to Bidders. The Bidder to whom the award is made will receive a "Notice of Award" at the earliest possible date.

The City, however, reserves the right to:

- a. reject any and all bids and to waive any informality in bids received whenever bid packages are submitted incomplete without the required attachments and/or such rejections or waivers are in the City's best interest;
- b. consider as not responsible any Bidder who does not habitually perform with their own forces at least fifty percent (50%) of the dollar value of the work involved in the contract;
- c. award the bid, in part, on the Bidder's ability to provide timely technical assistance, part(s) replacement and service for repairs;
- d. give preference to Minority Women Business Enterprise (MWBE) businesses; and/or
- e. extend the contract for one (1) year from expiration under the same terms and conditions as long as the extension is agreeable to both the City and the Contractor.

## **13. EQUAL EMPLOYMENT OPPORTUNITY:**

The City, state and federal government have stringent requirements for ensuring that all Bidders comply with regulations requiring that employees and applicants for employment are not discriminated against because of their race, color, religion, sex or national origin. Bidders will be required to abide by those requirements.

## **14. AMERICANS WITH DISABILITY ACT:**

The Bidder agrees to comply with the Americans with Disabilities Act (ADA), Section 504 of the Rehabilitation Act of 1973 and not discriminate on the basis of disability in the admission or access to, or treatment of employment in its services, programs, or activities. The Bidder agrees to hold harmless and indemnify the City from costs, including but not limited to damages, attorney's fees and staff time, in any action or proceeding brought alleging a violation of ADA and/or Section 504 caused by the Bidder. The Bidder agrees that accommodations will be provided upon request to allow individuals with disabilities to participate in all services, programs and activities provided by the Bidder.

## **15. CIVIL RIGHTS:**

The City, in accordance with the provisions of Title VI of the Civil Rights Act of 1964 (78 Stat. 252, 42 USC §2000d to 2000d-4) and its regulations, hereby notifies all Bidders that it will affirmatively ensure that any contract entered into pursuant to this advertisement will provide the opportunity for disadvantaged business enterprises to be afforded full and fair opportunity to submit bids in response to this invitation and will not be discriminated against on the grounds of race, color, or national origin in consideration for an award.

## **16. SEXUAL HARRASSMENT:**

Every employer in the New York State is required to adopt a sexual harassment prevention policy giving all employees a legal right to a workplace free from sexual harassment. The City is committed to maintaining a workplace free from sexual harassment. Per New York State law, the City has a sexual harassment prevention policy in place. This policy applies to all employees, paid or unpaid interns and non-employees in our workplace, regardless of immigration status.

## **17. COMPLIANCE**

Failure to comply with any of the above terms or any evidence of poor quality or service will be considered cause of discontinuing business with the successful Bidder.

**BIDDING SUBMITTAL INSTRUCTIONS**

***Failure to submit RFP documents as required may lead to an immediate disqualification. In order to guard against premature opening of the bid documents, your bids must be returned and enclosed in a sealed and clearly labeled envelope as follows:***

**Step One:** You MUST execute and include the following documents, one original and one copy of each, with your response:

- Your response to the RFP in question (3 copies)
- Non-Collusive Bidding and Vendor Code of Conduct Certification
- Risk & Safety Agreement and Certificate of Insurance

**Step Two:** Enclose your bid in a sealed envelope marked:

**RFP #: 2023-09 – Auditing Services**

**Name of Bidder: \_\_\_\_\_**

**Bid Opening: Tuesday, March 14, 2023 at 2:00 p.m.**

**Step Three:** Please return your response to this RFP to the following address:

**City of Saratoga Springs  
Department of Accounts  
474 Broadway Suite 14  
Saratoga Springs, NY 12866**

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## **STATEMENT OF SPECIFICATIONS: Auditing Services 2023-09**

### **Purpose of Request**

The City of Saratoga Springs, New York is requesting proposals for the purpose of retaining a qualified independent public accountant licensed to practice in the State of New York to provide a fixed fee proposal to conduct an annual audit of the City's financial statements and issuance of a single audit report. The audit period shall cover the period commencing with the fiscal year ending December 31, 2023 and conclude with the fiscal year ending December 31, 2025.

### **General Information**

The City of Saratoga Springs was incorporated in 1915 and is governed by the City of Saratoga Springs Charter under the Commission form of Government. The City Council is comprised of five members, each with equal voting power: the Mayor, Commissioner of Finance, Commissioner of Public Works, Commissioner of Public Safety and Commissioner of Accounts. Each Council member is the head of and has direct responsibility for their respective department and is elected for a two-year term.

### **Accounting System and Records**

The City maintains its records in accordance with generally accepted accounting principles for State and Local Governments. All records are maintained using MUNIS software.

The City's financial activities are accounted for in the general fund, special revenue funds, capital projects fund, debt service fund, expendable trust fund and enterprise fund.

Additional information regarding the City's operations and finances can be found on the City of Saratoga Springs website at [www.saratoga-springs.org](http://www.saratoga-springs.org).

### **Scope of Services**

The audit period shall cover the period commencing with the fiscal year ending December 31, 2023 and conclude with the fiscal year ending December 31, 2025. The accounting firm services shall include:

- An audit conducted in accordance with Generally Accepted Auditing Standards, Government Auditing Standards, the Single Audit Act, and U. S. Office of Management and Budget Circular A-133.
- Expression of an opinion and audit report of the Financial Statements.
- Single Audit report, if required.
- New York State Department of Transportation Single Audit Report, if required.
- Management letter.
- Reports on compliance with laws, regulations, and provision of contracts or grant agreements. Reports on any non-compliance, which could have a material effect on the financial statements, and any non-compliance, which could have a direct and material effect on each major program.

- Schedule of findings and questioned costs, if applicable.
- An annual audit planning meeting with the Director of Finance prior to beginning of each year's work and shall conduct an annual exit conference to review draft copies of the reports.
- Final reports issued no later than September 1<sup>st</sup> of each year.
- Provision of 10 bound copies, one unbound copy of the final reports, and an electronic copy of the final reports.
- Presentation of the final reports to the City Council, if necessary.

The accounting firm shall also be available, at no additional cost, during the course of the year for general consultation.

### **Proposal Requirements**

The selection criteria will include thoroughness of the written proposal relative to the purpose, scope of services, and reporting requirements described herein. The following is a list of the information that the respondent is required to provide.

1. Document the complete scope of services to be provided including the time frame estimate for completing the audit. Additional services may be added to the proposal.
2. Your firm's general experience providing similar services to other New York Municipal clients. Please provide at least three (3) references from your most recent public audit engagements including the contact person's name, address, and telephone number.
3. The credentials of the project supervisor and the professional qualifications on the individuals assigned to complete the work. Please provide a resume of each individual.
4. A copy of the most recent peer review report.
5. Fee structure – Quote annual fees for services to be rendered, inclusive of all travel, clerical, printing, administrative and overhead expenses, for each year of the proposal. In addition please state the total number of hours and hourly rate required by each staff classification.
6. Three (3) copies of the proposal shall be submitted.

The specification herein states the minimum requirements of the City. All bids must be regular in every respect. Unauthorized conditions, limitations, or provisions shall be cause for rejection. The City may consider as "irregular" or "non-responsive" any bid not prepared and submitted in accordance with the bid document and specification, or any bid lacking sufficient technical literature to enable the City to make a reasonable determination of compliance to the specification.

It shall be the Bidder's responsibility to carefully examine each item of the specification. Failure to offer a completed bid or failure to respond to each section of the technical specification may cause the proposal to be rejected without review as "non-responsive". All variances, exceptions and/or deviations shall be fully described in the appropriate section.

**TOTAL BID IN FIGURES: \$** \_\_\_\_\_

**TOTAL BID WRITTEN:** \_\_\_\_\_

**COMPANY NAME:** \_\_\_\_\_

**ADDRESS:** \_\_\_\_\_

\_\_\_\_\_ **Phone No. ( )** \_\_\_\_\_ - \_\_\_\_\_  
*(City) (State) (Zip)*

**E-MAIL ADDRESS:** \_\_\_\_\_

**AUTHORIZED SIGNATURE:** \_\_\_\_\_

**PRINTED NAME:** \_\_\_\_\_

**TITLE:** \_\_\_\_\_ **DATE:** \_\_\_\_\_



**City Saratoga Springs' NON-COLLUSIVE BIDDING CERTIFICATION: Section §139(d) State Finance Law**

By submission of this bid, each Bidder and each person signing on behalf of any Bidder certifies, and, in the case of a joint bid each party thereto certifies as to its own organization, under penalty of perjury, that to the best of his knowledge and belief:

- (1) 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;
- (2) 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 Bidder prior to opening, directly or indirectly, to any other Bidder or to any competitor; and
- (3) No attempt has been made 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 (1), (2), (3) 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 statement which sets forth in detail the reasons therefore.

**City Saratoga Springs' VENDOR CODE OF CONDUCT**

The City is committed to conduct business in a lawful, ethical and moral manner and expects the same standards from Vendors that the City conducts business with. The City requires that all Vendors abide by this Code of Conduct. Failure to comply with this Code may be sufficient cause for the City to exercise its rights to terminate its business relationship with the Vendor. Vendors agree to provide all information requested when necessary to demonstrate compliance with this Code. To promote a working relationship with the City based on ethical business practices, contractors, consultants, vendors and suppliers are expected to:

- Not seek, solicit, demand or accept any information, verbal or written, from the City or its representatives that provides an unfair advantage over a competitor.
- Not engage in any activity or course of conduct that restricts open and fair competition on City related projects and transactions.
- Not engage in any course of conduct with City employees or its representatives that constitutes a conflict of interest, in fact or appearance.
- Not offer any unlawful gifts or gratuities, or engage in bribery or other criminal activity.
- Report to the City any activity by a City employee or contractor, consultant or vendor of the City that is inconsistent with the City of Saratoga Springs' Code of Ethics.

At a minimum, the City requires that all vendors, suppliers and their subcontractors will meet the following standards:

- Agree to comply with all applicable local, state and federal laws, regulations, statutes, rules and procedures.
- Set working hours, wages, and NYS statutory benefits and overtime pay in compliance with applicable labor laws.
- Provide and treat workers with a safe and healthy work environment that complies with local, state and federal laws.
- No person shall be subject to any discrimination in employment, including hiring, salary, benefits, advancement, discipline, termination or retirement on the basis of gender, race, religion, age, disability, sexual orientation, nationality, political opinion, party affiliation or social ethnic origin.
- Provide a working environment for employees to have the right to decide whether they want collective bargaining.
- Ensure that subcontractors shall operate in a manner consistent with this Code.
- Comply with all applicable environmental laws and regulations. Vendors, suppliers and subcontractors shall ensure that the resources and material they use are sustainable, are capable of being recycled and are used effectively and a minimum of waste. Where practicable, vendors, suppliers and subcontractors are to utilize technologies that do not adversely affect the environment and when such impact is unavoidable, to ensure that it is minimized.

The undersigned Vendor hereby acknowledges that it has received the City Non-collusive Bidding Certification and Vendor Code of Conduct and agrees that any and all of its facilities and subcontractors doing business with the City will receive the Code and will abide by each and every term therein. You the Vendor acknowledge that your failure to comply with any condition, requirement, policy or procedure may result in the termination of your business relationship with the City. You the Vendor may reserve the right to terminate this agreement to abide by the Code of Conduct at any time for any reason upon ninety (90) days prior written notice to the City.

Signature: \_\_\_\_\_ Printed name: \_\_\_\_\_

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

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

Company Address: \_\_\_\_\_

Subscribed to under penalty of perjury under the laws of the State of New York, this \_\_\_\_\_ day of \_\_\_\_\_, 2023 as the act and deed of said corporation of partnership.



### City of Saratoga Springs, NY: Risk and Safety Agreement for Professional Services

City Project Number: \_\_\_\_\_ City Project Name: \_\_\_\_\_ Prevailing Wage Project No.: \_\_\_\_\_  
 City Department: \_\_\_\_\_ Department Contact Person: \_\_\_\_\_ City Ext. \_\_\_\_\_  
 Company Name: \_\_\_\_\_  
 Company Address: \_\_\_\_\_  
 Company Telephone No.: \_\_\_\_\_ Company Fax No.: \_\_\_\_\_  
 Consultant Primary Contact for This Project: \_\_\_\_\_ Title: \_\_\_\_\_

Any and all professional services performed under this Agreement shall be completed by an individual licensed by the NYS Office of Professions - Education Department as applicable to the service provided including, but not limited to accounting, actuarial, engineering and architectural services. The Consultant represents that it has all necessary governmental licenses to perform the services described herein.

The Consultant shall procure and maintain during the term of this contract, at the Consultant's expense, the insurance policies listed with limits equal to or greater than the enumerated limits. The Consultant shall be solely responsible for any self-insured retention or deductible losses under each of the required policies. Every required policy, including any required endorsements and any umbrella or excess policy, shall be primary insurance. Insurance carried by the City of Saratoga Springs (the "City"), its officers, or its employees, if any, shall be excess and not contributory insurance to that provided by the Consultant. Every required coverage type shall be "occurrence basis" with the exception of Professional Errors and Omissions Coverage which may be "claims made" coverage. The Consultant may utilize umbrella/excess liability coverage to achieve the limits required hereunder; such coverage must be at least as broad as the primary coverage (follow form). The Office of Risk and Safety must approve all insurance certificates. The City reserves its right to request certified copies of any policy or endorsement thereto. All insurance shall be provided by insurance carriers licensed & admitted to do business in the State of New York and must be rated "A-VII" or better by A.M. Best (Current Rate Guide). If the Consultant fails to procure and maintain the required coverage(s) and minimum limits such failure shall constitute a material breach of contract, whereupon the City may exercise any rights it has in law or equity, including but not limited to the following: (1) immediate termination of the contract; (2) withholding any/all payment(s) due under this contract or any other contract it has with the vendor (common law set-off); OR (3) procuring or renewing any required coverage(s) or any extended reporting period thereto and paying any premiums in connection therewith. All monies so paid by the City shall be repaid upon demand, or at the City's option, may be offset against any monies due to the Consultant.

The City requires the Consultant name the City of Saratoga Springs as a Certificate Holder for the following coverage for the work covered by this Agreement:

- **Commercial General Liability** Including Completed Products and Operations and Personal Liability Insurance: One Million Dollars per Occurrence with Two Million Dollars Aggregate;
- **Commercial Automobile Insurance:** One Million Dollars Combined Single Limit for Owned, Hired and Non-owned Vehicles;
- **Excess Insurance:** Three Million Dollars per Occurrence Aggregate;
- **Professional Errors and Omissions Insurance:** Two Million per Claim Aggregate; AND
- **NYS Statutory Workers Compensation, Employer's Liability and Disability Insurance:** Failure to secure compensation for the benefit of, and keep insured during the life of this agreement, employees required in compliance with the provisions of Workers' Compensation Law shall make this Agreement void and of no effect.

It shall be an affirmative obligation of the Consultant to advise City's Office of Risk and Safety via mail to **Office of Risk and Safety, City of Saratoga Springs, 474 Broadway, Suite 21, Saratoga Springs, NY 12866**, within two (2) days of the cancellation or substantive change of any insurance policy set out herein, and failure to do so shall be construed to be a breach of this Agreement. The Consultant acknowledges that failure to obtain such insurance on behalf of the municipality constitutes a material breach of contract and subjects it to liability for damages, indemnification and all other legal remedies available to the City. The Consultant is to provide the City with a Certificate of Insurance naming the City as **Additional Insured on a primary and non-contributory basis prior** to the commencement of any work or use of City facilities. The failure to object to the contents of the Certificate of Insurance or the absence of same shall not be deemed a waiver of any and all rights held by the municipality. In the event the Consultant utilizes a Sub-Consultant for any portion of the services outlined within the scope of its activities, the Sub-Consultant shall provide insurance of the same type or types and to the same extent of coverage as that provided by the Consultant. All insurance required of the Sub-Consultant shall name the City as an **Additional Insured on a primary and non-contributory** basis for the same coverage all those activities performed within its contracted activities for the contact as executed.

The Consultant, to the fullest extent provided by law, shall defend, indemnify and save harmless the City, its Agents and Employees from and against all claims, damages, losses and expense (including, but not limited to, attorneys' fees), arising out of or resulting from the performance of the work or purchase of the services, sustained by any person or persons, provided that any such claim, damage, loss or expense is attributable to bodily injury, sickness, disease, or death, or to injury to or destruction of property caused by the tortious act or negligent act or omission of Consultant or its employees or anyone for whom the Consultant is legally liable or Sub-Consultants. Without limiting the generality of the preceding paragraphs, the following shall be included in the indemnity hereunder: any and all such claims, etc., relating to personal injury, death, damage to property, or any actual or alleged violation of any applicable statute, ordinance, administrative order, executive order, rule or regulation, or decree of any court of competent jurisdiction in connection with, or arising directly or indirectly from, errors and/or negligent acts by the Consultant, as aforesaid.

The Consultant agrees to comply with the Americans with Disabilities Act (ADA), Section 504 of the Rehabilitation Act of 1973 and not discriminate on the basis of disability in the admission or access to, or treatment of employment in its services, programs, or activities. The Consultant agrees to hold harmless and indemnify the City from costs, including but not limited to damages, attorney's fees and staff time, in any action or proceeding brought alleging a violation of ADA and/or Section 504 caused by the Consultant. Upon request accommodation will be provided to allow individuals with disabilities to participate in all services, programs and activities.

The Consultant will provide his or her own equipment and materials as necessary to perform the work except as identified within the RFP/RFQ/BID Documents. It is agreed that nothing herein contained is intended or should be construed in any manner as creating or establishing the relationship of copartners between the parties hereto or as constituting the Consultant's staff as the agents, representatives or employees of the City for any purpose in any manner whatsoever. The Consultant and its staff are to be and shall remain an independent Consultant with respect to all services performed under this Agreement. The Consultant represents that it has, or will secure at its own expense, all personnel required in performing services under this Agreement. Any and all personnel of the Consultant or other persons, while engaged in the performance of any work or services required by the Consultant under this Agreement, shall not be considered employees of the City, and any and all claims that may or might arise under the Workers' Compensation Laws of the State of New York on behalf of said personnel or other persons while so engaged, and any and all claims whatsoever on behalf of any such person or personnel arising out of employment or alleged employment including, without limitation, claims of discrimination against the Consultant, its officers, agents, Consultants or employees shall in no way be the responsibility of the City; and the Consultant shall defend, indemnify and hold the City, its officers, agents and employees harmless from any and all such claims regardless of any determination of any pertinent tribunal, agency, board, commission or court. Such personnel or other persons shall not require nor be entitled to any compensation, rights or benefits of any kind whatsoever from the City, including, without limitation, tenure rights, medical and hospital care, sick and vacation leave, Workers' Compensation, Unemployment Compensation, disability, and severance pay.

The City specifically reserves the right to suspend or terminate all work under this contract whenever Consultant and/or Consultant's employees or sub-consultants are proceeding in a manner that threatens the life, health or safety of any of Consultant's employees, sub-consultant's employees, City employees or member(s) of the general public on City property. This reservation of rights by the City in no way obligates the City to inspect the safety practices of the Consultant. If the City exercises its rights pursuant to this part, the Consultant shall be given three (3) days to cure the defect, unless the City, in its sole and absolute discretion, determines that the service cannot be suspended for three (3) days due to the City's legal obligation to continuously provide Consultant's service to the public or the City's immediate need for completion of the Consultant's work. In such case, Consultant shall immediately cure the defect. If the Consultant fails to cure the identified defect(s), the City shall have the right to immediately terminate this contract. In the event that the City terminates this contract, any payments for work completed by the Consultant shall be reduced by the costs incurred by the City in re-bidding the work and/or by the increase in cost that results from using a different vendor.

Consultant, having agreed to the terms and the recitals set forth herein, and in relying thereon, herein signs this Agreement.

**Consultant Signature:** \_\_\_\_\_ **Date:** \_\_\_\_\_