

Exhibit D
Delegate Agency Grant Agreement
REACH US Action Community Program

TERMS AND CONDITIONS

ARTICLE 1: FUNDING CHANGES, TERM CHANGES

1.1 DEOBLIGATION / REPROGRAMMING OF FUNDS

At any time upon written notice to you the City, in its sole discretion, including without limitation based on periodic reviews of the spending levels under this Agreement, may reduce the Maximum Compensation and/or Committed Compensation. Upon reduction of the Maximum Compensation and/or Committed Compensation, you will fully cooperate with the City's deobligation and/or reprogramming of funds. See Article 4, *Compensation*, and other provisions for further terms and conditions related to compensation under this Agreement.

1.2 EXTENSION OPTION

The City may, if in accordance with applicable law, at any time before this Agreement expires, extend it for up to 2 additional periods, each period not to exceed 1 year, by written notice to you.

1.3 EARLY TERMINATION

In addition to its termination rights under Section 4.3, *Reduction of Compensation*, and Article 7, *Events of Default & Remedies*, the City may terminate this Agreement, or any portion of it remaining to be performed, at any time, (a) upon written notice to you and, if required by applicable law or regulation, with your consent, and (b) upon written notice to you if CDC terminates or suspends the Grant. If the City terminates this Agreement, other than pursuant to Section 4.3 or Article 7, then you will agree with the City upon termination conditions including, in the case of a partial termination, the portion to be terminated. The effective date of termination will be the later of the effective date stated in the notice or, if no date is given, the date the notice is considered received as provided under Article 9, *Notices*, of this Agreement.

You may terminate this Agreement upon 15 calendar days prior written notice to the City setting forth the reasons for the termination, the effective date and, in the case of a partial termination, the portion to be terminated, provided, however, that if you give notice of a partial termination, the City may terminate this Agreement in its entirety in accordance with 45 CFR 92.44 or 45 CFR 74.61, as applicable.

Upon termination of this Agreement, you will deliver to the City all finished or unfinished documents, data, studies, and reports prepared by you under this Agreement. Payment for the work performed before the effective date of such termination will be based upon a proration of the work actually performed by you to the date of termination, as determined by the Commissioner. Payment made by the City, pursuant to such proration, will be in full settlement for all Services rendered by you.

You must include in your contracts with subcontractors an early termination provision in form and substance equivalent to this early termination provision. You will not be entitled to make any early termination claims against the City resulting from any subcontractor's claims against you or the City.

1.4 YOUR CONTRIBUTIONS

You will contribute to the payment of expenses incurred in performing the Services, the amounts, if any, described in Exhibit A. Your contribution will be cash or in-kind.

1.5 NON-APPROPRIATION

If no funds or insufficient funds are appropriated and budgeted in any City fiscal period for payments to be made under this Agreement, the City will notify you in writing of such occurrence and this Agreement will terminate on the earlier of the last day of the fiscal period for which sufficient appropriation was made or whenever the funds appropriated for payment under this Agreement are exhausted. No payments will be

made or due to you under this Agreement beyond those amounts appropriated and budgeted by the City to fund payments under this Agreement.

ARTICLE 2: YOUR DUTIES

2.1 SCOPE OF SERVICES (WORK PROGRAM)

You will carry out the Services pursuant to the Scope of Services (Work Program), attached as Exhibit B, and the Budget Summary, attached as Exhibit A, in accordance with the requirements of this Agreement. The Scope of Services (Work Program) is intended to be general in nature and is neither a complete description of your Services nor a limitation on the Services which you will provide. "**Services**" means, collectively, the services, duties and responsibilities described in this Article 2 and any and all work necessary to complete them or carry them out fully and to the standard of performance required in this Agreement.

2.2 STANDARD OF PERFORMANCE

You will perform all Services with the degree of skill, care and diligence normally shown by a contractor performing services of a scope, purpose and magnitude comparable with the Services ("**Standard of Performance**"). You will use your best efforts on behalf of the City to assure timely and satisfactory completion of the Services. You acknowledge that in the performance of the Services, **TIME IS OF THE ESSENCE**.

You acknowledge that you are entrusted with or have access to valuable and confidential information and records of the City and with respect to that information, you agree to be held to the standard of care of a fiduciary. Any review, approval, acceptance of Services or payment for any Services by the City does not relieve you of your responsibility for the professional skill and care and technical accuracy of the Services. This provision in no way limits the City's legal or equitable rights against you.

If you fail to comply with the Standard of Performance, you must, at the City's option, perform again, at your own expense, all Services required to be re-performed as a direct or indirect result of that failure, unless the reason is failure to have and maintain required licensure. See subsection 8.1(A), *Warranties and Representations*, regarding failure to comply with licensure requirements.

2.3 YOUR PERSONNEL; BACKGROUND CHECKS

If assignment of personnel is required for the proper completion of the Services or is otherwise required by this Agreement, then you will assign immediately and maintain for the duration of the Services, a staff of competent personnel that is fully licensed, equipped, competent and qualified to perform the Services. You will retain and make available to the City, state and federal agencies governing funds provided under this Agreement, proof of certification or expertise including, but not limited to, licenses, resumes and job descriptions.

If you provide any Services to children you shall, at your own cost and expense, comply with all applicable Federal, State and local laws, ordinances, policies, procedures, regulations, rules, requirements and executive orders relating to background checks, fingerprinting and screening procedures as in effect from time to time (the "**Legal Requirements**"). In connection with the Services, you will not permit any adult, whether a member of your staff or otherwise, to be involved with the Services or to have direct contact with children if any applicable Legal Requirements would prohibit such adult from having such involvement or contact.

2.4 MINORITY-OWNED AND WOMEN-OWNED BUSINESS ENTERPRISE PROCUREMENT PROGRAM

A. If your Scope of Services (Work Program) is solely limited to social services (including, but not limited to, job training and placement, education, child day care, emergency shelter, home-delivery meals and health care), you need not comply with the Minority-Owned and Women-Owned Business Enterprise Procurement Program (the "**MBE/WBE Ordinance**"), Section 2-92-420 et seq of the Municipal Code of Chicago, as amended (the "**Municipal Code**") or with Section 2-92-586 (Contracts-Firms Owned or Operated by Individuals with Disabilities) of the Municipal Code.

- B. If, however, your Scope of Services (Work Program) includes construction, renovation, rehabilitation or facility enhancement, you must comply with the MBE/WBE Ordinance and with Section 2-92-586 of the Municipal Code, except to the extent waived by the Chief Procurement Officer.

2.5 NON-DISCRIMINATION

In performing the Services under this Agreement, you must comply with applicable laws prohibiting discrimination against individuals and groups.

A. Federal Requirements

In performing the Services under this Agreement and in your employment practices you must not engage in unlawful employment practices, such as:

- i. failing or refusing to hire or discharging any individual, or otherwise discriminating against any individual with respect to his or her compensation, or the terms, conditions, or privileges of his or her employment, because of such individual's race, color, religion, sex, age, handicap/disability or national origin; or
- ii. limiting, segregating, or classifying your employees or applicants for employment in any way that would deprive or tend to deprive any individual of employment opportunities or otherwise adversely affect the individual's status as an employee, because of that individual's race, color, religion, sex, age, handicap/disability or national origin.

You must comply with, and the procedures you utilize and the services you provide under this Agreement must comply with, the Civil Rights Act of 1964, 42 U.S.C. § 2000 *et seq.*, as amended and the Civil Rights Act of 1991, P.L. 102-166; Fair Housing Act, 42 U.S.C. § 3601-3619; Executive Order No. 11246, as amended by Executive Order No. 11375 and by Executive Order No. 12086; Executive Order 13160 (2000); the Age Discrimination Act of 1975, 42 U.S.C. §§ 6101-6106; Age Discrimination in Employment Act, 29 U.S.C. §§ 621-34; Title IX of the Education Amendments of 1972, as amended (20 U.S.C. 1681-83 and 1685-86); the Rehabilitation Act of 1973, 29 U.S.C. §§ 793-794; the Americans with Disabilities Act, 42 U.S.C. § 12101 *et seq.*; 41 CFR part 60 *et seq.* (1990); Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (PL 104-193); and all other applicable federal statutes, regulations and other laws.

B. State Requirements

In performing the Services under this Agreement, you must comply with the Illinois Human Rights Act, 775 ILCS 5/1-101 *et seq.*, the Public Works Employment Discrimination Act, 775 ILCS 10/0.01 *et seq.* and any rules and regulations promulgated thereunder, including, but not limited to, the Equal Employment Opportunity Clause, 44 Ill. Admin. Code § 750 Appendix A, and all other applicable state statutes, regulations and other laws.

C. City Requirements

In performing the Services under this Agreement, you must comply with the Chicago Human Rights Ordinance, Municipal Code § 2-160-010, and all other applicable City ordinances and rules. Further, you must furnish, and cause every subcontractor to furnish, such reports and information as may be requested from time to time by the Chicago Commission on Human Relations.

D. Subcontractors Required to Comply

You will incorporate all of the provisions set forth in this Section in all subcontracts entered into with all suppliers of materials, furnishers of services, subcontractors of any tier, and labor organizations which furnish skilled, unskilled and craft union skilled labor, or which may provide any materials, labor or services in connection with this Agreement.

You must cause your subcontractors to execute such certificates as may be necessary in furtherance of these provisions. Such certifications will be attached and incorporated by reference in the applicable subcontracts. If any subcontractor is a partnership or joint venture, you will also include provisions in your subcontract insuring that the entities comprising such partnership or joint venture will be jointly and severally liable for the partnership's or joint venture's obligations under the subcontract.

2.6 INSURANCE

You must provide and maintain or cause to be provided during the Term the insurance coverages and requirements specified in Exhibit F, insuring all operations related to this Agreement. You must submit Certificates of Insurance of the required coverages prior to this Agreement being fully executed to:

City of Chicago
Comptroller's Office
Federal Funds Insurance Unit
33 North LaSalle Street
Room 800
Chicago, Illinois 60602

2.7 INDEMNIFICATION

- A. You must defend, indemnify, keep and hold harmless the City, its officers, representatives, elected and appointed officials, agents and employees from and against any and all Losses, including those related to:
- i. injury, death or damage of or to any person or property;
 - ii. any infringement or violation of any property right (including any patent, trademark or copyright);
 - iii. failure to pay or perform or cause to be paid or performed your covenants and obligations as and when required under this Agreement or otherwise to pay or perform your obligations to any subcontractor;
 - iv. the City's exercise of its rights and remedies under this Agreement; and
 - v. injuries to or death of any of your employees or those of any subcontractor under any workers compensation statute.
- B. "**Losses**" means, individually and collectively, liabilities of every kind, including losses, damages and reasonable costs, payments and expenses (such as, but not limited to, court costs and reasonable attorneys' fees and disbursements), claims, demands, actions, suits, proceedings, judgments or settlements, any or all of which in any way arise out of or relate to the acts or omissions of you, your employees, agents and subcontractors.
- C. At the City Corporation Counsel's option, you must defend all suits brought upon all such Losses and must pay all costs and expenses incidental to them, but the City has the right, at its option, to participate, at its own cost, in the defense of any suit, without relieving you of any of your obligations under this Agreement. Any settlement must be made only with the prior written consent of the City Corporation Counsel, if the settlement requires any action on the part of the City.
- D. To the extent permissible by law, you waive any limits to the amount of your obligations to indemnify, defend or contribute to any sums due under any Losses, including any claim by any of

your employees that may be subject to the Workers Compensation Act, 820 ILCS 305/1 et seq. or any other law or judicial decision (such as, Kotecki v. Cyclops Welding Corporation, 146 Ill. 2d 155 (1991)). The City, however, does not waive any limitations it may have on its liability under the Illinois Workers Compensation Act, the Illinois Pension Code or any other statute. Your waiver under this provision, however, is not intended and does not require you to indemnify the City for the City's own negligence in violation of the Construction Contract Indemnification for Negligence Act ("**Anti-Indemnity Act**"), 740 ILCS 35/0.01 et seq., if the Anti-Indemnity Act applies.

- E. The indemnities contained in this section survive expiration or termination of this Agreement for matters occurring or arising during the Term or as the result of or during your performance of Services beyond the Term. You acknowledge that the requirements set forth in this section to indemnify, keep and save harmless and defend the City are apart from and not limited by your duties under this Agreement, including the insurance requirements under Section 2.6, *Insurance*. If a court or other governmental authority having competent jurisdiction determines any portion or provision of this Section to be inoperative or unenforceable under the Anti-Indemnity Act, the inoperative or unenforceable portion or provision will be deemed severed and deleted, and the remaining provisions will remain enforceable to the maximum extent permitted by applicable law.

2.8 NON-EXPENDABLE PERSONAL PROPERTY

You will comply with all Federal, State and local laws and ordinances regarding property ownership, use and management.

You will request and receive written authorization from the City and CDC prior to the purchase of tangible personal property having a useful life of more than 1 year and an acquisition cost of \$5,000 or more per unit with funds received pursuant to this Agreement ("**Non-expendable Personal Property**"). All Non-expendable Personal Property will be the property of the City to the extent that such property is not the property of the federal government or the State of Illinois.

You will maintain a current inventory listing of such Non-expendable Personal Property and will deliver a copy of such listing to the City on an annual basis. You will comply with 45 CFR 92.32 or 45 CFR 74.34, as applicable, in your management of Non-expendable Personal Property.

You will return all Non-expendable Personal Property to the City, upon the termination of the Services, completion of this Agreement or at any time requested by the Department. However, upon the receipt of the final inventory of all Non-expendable Personal Property, the City may allow such property to remain in your possession if the City, in its sole discretion, determines that the Non-expendable Personal Property is necessary for the performance of any new or other services by you for the City.

When this Agreement expires or is terminated, you will return to the City the balance of any funds received under this Agreement and any accounts receivable attributable to those funds. In addition, if you acquired or improved real property with funds received under this Agreement, then you will comply with 45 CFR 92.31 or 45 CFR 74.32, as applicable.

2.9 SUBCONTRACTS

All subcontracts and all approvals of subcontractors, regardless of their form, will be deemed to be conditioned upon performance by the subcontractor in accordance with the terms and conditions of this Agreement. The approval of subcontractors will under no circumstances operate to relieve you of any of your obligations or liabilities under this Agreement.

Upon entering into any subcontract, you will furnish the City with one copy of the subcontract for distribution to the Department. All subcontracts will contain provisions that require the Services to be performed in strict accordance with the terms and conditions of this Agreement and that the subcontractor is subject to all of the terms and conditions of this Agreement, including the rights of the City to approve or disapprove of the use of any subcontractor. As long as such subcontracts do not prejudice any of the City's rights under this Agreement and do not affect the quality of the Services to be rendered in any way, subcontracts may contain different provisions than are provided in this Agreement.

2.10 PROGRAM INCOME

You will return to the City all gross income received by you that is directly generated by the use of funds received from the City ("**Program Income**"), in any form or manner the City requires. Program Income is defined in the applicable provisions of 45 CFR 92.25 or 45 CFR 74.24, as applicable. The City may require you to return all or part of any Program Income balances you hold at the end of the program year, subject to the exceptions described in 45 CFR 92.25 or 45 CFR 74.24, as applicable.

2.11 RELIGIOUS ACTIVITIES

- A. You warrant that you will not engage in any inherently religious activities, such as worship, religious instruction, or proselytization, as part of or while carrying out the funded programs or services.
- B. You warrant that if you do engage in inherently religious activities, such as worship, religious instruction, or proselytization,
 - i. such activities will always be conducted separately, in time or location, from the funded programs or services; and
 - ii. any participation in such activities on the part of beneficiaries of the funded programs or services must be wholly voluntary.
- C. You warrant that you will not discriminate against a beneficiary or prospective beneficiary of the funded programs or services on the basis of religion, religious belief, or participation or nonparticipation in any inherently religious activities.
- D. If the Agreement involves any grant of funds for the acquisition, construction, or rehabilitation of structures, you warrant:
 - i. The room or space that the Grant funds will be used to acquire, construct or rehabilitate is not your primary place of worship; and
 - ii. Grant funds will be used only for those portions of the acquisition, construction, or rehabilitation of the structures that are attributable to eligible activities; and
 - iii. If in the future the structure is used for inherently religious activities or otherwise ceases being used for eligible activities, you will adhere to the rules on real property use and disposition and government reimbursement found in 45 CFR 92.31 or 45 CFR 74.32, as applicable.
- E. For purposes of this section, "beneficiary" means a child participating in a Program and, in addition, his or her parents, guardians, other responsible adults and family members.

2.12 DRUG-FREE WORKPLACE

You certify that neither you nor your employees shall engage in the unlawful manufacture, distribution, dispensation, possession or use of a controlled substance in the performance of this Agreement. You must administer a policy designed to ensure that the program facility is free from the illegal use, possession, or distribution of drugs or alcohol by your beneficiaries. You must further maintain a drug free workplace in accordance with the requirements of the Drug Free Workplace Act of 1988 (Pub. L. 100-690 and 24 CFR 21), and the Illinois Drug Free Workplace Act (30 ILCS 580/1 et seq.) and must implement specific policies and guidelines as may be adopted by the City. In addition, you must execute certifications pursuant to the Drug Free Workplace Act of 1988, as may be requested by the Department.

You will establish procedures and policies to promote a drug free workplace. Further, you will notify all employees of your policy for maintaining a drug free workplace, and the penalties that may be imposed for drug abuse violations occurring in the workplace. You will notify the City if any of your employees are convicted of a criminal drug offense in the workplace no later than 10 calendar days after such conviction.

2.13 ACKNOWLEDGMENT OF FUNDING SOURCES

- A. You will not make any public announcement with respect to the Services without the prior written approval of the City and advance notice to CDC. You will conspicuously acknowledge the co-

sponsorship of the City and CDC on all promotional materials including, but not limited to, brochures, flyers, written or electronic public notices, news releases, public service announcements, acknowledgments at any special events intended to promote the Services, or solicitation of the private sector. You will not attribute any statement to the City without the City's prior written approval.

All reports, maps and other documents completed as part of this Agreement, other than documents exclusively for internal use within the City, will contain the following information in a conspicuous place on the front of the report, map or document:

- i. the name of the City of Chicago;
- ii. the month and year of preparation; and
- iii. the name of the project.

B. When issuing statements, press releases, requests for proposals, bid solicitations, and other documents describing projects or programs funded in whole or in part with federal money, you will clearly state:

- i. the percentage of the total costs of the program or project which will be financed with federal money;
- ii. the dollar amount of federal funds for the project or program; and
- iii. the percentage and dollar amount of the total costs of the project or program that will be financed by nongovernmental sources.

Such statement must not represent or suggest in any way that the views expressed are those of the federal government.

ARTICLE 3: REPORTING, MONITORING & DOCUMENTATION

3.1 REPORTING REQUIREMENTS

The City will set forth the specific reporting requirements, if any, in the Scope of Services (Work Program) attached as Exhibit B.

You agree, at all times during which you have active federal awards, to (a) maintain a current registration with the Central Contractor Registration (“**CCR**”) database or complete such other registration requirements as determined by the Director of the U.S. Office of Management and Budget, (b) obtain a Dun and Bradstreet Data Universal Numbering System (“**DUNS**”) number or update your existing DUNS record, one of the requirements for registration in the Central Contractor Registration, and (c) provide to the City all information required for reporting under the Federal Funding Accountability and Transparency Act (P.L. 109-282, as amended by Section 6202(a) of P.L. 110-252), including without limitation entity information, DUNS number, parent DUNS number, if applicable, and executive compensation data.

3.2 RECORDS

You will maintain and make available to the City information such as, but not limited to, dates of and reports or memoranda describing your activities that is necessary to assist the City in its compliance with all applicable laws. You will maintain all documents pertaining to this Agreement including, but not limited to, all financial, statistical, property and participant information documentation.

You will retain books, documentation, papers, records and accounts in connection with this Agreement in a safe place for at least **5 years** after the City and, if applicable, the federal government determines that you have met all closeout requirements for this Agreement (and, if later, (a) until any related litigation, claim or audit started during such 5-year period is finally resolved and (b) 4 years after disposing of any real property and equipment bought with Grant funds), and will keep them open to audit, inspection, copying, abstracting and transcription, and will make these records available to the City, CDC, or the United States Comptroller General at reasonable times during the performance of your Services and for the time period specified in this paragraph. You will comply with the record retention requirements contained in 45 CFR 92.42 and 45 CFR 74.53, as applicable.

If you conduct any business operations separate from the Services using any personnel, equipment, supplies or facilities also used in connection with this Agreement, then you will maintain and make available to the City, CDC and the United States Comptroller General detailed records supporting your allocation of the costs and expenses attributable to any such shared usages.

You will maintain books, records, and documents, and will adopt accounting procedures and practices sufficient to reflect properly all costs of whatever nature claimed to have been incurred and anticipated to be incurred for or in connection with the performance of this Agreement. This system of accounting must be in accordance with generally accepted federal accounting principles and practices, as set forth in the applicable OMB Circulars A-21, A-87, A-102, A-110, A-122 and A-133.

Your failure to maintain any books, records and supporting documents required by this Section will establish a presumption in favor of the City for the recovery of any funds paid under this Agreement for which adequate books, records, and supporting documentation are not available to support their purported disbursement.

No provision in this Agreement granting the City a right of access to records and documents impairs, limits or affects any right of access to such records and documents that the City would have had in the absence of such provisions.

You must maintain and provide to the City the following information and documents within the time periods indicated: (A) prior to this Agreement being fully executed, a copy of the executed lease for any real property you use in connection with the Services, an affidavit stating whether the landlord is a Related Party (as defined below), and with respect to any insurance, utility or other costs not based on your actual use, documentation satisfactory to the City in its sole discretion supporting the allocation of these costs to you; (B) within six months after the end of your fiscal year, annual financial statements that include a statement of your financial position and statement of activities, and a trial balance; provided, that delivery to the City of an audit conducted in accordance with OMB Circular A-133 and that satisfies all requirements described in Section 3.3, *Audit Requirement*, would satisfy the requirements of this clause (B); (C) within 30 days after the transaction occurs, a report of any transaction between you and any Related Party. For purposes of this Section 3.2, "**Related Party**" means any of your board members, officers or employees, and any relative of any of your board members, officers or employees.

3.3 AUDIT REQUIREMENT

If you are a not-for-profit corporation and are expending federal funds under this and other agreements totaling \$500,000 or more during your fiscal year, you must submit an audit conducted in accordance with the Single Audit Act Amendments of 1996 (31 U.S.C. 7501-07), OMB Circular A-133 (entitled "Audits of States, Local Governments and Non-Profit Organizations"), the compliance requirements set forth in OMB Compliance Supplement, and any additional testing and reporting required by the City. If an A-133 audit is required, that audit must cover the time period specified by OMB Circular A-133 and its implementing regulations. Organization-wide audited financial statements must, at a minimum, cover the Term.

If you are a for-profit corporation and are expending federal funds under this and other agreements totaling \$500,000 or more during your fiscal year, then you must submit a program-specific audit of the program(s) funded by the City under this Agreement. This audit must be performed in accordance with program-specific audit requirements contained in Section .235 of OMB Circular A-133, applicable program-specific audit guides, and with generally accepted government auditing standards (Government Auditing Standards). The audit must cover the time period specified by OMB Circular A-133 for program-specific audits. In addition to the audit opinion, reports, and schedules required by OMB Circular A-133, the program-specific audit shall include the following financial statements:

- Statement of Financial Position (Balance Sheet) (if applicable)
- Statement of Activities (Revenue and Expenses)

If your organization has expended federal funds under this and other agreements totaling less than \$500,000 during your fiscal year, you must submit to the City a notarized "Delegate Agency Certification of Federal Expenditures" form certifying that your organization is exempt from Federal audit requirements

Form REACH 2010: to be used only for Delegate Agency Grant Agreements funded wholly through the U.S. Department of Health and Human Services, Public Health Service, Centers for Disease Control and Prevention, REACH US Action Community Program (Rev 1/11)

for that year pursuant to OMB Circular A-133, Section .200(d). Copies of this Certification form may be obtained from the City's Office of Compliance.

You acknowledge that the City may perform, or cause to be performed, various monitoring procedures relating to your award(s) of federal funds, including, but not limited to, any audits or reviews related to compliance with the grant requirements.

You must submit the audit reports within 6 months after the end of the audit period. You must submit the audit, within this time frame, to the Department and to:

City of Chicago
Office of Compliance - Internal Audit Division
Attention: Circular A-133 Reviews
DePaul Center - Room 540
333 S. State Street
Chicago, IL 60604

If an OMB audit is required, you will also submit a copy of the audit via electronic submission, within the same time frame indicated in Sec. 320 of OMB Circular A-133, to the Federal Audit Clearinghouse using the Internet Data Entry System. Further, you must submit, with the audit, a report which comments on the findings and recommendations in the audit, including corrective action planned or taken. If no action is planned or taken, an explanation must be included. Copies of written communications on non-material compliance findings must be submitted to the Department and the City's Office of Compliance.

For fiscal years ending September 30, 2009 and later, all Single Audit reports filed with the Federal Audit Clearinghouse (FAC) will be made publicly available on the internet.

The City retains its right to independently audit you.

If you are found in non-compliance with these audit requirements, by either the City or any federal agency, you may be required to refund financial assistance received from the City or the applicable federal agency(ies).

Each of the City, CDC and/or the United States Comptroller General may in its sole discretion audit your records or those of your subcontractors, or both, at any time during the Term or within 5 years after the Agreement ends, in connection with the goods, work, or Services provided under this Agreement. Each calendar year or partial calendar year is considered an "audited period." If, as a result of such an audit, it is determined that you or any of your subcontractors have overcharged the City in the audited period, the City will notify you. You must then promptly reimburse the City for any amounts the City has paid you due to the overcharges and also some or all of the cost of the audit, as follows:

A. If the audit has revealed overcharges to the City representing less than 5% of the total value, based on the contract prices, of the goods, work, or Services provided in the audited period, then you must reimburse the City for 50% of the cost of the audit and 50% of the cost of each subsequent audit that the City conducts;

B. If, however, the audit has revealed overcharges to the City representing 5% or more of the total value, based on the contract prices, of the goods, work, or Services provided in the audited period, then you must reimburse the City for the full cost of the audit and of each subsequent audit.

If the City is unable to make a determination regarding overcharges to City as a result of your not having maintained records as required under this Agreement, you must promptly reimburse the City for some or all of the cost of the audit, as determined in the sole discretion of the City. Your failure to reimburse the City in accordance with this Section 3.3 is an event of default under this Agreement, and you will be liable for all of the City's costs of collection, including any court costs and attorneys' fees.

3.4 CONFIDENTIALITY

A. All reports, deliverables and documents prepared, assembled or encountered by or provided to you under this Agreement are property of the City and are confidential, and you warrant and

represent that, except as may be required by law, the reports, deliverables and documents will not be made available to any other individual or organization without the prior written consent of the Commissioner. You will implement measures to ensure that your staff and your subcontractors will be bound by this Section.

- B. You must not issue any publicity news releases or grant press interviews, and except as may be required by law during or after the performance of this Agreement, disseminate any information regarding your Services or the project to which the Services pertain without the prior written consent of the Commissioner.

If you are presented with a request for documents by any administrative agency or with a subpoena duces tecum regarding any records, data or documents which may be in your possession by reason of this Agreement, you must immediately give notice to the Commissioner and the City's Corporation Counsel with the understanding that the City will have the opportunity to contest such process by any means available to it, before such records or documents are submitted to a court or other third party. You will not be obligated to withhold such delivery beyond that time as may be ordered by the court or administrative agency, unless the subpoena or request is quashed or the time to produce is otherwise extended.

- C. To the extent not defined herein, the capitalized terms below and in Exhibit G will have the same meaning as set forth in the Health Insurance Portability and Accountability Act ("HIPAA"). See 45 CFR parts 160, 162 and 164. You and all your subcontractors must comply with HIPAA and all rules and regulations applicable to you or them including the Privacy Rule, which sets forth the Standards for Privacy of Individually Identifiable Health Information at 45 CFR part 160 and part 164 subparts A and E; the Standards for Electronic Transactions, which are located at 45 CFR parts 160 and 162 and the Security Standards, which are located at 45 CFR parts 160, 162 and 164. You must also comply with the Illinois AIDS Confidentiality Act (410 ILCS 305/1 through 16), the Illinois Mental Health and Developmental Disabilities Confidentiality Act (740 ILCS 110/1 through 17) and all other Illinois state statutes concerning the confidentiality, preservation, and disclosure of protected health information (as that term is defined in HIPAA) and the rules and regulations promulgated under those state statutes. If you fail to comply with the applicable provisions under HIPAA and the Illinois state statutes, rules and regulations concerning the confidentiality, preservation, and disclosure of protected health information, such failure will constitute an event of default under this Agreement for which no opportunity for cure will be provided. Additionally, if you are a Business Associate you must comply with all requirements of HIPAA applicable to Business Associates including the provisions contained in Exhibit G. You shall maintain for a minimum of six (6) years all protected health information.

3.5 MONITORING

You will allow the City:

- A. to have access at all times to all facilities supported under this Agreement whenever requested by appropriate staff members of the City;
- B. to have access at all times to all staff supported under this Agreement whenever requested;
- C. to make physical inspections of the premises you use in the performance of the Services and to require such physical safeguards to safeguard the property and/or equipment authorized including, but not limited to, requiring locks, alarms, safes, fire extinguishers and sprinkler systems; and
- D. to be present at any and all meetings held by you, including, but not limited to, staff meetings, board of directors meetings, advisory committee meetings and advisory board meetings, if an item relating to this Agreement is to be discussed.

You must make staff available on a regular basis at meetings convened by the Department, for the purpose of, but not limited to, making presentations, answering questions, and addressing issues related to the Services. Your chief executive officer, or his or her designee, will participate in all delegate agency conferences.

You must respond within 2 weeks to questionnaires, if any, regarding demographics, staff, quality, etc., from the Department.

Nothing in this Agreement will be construed as restricting or otherwise limiting the rights of the City toward the appropriate management of this program.

3.6 INTELLECTUAL PROPERTY

A. Patents and Copyrights

The City reserves an exclusive, perpetual and irrevocable license to reproduce, publish or otherwise use, and to authorize others to use, for City purposes, including, but not limited to, commercial exploitation:

- i. the copyright or patent in any work developed under this Agreement; and
- ii. any rights of copyright or patent to which you purchase ownership with the funds awarded pursuant to this Agreement.

If the federal government determines that a patent or copyright which is developed or purchased by you serves a federal government purpose, a royalty-free, non-exclusive and irrevocable license will vest in the federal government.

Any discovery or invention arising out of, or developed in conjunction with the Services will be promptly and fully reported to the federal government for a determination as to whether patent protection on such invention or discovery should be sought. The rights to such patent will be administered as set forth above and in 37 CFR Part 401, "Rights to Inventions Made by Non-profit Organizations and Small Business Firms Under Government Grants, Contracts and Cooperative Agreements," and implementing regulations.

B. Ownership of Documents

All required submittals, including but not limited to work products, materials, documents, and reports, if any, described in Exhibit B, will be the property of the City. During the performance of the Services, you will be responsible for any loss or damage to the documents while they are in your possession and any such document lost or damaged will be restored at your expense. If not restorable, you will be responsible for any loss suffered by the City on account of such destruction. Full access to all finished or unfinished documents, data, studies and reports to be prepared by you hereunder during the performance of Services will be available to the City during normal business hours upon reasonable notice.

C. Hold Harmless

Unless prohibited by state law, upon request by the Federal government, you will indemnify, save, and hold harmless the City and its officers, agents, and employees acting within the scope of their official duties against any liability, including costs and expenses, resulting from any willful or intentional violation by you of proprietary rights, patents, copyrights, or rights of privacy, arising out of the publication, translation, reproduction, delivery, use, or disposition of any material or data produced under the Agreement.

3.7 TECHNICAL ASSISTANCE

You must attend at least one technical assistance session sponsored by the Department during the term of this Agreement.

ARTICLE 4: COMPENSATION

4.1 BASIS OF PAYMENT

You will be compensated for Services performed and costs incurred and paid directly by you pursuant to the Budget Summary, which is attached to this Agreement as Exhibit A and incorporated by reference as if fully set forth herein. Requests for budget revisions which do not affect the Maximum Compensation or Committed Compensation must be submitted for review and approval to the Department. If the

Department approves and signs the request for budget revision, the Department will forward the request to the City Comptroller for final review, approval and processing.

4.2 METHOD OF PAYMENT

You will submit **MONTHLY** requisitions for reimbursement identifying the payment due for the Services performed and/or costs incurred and paid directly by you in such detail and supported by such documents as the City may require. Requisitions must be submitted within 15 calendar days after the end of the month in which the Services were performed and/or costs were incurred. The City will reject any reimbursement requisition that includes costs that were incurred or paid by any party other than you. The requisitions for reimbursement will be on a form provided and approved by the City. The City will use reasonable efforts to respond to your requisition for reimbursement within 60 calendar days after submission by either (a) processing the payment or (b) notifying you of the way in which the requisition is deficient and the adjustments you must make in order to receive payment. Within 45 days after receiving such notification from the City, and after completing such adjustment, you may resubmit a revised requisition for reimbursement and the City thereafter will use reasonable efforts to respond to your request within thirty (30) days by either (a) processing the payment or (b) notifying you of the way in which the requisition is deficient and the adjustments you must make in order to receive payment.

The requests for reimbursement and supporting documents will be sent to the Department's Mailing Address noted in the preamble of this Agreement.

You waive all rights to payment if the requisition for reimbursement is submitted later than 15 calendar days following the termination or completion of this Agreement. Costs incurred by you after the expiration date or after earlier termination of this Agreement will not be paid by the City.

4.3 REDUCTION OF COMPENSATION

If, after this Agreement is signed, anticipated local, federal and/or state funding is reduced for any reason, or the City determines in its sole discretion that your performance is not satisfactory, then the City reserves the right upon written notice to you to reduce or modify the Maximum Compensation, the Committed Compensation, the time for performance and/or the number of unfilled participant slots. If local, federal and/or state appropriations are reduced to such an extent that, in the sole discretion of the City, no funds will be available to compensate you under this Agreement, then the City will provide you notice of such occurrence. The notice will constitute notice of early termination in accordance with this Agreement.

If the Maximum Compensation and/or Committed Compensation is reduced, you will have 30 calendar days from the date of the written notice to submit a revised work program, budget or any other necessary document ("**Revised Submittals**") to the City reflecting the reduction in Maximum Compensation and/or Committed Compensation, as applicable, and accordingly modifying the Services to be performed. The City will have the discretion to modify the Revised Submittals as it may deem appropriate in order to realize the goals of this Agreement. The Revised Submittals will be reviewed by the Department. After (a) final approval and signature by the Department of the Revised Submittals and (b) final review and approval by the City Comptroller of the revised budget included in the Revised Submittals, the Revised Submittals will become a part of this Agreement superseding the relevant previous documents. If you fail to comply with the written notice or submit Revised Submittals which are not accepted by the City, you must perform this Agreement as originally executed for the reduced Maximum Compensation or, if less, the reduced Committed Compensation.

4.4 ALLOWABLE COSTS

All costs allowed by the City Comptroller's Office, are not considered final and may be disallowed upon the completion of audits ordered or performed by the City or the appropriate federal or state agency. In the event of a disallowance, you will refund the amount disallowed to the City.

ARTICLE 5: NON-SOLICITATION

You warrant and represent that you have not employed any person solely for the purpose of soliciting or procuring this Agreement, and have not made, and will not make, any payment or any agreement for the

payment of any commission, percentages brokerage, contingent fee or other compensation in connection with the procurement of this Agreement.

ARTICLE 6: DISPUTES

Except as otherwise provided in this Agreement, you must and the City may bring any dispute arising under this Agreement which is not resolved by the parties to the Chief Procurement Officer for decision based upon the written submissions of the parties. (A copy of the "Regulations of the Department of Procurement Services for Resolution of Disputes between Contractors and the City of Chicago" is available in City Hall, 121 N. LaSalle Street, Room 301, Bid and Bond Room, Chicago, Illinois 60602.) The Chief Procurement Officer will issue a written decision and send it to you by mail. The decision of the Chief Procurement Officer is final and binding. The sole and exclusive remedy to challenge the decision of the Chief Procurement Officer is judicial review by means of a common law writ of certiorari.

ARTICLE 7: EVENTS OF DEFAULT & REMEDIES

7.1 EVENTS OF DEFAULT DEFINED

In addition to any others mentioned elsewhere in this Agreement, the following constitute events of default:

- A. Any material misrepresentation, whether negligent or willful and whether in the inducement or in the performance, made by you to the City.
- B. Any material failure by you to perform any of your obligations under this Agreement including, but not limited to, the following:
 - i. Failure to perform the Services with sufficient personnel and equipment or with sufficient material to ensure the performance of the Services;
 - ii. Failure to have and maintain all professional licenses required by law to perform the Services;
 - iii. Failure to timely perform the Services;
 - iv. Failure to perform the Services in a manner satisfactory to the City, or inability to perform the Services satisfactorily as a result of insolvency, filing for bankruptcy or assignment for the benefit of creditors;
 - v. Failure to promptly re-perform within a reasonable time Services that were rejected as erroneous or unsatisfactory;
 - vi. Discontinuance of the Services for reasons or circumstances within your reasonable control;
 - vii. Failure to comply with any other material term or condition of this Agreement including, but not limited to, the provisions concerning insurance, compensation, reporting, monitoring, licensing and nondiscrimination;
 - viii. Failure promptly to update EDS(s) furnished in connection with this Agreement when the information or responses contained in it or them is no longer complete or accurate, including changes in ownership, and to provide the updated EDS(s) to the City as provided under Section 8.13, *Economic Disclosure Statement and Affidavit*, and
 - ix. Any other acts specifically stated in this Agreement as constituting an act or event of default.
- C. Your default under any other agreement you may presently have or may enter into with the City during the Term. You consent that in the event of a default under this Agreement, the City may also declare a default under any other agreements the City has with you.
- D. Your failure to comply with Section 8.5, *Compliance with all Laws*, in the performance of the Agreement.

- E. Your violations of City ordinance(s) unrelated to performance under the Agreement that in the opinion of the Commissioner indicate a willful or reckless disregard for City ordinances and regulations.
- F. Any action or failure to act by you that causes the City to be in violation of any agreements it has with Federal or State departments or agencies.
- G. Any change in ownership or control of you without the prior written approval of the Commissioner (when such prior approval is permissible by law), which approval the Commissioner will not unreasonably withhold.
- H. Your failure, or the failure by any party that is a Controlling Person (defined in Section 1-23-010 of the Municipal Code) with respect to you, to maintain eligibility to do business with the City in violation of Section 1-23-030 of the Municipal Code; such failure shall render this Agreement voidable or subject to termination, at the option of the Chief Procurement Officer. You agree that your failure to maintain eligibility (or failure by any Controlling Person with respect to you to maintain eligibility) to do business with the City in violation of Section 1-23-030 of the Municipal Code shall constitute an event of default.

7.2 REMEDIES

The occurrence of any event of default permits the City, at the City's sole option, to declare you in default. The City may in its sole discretion give you an opportunity to cure the default within a certain period of time, which period of time must not exceed 30 days unless extended by the City. Whether to declare you in default is within the sole discretion of the City and neither that decision nor the factual basis for it is subject to review or challenge, except to the extent that a statute or regulation applicable to the action involved entitles you to a hearing, appeal or other administrative proceeding.

The Commissioner will give you written notice of the default, either in the form of a cure notice ("**Cure Notice**"), or, if no opportunity to cure will be granted, a default notice ("**Default Notice**"). If the Commissioner gives a Default Notice, the Commissioner will also indicate any present intent the City may have to terminate this Agreement, and the decision to terminate is final and effective upon giving the notice. If the City decides not to terminate, this decision will not preclude the City from later deciding to terminate the Agreement in a later notice, which will be final and effective upon the giving of the notice or on the date set forth in the notice, whichever is later. The Commissioner may give a Default Notice if, within the cure period given in a Cure Notice, in the sole opinion of the City, you fail to effect a cure or fail to commence and continue diligent efforts to cure the event of default. When a Default Notice with intent to terminate is given as provided in this Section 7.2, you must discontinue any Services, unless otherwise directed in the notice, and deliver all materials accumulated in the performance of this Agreement, whether completed or in process, to the City.

Following or at the same time as the Default Notice, the City may invoke any or all of the following remedies:

- A. The right to take over and complete the Services or any part of them as agent for and at your cost, either directly or through others. You will have, in that event, the right to offset from the cost the amount it would have cost the City under the terms and conditions of this Agreement, had you completed the Services;
- B. The right to terminate this Agreement as to any or all of the Services yet to be performed effective at a time specified by the City;
- C. The right of specific performance, an injunction or any other appropriate equitable or legal remedy against you;
- D. The right to money damages;
- E. The right to withhold all or any part of your compensation;
- F. The right to deem you non-responsible in future contracts to be awarded by the City; and
- G. The right to declare default on any other contract or agreement you may have with the City.

If the City considers it to be in the City's best interests, it may elect not to declare default or to terminate the Agreement. The parties acknowledge that this provision is solely for the benefit of the City and that if the City permits you to continue to provide the Services despite one or more events of default, you will in no way be relieved of any of your responsibilities, duties or obligations under this Agreement nor will the City waive or relinquish any of its rights.

The remedies under the terms and conditions of the Agreement are not intended to be exclusive of any other remedies provided, but each and every such remedy is cumulative and is in addition to any other remedies, existing now or later, at law, in equity or by statute. No delay or omission to exercise any right or power accruing upon any event of default will impair any such right or power nor will it be construed as a waiver of any event of default or acquiescence in it, and every such right and power may be exercised from time to time and as often as the City deems expedient.

7.3 RIGHT TO OFFSET

To the extent permitted by applicable law:

- A. In connection with performance under this Agreement, the City may offset any incremental costs and other damages the City incurs in any or all of the following circumstances:
 - (i) if the City terminates this Agreement for default or any other reason resulting from your performance or non-performance;
 - (ii) if the City exercises any of its remedies under Section 7.2, *Remedies*, of this Agreement; or
 - (iii) if the City has any credits due or has made any overpayments under this Agreement.

The City may offset these incremental costs and other damages by use of any payment due for Services completed before the City terminated this Agreement or before the City exercised any remedies. If the amount offset is insufficient to cover those incremental costs and other damages, you are liable for and must promptly remit to the City the balance upon written demand for it. This right to offset is in addition to and not a limitation of any other remedies available to the City.

- B. As provided under Section 2-92-380 of the Municipal Code and in addition to any other rights and remedies (including any of set-off) available to the City under this Agreement or permitted at law or in equity, the City is entitled to set off a portion of the price or compensation due under this Agreement in an amount equal to the amount of the fines and penalties for each outstanding parking violation complaint and/or the amount of any debt owed by you to the City, as those terms are defined in Section 2-92-380.
- C. Without breaching this Agreement, the City may set off a portion of the price or compensation due under this Agreement in an amount equal to the amount of any liquidated or unliquidated claims that the City has against you unrelated to this Agreement. When the City's claims against you are finally adjudicated in a court of competent jurisdiction or otherwise resolved, the City will reimburse you to the extent of the amount the City has offset against this Agreement inconsistently with such determination or resolution.

7.4 SUSPENSION OF SERVICES

The City may, at any time, request that you suspend the Services, or any part of them, (a) by giving 15 calendar days prior written notice to you, (b) upon no notice in the event of emergency, or (c) upon no notice if the City determines that immediate suspension is necessary because of a serious risk of: (i) substantial injury to property or loss of project funds; or (ii) violation of a Federal, State, or local criminal statute; or (iii) if staff or participants' health and safety are at risk. No costs incurred after the effective date of the suspension will be allowed. You will promptly resume your performance of the Services under the same terms and conditions upon written notice by the City and such equitable extension of time as may be mutually agreed upon by the City and you when necessary for continuation or completion of the Services. Any additional costs or expenses you actually incur as a result of recommencing the Services will be treated in accordance with the compensation provisions under Article 4, *Compensation*, of this Agreement.

No suspension will, in the aggregate, exceed a period of 45 calendar days within any one contract year unless the City has declared a summary suspension and the conditions creating the summary suspension have not been corrected. If the total number of days of suspension exceeds 45 calendar days, you, by written notice to the City, may treat the suspension as an early termination of this Agreement by the City under Section 1.3, *Early Termination*.

7.5 NO DAMAGES FOR DELAY

Neither you nor your agents, employees, and subcontractors are entitled to any damages from the City, nor is any party entitled to be reimbursed by the City, for damages, charges or other losses or expenses incurred by you by reason of delays or hindrances in the performance of the Services, whether or not caused by the City. On notice to the City of a delay outside your control, you may request additional time to complete your performance. The decision to grant additional time is in the sole and absolute discretion of the City.

ARTICLE 8: MISCELLANEOUS PROVISIONS

8.1 WARRANTIES AND REPRESENTATIONS

You acknowledge, represent, warrant and covenant, as of the date of this Agreement and throughout the Term, that:

- A.** you are appropriately licensed and/or certified under Illinois law to perform the Services required under this Agreement and will perform no Services for which a professional license and/or certification is required by law and for which you are not appropriately licensed and/or certified;
- B.** no officer, agent or employee of the City is employed by you or has a financial interest directly or indirectly in this Agreement or the compensation to be paid, except as may be permitted in writing by the City's Board of Ethics; that no payment, gratuity or offer of employment will be made by or on behalf of any subcontractors of any tier, as an inducement for the award of a subcontract or order; you acknowledge that any agreement entered into, negotiated or performed in violation of any of the provisions of City's Ethics Ordinance, Municipal Code § 2-156 *et seq.*, is voidable by the City; in accordance with 41 U.S.C. § 22, you must not admit any member of or delegate to the United States Congress to any share or part of the Services or the Agreement, or any benefit derived therefrom; and
- C.** you are financially solvent; you and each of your employees, agents and subcontractors of any tier are competent to perform the Services required under this Agreement; and you are legally authorized to execute and perform or cause to be performed this Agreement under the terms and conditions stated in this Agreement;
- D.** you will not knowingly use the services of any ineligible contractor or subcontractor for any purpose in the performance of the Services under this Agreement;
- E.** you and your subcontractors are not in default at the time this Agreement is signed, and have not been deemed by the Chief Procurement Officer to have, within 5 years immediately preceding the date of this Agreement, been found to be in default on any contract awarded by the City of Chicago;
- F.** you have carefully examined and analyzed the provisions and requirements of this Agreement; you understand the nature of the Services required; from your own analysis you have satisfied yourself as to the nature of all things needed for the performance of this Agreement; this Agreement is feasible of performance in accordance with all of its provisions and requirements, and you warrant that you can and will perform, or cause to be performed, the Services in strict accordance with the provisions and requirements of this Agreement;
- G.** you and, to the best of your knowledge, your subcontractors are not in violation of the provisions of Section 2-92-320 of Chapter 2-92 of the Municipal Code, the Illinois Criminal Code, 720 ILCS 5/33E-1, and the Illinois Municipal Code, 65 ILCS 5/11-42.1-1;

- H. you and your subcontractors understand and will abide by all provisions of Chapter 2-26-010 et seq. of the Municipal Code;
- I. any certification, affidavit or acknowledgment made under oath in connection with this Agreement is made under penalty of perjury and, if false, is also cause for termination under Sections 1.3, *Early Termination*, and 7.1, *Events of Default Defined*, of this Agreement;
- J. any violation of Chapter 1-21 of the Municipal Code, *False Statements*, is also cause for termination under Sections 1.3 and 7.1 of this Agreement;
- K. neither you nor any Affiliate is listed on any of the following lists maintained by the Office of Foreign Assets Control of the U.S. Department of the Treasury, the Bureau of Industry and Security of the U.S. Department of Commerce or their successors, or on any other list of persons or entities with which the City may not do business under any applicable law, rule, regulation, order or judgment: the Specially Designated Nationals List, the Denied Persons List, the Unverified List, the Entity List and the Debarred List. "Affiliate," when used to indicate a relationship with a specified person or entity, means a person or entity that, directly or indirectly, through one or more intermediaries, controls, is controlled by or is under common control with such specified person or entity, and a person or entity shall be deemed to be controlled by another person or entity, if controlled in any manner whatsoever that results in control in fact by that other person or entity (or that other person or entity and any persons or entities with whom that other person or entity is acting jointly or in concert), whether directly or indirectly and whether through share ownership, a trust, a contract or otherwise; and
- L. you are current as to the filing and payment of any Governmental Charges (as defined in Section 8.5, *Compliance with all Laws*) and/or related returns and you are not delinquent in your payment of Governmental Charges.

8.2 INSPECTOR GENERAL

It is your duty and the duty of any bidder, proposer, contractor, subcontractor, and every applicant for certification of eligibility for a City contract or program, and all of your officers, directors, agents, partners, and employees and any such bidder, proposer, contractor, subcontractor or such applicant: (a) to cooperate with the Inspector General in any investigation or hearing undertaken pursuant to Chapter 2-56 of the Municipal Code and (b) to cooperate with the Legislative Inspector General in any investigation undertaken pursuant to Chapter 2-55 of the Municipal Code. You represent that you understand and will abide by all provisions of Chapters 2-56 and 2-55 of the Municipal Code and that you will inform subcontractors of this provision and require their compliance.

8.3 WHOLE AGREEMENT-INTEGRATION

This Agreement, including attached Exhibits A through G, constitutes the entire agreement between the parties, and no warranties, representations, inducements, considerations, promises or other inferences will be implied that are not expressly stated in the Agreement. Except as described in Section 8.4(A), *Modifications and Amendments*, no variation or amendment of this Agreement and no waiver of its provisions are valid unless in writing and signed by your duly authorized officers and those of the City. This Agreement supersedes all oral or written agreements or understandings on the subject of this Agreement between you and the City.

8.4 MODIFICATIONS AND AMENDMENTS

(A) This Agreement is subject to such modifications as the City determines may be required by changes in Federal, State or local law or regulations applicable to this Agreement. Any such required modification shall be incorporated into and become part of this Agreement as if fully set forth herein.

(B) Except as described in Section 8.4(A), no changes, amendments, modifications, cancellations or discharges of this Agreement, or any part of it are effective unless in writing and signed by you and the City, or their respective successors and assigns.

8.5 COMPLIANCE WITH ALL LAWS

(A) You must observe and comply with all applicable laws, ordinances, rules, executive orders and regulations of the federal, state, local and city government, which may in any manner affect the performance of this Agreement, all of which will be deemed to be included in this Agreement the same as though written herein in full. You are responsible for ensuring compliance with all applicable laws, rules and regulations, including but not limited to those specifically referenced herein, and for paying when due all Governmental Charges and obtaining all required licenses, certificates and other authorizations. Except where expressly required by applicable laws and regulations, the City shall not be responsible for monitoring your compliance. Notwithstanding anything in this Agreement to the contrary, references to a statute or law are considered to be a reference to (i) the statute or law as it may be amended from time to time; (ii) all regulations and rules pertaining to or promulgated pursuant to the statute or law; and (iii) all future statutes, laws, regulations, rules and executive orders pertaining to the same or similar subject matter.

(B) You have the right before any delinquency occurs to contest or object in good faith to the amount or validity of any Governmental Charge by appropriate legal proceedings properly and diligently instituted and prosecuted in such manner as shall stay the collection of the contested Governmental Charge and prevent the imposition of a lien or the sale or forfeiture of any program facility. No such contest or objection shall be deemed or construed in any way as relieving, modifying or extending your covenants to pay any such Governmental Charge at the time and in the manner provided in this Agreement unless you have given prior written notice to the City of your intent to contest or object to a Governmental Charge and, unless, at the City's sole option, (i) you shall demonstrate to the City's satisfaction that legal proceedings instituted by you contesting or objecting to a Governmental Charge shall conclusively operate to prevent or remove a lien against, or the sale or forfeiture of, all or any part of the program facility to satisfy such Governmental Charge prior to final determination of such proceedings; and/or (ii) you shall furnish a good and sufficient bond or other security satisfactory to the City in such form and amounts as the City shall require, or a good and sufficient undertaking as may be required or permitted by law to accomplish a stay of any such sale or forfeiture of the program facility during the pendency of such contest, adequate to pay fully any such contested Governmental Charge and all interest and penalties upon the adverse determination of such contest. "**Governmental Charge**" shall mean all Federal, State, county, City, or other governmental (or any instrumentality, division, agency, body, or department thereof) taxes, levies, assessments, charges, liens, claims or encumbrances relating to you, your operations, the program facility or the Services.

(C) If you are delinquent in filing and/or paying any Governmental Charges and/or related returns, the City in its sole discretion may continue to reimburse you for Services provided under this Agreement only if you (i) have entered into an installment payment agreement with the applicable authority, (ii) have delivered to the City a copy of such fully-signed installment payment agreement and (iii) remain in good standing therewith. You may not use funds you receive under this Agreement to discharge outstanding Governmental Charges.

8.6 COMPLIANCE WITH ACCESSIBILITY LAWS

You will comply with all accessibility standards for persons with disabilities or environmentally limited persons including, but not limited to: the Americans with Disabilities Act of 1990, 42 U.S.C. § 12101 et seq.; and the Rehabilitation Act of 1973, 29 U.S.C. §§ 793-794. In the event the above cited standards are inconsistent, you will comply with the standard providing greater accessibility.

8.7 NO FEDERAL, STATE OR CITY OBLIGATIONS TO THIRD PARTIES

You acknowledge that, absent the express written consent of the federal government and the State of Illinois, the State of Illinois and the federal government will not be subject to any obligations or liabilities to any person not a party to the grant agreement between the City and the State of Illinois or between the City and the federal government. Notwithstanding any concurrence provided by the State of Illinois or federal government in or approval of any solicitation, agreement, or contract, the State of Illinois and federal government continue to have no obligations or liabilities to any party, including you.

This Agreement is made for the sole benefit of the City and you and the respective successors and assigns of the City and you and no other party shall have any legal interest of any kind hereunder or by

reason of this Agreement. Whether or not the City elects to employ any or all of the rights, powers or remedies available to it hereunder, the City shall have no obligation or liability of any kind to any third party by reason of this Agreement or any of the City's actions or omissions pursuant hereto or otherwise in connection herewith.

8.8 NON-LIABILITY OF PUBLIC OFFICIALS

Neither you, your assignees, nor your subcontractors are permitted to charge personally any official, employee or agent of the City with any liability or expenses of defense or be held personally liable to you under any term or condition of this Agreement, because of the City's execution or attempted execution of this Agreement, or because of its breach.

8.9 INDEPENDENT CONTRACTOR

This Agreement is not intended to and will not constitute, create, give rise to, or otherwise recognize a joint venture, partnership, corporation or other formal business association or organization of any kind between the parties, and the rights, and the obligations of the parties will be only those expressly set forth in this Agreement. You will perform under this Agreement as an independent contractor to the City and not as a representative, employee, agent, or partner of the City.

8.10 INTERNATIONAL ANTI-BOYCOTT

You certify that neither you nor any substantially owned affiliated company of yours is participating or will participate in an international boycott, as defined by the provisions of the U.S. Export Administration Act of 1979 or its enabling regulations.

8.11 JOINT AND SEVERAL LIABILITY

If you, or your successors or assigns, are comprised of more than one person, then every obligation or undertaking to be fulfilled or performed by you will be the joint and several obligation or undertaking of each such person.

8.12 PROOF OF BUSINESS FORM

Upon request from the City, you will provide copies of your latest articles of incorporation, by-laws and resolutions, or partnership or joint venture agreement, as applicable, and evidence of your authority to do business in the State of Illinois, including without limitation, registrations of assumed names or limited partnerships and certifications of good standing with the Secretary of State of Illinois.

8.13 ECONOMIC DISCLOSURE STATEMENT AND AFFIDAVIT

You will use the City's online submission process to provide the City with a correctly completed Economic Disclosure Statement and Affidavit ("EDS"), which is incorporated by reference, and further will provide any other affidavits or certifications as may be required by federal, state or local law in the award of public contracts, all of which affidavits or certifications are incorporated by reference. You will cause your subcontractors or, if a partnership or joint venture, all members of the partnership or joint venture, to submit all required affidavits to the City. Notwithstanding acceptance by the City of the EDS, failure of the EDS to include all information required under the Municipal Code renders this Agreement voidable at the option of the City. You and any other parties required by this Section 8.13 to complete an EDS must promptly update their EDS(s) on file with the City whenever any information or response provided in the EDS(s) is no longer complete and accurate, including changes in ownership and changes in disclosures and information pertaining to ineligibility to do business with the City under Chapter 1-23 of the Municipal Code, as such is required under Sec. 2-154-020, and failure to promptly provide the updated EDS(s) to the City will constitute an event of default under this Agreement.

You certify, as further evidenced in the EDS, by your acceptance of this Agreement that neither you nor your principals is presently debarred, suspended, proposed for debarment, declared ineligible or voluntarily excluded from participation in this transaction by any federal department or agency. You further agree by executing this Agreement that you will include this clause without modification in all lower tier transactions, solicitations, proposals, contracts and subcontracts. If you or any lower tier participant is unable to certify to this statement, you must attach an explanation to the Agreement.

To the best of your knowledge and belief, you, your principals and key project personnel: (a) are not presently declared ineligible or voluntarily excluded from contracting with any Federal or State department or agency; (b) have not within a three-year period preceding this Agreement been convicted of any felony; been convicted of a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, State, or local) transaction or contract under a public transaction; had a civil judgment rendered against them for commission of fraud; been found in violation of Federal or State antitrust statutes; or been convicted of embezzlement, theft, larceny, forgery, bribery, falsification or destruction of records, making false statement, or receiving stolen property; and (c) are not presently indicted for or otherwise criminally or civilly charged by a government entity (Federal, State or local) with commission of any of the offenses enumerated in subparagraph (b) of this certification. Any request for an exception to the provisions of this paragraph must be made in writing, listing the name of the individual, home address, type of conviction and date of conviction.

8.14 CONFLICT OF INTEREST

No member of the governing body of the City or other units of government and no other officer, employee, or agent of the City or other unit of government who exercises any functions or responsibilities in connection with the Services will have any personal interest, direct, or indirect, in this Agreement. No member of or delegate to the Congress of the United States or the Illinois General Assembly and no alderman of the City or City employee will be admitted to any share or part of this Agreement or to any financial benefit to arise from it.

You covenant that you, your officers, directors and employees, and the officers, directors and employees of each of your members if a joint venture, and your subcontractors, presently have no interest and will acquire no interest, direct or indirect, that would conflict in any manner or degree with the performance of the Services. You further covenant that no person having any such interest will be employed. You acknowledge that if the City determines that any of your services for others conflict with the Services, you will terminate such other services immediately upon request of the City.

In addition to the conflict of interest requirements in OMB Circular A-110 and 46 CFR 92.36(b)(3) and 45 CFR 74.42, as applicable, no person who is an employee, agent, officer, or elected or appointed official of the City and who exercises or has exercised any functions or responsibilities with respect to assisted activities, or who is in a position to participate in a decision making process or gain inside information with regard to such activities, may obtain a financial interest or benefit from the activity, or have an interest in any contract, subcontract, or agreement or their proceeds, either for himself or herself or for those whom he or she has family or business ties, during his or her tenure or for one year thereafter.

Furthermore you warrant and represent that you are and will remain in compliance with federal restrictions on lobbying set forth in the Byrd Anti-Lobbying Amendments (31 U.S.C. § 1352), and in 45 CFR 93.

In addition, if State of Illinois funds are used for the Agreement, you must comply with the conflict of interest provisions contained in the Illinois Procurement Code (30 ILCS 500/50-13) and other provisions in the Illinois Procurement Code regarding participation in agreement negotiation by a State employee (30 ILCS 500/50-15).

You shall establish safeguards to prohibit officers, directors, agents, employees and family members from using positions of employment for a purpose that is, or gives the appearance of, being motivated by a desire for a private gain for themselves or others, particularly those with whom they have family business or other ties. Safeguards; evidenced by rules or bylaws, shall be established to prohibit persons from engaging in actions, which create or which appear to create a conflict of interest as described herein.

8.15 COOPERATION WITH CITY

You will cooperate fully with the City and act in the City's best interests. You agree to take such actions, including the execution and delivery of such documents, instruments, petitions and certifications as the City in its sole discretion deems necessary or appropriate to carry out the terms, provisions and intent of this Agreement. By way of example and without limitation, within 15 calendar days after the request of the City, you shall execute and deliver, and you shall not revoke, any tax information authorization or similar

form authorizing the City to inspect and/or receive your confidential information from any applicable tax authority.

If this Agreement is terminated for any reason, or if it is to expire on its own terms and conditions, you will make every effort to assure an orderly transition to another provider of the Services, if any, orderly demobilization of your own operations in connection with the Services, uninterrupted provision of Services during any transition period and will comply with the reasonable requests and requirements of the City in connection with the termination or expiration of this Agreement.

8.16 WAIVER

Nothing in this Agreement authorizes the waiver of any requirement or condition contrary to law or ordinance or which would result in or promote the violation of any federal, state or local law or ordinance.

Whenever the City, by a proper authority, waives your performance in any respect or waives a requirement or condition to either the City's or your performance, the waiver so granted, whether express or implied, will only apply to the particular instance and will not be deemed a waiver forever or for subsequent instances of the performance, requirement or condition. No waiver will be construed as a modification of the Agreement regardless of the number of times the City may have waived the performance, requirement or condition.

8.17 GOVERNING LAW

This Agreement is governed as to performance and interpretation in accordance with the laws of the State of Illinois.

8.18 SEVERABILITY

If any provision of the Agreement is held to be or in fact is illegal, inoperative or unenforceable on its face or as applied in any particular case, in any jurisdiction (or in all cases because it conflicts with any other provision of this Agreement, or any constitution, statute, municipal ordinance, rule of law or public policy, or for any other reason), that circumstances will not have the effect of rendering the provision in question inoperative or unenforceable in any other case or circumstance, or of rendering any other provision of this Agreement illegal, invalid, inoperative or unenforceable to any extent whatever. The invalidity of any one or more phrases, sentences, clauses or sections contained in this Agreement does not affect the remaining portions of this Agreement or any part of it.

8.19 INTERPRETATION

Any headings in this Agreement are for convenience of reference only and do not define or limit its provisions. Words importing the singular number include the plural number and vice versa, unless the context otherwise indicates. All references to any exhibit, appendix or document include all supplements and/or amendments to any such exhibits, appendixes or documents entered into in accordance with the terms and conditions of this Agreement. All references to any person or entity include any person or entity succeeding to the rights, duties, and obligations of the person or entity in accordance with the terms and conditions of this Agreement. In the event of any conflict between this Agreement and any exhibits to it, the terms and conditions in the body of this Agreement control.

8.20 NONASSIGNABILITY

You will not assign all or any part of your work or responsibilities under this Agreement without the prior written consent of the City; but any such consent will not relieve you of your obligations under this Agreement. Any transfer or assignment without the prior written consent of the City constitutes an event of default under this Agreement and is void as to the City. The City reserves the right to assign, in whole or in part, any funds, claims or interests, due or to become due, under this Agreement.

8.21 YOUR AUTHORITY

Your execution of this Agreement is authorized by a resolution or ordinance of your governing body. The signature of the individual signing on your behalf has been made with complete and full authority to

commit you to all the terms and conditions of this Agreement. Evidence of signature authority should be forwarded to the City with the executed Agreement.

8.22 DEEMED INCLUSION

Provisions required by law, ordinances, rules, regulations, or executive orders to be inserted in this Agreement are deemed inserted in this Agreement whether or not they appear in this Agreement or, upon application by either party, this Agreement will be amended to make the insertion; however, in no event will the failure to insert the provisions before or after this Agreement is signed prevent its enforcement.

ARTICLE 9: NOTICES

- A. All notices and communications to be provided by you and/or by the City under this Agreement must be in writing and may be delivered personally, by overnight courier or by First Class certified mail, return receipt requested, with postage prepaid and addressed as follows:

If to the City: The Department's mailing address noted in the preamble to this Agreement, with copies to:

Department of Law
City Hall, Room 600
121 North LaSalle Street
Chicago, Illinois 60602
Attention: Corporation Counsel

If to Subgrantee:

Your mailing address noted in the preamble to this Agreement.

Notices and communications delivered by mail are deemed received 3 business days after mailing in accordance with this Article 9. Communications delivered personally are deemed effective upon receipt. Those sent via overnight courier are deemed effective on the next business day. Refusal of delivery has the same effect as delivery.

- B. You must notify the City of any significant change in your organizational structure. Significant changes include, but are not limited to, changes in:
- i. the official(s) to whom notice regarding the Agreement is provided and their mailing address;
 - ii. the officers of the corporation, including president, chairman, vice president, treasurer, secretary; and
 - iii. your key staff and/or your program sites, including executive director, site director, fiscal director; name, ownership, Federal employer identification number (FEIN), DUNS number or taxpayer certification; legal status; and site address or agency official address, telephone numbers.

Such communication must be directed within 10 calendar days of such occurrence (or, in the case of changes in legal status, address, DUNS number, name, ownership, FEIN or taxpayer certification, 45 days in advance), to the Department's Mailing Address noted in this Agreement's Preamble.

No promise or undertaking made in this Agreement is an assurance that the City agrees to continue this Agreement should you reorganize, change owners, or otherwise substantially change the character of your corporate or other business structure.

ARTICLE 10: BUSINESS RELATIONSHIPS WITH ELECTED OFFICIALS

Under Section 2-156-030(b) of the Municipal Code, it is illegal for any elected official of the City, or any person acting at the direction of such official, to contact, either orally or in writing, any other City official or employee with respect to any matter involving any person with whom the elected official has a business relationship, or to participate in any discussion in any City Council committee hearing or in any City Council meeting or to vote on any matter involving the person with whom an elected official has a

business relationship. **Violation of Section 2-156-030(b) by any elected official with respect to this Agreement is grounds for termination of this Agreement.** The term business relationship is defined as set forth in Section 2-156-080 of the Municipal Code.

Section 2-156-080 defines a “**business relationship**” as any contractual or other private business dealing of an official, or his or her spouse or domestic partner, or of any entity in which an official or his or her spouse or domestic partner has a financial interest, with a person or entity which entitles an official to compensation or payment in the amount of \$2,500 or more in a calendar year; provided, however, a financial interest shall not include: (i) any ownership through purchase at fair market value or inheritance of less than one percent of the share of a corporation, or any corporate subsidiary, parent or affiliate thereof, regardless of the value of or dividends on such shares, if such shares are registered on a securities exchange pursuant to the Securities Exchange Act of 1934, as amended; (ii) the authorized compensation paid to an official or employee for his office or employment; (iii) any economic benefit provided equally to all residents of the City; (iv) a time or demand deposit in a financial institution; or (v) an endowment or insurance policy or annuity contract purchased from an insurance company. A “contractual or other private business dealing” shall not include any employment relationship of an official’s spouse or domestic partner with an entity when such spouse or domestic partner has no discretion concerning or input relating to the relationship between that entity and the City.

ARTICLE 11: LIVING WAGE ORDINANCE

- A. **Not-for-Profit Corporations:** If you are a corporation having federal tax-exempt status under Section 501(c)(3) of the Internal Revenue Code and are recognized under Illinois not-for-profit law, then the provisions of Sections B through F below do not apply.
- B. Section 2-92-610 of the Municipal Code provides for a living wage for certain categories of workers employed in the performance of City contracts, specifically non-City employed security guards, parking attendants, day laborers, home and health care workers, cashiers, elevator operators, custodial workers and clerical workers (“**Covered Employees**”).
- C. Accordingly, pursuant to Section 2-92-610 and regulations promulgated under it:
 - i. If you have 25 or more full-time employees, and
 - ii. If at any time during the performance of this Agreement, you and/or any subcontractor or any other entity that provides any portion of the Services (collectively “**Performing Parties**”) uses 25 or more full-time security guards, or any number of other full-time Covered Employees, then
 - iii. You must pay your Covered Employees, and must assure that all other Performing Parties pay their Covered Employees, not less than the minimum hourly rate as determined in accordance with this provision (the “**Base Wage**”) for all Services performed under this Agreement.
- D. Your obligation to pay, and to assure payment of, the Base Wage will begin at any time during the Term when the conditions set forth in C.i. and C.ii. above are met, and will continue until the end of the Term.
- E. As of July 1, 2009, the Base Wage became \$11.03 per hour, and each July 1 thereafter, the Base Wage will be adjusted, using the most recent federal poverty guidelines for a family of four as published annually by the U.S. Department of Health and Human Services, to constitute the following: the poverty guidelines for a family of four divided by 2000 hours or the current base wage, whichever is higher. At all times during the Term, you and all other Performing Parties must pay the Base Wage (as adjusted in accordance with the above). If the payment of prevailing wages is required for Services done under this Agreement, and the prevailing wages for Covered Employees are higher than the Base Wage, then you and all other Performing Parties must pay the prevailing wage rates.
- F. You must include provisions in all subcontracts requiring your subcontractors to pay the Base Wage to Covered Employees. You must provide the City with documentation acceptable to the

Chief Procurement Officer demonstrating that all Covered Employees, whether employed by you or by a subcontractor, have been paid the Base Wage, upon the City's request for such documentation. The City may independently audit you and/or subcontractors to verify compliance with this section. Failure to comply with the requirements of this section will be an event of default under this Agreement, and further, failure to comply may result in ineligibility for any award of a City contract or subcontract for up to 3 years.

ARTICLE 12: NOTICE OF CHANGE IN CIRCUMSTANCES

If you, your parent or related corporate entity, becomes a party to any litigation, investigation or transaction that may reasonably be considered to have a material impact on your ability to perform under this Agreement, you must immediately notify the City in writing. You must also notify the Department regarding incidents that significantly impact the health and safety of clients or incidents that could result in the interruption of service. You must follow procedures provided by the Department for reporting incidents.

You certify that you are not currently operating under or subject to any cease and desist order, or subject to any informal or formal regulatory action, and, to the best of your knowledge, that you are not currently the subject of any investigation by any state or federal regulatory, law enforcement or legal authority. Should you become the subject of an investigation by any state or federal regulatory, law enforcement or legal authority, you shall promptly notify the City of any such investigation. You acknowledge that should you later be subject to a cease and desist order or Memorandum of Understanding, or found in violation pursuant to any regulatory action or any court action or proceeding before any administrative agency, that the City is authorized to declare you in default of this Agreement and suspend or terminate this Agreement.

ARTICLE 13: PROHIBITION ON CERTAIN CONTRIBUTIONS MAYORAL EXECUTIVE ORDER No. 05-1

You agree that you, any person or entity who directly or indirectly has an ownership or beneficial interest in you of more than 7.5 percent ("**Owners**"), spouses and domestic partners of such Owners, your subcontractors, any person or entity who directly or indirectly has an ownership or beneficial interest in any subcontractors of more than 7.5 percent ("**Sub-owners**") and spouses and domestic partners of such Sub-owners (you and all the other preceding classes of persons and entities are together, the "**Identified Parties**"), shall not make a contribution of any amount to the Mayor of the City (the "**Mayor**") or to his political fundraising committee (i) after execution of this bid, proposal or Agreement by you, (ii) while this Agreement or any Other Contract is executory, (iii) during the term of this Agreement or any Other Contract between you and the City, or (iv) during any period while an extension of this Agreement or any Other Contract is being sought or negotiated.

You represent and warrant that since the date of public advertisement of the specification, request for qualifications, request for proposals or request for information (or any combination of those requests) or, if not competitively procured, from the date the City approached you or the date you approached the City, as applicable, regarding the formulation of this Agreement, no Identified Parties have made a contribution of any amount to the Mayor or to his political fundraising committee.

You agree that you shall not: (a) coerce, compel or intimidate your employees to make a contribution of any amount to the Mayor or to the Mayor's political fundraising committee; (b) reimburse your employees for a contribution of any amount made to the Mayor or to the Mayor's political fundraising committee; or (c) bundle or solicit others to bundle contributions to the Mayor or to his political fundraising committee.

You agree that the Identified Parties must not engage in any conduct whatsoever designed to intentionally violate this provision or Mayoral Executive Order No. 05-1 or to entice, direct or solicit others to intentionally violate this provision or Mayoral Executive Order No. 05-1.

You agree that a violation of, non-compliance with, misrepresentation with respect to, or breach of any covenant or warranty under this provision or violation of Mayoral Executive Order No. 05-1 constitutes a breach and default under this Agreement, and under any Other Contract for which no opportunity to cure

will be granted. Such breach and default entitles the City to all remedies (including without limitation termination for default) under this Agreement, under any Other Contract, at law and in equity. This provision amends any Other Contract and supersedes any inconsistent provision contained therein.

If you violate this provision or Mayoral Executive Order No. 05-1 prior to award of the Agreement resulting from this specification, the Commissioner may reject your bid.

For purposes of this provision:

"Bundle" means to collect contributions from more than one source which are then delivered by one person to the Mayor or to his political fundraising committee.

"Other Contract" means any other agreement with the City to which you are a party that is (i) formed under the authority of chapter 2-92 of the Municipal Code; (ii) entered into for the purchase or lease of real or personal property; or (iii) for materials, supplies, equipment or services which are approved or authorized by the city council.

"Contribution" means a "political contribution" as defined in Chapter 2-156 of the Municipal Code.

For purposes of this Article 13 only, individuals are **"Domestic Partners"** if they satisfy the following criteria: (a) they are each other's sole domestic partner, responsible for each other's common welfare; and (b) neither party is married, as marriage is defined under Illinois law; and (c) the partners are not related by blood closer than would bar marriage in the State of Illinois; and (d) each partner is at least 18 years of age, and the partners are the same sex, and the partners reside at the same residence; and (e) two of the following four conditions exist for the partners: (i) the partners have been residing together for at least 12 months, (ii) the partners have common or joint ownership of a residence, (iii) the partners have at least two of the following arrangements: (A) joint ownership of a motor vehicle; (B) a joint credit account; (C) a joint checking account; and (D) a lease for a residence identifying both domestic partners as tenants, and (iv) each partner identifies the other partner as a primary beneficiary in a will.

"Political fundraising committee" means a "political fundraising committee" as defined in Chapter 2-156 of the Municipal Code.

ARTICLE 14: COMPLIANCE WITH ENVIRONMENTAL AND SAFETY LAWS

You shall be subject to, obey and adhere to any and all federal, state and local laws, statutes, ordinances, codes, rules, regulations and executive orders relating to public health and safety and the environment as are now or may be in effect during the term of this Agreement which may be applicable to you, including but not limited to the following Sections of the Municipal Code of Chicago: Section 7-28-390, 7-28-440, 11-4-1410, 11-4-1420, 11-4-1450, 11-4-1500, 11-4-1530, 11-4-1550, or 11-4-1560, whether or not in the performance of this Agreement.

ARTICLE 15: INTERNET ACCESS

You must have Internet access at the site level. Internet access may be either dial-up or high speed/DSL. You must maintain at a minimum, one business e-mail address that will be the primary receiving point for all e-mail correspondence for the Department. You may list additional addresses at contract execution. The additional addresses may be for a specific department/division of yours or for specific employees. During any period that the Department directly funds your Internet service, you must use the Department assigned e-mail address as their primary e-mail address. You may list additional e-mail points of contact in the same manner as listed above. You must notify the Department of any e-mail changes within five business days from the effective date of the change.

ARTICLE 16: EXCLUDED PROVIDER WARRANTY AND INDEMNITY

You hereby represent and warrant that you and your employees and agents are not now and at no time have been excluded from participation in any federally funded health care program, including Medicare and Medicaid. This is an ongoing obligation of yours to ensure that you are not employing or contracting with individuals that have been sanctioned by the U.S. Department of Health and Human Services Office of Inspector General ("OIG") or barred from federal procurement programs. You shall check the OIG's cumulative sanctions reports and General Series Administration website on a monthly basis. You hereby agree to immediately notify the City of any threatened, proposed, or actual exclusion from any such

program of yours or any such program of any of your employees or agents. In the event that you or any of your employees or agents performing services hereunder are excluded from participation in any federally funded health care program during the term of this Agreement, or at any time after the effective date of this Agreement, you shall be deemed to be in breach of this section and this agreement shall, as of the effective date of such exclusion or breach, automatically terminate. You shall indemnify and hold harmless the City against all actions, claims, demands and liabilities, and against all loss, damage, and costs and expenses, including reasonable attorney's fees, arising directly or indirectly, out of any violation of this section or due to the exclusion of you or any of your employees and agents from a federally funded health care program, including Medicare or Medicaid.

Exhibit E
Delegate Agency Grant Agreement
REACH US Action Community Program

ADDITIONAL AGREEMENT PROVISIONS

E-1.1 CERTIFICATION REGARDING ENVIRONMENTAL TOBACCO SMOKE

The Subgrantee certifies that, in accordance with the Pro-Children Act of 1994 (the "Act")(Pub. L. 103-227), smoking must not be permitted in any portion of any indoor facility owned or leased or contracted for by Subgrantee and used routinely or regularly for the provision of health, day care, early childhood development services, education, or library services to children under the age of 18, if the services are funded by federal programs either directly or through state or local governments, by federal grant, contract, loan or loan guarantee. The Act also applies to children's services that are provided in indoor facilities that are constructed, operated or maintained with federal funds. The Act does not apply to children's services provided in private residences, portions of facilities used for inpatient drug or alcohol treatment, service providers whose sole source of applicable federal funds is Medicare or Medicaid or facilities where WIC coupons are redeemed. Failure to comply with the provisions of the Act may result in the imposition of a civil monetary penalty of up to \$1,000 per day and/or the imposition of an administrative compliance order on the responsible entity. The Subgrantee must require the language contained in this Section to be included in any subawards which contain provision for children's services, and that all subgrantees must certify accordingly.

E-1.2 CERTIFICATION AND RESTRICTIONS ON LOBBYING

- A.** You acknowledge that receipt of funds under this Agreement may require compliance with Section 319 of Public Law 101-121(31 U.S.C.A. 1352) regarding the certification and disclosure of lobbying activities with the Federal Government and agree to comply with those provisions, and all federal rules promulgated by CDC, the funding source for implementation of programs operated under this Agreement; and will require that this assurance of compliance is part of any subcontracts executed hereunder.

Subgrantee certifies that:

- 1.** No federal appropriated funds have been paid or will be paid, by or on behalf of Subgrantee, to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any federal contract, the making of any federal grant, the making of any federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any federal contract, grant, loan, or cooperative agreement.
- 2.** In addition, no part of federal appropriated funds will be used, other than for normal and recognized executive-legislative relationships, for publicity or propaganda purposes, for the preparation, distribution, or use of any kit, pamphlet, booklet, publication, radio, television, or video presentation designed to support or defeat legislation pending before the Congress or any State or local legislature, except in presentation to the Congress or any State or local legislature itself. No part of the federal appropriated funds will be used to pay the salary or expenses of any grant or contract recipient, or agent acting for such recipient, related to any activity designed to influence legislation or appropriations pending before the Congress or any State or local legislature.
- 3.** If any funds other than federally appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a

Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this federal contract, grant, loan, or cooperative agreement, the undersigned must complete and submit Standard Form-LLL "Disclosure of Lobbying Activities," in accordance with its instructions.

4. Subgrantee must require that the language of this certification be included in the award documents for all subawards at all tiers (including subcontracts, subgrants, and contracts under grants, loans and cooperative agreements) and that all subrecipients must certify and disclose accordingly.

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by 31U.S.C. 1352. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

- B. This Agreement is subject to the restrictions on lobbying found in 45 CFR Part 93 and Section 503 of Public Law 105-78. Section 503 provides, in part:
 1. No part of any appropriation contained in this Act shall be used, other than for normal and recognized executive-legislative relationships, for publicity or propaganda purposes, for the preparation, distribution, or use of any kit, pamphlet, booklet, publication, radio, television, or video presentation designed to support or defeat legislation pending before the Congress, except in presentation to the Congress itself or any State legislature.
 2. No part of any appropriation contained in this Act shall be used to pay the salary or expenses of any grant or contract recipient, or agency acting for such recipient, related to any activity designed to influence legislation or appropriations pending before the Congress or any State legislature.

E-1.3 COMPLIANCE WITH GRANT REGULATIONS Standard Form 424B (Rev. 7-97)

Subgrantee must comply with all applicable provisions of the Grant and must not cause the City to not be compliant with the Grant. Subgrantee must comply with, and certify that Subgrantee is in compliance with, all applicable laws (including implementing regulations), ordinances, policies, guidelines, procedures, regulations, rules, requirements and executive orders of the City of Chicago, the State of Illinois and all political subdivisions thereof, the federal government and CDC in the performance of this Agreement including, but not limited to, the following, in each case as amended from time to time:

- A. Public Health Service Act, as amended, Sections 301, 307, 310, 311, 317, 322(e), 325, 327, 328, 352, and 361 -369; Federal Mine Safety and Health Amendments Act of 1977, as amended; Occupational Safety and Health Act of 1970; Departments of Labor, Health and Human Services, and Education, and Related Agencies Appropriations Act of 1988, Public Law 100-202, and implementing regulations promulgated thereunder. The Uniform Administrative Requirements contained in 45 CFR Parts 74, 92 and 1300. 45 CFR Part 16 - ("Procedures of the Departmental Grant Appeals Board"); 45 CFR Part 75 ("Informal grant appeals procedures"), 45 CFR Part 81 ("Practice and procedure for hearings under Part 80 of Title 45"), 45 CFR Part 30 ("Claims Collection") and 45 CFR Part 100 ("Intergovernmental Review of DHHS Programs and Activities"). To the extent applicable in this Agreement, Subgrantee must comply with 45 CFR Part 46 (entitled "Protection of Human Subjects"). The HHS Grants Policy Statement.
- B. The Intergovernmental Personnel Act of 1970 (42 U.S.C. §§ 4728-4763).
- C. All federal statutes relating to nondiscrimination, including, but not limited to:

Form REACH 2010: to be used only for Delegate Agency Grant Agreements funded wholly through the U.S. Department of Health and Human Services, Public Health Service, Centers for Disease Control and Prevention, REACH US Action Community Program (Rev 1/11)

1. Title VI of the Civil Rights Act of 1964 (Pub. L. 88-352) which prohibits discrimination on the basis of race, color or national origin;
 2. Title IX of the Education Amendments of 1972 (20 U.S.C. §§ 1681-1683, 1685-1686) which prohibits discrimination on the basis of sex;
 3. Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. § 794) which prohibits discrimination on the basis of handicaps;
 4. Age Discrimination in Employment Act of 1967 and The Age Discrimination Act of 1975 (42 U.S.C. §§ 6101-6107) which prohibits discrimination on the basis of age;
 5. The Drug Abuse Office and Treatment Act of 1972 (Pub. L. 92-255) relating to nondiscrimination on the basis of drug abuse;
 6. The Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment and Rehabilitation Act of 1970 (Pub. L. 91-616) relating to nondiscrimination on the basis of alcohol abuse or alcoholism;
 7. Sections 523 and 527 of the Public Health Service Act of 1912 (42 U.S.C. §§ 290 dd-3 and 290 ee-3) relating to confidentiality of alcohol and drug abuse patient records;
 8. Title VIII of the Civil Rights Act of 1968 (42 U.S.C. § 3601 et seq.) relating to nondiscrimination in the sale, rental or financing of housing;
 9. The Civil Rights Restoration Act of 1987;
 10. Executive Order 12250;
 11. Federal Equal Pay Act of 1963;
 12. Civil Rights Act of 1991; and
 13. Executive Order 11063, as amended by Executive Order 12259; and
 14. Section 188 of the Workforce Investment Act of 1998 (20 U.S.C. 9201), and any other applicable nondiscrimination statutes.
- D. All environmental standards including, but not limited to, those standards which may be prescribed by:
1. National Environmental Policy Act of 1969 (Pub. L. 91-190) and Executive Order 11514
 2. Notification of violating facilities pursuant to Executive Order 11738;
 3. Protection of wetland pursuant to Executive Order 11990;
 4. Evaluation of flood hazards in floodplains in accordance with Executive Order 11988;
 5. Assurance of project consistency with the approved State management program developed under the Coastal Zone Management Act of 1972 (16 U.S.C. §§ 1451 et seq.);
 6. Conformity with the approved State Implementation Plan developed pursuant to Section 176(c) of the Clean Air Act of 1955 (42 U.S.C. § 7401 et seq.); and
 7. The protection of underground sources of drinking water under the Safe Drinking Water Act of 1974 (Pub. L. 93-523).
 8. The protection of endangered species under the Endangered Species Act of 1973, 16 U.S.C. § 1531 et seq.; and
 9. Section 102(a) of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234).
- E. The National Historic Preservation Act of 1966 (16 U.S.C. § 470), Executive Order 11593 and the Archeological and Historic Preservation Act of 1974 (16 U.S.C. § 469a-1 et seq.).
- F. An Act to Amend the Public Health Service Act to Establish a Program of National Research Service Awards to Assure to Continued Excellence of Biomedical and Behavioral Research and to Provide for the Protection of Human Subjects Involved in Biomedical and Behavioral Research and for Other Purposes (Pub. L. 93-348).
- G. The Laboratory Animal Welfare Act of 1966 (7 U.S.C. §§ 2131 et seq.).
- H. The Lead-Based Paint Poisoning Prevention Act (42 U.S.C. § 4801 et seq.); the Residential Lead-Based Paint Hazard Reduction Act of 1992 (Pub.L. 101-550; 42 U.S.C. 4851 et seq.) and implementing regulations at 24 CFR Part 35.
- I. The Single Audit Act of 1984 and the Single Audit Act Amendments of 1996.
- J. The Program Fraud Civil Remedies Act of 1986 (31 U.S.C. § 3801 et seq.) (in accordance therewith, the authorized official signing on your behalf certifies that the statements in this Agreement are true, complete and accurate to the best of his or her knowledge, and that he or

she is aware that any false, fictitious or fraudulent statements or claims may subject him or her to criminal, civil or administrative penalties, and agrees that you will comply with the terms and conditions with respect to the Grant).

- K. Subgrantee must comply with the applicable provisions of OMB Circulars A-21, A-87, A-102, A-110, A-122, A-128 and A-133, as amended, succeeded or revised.
- L. The Hatch Act (5 U.S.C. 1501-1508 and 7324-7328), which limits the political activities of employees whose principal employment activities are funded in whole or in part with federal funds.
- M. To the extent applicable in this Agreement, The Wild and Scenic Rivers Act of 1968 (16 U.S.C. §§ 1271 et seq.), the Davis-Bacon Act (40 U.S.C. §§ 276a to 276a-7), the Copeland Act (40 U.S.C. §§ 276c and 18 U.S.C. § 874), the Contract Work Hours and Safety Standards Act (40 U.S.C. §§ 327-333) and Title II and III of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (P.L. 91-646), and implementing regulations at 49 CFR 24.
- N. The Medicare and Medicaid anti-kickback statute (42 U.S.C. 1320a-7b(b))
- O. Government wide Debarment and Suspension (Nonprocurement) and Government wide Requirements for Drug- Free Workplace (Grants)(Executive Orders 12549 and 12689)
- P. Pursuant to the Trafficking Victims Protection Act of 2000, as amended (22 U.S.C. § 7104 et seq.), you and or your employees and subcontractor may not, under this Agreement, (a) engage in severe forms of trafficking in persons during the period of time that this Agreement is in effect; (b) procure a commercial sex act during the period of time that this Agreement is in effect; or (c) use forced labor in the performance of this Agreement. CDC or the City may terminate this Agreement without penalty, if you or any employee or subcontractor (i) engage in severe forms of trafficking in persons or have procured a commercial sex act during the period of time that this Agreement is in effect, or (ii) use forced labor in the performance of this Agreement.

E-1.4 To the greatest extent practicable, all equipment and products purchased with funds received from the City pursuant to this Agreement should be American-made.

E-1.5 The mandatory standards and policies relating to energy efficiency which are contained in the State of Illinois energy conservation plan issued in compliance with the Energy Policy and Conservation Act (Pub. L. 94-163).

E-1.6 None of the Federal funds provided under this Agreement shall be used to carry out any program for distributing sterile needles or syringes for the hypodermic injection of any illegal drug.

E-1.7 PREVAILING WAGE

You agree to comply and assure compliance with the requirements of 49 U.S.C. § 5333(a), the Davis-Bacon Act, 40 U.S.C. §§ 276 a(7), and implementing U.S. DOL regulation, "Labor Standards Provisions Applicable to Contracts Governing Federally Financed and Assisted Construction (also Labor Standards Provisions Applicable to Nonconstruction Contracts Subject to the Contract Work Hours and Safety Standards Act)," 29 CFR Part 5. In addition to other requirements that may apply, you agree to pay wages to laborers and mechanics performing contract work at a rate not less than the minimum wages specified in a wage determination issued by the U.S. Secretary of Labor and not less frequently than once a week. You agree to place a copy of the current prevailing wage determination issued by the U.S. DOL in each solicitation for subcontractor work under this Agreement, and agree to refrain from awarding any affected subcontract until the subcontractor agrees to the required wage determination. You further agree to report to DOL every suspected or reported violation of the Davis-Bacon Act or its Federal implementing regulations.

E-1.8 DRUG FREE WORKPLACE

Subgrantee will provide a drug free workplace by provision and enforcement of the following:

- a. Publishing a statement notifying employees that the unlawful manufacture, distribution, dispensing, possession or use of a controlled substance, including cannabis, is prohibited in Subgrantee's workplace and specifying the actions that will be taken against employees for violation of such prohibition.
- b. Establishing an ongoing drug free awareness program to inform employees about:
 1. The dangers of drug abuse in the workplace;
 2. The Subgrantee's policy of maintaining a drug free workplace;
 3. Any available drug counseling, rehabilitation and employee assistance programs; and
 4. The penalties that may be imposed upon employees for drug abuse violations occurring in the workplace.
- c. Providing a copy of the statement required by paragraph (a) to each employee engaged in the performance of the contract and posting a copy of the statement in a prominent place in the workplace.
- d. Notifying the employee in the statement required by paragraph (a) that, as a condition of employment under the contract, the employee will:
 1. Abide by the terms of the statement, and
 2. Notify the employer of any criminal drug statute conviction for a violation occurring in the workplace no later than five calendar days after such conviction.
- e. Notifying the Department in writing within ten calendar days after receiving notice under sub-paragraph d(2) from an employee or otherwise receiving actual notice of such conviction.
- f. Taking one of the following actions, within thirty calendar days of receiving notice under sub-paragraph d(2), with respect to any employee who is convicted:
 1. Taking appropriate personnel action against such an employee, up to and including termination, consistent with the requirements of the Rehabilitation Act of 1973, as amended; or
 2. Requiring such employee to participate satisfactorily in a drug abuse assistance or rehabilitation program approved for such purposes by a Federal, State or local health, law enforcement and/or other appropriate agency and as required by Section 5 of the Drugfree Workplace Act (30 ILCS 580/5).
- g. Making a good faith effort to continue to maintain a drug free workplace through implementation of paragraphs (a), (b), (c), (d), (e), and (f) and implementation of the Drugfree Workplace Act (30 ILCS 580/5).

E-1.9 ACKNOWLEDGMENT In accordance with Section 2.13, *Acknowledgement of Funding Sources*, all publication material, including but not limited to, publications, journal articles and pamphlets, must bear an acknowledgment and disclaimer, as appropriate, such as: "This publication [journal article, etc.] was supported by Financial Assistance Award Number 5U58DP000968-04 from the U.S. Department of Health and Human Services (DHHS), Public Health Service, Centers for Disease Control and Prevention ("CDC"). Its contents are solely the responsibility of the authors and do not necessarily represent the official views of DHHS or CDC."

Where a conference is funded under this Agreement, you must include the following statement on conference materials including promotional materials, agenda and Internet sites: "Funding for this conference was made possible (in part) by Cooperative Agreement Number 5U58DP000968-04 from the Centers for Disease Control and Prevention. The views expressed in written conference materials or publications and by speakers and moderators do not necessarily reflect the official policies of the

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Department of Health and Human Services; nor does mention of trade names, commercial practices, or organizations imply endorsement by the U.S. Government.”

Unauthorized use of the HHS name or logo is governed by U.S.C. 1320b-10, which prohibits the misuse of the HHS name and emblem in written communications. The appropriate use of the HHS logo is subject to the review and approval of the Office of the Assistant Secretary for Public Affairs.

Exhibit F
Delegate Agency Grant Agreement
REACH US Action Community Program

INSURANCE REQUIREMENTS

A. The kinds and amounts of insurance required are as follows:

1) Workers Compensation and Employers Liability

Workers Compensation as prescribed by applicable law covering all employees who are to provide a service under this Agreement and Employers Liability coverage with limits of not less than \$100,000 each accident, illness or disease.

2) Commercial General Liability (Primary and Umbrella)

Commercial General Liability Insurance or equivalent with limits of not less than \$500,000 per occurrence for bodily injury, personal injury, and property damage liability. Coverages must include the following: All premises and operations, products/completed operations, separation of insureds, defense, and contractual liability (not to include Endorsement CG 21 39 or equivalent). The City of Chicago is to be named as an additional insured on a primary, non-contributory basis for any liability arising directly or indirectly from the work or Services.

3) Automobile Liability (Primary and Umbrella)

When any motor vehicles (owned, non-owned and hired) are used in connection with work or Services to be performed, Subgrantee must provide Automobile Liability Insurance with limits of not less than \$300,000 per occurrence for bodily injury and property damage.

4) Professional Liability

When any professional consultants perform work or Services in connection with this Agreement, Professional Liability Insurance covering errors, omissions, or negligent acts, must be maintained with limits of not less than \$500,000. When policies are renewed or replaced, the policy retroactive date must coincide with, or precede, start of work or Services on this Agreement. A claims-made policy which is not renewed or replaced must have an extended reporting period of 2 years.

5) Medical/Professional Liability

When any medical Services are performed in connection with this Agreement, Medical/Professional Liability Insurance must be provided to include coverage for errors, omissions and negligent acts related to the rendering or failure to render professional, medical or health Services with limits of not less than \$500,000. When policies are renewed or replaced, the policy retroactive date must coincide with, or precede, start of work or Services on this Agreement. A claims made policy which is not renewed or replaced must have an extended reporting period of 2 years.

6) Builders Risk

When any Subgrantee performs any construction, including improvement, betterments, and/or repairs, Subgrantee must provide All Risk Builders Insurance to cover materials, supplies, equipment, machinery and fixtures that are part of the structure.

B. Related Requirements

If the coverages have an expiration or renewal date occurring during the time for performance of this Agreement, Subgrantee must furnish renewal certificates to the Federal Funds Insurance Unit at the address listed in Section 2.5 of this Agreement. The receipt of any certificate does not constitute agreement by the City that the insurance requirements in this Agreement have been fully met or that the insurance policies indicated on the certificate are in compliance with all Agreement requirements. The failure of the City to obtain certificates or other insurance evidence from Subgrantee is not a waiver by the City of any requirements for Subgrantee to obtain and maintain the specified coverages. Subgrantee must advise all insurers of the Agreement provisions regarding insurance. Non-conforming insurance does not relieve Subgrantee of your obligation to provide insurance as specified here. Nonfulfillment of the insurance conditions may constitute a violation of this Agreement, and the City retains the right to stop work or Services or terminate this Agreement until proper evidence of insurance is provided.

The insurance must provide for 30 days prior written notice to be given to the City in the event coverage is substantially changed, canceled or non-renewed.

All deductibles or self insured retentions on referenced insurance coverages must be borne by Subgrantee.

Subgrantee hereby waives and agrees to require their insurers to waive their rights of subrogation against the City of Chicago, its employees, elected officials, agents or representatives.

The coverages and limits furnished by Subgrantee in no way limit Subgrantee's liabilities and responsibilities specified within this Agreement or by law.

Any insurance or self insurance programs maintained by the City of Chicago do not contribute with insurance provided by Subgrantee under this Agreement.

The required insurance to be carried is not limited by any limitations expressed in the indemnification language in this Agreement or any limitation placed on the indemnity in this Agreement given as a matter of law.

If Subgrantee is a joint venture or limited liability company, the insurance policies must name the joint venture or limited liability company as a named insured.

Subgrantee must require all Subcontractors to provide the insurance required in this Agreement or Subgrantee may provide the coverages for Subcontractors. All Subcontractors are subject to the same insurance requirements of Subgrantee unless otherwise specified in this Agreement.

If Subgrantee or Subcontractors desire additional coverages, the party desiring additional coverages is responsible for the acquisition and cost of such additional protection.

Notwithstanding any provisions in this Agreement to the contrary, the City of Chicago's Risk Management Department maintains the right to modify, delete, alter or change these requirements.

C. If you need additional information related to insurance, please call the office of the City Comptroller, at (312) 744-7923.

Exhibit G
Delegate Agency Grant Agreement
REACH US Action Community Program

**COMPLIANCE WITH HEALTH INSURANCE PORTABILITY AND ACCOUNTABILITY ACT (HIPAA)
REQUIREMENTS**

1. You must not use or further disclose Protected Health Information ("PHI") other than as permitted or required by this Agreement or as Required by Law. (<http://www.hhs.gov/ocr/hipaa/>)
2. You must use appropriate safeguards to prevent the use or disclosure of PHI other than as provided for in this Agreement.
3. You must mitigate to the extent practicable any harmful effect that is known to you of a use or disclosure of PHI by you in violation of the requirements of this Agreement.
4. You must report any use or disclosure of the PHI not provided for by this Agreement to the City.
5. You must ensure that any agent, including a subcontractor, to whom you provide PHI received from, or created or received by you on behalf of the City agrees to the same restrictions and conditions that apply through this Agreement to you with respect to such information.
6. If you have PHI in a Designated Record Set then you must provide access, at the request of the City, and in the time and manner designated by the City, to PHI in a Designated Record Set, to City or, as directed by City, to an Individual in order to meet the requirements under 45 CFR 164.524.
7. If you have PHI in a Designated Record Set then you must make any amendments to PHI in a Designated Record Set that the City directs or agrees to pursuant to 45 CFR 164.526 at the request of City or an Individual, and in the time and manner designated by City.
8. You must make internal practices, books and records relating to the use and disclosure of PHI received from, or created or received by you on behalf of, City available to the City, or at the request of the City to the Secretary, in a time and manner designated by the City or the Secretary, for purposes of the Secretary determining City's compliance with the Privacy Rule.
9. You must document the disclosure of PHI and information relating to such disclosures as would be required for City to respond to a request by an Individual for an accounting of disclosures of PHI in accordance with 45 CFR 164.528.
10. You must provide to City or an Individual, in time and manner designated by City, information collected which relates to the disclosure of PHI, to permit City to respond to a request by an Individual for an accounting of disclosures of PHI in accordance with 45 CFR 164.528.
11. You must either return all PHI to the City or destroy it, at the City's option, upon termination or expiration of this Agreement.
12. You must implement administrative, physical, and technical safeguards that reasonably and appropriately protect the confidentiality, integrity, and availability of the electronic health information that you create, receive, maintain, or transmit on behalf of the City as required by 45 CFR part 164.
13. You must ensure that any agent, including a subcontractor, to whom you provide such information agrees to implement reasonable and appropriate safeguards to protect it.
14. You must report to the City any security incident of which you become aware.