

Specification No.: 130351  
Contract P.O. No.: \_\_\_\_\_  
Vendor No.: \_\_\_\_\_  
*City, State, or Federally Funded*

## **PROFESSIONAL SERVICES AGREEMENT**

**BETWEEN**

**THE CITY OF CHICAGO  
DEPARTMENT OF PUBLIC HEALTH**

**AND**

---



### **MASTER TASK ORDER CONTRACT**

#### **EVALUATION AND PLANNING SERVICES FOR VARIOUS SCOPE CATEGORIES:**

- 1.) EMERGENCY PREPAREDNESS, 2.) HIV/STI SERVICES, 3.) MATERNAL, CHILD & ADOLESCENT HEALTH (MCAH), 4.) CHRONIC DISEASES, 5.) INFECTIOUS DISEASES, 6.) ENVIRONMENTAL HEALTH, 7.) BEHAVIORAL HEALTH, 8.) POPULATION HEALTH**

**RAHM EMANUEL  
MAYOR**

**JAMIE L. RHEE  
CHIEF PROCUREMENT OFFICER**

## Table of Contents

<b>Article 1.</b>	<b>Introduction .....</b>	<b>1</b>
<b>Article 2.</b>	<b>Incorporation of Exhibits.....</b>	<b>1</b>
<b>Article 3.</b>	<b>Standard Terms And Conditions .....</b>	<b>2</b>
3.1.	General Provisions .....	2
3.1.1.	Definitions.....	2
3.1.2.	Interpretation of Contract .....	3
3.1.3.	Subcontracting and Assignment .....	4
3.1.4.	Contract Governance.....	5
3.1.5.	Confidentiality.....	8
3.1.6.	Indemnity.....	8
3.1.7.	Non-Liability of Public Officials .....	9
3.1.8.	Contract Extension Option.....	9
3.2.	Compensation Provisions.....	9
3.2.1.	Ordering, Invoices, and Payment.....	9
3.2.2.	Subcontractor Payment Reports.....	11
3.2.3.	Prompt Payment to Subcontractors .....	12
3.2.4.	General Price Reduction – Automatic Eligibility for General Price Reductions .....	13
3.3.	Compliance With All Laws.....	14
3.3.1.	General.....	14
3.3.2.	Federal Affirmative Action .....	14
3.3.3.	Civil Rights Act of 1964, Title VI, Compliance With Nondiscrimination Requirements ....	14
3.3.4.	Other Non-Discrimination Requirements.....	16
3.3.5.	Wages .....	18
3.3.6.	Economic Disclosure Statement and Affidavit and Appendix A ("EDS") .....	20
3.3.7.	Restrictions on Business Dealings.....	22
3.3.8.	Debts Owed to the City; Anti-Scofflaw, MCC Sect. 2-92-380 .....	23
3.3.9.	Other City Ordinances and Policies.....	23
3.3.10.	Compliance with Environmental Laws and Related Matters.....	25
	<b>3.3.9 Disclosure of Ownership Interest in Entities.....</b>	<b>28</b>
	<b>3.3.10 Ineligibility to do Business with the City of Chicago .....</b>	<b>28</b>
3.4.	Contract Disputes.....	28
3.4.1.	Procedure for Bringing Disputes to the Department.....	28
3.4.2.	Procedure for Bringing Disputes before the CPO .....	29
3.5.	Events of Default and Termination .....	29
3.5.1.	Events of Default.....	29
3.5.2.	Cure or Default Notice .....	30
3.5.3.	Remedies .....	30
3.5.4.	Non-Exclusivity of Remedies.....	31
3.5.5.	City Reservation of Rights.....	31
3.5.6.	Early Termination.....	31
3.6.	Department-specific Requirements.....	31
3.6.1.	Department of Aviation Standard Requirements.....	31
3.6.2.	Emergency Management and Communications (OEMC) Security Requirements .....	35
3.6.3.	Chicago Police Department Security Requirements.....	37
3.6.4.	Department of Water Management ("DOWM") Security Requirements .....	37

<b>Article 4. Standard Terms For FEDERALLY Funded Services .....</b>	<b>39</b>
4.1. Interest of Members of or Delegates to the United States Congress.....	39
4.2. False or Fraudulent Statements and Claims .....	40
4.2.1. Environmental Laws and Regulations.....	40
4.2.2. Anti-Lobbying and Debarment.....	41
4.2.3. No Exclusionary or Discriminatory Specifications.....	41
4.2.4. Preference for Recycled Products.....	41
4.2.5. Cargo Preference – Use of United States Flag Vessels .....	41
4.2.6. Fly America.....	41
4.2.7. No Federal Obligations to Third Parties.....	41
4.2.8. Contract Work Hours and Safety Standards Act.....	41
4.3. Contract termination: debarment .....	42
4.4. Certification Regarding Debarment, Suspension, Ineligibility And Voluntary Exclusion .....	42
4.4.1. Instructions for Certification – First Tier Participants.....	42
4.4.2. Instructions for Certification - Lower Tier Participants: .....	43
4.5. Certification Regarding Use Of Contract Funds For Lobbying .....	45
<b>Article 5. Standard Terms for Task-Order Professional Services Contracts .....</b>	<b>45</b>
5.1. Providing Services .....	45
5.2. Standard of Performance.....	45
5.3. Deliverables.....	46
5.4. Additional Services.....	46
5.5. Timeliness of Performance .....	47
5.6. Suspension .....	47
5.7. Personnel .....	47
5.7.1. Adequate Staffing .....	47
5.7.2. Key Personnel .....	47
5.7.3. Salaries and Wages .....	47
5.8. Ownership of Documents .....	48
5.9. Copyright Ownership and other Intellectual Property .....	48
5.9.1. Patents .....	48
5.9.2. Indemnity.....	49
5.10. Compliance with the Americans with Disabilities Act and Other Laws Concerning Accessibility.....	49
5.11. Cooperation .....	49
5.12. Reimbursement for Travel .....	49
<b>Article 6. Scope of Work and Detailed Specifications .....</b>	<b>50</b>
6.1. Scope of Services .....	50
6.2. List of Key Personnel.....	50
6.3. Term of Performance.....	50
6.4. Contract Extension Option.....	50
6.5. Payment .....	50
6.5.1. Basis of Payment.....	50
6.5.2. Method of Payment.....	50
6.5.3. Centralized Invoice Processing .....	50
6.5.4. Criteria for payment .....	51
6.6. Funding .....	52
6.7. State or Federal Funding Source.....	52

6.8.	Task Orders .....	52
6.9.	Full Discipline Team .....	54
<b>Article 7. Special Conditions Regarding Minority Business Enterprise Commitment and Women</b>		
<b>Business Enterprise Commitment For Task Order Services.....55</b>		
7.1.	Policy and Terms .....	55
7.2.	Definitions .....	56
7.3.	Joint Ventures .....	58
7.4.	Counting MBE/WBE Participation Toward the Task Order Specific Goals .....	59
7.5.	Regulations Governing Reductions to or Waiver of MBE/WBE Goals .....	61
7.5.1.	Direct / Indirect Participation .....	62
7.5.2.	Assist Agency Participation in wavier/reduction requests .....	63
7.5.3.	Impracticability .....	63
7.6.	Procedure to Determine Bid/Proposal Compliance .....	63
7.7.	Reporting Requirements During the Term of the Contract .....	65
7.8.	Changes to Compliance Plan.....	66
7.8.1.	Permissible Basis for Change Required.....	66
7.8.2.	Procedure for Requesting Approval .....	66
7.9.	Non-Compliance and Damages.....	67
7.10.	Arbitration.....	67
7.11.	Equal Employment Opportunity .....	68
7.12.	Attachments and Schedules .....	69
	Attachment A –Assist Agency List.....	70
	Attachment B - Sample Format for Requesting Assist Agency Comments on Bidder’s Request for Reduction or Waiver of MBE/WBE Goals .....	72
	Schedule B – Affidavit of Joint Venture .....	73
	Schedule C-1: Letter of Intent From MBE/WBE To Perform As Subcontractor, Supplier and/or Consultant.....	78
	Schedule D-1: Affidavit of Implementation of MBE/WBE Goals and Participation Plan .....	79
<b>Article 8. Insurance Requirements .....</b>		
<b>Article 9. Signature Page.....</b>		
<b>Exhibit 1: Detailed Scope of Services.....</b>		
<b>Exhibit 2: Compensation Schedule.....</b>		
<b>Exhibit 3: Certificate(s) of Insurance .....</b>		
<b>Exhibit 4: MBE/WBE Compliance Plan.....</b>		
<b>Exhibit 5: Economic Disclosure Statements and Disclosure of Retained Parties .....</b>		
<b>Exhibit 6: State of Illinois Drug Free Workplace Certification for Contractor and Subcontractors ....</b>		
<b>Exhibit 7: Local and Other Preferences, Adjustments to the Task Order Evaluation Score .....</b>		
<b>Exhibit 8: Contractual Requirements Related to HIPAA.....</b>		
<b>Exhibit 9: Data Protection Requirements for Contractors, Vendors, and Third-Parties .....</b>		

**ARTICLE 1. INTRODUCTION**

This Contract is entered into as of the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_ ("Effective Date") by and between \_\_\_\_\_, a \_\_\_\_\_ corporation ("Contractor"), and the City of Chicago, a municipal corporation and home rule unit of local government existing under the Constitution of the State of Illinois, acting through its Department of Procurement Services ("City"), at Chicago, Illinois.

The City requires planning now services in the areas(s) of 1.) EMERGENCY PREPAREDNESS, 2.) HIV/STI SERVICES, 3.) MATERNAL, CHILD & ADOLESCENT HEALTH (MCAH), 4.) CHRONIC DISEASES, 5.) INFECTIOUS DISEASES, 6.) ENVIRONMENTAL HEALTH, 7.) BEHAVIORAL HEALTH, 8.) POPULATION HEALTH

The City evaluated the Consultant's response to the Request for Qualifications (RFQ) and found the Consultant to be capable of performing the Services in the area(s) specified on the cover page of this Agreement. The Consultant represents and warrants that it is qualified and competent to perform the Services and has the necessary expertise and knowledge to complete the Services assigned to it in accordance with this Agreement.

The City may, but is not obligated to, issue Task Order Requests within the scope of this Agreement. If the City does so, and the Consultant submits a Proposal that is accepted by the City, the rendering of Services will be in accordance with this Agreement and the Task Order issued pursuant to the Task Order Request and Proposal. The City is not obligated to issue any Task Order Requests nor to issue any Task Orders under this Agreement.

The Contractor warrants that it is ready, willing and able to perform as of the effective date of this Contract to the full satisfaction of the City.

NOW, THEREFORE, the City and the Contractor Agree as Follows:

**ARTICLE 2. INCORPORATION OF EXHIBITS**

The following attached Exhibits are made a part of this contract:

- Exhibit 1: Scope of Services and Time Limits for Performance
  - Attachment A: Key Personnel
- Exhibit 2: Schedule of Compensation
- Exhibit 3: Certificates of Insurance
- Exhibit 4: MBE/WBE Compliance Plan
- Exhibit 5: Economic Disclosure Statements and Disclosure of Retained Parties
- Exhibit 6: State of Illinois Drug Free Workplace Certification for Contractor and Subcontractors
- Exhibit 7: Local and Other Preferences, Adjustments to the Task Order Evaluation Score
- Exhibit 8: Contractual Requirements Related to HIPAA
- Exhibit 9: Data Protection Requirements for Contractors, Vendors, and Third-Parties

## **ARTICLE 3. STANDARD TERMS AND CONDITIONS**

### **3.1. General Provisions**

#### **3.1.1. Definitions**

**"Addendum"** is an official revision of the Bid Documents issued by the Chief Procurement Office prior to Bid Opening Date.

**"Airports"** means Chicago O'Hare International Airport and Chicago Midway International Airport.

**"Airside"** means, generally, those areas of an Airport which requires a person to pass through a security checkpoint to access. References to "sterile areas" generally mean Airside areas within terminal buildings. References to "Airfield", "Aircraft Operations Area", "AOA", or "**Secured areas**" generally mean outdoor Airside areas or areas not accessible to passengers.

**"Attachments"** are all the exhibits and other documents attached to the Bid Documents and/or incorporated into the Contract by reference.

**"Bid"** refers to an offer made by a Bidder in response to an invitation for bids which includes a binding proposal to perform the Contract which the City may rely on and accept, or in the case of an RFP or RFQ, the submission/proposal in response to that solicitation which may be subject to negotiation.

**"Bidder"** is a person, firm, or entity submitting a Bid in response to an invitation for bids; for RFPs and RFQs, references may be made to "Respondents." Once the Contract is awarded the Contractor shall assume that all references to a Bidder or Respondent and such attendant obligations apply to the Contractor.

**"Bid Opening Date"** is the date and time publicly advertised by the Chief Procurement Officer as the deadline for submission of Bids; this may be referred to as a "Proposal Due Date" for RFP and RFQ solicitations.

**"Bid Documents"** means all the documents issued by the Chief Procurement Officer, or referenced by the Chief Procurement Officer as being available on the City's website and incorporated by such reference, in connection with an invitation for bids or proposals. Except for such Bid Documents as are posted on the City's website and incorporated by reference, all Bid Documents must be submitted by a bidder on the Bid Opening Date.

**"Business Day"** means business days (Monday through Friday, excluding legal holidays, or City shut-down days) in accordance with the City of Chicago business calendar.

**"Calendar Day"** means all calendar days in accordance with the world-wide accepted calendar.

**"Chief Procurement Officer"** abbreviated as "CPO" means the chief executive of the City's Department of Procurement Services ("DPS"), and any representative duly authorized in writing to act on the Chief Procurement Officer's behalf.

**"City"** means the City of Chicago, a municipal corporation and home rule government under Sections 1 and 6(a), Article VII, of the 1970 Constitution of the State of Illinois.

**"Commissioner"** means the chief executive of any City department that participates in this Contract (regardless of the actual title of such chief executive), and any representative duly authorized in writing to act on the Commissioner's behalf with respect to this Contract.

**"Contact Person"** means the Contractor's management level personnel who will work as liaison between the City and the Contractor and be available to respond to any problems that may arise in connection with Contractor's performance under the Contract.

**"Contract"** means, upon notice of award from the CPO, the contract consisting of all Bid Documents relating to a specific invitation for bids or proposals, and all amendments, modifications, or revisions made from time to time in accordance with the terms thereof. All such documents comprising the Contract are referred to as the "Contract Documents".

**"Contractor"** means the Bidder or Proposer (person, firm, or entity) that is awarded the Contract by the CPO. Any references to the Bidder or Proposer in the Contract Documents is understood to apply to the Contractor.

**"Department"** which may also be referred to as the using/user Department is the City Department which appears on the applicable Purchase Order Release for goods, work, or services provided under this Contract.

**"Detailed Specifications"** refers to the contract specific requirements that includes but is not limited to a detailed description of the scope, term, compensation, price escalation, and such other additional terms and conditions governing this specific Contract.

**"Force Majeure Event"** means an event beyond the reasonable control of a party to this Contract, which is limited to acts of God, explosion, acts of the public enemy, fires, floods, earthquakes, tornadoes, epidemics, quarantine restrictions, work stoppages not caused or unmitigated by the Contractor.

**"Holidays"** refers to the official City Holidays when the City is generally closed for business which includes: New Year's Day, Dr. Martin Luther King Jr.'s Birthday, Lincoln's Birthday, President's Day, Pulaski Day, Memorial Day, Independence Day, Labor Day, Columbus Day, Veteran's Day, Thanksgiving Day, and Christmas Day.

**"MCC"** is the abbreviation for the Municipal Code of Chicago.

**"Party"** or collectively "Parties" refers to the entities that have entered into this Contract including the Contractor and the City.

**"Purchase Order"** means a written purchase order from a Department referencing this Contract. Purchase Orders may also be referred to as "Blanket Releases".

**"Services"** refers to all work, services, and materials whether ancillary or as required by the Detailed Specifications that Contractor provides in performance of its obligations under this Contract.

**"Specification"** means the Bid Documents, including but not limited to the Detailed Specifications.

**"Subcontractor"** means any person or entity with whom the Contractor contracts to provide any part of the goods, services or work to be provided by Contractor under the Contract, including subcontractors of any tier, suppliers and material men, whether or not in privity with the Contractor.

### **3.1.2. Interpretation of Contract**

#### **3.1.2.1. Order of Precedence**

The order of precedence of the component contract parts will be as follows:

- If funded by the Federal government or State of Illinois, terms required by the Federal Government or State of Illinois, as applicable.
- Terms and Conditions of the City
- Addenda, if any
- Plans or drawings, if any
- Technical Specifications / Detailed Specifications / Scope of Work section
- Standard specifications of the State or Federal government.
- Standard specifications of the City
- Insurance Requirements
- MBE/WBE/DBE Special Conditions, if any
- Invitation to bid and proposal (bid) pages, if applicable
- Performance Bond, if required
- Bid Deposit, if required

### **3.1.2.2. Interpretation and Rules**

Unless a contrary meaning is specifically noted elsewhere, the phrases "as required", "as directed", "as permitted", and similar words mean the requirements, directions, and permissions of the Commissioner or CPO, as applicable. Similarly, the words "approved", "acceptable", "satisfactory", and similar words mean approved by, acceptable to, or satisfactory to the Commissioner or the CPO, as applicable.

The words "necessary", "proper", or similar words used with respect to the nature or extent of work or services mean that work or those services must be conducted in a manner, or be of a character which is necessary or proper for the type of work or services being provided in the opinion of the Commissioner and the CPO, as applicable. The judgment of the Commissioner and the CPO in such matters will be considered final.

Wherever the imperative form of address is used, such as "provide equipment required" it will be understood and agreed that such address is directed to the Contractor unless the provision expressly states that the City will be responsible for the action.

### **3.1.2.3. Severability**

The invalidity, illegality, or unenforceability of any one or more phrases, sentences, clauses, or sections in this Contract does not affect the remaining portions of this Contract.

### **3.1.2.4. Entire Contract**

The Contract Documents constitute the entire agreement between the parties and may not be modified except by the subsequent written agreement of the parties.

## **3.1.3. Subcontracting and Assignment**

### **3.1.3.1. No Assignment of Contract**

Pursuant to 65 ILCS 8-10-14, Contractor may not assign this Contract without the prior written consent of the CPO. In no case will such consent relieve the Contractor from its obligations, or change the terms of the Contract. The Contractor must notify the CPO, in writing, of the name of any proposed assignee and the reason for the assignment; consent to which is solely in the CPO's discretion.

### **3.1.3.2. Subcontracts**

No part of the goods, work, or services to be provided under this Contract may be subcontracted without the prior written consent of the CPO; but in no case will such consent relieve the Contractor from its obligations, or change the terms of the Contract. The Contractor must notify the CPO of the names of all Subcontractors to be used and shall not employ any that the CPO has not approved. Prior to proposing the use of a certain Subcontractor, the Contractor must verify that neither the Subcontractor nor any of its owners is debarred from or otherwise ineligible to participate on City contracts. This information can be found on the City's website:

[http://www.cityofchicago.org/city/en/depts/dps/provdrs/comp/svcs/debarred\\_firms\\_list.html](http://www.cityofchicago.org/city/en/depts/dps/provdrs/comp/svcs/debarred_firms_list.html)

Subcontracting of the services or work or any portion of the Contract without the prior written consent of the CPO is null and void. Further, the Contractor will not make any substitution of a previously approved Subcontractor without the prior written consent of the CPO; any substitution of a Subcontractor without the prior written consent of the CPO is null and void.

The Contractor will only subcontract with competent and responsible Subcontractors. If, in the judgment of the Commissioner or the CPO, any Subcontractor is careless, incompetent, violates safety or security rules, obstructs the progress of the services or work, acts contrary to instructions, acts improperly, is not responsible, is unfit, is incompetent, violates any laws applicable to this Contract, or fails to follow the requirements of this Contract, then the Contractor will, immediately upon notice from the Commissioner or the CPO, discharge or otherwise remove such Subcontractor and propose an acceptable substitute for CPO approval.



**3.1.3.3. No Pledging or Assignment of Contract Funds Without City Approval**

The Contractor may not pledge, transfer, or assign any interest in this Contract or contract funds due or to become due without the prior written approval of the CPO. Any such attempted pledge, transfer, or assignment, without the prior written approval of the CPO is void as to the City and will be deemed an event of default under this Contract.

**3.1.3.4. City's Right to Assign**

The City expressly reserves the right to assign or otherwise transfer all or any part of its interests in this Contract without the consent or approval of the Contractor.

**3.1.3.5. Assigns**

All of the terms and conditions of this Contract are binding upon and inure to the benefit of the parties hereto and their respective legal representatives, successors, transferees, and assigns.

**3.1.4. Contract Governance**

**3.1.4.1. Governing Law and Jurisdiction**

This Contract will be governed in accordance with the laws of the State of Illinois, without regard to choice of law principles. The Contractor hereby irrevocably submits, and will cause its Subcontractors to submit, to the original jurisdiction of those State or Federal courts located within the County of Cook, State of Illinois, with regard to any controversy arising out of, relating to, or in any way concerning the execution or performance of this Contract and irrevocably agrees to be bound by any final judgment rendered thereby from which no appeal has been taken or is available. The Contractor irrevocably waives any objection (including without limitation any objection of the laying of venue or based on the grounds of forum non conveniens) which it may now or hereafter have to the bringing of any action or proceeding with respect to this Contract in the jurisdiction set forth above.

**3.1.4.2. Consent to Service of Process**

The Contractor agrees that service of process on the Contractor may be made, at the option of the City, either by registered or certified mail addressed to the applicable office as provided for in this Contract, by registered or certified mail addressed to the office actually maintained by the Contractor, or by personal delivery on any officer, director, or managing or general agent of the Contractor. The Contractor designates and appoints the representative identified on the signature page hereto under the heading "Designation of Agent for Service Process", as its agent in Chicago, Illinois, to receive on its behalf service of all process (which representative will be available to receive such service at all times), such service being hereby acknowledged by such representative to be effective and binding service in every respect. Said agent may be changed only upon the giving of written notice by the Contractor to the City of the name and address of a new Agent for Service of Process who works within the geographical boundaries of the City of Chicago. Nothing herein will affect the right to serve process in any other manner permitted by law or will limit the right of the City to bring proceedings against the Contractor in the courts of any other jurisdiction.

**3.1.4.3. Cooperation by Parties and between Contractors**

The Parties hereby agree to act in good faith and cooperate with each other in the performance of this Contract. The Contractor further agrees to implement such measures as may be necessary to ensure that its staff and its Subcontractors will be bound by the provisions of this Contract. The City will be expressly identified as a third party beneficiary in the subcontracts and granted a direct right of enforcement thereunder.

Unless otherwise provided in Detailed Specifications, if separate contracts are let for work within or adjacent to the project site as may be further detailed in the Contract Documents, each Contractor must perform its Services so as not to interfere with or hinder the progress of completion of the work being performed by other contractors.

Each Contractor involved shall assume all liability, financial or otherwise, in connection with its contract, and shall protect and hold harmless the City from any and all damages or claims that may arise because of inconvenience, delay, or loss experienced by the Contractor because of the presence and operations of other contractors working within the limits of its work or Services. Each Contractor shall assume all responsibility for all work not completed or accepted because of the presence and operations of other contractors.

The Contractor must as far as possible, arrange its work and space and dispose of the materials being used, so as not to interfere with the operations of the other contractors within or adjacent to the limits of the project site.

**3.1.4.4. No Third Party Beneficiaries**

The parties agree that this Contract is solely for the benefit of the parties and nothing herein is intended to create any third party beneficiary rights for subcontractors or other third parties.

**3.1.4.5. Independent Contractor**

This Contract is not intended to and does 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 Contractor and the City. The rights and the obligations of the parties are only those set forth in this Contract. Contractor must perform under this Contract as an independent contractor and not as a representative, employee, agent, or partner of the City.

This Contract is between the City and an independent contractor and, if Contractor is an individual, nothing provided for under this Contract constitutes or implies an employer-employee relationship such that:

The City will not be liable under or by reason of this Contract for the payment of any workers' compensation award or damages in connection with the Contractor performing the Services required under this Contract.

Contractor is not entitled to membership in any City Pension Fund, Group Medical Insurance Program, Group Dental Program, Group Vision Care, Group Life Insurance Program, Deferred Income Program, vacation, sick leave, extended sick leave, or any other benefits ordinarily provided to individuals employed and paid through the regular payrolls of the City.

The City is not required to deduct or withhold any taxes, FICA or other deductions from any compensation provided to Contractor.

**3.1.4.6. Authority**

Execution of this Contract by the Contractor is authorized and signature(s) of each person signing on behalf of the Contractor have been made with complete and full authority to commit the Contractor to all terms and conditions of this Contract, including each and every representation, certification, and warranty contained herein, attached hereto and collectively incorporated by reference herein, or as may be required by the terms and conditions hereof. If other than a sole proprietorship, Contractor must provide satisfactory evidence that the execution of the Contract is authorized in accordance with the business entity(s) rules and procedures.

**3.1.4.7. Joint and Several Liability**

In the event that Contractor, or its successors or assigns, if any, is comprised of more than one individual or other legal entity (or a combination thereof), then and in that event, each and every obligation or undertaking herein stated to be fulfilled or performed by Contractor will be the joint and several obligation or undertaking of each such individual or other legal entity.

**3.1.4.8. Notices**

All communications and notices to the City from the Contractor must be faxed, delivered personally, electronically mailed or mailed first class, postage prepaid, to the Commissioner of the using

Department that appears on the applicable Purchase Order, with a copy to the Chief Procurement Officer, Room 806, City Hall, 121 N. LaSalle Street, Chicago, Illinois 60602.

A copy of any communications or notices to the City relating to Contract interpretation, a dispute, or indemnification obligations shall also be sent by the same means set forth above to the Department of Law, Room 600, City Hall, 121 N LaSalle Street, Chicago, Illinois 60602.

All communications and notices from the City to the Contractor, unless otherwise provided for, will be faxed, delivered personally, electronically mailed or mailed first class, postage prepaid, to the Contractor care of the name and to the address listed on the Bid Documents' proposal page. If this contract was awarded through a process that does not use bid or proposal documents, notices to contractor will be sent to an address specified in the Contract.

**3.1.4.9. Amendments**

Following Contract award, no change, amendment, or modification of the Contract Documents or any part thereof, is valid unless stipulated in writing and signed by the Contractor, Mayor, CPO, and Comptroller, unless specifically allowed for by the Contract Documents.

**3.1.4.10. No Waiver of Legal Rights**

Neither the acceptance by the City, or any representative of the City, nor any payment for or acceptance of the whole or any part of the deliverables, nor any extension of time, nor any possession taken by the City, shall operate as a waiver by the City of any portion of the Contract, or of any power herein reserved or any right of the City to damages herein provided.

A waiver of any breach of the Contract shall not be held to be a waiver of any other or subsequent breach. Whenever under this Contract the City by a proper authority waives the Contractor's performance in any respect or waives a requirement or condition to either the City's or the Contractor's performance, the waiver so granted, whether express or implied, shall only apply to the particular instance and will not be deemed a waiver forever or for subsequent instance of the performance, requirement, or condition. No such waiver shall be construed as a modification of this Contract regardless of the number of time the City may have waived the performance, requirement, or condition.

**3.1.4.11. Non-appropriation of Funds**

Pursuant to 65 ILCS 5/8-1-7, any contract for the expenditure of funds made by a municipality without the proper appropriation is null and void.

If no funds or insufficient funds are appropriated and budgeted in any fiscal period of the City for payments to be made under this Contract, then the City will notify the Contractor of that occurrence and this Contract shall 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 Contract are exhausted.

No payments will be made to the Contractor under this Contract beyond those amounts appropriated and budgeted by the City to fund payments under this Contract.

**3.1.4.12. Participation By Other Government Agencies**

Other Local Government Agencies (defined below) may be eligible to participate in this Contract if (a) such agencies are authorized, by law or their governing bodies, to execute such purchases, (b) such authorization is consented to by the City of Chicago's CPO, and (c) such purchases have no net adverse effect on the City of Chicago and result in no diminished services from the Contractor to the City's Departments.

Examples of such Local Government Agencies are: the Chicago Board of Education, Chicago Park District, City Colleges of Chicago, Chicago Transit Authority, Chicago Housing Authority, Chicago Board of Elections, Metropolitan Pier and Exposition Authority (McCormick Place, Navy Pier), and the Municipal Courts.

Said purchases will be made upon the issuance of a purchase order directly from the Local Government Agency. The City will not be responsible for payment of any amounts owed by any other Local Government Agencies, and will have no liability for the acts or omissions of any other Local Government Agency.

**3.1.5. Confidentiality**

All deliverables and reports, data, findings or information in any form prepared, assembled or encountered by or provided by Contractor under this Contract are property of the City and are confidential, except as specifically authorized in this Contract or as may be required by law. Contractor must not allow the Deliverables to be made available to any other individual or organization without the prior written consent of the City. Further, all documents and other information provided to Contractor by the City are confidential and must not be made available to any other individual or organization without the prior written consent of the City. Contractor must implement such measures as may be necessary to ensure that its staff and its Subcontractors are bound by the confidentiality provisions contained in this Contract.

Contractor 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 Contract, disseminate any information regarding its Services or the project to which the Services pertain without the prior written consent of the Commissioner.

If Contractor is 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 Contractor's possession by reason of this Contract, Contractor must immediately give notice to the Commissioner, CPO and the Corporation Counsel for the City with the understanding that the City will have the opportunity to contest such process by any means available to it before the records or documents are submitted to a court or other third party. Contractor, however, is not obligated to withhold the delivery beyond the time ordered by the court or administrative agency, unless the subpoena or request is quashed or the time to produce is otherwise extended.

**3.1.6. Indemnity**

Contractor must defend, indemnify, keep and hold harmless the City, its officers, representatives, elected and appointed officials, agents and employees (collectively, the "Indemnified Parties,") from and against any and all Losses (as defined below), in consequence of the granting of this Contract or arising out of or being in any way connected with the Contractor's performance under this Contract, except as otherwise provided in 740 ILCS 35 "Construction Contract Indemnification for Negligence Act" if it applies, including those related to: injury, death or damage of or to any person or property; any infringement or violation of any property right (including any patent, trademark or copyright); failure to pay or perform or cause to be paid or performed Contractors covenants and obligations as and when required under this Contract or otherwise to pay or perform its obligations to any subcontractor; the City's exercise of its rights and remedies under this Contract; and injuries to or death of any employee of Contractor or any subcontractor under any workers compensation statute. When 740 ILCS 35 applies, indemnification provided by the Contractor to the Indemnified Parties will be to the maximum extent permitted under applicable law.

"Losses" means, individually and collectively, liabilities of every kind, including monetary 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, fines, judgments or settlements, any or all of which in any way arise out of or relate to the negligent or otherwise wrongful errors, acts, or omissions of Contractor, its employees, agents and subcontractors.

The Contractor will promptly provide, or cause to be provided, to the Commissioner and the Corporation Counsel copies of such notices as Contractor may receive of any claims, actions, or suits as may be given or filed in connection with the Contractor's performance or the performance of any Subcontractor and for which the Indemnified Parties are entitled to indemnification hereunder.

At the City Corporation Counsel's option, Contractor 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 Contractor of any of its obligations under this Contract. 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.

The Contractor shall be solely responsible for the defense of any and all claims, demands, or suits against the Indemnified Parties, including without limitation, claims by an employee, subcontractors, agents, or servants of Contractor even though the claimant may allege that the Indemnified Parties were in charge of the work or service performed under the Contract, that it involves equipment owned or furnished by the Indemnified Parties, or allege negligence on the part of the Indemnified Parties. The City will have the right to require Contractor to provide the City with a separate defense of any such suit.

To the extent permissible by law, Contractor waives any limits to the amount of its obligations to indemnify, defend or contribute to any sums due to third parties arising out of any Losses, including but not limited to any limitations on Contractor's liability with respect to a claim by any employee of Contractor arising under the Workers Compensation Act, 820 ILCS 305/1 *et seq.* or any other related 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.

The indemnities in this section survive expiration or termination of this Contract for matters occurring or arising during the term of this Contract or as the result of or during the Contractor's performance of work or services beyond the term. Contractor acknowledges 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 the Contractor's duties under this Contract, including the insurance requirements set forth in the Contract.

#### **3.1.7. Non-Liability of Public Officials**

Contractor and any assignee or Subcontractor of Contractor must not charge any official, employee or agent of the City personally with any liability or expenses of defense or hold any official, employee or agent of the City personally liable to them under any term or provision of this Contract or because of the City's execution, attempted execution or any breach of this Contract.

#### **3.1.8. Contract Extension Option**

The City may extend this Contract once following the expiration of the contract term for up to 181 Calendar Days or until such time as a new contract has been awarded for the purpose of providing continuity of services and/or supply while procuring a replacement contract subject to acceptable performance by the Contractor and contingent upon the appropriation of sufficient funds. The CPO will give the Contractor notice of the City's intent to exercise its option to renew the Contract for the approaching option period.

### **3.2. Compensation Provisions**

#### **3.2.1. Ordering, Invoices, and Payment**

##### **3.2.1.1. Purchase Orders**

Requests for work, services or goods in the form of a Purchase Order will be issued by the Department and sent to the Contractor to be applied against the Contract. The Contractor must not honor any order(s), perform work or services or make any deliveries of goods without receipt of a Purchase Order issued by the City of Chicago. Any work, services, or goods provided by the Contractor without a Purchase Order is made at the Contractor's risk. Consequently, in the event such Purchase Order is not provided by the City, the Contractor releases the City from any liability whatsoever to pay for any work, services, or goods provided without said Purchase Order.

Purchase Orders will indicate quantities ordered for each line item, unit/total cost, shipping address, delivery date, fund chargeable information, catalog information (if applicable), and other pertinent instructions regarding performance or delivery.

### **3.2.1.2. Invoices**

If required by the Scope of Work / Detailed Specifications, original invoices must be sent by the Contractor to the Department to apply against the Contract. Invoices must be submitted in accordance with the mutually agreed upon time period with the Department. All invoices must be signed, dated and reference the City's Purchase Order number and Contract number. A signed work ticket, time sheets, manufacturer's invoice, if applicable, or any documentation requested by the Commissioner must accompany each invoice. If a Contractor has more than one contract with the City, separate invoices must be prepared for each contract in lieu of combining items from different contracts under the same invoice. Invoice quantities, description of work, services or goods, unit of measure, pricing and/or catalog information must correspond to the items on the accepted Price List or Proposal Pages or of the Bid Documents. If invoicing Price List/Catalog items, indicate Price List/Catalog number, item number, Price List/Catalog date and Price List/Catalog page number on the invoice.

### **3.2.1.3. Payment**

The City will process payment within sixty (60) calendar days after receipt of invoices and all supporting documentation necessary for the City to verify the satisfactory delivery of work, services or goods to be provided under this Contract.

Contractor may be paid, at the City's option, by electronic payment method. If the City elects to make payment through this method, it will so notify the Contractor, and Contractor agrees to cooperate to facilitate such payments by executing the City's electronic funds transfer form, available for download from the City's website at:

[http://www.cityofchicago.org/content/dam/city/depts/fin/supp\\_info/DirectDepositCityVendor.pdf](http://www.cityofchicago.org/content/dam/city/depts/fin/supp_info/DirectDepositCityVendor.pdf).

The City reserves the right to offset mistaken or wrong payments against future payments.

The City will not be obligated to pay for any work, services or goods that were not ordered with a Purchase Order or that are non-compliant with the terms and conditions of the Contract Documents. Any goods, work, or services which fail tests and/or inspections are subject to correction, exchange or replacement at the cost of the Contractor.

### **3.2.1.4. Electronic Ordering and Invoices**

The Contractor will cooperate in good faith with the City in implementing electronic ordering and invoicing, including but not limited to price lists/catalogs, purchase orders, releases and invoices. The electronic ordering and invoice documents will be in a format specified by the City and transmitted by an electronic means specified by the City. Such electronic means may include, but are not limited to, disks, e-mail, EDI, FTP, web sites, and third party electronic services. The CPO reserves the right to change the document format and/or the means of transmission upon written notice to the Contractor. Contractor will ensure that the essential information, as determined by the CPO, in the electronic document, corresponds to that information submitted by the Contractor in its paper documents. The electronic documents will be in addition to paper documents required by this Contract, however, by written notice to the Contractor, the CPO may deem any or all of the electronic ordering and invoice documents the official documents and/or eliminate the requirement for paper ordering and invoice documents.

### **3.2.1.5. City Right to Offset**

The City may offset against any invoice from Contractor any costs incurred by the City as a result of event of default by Contractor under this Contract or otherwise resulting from Contractor's performance or non-performance under this Contract, including but not limited to any credits due as a result of over-billing by Contractor or overpayments made by the City. If the amount offset is insufficient to cover those costs, Contractor is 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.

### **3.2.1.6. Records**

Upon request the Contractor must furnish to the City such information related to the progress, execution, and cost of the Services. All books and accounts in connection with this Contract must be open to inspection by authorized representatives of the City. The Contractor must make these records available at reasonable times during the performance of the Services and will retain them in a safe place and must retain them for a period that is the longer of five (5) years or as required by relevant retention schedules after the expiration or termination of the Contract.

### **3.2.1.7. Audits**

#### **3.2.1.7.1. City's Right to Conduct Audits**

The City may, in its sole discretion, audit the records of Contractor or its Subcontractors, or both, at any time during the term of this Contract or within five years after the Contract ends, in connection with the goods, work, or services provided under this Contract. Each calendar year or partial calendar year may be deemed an "audited period".

#### **3.2.1.7.2. Recovery for Over-Billing**

If, as a result of such an audit, it is determined that Contractor or any of its Subcontractors has overcharged the City in the audited period, the City will notify Contractor. Contractor must then promptly reimburse the City for any amounts the City has paid Contractor due to the overcharges and, depending on the facts, also some or all of the cost of the audit, as follows:

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 the Contractor 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;

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 Contractor must reimburse the City for the full cost of the audit and of each subsequent audit.

Failure of Contractor to reimburse the City in accordance with the foregoing is an event of default under this Contract, and Contractor will be liable for all of the City's costs of collection, including any court costs and attorneys' fees.

### **3.2.2. Subcontractor Payment Reports**

The Contractor must report payments to Subcontractors on a monthly basis in the form of an electronic report. Upon the first payment issued by the City to the Contractor for services performed, on the first day of each month and every month thereafter, email and/or fax notifications will be sent to the Contractor with instructions to report payments to Subcontractors that have been made in the prior month. This information must be entered into the Certification and Compliance Monitoring System (C2), or whatever reporting system is currently in place, on or before the fifteenth (15th) day of each month.

Once the Contractor has reported payments made to each Subcontractor, including zero dollar amount payments, the Subcontractor will receive an email and/or fax notification requesting that they log into the system and confirm payments received.

All monthly confirmations must be reported on or before the twentieth (20th) day of each month. Contractor and Subcontractor reporting to the C2 system must be completed by the 25th of each month or payments may be withheld.

All contracts between the Contractor and its Subcontractors must contain language requiring the Subcontractors to respond to email and/or fax notifications from the City requiring them to report payments received from the Contractor.

Access to the Certification and Compliance Monitoring System (C2), which is a web-based reporting system, can be found at: <https://chicago.mwdbe.com>

(Note: This site works for reporting all Subcontractor payments regardless of whether they are MBE/WBE/DBE or non-certified entities.)

If a Subcontractor has satisfactorily performed in accordance with the requirements of the Contract, Contractor must pay Subcontractor for such work, services, or materials within seven (7) calendar days of Contractor receiving payment from the City. Failure to comply with the foregoing will be deemed an event of default.

### **3.2.3. Prompt Payment to Subcontractors**

#### **3.2.3.1. Incorporation of Prompt Payment Language in Subcontracts**

Contractor must state the requirements of these Prompt Payment provisions in all Subcontracts and purchase orders. If Contractor fails to incorporate these provisions in all Subcontracts and purchase orders, the provisions of this Section are deemed to be incorporated in all Subcontracts and purchase orders. Contractor and the Subcontractors have a continuing obligation to make prompt payment to their respective Subcontractors. Compliance with this obligation is a condition of Contractor's participation and that of its Subcontractors on this Contract.

#### **3.2.3.2. Payment to Subcontractors Within Seven Days**

The Contractor must make payment to its Subcontractors **within 7 days** of receipt of payment from the City for each invoice, but only if the Subcontractor has satisfactorily provided goods or services or completed its work or services in accordance with the Contract Documents and provided the Contractor with all of the documents and information required of the Contractor. The Contractor may delay or postpone payment for a to a Subcontractor when the Subcontractor's work or materials do not comply with the requirements of the Contract Documents, the Contractor is acting in good faith, and not in retaliation for a Subcontractor exercising legal or contractual rights.

##### **3.2.3.2.1. Reporting Failures to Promptly Pay**

The City posts payments to prime contractors on the web at

<http://webapps.cityofchicago.org/VCSearchWeb/org/cityofchicago/vcsearch/controller/payments/begin.do?agencyId=city>.

If the Contractor, without reasonable cause, fails to make any payment to its Subcontractors and material suppliers **within 7 days** after receipt of payment under a City contract, the Contractor shall pay to its Subcontractors and material suppliers, in addition to the payment due them, interest in the amount of 2% per month, calculated from the expiration of the 14-day period until fully paid.

In the event that a Contractor fails to make payment to a Subcontractor within the 14-day period required above, the Subcontractor may notify the City by submitting a report form that may be downloaded from the DPS website at:

[http://www.cityofchicago.org/content/dam/city/depts/dps/ContractAdministration/StandardFormsAgreements/Failure to Promptly Pay Fillable Form 3 2013.pdf](http://www.cityofchicago.org/content/dam/city/depts/dps/ContractAdministration/StandardFormsAgreements/Failure%20to%20Promptly%20Pay%20Fillable%20Form%203%202013.pdf)

The report will require the Subcontractor to affirm that (a) its invoice to the Contractor was included in the payment request submitted by the contractor to the City and (b) Subcontractor has not, at the time of the report, received payment from the contractor for that invoice. The report must reference the payment (voucher) number posted on-line by the City in the notice of the payment to the contractor.

Subcontractors are hereby reminded that per Chapters 1-21, "False Statements," and 1-22, "False Claims," of the Municipal Code of Chicago, making false statements or claims to the City are violations of law and subject to a range of penalties including fines and debarment.

##### **3.2.3.2.2. Whistleblower Protection**



Contractor shall not take any retaliatory action against any Subcontractor for reporting non-payment pursuant to this Sub-Section 3.2.3. Any such retaliatory action is an event of default under this Contract and is subject to the remedies set forth in Section 3.5 hereof, including termination. In addition to those remedies, any retaliatory action by a contractor may result in a contractor being deemed non-responsible for future City contracts or, if, in the sole judgment of the Chief Procurement Officer, such retaliatory action is egregious, the Chief Procurement Officer may initiate debarment proceedings against the contractor. Any such debarment shall be for a period of not less than one year.

**3.2.3.3. Liquidated Damages for Failure to Promptly Pay**

Much of the City's economic vitality derives from the success of its small businesses. The failure by contractors to pay their subcontractors in a timely manner, therefore, is clearly detrimental to the City. Inasmuch as the actual damages to the City due to such failure are uncertain in amount and difficult to prove, Contractor and City agree that the Chief Procurement Officer may assess liquidated damages against contractors who fail to meet their prompt payment requirements. Such liquidated damages shall be assessed to compensate the City for any and all damage incurred due to the failure of the Contractor to promptly pay its subcontractors, and does not constitute a penalty. Any and all such liquidated damages collected by the City shall be used to improve the administration and outreach efforts of the City's Small Business Program.

**3.2.3.4. Action by the City**

Upon receipt of a report of a failure to pay, the City will issue notice to the contractor, and provide the contractor with an opportunity to demonstrate reasonable cause for failing to make payment within applicable period set forth in the Contract. The Chief Procurement Officer, in his or her sole judgment, shall determine whether any cause for nonpayment provided by a contractor is reasonable. In the event that the contractor fails to demonstrate reasonable cause for failure to make payment, the City shall notify the contractor that it will assess liquidated damages. Any such liquidated damages will be assessed according to the following schedule:

First Unexcused Report:	\$50
Second Unexcused Report:	\$100
Third Unexcused Report:	\$250
Fourth Unexcused Report:	\$500

**3.2.3.5. Direct Payment to Subcontractors By City**

The CPO may notify the Contractor that payments to the Contractor will be suspended if the CPO has determined that the Contractor has failed to pay any Subcontractor, employee, or workman, for work performed. If Contractor has not cured a failure to pay a Subcontractor, employee or workman within 10 days after receipt of such notice, the CPO may request the Comptroller to apply any money due, or that may become due, to Contractor under the Contract to the payment of such Subcontractors, workmen, and employees and the effect will be the same, for purposes of payment to Contractor of the Contract Price, as if the City had paid Contractor directly.

Further, if such action is otherwise in the City's best interests, the CPO may (but is not obligated to) request that the Comptroller make direct payments to Subcontractors for monies earned on contracts and the effect will be the same, for purposes of payment to Contractor of the Contract Price, as if the City had paid Contractor directly. The City's election to exercise or not to exercise its rights under this paragraph shall not in any way affect the liability of the Contractor or its sureties to the City or to any such Subcontractor, workman, or employee upon any bond given in connection with such Contract.

**3.2.4. General Price Reduction – Automatic Eligibility for General Price Reductions**

If at any time after the Bid Opening Date the Contractor makes a general reduction in the price of any goods, services or work covered by the Contract to its customers generally, an equivalent price reduction based on similar quantities and/or considerations shall apply to the Contract for the duration

of the contract period (or until the price is further reduced). Such price reduction will be effective at the same time and in the same manner as the reduction in the price to customers generally.

For purpose of this provision, a general price reduction will mean any reduction in the price of an article or service offered (1) to Contractor's customers generally, or (2) in the Contractor's price schedule for the class of customers, i.e., wholesalers, jobbers, retailers, etc., which was used as the basis for bidding on this Contract. An occasional sale at a lower price, or sale of distressed merchandise at a lower price, would not be considered a general price reduction under this provision.

The Contractor must invoice at such reduced prices indicating on the invoice that the reduction is pursuant to the General Price Reduction provision of the Contract. The Contractor, in addition, must within 10 calendar days of any general price reduction notify the CPO of such reduction by letter. Failure to do so will be an event of default. Upon receipt of any such notice of a general price reduction all participating Departments will be duly notified by the CPO.

Failure to notify the CPO of a General Price Reduction is an event of default, and the City's remedies shall include a rebate to the City of any overpayments.

### **3.3. Compliance With All Laws**

#### **3.3.1. General**

Contractor must observe and comply with all applicable federal, state, county and municipal laws, statutes, regulations, codes, ordinances and executive orders, in effect now or later and as amended whether or not they appear in the Contract Documents.

Provisions required by law, ordinances, rules, regulations, or executive orders to be inserted in the Contract are deemed inserted in the Contract whether or not they appear in the Contract.

Contractor must pay all taxes and obtain all licenses, certificates, and other authorizations required in connection with the performance of its obligations hereunder, and Contractor must require all Subcontractors to also do so. Failure to do so is an event of default and may result in the termination of this Contract.

#### **3.3.2. Federal Affirmative Action**

It is an unlawful employment practice for the Contractor (1) to fail or refuse to hire or to discharge any individual, or otherwise to discriminate against any individual with respect to his compensation, or the terms, conditions, or privileges of his employment, because of such individuals race, color, religion, sex, age, handicap or national origin; or (2) to limit, segregate, or classify his employees or applicants for employment in any way which would deprive or tend to deprive any individual of employment opportunities or otherwise adversely affect his status as an employee, because of such individuals race, color, religion, sex, age, handicap or national origin.

Contractor must comply with The Civil Rights Act of 1964, 42 U.S.C. sec. 2000 et seq. (1988), as amended. Attention is called to: Exec. Order No. 11,246,30 Fed. Reg. 12,319 (1965), reprinted in 42 U.S.C. 2000(e) note, as amended by Exec. Order No. 11,375,32 Fed. Reg. 14,303 (1967) and by Exec. Order No. 12,086,43 Fed. Reg. 46,501 (1978); Age Discrimination Act, 42 U.S.C. sec. 61 01-61 06 (1988); Rehabilitation Act of 1973, 29 U.S.C. sec. 793-794 (1988); Americans with Disabilities Act, 42 U.S.C. sec. 12102 et seq.; and 41 C.F.R. Part 60 et seq. (1990); and all other applicable federal laws, rules, regulations and executive orders.

#### **3.3.3. Civil Rights Act of 1964, Title VI, Compliance With Nondiscrimination Requirements**

During the performance of this contract, the contractor, for itself, its assignees, and successors in interest (hereinafter referred to as the "contractor") agrees as follows:

##### **3.3.3.1. Compliance with Federal Nondiscrimination Requirements**

The contractor will comply with federal nondiscrimination laws, regulations, and authorities, as they may be amended from time to time (Acts and Regulations), which include:

- Title VI of the Civil Rights Act of 1964 (42 U.S.C. § 2000d et seq., 78 stat. 252), (prohibits discrimination on the basis of race, color, national origin);
- 49 CFR part 21 (Non-discrimination In Federally-Assisted Programs of The Department of Transportation—Effectuation of Title VI of The Civil Rights Act of 1964);
- Section 504 of the Rehabilitation Act of 1973, (29 U.S.C. § 794 et seq.), as amended, (prohibits discrimination on the basis of disability); and 49 CFR part 27;
- The Age Discrimination Act of 1975, as amended, (42 U.S.C. § 6101 et seq.), (prohibits discrimination on the basis of age);
- The Civil Rights Restoration Act of 1987, (PL 100-209), (Broadened the scope, coverage and applicability of Title VI of the Civil Rights Act of 1964, The Age Discrimination Act of 1975 and Section 504 of the Rehabilitation Act of 1973, by expanding the definition of the terms “programs or activities” to include all of the programs or activities of the Federal-aid recipients, sub-recipients and contractors, whether such programs or activities are Federally funded or not);
- Titles II and III of the Americans with Disabilities Act of 1990, which prohibit discrimination on the basis of disability in the operation of public entities, public and private transportation systems, places of public accommodation, and certain testing entities (42 U.S.C. §§ 12131 – 12189) as implemented by Department of Transportation regulations at 49 CFR parts 37 and 38;
- Executive Order 12898, Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations, which ensures non-discrimination against minority populations by discouraging programs, policies, and activities with disproportionately high and adverse human health or environmental effects on minority and low-income populations;
- Executive Order 13166, Improving Access to Services for Persons with Limited English Proficiency, and resulting agency guidance, national origin discrimination under Title VI includes discrimination because of limited English proficiency (LEP). (70 Fed. Reg. at 74087 to 74100);
- Title IX of the Education Amendments of 1972, as amended, prohibits discrimination because of sex in education programs or activities (20 U.S.C. 1681 et seq);
- The Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, (42 U.S.C. § 4601), (prohibits unfair treatment of persons displaced or whose property has been acquired because of Federal or Federal-aid programs and projects);
- Airport and Airway Improvement Act of 1982, (49 USC § 471, Section 47123), as amended, (prohibits discrimination based on race, religion, color, national origin, or sex in any activity carried out with a grant from the FAA).

### **3.3.3.2. Non-discrimination**

The contractor, with regard to the work performed by it during the contract, will not discriminate on the grounds of race, color, or national origin in the selection and retention of subcontractors, including procurements of materials and leases of equipment. The contractor will not participate directly or indirectly in the discrimination prohibited by the Acts and the Regulations, including employment practices when the contract covers any activity, project, or program set forth in Appendix B of 49 CFR part 21 (Nondiscrimination in Federally-Assisted Programs of the US Department of Transportation).

### **3.3.3.3. Solicitations for Subcontracts, Including Procurements of Materials and Equipment**

In all solicitations, either by competitive bidding, or negotiation made by the contractor for work to be performed under a subcontract, including procurements of materials, or leases of equipment, each potential subcontractor or supplier will be notified by the contractor of the contractor's obligations under this contract and the Acts and the Regulations relative to Non-discrimination on the grounds of race, color, or national origin.

**3.3.3.4. Information and Reports**

The contractor will provide all information and reports required by the Acts, the Regulations, and directives issued pursuant thereto and will permit access to its books, records, accounts, other sources of information, and its facilities as may be determined by the City or applicable federal agency (e.g. Federal Aviation Administration, Federal Highway Administration, Federal Transit Authority, Transportation Security Administration, Department of Housing and Urban Development, etc.) providing funding to the City department(s) on this contract to be pertinent to ascertain compliance with such Acts, Regulations, and instructions. Where any information required of a contractor is in the exclusive possession of another who fails or refuses to furnish the information, the contractor will so certify to the sponsor or the federal agency, as appropriate, and will set forth what efforts it has made to obtain the information.

**3.3.3.5. Sanctions for Noncompliance**

In the event of a contractor's noncompliance with the Non-discrimination provisions of this contract, the City will impose such contract sanctions as it or the relevant federal funding agency may determine to be appropriate, including, but not limited to:

- A. Withholding payments to the contractor under the contract until the contractor complies; and/or
- B. Cancelling, terminating, or suspending a contract, in whole or in part.

**3.3.3.6. Incorporation of Provisions**

The contractor will include the provisions of above paragraphs 3.3.3.1, "Compliance With Regulations" through 3.3.3.6 "Incorporation of Provisions" in every subcontract, including procurements of materials and leases of equipment, unless exempt by the Acts, the Regulations and directives issued pursuant thereto. The contractor will take action with respect to any subcontract or procurement as the sponsor or the applicable federal agency may direct as a means of enforcing such provisions including sanctions for noncompliance. Provided, that if the contractor becomes involved in, or is threatened with litigation by a subcontractor, or supplier because of such direction, the contractor may request the sponsor to enter into any litigation to protect the interests of the sponsor. In addition, the contractor may request the United States to enter into the litigation to protect the interests of the United States.

**3.3.4. Other Non-Discrimination Requirements**

**3.3.4.1. Illinois Human Rights Act**

Contractor must comply with the Illinois Human Rights Act, 775ILCS 5/1-1 01 et seq., as amended and any rules and regulations promulgated in accordance therewith, including, but not limited to the Equal Employment Opportunity Clause, 445 Ill. Admin. Code 750 Appendix A.

Contractor must comply with the Public Works Employment Discrimination Act, 775 ILCS 10/0.01 et seq., as amended; and all other applicable state laws, rules, regulations and executive orders.

**3.3.4.2. Chicago Human Rights Ordinance MCC Ch. 2-160**

Contractor must comply with the Chicago Human Rights Ordinance, MCC Ch. 2-160, Sect. 2-160-010 et seq., as amended; and all other applicable municipal code provisions, rules, regulations and executive orders.

Contractor must furnish or shall cause each of its Subcontractors to furnish such reports and information as requested by the Chicago Commission on Human Relations.

**3.3.4.3. Business Enterprises Owned by People With Disabilities (BEPD)**

It is the policy of the City of Chicago that businesses certified as a BEPD in accordance with MCC Sect. 2-92-337 et seq., Regulations Governing Certification of BEPDs, and all other Regulations promulgated under the aforementioned sections of the MCC; shall have the full and fair opportunities to participate fully in the performance of this Contract

Contractor shall not discriminate against any person or business on the basis of disability, and shall take affirmative actions to ensure BEPDs shall have full and fair opportunities to compete for and perform subcontracts for supplies or services.

Failure to carry out the commitments and policies set forth herein shall constitute a material breach of the Contract and may result in the termination of the Contract or such remedy as the City deems appropriate.

For purposes of this section only, the following definitions apply:

**"Business Enterprises owned by People with Disabilities" or "BEPD"** has the same meaning ascribed to it in MCC Sect. 2-92-586.

**"Bid incentive"** means an amount deducted, for bid evaluation purposes only, from the contract base bid in order to calculate the bid price to be used to evaluate the bid on a competitively bid contract.

**"Construction project"** has the same meaning ascribed to it in MCC Sect. 2-92-335.

**"Contract"** means any contract, purchase order, construction project, or other agreement (other than a delegate agency contract or lease of real property or collective bargaining agreement) awarded by the City and whose costs is to be paid from funds belonging to or administered by the City.

**"Contract base bid"** means the total dollar amount a contractor bids on a contract without factoring any bid incentive or percentage reductions to the bid amount.

**"Earned credit"** means the amount of the bid incentive allocated to a contractor upon completion of a contract in which the contractor met or exceeded his or her goals for the utilization of BEPDs in the performance of the contract.

**"Earned credit certificate"** means a certificate issued by the Chief Procurement Officer evidencing the amount of earned credit a contractor has been awarded.

The CPO shall award a bid incentive to Contractor for utilization of a BEPD as a prime contractor or subcontractor in accordance with the provisions of this section. The bid incentive shall be earned in the performance of the Contract, provided that the bid incentive earned in the performance of the Contract shall only be applied to a future contract.

Where not otherwise prohibited by federal, state, or local law, the CPO shall allocate to any qualified bidder the following bid incentive for utilization of a BEPD as a prime contractor or subcontractor in the performance of the contract.

<i>% of total dollar contract amount performed by BEPD</i>	<i>Bid incentive</i>
2 to 5%	½% of the contract base bid
6 to 10%	1% of the contract base bid
11% or more	2% of the contract base bid

The bid incentive shall be calculated and applied in accordance with the provisions of this section. The bid incentive is used only to calculate an amount to be used in evaluating the bid. The bid incentive does not affect the contract price.

As part of the contract close-out procedure, if the CPO determines that the Contractor has successfully met his or her BEPD utilization goals either as a prime contractor or with subcontractors, the CPO shall issue an earned credit certificate that evidences the amount of earned credits allocated to the Contractor. The Contractor may apply the earned credits as the bid incentive for any future contract bid of equal or less dollar amount. The earned credit certificate is valid for three years from the date of issuance and shall not be applied towards any future contract bid after the expiration of that period.

The Contractor may apply the earned credit certificate on multiple future contract bids during the three-year period in which the certificate is valid, but may only receive one bid incentive for bid evaluation purposes on one contract award. If the Contractor applies the earned credit certificate on multiple contract bids and is the lowest responsive and responsible bidder on more than one contract bid, the earned credit certificate shall be applied to the contract bid first to be advertised by the Department of Procurement Services, or if multiple contract bids were advertised on the same date, the earned credit certificate shall be applied only to the contract bid with the greatest dollar value

The Contractor shall maintain accurate and detailed books and records necessary to monitor compliance with this section and shall submit such reports as required by the CPO, or the commissioner of the supervising department.

Full access to the Contractor's and Subcontractor's records shall be granted to the CPO, the commissioner of the supervising department, or any duly authorized representative thereof. The Contractor and Subcontractors shall maintain all relevant records for a period that is the longer of five years or as required by relevant retention schedules after final acceptance of the work.

The CPO is authorized to adopt, promulgate and enforce reasonable rules and regulations pertaining to the administration and enforcement of this section.

### **3.3.5. Wages**

Contractor must pay the highest of (1) prevailing wage/Davis-Bacon rate, if applicable; (2) minimum wage specified by Mayoral Executive Order 2014-4; "Living Wage" rate specified by MCC Sect. 2-92-610; (3) Chicago Minimum Wage rate specified by MCC Chapter 1-24, or (4) the highest applicable State or Federal minimum wage.

#### **3.3.5.1. Minimum Wage, Mayoral Executive Order 2014-1**

Mayoral Executive Order 2014-1 provides for a fair and adequate Minimum Wage to be paid to employees of City contractors and subcontractors performing work on City contracts.

If this contract was advertised on or after October 1, 2014, Contractor must comply with Mayoral Executive Order 2014-1 and any applicable regulations issued by the CPO. The Minimum Wage to be paid pursuant to the Order as of July 1, 2015 is **\$13.00 per hour**. The Minimum Wage must be paid to:

All employees regularly performing work on City property or at a City jobsite.

All employees whose regular work entails performing a service for the City under a City contract.

Beginning on July 1, 2015, and every July 1 thereafter, the hourly wage specified by the Executive Order shall increase in proportion to the increase, if any, in the Consumer Price Index for All Urban Consumers most recently published by the Bureau of Labor Statistics of the United States Department of Labor. Any hourly wage increase shall be rounded up to the nearest multiple of \$0.05. Such increase shall remain in effect until any subsequent adjustment is made. On or before June 1, 2015, and on or before every June 1 thereafter, the City shall make available to City Concessionaires a bulletin announcing the adjusted minimum hourly wages for the upcoming year.

The Minimum Wage is not required to be paid to employees whose work is performed in general support of contractors operations, does not directly relate to the services provided to the City under the contract, and is included in the contract price as overhead, unless that employee's regularly assigned work location is on City property or at a City jobsite. It is also not required to be paid by employers that are 501(c)(3) not-for-profits.

Except as further described, the Minimum Wage is also not required to be paid to categories of employees subject to subsection 4(a)(2), subsection 4(a)(3), subsection 4(d), subsection 4(e), or Section 6 of the Illinois Minimum Wage Law, 820 ILCS 105/1 et seq., in force as of the date of this Contract or as amended. Nevertheless, the Minimum Wage is required to be paid to those workers described in subsections 4(a)(2)(A) and 4(a)(2)(B) of the Illinois Minimum Wage Law.

Additionally, the Minimum Wage is not required to be paid to employees subject to a collective bargaining agreement that provides for different wages than those required by Mayoral Executive Order 2014-1, if that collective bargaining agreement was in force prior to October 1, 2014 or if that collective bargaining agreement clearly and specifically waives the requirements of the order.

If the payment a Base Wage pursuant to Municipal Code of Chicago Sect. 2-92-610 is required for work or services done under this Contract, and the Minimum Wage is higher than the Base Wage, then the Contractor must pay the Minimum Wage. Likewise, if the payment of a prevailing wage is required and the prevailing wage is higher than the Minimum Wage, then the Contractor must pay the prevailing wage.

Contractors are reminded that they must comply with Municipal Code Chapter 1-24 establishing a minimum wage.

### **3.3.5.2. Living Wage Ordinance**

MCC Sect. 2-92-610 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"). Accordingly, pursuant to MCC Sect. 2-92-610 and regulations promulgated thereunder:

if the Contractor has 25 or more full-time employees, and if at any time during the performance of the contract the Contractor 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 The Contractor's obligation to pay, and to assure payment of, the Base Wage will begin at any time during the Contract term when the conditions set forth in (1) and (2) above are met, and will continue thereafter until the end of the Contract term.

As of July 1, 2015 the Base Wage is \$12.13. The current rate can be found on the Department of Procurement Services' website.

**Note: As of July 1, 2015, the wage specified by Mayoral Executive Order 2014-1 is higher than the Base Wage rate. Therefore, the higher wage specified by the Executive Order (or other applicable rule or law) must be paid.**

Each July 1st the Base Wage will be adjusted, using the most recent federal poverty guidelines for a family of four (4) 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 (4) divided by 2000 hours or the current base wage, whichever is higher. At all times during the term of this Contract, Contractor 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 work or services done under this Contract, and the prevailing wages for Covered Employees are higher than the Base Wage, then the Contractor must pay the prevailing wage rates.

The Contractor must include provisions in all subcontracts requiring its Subcontractors to pay the Base Wage to Covered Employees. The Contractor agrees to provide the City with documentation acceptable to the CPO demonstrating that all Covered Employees, whether employed by the Contractor or by a subcontractor, have been paid the Base Wage, upon the City's request for such documentation. The City may independently audit the Contractor and/or subcontractors to verify compliance herewith.

Failure to comply with the requirements of this Section will be an event of default under this Contract, and further, failure to comply may result in ineligibility for any award of a City contract or subcontract for up to three years.

Not-for-Profit Corporations: If the Contractor is a corporation having Federal tax-exempt status under Section 501(c)(3) of the Internal Revenue Code and is recognized under Illinois not-for-profit law, then the provisions above do not apply.

### **3.3.5.3. Equal Pay**

The Contractor will comply with all applicable provisions of the Equal Pay Act of 1963, 29 U.S.C. 206(d) and the Illinois Equal Pay Act of 2003, 820 ILCS 112/1, *et seq.*, as amended, and all applicable related rules and regulations including but not limited to those set forth in 29 CFR Part 1620 and 56 Ill. Adm. Code Part 320.

### **3.3.6. Economic Disclosure Statement and Affidavit and Appendix A ("EDS")**

Pursuant to MCC Ch. 2-154 and 65 ILCS 5/8-10-8.5 any person, business entity or agency submitting a bid or proposal to or contracting with the City of Chicago will be required to complete the Disclosure of Ownership Interests in the EDS. Failure to provide complete or accurate disclosure will render this Contract voidable by the City.

Contractors must complete an online EDS prior to the Bid Opening Date. Contractors are responsible for notifying the City and updating their EDS any time there is a change in circumstances that makes any information provided or certification made in an EDS inaccurate, obsolete or misleading. Failure to so notify the City and update the EDS is grounds for declaring the Contractor in default, terminating the Contract for default, and declaring the Contractor ineligible for future contracts.

Contractor makes certain representations and certifications that the City relies on in its decision to enter into a contract. The Laws and requirements that are addressed in the EDS include the following:

#### **3.3.6.1. Business Relationships With Elected Officials MCC Sect. 2-156-030(b)**

Pursuant to MCC Sect. 2-156-030(b), it is illegal for any elected official, 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 any business relationship that creates a financial interest on the part of the official, or the domestic partner or spouse of the official, or from whom or which he has derived any income or compensation during the preceding twelve months or from whom or which he reasonably expects to derive any income or compensation in the following twelve months. In addition, no elected official may participate in any discussion in any City Council committee hearing or in any City Council meeting or vote on any matter involving the person with whom the elected official has any business relationship that creates a financial interest on the part of the official, or the domestic partner or spouse of the official, or from whom or which he has derived any income or compensation during the preceding twelve months or from whom or which he reasonably expects to derive any income or compensation in the following twelve months.

Violation of MCC Sect. 2-156-030 by any elected official with respect to this contract will be grounds for termination of this contract. The term financial interest is defined as set forth in MCC Chapter 2-156.

#### **3.3.6.2. MCC 1-23 and 720 ILCS 5/33E Bribery, Debts, and Debarment Certification**



The Contractor or each joint venture partner, if applicable, must complete the appropriate subsections in the EDS which certify that the Contractor or each joint venture partner, its agents, employees, officers and any subcontractors (a) have not been engaged in or been convicted of bribery or attempted bribery of a public officer or employee of the City of Chicago, the State of Illinois, any agency of the federal government or any state or local government in the United States or engaged in or been convicted of bid-rigging or bid-rotation activities as defined in this section as required by the Illinois Criminal Code; (b) do not owe any debts to the State of Illinois, in accordance with 65 ILCS 5/11-42.1-1 and (c) are not presently debarred or suspended; Certification Regarding Environmental Compliance; Certification Regarding Ethics and Inspector General; and Certification Regarding Court-Ordered Child Support Compliance.

Contractor, in performing under this contract shall comply with MCC Sect. 2-92-320, as follows:

No person or business entity shall be awarded a contract or sub-contract if that person or business entity: (a) has been convicted of bribery or attempting to bribe a public officer or employee of the City of Chicago, the State of Illinois, or any agency of the federal government or of any state or local government in the United States, in that officers or employee's official capacity; or (b) has been convicted of agreement or collusion among bidders or prospective bidders in restraint of freedom of competition by agreement to bid a fixed price, or otherwise; or (c) has made an admission of guilt of such conduct described in (a) or (b) above which is a matter of record but has not been prosecuted for such conduct.

For purposes of this section, where an official, agent or employee of a business entity has committed any offense under this section on behalf of such an entity and pursuant to the direction or authorization of a responsible official thereof, the business entity will be chargeable with the conduct.

One business entity will be chargeable with the conduct of an affiliated agency. Ineligibility under this section will continue for three (3) years following such conviction or admission. The period of ineligibility may be reduced, suspended, or waived by the CPO under certain specific circumstances. Reference is made to Section 2-92-320 for a definition of affiliated agency, and a detailed description of the conditions which would permit the CPO to reduce, suspend, or waive the period of ineligibility.

#### **3.3.6.3. Federal Terrorist (No-Business) List**

Contractor warrants and represents that neither Contractor nor an Affiliate, as defined below, appears on the Specially Designated Nationals List, the Denied Persons List, the Unverified List, the Entity List, or the Debarred List as maintained by the Office of Foreign Assets Control of the U.S. Department of the Treasury or by 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.

"Affiliate" means a person or entity which directly, or indirectly through one or more intermediaries, controls, is controlled by or is under common control with Contractor. A person or entity will be deemed to be controlled by another person or entity if it is controlled in any manner whatsoever that results in control in fact by that other person or entity, either acting individually or acting jointly or in concert with others, whether directly or indirectly and whether through share ownership, a trust, a contract or otherwise.

#### **3.3.6.4. Governmental Ethics Ordinance 2-156**

Contractor must comply with MCC Ch. 2-156, Governmental Ethics, including but not limited to MCC Sect. 2-156-120 pursuant to which no payment, gratuity or offer of employment will be made in connection with any City contract, by or on behalf of a subcontractor to the prime Contractor or higher tier subcontractor or any person associated therewith, as an inducement for the award of a

subcontract or order. Any contract negotiated, entered into, or performed in violation of any of the provisions of this Chapter will be voidable as to the City.

**3.3.6.5. Lobbyists**

Contractor must comply with Chapter 2-156 of the Municipal Code. Contractor acknowledges that any Agreement entered into, negotiated or performed in violation of any of the provisions of Chapter 2-156, including any contract entered into with any person who has retained or employed a non-registered lobbyist in violation of Section 2-156-305 of the Municipal Code is voidable as to the City.

**3.3.7. Restrictions on Business Dealings**

**3.3.7.1. Conflicts of Interest**

The Contractor covenants that it presently has no interest and will not acquire any interest, direct or indirect, in any enterprise which would conflict in any manner or degree with the performance of the work, services or goods to be provided hereunder. The Contractor further covenants that in its performance of the Contract no person having any such interest shall be employed. If the City determines that the Contractor does have such a conflict of interest, the City will notify the Contractor in writing, stating the basis for its determination. The Contractor will thereafter have 30 days in which to respond with reasons why the Contractor believes a conflict of interest does not exist. If the Contractor does not respond or if the City still reasonably determines a conflict of interest to exist, the Contractor must terminate its interest in the other enterprise.

**3.3.7.2. Prohibition on Certain Contributions, Mayoral Executive Order 2011-4**

No Contractor or any person or entity who directly or indirectly has an ownership or beneficial interest in Contractor of more than 7.5% ("Owners"), spouses and domestic partners of such Owners, Contractor's Subcontractors, any person or entity who directly or indirectly has an ownership or beneficial interest in any Subcontractor of more than 7.5% ("Sub-owners") and spouses and domestic partners of such Sub-owners (Contractor and all the other preceding classes of persons and entities are together, the "Identified Parties"), shall make a contribution of any amount to the Mayor of the City of Chicago (the "Mayor") or to his political fundraising committee during (i) the bid or other solicitation process for this Contract or Other Contract, including while this Contract or Other Contract is executory, (ii) the term of this Contract or any Other Contract between City and Contractor, and/or (iii) any period in which an extension of this Contract or Other Contract with the City is being sought or negotiated.

Contractor represents and warrants 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 the Contractor or the date the Contractor approached the City, as applicable, regarding the formulation of this Contract, no Identified Parties have made a contribution of any amount to the Mayor or to his political fundraising committee.

Contractor shall not: (a) coerce, compel or intimidate its employees to make a contribution of any amount to the Mayor or to the Mayor's political fundraising committee; (b) reimburse its 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.

The Identified Parties must not engage in any conduct whatsoever designed to intentionally violate this provision or Mayoral Executive Order No. 2011-4 or to entice, direct or solicit others to intentionally violate this provision or Mayoral Executive Order No. 2011-4.

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. 2011-4 constitutes a breach and default under this Contract, 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 Contract, under Other Contract, at law and in equity. This provision amends any Other Contract and supersedes any inconsistent provision contained therein.

If Contractor violates this provision or Mayoral Executive Order No. 2011-4 prior to award of the Contract resulting from this specification, the CPO may reject Contractor's bid.

For purposes of this provision:

**"Other Contract"** means any agreement entered into between the Contractor and the City that is (i) formed under the authority of MCC Ch. 2-92; (ii) for the purchase, sale or lease of real or personal property; or (iii) for materials, supplies, equipment or services which are approved and/or authorized by the City Council.

**"Contribution"** means a "political contribution" as defined in MCC Ch. 2-156, as amended.

**"Political fundraising committee"** means a "political fundraising committee" as defined in MCC Ch. 2-156, as amended.

### **3.3.8. Debts Owed to the City; Anti-Scofflaw, MCC Sect. 2-92-380**

In addition to the certifications regarding debts owed to the City in the EDS, Contractor is subject to MCC Sect. 2-92-380.

Pursuant to MCC Sect. 2-92-380 and in addition to any other rights and remedies (including set-off) available to the City under this Contract or permitted at law or in equity, the City will be entitled to set off a portion of the contract price or compensation due under the Contract, in an amount equal to the amount of the fines and penalties for each outstanding parking violation complaint and the amount of any debt owed by the contracting party to the City. For purposes of this section, outstanding parking violation complaint means a parking ticket, notice of parking violation, or parking violation complaint on which no payment has been made or appearance filed in the Circuit Court of Cook County within the time specified on the complaint, and debt means a specified sum of money owed to the City for which the period granted for payment has expired.

However no such debt(s) or outstanding parking violation complaint(s) will be offset from the contract price or compensation due under the contract if one or more of the following conditions are met:

the contracting party has entered into an agreement with the Department of Revenue, or other appropriate City department, for the payment of all outstanding parking violation complaints and debts owed to the City and the Contracting party is in compliance with the agreement; or

the contracting party is contesting liability for or the amount of the debt in a pending administrative or judicial proceeding; or the contracting party has filed a petition in bankruptcy and the debts owed the City are dischargeable in bankruptcy.

### **3.3.9. Other City Ordinances and Policies**

#### **3.3.9.1. False Statements**

False statements made in connection with this Contract, including statements in, omissions from and failures to timely update the EDS, as well as in any other affidavits, statements or Contract Documents constitute a material breach of the Contract. Any such misrepresentation renders the Contract voidable at the option of the City, notwithstanding any prior review or acceptance by the City of any materials containing such a misrepresentation. In addition, the City may debar Contractor, assert any contract claims or seek other civil or criminal remedies as a result of a misrepresentation (including costs of replacing a terminated Contractor pursuant to MCC Sect. 1-21-010.

#### **3.3.9.2. MacBride Principles Ordinance, MCC Sect. 2-92-580**

This law promotes fair and equal employment opportunities and labor practices for religious minorities in Northern Ireland and provide a better working environment for all citizens in Northern Ireland.

In accordance with MCC Sect. 2-92-580, if the primary Contractor conducts any business operations in Northern Ireland, it is hereby required that the Contractor will make all reasonable and good faith efforts to conduct any business operations in Northern Ireland in accordance with the MacBride Principles for Northern Ireland as defined in Illinois Public Act 85-1390 (1988 Ill. Laws 3220).

For those bidders who take exception in competitive bid contracts to the provision set forth above, the City will assess an eight percent (8%) penalty. This penalty will increase their bid price for the purpose of canvassing the bids in order to determine who is to be the lowest responsible bidder. This penalty will apply only for purposes of comparing bid amounts and will not affect the amount of any contract payment.

The provisions of this Section will not apply to contracts for which the City receives funds administered by the United States Department of Transportation (USDOT) except to the extent Congress has directed that USDOT not withhold funds from states and localities that choose to implement selective purchasing policies based on agreement to comply with the MacBride Principles for Northern Ireland, or to the extent that such funds are not otherwise withheld by USDOT.

#### **3.3.9.3. 2014 Hiring Plan Prohibitions**

- A. The City is subject to the June 16, 2014 "City of Chicago Hiring Plan" (the "2014 City Hiring Plan") entered in *Shakman v. Democratic Organization of Cook County*, Case No 69 C 2145 (United States District Court for the Northern District of Illinois). Among other things, the 2014 City Hiring Plan prohibits the City from hiring persons as governmental employees in non-exempt positions on the basis of political reasons or factors.
- B. Contractor is aware that City policy prohibits City employees from directing any individual to apply for a position with Contractor, either as an employee or as a subcontractor, and from directing Contractor to hire an individual as an employee or as a Subcontractor. Accordingly, Contractor must follow its own hiring and contracting procedures, without being influenced by City employees. Any and all personnel provided by Contractor under this Contract are employees or Subcontractors of Contractor, not employees of the City of Chicago. This Contract is not intended to and does not constitute, create, give rise to, or otherwise recognize an employer-employee relationship of any kind between the City and any personnel provided by Contractor.
- C. Contractor will not condition, base, or knowingly prejudice or affect any term or aspect of the employment of any personnel provided under this Contract, or offer employment to any individual to provide services under this Contract, based upon or because of any political reason or factor, including, without limitation, any individual's political affiliation, membership in a political organization or party, political support or activity, political financial contributions, promises of such political support, activity or financial contributions, or such individual's political sponsorship or recommendation. For purposes of this Contract, a political organization or party is an identifiable group or entity that has as its primary purpose the support of or opposition to candidates for elected public office. Individual political activities are the activities of individual persons in support of or in opposition to political organizations or parties or candidates for elected public office.
- D. In the event of any communication to Contractor by a City employee or City official in violation of paragraph B above, or advocating a violation of paragraph C above, Contractor will, as soon as is reasonably practicable, report such communication to the Hiring Oversight Section of the City's Office of the Inspector General, and also to the head of the

relevant City Department utilizing services provided under this Contract. Contractor will also cooperate with any inquiries by OIG Hiring Oversight.

**3.3.9.4. Inspector General and Legislative Inspector General**

It is the duty of any bidder, proposer or Contractor, all Subcontractors, every applicant for certification of eligibility for a City contract or program, and all officers, directors, agents, partners and employees of any bidder, proposer, Contractor, Subcontractor or such applicant to cooperate with the Inspector General or the Legislative Inspector General in any investigation or hearing, if applicable, undertaken pursuant to MCC Ch. 2-56 or 2-55, respectively. Contractor understands and will abide by all provisions of MCC Ch. 2-56 and 2-55.

All subcontracts must inform Subcontractors of this provision and require understanding and compliance with them.

**3.3.9.5. Duty to Report Corrupt Activity**

Pursuant to MCC 2-156-018, it is the duty of the Contractor to report to the Inspector General, directly and without undue delay, any and all information concerning conduct which it knows to involve corrupt activity. "Corrupt activity" means any conduct set forth in Subparagraph (a)(1), (2) or (3) of Section 1-23-020 of the MCC. Knowing failure to make such a report will be an event of default under this Contract. Reports may be made to the Inspector General's toll free hotline, 866-IG-TIPLINE (866-448-4754).

**3.3.9.6. Electronic Mail Communication**

Electronic mail communication between Contractor and City employees must relate only to business matters between Contractor and the City.

**3.3.9.7. EDS Update Obligation**

Contractor is required to notify the City and update the EDS whenever there is a change in circumstances that makes any certification or information provided in an EDS inaccurate, obsolete or misleading. Failure to notify the City and update the EDS is grounds for declaring the Contractor in default, termination of the Contract for default, and declaring that the Contractor is ineligible for future contracts.

**3.3.9.8. Wheel Tax (City Sticker)**

Contractor must pay all Wheel Tax required by Chapter 3-56 of the MCC, as amended from time to time. Contractor should take particular notice of MCC 3-56-020 and MCC 3-56-125 which relate to payment of the tax for vehicles that are used on City streets or on City property by City residents. For the purposes of Chapter 3-56, any business that owns, leases or otherwise controls a place of business within the City wherein motor vehicles or semi-trailers are stored, repaired, serviced, or loaded or unloaded in connection with the business is also considered to be a City resident.

**3.3.10. Compliance with Environmental Laws and Related Matters**

**3.3.10.1. Definitions**

For purposes of this section, the following definitions shall apply:

Environmental Agency: An Environmental Agency is any governmental agency having responsibility, in whole or in part, for any matter addressed by any Environmental Law. An agency need not be responsible only for matters addressed by Environmental Law(s) to be an Environmental Agency for purposes of this Contract.

Environmental Claim: An Environmental Claim is any type of assertion that Contractor or any Subcontractor is liable, or allegedly is liable, or should be held liable, under any Environmental Law, or that Contractor or any Subcontractor has or allegedly has violated or otherwise failed to comply with any Environmental Law. A non-exhaustive list of Environmental Claims includes, without limitation: demand letters, lawsuits and citations of any kind regardless of originating source.

**Environmental Law:** An Environmental Law is any Law that in any way, directly or indirectly, in whole or in part, bears on or relates to the environment or to human health or safety. A non-exhaustive list of Environmental Laws includes without limitation the Comprehensive Environmental Response, Compensation and Liability Act, 42 U.S.C. 9601, et seq., the Resource Conservation and Recovery Act, 42 U.S.C. 6901, et seq., the Hazardous Materials Transportation Act, 49 U.S.C. 5101, et seq., the Clean Air Act, 42 U.S.C. 7401, et seq., the Federal Water Pollution Control Act, 33 U.S.C. 1251, et seq., the Occupational Safety and Health Act, 29 U.S.C. 651, et seq., the Illinois Environmental Protection Act, 415 ILCS 5/1, et seq., the Illinois Health and Safety Act, 820 ILCS 225/.01, et seq., Chapters 7-28 and 11-4 of the Chicago Municipal Code, and all related rules and regulations.

**Law(s):** The word "Law" or "Laws," whether or not capitalized, is intended in the broadest possible sense, including without limitation all federal, state and local: statutes; ordinances; codes; rules; regulations; administrative and judicial orders of any kind; requirements and prohibitions of permits, licenses or other similar authorizations of any kind; court decisions; common law; and all other legal requirements and prohibitions.

**Routine:** As applied to reports or notices, "routine" refers to a report or notice that must be made, submitted or filed on a regular, periodic basis (e.g., quarterly, annually, biennially) and that in no way arises from a spill or other release or any kind, or from an emergency response situation, or from any actual, possible or alleged noncompliance with any Environmental Law.

#### **3.3.10.2. Joint Ventures**

If Contractor or any Subcontractor is a joint venture, then every party to every such joint venture is deemed a Subcontractor for purposes of this section, which is entitled "Compliance with Environmental Laws and Related Matters" and every subsection thereof.

#### **3.3.10.3. Compliance With Environmental Laws**

Any noncompliance, by Contractor or any Subcontractor, with any Environmental Law during the time that this Contract is effective is an event of default, regardless of whether the noncompliance relates to performance of this Contract. This includes without limitation any failure by Contractor or any Subcontractor to keep current, throughout the term of this Contract, all insurance certificates, permits and other authorizations of any kind that are required, directly or indirectly, by any Environmental Law.

#### **3.3.10.4. Costs**

Any cost arising directly or indirectly, in whole or in part, from any noncompliance, by Contractor or any Subcontractor, with any Environmental Law, will be borne by the Contractor and not by the City. No provision of this Contract is intended to create or constitute an exception to this provision.

#### **3.3.10.5. Proof of Noncompliance; Authority; Cure**

Any adjudication, whether administrative or judicial, against Contractor or any Subcontractor, for a violation of any Environmental Law, is sufficient proof of noncompliance, and therefore of an event of default, for purposes of this Contract.

Any citation issued to/against Contractor or any Subcontractor, by any government agent or entity, alleging a violation of any Environmental Law, is sufficient proof of noncompliance for purposes of this Contract, and therefore of an event of default, if the citation contains or is accompanied by, or the City otherwise obtains, any evidence sufficient to support a reasonable conclusion that a violation has occurred.

Any other evidence of noncompliance with any Environmental Law is sufficient proof of noncompliance for purposes of this Contract, and therefore of an event of default, if the evidence is sufficient to support a reasonable conclusion that noncompliance has occurred.

The CPO shall have the authority to determine whether noncompliance with an Environmental Law has occurred, based on any of the foregoing types of proof. Upon determining that noncompliance has occurred, s/he may in his/her discretion declare an event of default and may in his/her discretion offer Contractor an opportunity to cure the event of default, such as by taking specified actions, which may include without limitation ceasing and desisting from utilizing a Subcontractor.

The CPO may consider many factors in determining whether to declare an event of default, whether to offer an opportunity to cure, and if so any requirements for cure, including without limitation: the seriousness of the noncompliance, any effects of the noncompliance, Contractor's and/or Subcontractor's history of compliance or noncompliance with the same or other Laws, Contractor's and/or Subcontractor's actions or inaction towards mitigating the noncompliance and its effects, and Contractor's or Subcontractor's actions or inaction towards preventing future noncompliance.

**3.3.10.6. Copies of Notices and Reports; Related Matters**

If any Environmental Law requires Contractor or any Subcontractor to make, submit or file any non-Routine notice or report of any kind, to any Environmental Agency or other person, including without limitation any agency or other person having any responsibility for any type of emergency response activity, then Contractor must deliver a complete copy of the notice or report (or, in the case of legally required telephonic or other oral notices or reports, a comprehensive written summary of same) to the Law Department within 48 hours of making, submitting or filing the original report.

The requirements of this provision apply, regardless of whether the subject matter of the required notice or report concerns performance of this Contract.

Failure to comply with any requirement of this provision is an event of default.

**3.3.10.7. Requests for Documents and Information**

If the Commissioner requests documents or information of any kind that directly or indirectly relate(s) to performance of this Contract, Contractor must obtain and provide the requested documents and/or information to the Commissioner within 5 business days.

Failure to comply with any requirement of this provision is an event of default.

**3.3.10.8. Environmental Claims and Related Matters**

Within 24 hours of receiving notice of any Environmental Claim, Contractor must submit copies of all documents constituting or relating to the Environmental Claim to the Law Department . Thereafter, Contractor must submit copies of related documents if requested by the Law Department. These requirements apply, regardless of whether the Environmental Claim concerns performance of this Contract.

Failure to comply with any requirement of this provision is an event of default.

**3.3.10.9. Preference for Recycled Materials**

To the extent practicable and economically feasible and to the extent that it does not reduce or impair the quality of any work or services, Contractor must use recycled products in performance of the Contract pursuant to U.S. Environment Protection Agency (U.S. EPA) guidelines at 40 CFR Parts 247-253, which implement section 6002 of the Resource Conservation and Recovery Act, as amended, 42 USC § 6962.

**3.3.10.10. No Waste Disposal in Public Way MCC 11-4-1600(E)**

Contractor warrants and represents that it, and to the best of its knowledge, its Subcontractors have not violated and are not in violation of the following sections of the Code (collectively, the Waste Sections):

- 7-28-390 Dumping on public way;
- 7-28-440 Dumping on real estate without permit;

11-4-1410 Disposal in waters prohibited;  
11-4-1420 Ballast tank, bilge tank or other discharge;  
11-4-1450 Gas manufacturing residue;  
11-4-1500 Treatment and disposal of solid or liquid waste;  
11-4-1530 Compliance with rules and regulations required;  
11-4-1550 Operational requirements; and  
11-4-1560 Screening requirements.

During the period while this Contract is executory, Contractor's or any Subcontractor's violation of the Waste Sections, whether or not relating to the performance of this Contract, constitutes a breach of and an event of default under this Contract, for which the opportunity to cure, if curable, will be granted only at the sole discretion of the CPO. Such breach and default entitles the City to all remedies under the Contract, at law or in equity.

This section does not limit the Contractor's and its Subcontractors' duty to comply with all applicable federal, state, county and municipal laws, statutes, ordinances and executive orders, in effect now or later, and whether or not they appear in this Contract.

Non-compliance with these terms and conditions may be used by the City as grounds for the termination of this Contract, and may further affect the Contractor's eligibility for future contract awards.

### **3.3.9 Disclosure of Ownership Interest in Entities**

The Contractor will keep disclosure of ownership interests and other information current as required by Section 2-154-020 of the Municipal Code of Chicago

### **3.3.10 Ineligibility to do Business with the City of Chicago**

Failure by the Contractor or any controlling person (as defined in Section 1-23-010 of the Municipal Code of Chicago) thereof to maintain eligibility to do business with the City of Chicago as required by Section 1-23-30 of the Municipal Code of Chicago shall be grounds for termination of this Agreement.

## **3.4. Contract Disputes**

### **3.4.1. Procedure for Bringing Disputes to the Department**

The Contractor and using Department must attempt to resolve all disputes arising under this Contract in good faith, taking such measures as, but not limited to investigating the facts of the dispute and meeting to discuss the issue(s).

In order to bring a dispute to the Commissioner of a Department, Contractor must provide a general statement of the basis for its claim, the facts underlying the claim, reference to the applicable Contract provisions, and all documentation that describes, relates to and supports the claim. By submitting a Claim, the Contractor certifies that:

- A. The Claim is made in good faith;
- B. The Claim's supporting data are accurate and complete to the best of the person's knowledge and belief;
- C. The amount of the Claim accurately reflects the amount that the claimant believes is due from the City; and
- D. The certifying person is duly authorized by the claimant to certify the Claim.

The Commissioner shall have 30 days from receipt of the Claim to render a written "final decision of the Commissioner" stating the Commissioner's factual and contractual basis for the decision. However, the Commissioner may take an additional period, not to exceed 10 days, to render the final decision. If the



Commissioner does not render a "final decision of the Commissioner" within the prescribed time frame, then the Claim should be deemed denied by the Commissioner.

#### **3.4.2. Procedure for Bringing Disputes before the CPO**

Only after the Commissioner has rendered a final decision denying the Contractor's claim may a dispute be brought before the CPO.

If the Contractor and using Department are unable to resolve the dispute, prior to seeking any judicial action, the Contractor must and the using Department may submit the dispute to the CPO for an administrative decision based upon the written submissions of the parties. The party submitting the dispute to the CPO must include documentation demonstrating its good faith efforts to resolve the dispute and either the other party's failure to exercise good faith efforts or both parties' inability to resolve the dispute despite good faith efforts.

The decision of the CPO is final and binding. The sole and exclusive remedy to challenge the decision of the CPO is judicial review by means of a common law writ of certiorari.

The administrative process is described more fully in the "Regulations of the Department of Procurement Services for Resolution of Disputes between Contractors and the City of Chicago", which are available in City Hall, 121 N. LaSalle Street, Room 103, Bid and Bond Room, and on-line at:

[http://www.cityofchicago.org/content/dam/city/depts/dps/RulesRegulations/Dispute\\_Regulations\\_2002.pdf](http://www.cityofchicago.org/content/dam/city/depts/dps/RulesRegulations/Dispute_Regulations_2002.pdf)

### **3.5. Events of Default and Termination**

#### **3.5.1. Events of Default**

In addition to any breach of contract and events of default described within the Contract Documents, the following constitute an event of default:

- A. Any material misrepresentation, whether negligent or willful and whether in the inducement or in the performance, made by Contractor to the City.
- B. Contractor's material failure to perform any of its obligations under this Contract including the following:
- C. Failure to perform the Services with sufficient personnel and equipment or with sufficient material to ensure the timely performance of the Services
- D. Failure to have and maintain all professional licenses required by law to perform the Services;
- E. Failure to timely perform the Services;
- F. Failure to perform the Services in a manner reasonably satisfactory to the Commissioner or the CPO or inability to perform the Services satisfactorily as a result of insolvency, filing for bankruptcy or assignment for the benefit of creditors;
- G. Failure to promptly re-perform, as required, within a reasonable time and at no cost to the City, Services that are rejected as erroneous or unsatisfactory;
- H. Discontinuance of the Services for reasons within Contractor's reasonable control;
- I. Failure to update promptly EDS(s) furnished in connection with this Contract when the information or responses contained in it or them is no longer complete or accurate;
- J. Failure to comply with any other term of this Contract, including the provisions concerning insurance and nondiscrimination; and
- K. Any change in ownership or control of Contractor without the prior written approval of the CPO, which approval the CPO will not unreasonably withhold.

- L. Contractor's default under any other Contract it may presently have or may enter into with the City during the life of this Contract. Contractor acknowledges and agrees that in the event of a default under this Contract the City may also declare a default under any such other agreements.
- M. Contractor's repeated or continued violations of City ordinances unrelated to performance under the Contract that in the opinion of the CPO indicate a willful or reckless disregard for City laws and regulations.
- N. Contractor's use of a subcontractor that is currently debarred by the City or otherwise ineligible to do business with the City.

### **3.5.2. Cure or Default Notice**

The occurrence of any event of default permits the City, at the City's sole option, to declare Contractor in default.

The CPO will give Contractor 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 a Cure Notice is sent, the CPO may in his/her sole discretion will give Contractor an opportunity to cure the default within a specified period of time, which will typically not exceed 30 days unless extended by the CPO. The period of time allowed by the CPO to cure will depend on the nature of the event of default and the Contractor's ability to cure. In some circumstances the event of default may be of such a nature that it cannot be cured. Failure to cure within the specified time may result in a Default Notice to the Contractor.

Whether to issue the Contractor a Default Notice is within the sole discretion of the CPO and neither that decision nor the factual basis for it is subject to review or challenge under the Disputes provision of this Contract.

If the CPO issues a Default Notice, the CPO will also indicate any present intent the CPO may have to terminate this Contract. The decision to terminate is final and effective upon giving the notice. If the CPO decides not to terminate, this decision will not preclude the CPO from later deciding to terminate the Contract in a later notice, which will be final and effective upon the giving of the notice or on such later date set forth in the Default Notice.

When a Default Notice with intent to terminate is given, Contractor must discontinue any Services, unless otherwise directed in the notice.

### **3.5.3. Remedies**

After giving a 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, at Contractor(s) expense and as agent for Contractor, either directly or through others, and bill Contractor for the cost of the Services, and Contractor must pay the difference between the total amount of this bill and the amount the City would have paid Contractor under the terms and conditions of this Contract for the Services that were assumed by the City as agent for Contractor
- B. The right to terminate this Contract as to any or all of the Services yet to be performed effective at a time specified by the City;
- C. The right to seek specific performance, an injunction or any other appropriate equitable remedy;
- D. The right to seek money damages;
- E. The right to withhold all or any part of Contractor's compensation under this Contract;
- F. The right to deem Contractor non-responsible in future contracts to be awarded by the City.

#### **3.5.4. Non-Exclusivity of Remedies**

The remedies under the terms of this Contract 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 impairs any such right or power, nor is it a waiver of any event of default nor acquiescence in it, and every such right and power may be exercised from time to time and as often as the City considers expedient.

#### **3.5.5. City Reservation of Rights**

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

#### **3.5.6. Early Termination**

The City may terminate this Contract, in whole or in part, at any time by a notice in writing from the City to the Contractor. The effective date of termination will be the date the notice is received by the Contractor or the date stated in the notice, whichever is later.

After the notice is received, the Contractor must restrict its activities, and those of its Subcontractors, to activities pursuant to direction from the City. No costs incurred after the effective date of the termination are allowed unless the termination is partial.

Contractor is not entitled to any anticipated profits on services, work, or goods that have not been provided. The payment so made to the Contractor is in full settlement for all services, work or goods satisfactorily provided under this Contract. If the Contractor disputes the amount of compensation determined by the City to be due Contractor, then the Contractor must initiate dispute settlement procedures in accordance with the Disputes provision.

If the City's election to terminate this Contract for default pursuant to the default provisions of the Contract is determined in a court of competent jurisdiction to have been wrongful, then in that case the termination is to be deemed to be an early termination pursuant to this Early Termination provision.

### **3.6. Department-specific Requirements**

Contractor must comply with the relevant user Department's specific requirements in the performance of this Contract if applicable.

#### **3.6.1. Department of Aviation Standard Requirements**

For purposes of this section "Airport" refers to either Midway International Airport or O'Hare International Airport, which are both owned and operated by the City of Chicago.

##### **3.6.1.1. Confidentiality of Airport Security Data**

Contractor has an ongoing duty to protect confidential information, including but not limited to any information exempt from disclosure under the Illinois Freedom of Information Act such as information affecting security of the airport ("Airport Security Data"). Airport Security Data includes any Sensitive Security Information as defined by 49 CFR Part 1520. Contractor acknowledges that information provided to, generated by, or encountered by Contractor may include Airport Security Data. If Contractor fails to safeguard the confidentiality of Airport Security Data, Contractor is liable for the reasonable costs of actions taken by the City, the airlines, the Federal Aviation Administration ("FAA"), or the Transportation Security Administration ("TSA") that the applicable entity, in its sole discretion, determines to be necessary as a result, including without limitation the design and construction of improvements, procurement and installation of security devices, and posting of guards. All Subcontracts or purchase orders entered into by the Contractor, with parties providing material, labor or services to complete the Work, must contain the language of this section. If the Contractor fails to incorporate the required language in all Subcontracts or purchase

orders, the provisions of this section are deemed incorporated in all Subcontracts or purchase orders.

**3.6.1.2. Aviation Security**

This Contract is subject to the airport security requirements of 49 United States Code, Chapter 449, as amended, the provisions of which govern airport security and are incorporated by reference, including without limitation the rules and regulations in 14 CFR Part 107 and all other applicable rules and regulations promulgated under them. All employees providing services at the City's airports must be badged by the City. (See Airport Security Badges.) Contractor, Subcontractors and the respective employees of each are subject to such employment investigations, including criminal history record checks, as the Administrator of the Federal Aviation Administration ("FAA"), the Under Secretary of the Transportation Security Administration ("TSA"), and the City may deem necessary. Contractor, Subcontractors, their respective employees, invitees and all other persons under the control of Contractor must comply strictly and faithfully with any and all rules, regulations and directions which the Commissioner, the FAA, or the TSA may issue from time to time may issue during the life of this Contract with regard to security, safety, maintenance and operation of the Airport and must promptly report any information regarding suspected violations in accordance with those rules and regulations.

Gates and doors that permit entry into restricted areas at the Airport must be kept locked by Contractor at all times when not in use or under Contractor's constant security surveillance. Gate or door malfunctions must be reported to the Commissioner without delay and must be kept under constant surveillance by Contractor until the malfunction is remedied.

**3.6.1.3. Airport Security Badges**

As part of airport operations and security, the Contractor must obtain from the airport badging office Airport Security Badges for each of his employees, subcontractors, material men, invitees or any person(s) over whom Contractor has control, which must be visibly displayed at all times while at the airport. No person will be allowed beyond security checkpoints without a valid Airport Security Badge. Each such person must submit signed and properly completed application forms to receive Airport Security Badges. Additional forms and tests may be required to obtain Airport Drivers Certification and Vehicle Permits. The application forms will solicit such information as the Commissioner may require in his discretion, including but not limited to name, address, date of birth (and for vehicles, driver's license and appropriate stickers). The Contractor is responsible for requesting and completing the form for each employee and subcontractor employee who will be working at the Airport and all vehicles to be used on the job site. Upon signed approval of the application by the Commissioner or his designee, the employee will be required to attend a presentation regarding airport security and have his or her photo taken for the badge. The Commissioner may grant or deny the application in his sole discretion. The Contractor must make available to the Commissioner, within one day of request, the personnel file of any employee who will be working on the project.

As provided in Aviation Security above, in order for a person to have an Airport Security Badge that allows access to the airfield or aircraft, a criminal history record check (CHRC) conducted by the Department of Aviation will also be required. The CHRC will typically include a fingerprint analysis by the Federal Bureau of Investigation and such other procedures as may be required by the TSA.

Airport Security Badges, Vehicle Permits and Drivers Licenses will only be issued based upon properly completed application forms. Employees or vehicles without proper credentials may be removed from the secured area and may be subject to fine or arrest. Contractor will be jointly and severally liable for any fines imposed on its employees or its Subcontractors employees.

In addition to other rules and regulations, the following rules related to Airport Security Badges, Vehicle Permits and Drivers Licenses must be adhered to:

- A. Each person must wear and display his or her Airport Security Badge on their outer apparel at all times while at the airport.
- B. All individuals operating a vehicle on the Aircraft Operations Area (AOA) must be familiar and comply with motor driving regulations and procedures of the State of Illinois, City of Chicago and the Department of Aviation. The operator must be in possession of a valid, State-issued Motor Vehicle Operators Driver's License. All individuals operating a vehicle on the AOA without an escort must also be in possession of a valid Aviation-issued Airport Drivers Permit.
- C. All operating equipment must have an Airport Vehicle Access Permit affixed to the vehicle at all times while operating on the Airport. All required City stickers and State Vehicle Inspection stickers must be valid.
- D. Individuals must remain within their assigned area and haul routes unless otherwise instructed by the Department of Aviation.
- E. The Contractors personnel who function as supervisors, and those that escort the Contractors equipment/operators to their designated work sites, may be required to obtain an added multi-area access designation on their personnel Airport Security Badge which must also be displayed while on the AOA.

#### **3.6.1.4. General Requirements Regarding Airport Operations**

##### **3.6.1.4.1. Priority of Airport Operations**

Where the performance of the Contract may affect airport operation, the Contractor must cooperate fully with the Commissioner and his representatives in all matters pertaining to public safety and airport operation. Whether or not measures are specifically required by this Contract, the Contractor at all times must maintain adequate protection to safeguard aircraft, the public and all persons engaged in the work and must take such precaution as will accomplish such end, without interference with aircraft, the public, or maintenance and operations of the airport.

The Contractor's attention is drawn to the fact that airport facilities and infrastructure, including but not limited to runways, taxiways, vehicular roadways, loadways, loading aprons, concourses, holdrooms, gates, and passenger right-of-ways, are being used for scheduled and unscheduled civilian air transportation. Arrivals and departures are under the control of the FAA control tower(s). Use of the Airport for air transportation takes precedence over all of the Contractor's operations. No extra compensation will be allowed for any delays brought about by the operations of the Airport which require that Contractor's work must be interrupted or moved from one part of the work site to another.

##### **3.6.1.4.2. Interruption of Airport Operations**

If Contractor requires interruption of Airport facilities or utilities in order to perform work, Contractor must notify the Deputy Commissioner in charge of the project at least five (5) working days in advance of such time and must obtain the Deputy Commissioner's approval prior to interrupting the service. Interruption of service must be kept to an absolute minimum, and to the extent practicable the work which occasions such interruptions must be performed in stages in order to reduce the time of each interruption. In case of interruptions of electrical services, service must be restored prior to sunset of the same day.

Prior to start of work, the Contractor must request of the Deputy Commissioner in charge of the project to provide specific requirements and instructions which are applicable to the particular work site areas, including, but not limited to, areas available for storage of any equipment, materials, tools and supplies needed to perform the work. Contractors must advise the Deputy Commissioner in charge of the project of the volume of equipment, materials, tools, and supplies that will be required in the secured areas of the airport in order to make

arrangements for inspection of such equipment, materials, tools, and supplies at a security checkpoint.

**3.6.1.4.3. Safeguarding of Airport Property and Operations**

The Contractor must not permit or allow its employees, subcontractors, material men, invitees or any other persons over whom Contractor has control to enter or remain upon, or to bring or permit any equipment, materials, tools, or supplies to remain upon any part of the work site if any hazard to aircraft, threat to airport security, or obstruction of airport maintenance and operations, on or off the ground, would be created in the opinion of either the Commissioner or the Deputy Commissioner. Contractors must safeguard, and may be required to account for, all items brought beyond a security checkpoint, especially with respect to tools used in a terminal building.

**3.6.1.4.4. Work on the Airfield**

For any work on the airfield, between sunset and sunrise, any equipment and materials stored outside must be marked with red obstruction lights acceptable to the Commissioner and in conformity with all FAA requirements, including Advisory Circular 150/5345-43F. All obstruction lights must be kept continuously in operation between sunset and sunrise 7 days a week and also during any daylight periods when aircraft ceiling is below 500 feet and visibility is less than 5 miles. Information on ceiling and visibility may be obtained by the Contractor on request at the office of the Deputy Commissioner of Operations or from the FAA Control Tower Operator. Proper compliance with these obstruction light requirements is essential to the protection of aircraft and human life and the Contractor has the responsibility of taking the initiative at all times to be aware of ceiling and visibility conditions, without waiting for the FAA Control Tower Operator or any other City representative to ask the Contractor to post obstruction lights.

For any work on the airfield, the Contractor must furnish aircraft warning flags, colored orange and white, in two sizes, one size 2' x 3' for hand use, and one size 3' x 5'. Each separate group or individual in all work areas, regardless of whether or not near runways, taxiways or aprons, must display a flag which must be maintained vertical at all times. Each truck or other piece of equipment of the Contractor must have attached to it, in a vertical and clearly visible position, a warning flag of the larger size. Except as otherwise agreed by the Commissioner or his designee, all cranes or booms used for construction work on the airfield must be lowered to ground level and moved 200 feet off the runways, taxiways and aprons during all hours of darkness and during all daylight hours when the aircraft ceiling is below the minimums specified in this section.

The Contractor acknowledges the importance of fully complying with the requirements of this section in order to protect aircraft and human life, on or off the ground. Failure on the part of the Contractor to perform the work in accordance with the provisions of this section and to enforce same with regard to all subcontractors, material men, laborers, invitees and all other persons under the Contractor's control is an event of default.

**3.6.1.4.5. Parking Restrictions**

Prior to commencing work, the Contractor must provide the Deputy Commissioner in charge of the project with an estimate of the number of vehicles that will require parking. Contractors are encouraged to provide employee parking elsewhere and shuttle their employees to the work site. The Department of Aviation may, but is not required to, provide parking areas for a limited number of vehicles in designated storage areas. All other vehicles must be parked in the public parking lots at the Airport, and there will be no reduced rate or complimentary parking for such vehicles. Employees must not, at any time, park their personal automobiles, no matter how short the duration, in any drive, road, or any other non-parking lot location at the airport. Such vehicles will be subject to immediate towing at the employees expense.

**3.6.1.5. General Civil Rights (Airport and Airway Improvement Act of 1982, Section 520)**

The contractor agrees that it will comply with pertinent statutes, Executive Orders and such rules as are promulgated to ensure that no person shall, on the grounds of race, creed, color, national origin, sex, age, or handicap be excluded from participating in any activity conducted with or benefiting from Federal assistance.

This provision binds the contractors from the bid solicitation period through the completion of the contract. This provision is in addition to that required of Title VI of the Civil Rights Act of 1964.

**3.6.2. Emergency Management and Communications (OEMC) Security Requirements**

**3.6.2.1. Identification of Workers and Vehicles**

All employees and vehicles working within O.E.M.C facilities must be properly identified. All vehicles and personnel passes will be issued to the Contractor by the Executive Director, as required. Contractor, Subcontractors, and employees must return identification material to the Executive Director upon completion of their respective work within the Project, and in all cases, the Contractor must return all identification material to the Executive Director after completion of the Project. Final Contract Payment will not be made until all passes issued have been returned to O.E.M.C Security.

**3.6.2.2. Access to Facilities**

For purposes of this section, "employee" refers to any individual employed or engaged by Contractor or by any Subcontractor. If the Contractor, or any employee, in the performance of this Contract, has or will have access to a Office of Emergency Management and Communications (O.E.M.C) facility, the City may conduct such background and employment checks, including criminal history record checks and work permit documentation, as the Executive Director of the Office of Emergency Management and Communications and the City may deem necessary, on the Contractor, any Subcontractor, or any of their respective employees. The Executive Director of the Office of Emergency Management and Communications has the right to require the Contractor to supply or provide access to any additional information the Executive Director deems relevant. Before beginning work on the project, Contractor must:

Provide the City with a list of all employees requiring access to enable the City to conduct such background and employment checks;

Deliver to the City consent forms signed by all employees who will work on the project consenting to the City's and the Contractor's performance of the background checks described in this Section; and

Deliver to the City consent forms signed by all employees who will require access to the O.E.M.C facility consenting to the searches described in this Section.

The Executive Director may preclude Contractor, any Subcontractor, or any employee from performing work on the project. Further, the Contractor must immediately report any information to the Executive Director relating to any threat to O.E.M.C infrastructure or facilities or the water supply of the City and must fully cooperate with the City and all governmental entities investigating the threat. The Contractor must, notwithstanding anything contained in the Contract Documents to the contrary, at no additional cost to the City, adhere, and cause its Subcontractors to adhere, to any security and safety guidelines developed by the City and furnished to the Contractor from time to time during the term of the Contract and any extensions of it.

Each employee whom Contractor wishes to have access to an O.E.M.C facility must submit a signed, completed "Area Access Application" to the O.E.M.C to receive a O.E.M.C Security Badge. If Contractor wishes a vehicle to have access to a O.E.M.C facility, Contractor must submit a vehicle access application for that vehicle. The applications will solicit such information as the Executive Director may require in his discretion, including name, address, date of birth (and for vehicles, driver's license and appropriate stickers). The Contractor is responsible for requesting and

completing these forms for each employee who will be working at O.E.M.C facilities and all vehicles to be used on the job site. The Executive Director may grant or deny the application in his sole discretion. The Contractor must make available to the Executive Director, within one (1) day of request, the personnel file of any employee who will be working on the project.

At the Executive Director's request, the Contractor and Subcontractor must maintain an employment history of employees going back five years from the date Contractor began Work or Services on the project. If requested, Contractor must certify that it has verified the employment history as required on the form designated by the Executive Director. Contractor must provide the City, at its request, a copy of the employment history for each employee. Employment history is subject to audit by the City.

### **3.6.2.3. Security Badges and Vehicle Permits**

O.E.M.C Security Badges and Vehicle Permits will only be issued based upon properly completed Area Access Application Forms. Employees or vehicles without proper credentials will not be allowed on O.E.M.C property.

The following rules related to Security Badges and Vehicle Permits must be adhered to:

- A. Each employee must wear and display the O.E.M.C Security Badge issued to that employee on his or her outer apparel at all times.
- B. At the sole discretion of the Executive Director and law enforcement officials, including but not limited to the Chicago Police Department, Cook County Sheriffs Office, Illinois State Police or any other municipal, state or federal law enforcement agency, all vehicles (and their contents) are subject to interior and/or exterior inspection entering or exiting O.E.M.C facilities, and all employees and other individuals entering or exiting O.E.M.C facilities are subject to searches. Vehicles may not contain any materials other than those needed for the project. The Executive Director may deny access to any vehicle or individual in his sole discretion.
- C. All individuals operating a vehicle on O.E.M.C property must be familiar and comply with motor driving regulations and procedures of the State of Illinois and the City of Chicago. The operator must be in possession of a valid, state-issued Motor Vehicle Operator's Driver License.
- D. All required City stickers and State Vehicle Inspection stickers must be valid.
- E. Individuals must remain within their assigned area and haul routes unless otherwise instructed by the City.
- F. Access to the Work sites will be as shown or designated on the Contract Documents Drawings or determined by the Executive Director. The Executive Director may deny access when, in his sole discretion, the vehicle or individual poses some security risk to O.E.M.C.

### **3.6.2.4. Gates and Fences**

Whenever the Contractor receives permission to enter O.E.M.C property in areas that are exit/entrance points not secured by the City, the Contractor may be required to provide gates that comply with O.E.M.C design and construction standards. Contractor must provide a licensed and bonded security guard, subject to the Executive Director's approval and armed as deemed necessary by the Executive Director, at the gates when the gates are in use. O.E.M.C Security will provide the locks. Failure to provide and maintain the necessary security will result in an immediate closure by O.E.M.C personnel of the point of access.

Stockpiling materials and parking of equipment or vehicles near O.E.M.C security fencing is prohibited.



Any security fencing, gates, or alarms damaged by the Contractor or its Subcontractors must be manned by a licensed and bonded security guard of the Contractor at Contractor's expense until the damaged items are restored. Contractor must restore them to their original condition within an eight (8) hour period from the time of notice given by the Executive Director.

Temporary removal of any security fencing, gate or alarm to permit construction must be approved by the Executive Director, and Contractor must man the site by a licensed and bonded security guard, approved by and armed as deemed necessary by the Executive Director, at Contractor's expense, on a twenty-four (24) hour basis during the period of temporary removal. Contractor must restore the items removed to their original condition when construction is completed.

#### **3.6.2.5. Hazardous or Illegal Materials**

Unauthorized hazardous or illegal materials, including but not limited to hazardous materials as defined in 49 C.F.R. Parts 100-185 (e.g. explosives, oxidizers, radiological materials, infectious materials), contraband, firearms and other weapons, illegal drugs and drug paraphernalia, may not be taken on O.E.M.C property. Alcoholic beverages are also prohibited.

#### **3.6.3. Chicago Police Department Security Requirements**

As part of Police operations and security, the Contractor must obtain from the Police Department, Security Badges for each of its employees, subcontractors, material men, invitees or any person(s) over whom Contractor has control, which must be visibly displayed at all times while at any Police Department facility. No person will be allowed beyond security checkpoints without a valid Security Badge. Each such person must submit signed and properly completed application forms to receive Security Badges. The application forms will solicit such information as the Superintendent may require; including but not limited to name, address, date of birth (driver's license). The Contractor is responsible for requesting and completing the form for each employee and subcontractors employee. The Superintendent may grant or deny the application in his sole discretion. The Contractor must make available to the Superintendent, within one (1) day of request, the personnel file of any employee who will be working on the project.

In addition to other rules and regulations, the following rules related to Security Badges, must be adhered to:

- A. Each person must wear and display his or her Security Badge on their outer apparel at all times while at any Chicago Police Department facility.
- B. Individuals must remain within their assigned area unless otherwise instructed by the Chicago Police Department.

#### **3.6.4. Department of Water Management ("DOWM") Security Requirements**

##### **3.6.4.1. Identification of Workers and Vehicles**

All employees and vehicles working within DOWM facilities must be properly identified. All vehicles and personnel passes will be issued to the Contractor by the Commissioner, as required. Contractor, Subcontractors, and employees must return identification material to the Commissioner upon completion of their respective work within the Project, and in all cases, the Contractor must return all identification material to the Commissioner after completion of the Project. Final Contract Payment will not be made until all passes issued have been returned to DOWM Security.

##### **3.6.4.2. Access to Facilities**

For purposes of this section, "employee" refers to any individual employed or engaged by Contractor or by any Subcontractor. If the Contractor, or any employee, in the performance of this Contract, has or will have access to a Department of Water Management (DOWM) facility, the City may conduct such background and employment checks, including criminal history record checks and work permit documentation, as the Commissioner of the Department of Water Management and the City may deem necessary, on the Contractor, any Subcontractor, or any of their respective employees. The Commissioner of the Department of Water Management has the right to require

the Contractor to supply or provide access to any additional information the Commissioner deems relevant. Before beginning work on the project, Contractor must:

Provide the City with a list of all employees requiring access to enable the City to conduct such background and employment checks;

Deliver to the City consent forms signed by all employees who will work on the project consenting to the City's and the Contractor's performance of the background checks described in this Section; and

Deliver to the City consent forms signed by all employees who will require access to the DOWM facility consenting to the searches described in this Section.

The Commissioner may preclude Contractor, any Subcontractor, or any employee from performing work on the project. Further, the Contractor must immediately report any information to the Commissioner relating to any threat to DOWM infrastructure or facilities or the water supply of the City and must fully cooperate with the City and all governmental entities investigating the threat. The Contractor must, notwithstanding anything contained in the Contract Documents to the contrary, at no additional cost to the City, adhere, and cause its Subcontractors to adhere, to any security and safety guidelines developed by the City and furnished to the Contractor from time to time during the term of the Contract and any extensions of it.

#### **3.6.4.3. Security Badges and Vehicle Permits**

Each employee whom Contractor wishes to have access to a DOWM facility must submit a signed, completed "Area Access Application" to the DOWM to receive a DOWM Security Badge. If Contractor wishes a vehicle to have access to a DOWM facility, Contractor must submit a vehicle access application for that vehicle. The applications will solicit such information as the Commissioner may require in his discretion, including name, address, date of birth (and for vehicles, driver's license and appropriate stickers). The Contractor is responsible for requesting and completing these forms for each employee who will be working at DOWM facilities and all vehicles to be used on the job site. The Commissioner may grant or deny the application in his sole discretion. The Contractor must make available to the Commissioner, within one (1) day of request, the personnel file of any employee who will be working on the project.

At the Commissioner's request, the Contractor and Subcontractor must maintain an employment history of employees going back five years from the date Contractor began Work or Services on the project. If requested, Contractor must certify that it has verified the employment history as required on the form designated by the Commissioner. Contractor must provide the City, at its request, a copy of the employment history for each employee. Employment history is subject to audit by the City.

DOWM Security Badges and Vehicle Permits will only be issued based upon properly completed Area Access Application Forms. Employees or vehicles without proper credentials will not be allowed on DOWM property.

The following rules related to Security Badges and Vehicle Permits must be adhered to:

- A. Each employee must wear and display the DOWM Security Badge issued to that employee on his or her outer apparel at all times.
- B. At the sole discretion of the Commissioner and law enforcement officials, including but not limited to the Chicago Police Department, Cook County Sheriffs Office, Illinois State Police or any other municipal, state or federal law enforcement agency, all vehicles (and their contents) are subject to interior and/or exterior inspection entering or exiting DOWM facilities, and all employees and other individuals entering or exiting DOWM facilities are subject to searches. Vehicles may not contain any materials other than those needed for

the project. The Commissioner may deny access to any vehicle or individual in his sole discretion.

- C. All individuals operating a vehicle on DOWM property must be familiar and comply with motor driving regulations and procedures of the State of Illinois and the City of Chicago. The operator must be in possession of a valid, state-issued Motor Vehicle Operator's Driver License.
- D. All required City stickers and State Vehicle Inspection stickers must be valid.
- E. Individuals must remain within their assigned area and haul routes unless otherwise instructed by the City.
- F. Access to the Work sites will be as shown or designated on the Contract Documents Drawings or determined by the Commissioner. The Commissioner may deny access when, in his sole discretion, the vehicle or individual poses some security risk to DOWM.

#### **3.6.4.4. Gates and Fences**

Whenever the Contractor receives permission to enter DOWM property in areas that are exit/entrance points not secured by the City, the Contractor may be required to provide gates that comply with DOWM design and construction standards. Contractor must provide a licensed and bonded security guard, subject to the Commissioner's approval and armed as deemed necessary by the Commissioner, at the gates when the gates are in use. DOWM Security will provide the locks. Failure to provide and maintain the necessary security will result in an immediate closure by DOWM personnel of the point of access.

Stockpiling materials and parking of equipment or vehicles near DOWM security fencing is prohibited.

Any security fencing, gates, or alarms damaged by the Contractor or its Subcontractors must be manned by a licensed and bonded security guard of the Contractor at Contractor's expense until the damaged items are restored. Contractor must restore them to their original condition within an eight (8) hour period from the time of notice given by the Commissioner.

Temporary removal of any security fencing, gate or alarm to permit construction must be approved by the Commissioner, and Contractor must man the site by a licensed and bonded security guard, approved by and armed as deemed necessary by the Commissioner, at Contractor's expense, on a twenty-four (24) hour basis during the period of temporary removal. Contractor must restore the items removed to their original condition when construction is completed.

#### **3.6.4.5. Hazardous or Illegal Materials**

Unauthorized hazardous or illegal materials, including but not limited to hazardous materials as defined in 49 C.F.R. Parts 100-185 (e.g. explosives, oxidizers, radiological materials, infectious materials), contraband, firearms and other weapons, illegal drugs and drug paraphernalia, may not be taken on DOWM property. Alcoholic beverages are also prohibited.

### **ARTICLE 4. STANDARD TERMS FOR FEDERALLY FUNDED SERVICES**

Contractor must also comply with the following terms and conditions where Services are funded in whole or in part by any federal funds; where any City provisions may contradict a federal requirement, the federal requirement will take precedence. Additional or revised terms may apply to specific federally-funded task-order service requests.

#### **4.1. Interest of Members of or Delegates to the United States Congress**

In accordance with 41 U.S.C. § 22 Contractor must not admit any member of or delegate to the United States Congress to any share or part of this Contract or to any benefit derived from it.

#### **4.2. False or Fraudulent Statements and Claims**

Contractor recognizes that the requirements of the Program Fraud Civil Remedies Act of 1986, as amended, 31 U.S.C. §§ 3801 et seq, apply to its actions pertaining to this Contract. Accordingly, Contractor, by signing this Contract, certifies or affirms the truthfulness and accuracy of any statement it has made, it presently makes, or it may make pertaining to this Contract, including without limitation any invoice for its Services. In addition to other penalties that may be applicable, Contractor also acknowledges that if it makes a false, fictitious or fraudulent claim, statement, submission or certification, the federal government reserves the right to impose the penalties of the Program Fraud Civil Remedies Act of 1986, as amended, on Contractor to the extent the federal government (the "Government") considers appropriate.

##### **4.2.1. Environmental Laws and Regulations**

Contractor recognizes that many federal, state and City laws imposing environmental and resource conservation requirements may apply to this Contract. Some, but not all, of the major laws that may affect the Contract include: the National Environmental Policy Act of 1969, as amended, 42 U.S.C. §§ 4321 et seq.; the Clean Air Act, as amended, 42 U.S.C. §§ 7401 et seq. and scattered sections of 29 U.S.C.; the Clean Water Act, as amended, scattered sections of 33 U.S.C. and 12 U.S.C.; the Resource Conservation and Recovery Act, as amended, 42 U.S.C. §§ 6901 et seq.; and the Comprehensive Environmental Response, Compensation, and Liability Act, as amended, 42 U.S.C. §§ 9601 et seq. Contractor also recognizes that U.S. Environmental Protection Agency, U.S. Department of Transportation, the Illinois Environmental Protection Agency, the City and other government agencies have issued and are expected in the future to issue regulations, guidelines, standards, orders, directives, or other requirements that may affect this Contract. Thus, Contractor must adhere to, and impose on its Subcontractors, any such requirements as the federal, state and City governments may now or in the future promulgate. Requirements of particular concern are listed below. Contractor acknowledges that this list does not constitute Contractor's entire obligation to meet all government environmental and resource conservation requirements. Contractor must

###### **4.2.1.1. Environmental Protection**

Contractor must comply with the applicable requirements of the National Environmental Policy Act of 1969, as amended, 42 U.S.C. §§ 4321 et seq. in accordance with Executive Order No.12898, "Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations," 59 Fed. Reg. 7629, Feb. 16, 1994;; Council on Environmental Quality regulations on compliance with the National Environmental Policy Act of 1969, as amended, 40 C.F.R. Part 1500 et seq.;

###### **4.2.1.2. Air Quality**

Contractor must comply with all applicable standards, orders, and regulations issued under the Clean Air Act, as amended, 42 U.S.C. §§ 7401 et seq. Specifically, Contractor must comply with applicable requirements of U.S. EPA regulations, "Conformity to State or Federal Implementation Plans of Transportation Plans, Programs, and Projects Developed, Funded or Approved Under Title 23 U.S.C. or the Federal Transit Act," 40 C.F.R. Part 51, Subpart T; and "Determining Conformity of Federal Actions to State or Federal Implementation Plans," 40 C.F.R. Part 93. Contractor must report and require each Subcontractor to report any violation of these requirements resulting from any activity related to the implementation of this Contract to the City and the appropriate U.S. EPA Regional Office.

###### **4.2.1.3. Clean Water**

Contractor must comply with all applicable standards, orders, or regulations issued under the Federal Water Pollution Control Act, as amended, 33 U.S.C. §§ 1251 et seq. Contractor must report and require each Subcontractor to report any violation of these requirements resulting from any

activity related to the implementation of this Contract to the City and the appropriate U.S. EPA Regional Office.

**4.2.1.4. List of Violating Facilities**

Contractor must not use any facility in the performance of this Contract or benefit any facility through its performance of this Contract that is listed on the U.S. EPA List of Violating Facilities ("List"), and Contractor must promptly notify the City if Contractor receives any communication from the U.S. EPA that such a facility is under consideration for inclusion on the List.

**4.2.1.5. Energy Policy and Conservation Act**

To the extent applicable, Contractor must comply with 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, 89 Stat. 871.

**4.2.2. Anti-Lobbying and Debarment**

By submitting and executing the Economic Disclosure Statement, Contractor certifies that it is in compliance with federal restrictions on lobbying and that neither it nor, if a joint venture, any of its joint venture members or their principals is presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any federal department or agency. Contractor further agrees that it will include this clause and the certification without modification in all solicitations and subcontracts. If Contractor or any Subcontractor is unable to certify to this clause, it must provide a written explanation of its inability.

**4.2.3. No Exclusionary or Discriminatory Specifications**

Apart from inconsistent requirements imposed by federal law, Contractor must comply with the requirements of 49 U.S.C. § 5323(h)(2) by refraining from using any funds received under this Contract to support subcontracts procured using exclusionary or discriminatory specifications.

**4.2.4. Preference for Recycled Products**

To the extent practicable and economically feasible and to the extent that it does not reduce or impair the quality of the Services, Contractor will use recycled products in performance of this Contract pursuant to U.S. Environment Protection Agency (U.S. EPA) guidelines at 40 C.F.R. Parts 247-253, which implement Section 6002 of the Resource Conservation and Recovery Act, 42 U.S.C. § 6962, as amended.

**4.2.5. Cargo Preference – Use of United States Flag Vessels**

Contractor must comply with U.S. Maritime Administration regulations, "Cargo- Preference -- U.S. Flag Vessels," 49 C.F.R. Part 381, and include the clauses required by those regulations, modified as necessary to identify the affected parties, in each subcontract involving equipment, materials or commodities suitable for transport by ocean vessel.

**4.2.6. Fly America**

Contractor must comply with 49 U.S.C. § 40118, and related regulations at 41 C.F.R. Part 301-10, regarding use of United States air carriers, and include clauses requiring its Subcontractors to comply with the requirements of 49 U.S.C. § 40118, and related regulations at 41 C.F.R. Part 301-10, in all of Contractor's subcontracts with its Subcontractors.

**4.2.7. No Federal Obligations to Third Parties**

Contractor agrees that, absent the federal government's express written consent, the federal government is not subject to any obligations or liabilities to Contractor or any other person or entity not a party to the Grant Contract or Cooperative Agreement between the City and the federal government, which is a source of funds for this Contract. Notwithstanding any concurrence provided by the federal government in or approval of any solicitation or agreement, the federal government continues to have no obligations or liabilities to any party, including Contractor.

**4.2.8. Contract Work Hours and Safety Standards Act**

Contractor must comply, and must cause its Subcontractors to comply, with Sections 103 and 107 of the Contract Work Hours and Safety Standards Act, 40 U.S.C. § 327 et seq., to the extent applicable. In accordance with the Contract Work Hours and Safety Standards Act, Contractor agrees that, if applicable, the wages of every laborer and mechanic employed by Contractor or its Subcontractors during the performance of this Contract will be computed on the basis of a standard work week of 40 hours, and that each laborer and mechanic will be compensated for work exceeding the standard work week at a rate of not less than 1.5 times the basic rate of pay for all hours worked in excess of 40 hours in a work week. Contractors' knowledge Department that determinations pertaining to these requirements will be made in accordance with applicable U.S. of Labor regulations, "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 C.F.R. Part 5.

#### **4.3. Contract termination: debarment**

A breach of the contract clauses in 29 CFR 5.5 may be grounds for termination of the contract, and for debarment as a contractor and a subcontractor as provided in 29 CFR 5.12.

#### **4.4. Certification Regarding Debarment, Suspension, Ineligibility And Voluntary Exclusion**

This provision is applicable to all Federal-aid construction contracts, design-build contracts, subcontracts, lower-tier subcontracts, purchase orders, lease agreements, consultant contracts or any other covered transaction that is estimated to cost \$25,000 or more – as defined in 2 CFR Parts 180 and 1200.

##### **4.4.1. Instructions for Certification – First Tier Participants:**

- a. By signing and submitting this proposal, the prospective first tier participant is providing the certification set out below.
- b. The inability of a person to provide the certification set out below will not necessarily result in denial of participation in this covered transaction. The prospective first tier participant shall submit an explanation of why it cannot provide the certification set out below. The certification or explanation will be considered in connection with the department or agency's determination whether to enter into this transaction. However, failure of the prospective first tier participant to furnish a certification or an explanation shall disqualify such a person from participation in this transaction.
- c. The certification in this clause is a material representation of fact upon which reliance was placed when the contracting agency determined to enter into this transaction. If it is later determined that the prospective participant knowingly rendered an erroneous certification, in addition to other remedies available to the Federal Government, the contracting agency may terminate this transaction for cause of default.
- d. The prospective first tier participant shall provide immediate written notice to the contracting agency to whom this proposal is submitted if any time the prospective first tier participant learns that its certification was erroneous when submitted or has become erroneous by reason of changed circumstances.
- e. The terms "covered transaction," "debarred," "suspended," "ineligible," "participant," "person," "principal," and "voluntarily excluded," as used in this clause, are defined in 2 CFR Parts 180 and 1200. "First Tier Covered Transactions" refers to any covered transaction between a grantee or subgrantee of Federal funds and a participant (such as the prime or general contract). "Lower Tier Covered Transactions" refers to any covered transaction under a First Tier Covered Transaction (such as subcontracts). "First Tier Participant" refers to the participant who has entered into a covered transaction with a grantee or subgrantee of Federal funds (such as the prime or general contractor). "Lower Tier Participant" refers any participant who has entered into a covered transaction with a First Tier Participant or other Lower Tier Participants (such as subcontractors and suppliers).
- f. The prospective first tier participant agrees by submitting this proposal that, should the proposed covered transaction be entered into, it shall not knowingly enter into any lower tier covered transaction

with a person who is debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction, unless authorized by the department or agency entering into this transaction.

g. The prospective first tier participant further agrees by submitting this proposal that it will include the clause titled "Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion-Lower Tier Covered Transactions," provided by the department or contracting agency, entering into this covered transaction, without modification, in all lower tier covered transactions and in all solicitations for lower tier covered transactions exceeding the \$25,000 threshold.

h. A participant in a covered transaction may rely upon a certification of a prospective participant in a lower tier covered transaction that is not debarred, suspended, ineligible, or voluntarily excluded from the covered transaction, unless it knows that the certification is erroneous. A participant is responsible for ensuring that its principals are not suspended, debarred, or otherwise ineligible to participate in covered transactions. To verify the eligibility of its principals, as well as the eligibility of any lower tier prospective participants, each participant may, but is not required to, check the Excluded Parties List System website (<https://www.epls.gov/>), which is compiled by the General Services Administration.

i. Nothing contained in the foregoing shall be construed to require the establishment of a system of records in order to render in good faith the certification required by this clause. The knowledge and information of the prospective participant is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.

j. Except for transactions authorized under paragraph (f) of these instructions, if a participant in a covered transaction knowingly enters into a lower tier covered transaction with a person who is suspended, debarred, ineligible, or voluntarily excluded from participation in this transaction, in addition to other remedies available to the Federal Government, the department or agency may terminate this transaction for cause or default.

\* \* \* \* \*

**Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion – First Tier Participants:**

a. The prospective first tier participant certifies to the best of its knowledge and belief, that it and its principals:

(1) Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participating in covered transactions by any Federal department or agency;

(2) Have not within a three-year period preceding this proposal been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, State or local) transaction or contract under a public transaction; violation of Federal or State antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;

(3) Are not presently indicted for or otherwise criminally or civilly charged by a governmental entity (Federal, State or local) with commission of any of the offenses enumerated in paragraph (a)(2) of this certification; and

(4) Have not within a three-year period preceding this application/proposal had one or more public transactions (Federal, State or local) terminated for cause or default.

b. Where the prospective participant is unable to certify to any of the statements in this certification, such prospective participant shall attach an explanation to this proposal.

**4.4.2. Instructions for Certification - Lower Tier Participants:**

(Applicable to all subcontracts, purchase orders and other lower tier transactions estimated to cost \$25,000 or more - 2 CFR Parts 180 and 1200)

- a. By signing and submitting this proposal, the prospective lower tier is providing the certification set out below.
- b. The certification in this clause is a material representation of fact upon which reliance was placed when this transaction was entered into. If it is later determined that the prospective lower tier participant knowingly rendered an erroneous certification, in addition to other remedies available to the Federal Government, the department, or agency with which this transaction originated may pursue available remedies, including suspension and/or debarment.
- c. The prospective lower tier participant shall provide immediate written notice to the person to which this proposal is submitted if at any time the prospective lower tier participant learns that its certification was erroneous by reason of changed circumstances.
- d. The terms "covered transaction," "debarred," "suspended," "ineligible," "participant," "person," "principal," and "voluntarily excluded," as used in this clause, are defined in 2 CFR Parts 180 and 1200. You may contact the person to which this proposal is submitted for assistance in obtaining a copy of those regulations. "First Tier Covered Transactions" refers to any covered transaction between a grantee or subgrantee of Federal funds and a participant (such as the prime or general contract). "Lower Tier Covered Transactions" refers to any covered transaction under a First Tier Covered Transaction (such as subcontracts). "First Tier Participant" refers to the participant who has entered into a covered transaction with a grantee or subgrantee of Federal funds (such as the prime or general contractor). "Lower Tier Participant" refers any participant who has entered into a covered transaction with a First Tier Participant or other Lower Tier Participants (such as subcontractors and suppliers).
- e. The prospective lower tier participant agrees by submitting this proposal that, should the proposed covered transaction be entered into, it shall not knowingly enter into any lower tier covered transaction with a person who is debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction, unless authorized by the department or agency with which this transaction originated.
- f. The prospective lower tier participant further agrees by submitting this proposal that it will include this clause titled "Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion-Lower Tier Covered Transaction," without modification, in all lower tier covered transactions and in all solicitations for lower tier covered transactions exceeding the \$25,000 threshold.
- g. A participant in a covered transaction may rely upon a certification of a prospective participant in a lower tier covered transaction that is not debarred, suspended, ineligible, or voluntarily excluded from the covered transaction, unless it knows that the certification is erroneous. A participant is responsible for ensuring that its principals are not suspended, debarred, or otherwise ineligible to participate in covered transactions. To verify the eligibility of its principals, as well as the eligibility of any lower tier prospective participants, each participant may, but is not required to, check the Excluded Parties List System website (<https://www.epls.gov/>), which is compiled by the General Services Administration.
- h. Nothing contained in the foregoing shall be construed to require establishment of a system of records in order to render in good faith the certification required by this clause. The knowledge and information of participant is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.
- i. Except for transactions authorized under paragraph e of these instructions, if a participant in a covered transaction knowingly enters into a lower tier covered transaction with a person who is suspended, debarred, ineligible, or voluntarily excluded from participation in this transaction, in addition to other remedies available to the Federal Government, the department or agency with which this transaction originated may pursue available remedies, including suspension and/or debarment.



\* \* \* \* \*

**Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion--Lower Tier Participants:**

1. The prospective lower tier participant certifies, by submission of this proposal, that neither it nor its principals is presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participating in covered transactions by any Federal department or agency.
2. Where the prospective lower tier participant is unable to certify to any of the statements in this certification, such prospective participant shall attach an explanation to this proposal.

\* \* \* \* \*

**4.5. Certification Regarding Use Of Contract Funds For Lobbying**

1. Contractor certifies, by signing and submitting its bid or proposal, to the best of his or her knowledge and belief, that:

a. No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of any Federal 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.

b. If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any Federal 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 shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.

2. 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 31 U.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.

3. The prospective participant also agrees by submitting its bid or proposal that the participant shall require that the language of this certification be included in all lower tier subcontracts, which exceed \$100,000 and that all such recipients shall certify and disclose accordingly.

**ARTICLE 5. STANDARD TERMS FOR TASK-ORDER PROFESSIONAL SERVICES CONTRACTS**

**5.1. Providing Services**

The Contractor must not honor any verbal requests for Services or perform or bill for any Services without receipt of a written Purchase Order issued by the Department. Any work performed by the Contractor without a written Purchase Order is done at the Contractor's risk. Consequently, in the event a written Purchase Order is not provided by the City, the Contractor releases the City from any liability whatsoever to pay for any work performed without a Purchase Order.

If indicated in the Scope or Detailed Specifications, the Services will be determined on an as-needed basis and as described on a Task Order Services Request ("TOSR") (which process is described in the Scope or Detailed Specifications). Only if the Contractor has successfully been awarded a Task Order will it then receive a Purchase Order (a.k.a. purchase order release, blanket order release, or sub-order) authorizing the Contractor to perform Services. Purchase Orders will indicate the specification number, purchase order number, project description, milestones, deadlines, funding, and other such pertinent information.

**5.2. Standard of Performance**

Contractor must perform all Services required of it under this Contract with that degree of skill, care and diligence normally shown by a Contractor in the community performing services of a scope and purpose and

magnitude comparable with the nature of the Services to be provided under this Contract. Contractor acknowledges that it may be entrusted with or may have access to valuable and confidential information and records of the City and with respect to that information only, Contractor agrees to be held to the standard of care of a fiduciary.

Contractor must ensure that all Services that require the exercise of professional skills or judgment are accomplished by professionals qualified and competent in the applicable discipline and appropriately licensed, if required by law. Contractor must provide the City copies of any such licenses. Contractor remains responsible for the professional and technical accuracy of all Services or Deliverables furnished, whether by Contractor or its Subcontractors or others on its behalf. All Deliverables must be prepared in a form and content satisfactory to the Department and delivered in a timely manner consistent with the requirements of this Contract.

If Contractor fails to comply with the foregoing standards, Contractor must perform again, at its own expense, all Services required to be re-performed as a direct or indirect result of that failure. Any review, approval, acceptance or payment for any of the Services by the City does not relieve Contractor of its responsibility for the professional skill and care and technical accuracy of its Services and Deliverables. This provision in no way limits the City's rights against Contractor either under this Contract, at law or in equity.

Contractor shall not have control over, or charge of, and shall not be responsible for, construction means, methods, schedules, or delays, or for safety precautions and programs in connection with construction work performed by others.

To the extent they exist, the City may furnish structural, mechanical, chemical, air, and water pollution and hazardous materials tests, and other laboratory and environmental tests, inspections, and reports required by law or by authorities having jurisdiction over any work, or reasonably requested by Contractor.

In the event Contractor's Services include any remodeling, alteration, or rehabilitation work, City acknowledges that certain design and technical decisions shall be made on assumptions based on available documents and visual observations of existing conditions.

### **5.3. Deliverables**

In carrying out its Services, Contractor must prepare or provide to the City various Deliverables. "Deliverables" include work product, produced by Contractor, including but not limited to written reviews, reports, recommendations, charts, analysis, designs, plans, specifications, drawings, or other similar products.

The City may reject Deliverables that do not include relevant information or data, or do not include all documents or other materials specified in this Contract or reasonably necessary for the purpose for which the City made this Contract. If the City determines that Contractor has failed to comply with the foregoing standards, the City has 30 days from the discovery to notify Contractor of its failure. If Contractor does not correct the failure within 30 days after receipt of notice from the City specifying the failure, then the City, by written notice, may treat the failure as a default of this Contract.

Partial or incomplete Deliverables may be accepted for review only when required for a specific and well-defined purpose for the benefit of the City and when consented to in advance by the City. Such Deliverables will not be considered as satisfying the requirements of this Contract and the City's acceptance of partial or incomplete Deliverables in no way relieves Contractor of its commitments under this Contract.

### **5.4. Additional Services**

Additional Services means those Services which are within the general scope of Services of this Contract, but beyond the description of services in the Detailed Specifications and all services reasonably necessary to complete the Additional Services to the standards of performance required by this Contract. Any Additional Services requested by the Department require the approval by the City through a formal amendment pursuant to Section 1.4.9 of the Standard Terms and Conditions before Contractor is obligated to perform those Additional Services and before the City becomes obligated to pay for those Additional Services.

### **5.5. Timeliness of Performance**

Contractor must provide the Services and Deliverables within the term and within the time limits required under this Contract, pursuant to Detailed Specifications or as specified in the applicable Task Order or Purchase Order. Further, Contractor acknowledges that TIME IS OF THE ESSENCE and that the failure of Contractor to comply with the time limits may result in economic or other losses to the City.

Neither Contractor nor its agents, employees or 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 Contractor by reason of delays or hindrances in the performance of the Services, whether or not caused by the City.

### **5.6. Suspension**

The City may at any time request that Contractor suspend its Services, or any part of them, by giving 15 days prior written notice to Contractor or upon informal oral, or even no notice, in the event of emergency. No costs incurred after the effective date of such suspension are allowed. Contractor must promptly resume its performance of the Services under the same terms and conditions as stated in this Contractor upon written notice by the Chief Procurement Officer and such equitable extension of time as may be mutually agreed upon by the Chief Procurement Officer and Contractor when necessary for continuation or completion of Services. Any additional costs or expenses actually incurred by Contractor as a result of recommencing the Services must be treated in accordance with the compensation provisions of this Contract.

### **5.7. Personnel**

#### **5.7.1. Adequate Staffing**

Contractor must, upon receiving a fully executed copy of this Contract, assign and maintain during the term of this Contract and any extension of it an adequate staff of competent personnel that is fully equipped, licensed as appropriate, available as needed, qualified and assigned to perform the Services. The level of staffing may be revised from time to time by notice in writing from Contractor to the City with a detailed explanation and/or justification only with prior written consent of the Commissioner, which consent the Commissioner will not withhold unreasonably. The City may also from time to time request that the Contractor adjust staffing levels to reflect workload and level of required Services or Additional Services.

#### **5.7.2. Key Personnel**

In selecting the Contractor for this Contract the City relied on the qualifications and experience of those persons identified by Contractor by name as performing the Services ("Key Personnel"). Contractor must not reassign or replace Key Personnel without the written consent of the Commissioner, which consent the Commissioner will not unreasonably withhold. The Commissioner may at any time in writing notify Contractor that the City will no longer accept performance of Services under this Contract by one or more Key Personnel. Upon that notice Contractor must immediately suspend the services of such person(s) and provide a replacement of comparable qualifications and experience who is acceptable to the Commissioner. Contractor's Key Personnel, if any, are identified in the Scope of Services / Detailed Specifications portion of this Contract.

#### **5.7.3. Salaries and Wages**

Contractor and any subcontractors must pay all salaries and wages due all employees performing Services under this Contract unconditionally and at least once a month without deduction or rebate on any account, except only for those payroll deductions that are mandatory by law or are permitted under applicable law and regulations. If in the performance of this Contract Contractor underpays any such salaries or wages, the Comptroller for the City may withhold, out of payments due to Contractor, an amount sufficient to pay to employees underpaid the difference between the salaries or wages required to be paid under this Contract and the salaries or wages actually paid these employees for the total number of hours worked. The amounts withheld may be disbursed by the Comptroller for and on account of Contractor to the respective employees to whom they are due. The parties acknowledge that

this paragraph is solely for the benefit of the City and that it does not grant any third party beneficiary rights.

#### **5.8. Ownership of Documents**

Except as otherwise agreed to in advance by the Commissioner in writing, all Deliverables, data, findings or information in any form prepared or provided by Contractor or provided by City under this Contract are property of the City, including all copyrights inherent in them or their preparation. During performance of its Services, Contractor is responsible for any loss or damage to the Deliverables, data, findings or information while in Contractor's or any Subcontractor's possession. Any such lost or damaged Deliverables, data, findings or information must be restored at Contractor's expense. If not restorable, Contractor must bear the cost of replacement and of any loss suffered by the City on account of the destruction. Notwithstanding the foregoing, Contractor shall retain all rights to its standard details and specifications and proprietary software, and nothing in this section shall be construed to be a transfer of rights which are not owned by Contractor.

#### **5.9. Copyright Ownership and other Intellectual Property**

Contractor and the City intend that, to the extent permitted by law, the Deliverables to be produced by Contractor at the City's instance and expense under this Contract are conclusively considered "works made for hire" within the meaning and purview of Section 101 of the United States Copyright Act, 17 U.S.C. §101 et seq., and that the City will be the sole copyright owner of the Deliverables and of aspects, elements and components of them in which copyright can subsist, and which are owned and transferable by, and of all rights to apply for copyright registration or prosecute any claim of infringement. To the extent that any Deliverable does not qualify as a "work made for hire", Contractor hereby irrevocably grants, conveys, bargains, sells, assigns, transfers and delivers to the City, its successors and assigns, all right, title and interest in and to the copyright and all U.S. and foreign copyright registrations, copyright applications and copyright renewals for them, and other intangible, intellectual property embodied in or pertaining to the Deliverables prepared for the City under this Contract and all goodwill relating to them, free and clear of any liens, claims or other encumbrances, to the fullest extent permitted by law. Notwithstanding the foregoing, Contractor shall retain all rights to its standard details and specifications and proprietary software, and nothing in this section shall be construed as a transfer of rights, which are not owned by Contractor. Contractor shall have no liability or duty whatsoever for any modification or change of the Deliverables or work, without Contractor's direct involvement and consent.

Contractor will, and will cause all of its Subcontractors, employees, agents and other persons within its control to, execute all documents and perform all acts that the City may reasonably request in order to assist the City in perfecting its rights in and to the copyrights relating to the Deliverables, at the sole expense of the City. Contractor warrants to the City, its successors and assigns, that, on the date of delivery, except as expressly stated otherwise in writing to the Commissioner or before that date: (a) Contractor will be the lawful owner of good and marketable title in and to the copyrights for the Deliverables it prepared, (b) Contractor will have the legal rights to fully assign the copyrights, (c) Contractor will not assign any copyrights and will not grant any licenses, exclusive or nonexclusive, to any other party (except pursuant to (3) below), (d) Contractor is not a party to any other agreements or subject to any other restrictions with respect to the Deliverables, (e) the Deliverables will be complete, entire and comprehensive within the standard of performance under Section 2.3 of this Contract, and (f) the Deliverables will constitute works of original authorship.

##### **5.9.1. Patents**

If any invention, improvement, or discovery of the Contractor or its Subcontractors is conceived or first actually reduced to practice during performance of or under this Contract, and that invention, improvement, or discovery is patentable under the laws of the United States of America or any foreign country, the Contractor must notify the City immediately and provide the City a detailed report regarding such invention, improvement, or discovery. If the City determines that patent protection for such invention, improvement, or discovery should be sought, Contractor agrees to seek patent protection for such invention, improvement, or discovery and to fully cooperate with the City

throughout the patent process. The Contractor must transfer to the City, at no cost, the patent in any invention, improvement, or discovery developed under this Contract and any patent rights to which the Contractor purchases ownership with funds provided to it under this Contract.

#### **5.9.2. Indemnity**

Without limiting any of its other obligations under this Contract and in addition to any other obligations to indemnify under this Contract, Contractor must, upon request by the City, indemnify, save, and hold harmless the City, and if this Contract is federally funded the Federal Government, and their respective officers, agents, and employees acting within the scope of their original duties against any liability, including costs and expenses, resulting from any willful or intentional violation by the Contractor of proprietary rights, copyrights, or right of privacy, arising out of the publication, translation, reproduction, delivery, use or disposition of any Deliverables furnished under the Contract. The Contractor is not required to indemnify the City or Federal Government for any such liability arising out of the wrongful acts of employees or agents of the City or Federal Government.

#### **5.9.3 Limitation of Liability**

Contractor will have no liability to the City for losses arising out of any use by or through the City of Deliverables prepared by Contractor pursuant to this Contract for any project or purpose other than the project or purpose for which they were prepared.

#### **5.10. Compliance with the Americans with Disabilities Act and Other Laws Concerning Accessibility**

Contractor covenants that all designs, plans and drawings produced or utilized under this Contract will address and comply with all federal, state and local laws and regulations regarding accessibility standards for persons with disabilities or environmentally limited persons including the following: the Americans with Disabilities Act of 1990, 42 U.S.C. § 12101 et seq. and the Americans with Disabilities Act Accessibility Guidelines for Buildings and Facilities ("ADAAG"); the Architectural Barriers Act, Pub. L. 90-480 (1968), and the Uniform Federal Accessibility Standards ("UFAS"); and the Illinois Environmental Barriers Act, 410 ILCS 25/1 et seq., and all regulations promulgated thereunder, see Illinois Administrative Code, Title 71, Chapter 1, Section 400.110. If the above standards are inconsistent, Contractor must assure that its designs, plans, and drawings comply with the standard providing the greatest accessibility. Also, Contractor must, prior to construction, review the plans and specifications to insure compliance with these standards. If Contractor fails to comply with the foregoing standards, the City may, without limiting any of its remedies set forth in this contract or otherwise available at law, in equity or by statute, require Contractor to perform again, at no expense, all services required to be re-performed as a direct or indirect result of such failure.

#### **5.11. Cooperation**

Contractor must at all times cooperate fully with the City and act in the City's best interests. If this Contract is terminated for any reason, or if it is to expire on its own terms, Contractor must make every effort to assure an orderly transition to another provider of the services, if any, orderly demobilization of its own operations in connection with the services, uninterrupted provision of services during any transition period and must otherwise comply with the reasonable requests and requirements of the City in connection with the termination or expiration.

#### **5.12. Reimbursement for Travel**

In the event that reimbursable travel is required for this contract and authorized by the City, any travel expenses will be reimbursed only in accordance with the City of Chicago Travel Reimbursement Guidelines, which may be downloaded from the Internet at: <http://www.cityofchicago.org/Forms>. The direct link is: [http://www.cityofchicago.org/content/dam/city/depts/dps/ContractAdministration/Forms/CityofChicago\\_TravelGuidelines.pdf](http://www.cityofchicago.org/content/dam/city/depts/dps/ContractAdministration/Forms/CityofChicago_TravelGuidelines.pdf).

## **ARTICLE 6. SCOPE OF WORK AND DETAILED SPECIFICATIONS**

### **6.1. Scope of Services**

This Contract is for Evaluation and Planning Services for Various Programs of Public Health Scope Categories, to be performed on a Task Order basis. More specifically, the Services that Contractor must provide are described in Exhibit 1, "Detailed Scope of Services."

This description of Services is intended to be general in nature and is neither a complete description of Contractor's Services nor a limitation on the Services that Contractor is to provide under this Contract.

All services provided by the Contractor (the "Services") must be authorized by a written Task Order. The City is under no obligation to issue any Task Order, nor is Contractor guaranteed any specific dollar value of Services.

### **6.2. List of Key Personnel**

Key Personnel are included as Attachment A to Exhibit 1.

### **6.3. Term of Performance**

This Contract takes effect as of the Effective Date and continues for 60 months, unless terminated earlier or extended pursuant to the terms of this contract.

The City will establish the start and expiration dates at the time of formal award and release of this contract.

### **6.4. Contract Extension Option**

The City has the option to extend the term of this Contract for two additional 12-month terms or a single additional 24-month term beyond the 60 month term set forth above, subject to acceptable performance by the Contractor and contingent upon the appropriation of sufficient funds for the procurement of services provided for in this Contract.

Before expiration of the then current term, the Chief Procurement Officer will give the Consultant notice, in writing, that the City is exercising its option to renew the Contract for the approaching option period. The date on which the Chief Procurement Officer gives notice is the date the notice is mailed, if it is mailed, or the date the notice is delivered, if sent by courier or messenger service. After notification, the Contract will be amended to reflect the term extension.

The 181 day extension for the purposes of providing continuity of service, described in the Standard Terms and Conditions article of this Contract, may be exercised in lieu of an option period or following the exhaustion of all option periods.

### **6.5. Payment**

#### **6.5.1. Basis of Payment**

The City will pay Contractor according to the Schedule of Compensation in the attached **Exhibit 2** for the completion of the Services in accordance with this Contract, including the standard of performance found in "Special Conditions for Professional Services Contracts," above.

#### **6.5.2. Method of Payment**

Contractor must submit monthly invoices to the City for costs billed, as outlined in the Schedule of Compensation in **Exhibit 2**. The invoices must be in such detail as the City requests. The City will process payment within 60 days after receipt of invoices and all supporting documentation necessary for the City to verify the Services provided under this Contract.

#### **6.5.3. Centralized Invoice Processing**

Unless stated otherwise in the Detailed Specifications, this Contract is subject to Centralized Invoice Processing ("CIP"). Invoices must be submitted directly to the Comptroller's office by US Postal Service mail to the following address as appropriate:

*Invoices for any City department other than the Department of Aviation:*

Invoices

City of Chicago, Office of the City Comptroller  
121 N. LaSalle St., Room 700, City Hall  
Chicago, IL 60602

*Invoices for the Department of Aviation:*

Chicago Department of Aviation  
10510 W. Zemke Blvd.  
P.O. Box 66142  
Chicago, IL 60666  
Attn: Finance Department

OR

Invoices for any department, including Aviation, may be submitted via email to: [invoices@cityofchicago.org](mailto:invoices@cityofchicago.org) with the word "INVOICE" in the subject line.

All invoices must be signed, marked "original," and include the following information or payment will be delayed:

- Invoice number and date
- Contract/Purchase Order number
- Blanket Release number (if applicable)
- Vendor name and/or number
- Remittance address
- Name of City Department that ordered the goods or services
- Name and phone number of your contact at the ordering department
- Invoice quantities, commodity codes, description of deliverable(s)
- Amount due
- Receipt number (provided by the ordering department after delivery of goods/services)

Invoice quantities, service description, unit of measure, pricing and/or catalog information must correspond to the terms of the Bid Page(s).

If applicable, if invoicing Price List/Catalog items, indicate Price List/Catalog number, item number, Price List/Catalog date, and Price List/Catalog page number on the invoice.

Invoices for over-shipments or items with price/wage escalations will be rejected unless the Contract includes a provision for such an adjustment.

Freight, handling and shipping costs are not to be invoiced; deliveries are to be made F.O.B., City of Chicago. The City of Chicago is exempt from paying State of Illinois sales tax and Federal excise taxes on purchases.

Contractor must not submit invoices for less than \$500 unless a particular invoice is for last payment related to closeout of services.

**6.5.4. Criteria for payment**

The reasonableness, allocability, and allowability of any costs and expenses charged by Contractor under this contract will be determined by the Chief Procurement Officer and the Commissioner in their sole discretion.

In the event of a dispute between Contractor and the City as to whether any particular charge will be paid, or as to whether the amount of such charge is reasonable, allocable to the services under the contract, or allowable, the Contractor must, and the Department may, refer such dispute to the Chief Procurement Officer for resolution in accordance with the Contract Disputes section of this contract.

The City will not withhold payment for undisputed sums on such invoice while a dispute is being resolved.

**6.6. Funding**

The source of funds for payments under this Contract is Fund number \_\_\_\_\_, and various other Fund numbers as identified by the City for each Task Order issued. Funding for this Contract is subject to the availability of funds and their appropriation by the City Council of the City.

This contract and estimated upper limits of the contract for the base term are as follows:

City Funded Task Orders

State Funded Task Orders

Federally Funded Task Orders:

Payments under this Contract must not exceed \$\_\_\_\_\_ in aggregate. The City may increase this upper limit by notice in writing to the Contractor.

**6.7. State or Federal Funding Source**

This contract is expected to be funded wholly by City funds. In the event that a given Task Order will be paid with state or federal assistance, the TOR will identify the source of funds, and may also set out additional conditions required by the funding source, including the form of compensation, which shall become part of the Contract with respect to the particular project, which Contractor may agree to accept by submitting a TOR Proposal.

**6.8. Task Orders**

Contractor must perform, on a Task Order basis, the required Services, in a satisfactory manner consistent with the Chicago Department of Public Health (“DPH”) standards of performance. Such Services will be determined on an as-needed basis and as described in a Task Order Request (“TOR”) issued by the Department. Task Order services may include but are not limited to: emergency preparedness; HIV/STI services; maternal, child & adolescent health (MCAH); chronic diseases; infectious diseases; environmental health; behavioral health; population health.

All services provided by the Contractor (the “Services”) must be authorized by a written TOR. This Contract is a "Depends Upon Requirement" Master Task Order Contract and the City is under no obligation to issue any TOR, nor is Contractor guaranteed any specific dollar value of Services.

As needed, DPH will issue a TOR for proposals from the Contractor for certain scope of services specified. The TOR will describe the project; establish the services to be performed; set forth the timeline for the completion of services requested therein, and indicate whether federal funding will be used for any part of the work. In the event that federal or other non-City funding is to be used, the TOR will identify the source of funds, and may also set out additional conditions required by the funding source, including the form of compensation, which shall become part of the Contract with respect to the particular project.

If Contractor would like the City to apply the (1) Preference for Chicago-based businesses, (2) Incentive for Alternatively Fueled Vehicles or (3) Incentive for Joint Ventures between Veteran-Owned Business Enterprises and Small Business Enterprises, Respondent must submit the applicable affidavit(s) with its Task Order Proposal; however, these preferences and incentives will not be applied to any Task Order that involves federal funding sources.

Contractor must respond by submitting a Proposal that must include, but is not limited to the following: cover letter, understanding and approach, deliverables, project schedule, detailed cost breakdowns in such detail as required for the specific task, all documentation required to substantiate compliance with the DBE/MBE/WBE participation requirements as applicable, compliance with applicable funding source required provisions, fee, list of key personnel and all other associated substantiation documentation required under the TOR. Contractor’s Proposal must conform to the terms of the TOR and the terms and



conditions of the Contract. Costs associated with the preparation of TOR Proposals are not compensable under the Contract. Participation of Minority and Women Business Enterprises (MBE/WBE) or Disadvantaged Business Enterprise (DBE) will be dictated by the funding source utilized.

Upon acceptance of Contractor's Proposal (subject to negotiation of terms and conditions by the City and Contractor, and in conformity with the terms of the Contract), the City may, by written Task Order, direct Contractor to perform the Task Order services. Upon receipt of written approval of the Task Order from both the Commissioner of the applicable Department and the Chief Procurement Officer ("CPO"), and an executed Blanket Release, Contractor will commence performance of the Services; to the extent such services are described in Exhibit 1.

#### 6.7.1 Task Order Proposals

The Consultant must respond to a Task Order Request by submitting a Task Order proposal to the Commissioner which describes the Consultant's approach and plan for performing those services and contains a time schedule for completion of services, deliverables to be provided and a schedule for delivery, a staffing schedule, a cost proposal, and MBE/WBE utilization all of which conform to the terms of the Task Order Request and the terms and conditions of the Master Consulting Agreement. Task Order proposals will constitute irrevocable offers for a period of 60 calendar days after receipt by the City. Any and all costs associated with the preparation of Task Order proposals will not be a reimbursable cost under the Agreement.

Task Order proposals satisfactory to the Commissioner must be signed on behalf of the City by the CPO before binding the City and Consultant. The City's acceptance will be demonstrated by a Notice-to-Proceed issued by the Department. The Consultant will not commence services, and the City will not be liable for any costs incurred by or payments to the Consultant, without a Notice-to-Proceed so executed. All approved Proposals will be governed by the terms and conditions of the Project Documents. The Project Documents will be interpreted in the following order of precedence: the terms of this Agreement, Task Order Request, and Task Order (approved Proposal).

Notwithstanding anything to the contrary contained in this Agreement, if any Task Order contains terms that are inconsistent or conflict with this Agreement, or shift the risk allocation contemplated in this Agreement, such Task Order must be treated as an amendment pursuant to MCA Section 3.1.9. Further, it is contemplated that each Task Order will include scopes of services setting forth the obligations of the Consultant under that Task Order, but the parties recognize that, depending upon the nature of the scope of services, the terms and conditions in this Agreement may not be appropriate for the undertaking contemplated by the Task Order. Therefore, any project for which the terms of this Agreement are deficient as a business and/or legal matter, such as, without limitation, deficient risk allocation provisions or licensing provisions given the nature of the project, must be done by amendment pursuant to MCA Section 3.1.9.

The Consultant acknowledges and agrees that the City either may select from among those proposals submitted in response to a Task Order Request that Task Order proposal which is in the best interests of the City or may reject any and all Task Order proposals submitted in response to a Task Order Request. The Consultant further acknowledges and agrees that this Agreement and any Task Order may be subject to approval by other governmental agencies and that, if such approval is required, the Consultant will perform no services relating to a Task Order proposal until such approval is obtained.

Task Order Proposals will be submitted to the Commissioner no later than the date set forth in the Task Order Request and if no date is specified then no later than 15 business days following Consultant's receipt of the Task Order Request. Failure to provide a Task Order Proposal on a timely basis may result in rejection of the proposal.

The City reserves the right, at its option, either to accept a Task Order Proposal as submitted by the Consultant, reject the Task Order Proposal, or to negotiate a more satisfactory Task Order Proposal with one or more Consultants.

**6.9. Full Discipline Team**

For the purposes of this Contract, Contractor must include as part of its team all disciplines necessary to support the required services, including specialized subcontractors, to perform services in fields as required by the project. Contractor shall be aware that, based on the type and scope of the project, not all projects may require a full discipline team, however, in all cases, the Contractor is still required to meet the DBE/MBE/WBE participation requirements for each Task Order. Contractor is responsible for the coordination of all members of its team.

Contractor must, in connection with the performance of the Services, supply all of the personnel, materials, equipment, and/or software necessary to perform the Services and provide any administrative support necessary to satisfactorily perform the Task Order in accordance with the Contract.



**CITY OF CHICAGO**  
**Department of Procurement Services**  
**Jamie L. Rhee, Chief Procurement Officer**  
 121 North LaSalle Street, Room 806  
 Chicago, Illinois 60602-1284  
**Fax: 312-744-3281**

**MBE & WBE SPECIAL CONDITIONS FOR TASK ORDER SERVICES CONTRACTS**

**ARTICLE 7. SPECIAL CONDITIONS REGARDING MINORITY BUSINESS ENTERPRISE COMMITMENT AND WOMEN BUSINESS ENTERPRISE COMMITMENT FOR TASK ORDER SERVICES**

**7.1. Policy and Terms**

It is the policy of the City of Chicago that Local Businesses certified as Minority Owned Business Enterprises (MBE) and Women Owned Business Enterprises (WBE) in accordance with Section 2-92-420 et seq. of the Municipal Code of Chicago and Regulations Governing Certification of Minority and Women-owned Businesses and all other Regulations promulgated under the aforementioned sections of the Municipal Code, as well as MBEs and WBEs certified by Cook County, Illinois, will have full and fair opportunities to participate fully in the performance of this contract. Therefore, the Contractor will not discriminate against any person or business on the basis of race, color, sex, gender identity, age, religion, disability, national origin, ancestry, sexual orientation, marital status, parental status, military discharge status or source of income and will take affirmative action to ensure that women and minority businesses will have the maximum opportunity to compete for and perform subcontracts for supplies or services.

Pursuant to Section 2-92-430 of the Municipal Code of Chicago, the Chief Procurement Officer has established a goal of awarding not less than 25% of the annual dollar value of all non-construction contracts to certified MBEs and 5% of the annual dollar value of all non-construction contracts to certified WBEs.

Accordingly, the Contractor commits to make Good Faith Efforts to expend at least the following percentages of the total Contract Price (inclusive of any and all modifications and amendments), if awarded, for Contract participation by MBEs and WBEs:

	CATEGORY A		CATEGORY B	
	MBE <u>Percentage</u>	WBE <u>Percentage</u>	MBE <u>Percentage</u>	WBE <u>Percentage</u>
SubCategory 1	10%	3%	10%	3%
SubCategory 2	10%	3%	10%	3%
SubCategory 3	10%	3%	10%	3%
SubCategory 4	10%	3%	10%	3%
SubCategory 5	10%	3%	10%	3%
SubCategory 6	10%	3%	10%	3%
SubCategory 7	10%	3%	10%	3%
SubCategory 8	10%	3%	10%	3%

The Contractor also commits to make Good Faith Efforts to expend at least the same percentages (unless otherwise specified by the City when requesting a particular Task Order Proposal) of the total Task Order Price

(inclusive of any and all modifications and amendments), if awarded, for participation by MBEs and WBEs on each individual Task Order.

This commitment is met by the Contractor's status as a MBE or WBE, or by a joint venture with one or more MBEs or WBEs on the Master Consulting Agreement (to the extent of the MBE or WBE participation in such joint venture and work on the Task Order), or by subcontracting a portion of the work to one or more MBEs or WBEs, or by the purchase of materials used in the performance of the Task Order from one or more MBEs or WBEs, or by the indirect participation of MBEs or WBEs in other aspects of the Contractor's business (but no dollar of such indirect MBE or WBE participation will be credited more than once against a Contractor's MBE or WBE commitment with respect to all government Contracts of such Contractor), or by any combination of the foregoing.

**Note:** MBE/WBE participation goals are separate and those businesses certified with the City of Chicago as both MBE and WBE may only be listed on a bidder's compliance plan as either a MBE or a WBE, but not both to demonstrate compliance with the Task Order Specific Goals.

As noted above, the Contractor may meet all or part of this commitment by contracting with MBEs or WBEs for the provision of goods or services not directly related to the performance of this Contract. However, in determining the manner of MBE/WBE participation, the Contractor will first consider involvement of MBEs/WBEs as joint venture partners, subcontractors, and suppliers of goods and services directly related to the performance of this Contract. In appropriate cases, the Chief Procurement Officer will require the Contractor to demonstrate the specific efforts undertaken by it to involve MBEs and WBEs directly in the performance of the Task Order.

The Contractor also may meet all or part of this commitment through credits received pursuant to Section 2-92-530 of the Municipal Code of Chicago for the voluntary use of MBEs or WBEs in private sector contracts.

Pursuant to 2-92-535, the prime contractor may apply be awarded an additional 0.333 percent credit, up to a maximum of a total of 5 percent additional credit, for every 1 percent of the value of a contract self-performed by MBEs or WBEs, or combination thereof, that have entered into a mentor agreement with the contractor. This up to 5% may be applied to the Task Order Specific Goals, or it may be in addition to the Task Order Specific Goals.

## 7.2. Definitions

**"Area of Specialty"** means the description of an MBE or WBE firm's business which has been determined by the Chief Procurement Officer to be most reflective of the MBE or WBE firm's claimed specialty or expertise. Each MBE/WBE letter of certification contains a description of the firm's Area of Specialty. This information is also contained in the Directory (defined below). Credit toward this Contract's MBE and WBE participation goals shall be limited to the participation of firms performing within their Area of Specialty.

**NOTICE:** *The City of Chicago does not make any representation concerning the ability of any MBE/WBE to perform work within their Area of Specialty. It is the responsibility of all contractors to determine the capability and capacity of MBEs/WBEs to satisfactorily perform the work proposed.*

**"B.E.P.D."** means an entity certified as a Business enterprise owned or operated by people with disabilities as defined in MCC Section 2-92-586.

**"Bid"** means a bid, proposal, or submittal detailing a description of the services or work to be provided by the contractor in response to a bid solicitation, request for proposal, request for qualification of task order request (issued in accordance with the Master Consulting Agreement) that is issued by the City.

**"Bidder"** means any person or business entity that submits a bid, proposal, qualification or submittal that seeks to enter into a contract with the City, and includes all partners, affiliates and joint ventures of such person or entity.

**"Broker"** means a person or entity that fills orders by purchasing or receiving supplies from a third party supplier rather than out of its own existing inventory and provides no commercially useful function other than acting as a conduit between his or her supplier and his or her customer.

**"Chief Procurement Officer" or "CPO"** means the chief procurement officer of the City of Chicago or his or her designee.

**"Commercially Useful Function"** means responsibility for the execution of a distinct element of the work of the contract, which is carried out by actually performing, managing, and supervising the work involved, evidencing the responsibilities and risks of a business owner such as negotiating the terms of (sub)contracts, taking on a financial risk commensurate with the contract or its subcontract, responsibility for acquiring the appropriate lines of credit and/or loans, or fulfilling responsibilities as a joint venture partner as described in the joint venture agreement.

**"Contract Specific Goals"** means the subcontracting goals for MBE and WBE participation established for a particular Contract. Unless otherwise specified by the City when a Request for Task Order Proposals is issued, the Task Order Specific Goal will be the same as the Contract Specific Goal.

**"Contractor"** means any person or business entity that has entered into a contract with the City as described herein, and includes all partners, affiliates, and joint ventures of such person or entity.

**"Direct Participation"** the value of payments made to MBE or WBE firms for work that is performed in their Area of Specialty directly related to the performance of the subject matter of the Contract will count as Direct Participation toward the Task Order Specific Goals.

**"Directory"** means the Directory of Certified "Minority Business Enterprises" and "Women Business Enterprises" maintained and published by the City of Chicago. The Directory identifies firms that have been certified as MBEs and WBEs, and includes both the date of their last certification and the area of specialty in which they have been certified. Contractors are responsible for verifying the current certification status of all proposed MBE, and WBE firms.

**"Good Faith Efforts"** means actions undertaken by a bidder or contractor to achieve a Task Order Specific Goal that the CPO or his or her designee has determined, by their scope, intensity, and appropriateness to the objective, can reasonably be expected to fulfill the program's requirements.

**"Indirect Participation"** refers to the value of payments made to MBE or WBE firms for work that is done in their Area of Specialty related to other aspects of the Contractor's business. (Note: no dollar of such indirect MBE or WBE participation shall be credited more than once against a contractor's MBE or WBE commitment with respect to all government contracts held by that contractor.)

**"Joint venture"** means an association of a MBE or WBE firm and one or more other firms to carry out a single, for-profit business enterprise, for which each joint venture partner contributes property, capital, efforts, skills and knowledge, and in which the MBE or WBE is responsible for a distinct, clearly defined portion of the work of the contract and whose share in the capital contribution, control, management, risks, and profits of the joint venture are commensurate with its ownership interest.

**"Master Consulting Agreement"** means the task-order based consulting agreement under which Task Orders are issued.

**"Mentor-Protégé Agreement"** means an agreement between a prime and MBE or WBE subcontractor that pursuant to MCC 2-92-535 is approved by the City of Chicago and complies with all requirements of MCC 2-92-535 and any rules and regulations promulgated by the Chief Procurement Officer.

**"Minority Owned Business Enterprise" or "MBE"** means a firm awarded certification as a minority owned and controlled business in accordance with City Ordinances and Regulations as well as a firm awarded certification as a minority owned and controlled business by Cook County, Illinois.

**"Municipal Code of Chicago" or "MCC"** means the Municipal Code of the City of Chicago.

**"Proposal"** means the detailed description of the Services to be provided by the Contractor in response to a Task Order Request issued in accordance with the Master Consulting Agreement. May also be referred to as a bid for the purposes of these MBE / WBE Special Conditions.

**"Task Order"** means an approved Proposal, as modified by negotiation between the City and Contractor, signed by the CPO and issued pursuant to the Task Order procedures set forth in the Master Consulting Agreement.

**"Task Order Specific Goals"** means the subcontracting goals for MBE and WBE participation established for a particular Task Order. Unless otherwise specified by the City when a Request for Task Order Proposals is issued, the Task Order Specific Goal will be the same as the Contract Specific Goal stated above

**"Supplier"** or **"Distributor"** refers to a company that owns, operates, or maintains a store, warehouse or other establishment in which materials, supplies, articles or equipment are bought, kept in stock and regularly sold or leased to the public in the usual course of business. A regular distributor or supplier is a firm that owns, operates, or maintains a store, warehouse, or other establishment in which the materials or supplies required for performance of a contract are bought, kept in stock, and regularly sold to the public in the usual course of business. To be a regular distributor the firm must engage in, as its principal business and in its own name, the purchase and sale of the products in question. A regular distributor in such bulk items as steel, cement, gravel, stone, and petroleum products need not keep such products in stock if it owns or operates distribution equipment.

**"Women Owned Business Enterprise"** or **"WBE"** means a firm awarded certification as a women owned and controlled business in accordance with City Ordinances and Regulations as well as a firm awarded certification as a women owned business by Cook County, Illinois. However, it does not mean a firm that has been found ineligible or which has been decertified by the City or Cook County.

### **7.3. Joint Ventures**

The formation of joint ventures to provide MBEs and WBEs with capacity and experience at the prime contracting level, and thereby meet Task Order Specific Goals (in whole or in part) is encouraged. A joint venture may consist of any combination of MBEs, WBEs, and non-certified firms as long as one member is an MBE or WBE.

- a. The joint venture may be eligible for credit towards the Task Order Specific Goals only if:
  - i. The MBE or WBE joint venture partner's share in the capital contribution, control, management, risks and profits of the joint venture is equal to its ownership interest;
  - ii. The MBE or WBE joint venture partner is responsible for a distinct, clearly defined portion of the requirements of the contract and Task Order for which it is at risk;
  - iii. Each joint venture partner executes the Master Consulting Agreement with the City; and
  - iv. The joint venture partners have entered into a written agreement specifying the terms and conditions of the relationship between the partners and their relationship and responsibilities to the contract, and Task Order if different, and all such terms and conditions are in accordance with the conditions set forth in Items i, ii, and iii above in this Paragraph a.
- b. The Chief Procurement Officer shall evaluate the proposed joint venture agreement, the Schedule B submitted on behalf of the proposed joint venture, and all related documents to determine whether these requirements have been satisfied. The Chief Procurement Officer shall also consider the record of the joint venture partners on other City of Chicago contracts. The decision of the Chief Procurement Officer regarding the eligibility of the joint venture for credit towards meeting the Task Order Specific Goals, and the portion of those goals met by the joint venture, shall be final.

The joint venture may receive MBE or WBE credit for work performed by the MBE or WBE joint venture partner(s) equal to the value of work performed by the MBE or WBE with its own forces for a distinct, clearly defined portion of the work.

Additionally, if employees of the joint venture entity itself (as opposed to employees of the MBE or WBE partner) perform the work, then the value of the work may be counted toward the Task Order Specific Goals at a rate equal to the MBE or WBE firm's percentage of participation in the joint venture as described in Schedule B.

The Chief Procurement Officer may also count the dollar value of work subcontracted to other MBEs and WBEs. Work performed by the forces of a non-certified joint venture partner shall not be counted toward the Task Order Specific Goals.

c. **Schedule B: MBE/WBE Affidavit of Joint Venture**

Where the bidder's Compliance Plan includes the participation of any MBE or WBE as a joint venture partner, the bidder must submit with its Task Order Proposal a Schedule B and a copy of the joint venture agreement. These documents must both clearly evidence that the MBE or WBE joint venture partner(s) will be responsible for a clearly defined portion of the work to be performed, and that the MBE's or WBE's responsibilities and risks are proportionate to its ownership percentage. The proposed joint venture agreement must include specific details related to:

- i. The parties' contributions of capital, personnel, and equipment and share of the costs of insurance and bonding;
- ii. Work items to be performed by the MBE's or WBE's own forces and/or work to be performed by employees of the newly formed joint venture entity;
- iii. Work items to be performed under the supervision of the MBE or WBE joint venture partner; and
- iv. The MBE's or WBE's commitment of management, supervisory, and operative personnel to the performance of the contract and Task Order.

**NOTE:** Vague, general descriptions of the responsibilities of the MBE or WBE joint venture partner do not provide any basis for awarding credit. For example, descriptions such as "participate in the budgeting process," "assist with hiring," or "work with managers to improve customer service" do not identify distinct, clearly defined portions of the work. Roles assigned should require activities that are performed on a regular, recurring basis rather than as needed. The roles must also be pertinent to the nature of the business for which credit is being sought. For instance, if the scope of work required by the City entails the delivery of goods or services to various sites in the City, stating that the MBE or WBE joint venture partner will be responsible for the performance of all routine maintenance and all repairs required to the vehicles used to deliver such goods or services is pertinent to the nature of the business for which credit is being sought.

**7.4. Counting MBE/WBE Participation Toward the Task Order Specific Goals**

Refer to this section when preparing the MBE/WBE compliance plan and completing Schedule D-3 for guidance on what value of the participation by MBEs and WBEs will be counted toward the stated Task Order Specific Goals. The "Percent Amount of Participation" depends on whether and with whom a MBE or WBE subcontracts out any portion of its work and other factors.

Firms that are certified as both MBE and WBE may only be listed on a bidder's compliance plan as either a MBE or a WBE to demonstrate compliance with the Task Order Specific Goals. This means that a firm that is certified as both a MBE and a WBE may only be listed on the bidder's compliance plan under one of the categories, but not both. Only Payments made to MBE and WBE firms that meet BOTH the Commercially Useful Function and Area of Specialty requirements above will be counted toward the Task Order Specific Goals.

- a. Only expenditures to firms that perform a Commercially Useful Function as defined above may count toward the Task Order Specific Goals.
  - i. The CPO will determine whether a firm is performing a commercially useful function by evaluating the amount of work subcontracted, whether the amount the firm is to be paid under the contract is commensurate with the work it is actually performing and the credit claimed for its performance of the work, industry practices, and other relevant factors.
  - ii. A MBE or WBE does not perform a commercially useful function if its participation is only required to receive payments in order to obtain the appearance of MBE or WBE participation. The CPO may examine similar commercial transactions, particularly those in which MBEs or WBEs do not participate, to determine whether non MBE and non WBE firms perform the same function in the marketplace to make a determination.
  - iii. Indications that a subcontractor is not performing a commercially useful function include, but are not limited to, labor shifting and equipment sharing or leasing arrangements with the prime contractor or a first tier subcontractor.
- b. Only the value of the dollars paid to the MBE or WBE firm for work that it performs in its Area of Specialty in which it is certified counts toward the Task Order Specific Goals.
- c. For maintenance, installation, repairs or inspection, or professional services, if the MBE or WBE performs the work itself: 100% of the value of work actually performed by the MBE's or WBE's own forces shall be counted toward the Task Order Specific Goals, including the cost of supplies and materials purchased or equipment leased by the MBE or WBE from third parties or second tier subcontractors in order to perform its (sub)contract with its own forces (except supplies and equipment the MBE or WBE subcontractor purchases or leases from the prime contractor or its affiliate). 0% of the value of work at the project site that a MBE or WBE subcontracts to a non-certified firm counts toward the Task Order Specific Goals.
- d. If the MBE or WBE is a manufacturer: 100% of expenditures to a MBE or WBE manufacturer for items needed for the Contract shall be counted toward the Task Order Specific Goals. A manufacturer is a firm that operates or maintains a factory or establishment that produces on the premises the materials or supplies obtained by the bidder or contractor.
- e. If the MBE or WBE is a distributor or supplier: 60% of expenditures for materials and supplies purchased from a MBE or WBE that is certified as a regular dealer or supplier shall be counted toward the Task Order Specific Goals.
- f. If the MBE or WBE is a broker:
  - i. Zero percent (0%) of expenditures paid to brokers will be counted toward the Task Order Specific Goals.
  - ii. As defined above, Brokers provide no commercially useful function.
- g. If the MBE or WBE is a member of the joint venture contractor/bidder:
  - i. A joint venture may count the portion of the total dollar value of the contract equal to the distinct, clearly defined portion of the work of the contract that the MBE or WBE performs with its own forces toward the Task Order Specific Goals; or
  - ii. If employees of this distinct joint venture entity perform the work then the value of the work may be counted toward the Task Order Specific Goals at a rate equal to the MBE or WBE firm's percentage of participation in the joint venture as described in the Schedule B.
  - iii. A joint venture may also count the dollar value of work subcontracted to other MBEs and WBEs.



- h. If the MBE or WBE subcontracts out any of its work:
- i. 100% of the value of the work subcontracted to other MBEs or WBEs performing work in its Area of Specialty may be counted toward the Task Order Specific Goals.
  - ii. 0% of the value of work that a MBE or WBE subcontracts to a non-certified firm counts toward the Task Order Specific Goals (except as allowed by (c) above).
  - iii. The fees or commissions charged for providing a bona fide service, such as professional, technical, consulting or managerial services or for providing bonds or insurance and assistance in the procurement of essential personnel, facilities, equipment, materials or supplies required for performance of the Contract, provided that the fee or commission is determined by the Chief Procurement Officer to be reasonable and not excessive as compared with fees customarily allowed for similar services.
  - iv. The fees charged for delivery of materials and supplies required on a job site (but not the cost of the materials and supplies themselves) when the hauler, trucker, or delivery service is not also the manufacturer of or a regular dealer in the materials and supplies, provided that the fee is determined by the Chief Procurement Officer to be reasonable and not excessive as compared with fees customarily allowed for similar services.
  - v. The fees or commissions charged for providing any bonds or insurance, but not the cost of the premium itself, specifically required for the performance of the Contract, provided that the fee or commission is determined by the Chief Procurement Officer to be reasonable and not excessive as compared with fees customarily allowed for similar services.

#### **7.5. Regulations Governing Reductions to or Waiver of MBE/WBE Goals**

The following Regulations set forth the standards to be used in determining whether or not a reduction or waiver of the MBE/WBE commitment goals of a particular contract or Task Order is appropriate. If a bidder determines that it is unable to meet the MBE and/or WBE Goals on a City of Chicago contract or Task Order, a written request for the reduction or waiver of the commitment must be included in the bid or Proposal.

The written request for reduction or waiver from the commitment must be in the form of a signed petition for grant of relief from the MBE/WBE percentages submitted on the bidder's letterhead, and must demonstrate that all required efforts as set forth in this document were taken to secure eligible Minority and Women Business Enterprises to meet the commitments. The Chief Procurement Officer or designee shall determine whether the request for the reduction or waiver will be granted.

A bidder will be considered responsive to the terms and conditions of these Special Conditions if, at the time of bid, it submits a waiver request and all supporting documentation that adequately addresses the conditions for waiver of MBE/WBE goals, including proof of notification to assist agencies except:

- Bidders responding to Request for Proposals (RFPs) who have been identified as a short listed candidate and/or a prospective awardee will be given a designated time allowance, but no more than fourteen (14) calendar days to submit to the Department of Procurement Services complete documentation that adequately addresses the conditions for waiver described herein; and
- Bidders responding to Request for Information and or Qualifications (RFI/RFQs) deemed by the Chief Procurement Officer or authorized designee to be the most responsive and responsible shall submit documentation that adequately addresses the conditions for waiver described herein during negotiations.

Failure to submit documentation sufficient to support the waiver request will cause the bid/proposal to be found non-responsive by the Chief Procurement Officer, and the bid/proposal will be rejected. In such cases the remedies to be taken by the Chief Procurement Officer, in his or her discretion, may include, but are not limited to, forfeiture of bid deposit; negotiating with the next lowest bidder; or re-advertising the

bid/proposal. All bidders must submit all required documents at the time of bid opening to expedite the contract award.

**7.5.1. Direct / Indirect Participation**

Each of the following elements must be present in order to determine whether or not such a reduction or waiver is appropriate.

a. The bidder has documented the unsuccessful solicitation for either subcontractors or joint venture partners of at least 50% (or at least five when there are more than eleven certified firms in the commodity area) of the appropriate certified MBE/WBE firms to perform any direct or indirect work identified or related to the advertised bid/Proposal. Documentation must include but is not necessarily limited to:

1. A detailed statement of efforts to identify and select portions of work identified in the request for Task Order Proposals for subcontracting to certified MBE/WBE firms;
2. A listing of all MBE/WBE firms contacted that includes:
  - o Name, address, telephone number and email of MBE/WBE firms solicited;
  - o Date and time of contact;
  - o Method of contact (written, telephone, transmittal of facsimile documents, email, etc.)
3. Copies of letters or any other evidence of mailing that substantiates outreach to MBE/WBE vendors that includes:
  - o Project identification and location;
  - o Classification/commodity of work items for which quotations were sought;
  - o Date, item and location for acceptance of subcontractor bid proposals;
  - o Detailed statement which summarizes direct negotiations with appropriate MBE/WBE firms for specific portions of the work and indicates why negotiations were unsuccessful;
  - o Affirmation that Good Faith Efforts have been demonstrated by:
    - choosing subcontracting opportunities likely to achieve MBE/WBE goals;
    - not imposing any limiting conditions which were not mandatory for all subcontractors;
    - providing notice of subcontracting opportunities to M/WBE firms and assist agencies at least five (5) business days in advance of the initial bid due date.

**OR**

b. Subcontractor participation will be deemed excessively costly when the MBE/WBE subcontractor proposal exceeds the average price quoted by more than twenty percent (20%). In order to establish that a subcontractor's quote is excessively costly, the bidder must provide the following information:

1. A detailed statement of the work identified for MBE/WBE participation for which the bidder asserts the MBE/WBE quote(s) were excessively costly (in excess of 20% higher).
  - o A listing of all potential subcontractors contacted for a quotation on that work item;
  - o Prices quoted for the subcontract in question by all such potential subcontractors for that work item.
2. Other documentation which demonstrates to the satisfaction of the Chief Procurement Officer that the MBE/WBE proposals are excessively costly, even though not in excess of 20% higher than the average price quoted. This determination will be based on factors that include, but are not limited to the following:
  - o The City's estimate for the work under a specific subcontract;
  - o The bidder's own estimate for the work under the subcontract;
  - o An average of the bona fide prices quoted for the subcontract;
  - o Demonstrated increase in other contract costs as a result of subcontracting to the M/WBE or other firm.

#### **7.5.2. Assist Agency Participation in waiver/reduction requests**

Every waiver and/or reduction request must include evidence that the Contractor has provided timely notice of the need for subcontractors to an appropriate association/assist agency representative of the MBE/WBE business community. This notice must be given at least five (5) business days in advance of the Proposal due date.

The notice requirement of this Section will be satisfied if a firm submitting a Proposal contacts at least one of the associations on Attachment A to these Regulations when the prime contractor seeks a waiver or reduction in the utilization goals. Attachment B to these Regulations provides the letter format that a Contractor may use. Proof of notification prior to Proposal submittal (e.g. certified mail receipt or facsimile transmittal receipt) will be required to be submitted with the Proposal for any bid/proposal to be deemed responsive. If deemed appropriate, the Contract Compliance Officer may contact the assist agency for verification of notification.

#### **7.5.3. Impracticability**

If the Chief Procurement Officer determines that a lesser MBE and/or WBE percentage standard is appropriate with respect to a particular contract subject to competitive bidding prior to the request for Task Order Proposals for such Task Order, the specifications shall include a statement of such revised standard.

The requirements set forth in these Regulations (this subsection 7.5 "Regulations Governing Reductions to or Waiver of MBE/WBE Goals") shall not apply where the Chief Procurement Officer determines prior to the bid solicitations that MBE/WBE subcontractor participation is impracticable.

This may occur whenever the Chief Procurement Officer determines that for reasons of time, need, industry practices or standards not previously known by the Chief Procurement Officer, or such other extreme circumstances as may be deemed appropriate, such a Waiver is in the best interests of the City. This determination may be made in connection with a particular Task Order, whether before the Task Order Proposals are requested, during the solicitation or award process, before or during negotiation of the Task Order, or during the performance of the Task Order.

For all notifications required to be made by Proposers, in situations where the Chief Procurement Officer has determined that time is of the essence, documented telephone contact may be substituted for letter contact.

#### **7.6. Procedure to Determine Bid/Proposal Compliance**

A Bid or Proposal may be rejected as non-responsive if the firm submitting the Bid or Proposal fails to submit one or more of the following with its Bid or Proposal demonstrating its Good Faith Efforts to meet the Goals by reaching out to MBEs and WBEs to perform work on the contract:

- An MBE/WBE compliance plan demonstrating how the bidder plans to meet the Goals; and/or
- A request for reduction or waiver of the Goals in accordance with Section 2-92-450 of the MCC.

Only compliance plans utilizing MBE and WBE firms that meet BOTH the Commercially Useful Function and Area of Specialty requirements will be counted toward the Contract Specific Goals or Task Order Specific Goals.

The following Schedules and described documents constitute the Contractor's MBE/WBE proposal, and must be submitted in accordance with the guidelines stated:

**(1) Schedule C-3: Letter of Intent from MBE/WBE to Perform as Subcontractor, Supplier and/or Consultant.**

The Contractor must submit the appropriate Schedule C-3 with the Task Order Proposal for each MBE and WBE included on the Schedule D-3. Suppliers must submit the Schedule C-3 for Suppliers, first tier subcontractors must submit a Schedule C-3 for Subcontractors to the Contractor and second or lower tier subcontractors must submit a Schedule C-3 for second tier Subcontractors. The City encourages subcontractors to utilize the electronic fillable format Schedule C-3, which is available at the Department of Procurement Services website, <http://cityofchicago.org/forms>. Each Schedule C-3 must be executed by each MBE and WBE and accurately detail the work to be performed by the MBE or WBE and the agreed upon rates/prices. Each Schedule C must also include a separate sheet as an attachment on which the MBE or WBE fully describes its proposed scope of work, including a description of the commercially useful function being performed by the MBE or WBE in its Area of Specialty. If a facsimile copy of the Schedule C-3 has been submitted with the bid, an executed original Schedule C-3 must be submitted by the Contractor for each MBE and WBE included on the Schedule D-3 within five business days after the date of the Task Order Proposal opening.

Failure to submit a completed Schedule C-3 in accordance with this section shall entitle the City to deem the bid/Proposal non-responsive and therefore reject the bid/Proposal.

**(2) Letters of Certification.**

A copy of each proposed MBE/WBE firm's current Letter of Certification from the City of Chicago or Cook County Illinois, must be submitted with the bid/Proposal. All Letters of Certification issued by the City of Chicago and Cook County include a statement of the MBE/WBE firm's Area of Specialty. The MBE/WBE firm's scope of work, as detailed by their Schedule C-3, must conform to their stated Area of Specialty. Letters of Certification for firms that the City or Cook County has found ineligible or has decertified will not be accepted.

**(3) Schedule B: Affidavit of Joint Venture, and Joint Venture Agreements (if applicable).**

If the Contractor is a joint venture and the Proposal includes the participation of a MBE/WBE joint venture partner on any tier (either as the bidder or as a subcontractor), the Contractor must provide a copy of the current joint venture agreement and a Schedule B along with all other requirements listed in Section 7.3, "Joint Ventures," above. In order to demonstrate the MBE/WBE partner's share in the ownership, control, management responsibilities, risks and profits of the joint venture, the joint venture agreement must include specific details related to: (1) contributions of capital and equipment; (2) work responsibilities or other performance to be undertaken by the MBE/WBE; and (3) the commitment of management, supervisory and operative personnel employed by the MBE/WBE to be dedicated to the performance of the Master Consulting Agreement and any Task Orders issued under it. The joint venture agreement must also clearly define each partner's authority to contractually obligate the joint venture and each partner's authority to expend joint venture funds (e.g., check signing authority).

**(4) Schedule D-3: Required Schedules Regarding MBE/WBE Utilization**

Bidders must submit, together with the bid, a completed Schedule D-3 committing them to the utilization of each listed MBE/WBE firm. The City encourages bidders to utilize the electronic fillable format Schedule D-3, which is available at the Department of Procurement Services website, <http://cityofchicago.org/forms>. Except in cases where the bidder has submitted a request for a complete waiver of or variance from the MBE/WBE commitment in accordance with Section 7.5 "Regulations Governing Reductions to or Waiver of MBE/WBE Goals" herein, the bidder must commit to the expenditure of a specific dollar amount of participation by each MBE/WBE firm included on their Schedule D-3. The total dollar commitment to proposed MBEs must at least equal the MBE goal, and the total dollar commitment to proposed WBEs must at least equal the WBE goal. Bidders are responsible for calculating the dollar equivalent of the MBE and WBE goals as percentages of their total base bids or in the case of Term Agreements, depends upon requirements agreements and blanket agreements, as percentages of the total estimated usage. All commitments made by the bidder's Schedule D-3 must conform to those presented in the submitted Schedule C-3. If Schedule C-3 is submitted after the opening, the bidder may submit a revised Schedule D-3 (executed and notarized to conform with the Schedules C-3). Bidders shall not be permitted to add MBEs or WBEs after bid opening to meet the Task Order Specific Goals, however, contractors are encouraged to add additional MBE/WBE vendors to their approved compliance plan during the performance of the contract when additional opportunities for participation are identified. Except in cases where substantial and documented justification is provided, bidders will not be allowed to reduce the dollar commitment made to any MBE or WBE in order to achieve conformity between the Schedules C-3 and D-3.

All commitments for joint venture agreements must be delineated in the Schedule B.

**(5) Application for Approval of Mentor Protégé Agreement**

Any applications for City approval of a Mentor Protégé agreement must be included with the Proposal. If the application is not approved, the Contractor must show that it has made good faith efforts to meet the Task Order Specific Goals.

**7.7. Reporting Requirements During the Term of the Contract**

- a. The Contractor will, not later than thirty (30) calendar days from the award of a Contract or Task Order by the City, execute formal contracts or purchase orders with the MBEs and WBEs included in their approved MBE/WBE Utilization Plan. These written agreements will be made available to the Chief Procurement Officer upon request.
- b. The Contractor will be responsible for reporting payments to all subcontractors on a monthly basis in the form of an electronic report. Upon the first payment issued by the City of Chicago to the contractor for services performed, on the first day of each month and every month thereafter, email and or fax audit notifications will be sent out to the Contractor with instructions to report payments that have been made in the prior month to each subcontractor. The reporting of payments to all subcontractors must be entered into the Certification and Compliance Monitoring System (C2), or whatever reporting system is currently in place, or compatible structure that can be uploaded into C2 or City's current system, on or before the fifteenth (15th) day of each month. For purposes of this Contract, all subsequent references to C2 shall mean C2, or the City's current system, or a compatible structure that can be uploaded into C2 or City's current system, unless the context provides otherwise.
- c. Once the Contractor has reported payments made to each subcontractor, including zero dollar amount payments, the subcontractor will receive an email and or fax notification requesting them to log into the system and confirm payments received. All monthly confirmations must be reported on or before the 20th day of each month. Contractor and subcontractor reporting to the C2 system must be completed by the 25th of each month or payments may be withheld.

- d. All subcontract agreements between the Contractor and MBE/WBE firms or any first tier non-certified firm and lower tier MBE/WBE firms must contain language requiring the MBE/WBE to respond to email and/or fax notifications from the City of Chicago requiring them to report payments received for the prime or the non-certified firm.  
  
Access to the Certification and Compliance Monitoring System (C2), which is a web based reporting system, can be found at: <https://chicago.mwdbe.com>
- e. The Chief Procurement Officer or any party designated by the Chief Procurement Officer, shall have access to the Contractor's books and records, including without limitation payroll records, tax returns and records and books of account, to determine the Contractor's compliance with its commitment to MBE and WBE participation and the status of any MBE or WBE performing any portion of the contract. This provision shall be in addition to, and not a substitute for, any other provision allowing inspection of the contractor's records by any officer or official of the City for any purpose.
- f. The Contractor shall maintain records of all relevant data with respect to the utilization of MBEs and WBEs, retaining these records for a period of at least five years after project closeout. Full access to these records shall be granted to City, federal or state authorities or other authorized persons.

## **7.8. Changes to Compliance Plan**

### **7.8.1. Permissible Basis for Change Required**

No changes to the Compliance Plan or contractual MBE and WBE commitments or substitution of MBE or WBE subcontractors may be made without the prior written approval of the Contract Compliance Officer. Unauthorized changes or substitutions, including performing the work designated for a subcontractor with the contractor's own forces, shall be a violation of these Special Conditions and a breach of the Contract with the City, and may cause termination of the executed Contract for breach, and/or subject the bidder or Contractor to contract remedies or other sanctions. The facts supporting the request for changes must not have been known nor reasonably could have been known by the parties prior to entering into the subcontract. Bid shopping is prohibited. The bidder or Contractor must negotiate with the subcontractor to resolve the problem. If requested by either party, the Department of Procurement Services shall facilitate such a meeting. Where there has been a mistake or disagreement about the scope of work, the MBE or WBE can be substituted only where an agreement cannot be reached for a reasonable price for the correct scope of work.

Substitutions of a MBE or WBE subcontractor shall be permitted only on the following basis:

- a) Unavailability after receipt of reasonable notice to proceed;
- b) Failure of performance;
- c) Financial incapacity;
- d) Refusal by the subcontractor to honor the bid or proposal price or scope;
- e) Mistake of fact or law about the elements of the scope of work of a solicitation where a reasonable price cannot be agreed;
- f) Failure of the subcontractor to meet insurance, licensing or bonding requirements;
- g) The subcontractor's withdrawal of its bid or proposal; or
- h) De-certification of the subcontractor as a MBE or WBE (graduation from the MBE/WBE program does not constitute de-certification).
- i) Termination of a Mentor Protégé Agreement.

### **7.8.2. Procedure for Requesting Approval**

If it becomes necessary to substitute a MBE or WBE or otherwise change the Compliance Plan, the procedure will be as follows:

- a) The bidder or contractor must notify the Contract Compliance Officer and Chief Procurement Officer in writing of the request to substitute a MBE or WBE or otherwise change the Compliance Plan. The request must state specific reasons for the substitution or change. A letter from the MBE or WBE to be substituted or affected by the change stating that it cannot perform on the contract or that it agrees with the change in its scope of work must be submitted with the request.
- b) The City will approve or deny a request for substitution or other change within 15 business days of receipt of the written request.
- c) Where the bidder or contractor has established the basis for the substitution to the satisfaction of the Chief Procurement Officer, it must make Good Faith Efforts to meet the Task Order Specific Goal by substituting a MBE or WBE subcontractor. Documentation of a replacement MBE or WBE, or of Good Faith Efforts, must meet the requirements in section 5. If the MBE or WBE Task Order Specific Goal cannot be reached and Good Faith Efforts have been made, as determined by the Chief Procurement Officer, the bidder or contractor may substitute with a non-MBE or non-WBE.
- d) If a bidder or contractor plans to hire a subcontractor for any scope of work that was not previously disclosed in the Compliance Plan, the bidder or contractor must obtain the approval of the Chief Procurement Officer to modify the Compliance Plan and must make Good Faith Efforts to ensure that MBEs or WBEs have a fair opportunity to bid on the new scope of work.
- e) A new subcontract must be executed and submitted to the Contract Compliance Officer within five business days of the bidder's or contractor's receipt of City approval for the substitution or other change.

The City shall not be required to approve extra payment for escalated costs incurred by the contractor when a substitution of subcontractors becomes necessary to comply with MBE/WBE contract requirements.

#### **7.9. Non-Compliance and Damages**

Without limitation, the following shall constitute a material breach of this contract and entitle the City to declare a default, terminate the contract, and exercise those remedies provided for in the contract, at law or in equity: (1) failure to demonstrate Good Faith Efforts; and (2) disqualification as a MBE or WBE of the contractor or any joint venture partner, subcontractor or supplier if its status as an MBE or WBE was a factor in the award of the Contract or Task Order and such status was misrepresented by the contractor.

Payments due to the contractor may be withheld until corrective action is taken.

Pursuant to MCC 2-92-445 or 2-92-740, as applicable, remedies or sanctions may include a penalty in the amount of the discrepancy between the amount of the commitment in the Compliance Plan, as such amount may be amended through change orders or otherwise over the term of the contract, and the amount paid to MBEs or WBEs, and disqualification from contracting or subcontracting on additional City contracts for up to three years. The consequences provided herein shall be in addition to any other criminal or civil liability to which such entities may be subject.

The contractor shall have the right to protest the final determination of non-compliance and the imposition of any penalty by the Chief Procurement Officer pursuant to MCC 2-92-445 or 2-92-740, within 15 business days of the final determination.

#### **7.10. Arbitration**

- a) In the event a contractor has not complied with the contractual MBE/WBE percentages in its Schedule D, underutilization of MBEs/WBEs shall entitle the affected MBE/WBE to recover from the contractor damages suffered by such entity as a result of being underutilized; provided, however,

- that this provision shall not apply to the extent such underutilization occurs pursuant to a waiver or substitution approved by the City. The Ordinance and contracts subject thereto provide that any disputes between the contractor and such affected MBEs/WBEs regarding damages shall be resolved by binding arbitration before an independent arbitrator other than the City, with reasonable expenses, including attorney's fees, being recoverable by a prevailing MBE/WBE in accordance with these regulations. This provision is intended for the benefit of any MBE/WBE affected by underutilization and grants such entity specific third party beneficiary rights. Any rights conferred by this regulation are non-waivable and take precedence over any agreement to the contrary, including but not limited to those contained in a subcontract, suborder, or communicated orally between a contractor and a MBE/WBE.
- b) An MBE/WBE desiring to arbitrate shall contact the contractor in writing to initiate the arbitative process. Except as otherwise agreed to in writing by the affected parties subject to the limitation contained in the last sentence of the previous paragraph, within ten (10) calendar days of the contractor receiving notification of the intent to arbitrate from the MBE/WBE the above-described disputes shall be arbitrated in accordance with the Commercial Arbitration Rules of the American Arbitration Association (AAA), a not-for-profit agency, with an office at 225 North Michigan Avenue, Suite 2527, Chicago, Illinois 60601-7601 [Phone: (312) 616-6560; Fax: (312) 819-0404]. All such arbitrations shall be initiated by the MBE/WBE filing a demand for arbitration with the AAA; shall be conducted by the AAA; and held in Chicago, Illinois.
  - c) All arbitration fees are to be paid pro rata by the parties, however, that the arbitrator is authorized to award reasonable expenses, including attorney and arbitrator fees, as damages to a prevailing MBE/WBE.
  - d) The MBE/WBE must send the City a copy of the Demand for Arbitration within ten (10) calendar days after it is filed with the AAA. The MBE/WBE also must send the City a copy of the decision of the arbitrator within ten (10) calendar days of receiving such decision. Judgment upon the award rendered by the arbitrator may be entered in any court of competent jurisdiction.

**7.11. Equal Employment Opportunity**

Compliance with MBE and WBE requirements will not diminish or supplant equal employment opportunity and civil rights provisions as required by law.



**7.12. Attachments and Schedules**

The following attachments follow, all attachments and schedules may also be downloaded from the Internet at: <http://www.cityofchicago.org/forms>

- Attachment A: Assist Agencies
- Attachment B: Sample Format for Requesting Assist Agency Comments on Bidder's Request for Reduction or Waiver of MBE/WBE Goals
- Schedule B: Affidavit of Joint Venture (MBE/WBE)
- Schedule C-1: Letter of Intent From MBE/WBE To Perform As Subcontractor, Supplier and/or Consultant
- Schedule D-1: Compliance Plan Regarding MBE/WBE Utilization

**Attachment A – Assist Agency List**



**CITY OF CHICAGO  
 ASSIST AGENCY LIST**

Assist Agencies are comprised of not-for-profit agencies and/or chamber of commerce agencies that represent the interest of small, minority and/or women owned businesses.

<p><b>American Brotherhood of Contractors</b>                      935 West 175<sup>th</sup> Street                      Homewood, Illinois 60430                      Phone: (773) 491-5640                      Email: <a href="mailto:arba@constructive-business.com">arba@constructive-business.com</a></p>	<p><b>Chatham Business Association Small Business Development, Inc.</b>                      8441 S. Cottage Grove Avenue                      Chicago, IL 60619                      Phone: (773)994-5006                      Fax: (773)994-9871                      Email: <a href="mailto:melkelcba@sbcglobal.net">melkelcba@sbcglobal.net</a>                      Web: <a href="http://www.cbaworks.org">www.cbaworks.org</a></p>
<p><b>Asian American Business Expo</b>                      207 East Ohio St. Suite 218                      Chicago, IL 60611                      Phone: 312-233-2810                      Fax: 312-268-6388                      Email: <a href="mailto:Janny@AsianAmericanBusinessExpo.org">Janny@AsianAmericanBusinessExpo.org</a></p>	<p><b>Chicago Area Gay &amp; Lesbian Chamber of Commerce</b>                      3656 N. Halsted                      Chicago, IL 60613                      Phone: (773) 303-0167                      Fax: (773) 303-0168                      Email: <a href="mailto:info@glchamber.org">info@glchamber.org</a>                      Web: <a href="http://www.glchamber.org">www.glchamber.org</a></p>
<p><b>Asian American Institute</b>                      4753 N. Broadway St. Suite 904                      Chicago, IL 60640                      Phone: (773) 271-0899                      Fax: (773) 271-1982                      Email: <a href="mailto:kfernicola@aaichicago.org">kfernicola@aaichicago.org</a>                      Web: <a href="http://www.aaichicago.org">www.aaichicago.org</a></p>	<p><b>Chicago Minority Supplier Development Council, Inc.</b>                      105 W. Adams, Suite 2300                      Chicago, IL 60603-6233                      Phone: (312) 755-8880                      Fax: (312) 755-8890                      Email: <a href="mailto:pbarreda@chicagomsc.org">pbarreda@chicagomsc.org</a>                      Web: <a href="http://www.chicagomsc.org">www.chicagomsc.org</a></p>
<p><b>Association of Asian Construction Enterprises</b>                      333 N. Ogden Avenue                      Chicago, IL 60607                      Phone: (847) 525-9693                      Email: <a href="mailto:nakmancorp@aol.com">nakmancorp@aol.com</a></p>	<p><b>Chicago Urban League</b>                      4510 S. Michigan Ave.                      Chicago, IL 60653                      Phone: (773) 285-5800                      Fax: (773) 285-7772                      Email: <a href="mailto:president@thechicagourbanleague.org">president@thechicagourbanleague.org</a>                      Web: <a href="http://www.cul-chicago.org">www.cul-chicago.org</a></p>
<p><b>Black Contractors United</b>                      400 W. 76<sup>th</sup> Street, Suite 200                      Chicago, IL 60620                      Phone: (773) 483-4000                      Fax: (773) 483-4150                      Email: <a href="mailto:bcunewera@att.net">bcunewera@att.net</a>                      Web: <a href="http://www.blackcontractorsunited.com">www.blackcontractorsunited.com</a></p>	<p><b>Chicago Women in Trades (CWIT)</b>                      4425 S. Western Blvd.                      Chicago, IL 60609-3032                      Phone: (773) 376-1450                      Fax: (312) 942-0802                      Email: <a href="mailto:cwinfo@cwit2.org">cwinfo@cwit2.org</a>                      Web: <a href="http://www.chicagowomenintrades.org">www.chicagowomenintrades.org</a></p>
<p><b>Cosmopolitan Chamber of Commerce</b>                      203 N. Wabash, Suite 518                      Chicago, IL 60601                      Phone: (312) 499-0611                      Fax: (312) 332-2688                      Email: <a href="mailto:c Carey@cosmococ.org">c Carey@cosmococ.org</a>                      Web: <a href="http://www.cosmochamber.org">www.cosmochamber.org</a></p>	<p><b>Coalition for United Community Labor Force</b>                      1253 W. 63<sup>rd</sup> Street                      Chicago, IL 60636                      Phone: (312) 243-5149                      Email: <a href="mailto:johnrev.hatchett@comcast.net">johnrev.hatchett@comcast.net</a></p>
<p><b>Eighteenth Street Development Corporation</b>                      1843 South Carpenter                      Chicago, Illinois 60608                      Phone: (312) 733-2287                      Fax: (773)-353-1683  <a href="mailto:asoto@eighteenthstreet.org">asoto@eighteenthstreet.org</a>  <a href="http://www.eighteenthstreet.org">www.eighteenthstreet.org</a></p>	

City of Chicago Department of Procurement Services ~ Assist Agencies (cont'd)

<p><b>Federation of Women Contractors</b> 5650 S. Archer Avenue Chicago, IL 60638 Phone: (312) 360-1122 Fax: (312) 360-0239 Email: <a href="mailto:fwcchicago@aol.com">fwcchicago@aol.com</a> Web: <a href="http://www.fwcchicago.com">www.fwcchicago.com</a></p> <p><b>Hispanic American Construction Industry Association (HACIA)</b> 650 West Lake Street Chicago, IL 60661 Phone: (312) 666-5910 Fax: (312) 666-5692 Email: <a href="mailto:info@haciaworks.org">info@haciaworks.org</a> Web: <a href="http://www.haciaworks.org">www.haciaworks.org</a></p> <p><b>Illinois Hispanic Chamber of Commerce</b> 855 W. Adams, Suite 100 Chicago, IL 60607 Phone: (312) 425-9500 Fax: (312) 425-9510 Email: <a href="mailto:oduque@ihccbusiness.net">oduque@ihccbusiness.net</a> Web: <a href="http://www.ihccbusiness.net">www.ihccbusiness.net</a></p> <p><b>Latin American Chamber of Commerce</b> 3512 West Fullerton Avenue Chicago, IL 60647 Phone: (773) 252-5211 Fax: (773) 252-7065 Email: <a href="mailto:d.lorenzopadron@latinamericanchamberofcommerce.com">d.lorenzopadron@latinamericanchamberofcommerce.com</a> Web: <a href="http://www.latinamericanchamberofcommerce.com">www.latinamericanchamberofcommerce.com</a></p> <p><b>National Organization of Minority Engineers</b> 33 West Monroe Suite 1540 Chicago, Illinois 60603 Phone: (312) 425-9560 Fax: (312) 425-9564 Email: <a href="mailto:shandy@infrastructure-eng.com">shandy@infrastructure-eng.com</a> Web: <a href="http://www.nomeonline.org">www.nomeonline.org</a></p> <p><b>National Association of Women Business Owners</b> Chicago Chapter 230 E. Ohio, Suite 400 Chicago, IL 60611 Phone: (312) 224-2605 Fax: (312) 6448557 Email: <a href="mailto:info@nawbochicago.org">info@nawbochicago.org</a> Web: <a href="http://www.nawbochicago.org">www.nawbochicago.org</a></p>	<p><b>Rainbow/PUSH Coalition</b> International Trade Bureau 930 E. 50<sup>th</sup> Street Chicago, IL 60615 Phone: (773) 256-2781 Fax: (773) 373-4104 Email: <a href="mailto:bevans@rainbowpush.org">bevans@rainbowpush.org</a> Web: <a href="http://www.rainbowpush.org">www.rainbowpush.org</a></p> <p><b>South Shore Chamber, Incorporated</b> Black United Funds Bldg. 1750 E. 71<sup>st</sup> Street Chicago, IL 60649-2000 Phone: (773) 955- 9508 Email: <a href="mailto:sshorechamber@sbcglobal.net">sshorechamber@sbcglobal.net</a> Web: <a href="http://www.southshorechamberinc.org">www.southshorechamberinc.org</a></p> <p><b>Suburban Minority Contractors Association</b> 1250 Grove Ave. Suite 200 Barrington, IL 60010 Phone: (847) 852-5010 Fax: (847) 382-1787 Email: <a href="mailto:aprilcobra@hotmail.com">aprilcobra@hotmail.com</a> Web: <a href="http://www.suburbanblackcontractors.org">www.suburbanblackcontractors.org</a></p> <p><b>Women Construction Owners &amp; Executives (WCOE)</b> Chicago Caucus 308 Circle Avenue Forest Park, IL 60130 Phone: (708) 366-1250 Fax: (708) 366-5418 Email: <a href="mailto:mkm@mkmnservices.com">mkm@mkmnservices.com</a> Web: <a href="http://www.wcoeusa.org">www.wcoeusa.org</a></p> <p><b>Women's Business Development Center</b> 8 South Michigan Ave., Suite 400 Chicago, IL 60603 Phone: (312) 853-3477 Fax: (312) 853-0145 Email: <a href="mailto:fcurry@wbdc.org">fcurry@wbdc.org</a> Web: <a href="http://www.wbdc.org">www.wbdc.org</a></p>
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**Attachment B - Sample Format for Requesting Assist Agency Comments on Bidder's Request for Reduction or Waiver of MBE/WBE Goals**

**On Bidder/Proposer's Letterhead – SEND TO THE ASSIST AGENCIES – DO NOT SEND TO THE CITY**

RETURN RECEIPT REQUESTED

(Date)

**Specification No.:** {Specification Number}  
**Project Description:** {PROJECT DESCRIPTION}

(Assist Agency Name and Address – **SEND TO THE ASSIST AGENCIES – DO NOT SEND TO THE CITY**)

Dear \_\_\_\_\_:

\_\_\_\_\_ (Bidder/Proposer) intends to submit a bid/proposal in response to the above referenced specification with the City of Chicago. Bids are due \_\_\_\_\_ advertised specification with the City of Chicago.

The following areas have been identified for subcontracting opportunities on both a direct and indirect basis:

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Our efforts to identify potential subcontractors have not been successful in order to meet the Disadvantaged/Minority/Women Business Enterprise contract goal. **Due to the inability to identify an appropriate DBE/MBE/WBE firm certified by the City of Chicago to participate as a subcontractor or joint venture partner, a request for the waiver of the contract goals will be submitted.** If you are aware of such a firm, please contact

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Name of Company Representative at Address/Phone

within (10) ten business days of receipt of this letter.

Under the City of Chicago's MBE/WBE/DBE Ordinance, your agency is entitled to comment upon this waiver request to the City of Chicago. Written comments may be directed within ten (10) working days of your receipt of this letter to:

Monica Jimenez, Deputy Procurement Officer  
Department of Procurement Services  
City of Chicago  
121 North La Salle Street, Room 806  
Chicago, Illinois 60602

If you wish to discuss this matter, please contact the undersigned at \_\_\_\_\_.

Sincerely,

**Schedule B – Affidavit of Joint Venture**

**SCHEDULE B: Affidavit of Joint Venture (MBE/WBE)**

This form need not be submitted if all joint venturers are MBEs and/or WBEs. In such a case, however, a written joint venture agreement among the MBE and WBE venturers must be submitted. In all proposed joint ventures, each MBE and/or WBE venturer must submit a copy of their current Letter of Certification.

All Information Requested by this Schedule must Be Answered in the Spaces Provided. Do Not Refer to Your Joint Venture Agreement Except to Expand on Answers Provided on this Form. If Additional Space Is Required, Additional Sheets May Be Attached.

- I. Name of joint venture: \_\_\_\_\_  
Address of joint venture: \_\_\_\_\_  
\_\_\_\_\_  
Phone number of joint venture: \_\_\_\_\_
  
- II. Identify each non-MBE/WBE venturer(s):  
Name of Firm: \_\_\_\_\_  
Address: \_\_\_\_\_  
Phone: \_\_\_\_\_  
Contact person for matters concerning MBE/WBE compliance: \_\_\_\_\_
  
- III. Identify each MBE/WBE venturer(s):  
Name of Firm: \_\_\_\_\_  
Address: \_\_\_\_\_  
Phone: \_\_\_\_\_  
Contact person for matters concerning MBE/WBE compliance: \_\_\_\_\_
  
- IV. Describe the role(s) of the MBE and/or WBE venturer(s) in the joint venture: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_
  
- V. Attach a copy of the joint venture agreement. In order to demonstrate the MBE and/or WBE venturer's share in the ownership, control, management responsibilities, risks and profits of the joint venture, the proposed joint venture agreement must include specific details related to: (1) the contributions of capital and equipment; (2) work items to be performed by the MBE/WBE's own forces; (3) work items to be performed under the supervision of the MBE/WBE venturer; and (4) the commitment of management, supervisory and operative personnel employed by the MBE/WBE to be dedicated to the performance of the project.
  
- VI. Ownership of the Joint Venture.  
A. What are the percentage(s) of MBE/WBE ownership of the joint venture?  
    MBE/WBE ownership percentage(s) \_\_\_\_\_  
    Non-MBE/WBE ownership percentage(s) \_\_\_\_\_  
  
B. Specify MBE/WBE percentages for each of the following (provide narrative descriptions and other detail as applicable):  
  - 1. Profit and loss sharing: \_\_\_\_\_
  - 2. Capital contributions:  
    (a) Dollar amounts of initial contribution: \_\_\_\_\_

**Schedule B: Affidavit of Joint Venture (MBE/WBE)**

\_\_\_\_\_

(b) Dollar amounts of anticipated on-going contributions: \_\_\_\_\_

3. Contributions of equipment (Specify types, quality and quantities of equipment to be provided by each venturer): \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

4. Other applicable ownership interests, including ownership options or other agreements which restrict or limit ownership and/or control: \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

5. Provide copies of all written agreements between venturers concerning this project.

6. Identify each current City of Chicago contract (and each contract completed during the past two (2) years) by a joint venture of two or more firms participating in this joint venture:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

VII. Control of and Participation in the Joint Venture. Identify by name and firm those individuals who are, or will be, responsible for, and have the authority to engage in the following management functions and policy decisions. (Indicate any limitations to their authority such as dollar limits and co-signatory requirements.):

A. Joint venture check signing:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

B. Authority to enter contracts on behalf of the joint venture:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

C. Signing, co-signing and/or collateralizing loans:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

D. Acquisition of lines of credit:

\_\_\_\_\_  
\_\_\_\_\_

**Schedule B: Affidavit of Joint Venture (MBE/WBE)**

E. Acquisition and indemnification of payment and performance bonds:

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F. Negotiating and signing labor agreements:

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G. Management of contract performance. (Identify by name and firm only):

1. Supervision of field operations: \_\_\_\_\_
2. Major purchases: \_\_\_\_\_
3. Estimating: \_\_\_\_\_
4. Engineering: \_\_\_\_\_

VIII. Financial Controls of joint venture:

A. Which firm and/or individual will be responsible for keeping the books of account?

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B. Identify the managing partner, if any, and describe the means and measure of their compensation:

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C. What authority does each venturer have to commit or obligate the other to insurance and bonding companies, financing institutions, suppliers, subcontractors, and/or other parties participating in the performance of this contract or the work of this project?

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IX. State the approximate number of operative personnel (by trade) needed to perform the joint venture's work under this contract. Indicate whether they will be employees of the non-MBE/WBE firm, the MBE/WBE firm, or the joint venture.





**Schedule B: Affidavit of Joint Venture (MBE/WBE)**

The undersigned affirms that the foregoing statements are correct and include all material information necessary to identify and explain the terms and operations of our joint venture and the intended participation of each venturer in the undertaking. Further, the undersigned covenant and agree to provide to the City current, complete and accurate information regarding actual joint venture work and the payment therefore, and any proposed changes in any provision of the joint venture agreement, and to permit the audit and examination of the books, records and files of the joint venture, or those of each venturer relevant to the joint venture by authorized representatives of the City or the Federal funding agency.

Any material misrepresentation will be grounds for terminating any contract which may be awarded and for initiating action under federal or state laws concerning false statements.

Note: If, after filing this Schedule B and before the completion on the joint venture's work on the project, there is any change in the information submitted, the joint venture must inform the City of Chicago, either directly or through the prime contractor if the joint venture is a subcontractor.

_____ Name of MBE/WBE Partner Firm	Firm	_____ Name of Non-MBE/WBE Partner Firm
_____ Signature of Affiant		_____ Signature of Affiant
_____ Name and Title of Affiant		_____ Name and Title of Affiant
_____ Date		_____ Date

On this \_\_\_\_ day of \_\_\_\_\_, 20 \_\_\_\_, the above-signed officers

\_\_\_\_\_  
(names of affiants)

personally appeared and, known to me be the persons described in the foregoing Affidavit, acknowledged that they executed the same in the capacity therein stated and for the purpose therein contained.

IN WITNESS WHEREOF, I hereunto set my hand and official seal.

\_\_\_\_\_  
Signature of Notary Public

My Commission Expires: \_\_\_\_\_

(SEAL)

**Schedule C-1: Letter of Intent From MBE/WBE To Perform As Subcontractor, Supplier and/or Consultant**



**SCHEDULE C-1**  
**MBE/WBE Letter of Intent to Perform as a**  
**Subcontractor, Supplier, or Consultant**

**FOR**  
**NON-CONSTRUCTION**  
**PROJECTS ONLY**

Project Name: \_\_\_\_\_ Specification No.: \_\_\_\_\_

From: \_\_\_\_\_  
(Name of MBE/WBE Firm)

To: \_\_\_\_\_ and the City of Chicago.  
(Name of Prime Contractor)

The MBE or WBE status of the undersigned is confirmed by the attached City of Chicago or Cook County, Illinois Certification Letter. 100% MBE or WBE participation is credited for the use of a MBE or WBE "manufacturer." 60% participation is credited for the use of a MBE or WBE "regular dealer."

The undersigned is prepared to perform the following services in connection with the above named project/contract. If more space is required to fully describe the MBE or WBE proposed scope of work and/or payment schedule, including a description of the commercially useful function being performed. Attach additional sheets as necessary:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

The above described performance is offered for the following price and described terms of payment:

\_\_\_\_\_  
\_\_\_\_\_

**SUB-SUBCONTRACTING LEVELS**

A zero (0) must be shown in each blank if the MBE or WBE will not be subcontracting any of the work listed or attached to this schedule.

\_\_\_\_\_ % of the dollar value of the MBE or WBE subcontract that will be subcontracted to non MBE/WBE contractors.

\_\_\_\_\_ % of the dollar value of the MBE or WBE subcontract that will be subcontracted to MBE or WBE contractors.

**NOTICE:** If any of the MBE or WBE scope of work will be subcontracted, list the name of the vendor and attach a brief explanation, description and pay item number of the work that will be subcontracted. MBE/WBE credit will not be given for work subcontracted to Non-MBE/WBE contractors, except for as allowed in the Special Conditions Regarding Minority Business Enterprise Commitment and Women Business Enterprise Commitment.

The undersigned will enter into a formal written agreement for the above work with you as a Prime Contractor, conditioned upon your execution of a contract with the City of Chicago, within three (3) business days of your receipt of a signed contract from the City of Chicago.

The undersigned has entered into a formal written mentor protégé agreement as a subcontractor/protégé with you as a Prime Contractor/mentor: ( ) Yes ( ) No

**NOTICE: THIS SCHEDULE AND ATTACHMENTS REQUIRE ORIGINAL SIGNATURES.**

\_\_\_\_\_  
(Signature of President/Owner/CEO or Authorized Agent of MBE/WBE) (Date)

\_\_\_\_\_  
(Name/Title-Please Print)

\_\_\_\_\_  
(Email & Phone Number)

**Schedule D-1: Affidavit of Implementation of MBE/WBE Goals and Participation Plan**



**SCHEDULE D-1**  
Compliance Plan Regarding MBE/WBE Utilization  
**Affidavit of Prime Contractor**

**FOR  
NON-CONSTRUCTION  
PROJECTS ONLY**

**MUST BE SUBMITTED WITH THE BID. FAILURE TO SUBMIT THE SCHEDULE D-1 WILL CAUSE THE BID TO BE REJECTED. DUPLICATE AS NEEDED.**

Project Name: \_\_\_\_\_

Specification No.: \_\_\_\_\_

In connection with the above captioned contract, I HEREBY DECLARE AND AFFIRM that I am a duly authorized representative of \_\_\_\_\_  
(Name of Prime Consultant/Contractor)

and that I have personally reviewed the material and facts set forth herein describing our proposed plan to achieve the MBE/WBE goals of this contract.

All MBE/WBE firms included in this plan have been certified as such by the City of Chicago and/or Cook County, Illinois (Letters of Certification Attached).

**I. Direct Participation of MBE/WBE Firms:**

**NOTE:** The bidder/proposer shall, in determining the manner of MBE/WBE participation, first consider involvement with MBE/WBE firms as joint venture partners, subcontractors, and suppliers of goods and services directly related to the performance of this contract.

A. If bidder/proposer is a joint venture and one or more joint venture partners are certified MBEs or WBEs, attach copies of Letters of Certification, Schedule B form and a copy of Joint Venture Agreement clearly describing the role of each MBE/WBE firm(s) and its ownership interest in the joint venture.

B. Complete this section for each MBE/WBE Subcontractor/Supplier/Consultant participating on this contract:

1. Name of MBE/WBE: \_\_\_\_\_  
Address: \_\_\_\_\_  
Contact Person: \_\_\_\_\_  
Phone Number: \_\_\_\_\_  
Dollar Value of Participation \$ \_\_\_\_\_  
Percentage of Participation % \_\_\_\_\_  
Mentor Protégé Agreement (attach executed copy): ( ) Yes ( ) No Add'l Percentage Claimed:<sup>1</sup> \_\_\_\_\_%  
**Total Participation % \_\_\_\_\_**

2. Name of MBE/WBE: \_\_\_\_\_  
Address: \_\_\_\_\_  
Contact Person: \_\_\_\_\_

<sup>1</sup> The Prime Contractor may claim an additional 0.333 percent participation credit (up to a maximum of five (5) percent) for every one (1) percent of the value of the contract performed by the MBE/WBE protégé firm.

**Schedule D-1: Prime Contractor Affidavit-MBE/WBE Compliance Plan**

Phone Number: \_\_\_\_\_

Dollar Value of Participation \$ \_\_\_\_\_

Percentage of Participation % \_\_\_\_\_

Mentor Protégé Agreement (attach executed copy): ( ) Yes ( ) No Add'l Percentage Claimed: \_\_\_\_%

**Total Participation % \_\_\_\_\_**

**3.** Name of MBE/WBE: \_\_\_\_\_

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

Contact Person: \_\_\_\_\_

Phone Number: \_\_\_\_\_

Dollar Value of Participation \$ \_\_\_\_\_

Percentage of Participation % \_\_\_\_\_

Mentor Protégé Agreement (attach executed copy): ( ) Yes ( ) No Add'l Percentage Claimed: \_\_\_\_%

**Total Participation % \_\_\_\_\_**

**4.** Name of MBE/WBE: \_\_\_\_\_

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

Contact Person: \_\_\_\_\_

Phone Number: \_\_\_\_\_

Dollar Value of Participation \$ \_\_\_\_\_

Percentage of Participation % \_\_\_\_\_

Mentor Protégé Agreement (attach executed copy): ( ) Yes ( ) No Add'l Percentage Claimed: \_\_\_\_%

**Total Participation % \_\_\_\_\_**

**5.** Attach Additional Sheets as Needed

**II. Indirect Participation of MBE/WBE Firms**

**NOTE:** This section need not be completed if the MBE/WBE goals have been met through the direct participation outlined in Section I. If the MBE/WBE goals have not been met through direct participation, Contractor will be expected to demonstrate that the proposed MBE/WBE direct participation represents the maximum achievable under the circumstances. Only after such a demonstration will indirect participation be considered.

MBE/WBE Subcontractors/Suppliers/Consultants proposed to perform work or supply goods or services where such performance does not directly relate to the performance of this contract:

**1.** Name of MBE/WBE: \_\_\_\_\_

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

Contact Person: \_\_\_\_\_

**Schedule D-1: Prime Contractor Affidavit-MBE/WBE Compliance Plan**

Phone Number: \_\_\_\_\_

Dollar Value of Participation \$ \_\_\_\_\_

Percentage of Participation % \_\_\_\_\_

Mentor Protégé Agreement (attach executed copy): ( ) Yes ( ) No Add'l Percentage Claimed: \_\_\_\_%

**Total Participation % \_\_\_\_\_**

**2.** Name of MBE/WBE: \_\_\_\_\_

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

Contact Person: \_\_\_\_\_

Phone Number: \_\_\_\_\_

Dollar Value of Participation \$ \_\_\_\_\_

Percentage of Participation % \_\_\_\_\_

Mentor Protégé Agreement (attach executed copy): ( ) Yes ( ) No Add'l Percentage Claimed: \_\_\_\_%

**Total Participation % \_\_\_\_\_**

**3.** Name of MBE/WBE: \_\_\_\_\_

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

Contact Person: \_\_\_\_\_

Phone Number: \_\_\_\_\_

Dollar Value of Participation \$ \_\_\_\_\_

Percentage of Participation % \_\_\_\_\_

Mentor Protégé Agreement (attach executed copy): ( ) Yes ( ) No Add'l Percentage Claimed: \_\_\_\_%

**Total Participation % \_\_\_\_\_**

**4.** Name of MBE/WBE: \_\_\_\_\_

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

Contact Person: \_\_\_\_\_

Phone Number: \_\_\_\_\_

Dollar Value of Participation \$ \_\_\_\_\_

Percentage of Participation % \_\_\_\_\_

Mentor Protégé Agreement (attach executed copy): ( ) Yes ( ) No Add'l Percentage Claimed: \_\_\_\_%

**Total Participation % \_\_\_\_\_**

**5.** Attach Additional Sheets as Needed

**Schedule D-1: Prime Contractor Affidavit-MBE/WBE Compliance Plan**

**III. Summary of MBE/WBE Proposal**

**A. MBE Proposal (Direct & Indirect)**

1. MBE Direct Participation

MBE Firm Name	Dollar Amount Participation (\$)	Percent Amount Participation (%)
<b>Total Direct MBE Participation</b>		

2. MBE Indirect Participation

MBE Firm Name	Dollar Amount Participation (\$)	Percent Amount Participation (%)
<b>Total Indirect MBE Participation</b>		

**B. WBE Proposal (Direct & Indirect)**

1. WBE Direct Participation

WBE Firm Name	Dollar Amount Participation (\$)	Percent Amount Participation (%)
<b>Total Direct WBE Participation</b>		

2. WBE Indirect Participation

WBE Firm Name	Dollar Amount Participation (\$)	Percent Amount Participation (%)
<b>Total Indirect WBE Participation</b>		

**Schedule D-1: Prime Contractor Affidavit-MBE/WBE Compliance Plan**

The Prime Contractor designates the following person as its MBE/WBE Liaison Officer:

\_\_\_\_\_  
(Name- Please Print or Type)

\_\_\_\_\_  
(Phone)

**I DO SOLEMNLY DECLARE AND AFFIRM UNDER PENALTIES OF PERJURY THAT THE CONTENTS OF THE FOREGOING DOCUMENT ARE TRUE AND CORRECT, THAT NO MATERIAL FACTS HAVE BEEN OMITTED, AND THAT I AM AUTHORIZED ON BEHALF OF THE PRIME CONTRACTOR TO MAKE THIS AFFIDAVIT.**

\_\_\_\_\_  
(Name of Prime Contractor – Print or Type)

State of: \_\_\_\_\_

\_\_\_\_\_  
(Signature)

County of: \_\_\_\_\_

\_\_\_\_\_  
(Name/Title of Affiant – Print or Type)

\_\_\_\_\_  
(Date)

On this \_\_\_\_ day of \_\_\_\_\_, 20 \_\_\_\_, the above signed officer \_\_\_\_\_  
(Name of Affiant)

personally appeared and, known by me to be the person described in the foregoing Affidavit, acknowledged that (s)he executed the same in the capacity stated therein and for the purposes therein contained.

IN WITNESS WHEREOF, I hereunto set my hand and seal.

\_\_\_\_\_  
(Notary Public Signature)

SEAL:

Commission Expires: \_\_\_\_\_

**Schedule F: Report of Subcontractor Solicitations**

All Bidders/Proposers must submit, together with their bid/proposal, a completed Schedule F report containing information on all subcontractors, DBEs and non-DBEs, solicited for participation in the contract. The Schedule F shall include the following subcontractor information:

Contractor name; Address; Contact person; DBE status; Type of work solicited



**ARTICLE 8. INSURANCE REQUIREMENTS**

**PROFESSIONAL SERVICES INSURANCE REQUIREMENTS**

**Chicago Department of Public Health**

**Master Consulting Agreement**

**Evaluation and Planning Consulting Services for Public Health Programs**

Consultant must provide and maintain at Consultant's own expense, or cause to be maintained, during the term of the Agreement and during the time period following expiration if Consultant is required to return and perform any of the Services or Additional Services under this Agreement, the insurance coverage and requirements specified below, insuring all operations related to the Agreement.

**A. INSURANCE TO BE PROVIDED**

1) Workers Compensation and Employers Liability

Workers Compensation Insurance, 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 \$500,000 each accident, illness or disease.

2) Commercial General Liability (Primary and Umbrella)

Commercial General Liability Insurance or equivalent with limits of not less than \$2,000,000 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 under the Consultant's and any subcontractor's policy. Such additional insured coverage shall be provided on ISO Endorsement Form CG 20 10 for ongoing operations or on a similar additional insured form acceptable to the City. The additional insured coverage must not have any limiting endorsements or language under the policy such as but not limited to, Consultant's sole negligence or the additional insured's vicarious liability. Consultant's liability insurance shall be primary without right of contribution by other insurance or self-insurance maintained by or available to the City. Consultant must ensure that the City is an additional insured on insurance required from subcontractors.

Subcontractors performing work or Services for Consultant must maintain limits of not less than \$1,000,000 with the same terms in this subsection.

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, Consultant must provide Automobile Liability Insurance with limits of not less than \$1,000,000 per occurrence for bodily injury and property damage. The City of Chicago is to be named as an additional insured on a primary, non-contributory basis.

4) Professional Liability

When any investigators, evaluators, emergency preparedness professionals, or any professional consultants performs work or Services in connection with this Agreement, Professional Liability Insurance covering acts, errors, or omissions must be maintained with limits of not less than \$3,000,000. When policies are renewed or replaced, the policy retroactive date must coincide with or precede start of work related to the Agreement. A claims-made policy which is not renewed or replaced must have an extended reporting period of two (2) years.

Subcontractors performing professional Services for Consultant must maintain limits of not less than \$1,000,000 with the same terms in this subsection.

5) Valuable Papers

When any media, data, reports, files, reports and other documents are produced or used under this Agreement, Valuable Papers Insurance must be maintained in an amount to insure against any loss whatsoever, and must have limits sufficient to pay for the re-creation and reconstruction of such records.

6) Property

Consultant is responsible for all loss or damage to City property at full replacement cost.

Consultant is responsible for all loss or damage to personal property (including materials, equipment, tools and supplies) owned, rented or used by Consultant.

**B. ADDITIONAL REQUIREMENTS**

Consultant must furnish the City of Chicago, Department of Procurement Services, City Hall, Room 806, 121 North LaSalle Street 60602, original Certificates of Insurance, or such similar evidence, to be in force on the date of this Agreement, and Renewal Certificates of Insurance, or such similar evidence, if the coverages have an expiration or renewal date occurring during the term of this Agreement. Consultant must submit evidence of insurance on the City of Chicago Insurance Certificate Form (copy attached as Exhibit-) or equivalent prior to execution of Agreement. The receipt of any certificate does not constitute agreement by the City that the insurance requirements in the Agreement have been fully met or that the insurance policies indicated on the certificate are in compliance with all requirements of Agreement. The failure of the City to obtain certificates or other insurance evidence from Consultant is not a waiver by the City of any requirements for the Consultant to obtain and maintain the specified coverages. Consultant must advise all insurers of the Agreement provisions regarding insurance. Non-conforming insurance does not relieve Consultant of the obligation to provide insurance as specified in this Agreement. Nonfulfillment of the insurance conditions may constitute a violation of the Agreement, and the City retains the right to suspend this Agreement until proper evidence of insurance is provided, or the Agreement may be terminated.

The Consultant must provide for 60 days prior written notice to be given to the City in the event coverage is substantially changed, canceled or non-renewed.

Any deductibles or self-insured retentions on referenced insurance coverages must be borne by Consultant.

Consultant 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 Consultant in no way limit the Consultant's liabilities and responsibilities specified within the Agreement or by law.

Any insurance or self-insurance programs maintained by the City of Chicago do not contribute with insurance provided by Consultant 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 the Consultant maintains higher limits than the minimums shown above, the City requires and shall be entitled to coverage for the higher limits maintained by the Consultant. Any available insurance proceeds in excess of the specified minimum limits of insurance and coverage shall be available to the City.

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

Consultant shall require all Subcontractors to provide the insurance required in this Agreement, or Consultant may provide the coverages for Subcontractors. All Subcontractors are subject to the same insurance requirements of Consultant unless otherwise specified in this Agreement. Consultant must ensure that the City is an additional insured on Endorsement CG 20 10 of insurance required from subcontractors.

If Consultant or Subcontractor desire additional coverages, the party desiring the additional coverages is responsible for the acquisition and cost.

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



## **EXHIBITS**

Exhibits follow this page. Remainder of page intentionally blank.

## **Exhibit 1: Detailed Scope of Services**

### **Category A: Evaluation**

Subcategory A.1: Emergency Preparedness

Subcategory A.2: HIV/STI Services

Subcategory A.3: Maternal, Child & Adolescent Health (MCAH)

Subcategory A.4: Chronic Diseases

Subcategory A.5: Infectious Diseases

Subcategory A.6: Environmental Health

Subcategory A.7: Behavioral Health

Subcategory A.8: Population Health

### **Category B: Planning**

Subcategory B.1: Emergency Preparedness

Subcategory B.2: HIV/STI Services

Subcategory B.3: Maternal, Child & Adolescent Health (MCAH)

Subcategory B.4: Chronic Diseases

Subcategory B.5: Infectious Diseases

Subcategory B.6: Environmental Health

Subcategory B.7: Behavioral Health

Subcategory B.8: Population Health

## **SCOPE CATEGORIES AND SCOPE OF SERVICES**

### **I. DESCRIPTION OF SERVICES**

**Respondent may submit separate Qualifications for either Category A or B or both, and can submit Qualifications for one or more of the Scope Subcategories as described in Exhibit 1 of this RFQ within Category A or B. However, if Respondent and team members pre-qualify in both Category A and B vendor pools, at the Task Order Request (TOR) level they will only be able to participate in either Category A or B, but not both for the same Subcategory. The pre-qualified vendor cannot be both Evaluator and Planner for the same Task Order project.**

#### **CATEGORY A: EVALUATION**

CDPH is the recipient of local, state, and federal funding to implement programs and services that seek to improve the health of Chicago residents. In order to ensure that our programs and services (or those of our delegates) are effective and efficient, CDPH wishes to retain the assistance of evaluation experts who can help to design interventions and corresponding evaluations, implement the evaluation plans, analyze data, and produce reports outlining the outcome(s) of the intervention(s) and its evaluation.

CDPH is seeking Respondents for that can demonstrate the following capabilities:

- A. Assist in the authoring of competitive grant applications which require evaluation.
- B. Assist with the development of interventions to ensure that they can be properly evaluated.
- C. Develop and execute an evaluation plan that allows CDPH to measure/monitor achievement of a program or interventions goals/objectives, as well as its overall effectiveness.
- D. Ability to conduct both process and outcome evaluations.
- E. Design and/or select measurement tools to be used for the purpose of the evaluation.
- F. Conduct quality assurance of data collection and management process.
- G. Ensure fidelity of the program or intervention's implementation.
- H. Analyze data generated by program or intervention at regular intervals using appropriate statistical methods.
- I. Provide technical assistance to CDPH or its delegates to ensure program or evaluation implementation is properly occurring.

- J. Provide training to program or intervention staff regarding evaluation activities and use of tools.
- K. Meet with CDPH and other partners to discuss program or intervention progress and to share key developments.
- L. Produce, at minimum, a 6-month and 12-month report detailing the activities of the program or intervention.
- M. Author and edit comprehensive reports detailing the outcome of the evaluation.
- N. Assist in the dissemination of evaluation outcomes, as directed by CDPH, including writing of journal articles, conducting presentations, or producing infographics.
- O. Conduct health impact assessments for policy or program initiatives on behalf of CDPH. These initiatives maybe sponsored by CDPH, other City of Chicago departments, and/or sister agencies.

Evaluation expertise is required in the following public health content areas: (1) Emergency Preparedness; (2) HIV/STI Services; (3) Maternal, Child & Adolescent Health; (4) Chronic Diseases; (5) Infectious Diseases; (6) Environmental Health; (7) Behavioral Health; and (8) Population Health. As such, CDPH is wishing to pre-qualify vendors in each of these public health content areas.

Qualifications of individuals, institutions, or collaborations for each public health content area is further described below.

**Subcategory A.1: Emergency Preparedness**

- Respondent must have five years of performing relevant emergency preparedness activities.
- Relevant activities include: the advanced design, development, execution and evaluation of HSEEP-compliant operational drills and exercises.
- Staff at Respondent organization must possess the following education, training and/or certification: Master's degree in Public Health, Emergency Management or related field.
- In addition, Respondent must show staff certification with FEMA IS-120, IS-130 and a minimum of 16 hours of classroom-based HSEEP Instruction using post-2013 HSEEP Guideline Revisions.
- Respondent must have a minimum of 5 years performing the following activities related to evaluation: proficiency in exercise evaluation and improvement planning.
- Completion of the Master Exercise Practitioner Program is highly desired.

**Subcategory A.2: HIV/STI Services**

- Responding organizations or academic institutions must have a minimum of five years of performing relevant experience evaluating HIV/STI services.

- Relevant activities include: developing and completing process and/or outcome evaluations of federally funded HIV or STI prevention or treatment programs, collecting and analyzing quantitative data related to HIV or STI prevention/care or supportive services, and authoring reports or presenting findings related to HIV or STI evaluations.
- The principle investigator must have a doctoral level education and possess a minimum of two years of experience working in the field of HIV and/or STI services.
- Respondent must have knowledge of secondary data sources that can support HIV or STI evaluation projects.
- Respondents must have evaluators who have published cited evaluation studies within the field of HIV/STI and should include up to three of these publications in the submission.
- The respondent should also include a minimum of two letters of support documenting that the principle investigator has the relevant experience. One of these letters of support can be from the institution where the investigator is employed.
- Selected respondents cannot evaluate programs for which their institution receives funds from CDPH to perform.

### **Subcategory A.3: Maternal, Child & Adolescent Health (MCAH)**

- Responding organizations or academic institutions must have a minimum of five years of performing relevant experience evaluating maternal, child and adolescent health services.
- Services can include, but are not limited to nutrition programs, programs for pregnant and parenting women, teen pregnancy prevention programming, and/or STI prevention and treatment services.
- Relevant activities include: developing and completing process and/or outcome evaluations of federal or state funded MCAH programs, collecting and analyzing quantitative data related to MCAH programs, and authoring reports or presenting findings related to MCAH evaluations.
- The principle investigator must have a doctoral level education and possess a minimum of two years of experience working in the field of MCAH programming.
- Respondent must have knowledge of secondary data sources that can support MCAH evaluation projects.
- Respondents must have evaluators who have published cited evaluation studies within the field of MCAH and should include up to three of these publications in the submission.
- The respondent should also include a minimum of two letters of support documenting that the principle investigator has the relevant experience. One of these letters of support can be from the institution where the investigator is employed.
- Selected respondents cannot evaluate programs for which their institution receives funds from CDPH to perform.



#### **Subcategory A.4: Chronic Diseases**

- Responding organizations or academic institutions must have a minimum of five years of performing relevant experience evaluating chronic disease programs and/or policies.
- Programs or policies must include one of the following health issues: obesity prevention or healthy eating, exercise or active living, tobacco prevention, diabetes prevention, cancer prevention, and/or heart disease prevention.
- Relevant activities include: developing and completing process and/or outcome evaluations of federal or state funded chronic disease programs/policies, collecting and analyzing quantitative data related to chronic disease programs/policies, and authoring reports or presenting findings related to chronic disease evaluations.
- The principle investigator must have a doctoral level education and possess a minimum of two years of experience working in the field of chronic disease programming/policies.
- Respondent must have knowledge of secondary data sources that can support chronic disease evaluation projects.
- Respondents must have evaluators who have published cited evaluation studies within the field of chronic disease and should include up to three of these publications in the submission.
- The respondent should also include a minimum of two letters of support documenting that the principle investigator has the relevant experience. One of these letters of support can be from the institution where the investigator is employed.
- Selected respondents cannot evaluate programs for which their institution receives funds from CDPH to perform.

#### **Subcategory A.5: Infectious Diseases**

- Responding organizations or academic institutions must have a minimum of five years of performing relevant experience evaluating infectious disease programs.
- Programs can include, but are not limited to: surveillance of reportable conditions and data analysis to detect trends, development of routine and outbreak-response vaccination programs, investigation and response to infectious disease outbreaks and emerging threats, and implementation of disease control and response measures.
- Relevant activities include: developing and completing process and/or outcome evaluations of federal or state funded infectious disease programs, collecting and analyzing quantitative data related to infectious disease programs, and authoring reports or presenting findings related to infectious disease evaluations.
- The principle investigator must have a doctoral level education and possess a minimum of two years of experience working in the field of infectious disease programming.
- Respondent must have knowledge of secondary data sources that can support infectious disease evaluation projects.

- Respondents must have evaluators who have published cited evaluation studies within the field of infectious disease and should include up to three of these publications in the submission.
- The respondent should also include a minimum of two letters of support documenting that the principle investigator has the relevant experience. One of these letters of support can be from the institution where the investigator is employed.
- Selected respondents cannot evaluate programs for which their institution receives funds from CDPH to perform.

#### **Subcategory A.6: Environmental Health**

- Responding organizations or academic institutions must have a minimum of five years of performing relevant experience evaluating environmental health programs.
- Programs can include, but are not limited to: lead prevention, abatement, and case management programming, surveillance of health conditions (lead poisoning, asthma, etc.) caused by environmental factors, health impact assessments related to changes in environment or policies that impact the environment, and food protection and other health code enforcement activities.
- Relevant activities include: developing and completing process and/or outcome evaluations of federal or state funded environmental health programs, collecting and analyzing quantitative data related to programs, and authoring reports or presenting findings related to evaluations.
- The principle investigator must have a doctoral level education and possess a minimum of two years of experience working in the field of infectious disease programming.
- Respondent must have knowledge of secondary data sources that can support infectious disease evaluation projects.
- Respondents must have evaluators who have published cited evaluation studies within the field of infectious disease and should include up to three of these publications in the submission.
- The respondent should also include a minimum of two letters of support documenting that the principle investigator has the relevant experience. One of these letters of support can be from the institution where the investigator is employed.
- Selected respondents cannot evaluate programs for which their institution receives funds from CDPH to perform.

#### **Subcategory A.7: Behavioral Health**

- Responding organizations or academic institutions must attach project staff with a minimum of five years of performing relevant experience evaluating behavioral health programs.
- Programs may include violence prevention, mental health, and/or substance abuse treatment or prevention services (VMHSA).
- Relevant activities include: developing and completing process and/or outcome evaluations of federal or state funded programs, collecting and analyzing quantitative

- data related to VMHSA programs, and authoring reports or presenting findings related to VMHSA evaluations.
- The principle investigator must have licensure in a field of practice (LCSW, CADC, etc.) and/or advance degrees (PsyD, PhD, etc.) and possess a minimum of three years of experience working in the field of behavioral health.
  - Respondent must have knowledge of secondary data sources that can support behavioral health projects.
  - Respondents must have evaluators who have published cited evaluation studies within the field of behavioral health and should include up to three of these publications in the submission.
  - The respondent should also include a minimum of two letters of support documenting that the principle investigator has the relevant experience. One of these letters of support can be from the institution where the investigator is employed.
  - Selected respondents cannot evaluate programs for which their institution receives funds from CDPH to perform.

#### **Subcategory A.8: Population Health**

- Responding organizations or academic institutions must have a minimum of three years of performing relevant experience related to population health data analysis, management or population health application development.
- Experience may include, but is not limited to: conducting telephone, internet-based or venue-based population health surveys using statistically valid sampling techniques, programming in statistical software languages (R, SAS, STATA), geospatial analysis and visualization, data system/technology integration, data management/warehousing, coding to develop web/mobile device apps, data visualization tools, and other open-source data applications using CDPH and/or external data sources.
- Team lead for the responding organization must possess the following education, training and/or certification: Graduation from an accredited college or university with a minimum Master's degree in Epidemiology, Public Health, Social Work, Statistics, Social Sciences, Computer/Data Science, Informatics or a related field supplemented by two years of progressively responsible experience in program evaluation.
- Team lead must have authored/co-authored at least one successful competitive grant related to this public health content area.
- Respondent is asked to provide a summary of all grants they have received in this public health content area. The list must include funding amount, funder, size, name of principle investigator, and time period.
- Respondents must have a minimum of one year of experience working with state and/or federal government entities and understand the policies and frameworks related to programs related to this public health content area.
- If the respondent does not have relevant grant experience but has a minimum of two years of developing public health plans related to this public health content area.

Plans must have included literature review, needs assessment, community engagement, and have clear goals/objectives for action.

- Respondents with five years of experience are asked to submit a minimum of two plans that they have been the primary author of, as well as any subsequent reports on progress made towards achieving these plans.
- Respondents with relevant planning experience must also include a minimum of five letters of recommendation from previous partners. These letters of recommendation must confirm that the respondent worked on the public health issue, has the necessary planning skills, and produced a useful plan.
- Respondent may cite previous planning work with CDPH but may not request a letter of recommendation from the department.

## **CATEGORY B: PLANNING**

CDPH and its partners are regularly establishing and implementing strategies and collaborations that work towards making Chicago the healthiest city in the nation. This practice is generally described as “planning”. Other activities included in planning include: grant writing, strategic planning, meeting/training planning and facilitation, and community needs assessments. CDPH is looking for Contractors that can lead and/or assist with these project-based activities. Contractors will be sought based on their content expertise (e.g., population knowledge, geographic knowledge, or disparity-specific knowledge) and specific skills.

CDPH is seeking Respondents that can demonstrate the following capabilities:

- A. Assistance in selecting and convening partners for the purpose of responding to a pending or secured grant opportunity.
- B. Project managing the successful and timely submission of a private or public grant proposal.
- C. Leading or contributing to the authoring of a grant application, including editing for content and grammar.
- D. Assist in securing memorandums of understanding or letters of support and other supplemental materials required for the grant submission.
- E. Lead or contribute to the development of a proposal budget.
- F. Complete reviews of best practices and literature to assist in program/proposal development.
- G. Conduct community needs assessments, surveys, focus groups, events and/or individual interviews for the purpose of strategic or program planning.
- H. Conduct analysis of data obtained through the data collection phase of strategic planning.

- I. Facilitate and document meetings and retreats contributing to the development of a strategic or programmatic plan.
- J. Develop, with the approval of CDPH, measurements and objectives/goals for a strategic or programmatic plan.
- K. Author/edit and produce a strategic or programmatic plan.
- L. Assist, as required, with reporting on the progress of the plan's implementation.
- M. Coordinate and/or perform trainings, at the direction of CDPH, on topics related to public health and management.
- N. Organize and/or facilitate meetings, as directed by CDPH.
- O. Produce notes and/or recommendations from meetings and trainings.
- P. Identify or develop standardized tools for the purpose of conducting community need assessment(s).
- Q. Oversee the collection of data related to community needs assessments.
- R. Analyze data collected through needs assessment process.
- S. Author/edit reports and recommendations based on the needs assessment.
- T. Format, edit, and reproduce reports for the purpose of publication and distribution.
- U. Conduct health impact assessments for policy or program initiatives led by CDPH or other City of Chicago departments or sister agencies.

Planning expertise is required in the following public health content areas: (1) Emergency Preparedness; (2) HIV/STI Services; (3) Maternal, Child & Adolescent Health; (4) Chronic Diseases; (5) Infectious Diseases; (6) Environmental Health; (7) Behavioral Health; and (8) Population Health. As such, CDPH is wishing to pre-qualify vendors in each of these public health content areas.

Qualifications of individuals, institutions, or collaborations for each public health content area is further described below.

**Subcategory B.1: Emergency Preparedness**

- Respondent must have five years of performing relevant emergency preparedness activities.
- Relevant activities include: various types of prevention, protection, mitigation, response and recovery plans; support annexes; event-specific plans; hazard assessments; and gap analysis studies, including but not limited to Emergency Operations Plans (EOPs), multi-hazard mitigation plans, Hazard Vulnerability Analyses (HVAs), Threat and Hazard Identification Risk Assessments (THIRAs),

- transportation plans, fatality management plans, mass care and sheltering plans, public information and warning plans, Continuity of Operations (COOP)/Continuity of Government (COG) plans, logistics and resource management plans, evacuation plans, and other emergency support function (ESF)-specific plans.
- All planning experience must be related to homeland security, public health, emergency medical services (EMS), public safety, healthcare emergency operations and/or emergency management and the local, state or federal level.
  - Staff at respondent organization must possess the following education, training and/or certification: Master's degree in Public Health, Emergency Management or related field.
  - Respondent must demonstrate the ability to provide services and deliverables that meet federal, state and local public safety guidelines, including but not limited to:
    - National Incident Management System (NIMS)
    - Incident Command System (ICS)
    - National Response Framework (NRF)
    - Americans with Disabilities Act (ADA)
    - State/local functional needs and accessibility requirements
    - Vulnerable Needs Population requirements
    - Emergency Support Functions (ESF)
    - National Disaster Recovery Framework (NDRF)
    - National Disaster Medical System (NDMS)
    - Presidential Policy Directive-8 (PPD-8)
    - Homeland Security Presidential Directives, multiple (HSPDs)
    - Post Katrina Emergency Reform Act (PKEMRA)
    - Robert T. Stafford Act
    - Homeland Security Exercise and Evaluation Program (HSEEP)
    - Updated Department of Homeland Security (DHS) Core Capabilities and Associated Capabilities Preparedness Guides (CPG)
    - Public Health Emergency Preparedness (PHEP) Capabilities and Associated CPGs
    - Hospital Preparedness Program (HPP) Capabilities and Associated CPGs
    - Other federal, state and local guidelines, as applicable.

### **Subcategory B.2: HIV/STI Services**

- Responding organizations or academic institutions must have a minimum of three years of performing relevant experience related to HIV/STI services.
- Services can include, but are not limited to HIV or STI prevention and testing programs, linkage into HIV care and retention interventions (including HIV housing and other enabling services), medical care and treatment of HIV or other STI's.
- Team lead for the responding organization must possess the following education, training and/or certification: Graduation from an accredited college or university with a Master's degree in Statistics, Public Health, the Social Sciences or a related field

supplemented by two years of progressively responsible experience in program planning.

- Team lead must have authored/co-authored at least one successful competitive grant related to this public health content area.
- Respondent is asked to provide a summary of all grants they have received in this public health content area. The list must include funding amount, funder, size, name of principle investigator, and time period.
- Respondents must have a minimum of one year of experience working with state and/or federal government entities and understand the policies and frameworks related to programs related to this public health content area.
- If the respondent does not have relevant grant experience but has a minimum of two years of developing public health plans related to this public health content area. Plans must have included literature review, needs assessment/gap analysis, community engagement, have clear goals/objectives for action, and (if applicable) include recommendations for resource allocation.
- Respondents with five years of experience are asked to submit a minimum of two plans that they have been the primary author of, as well as any subsequent reports on progress made towards achieving these plans.
- Respondents with relevant planning experience must also include a minimum of five letters of recommendation from previous partners. These letters of recommendation must confirm that the respondent worked on the public health issue, has the necessary planning skills, and produced a useful plan. Respondent may cite previous planning work with CDPH but may not request a letter of recommendation from the department.

### **Subcategory B.3: Maternal, Child & Adolescent Health**

- Responding organizations or academic institutions must have a minimum of three years of performing relevant experience related to maternal, child and adolescent health services.
- Services can include, but are not limited to nutrition programs, programs for pregnant and parenting women, teen pregnancy prevention programming, and/or STI prevention and treatment services.
- Team lead for the responding organization must possess the following education, training and/or certification: Graduation from an accredited college or university with a Master's degree in Statistics, Public Health, the Social Sciences or a related field supplemented by two years of progressively responsible experience in program planning.
- Team lead must have authored/co-authored at least one successful competitive grant related to this public health content area.
- Respondent is asked to provide a summary of all grants they have received in this public health content area. The list must include funding amount, funder, size, name of principle investigator, and time period.

- Respondents must have a minimum of one year of experience working with state and/or federal government entities and understand the policies and frameworks related to programs related to this public health content area.
- If the respondent does not have relevant grant experience but has a minimum of two years of developing public health plans related to this public health content area. Plans must have included literature review, needs assessment, community engagement, and have clear goals/objectives for action.
- Respondents with five years of experience are asked to submit a minimum of two plans that they have been the primary author of, as well as any subsequent reports on progress made towards achieving these plans.
- Respondents with relevant planning experience must also include a minimum of five letters of recommendation from previous partners. These letters of recommendation must confirm that the respondent worked on the public health issue, has the necessary planning skills, and produced a useful plan. Respondent may cite previous planning work with CDPH but may not request a letter of recommendation from the department.

#### **Subcategory B.4: Chronic Diseases**

- Responding organizations or academic institutions must have a minimum of three years of performing relevant experience related to chronic disease.
- Experience may include, but is not limited to: Programs or policies must include one of the following health issues: obesity prevention or healthy eating, exercise or active living, tobacco prevention, diabetes prevention, cancer prevention, and/or heart disease prevention.
- Team lead for the responding organization must possess the following education, training and/or certification: Graduation from an accredited college or university with a Master's degree in Statistics, Public Health, the Social Sciences or a related field supplemented by two years of progressively responsible experience in program planning.
- Team lead must have authored/co-authored at least one successful competitive grant related to this public health content area.
- Respondent is asked to provide a summary of all grants they have received in this public health content area. The list must include funding amount, funder, size, name of principle investigator, and time period.
- Respondents must have a minimum of one year of experience working with state and/or federal government entities and understand the policies and frameworks related to programs related to this public health content area.
- Respondent must have a minimum of two years of developing public health plans related to this public health content area, which may also include planning related to built environments, transportation, employment or education, or completing health impact assessments on community development projects. Plans must have included literature review, needs assessment, community engagement, and have clear goals/objectives for action.



- Respondents with five years of experience are asked to submit a minimum of two plans that they have been the primary author of, as well as any subsequent reports on progress made towards achieving these plans.
- Respondents with relevant planning experience must also include a minimum of five letters of recommendation from previous partners. These letters of recommendation must confirm that the respondent worked on the public health issue, has the necessary planning skills, and produced a useful plan. Respondent may cite previous planning work with CDPH but may not request a letter of recommendation from the department.

### **Subcategory B.5: Infectious Diseases**

- Responding organizations or academic institutions must have a minimum of three years of performing relevant experience related to infectious disease.
- Experience may include, but is not limited to: surveillance of reportable conditions and data analysis to detect trends, development of routine and outbreak-response vaccination programs, investigation and response to infectious disease outbreaks and emerging threats, and implementation of disease control and response measures.
- Team lead for the responding organization must possess the following education, training and/or certification: Graduation from an accredited college or university with a Master's degree in Statistics, Public Health, the Social Sciences or a related field supplemented by two years of progressively responsible experience in program planning.
- Team lead must have authored/co-authored at least one successful competitive grant related to this public health content area. Respondent is asked to provide a summary of all grants they have received in this public health content area. The list must include funding amount, funder, size, name of principle investigator, and time period.
- Respondents must have a minimum of one year of experience working with state and/or federal government entities and understand the policies and frameworks related to programs related to this public health content area.
- If the respondent does not have relevant grant experience but has a minimum of two years of developing public health plans related to this public health content area. Plans must have included literature review, needs assessment, community engagement, and have clear goals/objectives for action.
- Respondents with five years of experience are asked to submit a minimum of two plans that they have been the primary author of, as well as any subsequent reports on progress made towards achieving these plans.
- Respondents with relevant planning experience must also include a minimum of five letters of recommendation from previous partners. These letters of recommendation must confirm that the respondent worked on the public health issue, has the necessary planning skills, and produced a useful plan. Respondent may cite

previous planning work with CDPH but may not request a letter of recommendation from the department.

### **Subcategory B.6: Environmental Health**

- Responding organizations or academic institutions must have a minimum of three years of performing relevant experience related to environmental health programs.
- Programs can include, but are not limited to: lead prevention, abatement, and case management programming, surveillance of health conditions (lead poisoning, asthma, etc.) caused by environmental factors, health impact assessments related to changes in environment or policies that impact the environment, and food protection and other health code enforcement activities.
- Team lead for the responding organization must possess the following education, training and/or certification: Graduation from an accredited college or university with a Master's degree in Statistics, Public Health, the Social Sciences or a related field supplemented by two years of progressively responsible experience in program planning.
- Team lead must have authored/co-authored at least one successful competitive grant related to this public health content area.
- Respondent is asked to provide a summary of all grants they have received in this public health content area. The list must include funding amount, funder, size, name of principle investigator, and time period.
- Respondents must have a minimum of one year of experience working with state and/or federal government entities and understand the policies and frameworks related to programs related to this public health content area.
- If the respondent does not have relevant grant experience but has a minimum of two years of developing public health plans related to this public health content area. Plans must have included literature review, needs assessment, community engagement, and have clear goals/objectives for action.
- Respondents with five years of experience are asked to submit a minimum of two plans that they have been the primary author of, as well as any subsequent reports on progress made towards achieving these plans.
- Respondents with relevant planning experience must also include a minimum of five letters of recommendation from previous partners. These letters of recommendation must confirm that the respondent worked on the public health issue, has the necessary planning skills, and produced a useful plan. Respondent may cite previous planning work with CDPH but may not request a letter of recommendation from the department.

### **Subcategory B.7: Behavioral Health**

- Responding organizations or academic institutions must have a minimum of three years of performing relevant experience related to behavioral health, including violence prevention programs, mental health services, and/or substance abuse treatment and prevention programs.
- Team lead for the responding organization must possess the following education, training and/or certification: Graduation from an accredited college or university with a Master's degree in Statistics, Public Health, the Social Sciences or a related field supplemented by two years of progressively responsible experience in program planning.
- Team lead must have Master's degree and five years of direct experience in the area of practice. For practice related efforts the respondents should have licensure in a field of practice (LCSW, CADC, etc.).
- Respondent must have written and have been successfully awarded at least one grant related to the public health content area.
- Respondent is asked to provide a summary of all grants they have received in this public health content area. The list must include funding amount, funder, size, name of principle investigator, and time period.
- Respondents must have a minimum of one year of experience working with state and/or federal government entities and understand the policies and frameworks related to programs related to this public health content area.
- If the respondent doesn't have the required grant experience, they must have a minimum of two years of experience developing public health plans related to this public health content area. Plans must have included literature review, needs assessment, community engagement, and have clear goals/objectives for action.
- Respondents with five years of experience are asked to submit a minimum of two plans that they have been the primary author of, as well as any subsequent reports on progress made towards achieving these plans.
- Respondents with relevant planning experience must also include a minimum of five letters of recommendation from previous partners. These letters of recommendation must confirm that the respondent worked on the public health issue, has the necessary planning skills, and produced a useful plan. Respondent may cite previous planning work with CDPH but may not request a letter of recommendation from the department.

### **Subcategory B.8: Population Health**

- Responding individuals, organizations or academic institutions must have a minimum of three years of performing relevant planning efforts related to population health grant application development, community health improvement plans and/or health impact assessments.
- Experience may include, but is not limited to: conducting community based engagement strategies to solicit community feedback, conducting telephone, internet-based or venue-based population health surveys using statistically valid sampling techniques, programming in statistical software languages (R, SAS,

STATA), geospatial analysis and visualization, data system/technology integration, data management/warehousing, coding to develop web/mobile device apps, data visualization tools, business analytics, and other open-source data applications using CDPH and/or external data sources.

- Team lead for the responding organization must possess the following education, training and/or certification: Graduation from an accredited college or university with a minimum Master's degree in Epidemiology, Public Health, Social Work, Statistics, Social Sciences, Computer/Data Science, Informatics or a related field supplemented by two years of progressively responsible experience in program planning.
- Team lead must have authored/co-authored at least one successful competitive grant related to this public health content area.
- Respondent is asked to provide a summary of all grants they have received in this public health content area. The list must include funding amount, funder, size, name of principle investigator, and time period. Respondents must have a minimum of one year of experience working with state and/or federal government entities and understand the policies and frameworks related to programs related to this public health content area.
- If the respondent does not have relevant grant experience but has a minimum of two years of developing public health plans related to this public health content area. Plans must have included literature review, needs assessment, community engagement, and have clear goals/objectives for action.
- Respondents with five years of experience are asked to submit a minimum of two plans that they have been the primary author of, as well as any subsequent reports on progress made towards achieving these plans.
- Respondents with relevant planning experience must also include a minimum of five letters of recommendation from previous partners. These letters of recommendation must confirm that the respondent worked on the public health issue, has the necessary planning skills, and produced a useful plan. Respondent may cite previous planning work with CDPH but may not request a letter of recommendation from the department.

**Exhibit 1, Attachment A: Key Personnel**

Insert key personnel here.

**Exhibit 2: Compensation Schedule**

**EXAMPLE  
 Compensation Schedule: Time and Material Only**

The Contractor named below proposes to provide all Services described in the Scope of Services for the fees set forth below.

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

Key Personnel (Title)	Maximum fully-loaded hourly rates 2015*	Maximum fully-loaded hourly rates 2016*	Maximum fully-loaded hourly rates 2017*	Maximum fully-loaded hourly rates 2018*	Maximum fully-loaded hourly rates 2019*	Maximum fully-loaded hourly rates 2020*	Maximum fully-loaded hourly rates 2021*

\*Fully Loaded Hourly Rates include, but are not necessarily limited to: labor, overhead and payroll burden.

### Exhibit 3: Certificate(s) of Insurance

#### INSURANCE CERTIFICATE OF COVERAGE

Named Insured: \_\_\_\_\_  
 Address: \_\_\_\_\_  
 \_\_\_\_\_ (Number and Street)  
 \_\_\_\_\_ (City) \_\_\_\_\_ (State) \_\_\_\_\_ (ZIP)

Specification #: \_\_\_\_\_  
 RFP: \_\_\_\_\_  
 Project #: \_\_\_\_\_  
 Contract #: \_\_\_\_\_

Description of Operation/Location	
-----------------------------------	--

The insurance policies and endorsements indicated below have been issued to the designated named insured with the policy limits as set forth herein covering the operation described within the contract involving the named insured and the City of Chicago. The Certificate issuer agrees that in the event of cancellation, non-renewal or material change involving the indicated policies, the issuer will provide at least sixty (60) days prior written notice of such change to the City of Chicago at the address shown on this Certificate. This certificate is issued to the City of Chicago in consideration of the contract entered into with the named insured, and it is mutually understood that the City of Chicago relies on this certificate as a basis for continuing such contract with the named insured:

Type of Insurance	Insurer Name	Policy Number	Expiration Date	Limits of Liability All Limits in Thousands
General Liability <input type="checkbox"/> Claims made <input type="checkbox"/> Occurrence <input type="checkbox"/> Premise-Operations <input type="checkbox"/> Explosion/Collapse Underground <input type="checkbox"/> Products/Completed-Operations <input type="checkbox"/> Blanket Contractual <input type="checkbox"/> Broad Form Property Damage <input type="checkbox"/> Independent Contractors <input type="checkbox"/> Personal Injury <input type="checkbox"/> Pollution				CSL Per Occurrence \$ _____  General Aggregate \$ _____  Products/Completed Operations Aggregate \$ _____
Automobile Liability				CSL Per Occurrence \$ _____
<input type="checkbox"/> Excess Liability <input type="checkbox"/> Umbrella Liability				Each Occurrence \$ _____
Worker's Compensation and Employer's Liability				Statutory/Illinois Employers Liability \$ _____
Builders Risk/Course of Construction				Amount of Contract
Professional Liability				\$ _____
Owner Contractors Protective				\$ _____
Other				\$ _____

- a) Each Insurance policy required by this contract, excepting policies for worker's compensation and professional liability, will read: The City of Chicago is an additional insured as respects operations and activities of, or on behalf of the named insured, performed under contract with or permit from the City of Chicago.
- b) The General, Automobile and Excess/Umbrella Liability Policies described provide for severability of Interest (cross liability) applicable to the named insured and the City.
- c) Workers Compensation and Property Insurers shall waive all rights of subrogation against the City of Chicago.
- d) The receipt of this certificate by the City does not constitute agreement by the City that the insurance requirements in the contract have been fully met, or that the insurance policies indicated by this certificate are in compliance with all contract requirements.

Name and Address of Certificate Holder and Recipient of Notice	
Certificate Holder/Additional Insured City of Chicago Procurement Department 121 N. LaSalle St., #806 Chicago, IL 60602	Signature of Authorized Rep. _____ Agency/Company: _____ Address _____ Telephone _____

**For City use only**  
 Name of City Department requesting certificate: (Using Dept.) \_\_\_\_\_  
 Address: \_\_\_\_\_ ZIP Code: \_\_\_\_\_ Attention: \_\_\_\_\_

**Exhibit 4: MBE/WBE Compliance Plan**

- Schedule B: Affidavit of Joint Venture (if applicable)
- Schedule C-3: Letter of Intent From MBE/WBE To Perform As Subcontractor, Supplier and/or Consultant
- Schedule D-3: Compliance Plan Regarding MBE/WBE Utilization



## **Exhibit 5: Economic Disclosure Statements and Disclosure of Retained Parties**

Complete the online Economic Disclosure Statement (EDS) which includes a Disclosure of Retained Parties. Please submit an electronically signed, one page EDS Certificate of Filing which validates that the EDS has been filed. Additionally, the Municipal Code of Chicago requires the disclosure of Familial Relationships with Elected City Officials and Department Heads. The web address to submit your EDS and Familial Relationships Disclosure is: <https://webapps.cityofchicago.org/EDSWeb>.

## Exhibit 6: State of Illinois Drug Free Workplace Certification for Contractor and Subcontractors

### STATE OF ILLINOIS DRUG FREE WORKPLACE CERTIFICATION

This certification is required by the Drug Free Workplace Act (111. Rev. Stat., Ch. 127, par. 152.31 1). The Drug Free Workplace Act, effective January 1, 1992, requires that no grantee or contractor shall receive a grant or be considered for the purpose of being awarded a contract for the procurement of any property or services from the State unless that grantee or contractor has certified to the State that the grantee or contractor will provide a drug free workplace. False certification or violation of the certification may result in sanctions including, but not limited to, suspension of contract or grant payments, termination of the contract or grant and debarment of contracting or grant opportunities with the State for at least one (1) year but not more than five (5) years.

For the purpose of this certification, "grantee" or "contractor" means a corporation, partnership, or other entity with twenty-five (25) or more employees at the time of issuing the grant, or a department, division, or other unit thereof, directly responsible for the specific performance under a contract or grant of \$5,000 or more from the State.

The contractor/grantee certifies and agrees that it will provide a drug free workplace by:

- (A) Publishing a statement:
  - (1) Notifying employees that the unlawful manufacture, distribution, dispensing, possession or use of a controlled substance, including cannabis, is prohibited in the grantee's or contractor's workplace.
  - (2) Specifying the actions that will be taken against employees for violations of such prohibition.
  - (3) Notifying the employee that, as a condition of employment on such contract or grant, the employee will:
    - (a) abide by the terms of the statement; and
    - (b) notify the employer of any criminal drug statute conviction for a violation occurring in the workplace no later than five (5) days after such conviction.
- (B) Establish a drug free awareness program to inform employees about:
  - (1) the dangers of drug abuse in the workplace;
  - (2) the grantee's or contractor'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 an employee for drug violations.
- (C) Providing a copy of the statement required by subparagraph (A) to each employee engaged in the performance of the contract or grant and to post the statement in a prominent place in the workplace.
- (D) Notifying the contracting or granting agency within ten (10) days after receiving notice under part (b) of Paragraph (3) of subsection (A) above from an employee or otherwise receiving actual notice of such conviction.
- (E) Imposing a sanction on, or requiring the satisfactory participation in a drug abuse assistance or rehabilitation program by any employee who is so convicted, as required by section 5 of the Drug Free Workplace Act.
- (F) Assisting employees in selecting a course of action in the event drug counseling, treatment and rehabilitation is required and indicating that a trained referral team is in place.
- (G) Making a good faith effort to continue to maintain a drug free workplace through implementation of the Drug Free Workplace Act.

THE UNDERSIGNED AFFIRMS, UNDER PENALTIES OF PERJURY, THAT HE OR SHE IS AUTHORIZED TO EXECUTE THIS CERTIFICATION ON BEHALF OF THE DESIGNATED ORGANIZATION.

\_\_\_\_\_  
Printed Name of Organization

\_\_\_\_\_  
Signature of Authorized Representative

\_\_\_\_\_  
Printed Name and Title

\_\_\_\_\_  
Date

## **Exhibit 7: Local and Other Preferences, Adjustments to the Task Order Evaluation Score**

### **A. City-based Businesses (Chicago Business Preference)**

For purposes of this section only, the following definitions shall apply:

"City-based business" means a person who (i) conducts meaningful day-to-day business operations at a facility located within the city and reports such facility to the Internal Revenue Service as a place of employment for the majority of its regular, full-time workforce; (ii) holds any appropriate city license; and (iii) is subject to applicable city taxes.

"Contract" means any contract, purchase order or agreement awarded by the city and whose cost is to be paid from funds belonging to or administered by the city; provided that a contract does not include: (i) a delegate agency contract; (ii) a lease of real property; or (iii) a collective bargaining agreement.

"Prime Contractor" means a person who is a city-based business and the primary contractor on a contract. A "Prime Contractor" does not include any subcontractors.

If these RFP Documents pertain to a Contract having an estimated contract value of \$100,000 or more, the CPO may apply a bid preference ("City Based Business Preference") of two percent of the cost proposal, in accordance with section 2-92-412 of the MCC, to any qualified Respondent that is a prime contractor.

Respondents desiring to take advantage of the City Based Business Preference must submit documentation with their Proposal that Respondent is a City-Based Business: a "City-Based Business Affidavit" and a copy of any Chicago business license(s) if applicable.

### **B. Alternatively Powered Vehicles Proposal Incentive**

#### **i. Definitions for Alternatively Powered Vehicles Bid Incentive**

For purposes of this Section B only, the following definitions apply:

"Alternative fuel" has the meaning ascribed to that term in the Energy Policy Act of 1992, and the rules promulgated by the United States Department of Energy pursuant to that Act. The term "alternative fuel" includes but is not limited to natural gas, liquefied petroleum gas, hydrogen, ethanol E85 or electricity;

"Alternatively powered vehicle" means a vehicle that:

(a) is fueled by alternative fuel; provided that if a vehicle is capable of being powered by alternative fuel and traditional petroleum-based gasoline or petroleum-based diesel fuel, the vehicle must be powered by the alternative fuel for no less than 80% BTUs consumed during the three months prior to the submission of the bid; or

(b) is commonly referred to as a hybrid vehicle that is capable of being powered by a combination of any fuel and an alternative power source and the alternative power source includes an energy storage system to store generated or accumulated energy which substantially reduces the fuel use and emissions when compared to a standard vehicle of the same age, type and size; or

(c) is fueled by a biodiesel blend; provided that the vehicle is powered by the biodiesel blend for no less than 80% of the gallons consumed during the three months prior to the submission of the bid; or

(d) is fueled by traditional petroleum-based gasoline or petroleum-based diesel fuel, but powered by an engine substantially more efficiently designed than a standard vehicle of the same age, type and size; provided that the vehicle is rated by the United States Environmental Protection Agency in the top 5% for fuel efficiency for similar vehicles.

An "alternatively powered vehicle" does not include any vehicle which is: (i) primarily used in a warehouse or similar type of enclosed structure; (ii) required to use, or given credit for using, alternative fuel by any federal, state or local law; or (iii) subject to Section 2-92-595 of the Municipal Code of Chicago.

"Biodiesel blend" has the meaning ascribed to that term in Section 2-92-595 of the Municipal Code of Chicago.

"Construction project" has the meaning ascribed to that term in Section 2-92-335 of the Municipal Code of Chicago.

"Contract" means any contract, purchase order, construction project, or other agreement (other than a delegate agency contract or lease of real property or collective bargaining agreement) awarded by the city and whose cost is to be paid from funds belonging to or administered by the city.

"Contract cost proposal" means the total dollar amount a Respondent proposes as its cost proposal on an RFP without factoring any incentive or preference.

"Eligible business" means a business located within the counties of Cook, DuPage, Kane, Lake, McHenry or Will in the State of Illinois (the "Six County Region"), and as to which: (1) a majority of the business' fleet is located and used within the Six County Region; and (2) a majority of those vehicles located and used within the Six County Region are alternatively powered vehicles.

"Fleet" means 10 or more vehicles that are owned, operated, leased or otherwise controlled by a business.

"Proposal Incentive" means an amount deducted, for proposal evaluation purposes only, from the Respondent's cost proposal in order to calculate the cost or price to be used to evaluate the proposal.

"Vehicle" means every device powered by a motor or engine and by, upon, or in which any person or property is or may be transported or drawn upon a street or highway, except a "vehicle" shall not include motorized wheelchairs, golf carts, neighborhood electric vehicles, as that term is defined in Section 9-4-010 of the Municipal Code of Chicago, devices moved solely by human power, devices used exclusively upon stationary rails or tracks, or snowmobiles, as defined in the Snowmobile Registration and Safety Act of Illinois.

**ii. Eligibility for Alternatively Powered Vehicles Proposal Incentive**

If these RFP Documents pertain to a Contract having an estimated contract value of \$100,000 or more, the CPO may apply a proposal incentive of 1/2% to the contract cost proposal of a qualified respondent when the qualified respondent is an eligible business.

The incentive is used only to calculate an amount to be used in evaluating the price, and it will not affect the price of any contract that may ultimately be awarded.

For purposes of this section the total dollar value of a construction project contract includes both materials and labor.

(b) As a condition of being awarded a contract after claiming this incentive, the eligible business shall continue to meet the definition of an eligible business during the term of the contract.

(c) The contractor shall maintain adequate records necessary to monitor compliance with this section and shall submit such reports as required by the chief procurement officer. Full access to the contractor's and subcontractors' records shall be granted to the chief procurement officer, the commissioner of the supervising department, the inspector general, or any duly authorized representative thereof. The contractor and subcontractors shall maintain all relevant records for a period of no less than seven years after final acceptance of the work.

(d) A Respondent desiring to receive an incentive pursuant to this section shall include with its bid submission the Affidavit of Eligible Business for Proposal Incentive for Alternative Powered Vehicles, which affirms that the Respondent satisfies all pertinent requirements as an eligible business.

(e) Upon completion of the work, any eligible business that receives a preference but that fails to meet the definition as an eligible business during the term of the contract shall be fined in an amount equal to three times the amount of the incentive.

(f) This section shall not apply to any contract to the extent that the requirements imposed by this section are inconsistent with procedures or standards required by any law or regulation of the United States or the State of Illinois to the extent such inconsistency is not permitted under law or the home rule powers of the city.

### **C. Joint Ventures Between Small Business Enterprises and Veteran-Owned Business Enterprises**

For purposes of this section only, the following definitions shall apply:

"Contract cost proposal" means the total dollar amount a Respondent proposes as its cost proposal on an RFP without factoring any incentive or preference.

"Eligible joint venture" means an association of one or more small business enterprises in combination with one or more veteran-owned business enterprises, proposing to perform as a single for-profit business enterprise, in which each joint venture partner contributes property, capital, efforts, skill and knowledge. Joint ventures must have an agreement in writing specifying the terms and conditions of the relationship between the partners and their respective roles in the contract.

"Owned" means, as MCC 2-92-670 may be updated from time to time, having all of the customary incidents of ownership, including the right of disposition, and sharing in all of the risks, responsibilities and profits commensurate with the degree of ownership.

"Proposal Incentive" means an amount deducted, for proposal evaluation purposes only, from the Respondent's cost proposal in order to calculate the cost or price to be used to evaluate the proposal.

“Small business enterprise” means, as MCC 2-92-670 may be updated from time to time, a small business as defined by the U.S. Small Business Administration, pursuant to the business size standards found in 13 C.F.R. Part 121, relevant to the scope(s) of work the firm seeks to perform on city contracts. A firm is not an eligible small business enterprise in any city fiscal year in which its gross receipts, averaged over the firm's previous five fiscal years, exceed the size standards of 13 C.F.R. Part 121.

“Veteran” means a person who has served in the United States armed forces and was discharged or separated under honorable conditions.

Unless otherwise prohibited by any federal, state or local law, the CPO shall allocate a proposal incentive of 5% of the contract cost proposal, to any qualified respondent that is an eligible joint venture.

Respondents desiring to receive this incentive must submit an affidavit and other supporting documents demonstrating that the respondent satisfies all pertinent requirements as an eligible joint venture.

As a condition of being awarded after claiming this incentive, the eligible joint venture shall continue to meet the definition of an eligible joint venture. If a contract is awarded to the eligible joint venture, upon completion of the work, any eligible joint venture that receives a proposal incentive but fails to meet the definition of eligible joint venture during the term of the contract for which the proposal incentive was applied shall be fined in an amount equal to three times the amount of the proposal incentive.

The contractor shall maintain adequate records necessary to ensure compliance with this section and shall submit such reports as required by the chief procurement officer. Full access to the contractor's and subcontractors' records shall be granted to the chief procurement officer, the commissioner of the supervising department, the inspector general, or any duly authorized representative thereof. The contractor and subcontractor shall maintain all relevant records a period that is the longer of seven years or as after final acceptance of the work in accordance with the Local Records Act.

**CITY-BASED BUSINESS AFFIDAVIT**

The City-Based Business preference of 2% is applicable to Contracts funded in whole by City funds. Respondent must complete this form, and provide a copy of its Chicago business license(s) if applicable, if it desires to be considered for this preference. Respondents that do not complete this page will not be regarded as City-Based Businesses. If Respondent's operations are at multiple locations in the City of Chicago, use additional sheets if necessary..

1. Is Respondent a "City-Based Business" as defined in the "Local and Other Preferences" portion of this solicitation and in MCC 2-92-412?  
( ) Yes ( ) No
2. Does the Respondent report to the Internal Revenue Service that the place of employment for the majority (more than 50%) of its regular, full-time workforce is a facility within the City of Chicago?  
( ) Yes ( ) No
3. Does the Respondent conduct meaningful day-to-day business operations at a facility within the City of Chicago?  
( ) Yes ( ) No
4. Street address of business location within the City of Chicago (P.O. address not accepted):  
\_\_\_\_\_  
\_\_\_\_\_
5. Describe the business activities are carried out at the location listed above: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_
6. How many full-time regular employees are currently employed at the location listed above? \_\_\_\_\_
7. Total number of full-time regular employees employed at all locations worldwide? \_\_\_\_\_
8. List City of Chicago business license(s) held; attach copies. If none are required, indicate "none required": \_\_\_\_\_  
\_\_\_\_\_

Respondent understands that it may be required to produce records to the Chief Procurement Officer to verify the information provided.

Under penalty of perjury the person signing below: (1) warrants that he/she is authorized to execute this Affidavit on behalf of Respondent, and (2) warrants that all certifications and statements contained in this Affidavit are true, accurate, and complete as of the date of execution.

Name of Respondent: \_\_\_\_\_ (Print or Type)

Signature of Authorized Officer: \_\_\_\_\_ (Signature)

Title of Signatory: \_\_\_\_\_ (Print or Type)

State of \_\_\_\_\_  
County of \_\_\_\_\_

Signed and sworn (or affirmed) to before me on \_\_\_\_\_ (date) by \_\_\_\_\_ (name/s of person/s making statement).

\_\_\_\_\_  
(Signature of Notary Public)

(Seal)

**INCENTIVE FOR ALTERNATIVELY POWERED VEHICLES AFFIDAVIT**

An Eligible Business incentive for alternatively powered vehicles may be applicable. Respondent must complete this form if it desires to be considered for this incentive. Respondents who do not complete and submit this form with their proposals will be deemed to be non-Eligible Businesses.

1. Is Respondent a business located within the counties of Cook, DuPage, Kane, Lake, McHenry or Will in the State of Illinois (the "Six County Region")?      ( ) Yes      ( ) No
2. Street address of principal place of business: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_
3. How many total vehicles, as defined in the Local and Other Preferences section of this solicitation, "Incentive for Alternately Powered Vehicles," are currently owned, operated, leased or otherwise controlled by respondent?  
**Line 3(a):** \_\_\_\_\_
4. How many of respondent's vehicles are located and used within the Six County Region?  
**Line 4(a): number of vehicles** \_\_\_\_\_  
**Line 4(b): percentage of fleet (line 4(a) divided by line 3(a))** \_\_\_\_\_%
5. How many of respondent's vehicles located and used within the Six County Region are alternatively powered vehicles, as defined in the Local and Other Preferences section of this solicitation, "Incentive for Alternately Powered Vehicles"?  
**Line 5(a): number of vehicles** \_\_\_\_\_  
**Line 5(b): percentage of Six County fleet (line 5(a) divided by line 4(a))** \_\_\_\_\_%

Respondent understands that it may be required to produce records to the chief procurement officer to verify the information provided.

Under penalty of perjury the person signing below: (1) warrants that he/she is authorized to execute this Affidavit on behalf of bidder, and (2) warrants that all certifications and statements contained in this Affidavit are true, accurate, and complete as of the date of execution.

Name of Respondent: \_\_\_\_\_  
(Print or Type)

Signature of Authorized Officer: \_\_\_\_\_  
(Signature)

Title of Signatory: \_\_\_\_\_  
(Print or Type)

State of \_\_\_\_\_

County of \_\_\_\_\_

Signed and sworn (or affirmed) to before me on \_\_\_\_\_ (date) by  
\_\_\_\_\_ (name/s of person/s making statement).

\_\_\_\_\_  
(Signature of Notary Public)

(Seal)



**SMALL BUSINESS ENTERPRISE AND VETERAN-OWNED BUSINESS ENTERPRISE JOINT VENTURE AFFIDAVIT**

Respondent must complete this form if it desires to be considered for the incentive as described in the Local and Other Preferences section of this solicitation, for joint ventures between Small Business Enterprises and Veteran-Owned Business Enterprises. Respondents that do not complete this page will not be regarded as eligible joint ventures. Please use additional sheets if necessary. Attach all relevant certifications and/or support documents.

1. Is respondent an "eligible joint venture" as defined in MCC 2-92-418?  
( ) Yes ( ) No
  
2. Is at least one member of the eligible joint venture a "small business enterprise" as defined in MCC 2-92-670?  
( ) Yes ( ) No
  
3. Is at least one member of the eligible joint venture a "veteran-owned business enterprise as that term is defined in MCC 2-92-670?  
( ) Yes ( ) No
  
4. Is the veteran-owned business identified above certified by the State of Illinois as a qualified service-disabled veteran-owned small business or a qualified veteran-owned small business pursuant to 30 ILCS 500/45-57? If yes, please provide appropriate documentation.  
( ) Yes ( ) No
  
5. If the answer to # 4 above is no, is the veteran-owned business an enterprise which is at least 51 percent owned by one or more veterans, or in the case of a publicly held corporation, at least 51 percent of all classes of stock of which are owned by one or more veterans?  
( ) Yes ( ) No
  
6. If qualifying as a veteran-owned business under the requirements of #5 above, please list all owners, their percentage of ownership interest, and provide appropriate documentation demonstrating status as veteran, as that term is defined in MCC 2-92-418.

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7. List City of Chicago business license(s) held and attach copies if applicable. If none are required, indicate "none required":

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Respondent understands that it may be required to produce records to the chief procurement officer to verify the information provided.

Under penalty of perjury the person signing below: (1) warrants that he/she is authorized to execute this Affidavit on behalf of bidder, and (2) warrants that all certifications and statements contained in this Affidavit are true, accurate, and complete as of the date of execution.

Name of Joint Venture: \_\_\_\_\_  
(Print or Type)

Signature of Authorized Officer for SBE: \_\_\_\_\_  
(Signature)

Title of Signatory: \_\_\_\_\_  
(Print or Type)

Signature of Authorized Officer for Veteran-Owned Business: \_\_\_\_\_  
(Signature)

Title of Signatory: \_\_\_\_\_  
(Print or Type)

State of \_\_\_\_\_

County of \_\_\_\_\_

Signed and sworn (or affirmed) to before me on \_\_\_\_\_ (date) by  
\_\_\_\_\_ (name/s of person/s making statement).

\_\_\_\_\_  
(Signature of Notary Public)

(Seal)

### **Business Enterprises Owned by People With Disabilities (BEPD)**

It is the policy of the City of Chicago that businesses certified as a BEPD in accordance with MCC Sect. 2-92-337 et seq., Regulations Governing Certification of BEPDs, and all other Regulations promulgated under the aforementioned sections of the MCC; shall have the full and fair opportunities to participate fully in the performance of this Contract

Contractor shall not discriminate against any person or business on the basis of disability, and shall take affirmative actions to ensure BEPDs shall have full and fair opportunities to compete for and perform subcontracts for supplies or services.

Failure to carry out the commitments and policies set forth herein shall constitute a material breach of the Contract and may result in the termination of the Contract or such remedy as the City deems appropriate.

For purposes of this section only, the following definitions apply:

**"Business Enterprises owned by People with Disabilities" or "BEPD"** has the same meaning ascribed to it in MCC Sect. 2-92-586.

**"Bid incentive"** means an amount deducted, for bid evaluation purposes only, from the contract base bid in order to calculate the bid price to be used to evaluate the bid on a competitively bid contract.

**"Construction project"** has the same meaning ascribed to it in MCC Sect. 2-92-335.

**"Contract"** means any contract, purchase order, construction project, or other agreement (other than a delegate agency contract or lease of real property or collective bargaining agreement) awarded by the City and whose costs is to be paid from funds belonging to or administered by the City.

**"Contract base bid"** means the total dollar amount a contractor bids on a contract without factoring any bid incentive or percentage reductions to the bid amount.

**"Earned credit"** means the amount of the bid incentive allocated to a contractor upon completion of a contract in which the contractor met or exceeded his or her goals for the utilization of BEPDs in the performance of the contract.

**"Earned credit certificate"** means a certificate issued by the Chief Procurement Officer evidencing the amount of earned credit a contractor has been awarded.

The CPO shall award a bid incentive to Contractor for utilization of a BEPD as a prime contractor or subcontractor in accordance with the provisions of this section. The bid incentive shall be earned in the performance of the Contract, provided that the bid incentive earned in the performance of the Contract shall only be applied to a future contract.

Where not otherwise prohibited by federal, state, or local law, the CPO shall allocate to any qualified bidder the following bid incentive for utilization of a BEPD as a prime contractor or subcontractor in the performance of the contract.

<i>% of total dollar contract amount performed by BEPD</i>	<i>Bid incentive</i>
2 to 5%	½% of the contract base bid
6 to 10%	1% of the contract base bid
11% or more	2% of the contract base bid

The bid incentive shall be calculated and applied in accordance with the provisions of this section. The bid incentive is used only to calculate an amount to be used in evaluating the bid. The bid incentive does not affect the contract price.

As part of the contract close-out procedure, if the CPO determines that the Contractor has successfully met his or her BEPD utilization goals either as a prime contractor or with subcontractors, the CPO shall issue an earned credit certificate that evidences the amount of earned credits allocated to the Contractor. The Contractor may

apply the earned credits as the bid incentive for any future contract bid of equal or less dollar amount. The earned credit certificate is valid for three years from the date of issuance and shall not be applied towards any future contract bid after the expiration of that period.

The Contractor may apply the earned credit certificate on multiple future contract bids during the three-year period in which the certificate is valid, but may only receive one bid incentive for bid evaluation purposes on one contract award. If the Contractor applies the earned credit certificate on multiple contract bids and is the lowest responsive and responsible bidder on more than one contract bid, the earned credit certificate shall be applied to the contract bid first to be advertised by the Department of Procurement Services, or if multiple contract bids were advertised on the same date, the earned credit certificate shall be applied only to the contract bid with the greatest dollar value

The Contractor shall maintain accurate and detailed books and records necessary to monitor compliance with this section and shall submit such reports as required by the CPO, or the commissioner of the supervising department.

Full access to the Contractor's and Subcontractor's records shall be granted to the CPO, the commissioner of the supervising department, or any duly authorized representative thereof. The Contractor and Subcontractors shall maintain all relevant records for a period that is the longer of five years or as required by relevant retention schedules after final acceptance of the work.

The CPO is authorized to adopt, promulgate and enforce reasonable rules and regulations pertaining to the administration and enforcement of this section.

### **Exhibit 8: Contractual Requirements Related to HIPAA**

The terms below that are capitalized and in bold have the same meanings as set forth in the Health Insurance Portability and Accountability Act. See 45 CFR parts 160 and 164.

1. Contractor 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. Contractor must use appropriate safeguards to prevent the use or disclosure of PHI other than as provided for in this Agreement.
3. Contractor must mitigate to the extent practicable any harmful effect that is known to Contractor of a use or disclosure of PHI by Contractor in violation of the requirements of this Agreement.
4. Contractor must report any use or disclosure of the PHI not provided for by this Agreement to the City.
5. Contractor must ensure that any agent, including a subcontractor, to whom it provides PHI received from, or created or received by Contractor on behalf of the City agrees to the same restrictions and conditions that apply through this Agreement to Contractor with respect to such information.
6. If the Contractor has PHI in a Designated Record Set then Contractor 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 the Contractor has PHI in a Designated Record Set then Contractor 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. Contractor must make internal practices, books and records relating to the use and disclosure of PHI received from, or created or received by Contractor 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. Contractor 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. Contractor 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. Contractor must either return all PHI to the City or destroy it, at the City's option, upon termination or expiration of this Agreement.
12. Contractor must implement administrative, physical, and technical safeguards that reasonably and appropriately protect the confidentiality, integrity, and availability of the electronic health information that it creates, receives, maintains, or transmits on behalf of the City as required by 45 CFR part 164.
13. Contractor must ensure that any agent, including a subcontractor, to whom it provides such information agrees to implement reasonable and appropriate safeguards to protect it.
14. Contractor must report to the City any security incident of which it becomes aware.

## **Exhibit 9: Data Protection Requirements for Contractors, Vendors, and Third-Parties**

“Breach” means the acquisition, access, use, or disclosure of Protected Information that compromises the security or privacy of the Protected Information.

"Contractor" means an entity that receives or encounters Protected Information. Contractor includes, without limitation, entities that store Protected Information, or host applications that process Protected Information. The provisions of this Data Policy includes not only the entity that is a signatory to this Policy but all subcontractors, of whatever tier, of that entity; the signatory must inform and obtain the agreement of such subcontractors to the terms of this Data Policy.

“Protected Information” means all data provided by City to Contractor or encountered by Contractor in the performance of the services to the City, including, without limitation, all data sent to Contractor by City and/or stored by Contractor on its servers. Protected Information includes, but is not limited to, employment records, medical and health records, personal financial records (or other personally identifiable information), research data, and classified government information. To the extent there is any uncertainty as to whether any data constitutes Protected Information, the data in question shall be treated as Protected Information.

1. Information Security. Contractor agrees to the following:

1.1. General. Notwithstanding any other obligation of Contractor under this policy, Contractor agrees that it will not lose, alter, or delete, either intentionally or unintentionally, any Protected Information, and that it is responsible for the safe-keeping of all such information, except to the extent that the City directs the Contractor in writing to do so.

1.2. Access to Data. In addition to the records to be stored / maintained by Contractor, all records that are possessed by Contractor in its service to the City of Chicago to perform a governmental function are public records of the City of Chicago pursuant to the Illinois Freedom of Information Act (FOIA), unless the records are exempt under the Act. FOIA requires that the City produce records in a very short period of time. If the Contractor receives a request from the City to produce records, the Contractor shall do so within 72 hours of the notice.

1.3. Minimum Standard for Data at Rest and Data in Motion. Contractor must, at a minimum, comply, in its treatment of Protected Information, with National Institute of Standards and Technology (NIST) Special Publication 800-53 Moderate Level Control. Notwithstanding this requirement, Contractor acknowledges that it must fully comply with each additional obligation contained in this policy. If data is protected health information or electronic protected health information, as defined in the Health Insurance Portability and Accountability Act and Health Information Technology for Economic and Clinical Health Act (HIPAA/HITECH) and regulations implementing these Acts (see 45 CFR Parts 160 and 164), it must be secured in accordance with “Guidance Specifying the Technologies and Methodologies that Render Protected Health Information Unusable, Unreadable, or Indecipherable to Unauthorized Individuals,” available on the United States Department of Health and Human Services (HHS) website

(<http://www.hhs.gov/ocr/privacy/hipaa/administrative/breachnotificationrule/index.html>), or at Volume 74 of the Federal Register, beginning at page 42742. That guidance from the HHS states that valid encryption processes for protected health information data at rest (e.g., protected health information resting on a server), must be consistent with the NIST Special Publication 800-111, Guide for Storage Encryption Technologies for End User Devices. Valid encryption processes for protected health information data in motion (e.g., transmitted through a network) are those which comply with NIST Special Publications 800-52, Guidelines for the Selection and Use of Transport Layer Security Implementation; 800-77, Guide to IPsec VPNs; or 800-113, Guide to SSL VPNs, or others which are Federal Information Processing Standards (FIPS) 140-2 validated.

- 1.4. Where Data is to be Stored. All data must be stored only on computer systems located in the continental United States.
- 1.5. Requirement to Maintain Security Program. Contractor acknowledges that the City has implemented an information security program to protect the City's information assets, which Program is available on the City website at [http://www.cityofchicago.org/city/en/depts/doi/supp\\_info/initiatives\\_-\\_informationsecurity.html](http://www.cityofchicago.org/city/en/depts/doi/supp_info/initiatives_-_informationsecurity.html) ("City Program"). Contractor shall be responsible for establishing and maintaining an information security program that is designed to: (i) ensure the security and confidentiality of Protected Information; (ii) protect against any anticipated threats or hazards to the security or integrity of Protected Information; (iii) protect against unauthorized access to or use of Protected Information; (iv) ensure the proper disposal of Protected Information; and, (v) ensure that all subcontractors of Contractor, if any, comply with all of the foregoing.
- 1.6. Undertaking by Contractor. Without limiting Contractor's obligation of confidentiality as further described herein, in no case shall the safeguards of Contractor's information security program be less stringent than the information security safeguards used by the City Program.
- 1.7. Right of Audit by the City of Chicago. The City of Chicago shall have the right to review Contractor's information security program prior to the commencement of Services and from time to time during the term of this Agreement. During the performance of the Services, from time to time and without notice, the City of Chicago, at its own expense, shall be entitled to perform, or to have performed, an on-site audit of Contractor's information security program. In lieu of an on-site audit, upon request by the City of Chicago, Contractor agrees to complete, within forty-five (45 days) of receipt, an audit questionnaire provided by the City of Chicago or the City of Chicago's designee regarding Contractor's information security program.
- 1.8. Audit by Contractor. No less than annually, Contractor shall conduct an independent third-party audit of its information security program and provide such audit findings to the City of Chicago, all at the Contractor's sole expense.
- 1.9. Audit Findings. Contractor shall implement at its sole expense any remedial actions as identified by the City as a result of the audit.

- 1.10. Demonstrate Compliance - PCI. No less than annually, as defined by the City of Chicago and where applicable, the Contractor agrees to demonstrate compliance with PCI DSS (Payment Card Industry Data Security Standard). Upon City's request, Contractor must be prepared to demonstrate compliance of any system or component used to process, store, or transmit cardholder data that is operated by the Contractor as part of its service. Similarly, upon City's request, Contractor must demonstrate the compliance of any third party it has sub-contracted as part of the service offering. As evidence of compliance, the Contractor shall provide upon request a current attestation of compliance signed by a PCI QSA (Qualified Security Assessor).
- 1.11. Demonstrate Compliance – HIPAA / HITECH. If the Protected Information includes protected health information or electronic protected health information covered under HIPAA/HITECH, Contractor must execute, and be governed by, the provisions in its contract with the City regarding HIPAA/HITECH, the regulations implementing those Acts, and the Business Associate Agreement in its contract with the City. As specified in 1.3, protected health information must be secured in accordance with the "Guidance Specifying the Technologies and Methodologies that Render Protected Health Information Unusable, Unreadable, or Indecipherable to Unauthorized Individuals."
- 1.12. Data Confidentiality. Contractor shall implement appropriate measures designed to ensure the confidentiality and security of Protected Information, protect against any anticipated hazards or threats to the integrity or security of such information, protect against unauthorized access or disclosure of information, and prevent any other action that could result in substantial harm to the City of Chicago or an individual identified with the data or information in Contractor's custody.
- 1.13. Compliance with All Laws and Regulations. Contractor agrees that it will comply with all laws and regulations.
- 1.14. Limitation of Access. Contractor will not knowingly permit any Contractor personnel to have access to any City of Chicago facility or any records or data of the City of Chicago if the person has been convicted of a crime in connection with (i) a dishonest act, breach of trust, or money laundering, or (ii) a felony. Contractor must, to the extent permitted by law, conduct a check of public records in all of the employee's states of residence and employment for at least the last five years in order to verify the above. Contractor shall assure that all contracts with subcontractors impose these obligations on the subcontractors and shall monitor the subcontractors' compliance with such obligations.
- 1.15. Data Re-Use. Contractor agrees that any and all data exchanged shall be used expressly and solely for the purposes enumerated in the Agreement. Data shall not be distributed, repurposed or shared across other applications, environments, or business units of Contractor. As required by Federal law, Contractor further agrees that no City of Chicago data of any kind shall be revealed, transmitted, exchanged or otherwise passed to other Contractors or interested parties except on a case-by-case basis as specifically agreed to in writing by an officer of the City of Chicago with designated data, security, or signature authority.



- 1.16. Safekeeping and Security. Contractor will be responsible for safekeeping all keys, access codes, passwords, combinations, access cards, personal identification numbers and similar security codes and identifiers issued to Contractor's employees, agents or subcontractors. Contractor agrees to require its employees to promptly report a lost or stolen access device or information to their primary business contact and to the City of Chicago Information Security Office.
- 1.17. Mandatory Disclosure of Protected Information. If Contractor is compelled by law or regulation to disclose any Protected Information, the Contractor will provide to the City of Chicago with prompt written notice so that the City of Chicago may seek an appropriate protective order or other remedy. If a remedy acceptable to the City of Chicago is not obtained by the date that the Contractor must comply with the request, the Contractor will furnish only that portion of the Protected Information that it is legally required to furnish, and the Contractor shall require any recipient of the Protected Information to exercise commercially reasonable efforts to keep the Protected Information confidential.
- 1.18. Data Breach. Contractor agrees to comply with all laws and regulations relating to data breach, including without limitation, the Illinois Personal Information Protection Act and other applicable Illinois breach disclosure laws and regulations. Data breaches of protected health information and electronic protected health information shall be governed by the provisions regarding HIPAA/HITECH, and the regulations implementing those Acts, in the Contractor's contract with the City, specifically the Business Associate Agreement in such contract. Contractor will immediately notify the City if security of any Protected Information has been breached, and will provide information as to that breach in such detail as requested by the City. Contractor will, if requested by the City, notify any affected individuals of such breach at the sole cost of the Contractor.
- 1.19. Data Sanitization and Safe Disposal. All physical and electronic records must be retained per federal, state and local laws and regulations, including the Local Records Act. Where disposal is approved, the Contractor agrees that prior to disposal or reuse of all magnetic media (e.g. hard disk, floppy disk, removable media, etc.) which may have contained City of Chicago data shall be submitted to a data sanitization process which meets or exceeds DoD 5220.28-M 3-pass specifications. Certification of the completion of data sanitization shall be provided to the City of Chicago within 10 days of completion. Acceptance of Certification of Data Sanitization by the Information Security Office of the City of Chicago is required prior to media reuse or disposal. All other materials which contain City of Chicago data shall be physically destroyed and shredded in accordance to NIST Special Publication 800-88, Guidelines for Media Sanitization, specifications.
- 1.20. End of Agreement Data Handling. The Contractor agrees that upon termination of this Agreement it shall return all data to the City of Chicago in a useable electronic form, and erase, destroy, and render unreadable all data in its entirety in accordance to the prior stated Data Sanitization and Safe Disposal provisions. Data must be rendered in a manner that prevents its physical reconstruction through the use of commonly available file restoration utilities. Certification in writing that these actions have been completed must be provided within 30 days of the termination of this Agreement or within 7 days of a request of an agent of the City of Chicago, whichever shall come first.