

**CITY OF CHICAGO
DEPARTMENT OF PROCUREMENT SERVICES
VENDOR DEMONSTRATION AGREEMENT**

“Demonstrator”, hereinafter referred to as the “Vendor,” or “Provider” is hereby granted authorization and a revocable-at-will license by the undersigned Chief/Deputy Procurement Officer of the City of Chicago (“City”) to conduct a free product demonstration, and/or product loan, display or service for use by the Chicago Department of Transportation of the following:

STREET LIGHT FIXTURES

for the following government activity:

Name: WHITE LIGHT & LED EQUIPMENT EVALUATION PILOT TEST

Address: 1600 South to 2500 South ASHLAND AVE

Point of Contact: Mr. Robert Myers

Phone: 312-746-4400

E-Mail: Bob.Myers@cityofchicago.org

Terms and Conditions

1. The City and the Vendor hereby expressly acknowledge and agree that this vendor demonstration and product loan/display is being offered by the Vendor and accepted by the City for purposes limited to short-term testing and evaluation. The demonstration period shall not exceed the period of time set forth herein, which Vendor affirms is reasonably necessary for the City to properly observe the product’s capability and value. It is further expressly acknowledged and agreed by the City and the Vendor that demonstrations of this kind are routinely conducted for the sole purpose of allowing the Vendor to demonstrate, and the City to evaluate, the capability of particular items, products, systems and/or services offered by the Vendor, **with absolutely no obligation to purchase or otherwise acquire the property by the City.**

2. It is expressly acknowledged and agreed by the City and the Vendor that the Vendor knowingly offers such demonstrations and evaluations to Vendor’s potential customers, and that the City accepts such demonstration **free of any consideration or charge, or any other financial liability.** Such acceptance by the City will in no way, express or implied, obligate the City to either purchase, rent, lease, contract for or otherwise acquire the items, services, or products demonstrated, furnished or loaned for City evaluation. In addition, such acceptance does not imply the existence of any present or future City requirement for such products or services and nothing, either in or arising from this agreement, shall be used as a basis for any future claim against the City.

3. During the demonstration period, and throughout the City's evaluation of the products and/or services furnished by the Vendor, the equipment and/or materials, including all data rights to proprietary commercial software or other protected intellectual property involved in the demonstration are and shall remain the exclusive property of the Vendor.

Unless otherwise agreed, the Provider grants to the City an irrevocable, non-transferable license to test, try and/or use the Product as furnished pursuant to this Agreement.

4. The City agrees to take reasonable measures to protect any proprietary rights asserted by the Vendor with respect to the property and/or services furnished to the City under this agreement, and to the extent permissible by law, not disclose any proprietary information outside of the City; provided, however that the City retains the right to, in the City's sole discretion, disclose, evaluate or use any testing or evaluative results exclusively for City purposes. The Vendor shall mark prominently any information, documents, equipment or products that it considers proprietary and/or confidential as such.

5. The Vendor agrees to defend, indemnify and hold harmless to the extent permitted by law the City, its officials, officers and employees from and against any and all Losses (defined below), including those related to: (i) injury, death or damage of or to any person or property; (ii) any infringement or violation of any property right (including any patent, trademark, or copyright); and (iii) Vendor's failure to perform or failure to cause to be performed Vendor's obligations as and when required under this agreement. "Losses" means liabilities of every kind, including losses, damages, payments and costs (including, but not limited to, court costs and reasonable attorneys' fees and disbursements) relating to claims, demands, actions, suits, proceedings, judgments or settlements, any or all of which arise out of or relate to Vendor's breach of this agreement, or Vendor's negligent or otherwise wrongful acts or omissions arising from the performance by Vendor of its obligations hereunder. The indemnities in this section survive expiration or termination of this agreement for matters occurring or arising during the term of this agreement.

If, notwithstanding the indemnity provisions found herein, the City is found liable for damage by a court of competent jurisdiction, the City's maximum liability to Provider for damage to or arising from the Product(s) or exhibit due to any cause will be the retail value of the affected Product at the time this agreement is executed.

6. The Vendor, by its execution of this Agreement, represents and warrants to the City that it has, and shall retain, insurance in the kind and amounts that are reasonable and appropriate to meet the Vendor's obligations, including those obligations set forth in Section 6 above, to the City and in Exhibit 2.

7. If the City, in its sole discretion, determines that it is in the interests of the City to make its evaluation results known to the Vendor, the City may do so, but the City is at no time or in any way obligated to disclose its evaluation results to the Vendor.

8. The City agrees to use the property and/or services furnished by the Vendor pursuant to this agreement in accordance with the design, instructions and advice offered by the Vendor, but the City reserves the right to modify such commercial use for purposes the City, in its sole discretion, considers to be in the City's best interests in thoroughly testing and evaluating the Vendor's products and/or services.

9. Term

- A. The term of the use begins when the Product(s) are delivered to the Department, and shall run through the end date designated herein, plus a reasonable amount of time for the Product(s) to be reclaimed by Provider.

Term _____ 2013 to _____ 2014 (determined upon execution by the Chief Procurement Officer and CDOT)

- B. Provider must arrange with the Department to reclaim all Product(s) within 30 days of the exhibit end date. If the Department is unable to contact the Provider or if no special arrangements have been made for the return of the Product, or if the Provider fails to reclaim the Product(s) at the designated time, the Department may continue to use the Product(s), or it may place the Product(s) in storage at the Provider's sole risk and expense. It is the responsibility of the Provider to contact the Department regarding any change of address, phone number, or e-mail address.
- C. The Department reserves the right to relocate, remove and/or replace, at its sole discretion, any Product at any time. If such relocation, removal or replacement occurs, the Provider will be notified. Product removed by the Department must be reclaimed by the Provider no later than 30 days after notification of removal.
- D. The Provider may not withdraw any Product from use before the designated end date unless agreed in writing by the Department.

10. Product delivery and removal

- A. Product(s) shall be delivered as directed by the Department.
- B. Product will be delivered and removed by the Provider with oversight by Department personnel. Product will be delivered only to the location and in the configuration approved by the Department. Provider shall furnish such Product documents as may be necessary to facilitate the City's intended test, trial or use.
- C. Provider is responsible for any and all costs and risks associated with delivery, use and any storage of the Product(s). If, at the Department's option, the Department chooses to ship the Product(s) back to the Provider at the

conclusion of its use at Department's expense, all risks associated with packing and shipping the Product(s) will remain with the Provider.

D. The Provider agrees that the Department will have the sole discretion to determine the methods, configuration, location and environment for the test, trial or use of the Product(s).

11. Warranties

Provider warrants that:

- A. it has the right to furnish the Product(s);
- B. it has the authority to sign this waiver and acknowledgement including all provisions related to intellectual property rights; and
- C. the condition and nature of the Product(s) is such that it is suitable for the City's intended use and will not pose a hazard to the public.

IN WITNESS HEREOF, the parties have executed this agreement as of the first date set forth above.

CITY OF CHICAGO

VENDOR

Chief Procurement Officer

Print Name and Title

Date

Signature

Name of Provider:

Contact Person: _____

Business Phone: _____ Cell Phone: _____

Fax Number: _____ Email Address: _____

Mailing Address:

Type of Product or Service:

Representative overseeing City's on-site use (required):

Business Phone: _____ Cell Phone: _____

Exhibit 1

Minimum Requirements for Testing and Evaluation of White Light and LED Equipment

The City of Chicago, in accordance with city goals to achieve sustainability, will be administering an ongoing test and evaluation program for approximately a twelve month period on Ashland Avenue from 1600 South to 2500 South. The street is considered Major with High Conflict Pedestrian Area under ANSI/IESNA-RP-8-2000, and will be using recommended lighting levels and uniformity ratios set forth therein.

CDOT has developed a minimum set of requirements for all new White Light & LED street light fixtures for evaluation. The following prerequisites must be met before we can accept the equipment for the Pilot Program:

1. Photometrics

Recommended lighting levels and uniformity ratios set forth in IESNA-RP-8-2000, for R-3 Major Street with High Conflict Pedestrian Area.

Following are the Minimum Maintained Averages Values and its Uniformity ratios:

- 1.7 fc
- 3.0 Eavg/Emin
- 1.2 Cd/Sq-m
- 3.0 Lavg/Lmin
- 5.0 Lmax/Lmin
- 0.3 Lvmax/Lavg

2. Specifications

Complete equipment description of its technology and standards. To be included, but not limited to: its construction, temperature compensation, efficiency, distribution pattern, color temperature, color rendering index, operational life rating, operating temperature, ballast or driver life rating

3. Approved Testing Methods

SSL Fixture must be tested according to the following approved methods:

- a. IES LM-79-08, Electrical and Photometric Measurements of Solid-State Lighting Products
- b. IES LM-80-08, Measuring Lumen Maintenance of LED Light Sources
- c. IES TM-21-11, Projecting Long Term Lumen Maintenance of LED Light Sources

4. Mechanical and Electrical Requirements

The luminaire must meet the following:

- (i) IEC IP 66
- (ii) Connection to a standard 2" tenon
- (iii) Easily accessible driver
- (iv) Greater than .90 Power factor
- (v) Greater than 70 CRI
- (vi) Greater than 4100°K
- (vii) UL Approved
- (viii) Approved Surge suppressor, rated 10kV/5kA
- (ix) 10kA Fuse
- (x) Able to perform wireless monitoring
- (xi) Power door
- (xii) Vibration approved test
- (xiii) Heat approved test
- (xiv) USA Made

5. Warranty

Fixture must be able to have a five (5) year labor warranty, with ten (10) year parts warranty. Response time must be strictly adhered to within a day.

6. Banner

City of Chicago is allowing each manufacturer to have a banner on the back side of pole. Please follow CDOT banner requirements. Banner top will have City of Chicago, CDOT, White Light Pilot test. Banner bottom to take no more than 40% for the manufacturer's logo. Please send an electronic draft for City approval.

Exhibit 2

CONTRACT INSURANCE REQUIREMENTS

Chicago Department of Transportation
Division of Engineering & Division of Electrical Operations
White Light & LED Equipment Evaluation Pilot Program

The Contractor must provide and maintain at Contractor's own expense, until Contract completion and during the time period following completion if Contractor is required to return and perform any additional work, the insurance coverages and requirements specified below, insuring all operations related to the Contract.

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 work under this Contract 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 \$1,000,000 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 on a primary, non-contributory basis for any liability arising directly or indirectly from the work.

3) Automobile Liability (Primary and Umbrella)

When any motor vehicles (owned, non-owned and hired) are used in connection with work to be performed, the Contractor 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) Property

The Contractor is responsible for all loss or damage to City property at full replacement cost.

The Contractor is responsible for all loss or damage to personal property (including lighting materials of contract, equipment, tools and supplies) owned, rented or used by Contractor.

B. ADDITIONAL REQUIREMENTS

The Contractor 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 Contract, and Renewal Certificates of Insurance, or such similar evidence, if the coverages have an expiration or renewal date occurring during the term of this Contract. The Contractor must submit evidence of insurance on the City of Chicago Insurance Certificate Form (copy attached) or equivalent prior to Contract award. The receipt of any certificate does not constitute agreement by the City that the insurance requirements in the Contract have been fully met or that the insurance policies indicated on the certificate are in compliance with all Contract requirements. The failure of the City to obtain certificates or other insurance evidence from Contractor is not a waiver by the City of any requirements for the Contractor to obtain and maintain the specified coverages. The Contractor must advise all insurers of the Contract provisions regarding insurance. Non-conforming insurance does not relieve Contractor of the obligation to provide insurance as specified herein. Nonfulfillment of the insurance conditions may constitute a violation of the Contract, and the City retains the right to stop work until proper evidence of insurance is provided, or the Contract may be terminated.

The Contractor 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 Contractor.

The Contractor 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 Contractor in no way limit the Contractor's liabilities and responsibilities specified within the Contract or by law.

Any insurance or self insurance programs maintained by the City of Chicago do not contribute with insurance provided by the Contractor under the Contract.

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

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

The Contractor must require all subcontractors to provide the insurance required herein, or Contractor may provide the coverages for subcontractors. All subcontractors are

subject to the same insurance requirements of Contractor unless otherwise specified in this Contract.

If Contractor or subcontractor desires additional coverages, the party desiring the additional coverages is responsible for the acquisition and cost.

Notwithstanding any provision in the Contract to the contrary, the City of Chicago Risk Management Department maintains the right to modify, delete, alter or change these requirements.