

**JUSTIFICATION FOR NON-COMPETITIVE PROCUREMENT**

**COMPLETE THIS SECTION IF NEW CONTRACT**

For contract(s) in this request, answer applicable questions in each of the 4 major subject areas below in accordance with the Instructions for Preparation of Non-Competitive Procurement Form on the reverse side.

Request that negotiations be conducted only with PUBLIC SURPLUS, LLC for the product and/or services described herein.  
(Name of Person or Firm)

This is a request for X (One-Time Contractor Requisition # 27072, copy attached) or \_\_\_\_\_ Term Agreement or  
 \_\_\_\_\_ Delegate Agency (Check one). If Delegate Agency, this request is for "blanket approval" of all contracts within the  
 \_\_\_\_\_ (Attach List) Pre-Assigned Specification No. \_\_\_\_\_  
 \_\_\_\_\_ (Program Name) Pre-Assigned Contract No. \_\_\_\_\_

**COMPLETE THIS SECTION IF AMENDMENT OR MODIFICATION TO CONTRACT**

Describe in detail the change in terms of dollars, time period, scope of services, etc., its relationship to the original contract and the specific reasons for the change. Indicate both the original and the adjusted contract amount and/or expiration date with this change, as applicable. Attach copy of all supporting documents. Request approval for a contract amendment or modification to the following:

Contract #: \_\_\_\_\_ Company or Agency Name: \_\_\_\_\_  
 Specification #: \_\_\_\_\_ Contract or Program Description: \_\_\_\_\_  
 Mod. #: \_\_\_\_\_ (Attach List, if multiple)

PETER SITKOWSKI 744-7960 Peter Sitkowski OPS 4/19/06  
Originator Name Telephone Signature Department Date

Indicate SEE ATTACHED in each box below if additional space needed:

<input type="checkbox"/> <b>PROCUREMENT HISTORY</b>
SEE ATTACHED.
<input type="checkbox"/> <b>ESTIMATED COST</b>
80% OF ALL SOLD ITEMS, NEGOTIABLE.
<input type="checkbox"/> <b>SCHEDULE REQUIREMENTS</b>
SYSTEM MUST BE AVAILABLE 24 HRS/DAY, 7 DAYS/WEEK
<input type="checkbox"/> <b>EXCLUSIVE OR UNIQUE CAPABILITY</b>
SEE ATTACHED.
<input type="checkbox"/> <b>OTHER</b>
NOT APPLICABLE.

APPROVED BY: [Signature] AR 4/19/06  
DEPARTMENT HEAD OR DESIGNEE DATE

\_\_\_\_\_  
BOARD CHAIRPERSON

\_\_\_\_\_  
DATE

**City of Chicago, Department of Procurement Services, Salvage  
Operations**

**Justification for Non-Competitive Procurement**

**Vendor: Public Surplus, LLC**

**Project:** To engage *Public Surplus, LLC* to manage a pilot online auction and asset reallocation program for a period of twelve (12) months, commencing May 1, 2006 through April 30, 2007.

**History:** Beginning in March, 2004, the City of Chicago began selling obsolete and surplus vehicles and equipment through live auctions. Prior to that time, sealed bids were used to sell and dispose of these items.

The live auctions took place at our Salvage Yard located at 10101 S. Stony Island Avenue at a predetermined date and time. The public (City employees and their relatives were not allowed to bid) was invited to inspect the items for auction and offer bids in a live auction forum on the auction date. Marketing was done using the DPS Auction web page, postcards, emails, *Chicago Works* cable channel segments, and the *Chicago Tribune*.

The eight live auctions to date have generated in excess of \$2.5 million dollars with over 1000 pieces of equipment sold.

**Exclusive or Unique Capability:** *Public Surplus, LLC* provides uniqueness in the areas of Auction Extension and Brand Recognition/City Identification.

Auction Extension is a feature that when an auction has less than 5 minutes remaining and there is a higher bid placed on the item, the system will extend the auction back to 5 minutes. This situation occurs repeatedly in the live auction forum, and ensures an open and fair bid environment as well as increasing the sale prices.

Brand Recognition/City Identification has to do with the appearance of the City of Chicago, specifically it's municipal seal appearing prominently on the web pages of the auction item summary pages and the individual item page. Over the past several years, the City of Chicago has developed name recognition with hundreds, maybe thousands of prospective buyers via the auction web page, email and postcard database, *Chicago Works* auction segments, aldermanic and assist agency notices, and the like. By providing the URL, we will be able to use our existing auction web page and link to the *Public Surplus* system and our bidders will immediately see the sale items.

# Public | Surplus®

## Scope of Work for the City of Chicago

Included Herein is a list of services Public Surplus will offer the City of Chicago in its pilot of Public Surplus' online surplus management system.

### **Registration:**

Public Surplus will assist the City of Chicago (forthcoming referred to as the City) in setting up an account on our system. This registration will have no obligations or commitments associated with it and will be used at the City's sole discretion for a time frame they choose.

### **City Training/Support:**

Public Surplus will assist and train as many employees of the City as is necessary for utilizing our system. This training will be done online and at the convenience of the City. We will also offer support for the City Monday-Friday 9 AM – 6 PM EDT. The City will also have access to an account manager after hours by cell phone if needed to resolve any unforeseen training or support issues.

### **Buyer Training/Support:**

Public Surplus will actively research and bring buyers to the City's auctions thereby making them more successful in terms of activity and revenue. We have a buyers support team that will assist any buyers interested in the City's auctions by phone or email Monday-Friday 8 AM – 5PM CDT. We will also contact any buyers the City may want notified in regards to the items they list on our service.

### **Auction Management:**

The City will have total control of the auction process. The City will be responsible for taking the pictures and creating the auctions on our system. This process is quick and it usually takes 5 minutes per auction to create and list on our system. If at anytime the City needs assistance in uploading their auctions on our system Public Surplus will assist them in doing so. The City will be responsible for answering questions and basic auction management. The City will be able to upload onto our system its own Terms and Conditions of sale. This requires the buyers legally binding digital signature before they can bid on the City's auctions.

### **Payment:**

The City will receive payment from the buyers on items sold on Public Surplus. The City can specify how they will receive payment from the buyers. Public Surplus can track and bill the winning bidders for sales tax and or buyers premium if the City so requires. Public Surplus will invoice the City for items sold on our service on a net 30 basis. Public Surplus will charge the City no more than 8% and this percent is negotiable based on the dollar amount sold on our system. We do not charge late fees and find most of our sellers pay within 60 days. The City can pay Public Surplus via check or electronically with credit card.

**Auction Follow up:**

Public Surplus will notify the winning bidder by email that they need to contact the City to arrange payment and pickup. The buyers agree to these conditions of pickup and payment upon registering with us. For any auction over \$1000.00 Public Surplus will courtesy call the buyer to make sure they have been in contact with the City and understand the Terms and Conditions of payment and pickup. The City can state in their own terms and conditions how long each buyer has to arrange payment and pickup. Each buyer will have to agree to the City's terms and conditions prior to bidding on the City's auctions with their legally binding digital signature.

**Account Administration:**

Public Surplus will assign the City a representative to assist them in anyway possible with creating and managing their surplus auctions. The Director of Public Surplus, Eric Heaps, has the authority to sign and approve all necessary documentation the City would need in administering their pilot of Public Surplus.

**Customization and Added Services:**

Public Surplus realizes that no two agencies are the same. The City of Chicago will have need for enhancements and additions to our standard system to realize the full effectiveness of online auctions. We at Public Surplus are committed to working with the City for these changes. We have done this for many of our agencies. Some of these services are customized reporting tools, integration to existing software, and customized branding. We bring years of experience and our desire to see each of our clients succeed with this new and exciting technology.

**System Accessibility/Reliability:**

The Public Surplus system is accessible 24 hours a day/7 days a week for buyers and sellers. We have experienced over 99% uptime in the last 6 years. When we do take down the system for maintenance it is done late at night as not to interrupt service. While we don't control all aspects of the Internet we are committed to 100% uptime. Our servers are located in a secure environment with multiple redundant connections and equipment.

Public Surplus, LLC  
1503 South 40 East Suite #350  
Provo, UT 84606

Eric Heaps  
Director of Agency Relations  
ph 800.591.5546 x 151  
fx 801.932.7001  
[erich@publicsurplus.com](mailto:erich@publicsurplus.com)

# Terms and Conditions

Public Surplus is dedicated to making your online bidding experience a positive one. Please make sure that you carefully and thoroughly read through the agreement below before you agree to any of its conditions. This agreement may be modified at any time by Public Surplus and all changes will be effective 30 days after they are posted on this page.

## 1. Fees for using Public Surplus

Public Surplus is free for buyers (bidders) to use. We do not charge a fee for signing up to use our System.

### Institution's Fee Schedule

- INSTITUTION shall be able to list and re-list items for sale, at NO COST.
- For each item that sells there will be a fee of 8% of sale payable to Public Surplus
- Fees will be due and payable to Public Surplus within 30 days after INSTITUTION has received payment.

## 2. Membership in Public Surplus

Membership in Public Surplus is extended to all individuals above the age of 18 that are capable of forming legal, binding contracts. Minors are not allowed to become members of Public Surplus' community. If you are not able to fulfill all of the fore mentioned qualification, please do not use Public Surplus.

**Note:** When filling out your membership request form, the information that you provide should not be false or misleading. If it is found that you are misleading other users with false information, your membership will immediately be terminated.

## 3. Public Surplus' Responsibilities

Public Surplus guarantees to the buyer the authenticity of sellers. All sellers must be public institutions in order to participate in Public Surplus.

Public Surplus is only a meeting place for sellers and buyers to interact. We will not be involved in any of the transactions between sellers and buyers. We have no control over the truthfulness of an auction listing. We will not insure the completion of a transaction, i.e. the capability of the buyer to purchase the item or the seller to sell the item. Always use caution and common sense when selling or buying an item. If there is a dispute between sellers and buyers, Public Surplus will be released from any claims, demands, and damages of every kind and nature, known and unknown, suspected and unsuspected, disclosed and undisclosed. If you are a resident of California, you waive your right to the California Civil Code 1542, which states: "A general release does not extend to claims which the creditor does not know or suspect to exist in his favor at the time of executing the release, which if known by him must have materially affected his settlement with the debtor."

#### **4. Bidding**

If you have won a bid (i.e. are the highest bidder at the end time of an auction and the seller accepts your bid) you are under obligation to purchase the item from the seller. By bidding, you agree to the conditions of the auction, including payment methods, shipping methods, and general description of the item(s). You will not be allowed to retract a bid once it is placed, except for extraordinary circumstances - i.e. the item description was changed by the seller after you had placed a bid on the item.

#### **5. Public Surplus' Privacy Policy**

Public Surplus takes the privacy of our customers very seriously and we constantly work to ensure the privacy and security of our site. To view our Privacy Policy [click here](#).

#### **6. Public Surplus' Warranty and Liability Limit Policy**

Public Surplus does not warranty its web site or services. It is to be taken as is without condition or warranty. Public Surplus will not at any time be liable for incidental or consequential damages in connection with Public Surplus, nor will it be responsible for lost profits.

#### **7. Public Surplus' Indemnity Policy**

Public Surplus, its officers, directors, and employees will not be held responsible for any claims or demands, including reasonable attorneys' fees, made by any third party due to your breach of this User Agreement.

**CITY OF CHICAGO  
 PURCHASE REQUISITION**

**Copy (Department)**

<b>DELIVER TO:</b>  035- ADMIN OFF 121 N. LA SALLE ST. ROOM 403 Chicago, IL 60602	<b>REQUISITION:</b> 27072  <b>PAGE:</b> 1 <b>DEPARTMENT:</b> 35 - DEPT OF PROCUREMENT SERVICES <b>PREPARER:</b> Peter J Sitkowski <b>NEEDED:</b> <b>APPROVED:</b> 4/18/2006
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**REQUISITION DESCRIPTION**

TO ENGAGE A VENDOR TO MANAGE A PILOT ONLINE AUCTION PROGRAM FOR A PERIOD OF TWELVE (12) MONTHS BEGINNING MAY 1, 2006 THRU APRIL 30, 2007.  
 SPECIFICATION NUMBER: 46338

**COMMODITY INFORMATION**

**LINE ITEM**

LINE	ITEM	QUANTITY	UOM	UNIT COST	TOTAL COST
1	96209 ONLINE AUCTION SERVICES	1.00	USD	1.00	1.00

**SUGGESTED VENDOR:** PUBLIC SURPLUS LLC

**REQUESTED BY:** Peter J Sitkowski

DIST	BFY	FUND	COST CTR	APPR	ACCNT	ACTV	PROJECT	RPT CAT	GENRL	FUTR	Dist. Amt.
1	006	0100	0352005	0140	220140	0000	00000000	000000	00000	0000	1.00
<b>LINE TOTAL:</b>											<b>1.00</b>

**REQUISITION TOTAL: 1.00**

Where a commodity is for a particular or unique use other than standard quality, grades, color, size or other characteristics, give details of how it will be and for what purpose.  
 Requisitions prepared incorrectly will be returned to the using department.

# DPS PROJECT CHECKLIST

For DPS Use Only

Date Received \_\_\_\_\_  
 Date Returned \_\_\_\_\_  
 Date Accepted \_\_\_\_\_  
 CA/CN's Name \_\_\_\_\_

**IMPORTANT:** PLEASE READ AND FOLLOW THE INSTRUCTIONS FOR COMPLETING THE PROJECT CHECKLIST AND CONTACT THE APPROPRIATE UNIT MANAGER IF YOU HAVE ANY FURTHER QUESTIONS. ALL INFORMATION SHOULD BE COMPLETED, ATTACH ALL REQUIRED MATERIALS AND SUBMIT FOR HANDLING TO THE DEPARTMENT OF PROCUREMENT SERVICES, ROOM 403, CITY HALL, 121 N. LASALLE STREET, CHICAGO, ILLINOIS 60602.

**GENERAL INFORMATION:**

Date: \_\_\_\_\_  
 REQ No.: **27072**  
 PO No.: (if known): \_\_\_\_\_  
 Modification No.: (if known): \_\_\_\_\_  
 Project Description: \_\_\_\_\_

Contact Person: **PETER SITKOWSKI**  
 Tel: **4-7960** Fax: **4-0434** E-mail: **PSITKOWSKI**  
 @cityofchicago.org  
 Project Manager: **SAME AS ABOVE**  
 Tel: \_\_\_\_\_ Fax: \_\_\_\_\_ E-mail: \_\_\_\_\_  
 @cityofchicago.org  
 Previous PO No.: (if known): \_\_\_\_\_

**FUNDING:**

City:  Corporate  Bond  Enterprise  Grant\*  Other **REVENUE**  
 State:  IDOT/Transit  IDOT/Highway  Grant\*  Other **GENSERVING**  
 Federal:  FHWA  FTA  FAA  Grant\*  Other

LINE	FY	FUND	DEPT	ORGN	APPR	ACTV	OBJT	PROJECT	RPTG	\$ DOLLAR AMOUNT
		<b>NOT APPLICABLE.</b>								

\*IF GRANT FUNDED, A COPY OF THE APPROVED GRANT AND APPLICATION ARE REQUIRED and any other Terms and Conditions that may apply. **Estimated Value \$**

**SCOPE STATEMENT:**

Attached is a Detailed Scope of Services and/or Specification

**IMPORTANT:** THIS IS A CRITICAL PORTION OF YOUR SUBMITTAL. IN ORDER FOR DPS TO ACCEPT YOUR SUBMITTAL YOU MUST COMPLETE THE SPECIFIC SCOPE REQUIREMENTS AS SET FORTH IN THE SUPPLEMENTAL CHECKLIST FOR THAT UNIT.

The following is a general description of what should be included in a Scope of Services or Specification:  
 A clear description of all anticipated services and products, including: time frame for completion, special qualifications of prospective vendors, special requirements or needs of the project, locations, anticipated participating user departments, citation of any applicable City ordinance or state/federal regulation or statute.

**TYPE OF PROCUREMENT REQUESTED** (check all that apply):

**NEW REQUEST**

Blanket Agreement  
 Standard Agreement  
 Small Orders

**MOD/AMENDMENT**

Time Extension  
 Vendor Limit Increase  
 Scope Change/Price Increase/Additional Line Item(s)  
 Other (specify): \_\_\_\_\_

**FORMS:**  Requisition  Special Approvals  Non-Competitive Review Board (NCRB)

**CONTRACT TERM:** Requested Term (number of months): \_\_\_\_\_

**PRE BID/SUBMITTAL REQUIREMENTS:**

Requesting Pre Bid/Submittal Conference?  Yes  No  
 Requesting Site Visit?  Yes  No



# DPS PROJECT CHECKLIST

## ARCHITECTURAL/ENGINEERING SUPPLEMENTAL CHECKLIST

**Required Attachments:** Scope of Services, including location, description of project, services required, deliverables, and other information as required

**Risk Management**

Will services be performed within 50 feet of CTA train or other railroad property?

Yes  No

Will services be performed on or near a waterway?

Yes  No

If applicable, Pre-Qualification Category No.

Category Description:

For Pre-Qualification Program, attach list of suggested firms to be solicited

Other Agency Concurrence Required:  None  State  Federal  Other (fill in)

*NOT APPLICABLE.*

## AVIATION CONSTRUCTION SUPPLEMENTAL CHECKLIST

DOA sign-off for final design documents:  Yes  No

**Required Attachments:**

Copy of Draft Contract Documents and Detailed Specifications.

**Risk Management:**

Current Insurance Requirements prepared/approved by Risk Management: Yes  No

Will work be performed within 50 feet of CTA or ATS structure or property? Yes  No

Will work be performed airside? Yes  No

\*NOTE: Any non-construction Aviation request, complete the applicable section.

## COMMODITIES SUPPLEMENTAL CHECKLIST

**Required Attachments:** Detailed Specifications (Scope of Services) including detailed description of the product, delivery location, user department contact, price escalation considerations, Bidder's qualification, contract term and extension options, Contractor's qualifications, citation of any applicable City/State/Federal statutes or regulations, citation of any applicable technical standards and Price Lists/Catalogs, technical drawings and other exhibits and attachments as appropriate.

If Modification request, please verify and provide the following:

Contractor's Name: *PUBLIC SURPLUS, LLC*

Contractor's Address: *P. O. BOX 50676  
PROVO, UT 84605*

Contractor's e-mail Address: *ERICH@PUBLICSURPLUS.COM*

Contractor's Phone Number: *801-932-7000*

Contractor's Contact Person: *ERIC HEAPS*

*NOT APPLICABLE.*

## CONSTRUCTION SUPPLEMENTAL CHECKLIST

**Required attachments:**

Copy of Draft (80% Completion), Contract Documents and Detailed Specifications

**Risk Management**

Will services be performed within 50 feet of CTA train or other railroad property?

Yes  No

Will services be performed on or near a waterway?

Yes  No

# DPS PROJECT CHECKLIST

~~NOT APPLICABLE~~

## VEHICLES/HEAVY EQUIPMENT SUPPLEMENTAL CHECKLIST

### Required Attachments:

- Detailed Specifications including detailed description of the vehicle(s) or equipment, mounted equipment, if any, and options/accessories.
- Special Provisions (Delivery, Warranty, Manuals, Training, Additional Unit Purchase Options, Bid Submittal Information, etc.)
- Delivery Location(s)
- Technical Literature
- Drawings, if any
- Part Number List (            Manufacturer; or            Dealer;            or Other Source:            )
- Current Price List(s)/Catalog(s)
- Special Approval Form
- Exhibits and Attachments

If Modification request, please verify and provide the following:

Contractor's Name:

Contractor's Address:

Contractor's e-mail Address:

Contractor's Phone Number:

Contractor's Contact Person:

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## PROFESSIONAL SERVICES SUPPLEMENTAL CHECKLIST

- Detailed description of project listing obligations of each party.
- The Schedule of Compensation
- Deliverables
- Request for individual contract services (if applicable)
- The appropriate EPS form
- ITSC (approved by BIS)
- OBM (approved by Budget form/memo)
- Grant document attached

Attach any documentation indicating any previous purchase activity to assist in the procurement process

~~NOT APPLICABLE~~

## TELECOMMUNICATIONS AND UTILITIES SUPPLEMENTAL CHECKLIST

**Required Attachments:** Detailed Scope of Services/Specification which sets forth all of the anticipated services and products the user department wants provided, including time frame for completion, special qualifications of prospective vendors, special requirements or needs of the project, locations, anticipated participating user departments, citation of any applicable City ordinance or state/federal regulation or statute.

Has the project been reviewed by DGS?             Yes     No

Attach copy of DGS Recommendation; Reservation(s); or participate under current contract.

Does the project include software?             Yes     No

If yes, is signed ITSC form attached?             Yes     No

Does the location involve:

A public way?             Yes     No

Any concession in the City's facilities?             Yes     No

Is it anticipated City Council approval of the project or contract will be required?             Yes     No

CITY OF CHICAGO  
ECONOMIC DISCLOSURE STATEMENT  
AND AFFIDAVIT

SECTION I -- GENERAL INFORMATION

A. Legal name of Disclosing Party submitting this EDS. Include d/b/a/ if applicable:

Public Surplus, LLC

Check ONE of the following three boxes:

Indicate whether Disclosing Party submitting this EDS is:

1.  the Applicant  
OR

2.  a legal entity holding a direct or indirect interest in the Applicant. State the legal name of the Applicant in which Disclosing Party holds an interest: \_\_\_\_\_  
OR

3.  a specified legal entity with a right of control (see Section II.B.1.b.) State the legal name of the entity in which Disclosing Party holds a right of control: \_\_\_\_\_

B. Business address of Disclosing Party:

P.O. Box 50676  
Provo, UT 84605

C. Telephone: 801-932-7000 Fax: 801-932-7001 Email: erich@publicsurplus.com

D. Name of contact person: Eric Heaps

E. Federal Employer Identification No. (if you have one): 91-2199756

F. Brief description of contract, transaction or other undertaking (referred to below as the "Matter") to which this EDS pertains. (Include project number and location of property, if applicable):

Surplus Management

G. Which City agency or department is requesting this EDS? Procurement

If the Matter is a contract being handled by the City's Department of Procurement Services, please complete the following:

Specification # \_\_\_\_\_ and Contract # \_\_\_\_\_

**SECTION II -- DISCLOSURE OF OWNERSHIP INTERESTS**

**A. NATURE OF DISCLOSING PARTY**

1. Indicate the nature of the Disclosing Party:

- |   |  |
|---|--|
| <input type="checkbox"/> Person                                   | <input checked="" type="checkbox"/> Limited liability company* |
| <input type="checkbox"/> Publicly registered business corporation | <input type="checkbox"/> Limited liability partnership*        |
| <input type="checkbox"/> Privately held business corporation      | <input type="checkbox"/> Joint venture*                        |
| <input type="checkbox"/> Sole proprietorship                      | <input type="checkbox"/> Not-for-profit corporation            |
| <input type="checkbox"/> General partnership*                     | (Is the not-for-profit corporation also a 501(c)(3))?          |
| <input type="checkbox"/> Limited partnership*                     | <input type="checkbox"/> Yes <input type="checkbox"/> No       |
| <input type="checkbox"/> Trust                                    | <input type="checkbox"/> Other (please specify)                |

\* Note B.1.b below.

2. For legal entities, the state (or foreign country) of incorporation or organization, if applicable:

3. For legal entities not organized in the State of Illinois: Has the organization registered to do business in the State of Illinois as a foreign entity?

- Yes  No  N/A

**B. IF THE DISCLOSING PARTY IS A LEGAL ENTITY:**

1.a. List below the full names and titles of all executive officers and all directors of the entity. For not-for-profit corporations, also list below all members, if any, which are legal entities. If there are no such members, write "no members." For trusts, estates or other similar entities, list below the legal titleholder(s).

Name	Title
Derek MacFarland	President
Luis Londono	CTO
Eric Heaps	Director of Agency Relations

1.b. If you checked "General partnership," "Limited partnership," "Limited liability company," "Limited liability partnership" or "Joint venture" in response to Item A.1. above (Nature of Disclosing Party), list below the name and title of each general partner, managing member, manager or

any other person or entity that controls the day-to-day management of the Disclosing Party. **NOTE:** Each legal entity listed below must submit an EDS on its own behalf.

Name Deek MacFarland Title Manager

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2. Please provide the following information concerning each person or entity having a direct or indirect beneficial interest (including ownership) in excess of 7.5% of the Disclosing Party. Examples of such an interest include shares in a corporation, partnership interest in a partnership or joint venture, interest of a member or manager in a limited liability company, or interest of a beneficiary of a trust, estate or other similar entity. If none, state "None." **NOTE:** Pursuant to Section 2-154-030 of the Municipal Code of Chicago ("Municipal Code"), the City may require any such additional information from any applicant which is reasonably intended to achieve full disclosure.

Name	Business Address	Percentage Interest in the Disclosing Party
<u>Michael MacFarland</u>	<u>P.O. Box 50676, Provo, UT 84605</u>	<u>10%</u>
<u>Deek MacFarland</u>	<u>P.O. Box 50676, Provo, UT 84605</u>	<u>50%</u>
<u>Luis Londono</u>	<u>P.O. Box 50676, Provo, UT 84605</u>	<u>10%</u>
<u>Daryl Williams</u>	<u>P.O. Box 50676, Provo, UT 84605</u>	<u>1.5%</u>

**SECTION III -- BUSINESS RELATIONSHIPS WITH CITY ELECTED OFFICIALS**

Has the Disclosing Party had a "business relationship," as defined in Chapter 2-156 of the Municipal Code, with any City elected official in the 12 months before the date this EDS is signed?

Yes  No

If yes, please identify below the name(s) of such City elected official(s) and describe such relationship(s):

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**SECTION IV -- DISCLOSURE OF SUBCONTRACTORS AND OTHER RETAINED PARTIES**

The Disclosing Party must disclose the name and business address of each subcontractor, attorney, lobbyist, accountant, consultant and any other person or entity whom the Disclosing Party has retained or expects to retain in connection with the Matter, as well as the nature of the relationship, and the total

amount of the fees paid or estimated to be paid. The Disclosing Party is not required to disclose employees who are paid solely through the Disclosing Party's regular payroll.

"Lobbyist" means any person or entity who undertakes to influence any legislative or administrative action on behalf of any person or entity other than: (1) a not-for-profit entity, on an unpaid basis, or (2) himself. "Lobbyist" also means any person or entity any part of whose duties as an employee of another includes undertaking to influence any legislative or administrative action.

If the Disclosing Party is uncertain whether a disclosure is required under this Section, the Disclosing Party must either ask the City whether disclosure is required or make the disclosure.

Name (indicate whether retained or anticipated to be retained)	Business Address	Relationship to Disclosing Party (subcontractor, attorney, lobbyist, etc.)	Fees (indicate whether paid or estimated)
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(Add sheets if necessary)

Check here if the Disclosing party has not retained, nor expects to retain, any such persons or entities.

## SECTION V -- CERTIFICATIONS

### A. COURT-ORDERED CHILD SUPPORT COMPLIANCE

Under Municipal Code Section 2-92-415, substantial owners of business entities that contract with the City must remain in compliance with their child support obligations throughout the term of the contract.

Has any person who directly or indirectly owns 10% or more of the Disclosing Party been declared in arrearage on any child support obligations by any Illinois court of competent jurisdiction?

Yes       No       No person owns 10% or more of the Disclosing Party.

If "Yes," has the person entered into a court-approved agreement for payment of all support owed and is the person in compliance with that agreement?

Yes       No

## B. FURTHER CERTIFICATIONS

1. The Disclosing Party and, if the Disclosing Party is a legal entity, all of those persons or entities identified in Section II.B.1. of this EDS:

- a. are not presently debarred, suspended, proposed for debarment, declared ineligible or voluntarily excluded from any transactions by any federal, state or local unit of government;
- b. have not, within a five-year period preceding the date of this EDS, been convicted of a criminal offense, adjudged guilty, or had a civil judgment rendered against them in connection with: obtaining, attempting to obtain, or performing a public (federal, state or local) transaction or contract under a public transaction; a violation of federal or state antitrust statutes; fraud; embezzlement; theft; forgery; bribery; falsification or destruction of records; making false statements; or receiving stolen property;
- c. 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 clause B.1.b. of this Section V;
- d. have not, within a five-year period preceding the date of this EDS, had one or more public transactions (federal, state or local) terminated for cause or default; and
- e. have not, within a five-year period preceding the date of this EDS, been convicted, adjudged guilty, or found liable in a civil proceeding, or in any criminal or civil action, including actions concerning environmental violations, instituted by the City or by the federal government, any state, or any other unit of local government.

2. The certifications in subparts 2, 3 and 4 concern:

- the Disclosing Party;
- any "Applicable Party" (meaning any party participating in the performance of the Matter, including but not limited to any persons or legal entities disclosed under Section IV, "Disclosure of Subcontractors and Other Retained Parties");
- any "Affiliated Entity" (meaning a person or entity that, directly or indirectly: controls the Disclosing Party, is controlled by the Disclosing Party, or is, with the Disclosing Party, under common control of another person or entity. Indicia of control include, without limitation: interlocking management or ownership; identity of interests among family members, shared facilities and equipment; common use of employees; or organization of a business entity following the ineligibility of a business entity to do business with federal or state or local government, including the City, using substantially the same management, ownership, or principals as the ineligible entity); with respect to Applicable Parties, the term Affiliated Entity means a person or entity that directly or indirectly controls the Applicable Party, is controlled by it, or, with the Applicable Party, is under common control of another person or entity;

- any responsible official of the Disclosing Party, any Applicable Party or any Affiliated Entity or any other official, agent or employee of the Disclosing Party, any Applicable Party or any Affiliated Entity, acting pursuant to the direction or authorization of a responsible official of the Disclosing Party, any Applicable Party or any Affiliated Entity (collectively "Agents").

Neither the Disclosing Party, nor any Applicable Party, nor any Affiliated Entity of either the Disclosing Party or any Applicable Party nor any Agents have, during the five years before the date this EDS is signed, or, with respect to an Applicable Party, an Affiliated Entity, or an Affiliated Entity of an Applicable Party during the five years before the date of such Applicable Party's or Affiliated Entity's contract or engagement in connection with the Matter:

- a. bribed or attempted to bribe, or been convicted or adjudged guilty of bribery or attempting to bribe, a public officer or employee of the City, the State of Illinois, or any agency of the federal government or of any state or local government in the United States of America, in that officer's or employee's official capacity;
  - b. agreed or colluded with other bidders or prospective bidders, or been a party to any such agreement, or been convicted or adjudged guilty 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. made an admission of such conduct described in a. or b. above that is a matter of record, but have not been prosecuted for such conduct; or
  - d. violated the provisions of Municipal Code Section 2-92-610 (Living Wage Ordinance).
3. Neither the Disclosing Party, Affiliated Entity or Applicable Party, or any of their employees, officials, agents or partners, is barred from contracting with any unit of state or local government as a result of engaging in or being convicted of (1) bid-rigging in violation of 720 ILCS 5/33E-3; (2) bid-rotating in violation of 720 ILCS 5/33E-4; or (3) any similar offense of any state or of the United States of America that contains the same elements as the offense of bid-rigging or bid-rotating.
4. Neither the Disclosing Party nor any Affiliated Entity is listed on any of the following lists maintained by the Office of Foreign Assets Control of the U.S. Department of the Treasury or the Bureau of Industry and Security of the U.S. Department of Commerce or their successors: the Specially Designated Nationals List, the Denied Persons List, the Unverified List, the Entity List and the Debarred List.
5. The Disclosing Party understands and shall comply with (1) the applicable requirements of the Governmental Ethics Ordinance of the City, Title 2, Chapter 2-156 of the Municipal Code; and (2) all the applicable provisions of Chapter 2-56 of the Municipal Code (Office of the Inspector General).



6. If the Disclosing Party is unable to certify to any of the above statements in this Part B (Further Certifications), the Disclosing Party must explain below:

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If the letters "NA," the word "None," or no response appears on the lines above, it will be conclusively presumed that the Disclosing Party certified to the above statements.

### C. CERTIFICATION OF STATUS AS FINANCIAL INSTITUTION

For purposes of this Part C, under Municipal Code Section 2-32-455(b), the term "financial institution" means a bank, savings and loan association, thrift, credit union, mortgage banker, mortgage broker, trust company, savings bank, investment bank, securities broker, municipal securities broker, securities dealer, municipal securities dealer, securities underwriter, municipal securities underwriter, investment trust, venture capital company, bank holding company, financial services holding company, or any licensee under the Consumer Installment Loan Act, the Sales Finance Agency Act, or the Residential Mortgage Licensing Act. However, "financial institution" specifically shall not include any entity whose predominant business is the providing of tax deferred, defined contribution, pension plans to public employees in accordance with Sections 403(b) and 457 of the Internal Revenue Code. (Additional definitions may be found in Municipal Code Section 2-32-455(b).)

#### 1. CERTIFICATION

The Disclosing Party certifies that the Disclosing Party (check one)

is  is not

a "financial institution" as defined in Section 2-32-455(b) of the Municipal Code.

2. If the Disclosing Party IS a financial institution, then the Disclosing Party pledges:

"We are not and will not become a predatory lender as defined in Chapter 2-32 of the Municipal Code. We further pledge that none of our affiliates is, and none of them will become, a predatory lender as defined in Chapter 2-32 of the Municipal Code. We understand that becoming a predatory lender or becoming an affiliate of a predatory lender may result in the loss of the privilege of doing business with the City."

If the Disclosing Party is unable to make this pledge because it or any of its affiliates (as defined in Section 2-32-455(b) of the Municipal Code) is a predatory lender within the meaning of Chapter

2-32 of the Municipal Code, explain here (attach additional pages if necessary):

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

If the letters "NA," the word "None," or no response appears on the lines above, it will be conclusively presumed that the Disclosing Party certified to the above statements.

**D. CERTIFICATION REGARDING INTEREST IN CITY BUSINESS**

Any words or terms that are defined in Chapter 2-156 of the Municipal Code have the same meanings when used in this Part D.

1. In accordance with Section 2-156-110 of the Municipal Code: Does any official or employee of the City have a financial interest in his or her own name or in the name of any other person or entity in the Matter?

Yes                       No

NOTE: If you checked "Yes" to Item D.1., proceed to Items D.2. and D.3. If you checked "No" to Item D.1., proceed to Part E.

2. Unless sold pursuant to a process of competitive bidding, or otherwise permitted, no City elected official or employee shall have a financial interest in his or her own name or in the name of any other person or entity in the purchase of any property that (i) belongs to the City, or (ii) is sold for taxes or assessments, or (iii) is sold by virtue of legal process at the suit of the City (collectively, "City Property Sale"). Compensation for property taken pursuant to the City's eminent domain power does not constitute a financial interest within the meaning of this Part D.

Does the Matter involve a City Property Sale?

Yes                       No

3. If you checked "Yes" to Item D.1., provide the names and business addresses of the City officials or employees having such interest and identify the nature of such interest:

Name	Business Address	Nature of Interest
_____	_____	_____
_____	_____	_____
_____	_____	_____

4. The Disclosing Party further certifies that no prohibited financial interest in the Matter will be acquired by any City official or employee.

**E. CERTIFICATION REGARDING SLAVERY ERA BUSINESS**

The Disclosing Party has searched any and all records of the Disclosing Party and any and all predecessor entities for records of investments or profits from slavery, the slave industry, or slaveholder insurance policies from the slavery era (including insurance policies issued to slaveholders that provided coverage for damage to or injury or death of their slaves) and has disclosed in this EDS any and all such records to the City. In addition, the Disclosing Party must disclose the names of any and all slaves or slaveholders described in those records. Failure to comply with these disclosure requirements may make the Matter to which this EDS pertains voidable by the City.

Please check either 1. or 2. below. If the Disclosing Party checks 2., the Disclosing Party must disclose below or in an attachment to this EDS all requisite information as set forth in that paragraph 2.

1. The Disclosing Party verifies that (a) the Disclosing Party has searched any and all records of the Disclosing Party and any and all predecessor entities for records of investments or profits from slavery, the slave industry, or slaveholder insurance policies, and (b) the Disclosing Party has found no records of investments or profits from slavery, the slave industry, or slaveholder insurance policies and no records of names of any slaves or slaveholders.

2. The Disclosing Party verifies that, as a result of conducting the search in step 1(a) above, the Disclosing Party has found records relating to investments or profits from slavery, the slave industry, or slaveholder insurance policies and/or the names of any slaves or slaveholders. The Disclosing Party verifies that the following constitutes full disclosure of all such records:

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**SECTION VI – CERTIFICATIONS FOR FEDERALLY-FUNDED MATTERS**

**NOTE:** If the Matter is federally funded, complete this Section VI. If the Matter is not federally funded, proceed to Section VII.

**A. CERTIFICATION REGARDING LOBBYING**

1. List below the names of all persons or entities registered under the federal Lobbying Disclosure Act of 1995 who have made lobbying contacts on behalf of the Disclosing Party with respect to the Matter: (Begin list here, add sheets as necessary):

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(If no explanation appears or begins on the lines above, or if the letters "NA" or if the word "None" appear, it will be conclusively presumed that the Disclosing Party means that NO persons or entities registered under the Lobbying Disclosure Act of 1995 have made lobbying contacts on behalf of the Disclosing Party with respect to the Matter.)

2. The Disclosing Party has not spent and will not expend any federally appropriated funds to pay any person or entity listed in Paragraph A.1. above for his or her lobbying activities or to pay any person or entity to influence or attempt to influence an officer or employee of any agency, as defined by applicable federal law, a member of Congress, an officer or employee of Congress, or an employee of a member of Congress, in connection with the award of any federally funded contract, making any federally funded grant or loan, entering into any cooperative agreement, or to extend, continue, renew, amend, or modify any federally funded contract, grant, loan, or cooperative agreement.

3. The Disclosing Party will submit an updated certification at the end of each calendar quarter in which there occurs any event that materially affects the accuracy of the statements and information set forth in paragraphs A.1. and A.2. above.

If the Matter is federally funded and any funds other than federally appropriated funds have been or will be paid to any person or entity for influencing or attempting to influence an officer or employee of any agency (as defined by applicable federal law), a member of Congress, an officer or employee of Congress, or an employee of a member of Congress in connection with the Matter, the Disclosing Party must complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions. The form may be obtained online from the federal Office of Management and Budget (OMB) web site at <http://www.whitehouse.gov/omb/grants/sfillin.pdf>, linked on the page [http://www.whitehouse.gov/omb/grants/grants\\_forms.html](http://www.whitehouse.gov/omb/grants/grants_forms.html).

4. The Disclosing Party certifies that either: (i) it is not an organization described in section 501(c)(4) of the Internal Revenue Code of 1986; or (ii) it is an organization described in section 501(c)(4) of the Internal Revenue Code of 1986 but has not engaged and will not engage in "Lobbying Activities".

5. If the Disclosing Party is the Applicant, the Disclosing Party must obtain certifications equal in form and substance to paragraphs A.1. through A.4. above from all subcontractors before it awards any subcontract and the Disclosing Party must maintain all such subcontractors' certifications for the duration of the Matter and must make such certifications promptly available to the City upon request.

## B. CERTIFICATION REGARDING EQUAL EMPLOYMENT OPPORTUNITY

If the Matter is federally funded, federal regulations require the Applicant and all proposed subcontractors to submit the following information with their bids or in writing at the outset of negotiations.

Is the Disclosing Party the Applicant?

Yes

No

If "Yes," answer the three questions below:

1. Have you developed and do you have on file affirmative action programs pursuant to applicable federal regulations? (See 41 CFR Part 60-2.)

Yes

No

2. Have you filed with the Joint Reporting Committee, the Director of the Office of Federal Contract Compliance Programs, or the Equal Employment Opportunity Commission all reports due under the applicable filing requirements?

Yes

No

3. Have you participated in any previous contracts or subcontracts subject to the equal opportunity clause?

Yes

No

If you checked "No" to question 1. or 2. above, please provide an explanation:

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#### **SECTION VII -- ACKNOWLEDGMENTS, CONTRACT INCORPORATION, COMPLIANCE, PENALTIES, DISCLOSURE**

The Disclosing Party understands and agrees that:

A. By completing and filing this EDS, the Disclosing Party acknowledges and agrees, on behalf of itself and the persons or entities named in this EDS, that the City may investigate the creditworthiness of some or all of the persons or entities named in this EDS.

B. The certifications, disclosures, and acknowledgments contained in this EDS will become part of any contract or other agreement between the Applicant and the City in connection with the Matter, whether procurement, City assistance, or other City action, and are material inducements to the City's execution of any contract or taking other action with respect to the Matter. The Disclosing Party understands that it must comply with all statutes, ordinances, and regulations on which this EDS is based.

C. The City's Governmental Ethics and Campaign Financing Ordinances, Chapters 2-156 and 2-164 of the Municipal Code, impose certain duties and obligations on persons or entities seeking City contracts, work, business, or transactions. The full text of these ordinances and a training program is available on line at [www.cityofchicago.org/Ethics](http://www.cityofchicago.org/Ethics), and may also be obtained from the City's Board of Ethics, 740 N. Sedgwick St., Suite 500, Chicago, IL 60610, (312) 744-9660. The Disclosing Party must comply fully with the applicable ordinances.

D. If the City determines that any information provided in this EDS is false, incomplete or inaccurate, any contract or other agreement in connection with which it is submitted may be rescinded or be void or voidable, and the City may pursue any remedies under the contract or agreement (if not rescinded, void or voidable), at law, or in equity, including terminating the Disclosing Party's participation in the Matter and/or declining to allow the Disclosing Party to participate in other transactions with the City. Remedies at law for a false statement of material fact may include incarceration and an award to the City of treble damages.

E. It is the City's policy to make this document available to the public on its Internet site and/or upon request. Some or all of the information provided on this EDS and any attachments to this EDS may be made available to the public on the Internet, in response to a Freedom of Information Act request, or otherwise. By completing and signing this EDS, the Disclosing Party waives and releases any possible rights or claims which it may have against the City in connection with the public release of information contained in this EDS and also authorizes the City to verify the accuracy of any information submitted in this EDS.

F. The information provided in this EDS must be kept current. In the event of changes, the Disclosing Party must supplement this EDS up to the time the City takes action on the Matter. If the Matter is a contract being handled by the City's Department of Procurement Services, the Disclosing Party must update this EDS as the contract requires.

The Disclosing Party represents and warrants that:

G. The Disclosing Party has not withheld or reserved any disclosures as to economic interests in the Disclosing Party, or as to the Matter, or any information, data or plan as to the intended use or purpose for which the Applicant seeks City Council or other City agency action.

For purposes of the certifications in H.1. and H.2. below, the term "affiliate" means any person or entity that, directly or indirectly: controls the Disclosing Party, is controlled by the Disclosing Party, or is, with the Disclosing Party, under common control of another person or entity. Indicia of control include, without limitation: interlocking management or ownership; identity of interests among family members; shared facilities and equipment; common use of employees; or organization of a business entity following the ineligibility of a business entity to do business with the federal government or a state or local government, including the City, using substantially the same management, ownership, or principals as the ineligible entity.

H.1. The Disclosing Party is not delinquent in the payment of any tax administered by the Illinois Department of Revenue, nor are the Disclosing Party or its affiliates delinquent in paying any fine, fee, tax or other charge owed to the City. This includes, but is not limited to, all water charges, sewer charges, license fees, parking tickets, property taxes or sales taxes.

H.2. If the Disclosing Party is the Applicant, the Disclosing Party and its affiliates will not use, nor permit their subcontractors to use, any facility on the U.S. EPA's List of Violating Facilities in connection with the Matter for the duration of time that such facility remains on the list.

H.3 If the Disclosing Party is the Applicant, the Disclosing Party will obtain from any contractors/subcontractors hired or to be hired in connection with the Matter certifications equal in form and substance to those in H.1. and H.2. above and will not, without the prior written consent of the City, use any such contractor/subcontractor that does not provide such certifications or that the Disclosing Party has reason to believe has not provided or cannot provide truthful certifications.

NOTE: If the Disclosing Party cannot certify as to any of the items in H.1., H.2. or H.3. above, an explanatory statement must be attached to this EDS.

**CERTIFICATION**

Under penalty of perjury, the person signing below: (1) warrants that he/she is authorized to execute this EDS on behalf of the Disclosing Party, and (2) warrants that all certifications and statements contained in this EDS are true, accurate and complete as of the date furnished to the City.

Public Surplus, LLC  
(Print or type name of Disclosing Party)

Date: 4-19-2006

By:

*Eric Heaps*  
(sign here)

Eric Heaps  
(Print or type name of person signing)

Director of Agency Relations  
(Print or type title of person signing)

Signed and sworn to before me on (date) April 19, 2006, by Eric Heaps  
at Utah County, UT (state).

*Rebecca Clegg* Notary Public.

Commission expires: 12-06-08

