



Garment District Alliance

REQUEST FOR PROPOSALS

Business Development Collaborative Programming for the Garment District

Issue Date: December 15, 2020

Deadline for Responses: January 19, 2021

PART 1: PROJECT BACKGROUND AND SCOPE OF WORK

1.1 PROJECT BACKGROUND

The Fashion Center District Management Association, Inc., doing business as the Garment District Alliance (“GDA”), is a not-for-profit tax-exempt organization that operates a business improvement District for the Garment District in midtown Manhattan between 34th and 42nd Streets and Fifth to Ninth Avenue (the “Garment District” or the “District”). Working in partnership with local building owners and businesses, GDA improves the quality of life and economic vitality in the Garment District.

The manufacturing sector of the apparel industry in New York’s Garment District has historically been an important provider of jobs and a catalyst for economic activity in the area. Over the past several decades, the District fashion industry, in particular the manufacturing sector, has experienced decreasing jobs and diminished business activity. The GDA has made a commitment to strengthen the competitiveness of the neighborhood’s workforce and businesses, including the fashion manufacturing sector, in accordance with GDA’s charitable mission, goals and District Plan as well as other applicable regulations.

In the summer of 2019, GDA launched its Special Programing initiative by issuing a Request for Proposals of Programming Concepts. GDA’s goal was to engage qualified entities (“Program Managers”) to develop and deliver programming which would strengthen the apparel manufacturing industry in the District and improve the quality of life and economic vitality of District. As a result of this process, GDA engaged five Program Managers to support the District by delivering programs, including business technical assistance, workforce development and training, and infrastructure development. Each of the Program Managers works individually and collectively as a group ensure that GDA’s Special Programming initiative – now called the GDA Business Development Collaborative (“BDC”) - is successful and has the greatest impact possible.

GDA now seeks to engage Program Managers to deliver Year 2 BDC Programs to build and expand upon the Year 1 Special Programs.

1.2 SCOPE OF WORK

BDC Programs provide one or more of the following services:

Business Technical Assistance: BDC Programs may provide business technical assistance to businesses, entrepreneurs and aspiring entrepreneurs in the District. Technical assistance may include, e.g., one-to-one support for businesses, workshops and trainings, networking opportunities, marketing opportunities and other supports that might be helpful to District businesses. The goals of these BDC Programs is to improve District businesses’

competitiveness, enhance business creativity, attract new customers and sales opportunities, and promote the fashion industry's presence in the District.

Workforce Development/Training: BDC Programs may provide training to employees or potential employees of District businesses. These Programs may also provide a mechanism to connect candidates with potential employers. The goals of these BDC Programs are to enhance or add skills to the neighborhood's workforce and assist District businesses in meeting their staffing and staff training needs.

Landscape Mapping and Outreach: Program Managers engage in landscape mapping and outreach to District businesses to build trust and get a true assessment of their needs. This is particularly important at this juncture given the constantly changing environment due to COVID-19. Landscape mapping and outreach for Year 2 BDC Programs should build on the landscape mapping and outreach conducted in Year 1. Program Managers coordinate such efforts amongst themselves to ensure maximum value and efficiency. Program Managers should also establish feedback loops with all participants in the BDC Programs to share results and outcomes of the landscape mapping and outreach, as well as the impact of the BDC Programs, to foster stronger relationships and promote the Business Development Collaborative.

Fashion Walk of Fame: This BDC program will re-imagine, re-design and begin installation of the Fashion Walk of Fame, which was originally installed on Seventh Avenue in the District. The goal of this BDC program is to commemorate the historical impact of the fashion industry on the District and to provide promotional opportunities for the District. The re-design of the Fashion Walk of Fame will require working with local property owners, local government and other stakeholders.

1.3 BID LEGAL CONSTRAINTS

Business Improvement Districts ("BIDs") are subject to some specific legal constraints, as required by the BID legislation, GDA's funding contract with the NYC Department of Small Business Services ("SBS") and GDA's City oversights and policies. Among other things, these legal requirements are designed to ensure that BID assessment funds (which are collected from District properties) are spent for the benefit of the District and the businesses within the District.

BDC Programs and BDC Program Contracts are required to conform to the following requirements:

Location: BDC Program services should be provided in or proximate to the Garment District. Programming that does not take place in or proximate to the Garment District must primarily benefit Garment District businesses. Examples include:

- Workshops located in or proximate to the Garment District.
- On-site services to businesses located in the Garment District.

- Virtual or off-site services to businesses located in the Garment District.

Marketing: BDC Programs should be actively marketed to Garment District businesses. While true for all BDC Programs, this is particularly important for programs that are physically located or delivered outside the Garment District. Examples include:

- Outreach to Garment District businesses by phone, email or mail.
- Advertisements in the Garment District.
- Door-to-Door.

Business Technical Assistance: These BDC Programs should provide technical assistance to District businesses, but not cash grants. Cash grants to businesses are not permissible under the laws applicable to Business Improvement Districts, as dictated by the City.

Workforce Development/Training Programs: Workforce development or training programs should specifically address the needs of Garment District businesses. While true for all workforce development BDC Programs, this is particularly important for programs that are physically located or delivered outside the Garment District. Examples include:

- Working with Garment District businesses to assess their hiring needs and conducting search and training to help fill positions.
- Working with Garment District businesses to assess their needs for training and development of their employees and conducting such training and development.
- Providing workforce trainings in the Garment District, with appropriate marketing to Garment District businesses.

Industry Beneficiaries: BDC Programs are intended to benefit fashion manufacturers and the fashion industry as well as other type of businesses in the Garment District, as dictated by the City. BDC Programs should target multiple business sectors, which are able to benefit from the program. This is because BDC Programs are funded by BID assessments that are collected from all types of properties and businesses in the District. Examples include:

- Trainings that could be utilized by employees employed in multiple sectors.
- Working with Garment District businesses from multiple sectors to address workforce development and training needs.
- Trainings consisting of subcomponents tailored for employees of different types of businesses.
- Back-office improvements that could be used across sectors.
- One-to-one consultation that can be customized to the recipient.
- Trainings that are relevant to multiple sectors.
- Trainings consisting of subcomponents tailored for different types of businesses.

1.4 SUPERVISION

The Program Managers and BDC Program Contracts are overseen by GDA's Program Administrator, Resilient Cities Catalyst (the "Program Administrator"). The Program Administrator will manage, oversee and review the BDC Programs and the Program Managers, oversee compliance with the BDC Program Contracts and ensure coordination between programs and Program Managers.

1.5 COLLABORATIVE IMPACT MODEL

All Program Managers are encouraged to collaborate with other Program Managers and ensure that their BDC Programs align with each other and with the BDC's goals of: 1) Gathering insights on District workforce and business needs; 2) Strengthening the capacity of District businesses, entrepreneurs and workforce; 3) Building community among District businesses; and 4) Elevating the profile of the District.

Program Managers are encouraged to collaborate with their fellow cohort members on a monthly and quarterly basis through meetings and small working groups to ensure coordination of efforts, share lessons learned, and provide advice and support, as needed.

1.6 DATA COLLECTION & PROGRAM TARGETS

Program Managers track data related to their program, which is then utilized by GDA and the Program Administrator to better understand the program and the Business Development Collaborative overall. Program Managers will be required to collect data and specify program targets at two levels: 1) quarterly activity & output data and 2) annual outcome data. The activity & output data will specify the number, frequency and type of planned activities, services and products for each quarter -- for example, # of workshops or # of events, including the # of District beneficiaries reached. The outcome data will specify what has changed or been accomplished because of the planned activities, services and products across at least two of the four Business Development Collaborative goals: 1) Gathering insights on District workforce and business needs; 2) Strengthening the capacity of District businesses, entrepreneurs and workforce; 3) Building community among District businesses; and 4) Elevating the profile of the District. (See Program Target Template in Exhibit 2.)

1.7 REPORTING

Program Managers submit quarterly reports to the Program Administrator. Quarterly reports include narrative updates on the program implementation, including collaborations, challenges and successes, as well as reporting against agreed upon program targets.

1.8 TIMELINE

BDC Program Contracts establish a detailed timeline for delivery of services and achievement of targets throughout the contract year.

1.9 PAYMENT

Program Managers are paid quarterly through time and expense reimbursement based on their approved budget, unless otherwise approved by GDA.

PART 2: REQUEST FOR PROPOSALS

2.1 INVITATION TO SUBMIT PROPOSAL

GDA is now seeking proposals (“Proposals”) from qualified entities (“Proposers” or “Respondents”) through this request (the “RFP”) to develop and deliver Year 2 BDC Programs to benefit the Garment District as outlined above in the Scope of Work. The selected Proposers will develop and implement BDC Program to benefit District businesses and workers, specifically including the apparel industry. This RFP seeks to engage Program Managers to deliver Year 2 BDC Programs to build on and expand upon the Year 1 Special Programs.

Year 2 BDC Programs will be for a one-year term. Some may have renewal options that may be exercised at the discretion of GDA.

2.2 Proposer Eligibility

Eligible Respondents include industry trade groups, nonprofit organizations, educational institutions, private entities and government agencies. Joint proposals are acceptable.

Proposers should have relevant experience that supports their ability succeed in carrying out the BDC Program.

Any BDC Program Contract that is awarded for more than \$100,000 will require that the Program Manager be registered with New York City’s digital Procurement and Sourcing Solutions Portal (PASSPort) and be in compliance with PASSPort’s current procedures and reporting requirements.

M/WBE entity participation is encouraged.

2.3 RFP DATES

- Release Date: December 14, 2020
- Question Submission Deadline: January 5, 2021
- Pre-Proposal Conference Call or Written Answers: date tbd
- Proposal Submission Closing Date: January 19, 2021

- GDA Complete Selection Process March 17, 2021
- Negotiation and Execution of Contracts March 18 – June 15, 2021
- Contracts Commence July 1, 2021

GDA reserves the right to change any of these deadlines on a case-by-case basis in its sole discretion.

2.4 RFP SUBMISSION PROCESS

One (1) digital PDF version of the proposal must be received by GDA by the Proposal Submission Closing Date.

Proposals should be submitted via email to:

Jerry Scupp, Vice President
 Garment District Alliance
 Jscupp@garmentdistrictnyc.com

2.5 PRE-PROPOSAL CONFERENCE CALL/WRITTEN ANSWERS

Questions regarding the RFP must be in writing and should be submitted via email to jscupp@garmentdistrictnyc.com by the Question Submission Deadline. Depending on the number and complexity of the questions, GDA will either hold a pre-proposal conference call on a date and time to be determined and announced on our website to answer questions regarding the RFP and Scope of Work and/or issue written answers to questions submitted by such date.

Information about the pre-proposal conference (including registration and call-in information), written answers, as well as any additional or updated information on this RFP, will be posted on www.garmentdistrict.nyc.

2.6 PROPOSAL CONTENTS

Proposals must include the items listed below, including the Program Target Template and Budget Template (see Exhibits 1 and 2 attached). Proposals should be limited to ten (10) pages, which includes the cover letter and personnel biographies. Budget and Program Target templates are not included in the 10 page limit. At a minimum, Respondents shall provide the following core elements in their Proposal. Additional information about each can be found below under Scope of Work.

Cover Letter: The cover letter, no longer than one (1) page, shall be addressed to Jerry Scupp, GDA Vice President, and summarize key points of the Respondent's Proposal and

the proposed total budget. The cover letter should include the name, address and primary point of contact for the Proposer and any proposed partners, including corporate structure of each (e.g., 501c3 nonprofit organization, private corporation, governmental entity, etc.).

Description of Proposed BDC Program: The Proposal should include a clear description of the District challenge or need that will be addressed through their proposed BDC program. It should include details on the services and activities to be provided, including a description of how and why these services will address the critical District need outlined above. The program services should include one or more of the following: business technical assistance to District businesses, workforce development/training for District businesses and workers, landscape mapping and outreach, or support for GDA's Fashion Walk of Fame program.

Program Targets: Proposals should utilize the Program Target Template in Exhibit 1 to specify the targets for evaluating success of the BDC Program across two levels: 1) quarterly activities and outputs, including District beneficiaries and 2) annual outcomes. Outcomes should touch on at least two of the four BDC goals. Note that programs benefiting many beneficiaries with "low touch" services (e.g., workshops) and programs benefiting fewer beneficiaries with "high touch" services (e.g., one-to-one training) are equally permissible.

Collaborative Impact Model: The Proposal should include a description of program partners and how the Proposer can collaborate with other Program Managers to coordinate on joint efforts, share lessons learned and add to the collective value of the BDC.

Program Schedule: Proposers should include a proposed timeline for program implementation and milestones. Any proposed landscape mapping and initial outreach should be completed by the end of the first calendar quarter of the BDC Program Contract.

New or Existing Programming: The Proposal should include an explanation of whether the proposed programming is a new program or an already existing program. If the program was funded through GDA's Year 1 Special Program initiative, the Proposer should describe how the Proposer is seeking to build on or expand upon its Year 1 program in Year 2 to address GDA's goals (e.g., expand outreach to attract more participants, improve program, etc.). If the Proposal seeks funding for an existing program that was not part of GDA's Year 1 Special Programs initiative, the Proposer should describe in detail how the program meets GDA's goals (or how it will be expanded or changed to meet GDA's goals) and why the GDA funding is required for an already existing program (e.g., current funding is expiring).

Program Budget: Respondent must utilize the Budget Template in Exhibit 2 to submit an estimated program budget that outlines the expected costs for all services, staff rates and

estimated hours, costs per project step or phase following the Scope of Work, as well as costs for securing any expenses or incidentals that may be required. The budget should delineate which expenses are already being incurred by the Proposer (e.g., for an existing program, or administrative/personal time that will be re-allocated to the program) and which expenses are new expenses for the proposed program. The budget should also identify sources and amounts of other funding for the programming, if any. Program Managers are paid quarterly on a time and expense reimbursement basis, unless otherwise agreed to by GDA.

COVID19 Responsiveness: Given the ever-changing nature of the COVID-19 public health crisis and its impact on the District, its businesses and workforce and the BDC Programs, Proposers should include specific plans for how they can adjust their BDC Programs and activities to respond to changes in the environment, e.g., lockdown, partial restrictions, lifting of restrictions, return to “normal”, etc.

Relevant Experience: Proposers should provide examples of their experience/success implementing similar programs.

Staffing and Qualifications: Proposers should include a detailed staffing plan, as well as biographies of each staff member.

Strategic Partners: Proposers who intend to enter into partnerships, subcontracts, consortiums or other arrangements to perform certain aspects of the BDC Program should clearly identify each such entity, the role of the entity in the program, and the nature of the relationship between the Proposer and such entity(ies). Proposers should also identify any other strategic partners.

Other Sponsors/Contributors: Proposers should provide a list of other direct contributors, sponsors or other entities funding the proposed program, as well as the amount of support received or expected to be received from each.

Legal Constraints: The Proposal should include a clear explanation of how the proposed BDC Program will meet each of the applicable BID Legal Constraints as set forth above. This includes:

- (1) Location of the BDC Program in or proximate to the District, District businesses and workers as primary beneficiaries;
- (2) A detailed, credible and measurable marketing plan explaining how the BDC Program will be marketed to District businesses and workers;
- (3) No cash grants to businesses;
- (4) A credible and measurable link between any workforce development/training programs and District businesses; and
- (5) Multiple business sectors targeted, including the fashion industry.

PASSPort/VENDEX: Proposers should indicate if they have successfully completed the City of

New York's PASSPort review process and if they are currently in compliance with PASSPort requirements. (Only applicable for Special Program Contracts valued at greater than \$100,000.)

2.7 REVIEW OF SUBMISSIONS

GDA will review all submissions for completeness and compliance with the terms and conditions hereof. GDA reserves the right to request additional materials, including those it may deem useful or appropriate to evaluate each Respondent's qualifications and past experience, or clarification or modification of any submitted proposal. GDA will permit the correction of deficient submissions that do not completely conform to this RFP on a case-by-case basis. Submission of a Proposal shall constitute the Respondent's permission to GDA to make such inquiries concerning the Respondent as GDA in its discretion deems useful or appropriate, subject to applicable law. GDA is not obligated to accept any unsolicited additional materials, clarification, modification or background information. GDA is an equal opportunity employer.

GDA may conduct interviews or discussions with some of the Respondents submitting proposals and not others.

GDA reserves the right, in its sole discretion, to reject submissions; to postpone, amend and/or cancel this RFP or specific programs contained within; require supplemental information; waive defects; permit corrections; and/or negotiate or hold discussions with any entity. GDA may exercise the foregoing rights at any time without notice or liability to any proposing entity or other party for expenses incurred in the preparation of responses hereto or otherwise. No copies of materials submitted in response to this RFP will be returned.

2.8 SELECTION PROCESS

GDA will select the Respondents which, in the sole judgment of GDA, most successfully demonstrates the following:

- BDC Programming concept that meets GDA's goals and BID Legal Constraints;
- Demonstrated willingness, ability and ambition to contribute to BDC's goals;
- The capacity to track implementation against program targets and provide necessary reports;
- The capacity and proven record to successfully execute the proposed program;
- A coherent and implementable program, with identifiable metrics for success and detailed staffing and marketing plan;
- The ability to interface with District businesses and other stakeholders;
- Background of the Proposer (experience, prior successes in similar programming; financial stability, etc.);
- A comprehensive and cost-effective project budget and schedule; and
- Such other criteria as determined appropriate by GDA.

GDA may award contracts to the qualified Proposers whose proposals it determines, in its sole discretion, to be the most advantageous for GDA and the District.

GDA anticipates awarding multiple BDC Program Contracts.

GDA shall not pay any costs incurred by any entity in responding to this RFP. The review or selection of a submission will create no legal relationship or equitable rights in favor of a Proposer, including, without limitation, rights of enforcement or reimbursement. Failure by GDA to select an entity, or to enter into a contract with an entity if selected as a result of this RFP, will not create any liability on the part of GDA or any of its members, directors, officers, employees, agents, consultants, or other contractors or successors. Submission by an entity shall constitute a waiver by the Proposer of any claim or cause of action against any of the aforementioned for any costs incurred or for any matters arising in connection with GDA's review of the submissions.

Only programs that fit within the GDA's mission and District Plan, and which comply with applicable laws governing charities and business improvement districts, including the BID Legal Constraints described above, will be selected. All BDC Program Contracts must be in compliance with GDA's procurement policies, funding contract with the City of New York and applicable city, state and federal laws and regulations.

GDA may re-open this Request for Proposals of BDC Programming at future dates for new, expanded or renewing programs. Proposals that are not submitted by the Proposal Submission Closing Date should not be submitted until a new submission round is announced, and Proposals that are not selected in this round should not be re-submitted until a new submission round is announced. If a new submission round is announced, then Proposals can be submitted in accordance with the announced timeline and requirements for the future round.

Future submission dates and any modifications will be announced separately on the GDA website, www.garmentdistrict.nyc. Prospective Proposers may also sign up for email notifications by writing to info@garmentdistrictnyc.com.

PART 3: GENERAL TERMS AND SPECIFICATIONS

3.1 TERM

The term of the awarded contract shall commence July 1, 2021 and end June 30, 2022.

GDA may, in its sole discretion extend the term of the contract for a one-year renewal period.

Any such renewal shall require prior approval of the GDA Board of Directors.

3.2 CHANGES IN SCOPE OF SERVICES AND PERSONNEL

- A. GDA reserves the right to make reasonable changes in the services and in personnel. Any such changes will be directed in writing. If GDA directs any such changes that materially affect the cost of the services or time required for performance, an equitable adjustment in the fees, or delivery schedule, or both, shall be agreed to by both parties.
- B. Changes to the services may be necessary or appropriate in response to the COVID-19 epidemic and its impact on the services, including changes necessary to comply with any orders, guidance, legislation, rules or regulations issued or enacted to address the COVID-19 epidemic.

3.3 FIRM PRICE AND TAXES

- A. The price agreed upon by the parties for the stated services will not be subject to change during the term of the BDC Program Contract without a written amendment to the BDC Program Contract signed by both parties. GDA reserves the right to adjust services as necessary to remain within the annual contract amount.
- B. The price shall include all sales, franchise, income or other taxes with regard to the work, which shall be paid by Program Manager. Program Manager assumes exclusive liability for and shall pay all contributions or taxes imposed or required by the unemployment insurance laws of New York, the Federal Social Security Act, or any other act, now or hereafter in effect, upon or in respect to wages, salaries, health insurance, benefits or other compensation paid to employees engaged upon or in connection with the work to be performed.

3.4 WARRANTIES AND COVENANTS

- A. Program Manager will perform the work under the BDC Program Contract in a professional manner according to the highest industry standards, with qualified personnel who are legally authorized to work in the U.S., and all work performed hereunder shall comply with all requirements of federal, state, and local laws, regulations, executive orders, regulations and rules, including, without limitation, the NYS Shield Act, the Occupational Safety and Health Act of 1970, the Affordable Care Act, E.O. 50, and equal employment opportunity laws; and all applicable laws, ordinances, rules, regulations and orders of any public authority. Program Manager shall comply with all applicable existing and future orders, guidance, laws, rules and regulations issued or enacted to address the COVID-19 epidemic.
- B. Program Manager shall obtain all other necessary federal, state and city permits, licenses and authorizations for the services to be performed hereunder and shall be responsible for the payment of any related taxes, fines or penalties, and shall provide GDA with a copy of such permits, licenses and authorizations upon request prior to the applicable services being rendered.
- C. Program Manager shall have sufficient security and privacy safeguards in place to comply with the NYS Shield Act and any other applicable privacy law.

3.5 INSURANCE

- A. Throughout the term of the BDC Program Contract, Program Manager shall maintain and shall cause all its subcontractors and permittees to maintain in effect the following insurance coverage: (i) Commercial General Liability Insurance covering all premises, operations, products and completed operations, and contractual coverage written on an occurrence basis relating to the work performed under the BDC Program Contract providing a limit of not less than \$5,000,000 in the aggregate and not less than \$2,000,000 combined single limit for bodily injury, personal injury and property damage; such insurance shall be as broad as the latest edition of ISO Form CG 00 01; (ii) multi-media/publisher's liability insurance with limits as approved by the GDA in its sole discretion; and (iii) if vehicles are used in the performance of the BDC Program Contract, Commercial Automobile Liability Insurance covering all owned (if any), non-owned and hired vehicles operated by you providing a limit of \$1,000,000 combined single limit for bodily injury and property damage. GDA, Program Administrator, the City of New York, together with its officials and employees, and SBS, and their respective directors, officers, agents, employees and volunteers, shall be additional named insureds on all such policies listed above (on ISO Forms CG 20 10, CG 20 37, CG 20 01, and CG 20 26, as appropriate to the applicable entity, or an endorsement that is at least as broad (on ISO Forms CG 20 10 and CG 20 37, or ISO Forms CG 20 26 and CG 20 40, and ISO Form CG 20 01, as appropriate to the applicable entity. If CG 20 26 is not available, use ISO form CG 20 38 instead of CG 20 26. If CG 20 40 is not available, use ISO form CG 20 37 instead of CG 20 40). Program Manager shall be named as an additional insured on such policies obtained by its subcontractors and permittees. Such policies shall provide coverage to each such additional named insured on a primary and non-contributory basis and shall include waivers of subrogation in favor of each additional named insured for any loss of claims paid or payable under such policies.
- B. During the performance of the work covered by the BDC Program Contract, Program Manager shall maintain and shall require any subcontractors to maintain Worker's Compensation Insurance, disability benefits and employer's liability in the statutorily required amounts.
- C. Program Manager also shall maintain, and shall require its subcontractors to maintain, professional liability insurance for claims arising out of negligent performance of professional services with minimum policy limit of \$1,000,000 per claim and \$1,000,000 annual aggregate, and such professional liability insurance shall be maintained for a period of at least six (6) years beyond the expiration or termination of the BDC Program Contract.
- D. All insurance policies required by the BDC Program Contract shall be in form and substance satisfactory to GDA and shall be obtained from responsible companies authorized to do business in the State of New York with a minimum "Best's" rating of no less than A-/"VII". Evidence of this insurance shall be supplied to GDA for review and approval prior to the commencement of any work under the BDC Program Contract.
- E. All insurance required by the BDC Program Contract shall provide that any change in or

cancellation of any such policies shall not be valid until GDA has had thirty (30) days' notice in writing of such change or cancellation.

- F. Program Manager shall procure and deliver to GDA, the City of New York and SBS certificates of insurance executed by the insurance companies providing such insurance prior to performing any services under the BDC Program Contract.
- G. If GDA or SBS reasonably determines that additional insurance, riders or insurance provisions are properly required, Program Manager shall obtain such additional insurance, riders or provisions, as requested.

3.6 INDEMNIFICATION

- A. To the extent permitted by law, Program Manager shall defend, indemnify and hold harmless GDA, the Program Administrator, the City of New York, and the New York City Department of Small Business services ("SBS", and collectively, the "Indemnified Parties") from and against all injury, loss, claims, damages, judgments or liabilities (including reasonable costs and expenses, legal or otherwise) to any person or property ("Liabilities"), arising from, related to or in connection with the services provided under the BDC Program Contract by Program Manager or its agents, employees, subcontractors, contractors or permittees to which any Indemnified Party maybe subject.
- B. Without limiting the generality of the foregoing, to the extent permitted by law, Program Manager shall defend, indemnify and hold harmless the Indemnified Parties from Liabilities arising from, related to or in connection with the services because of (a) any act or omission, including negligence, willful misconduct, material breach of the BDC Program Contract or failure to comply with the law, by Program Manager or its agents, employees, subcontractors, contractors or permittees, or (b) any third-party claim that any materials provided by Program Manager or its subcontractor as part of the services (including the Program Manager trademarks), or GDA's use, reproduction, distribution, display or exploitation of such materials (or a portion thereof), is in violation of Program Manager's representations provided for in this Agreement or infringes the intellectual property rights or other rights of a third-party, including, but not limited to, third-party claims alleging copyright or other intellectual property infringement, violation of privacy rights, libel, slander or defamation.
- C. Program Manager shall be solely responsible for the safety and protection of all its employees, agents, subcontractors, contractors, participants and permittees and shall assume all liability for injuries, including death, that may occur to said employees, agents, subcontractors, contractors, participants or permittees due to the negligence, fault, or default of Program Manager.
- D. Program Manager shall also require such indemnification of the Indemnified Parties from its agents, subcontractors, contractors and permittees.

3.7 INDEPENDENT CONTRACTOR

Notwithstanding anything contained herein to the contrary, it is specifically understood and agreed that in the performance of the terms and conditions of the BDC Program Contract, Program Manager will not be deemed to be acting as an agent of GDA, SBS or the City of New York by virtue of the BDC Program Contract or by virtue of any approval, grant, or other authorization given by GDA. Program Manager shall be an independent contractor performing services for GDA without power or authority to bind GDA, SBS or the City. Program Manager shall be solely responsible for all acts taken or omitted by Program Manager, its employees, agents, subcontractors and permittees.

3.8 PARTICIPANTS

Program Manager shall maintain the confidentiality of participants' confidential information. Program Manager shall enter into agreements with participants which address such topics as confidentiality, waivers of liability, grants of rights and intellectual property. Program Manager agrees to defend, indemnify and hold harmless the Indemnified Parties against any liabilities or expenses incurred by them as a result of Program Manager's or its subcontractors' failure to obtain such agreements.

3.9 TERMINATION

- A. GDA may terminate the BDC Program Contract, or any portion of the BDC Program Contract, at any time in its sole discretion upon 90 days written notice to Program Manager. GDA also may terminate the BDC Program Contract upon ten (10) days' written notice to Program Manager if GDA determines, in GDA's sole discretion, that the services are impractical, infeasible, ill-advised or otherwise inappropriate as a result of the COVID-19 epidemic or its impact on the services, including any orders, guidance, legislation, rules or regulations issued or enacted to address the COVID-19 epidemic.
- B. GDA reserves the right to withhold payment, in part or in full, for failure to comply with the material terms and conditions contained herein.
- C. In addition, in the event of Program Manager's material breach of the BDC Program Contract, GDA may terminate the BDC Program Contract by written notice if Program Manager fails to cure such breach within the seven (7) day notice period.
- D. In the event of the early termination of the BDC Program Contract, Program Manager's fees, as described herein, shall be adjusted on a pro rata basis, or refunded to GDA on a pro rata basis, as applicable, for work satisfactorily performed by Program Manager prior to the effective date of termination.

3.10 ASSIGNMENT

- A. The Program Manager shall not assign, transfer, convey, or otherwise dispose of the contract or any part thereof or of its interest therein and assign, by power of attorney or otherwise, any of the monies due or to become due under the contract without the express written consent of GDA (and subject to applicable PASSPort/VENDEX requirements). The

Program Manager shall not be relieved of any obligations hereunder by reason of any such approved assignment.

- B. The GDA shall have the right to terminate the contract upon the termination or expiration of the agreement between the City of New York and GDA or transfer the contract, in whole or in part, to the City of New York, or any agency or instrumentality thereof or any corporation governed thereby designated by the City and having authority to accept such assignment, provided that the City of New York shall have an option to terminate the contract upon the termination or expiration of the agreement between the City of New York and GDA.

3.11 SUBCONTRACTING

The Program Manager shall not subcontract all or any portion of the performance to be rendered under the contract without the express prior written approval of GDA (and subject to any applicable PASSPort/VENDEX requirements). The Program Manager shall not be relieved of any obligations hereunder by reason of any such approved subcontracting.

3.12 PASSPORT

If applicable, the BDC Program Contract shall be effective subject to selected Program Manager's successful completion of a PASSPort review by the City. No payments shall be made under the contract unless and until (i) PASSPort has been completed, and (ii) GDA has been notified by SBS that no derogatory information has been uncovered or that SBS has determined that the derogatory information uncovered shall not preclude the continuation of the contract. Upon the determination of SBS or GDA that derogatory information uncovered is of such a nature that the contract shall be terminated, the contract shall be terminated and no payments shall be due under the contract, and (b) GDA, and the City shall not be liable to you for such termination

3.13 CLAIM OR ACTIONS

- A. Program Manager shall look solely to the funds appropriated by GDA for the contract for the satisfaction of any claim or cause of action Program Manager may have in connection with the contract or the failure of GDA to perform any of its obligations thereunder. No board member, officer, employee, agent, volunteer or other person authorized to act on behalf of GDA shall have any personal liability in connection with the contract or any failure of GDA to perform its obligations thereunder.
- B. Program Manager agrees that no action against the GDA in connection with the contract shall occur or be maintained unless such action is commenced within 6 months after Program Manager becomes aware of the cause for said action.
- C. The contract will be governed by and construed under the laws of the State of New York without regard to conflicts of law principles, and the parties hereby submit to the jurisdiction of the courts of the State of New York, County of New York, for the resolution of any dispute arising under the contract. The parties agree that any claims

by or against the City arising under the contract or related thereto shall be governed by the same venue provisions as those enumerated in Article 8 of GDA's contract with the City.

3.14 NO WAIVER

The failure of either party to insist on strict performance of any of the terms or conditions of the contract or of the party's rights thereunder in any one or more instances shall not constitute a waiver by the party of such performances, terms, conditions, or rights, whether then or for the future. Any waiver shall be effective only in writing and signed by the party's authorized representative, and only with respect to the particular case expressly covered therein.

3.15 BOOKS, RECORDS, AUDITS, AND INSPECTIONS

- A. The Program Manager shall keep accurate records and books in accordance with generally accepted accounting practices and any standards issued by the Comptroller of the City of New York.
- B. Such books and records shall include, but are not limited, to the employees' time worked and payment received; accounts receivable and payable; purchase orders and sales receipts; and liabilities and payments rendered for the purposes of the contract.
- C. All books and records of the Program Manager related to this account shall be available upon 3 business days' notice for purposes of verifying compliance with the terms of the contract and with applicable laws.
- D. GDA reserves the right to review all invoices prior to payment and to adjust them accordingly for any billing discrepancies found.

3.16 NO LEGAL OBLIGATION

The issuance of this RFP and the submission of a Proposal by any Respondent or acceptance of such Proposal by GDA does not obligate GDA in any manner. Legal obligations of GDA will only arise on the execution of a formal contract by GDA and the selected entity.

EXHIBIT 1: PROGRAM TARGETS

See attached template

EXHIBIT 2: BUDGET TEMPLATE

See attached template