

June 6, 2016

ADDENDUM NO. 2

PROJECT: CM/Design Build for Replacement and Upgrading of Petroleum Storage Tanks, Citywide

PIN: 8502016VP0037-40P

THE ADDENDUM IS ISSUED FOR THE PURPOSE OF AMENDING THE REQUIREMENTS OF THE REQUEST FOR PROPOSALS AND IS HEREBY MADE A PART OF SAID REQUEST FOR PROPOSALS TO THE SAME EXTENT AS THOUGH IT WERE ORIGINALLY THEREIN.

EXTENSION OF PROPOSAL DUE DATE

- The Proposal Submission Deadline has been extended to **Wednesday, June 15, 2015 at 4:00 PM.**

REQUEST FOR PROPOSALS

- Section II, B. has been revised: **The joint venture must be formed as a separate legal entity at the time of award.** Delete RFP-3 and replace with revised RFP-3 attached to this addendum.

CONTRACT

- Delete Appendix A in its entirety.
- Pursuant to Article 23, Schedule A is attached to this addendum.

QUESTIONS AND ANSWERS

- Questions and Answers from consultants are attached to this addendum.

Contact: Keesha Smartt
Phone No.: 718-391-2825

By signing in the space provided below, the Proposer acknowledges receipt of this Addendum.

THIS ADDENDUM MUST BE SIGNED BY THE PROPOSER FOR THE CONTRACT AND ATTACHED TO THE TECHNICAL PROPOSAL.



Department of
Design and
Construction

A handwritten signature in blue ink, appearing to read 'ACM', enclosed within a blue oval scribble.

Andrew Cammock
Director of Professional Contracts

Name of Proposer

By _____

Title _____

SECTION II. SUMMARY OF THE REQUEST FOR PROPOSALS

A. Background and Objectives of the Project

The New York City Department of Design and Construction (“DDC”) is engaged in a major program to remove/upgrade/replace petroleum storage tanks in City facilities. Through this Request for Proposals (“RFP”), DDC is seeking to engage four (4) construction management firms for the provision of all services necessary and required to ensure petroleum storage tanks compliance with all local, state and federal laws, rules and regulations, including without limitation, compliance with all protocols required by the New York State Department of Environmental Conservation. (The required services are described in detail in Section III of this RFP.)

The Commissioner shall, by written directive, assign to the CMs various sites for the performance of required services hereunder. The required services will include site investigation, design, and construction management. Pursuant to this RFP, four separate contracts will be awarded to the highest ranked proposers in the order set forth below:

- 1) Contract # 1: **PW348-74** for the Boroughs of Brooklyn and Staten Island
- 2) Contract # 2: **PW348-71** for the Borough of Manhattan
- 3) Contract # 3: **PW348-72** for the Borough of the Bronx
- 4) Contract # 4: **PW348-73** for the Borough of Queens

B. Joint Ventures and Other Consultant Relationships

There is no minimum requirement for the proportion of work performed by either of the two joint venture parties. Joint ventures must carry the required insurances, either as policies written specifically for the joint venture entity, or by using their existing single entity policies with endorsements written for the joint venture activity.

The joint venture must be formed as a separate legal entity at the time of award. DDC does not recognize the corporate configuration wherein one company is “in association with” another. The relationship between two or more firms shall be either as joint venture partners, or as prime consultant/subconsultant. In the event that a proposal is received wherein two or more firms are described as being “in association with” each other, DDC will treat the relationship as one of prime consultant/subconsultant(s). The Proposal evaluation will be handled accordingly, and if chosen as a winner, the contract documents will show only the prime firm on the signature page, and all other firms will be relegated to Exhibit A, which lists any subconsultants.

C. Contract Term/Contract Estimate

The term of the contract shall commence on the date of registration by the Comptroller and shall continue until final acceptance of all required work for the project. The time frame for Final Acceptance of all required work is 1,095 consecutive calendar days

SCHEDULE A
Relating to Article 23 - Insurance

Types of Insurance, Minimum Limits and Special Conditions

Note: All certificate(s) of insurance submitted pursuant to Contract Article 23 must be accompanied by a Certification by Broker consistent with Part III below and include the following information:

- For each insurance policy, the name and NAIC number of issuing company, number of policy, and effective dates;
- Policy limits consistent with the requirements listed below;
- Additional insureds or loss payees consistent with the requirements listed below; and
- The number assigned to the Contract by the City (in the "Description of Operations" field).

Insurance indicated by a blackened box (■) or by (X) in the to left will be required under this contract.

Types of Insurance (per Article 23 in its entirety, including listed paragraph)	Minimum Limits and Special Conditions
<input checked="" type="checkbox"/> Commercial General Liability Art. 23.1.1	<p>The minimum limits shall be \$1,000,000.00 per occurrence and \$2,000,000.00 per project aggregate applicable to this Contract.</p> <p>Additional Insureds:</p> <ol style="list-style-type: none"> 1. City of New York, including its officials and employees, with coverage at least as broad as ISO Forms CG 20 10 and CG 20 37, and 2. All person(s) or organization(s), if any, that Article 22.1.1(b) of the Contract requires to be named as Additional Insured(s), with coverage at least as broad as ISO Form CG 20 26. The Additional Insured endorsement shall either specify the entity's name, if known, or the entity's title (e.g., Project Manager).
<input checked="" type="checkbox"/> Workers' Compensation Art. 23.1.3 <input checked="" type="checkbox"/> Disability Benefits Insurance Art. 23.1.3 <input checked="" type="checkbox"/> Employers' Liability Art. 23.1.3 <input type="checkbox"/> Jones Act Art. 23.1.5 <input type="checkbox"/> U.S. Longshoremen's and Harbor Workers Compensation Act Art. 23.1.5	<p>Workers' Compensation, Employers' Liability, and Disability Benefits Insurance: Statutory per New York State law without regard to jurisdiction.</p> <p>Note: The following forms are acceptable: (1) New York State Workers' Compensation Board Form No. C-105.2, (2) State Insurance Fund Form No. U-26.3, (3) New York State Workers' Compensation Board Form No. DB-120.1 and (3) Request for WC/DB Exemption Form No. CE-200. The City will not accept an ACORD form as proof of Workers' Compensation or Disability Insurance. Jones Act and U.S. Longshoremen's and Harbor Workers' Compensation Act: Statutory per U.S. law.</p>
<input checked="" type="checkbox"/> Commercial Auto Liability Art. 23.1.4	<p>\$1,000,000.00 per accident combined single limit and \$2,000,000.00 per project aggregate applicable to this Contract.</p> <p>If vehicles are used for transporting hazardous materials, the Contractor shall provide pollution liability broadened coverage for covered vehicles (endorsement CA 99 48) as well as proof of MCS 90</p>
<input checked="" type="checkbox"/> Professional Liability Art. 23.1.2	<p>per Article 23.1.2</p>

SCHEDULE A
Relating to Article 23 - Insurance

CERTIFICATES OF INSURANCE

Instructions to New York City Agencies, Departments, and Offices

All certificates of insurance (except certificates of insurance solely evidencing Workers' Compensation Insurance, Employer's Liability Insurance, and/or Disability Benefits Insurance) must be accompanied by one of the following:

- (1) the Certification by Insurance Broker or Agent on the following page setting forth the required information and signatures;

-- OR --

- (2) copies of all policies as certified by an authorized representative of the issuing insurance carrier that are referenced in such certificate of insurance. If any policy is not available at the time of submission, certified binders may be submitted until such time as the policy is available, at which time a certified copy of the policy shall be submitted.

SCHEDULE A
Relating to Article 23 - Insurance

CITY OF NEW YORK
CERTIFICATION BY INSURANCE BROKER OR AGENT

The undersigned insurance broker or agent represents to the City of New York that the attached Certificate of Insurance is accurate in all material respects.

[Name of broker or agent (typewritten)]

[Address of broker or agent (typewritten)]

[Email address of broker or agent (typewritten)]

[Phone number/Fax number of broker or agent (typewritten)]

[Signature of authorized official, broker, or agent]

[Name and title of authorized official, broker, or agent (typewritten)]

State of

) ss.:

County of

Sworn to before me this ____ day of _____ 20__

NOTARY PUBLIC FOR THE STATE OF _____

SCHEDULE A
Relating to Article 23 - Insurance

Address of Commissioner

Wherever reference is made in Article 15 or Article 23 to documents to be sent to the **Commissioner** (e.g., notices, filings, or submissions), such documents shall be sent to the address set forth below or, in the absence of such address, to the **Commissioner's** address as provided elsewhere in this **Contract**.

ACCO's Office, Insurance Unit

30-30 Thomson Avenue, 4th Floor

Long Island City, New York 11101

Questions and Answers

Q1: You mentioned there will be no performance bonds, but, will there be payment bonds?

A1: No bonds are required from the Contractor. Pursuant to Article 10.2.3(d) the Contractor is directed that it shall require payment and performance bonds from subcontractors for all subcontracts in excess of \$1,000,000, (One Million Dollars.) Such bonds shall be in an amount equal to 100% of the subcontract price and shall name the Contractor as obligee thereunder. Such bonds shall be provided by a surety company licensed and authorized to do business in the State of New York. Such bonds shall be identical in all respects to the form of bonds attached hereto with no variations, additions, or deletions to such form of bonds. Premiums for required bonds must be included in the subcontractor's bid price. The subcontractor shall be required to submit two (2) originals of such bonds, one of which shall be submitted to the City by the Contractor immediately after receipt. With respect to performance and payment bonds submitted by subcontractors hereunder, the Contractor agrees, immediately upon receipt of the bonds, to execute an irrevocable assignment in accordance with the form of assignment attached hereto. The Contractor shall submit such executed assignment to the City at the time it submits the original bonds.

Q2: Are joint ventures permitted?

A2: Yes. The joint venture must be formed as a separate legal entity at the time of award.

Q3: Is the construction portion of the contract still a part of the Prime's responsibility and if so, is the Prime required to have a construction license?

A3: The tank installer contractor must have a certificate of fitness license from FDNY.

Q4: Is construction and permits included in the CM's responsibilities?

A4: Yes

Q5: Is remediation included and is the CM responsible?

A5: Remediation work may be added if it is small scale, but it is not covered in the general scope of these contracts. There are separate contracts specifically for remediation work.

Q6: Who are the incumbents?

A6: URS and LIRO

Q7: Do the contracts overlap or are they limited to each borough?

A7: The contracts are each limited to a specific borough.

Q8: Is the CM responsible for acquiring permits or are permits limited in each bid?

A8: Yes, acquiring permits is the CM's responsibility.

Q9: How do we determine what qualifies as additional services?

A9: Work outside of the scope of construction qualifies as additional services.

Q10: How many tanks will there be per site?

A10: We are anticipating 1 to 5 tanks per site.

Q11. Will the majority of the sites require repair, replacements or does it vary?

A11: The majority of the sites are Replacements. We are working with public funds so we want the changes that we make to last and newer tanks will have a longer shelf life.

Q12: Is sump replacement expected?

A12: Sumps will be replaced as part of the tank system replacement.

Q13: How does the M/WBE participation plans work in the proposal process, is it one plan submitted for all contracts?

A13: The M/WBE participation should be 5% of the contract, but the contracts each have different scopes of work and values, so, each has to have a different level of M/WBE involvement. Submit all plans together and label each one clearly.

Q14: Will SF330 be accepted?

A14: The Program Unit is requesting forms 254 and 255 forms.

Q15: When does the awarded contract start?

A15: At kickoff.

Q16: When is the expected kickoff time?

A16: Project Kick-off is anticipated by the end of the year. ACCO is recommending all perspective bidders to update their Vendex forms in order to avoid delays during the contract procurement time.

Q17: Will the projects be funded by kickoff?

A17: At least partially funded.

Q18: Can one proposer be awarded multiple contracts?

A18: No, one CM contract per award. There is no limit on the amount of design subcontracts that can be granted and it is possible for a proposer to receive one or more design subcontracts in addition to a CM contract.

Q19: Does a Professional Engineering Firm need to be a lead on this project or can a Contractor with an Engineer be the prime on this Project?

A19: A contractor that can operate as a construction manager is eligible to participate as the lead or prime, regardless of whether they have an engineer.

PERFORMANCE BOND

KNOW ALL MEN BY THESE PRESENTS; That we;

hereinafter referred to as the "Principal", and _____

hereinafter referred to as the "Surety" ("Sureties") are held and firmly bound to

hereinafter referred to as the "CM", or to its successors, or to its assigns in the penal sum of

(\$ _____) Dollars, lawful money of the United States, for the payment of which said sum of money well and truly to be made, we, and each of us, bind ourselves, our heirs, executors, administrators, successors and assigns, jointly and severally, firmly by these presents.

WHEREAS, the Principal is about to enter, or has entered, into a Contract in writing with the CM for

a copy of which Contract is annexed to and hereby made a part of this bond as though herein set forth in full;

NOW, THEREFORE, the conditions of this obligation are such that if the Principal, his or its representatives or assigns, shall well and faithfully perform the said Contract and all modifications, amendments, additions and alterations thereto that may hereafter be made, according to its terms and its true intent and meaning, including repair and/or replacement of defective Work and guarantees of maintenance for the periods stated in the Contract, and shall fully indemnify and save harmless the CM from all cost and damage which it may suffer by reason of failure so to do, and shall fully reimburse and repay the CM for all outlay and expense which the CM may incur in making good any such default, and shall protect the said CM against, and pay any and all amounts, damages, costs and judgments which may or shall be recovered against said CM or any of its officers or agents of which the said CM may be called upon to pay any person or corporation by reason of any damages arising or growing out of the doing of said Work, or the repair or maintenance thereof, or the manner of doing the same, or the neglect of the said PRINCIPAL, or his (their, its) agents or servants, or the improper performance of the said Work by the said PRINCIPAL, or his (their, its) agents or servants, or the infringement of any patent or patent rights by reason of the use of any materials furnished or work done as aforesaid or otherwise, then this obligation shall be null and void, otherwise to remain in full force and effect.

The Surety (Sureties), for value received, hereby stipulates and agrees, if requested to do so by the CM, to fully perform and complete the Work to be performed under the Contract, pursuant to the terms, conditions, and covenants thereof, if the CM determines that the Principal, for any cause, has failed or neglected to fully perform and complete such Work. The Surety (Sureties) further agrees to commence and diligently perform the Work specified in the Contract, including physical site work, within twenty-five (25) business days after written notice thereof from the

PERFORMANCE BOND 2

CM and to complete all Work within such time as the CM may fix. The Surety and the CM reserve all rights and defenses each may have against the other; provided, however, that the Surety expressly agrees that its reservation of rights shall not provide a basis for non-performance of its obligation to commence and to complete all Work as provided herein.

The Surety (Sureties), for value received, for itself and its successors and assigns, hereby stipulates and agrees that the obligation of said Surety (Sureties) and its bond shall be in no way impaired or affected by any extension of time, modification, omission, addition, or change in or to the said Contract or Work to be performed thereunder, or by any payment thereunder, or by any payment thereunder before the time required therein, or by any waiver of any provisions thereof, or by any assignment, subletting or other transfer thereof or of any Work to be performed or any moneys due or to become due thereunder; and said Surety (Sureties) does hereby waive notice of any and all of such extensions, modifications, omissions, additions, changes, payments, waivers, assignments, subcontracts and transfers, and hereby expressly stipulates and agrees that any and all things done and omitted to be done by and in relation to assignees, subcontractors, and other transferees shall have the same effect as to said Surety (Sureties) as though done or omitted to be done by or in relation to said Principal. The Surety (Sureties), for value received, for itself and its successors and assigns, hereby stipulates and agrees that the obligation of said Surety (Sureties) and its bond shall be in no way impaired or affected by any assignment by the CM of its rights, title and interest in and to such bond, and said Surety (Sureties) hereby waives notice of any such assignment by the CM.

IN WITNESS WHEREOF, the Principal and the Surety (Sureties) have hereunto set their hands and seals, and such of them as are corporations have caused their corporate seals to be hereunto affixed and these presents to be signed by their proper officers, this _____ day of _____, _____.

(Seal) _____(L.S.)
Principal

By: _____

(Seal) _____
Surety

By: _____

(Seal) _____
Surety

By: _____

(Seal) _____
Surety

By: _____

PERFORMANCE BOND 3

Bond Premium Rate _____

Bond Premium Cost _____

If the Contractor (Principal) is a partnership, the bond should be signed by each of the individuals who are partners.

If the Contractor (Principal) is a corporation, the bond should be signed in its correct corporate name by a duly authorized officer, agent, or attorney-in-fact.

There should be executed an appropriate number of counterparts of the bond corresponding to the number of counterparts of the Contract.

ACKNOWLEDGMENT OF PRINCIPAL, IF A CORPORATION

State of _____ County of _____ ss:

On this _____ day of _____, _____ before me personally came _____, who being by me duly sworn, did depose and say that he/she resides in the City of _____

_____ that he is the _____ of _____, the corporation described in and which executed the foregoing instrument; that he knows the seal of said corporation; that the seal affixed to the said instrument is such corporate seal; that it was so affixed by order of the Board of Directors of said corporation; and that he signed his name thereto by like order.

Notary Public or Commissioner of Deeds

ACKNOWLEDGMENT OF PRINCIPAL, IF A PARTNERSHIP

State of _____ County of _____ ss:

On this _____ day of _____, _____ before me personally appeared _____

_____ to me known, and known to me to be one of the members of the firm of _____

described in and who executed the foregoing instrument; and he acknowledged to me that he executed the same as and for the act and deed of said firm.

Notary Public or Commissioner of Deeds

PERFORMANCE BOND 4

ACKNOWLEDGMENT OF PRINCIPAL, IF AN INDIVIDUAL

State of _____ County of _____ ss:

On this _____ day of _____, _____ before me personally appeared

_____ to me known, and known to me to be the person described in and who executed the foregoing instrument and acknowledged that he executed the same.

Notary Public or Commissioner of Deeds

Each executed bond should be accompanied by: (a) appropriate acknowledgments of the respective parties; (b) appropriate duly certified copy of Power of Attorney or other certificate of authority where bond is executed by agent, officer or other representative of Principal or Surety; (c) a duly certified extract from By-Laws or resolutions of Surety under which Power of Attorney or other certificate of authority of its agent, officer or representative was issued, and (d) certified copy of latest published financial statement of assets and liabilities of Surety.

* * * * *

Affix Acknowledgments and Justification of Sureties.

PAYMENT BOND 1

PAYMENT BOND

KNOW ALL MEN BY THESE PRESENTS, That
we, _____

hereinafter referred to as the "Principal", and _____

hereinafter referred to as the "Surety" ("Sureties") are held and firmly bound to _____,

hereinafter referred to as the "CM", or to its successors, or to its assigns in the penal sum of _____

\$ _____) Dollars, lawful money of the United States, for the payment of which said sum of money well and truly to be made, we, and each of us, bind ourselves, our heirs, executors, administrators, successors and assigns, jointly and severally, firmly by these presents.

WHEREAS, the Principal is about to enter, or has entered, into a Contract in writing with the CM for _____

a copy of which Contract is annexed to and hereby made a part of this bond as though herein set forth in full;

NOW, THEREFORE, the conditions of this obligation are such that if the Principal, his or its representatives or assigns and other Subcontractors to whom Work under this Contract is sublet and his or their successors and assigns shall promptly pay or cause to be paid all lawful claims for

(a) Wages and compensation for labor performed and services rendered by all persons engaged in the prosecution of the Work under said Contract, and any amendment or extension thereof or addition thereto, whether such persons be agents servants or employees of the Principal or any such Subcontractor, including all persons so engaged who perform the work of laborers or mechanics at or in the vicinity of the site of the Project regardless of any contractual relationship between the Principal or such Subcontractors, or his or their successors or assigns, on the one hand and such laborers or mechanics on the other, but not including office employees not regularly stationed at the site of the Project; and

(b) Materials and supplies (whether incorporated in the permanent structure or not), as well as teams, fuels, oils, implements or machinery furnished, used or consumed by said Principal or any Subcontractor at or in the vicinity of the site of the Project in the prosecution of the Work under said Contract and any amendment or extension thereof or addition thereto; then this obligation shall be void, otherwise to remain in full force and effect.

This bond is subject to the following additional conditions, limitations and agreements:

PAYMENT BOND 2

(a) The Principal and Surety (Sureties) agree that this bond shall be for the benefit of any materialmen or laborer having a just claim, as well as the CM.

(b) All persons who have performed labor, rendered services or furnished materials and supplies, as aforesaid, shall have a direct right of action against the Principal and his, its or their successors and assigns, and the Surety (Sureties) herein, or against either or both or any of them and their successors and assigns. Such persons may sue in their own name, and may prosecute the suit to judgment and execution without the necessity of joining with any other persons as party plaintiff.

(c) The Principal and Surety (Sureties) agree that neither of them will hold the CM liable for any judgment for costs of otherwise, obtained by either or both of them against a laborer or materialman in a suit brought by either a laborer or materialman under this bond for moneys allegedly due for performing work or furnishing material.

(d) The Surety (Sureties) or its successors and assigns shall not be liable for any compensation recoverable by an employee or laborer under the Workmen's Compensation Law.

(e) In no event shall the Surety (Sureties), or its successors or assigns, be liable for a greater sum than the penalty of this bond or be subject to any suit, action or proceeding hereon that is instituted by any person, firm, or corporation hereunder later than two years after the complete performance of said Contract and final settlement thereof.

The Principal, for himself and his successors and assigns, and the Surety (Sureties), for itself and its successors and assigns, do hereby expressly waive any objection that might be interposed as to the right of the CM to require a bond containing the foregoing provisions, and they do hereby further expressly waive any defense which they or either of them might interpose to an action brought hereon by any person, firm or corporation, including Subcontractors, materialmen and third persons, for work, labor, services, supplies or material performed rendered, or furnished as aforesaid upon the ground that there is no law authorizing the CM to require the foregoing provisions to be placed in this bond.

And the Surety (Sureties), for value received, for itself and its successors and assigns, hereby stipulates and agrees that the obligation of said Surety (Sureties), and its bonds shall be in no way impaired or affected by any extension of time, modification, omission, addition, or change in or of the said Contract or the work to be performed thereunder, or by any payment thereunder before the time required therein, or by any waiver of any provisions thereof, or by any assignment, subletting or other transfer thereof or of any part thereof, or of any Work to be performed, or any moneys due to become due thereunder and said Surety (Sureties) does hereby waive notice of any and all of such extensions, modifications, omissions, additions, changes, payments, waivers, assignments, subcontracts and transfers, and hereby expressly stipulates and agrees that any and all things done and omitted to be done by and in relation to assignees, Subcontractors, and other transferees shall have the same effect as to said Surety (Sureties) as though done or omitted to be done or in relation to said Principal. The Surety (Sureties), for value received, for itself and its successors and assigns, hereby stipulates and agrees that the obligation of said Surety (Sureties) and its bond shall be in no way impaired or affected by any assignment by the CM of its rights, title and interest in and to such bond, and said Surety (Sureties) hereby waives notice of any such assignment by the CM.

PAYMENT BOND 3

IN WITNESS WHEREOF, the Principal and the Surety (Sureties) have hereunto set their hands and seals, and such of them as are corporations have caused their corporate seals to be hereunto affixed and these presents to be signed by their proper officers, this _____ day of _____, _____.

(Seal) _____(L.S.)
Principal

By: _____

(Seal) _____
Surety

By: _____

(Seal) _____
Surety

By: _____

(Seal) _____
Surety

By: _____

If the Contractor (Principal) is a partnership, the bond should be signed by each of the individuals who are partners.

If the Contractor (Principal) is a corporation, the bond should be signed in its correct corporate name by a duly authorized officer, agent, or attorney-in-fact.

There should be executed an appropriate number of counterparts of the bond corresponding to the number of counterparts of the Contract.

PAYMENT BOND 4

ACKNOWLEDGMENT OF PRINCIPAL, IF A CORPORATION

State of _____ County of _____ ss:

On this _____ day of _____, _____ before me personally came _____, who being by me duly sworn, did depose and say that he/she resides in the City of _____

_____ that he is the _____ of _____, the corporation described in and which executed the foregoing instrument; that he knows the seal of said corporation; that the seal affixed to the said instrument is such corporate seal; that it was so affixed by order of the Board of Directors of said corporation; and that he signed his name thereto by like order.

Notary Public or Commissioner of Deeds

ACKNOWLEDGMENT OF PRINCIPAL, IF A PARTNERSHIP

State of _____ County of _____ ss:

On this _____ day of _____, _____ before me personally appeared _____

_____ to me known, and known to me to be one of the members of the firm of _____

described in and who executed the foregoing instrument; and he acknowledged to me that he executed the same as and for the act and deed of said firm.

Notary Public or Commissioner of Deeds

ACKNOWLEDGMENT OF PRINCIPAL, IF AN INDIVIDUAL

State of _____ County of _____ ss:

On this _____ day of _____, _____ before me personally appeared _____

_____ to me known, and known to me to be the person described in and who executed the foregoing instrument and acknowledged that he executed the same.

Notary Public or Commissioner of Deeds

Each executed bond should be accompanied by: (a) appropriate acknowledgments of the respective parties; (b) appropriate duly certified copy of Power of Attorney or other certificate of authority where bond is executed by agent, officer or other representative of Principal or Surety; (c) a duly certified extract from By-Laws or resolutions of Surety under which Power of Attorney or other certificate of authority of its agent, officer or representative was issued, and (d) certified copy of latest published financial statement of assets and liabilities of Surety.

* * * * *

Affix Acknowledgments and Justification of Sureties.

Irrevocable Assignment

THIS AGREEMENT made and entered into this _____ day of _____, _____, by and between

_____ (hereinafter the "CM"), located at _____, and the City of New York, Department of Design and Construction (hereinafter the "City"), located at 30-30 Thomson Avenue, Long Island City, New York.

WITNESSETH:

WHEREAS the City has entered into a certain contract with the CM, bearing Comptroller's Registration Number _____ (hereinafter the "Contract"); and

WHEREAS pursuant to the Contract, the CM is obligated to subcontract certain work and to obtain payment and performance bonds from the subcontractors; and

WHEREAS pursuant to the Contract, the CM has agreed to assign all its rights, title and interest under the subject bonds, in the manner set forth herein;

NOW, THEREFORE, in consideration of the mutual promises and covenants set forth herein, the parties hereto do hereby agree as follows:

The CM hereby makes an irrevocable assignment to the City of all its rights, title and interest in and to the below described performance and payment bonds, including any subrogation or other right of the CM to receive any payments that may become due and owing by the Surety thereunder:

Performance and Payment Bonds (Bond # _____) issued to _____, by _____, designating _____ as Obligee, with respect to a contract for _____

provided, however, this assignment shall become effective only upon the happening of one or more of the events set forth below:

- (1) The Commissioner of the Department of Design and Construction, or his authorized designee, in his sole and absolute discretion, determines in writing that:
(a) The CM has been terminated for cause with respect to the Contract; or
(b) The CM has been terminated without cause with respect to the Contract; or
(c) The CM has abandoned the Contract; or
(d) The CM has failed to make demand upon the Surety to perform its obligations under the above described bond(s), when circumstances have warranted that such action should be taken and the City has so notified the CM in writing.
(2) A voluntary or involuntary petition in bankruptcy has been filed by or against the CM, or, in the event the CM is a joint venture, a voluntary or involuntary petition in bankruptcy has been filed by or against either or both of the joint venture partners acting as the CM.

IN WITNESS WHEREOF, the parties hereto do set their hands and agree as follows.

CM: _____ City of New York, Department of Design and Construction:

By: _____ By: _____

Title: _____ Commissioner

ACKNOWLEDGMENT OF PRINCIPAL IF A CORPORATION

State of _____ County of _____ ss:

On this ____ day of _____, _____ before me personally came _____, who being by me duly sworn, did depose and say that he/she resides in the City of _____, that he/she is the _____ of _____, the corporation described in and which executed the foregoing instrument; and that he/she signed his/her name to the foregoing instrument by order of the directors of said corporation as the duly authorized and binding act thereof.

Notary Public or Commissioner of Deeds

ACKNOWLEDGMENT BY COMMISSIONER

State of _____ County of _____ ss:

On this ____ day of _____, _____ before me personally came _____, to me known and known to me to be the Deputy Commissioner of the Department of Design and Construction of The City of New York, the person described as such in and who as such executed the foregoing instrument and he acknowledged to me that he executed the same as Deputy Commissioner for the purposes therein mentioned.

Notary Public or Commissioner of Deeds