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City Vendor No.	Vendor Name	City Contract/PO No.



## Removal of Rubber and Other Contaminants from Runways and Other Pavements at O'Hare and Midway International Airports

Specification Number: 778131B

RFQ Number: 5624

Issued by:

CITY OF CHICAGO DEPARTMENT OF PROCUREMENT SERVICES

Required for use by:

CITY OF CHICAGO DEPARTMENT OF AVIATION

**Bidder Inquiry Deadline:** 4:00 PM Central Time, February 18, 2020. Inquiries must be in writing.

**Pre-Bid Conference:** February 11, 2020, at 10:00 a.m., Aviation Administration Building (AAB), 2<sup>nd</sup> floor, Conf. Rm. 2, 10510 W. Zemke Road, Chicago, IL 60666.

**Bid Opening Date:** February 25, 2020

**Bid Opening Time:** 11:00 AM Central Time

**Bid Opening Location:** Bid & Bond Room, City Hall, Room 103, 121 N. LaSalle Street, Chicago, Illinois 60602

**Information:** Nicholas Waddell, Procurement Specialist  
**Email:** [nicholas.waddell@cityofchicago.org](mailto:nicholas.waddell@cityofchicago.org), **Phone:** 312-742-1341  
**DPS Address:** City Hall, Room 806, 121 North LaSalle Street, Chicago, Illinois 60602  
**DPS Web:** [www.cityofchicago.org/procurement](http://www.cityofchicago.org/procurement) and [www.cityofchicago.org/bids](http://www.cityofchicago.org/bids)

**Execute and submit one (1) complete original bid package.** All signatures to be sworn to before a Notary Public. Bid must be received in the City of Chicago Department of Procurement Services (DPS) Bid & Bond Room no later than the date and time above during regular business hours (8:30 AM to 4:30 PM Central Time). Bids will be read publicly. Bid package must be complete and returned in its entirety. Do not scan or recreate the bid package, the original must be used.

Bid must be submitted in sealed envelope(s) or package(s). The outside of the envelope or package must clearly indicate the name of the project, **Removal Of Rubber And Other Contaminants From Runways And Other Pavements And O'hare At Midway International Airports**, the specification number, **778131B**, the time and date specified for receipt and marked **"Bid Enclosed"**. The name, address and phone number of the Bidder must also be clearly printed on the outside of all envelope(s) or package(s).

<b>Bid Deposit:</b>	None	<b>DPS Unit:</b>	Aviation
<b>Performance Bond:</b>	None	<b>Reverse Auction:</b>	No
<b>City Business Preference</b>	Yes	<b>Drawings:</b>	None
<b>Local Manufacture Preference</b>	Yes	<b>Exhibits:</b>	1
<b>Alternative Fuel Vehicle Pref.</b>	Yes	<b>Maps:</b>	None
<b>Bid Specific Goals:</b>	No Stated Goals	<b>Contract Term:</b>	60 Months
<b>Funding Source:</b>	Non-Federal	<b>Start Date:</b>	
<b>Fund Number:</b>	610-85-4105-0163-0163 and 740-85-4005-0163-0163	<b>Expiration Date:</b>	

Lori E. Lightfoot  
Mayor

Shannon E. Andrews  
Chief Procurement Officer

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## **BID SUBMITTAL CHECKLIST**

### **Missing Information, Documents, and/or Bonds May Invalidate Your Bid.**

To help ensure that you are submitting a complete bid, place an "X" next to each item below after completing and incorporating the item into your bid package. Write "N/A" if an item does not apply to your bid.

1. \_\_\_\_\_ Bid Submittal Checklist
2. \_\_\_\_\_ Insurance Certificate of Coverage
3. \_\_\_\_\_ MBE/WBE Compliance Plan
  - a. \_\_\_\_\_ Schedule B – Affidavit of Joint Venture MBE/WBE – (only if bidder is a joint venture)
  - b. \_\_\_\_\_ Schedule C-1: Letter(s) of Intent from MBE/WBE to Perform as Sub-contractor, Supplier and/or Consultant (if applicable).
  - c. \_\_\_\_\_ Schedule D-1: Affidavit of MBE/WBE Goal Implementation Plan (if applicable).
  - d. \_\_\_\_\_ Request for a reduction or waiver of MBE/WBE goals (if applicable)
4. \_\_\_\_\_ Certificate of Filing of Economic Disclosure Statement and Affidavit (EDS)
5. \_\_\_\_\_ Bid incentive/preference affidavit(s): Chicago Business, Local Manufacture, Alternatively Powered Vehicles, Veteran-Owned Small Local Business or Eligible Joint Venture, Utilization of Veteran-Owned Subcontractors, Mentoring Program, Commitment Regarding BEPD, and/or Diverse Management and Workforce (if applicable)
6. \_\_\_\_\_ Proposal Page(s) (Schedule of Prices)
7. \_\_\_\_\_ Bid Execution Page
8. \_\_\_\_\_ Bid Deposit (if required)
9. \_\_\_\_\_ Sexual Harassment Policy Affidavit

**NOTE:** Each page requiring a signature must be signed by the person with proper authority and sworn before a Notary Public where noted.

**NOTE:** Each Bidder must acknowledge the receipt of a full set of Bid Documents and any and all Addenda at the top of the Bid Execution Page.

**ARTICLE 1. REQUIREMENTS FOR BIDDING AND INSTRUCTIONS TO BIDDERS**

Read this carefully before preparing your bid.

**1.1. The Bid Documents**

The Bid Documents include this Invitation for Bids, Legal Advertisement Notice, Bid Proposal Pages, Requirements for Bidding and Instructions for Bidders, Standard Terms and Conditions, Special Conditions, Scope of Work and Detailed Specifications, Plans and Drawings (if any), Insurance Requirements, MBE/WBE Special Conditions or DBE Special Conditions (as applicable) and all other exhibits attached hereto, and any and all Clarifications and Addenda issued by the City. Upon the award and execution of a contract pursuant to the Bid Documents, the Bid Documents become the Contract Documents.

**1.2. Obtaining the Bid Documents**

Bidders are solely responsible for obtaining all Bid Documents, including Clarifications and Addenda.

In the event of a conflict or inconsistency between the Bid Documents obtained on-line and the printed Bid Documents available from the Bid & Bond Room, the terms and conditions of the printed Bid Documents will prevail.

**1.2.1. Printed Bid Documents**

Printed copies of Bid Documents are available for pickup from:

Bid & Bond Room  
Room 103 City Hall  
121 North LaSalle Street  
Chicago, IL 60602  
Phone # 312-744-9773  
Fax # 312-744-5611

Plans and Drawings may only be available on CD.

**1.2.2. Downloadable Bid Documents**

Documents may be downloaded from the DPS' website at the following URL:

[www.cityofchicago.org/bids](http://www.cityofchicago.org/bids)

In order to receive notice of clarifications and addenda, Bidders that download the Bid Documents must register as a Bid Document Holder by (i) faxing the company's name, contact person, address, e-mail address, telephone number and fax number to the Bid & Bond Room at 312-744-5611 (include specification number and bid title/description) or (ii) by calling the Bid & Bond Room at 312-744-9773.

Bid Document Holders are listed on the Bid & Bond Room Opportunity Take Out List. The Opportunity Take Out List is public information and is posted to the DPS web site at [www.cityofchicago.org/TOL](http://www.cityofchicago.org/TOL). To find Opportunity Take Out lists go to "Get Started Online" and search by the specification number.

**1.3. Clarifications and Addenda**

The City sends out clarifications and addenda to the Bid Documents to entities on the list of registered Bid Document Holders. Additionally, Clarifications and Addenda will be posted at the following URL, and made available at the Bid & Bond Room:

[www.cityofchicago.org/bids](http://www.cityofchicago.org/bids)

Bidders that download Bid Documents from the City of Chicago's website instead of obtaining the Bid Documents from the City of Chicago's Bid & Bond Room and which have not registered as a Bid Document Holder are responsible for checking the City of Chicago's website for Clarifications and/or Addenda.

There may be multiple Clarifications and Addenda. Failure to obtain Clarifications and/or Addenda, for whatever cause, will not relieve a Bidder from the obligation to bid according to and comply with any changed or additional terms and conditions contained in the Clarifications and Addenda.

Failure to acknowledge Clarifications and/or Addenda in the Bid Documents when submitting the bid will render the bid non-responsive. Any harm to the bidder resulting from failure to obtain all necessary documents, for whatever cause, will not be valid grounds for a protest against award(s) made under this bid solicitation.

#### **1.4. Examination of the Bid Documents and Work Site**

Bidders are required to carefully examine all of the Bid Documents before completing the forms and submitting a Bid. If the specification calls for work to be performed onsite, Bidders are also required to inspect the site of the work to be performed, and familiarize itself with the conditions at the site that will affect the work.

A Bidder that is awarded a contract will be solely responsible for all costs arising from and associated with that Bidder's (i) failure to comply with the requirements of the Bid Documents, including, without limitation, this requirement to inspect the Bid Documents and site of the work, and (ii) failure to include any costs or expense attributable to site conditions that could have reasonably been discovered through a site inspection or examination of the Bid Documents.

#### **1.5. Pre-Bid Conference and Site Visit**

If a pre-bid conference will be held to answer questions regarding these Bid Documents, it will be held on the date and time stated on the front cover of the Bid Documents. The pre-bid conference may be recorded by DPS.

If a pre-bid conference will be held, attendance is strongly encouraged. The Chief Procurement Officer or his/her representative, as well as representatives from the City Department for which the Bid Documents have been issued will comprise the panel to respond to Bidders' questions.

Bidders must familiarize themselves with the locations for contract performance required by the Bid Documents and take into account all relevant conditions when preparing its Bid. The Contractor will not be paid additional compensation due to failure to account for conditions that may be observed by a site visit in its bid.

If the site for the work is not accessible to the public during normal business hours, instructions for obtaining access, including a date and time for guided visits, is set out on the cover of the Bid Documents.

#### **1.6. Questions Regarding the Bid Documents; Bidder Inquiry Deadline**

All inquiries regarding the Bid Documents or procurement process must be directed to the Procurement Specialist/Senior Procurement Specialist at the email address listed on the front cover of the Bid Documents. **Inquiries must be submitted via email and MUST include the specification number in the subject line of the email.**

**The Bidder Inquiry Deadline is listed on the front cover of the Bid Documents.** Inquiries received after the Bidder Inquiry Deadline will not be answered except at the discretion of the Chief Procurement Officer.

Bidders may only rely on written answers in a Clarification or in an Addendum duly issued by the Chief Procurement Officer. Bidders cannot rely on oral or informal responses; such answers will not be binding upon the City.

#### **1.7. Exceptions**

Any deviations from or exceptions to any provisions or requirements of the Bidding documents, including but not limited to the specifications of the goods and/or services to be provided, must be noted on the Proposal Page(s) or attached thereto, with the exact nature of the change outlined in sufficient detail, and as provided below under "Trade Names and Substitutions," as applicable. Bidder must provide the reason for which deviations were made. Failure of a Bidder to comply with the terms of this paragraph may be cause for rejection of its Bid.

If a Bidder takes exception to or deviates from any provision or requirement, the Chief Procurement Officer shall reject the Bid as non-responsive in the event that the Chief Procurement Officer, in his or her sole opinion, determines such exception(s) or deviations to be material.

**1.8. Taxes Included in Bid Prices**

With few exceptions, materials purchased by the City of Chicago are not subject to the Federal Excise Tax. The Illinois Retailers' Occupation Tax, Use Tax, and Municipal Retailers' Occupation Tax do not apply to materials or services purchased by the City of Chicago.

Bidders shall include all other applicable federal, state and local taxes, direct or indirect, in their Bid Prices.

**1.9. Bid Prices Must Incorporate All Costs**

Bid pricing must incorporate any/all peripheral costs including, but not limited to the costs of products/services, delivery/transportation charges, training, materials, labor, insurance, applicable taxes, warranty, overhead and profit, etc. that are required by the Bid Documents.

**1.10. Completion of the Bid Documents**

Each Bidder must complete all of the forms listed on the Bid Submittal Checklist, if a Checklist is provided. The forms, including the Bid Proposal Pages, must be completed in ink, or typewritten. Bidders may not change any of the Bid Documents. Any changes made by a Bidder to the Bid Documents may result in rejection of the Bid, and will not be binding upon the City.

Bidders must use the Bid Execution Page that is appropriate for their form of business organization (e.g., sole proprietorship, corporation, partnership, or joint venture). The individual(s) that sign the Bid Execution Page on behalf of the Bidder, by their signature, represents and warrants to the City that such individual is authorized to execute bids and contracts on behalf of the Bidder, and that the Bidder agrees and shall be bound to all of the terms and conditions of the Bid Documents and, upon execution by the City, the Contract Documents. Signatures must be sworn before a Notary Public.

**1.11. Conflicts of Interest**

If any Bidder (or any partner in a joint venture or partnership or any member of the limited liability company if the Bidder is a joint venture, partnership, LLP, or LLC) has assisted the City in the preparation of these Bidding Documents such that provision of such assistance would give Bidder an unfair advantage or otherwise impair the integrity of the procurement process, or if Bidder has an organizational conflict of interest that might compromise Bidder's ability to perform the contract, that Bidder may be disqualified from bidding. If applicable, Bidder must provide a statement and information disclosing its participation with respect to the Bid Documents and/or potential organizational conflicts of interest.

**1.12. Required Forms and Fees**

**1.12.1. Certificate of Filing for Online EDS**

Bidders must complete an online EDS prior to the bid due date. A Bidder who does not file an electronic EDS prior to the bid due date may be found non-responsive and its bid rejected. If you are unable to complete the EDS online and print a Certificate of Filing prior to the response due date, the City will accept a paper EDS provided written justification is provided explaining the Bidders good faith efforts to complete it before the response due date and the reasons why it could not be completed. Refer to the Instructions for Completing Economic Disclosure Statement and Affidavit On-Line.

**1.12.2. MBE/WBE Program**

The goals for MBE and WBE participation are set forth in the Proposal Pages. The rules, regulations, and forms for achieving these goals are set forth in the Special Conditions Regarding Minority Business Enterprise Commitment and Women Business Enterprise Commitment ("M/WBE Special Conditions").

- **Schedule B: Affidavit of Joint Venture** (if applicable)

If applicable, complete and submit this form if a non-certified firm has formed a joint venture with one or more MBE/WBE certified firms to submit a Bid. Such Affidavit should be signed by the appropriate Joint Venture members and notarized.

- **MBE/WBE Letter of Intent to Perform as a Subcontractor, Supplier, or Consultant**  
(Schedule C, C-1, C-2, or C-3 as specified in M/WBE Special Conditions.)  
If applicable, include a completed Letter of Intent from each certified MBE or WBE that will perform as a Subcontractor, Supplier and/or Consultant. Such letter(s) must be signed and notarized.
- **Affidavit of Prime Contractor Regarding MBE/WBE Utilization Compliance Plan**  
(Schedule D, D-1, D-2, or D-3 as specified in M/WBE Special Conditions.)  
If applicable, include the Bidder's Affidavit of MBE/WBE Goal Implementation Plan. This Affidavit must be signed and notarized.
- **Request for a Reduction or Waiver of the MBE/WBE Goals**  
If applicable, after making good faith efforts, the Bidder is unable to provide a plan for the utilization of MBE and WBE firms that will achieve compliance with the MBE/WBE goals, the Bidder must, as required by the MBE/WBE Special Conditions, submit a request for whole or partial waiver of the goals with its Bid. Any waiver request must include documentation as required by the M/WBE Special Conditions including but not limited to notification to an assist agency.

#### **1.12.3. Bid Deposits and Bid Bonds**

Bid deposits, if required, may be in the form of a bond, certified check, cashier's check or money order payable to the City of Chicago. Bid bonds must be in the form provided by the Department of Procurement Services, and must be executed by a surety licensed and authorized to do business in the State of Illinois.

Cash is not an acceptable form of bid deposit. Substantial failure to comply with bid deposit requirements will result in rejection of the bid. A non-substantial failure to comply with the bid deposit requirement is a failure that does not provide a commercial advantage to the Bidder over other bidders.

Bid deposits will be returned, with the exception of the bid bond deposit for the contract awardee's bid, after the CPO has awarded the contract. The bid bond deposit for the awardee's bid will be returned after the contract has been awarded and a satisfactory performance and payment bond has been approved by the City, where such bond is required.

The Chief Procurement Officer may return bid deposits sooner, but reserves the right to hold all bid deposits until a contract has been awarded or, in the case of multiple awards, all contracts have been awarded for the Bid in question.

If a bid deposit is required, it will be indicated on the front cover of the Bid Documents.

#### **1.12.4. Performance and Payment Bonds**

If a performance and payment bond is required, failure to provide the required bond within the required time period when requested will result in rejection of the bid and forfeit of the bid deposit, if a deposit was required. The forfeiture shall not limit any other City remedies against the Bidder. Performance and payment bonds must be in the form specified by the City, a specimen of which will be attached to the Bid Documents as an exhibit or available from the Bid & Bond Room.

MCC Section 2-92-040 requires that the surety be listed as a certified surety in the current edition of U.S. Treasury Department Circular 570 and have an underwriting limitation in that publication in an amount greater than the amount bid. Circular 570 is available at [www.fms.treas.gov/c570](http://www.fms.treas.gov/c570). Co-sureties may be accepted in the sole discretion of the CPO, but each co-security must individually meet the requirement. Reinsurance may not be used to achieve a sufficient underwriting limitation.

If a performance and payment bond is required to be provided prior to contract award, it will be indicated on the front cover of the Bid Documents.

#### **1.12.5. Contractor's Financial Statement**

If requested by the Chief Procurement Officer, Bidder must file a "Contractor's Statement of Experience and Financial Condition" dated not earlier than the end of Bidder's last fiscal year period. The "Contractor's Statement of Experience and Financial Condition" will be kept on file as a representative statement for one year. The "Contractor's Statement of Experience and Financial Condition" forms are available in the Bid & Bond Room, City Hall Room 103, Chicago, IL 60602, or may be downloaded at [www.cityofchicago.org/form](http://www.cityofchicago.org/form). Failure to provide a "Contractor's Statement of Experience and Financial Condition" if requested may be cause for rejection of the Bid.

**1.12.6. Other Required Forms and Documents**

Other forms required to be provided with the Bid include:

- Insurance Certificate of Coverage
- Sexual Harassment Policy Affidavit
- Economic Disclosure Statement and Affidavit ("EDS")
- DBE or MBE/WBE compliance forms as applicable
- Proposal Page(s) (Schedule of Prices)
- Bid Execution Page

**1.13. Trade Names and Substitutions**

Reference to a specific manufacturer or trade name in this solicitation is intended to be descriptive (but not restrictive) and to indicate to prospective bidders those product(s) that have been deemed by the City to be satisfactory. The Bidder must, if awarded the Contract, provide the product(s) specified, unless equivalent alternatives have been proposed as described below and found acceptable to the Chief Procurement Officer.

A Bidder that chooses to respond to this solicitation for bids with alternate product(s) from those specified in the solicitation, must identify such alternate items with its Bid with a detailed explanation and documentation in support of how the alternate items proposed by the Bidder can perform as well as or better than those specified. Unless an alternate item is so identified, it is understood that the Bidder proposes, and will be required to provide, the specific item described in the specifications. No substitution of specified items will be allowed thereafter except as otherwise provided for in the specifications.

Documentation in support of alternate items includes:

- 1) Complete data substantiating compliance of proposed alternate items with requirements stated in the solicitation, including:
  - a) Product identification, including manufacturer's name and address.
  - b) Manufacturer's literature identifying:
    - i) Product description
    - ii) Reference standards
    - iii) Performance and test data
  - c) Samples, as applicable
  - d) Name and address of similar projects on which the product has been used, and date of usage.
- 2) Itemized comparison of the proposed alternate item with product or service specified; listing of significant variations.

A Bidder warrants and represents that in making a formal request for substitution with alternate items that:

- 1) The proposed alternate item is equivalent to or superior in all respects to the product specified, and
- 2) The same warranties and guarantees will be provided for the alternate item as for the product specified.

The CPO may, in his or her sole discretion, accept an alternate item for a specified item, provided the alternate item so bid is, in the CPO's sole opinion, the equivalent of the item specified in the solicitation. An alternate item that the CPO determines not to be equivalent to the specified item shall render the bid non-responsive and the CPO shall reject the bid.

**1.14. Authorized Dealer/Distributor**

For bids involving the furnishing of equipment or other goods that are subject to manufacturer warranties that require sale or installation by authorized dealers or distributors, the Contractor must be the manufacturer or an authorized dealer/distributor of the proposed manufacturer and be capable of providing genuine parts, assemblies and/or accessories as supplied by the manufacturer. Further, the Contractor must be capable of furnishing original product warranty and manufacturers related services such as product information, product recall notices, etc. The Bid Documents will typically ask the Bidder to certify that it is an authorized dealer/distributor when this requirement is applicable. The Bidder's compliance with these requirements will be determined by the CPO, whose decision will be binding.

**1.15. Estimated Quantities**

Unless explicitly stated to the contrary in the Scope of Work, Detailed Specifications, or Proposal pages, any quantities shown on the Proposal Pages represent estimated usage and as such are for bid canvassing purposes only. The City reserves the right to increase or decrease quantities ordered. Nothing herein will be construed as intent on the part of the City to procure any goods or services beyond those determined by the City to be necessary to meet its needs.

The City will only be obligated to order and pay for such quantities as are from time to time ordered, performed and accepted on Blanket Releases issued directly by the Department.

**1.16. Submission of Bids**

**1.16.1. Date, Time, and Place**

Bids are to be delivered to the Bid & Bond Room of the Department of Procurement Services, City Hall Room 103, 121 North LaSalle Street, Chicago, Illinois 60602 on the date and prior to the time stated on the cover of the Bid Documents, or any addendum issued by the City to change such date and/or time. No bid will be accepted after the date and time specified. The time of the receipt of the bid will be determined solely by the clock located in the Bid & Bond Room.

Bids must be dropped off in the Bid & Bond Room during regular business hours: 8:30 am to 4:30 pm, Monday through Friday, excluding Holidays of the City.

**1.16.2. Bids Must Be Sealed and Properly Labeled**

All Bids must be submitted in sealed envelopes. The Department of Procurement Services provides official bid enclosure envelopes at the Bid & Bond Room. Use of official envelopes is not required but is preferred.

All envelopes containing Bids must be marked "Bid Enclosed," and must have the Bidder's name and address, the Specification Number, and the advertised date and time of bid opening stated on the envelope. Failure to properly mark the envelope may result in a failed delivery, and result in rejection of the Bid. If more than one envelope is needed to submit the Bid, each envelope must be marked with all the information required above and be marked to indicate that the envelopes belong together (e.g., one of three, two of three).

**1.16.3. Bidders Are Responsible for Bid Delivery**

Each Bidder is solely and completely responsible for delivery of its Bid to the Bid & Bond Room before the date and time established for the Bid opening. Any Bid that is not delivered on time, including Bids mistakenly delivered to other City offices, will not be accepted. The City is under no obligation to ensure that misdirected Bids are delivered to the Bid & Bond Room prior to Bid opening.

When bids are sent via U.S. Postal Service, messenger, printing service or any other carrier, Bidder is responsible for their delivery and drop-off to the correct location during business hours before the date



and hour set for the opening of bids. It is Bidder's sole responsibility to ensure the Bid is delivered to the correct location and received as required.

Bids are not to be delivered after hours by pushing them under the door.

**1.16.4. Transparency Website; Trade Secrets**

Consistent with the City's practice of making available all information submitted in response to a public procurement, all bids, any information and documentation contained therein, any additional information or documentation submitted to the City as part of this solicitation, and any information or documentation presented to City as part of negotiation of a contract or other agreement may be made publicly available through the City's Internet website.

However, Bidders may designate those portions of a Bid which contain trade secrets or other proprietary data ("Data") which Bidder desires remain confidential.

To designate portions of a Bid as confidential, Bidder must:

A. Mark the cover page as follows: "This bid includes trade secrets or other proprietary data."

B. Mark each sheet or Data to be restricted with the following legend: "Confidential: Use or disclosure of data contained on this sheet is subject to the restriction on the title page of this bid."

C. Provide a CD-ROM with a redacted copy of the entire bid or submission in .pdf format for posting on the City's website. Bidder is responsible for properly and adequately redacting any Data which Bidder desires remain confidential. If entire pages or sections are removed, they must be represented by a page indicating that the page or section has been redacted. Failure to provide a CD-ROM with a redacted copy may result in the posting of an un-redacted copy.

D. Provide a written explanation of the basis under which each redacted item has been deemed confidential, making reference to the Illinois Freedom of Information Act (5 ILCS 140/1 et seq.).

Indiscriminate labeling of material as "Confidential" may be grounds for deeming a bid as non-responsive.

All Bids submitted to the City are subject to the Freedom of Information Act. The City will make the final determination as to whether information, even if marked "confidential," will be disclosed pursuant to a request under the Freedom of Information Act, valid subpoena, or other legal requirement. Bidder agrees not to pursue any cause of action against the City with regard to disclosure of information.

**1.17. Withdrawal of Bids**

Bidders may withdraw their Bid at any time prior to the date and time for Bid opening. Requests for withdrawal must be made in writing on the Bidder's letterhead to the Bid & Bond Room. Bidders must make their own arrangements for the return of their Bids.

**1.18. Bid Opening**

Bids will be opened and read publicly in the Bid & Bond Room by the Department of Procurement Services immediately after the deadline for the submission of Bids has passed. Announcement of the Bids and the apparent low Bidder are neither final nor binding. All Bids and Bid Documents are subject to review by the Department of Procurement Services to determine the lowest responsive and responsible bidder and whether a contract will be awarded.

Bid tabulations are public information and are posted on the City's website [www.cityofchicago.org/BidTab](http://www.cityofchicago.org/BidTab). URL is case sensitive. Select "Get Started Online" and search by specification number.

**1.19. Effective Term of Bid**

Unless a Bid is expressly rejected by the Chief Procurement Officer, all Bids will remain in effect for ninety (90) days subsequent to the Bid opening. The City may request that Bidders extend the effective period of their Bids. Such requests shall be in writing, and will require the Bidders' written consent to the extension.

Bidder may not withdraw or cancel or modify its Bid for a period of ninety (90) calendar days after the advertised closing time for the receipt of Bids. The City reserves the right to withhold and deposit, as liquidated damages, the bid deposit of any bidder requesting withdrawal, cancellation or modification of its Proposal prior to the ninety (90) day period.

#### **1.20. Evaluation of Bids**

##### **1.20.1. Determination of Responsiveness**

DPS will review Bids to determine whether they conform to the requirements of the Bid Documents.

###### **1.20.1.1. Must Bid All Line Items**

The Bidder must bid all Line Items set forth on the Proposal Pages, except to the extent that the Specification expressly allows otherwise. Bids submitted to the contrary will be considered incomplete and as a result, will be rejected as being non-responsive to this requirement.

Per the Basis of Award, if Contract(s) will be awarded per Group, Bidders must bid all items within a Group, except to the extent that the Specification expressly allows otherwise, but Bidders are not required to bid all Groups. Bids submitted to the contrary will be considered incomplete and as a result, will be rejected as being non-responsive to this requirement.

###### **1.20.1.2. Mathematical Calculations**

The Chief Procurement Officer reserves the right to make corrections, after receiving the bids, to any clerical error apparent on the face of the bid, including but not limited to obviously incorrect units or misplaced decimal points, or arithmetic errors. In the event that comparison of the Bidder's "Unit Price" and "Total Price" submitted for any line item reveals a calculation error, the Unit Price will prevail.

###### **1.20.1.3. Unbalanced Bids**

The Chief Procurement Officer reserves the right to reject any Bid that, in his or her sole discretion and authority, determines is materially unbalanced.

###### **1.20.1.4. Cash Billing Terms**

Cash billing discounts offered will not be considered in the evaluation of bids.

##### **1.20.2. Determination of Responsibility**

The determination of the responsibility of a Bidder is within the sole discretion and authority of the Chief Procurement Officer.

The Chief Procurement Officer may request any Bidder to submit such additional information pertaining to the Bidder's responsibility as the Chief Procurement Officer deems necessary. Failure to comply with any such request will result in a finding of non-responsibility and rejection of the Bid.

###### **1.20.2.1. Bidder Debts or Defaults**

The Chief Procurement Officer reserves the right to refuse to award a Contract to any bidder that is in arrears or is in default to the City upon any debt or contract, or that is a defaulter, as surety or otherwise, upon any obligation to the City, or has failed to perform faithfully any previous contract with the City.

###### **1.20.2.2. Competency of Bidder**

The Bidder, if requested, must present within a reasonable time, as determined by the Chief Procurement Officer, evidence satisfactory to the Chief Procurement Officer of ability to perform the Contract and possession of necessary facilities, pecuniary resources and adequate insurance to comply with the terms of these specifications and contract documents.

#### **1.21. Rejection of Bids and Waiver of Informalities**

The Chief Procurement Officer, in his/her sole discretion and authority, may determine that it is in the best interest of the City to reject any or all Bids submitted in response to any Invitation for Bids. The Chief Procurement Officer, in his/her sole discretion and authority, may disregard or waive any informality in the Bids or bidding process.

**1.22. Statutory Adjustments to the Bid**

**1.22.1. Bid Incentive to Encourage MBE/WBE Utilization On No Stated Goals Contracts**

This contract does not include stated goals for MBE/WBE participation. Nevertheless, by means of a bid preference pursuant to MCC 2-92-525, bidders are encouraged to utilize MBE and WBE firms on the contract.

- A. For purposes of this section only, the following definitions shall apply:

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

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

- B. As further described below, the CPO will allocate to any qualified bidder the following bid incentive for utilization of:

- (i) MBE or WBE subcontractors in the performance of the contract, or
- (ii) MBE or WBE firms other than as a subcontractor during the performance of the contract, this may include but is not limited to an MBE or WBE acting as prime contractor, or indirect participation by an MBE or WBE:

MBE or WBE participation as a percentage of the estimated contract dollar amount	Bid Incentive, as a percentage of the Contract Base Bid
5%	0.75%
10%	1.00%
15%	1.25%
20%	1.50%
25%	1.75%
30%	2.00%

- C. For a bidder to qualify for an incentive under B.(i), above, the MBE or WBE subcontractors that the bidder utilizes must be certified by the City of Chicago or Cook County in the area of specialty in which they are used during the performance of the contract unless:

- (i) such MBE or WBE subcontractors are certified in at least one area of specialty; and
- (ii) the bidder has entered into a written mentor-protégé agreement approved by the CPO with such MBE or WBE subcontractors to develop their capacity in becoming self-sufficient, competitive and profitable business enterprises.

- D. For a bidder to qualify for an incentive under B.(ii), above, the MBE or WBE firms that the bidder utilizes (or bidder, if bidder is an MBE or WBE) must be certified by the City of Chicago or Cook County in the area of specialty in which they are used during the performance of the contract.

- E. The contractor must maintain adequate records necessary to monitor compliance with its MBE and/or WBE utilization commitment and MCC 2-92-525 and must submit such reports as required by the Chief Procurement Officer. Full access to the contractor's, subcontractors' and firms', if used during the performance of the contract, records shall be granted to the CPO, the Commissioner of the supervising department, the Inspector General, or any duly authorized representative thereof.

The contractor, subcontractors and firms shall maintain all relevant records for a minimum of seven years after final acceptance of the work.

- F. Upon completion of the work, any contractor that has failed to retain the percentage of MBE or WBE subcontractors for which a bid incentive was taken into consideration in awarding of a contract shall be fined an amount equal to three times the amount of the bid incentive allocated, unless the contractor can demonstrate that due to circumstances beyond the contractor's control, the contractor for good cause was unable to retain the percentage of MBE or WBE subcontractors throughout the duration of the contract period.

Bidders desiring to take advantage of the Bid Incentive to Encourage MBE/WBE Utilization must submit documentation with their bid of their commitment to utilize MBE and/or WBE firms, which will include submitting a "Bidders Commitment to Utilize MBE and WBE Firms on No Stated Goals Contract" form and an MBE/WBE Compliance Plan as described in the *Special Conditions Regarding Minority Business Enterprise Commitment And Women Business Enterprise Commitment For Commodities Or Services* as if the contract provided goals for MBE/WBE participation equal to percentage of utilization bidder commits to in order to take advantage of the bid incentive.

**1.22.2. City-based Businesses (Chicago Business Preference)**

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

"City-based business" means a person who (i) conducts meaningful day-to-day business operations at a facility located within the city and reports such facility to the Internal Revenue Service as a place of employment for the majority of its regular, full-time workforce; (ii) holds all appropriate city licenses; and (iii) is subject to applicable city taxes. These taxes may include the City Wheel Tax as provided at Chapter 3-56 of the MCC.

"City residents," as defined in Section 2-92-330 of the MCC, means persons domiciled within the city.

"Contract" means any contract, purchase order or agreement awarded by the city and whose cost is to be paid from funds belonging to or administered by the city; provided that the term "contract" does not include: (i) a delegate agency contract; (ii) a lease of real property; or (iii) a collective bargaining agreement.

"Prime Contractor" means a person who is a city- based business and the primary contractor on a contract. A "Prime Contractor" does not include any subcontractors.

"City resident employee" means an individual who resides in the City and who is employed by a prime contractor in a permanent, full-time employment and whose work is not counted towards the work hours required by Section 2-92-330.

"Socio-economically disadvantaged area" means an area within the City that meets the criteria for designation as a socio-economically disadvantaged area as set forth in rules promulgated by the City's Commissioner of Planning and Development pursuant to Section 2-92-390.

If these Bid Documents pertain to a Contract having an estimated contract value of \$100,000 or more, the CPO may apply a bid preference ("City Based Business Preference") of: (i) four percent of the contract base bid; or (ii) six percent of the contract base bid, if the majority of such prime contractor's employees are city resident employees; or (iii) eight percent of the contract base bid, if such prime contractor is eligible for an incentive under subsection (ii) and the majority of such contractor's city resident employees are residents of a socio-economically disadvantaged area, in accordance with section 2-92-412 of the MCC, to any qualified bidder that is a Prime Contractor. If the CPO has determined that a City Based Business Preference may be applied, it will be indicated on the cover page of the Bid Documents.

If a City Based Business Preference is applied to a Bidder's Bid, the Local Goods Incentive pursuant to Section 2-92-410 of the MCC will not be applied to that same Bid.

Bidders desiring to take advantage of the City Based Business Preference must submit documentation with their Bid that Bidder is a City-Based Business.

**1.22.3. Locally Manufactured Goods**

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

"City-based manufacturer" means a person who: (i) holds any appropriate city license; (ii) is subject to applicable city taxes; and (iii) owns, operates, or leases a manufacturing facility within the city.

"Contract for Goods" means any contract, purchase order or agreement for the purchase of goods awarded by the city and whose cost is to be paid from funds belonging to or administered by the city; provided that a "contract" does not include: (i) a delegate agency contract; (ii) a lease of real property; (iii) a collective bargaining agreement; or (iv) a construction contract as defined in Section 2-92-670 of the MCC.

"Locally manufactured goods" means goods whose value, either in whole or in part, is derived from growing, producing, processing, assembling, or manufacturing activities that occur within a city-based manufacturer's facility located within the city.

"Manufacture" means to produce tangible goods for use from raw or prepared materials by giving the materials new forms, qualities, properties or combinations, whether by hand-labor or machines.

If these Bid Documents pertain to a contract for goods having an estimated contract value of \$100,000 or more, the CPO may allocate a bid incentive ("Local Goods Incentive") in accordance with section 2-92-410 of the MCC. If the CPO has determined that a Local Goods Incentive will be allocated, it will be indicated on the cover page of the Bid Documents and shall consist of the following:

Total Dollar Value of Locally Manufactured Goods Provided in the Contract	Bid Incentive
25% to 49%	1% of the contract base bid
50% to 74%	1.5% of the contract base bid
75% or greater	2% of the contract base bid

Bidders desiring to take advantage of the Local Goods Incentive, if allocated, must submit documentation with their bid that the goods to be provided will be locally manufactured goods: "Bidders Commitment to Provide Locally Manufactured Goods" and "Local Manufacturing Affidavit." Contractors must provide such other supporting documentation of local manufacture during the term of the Contract as the CPO may require.

Upon completion of the work, any Contractor that has failed to supply the required percentage of locally manufactured goods for which the Local Goods Incentive was allocated shall be fined in an amount equal to three times the amount of the difference between the bid incentive allocated and the bid incentive that would have been allocated to that contractor for the amount of locally manufactured goods actually supplied under the contract, unless the contractor can demonstrate that due to circumstances beyond the Contractor's control, the contractor for good cause was unable to provide the required percentage of locally manufactured goods.

**1.22.4. Alternatively Powered Vehicles Bid Incentive**

**1.22.4.1. Definitions for Alternatively Powered Vehicles Bid Incentive**

For purposes of this Section 1.22.4 only, the following definitions apply:

"Alternative fuel" has the meaning ascribed to that term in the Energy Policy Act of 1992, and the rules promulgated by the United States Department of Energy pursuant to that Act. The term "alternative fuel" includes but is not limited to natural gas, liquefied petroleum gas, hydrogen, ethanol E85 or electricity;

"Alternatively powered vehicle" means a vehicle that:

(A) is fueled by alternative fuel; provided that if a vehicle is capable of being powered by alternative fuel and traditional petroleum-based gasoline or petroleum-based diesel fuel, the vehicle must be powered by the alternative fuel for no less than 80% BTUs consumed during the three months prior to the submission of the bid; or

(B) is commonly referred to as a hybrid vehicle that is capable of being powered by a combination of any fuel and an alternative power source and the alternative power source includes an energy storage system to store generated or accumulated energy which substantially reduces the fuel use and emissions when compared to a standard vehicle of the same age, type and size; or

(C) is fueled by a biodiesel blend; provided that the vehicle is powered by the biodiesel blend for no less than 80% of the gallons consumed during the three months prior to the submission of the bid; or

(D) is fueled by traditional petroleum-based gasoline or petroleum-based diesel fuel, but powered by an engine substantially more efficiently designed than a standard vehicle of the same age, type and size; provided that the vehicle is rated by the United States Environmental Protection Agency in the top 5% for fuel efficiency for similar vehicles.

An "alternatively powered vehicle" does not include any vehicle which is: (i) primarily used in a warehouse or similar type of enclosed structure; (ii) required to use, or given credit for using, alternative fuel by any federal, state or local law; or (iii) subject to Section 2-92-595 of the MCC.

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

"Biodiesel blend" has the meaning ascribed to that term in Section 2-92-595 of the MCC.

"Construction project" has the meaning ascribed to that term in Section 2-92-335 of the MCC.

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

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

"Eligible business" means a business located within the counties of Cook, DuPage, Kane, Lake, McHenry or Will in the State of Illinois (the "Six County Region"), and as to which: (1) a majority of the business' fleet is located and used within the Six County Region; and (2) a majority of those vehicles located and used within the Six County Region are alternatively powered vehicles.

"Fleet" means 10 or more vehicles that are owned, operated, leased or otherwise controlled by a business.

"Vehicle" means every device powered by a motor or engine and by, upon, or in which any person or property is or may be transported or drawn upon a street or highway, except a "vehicle" shall not include motorized wheelchairs, golf carts, neighborhood electric vehicles, as that term is defined in Section 9-4-010 of the MCC, devices moved solely by human power, devices used exclusively upon stationary rails or tracks, or snowmobiles, as defined in the Snowmobile Registration and Safety Act of Illinois.

**1.22.4.2. Eligibility for Alternatively Powered Vehicles Bid Incentive**

(A) Unless otherwise prohibited by any federal, state or local law, for any contract having an estimated contract value of \$100,000 or more advertised, or if not advertised awarded, the chief

procurement officer may allocate a bid incentive of 1/2% of the contract base price to a qualified bidder when the qualified bidder is an eligible business. If the CPO has determined that an Alternatively Powered Vehicles Preference may be applied, it will be indicated on the cover page of the Bid Documents.

The bid incentive is used only to calculate an amount to be used in evaluating the bid to determine the low bidder, and it does not affect the contract price.

For purposes of this section the total dollar value of a construction project contract includes both materials and labor.

(B) As a condition of being awarded the bid incentive, the eligible business shall continue to meet the definition of an eligible business during the term of the contract.

(C) The contractor shall maintain adequate records necessary to monitor compliance with this section and shall submit such reports as required by the chief procurement officer. Full access to the contractor's and subcontractors' records shall be granted to the chief procurement officer, the commissioner of the supervising department, the inspector general, or any duly authorized representative thereof. The contractor and subcontractors shall maintain all relevant records for a period of no less than seven years after final acceptance of the work.

(D) A bidder desiring to receive an incentive pursuant to this section shall include with its bid submission the *Affidavit of Eligible Business for Bid Incentive for Alternative Powered Vehicles*, which affirms that the bidder satisfies all pertinent requirements as an eligible business.

(E) Upon completion of the work, any eligible business that receives a bid preference but that fails to meet the definition as an eligible business during the term of the contract shall be fined in an amount equal to three times the amount of the bid incentive awarded.

(F) This section shall not apply to any contract to the extent that the requirements imposed by this section are inconsistent with procedures or standards required by any law or regulation of the United States or the State of Illinois to the extent such inconsistency is not permitted under law or the home rule powers of the city.

#### **1.22.5. Bid Incentives for Veteran-Owned Small Local Businesses and Eligible Joint Ventures**

##### **1.22.5.1. Definitions**

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

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

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

"Eligible joint venture" means an association of one or more small local business enterprises in combination with one or more veteran-owned business enterprises, proposing to perform as a single for-profit business enterprise, in which each joint venture partner contributes property, capital, efforts, skill and knowledge. Joint ventures must have an agreement in writing specifying the terms and conditions of the relationship between the partners and their respective roles in the contract.

"Local business enterprise" means a business entity located within the counties of Cook, DuPage, Kane, Lake, McHenry or Will in the State of Illinois (the "Six County Region"), which has the majority of its regular, full time work force located within the Six County Region.

"Owned" means having all of the customary incidents of ownership, including the right of disposition, and sharing in all of the risks, responsibilities and profits commensurate with the degree of ownership.

"Prime contractor" means a person who is the primary contractor on a contract.

"Small business enterprise" means: (i) for a construction business enterprise, a small business enterprise, as the term is defined in MCC 2-92-670; or (ii) for a non-construction business enterprise, a business enterprise which is not an established business, as the term is defined in MCC 2-92-640.

"Small local business enterprise" ("SBE") means a local business enterprise which is also a small business enterprise.

"Veteran-owned business enterprise" means an enterprise which: (1) is at least 51 percent owned by one or more veterans, or in the case of a publicly held corporation, at least 51 percent of all classes of the stock of which is owned by one or more veterans, whose management, policies, major decisions and daily business operations are independently managed and controlled by one or more veterans; and (2) has been: (i) certified by the City as a veteran-owned small local business pursuant to MCC 2-92-930; (ii) certified by the County of Cook as a veteran business enterprise; (iii) certified by the State of Illinois as a qualified service-disabled veteran-owned small business or a qualified veteran-owned small business pursuant to 30 ILCS 500/45-57; or (iv) verified and approved by the United States Department of Veterans Affairs as a service-disabled veteran-owned small business or a veteran-owned small business.

"Veteran-owned small local business" ("VBE") means a business that is both a veteran-owned business enterprise and a small local business enterprise, and which has been certified by the City as a veteran-owned small local business pursuant to MCC 2-92-930.

"Veteran" means a person who has served in the United States armed forces and was discharged or separated under honorable conditions.

#### **1.22.5.2. Bid Incentive**

Unless otherwise prohibited by any federal, state or local law, the CPO shall allocate a bid incentive of 5% of the contract base price, in accordance with section 2-92-950 of the MCC, to any qualified bidder that is a veteran-owned small local business or an eligible joint venture.

The bid incentive is used only to calculate an amount to be used in evaluating the bid to determine the low bidder, and it does not affect the contract price.

Bidders desiring to receive this incentive must submit an affidavit and other supporting documents demonstrating that the bidder satisfies all pertinent requirements as a veteran-owned small local business or an eligible joint venture. Bidders should consult the DPS regulations regarding this incentive and be prepared to comply with the self-performance requirements, which in some circumstances affect the calculation of MBE and WBE participation toward contract goals when a small business enterprise involved in receiving this incentive is also a certified MBE or WBE.

As a condition of being awarded the bid incentive, the veteran-owned small local business or eligible joint venture shall continue to meet the definition of a veteran-owned small local business or an eligible joint venture. If a contract is awarded to the veteran-owned small local business or eligible joint venture, upon completion of the work, any veteran-owned small local business or eligible joint venture that receives a bid preference but fails to meet the definition of a veteran-owned small local business or eligible joint venture during the term of the contract for which the bid incentive was awarded shall be fined in an amount equal to three times the amount of the bid incentive awarded.

The contractor shall maintain adequate records necessary to ensure compliance with this section and shall submit such reports as required by the chief procurement officer. Full access to the contractor's and subcontractors' records shall be granted to the chief procurement officer, the commissioner of the supervising department, the inspector general, or any duly authorized representative thereof. The contractor and subcontractor shall maintain all relevant records a



period that is the longer of seven years or as after final acceptance of the work in accordance with the Local Records Act.

#### **1.22.6. Business Enterprises Owned By People With Disabilities (BEPD) Commitment**

##### **1.22.6.1. Policy and Terms**

It is the policy of the City that businesses certified as Business Enterprises owned by People with Disabilities ("BEPD") in accordance with MCC 2-92-337 *et seq.*, *Regulations Governing Certification of Business Enterprises owned by People with Disabilities*, and all other Regulations promulgated under the aforementioned sections of the Municipal Code; shall have the full and fair opportunities to participate fully in the performance of this Contract. Therefore, the Bidder or Contractor shall not discriminate against any person or business on the basis of disability, and shall take affirmative actions to ensure BEPDs shall have full and fair opportunities to compete for and perform subcontracts for supplies or services.

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

##### **1.22.6.2. Definitions**

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

- (A) "Business Enterprises owned or operated by People with Disabilities" or "BEPD" has the same meaning ascribed to it in section 2-92-586.
- (B) "Bid incentive" means an amount deducted, for bid evaluation purposes only, from the contract base bid in order to calculate the bid price to be used to evaluate the bid on a competitively bid contract.
- (C) "Contract base bid" means the total dollar amount a contractor bids on a contract without factoring any bid incentive or percentage reductions to the bid amount.

##### **1.22.6.3. Commitments**

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

<b>% of total dollar contract amount performed by BEPD</b>	<b>Bid incentive</b>
2 to 5%	1% of the contract base bid
6 to 9%	2% of the contract base bid
10 to 13%	3% of the contract base bid
14% or more	4% of the contract base bid

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

Upon completion of the work, any Contractor that has failed to retain the percentage of BEPD subcontractors for which a bid incentive was taken into consideration in awarding of a contract shall be fined an amount equal to three times the amount of the bid incentive allocated, unless the Contractor can demonstrate that due to circumstances beyond the Contractor's control, the Contractor for good cause was unable to retain the percentage of BEPD participants throughout the duration of the contract period.

**1.22.6.4. Records and Reports**

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

Full access to the Contractor's and Subcontractor's records shall be granted to the CPO, the commissioner of the supervising department, or any duly authorized representative thereof. The Contractor and Subcontractors shall maintain all relevant records for a period of at least three years after final acceptance of the work.

**1.22.7. Mentoring Program Bid Preference (MCC 2-92-535)**

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

"Mentoring agreement" means a written mentor-protégé agreement approved by the CPO with MBEs and WBEs to develop their capacity in becoming self-sufficient, competitive and profitable business enterprises, as defined in Section 2-92-535.

"Subcontractor-to-subcontractor mentoring agreement" means a subcontractor's written mentor-protégé agreement approved by the CPO to develop the capacity of MBE or WBE subcontractors, as defined in Section 2-92-535.

Unless otherwise prohibited by any federal, state or local law, the CPO shall allocate a bid incentive of 1% of the contract base price, in accordance with Section 2-92-535 of the MCC, to any prime contractor that has entered into a mentoring agreement or whose subcontractor has entered into a subcontractor-to-subcontractor mentoring agreement.

Bidders desiring to receive this incentive must submit an affidavit and other supporting documents demonstrating that the bidder has entered into a mentoring agreement or that the bidder's subcontractor has entered into a subcontractor-to-subcontractor mentoring agreement, at the time of bid submission and at any time during the term of the Contract, as requested by the CPO.

As a condition of being awarded the bid preference, the Contractor shall maintain records adequate to monitor compliance with MCC Section 2-92-535 and shall submit such reports as required by the CPO. Full access to the Contractor's records shall be granted to the CPO, the Commissioner of the supervising department, the Inspector General, or any duly authorized representative thereof. The Contractor and subcontractors shall maintain all relevant records for a period of no less than three years after the expiration of the Contract.

Upon completion of the work, any Contractor that has failed to maintain a mentoring agreement or a subcontractor that has a subcontractor-to-subcontractor mentoring agreement, for which a bid preference was taken into consideration in awarding of a contract, shall be fined in an amount equal to three times the amount of the bid preference allocated, unless the Contractor can demonstrate that due to circumstances beyond the Contractor's control, the Contractor for good cause was unable to maintain a mentoring agreement or a subcontractor that has a subcontractor-to-subcontractor mentoring agreement throughout the duration of the Contract period.

**1.22.8. Child Support Arrearage**

Pursuant to Section 2-92-415 of the MCC, an eight percent (8%) penalty will be applied to the Bids of Bidders whose substantial owners, as defined in the Code, are in arrears on court-ordered child support payments and who have not entered into an agreement for payment or are otherwise not in compliance with the order. The penalty will pertain to the Bid only, and will not affect the contract price or payments under the Contract. This penalty does not apply to federally-funded contracts.

**1.22.9. Bid Incentive to Encourage Diverse Management and Workforce (MCC 2-92-407)**

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

"Contract" means the contract, purchase order or agreement awarded by the City and whose cost is to be paid from funds belonging to or administered by the City; provided that the term "Contract" does not

include: (i) a delegate agency contract; (ii) a lease of real property; or (iii) a collective bargaining agreement.

"Diverse" means any of the following racial or ethnic groups:

- A. African-Americans or Blacks (persons having origins in any of the Black racial groups of Africa);
- B. Hispanics (persons of Spanish culture with origins in Mexico, South or Central America or the Caribbean Islands, regardless of race);
- C. Asian-Americans (persons having origins in any of the original peoples of East Asia, Southeast Asia, the Indian subcontinent, or the Pacific Islands); and
- D. Other groups, or other individuals, found by the board to be socially and economically disadvantaged and to have suffered actual racial, ethnic or gender discrimination and decreased opportunities to compete in Chicago area markets or to do business with the City.

"Prime Contractor" means the Contractor and does not include any subcontractors.

"Management" means business owners, partners and any others who have a fiduciary duty to the business.

"Workforce" means all who are employed by Contractor in a permanent, full-time employment capacity.

Unless otherwise prohibited by any federal, state or local law, for any contract having an estimated contract value of \$100,000 or more advertised, or if not advertised awarded by competitive bid, the CPO shall allocate to any qualifying bidder the following bid incentive for diverse management and diverse workforce:

<b>Total % of Contractor Management That Is Diverse</b>	<b>Bid Incentive</b>
10% to 20%	0.5% of the contract base bid
Greater than 20% up to 40%	2% of the contract base bid
Greater than 40%	4% of the contract base bid
<b>Total % of Contractor Workforce That Is Diverse</b>	<b>Bid Incentive</b>
10% to 20%	2% of the contract base bid
Greater than 20% up to 40%	4% of the contract base bid
Greater than 40%	6% of the contract base bid

A Prime Contractor may qualify for and apply both the diverse management and diverse workforce bid incentives.

The bid incentive is used only to calculate an amount to be used in evaluating the bid to determine the low bidder, and it does not affect the Contract price.

The Prime Contractor shall maintain records adequate to monitor compliance with this section and shall submit such reports as required by the CPO. Full access to the Prime Contractor's records shall be granted to the CPO, the Commissioner of the supervising department, the Inspector General, or any duly authorized representative thereof. The Prime Contractor shall maintain all relevant records for a period of no less than three years after the expiration of the Contract.

The CPO may require, at the time of submission of a bid or at any time during the term of the Contract, that the bidder or Prime Contractor submit an affidavit and other supporting documents demonstrating that the bidder or Prime Contractor is eligible for the diverse management and/or diverse workforce bid incentives.

Upon completion of the work, any Prime Contractor that has failed to retain the percentage of diverse management and/or diverse workforce for which a bid incentive was taken into consideration in awarding a contract shall be fined in an amount equal to three times the amount of the bid incentive allocated, unless the Prime Contractor can demonstrate that due to circumstances beyond the Prime Contractor's control, the Prime Contractor for good cause was unable to retain the percentage of diverse management and/or diverse workforce throughout the duration of the Contract period.

**1.22.10. MacBride Principles Ordinance**

If the Bidder conducts any business operations in Northern Ireland, it is hereby required that the Bidder will make reasonable and good faith efforts to conduct those operations in accordance with the MacBride Principles for Northern Ireland as defined in Illinois Public Act 85-1390 and Section 2-92-580 of the Municipal Code to promote fair and equal employment opportunities and labor practices for religious minorities in Northern Ireland.

Bidders who take exception to the provision set forth above will be assessed an eight percent (8%) penalty on their Bids. The penalty will pertain to the Bid only, and will not affect the contract price or payments under the Contract.

**1.23. Consideration of Bids**

The CPO represents and acts for the City in all matters pertaining to this invitation for bids and any contract subsequently awarded. The CPO reserves the right to reject any and all bids and to disregard any informalities in a bid or the bidding process, when in his/her opinion the best interest of the City will be served by such action.

**1.24. Bid Protests**

The bidder shall submit any protests or claims regarding this solicitation to the office of the City's Chief Procurement Officer located at City Hall Room 806, 121 North LaSalle Street, Chicago, Illinois 60602.

All protests or claims must set forth the name and address of the protester, the specification number, the grounds for the protest or claim, and the course of action that the protesting party desires that the CPO undertake.

Copies of the Bid Protest Procedures (entitled Department of Procurement Services Solicitations and Contracting Process Protest Procedures) are available at the Bid & Bond Room and on DPS' website [www.cityofchicago.org/procurement](http://www.cityofchicago.org/procurement) under "Rules, Regulations and Ordinances" then under the link marked "Solicitation and Contracting Process Protest Procedures."

**1.25. Award of Contract; Notice of Award**

The Contract consists of the Bid Documents. Upon the award and execution of a contract pursuant to the Bid Documents, the Bid Documents become the Contract Documents, which collectively comprise the Contract.

The Department of Procurement Services will, by written notice, notify the Bidder that is, per the Basis of Award, the lowest responsive and responsible Bidder of the City's award of a Contract.

**1.26. Title VI Solicitation Notice**

The City, in accordance with the provisions of Title VI of the Civil Rights Act of 1964 (78 Stat. 252, 42 U.S.C. §§ 2000d to 2000d-4) and the Regulations, hereby notifies all bidders that it will affirmatively ensure that any contract entered into pursuant to this advertisement, disadvantaged business enterprises will be afforded full and fair opportunity to submit bids in response to this invitation and will not be discriminated against on the grounds of race, color, or national origin in consideration for an award.

**1.27. Policy Prohibiting Sexual Harassment (MCC 2-92-612)**

In accordance with Section 2-92-612, Bidder shall, as prescribed by the Chief Procurement Officer, attest by affidavit (in the form of the "Sexual Harassment Policy Affidavit" Exhibit attached hereto) that Bidder 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.

**1.28. Policy Regarding Non-Disclosure of Salary History (MCC 2-92-385)**

In accordance with Section 2-92-385, Bidder shall, as prescribed by the Chief Procurement Officer, attest by affidavit (in Appendix C to Bidder's Economic Disclosure Statement) that Bidder has a written policy (i) against screening job applicants based on their wage or salary history and (ii) seeking an applicant's wage or salary history.

**ARTICLE 2. INCORPORATION OF EXHIBITS**

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

- Exhibit 1: Sexual Harassment Policy Affidavit (MCC 2-92-612)

**ARTICLE 3. STANDARD TERMS AND CONDITIONS**

**3.1. General Provisions**

**3.1.1. Definitions**

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

- If funded by the Federal government or State of Illinois, terms required by the Federal Government or State of Illinois, as applicable, whether set out in this document, in a Task Order Request (if applicable), or otherwise.
- Standard provisions and form provisions relating to this procurement type
- Scope of Work and Detailed Specifications
- Task Order (if applicable)
- All other parts of this Contract.

Provided, however, in the event of an inconsistency between terms set out among different component parts of the Contract, or terms set out within a Contract part, notwithstanding the order of precedence noted above, the term that is most favorable to the City controls, unless expressly stated otherwise.

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

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



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

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

**3.1.2.3. Severability**

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

**3.1.2.4. Entire Contract**

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

**3.1.3. Subcontracting and Assignment**

**3.1.3.1. No Assignment of Contract**

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

**3.1.3.2. Subcontracts**

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

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

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

All subcontracts and all approvals of Subcontractors are, regardless of their form, considered conditioned upon performance by the Subcontractor in accordance with the terms and conditions of this Contract. Upon request of the City, Contractor must promptly provide a copy of its agreement(s) with its subcontractor(s). All subcontracts must contain provisions that require the subcontracted activity be performed in strict accordance with the requirements of this Contract, provide that the Subcontractors are subject to all the terms of this Contract, and are subject to the approval of the CPO. If the subcontract agreements do not prejudice any of the City's rights under this Contract, such agreements may contain different provisions than are provided in this Contract

with respect to extensions of schedule, time of completion, payments, guarantees and matters not affecting the quality of the activity to be performed.

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

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

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

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

**3.1.3.5. Assigns**

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

**3.1.4. Contract Governance**

**3.1.4.1. Governing Law and Jurisdiction**

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

**3.1.4.2. Consent to Service of Process**

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

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

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

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

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

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

**3.1.4.4. No Third Party Beneficiaries**

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

**3.1.4.5. Independent Contractor**

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

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

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

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

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

**3.1.4.6. Authority**

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

**3.1.4.7. Joint and Several Liability**

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

**3.1.4.8. Notices**

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

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

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

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

#### **3.1.4.9. Amendments**

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

#### **3.1.4.10. No Waiver of Legal Rights**

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

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

#### **3.1.4.11. Non-appropriation of Funds**

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

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

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

#### **3.1.4.12. Participation By Other Government Agencies**

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

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

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

#### **3.1.5. Confidentiality**

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

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

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

#### **3.1.6. Indemnity**

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

"Losses" means, individually and collectively, liabilities of every kind, including monetary damages and reasonable costs, payments and expenses (such as, but not limited to, court costs and reasonable attorneys' fees and disbursements), claims, demands, actions, suits, proceedings, fines, judgments or settlements, any or all of which in any way arise out of or relate to the negligent or otherwise wrongful errors, acts, or omissions of Contractor, its employees, agents and subcontractors.

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

At the City Corporation Counsel's option, Contractor must defend all suits brought upon all such Losses and must pay all costs and expenses incidental to them, but the City has the right, at its option, to participate, at its own cost, in the defense of any suit, without relieving Contractor of any of its obligations under this Contract. Any settlement must be made only with the prior written consent of the City Corporation Counsel, if the settlement requires any action on the part of the City.

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

To the extent permissible by law, Contractor waives any limits to the amount of its obligations to indemnify, defend or contribute to any sums due to third parties arising out of any Losses, including but not limited to any limitations on Contractor's liability with respect to a claim by any employee of Contractor arising under the Workers Compensation Act, 820 ILCS 305/1 *et seq.* or any other related law or judicial decision (such as, *Kotecki v. Cyclops Welding Corporation*, 146 Ill. 2d 155 (1991)). The City, however, does not waive any limitations it may have on its liability under the Illinois Workers Compensation Act, the Illinois Pension Code or any other statute.

The indemnities in this section survive expiration or termination of this Contract for matters occurring or arising during the term of this Contract or as the result of or during the Contractor's performance of work or services beyond the term. Contractor acknowledges that the requirements set forth in this section to indemnify, keep and save harmless and defend the City are apart from and not limited by the Contractor's duties under this Contract, including the insurance requirements set forth in the Contract.

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

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

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

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

### **3.2. Compensation Provisions**

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

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

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

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

#### **3.2.1.2. Invoices**

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

#### **3.2.1.3. Payment**

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

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

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

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

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

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

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

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

The City may offset against any invoice from Contractor any costs incurred by the City as a result of event of default by Contractor under this Contract or otherwise resulting from Contractor's performance or non-performance under this Contract, including but not limited to any credits due as a result of over-billing by Contractor or overpayments made by the City. If the amount offset is insufficient to cover those costs, Contractor is liable for and must promptly remit to the City the balance upon written demand for it. This right to offset is in addition to and not a limitation of any other remedies available to the City.

#### **3.2.1.6. Records**

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

### **3.2.1.7. Audits**

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

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

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

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

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

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

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

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

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

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

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

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

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



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

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

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

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

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

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

The Contractor must make payment to its Subcontractors **within 7 days** of receipt of payment from the City for each invoice.

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.

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

The City posts payments to prime contractors on the web at

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

If the Contractor, without reasonable cause, fails to make any payment to its Subcontractors and material suppliers **within 7 days** after receipt of payment under a City contract, the Contractor shall pay to its Subcontractors and material suppliers, in addition to the payment due them, interest in the amount of 2% per month, calculated from the expiration of the 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](http://www.cityofchicago.org/content/dam/city/depts/dps/ContractAdministration/StandardFormsAgreements/Failure%20to%20Promptly%20Pay%20Fillable%20Form%203%202013.pdf)

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

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

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

Contractor shall not take any retaliatory action against any Subcontractor for reporting non-payment pursuant to this Sub-Section 0. Any such retaliatory action is an event of default under this Contract and is subject to the remedies set forth in Section 3.5 hereof, including termination. In addition to those remedies, any retaliatory action by a contractor may result in a contractor being deemed non-responsible for future City contracts or, if, in the sole judgment of the Chief Procurement Officer, such retaliatory action is egregious, the Chief Procurement Officer may initiate debarment proceedings against the contractor. Any such debarment shall be for a period of not less than one year.

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

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

**3.2.3.4. Action by the City**

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

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

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

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

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

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

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

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

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

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

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

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

#### **3.3.1. General**

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

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

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

#### **3.3.2. Certification of Compliance with Laws**

By entering into this Contract with the City, Contractor certifies to the best of its knowledge and belief that it, its principals and any subcontractors used in the performance of this contract, meet City requirements and have not violated any City or sister agency policy, codes, state, federal, or local laws, rules or regulations and have not been subject to any debarment, suspension or other disciplinary action by any government agency. Additionally, if at any time the contractor becomes aware of such information, it must immediately disclose it to the City.

#### **3.3.3. Federal Affirmative Action**

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

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

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

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

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

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

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

#### **3.3.4.2. Non-discrimination**

The contractor, with regard to the work performed by it during the contract, will not discriminate on the grounds of race, color, or national origin in the selection and retention of subcontractors,

including procurements of materials and leases of equipment. The contractor will not participate directly or indirectly in the discrimination prohibited by the Acts and the Regulations, including employment practices when the contract covers any activity, project, or program set forth in Appendix B of 49 CFR part 21 (Nondiscrimination in Federally-Assisted Programs of the US Department of Transportation).

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

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

**3.3.4.4. Information and Reports**

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

**3.3.4.5. Sanctions for Noncompliance**

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

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

**3.3.4.6. Incorporation of Provisions**

The contractor will include the provisions of above paragraphs 3.3.4.1, "Compliance With Regulations" through 3.3.4.6 "Incorporation of Provisions" in every subcontract, including procurements of materials and leases of equipment, unless exempt by the Acts, the Regulations and directives issued pursuant thereto. The contractor will take action with respect to any subcontract or procurement as the sponsor or the applicable federal agency may direct as a means of enforcing such provisions including sanctions for noncompliance. Provided, that if the contractor becomes involved in, or is threatened with litigation by a subcontractor, or supplier because of such direction, the contractor may request the sponsor to enter into any litigation to protect the interests of the sponsor. In addition, the contractor may request the United States to enter into the litigation to protect the interests of the United States.

**3.3.5. Other Non-Discrimination Requirements**

**3.3.5.1. Illinois Human Rights Act**

**3.3.5.1.1. Generally**

Contractor must comply with the Illinois Human Rights Act, 775 ILCS 5/1-1 01 et seq., as amended and any rules and regulations promulgated in accordance therewith, including, but not limited to the Equal Employment Opportunity Clause, 44 Ill. Admin. Code 750 Appendix A, and as further described below.

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

**3.3.5.1.2. State of Illinois Duties of Public Contractors (44 Ill. Admin. Code 750 et seq.)**

Contractor shall comply with its obligations for public contractors under state law. These rules require that contractor examine all its job classifications to determine whether minorities or women are underutilized, and if underutilization exists in any job classification, the contractor must take appropriate affirmative action. 44 Ill. Admin. Code 750.110. Underutilization means "having fewer minority/female workers in a particular job classification than would reasonably be expected by their availability. 44 Ill. Admin. Code 750.120.

When required by the state rules, contractors shall develop and implement written affirmative action plans to overcome underutilization of minorities and/or women, including, at minimum, a description of the contractor's workforce analysis and goals and timetables for recruitment efforts, per 44 Ill. Admin. Code 750.130. Contractors shall also state in all solicitations that all applicants be afforded equal employment opportunity without discrimination ("because of race, color, religion, sex, marital status, national origin or ancestry, citizenship status, age, physical or mental disability unrelated to ability, sexual orientation, military status, order of protection status or unfavorable discharge from military service," 44 Ill. Admin. Code 750.150), and advise in writing their personnel, referral sources, and labor organizations of the contractor's obligations under state law and any affirmative action plan.

**3.3.5.1.3. State of Illinois Equal Employment Opportunity Clause**

In the event of the Contractor's non-compliance with the provisions of this Equal Employment Opportunity Clause or the Illinois Human Rights Act, the Contractor may be declared ineligible for future contracts or subcontracts with the State of Illinois or any of its political subdivisions or municipal corporations, and the contract may be cancelled or voided in whole or in part, and other sanctions or penalties may be imposed or remedies invoked as provided by statute or regulation. During the performance of this contract, the Contractor agrees as follows:

- A) That Contractor will not discriminate against any employee or applicant for employment because of race, color, religion, sex, sexual orientation, marital status, order of protection status, national origin or ancestry, citizenship status, age, physical or mental disability unrelated to ability, military status or an unfavorable discharge from military service; and, further, that he or she will examine all job classifications to determine if minority persons or women are underutilized and will take appropriate affirmative action to rectify any underutilization.
- B) That, if Contractor hires additional employees in order to perform this contract or any portion of this contract, Contractor will determine the availability (in accordance with 44 Ill. Admin. Code Part 750) of minorities and women in the areas from which Contractor may reasonably recruit and Contractor will hire for each job classification for which employees are hired in a way that minorities and women are not underutilized.
- C) That, in all solicitations or advertisements for employees placed Contractor or on Contractor's behalf, Contractor will state that all applicants will be afforded equal opportunity without discrimination because of race, color, religion, sex, sexual orientation, marital status, order of protection status, national origin or ancestry, citizenship status, age, physical or mental disability unrelated to ability, military status or an unfavorable discharge from military service.
- D) That Contractor will send to each labor organization or representative of workers with which Contractor has or is bound by a collective bargaining or other agreement or understanding, a notice advising the labor organization or representative of the Contractor's obligations under the Illinois Human Rights Act and 44 Ill. Admin. Code Part 750. If any labor organization or representative fails or refuses to cooperate with the Contractor in Contractor's efforts to comply with the Act and this Part, the Contractor will promptly notify the Illinois

Department of Human Rights and the City and will recruit employees from other sources when necessary to fulfill its obligations under the contract.

E) That Contractor will submit reports as required by 44 Ill. Admin. Code Part 750, furnish all relevant information as may from time to time be requested by the Illinois Department of Human Rights or the City, and in all respects comply with the Illinois Human Rights Act and 44 Ill. Admin. Code Part 750.

F) That Contractor will permit access to all relevant books, records, accounts and work sites by personnel of the City and the Illinois Department of Human Rights for purposes of investigation to ascertain compliance with the Illinois Human Rights Act and the Illinois Department of Human Rights's Rules and Regulations.

G) That Contractor will include verbatim or by reference the provisions of this clause in every subcontract awarded under which any portion of the contract obligations are undertaken or assumed, so that the provisions will be binding upon the subcontractor. In the same manner as with other provisions of this contract, the Contractor will be liable for compliance with applicable provisions of this clause by subcontractors; and further it will promptly notify the City and the Illinois Department of Human Rights in the event any subcontractor fails or refuses to comply with the provisions. In addition, the Contractor will not utilize any subcontractor declared by the Illinois Human Rights Commission to be ineligible for contracts or subcontracts with the State of Illinois or any of its political subdivisions or municipal corporations.

#### **3.3.5.2. Chicago Human Rights Ordinance MCC Ch. 2-160**

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

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

#### **3.3.5.3. City of Chicago Equal Employment Opportunity Goals MCC 2-92-390**

The City has established by ordinance equal employment opportunity goals for construction projects with an estimated contract value of \$100,000 or more. The City's yearly goals, as a percentage of construction aggregated work hours per category of worker, are as follows:

- A) 25% by minority journeyworkers and apprentices;
- B) 7% by women journey workers and apprentices;
- C) 40% by minority laborers; and
- D) 10% by women laborers.

The Contractor is encouraged to meet or exceed these goals. Contractor shall also comply with the State of Illinois equal employment opportunity requirements, as set forth above.

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

Pursuant to MCC 2-92-586, Contractor is strongly encouraged to subcontract with businesses certified as business enterprises owned or operated by people with disabilities ("BEPD") as defined in that section or MCC 2-92-337, and to use BEPD businesses as suppliers.

#### **3.3.6. Wages**

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

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

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

If this contract was advertised on or after October 1, 2014, Contractor must comply with Mayoral Executive Order 2014-1 and any applicable rules or regulations issued by the CPO. The Minimum Wage to be paid pursuant to the Order as of July 1, 2019 is **\$14.10 per hour**. The Minimum Wage must be paid to:

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

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

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

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

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

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

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

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

### **3.3.6.2. Living Wage Ordinance**

MCC Sect. 2-92-610 provides for a living wage for certain categories of workers employed in the performance of City contracts, specifically non-City employed security guards, parking attendants, day laborers, home and health care workers, cashiers, elevator operators, custodial workers, and clerical workers ("Covered Employees"). Accordingly, pursuant to MCC Sect. 2-92-610 and rules and/or regulations promulgated thereunder:

if the Contractor has 25 or more full-time employees, and if at any time during the performance of the contract the Contractor and/or any subcontractor or any other entity that provides any portion of the Services (collectively "Performing Parties") uses 25 or more full-time security guards, or any number of other full-time Covered Employees, then The Contractor's obligation to pay, and to assure payment of, the Base Wage will begin at any time during the Contract term when the



conditions set forth in (1) and (2) above are met, and will continue thereafter until the end of the Contract term.

As of July 1, 2019 the Base Wage is \$12.88. The current rate can be found on the Department of Procurement Services' website.

**Note: As of July 1, 2019, the wage specified by Mayoral Executive Order 2014-1 is higher than the Base Wage rate. Therefore, the higher wage specified by the Executive Order (or other applicable rule or law) must be paid.**

Each July 1st the Base Wage will be adjusted, using the most recent federal poverty guidelines for a family of four (4) as published annually by the U.S. Department of Health and Human Services, to constitute the following: the poverty guidelines for a family of four (4) divided by 2000 hours or the current base wage, whichever is higher. At all times during the term of this Contract, Contractor and all other Performing Parties must pay the Base Wage (as adjusted in accordance with the above). If the payment of prevailing wages is required for work or services done under this Contract, and the prevailing wages for Covered Employees are higher than the Base Wage, then the Contractor must pay the prevailing wage rates.

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

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

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

#### **3.3.6.3. Chicago Paid Sick Leave Ordinance**

The Paid Sick Leave Ordinance, 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.

#### **3.3.6.4. Equal Pay**

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

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

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

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

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

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

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

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

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

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

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

No person or business entity shall be awarded a contract or sub-contract if that person or business entity: (a) has been convicted of bribery or attempting to bribe a public officer or employee of the City of Chicago, the State of Illinois, or any agency of the federal government or of any state or local government in the United States, in that officers or employee's official capacity; or (b) has been convicted of agreement or collusion among bidders or prospective bidders in restraint of freedom of competition by agreement to bid a fixed price, or otherwise; or (c) has made an admission of guilt of such conduct described in (a) or (b) above which is a matter of record but has not been prosecuted for such conduct; or (d) has violated MCC Sect. 2-92-610; or (e) has violated any regulation promulgated by the Chief Procurement Officer that includes ineligibility as a consequence of its violation; or (f) has committed, within a 24-month period, three or more violations of Chapter 1-24 of the MCC; or (g) has been debarred by any local, state or federal government agency from doing business with such government agency, for any reason or offense set forth in subsections (a), (b), or (c) of this section, or substantially equivalent reason or offense, for the duration of the debarment by such government agency..

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

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

**3.3.7.3. Federal Terrorist (No-Business) List**

Contractor warrants and represents that neither Contractor nor an Affiliate, as defined below, appears on the Specially Designated Nationals List, the Denied Persons List, the Unverified List, the Entity List, or the Debarred List as maintained by the Office of Foreign Assets Control of the U.S. Department of the Treasury or by the Bureau of Industry and Security of the U.S. Department of Commerce or their successors, or on any other list of persons or entities with which the City may not do business under any applicable law, rule, regulation, order or judgment.

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

**3.3.7.4. Governmental Ethics Ordinance 2-156**

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

**3.3.7.5. Lobbyists**

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

**3.3.8. Restrictions on Business Dealings**

**3.3.8.1. Prohibited Interests in City Contracts**

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 work or services to which this Contract pertains is permitted to have any personal interest, direct or indirect, in this Contract. 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 Contract or to any financial benefit to arise from it.

**3.3.8.2. Conflicts of Interest**

The Contractor covenants that it, and to the best of its knowledge, its subcontractors if any, presently have no interest and will not acquire any interest, direct or indirect, in any enterprise, project or contract which would conflict in any manner or degree with the performance of the work, services or goods to be provided hereunder. The Contractor further covenants that in the performance of the Contract no person having any such interest will be employed, either by Contractor or any subcontractor, to perform any work or services under the Contract or have access to confidential information.

If the City determines that the Contractor does have such a conflict of interest, the City will notify the Contractor in writing, stating the basis for its determination. The Contractor will thereafter have 30 days in which to respond with reasons why the Contractor believes a conflict of interest does not exist. If the Contractor does not respond or if the City still reasonably determines a conflict of interest to exist, the Contractor must terminate its interest in the other enterprise, project, or contract. Further, if the City in the reasonable judgment of the CPO or Commissioner determines that any subcontractor's work or services for others conflicts with the work or services to be provided by them, upon request of the City, Contractor must require that subcontractor to terminate such other work or services immediately.

If Contractor or any subcontractors become aware of a conflict, they must immediately stop work on the activity causing the conflict and notify the City.

If Contractor or any subcontractors ("Contracting 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, bid specifications for a project, or other procurement solicitation document, the Contracting Parties must not participate, directly or indirectly, as a prime, subcontractor, subconsultant or joint venturer in that project or in the preparation of a proposal or bid for that project during the term of this Contract or afterwards. The Contracting Parties may, however, assist the City in reviewing the proposals or bids for the project if none of the Contracting Parties have a relationship with the persons or entities that submitted the proposals or bids for that project.

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

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

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

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

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

Violation of, non-compliance with, misrepresentation with respect to, or breach of any covenant or warranty under this provision or violation of Mayoral Executive Order No. 2011-4 constitutes a breach and default under this Contract, and under any Other Contract for which no opportunity to

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

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

For purposes of this provision:

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

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

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

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

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

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

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

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

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

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

#### **3.3.10.1. False Statements**

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

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

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

If this contract was let by a competitive bidding process as set forth in the Municipal Purchasing Act for Cities of 500,000 or More Population, in accordance with MCC Sect. 2-92-580 if the primary Contractor conducts any business operations in Northern Ireland, it is hereby required that the Contractor will make all reasonable and good faith efforts to conduct any business operations in Northern Ireland in accordance with the MacBride Principles for Northern Ireland as defined in Illinois Public Act 85-1390 (1988 Ill. Laws 3220).

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

**3.3.10.3. 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.

**3.3.10.4. 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, if applicable, undertaken pursuant to MCC Ch. 2-56. Contractor understands and will abide by all provisions of MCC Ch. 2-56.

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

**3.3.10.5. Duty to Report Corrupt Activity**

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

**3.3.10.6. Electronic Mail Communication**

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

**3.3.10.7. EDS Update Obligation**

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

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

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

**3.3.10.9. Participation By Other Local Government Agencies**

If Contractor consents, other local government agencies may be eligible to participate in this Contract pursuant to the terms and conditions of this Contract if such agencies are authorized, by law or their governing bodies, to execute such purchases, and if such authorization is allowed by the Chief Procurement Officer, if such purchases have no net adverse effect on the City and result in no diminished services from the bidder to the City's user departments pursuant to such purchases. Examples of such Local Government Agencies are: Board of Education, Chicago Park District, City Colleges of Chicago, Chicago Transit Authority, Chicago Housing Authority, Chicago Board of Elections, Metropolitan Pier and Exposition Authority (McCormick Place, Navy Pier), and the Municipal Courts. Said purchases shall be made upon the issuance of a purchase order directly from the Local Government Agency. The City will not be responsible for payment of any amounts owed by any other Local Government Agencies, and will have no liability for the acts or omissions of any other Local Government Agency.

**3.3.10.10. Policy Prohibiting Sexual Harassment (MCC 2-92-612)**

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.

Contractor shall, as prescribed by the Chief Procurement Officer, 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 attached hereto in the Exhibit titled "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 Chief Procurement Officer 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.

#### **3.3.10.11. Policy on Non-Disclosure of Salary History (MCC 2-92-385)**

This section applies if this Contract was advertised on or after August 25, 2018.

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, as prescribed by the Chief Procurement Officer, 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 Appendix C to Contractor's Economic Disclosure Statement.



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.

### **3.3.11. Compliance with Environmental Laws and Related Matters**

#### **3.3.11.1. Definitions**

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

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

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

Environmental Law: An Environmental Law is any Law that in any way, directly or indirectly, in whole or in part, bears on or relates to the environment or to human health or safety. A non-exhaustive list of Environmental Laws includes without limitation the Comprehensive Environmental Response, Compensation and Liability Act, 42 U.S.C. 9601, *et seq.*, the Resource Conservation and Recovery Act, 42 U.S.C. 6901, *et seq.*, the Hazardous Materials Transportation Act, 49 U.S.C. 5101, *et seq.*, the Clean Air Act, 42 U.S.C. 7401, *et seq.*, the Federal Water Pollution Control Act, 33 U.S.C. 1251, *et seq.*, the Occupational Safety and Health Act, 29 U.S.C. 651, *et seq.*, the Illinois Environmental Protection Act, 415 ILCS 5/1, *et seq.*, the Illinois Occupational Safety and Health Act, 820 ILCS 219/1, *et seq.*, Chapters 7-28 and 11-4 of the Chicago Municipal Code, and all related rules and regulations.

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

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

#### **3.3.11.2. Joint Ventures**

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

#### **3.3.11.3. Compliance With Environmental Laws**

As part of or in addition to its obligation to observe and comply with all applicable laws, Contractor must observe and comply with all applicable Environmental Laws and ensure that all Subcontractors observe and comply with all applicable Environmental Laws.

Any noncompliance, by Contractor or any Subcontractor, with any Environmental Law during the time that this Contract is effective is an event of default, regardless of whether the noncompliance

relates to performance of this Contract. This includes without limitation any failure by Contractor or any Subcontractor to keep current, throughout the term of this Contract, all insurance certificates, permits and other authorizations of any kind that are required, directly or indirectly, by any Environmental Law.

**3.3.11.4. Costs**

Any cost arising directly or indirectly, in whole or in part, from any noncompliance, by Contractor or any Subcontractor, with any Environmental Law, will be borne by the Contractor and not by the City. This includes, but is not limited to, any cost associated with removal of waste or other material from a facility lacking any required permit. No provision of this Contract is intended to create or constitute an exception to this provision.

**3.3.11.5. Proof of Noncompliance; Authority; Cure**

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

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

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

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

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

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

If any Environmental Law requires Contractor or any Subcontractor to make, submit or file any non-Routine notice or report of any kind, to any Environmental Agency or other person, including without limitation any agency or other person having any responsibility for any type of emergency response activity, then Contractor must deliver a complete copy of the notice or report (or, in the case of legally required telephonic or other oral notices or reports, a comprehensive written summary of same) to the Law Department within 24 hours of making, submitting or filing the original report.

Additionally, to the extent not already achieved by Contractor's compliance with this paragraph 3.3.10.6 and paragraph 3.3.10.8, Contractor must notify the Commissioner of the Department, within 24 hours of learning of any of the following:

- (i) any release, suspected release, or threatened release of any waste or other material relating to the work performed under the Contract;

(ii) any notice of any kind received by Contractor, any Subcontractor, or any employee or agent of Contractor or any Subcontractor, from an Environmental Agency or any other person, of or relating to any release, suspected release, or threatened release of any waste or other material relating to the work performed under the Contract.

This notification must be in writing, must be submitted by a fast method such as email, and must include, to the best of Contractor's knowledge at the time of submittal: the types and amounts of the waste or other material at issue; the location; the cause and any contributing factors; all actions taken, being taken, and intended to be taken by Contractor and any Subcontractors; and a copy of any notice received by Contractor, any Subcontractor, or any employee or agent of Contractor or any Subcontractor. Contractor must also provide written updates to the Commissioner by email or other method as indicated by the Commissioner whenever Contractor becomes aware of information that is different from or additional to the information provided in the initial notification.

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

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

**3.3.11.7. Requests for Documents and Information**

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

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

**3.3.11.8. Environmental Claims and Related Matters**

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

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

**3.3.11.9. Preference for Recycled Materials**

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

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

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

- 7-28-390 Dumping on public way;
- 7-28-440 Dumping on real estate without permit;
- 11-4-1410 Disposal in waters prohibited;
- 11-4-1420 Ballast tank, bilge tank or other discharge;
- 11-4-1450 Gas manufacturing residue;
- 11-4-1500 Treatment and disposal of solid or liquid waste;
- 11-4-1530 Compliance with rules and regulations required;
- 11-4-1550 Operational requirements; and
- 11-4-1560 Screening requirements.

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

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

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

### **3.4. Contract Disputes**

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

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

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

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

The Commissioner shall have 30 days from receipt of the Claim to render a written "final decision of the Commissioner" stating the Commissioner's factual and contractual basis for the decision. However, the Commissioner may take an additional period, not to exceed 10 days, to render the final decision. If the Commissioner does not render a "final decision of the Commissioner" within the prescribed time frame, then the Claim should be deemed denied by the Commissioner.

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

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

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

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

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

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

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

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

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

- A. Any material misrepresentation, whether negligent or willful and whether in the inducement or in the performance, made by Contractor to the City.
- B. Contractor's material failure to perform any of its obligations under this Contract including the following:
- C. Failure to perform the Services with sufficient personnel and equipment or with sufficient material to ensure the timely performance of the Services
- D. Failure to have and maintain all professional licenses required by law to perform the Services;
- E. Failure to timely perform the Services;
- F. Failure to perform the Services in a manner reasonably satisfactory to the Commissioner or the CPO or inability to perform the Services satisfactorily as a result of insolvency, filing for bankruptcy or assignment for the benefit of creditors;
- G. Failure to promptly re-perform, as required, within a reasonable time and at no cost to the City, Services that are rejected as erroneous or unsatisfactory;
- H. Discontinuance of the Services for reasons within Contractor's reasonable control;
- I. Failure to update promptly EDS(s) furnished in connection with this Contract when the information or responses contained in it or them is no longer complete or accurate;
- J. Failure to comply with any other term of this Contract, including the provisions concerning insurance and nondiscrimination; and
- K. Any change in ownership or control of Contractor without the prior written approval of the CPO, which approval the CPO will not unreasonably withhold.
- L. Contractor's default under any other Contract it may presently have or may enter into with the City during the life of this Contract. Contractor acknowledges and agrees that in the event of a default under this Contract the City may also declare a default under any such other agreements.
- M. Contractor's repeated or continued violations of City ordinances unrelated to performance under the Contract that in the opinion of the CPO indicate a willful or reckless disregard for City laws and regulations.
- N. Contractor's use of a subcontractor that is currently debarred by the City or otherwise ineligible to do business with the City.

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

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

The CPO will give Contractor written notice of the default, either in the form of a cure notice ("Cure Notice"), or, if no opportunity to cure will be granted, a default notice ("Default Notice").

If a Cure Notice is sent, the CPO may in his/her sole discretion will give Contractor an opportunity to cure the default within a specified period of time, which will typically not exceed 30 days unless extended by the CPO. The period of time allowed by the CPO to cure will depend on the nature of the

event of default and the Contractor's ability to cure. In some circumstances the event of default may be of such a nature that it cannot be cured. Failure to cure within the specified time may result in a Default Notice to the Contractor.

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

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

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

### **3.5.3. Remedies**

After giving a Default Notice, the City may invoke any or all of the following remedies:

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

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

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

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

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

### **3.5.6. Early Termination**

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

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

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

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

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

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

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

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

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

Contractor has an ongoing duty to protect confidential information, including but not limited to any information exempt from disclosure under the Illinois Freedom of Information Act such as information affecting security of the airport ("Airport Security Data"). Airport Security Data includes any Sensitive Security Information as defined by 49 CFR Part 1542. Contractor acknowledges that information provided to, generated by, or encountered by Contractor may include Airport Security Data. If Contractor fails to safeguard the confidentiality of Airport Security Data, Contractor is liable for the reasonable costs of actions taken by the City, the airlines, the Federal Aviation Administration ("FAA"), or the Transportation Security Administration ("TSA") that the applicable entity, in its sole discretion, determines to be necessary as a result, including without limitation the design and construction of improvements, procurement and installation of security devices, and posting of guards. All Subcontracts or purchase orders entered into by the Contractor, with parties providing material, labor or services to complete the Work, must contain the language of this section. If the Contractor fails to incorporate the required language in all Subcontracts or purchase orders, the provisions of this section are deemed incorporated in all Subcontracts or purchase orders.

##### **3.6.1.2. Aviation Security**

This Contract is subject to the airport security requirements of 49 United States Code, Chapter 449, as amended, the provisions of which govern airport security and are incorporated by reference, including without limitation the rules and regulations in 49 CFR Part 1542 and all other applicable rules and regulations promulgated under them. All employees providing services at the City's airports must be badged by the City. (See Airport Security Badges.) Contractor, Subcontractors and the respective employees of each are subject to such employment investigations, including criminal history record checks, as the Administrator of the Federal Aviation Administration ("FAA"), the Under Secretary of the Transportation Security Administration ("TSA"), and the City may deem necessary. Contractor, Subcontractors, their respective employees, invitees and all other persons under the control of Contractor must comply strictly and faithfully with any and all rules, regulations and directions which the Commissioner, the FAA, or the TSA may issue from time to time may issue during the life of this Contract with regard to security, safety, maintenance and operation of the Airport and must promptly report any information regarding suspected violations in accordance with those rules and regulations.

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

### **3.6.1.3. Airport Security Badges**

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

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

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

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

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



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

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

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

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

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

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

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

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

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

#### **3.6.1.4.4. Work on the Airfield**

For any work on the airfield, between sunset and sunrise, any equipment and materials stored outside must be marked with red obstruction lights acceptable to the Commissioner and in conformity with all FAA requirements, including Advisory Circular 150/5345-43J. All obstruction lights must be kept continuously in operation between sunset and sunrise 7 days a week and also during any daylight periods when aircraft ceiling is below 500 feet and visibility is less than 5 miles. Information on ceiling and visibility may be obtained by the Contractor on request at the office of the Deputy Commissioner of Operations or from the FAA Control Tower

Operator. Proper compliance with these obstruction light requirements is essential to the protection of aircraft and human life and the Contractor has the responsibility of taking the initiative at all times to be aware of ceiling and visibility conditions, without waiting for the FAA Control Tower Operator or any other City representative to ask the Contractor to post obstruction lights.

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

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

#### **3.6.1.4.5. Parking Restrictions**

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

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

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

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

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

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

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

#### **3.6.2.2. Access to Facilities**

For purposes of this section, "employee" refers to any individual employed or engaged by Contractor or by any Subcontractor. If the Contractor, or any employee, in the performance of this

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

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

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

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

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

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

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

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

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

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

- A. Each employee must wear and display the O.E.M.C Security Badge issued to that employee on his or her outer apparel at all times.

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

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

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

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

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

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

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

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

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

As part of Police operations and security, the Contractor must obtain from the Police Department, Security Badges for each of its employees, subcontractors, material men, invitees or any person(s) over whom Contractor has control, which must be visibly displayed at all times while at any Police

Department facility. No person will be allowed beyond security checkpoints without a valid Security Badge. Each such person must submit signed and properly completed application forms to receive Security Badges. The application forms will solicit such information as the Superintendent may require; including but not limited to name, address, date of birth (driver's license). The Contractor is responsible for requesting and completing the form for each employee and subcontractors employee. The Superintendent may grant or deny the application in his sole discretion. The Contractor must make available to the Superintendent, within one (1) day of request, the personnel file of any employee who will be working on the project.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Failure to provide and maintain the necessary security will result in an immediate closure by DOWM personnel of the point of access.

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

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

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

**3.6.4.5. Hazardous or Illegal Materials**

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

#### **ARTICLE 4. TERMS FOR WORK SERVICES CONTRACTS**

##### **4.1. The Services**

###### **4.1.1. Scope of Services**

The scope of services ("Services") is described in the Scope of Work and Detailed Specifications article of this agreement.

Unless otherwise noted, the Contractor must take out, at Contractor's own expense, all permits and licenses necessary to perform the Services in accordance with the requirements of this Contract.

###### **4.1.2. Estimated Quantities/Level of Service**

Any quantities or level of usage shown herein are estimated for the initial Contract term. The City reserves the right to increase or decrease the quantities or level of Services required under this Contract. Nothing herein will be construed as intent on the part of the City to contract for any Services other than those determined by the City to be necessary to meet its needs.

The City will only be obligated to pay for such Services as are from time to time requested, performed, and issued via a Purchase Order release directly by the City.

###### **4.1.3. Unspecified Services**

Any service not specifically included in the Scope of Work and Detailed Specifications article may be added to this Contract if it falls within the same general category of Services already specified in the Contract. Pursuant to MCC Section 2-92-646, the lifetime, aggregate value of the City's purchase of any Services added to this Contract must not exceed ten percent (10%) of the original value of the Contract.

The Department will notify the Contractor in writing of the services which are necessary and request a written price proposal for the addition of the services to this Contract under the same terms and conditions of the original Contract, then forward the documents to the CPO. Such services may be added to the Contract only if the prices are competitive with current market prices and said services are approved by the CPO in writing. The CPO reserves the right to seek competitive pricing information on said services from other vendors and to solicit such services in a manner that serves the best interest of the City.

Any such services provided by the Contractor, without a written approval signed by the CPO, are done so entirely at the Contractor's risk. Consequently, in the event that such addition to the Contract is not approved by the CPO, the Contractor hereby releases the City from any liability whatsoever to pay for any services provided prior to the Contractor's receipt of the fully signed modification.

##### **4.2. Performance of the Services**

###### **4.2.1. Standard of Performance**

Contractor shall perform the Services with that degree of skill and care required to satisfactorily meet the requirements as set forth in the Detailed Specifications and to the satisfaction of the CPO. The Contractor will, at all times, act in the best interest of the City.

###### **4.2.2. Standard Working Hours**

Pursuant to MCC Section 2-92-220 a standard working day consists of 8 hours for this Contract; shifts must be coordinated with the Department. No overtime or premium pay is allowed unless otherwise specified in the Detailed Specifications and authorized by the Commissioner.

###### **4.2.3. Character of Workers**

The Contractor must employ only competent and efficient workers and whenever, in the opinion of the City, any such worker is careless, incompetent, violates safety or security rules, obstructs the progress of the work or services to be performed under this Contract, acts contrary to instructions or acts improperly, or fails to follow the safety requirements of this Contract, the Contractor must, upon request of the City, discharge or otherwise remove such worker from the work or services to be performed under this Contract and must not use such worker again, except with the written consent of



the City. The Contractor must not permit any person to work upon the work or services to be performed under this Contract or enter into any buildings connected therewith who is under the influence of intoxicating liquors or controlled substances.

#### **4.2.4. Quality of Materials and Inspection**

The City will have a right to inspect any material to be used in performance of the Services for this Contract.

The City is not responsible for the availability of any materials or equipment required under this Contract.

The Contractor is responsible for the meeting the contractual obligations and standards regarding the quality of all materials, components, or services performed under this Contract up to the time of final acceptance by the City.

Non-compliant materials, components, or Services may be rejected by the CPO and must be replaced or re-performed by the Contractor at no cost to the City.

The City shall provide written notice to the Contractor indicating the time period in which Contractor must, at its sole expense, remove from City premises, any materials or components rejected by the City.

Any and all labor and materials which may be required to correct or replace damaged, defective or non-conforming products must be provided by the Contractor at no cost to the City. The Contractor must correct or replace the incorrect, damaged or defective or non-conforming goods within seven business days of the return unless otherwise provided in the Detailed Specifications. The City of Chicago will not be subject to restocking charges.

Failure to correct or replace unacceptable goods, or repeated delivery of unacceptable goods, will be an event of default under this Contract.

#### **4.2.5. Manufacturer's Warranty and Product Information**

If in performance of the Services, the Contractor provides any goods, the Contractor must have, and must demonstrate upon request, that it has authorization to transfer product warranties to the City of Chicago. The Contractor is required to provide and transfer all documentation issued by the manufacturer for the products to be provided under this Contract. This includes the manufacturer's genuine parts/product information, recall notices, manuals, licenses, assemblies and/or accessories as supplied by the original equipment manufacturer (O.E.M.).

The Contractor must provide the original product warranty and related services for the goods provided under this Contract in accordance with the standard warranty regularly supplied.

#### **4.2.6. Contractor's Warranties**

If in performance of the Services, the Contractor provides any goods, the Contractor warrants that the title to the goods to be provided under this Contract is good and its transfer is rightful, and that the goods will be delivered free from any security interest or other encumbrance of which Contractor has not informed the City.

The Contractor expressly warrants that all goods shall be merchantable within the meaning of Article 2-314(2) of the Uniform Commercial Code in effect on the date they are ordered. In addition to all warranties that may be prescribed by law, the goods shall conform to specifications, drawings, and other description and shall be free from defects in materials and workmanship. Contractor also warrants that, except where the goods are produced pursuant to detailed designs furnished by the City, they will be free from defects in design. Such warranties, including warranties prescribed by law, shall run to City, its successors, assigns, customers, and to users of the goods.

At a minimum, the Contractor hereby warrants for a period of at least one year from the date of final acceptance by the City, that it will, at its own expense and without any cost to the City, replace all

defective parts that may be required or made necessary by reason of defective design, material or workmanship, or by reason of non-compliance with the Contract Documents. The warranty period will commence on the first day the individual item is placed in service by the City. The City may revoke acceptance if the materials, goods, or components are later discovered not to be in conformance with this Contract.

For any construction work included in the Services, the Contractor's Warranty means the Contractor's representation as to the character and quality of the Services in accordance with the terms and conditions of the Contract Documents, and the Contractor's promise to repair and replace the work not in conformance with such representations. Without limiting the scope or duration of any Manufacturer's Warranty provided for specific parts of the work, all work furnished under this Contract is guaranteed by Contractor against defective materials and workmanship, improper installation or performance, and non-compliance with the Contract Documents for a period of one year. Unless otherwise specified, the one-year period will begin on the date of final acceptance by the Commissioner.

However, if at any time beyond the one-year Contractor's Warranty period, a latent defect in the work is discovered, the Contractor shall be responsible for re-performance, payment of damages, or such other remedy as deemed appropriate by the City.

**4.2.6.1. Correction or Re-Performance of Services**

If the Contractor has failed to properly perform the Services, upon direction in writing from the Commissioner, Contractor will promptly re-perform or correct all work or Services identified to be defective or as failing to conform to the standards set forth in the Contract Documents, whether observed before or after completion of the Services. The Contractor is responsible for all costs of correcting such defective or nonconforming Services, including costs associated with fixing any damages, re-performing the Services, and any costs required due to Contractor's inadequate performance.

**4.2.6.2. Timeliness**

The Contractor must provide the Services in the time-frame required in the Detailed Specifications. If Contractor's response and/or completion time for performance of the Services fails to meet this standard, the CPO may declare the Contractor in default.

**4.2.6.3. Delay**

If the City has caused the Contractor be obstructed or delayed in the commencement, prosecution or completion of the Services by any act or delay of the City or by order of the Commissioner, then the time herein fixed for the completion of said Services will be extended for an equivalent period of time.

It is otherwise understood that no extension of time will be granted to the Contractor unless Contractor, immediately upon knowledge of the causes of an unavoidable delay, first notifies the Commissioner and CPO in writing, stating the approximate expected duration of delay. Contractor shall not be entitled to an extension of time without such prior notification and request for extension.

The CPO and the Commissioner will determine the number of days, if any, that the Contractor has been delayed. Such determination when approved and authorized in writing by the Commissioner and CPO, will be final and binding.

It is further expressly understood and agreed that the Contractor shall not be entitled to any damages or compensation from the City, or be reimbursed for any loss or expense on account of any delay or delays resulting from any of the causes aforesaid.

**4.2.7. Public Convenience**

All Services will be conducted in a manner that minimizes dust, noise, and inconvenience to the normal activities of the facility where the Services are performed. The Contractor is responsible for conducting

Services in such a manner as to minimize debris left in the public way and shall provide clean-up as required by the Commissioner. Whenever the Commissioner determines any type of operation constitutes a nuisance, the Contractor will immediately proceed to conduct its operations in an approved manner.

The Commissioner may at any time require additional provisions if such are deemed necessary for public safety or convenience.

#### **4.2.8. Clean Up**

The Contractor must, during the performance of Services, remove and dispose of all materials and the resultant dirt and debris on a daily basis and keep the work site(s) and adjacent premises in a clean condition satisfactory to the City. Upon completion of work activities, the Contractor must remove all materials, tools and machinery and restore the site to the same general condition that existed prior to the commencement of its operation.

#### **4.2.9. Work Performed on City Property**

Contractor's personnel will exercise safe and sound business practices with the skill, care, and diligence normally shown by professional technicians employed in the type of Services required under this Contract.

The Contractor will employ only competent and efficient employees, and whenever, in the opinion of the Commissioner, any employee is careless, incompetent, obstructs the progress of the Services, acts contrary to instructions or conducts themselves improperly, the Contractor will, upon the request of the Commissioner, remove the employee from the premises and will not employ such employee again for the Services under this Contract, except with the written consent of the Commissioner.

The Contractor will not permit any person to enter any part of a City facility or property while under the influence of intoxicating liquors or controlled substances. The Contractor will not permit obnoxious behavior, or possession or consumption of alcoholic beverages or drugs anywhere on the site of any Services to be performed under this Contract.

The Commissioner has authority to request the Contractor to remove any worker who proves to be incompetent or negligent in his/her duties.

If required by the Detailed Specifications, the Contractor's employees or subcontractors are required to wear suitable uniforms during the time they are on duty on any City property.

The Contractor's employees or subcontractors must wear an identification badge at all times while on duty on any City property.

The Contractor's employees must have proper identification on their person before they will be allowed on any City property.

Smoking is prohibited in all City of Chicago facilities.

The Contractor will require that all employees refrain from disturbing papers on desks, opening desk drawers or cabinets.

While on City premises, the Contractor will not store any equipment, tools or materials without prior written authorization from the Commissioner. The City will not be responsible for or liable to pay the Contractor for any loss of equipment, tools or materials stored in unsecured areas without proper authorization.

#### **4.2.10. Work In Progress**

Any Services in progress at the termination date of the Contract will be completed by the Contractor in the most expedient method available. In no event will the Contractor be relieved of its obligations under this Contract until all Services requested prior to the expiration of the Contract has been completed and accepted by the Commissioner.

#### **4.3. Compensation**

The Services will be provided at the prices listed on the Proposal Pages submitted with the Contractor's bid and as accepted by the City. Adjustments to prices will be as provided in the Scope of Work and Detailed Specifications, as applicable.

#### **4.4. Centralized Invoice Processing**

This Contract is subject to Centralized Invoice Processing ("CIP"). Invoices must be submitted directly to the Comptroller's office by US Postal Service mail to the following address as appropriate:

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

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

*Invoices for the Department of Aviation:*

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

OR

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

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

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

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

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

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

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

The City may change its invoice submission and processing procedure during the term of this Contract. Should a change occur, the City will notify Contractor of the new procedure which the Contractor will then be required to follow.

**4.5. Clean Diesel Fleet MCC 2-92-595**

If this Contract is for construction, demolition, restoration, repair, renovation, environmental remediation or environmental abatement of any building, structure, tunnel, excavation, roadway, bridge, transit station or parcel of land and the estimated value of this Contract is \$2,000,000 or more:

- A. Contractor must comply with the Clean Diesel Contracting Ordinance, MCC Section 2-92-595.
- B. Contractor and any Subcontractor(s) must utilize Ultra Low Sulfur Diesel Fuel (ULSD) for any heavy-duty diesel-powered vehicle, non-road vehicle or non-road equipment used in the performance of the Contract.
- C. Contractor and any Subcontractor(s) must minimize idling of motor vehicles and non-road vehicles used in the performance of the Contract during periods of inactivity, and must comply with the anti-idling requirements imposed by any applicable federal, state, or local law.
- D. Contractor and any Subcontractor(s), may not use any of the following vehicles and equipment in the performance of the contract:
  - (i) any heavy-duty diesel vehicle not meeting or exceeding the US EPA's emission standards for heavy-duty diesel vehicles for the 1998 engine model year, unless such vehicle is fitted with a verified diesel emission control retrofit device; or
  - (ii) any non-road vehicle or non-road equipment not meeting or exceeding the US EPA's Tier 1 Non-road Diesel Standards, unless such vehicle or equipment is fitted with a verified diesel emission control retrofit device.
- E. Any heavy-duty diesel vehicles, non-road vehicles and non-road equipment used in the performance of this Contract must incorporate such engine or retrofit technology so that the Contractor, through such engine or retrofit technology used directly by the Contractor and all subcontractors, shall have a minimum of 3.0 clean fleet score per a reporting period, as calculated by using the methodology described in MCC subsection 2-92-595(c)(5). Contractor may exclude from the calculation of the clean fleet score up to fifty percent of all of the heavy-duty diesel vehicles, non-road vehicles and non-road equipment used in the performance of the contract during a reporting period that are owned or leased by any firm that the CPO has granted a clean fleet score annual waiver certificate pursuant to MCC subsection 2-92-595 (f). However, pursuant to MCC subsection 2-92-595(b)(6), if this contract is advertised after January 1, 2020, the minimum clean fleet score is increased to 4.0, and Contractor may exclude from the calculation up to only twenty five percent of vehicles owned or leased by a firm that has received a clean fleet score waiver certificate instead of fifty percent.
- F. The City may conduct an audit of the Contractor or inspect any vehicle or equipment used in the performance of the Contract to ensure compliance with the requirements specified above. In the event that Contractor or any Subcontractor fails to utilize ULSD or fails to minimize idling or comply with antiidling requirements, Contractor will be subject to liquidated damages of \$5,000 per day for each violation and each day of noncompliance will be a separate violation; provided, however, the damages will not exceed \$50,000 for any one vehicle or piece of equipment, as specified in MCC Section 2-92-595(e). Such liquidated damages are imposed not as a penalty but as an estimate of the damages that the City will sustain from delay in completion of the project and inspection and other enforcement costs, as well as the resultant damages to the public health of its citizens, which damages by their nature are not capable of precise proof. The City is authorized to withhold and deduct from monies otherwise payable to the contractor the amount of liquidated damages due to the City.

Contractor understands that pursuant to MCC subsection 2-92-595(e)(6), any person knowingly making a false statement of material fact to any City department with respect to compliance with the contract

provisions specified in MCC subsection 2-92-595(e) Chicago may be fined not less than \$1,000 or more than \$5,000 for each statement.

#### **4.6. Safety Enhancing Vehicle Equipment Contracting (MCC 2-92-597)**

##### **4.6.1. Definitions**

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

"Commissioner of 2FM" means the City's Commissioner of Fleet and Facility Management.

"Conventional cab" means a large vehicle configuration in which the driver is behind the front axle and the engine is in front of the axle under a discrete hood.

"Convex mirrors" means wide-angle mirrors that enable the operator of a large vehicle to see along the left and right sides of the vehicle by allowing a view of all points on an imaginary horizontal line which is: (i) three feet above the road; and (ii) one foot outside the plane defined by the outer face of the wheels.

"Crossover mirror" means a fender-mounted or hood-mounted mirror that enables the operator of a large vehicle with a conventional cab to see: (i) any person or object at least three feet tall passing one foot in front of the vehicle; and (ii) the area from the front bumper to where direct vision is possible.

"Large vehicle" means any motor vehicle with a gross vehicle weight rating exceeding 10,000 pounds, except an ambulance, fire apparatus, low-speed vehicle with maximum speed under 15 mph, or agricultural tractor.

"Lateral protective device" or "vehicle side guard" means an apparatus installed between the front and rear wheels of a large vehicle that is designed to prevent road users from falling underneath the vehicle.

"Subcontractor" means any person that enters into any tier subcontract to perform work on this Contract.

"Volpe side guard standard" means the United States Department of Transportation's Volpe side guard standard published and referred to as US DOT Standard DOT-VNTSC-OSTR-16-05, as amended; or a functionally equivalent national vehicle side guard standard, as determined by the Commissioner of 2FM.

##### **4.6.2. Safety Enhancing Requirements**

Contractor and any Subcontractor must comply with MCC 2-92-597. Contractor and any Subcontractor must retrofit large vehicles used in the performance of the contract, in accordance with the Phase-In Period provided below, with:

(A) Lateral protective devices. This requirement shall be considered satisfied if: (i) the vehicle is equipped with vehicle side guards in accordance with the requirements of the Volpe side guard standard; or (ii) the vehicle is so designed or equipped at the side that, by virtue of its shape and characteristics, its component parts can be regarded as replacing or functioning as vehicle side guards in accordance with the Volpe side guard standard; or (iii) the vehicle cannot be retrofitted with lateral protective devices as attested by the contractor or the subcontractor in a statement accompanied by certification from two manufacturers of such devices.

(B) Left and right side convex mirrors; and

(C) At least one crossover mirror on the passenger side.

##### **4.6.3. Phase-In Period**

Except when a Contractor or a Subcontractor is granted a waiver pursuant to MCC 2-92-597(g), the Safety Enhancing Requirements set forth above shall apply to:

(A) one-fourth of a Contractor's or a Subcontractor's large vehicles used in the performance of the Contract on or after July 1, 2018 but before July 1, 2019;

(B) one-half of a Contractor's or a Subcontractor's large vehicles used in the performance of the Contract on or after July 1, 2019 but before July 1, 2020;

(C) three-fourths of a Contractor's or a Subcontractor's large vehicles used in the performance of the Contract on or after July 1, 2020 but before July 1, 2021;

(D) all of a Contractor's or a Subcontractor's large vehicles used in the performance of the Contract on or after July 1, 2021.

#### **4.6.4. Compliance**

Contractor shall submit a written compliance plan to the Commissioner of 2FM with respect to compliance with MCC 2-92-597 within 14 days following the notice to proceed or the placing of the first order under the contract, as applicable.

Every twelve-month period following the notice to proceed or the placing of the first order under the contract, as applicable, or when requested by the Commissioner of 2FM, the contractor must submit to the Commissioner of 2FM, in a form and manner provided by the CPO, a report that includes the following:

(A) the number of large vehicles used in the performance of the Contract by the Contractor and any Subcontractor;

(B) the number of large vehicles used in the performance of the Contract by the Contractor and any Subcontractor that are retrofitted with safety enhancing equipment as required as specified above and MCC 2-92-597(b);

(C) one or more photographs of each large vehicle used in the performance of the Contract by the Contractor and any Subcontractor that is retrofitted with required safety enhancing equipment as specified above and set forth in MCC 2-92-597(b). The photographs must show the large vehicle's license plate number with the safety enhancing equipment fitted on the vehicle; and

(D) a certification that the Contractor and any Subcontractor in the contract have met the requirements MCC 2-92-597 and the terms of the contract specified pursuant to that section.

#### **4.6.5. Time Extension and Annual Waiver Requests**

Upon a written request, accompanied by a compliance plan, of a Contractor or Subcontractor of a Contract entered on or before December 31, 2018, the CPO, in consultation with the Department, may grant a time extension of not more than six months for compliance with the requirements of MCC 2-92-597 with regard to the Contract.

Contractor and any Subcontractors may apply to the CPO for an annual waiver from the requirements of MCC 2-92-597. See MCC 2-92-597(g).

#### **4.6.6. Costs**

All costs that the contractor or any subcontractor may incur to comply with contract requirements imposed pursuant to this section are incidental to the overall contract. No additional time or monies shall be granted to the contractor for compliance with these requirements.

#### **4.6.7. Enforcement**

The CPO or Commissioner is authorized to inspect or to have inspected any large vehicle used in the performance of this Contract in order to ensure compliance with Safety Enhancing Equipment requirements and MCC 2-92-597.

In addition to other remedies provided by law or specified in the Contract, any person who knowingly makes a false statement of material fact to any city agency with respect to compliance with any contract requirements specified pursuant to MCC 2-92-597 or rules promulgated thereunder shall be fined not less than \$1,000.00 nor more than \$5,000.00 for each such false statement. For purposes of MCC 2-92-597, a person knowingly makes a false statement of material fact when such person makes a false statement of material fact as provided in subsection (d) of Section 1-21-010.

**4.7. 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.



## **ARTICLE 5. SCOPE OF WORK AND DETAILED SPECIFICATIONS**

### **5.1. General**

The Contractor will furnish, deliver, and supply F.O.B., to the City of Chicago, Department of Aviation (CDA), all supervision, labor, material, equipment, transportation of equipment and materials, tools, traffic control, barricades, safety equipment, and applicable permits necessary to perform Removal of Rubber and Other Contaminants (Work) from Runways and Pavements at Chicago O'Hare and Midway International Airports; all in accordance with the General Conditions, Special Conditions, and Detailed Specifications of this Contract.

### **5.2. Basis of Award**

In the event that a Contract is awarded pursuant to this Specification, the Chief Procurement Officer will award such Contract to the lowest responsive and responsible bidder as determined by the bid price, including any statutorily mandated adjustments to the bid price as applicable, meeting the terms and conditions set forth in this Bid Document.

The Contractor's bid pricing must incorporate any peripheral costs including, but not limited to, the costs of products and/or services, delivery/transportation charges, training, quality control, materials, labor, insurance, applicable taxes, warranty, overhead and profit, etc. as required and set forth in this Specification.

### **5.3. Illinois Prevailing Wage Act/Davis-Bacon Act**

This Contract is **not** considered construction and thus Prevailing Wage Act, 820 ILCS 130/.01 et seq. ("the Act") does **not** apply.

### **5.4. Contract Term**

The term for this Contract will be sixty (60) months, unless terminated earlier pursuant to the Termination provision, or extended according to the terms of the Contract Extension Option provision in the Standard Terms and Conditions section of this Contract.

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

The start date will be no later than the first day of the succeeding month from the date shown as the Contract Award and Release Date on the Proposal Acceptance Pages.

### **5.5. No Stated MBE/WBE Goals**

It is the policy of the City of Chicago that local businesses certified as Minority-owned Business Enterprises (MBE) and Women-owned Business Enterprises (WBE) in accordance with Section 2-92-450 of the Municipal Code of Chicago and Regulations Governing Certification of Minority and Women-owned Businesses shall have the maximum opportunity to participate fully in the performance of all City contracts.

The Chief Procurement Officer has determined that the nature of the goods and/or services to be provided under this Contract are such that direct subcontracting opportunities will not be practicable or cost-effective. Therefore, there will be no stated goals for MBE/WBE participation in this Contract, and therefore no forms relating to the MBE/WBE program are required to be submitted with this bid, unless bidder wishes to take advantage of a bid incentive pursuant to Section 2-92-525 of the Municipal Code of Chicago. This determination is being made pursuant to Section 2-92-450 of the Municipal Code of Chicago. However, the Chief Procurement Officer may require submittal of various information regarding MBE/WBEs actually participating in the contract for statistical purposes.

### **5.6. Price Adjustment**

Original bid prices as set forth on the Proposal Pages of the Contract will remain in effect for the first thirty-six (36) months of the Contract term. The Contractor is not entitled to any price adjustment(s) during this thirty-six (36) month time period. The Contractor should factor in commodity and/or input price escalations, volatility, risks, and any other factors in its proposed prices on the Proposal Pages for the initial thirty-six (36) month period from the start date of this Contract.

After the initial thirty-six (36) month period, a price adjustment may be considered for the next twelve (12) month period and annually for each subsequent twelve (12) month period. For purposes of determining any price adjustments for this Contract, the City and Contractor will look to changes in the Consumer Price Index. All requests for price adjustments will reference the Consumer Price Index (CPI) – Non-seasonally adjusted - all urban consumers - all items - for the Chicago-Gary- Kenosha, IL- IN - WI region series ID: CUURA207SA0, as it appears in the periodical CPI published by the U.S. Department of Labor, Bureau of Labor Statistics.

The Contractor may review the most current version at:

<http://data.bls.gov>.

All price adjustment calculations will be based upon the latest version of the CPI available on the eighteenth (18<sup>th</sup>) day of the month following the anniversary of this Contract. The effective date of an adjustment will be the anniversary of the start date of this Contract.

If, during the term of this Contract, the manner in which the CPI as determined by Bureau of labor Statistics is substantially revised, including a change in the base index year, the City will make an adjustment in the revised index that would produce results equivalent, as near as possible, to those that would have been obtained if the CPI had not been so revised. If the CPI becomes unavailable to the public because publication is discontinued or if equivalent data are not readily available to enable the City to make the adjustment, then the City will substitute a comparable index based upon changes in the cost of living or purchasing power of the consumer dollar published by any other governmental agency or, if no such index is available, then a comparable index published by a major bank or other financial institution, by a university or a recognized financial publication. A formal modification will not be required to change the index should the subject index (CPI) cease publication.

The Contractor must submit a written request for a positive price adjustment no later than thirty (30) calendar days after the first thirty-six (36) months of the term and no later than thirty (30) calendar days after each twelve (12) month anniversary of this Contract thereafter. If the Contractor does not request a price increase within such thirty (30) calendar day period, the Contractor will not be entitled to a price increase for the applicable twelve (12) month period.

After the initial thirty-six (36) month term, if the CPI has decreased resulting in a reduction of contract prices, the City will notify the vendor in writing within sixty (60) days of the Contract's anniversary stating the City's intention to reduce prices retroactive to the anniversary date of this Contract. The City will adhere to such notification requirement for any price decreases for each subsequent twelve (12) month anniversary of this Contract thereafter.

The Contractor's unit prices for line items will be adjusted beginning the thirty seventh (37<sup>th</sup>) month of this Contract, and each year thereafter by an amount determined in accordance with the following formula or .05 [e.g. five percent (5%)], whichever absolute value is smaller for each subsequent one (1) year period:

New Contract Price (each item) = Original Bid Price for line items x (1 + percentage change in the CPI)

The percentage change in the CPI should be expressed as a decimal point and rounded to the nearest thousandth (e.g. .015). Please note that the percentage change in the CPI may be positive or negative, but will never be more than .05, therefore any new price will never be greater than 105% or less than 95% of the current Contract price. For purposes of determining the first percentage change in the CPI, the base CPI will be the CPI in the 24<sup>th</sup> completed month of this Contract, which will be compared to the CPI in the 36<sup>th</sup> completed month of this Contract. Subsequent price changes will be based on the year over year percentage change in the CPI. For example, for the adjustment at the beginning of the fifth year of this Contract (month 49) the CPI from month 36 will be compared to the CPI for month 48.

Any services provided by the Contractor at a price change, without a properly executed contract modification signed by the Chief Procurement Officer is made at the Contractor's risk. Consequently, in the

event such modification is not executed by the City, the Contractor releases the City from any liability whatsoever to pay for any Work and/or services provided at an unapproved increased price.

It is the Contractor's responsibility to request the increase. If the Contractor delivers products or services after the date requested for the escalation to begin (the anniversary date of the start of this Contract) but prior to the increase being granted, the Contractor may retroactively bill the City for the difference if and when the request is formally approved. In the interim the Contractor must bill the City at the prices currently in effect in this Contract.

#### **5.7. Permits and Licenses**

The Contractor must obtain and maintain, at its own expense, all permits and licenses necessary to carry out the Work as specified in this Contract. All required permits and licenses will not be measured for payment and will be considered incidental to this Contract.

#### **5.8. Disposal of Materials**

##### **5.8.1. O'Hare**

All materials generated from removal activities, and not limited to deleterious materials, etc. will be legally disposed at an approved, licensed, and certified dump site off O'Hare property or at a location as determined by the Commissioner. Legal disposal will not be measured for payment and will be considered incidental to this Contract.

##### **5.8.2. Midway**

All materials generated from removal activities, and not limited to deleterious materials, etc. will be legally disposed at an approved, licensed, and certified dump site off Midway property or at a location as determined by the Commissioner. Legal disposal will not be measured for payment and will be considered incidental to this Contract.

#### **5.9. Pavement Markings**

All pavement striping and markings installations will be completed by the City via a separate pavement marking Contractor. The Contractor must coordinate with the pavement marking contractor to ensure all required pavement markings are scheduled and completed accordingly for each Work item as specified.

#### **5.10. Work Hours**

Where practical, and in the opinion of the Commissioner, Work under this Contract will be performed during normal Work hours, defined as 2200 to 0600, Monday through Friday; excluding holidays (where Monday Work is defined as beginning at 2200 on Monday and Friday Work concludes 0600 Saturday). No additional compensation will be provided should the Contractor choose to Work beyond those days/hours based on airfield pavement availability, and at the direction of the Commissioner.

#### **5.11. Contractor Qualifications**

The specified Work must be performed by Contractors that have successfully performed verifiable rubber removal operations similar to these specified herein. The bidder(s) must submit a minimum of three (3) references with names and phone numbers as well as a brief description and dates of Work performed.

All Work performed by the Contractor will be under the immediate control of a supervisor experienced in this type of Work. The person identified with such qualifications will have supervised verifiable projects of similar magnitude and type. Supervising personnel must be present during all Work operations.

The high-pressure water cleaning system will be operated by individual(s) trained and certified by the equipment manufacturer.

## **5.12. Technical Requirements**

### **5.12.1. Response and Staging Requirements**

Upon receipt of a Purchase Order Release (PO) from the CDA, the Contractor must be staged at the specified worksite and ready to commence Work on the date and time stated therein. The release will provide the Contractor with a minimum of seven (7) calendar days' notice to stage their equipment and begin operations. Failure to comply with the seven (7) calendar day time requirement may be grounds for termination of the Contract.

All Work must be performed in accordance with the requirements stated herein.

The Contractor must provide all necessary equipment and labor to complete the Work in the least amount of time to restore regular airport operations as soon as possible. All Work must be under the direction of the Commissioner and control of Airport Operations (OPS) which maintains radio communication with the Air Traffic Control Tower (ATCT). The Contractor will provide and utilize illuminated Type II barricades weighted down with sandbags or as directed by the Commissioner. Based on the area or the runway to be closed, OPS in collaboration with the ATCT, will identify the location and placement of required barricades.

The Contractor is required to utilize Type II illuminated barricades as directed by Airport Operations (this depends on the work location). As such, a minimum of forty (40) barricades are required at both O'Hare and Midway for deployment. The Contractor is required to provide, place, and remove the barricades.

### **5.12.2. Work Site Moves**

It may be necessary for the Contractor to return the runway or other Work areas to the ATCT for operational purposes. In such circumstances, the Contractor must be prepared to interrupt Work and move manpower and equipment from designated areas as rapidly as possible, not to exceed thirty (30) minutes.

### **5.12.3. Water Supply**

The CDA will provide access to fire hydrant-supplied water for the Contractor's use during Work. However, the Contractor must provide a certified backflow preventer and may draw water only from fire hydrants designated by the Commissioner.

### **5.12.4. Weather Limitations**

Rubber and/or deleterious material removal will be scheduled when the winds are predicted to be less than 15 knots sustained. The minimum acceptable air temperature shall be 36°F with a minimum pavement temperature of 38°F. Work may take place under light rain, but heavy rain must be avoided. The Commissioner will make the final determination if the rubber removal activity can proceed based on weather conditions.

### **5.12.5. Cleanup**

The Contractor must legally dispose of all rubber residual materials and any other resultant dirt and debris collected during rubber removal operations off airport property daily and keep the worksite(s) and adjacent premises in a clean condition satisfactory to the Commissioner. Upon completion of Work, the Contractor must remove all their materials, tools, machinery, etc. In addition to the Contractor's combination rubber removal/vacuum machine, the Contractor must maintain two (2) additional standalone vacuum sweepers; one (1) vacuum sweeper onsite during Work operations to follow the rubber removal/vacuum machine and one (1) vacuum sweeper on the airport property on standby in the event of a breakdown to ensure all resultant rubber materials, dirt, and debris are effectively removed after operations to the Commissioner's satisfaction.

**5.12.6. Standard of Performance**

The standards of performance shall, at a minimum, meet the Federal Aviation Administration (FAA), 14 CFR Part 139 Advisory Circular (AC 150/5320-12D), Measurement and Maintenance of Skid-Resistant Airport Pavement Surfaces, latest revisions. The Contractor shall ensure that ninety-five percent (95%) of the rubber and contaminants shall be removed in Work areas as determined and directed by the Commissioner.

The Contractor must ensure that no damage is being done to pavements. The Contractor and the Commissioner will perform a visual inspection of runway pavements prior to and following each high-pressure water pass. In the event that the inspection shows that ninety five percent (95%) of rubber has been removed, the Contractor must stop further rubber removal operations. At no time shall the Contractor perform water blasting operations on pavement which does not visibly contain rubber or contaminants.

**5.12.7. Liquidated Damages**

**5.12.7.1. Airport Operations Area Reestablishment**

All pavements within the airport operations area worksite(s) must be cleaned and opened to traffic by 0600 or as directed by the Commissioner. Cleaning will include vacuum sweeping, barricade removal, and incidentals to complete the Work to the satisfaction of the Commissioner to ensure airport operations are restored by 0600.

The Contractor will be assessed liquidated damages in the amount of \$5,000 per each 15-minutes after 0600 that the airport operations area worksite(s) are not clean, functional, and restored to airport operations. Assessed liquidated damages will be deducted from the invoice for each affected PO. Repeated failures by the Contractor to stage when scheduled or perform requested Work shall be grounds for default and termination of this Contract.

**5.12.7.2. Failure to Perform Scheduled Work**

If the Contractor fails to perform scheduled Work, a penalty of \$2,000.00 per scheduled night will be assessed. Assessed failure to perform scheduled work will be deducted from the invoice for each affected PO. Repeated failures by the Contractor to stage when scheduled or perform requested Work shall be grounds for default and termination of this Contract.

**5.13. Item 1 – Minimum Guaranteed Payment for Work Cancellation**

**5.13.1. Contractor Staged Cancellation**

The Contractor will be compensated for each scheduled Work call out, defined as the requirement of the Contractor to be onsite prepared to perform services on the date and time scheduled, and where the services have been cancelled with personnel and equipment **staged** due to unforeseen circumstances, weather related events or potential/actual operational impacts.

The Contractor will be paid \$3,000 as compensation for being onsite with personnel and equipment staged and prepared to Work where services have been cancelled by the Commissioner due to unforeseen circumstances, weather related events or potential/actual operational impacts.

**5.13.2. Contractor Scheduled Cancellation**

The Contractor will be compensated for each scheduled Work call out, defined as the Contractor services on the date and time scheduled, and where the services have been cancelled within four (4)

hours where personnel and equipment are **in route or staged** due to unforeseen circumstances, weather related events or potential/actual operational impacts.

The Contractor will be paid \$3,000 as compensation where the services have been cancelled within four (4) hours where personnel and equipment are in route or staged due to unforeseen circumstances, weather related events or potential/actual operational impacts.

**5.13.3. In-Progress Work Cancellation**

The Contractor will be compensated for each scheduled Work call out where the Contractor has started Work but is required to vacate the Airport operations area due to unforeseen circumstances, weather related events or potential/actual operational impacts.

Where the value of the Work that has been started but not completed does not meet or exceed \$3,000, the City will pay the difference between said completed Work and \$3,000 for Work that was completed.

The Commissioner will advise where and when the Contractor equipment and workforce should be staged, and will make the sole determination of prescheduled or in-progress Work cancellations.

**5.13.4. Method of Measurement**

The quantity of minimum guaranteed payment for Work cancellation will be measured per each occurrence staged or in-progress cancellations as determined by the Commissioner.

**5.13.5. Basis of Payment**

This item will be paid per occurrence for prescheduled or in-progress Work cancellations as specified or as determined by the Commissioner. The Contractor will be paid under Line Item 1 as set forth on the Proposal Pages.

The Contractor will provide separate invoices noting CANCELLATION per minimum guaranteed payment occurrence.

**ITEM 1 – MINIMUM GUARANTEED PAYMENT – WORK CANCELLATION, PER ALLOWANCE**

**5.14. Item 2 – Removal of Rubber and Contaminants with High Pressure Water Method**

**5.14.1. Description**

This item will consist of the removal of rubber and other contaminants from runways or other pavements surfaces through the use of a high-pressure water method system.

**5.14.2. Equipment**

Equipment utilized to accomplish the requirements set forth in these specifications may be a single self-contained unit or multiple pieces as specified below.

**5.14.2.1. High-Pressure Water Blasting**

Equipment shall be capable of carrying a minimum of 3,000 gallons of water and must be equipped with a minimum pressure of 30,000 psi at the spray nozzles. The machine must be equipped with an automatic adjusting mechanism to facilitate lateral, horizontal, and rotary adjustments so as to not adversely affect existing pavement structures. The machine shall be equipped with safety shields to protect the operator and nearby vehicles and aircraft from propelled debris caused by water blasting.

**5.14.2.2. Water Tank Storage**

Equipment utilized must be capable of hauling enough water to keep the high-pressure water blasting machine adequately supplied with water without causing excessive Work delays.

**5.14.2.3. Vacuum Sweepers**

The Contractor must maintain two (2) vacuum sweepers; one (1) vacuum sweeper onsite working in conjunction with the Contractor's combination rubber removal/vacuum machine during Work operations and one (1) standalone vacuum sweeper on the airport property on standby in the event of a breakdown to ensure all resultant rubber materials, dirt, and debris are effectively removed after operations to the Commissioner's satisfaction.

**5.14.2.4. Water Flushing Truck**

The equipment shall be capable of carrying a minimum capacity of 5,000 gallons of water. A constant water flow shall be provided regardless of truck speed to flush areas of Work as directed by the Commissioner. The Flushing Truck shall be equipped with safety shields to protect other vehicles, aircraft or personnel from propelled debris.

**5.14.2.5. High-Pressure Water System**

The Equipment for high-pressure water system must be capable of operating at sufficient pressure to remove rubber and other contaminants from the surface of the designated pavements in a pattern approximately 35-feet each side of the centerline of pavement, runway, taxiway, and/or roadway without causing objectionable damage to the pavements. Objectionable damage is defined as changing the properties of the pavement by removing pavement greater than 1/16" deep. Any objectionable damage caused by the Contractor's operations shall be repaired at no cost to the City and to the complete satisfaction of the Commissioner.

All equipment must be of adequate size and capacity to perform a minimum of 160,000 square feet of rubber and/or contaminant removal Work in an eight (8) hour period, in accordance with the standards set forth in this specification. Equipment must have the adequate lights for identification and proper illumination of the Work area, and must have all the required safety features in conformance with OSHA and other governmental regulations and laws and as otherwise set forth herein.

**5.14.3. Method of Measurement**

The quantity of removal of rubber and other contaminants from runways and pavements will be measured per square foot in place complete and accepted. Mobilization, staging, preparation, protection, cleanup, and disposal of materials will not be measured for payment and will be considered incidental to this line item. The Contractor shall be guaranteed a minimum of 75,000 square feet of surface to be cleaned per scheduled confirmed night, per PO.

**5.14.4. Basis of Payment**

This item will be paid at the Contract unit price per square foot in place complete and accepted; all labor, materials, equipment, tools, and incidentals required to complete the Work as specified or as directed by the Commissioner.

**ITEM 2 - REMOVAL OF RUBBER AND CONTAMINANTS WITH HIGH PRESSURE WATER METHOD, PER SF**

**5.15. Exceptions**

Any deviations from these Specifications must be noted on the Proposal Pages or pages attached thereto, with the exact nature of the change outlined in sufficient detail. The reason for which

deviations were made should also follow if not self-explanatory. Failure of a bidder to comply with the terms of this paragraph may be a cause for the rejection of its bid.

The City reserves the right to disqualify bids which do not completely meet outlined Specifications. The impact of exceptions to the Specification will be evaluated by the City in determining its need.

The Chief Procurement Officer hereby reserves the right to approve as an equal, or to reject as not being an equal, any item the bidder proposes to furnish which contains major or minor variations from Specification requirements but which may comply substantially therewith.

**5.16. Notice from Contractor**

Notices provided herein, unless expressly provided for otherwise in this Contract, will be in writing and must be delivered by United States mail, first class and certified, return receipt requested, with postage prepaid and addressed as follows:

Originals:                      Commissioner of Aviation  
                                        O'Hare International Airport  
                                        10510 Zemke Road, Bldg. 400  
                                        Chicago, IL 60666

With Copies to:              Chief Procurement Officer  
                                        City Hall, Room 806  
                                        121 North LaSalle Street  
                                        Chicago, IL 60602





**CITY OF CHICAGO**  
**Department of Procurement Services**  
**Shannon E. Andrews, Chief Procurement Officer**  
121 North LaSalle Street, Room 806  
Chicago, Illinois 60602-1284

**Fax: 312-744-3281**

**MBE & WBE SPECIAL CONDITIONS FOR COMMODITIES OR SERVICES CONTRACTS**

**ARTICLE 6. SPECIAL CONDITIONS REGARDING MINORITY BUSINESS ENTERPRISE COMMITMENT AND WOMEN BUSINESS ENTERPRISE COMMITMENT FOR COMMODITIES OR SERVICES**

**6.1. Policy and Terms**

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

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

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

MBE Percentage	WBE Percentage
<b>No Stated Goals</b>	<b>No Stated Goals</b>

(See Form "Bidders Commitment to Utilize MBE and WBE Firms on No Stated Goals Contract" for Contract Specific Goals in the case of a contract subject to a bid preference pursuant to MCC 2-92-525.)

This commitment is met by the Contractor's status as a MBE or WBE, or by a joint venture with one or more MBEs or WBEs as prime contractor (to the extent of the MBE or WBE participation in such joint venture), or by subcontracting a portion of the work to one or more MBEs or WBEs, or by the purchase of materials used in the performance of the contract from one or more MBEs or WBEs, or by any combination of the foregoing.

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

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

Pursuant to MCC 2-92-535, the prime contractor may apply be awarded an additional 0.5 percent credit, up to a maximum of a total of 5% additional credit, for every 1% of the value of a contract self-performed by MBEs or WBEs, or combination thereof, that have entered into a mentoring agreement with the contractor or subcontractor-to-subcontractor mentoring agreement. This up to 5% may be applied to the Contract Specific Goals, or it may be in addition to the Contract Specific Goals.

## 6.2. Definitions

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

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

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

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

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

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

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

**"Contract Specific Goals"** means the subcontracting goals for MBE and WBE participation established for a particular contract. In the case of a contract subject to the bid incentive set forth in MCC 2-92-525, "Contract Specific Goals" means the utilization percentage for MBEs or WBEs to which contractor committed with its bid.

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

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

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

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

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

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

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

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

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

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

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

### **6.3. Joint Ventures**

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

- a. The joint venture may be eligible for credit towards the Contract Specific Goals only if:
  - i. The MBE or WBE joint venture partner's share in the capital contribution, control, management, risks and profits of the joint venture is equal to its ownership interest;
  - ii. The MBE or WBE joint venture partner is responsible for a distinct, clearly defined portion of the requirements of the contract for which it is at risk;
  - iii. Each joint venture partner executes the bid to the City; and

- iv. The joint venture partners have entered into a written agreement specifying the terms and conditions of the relationship between the partners and their relationship and responsibilities to the contract, and all such terms and conditions are in accordance with the conditions set forth in Items i, ii, and iii above in this Paragraph a.
- b. The Chief Procurement Officer shall evaluate the proposed joint venture agreement, the Schedule B submitted on behalf of the proposed joint venture, and all related documents to determine whether these requirements have been satisfied. The Chief Procurement Officer shall also consider the record of the joint venture partners on other City of Chicago contracts. The decision of the Chief Procurement Officer regarding the eligibility of the joint venture for credit towards meeting the Contract Specific Goals, and the portion of those goals met by the joint venture, shall be final.

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

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

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

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

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

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

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

**6.4. Counting MBE/WBE Participation Toward the Contract Specific Goals**

Refer to this section when preparing the MBE/WBE compliance plan and completing Schedule D-1 for guidance on what value of the participation by MBEs and WBEs will be counted toward the stated Contract Specific Goals. The "Percent Amount of Participation" depends on whether and with whom a MBE or WBE subcontracts out any portion of its work and other factors.

Firms that are certified as both MBE and WBE may only be listed on a bidder's compliance plan as either a MBE or a WBE to demonstrate compliance with the Contract Specific Goals. For example, a firm that is certified as both a MBE and a WBE may only be listed on the bidder's compliance plan under one of the categories, but not both. Except as provided in MCC 2-92-525(b)(2), only Payments made to MBE and WBE firms that meet BOTH the Commercially Useful Function and Area of Specialty requirements above will be counted toward the Contract Specific Goals.

- a. Only expenditures to firms that perform a Commercially Useful Function as defined above may count toward the Contract Specific Goals.
  - i. The CPO will determine whether a firm is performing a commercially useful function by evaluating the amount of work subcontracted, whether the amount the firm is to be paid under the contract is commensurate with the work it is actually performing and the credit claimed for its performance of the work, industry practices, and other relevant factors.
  - ii. A MBE or WBE does not perform a commercially useful function if its participation is only required to receive payments in order to obtain the appearance of MBE or WBE participation. The CPO may examine similar commercial transactions, particularly those in which MBEs or WBEs do not participate, to determine whether non MBE and non WBE firms perform the same function in the marketplace to make a determination.
  - iii. Indications that a subcontractor is not performing a commercially useful function include, but are not limited to, labor shifting and equipment sharing or leasing arrangements with the prime contractor or a first tier subcontractor.
- b. Only the value of the dollars paid to the MBE or WBE firm for work that it performs in its Area of Specialty in which it is certified counts toward the Contract Specific Goals, except as provided in MCC 2-92-525(b)(2).
- c. For maintenance, installation, repairs or inspection, or professional services, if the MBE or WBE performs the work itself: 100% of the value of work actually performed by the MBE's or WBE's own forces shall be counted toward the Contract Specific Goals, including the cost of supplies and materials purchased or equipment leased by the MBE or WBE from third parties or second tier subcontractors in order to perform its (sub)contract with its own forces (except supplies and equipment the MBE or WBE subcontractor purchases or leases from the prime contractor or its affiliate). 0% of the value of work at the project site that a MBE or WBE subcontracts to a non-certified firm counts toward the Contract Specific Goals.
- d. If the MBE or WBE is a manufacturer: 100% of expenditures to a MBE or WBE manufacturer for items needed for the Contract shall be counted toward the Contract Specific Goals. A manufacturer is a firm that operates or maintains a factory or establishment that produces on the premises the materials or supplies obtained by the bidder or contractor.
- e. If the MBE or WBE is a distributor or supplier: 60% of expenditures for materials and supplies purchased from a MBE or WBE that is certified as a regular dealer or supplier shall be counted toward the Contract Specific Goals.
- f. If the MBE or WBE is a broker:
  - i. Zero percent (0%) of expenditures paid to brokers will be counted toward the Contract Specific Goals.

- ii. As defined above, Brokers provide no commercially useful function.
- g. If the MBE or WBE is a member of the joint venture contractor/bidder:
  - i. A joint venture may count the portion of the total dollar value of the contract equal to the distinct, clearly defined portion of the work of the contract that the MBE or WBE performs with its own forces toward the Contract Specific Goals; or
  - ii. If employees of this distinct joint venture entity perform the work then the value of the work may be counted toward the Contract Specific Goals at a rate equal to the MBE or WBE firm's percentage of participation in the joint venture as described in the Schedule B.
  - iii. A joint venture may also count the dollar value of work subcontracted to other MBEs and WBEs.
- h. If the MBE or WBE subcontracts out any of its work:
  - i. 100% of the value of the work subcontracted to other MBEs or WBEs performing work in its Area of Specialty may be counted toward the Contract Specific Goals.
  - ii. 0% of the value of work that a MBE or WBE subcontracts to a non-certified firm counts toward the Contract Specific Goals (except as allowed by (c) above).
  - iii. The fees or commissions charged for providing a bona fide service, such as professional, technical, consulting or managerial services or for providing bonds or insurance and assistance in the procurement of essential personnel, facilities, equipment, materials or supplies required for performance of the Contract, provided that the fee or commission is determined by the Chief Procurement Officer to be reasonable and not excessive as compared with fees customarily allowed for similar services.
  - iv. The fees charged for delivery of materials and supplies required on a job site (but not the cost of the materials and supplies themselves) when the hauler, trucker, or delivery service is not also the manufacturer of or a regular dealer in the materials and supplies, provided that the fee is determined by the Chief Procurement Officer to be reasonable and not excessive as compared with fees customarily allowed for similar services.
  - v. The fees or commissions charged for providing any bonds or insurance, but not the cost of the premium itself, specifically required for the performance of the Contract, provided that the fee or commission is determined by the Chief Procurement Officer to be reasonable and not excessive as compared with fees customarily allowed for similar services.

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

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

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

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

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

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

#### **6.5.1. Direct Participation**

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

- a. The bidder has documented the unsuccessful solicitation for either subcontractors or joint venture partners of at least 50% (or at least five when there are more than eleven certified firms in the commodity area) of the appropriate certified MBE/WBE firms to perform any direct work identified or related to the advertised bid/proposal. Documentation must include but is not necessarily limited to:
  1. A detailed statement of efforts to identify and select portions of work identified in the bid solicitation for subcontracting to certified MBE/WBE firms;
  2. A listing of all MBE/WBE firms contacted that includes:
    - Name, address, telephone number and email of MBE/WBE firms solicited;
    - Date and time of contact;
    - Method of contact (written, telephone, transmittal of facsimile documents, email, etc.)
  3. Copies of letters or any other evidence of mailing that substantiates outreach to MBE/WBE vendors that includes:
    - Project identification and location;
    - Classification/commodity of work items for which quotations were sought;
    - Date, item and location for acceptance of subcontractor bid proposals;
    - Detailed statement which summarizes direct negotiations with appropriate MBE/WBE firms for specific portions of the work and indicates why negotiations were unsuccessful;
    - Affirmation that Good Faith Efforts have been demonstrated by:
      - choosing subcontracting opportunities likely to achieve MBE/WBE goals; and
      - not imposing any limiting conditions which were not mandatory for all subcontractors; and

- providing notice of subcontracting opportunities to M/WBE firms and assist agencies at least five (5) business days in advance of the initial bid due date; and
- documented efforts or actual commitment to the indirect participation of MBE/WBE firms.

**OR**

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

**6.5.2. Assist Agency Participation in waiver/reduction requests**

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

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

**6.5.3. Impracticability**

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



The requirements set forth in these Regulations (this subsection 6.5 "Regulations Governing Reductions to or Waiver of MBE/WBE Goals") shall not apply where the Chief Procurement Officer determines prior to the bid solicitations that MBE/WBE subcontractor participation is impracticable.

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

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

#### **6.6. Procedure to Determine Bid Compliance**

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

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

In the case of a bid utilizing the "Bid Incentive to Encourage MBE and WBE Utilization" pursuant to MCC 2-92-525(b)(2), failure to submit an MBE/WBE compliance plan demonstrating how the bidder plans to meet the Contract Specific Goal to which the bidder has committed will not result in rejection of the bid, but the bidder may be found ineligible for the bid incentive.

Except as provided in MCC 2-92-525(b)(2), only compliance plans utilizing MBE and WBE firms that meet BOTH the Commercially Useful Function and Area of Specialty requirements will be counted toward the Contract Specific Goals.

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

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

The bidder must submit the appropriate Schedule C-1 with the bid for each MBE and WBE included on the Schedule D-1. Suppliers must submit the Schedule C-1 for Suppliers, first tier subcontractors must submit a Schedule C-1 for Subcontractors to the Prime Contractor and second or lower tier subcontractors must submit a Schedule C-1 for second tier Subcontractors. The City encourages subcontractors to utilize the electronic fillable format Schedule C-1, which is available at the Department of Procurement Services website, <http://cityofchicago.org/forms>. Each Schedule C-1 must be executed by each MBE and WBE and accurately detail the work to be performed by the MBE or WBE and the agreed upon rates/prices. Each Schedule C must also include a separate sheet as an attachment on which the MBE or WBE fully describes its proposed scope of work, including a description of the commercially useful function being performed by the MBE or WBE in its Area of Specialty. If a facsimile copy of the Schedule C-1 has been submitted with the bid, an executed original Schedule C-1 must be submitted by the bidder for each MBE and WBE included on the Schedule D-1 within five business days after the date of the bid opening.

Failure to submit a completed Schedule C-1 in accordance with this section shall entitle the City to deem the bid/proposal non-responsive and therefore reject the bid/proposal.

**(2) Letters of Certification.**

A copy of each proposed MBE/WBE firm's current Letter of Certification from the City of Chicago or Cook County Illinois, must be submitted with the bid/proposal. All Letters of Certification issued by the City of Chicago and Cook County include a statement of the MBE/WBE firm's Area of Specialty. The MBE/WBE firm's scope of work, as detailed by their Schedule C-1, must conform to their stated Area of Specialty. Letters of Certification for firms that the City or Cook County has found ineligible or has decertified will not be accepted.

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

If the bidder's MBE/WBE proposal includes the participation of a MBE/WBE as joint venture on any tier (either as the bidder or as a subcontractor), the bidder must provide a copy of the joint venture agreement and a Schedule B along with all other requirements listed in Section 6.3, "Joint Ventures," above. In order to demonstrate the MBE/WBE partner's share in the ownership, control, management responsibilities, risks and profits of the joint venture, the proposed joint venture agreement must include specific details related to: (1) contributions of capital and equipment; (2) work responsibilities or other performance to be undertaken by the MBE/WBE; and (3) the commitment of management, supervisory and operative personnel employed by the MBE/WBE to be dedicated to the performance of the contract. The joint venture agreement must also clearly define each partner's authority to contractually obligate the joint venture and each partner's authority to expend joint venture funds (e.g., check signing authority).

**(4) Schedule D-1: Required Schedules Regarding MBE/WBE Utilization**

Bidders must submit, together with the bid, a completed Schedule D-1 committing them to the utilization of each listed MBE/WBE firm. The City encourages bidders to utilize the electronic fillable format Schedule D-1, which is available at the Department of Procurement Services website, <http://cityofchicago.org/forms>. Except in cases where the bidder has submitted a request for a complete waiver of or variance from the MBE/WBE commitment in accordance with Section 6.5 "Regulations Governing Reductions to or Waiver of MBE/WBE Goals" herein, the bidder must commit to the expenditure of a specific dollar amount of participation by each MBE/WBE firm included on their Schedule D-1. The total dollar commitment to proposed MBEs must at least equal the MBE goal, and the total dollar commitment to proposed WBEs must at least equal the WBE goal. Bidders are responsible for calculating the dollar equivalent of the MBE and WBE goals as percentages of their total base bids or in the case of Term Agreements, depends upon requirements agreements and blanket agreements, as percentages of the total estimated usage. All commitments made by the bidder's Schedule D-1 must conform to those presented in the submitted Schedule C-1. If Schedule C-1 is submitted after the opening, the bidder may submit a revised Schedule D-1 (executed and notarized to conform with the Schedules C-1). Bidders shall not be permitted to add MBEs or WBEs after bid opening to meet the Contract Specific Goals, however, contractors are encouraged to add additional MBE/WBE vendors to their approved compliance plan during the performance of the contract when additional opportunities for participation are identified. Except in cases where substantial and documented justification is provided, bidders will not be allowed to reduce the dollar commitment made to any MBE or WBE in order to achieve conformity between the Schedules C-1 and D-1.

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

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

Any applications for City approval of a Mentor Protégé agreement must be included with the bid. If the application is not approved, the bidder must show that it has made good faith efforts to meet the contract specific goals.

#### **6.7. Reporting Requirements During the Term of the Contract**

- a. The Contractor will, not later than thirty (30) calendar days from the award of a contract by the City, execute formal contracts or purchase orders with the MBEs and WBEs included in their approved MBE/WBE Utilization Plan. These written agreements will be made available to the Chief Procurement Officer upon request.
- b. The Contractor will be responsible for reporting payments to all subcontractors on a monthly basis in the form of an electronic report. Upon the first payment issued by the City of Chicago to the contractor for services performed, on the first day of each month and every month thereafter, email and or fax audit notifications will be sent out to the Contractor with instructions to report payments that have been made in the prior month to each subcontractor. The reporting of payments to all subcontractors must be entered into the Certification and Compliance Monitoring System (C2), or whatever reporting system is currently in place, on or before the fifteenth (15th) day of each month.
- c. Once the prime Contractor has reported payments made to each subcontractor, including zero dollar amount payments, the subcontractor will receive an email and or fax notification requesting them to log into the system and confirm payments received. All monthly confirmations must be reported on or before the 20th day of each month. Contractor and subcontractor reporting to the C2 system must be completed by the 25th of each month or payments may be withheld.
- d. All subcontract agreements between the contractor and MBE/WBE firms or any first tier non-certified firm and lower tier MBE/WBE firms must contain language requiring the MBE/WBE to respond to email and/or fax notifications from the City of Chicago requiring them to report payments received for the prime or the non-certified firm.  
  
Access to the Certification and Compliance Monitoring System (C2), which is a web based reporting system, can be found at: <https://chicago.mwdbe.com>
- e. The Chief Procurement Officer or any party designated by the Chief Procurement Officer, shall have access to the contractor's books and records, including without limitation payroll records, tax returns and records and books of account, to determine the contractor's compliance with its commitment to MBE and WBE participation and the status of any MBE or WBE performing any portion of the contract. This provision shall be in addition to, and not a substitute for, any other provision allowing inspection of the contractor's records by any officer or official of the City for any purpose.
- f. The Contractor shall maintain records of all relevant data with respect to the utilization of MBEs and WBEs, retaining these records for a period of at least five years after project closeout. Full access to these records shall be granted to City, federal or state authorities or other authorized persons.

#### **6.8. Changes to Compliance Plan**

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

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

of work, the MBE or WBE can be substituted only where an agreement cannot be reached for a reasonable price for the correct scope of work.

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

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

#### **6.8.2. Procedure for Requesting Approval**

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

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

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

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

Without limitation, the following shall constitute a material breach of this contract and entitle the City to declare a default, terminate the contract, and exercise those remedies provided for in the contract, at law or in equity: (1) failure to demonstrate Good Faith Efforts, except in the case of a contract where a bid incentive under MCC 2-92-525 was taken into consideration in the award; and (2) disqualification as a MBE or WBE of the contractor or any joint venture partner, subcontractor or supplier if its status as an MBE or WBE was a factor in the award of the contract and such status was misrepresented by the contractor.

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

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

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

In the case of a in the case of a contract for which a bid incentive under MCC 2-92-525 was taken into consideration in the award, any contractor that has failed to retain the percentage of MBE or WBE subcontractor committed to in order for the bid incentive to be allocated will be fined an amount equal to three times the amount of the bid incentive allocated, unless the contractor can demonstrate that due to circumstances beyond the contractor's control, the contractor for good cause was unable to retain the percentage of MBE or WBE subcontractors throughout the duration of the contract period.

#### **6.10. Arbitration**

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

- d) The MBE/WBE must send the City a copy of the Demand for Arbitration within ten (10) calendar days after it is filed with the AAA. The MBE/WBE also must send the City a copy of the decision of the arbitrator within ten (10) calendar days of receiving such decision. Judgment upon the award rendered by the arbitrator may be entered in any court of competent jurisdiction.

**6.11. Equal Employment Opportunity**

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

**6.12. Attachments and Schedules**

The following attachments and schedules follow, they may also be downloaded from the Internet at:

<http://www.cityofchicago.org/forms>

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

## Attachment A –Assist Agency List (Rev. Apr. 2018)

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

*\*Prime Contractors should contact with subcontracting opportunities to connect certified firms.*

<p><b>51<sup>st</sup> Street Business Association *</b> 220 E. 51<sup>st</sup> Street Chicago, IL 60615 Phone: 773-285-3401 Fax: 773-285-3407 Email: <a href="mailto:the51ststreetbusinessassociation@yahoo.com">the51ststreetbusinessassociation@yahoo.com</a> Web: <a href="http://www.51stStreetChicago.com">www.51stStreetChicago.com</a> Maintains list of certified firms: Yes Provides training for businesses: Yes</p>	<p><b>African American Contractors Association - AACA</b> P.O. Box #19670 Chicago, IL 60619 Phone: 312-915-5960 Email: <a href="mailto:aacanatlassoc@gmail.com">aacanatlassoc@gmail.com</a> Web: <a href="http://www.aacanatl.org">www.aacanatl.org</a> Maintains list of certified firms: Yes Provides training for businesses: Yes</p>
<p><b>Angel of God Resource Center, Inc.</b> 14527 S. Halsted Chicago, IL 60827 Phone: 708-392-9323 Fax: 708-880-0121 Email: <a href="mailto:asmith5283@yahoo.com">asmith5283@yahoo.com</a>; <a href="mailto:aogrc@angelofgodresourcecenter.org">aogrc@angelofgodresourcecenter.org</a> Web: <a href="http://www.angelofgodresourcecenter.org">www.angelofgodresourcecenter.org</a> Maintains list of certified firms: No Provides training for businesses: Yes</p>	<p><b>Association of Asian Construction Enterprises *</b> 5677 W. Howard Niles, IL 60714 Phone: 847-673-7377 Fax: 847-673-2358 Email: <a href="mailto:nakmancorp@aol.com">nakmancorp@aol.com</a> Maintains list of certified firms: Yes Provides training for businesses: Yes</p>
<p><b>Austin African American Business Networking Assoc.</b> 5820 W. Chicago Ave., Chicago, IL 60651 Phone: 773-626-4497 Email: <a href="mailto:aaabna@yahoo.com">aaabna@yahoo.com</a> Web: <a href="http://www.aaabna.org">www.aaabna.org</a> Maintains list of certified firms: No Provides training for businesses: Yes</p>	<p><b>Black Contractors United *</b> 12000 S. Marshfield Ave. Calumet Park, IL 60827 Phone: 708-389-5730 Fax: 708-389-5735 Email: <a href="mailto:bcunewera@att.net">bcunewera@att.net</a> Web: <a href="http://www.blackcontractorsunited.com">www.blackcontractorsunited.com</a> Maintains list of certified firms: Yes Provides training for businesses: Yes</p>
<p><b>Business Leadership Council *</b> 230 W. Monroe Street, Ste 2650 Chicago, IL 60606 Phone: 312-628-7844 Fax: 312-628-7843 Email: <a href="mailto:Karen.r@businessleadershipcouncil.org">Karen.r@businessleadershipcouncil.org</a> Web: <a href="http://www.businessleadershipcouncil.org">www.businessleadershipcouncil.org</a> Maintains list of certified firms: Yes Provides training for businesses: Yes</p>	<p><b>LGBT Chamber of Commerce of Illinois *</b> 3179 N. Clark St., 2nd Floor Chicago, IL 60657 Phone: 773-303-0167 Fax: 773-303-0168 Email: <a href="mailto:jholston@lgbtcc.com">jholston@lgbtcc.com</a> Web: <a href="http://www.lgbtcc.com">www.lgbtcc.com</a> Maintains list of certified firms: Yes Provides training for businesses: Yes</p>
<p><b>Chatham Business Association Small Business Dev. *</b> 800 E. 78<sup>th</sup> Street Chicago, IL 60619 Phone: 773-994-5006 Fax: 773-855-8905 Email: <a href="mailto:melindakelly@cbaworks.org">melindakelly@cbaworks.org</a> Web: <a href="http://www.cbaworks.org">www.cbaworks.org</a> Maintains list of certified firms: Yes Provides training for businesses: Yes</p>	<p><b>Chicago Minority Supplier Development Council Inc. *</b> 105 W. Adams, Suite 2300 Chicago, IL 60603-6233 Phone: 312-755-2550 Fax: 312-755-8890 Email: <a href="mailto:pbarreda@chicagomsdc.org">pbarreda@chicagomsdc.org</a> Web: <a href="http://www.chicagomsdc.org">www.chicagomsdc.org</a> Maintains list of certified firms: Yes Provides training for businesses: Yes</p>

<p><b>Chicago Urban League *</b> 4510 S. Michigan Ave. Chicago, IL 60653 Phone: 773-624-8810 Fax: 773-451-3579 Email: <a href="mailto:sbrinston@thechicagourbanleague.org">sbrinston@thechicagourbanleague.org</a> Web: <a href="http://www.cul-chicago.org">www.cul-chicago.org</a> Maintains list of certified firms: Yes Provides training for businesses: Yes</p>	<p><b>Chicago Women in Trades (CWIT)</b> 2444 W. 16<sup>th</sup> Street Chicago, IL 60608 Phone: 312-942-1444 Jayne Vellinga, Executive Director Email: <a href="mailto:jvellinga@cwit2.org">jvellinga@cwit2.org</a> Web: <a href="http://www.chicagowomenintrades2.org">www.chicagowomenintrades2.org</a> Maintains list of certified firms: No Provides training for businesses: Yes</p>
<p><b>Contractor Advisors Business Development Corp. *</b> 1507 E. 53<sup>rd</sup> Street, Suite 906 Chicago, IL 60615 Phone: 312-436-0301 Email: <a href="mailto:info@contractoradvisors.us">info@contractoradvisors.us</a> Web: <a href="http://www.contractoradvisors.us">www.contractoradvisors.us</a> Maintains list of certified firms: Yes Provides training for businesses: Yes</p>	<p><b>Cosmopolitan Chamber of Commerce</b> 1633 S. Michigan Avenue Chicago, IL 60616 Phone: 312-971-9594 Fax: 312-341-9084 Email: <a href="mailto:rmcgowan@cosmochamber.org">rmcgowan@cosmochamber.org</a> Web: <a href="http://www.cosmochamber.org">www.cosmochamber.org</a> Maintains list of certified firms: Yes Provides training for businesses: Yes</p>
<p><b>Do For Self Community Development Co. *</b> 7447 S South Shore Drive, Unit 22B Chicago, IL 60649 Phone: 773-356-7661 Email: <a href="mailto:dennisdoforself@hotmail.com">dennisdoforself@hotmail.com</a> Web: <a href="http://www.doforself.org">www.doforself.org</a> Maintains list of certified firms: No Provides training for businesses: Yes</p>	<p><b>Far South Community Development Corporation</b> 9923 S. Halsted Street, Suite D Chicago, IL 60628 Phone: 773-941-4833 Fax: 773-941-5252 Email: <a href="mailto:lacy@farsouth.org">lacy@farsouth.org</a> Web: <a href="http://www.farsouthcdc.org">www.farsouthcdc.org</a> Maintains list of certified firms: No Provides training for businesses: Yes</p>
<p><b>Federation of Women Contractors *</b> 216 W. Jackson Blvd. #625 Chicago, IL 60606 Phone: 312-360-1122 Fax: 312-750-1203 Email: <a href="mailto:fwcchicago@aol.com">fwcchicago@aol.com</a> Web: <a href="http://www.fwcchicago.com">www.fwcchicago.com</a> Maintains list of certified firms: Yes Provides training for businesses: Yes</p>	<p><b>Fresh Start Home Community Development Corp.</b> 5168 S. Michigan Avenue, 4N Chicago, IL 60615 Phone: 312-632-0811 Fax: 855-270-4175 Email: <a href="mailto:Info@FreshStartNow.us">Info@FreshStartNow.us</a> Web: <a href="http://www.FreshStartNow.us">www.FreshStartNow.us</a> Maintains list of certified firms: Yes Provides training for businesses: Yes</p>
<p><b>Greater Englewood Community Development Corp. *</b> 815 W. 63<sup>rd</sup> Street Chicago, IL 60621 Phone: 773-651-2400 Fax: 773-651-2400 Email: <a href="mailto:jharbin@greaterenglewoodcdc.org">jharbin@greaterenglewoodcdc.org</a> Web: <a href="http://www.greaterenglewoodcdc.org">www.greaterenglewoodcdc.org</a> Maintains list of certified firms: Yes Provides training for businesses: Yes</p>	<p><b>Greater Pilsen Economic Development Assoc. *</b> 1801 S. Ashland Chicago, IL 60608 Phone: 312-698-8898 Email: <a href="mailto:greaterpilsen@gmail.com">greaterpilsen@gmail.com</a> Web: <a href="http://www.greaterpilsen.org">www.greaterpilsen.org</a> Maintains list of certified firms: Yes Provides training for businesses: Yes</p>
<p><b>Greater Far South Halsted Chamber of Commerce *</b> 10615 S. Halsted Street Chicago, IL 60628 Phone: 518-556-1641 Fax: 773-941-4019 Email: <a href="mailto:halstedchamberevents@gmail.com">halstedchamberevents@gmail.com</a> Web: <a href="http://www.greaterfarsouthhalstedchamber.org">www.greaterfarsouthhalstedchamber.org</a> Maintains list of certified firms: Yes Provides training for businesses: Yes</p>	<p><b>Greater Southwest Development Corporation</b> 2601 W. 63<sup>rd</sup> Street Chicago, IL 60629 Phone: 773-362-3373 Fax: 773-471-8206 Email: <a href="mailto:c.james@greatersouthwest.org">c.james@greatersouthwest.org</a> Web: <a href="http://www.greatersouthwest.org">www.greatersouthwest.org</a> Maintains list of certified firms: No Provides training for businesses: Yes</p>



<p><b>Hispanic American Construction Industry Association (HACIA) *</b> 650 W. Lake St., Unit 415 Chicago, IL 60661 Phone: 312-575-0389 Fax: 312-575-0544 Email: <a href="mailto:jperez@haciaworks.org">jperez@haciaworks.org</a> Web: <a href="http://www.haciaworks.org">www.haciaworks.org</a> Maintains list of certified firms: Yes Provides training for businesses: Yes</p>	<p><b>Illinois Hispanic Chamber of Commerce *</b> 222 Merchandise Mart Plaza, Suite 1212 c/o 1871 Chicago, IL 60654 Phone: 312-425-9500 Email: <a href="mailto:aalcantar@ihccbbusiness.net">aalcantar@ihccbbusiness.net</a> Web: <a href="http://www.ihccbbusiness.net">www.ihccbbusiness.net</a> Maintains list of certified firms: Yes Provides training for businesses: Yes</p>
<p><b>Illinois State Black Chamber of Commerce *</b> 411 Hamilton Blvd., Suite 1404 Peoria, Illinois 61602 Phone: 309-740-4430 / 773-294-8038 Fax: 309-672-1379 Email: <a href="mailto:Larrylvory@IllinoisBlackChamber.org">Larrylvory@IllinoisBlackChamber.org</a>; <a href="mailto:vgilb66709@yahoo.com">vgilb66709@yahoo.com</a> <a href="http://www.illinoisblackchamberofcommerce.org">www.illinoisblackchamberofcommerce.org</a> Maintains list of certified firms: Yes Provides training for businesses: Yes</p>	<p><b>JLM Business Development Center *</b> 2622 W. Jackson Boulevard Chicago, IL 60612 Phone: 773-826-3295 Fax: 773-359-4021 Email: <a href="mailto:jimbizcenter@gmail.com">jimbizcenter@gmail.com</a> Web: <a href="http://www.jlmcenter.org">www.jlmcenter.org</a> Maintains list of certified firms: Yes Provides training for businesses: Yes</p>
<p><b>Latin American Chamber of Commerce *</b> 3512 W. Fullerton Avenue Chicago, IL 60647 Phone: 773-252-5211 Fax: 773-252-7065 Email: <a href="mailto:d.lorenzopadron@LACCUSA.com">d.lorenzopadron@LACCUSA.com</a> Web: <a href="http://www.LACCUSA.com">www.LACCUSA.com</a> Maintains list of certified firms: Yes Provides training for businesses: Yes</p>	<p><b>National Association of Women Business Owners *</b> 500 Davis Street, Ste 812 Evanston, IL 60201 Phone: 773-410-2484 Fax: 847-328-2018 Email: <a href="mailto:wjaehn@nawbochicago.org">wjaehn@nawbochicago.org</a> Web: <a href="http://www.nawbochicago.org">www.nawbochicago.org</a> Maintains list of certified firms: Yes Provides training for businesses: Yes</p>
<p><b>National Black Wall Street *</b> 4655 S. King Drive, Suite 203 Chicago, IL 60653 Phone: 773-268-6900 Fax: 773-392-0165 Email: <a href="mailto:markallen2800@aol.com">markallen2800@aol.com</a> Web: <a href="http://www.nationalblackwallstreetchicago.org">www.nationalblackwallstreetchicago.org</a> Maintains list of certified firms: Yes Provides training for businesses: Yes</p>	<p><b>National Organization of Minority Engineers (NOME) *</b> 33 W. Monroe, Suite 1540 Chicago, IL 60603 Phone: 312-960-1239 Email: <a href="mailto:grandeevents1@sbcglobal.net">grandeevents1@sbcglobal.net</a> Web: <a href="http://www.nomeonline.org">www.nomeonline.org</a> Maintains list of certified firms: Yes Provides training for businesses: Yes</p>
<p><b>Neighborhood Development Services, NFP *</b> 10416 South Maryland Avenue Chicago, IL 60628 Phone: 773-413-9348 Fax: 773-371-0032 Email: <a href="mailto:neighborhooddevservices@gmail.com">neighborhooddevservices@gmail.com</a> Web: <a href="http://www.ndsnfp.org">www.ndsnfp.org</a> Maintains list of certified firms: Yes Provides training for businesses: Yes</p>	<p><b>Rainbow/PUSH Coalition *</b> 930 E. 50<sup>th</sup> Street Chicago, IL 60615 Phone: 773-256-2768 Fax: 773-373-4103 Email: <a href="mailto:jmitchell@rainbowpush.org">jmitchell@rainbowpush.org</a> Web: <a href="http://www.rainbowpush.org">www.rainbowpush.org</a> Maintains list of certified firms: Yes Provides training for businesses: No</p>

<b>Real Men Charities, Inc.</b> 2423 E. 75 <sup>th</sup> Street Chicago, IL 60649 Phone: 773-425-4113 Email: <a href="mailto:ymoyo@realmencook.com">ymoyo@realmencook.com</a> Web: <a href="http://www.realmencook.com">www.realmencook.com</a> Maintains list of certified firms: No Provides training for businesses: Yes	<b>RTW Veteran Center</b> 7415 E. End, Suite 120 Chicago, IL 60649 Phone: 773-406-1069 Fax: 866-873-2494 Email: <a href="mailto:rtwvetcenter@yahoo.com">rtwvetcenter@yahoo.com</a> Web: <a href="http://www.rtwvetcenter.org">www.rtwvetcenter.org</a> Maintains list of certified firms: Yes Provides training for businesses: Yes
<b>South Shore Chamber, Inc. *</b> 1750 E. 71 <sup>st</sup> Street Chicago, IL 60649-2000 Phone: 773-955- 9508 Tonya Trice, Executive Director Email: <a href="mailto:ttrice@southshorechamberinc.org">ttrice@southshorechamberinc.org</a> Web: <a href="http://www.southshorechamberinc.org">www.southshorechamberinc.org</a> Maintains list of certified firms: Yes Provides training for businesses: Yes	<b>St. Paul Church of God in Christ Community Development Ministries, Inc. (SPCDM)</b> 4550 S. Wabash Avenue Chicago, IL. 60653 Phone: 773-538-5120 Fax: 773-538-5125 Email: <a href="mailto:spcdm@sbcglobal.net">spcdm@sbcglobal.net</a> Web: <a href="http://www.stpaulcdm.org">www.stpaulcdm.org</a> Maintains list of certified firms: No Provides training for businesses: Yes
<b>The Monroe Foundation</b> 1547 South Wolf Road Hillside, Illinois 60162 Phone: 773-315-9720 Email: <a href="mailto:omonroe@themonroefoundation.org">omonroe@themonroefoundation.org</a> Web: <a href="http://www.themonroefoundation.org">www.themonroefoundation.org</a> Maintains list of certified firms: No Provides training for businesses: Yes	<b>US Minority Contractors Association, Inc. *</b> 1250 Grove Ave. Suite 200 Barrington, IL 60010 Phone: 847-708-1597 Fax: 847-382-1787 Email: <a href="mailto:admin@usminoritycontractors.org">admin@usminoritycontractors.org</a> Web: <a href="http://www.USMinorityContractors.org">www.USMinorityContractors.org</a> Maintains list of certified firms: Yes Provides training for businesses: Yes
<b>Women's Business Development Center *</b> 8 S. Michigan Ave., 4th Floor Chicago, IL 60603 Phone: 312-853-3477 Fax: 312-853-0145 Email: <a href="mailto:fcurry@wbdc.org">fcurry@wbdc.org</a> Web: <a href="http://www.wbdc.org">www.wbdc.org</a> Maintains list of certified firms: Yes Provides training for businesses: Yes	<b>Urban Broadcast Media, Inc.</b> 4108 S. King Drive, Chicago, IL 60653 Phone: 312-614-1075 Email: <a href="mailto:drleonfinney312@gmail.com">drleonfinney312@gmail.com</a> Web: <a href="http://www.urbanbroadcastmedia.org">www.urbanbroadcastmedia.org</a> Maintains list of certified firms: No Provides training for businesses: Yes
<b>Women Construction Owners &amp; Executives (WCOE) *</b> Chicago Caucus 308 Circle Avenue Forest Park, IL 60130 Phone: 708-366-1250 Email: <a href="mailto:mkm@mkmservices.com">mkm@mkmservices.com</a> Web: <a href="http://www.wcoeusa.org">www.wcoeusa.org</a> Maintains list of certified firms: Yes Provides training for businesses: No	<b>Your Community Consultants Foundation</b> 9301 S. Parnell Ave., Chicago, IL 60620 Phone: 773-224-9299 Fax: 773-371-0032 Email: <a href="mailto:allen81354@aol.com">allen81354@aol.com</a> Maintains list of certified firms: No Provides training for businesses: Yes

**Attachment B - Sample Format for Requesting Assist Agency Comments on Bidder's Request for Reduction or Waiver of MBE/WBE Goals**

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

RETURN RECEIPT REQUESTED

(Date)

**Specification No.:** {Specification Number}

**Project Description:** {PROJECT DESCRIPTION}

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

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

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

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

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

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Name of Company Representative	at	Address/Phone
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within (10) ten business days of receipt of this letter.

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

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

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

Sincerely,

**Schedule B – Affidavit of Joint Venture**

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

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

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

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

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

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

3. Contributions of equipment (Specify types, quality and quantities of equipment to be provided by each venturer): \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_
4. Other applicable ownership interests, including ownership options or other agreements which restrict or limit ownership and/or control: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_
5. Provide copies of all written agreements between venturers concerning this project.
6. Identify each current City of Chicago contract (and each contract completed during the past two (2) years) by a joint venture of two or more firms participating in this joint venture: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_
- VII. Control of and Participation in the Joint Venture. Identify by name and firm those individuals who are, or will be, responsible for, and have the authority to engage in the following management functions and policy decisions. (Indicate any limitations to their authority such as dollar limits and co-signatory requirements.):
- A. Joint venture check signing: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_
- B. Authority to enter contracts on behalf of the joint venture: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_
- C. Signing, co-signing and/or collateralizing loans: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_
- D. Acquisition of lines of credit: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

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

E. Acquisition and indemnification of payment and performance bonds:

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F. Negotiating and signing labor agreements:

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

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

VIII. Financial Controls of joint venture:

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

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

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

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

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

[illegible]

If any personnel proposed for this project will be employees of the joint venture:

- A. Are any proposed joint venture employees currently employed by either venturer?  
Currently employed by non-MBE/WBE (number) \_\_\_\_\_ Employed by MBE/WBE \_\_\_\_\_
- B. Identify by name and firm the individual who will be responsible for hiring joint venture employees:  
\_\_\_\_\_
- C. Which venturer will be responsible for the preparation of joint venture payrolls:  
\_\_\_\_\_
- X. Please state any material facts of additional information pertinent to the control and structure of this joint venture.

[illegible]

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

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

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

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

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

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

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

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

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

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

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

(SEAL)



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



**FOR  
NON-CONSTRUCTION  
PROJECTS ONLY**

**SCHEDULE C-1**

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

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

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

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

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

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

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

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

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

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

**SUB-SUBCONTRACTING LEVELS**

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

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

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

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

One or more owners or principals of the Prime Contractor ( ) does / ( ) does not have an ownership interest in the undersigned. Provide names of such individuals and their respective ownership percentages, or indicate "none." Attach additional sheets if necessary: \_\_\_\_\_

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

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

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

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

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

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



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

**FOR  
NON-CONSTRUCTION  
PROJECTS ONLY**

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

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

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

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

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

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

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

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

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

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

1. Name of MBE/WBE: \_\_\_\_\_

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

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

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

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

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

Mentor Protégé Agreement (attach executed copy): ( ) Yes ( ) No Add'l Percentage Claimed:<sup>1</sup> \_\_\_\_\_%

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

2. Name of MBE/WBE: \_\_\_\_\_

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

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

<sup>1</sup> The Prime Contractor may claim an additional 0.5 percent participation credit (up to a maximum of five (5) percent) for  
every one (1) percent of the value of the contract performed by the MBE/WBE protégé firm.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

**5.** Attach Additional Sheets as Needed

**II. Indirect Participation of MBE/WBE Firms**

**NOTE:** This section need not be completed if the MBE/WBE goals have been met through the direct participation outlined in Section I. If the MBE/WBE goals have not been met through direct participation, Contractor is required to demonstrate Good Faith Efforts pursuant to the MBE/WBE Special Conditions in a request for a waiver or reduction of MBE/WBE goals. Indirect participation may be considered as part of such Good Faith Efforts in support of the requested waiver or reduction.

MBE/WBE Subcontractors/Suppliers/Consultants proposed to perform work or supply goods or services where such performance does not directly relate to the performance of this contract:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

**5.** Attach Additional Sheets as Needed

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

**III. Summary of MBE/WBE Proposal**

**A. MBE Proposal (Direct & Indirect)**

1. MBE Direct Participation

MBE Firm Name	Dollar Amount Participation (\$)	Percent Amount Participation (%)
<b>Total Direct MBE Participation</b>		

2. MBE Indirect Participation

MBE Firm Name	Dollar Amount Participation (\$)	Percent Amount Participation (%)
<b>Total Indirect MBE Participation</b>		

**B. WBE Proposal (Direct & Indirect)**

1. WBE Direct Participation

WBE Firm Name	Dollar Amount Participation (\$)	Percent Amount Participation (%)
<b>Total Direct WBE Participation</b>		

2. WBE Indirect Participation

WBE Firm Name	Dollar Amount Participation (\$)	Percent Amount Participation (%)
<b>Total Indirect WBE Participation</b>		

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

The Prime Contractor designates the following person as its MBE/WBE Liaison Officer:

\_\_\_\_\_  
(Name- Please Print or Type)

\_\_\_\_\_  
(Phone)

One or more owners or principals of the Prime Contractor ( ) does / ( ) does not have an ownership interest in any MBE or WBE listed in this Schedule D. Provide names of such individuals and their respective ownership percentages, and identify the MBE/WBE firms in which such ownership is held, or indicate "none." Add additional sheets if necessary:

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

**I DO SOLEMNLY DECLARE AND AFFIRM UNDER PENALTIES OF PERJURY THAT THE CONTENTS OF THE FOREGOING DOCUMENT ARE TRUE AND CORRECT, THAT NO MATERIAL FACTS HAVE BEEN OMITTED, AND THAT I AM AUTHORIZED ON BEHALF OF THE PRIME CONTRACTOR TO MAKE THIS AFFIDAVIT.**

\_\_\_\_\_  
(Name of Prime Contractor – Print or Type)

State of: \_\_\_\_\_

\_\_\_\_\_  
(Signature)

County of: \_\_\_\_\_

\_\_\_\_\_  
(Name/Title of Affiant – Print or Type)

\_\_\_\_\_  
(Date)

On this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, the above signed officer \_\_\_\_\_  
(Name of Affiant)

personally appeared and, known by me to be the person described in the foregoing Affidavit, acknowledged that (s)he executed the same in the capacity stated therein and for the purposes therein contained.

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

\_\_\_\_\_  
(Notary Public Signature)

SEAL:

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

## **ARTICLE 7. INSURANCE REQUIREMENTS**

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

### **7.1. Insurance to be Provided**

#### **7.1.1. Workers Compensation and Employers Liability (Primary and Umbrella)**

Workers Compensation Insurance, as prescribed by applicable law covering all employees who are to provide work, services, or operations under this Contract and Employers Liability coverage with limits of not less than \$1,000,000 each accident; \$1,000,000 disease-policy limit; and \$1,000,000 disease-each employee, or the full per occurrence limits of the policy, whichever is greater.

Contractor may use a combination of primary and excess/umbrella policy/policies to satisfy the limits of liability required herein. The excess/umbrella policy/policies must provide the same coverages/follow form as the underlying policy/policies.

#### **7.1.2. Commercial General Liability (Primary and Umbrella)**

Commercial General Liability Insurance or equivalent must be maintained with limits of not less than \$2,000,000 per occurrence, or the full per occurrence limits of the policy, whichever is greater, for bodily injury, personal injury, and property damage liability. Coverages must include, but not be limited to, the following: All premises and operations, products/completed operations (for the full statute of repose following project completion), explosion, collapse, underground, separation of insureds, runway work, defense, contractual liability (not to include endorsement CG 21 39 or equivalent), no exclusion for damage to work performed by Subcontractors, any limitation of coverage for designated premises or project is not permitted (not to include endorsement CG 21 44 or equivalent), and any endorsement modifying or deleting the exception to the Employer's Liability exclusion is not permitted. If a general aggregate limit applies, the general aggregate must apply per project/location and once per policy period; or Contractor may obtain separate insurance to provide the required limits which will not be subject to depletion because of claims arising out of any other work or activity of Contractor. If a general aggregate applies to products/completed operations, the general aggregate limits must apply per project and once per policy period.

The City and other entities required by City must be provided additional insured status with respect to liability arising out of Contractor's work, services or operations and completed operations performed on behalf of the City. Such additional insured coverage must be provided on ISO form CG 2010 10 01 and CG 2037 10 01 or endorsement form at least as broad for ongoing operations and completed operations. The City's additional insured status must apply to liability and defense of suits arising out of Contractor's acts or omissions, whether such liability is attributable to the Contractor or to the City. The full policy limits and scope of protection also will apply to the City as an additional insured, even if they exceed the City's minimum limits required herein. Contractor's liability insurance must be primary without right of contribution by any other insurance or self-insurance maintained by or available to the City.

Contractor may use a combination of primary and excess/umbrella policy/policies to satisfy the limits of liability required herein. The excess/umbrella policy/policies must provide the same coverages/follow form as the underlying policy/policies.

#### **7.1.3. Automobile Liability (Primary and Umbrella)**

Contractor must maintain Automobile Liability Insurance with limits of not less than \$2,000,000 per occurrence, or the full per occurrence limits of the policy, whichever is greater, for bodily injury and property damage. Coverages must include, but not be limited to, the following: ownership, maintenance, or use of any auto whether owned, leased, non-owned or hired used in the performance of the work or devices, both on and off the Project site including loading and unloading. If applicable, coverage extension must include an MCS-90 endorsement where required by the Motor Carrier Act of 1980. The City and other entities required by City are to be named as additional insureds on a primary, non-contributory basis.

Contractor may use a combination of primary and excess/umbrella policy/policies to satisfy the limits of liability required herein. The excess/umbrella policy/policies must provide the same coverages/follow form as the underlying policy/policies.



#### **7.1.4. Excess/Umbrella**

Excess/Umbrella Liability Insurance must be maintained with limits of not less than \$8,000,000 per occurrence, or the full per occurrence limits of the policy, whichever is greater. The policy/policies must provide the same coverages/follow form as the underlying Commercial General Liability, Automobile Liability, Employers Liability and Completed Operations coverage required herein and expressly provide that the excess or umbrella policy/policies will drop down over reduced and/or exhausted aggregate limit, if any, of the underlying insurance. If a general aggregate limit applies, the general aggregate must apply per project/location. The Excess/Umbrella policy/policies must be primary without right of contribution by any other insurance or self-insurance maintained by or available to the City.

Contractor may use a combination of primary and excess/umbrella policies to satisfy the limits of liability required in sections A.1, A.2, A.3 and A.4 herein.

#### **7.1.5. Contractors Pollution Liability**

When any work performed involves a potential pollution risk that may arise from the work, services, or operations of Contractor's scope of services, Contractors Pollution Liability must be provided or caused to be provided, covering bodily injury, property damage and other losses caused by pollution conditions with limits of not less than \$2,000,000. Coverage must include, but not be limited to, the following: completed operations, contractual liability, defense, excavation, environmental cleanup, remediation and disposal and if applicable, include transportation and non-owned disposal coverage. When policies are renewed or replaced, the policy retroactive date must coincide with or precede, start of work on the Contract. A claims-made policy which is not renewed or replaced must have an extended reporting period of two (2) years. The City is to be named as an additional insured.

#### **7.1.6. Professional Liability**

When any architects, engineers, construction managers or other professional consultants perform work, services, or operations in connection with this Contract, Professional Liability Insurance covering acts, errors, or omissions must be maintained with limits of not less than \$1,000,000 for each claim. Coverage must include, but not limited to, the following: pollution liability if environmental site assessments will be done. When policies are renewed or replaced, the policy retroactive date must coincide with, or precede, start of work on the Contract. A claims-made policy which is not renewed or replaced must have an extended reporting period of two (2) years.

The Contractor is responsible for all loss or damage to personal property (including but not limited to materials, equipment, tools and supplies) owned, used, leased, or rented to Contractor.

### **7.2. Additional Requirements**

Evidence of Insurance. Contractor must furnish the City, Department of Aviation, 10510 West Zemke Road, 60666 and Department of Procurement Services, City Hall, Room 806, 60602, original certificates of insurance and additional insured endorsement, or other evidence of insurance, to be in force on the date of this Contract, and renewal certificates of Insurance and endorsement, or such similar evidence, if the coverages have an expiration or renewal date occurring during the term of this Contract. Contractor must submit evidence of insurance prior to execution of Contract. The receipt of any certificate does not constitute Contract by the City that the insurance requirements in the Contract have been fully met or that the insurance policies indicated on the certificate are in compliance with all requirements of Contract. The failure of the City to obtain, nor the City's receipt of, or failure to object to a non-complying insurance certificate, endorsement or other insurance evidence from Contractor, its insurance broker(s) and/or insurer(s) will not be construed as a waiver by the City of any of the required insurance provisions. Contractor must advise all insurers of the Contract provisions regarding insurance. The City in no way warrants that the insurance required herein is sufficient to protect Contractor for liabilities which may arise from or relate to the Contract. The City reserves the right to obtain complete, certified copies of any required insurance policies at any time.

Failure to Maintain Insurance. Failure of Contractor to comply with required coverage and terms and conditions outlined herein will not limit Contractor's liability or responsibility nor does it relieve Contractor of the obligation to provide insurance as specified in this Contract. Nonfulfillment of the insurance conditions may constitute a violation of the Contract, and the City retains the right to suspend this Contract until proper evidence of insurance is provided, or the Contract may be terminated.

Notice of Material Change, Cancellation or Non-Renewal. Contractor must provide for sixty (60) days prior written notice to be given to the City in the event coverage is substantially changed, canceled or non-renewed and ten (10) days prior written notice for non-payment of premium.

Deductibles and Self-Insured Retentions. Any deductibles or self-insured retentions on referenced insurance coverages must be borne by Contractor.

Waiver of Subrogation. Contractor hereby waives its rights and its insurer(s)' rights of subrogation and agrees to require their insurers to waive their rights of subrogation against the City under all required insurance herein for any loss arising from or relating to this Contract. Contractor agrees to obtain any endorsement that may be necessary to affect this waiver of subrogation, but this provision applies regardless of whether or not the City received a waiver of subrogation endorsement for Contractor's insurer(s).

Contractors Insurance Primary. All insurance required of Contractor under this Contract must be endorsed to state that Contractor's insurance policy is primary and not contributory with any insurance carrier by the City.

No Limitation as to Contractor's Liabilities. The coverages and limits furnished by Contractor in no way limit the Contractor's liabilities and responsibilities specified within the Contract or by law.

No Contribution by City. Any insurance or self-insurance programs maintained by the City do not contribute with insurance provided by Contractor under this Contract.

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

Insurance and Limits Maintained. If Contractor maintains higher limits and/or broader coverage than the minimums shown herein, the City requires and must be entitled the higher limits and/or broader coverage maintained by Contractor. Any available insurance proceeds in excess of the specified minimum limits of insurance and coverage must be available to the City.

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

Other Insurance obtained by Contractor. If Contractor desires additional coverages, Contractor will be responsible for the acquisition and cost.

Insurance required of Subcontractors. Contractor must name Subcontractor(s) as a named insured(s) under Contractor's insurance or Contractor will require each Subcontractor(s) to provide and maintain Commercial General Liability, Commercial Automobile Liability, Worker's Compensation and Employers Liability Insurance and when applicable Excess/Umbrella Liability Insurance with coverage at least as broad as in outlined in Section A, Insurance Required. The limits of coverage will be determined by Contractor but be no less than \$5,000,000 per occurrence for access to airside and \$2,000,000 per occurrence for access to landside for Commercial General Liability and Auto Liability. Contractor must determine if Subcontractor(s) must also provide any additional coverage or other coverage outlined in Section A, Insurance Required. Contractor is responsible for ensuring that each Subcontractor has named the City as an additional insured where required and name the City as an additional insured under the Commercial General Liability on ISO form CG 2010 10 01 and CG 2037 10 01 for ongoing operation and completed operations or an endorsement form at least as broad and acceptable to the City Contractor is also responsible for ensuring that each Subcontractor has complied with the required coverage and terms and conditions outlined in this Section B, Additional Requirements. When requested by the City, Contractor must provide to the City certificates of insurance and additional insured endorsements or other evidence of insurance. The City reserves the right to obtain complete, certified copies of any required insurance policies at any time. Failure of the Subcontractors to comply with required coverage and terms and conditions outlined herein will not limit Contractor's liability or responsibility.

City's Right to Modify. Notwithstanding any provisions in the Contract to the contrary, the City, Department of Finance, Risk Management Office maintains the right to modify, delete, alter or change these requirements.

## **ARTICLE 8. ECONOMIC DISCLOSURE STATEMENT AND AFFIDAVIT (EDS)**

### **8.1. Online EDS Filing Required Prior To Bid Opening**

The Bidder must prepare an online EDS prior to the bid opening date.

A BIDDER THAT DOES NOT PREPARE AN ELECTRONIC EDS PRIOR TO THE BID OPENING WILL BE FOUND NON-RESPONSIVE AND ITS BID WILL BE REJECTED.

#### **NOTE:**

- A. Filing an "EDS Information Update" does NOT satisfy the requirement to file an electronic EDS prior to bid opening.
- B. Filing an EDS in a hard copy or paper copy form does NOT satisfy the requirement to file an electronic EDS prior to bid opening.
- C. Filing an EDS for another mater (different bid, contract, etc.) does NOT satisfy the requirement to file an electronic EDS prior to bid opening.
- D. When completing the online EDS, please choose the Department of Procurement Services as the City agency or department that is requesting the EDS.

### **8.2. Online EDS Web Link**

The web link for the Online EDS is <https://webapps.cityofchicago.org/EDSWeb>

### **8.3. Online EDS Number**

Upon completion of the online EDS submission process, the Bidder will be provided an EDS number. Bidders should provide this number here:

EDS Number: \_\_\_\_\_

### **8.4. Online EDS Certification of Filing**

Upon completion of the online submission process, the Bidder will be able to print a hard copy Certificate of Filing. The Bidder should submit the signed Certificate of Filing with its bid.

**Please insert your Certification of Filing following this page.**

A Bidder that does not include a signed Certificate of Filing with its bid must provide it upon the request of the Chief Procurement Officer.

### **8.5. Preparation Checklist for Registration**

To expedite and ease your registration process, we recommend that you collect the following information prior to registering for an Online EDS user account:

- \_\_\_\_\_ 1. Invitation number, if you were provided an invitation number.
- \_\_\_\_\_ 2. EDS document from previous years, if available.
- \_\_\_\_\_ 3. Email address to correspond with the Online EDS system.
- \_\_\_\_\_ 4. Company Information:
  - \_\_\_\_\_ a. Legal Name
  - \_\_\_\_\_ b. FEIN/SSN
  - \_\_\_\_\_ c. City of Chicago Vendor Number, if available.
  - \_\_\_\_\_ d. Address and phone number information that you would like to appear on your EDS documents.
  - \_\_\_\_\_ e. EDS Captain. Check for an EDS Captain in your company - this maybe the person that usually submits EDS for your company or the first person that registers for your company.

### **8.6. Preparation Checklist for EDS Submission**

To expedite and ease your EDS submission, we recommend that you collect the following information prior to updating your EDS information online.

Items #1 through #7 are needed for both EDS information updates and contract related EDS documents:

- \_\_\_\_\_ 1. Invitation number, if you were provided with an invitation number.
- \_\_\_\_\_ 2. Site address that is specific to this EDS.
- \_\_\_\_\_ 3. Contact that is responsible for this EDS.
- \_\_\_\_\_ 4. EDS document from previous years, if available.
- \_\_\_\_\_ 5. Ownership structure and if applicable, owners' company information:
  - \_\_\_\_\_ a. % of ownership
  - \_\_\_\_\_ b. Legal Name
  - \_\_\_\_\_ c. FEIN/SSN
  - \_\_\_\_\_ d. City of Chicago Vendor Number, if available.
  - \_\_\_\_\_ e. Address
- \_\_\_\_\_ 6. List of directors, officers, titleholders, etc. (if applicable).
- \_\_\_\_\_ 7. For partnerships/LLC/LLP/Joint ventures, etc.; List of controlling parties (if applicable).

Items #8 and #9 are needed ONLY for contract related EDS documents:

- 1. Contract related information (if applicable):
  - \_\_\_\_\_ a. City of Chicago contract package
  - \_\_\_\_\_ b. Cover page of City of Chicago bid/solicitation package
  - \_\_\_\_\_ c. If EDS is related to a mod, then cover page of your current contract with the City.
- 2. List of subcontractors and retained parties:

- \_\_\_\_\_ a. Name
- \_\_\_\_\_ b. Address
- \_\_\_\_\_ c. Fees – Estimated or paid

### **8.7. EDS Frequently Asked Questions**

Q: Where do I file?

A: The web link for the Online EDS is <https://webapps.cityofchicago.org/EDSWeb>

Q: How do I get help?

A: If there is a question mark on a page or next to a field, click on the question mark for help filling out the page or field. You may also consult the User Manual and the Training Videos available on the left menu.

Q: Why do I have to submit an EDS?

A: The Economic Disclosure Statement (EDS) is required of applicants making an application to the City for action requiring City Council, City department or other City agency approval. For example, all bidders seeking a City contract are required to submit an EDS. Through the EDS, applicants make disclosures required by State law and City ordinances and certify compliance with various laws and ordinances. An EDS is also required of certain parties related to the applicant, such as owners and controlling parties.

Q: Who is the Applicant?

A: "Applicant" means any entity or person making an application to the City for action requiring City Council or other City agency approval. The applicant does not include owners and parent companies.

Q: Who is the Disclosing Party?

A: "Disclosing Party" means any entity or person submitting an EDS. This includes owners and parent companies.

Q: What is an entity or legal entity?

A: "Entity" or "Legal Entity" means a legal entity (for example, a corporation, partnership, joint venture, limited liability company or trust).

Q: What is a person for purposes of the EDS?

A: "Person" means a human being.

Q: Who must submit an EDS?

A: An EDS must be submitted in any of the following three circumstances:

Applicants: An Applicant must always file this EDS. If the Applicant is a legal entity, state the full name of that legal entity. If the Applicant is a person acting on his/her own behalf, state his/her name.

Entities holding an interest: Whenever a legal entity has a beneficial interest (E. G. direct or indirect ownership) of more than 7.5% in the Applicant, each such legal entity must file an EDS on its own behalf.

Controlling entities: Whenever a Disclosing Party is a general partnership, limited partnership, limited liability company, limited liability partnership or joint venture that has a general partner, managing member, manager or other entity that can control the day-to-day management of the Disclosing Party, that entity must also file an EDS on its own behalf. Each entity with a beneficial interest of more than 7.5% in the controlling entity must also file an EDS on its own behalf.

Q: What information is needed to submit an EDS?

A: The information contained in the Preparation Checklist for EDS submission.

Q: I don't have a user ID & password. Can I still submit an Online EDS?

A: No. You must register and create a user ID and password before submitting an Online EDS.

Q: What information is needed to request a user ID & password for Online EDS?

A: The information contained in the Preparation Checklist for Registration is needed to request a login for the Online EDS.

Q: I already have a username and password from another City web site (City Web Portal, Department of Construction and Permits, Department of Consumer Services, etc.). Can I log-in the Online EDS with that account?

A: Usually not. The Online EDS uses a user ID and password system that is shared by the Public Vehicle Advertising and Water Payment web sites. You may use a username and password from those sites by answering "Yes" to "Is this an existing City of Chicago user ID?" when registering. Other usernames and passwords will not be automatically recognized. However, you may choose to create an identical username for the Online EDS if it is not already taken.

Q: I don't have an email address. How do I submit an Online EDS?

A: You cannot get an account to submit an online EDS without an email address. If you need an e-mail address, we suggest that you use a free internet email provider such as [www.hotmail.com](http://www.hotmail.com), [www.yahoo.com](http://www.yahoo.com) or [mail.google.com](http://mail.google.com) to open an account. The City does not endorse any particular free internet email provider. Public computers are available at all Chicago Public Library branches.

Q: I forgot my user ID. Can I register again?

A: No. If you are the EDS Captain of your organization, please contact the Department of Procurement Services at 312-744-4900. If you are an EDS team member, contact your EDS Captain, who can look up your user ID.

Q: Who is the EDS Captain?

A: The EDS Captain is a person who performs certain administrative functions for an organization which files an EDS. Each organization registered with the Online EDS has at least one EDS Captain. There may be co-captains, who are all equal. EDS Captains approve new users, change contact information for an organization and de-active accounts of employees who have left the organization. Please see the User Manual for more information.

Q: Why do we need EDS Captains?

A: The Online EDS is designed to be a self-service web application which allows those doing or seeking to do business with the City to perform as many routine functions as possible without City intervention. Because many organizations have multiple staff filing an EDS, the EDS Captain role allows those organizations to self-manage the contact information and users.

Q: Who is the EDS team?

A: The EDS team for an organization is everyone who is registered to file an EDS on behalf of the organization.

Q: I forgot my password. What should I do?

A: To retrieve a temporary password, click the "Forgot your password?" link on the login page. Enter your user ID that you provided when you registered your account. The system will automatically generate a temporary password and send it to you. When you log-in with your temporary password, you will be asked to create a new password.

Q: How do I complete an Online EDS?

A: Click on "Create New" after logging in. The Online EDS system will walk you through the EDS questions. Please see the User Manual for details.

Q: How do I fill out a Disclosure of Retained Parties?

A: There is no longer a separate Disclosure of Retained Parties filing. After logging in, click on "Create New". Answer (click) "Contract" to "Is this EDS for a contract or an EDS information update?" Click "Fill out EDS" and click on the "Retained Parties" tab. When finished, click on "Ready to Submit".

Q: How do I attach documents?

A: Attachments are discouraged. If at all possible, please provide a concise explanation in the space provided in the online form. Attachments with pages of officers are not acceptable. Names of officers must be typed into the system. If you must provide an attachment for another reason, please send it to your City of Chicago contact (contract administrator or negotiator for procurements) and they will attach it for you. Documents can be sent in PDF (preferred), Word or paper format.

Q: Who can complete an Economic Disclosure Statement online?

A: Any authorized representative of your business with a user ID and password can complete your EDS online. One person, such as an assistant, can fill in the information and save it and another person can review and electronically sign the Online EDS.

Q: What are the benefits of filing my Economic Disclosure statement electronically?

A: Filing electronically reduces the chance of filing an incomplete EDS and speeds up the processing of contract awards. A certificate of filing can be printed at the completion of the process and inserted into your bid package. The biggest benefit for those who frequently do business with the City is that after the first EDS, each EDS is much easier to fill out because non-contract specific information is pre-filled from the last submitted EDS.

Q: Will my information be secure?

A: Yes. When making your internet connection to our Web Server, you will connect through a Secure Socket Layer (SSL for short) to the "Online EDS" login page. All information you type will be protected using strong encryption. Within the login page,

you will provide us with a user ID, password and secret question for user authentication, only you will have knowledge of this unique identification information.

Q: I am filing electronically. How do I sign my EDS?

A: Once you have completed the EDS, you will be prompted to enter your password and answer to your secret question. Together, these will serve as your electronic signature. Although you will also print and physically sign an EDS certification of filing as a notice that your EDS was filed, your EDS is complete as a legal document with only the electronic filing.

Q: My address has changed. How can I update my information?

A: You must be an EDS Captain for your organization to update this. Log-in and click on "Vendor Admin, Site Administration". Select the appropriate site and click edit.

Q: I have more questions. How can I contact the Department of Procurement Services?

A: Please contact the contract administrator or negotiator assigned to your solicitation or contract. You may call DPS at 312-744-4900 between 8:30 AM and 5:00 PM Central Time.

Q: Can I save a partially complete EDS?

A: Yes. Click "Save". To avoid data loss, we recommend you save your work periodically while filling out your EDS.

Q: Do I have to re-type my information each time I submit an EDS?

A: No. The system will remember non-contract specific information from your last submitted EDS for one year. This information will be filled-in for you in your new EDS. You will have an opportunity to correct it if it has changed since your last filing. When you submit your new EDS, the information is saved and the one-year clock begins running anew.

Q: What are the system requirements to use the Online EDS?

A: The following are minimum requirements to use the Online EDS:

- A PDF viewer such as Adobe Reader is installed and your web browser is configured to display PDFs automatically. You may download and install Adobe Reader free at [www.adobe.com/products/reader/](http://www.adobe.com/products/reader/)
- Your web browser is set to permit running of JavaScript.
- Your web browser allows cookies to be set for this site. Please note that while we use cookies in the Online EDS, we do not use them to track personally identifiable information, so your privacy is maintained.
- Your monitor resolution is set to a minimum of 1024 x 768.
- While not required to submit an EDS, if you wish to view the training videos, you must have Adobe Flash Plugin version 9 or higher, speakers and sound. Please note that very old computers may not be able to run Adobe Flash and will not be able to play the training videos. In that case, we encourage you to seek help using the Online EDS Manuals. You may download and install Adobe Flash Plugin free at <http://get.adobe.com/flashplayer>

The Online EDS has been tested on Internet Explorer 6.0, 7.0, Firefox 2.0 and 3.0 on Windows XP and Mac OS X. Although it should work on other browsers and operating systems, the City of Chicago cannot guarantee compatibility.



**ARTICLE 9.        PROPOSAL PAGES**

Proposal page(s) follow.

Remainder of page intentionally blank.

City of Chicago  
Catalog RFQ - No Group Lines

PU0851

RFQ Header Information

<b>Please Respond By</b>	2/25/2020	<b>RFQ Description</b>	Removal of Rubber and Other Contaminants from Runways and Other Pavements at OHare and Midway International Airports
<b>RFQ Number</b>	5624	<b>Special Instructions</b>	
<b>Ship To Location</b>	085- O'HARE	<b>Your Quote is Effective as of</b>	2/25/2020
<b>For More Information Please Contact</b>	NICHOLAS WADDELL 3127421341	<b>RFQ Status</b>	In Process

Bid/Proposal pricing for all commodity and/or service line items must be based on the standard unit of measure indicated below. Pricing on alternate units of measure may not be accepted. Unit costs must be limited to three decimal places. Each quote must be signed and unit price, extended price and total price must be typed or written in ink.

Quotes on "or equal" items must be identified as "alternate" to specified item on the comment line. If quoting an alternate, indicate manufacturer name, model/part/catalog number and attach descriptive literature. Alternate items may not be accepted. Any exceptions to items specified or other terms must be clearly indicated on the bid.

RFQ Header Details

<b>Contract Type</b>	WORK SERV-AVIATION	<b>Specification</b>	778131B
<b>Target Market</b>	NO	<b>Procurement Type</b>	
<b>Advertise Date</b>		<b>Bid Deposit Required</b>	NO
<b>WEB BID Edit Rules</b>	ALL		

Compliance Officer

Compliance Type Description

	Percentage Type Desc	Required %
No Compliance Plan Required	None	0.00%

City of Chicago  
Catalog RFQ - No Group Lines

PU0851

Line No	Line Type	Item	Category	Commodity Desc	UOM	Estimated Usage	Price	Discount or Markup %	Extended Price	Catalog # / ID, Date and Mfr	Comments
1	Goods	96807.59	96807.59	REMOVAL OF RUBBER	Allowance	72000	\$72,000	(N/A)	\$72,000	(N/A)	
2	Goods	96807	96807	REMOVAL OF RUBBER	Square Foot	72000000	\$	(N/A)	\$	(N/A)	

Total Price \$

**ARTICLE 10. BIDDER CONTACT INFORMATION**

**Person to contact regarding bid:**

Name: \_\_\_\_\_ Phone: \_\_\_\_\_

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

\_\_\_\_\_

**Indicate if you are:**

Manufacturer: YES \_\_\_\_\_ NO \_\_\_\_\_

Exclusive dealer/distributor/reseller\*: YES \_\_\_\_\_ NO \_\_\_\_\_

Authorized dealer/distributor/reseller\*: YES \_\_\_\_\_ NO \_\_\_\_\_

\* If an exclusive or authorized distributor of the proposed manufacturer, bidder must attach to the bid current written documentation from the proposed manufacturer verifying bidder's status.

Manufacturer's name: \_\_\_\_\_

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

\_\_\_\_\_

Phone: (\_\_\_\_\_) \_\_\_\_\_

Location of facility where inventory maintained: \_\_\_\_\_

\_\_\_\_\_

Bid Line: \_\_\_\_\_

Proposed Manufacturer and Model Number: \_\_\_\_\_

Exceptions (explain): \_\_\_\_\_

\_\_\_\_\_

**BIDDERS COMMITMENT TO UTILIZE MBE AND WBE FIRMS ON NO STATED GOALS CONTRACT**

If this is a competitively bid Contract funded in whole by City funds, and the Chief Procurement Officer has determined there will be no stated goals for MBE/WBE participation in this Contract, pursuant to MCC 2-92-525 a bid incentive for the utilization of MBE and WBE firms on the contract may be applicable. Bidder must complete this form if it desires to be considered for this preference. Bidders who do not complete and submit this form with their bid will be deemed to be ineligible for the preference on this contract.

Accordingly, the Bidder commits to expend at least the following percentage of the total contract price (inclusive of any and all modifications and amendments), if awarded, for contract participation by MBEs and WBEs.

*Combined MBE and WBE Percentage:*

- ( ) At least 5%: 0.75% bid incentive
- ( ) At least 10%: 1.00% bid incentive
- ( ) At least 15%: 1.25% bid incentive
- ( ) At least 20%: 1.50% bid incentive
- ( ) At least 25%: 1.75% bid incentive
- ( ) At least 30%: 2.00% bid incentive

Bidder additionally must submit with its bid Schedules C-1 and D-1 reflecting at least the above combined amount of MBE and WBE participation in order for the bid incentive to be allocated. Bidder may retain the committed percentage as all MBE, all WBE, or any combination.

Bidder understands that if it fails to retain the committed percentage of MBEs or WBEs it may be fined in an amount equal to three times the amount of bid incentive allocated, unless the Bidder can demonstrate that due to circumstances beyond the Bidder's control, the Bidder for good cause was unable to retain the percentage of MBE or WBE subcontractors throughout the duration of the contract period.

Bidder understands that it may be required to produce records to the Chief Procurement Officer to verify the information provided.

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

Name of Bidder: \_\_\_\_\_  
(Print or Type)

Signature of Authorized Officer: \_\_\_\_\_  
(Signature)

Title of Signatory: \_\_\_\_\_  
(Print or Type)

State of \_\_\_\_\_ County of \_\_\_\_\_

Signed and sworn (or affirmed) to before me on \_\_\_\_\_ (date) by

\_\_\_\_\_ (name/s of person/s making statement).

\_\_\_\_\_  
(Signature of Notary Public)

\_\_\_\_\_  
(Seal)

### CITY-BASED BUSINESS AFFIDAVIT

The City-Based Business bid preference of 4%, 6%, or 8%, as described in Section 2-92-412 of the Municipal Code of Chicago ("MCC"), is applicable to competitively bid Contracts funded in whole by City funds. Bidder must complete this form, and provide a copy of its Chicago business license(s) if applicable, if it desires to be considered for this preference. Bidders that do not complete this page will not be regarded as City-Based Businesses. Bidder understands that it may be required to produce records to the chief procurement officer to verify the information provided. If bidder's operations are at multiple locations in the City of Chicago, use additional sheets if necessary. If this preference is allocated, the Local Goods Incentive described in MCC 2-92-410 will not be allocated to the same bid.

1. Of the three following bid preference options from 2-92-412, check the one option that Bidder qualifies for and wishes to apply to this Bid:  
☐ 4% Bidder is a City-based business.  
☐ 6% Bidder meets 4% requirements and majority of Prime Contractor's employees are City resident employees and if applicable are not counted towards work hours required by Section 2-92-330.  
☐ 8% Bidder meets 6% requirements and majority of Prime Contractor's City resident employees are residents of a socio-economically disadvantaged area and are not counted towards work hours required by Section 2-92-330.
2. Is bidder a "City-Based Business" as defined in the Requirements for Bidding and Instructions for Bidders portion of this bid solicitation and in MCC 2-92-412? ☐ Yes ☐ No
3. Does the bidder report to the Internal Revenue Service that the place of employment for the majority (more than 50%) of its regular, full-time workforce is a facility within the City of Chicago? ☐ Yes ☐ No
3. Does the bidder conduct meaningful day-to-day business operations at a facility within the City of Chicago?  
☐ Yes ☐ No
4. Street address of business location within the City of Chicago (P.O. address not accepted):  
\_\_\_\_\_
5. Describe the business activities are carried out at the location listed above: \_\_\_\_\_  
\_\_\_\_\_
6. How many full-time regular employees are currently employed at the location listed above? \_\_\_\_\_
7. How many full-time regular employees at the location listed above are "City resident employees," as that term is defined in this bid solicitation and MCC 2-92-412? \_\_\_\_\_ (for 6% and 8% preferences only)
8. How many of Bidder's full-time City resident employees identified above are residents of a socio-economically disadvantaged area, as that term is defined in this bid solicitation and MCC 2-92-412? \_\_\_\_\_ (for 8% preference only)
9. Total number of full-time regular employees employed at all locations worldwide? \_\_\_\_\_
10. List City of Chicago business license(s) held; attach copies. If none are required, indicate "none required":  
\_\_\_\_\_

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

Name of Bidder (Print or Type): \_\_\_\_\_

Signature of Authorized Officer (Sign): \_\_\_\_\_ Date: \_\_\_\_\_

Title of Signatory (Print or Type): \_\_\_\_\_

State of \_\_\_\_\_; County of \_\_\_\_\_; Signed and sworn (or affirmed) to before me on \_\_\_\_\_ (date) by \_\_\_\_\_ (name/s of person/s making statement)

\_\_\_\_\_  
(Signature of Notary Public)

\_\_\_\_\_  
(seal)

## Bidder's Commitment to Provide Locally Manufactured Goods Affidavit

The Locally Manufactured Goods Incentive as described in Section 2-92-410 of the Municipal Code of Chicago ("MCC") is applicable to competitively bid Contracts funded in whole by City funds. Bidder must submit this form with the bid, as well as a *Manufacturer's Affidavit of Local Manufacturing* for each local manufacturer from which goods will be sourced, if it desires to be considered for this bid incentive. Bidders that do not submit this page with their bid will not be regarded as providing locally manufactured goods. Attach additional sheets if necessary. If this incentive is allocated, the City Based Business Preference described in described in MCC 2-92-412 will not be allocated to the same bid.

Unless otherwise provided in the applicable bid solicitation, in order for an item to be considered Locally Manufactured Goods, more than 50% of the value of the item must be derived from manufacturing activities that occur within a city-based manufacturer's facility located within the City of Chicago.

*Note: The CPO may request additional information or documentation before determining to apply the preference.*

1. Contract title: \_\_\_\_\_ Specification #: \_\_\_\_\_
2. The value of Locally Manufactured Goods (as defined in MCC 2-92-410 and the applicable bid solicitation) that Bidder commits to provide will be what percentage of the total dollar value of the contract?  
☐ 25% to 49%-- 1% incentive      ☐ 50% to 74%-- 1.5% incentive      ☐ 75% or greater-- 2% incentive

3. Identify the bid lines under which Locally Manufactured Goods will be provided and their value, based on the bid specification's estimated quantities (attach additional sheets if necessary):

Bid Line #	Locally Manufactured Item(s) to be provided	Manufacturer*	Value of Item(s)
			\$
			\$
			\$
<b>TOTAL:</b>			\$

\*Bidder must provide *Manufacturer's Affidavit of Local Manufacturing* for each manufacturer listed.

Bidder understands that if it fails to supply the committed percentage of Locally Manufactured Goods, under MCC 2-92-410 it may be fined in an amount equal to three times the amount of the difference between the bid incentive allocated and the bid incentive that would have been allocated to that contractor for the amount of locally manufactured goods actually supplied.

Bidder understands that it may be required to produce records to the chief procurement officer to verify the information provided.

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

Name of Bidder: \_\_\_\_\_  
(Print or Type)

Signature of Authorized Officer: \_\_\_\_\_  
(Signature)

Title of Signatory: \_\_\_\_\_  
(Print or Type)

State of \_\_\_\_\_

County of \_\_\_\_\_

Signed and sworn (or affirmed) to before me on \_\_\_\_\_ (date) by  
\_\_\_\_\_ (name/s of person/s making statement).

\_\_\_\_\_  
(Signature of Notary Public)

(Seal)

### LOCAL MANUFACTURING AFFIDAVIT

The Locally Manufactured Goods Incentive as described in Section 2-92-410 of the Municipal Code of Chicago ("MCC") is applicable to competitively bid Contracts funded in whole by City funds. Bidder must submit this form with the bid, in order to be considered for this bid incentive. Bidders that do not submit this page with their bid will not be regarded as providing locally manufactured goods. If goods will be manufactured by multiple manufacturers or at multiple facilities in the City of Chicago, submit an affidavit for each. Attach additional sheets if necessary. If this incentive is allocated, the City Based Business Preference described in described in MCC 2-92-412 will not be allocated to the same bid.

*Note: The CPO may request additional information or documentation before determining to apply the preference.*

1. Contract Title: \_\_\_\_\_ Specification #: \_\_\_\_\_  
Bidder/Contractor Name: \_\_\_\_\_
2. Is manufacturer a "City-Based Manufacturer" as defined in the Requirements for Bidding and Instructions for Bidders portion of this bid solicitation and in MCC 2-92-410? ( ) Yes ( ) No
3. Street address of manufacturing facility location within the City of Chicago (P.O. address not accepted):  
\_\_\_\_\_
4. Describe the manufacturing activities carried out at the location listed above: \_\_\_\_\_  
\_\_\_\_\_
5. List the goods to be manufactured at this facility manufacturer is prepared to provide to Bidder/Contractor, describe the production steps performed at the facility in the manufacture of each item, and the percentage of the item's value derived from manufacturing activities at this facility, and attach a catalog page, cut sheet, or product specification for each item:  
Item: \_\_\_\_\_ Production steps: \_\_\_\_\_ % of value  
Item: \_\_\_\_\_ Production steps: \_\_\_\_\_ % of value
6. List City of Chicago business license(s) held. If none are required, indicate "none required": \_\_\_\_\_  
\_\_\_\_\_

The undersigned commits to enter into a formal written agreement for supply with Bidder/Contractor, conditioned upon its execution of a contract with the City of Chicago to which the Locally Manufactured Goods Incentive is applied, within three (3) business days of its receipt of a signed contract from the City of Chicago.

The Bidder/Contractor understands that it may be required to produce records to the chief procurement officer to verify the information provided.

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

Name of Manufacturer: \_\_\_\_\_  
(Print or Type)

Signature of Manufacturer Authorized Officer: \_\_\_\_\_  
(Signature)

Title of Signatory: \_\_\_\_\_  
(Print or Type)

State of \_\_\_\_\_

County of \_\_\_\_\_

Signed and sworn (or affirmed) to before me on \_\_\_\_\_ (date) by  
\_\_\_\_\_ (name/s of person/s making statement).

\_\_\_\_\_  
(Signature of Notary Public)

\_\_\_\_\_  
(Seal)



**ELIGIBLE BUSINESS FOR BID INCENTIVE FOR ALTERNATIVELY POWERED VEHICLES AFFIDAVIT**

If this is a competitively bid Contract funded in whole by City funds, an Eligible Business preference for alternatively powered vehicles may be applicable. Bidder must complete this form if it desires to be considered for this preference. Bidders who do not complete and submit this form with their bid will be deemed to be non-Eligible Businesses.

1. Is bidder a business located within the counties of Cook, DuPage, Kane, Lake, McHenry or Will in the State of Illinois (the "Six County Region")? ( ) Yes ( ) No

2. Street address of principal place of business: \_\_\_\_\_

3. How many total vehicles, as defined in the Terms and Conditions, "Bid Incentive for Alternatively Powered Vehicles," are currently owned, operated, leased or otherwise controlled by bidder?

**Line 3(a):** \_\_\_\_\_

4. How many of bidder's vehicles are located and used within the Six County Region?

**Line 4(a): number of vehicles** \_\_\_\_\_

**Line 4(b): percentage of fleet (line 4(a) divided by line 3(a))** \_\_\_\_\_ %

5. How many of bidder's vehicles located and used within the Six County Region are alternatively powered vehicles, as defined in the Terms and Conditions, Bid Incentive for Alternatively Powered Vehicles?

**Line 5(a): number of vehicles** \_\_\_\_\_

**Line 5(b): percentage of Six County fleet (line 5(a) divided by line 4(a))** \_\_\_\_\_ %

Bidder understands that it may be required to produce records to the chief procurement officer to verify the information provided.

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

Name of Bidder: \_\_\_\_\_  
(Print or Type)

Signature of Authorized Officer: \_\_\_\_\_  
(Signature)

Title of Signatory: \_\_\_\_\_  
(Print or Type)

State of \_\_\_\_\_

County of \_\_\_\_\_

Signed and sworn (or affirmed) to before me on \_\_\_\_\_ (date) by  
\_\_\_\_\_ (name/s of person/s making statement).

\_\_\_\_\_  
(Signature of Notary Public)  
(Seal)

### Veteran-Owned Small Local Businesses And Eligible Joint Ventures Affidavit

Bidder must complete this form if it desires to be considered for the bid incentive as described in Section 2-92-950 of the Municipal Code of Chicago ("MCC") for Veteran-Owned Small Local Businesses and Eligible Joint Ventures. Bidders that do not complete this page will not be regarded as veteran-owned small local businesses or eligible joint ventures. In some circumstances application of this incentive will affect counting MBE or WBE participation when the small local business involved in claiming the incentive is an MBE or WBE, please consult DPS regulations. Please use additional sheets if necessary. Attach all relevant certifications and/or support documents.

1. Is bidder a "veteran-owned small local business" as defined in Section 1.22.4 of this bid solicitation and in MCC 2-92-920?  
( ) Yes ( ) No If Yes, attach the bidder's current City of Chicago VBE certification letter and skip to #7 below.
2. Is bidder an "eligible joint venture" as defined in Section 1.22.4 of this bid solicitation and in MCC 2-92-920?  
( ) Yes ( ) No
3. Is at least one member of the eligible joint venture a "small business enterprise" as defined in MCC 2-92-920?  
( ) Yes ( ) No
4. Is at least one member of the eligible joint venture a "veteran-owned business enterprise" as that term is defined in MCC 2-92-920?  
( ) Yes ( ) No
5. Is the veteran-owned business identified in #4 above an enterprise which is at least 51 percent owned by one or more veterans, or in the case of a publicly held corporation, at least 51 percent of all classes of stock of which are owned by one or more veterans?  
( ) Yes ( ) No  
If yes, please list all owners, their percentage of ownership interest, and provide appropriate documentation demonstrating status as veteran, as that term is defined in MCC 2-92-920.

- 
- 
- 
6. Is the veteran-owned business identified in #4 above certified by either: (i) the City as a veteran-owned small local business pursuant to MCC 2-92-930; (ii) the County of Cook as a veteran business enterprise; (iii) the State of Illinois as a qualified service-disabled veteran-owned small business or a qualified veteran-owned small business pursuant to 30 ILCS 500/45-57; or (iv) verified and approved by the United States Department of Veterans Affairs as a service-disabled veteran-owned small business or a veteran-owned small business? If yes to any of the above, please provide appropriate documentation.

( ) Yes ( ) No

7. List City of Chicago business license(s) held. If none are required, indicate "none required": \_\_\_\_\_

8. Provide address of the veteran-owned business, including the County in which it is located. \_\_\_\_\_

County: \_\_\_\_\_

Bidder understands that it may be required to produce records to the chief procurement officer to verify the information provided.

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

***Bidder must complete the applicable signature line(s) on the following page.***

Veteran-Owned Small Local Businesses AND ELIGIBLE JOINT VENTURES Affidavit – signature page

**Required Signature for All Applicants**

Name of Veteran-Owned Business: \_\_\_\_\_

(Print or Type)

Signature of Authorized Officer for Veteran-Owned Business: \_\_\_\_\_

(Signature)

Title of Signatory: \_\_\_\_\_

(Print or Type)

**Additional Required Signatures for Eligible Joint Venture Applicants**

Name of Joint Venture (for eligible joint ventures only): \_\_\_\_\_

(Print or Type)

Name of SBE (for eligible joint ventures only): \_\_\_\_\_

(Print or Type)

Signature of Authorized Officer for SBE (for eligible joint ventures only): \_\_\_\_\_

(Signature)

Title of Signatory: \_\_\_\_\_

(Print or Type)

State of \_\_\_\_\_

County of \_\_\_\_\_

Signed and sworn (or affirmed) to before me on \_\_\_\_\_ (date) by

\_\_\_\_\_ (name/s of person/s making statement).

\_\_\_\_\_

(Signature of Notary Public)

(Seal)

**Bidder's Commitment To Utilize Business Enterprises Owned By People With Disabilities (BEPD)**

The BEPD Incentive as described in Section 2-92-337 of the Municipal Code of Chicago ("MCC") is applicable to competitively bid contracts funded in whole by City funds. Bidder must submit this form with the bid if it desires to be considered for this bid incentive. Bidders that do not submit this page with their bid will not be eligible for this bid incentive. Attach additional sheets if necessary.

*Note: The CPO may request additional information or documentation before determining to apply the preference.*

1. Contract title: \_\_\_\_\_

Specification #: \_\_\_\_\_

2. The value of work performed by BEPD prime contractors or subcontractors (as defined in MCC 2-92-586 and the applicable bid solicitation) that Bidder commits to provide will be what percentage of the total dollar value of the contract?

( ) 2% to 5%-- 1% incentive      ( ) 6% to 9%-- 2% incentive

( ) 10% to 13%-- 3% incentive      ( ) 14% or greater-- 4% incentive

Bidder understands that if it fails to utilize the committed percentage of BEPD subcontractors, under MCC 2-92-337 it may be fined in an amount equal to three times the amount of the bid incentive allocated, unless the prime contractor can demonstrate that due to circumstances beyond the prime contractor's control, the prime contractor for good cause was unable to retain the percentage of BEPD subcontractors throughout the duration of the contract period.

Bidder understands that it may be required to produce records to the CPO to verify the information provided.

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

Name of Bidder: \_\_\_\_\_

(Print or Type)

Signature of Authorized Officer: \_\_\_\_\_

(Signature)

Title of Signatory: \_\_\_\_\_

(Print or Type)

State of \_\_\_\_\_

County of \_\_\_\_\_

Signed and sworn (or affirmed) to before me on \_\_\_\_\_ (date) by

\_\_\_\_\_ (name/s of person/s making statement).

\_\_\_\_\_  
(Signature of Notary Public)

(Seal)

### **Mentoring Program Bid Preference Affidavit**

The Mentoring Program bid preference as described in Section 2-92-535 of the Municipal Code of Chicago ("MCC") is applicable to contracts having an estimated value of \$100,000 or more.

A bid preference of **1 percent** of the contract base bid is available to qualified bidders that are prime contractors that have entered into a mentoring agreement or whose subcontractor has entered into a subcontractor-to-subcontractor mentoring agreement. The bid preference is used only to calculate an amount to be used in evaluating the bid to determine the low bidder, and it does not affect the contract price.

Bidder must submit this form, and a copy of either its mentoring agreement or a subcontractor-to-subcontractor mentoring agreement, with the bid if it desires to be considered for this bid preference. Bidders that do not submit this page with their bid will not be eligible for this bid preference. Attach additional sheets if necessary.

*Note: The CPO may request additional information or documentation before determining to apply the preference.*

Contract title: \_\_\_\_\_

Specification #: \_\_\_\_\_

Bidder understands that if it fails to maintain a mentoring agreement or a subcontractor that has a subcontractor-to-subcontractor mentoring agreement, for which this bid preference was taken into consideration in awarding of a contract, Bidder shall be fined in an amount equal to three times the amount of the bid preference allocated, unless the Bidder can demonstrate that due to circumstances beyond the Bidder's control, Bidder for good cause was unable to maintain a mentoring agreement or a subcontractor that has a subcontractor-to-subcontractor mentoring agreement throughout the duration of the contract period.

Bidder understands that it may be required to produce records to the CPO to verify the information provided.

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

Name of Bidder: \_\_\_\_\_

(Print or Type)

Signature of Authorized Officer: \_\_\_\_\_

(Signature)

Title of Signatory: \_\_\_\_\_

(Print or Type)

State of \_\_\_\_\_

County of \_\_\_\_\_

Signed and sworn (or affirmed) to before me on \_\_\_\_\_ (date) by \_\_\_\_\_ (name/s of person/s making statement).

\_\_\_\_\_

(Signature of Notary Public)

(Seal)

**Bidder's Commitment To Encourage Diverse Management and Workforce**

The Bid Incentive to Encourage Diverse Management and Workforce as described in Section 2-92-407 of the Municipal Code of Chicago ("MCC") is applicable to competitively bid contracts funded in whole by City funds. Bidder must submit this form with the bid if it desires to be considered for this bid incentive. Bidders that do not submit this page with their bid will not be eligible for this bid incentive. Attach additional sheets if necessary.

*Note: The CPO may request additional information or documentation before determining to apply the preference.*

1. Contract title: \_\_\_\_\_  
Specification #: \_\_\_\_\_
2. The total percentage of Diverse Management (as defined in MCC 2-92-407 and the applicable bid solicitation) that Bidder commits to retain will be what percentage of the total Management?  
( ) 10% to 20% -- 0.5% incentive  
( ) Greater than 20% to 40% -- 2% incentive  
( ) Greater than 40% -- 4% incentive
3. The total percentage of Diverse Workforce (as defined in MCC 2-92-407 and the applicable bid solicitation) that Bidder commits to retain will be what percentage of the total Workforce?  
( ) 10% to 20% -- 2% incentive  
( ) Greater than 20% to 40% -- 4% incentive  
( ) Greater than 40% -- 6% incentive

Bidder may qualify for and apply both the diverse management and diverse workforce bid incentives.

Bidder understands that if it fails to retain the committed percentage of Diverse Management and/or Workforce, under MCC 2-92-407 it may be fined in an amount equal to three times the amount of the bid incentive allocated, unless the prime contractor can demonstrate that due to circumstances beyond the prime contractor's control, the prime contractor for good cause was unable to retain the percentage of Diverse Management and/or Workforce throughout the duration of the contract period.

Bidder understands that it may be required to produce records to the CPO to verify the information provided.

***Signature page follows.***

**Signature Page For Bidder's Commitment To Encourage Diverse Management And Workforce**

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

Name of Bidder: \_\_\_\_\_

(Print or Type)

Signature of Authorized Officer: \_\_\_\_\_

(Signature)

Title of Signatory: \_\_\_\_\_

(Print or Type)

State of \_\_\_\_\_

County of \_\_\_\_\_

Signed and sworn (or affirmed) to before me on \_\_\_\_\_ (date) by

\_\_\_\_\_ (name/s of person/s making statement).

\_\_\_\_\_  
(Signature of Notary Public)

(Seal)



**ARTICLE 11. EXECUTION AND ACCEPTANCE PAGES**

Bid execution and acceptance pages follow.

Remainder of page intentionally blank.

### 11.1. Bid Execution By a Corporation

The undersigned, hereby acknowledges having received Specification Number **778131B** containing a full set of Contract Documents, including, but not limited to, 1) Requirements for Bidding and Instructions to Bidders, 2) Standard Terms and Conditions - General Conditions, 3) Special Conditions for Supply Contracts, 4) Contract Plans or Drawings (if applicable) 5) Detailed Specifications, 6) Proposal Pages, 7) Certifications, and 8) Addenda Nos. (none unless indicated here) \_\_\_\_\_, and affirms that the corporation shall be bound by all the terms and conditions contained in the Contract Documents, regardless of whether a complete set thereof is attached to this proposal or bid, except only to the extent that the corporation has taken express written exception thereto in the sections of this specification designated for that purpose.

Under penalty of perjury, the undersigned: (1) warrants that he/she was authorized to submit an EDS on behalf of the Disclosing Party on-line; (2) warrants that all certifications and statements contained in the EDS are true, accurate and complete as of the date the EDS was submitted on-line; and (3) further warrants that, as of the date of submission of this proposal or bid, there have been no changes in circumstances since the date that the EDS was submitted that would render any certification in the EDS false, inaccurate or incomplete.

Further, the undersigned being duly sworn deposes and says on oath that no disclosures of ownership interests have been withheld and the information provided therein to the best of its knowledge is current and the undersigned has not entered into any agreement with any other Bidder (proposer) or prospective Bidder (proposer) or with any other person, firm or corporation relating to the price named in this proposal or any other proposal, nor any agreement or arrangement under which any act or omission in restraint of freedom of competition among Bidders (proposers) and has not disclosed to any person, firm or corporation the terms of this bid (proposal) or the price named herein.

Proposals must be submitted with original signatures in the space provided. Proposals not properly signed will be rejected.

NAME OF CORPORATION: \_\_\_\_\_  
(Print or Type)

SIGNATURE OF PRESIDENT\*:  
(Or Authorized Officer) \_\_\_\_\_  
(Signature)

TITLE OF SIGNATORY: \_\_\_\_\_  
(Print or Type)

BUSINESS ADDRESS: \_\_\_\_\_  
(Print or Type)

\*Note: In the event that this bid (proposal) is signed by other than the President, attach hereto a certified copy of that section of Corporate By-Laws or other authorization, such as a resolution by the Board of Directors, which permits the person to sign the offer for the Corporation.

ATTEST: \_\_\_\_\_  
(Corporate Secretary Signature) (Affix Corporate Seal)

State of \_\_\_\_\_ County of \_\_\_\_\_

This instrument was acknowledged before me on this \_\_\_\_ day of \_\_\_\_\_, 20\_\_ by \_\_\_\_\_ as President (or other authorized officer) and \_\_\_\_\_ as Secretary of \_\_\_\_\_ (Corporation Name).  
(Seal)

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

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

### 11.2. Bid Execution By A Joint Venture

The undersigned, hereby acknowledges having received Specification Number \_\_\_\_\_ containing a full set of Contract Documents, including, but not limited to, 1) Requirements for Bidding and Instructions to Bidders, 2) Standard Terms and Conditions - General Conditions, 3) Special Conditions for Supply Contracts, 4) Contract Plans or Drawings (if applicable) 5) Detailed Specifications, 6) Proposal Pages, 7) Certifications, and 8) Addenda Nos. (none unless indicated here) \_\_\_\_\_, and affirms that the Joint Venture shall be bound by all the terms and conditions contained in the Contract Documents, regardless of whether a complete set thereof is attached to this proposal, except only to the extent that the Joint Venture has taken express written exception thereto in the sections of this specification designated for that purpose.

Under penalty of perjury, the undersigned: (1) warrants that he/she was authorized to submit an EDS on behalf of the Disclosing Party on-line; (2) warrants that all certifications and statements contained in the EDS are true, accurate and complete as of the date the EDS was submitted on-line; and (3) further warrants that, as of the date of submission of this proposal or bid, there have been no changes in circumstances since the date that the EDS was submitted that would render any certification in the EDS false, inaccurate or incomplete.

Further, the undersigned being duly sworn deposes and says on oath that no disclosures of ownership interests have been withheld and the information provided therein to the best of its knowledge is current and the undersigned has not entered into any agreement with any other Bidder (proposer) or prospective Bidder (proposer) or with any other person, firm or corporation relating to the price named in this proposal or any other proposal, nor any agreement or arrangement under which any act or omission in restraining of free competition among Bidders (proposers) and has not disclosed to any person, firm or corporation the terms of this bid (proposal) or the price named herein.

Proposals must be submitted with original signatures in the space provided. Proposals not properly signed will be rejected.

JOINT VENTURE NAME: (Print or Type) \_\_\_\_\_

JOINT VENTURE ADDRESS: (Print or Type) \_\_\_\_\_

If you are operating under an assumed name, provide County registration number herein under as provided in the Illinois Revised Statutes 1965 Chapter 96 Sec. 4 et seq. Registration Number: \_\_\_\_\_

SIGNATURES AND ADDRESSES OF ALL MEMBERS OF THE JOINT VENTURE (If all members of the Joint Venture do not sign, indicate authority of signatories by attaching copy of Joint Venture agreement or other authorizing document):

SIGNATURE OF Authorized Party: (Signature ) \_\_\_\_\_

TITLE OF SIGNATORY: (Print or Type) \_\_\_\_\_

BUSINESS ADDRESS: (Print or Type) \_\_\_\_\_

ATTEST: (Joint Venture Secretary Signature) \_\_\_\_\_  
(Affix Joint Venture Seal)

OR

Joint Venturer Signature: (Signature) \_\_\_\_\_

Address: (Print or Type) \_\_\_\_\_

Joint Venturer Signature: (Signature) \_\_\_\_\_

Address: (Print or Type) \_\_\_\_\_

Joint Venturer Signature: (Signature) \_\_\_\_\_

Address: (Print or Type) \_\_\_\_\_

State of \_\_\_\_\_ County of \_\_\_\_\_

This instrument was acknowledged before me on this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_ by \_\_\_\_\_ as President (or other authorized officer) and \_\_\_\_\_ as Secretary of \_\_\_\_\_ (Corporation Name).

Notary Public Signature: \_\_\_\_\_

Commission Expires: \_\_\_\_\_ (Seal)

### 11.3. Bid Execution By A Partnership

The undersigned, hereby acknowledges having received Specification Number \_\_\_\_\_ containing a full set of Contract Documents, including, but not limited to, 1) Requirements for Bidding and Instructions to Bidders, 2) Standard Terms and Conditions - General Conditions, 3) Special Conditions for Supply Contracts, 4) Contract Plans or Drawings (if applicable) 5) Detailed Specifications, 6) Proposal Pages, 7) Certifications, and 8) Addenda Nos. (none unless indicated here) \_\_\_\_\_, and affirms that the partnership shall be bound by all the terms and conditions contained in the Contract Documents, regardless of whether a complete set thereof is attached to this proposal, except only to the extent that the partnership has taken express written exception thereto in the sections of this specification designated for that purpose.

Under penalty of perjury, the undersigned: (1) warrants that he/she was authorized to submit an EDS on behalf of the Disclosing Party on-line; (2) warrants that all certifications and statements contained in the EDS are true, accurate and complete as of the date the EDS was submitted on-line; and (3) further warrants that, as of the date of submission of this proposal or bid, there have been no changes in Circumstances since the date that the EDS was submitted that would render any certification in the EDS false, inaccurate or incomplete.

Further, the undersigned being duly sworn deposes and says on oath that no disclosures of ownership interests have been withheld and the information provided therein to the best of its knowledge is current and the undersigned has not entered into any agreement with any other Bidder (proposer) or prospective Bidder (proposer) or with any other person, firm or corporation relating to the price named in this proposal or any other proposal, nor any agreement or arrangement under which any act or omission in restraining of free competition among Bidders (proposers) and has not disclosed to any person, firm or corporation the terms of this bid (proposal) or the price named herein.

Proposals must be submitted with original signatures in the space provided. Proposals not properly signed will be rejected.

BUSINESS NAME: (Print or Type) \_\_\_\_\_

BUSINESS ADDRESS: (Print or Type) \_\_\_\_\_

If you are operating under an assumed name, provide County registration number herein under as provided in the Illinois Revised Statutes 1965 Chapter 96 Sec. 4 et seq. Registration Number: \_\_\_\_\_

#### SIGNATURES AND ADDRESSES OF ALL MEMBERS OF THE PARTNERSHIP

(If all General Partners do not sign, indicate authority of partner signatories by attaching copy of partnership agreement or other authorizing document):

Partner Signature: (Signature) \_\_\_\_\_

Address: (Print or Type) \_\_\_\_\_

Partner Signature: (Signature) \_\_\_\_\_

Address: (Print or Type) \_\_\_\_\_

Partner Signature: (Signature) \_\_\_\_\_

Address: (Print or Type) \_\_\_\_\_

State of \_\_\_\_\_; County of \_\_\_\_\_

This instrument was acknowledged before me on this \_\_\_\_ day of \_\_\_\_\_, 20\_\_ by \_\_\_\_\_ as President (or other authorized officer) and \_\_\_\_\_ as Secretary of \_\_\_\_\_ (Corporation Name).

Notary Public Signature: \_\_\_\_\_

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

(Seal)

#### 11.4. Bid Execution By a Sole Proprietor

The undersigned, hereby acknowledges having received Specification Number \_\_\_\_\_ containing a full set of Contract Documents, including, but not limited to, 1) Requirements for Bidding and Instructions to Bidders, 2) Standard Terms and Conditions - General Conditions, 3) Special Conditions for Supply Contracts, 4) Contract Plans or Drawings (if applicable) 5) Detailed Specifications, 6) Proposal Pages, 7) Certifications, and 8)) Addenda Nos. (none unless indicated here) \_\_\_\_\_, and affirms that the sole proprietor shall be bound by all the terms and conditions contained in the Contract Documents, regardless of whether a complete set thereof is attached to this proposal, except only to the extent that the sole proprietor has taken express written exception thereto in the sections of this specification designated for that purpose.

Under penalty of perjury, the undersigned: (1) warrants that he/she was authorized to submit an EDS on behalf of the Disclosing Party on-line; (2) warrants that all certifications and statements contained in the EDS are true, accurate and complete as of the date the EDS was submitted on-line; and (3) further warrants that, as of the date of submission of this proposal or bid, there have been no changes in Circumstances since the date that the EDS was submitted that would render any certification in the EDS false, inaccurate or incomplete.

Further, the undersigned being duly sworn deposes and says on oath that no disclosures of ownership interests have been withheld and the information provided therein to the best of its knowledge is current and the undersigned has not entered into any agreement with any other Bidder (proposer) or prospective Bidder (proposer) or with any other person, firm or corporation relating to the price named in this proposal or any other proposal, nor any agreement or arrangement under which any act or omission in restraining of free competition among Bidders (proposers) and has not disclosed to any person, firm or corporation the terms of this bid (proposal) or the price named herein.

Proposals must be submitted with original signatures in the space provided. Proposals not properly signed will be rejected.

SIGNATURE OF PROPRIETOR: \_\_\_\_\_  
(Signature )

DOING BUSINESS AS: \_\_\_\_\_  
(Print or Type)

Business Address: \_\_\_\_\_  
(Print or Type)  
\_\_\_\_\_  
(Print or Type)

If you are operating under an assumed name, provide County registration number herein under as provided in the Illinois Revised Statutes 1965 Chapter 96 Sec. 4 et seq.

Registration Number: \_\_\_\_\_  
(Print or Type)

State of \_\_\_\_\_; County of \_\_\_\_\_

This instrument was acknowledged before me on this \_\_\_\_ day of \_\_\_\_\_, 20\_\_ by \_\_\_\_\_ as President (or other authorized officer) and \_\_\_\_\_ as Secretary of \_\_\_\_\_ (Corporation Name). \_\_\_\_\_  
\_\_\_\_\_

Notary Public Signature: \_\_\_\_\_

Commission Expires: \_\_\_\_\_ (Seal)

**11.5. Bid Acceptance by City**

Contract No.: \_\_\_\_\_

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

Vendor Name: \_\_\_\_\_

Total Amount (Value): \_\_\_\_\_

Fund Chargeable: \_\_\_\_\_

The undersigned, on behalf of the CITY OF CHICAGO, a municipal corporation of the State of Illinois, hereby accept the foregoing bid items as identified in the proposal.

CITY OF CHICAGO

\_\_\_\_\_  
Mayor Date

\_\_\_\_\_  
Comptroller Date

\_\_\_\_\_  
Chief Procurement Officer Date

## **EXHIBITS**

Exhibits follow this page. Remainder of page intentionally blank.

**EXHIBIT 1: SEXUAL HARASSMENT POLICY AFFIDAVIT (SECTION 2-92-612)**

The policy prohibiting sexual harassment as described in Section 2-92-612 of the Municipal Code of Chicago ("MCC") is applicable to contracts paid from funds belonging to or administered by the City.

Contract title: \_\_\_\_\_  
Specification #: \_\_\_\_\_

In accordance with requirements set forth in Section 2-92-612 of the MCC, Contractor hereby attests that Contractor has a written policy prohibiting sexual harassment that includes, 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 understands that it may be required to produce records to the CPO to verify the information provided.

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

Name of Contractor: \_\_\_\_\_  
(Print or Type)

Signature of Authorized Officer: \_\_\_\_\_  
(Signature)

Title of Signatory: \_\_\_\_\_  
(Print or Type)

State of \_\_\_\_\_

County of \_\_\_\_\_

Signed and sworn (or affirmed) to before me on \_\_\_\_\_ (date) by

\_\_\_\_\_ (name/s of person/s making statement).

\_\_\_\_\_

(Signature of Notary Public)

(Seal)