

ELECTRICITY SALES AGREEMENT
BETWEEN

THE CITY OF CHICAGO
DEPARTMENT OF ASSETS, INFORMATION AND SERVICES
AND



LORI E. LIGHTFOOT
MAYOR

David Reynolds
Commissioner

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ELECTRICITY SALES AGREEMENT

This Electricity Sales Agreement is entered into as of the _____ day of _____, 2020 (“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 Assets, Information, and Services (“Customer” or “City”), at Chicago, Illinois. City and Contractor are collectively referred to as the “Parties.”

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.

This Agreement, including the attached Exhibits shall constitute the entire understanding between the Parties. No modifications or supplements to this Agreement will be effective unless agreed to and signed by both Parties. Nothing contained in this Agreement creates any rights or benefits in or for any third party.

NOW THEREFORE, the Parties agree as follows:

1. Definitions

The following definitions and any additional terms defined within this Agreement and/or applicable attachments shall apply hereunder and under all notices and communications made pursuant to this Agreement:

“Adequate Assurance”: Means any financial security in a form and amount satisfactory to City, including, but not limited to, a cash deposit, letter of credit in the amount of \$3 million or parental guarantee.

“Agreement”: Means this Electricity Sales Agreement entered into between City and Contractor including any and all Exhibits attached hereto.

“Ancillary Charges”: Means any additional charges for system-related operating services provided by PJM that are not included in the Transmission Service Charges.

“Alternative Retail Electric Supplier” or “ARES”: Means an entity, other than an Illinois electric utility, that is permitted to sell electricity supply services to retail customers in Illinois. An ARES must be certified by the Illinois Commerce Commission (ICC). An ARES meets all of the requirements as described in the Delivery Company’s Retail Supplier’s Electric Handbook available at:

<https://www.comed.com/customer-service/rates-pricing/retail-electricity-metering/Pages/res-resources.aspx>

“Bankruptcy Event”: Means, with respect to a Party, that such Party (i) has made a general assignment for the benefit of creditors; (ii) has become bankrupt or insolvent, however evidenced, or unable to pay its debts as they fall due; (iii) is the subject of a voluntary or involuntary proceeding under any bankruptcy, insolvency or similar law; or (iv) has had a trustee, receiver or similar official appointed with respect to it or any substantial portion of its assets.

“Block Pricing Schedule”: Means a block and index pricing schedule in the form of Exhibit B to this Agreement identifying the percentage of hourly energy consumption , associated energy charges and other charges associated with a purchase made by City in accordance with such schedule. Block Pricing Special Conditions are set out in Exhibit B.

“Consolidated Billing”: Means that the Contractor will receive and pay City’s Delivery Charges billed by the Delivery Company and pass such charges on to City each month without mark-up.

“Capacity Charges”: Means any charges associated with meeting the capacity requirements for delivering energy through PJM.

“Commissioner”: Means the Commissioner of the Department.

“Contractor Margin”: Means a \$/kWh fee which represents the total compensation, net of direct expenses, payable to the Contractor for providing the services under the Agreement.

“Costs”: Means brokerage fees, reservation fees, reasonable attorneys’ fees, commissions and other similar third-party transaction expenses incurred by a Non-Defaulting Party in terminating, liquidating or entering into new arrangements which replace any obligations assumed by the Non-Defaulting Party due to the termination of this Agreement.

“Day or day”: Means a calendar day unless business days are specified.

“Defaulting Party”: Means a Party that has committed an Event of Default.

“Delivery Charges”: Means any and all costs and charges approved by the Illinois Commerce Commission for inclusion in Delivery Company’s tariffs applicable to the delivery of electricity supply to City by the Delivery Company.

“Delivery Company”: Means the City's local delivery company, Commonwealth Edison Company (“ComEd”) or any successor local delivery company that assumes delivery service responsibility from ComEd, which is providing Delivery Services to Listed Accounts under this Agreement. The Delivery Company is not to be considered a Subcontractor under this Agreement.

“Delivery Point”: Means existing and future points of interconnection between the Regional Transmission Operator (RTO) controlled grid or a third-party transmission system and the Delivery Company’s distribution system.

“Delivery Services”: Means delivery and related services provided by the Delivery Company that are necessary to permit City to receive Full Requirements at its Listed Accounts.

“Department”: Means the Department of Assets, Information and Services.

“Distribution Losses”: Means energy losses attributable to the distribution system.

“Event of Default”: Is defined in Section 12 of this Agreement.

“Fixed Price”: Means the all-inclusive price for Full Requirements stated in a then-effective Fixed Pricing Schedule. Such price includes but is not limited to: all charges for electricity commodity, Distribution Losses, Ancillary Charges, Capacity Charges, Transmission Service Charges, PJM Auction Revenue Rights, PJM Marginal Losses, Renewable Portfolio Standard, and Contractor Margin.

“Fixed Pricing Schedule”: Means a pricing schedule in the form of Exhibit C-1, C-2, and C-3 to this Agreement identifying the volumes and charges to be purchased by City.

“Full Requirements”: Means the delivery of all electricity commodity, capacity, ancillary services and other services necessary to the Delivery Point to serve 100% of the purchased electricity supply needs of the City's List of Accounts.

“Interest Rate”: Means for any date, the lesser of (a) the per annum rate of interest equal to the prime lending rate as may from time to time be published in *The Wall Street Journal* under “Money Rates” on such day (or if not published on such day on the most recent preceding day on which published), plus two percent (2%).

“Listed Accounts”: Means accounts and associated meter numbers governed by this Agreement and identified in Exhibit M.

“Non-Defaulting Party”: Means when there is a Defaulting Party, the Party that is not the Defaulting Party.

“PJM”: Means a regional transmission organization that coordinates the movement of wholesale electricity in the portion of Illinois where Delivery Company operates.

“PJM Auction Revenue Rights”: Means entitlements allocated annually to Firm Transmission Service customers that entitle the holder to receive an allocation of revenues or charges from the Annual Firm Transmission Rights auction.

“PJM Marginal Losses”: Means credits that are calculated as total net energy charges plus total net marginal loss charges.

“Renewable Portfolio Standard” (“RPS”): Means charges associated with fulfilling renewable energy obligations including Alternative Compliance Payments to the Delivery Company.

“Settlement Amount”: Means a payment amount calculated on a commercially reasonable basis that is equal to total Costs, if any, resulting from termination of this Agreement.

“Subcontractors”: Means any person or entity with whom Contractor contracts to provide any part of the Full Requirements, including subcontractors and subconsultants of any tier, suppliers and materials providers. Subcontractors shall not include the Delivery Company, Independent System Operator (ISO), RTO, and any Renewable Energy Credit (REC) Provider.

“Transmission Service Charge”: Means charges that recover the costs of using the transmission system, including the costs for services necessary for the reliable operation of the transmission system.

“Transmission Tariff”: Means all applicable transmission tariffs, as amended from time to time, on file with the Federal Energy Regulatory Commission.

2. Service Provided by Contractor

This is a Full Requirements contract for City’s Listed Accounts. Pursuant to this Section, the full Agreement and Exhibit A, Scope of Services, Contractor agrees to sell and provide to City 100 percent of City's Full Requirements to meet instantaneously its Full Requirements for the Listed Accounts during the term and at the prices or price formula set forth in the Fixed Pricing Schedule and/or Block Pricing Schedule then in effect between Contractor and City. Contractor shall be responsible for the purchase, transmission and delivery of the Full Requirements to the Delivery Point (the “Services”). Contractor will be liable for transmission or delivery failures only when such failures result from Contractor’s fault or negligence. Contractor shall be authorized to (i) execute on behalf of City all authorizations required to

switch electricity suppliers as may be necessary to carry out the provisions of this Agreement, and (ii) make all necessary arrangements for the purchase and delivery to the Delivery Point(s) of such Full Requirements for the Listed Accounts, including providing or procuring all services necessary for the sale and delivery to the Delivery Point(s) of Full Requirements for the Listed Accounts.

3. Scheduling Services

Contractor will be responsible for scheduling services in accordance with Delivery Company's Rate Retail Delivery Service (RDS) and other applicable ComEd tariffs. Contractor assumes liability for any scheduling, imbalance or similar penalties, fees or charges imposed by Delivery Company.

4. City's Obligations

Subject to the terms of this Agreement, City shall purchase the Full Requirements for the Listed Accounts, excluding any electricity supply that may be provided by City's own back-up or other distributed generation sited at City facilities such as solar photovoltaic. City will execute any and all reasonable agreement(s) required by the Delivery Company (i) for the purpose of providing Delivery Services to City; (ii) to enable City to take service from an Alternative Retail Energy Supplier; and (iii) as may be required for Contractor to fulfill its obligations under this Agreement.

5. Service Commencement; Terms

Service under this Agreement shall commence for each of the Listed Accounts as of the Delivery Company-determined January 2022 meter read date(s), and expire as of the Delivery Company-determined January 2027 meter read date(s). This term of service is defined as the "Initial Term".

City has the right to extend the term of this Agreement as follows: at any time during the Initial Term, City may ask Contractor to provide pricing ("Pricing Proposal") to continue service for a period of up to ____ additional months beyond the Initial Term ("Extended Term"). If City deems Contractor's Price Proposal to be acceptable, the Parties will execute an amendment agreement covering such Extended Term. City may enter into no more than ____ Extended Terms.

6. Transition

Contractor must provide a seamless transition from City's current electric supplier to Contractor. Contractor must provide all necessary assistance to the Department during the transition to Contractor. It is understood and agreed that in no event shall City be obligated to pay Contractor for electricity supply delivered by an ARES other than the Contractor from the commencement to the expiration of this Agreement. Furthermore, Contractor will be responsible for any penalties resulting from Contractor's failure to deliver electricity supply to the Delivery Company system, failure to provide any documentation, or Contractor's failure to complete any processes required by Delivery Company, PJM, or other similar organization. Prior to the expiration of this agreement (as such date may be extended as specified herein), the Contractor must cooperate in planning a transition, if necessary, to a new supplier. In addition, the Contractor must use reasonable best efforts to assist the Department in the transition to the new service provider.

7. Price

The price or price formula for Full Requirements and the period or periods for which such price or price formula shall be in effect under this Agreement are set forth in the executed Block Pricing and/or Fixed Pricing Schedules attached as Exhibits C, D-1 and D-2, respectively, to this Agreement. With respect to the Block Pricing Schedule, the price components are either pass-through or fixed as described in Exhibit B.

The Contractor shall provide Full Requirements to the Listed Accounts for the duration of this Agreement, subject to the terms of the applicable Fixed Pricing Schedule(s) or Block Pricing Schedule(s).

For Listed Accounts covered by the Fixed Pricing Schedule, the Fixed Price shall not change for the period specified in the Fixed Pricing Schedule regardless of the volume of Full Requirements required by those Listed Accounts.

City may elect to require Consolidated Billing from Contractor. If City does not elect Consolidated Billing, then City will be billed separately by the Delivery Company for all Delivery Charges.

8. Funding and Non-Appropriation

The source of funds for payments under this Agreement are Fund numbers 021-0100-382131-0331-220331, 021-0200-382131-0331-220331, 021-0300-382131-0331-220331, 021-0314-382131-0331-220331, 021-0346-382131-0331-220331, 021-0610-382131-0331-220331, and 021-0740-382131-0331-220331. Payments under this Agreement must not exceed \$_____ annually without a written amendment. Funding for this Agreement is subject to the availability of funds and their appropriation by the City Council of the City.

If no funds or insufficient funds are available, appropriated and budgeted in any fiscal period of the City for payments to be made under this Agreement, then the City will notify Contractor in writing of that occurrence, and this Agreement will terminate on the earlier of the last day of the fiscal period for which sufficient appropriation was made or whenever the funds appropriated for payment under this Agreement are exhausted. Payments for electricity provided prior to the date of notification will be made to Contractor except that no payments will be made or due to Contractor under this Agreement beyond those amounts appropriated and budgeted by the City to fund payments under this Agreement.

9. 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.

10. Contract Quantities

This Agreement is for City's Full Requirements. Quantities required may vary depending upon weather conditions, season, and other factors. City is not making any representation to Contractor as to how much electricity supply City will consume during the contract term or any financial results to be anticipated by entering into this Agreement. The Parties acknowledge that some data related to historical usage or related data that City has provided to Contractor was, in part, from third party sources. While City has no knowledge of any material misrepresentation of such third party sources, City does not warrant the accuracy or completeness of such information. Contractor has made all decisions regarding this Agreement based upon its own judgment and any advice from such advisors as it has deemed necessary and not in reliance upon any historical data provided by City. Contractor has entered into this Agreement with a full understanding of the material terms and risks of the same, and it hereby assumes those risks.

In order to assist Contractor in providing accurate expected usage information to City's Delivery Company, the Department will notify Contractor of any anticipated significant changes in the City's actual usage. City will give Contractor at least thirty (30) days' notice prior to removing a Listed Account from service hereunder as a result of ceasing operations (e.g., closing of the Listed Account or sale of a facility associated with a Listed Account to an unrelated third party).

11. Billing

Contractor must provide a monthly summary bill for the Listed Accounts using a format mutually acceptable to the Parties, as well as a report in Microsoft Excel showing sufficient detail of electricity usage and charges for the Department to verify invoices, both for Fixed Price Schedule(s) and Block Pricing Schedule(s), as applicable. Unless otherwise agreed to, the monthly bill format for Listed Accounts covered by Fixed Price Schedule shall consist of a summary page and detail for each Listed Account that include the following:

- kWh usage during the billing period
- Fixed Price cost charged
- Delivery Charges passed through (if City elects Consolidated Billing)

In the case of a Block Pricing Schedule as described in Exhibit B of this Agreement, the bill and/or associated Excel report shall clearly state for the billing period:

- the quantity and price of On Peak Forward Block power purchased
- the quantity and price of Off Peak Forward Block power purchased
- the quantity and price of any Index Energy purchased, by hour
- the price and cost of the Fixed Retail Adder charge

- the network transmission service peak load contribution, and price and cost for network integrated transmission service or NITS (assuming pass through as described in Exhibit B – Block Pricing).
- the capacity peak load contribution as adjusted for zonal scaling factor and forecast pool requirement, and price and cost for capacity (assuming pass through as described in Exhibit B – Block Pricing).
- the account-level hourly consumption of energy for every account billed under the Block Pricing Schedule for the billing period.

Contractor shall submit all invoices to:

City of Chicago
 Accounts Payable – PO#29707
 30 N LaSalle St Ste 300
 Chicago, IL 60602-3383

12. Payment

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 Agreement.

In the event that City disputes the charges on its invoice, City shall notify the Contractor in writing of the disputed charges and the basis of the dispute. In the event that City disputes charges on its invoice, City will pay charges that are not disputed. The Contractor must promptly investigate and resolve any such disputes. Upon resolution of any such dispute, applicable adjustments must be applied to any monthly invoice issued within 60 days of the resolution.

City is not obligated to pay for any Full Requirements that Contractor fails to provide pursuant to and in accordance with this Agreement.

City will be billed by Delivery Company for Delivery Services provided under ComEd’s Retail Delivery Service Tariff (RDS) and pay Delivery Company directly for such services unless the City elects Consolidated Billing option.

13. Procedure for Bringing Disputes to the Department

The Contractor and 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, 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.

14. Personnel

a) Adequate Staffing

Contractor must, upon receiving a fully executed copy of this Agreement, assign and maintain during the term of this Agreement and any extension of it an adequate staff of competent personnel that is fully equipped, licensed as appropriate, available as needed, qualified and assigned exclusively to perform the Services. Contractor must include among its staff the Key Personnel and positions as identified in the Contractor RFP Response incorporated hereto. The level of staffing may be revised from time to time by notice in writing from Contractor to the Commissioner and with prior written consent of the City.

b) Salaries and Wages

Contractor and Subcontractors must pay all salaries and wages due all employees performing Services under this Agreement 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 Agreement, 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 Agreement 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 Section 14 is solely for the benefit of the City and that it does not grant any third party beneficiary rights.

15. Minority and Women's Business Enterprises Commitment

In the performance of this Agreement, including the procurement and lease of materials or equipment, Contractor must abide by the minority and women's business enterprise commitment requirements of the Municipal Code of Chicago, §2-92-420 *et seq.*, except to the extent waived by the Chief Procurement Officer or Commissioner, and the Special Conditions Regarding MBE/WBE Commitment set forth in Exhibit J. Contractor's completed Schedules C-1 and D-1 in Exhibit J, evidencing its compliance with this requirement, are a part of this Agreement, upon acceptance by the Commissioner. Contractor must utilize minority and women's business enterprises at the greater of the amounts listed in those Schedules C-1 and D-1 or the percentages listed in them as applied to all payments received from the City.

[INSERT REPORTING REQUIREMENTS DURING THE TERM OF THE CONTRACT IF DIFFERENT FROM SPECIAL CONDITIONS]

16. Warranties

CONTRACTOR WARRANTS THAT IT HAS THE RIGHT TO SELL ELECTRICITY SUPPLY AND PROVIDE (EITHER DIRECTLY OR THROUGH PURCHASE FROM OTHERS) ALL ANCILLARY RELATED SERVICES REQUIRED HEREIN, AND THAT SUCH ELECTRIC SUPPLY SHALL BE SUPPLIED HEREUNDER WILL BE FREE OF ALL LIENS OF ANY KIND. CONTRACTOR WARRANTS THAT ALL ELECTRICITY SUPPLY IT SUPPLIES OR CAUSES TO BE SUPPLIED TO THE DELIVERY POINT SHALL COMPLY WITH ALL APPLICABLE REQUIREMENTS OF THE DELIVERY COMPANY'S TARIFFS AND FEDERAL AND STATE REGULATIONS AND LAWS.

17. Insurance

Contractor must provide and maintain at Contractor's own expense, during the term of this Agreement and any time period following expiration if Contractor is required to return and perform any under this Agreement, the insurance coverages and requirements specified in Exhibit H of this Agreement, insuring all operations related to this Agreement.

18. Indemnity

- a) Contractor must defend, indemnify, and hold harmless the City, its officers, representatives, elected and appointed officials, agents and employees from and against any and all Losses, including those related to:
 - i. injury, death or damage of or to any person or property;
 - ii. any infringement or violation of any property right (including any patent, trademark or copyright);
 - iii. Contractor's failure to perform or cause to be performed Contractor's promises and obligations as and when required under this Agreement, including Contractor's failure to perform its obligations to any Subcontractor;
 - iv. the City's exercise of its rights and remedies under Section 14 of this Agreement; and
 - v. injuries to or death of any employee of Contractor or any Subcontractor under any workers compensation statute.

- b) "Losses" means, individually and collectively, liabilities of every kind, including losses, damages and reasonable costs, payments and expenses (such as, but not limited to, court costs and reasonable attorneys' fees and disbursements), claims, demands, actions, suits, proceedings, judgments or settlements, any or all of which in any way arise out of or relate to Contractor's breach of this Agreement or to Contractor's negligent or otherwise wrongful acts or omissions or those of its officers, agents, employees, consultants, Subcontractors or licensees.

- c) 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 Agreement. Any settlement

must be made only with the prior written consent of the City Corporation Counsel, if the settlement requires any action on the part of the City.

- d) To the extent permissible by law, Contractor waives any limits to the amount of its obligations to defend, indemnify, hold harmless, or contribute to any sums due under any Losses, including any claim by any employee of Contractor that may be subject to 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, any other statute or judicial decision.
- e) The indemnities in this section survive expiration or termination of this Agreement for matters occurring or arising during the term of this Agreement or as the result of or during Contractor's performance of Services beyond the term. Contractor acknowledges that the requirements set forth in this section to defend, indemnify, and hold harmless the City are apart from and not limited by the Contractor's duties under this Agreement, including the insurance requirements in Exhibit H of this Agreement.

19. Force Majeure

If either Party is unable, wholly or in part, by Force Majeure (as defined below) to carry out its obligations under this Agreement, and upon such Party giving written notice and full particulars of such Force Majeure to the other Party as soon as practicable after the occurrence of the cause, the obligations of the Party giving notice, so far as its obligations are affected by the Force Majeure, will be suspended during the continuance of the Force Majeure. The suspension will last no longer than the Force Majeure. Each party shall seek to remedy the Force Majeure with all reasonable dispatch. If an event of Force Majeure lasts for 15 continuous days, the Party not subject to the Force Majeure has the option of terminating this Agreement at any time after the 15th day, so long as the event of Force Majeure is continuing, without further liability by providing the other Party written notice of such intent. During such period of Force Majeure, City will continue to be obligated to make payments for all Full Requirements delivered to and consumed at its facility and non-facility assets in accordance with the terms of this Agreement.

Force Majeure means any of the following causes to the extent not reasonably within the control, and without fault or negligence, of the Party affected thereby and which by the exercise of due diligence by the affected Party could not have been prevented: acts of God, civil disturbances, interruptions caused by governmental or court orders, unwillingness or inability of the transmission operator, PJM, to provide transmission service or the curtailment of Contractor's transmission service, an event of Force Majeure affecting the Delivery Company or a suspension, curtailment, or service interruption by the Delivery Company that, through no fault of Contractor, prevents Contractor from delivering the electricity supply to the Delivery Company. The Party affected by a Force Majeure must take commercially reasonable steps to mitigate its effects. Neither labor strikes, economic hardship (including but not limited to difficulties or inability to pay monies due), nor economic conditions, nor a change in economic conditions or in the price paid by Contractor for electricity supply or the

price at which Contractor is able to sell electricity supply other than pursuant to this Agreement will constitute a Force Majeure under this Agreement.

20. Financial Obligation

If the Contractor has senior unsecured debt that is rated, and during the term of this Agreement, the senior unsecured debt of the Contractor is rated lower than BBB- by Standard & Poor's Rating Group or its successor, or lower than Baa3 by Moody's Investor Services, Inc., or its successor, the Contractor shall notify City in writing of such downgrade within two (2) business days. Upon receipt of such notification, City may request from the Contractor Adequate Assurance of performance. Such Adequate Assurance must be delivered within five (5) business days of City's request.

21. Facility Openings and Closings

City shall be entitled to remove from the Agreement individual Listed Accounts prior to the end of the term of the applicable Fixed Pricing Schedule or Block Pricing Schedule without penalty if such individual Listed Accounts close. City may add additional accounts to the Agreement at the then current market price as proposed by the Contractor and agreed to by the Parties and as set forth in a new or revised pricing schedule for said facility or lighting account. City and Contractor shall execute new or revised schedules as necessary to revise the List of Accounts for any changes to the facility and non-facility assets served under this Agreement.

22. Default/Cure Periods

The occurrence of any of the following for reasons other than Force Majeure with respect to a Party is an "Event of Default" under this Agreement:

- a) the failure of either Party to (i) make, when due, any payment required pursuant to this Agreement, or (ii) perform a material obligation imposed on such Party by this Agreement;
- b) Contractor's failure to provide Adequate Assurance as and when required under this Agreement;
- c) any written representation or warranty made by Contractor in any of its submissions to the City that is false or misleading in any material respect when made or when deemed made or repeated;
- d) Contractor's failure to timely supply Full Requirements to City;
- e) Contractor's failure to perform any other material covenant or obligation set forth in this Agreement;
- f) Contractor becomes subject to a Bankruptcy Event;
- g) Contractor consolidates or merges into or transfers all or substantially all of its assets to another entity and that resulting entity fails to assume all obligations of such party under this Agreement;

h) default by Contractor under any other agreement Contractor may have with the City;

Upon the occurrence of an Event of Default and at any time thereafter so long as such Event of Default continues, the Non-Defaulting Party may by written notice to the Defaulting Party declare this Agreement to be in default. The Defaulting Party must remedy such Event of Default within fifteen (15) business days after receiving notice from the Non-Defaulting Party. If the Defaulting Party fails to cure its default within the applicable cure period, the Non-Defaulting Party may upon five (5) business days written notice thereafter terminate this Agreement and exercise, at its election, any rights or remedies it may have under this Agreement, or as provided under law (unless otherwise limited by this Agreement). The Non-Defaulting Party's written notice will state specifically the nature of the default and the Non-Defaulting Party's intention to cancel this Agreement.

Notwithstanding the foregoing, if Contractor: (i) becomes subject to a Bankruptcy Event or makes an assignment for the benefit of creditors, or (ii) fails to provide Adequate Assurance to City within five (5) business days of City's demand, when such demand is based upon City's good faith belief that the ability of the Defaulting Party to perform its obligations under this Agreement is materially impaired, then City has the right, with five (5) business days written notice, to terminate this Agreement at any time. City shall pay for Full Requirements already provided and City will have no further liability or obligation to Contractor.

In the event that a guarantor or bank or financial institution that issues a letter of credit with respect to the Contractor has a senior unsecured debt rated below BBB- by the Standard & Poor's Rating group or its successor, or lower than Baa3 by the Moody's Investor Services, Inc., or its successor, such occurrence shall be deemed an Event of Default with respect to the Contractor unless Contractor and a substitute guarantor or bank or financial institution promptly (within five (5) business days) provides Adequate Assurance to City.

23. Remedies

After receiving notice of an Event of Default, if the Defaulting Party remedies or removes the cause(s) of default as provided for above, then the notice will be withdrawn and this Agreement will continue. If either Party fails to cure the Event of Default as provided above and the Non-Defaulting Party chooses to terminate as specified above, then the Non-Defaulting Party is entitled to damages arising from the Defaulting Party's default. In that event, the Non-Defaulting Party will calculate in a commercially reasonable manner a Settlement Amount payable by the Defaulting Party to the Non-Defaulting Party. The Settlement Amount will be due from the Defaulting Party within 60 business days after liquidation to the Non-Defaulting Party. Cancellation of this Agreement will not relieve either Party of its liability for payments of any outstanding amounts to the other Party.

If either Party defaults under this Agreement, without limiting its rights herein, a Non-Defaulting Party may set off any and all amounts that the Defaulting Party owes to it against any or all amounts it owes the Defaulting Party (whether or not then due).

24. Records and Audits

A. Records

(i) Upon request, the Contractor must furnish to the City such information reasonably required by City to verify the accuracy of any bill or charge.

All books and accounts in connection with this Agreement 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 at least five (5) years after the expiration or termination of the Agreement.

B. Audits

(i) Contractor and any of its Subcontractors must furnish City with all information that may be reasonably requested pertaining to all costs and charges that the Contractor is authorized to pass-through to the City under this Agreement which relate to the delivery of the electricity supply. Contractor must keep books, documents, paper, records and accounts in connection with the services open to audit, inspection, copying, abstracting and transcription and must make these records available (in paper and electronic form) to City, its auditors at reasonable and mutually convenient times and places during the term of this Agreement or within five years after termination.

(ii) Contractor must maintain its books, records, documents and other evidence and adopt accounting procedures and practices sufficient to reflect properly all pass-through costs and charges of whatever nature claimed to have been incurred and anticipated to be incurred for or in connection with the performance of this Agreement. This system of accounting must be in accordance with generally accepted accounting principles and practices, consistently applied throughout.

(iii) No provision in this Agreement granting City a right of access to records and documents is intended to impair, limit or affect any right of access to such records and documents that City would have had in the absence of such provisions.

(iv) City may in its sole discretion audit the records of Contractor or its Subcontractors relating to all pass-through costs and charges, at a mutually agreeable place and time during the term of this Agreement or within five years after the Agreement ends, in connection with the goods, work, or services provided under this Agreement. Each calendar year or partial calendar year is considered an "audited period." If, as a result of such an audit, it is determined that Contractor or any of its Subcontractors has overcharged City in the audited period, City will notify Contractor. Contractor must then promptly reimburse City for any amounts City has paid Contractor due to the overcharges, plus interest at the Interest Rate from the date of payment of the overcharge. Contractor will not be responsible for any interest on overcharges that result, through no fault of Contractor, from incorrect meter readings or meter readings supplied by the Delivery Company to the Contractor.

Nothing in this section may be deemed to require Contractor to create or maintain any record that the Contractor does not maintain in the ordinary course of business or pursuant to a provision of applicable law, provided however that the Contractor must maintain any data and records required by this Agreement.

25. 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.

26. 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.

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.

27. Standard of Performance

Contractor must perform all Services required of it under this Agreement with that degree of skill, care and diligence normally shown by a contractor performing services of a scope and purpose and magnitude comparable with the nature of the Services to be provided under this Agreement. Contractor acknowledges that it is entrusted with or has access to valuable and

confidential information and records of the City and with respect to that information. **Any review, approval, acceptance of Services or Deliverables 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 under this Agreement, at law or in equity.**

Contractor must be appropriately licensed to perform the Services, if required by law, and 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 as may be required by law. Contractor must provide 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 Agreement.

If Contractor fails to comply with the foregoing standards, Contractor must, at the City's option, perform again, at its own expense, all Services required to be re-performed as a direct or indirect result of that failure, unless the reason is failure to have and maintain required licensure.

28. Timeliness of Performance

Contractor must provide the Services and Deliverables within the term and within the time limits required under this Contract. 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.

29. 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.

30. 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.

31. 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 or the Commissioner, 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.

32. Multi Project Labor Agreement (PLA)

The City has entered into the PLA with various trades regarding projects involving construction, demolition, maintenance, rehabilitation, and/or renovation work, as described in the PLA, a copy of which may be found on the City's website at:

<http://www.cityofchicago.org/dam/city/depts/dps/RulesRegulations/Multi-ProjectLaborAgreement-PLAandSignatoryUnions.pdf>.

To the extent that this Contract involves a project that is subject to the PLA, Contractor acknowledges familiarity with the requirements of the PLA and its applicability to any Work under this Contract, and shall comply in all respects with the PLA.

33. Severability

If any provision(s) of this Agreement is held to be invalid, illegal or unenforceable, such invalidity, illegality or unenforceability will not affect any other provisions of this Agreement, and this Agreement will be construed as if such invalid, illegal or unenforceable provision had never been contained herein; the remaining provisions will remain in full force and will not be affected by the invalid, illegal or unenforceable provision or by its severance.

34. Non-waiver

Either Party's failure at any time to require strict performance by the other Party of any provision of this Agreement will not waive a party's right to demand strict compliance with any other provision of this Agreement or such provision at any other time. Any waiver of any terms of this Agreement must be in writing and shall not diminish the future enforceability of this Agreement.

35. Necessary Documents

Each Party agrees to execute and deliver all further documents, and take all further action reasonably necessary to effectuate the purpose of this Agreement, including any prerequisites required by Delivery Company.

36. Deemed Inclusion

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

The following additional attachments are deemed included:

Attachments:

- Exhibit A: Scope of Services
- Exhibit B: Load Following Block Pricing - Special Conditions
- Exhibit C: Percentage of Load Block Pricing Schedule
- Exhibit D-1: Fixed Pricing Schedule - List 2 Facility Accounts
- Exhibit D-2: Fixed Pricing Schedule - Facility Accounts List 3 Lighting Accounts
- Exhibit D-3: Supply Plan Details
- Exhibit E: City of Chicago Required Terms
- Exhibit F: City of Chicago Request for Proposals (RFP)
- Exhibit G: Contractor RFP Response
- Exhibit H: Example Insurance Certification and Evidence of Insurance

- Exhibit I: Special Conditions Regarding MBE/WBE Commitment and MBE/WBE Compliance Plan
- Exhibit K: Sexual Harassment Policy Affidavit
- Exhibit L: Affidavit Regarding Policy on Non-Disclosure of Salary History
- Exhibit M: Listed Accounts

37. Representations

Contractor represents that it has carefully examined and analyzed the provisions and requirements of this Agreement; it understands the nature of the Full Requirements required; from its own analysis it has satisfied itself as to the nature of all things needed for the performance of this Agreement; this Agreement is feasible of performance in accordance with all of its provisions and requirements, and Contractor warrants it can and will provide, or cause to be provided, the Full Requirements services in strict accordance with the provisions and requirements of this Agreement. City represents that it has the capacity and authority to enter into an agreement for the purchase of electricity supply; to authorize a third party to make all necessary arrangements for the purchase and delivery of such Full Requirements to the Listed Accounts.

38. No Consequential Damages

In no event will either Party be liable to the other for any special, incidental, consequential, punitive or exemplary damages arising out of or in connection with this Agreement, whether such damage claim is a result of breach of contract, tort liability (including negligence), strict liability, or otherwise. The limitation of liability in this paragraph does not apply to: (i) Contractor's liability for Contractor's or its Subcontractors fraud or gross negligence, including, but not limited to misrepresentations made by Contractor in any submission to City; (ii) any claims covered by Contractor's indemnity obligation; (iii) any claims covered by and for which proceeds are provided by any insurance, bond, letter of credit or guaranty provided for herein; and (iv) Contractor's unlawful refusal to perform its obligations pursuant to this Agreement

39. Miscellaneous

This Agreement shall not be construed against a Party by reason of who prepared it. Each Party represents and warrants that the person signing this Agreement is authorized to do so and that this Agreement is a valid and binding obligation of such Party. The parties agree that electronic copies of executed original copies of this Agreement shall be sufficient and admissible evidence of the content and existence of this Agreement to the same extent as the originally executed copy or copies (if executed in counterpart).

40. 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's designee specified below.

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 specified below.

<p>Contractor:</p> <p>Notices, Correspondence and Parcel Deliveries,</p> <p>Contractor</p> <p>Fax Number</p>	<p>Customer:</p> <p>City of Chicago Department of Assets, Information and Services Attn: Deputy Commissioner Sandra Blakemore 30 N LaSalle St Chicago, IL 60602-3383</p> <p>Phone number: 312-744-7709</p> <p>Cc:</p>
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41. Interpretation

- (a) The term "include" (in all its forms) means "include, without limitation" unless the context clearly states otherwise.
- (b) All references in this Agreement to Articles, Sections or Exhibits, unless otherwise expressed or indicated are to the Articles, Sections or Exhibits of this Agreement.
- (c) Words importing persons include firms, associations, partnerships, trusts, corporations and other legal entities, including public bodies, as well as natural persons.
- (d) Any headings preceding the text of the Articles and Sections of this Agreement, and any table of contents or marginal notes appended to it, are solely for convenience or reference and do not constitute a part of this Agreement, nor do they affect the meaning, construction or effect of this Agreement.
- (e) Words importing the singular include the plural and vice versa. Words of the masculine gender include the correlative words of the feminine and neuter genders.
- (f) All references to a number of days mean calendar days, unless indicated otherwise.

42. Order of Precedence

In the event of a conflict between (a) Exhibit A Scope of Services, (b) Exhibit G Contractor’s RFP Response, and (c) the general terms of this Agreement, the terms of the documents shall control in the order listed in this sentence.

43. Governing law and jurisdiction

This Agreement is governed as to performance and interpretation in accordance with the laws of the State of Illinois. Contractor irrevocably submits itself to the original jurisdiction of those 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 Agreement. Service of process on 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 Agreement, by registered or certified mail addressed to the office actually maintained by Contractor, or by personal delivery on any officer, director, or managing or general agent of Contractor. If any action is brought by Contractor against the City concerning this Agreement, the action must be brought only in those courts located within the County of Cook, State of Illinois.

44. Change in Laws

If there is a change in applicable federal or state law, in applicable tariffs or the regulatory interpretation, ordinances, rules, executive orders or applicable regulations or if there is a change in the applicable rate class for City's accounts (collectively, "Changes in Law") after the date of this Agreement that materially and adversely affects a Party's (the "Affected Party") ability to perform its obligations hereunder or which makes performing such obligations materially economically burdensome, then the Affected Party may send written notice to the other party. The written notice will identify the costs (and the method by which those costs were determined) that would-be incurred by the Affected Party if it continues to perform its obligations under this Agreement in accordance with the Change in Law. If the party receiving the notice of the Change in Law does not within 30 calendar days of receiving the Affected Party's notice agree to pay the additional costs associated with the Affected Party's complying with the Change in Law, then the Affected Party has the right to cancel this Agreement upon 30 calendar days advance written notice to the other party. The cancellation notice will detail the specific changes relied upon. No Change in Law which is enacted prior to the effective date of this Agreement shall be considered a material and adverse Change in Law under this Section.

45. Forward Contract; Inapplicability of Commodities Exchange Act

The Parties acknowledge and agree that this Agreement is a "forward contract" and that Contractor is a "forward contract merchant" for purposes of the U.S. Bankruptcy Code, as amended. Further, Contractor is not providing advice regarding the value or advisability of trading in "commodity interests" as defined in the Commodity Exchange Act, 7 U.S.C. §§ 1-25, et seq., as amended (the "CEA"), including futures contracts and commodity options or any other activity which would cause Contractor or any of its affiliates to be considered a commodity trading advisor under the CEA.

46. Contract Changes

Any change, modification, change order, or amendment (hereinafter "Contract Change") to this Agreement must be in writing and approved and signed by the Commissioner and Contractor with the exception of Change in Laws. Section 26 shall apply to Change in Laws. Contract Changes can include, but are not limited to, changes to scope, time extensions, cost, contract terms, or any combination thereof. Contractor shall be liable for satisfactorily correcting, and/or all costs resulting from, any change not ordered in writing and signed by the Commissioner.

47. No Third Party Beneficiaries

The parties agree that this Agreement 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.

48. 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.

49. Limitation of Liability

In carrying out any of the provisions of this Agreement or in exercising any power or authority granted to them thereby, there will be no liability upon the board members, officials, agents or employees of the City, either personally or as officials of the City, it being understood that in such matters they act as representatives of the City.

50. Advertising and Publicity

It is the policy of City that no endorsement by City be stated or implied by Contractor for any of Contractor's products or services. All materials utilizing the name or trademarks of City in advertising, marketing, and sales promotion materials must be submitted to the Department for approval at the following address:

Sandra Blakemore
Deputy Commissioner, Finance, Procurement, and Energy
Department of Assets, Information, and Services
30 N. LaSalle St., Suite 300 Chicago, IL 60602-2575
sandra.blakemore@cityofchicago.org

Notwithstanding the above, Contractor may identify the City as a customer or client in a general customer reference list.

51. Representations of Contractor

In connection with the execution of this Agreement, the Contractor represents and warrants:

- A. That it, each of its joint venture members if a joint venture, and its Subcontractors, are not in default at the time of the execution of this Agreement, or deemed by the City to have, within 3 years immediately preceding the date of this Contract, been found to be in default, in connection with any contract awarded by the City.
- B. That this Agreement is feasible of performance in accordance with all of its provisions and requirements and that the Contractor can and will perform, or cause to be performed, the Scope of Services in accordance with the provisions and requirements of this Agreement.
- C. The parties acknowledge that, except only for those representations, statements, or promises expressly contained in this Agreement, and any exhibits attached hereto and incorporated by reference herein, neither Party has relied upon any other representation, statement or promise of the other Party, either made orally or in writing.
- D. That, Contractor acknowledges that the City, in its selection of the Contractor to perform the Scope of Services hereunder, materially relied upon the Contractor's response(s) to the City's solicitation.

52. Illinois Criminal Code Certification

Further, the undersigned Contractor, being duly sworn, deposes and states on oath that the undersigned has not entered into any agreement with any other proposer or prospective proposer or with any other person, firm or corporation relating to the price or prices named within the undersigned's proposal or any other proposal, nor any agreement or arrangement under which any person, firm or corporation is to refrain from proposing, nor any agreement or arrangement for any act or omission in restraint of free competition among proposers, and has not disclosed to any person, firm or corporation the terms of the undersigned's proposal or the price or prices named herein.

As required by Section 33E-11 of the Illinois Criminal Code of 1961, as amended (the "Act"), the undersigned certifies that the Contractor or any agent, partner, employee, or officer of the Contractor is not barred from contracting with any unit of state or local government as a result of engaging in or being convicted of either bid-rigging in violation of Section 3 of Article 33E or bid-rotating in violation of Section 4 of Article 33E of the Act or any similar offenses of any state or the United States that contain the same elements as the offenses of bid-rigging or bid-rotating.

53. Assignment

This Agreement is binding upon the Parties' respective successors and permitted assignees.

The Contractor may not assign this Agreement in whole or in part without the written approval of the City. In no case will such written approval relieve the Contractor from its obligations or change the terms of the Agreement.

The City agrees that it shall only assign this Agreement to a person or entity whose creditworthiness is the same as or better than City's as of the effective date of this Agreement.

54. Decision to Switch Suppliers; Authorization to Obtain Information

CITY HEREBY CONFIRMS ITS DECISION TO SWITCH SUPPLIERS TO CONTRACTOR subject to the conditions in this Agreement. Unless otherwise specified in this Agreement or in an amendment hereto executed by both Parties, all electricity supply required by Listed Accounts associated with the Account Number(s) specified in the attachments will be switched to Contractor as of the commencement of service date(s) specified herein. City hereby authorizes Contractor to receive City's historical and ongoing usage information from the Delivery Company.

55. Taxes

Contractor acknowledges that City is exempt and not subject to certain taxes under Illinois law. Contractor shall not attempt to charge or otherwise invoice the City for any such taxes. In the event of a change in tax exemption status, the party entitled to an exemption from any taxes or related charges shall furnish the other party all reasonably requested documentation evidencing the change in status.

56. Access to Contractor Representative

Contractor acknowledges that City's purchase of electricity supply is in part to provide for publicly owned and operated municipal services, including wastewater, transportation and healthcare buildings and facilities, street and traffic lights and that the uninterrupted flow of electricity is essential to City's operations and critical to the public health, safety and welfare. Contractor agrees to provide 24-hour, 7-days per week access by telephone and email to a representative who will give all requests for assistance from the Commissioner or designee the highest priority for resolution.

SIGNATORY PAGE

IN WITNESS WHEREOF, on the ____ day of _____, 2020, the Parties have executed this Agreement.

SIGNED at Chicago, Illinois:

_____ [Name of Contractor]

By: _____

Its: _____

State of

County of

Signed and sworn before me by the signatory whose name appears above on this:

_____ day of _____, 2020.
(day) (month) (year)

My Commission expires:

(Signature of Notary Public)
City of Chicago

By: _____

Its: _____

EXHIBIT A: SCOPE OF SERVICES

This Exhibit A takes precedence over any inconsistent provisions in the Agreement.

Required Services

This Scope of Services covers all accounts listed in Exhibit M, for a term beginning with the ComEd-determined January 2022 meter read dates and continuing through the date specified in Section 5 of the Agreement.

The Contractor must:

- Execute a comprehensive Supply Plan, as described in the Contractor RFP Response, Exhibit G, that provides for the full requirements electricity supply needs of all City accounts included in Exhibit M, priced in accordance with Contractor's price proposal (Form 5 of the Response) and the Agreement.
- Include in their Supply Plan at least the minimum quantities of New Build Renewable Generation and total Qualifying Renewable Generation specified in the RFP's Exhibit B in the timeframes indicated.
- Implement the Contractor RFP Response's local and equitable co-benefit components.

The Contractor will provide to the City monthly Excel reports containing sufficient detail regarding electricity usage and charges to the City to verify the accuracy of their invoices. The Agreement describes these reports in detail. Timely payment of the Contractor's invoices will depend on receipt of these reports.

During the Agreement's term, the Contractor will provide indicative prices for On Peak and Off Peak load-following energy blocks when requested by the City. When requested by the City, the Contractor will also provide executable quotes as further described in the Agreement.

As described in Section 21 of the Agreement, the City must retain the ability to add new accounts that come into service during the term and remove accounts that go out of service during the term. Historically, this activity has had a minimal impact on either the total number of City accounts or on the aggregate load, but some account addition and deletion has occurred every year (as should be expected for a portfolio this large).

The City retains the right to reduce consumption for its accounts through energy efficiency improvements over the Agreement's term. Any such plans will be communicated to the Contractor so that they may plan accordingly. No specific plans are known at this time.

The City retains the right to participate in a demand response program during the term, taking steps to lower demand when called upon to do so in the interest of lowering the kW and kWh of specific accounts.

The City is subject to the Illinois Prompt Payment Act. Under this provision, payment terms for service are 60 days net. That said, the City has historically used best efforts to make payment sooner than required (typically within 30 days after complete, correct, and valid energy supply invoices are presented to the City).

Optional Services

Contractor may have incorporated other features into its Proposal, including:

- Daily indicative energy quotes: If feasible, the City is interested in receiving scheduled daily indicative load-following energy quotes from the Contractor, if specified in the Proposal.
- Supplier Consolidated Billing: The Contractor offers to acquire bill records for each account served through Delivery Company to allow the Contractor to bill the City for Delivery Company distribution service charges for its accounts, and in turn, pay Delivery Company on the City's behalf for the services.
- Fixed Capacity Costs for the City's Large Facility accounts: Capacity Charges associated with service to the City's List 2 Small Facility accounts, and List 3 Lighting accounts are included in the Form 5, Part A and Part B Fixed Prices. Capacity Charges associated with service to the City's List 1 Large Facility accounts are assumed to be at tariff rates and are included in the Pass-Through Charges on Form C, Part C. If Proposer is interested in providing Capacity Charges to the List 1 accounts at a specified rate, Respondent may specify this in their Supply Plan.

EXHIBIT B: LOAD-FOLLOWING BLOCK PRICING – SPECIAL CONDITIONS

These special conditions take precedence over any inconsistent provisions in the Agreement.

These conditions are applicable if City purchases pursuant to a Load-Following Block Pricing Proposal.

Forward Block Charge: During the Term of this Agreement, City may purchase any percentage of City's actual energy consumption from Contractor as a Fixed Contract Percentage. City shall request a forward purchase of a Fixed Contract Percentage at least five (5) business days prior to City's desired start date for such purchase. Such notification shall: (i) set forth the Fixed Contract Percentage expressed as a percentage of actual consumption, (ii) designate the time period as expressed in NERC On Peak or Off Peak wholesale periods, and (iii) designate the month or months to which the forward purchase will apply. The Pricing Point for any wholesale energy purchase shall be the ComEd Zone.

The On Peak and Off Peak charges quoted shall be as follows: The On Peak period, as defined by NERC, are the hours between 6 am and 10 pm prevailing Central Time, Monday through Friday, except for NERC-defined holidays. The NERC-defined holidays are: New Year's Day, Memorial Day, Independence Day, Labor Day, Thanksgiving Day and Christmas Day. The Off Peak period shall be all other hours. This definition of On Peak and Off Peak charges shall apply to all usage and price related components.

City will pay the Forward Block Charge which equals the sum of On Peak Block Charge plus Off Peak Block Charge. The On Peak Block Charge equals the product of the On Peak Fixed Contract Percentage, the On Peak Block Price, and the actual On Peak consumption. The Off Peak Block Charge equals the product of the Off Peak Fixed Contract Percentage, the Off Peak Block Price, and the actual Off Peak consumption.

Index Energy Charge: City will pay the Day Ahead Charge, which equals the product of the hourly Day Ahead Locational Marginal Price for the ComEd Zone ("ComEd Day Ahead LMP"), and the quantity equal to the actual usage multiplied by any consumption for which a Fixed Contract Percentage has not been executed.. If the Day Ahead Charge is negative, Contractor will credit the amount to City.

Under no circumstance will the City be subject to Index Energy charges based upon the Real Time Locational Marginal Price.

Retail Energy Charge: Contractor will charge a Retail Energy Charge which is equal to the product of the Fixed Retail Adder stated below and the kWh actually consumed by City. The Retail Energy Charge will be billed to the City as a separate line item. The components to be included in the Fixed Retail Adder are set forth below.

The Fixed Retail Adder is the charge per unit (\$ per MWh) which includes the following components: Contractor's costs associated with ancillary services, PJM administration costs, ARR (Auction Revenue Right) credits, MLC (Marginal Loss Credit), and Contractor's Margin.

Pass Through Charges: Contractor will pass through to City without mark-up tariffed charges for capacity, network integrated transmission service (NITS), transmission and distribution losses (together, the "Pass-Through Charges"). Transmission and distribution losses will be calculated for each account based on the assigned rate class loss factor multiplied by the weighted average energy rate (taking both Fixed Block energy and Index Energy into account for each Listed Account and for

each month). If City elects Consolidated Billing, then Pass Through charges will include Delivery Charges.

Price Formula: The price formula defining what City will pay under the Block Pricing structure in any month during the term of the Agreement is as follows:

Forward Block Charge, plus
Index Energy Charge, plus
Retail Energy Charge, plus
Contractor's Margin, plus
Pass-Through Charges.

NO OTHER CHARGES SHALL BE BILLED TO CITY

Unless the City elects Consolidated Billing, City will be billed separately by ComEd for delivery services charges, as assigned by ComEd to the Listed Accounts, and other charges under applicable ComEd tariffs. If the City elects Consolidated Billing, ComEd delivery charges will be separately stated on Contractor's invoices to City.

EXHIBIT C: PERCENTAGE OF LOAD BLOCK PRICING SCHEDULE

EXHIBIT D-1: FIXED PRICING SCHEDULE – List 2 Facility Accounts

EXHIBIT D-2: FIXED PRICING SCHEDULE – List 3 Lighting Accounts

EXHIBIT D-3: SUPPLY PLAN DETAILS

EXHIBIT E: CITY OF CHICAGO REQUIRED TERMS

1.1 COMPLIANCE WITH ALL LAWS GENERALLY

(a) Contractor must observe and 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 Agreement, including those set forth in this Exhibit E, and Contractor must pay all taxes and obtain all licenses, certificates and other authorizations required by them. Contractor must require all Subcontractors to do so, also. Further, Contractor or each joint venture partner, as applicable, must execute an Economic Disclosure Statement and Affidavit ("EDS") in the form attached to this Agreement as Exhibit M. Notwithstanding acceptance by the City of the EDS, Contractor's failure in the EDS to include all information required under the Municipal Code renders this Agreement voidable at the option of the City. Contractor must promptly update its EDS(s) on file with the City whenever any information or response provided in the EDS(s) is no longer complete and accurate. Contractor agrees that Contractor's failure to maintain current throughout the term and any extensions of the term, the disclosures and information pertaining to ineligibility to do business with the City under Chapter 1-23 of the Municipal Code, as such is required under Sec. 2-154-020, shall constitute an event of default.

(b) Notwithstanding anything in this Agreement to the contrary, references to a statute or law are considered to be a reference to (i) the statute or law as it may be amended from time to time; (ii) all regulations and rules pertaining to or promulgated pursuant to the statute or law; and (iii) all future statutes, laws, regulations, rules and executive orders pertaining to the same or similar subject matter.

1.2 NONDISCRIMINATION

(a) **Contractor**

Contractor must comply with applicable federal, state, and local laws and related regulations prohibiting discrimination against individuals and groups.

(i) **Federal Requirements**

Contractor must not engage in unlawful employment practices, such as (1) failing or refusing to hire or discharging any individual, or otherwise discriminating against any individual with respect to compensation or the terms, conditions, or privileges of the individual's employment, because of the individual's race, color, religion, sex, age, handicap/disability or national origin; or (2) limiting, segregating or classifying Contractor's employees or applicants for employment in any way that would deprive or tend to deprive any individual of employment opportunities or otherwise adversely affect the individual's status as an employee, because of the individual's race, color, religion, sex, age, handicap/disability or national origin.

Contractor must comply with, and the procedures Contractor utilizes and the Services Contractor provides under this Agreement must comply with, the Civil Rights Act of 1964, 42 U.S.C. sec.

2000e *et seq.* (1981), as amended and the Civil Rights Act of 1991, P.L. 102-166. Attention is called to: Exec. Order No. 11246, 30 Fed. Reg. 12,319 (1965), reprinted in 42 U.S.C. 2000e note, as amended by Exec. Order No. 11375, 32 Fed. Reg. 14,303 (1967) and by Exec. Order No. 12086, 43 Fed. Reg. 46,501 (1978); Age Discrimination Act, 42 U.S.C. §6101-6106 (1981); Age Discrimination in Employment Act, 29 U.S.C. §621-34; Rehabilitation Act of 1973, 29 U.S.C. §793-794 (1981); Americans with Disabilities Act, 42 U.S.C. §12101 *et seq.*; 41 C.F.R. Part 60 *et seq.* (1990); and all other applicable federal statutes, regulations and other laws.

(ii) **State Requirements**

Contractor must comply with, and the procedures Contractor utilizes and the Services Contractor provides under this Agreement must comply with, the Illinois Human Rights Act, 775 ILCS 5/1-101 *et seq.* (1990), as amended and any rules and regulations promulgated in accordance with it, including the Equal Employment Opportunity Clause, 44 Ill. Admin. Code §750 Appendix A. Furthermore, Contractor must comply with the Public Works Employment Discrimination Act, 775 ILCS 10/0.01 *et seq.* (1990), as amended, and all other applicable state statutes, regulations and other laws.

(iii) **City Requirements**

Contractor must comply with, and the procedures Contractor utilizes and the Services Contractor provides under this Agreement must comply with, the Chicago Human Rights Ordinance, ch. 2-160, Section 2-160-010 *et seq.* of the Municipal Code of Chicago (1990), as amended, and all other applicable City ordinances and rules.

(b) **Subcontractors**

Contractor must incorporate all of this Section 1.2 by reference in all agreements entered into with any suppliers of materials, furnisher of services, Subcontractors of any tier, and labor organizations that furnish skilled, unskilled and craft union skilled labor, or that may provide any such materials, labor or services in connection with this Agreement. Further, Contractor must furnish and must cause each of its Subcontractor(s) to furnish such reports and information as requested by the federal, state, and local agencies charged with enforcing such laws and regulations, including the Chicago Commission on Human Relations.

1.3 **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 in any investigation or hearing undertaken pursuant to Chapter 2-56 of the Municipal Code. Contractor understands and will abide by all provisions of Chapter 2-56 of the Municipal Code. All subcontracts must inform Subcontractors of the provision and require understanding and compliance with it.

1.4 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.

1.5 FALSE STATEMENTS

False statements made in connection with this Agreement, including statements in, omissions from and failures to timely update the EDS, as well as in any other affidavits, statements or Agreement Documents constitute a material breach of the Contract. Any such misrepresentation renders the Agreement 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).

1.6 MACBRIDE ORDINANCE

The City of Chicago through the passage of the MacBride Principles Ordinance seeks to promote 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 Section 2-92-580 of the Municipal Code of the City of Chicago, if Contractor conducts any business operations in Northern Ireland, the Contractor must 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).

The provisions of this Section 1.6 do not apply to contracts for which the City receives funds administered by the United States Department of Transportation, except to the extent Congress has directed that the Department of Transportation 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 the Department of Transportation.

1.7 CITY 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.

1.8 BUSINESS RELATIONSHIPS WITH ELECTED OFFICIALS

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 § 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.

1.9 WAGES

Contractor must pay the highest of (1) minimum wage specified by Mayoral Executive Order 2014-1; (2) "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.

(a) 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. A copy of the Order may be downloaded from the Chicago City Clerk's website at:

<http://www.chicityclerk.com/legislation-records/journals-and-reports/executive-orders>

If this Agreement was advertised on or after October 1, 2014, Contractor must comply with Mayoral Executive Order 2014-1 and any applicable rules issued by the CPO. As of July 1, 2020, the Minimum Wage to be paid pursuant to the Order is \$14.15 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.

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 Agreement 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 of a Base Wage pursuant to MCC Sect. 2-92-610 is required for work or services done under this Agreement, 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.

(b) Chicago "Living Wage" Ordinance

(i) Section 2-92-610 of the Municipal Code provides for a living wage for certain categories of workers employed in the performance of City contracts, specifically non-City employed security guards, parking attendants, day laborers, home and health care workers, cashiers, elevator operators, custodial workers and clerical workers ("**Covered Employees**"). Accordingly, pursuant to Section 2-92-610 and rules promulgated under it:

(A) If Contractor has 25 or more full-time employees, and

(B) If at any time during the performance of this Agreement, 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

(C) Contractor must pay its Covered Employees, and must ensure that all other Performing Parties pay their Covered Employees, not less than the minimum hourly rate as determined in accordance with this provision (the "**Base Wage**") for all Services performed under this Agreement.

(ii) Contractor's obligation to pay, and to ensure payment of, the Base Wage will begin at any time during the term of this Agreement when the conditions set forth in (a)(i) and (a)(ii) above are met, and will continue until the end of the term of this Agreement.

(iii) As of July 1, 2019, the Base Wage is \$12.88 per hour, and each July 1 thereafter, the Base Wage will be adjusted using the most recent federal poverty guidelines for a family of four as published

annually by the U.S. Department of Health and Human Services, to constitute the following: the poverty guidelines for a family of four divided by 2000 hours or the current base wage, whichever is higher. The currently applicable Base Wage is available from the Department of Procurement Services. At all times during the term of this Agreement, 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 Services done under this Agreement, and the prevailing wages for Covered Employees are higher than the Base Wage, then Contractor and all other Performing Parties must pay the prevailing wage rates.

(iv) Contractor must include provisions in all subcontracts requiring its Subcontractors to pay the Base Wage to Covered Employees. Contractor agrees to provide the City with documentation acceptable to the Commissioner demonstrating that all Covered Employees, whether employed by Contractor or by a Subcontractor, have been paid the Base Wage, upon the City's request for such documentation. The City may independently audit Contractor and/or Subcontractors to verify compliance with this section. Failure to comply with the requirements of this section will be an event of default under this Agreement, and further, failure to comply may result in ineligibility for any award of a City contract or subcontract for up to 3 years.

(v) Not-for-Profit Corporations: If 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 of subsections (a) through (d) above do not apply.

(c) Chicago Paid Sick Leave Ordinance

The Paid Sick Leave Ordinance, which is published in the June 22, 2016 Council Journal, pages 27188 – 27197 and which will be codified at MCC 1-24-045, became effective July 1, 2017. Contractor understands that, to the extent that the Ordinance applies to its activities, it must comply with the Ordinance.

1.10 ENVIRONMENTAL WARRANTIES AND REPRESENTATIONS

In accordance with Section 11-4-1600(e) of the Municipal Code of Chicago, 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 Agreement is executory, Contractor's or any subcontractor's violation of the Waste Sections, whether or not relating to the performance of this Agreement,

constitutes a breach of and an event of default under this Agreement, for which the opportunity to cure, if curable, will be granted only at the sole discretion of the Commissioner. Such breach and default entitles the City to all remedies under the Agreement, at law or in equity.

This section does not limit 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 Agreement.

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

1.11 PROHIBITION ON CERTAIN CONTRIBUTIONS

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 Commissioner 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.

1.12 FIRMS OWNED OR OPERATED BY INDIVIDUALS WITH DISABILITIES

The City encourages Contractors to use Subcontractors that are firms owned or operated by individuals with disabilities, as defined by Section 2-92-586 of the Municipal Code of the City of Chicago, where not otherwise prohibited by federal or state law.

1.13 INELIGIBILITY TO DO BUSINESS WITH CITY

Failure by the Contractor or any Controlling Person (defined in Section 1-23-010 of the Municipal Code) thereof to maintain eligibility to do business with the City in violation of Section 1-23-030 of the Municipal Code shall render this Agreement voidable or subject to termination, at the option of the Commissioner. Agreement agrees that Contractor's failure to maintain eligibility (or failure by Controlling Persons to maintain eligibility) to do business with the City in violation of Section 1-23-030 of the Municipal Code shall constitute an event of default.

1.14 DUTY TO REPORT CORRUPT OR UNLAWFUL ACTIVITY

Pursuant to §2-156-018 of the Municipal Code, 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 §1-23-020 of the Municipal Code. Knowing failure to make such a report will be an event of default under this Agreement. Reports may be made to the Inspector General's toll free hotline, 866-IG-TIPLINE (866-448-4754).

1.15 POLICY PROHIBITING SEXUAL HARASSMENT (SECTION 2-92-612 OF THE CHICAGO MUNICIPAL CODE)

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

“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.

“Contractor” means the person to whom a contract is awarded.

“Sexual harassment” means any unwelcome sexual advances or requests for sexual favors or conduct of a sexual nature when (i) submission to such conduct is made either explicitly or implicitly a term or condition of an individual's employment; or (ii) submission to or rejection of such conduct by an individual is used as the basis for any employment decision affecting the individual; or (iii) such conduct has the purpose or effect of substantially interfering with an individual's work performance or creating an intimidating, hostile or offensive working environment.

“Subcontractor” means any person that enters into a contract with a contractor to perform work on a contract.

As a condition of contract award, Contractor shall, as prescribed by the Commissioner, attest by affidavit that Contractor has a written policy prohibiting sexual harassment that shall include, at a minimum, the following information: (i) the illegality of sexual harassment; (ii) the definition of sexual harassment; and (iii) the legal recourse available for victims of sexual harassment. Contractor's affidavit is included in Exhibit K, “Sexual Harassment Policy Affidavit”.

Contractor's failure to have a written policy prohibiting sexual harassment as provided above shall constitute an event of default. In the event of default, the Commissioner shall notify Contractor of such noncompliance and may, as appropriate: (i) issue Contractor an opportunity to cure consistent with the default provisions in this Agreement; (ii) terminate the contract; or (iii) take any other action consistent with the default provisions in the contract. This section shall not be construed to prohibit the City from prosecuting any person who knowingly makes a false statement of material fact to the city pursuant to Chapter 1-21 of this Code, or from availing itself of any other remedies under contract or law.

1.13 POLICY ON NON-DISCLOSURE OF SALARY HISTORY (SECTION 2-92-385 OF THE CHICAGO MUNICIPAL CODE)

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

“Contract” means any Agreement or transaction pursuant to which a contractor (i) receives City funds in consideration for services, work or goods provided or rendered, including contracts for legal or other professional services, or (ii) pays the City money in consideration for a license, grant or concession allowing it to conduct a business on City premises, and includes any contracts not awarded or processed by the Department of Procurement Services.

“Contractor” means the person to whom a contract is awarded.

As a condition of contract award, Contractor shall attest by affidavit that Contractor has a policy that conforms to the following requirements:

(1) Contractor shall not screen job applicants based on their wage or salary history, including by requiring that an applicant's prior wages, including benefits or other compensation, satisfy minimum or maximum criteria; or by requesting or requiring an applicant to disclose prior wages or salary, either (i) as a condition of being interviewed, (ii) as a condition of continuing to be considered for an offer of employment, (iii) as a condition of an offer of employment or an offer of compensation, or (iv) as a condition of employment; and

(2) Contractor shall not seek an applicant's wage or salary history, including benefits or other compensation, from any current or former employer.

Contractor's affidavit is included in Exhibit L titled “Affidavit Regarding Policy on Non-Disclosure of Salary History”.

If Contractor violates the above requirements, Contractor may be deemed ineligible to contract with the City; any contract, extension, or renewal thereof awarded in violation of the above requirements may be voidable at the option of the City. Provided, however, that upon a finding of a violation by Contractor, no contract shall be voided, terminated, or revoked without consideration by the Chief Procurement Officer of such action's impact on the Contractor's MBE or WBE subcontractors.

2.1 WARRANTIES AND REPRESENTATIONS

In connection with signing and carrying out this Agreement, Contractor:

(a) warrants that Contractor is appropriately licensed under Illinois law to provide the electricity supply required under this Agreement and will provide no electricity supply for which a professional license is required by law and for which Contractor is not appropriately licensed;

(b) warrants it is financially solvent; it and each of its employees, agents and Subcontractors of any tier are competent to perform the Services required under this Agreement; and Contractor is legally authorized to execute and perform or cause to be performed this Agreement under the terms and conditions stated in this Agreement;

(c) warrants that it will not knowingly use the services of any ineligible contractor or Subcontractor for any purpose in the performance of its Services under this Agreement;

(d) warrants that Contractor and its Subcontractors are not in default at the time this Agreement is signed, and have not been deemed by the Chief Procurement Officer to have, within 5 years immediately preceding the date of this Agreement, been found to be in default on any contract awarded by the City;

(e) represents that it has carefully examined and analyzed the provisions and requirements of this Agreement; it understands the nature of the Services required; from its own analysis it has satisfied itself as to the nature of all things needed for the performance of this Agreement; this Agreement is feasible of performance in accordance with all of its provisions and requirements, and Contractor warrants it can and will perform, or cause to be performed, the Services in strict accordance with the provisions and requirements of this Agreement;

(f) represents that Contractor and, to the best of its knowledge, its Subcontractors are not in violation of the provisions of §2-92-320 of the Municipal Code , and in connection with it, and additionally in connection with the Illinois Criminal Code, 720 ILCS 5/33E as amended, and the Illinois Municipal Code, 65 ILCS 5/11-42.1-1;

(g) acknowledges that any certification, affidavit or acknowledgment made under oath in connection with this Agreement is made under penalty of perjury and, if false, is also cause for termination under Sections 22 and 23 of this Agreement; and

1. (i) warrants and represents that neither Contractor nor an Affiliate of Contractor (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 of Contractor" means a person or entity that 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.

2.2 ETHICS

(a) In addition to the foregoing warranties and representations, Contractor warrants:

(i) no officer, agent or employee of the City is employed by Contractor or has a financial interest directly or indirectly in this Agreement or the compensation to be paid under this Agreement except as may be permitted in writing by the Board of Ethics established under Chapter 2-156 of the Municipal Code .

(ii) no payment, gratuity or offer of employment will be made in connection with this Agreement by or on behalf of any Subcontractors to Contractor or higher tier Subcontractors or anyone associated with them, as an inducement for the award of a subcontract or order.

(b) 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.

2.3 JOINT AND SEVERAL LIABILITY

If Contractor, or its successors or assigns, if any, is comprised of more than one individual or other legal entity (or a combination of them), then under this Agreement, each and without limitation every obligation or undertaking in this Agreement to be fulfilled or performed by Contractor is the joint and several obligation or undertaking of each such individual or other legal entity.

2.4 BUSINESS DOCUMENTS

At the request of the City, Contractor must provide copies of its latest articles of incorporation, by-laws and resolutions, or partnership or joint venture agreement, as applicable.

2.5 CONFLICTS OF INTEREST

(a) No member of the governing body of the City or other unit of government and no other officer, employee or agent of the City or other unit of government who exercises any functions or responsibilities in connection with the Services to which this Agreement pertains is permitted to have any personal interest, direct or indirect, in this Agreement. No member of or delegate to the Congress of the United States or the Illinois General Assembly and no alderman of the City or City

employee is allowed to be admitted to any share or part of this Agreement or to any financial benefit to arise from it.

(b) Contractor represents that it, and to the best of its knowledge, its Subcontractors if any (Contractor and Subcontractors will be collectively referred to in this Section 2.5 as "**Consulting Parties**"), presently have no direct or indirect interest and will not acquire any direct or indirect interest in any project or contract that would conflict in any manner or degree with the performance of its Services under this Agreement.

(c) Upon the request of the City, Consulting Parties must disclose to the City their past client lists and the names of any clients with whom they have an ongoing relationship. Consulting Parties are not permitted to perform any Services for the City on applications or other documents submitted to the City by any of Consulting Parties' past or present clients. If Consulting Parties become aware of a conflict, they must immediately stop work on the assignment causing the conflict and notify the City.

(d) Without limiting the foregoing, if the Consulting Parties assist the City in determining the advisability or feasibility of a project or in recommending, researching, preparing, drafting or issuing a request for proposals or bid specifications for a project, the Consulting Parties must not participate, directly or indirectly, as a prime, subcontractor or joint venturer in that project or in the preparation of a proposal or bid for that project during the term of this Agreement or afterwards. The Consulting Parties may, however, assist the City in reviewing the proposals or bids for the project if none of the Consulting Parties have a relationship with the persons or entities that submitted the proposals or bids for that project.

(e) Further, Consulting Parties must not assign any person having any conflicting interest to perform any Services under this Agreement or have access to any confidential information, as described in Section 26 of this Agreement. If the City, by the Commissioner in his reasonable judgment, determines that any of Consulting Parties' services for others conflict with the Services that Consulting Parties are to render for the City under this Agreement, Consulting Parties must terminate such other services immediately upon request of the City.

(f) Furthermore, if any federal funds are to be used to compensate or reimburse Contractor under this Agreement, Contractor represents that it is and will remain in compliance with federal restrictions on lobbying set forth in Section 319 of the Department of the Interior and Related Agencies Appropriations Act for Fiscal Year 1990, 31 U.S.C. §1352, and related rules and regulations set forth at 54 Fed. Reg. 52,309 ff. (1989), as amended. If federal funds are to be used, Contractor must execute a Certification Regarding Lobbying, which is part of the EDS and incorporated by reference as if fully set forth here.

2.6 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 Agreement or because of the City's execution, attempted execution or any breach of this Agreement.

2.7 EDS / CERTIFICATION REGARDING SUSPENSION AND DEBARMENT

Contractor certifies, as further evidenced in the EDS attached as Exhibit N, by its acceptance of this Agreement that neither it nor its 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 by executing this Agreement that it will include this clause without modification in all lower tier transactions, solicitations, proposals, contracts and subcontracts. If Contractor or any lower tier participant is unable to certify to this statement, it must attach an explanation to the Agreement.

2.8 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.

2.9 PROMPT PAYMENT TO SUBCONTRACTORS

(a) 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.

(b) 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.

Provided the Subcontractor's performance has met the terms of the Contract Documents, and that Subcontractor has submitted its request for payment to the Contractor with such documentation as is reasonably necessary to substantiate such performance, the Contractor shall bill the City for such performance when the Contractor is first authorized under the payment schedule of the Contract to submit an invoice to the City for such performance. Contractor may only invoice the City at the rates contained in the Contract Documents.

(c) 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/bean.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 7-day period until fully paid.

In the event that a Contractor fails to make payment to a Subcontractor within the 7-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

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.

(d) Whistleblower Protection

Contractor shall not take any retaliatory action against any Subcontractor for reporting non-payment pursuant to this Sub-Section 2.9(c). Any such retaliatory action is an event of default under this Contract and is subject to the remedies set forth in the Agreement, Section 23, 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.

(e) 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.

(f) 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

(g) 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.

EXHIBIT F: CITY OF CHICAGO REQUEST FOR PROPOSALS
See attached document

EXHIBIT G: CONTRACTOR RFP RESPONSE

EXHIBIT H: EXAMPLE INSURANCE CERTIFICATION AND EVIDENCE OF INSURANCE

EXHIBIT I: ECONOMIC DISCLOSURE STATEMENT AND AFFIDAVIT

EXHIBIT J: SPECIAL CONDITIONS REGARDING MBE/WBE COMMITMENT AND MBE/WBE COMPLIANCE PLAN

**EXHIBIT K: SEXUAL HARASSMENT POLICY AFFIDAVIT
(MCC 2-92-612)**

EXHIBIT L: AFFIDAVIT REGARDING POLICY ON NON-DISCLOSURE OF SALARY HISTORY

EXHIBIT M: LISTED ACCOUNTS

See attached spreadsheet
("COC Electricity RFP attachment 4 Listed Accounts FINAL")

EXHIBIT N: ECONOMIC DISCLOSURE STATEMENT