

**REQUEST FOR PROPOSAL (“RFP”)**

for

**HEAT RECEIVER SERVICES**

**Specification No. 99577**

Required for use by:

**CITY OF CHICAGO**  
**(Department of Housing and Economic Development)**

This RFP distributed by:

**CITY OF CHICAGO**  
**(Department of Procurement Services)**

All proposals and other communications must be addressed and returned to:

Jamie L. Rhee, Chief Procurement Officer  
Attention: Altha Riley 312-744-0762  
Department of Procurement Services  
Bid and Bond Room - Room 301, City Hall  
121 North LaSalle Street  
Chicago, Illinois 60602

**A Pre-Proposal Conference will be held on Monday, November 7, 2011 at 9:00 a.m. Central Standard Time, in the Department of Procurement Services, City Hall, 4<sup>th</sup> Floor Room #403, Conference Room B, 121 North LaSalle Street, Chicago, Illinois 60602**  
**Attendance is Non-Mandatory, but encouraged.**

Proposals must be received no later than 4:00 p.m., Central Standard Time, on  
**Tuesday, December 6, 2011**

**Altha Riley, Contract Negotiator, (312) 744-0762**

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**RAHM EMANUEL**  
**MAYOR**

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**JAMIE L. RHEE**  
**CHIEF PROCUREMENT OFFICER**

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# REQUEST FOR PROPOSAL (“RFP”)

## Heat Receiver Services

### Specification No. 99577

#### I. GENERAL INVITATION

##### 1.1 Purpose of the Request for Proposal

The Department of Housing and Economic Development (“Department”), invites the submission of Proposals from firms with expertise and experience in providing Heat Receiver Services (“**Services**”).

Companies with demonstrated experience in this area, and with an interest in making their services available to the City of Chicago, are invited to respond to this RFP. For purposes of this RFP, **Chief Procurement Officer (“CPO”)** means the Chief Procurement Officer for the City of Chicago. **“Commissioner”** means the chief executive of the Department of Housing and Economic Development for the City of Chicago. **“Respondents”** means the companies or individuals that submit Proposals in response to this RFP. The documents submitted will be referred to as **“Proposals.”**

The selected Respondent (“Consultant”) shall perform all Services and functions associated with Heat Receiver Services as required in this RFP. The Services contemplated are professional in nature. It is understood that the Consultant acting as an individual, partnership, corporation or other legal entity, is of professional status, licensed to perform in the State of Illinois and licensed for all applicable professional discipline(s) requiring licensing and will be governed by the professional ethics in its relationship to the City. It is also understood that all reports, information, or data prepared or assembled by the selected Consultant under a contract awarded pursuant to this RFP are confidential in nature and will not be made available to any individual or organization, except the City without the prior written approval for the City.

The Consultant must be financially solvent and each of its members if a joint venture, its employees, agents or subcontractors of any tier shall be competent to perform the services required under this RFP document.

##### 1.2 Internet Access to this RFP

All materials related to the RFP will be available on the internet at <http://www.cityofchicago.org/content/dam/city/depts/dps/ContractAdministration/Specs/2011/Spec99577.pdf>

In the event you do not have download capability, all materials may be obtained from the City of Chicago Department of Procurement Services' Bid & Bond Room, located in Room 301, City Hall, 121 N. LaSalle in Chicago, IL 60602.

A Respondent who chooses to download a RFP solicitation instead of picking it up in person will be responsible for checking the aforementioned web site for clarifications and/or addenda. Failure to obtain clarifications and/or addenda from the web site shall not relieve Respondent from being bound by any additional terms and conditions in the clarifications and/or addenda, or from considering additional information contained therein in preparing your Proposal. Note, there may be multiple clarifications and/or addenda. Any harm to the Respondent resulting from such failure shall not be valid grounds for a protest against award(s) made under the solicitation.

All Respondents are responsible for obtaining all RFP materials. If Respondent chooses to download and print the RFP document, the Respondent must contact the City of Chicago, Department of Procurement Services, Bid & Bond Room by either: faxing a legible copy of Respondent's business card, referencing Specification No. 99577 to (312) 744-5611 or by calling the Bid & Bond Room at (312) 744-9773, to register Respondent's company as a RFP document holder, which will entitle Respondent to receive any future clarifications and/or addendum related to this RFP.

## **II. SCOPE OF SERVICES**

### **2.1 Description of Services**

The Scope of Services that the City seeks to acquire is described in Exhibit 1 of this RFP. The Respondent is expected to expand on this scope in the submitted Proposal, incorporating their expertise and proposed method or approach.

### **2.2 Term of Contract**

Any contract awarded pursuant to this RFP solicitation shall be for a base contract period of three (3) years with a three (3) year optional renewal.

## **III. GENERAL INFORMATION AND GUIDELINES**

### **3.1 Communications Between the City of Chicago and Respondents**

#### **A. Submission of Questions or Requests for Clarifications**

**Respondents must communicate only with the Department of Procurement Services.** All questions or requests for clarification must be in writing, sent by mail, email or fax at 312-744-7679, and directed to the attention of Altha Riley, altha.riley@cityofchicago.org Department of Procurement Services, Room 403, City Hall. **All questions must be received no later than 4:00 p.m. Central Standard Time, on Thursday, November 10, 2011.** Respondents are encouraged, but not required, to submit questions one (1) week prior to the scheduled Pre-Proposal Conference. The face of each envelope or the cover sheet of the fax must clearly indicate that the contents are "Questions and Request for Clarification" about the RFP, and are "Not a Proposal" and must refer to "Request for Proposal ("RFP") for Heat Receiver Services, Specification No. 99577. No telephone calls will be accepted unless the questions are general in nature. **A Respondent that deviates from any of these restrictions may be subject to immediate disqualification from this RFP process.**

#### **B. Pre-Proposal Conference**

The City will hold a Pre-Proposal Conference in the Department of Procurement Services, City Hall, 4<sup>th</sup> Floor Room #403, Conference Room B, 121 North LaSalle Street Chicago, Illinois 60602 at 9:00 a.m. CST on Monday, November 7, 2011. All interested parties are invited to attend. The City will answer questions and clarify the terms of the RFP at the Pre-Proposal Conference. The City may respond both to questions raised on the day of the conference and to questions faxed or mailed prior to the deadline for receipt of questions per 3.1 A.

### **3.2 Deadline And Procedures for Submitting Proposals**

1. To be assured of consideration, Proposals must be received by the City of Chicago in the City's Bid and Bond Room (Room 301, City Hall) no later than 4:00 p.m. CST on Tuesday, December 6, 2011. The Bid and Bond Room can be reached at telephone number 312-744-9773.
2. The City may, but is not required to accept Proposals that are not received by the date and time set forth in Section 3.2.1 above. Only the Chief Procurement Officer ("CPO") is empowered to determine whether to accept or return late Proposals.

Failure by a messenger delivery service or printing service to meet the deadline will not excuse the Respondent from the deadline requirement. Hand-carried Proposals must be placed in the depository located in the Bid and Bond Room located in Room 301, City Hall. The time of the receipt of all Proposals to this RFP will be determined solely by the clock located in the Bid and Bond Room of City Hall. It is Respondent's sole responsibility to ensure that the Proposal is received as required.

3. Proposals must be delivered to the following address:

Jamie L. Rhee, Chief Procurement Officer  
Department of Procurement Services  
Bid and Bond Room  
Room 301, City Hall  
121 North LaSalle Street  
Chicago, Illinois 60602

4. Respondent must submit 1 hardcopy original and 5 duplicate hardcopies of the Proposal. The original documents must be clearly marked as "ORIGINAL", and must bear the original signature of an authorized corporate agent on all documents requiring a signature. Respondent must enclose all documents in sealed envelopes or boxes.
5. The outside of each sealed envelope or package must be labeled as follows:

Proposal Enclosed  
Request for Proposals (RFP) for Heat Receiver Services  
Specification No. 99577  
Due: **4:00 p.m. CST**, Tuesday, December 6, 2011  
Submitted by: (Name of Respondent)  
Package \_\_\_\_ of \_\_\_\_

### **3.3 RFP Information Resources**

Respondents are solely responsible for acquiring the necessary information or materials. Information for preparing a response to this RFP can be located in the following areas of the City's website: [www.cityofchicago.org/Procurement](http://www.cityofchicago.org/Procurement):

- Search MBE/WBE Directory Database
- Pre-Bid/Proposal Conference Attendees
- Addendums and Exhibits, if any.

### 3.4 **Procurement Timetable**

The timetable for the RFP solicitation is summarized below. Note that these are target dates and are subject to change by the City.

<b>Key Activity</b>	<b>Target Date</b>
City Issues RFP	October 28, 2011
Pre-Proposal Conference	November 7, 2011
Post-Conference Questions Due	November 10, 2011
RFP Addendum to Questions	November 23, 2011
Proposals Due	December 6, 2011

### 3.5 **Confidentiality**

Respondent may designate those portions of the Proposal, which contain trade secrets or other proprietary data that must remain confidential. If a Respondent includes data that is not to be disclosed to the public for any purpose or used by the City except for evaluation purposes, the Respondent must:

- A. Mark the title page as follows: "This RFP Proposal includes trade secrets or other proprietary data ("data") that may not be disclosed outside the City and may not be duplicated, used or disclosed in whole or in part for any purpose other than to evaluate this Proposal. The data subject to this restriction are contained in sheets (insert page numbers or other identification)." The City, for purposes of this provision, will include any consultants assisting in the evaluation of Proposals. If, however, a contract is awarded to this Respondent as a result of or in connection with the submission of this data, the City has the right to duplicate, use, or disclose the data to the extent provided in the resulting contract. This restriction does not limit the City's right to use information contained in the data if it is obtained from another source without restriction.
- B. Mark each sheet or data to be restricted with the following legend: "Use or disclosure of data contained on this sheet is subject to the restriction on the title page of this Proposal."

All submissions are subject to the Freedom of Information Act.

## IV. **PREPARING PROPOSALS: REQUIRED INFORMATION**

**Each Proposal must contain all of the following documents and must conform to the following requirements:**

### 4.1 **Format of Proposals**

Proposals must be prepared on 8 ½" X 11" letter size paper (preferably recycled), printed double-sided, and bound on the long side. The City encourages using reusable, recycled, recyclable and chlorine free printed materials for bids, proposal, reports and other documents prepared in connection with this solicitation. Expensive papers and bindings are discouraged, as no materials will be returned. Submit 1 hardcopy original and 5 duplicate hardcopies of the Proposal.

**Sections should be separated by labeled tabs and organized in accordance with subject matter sequence as set forth below. Each page of the Proposal must be numbered in a manner so as to be uniquely identified. Proposals must be clear, concise and well organized.**

#### **4.2. Required Content of Proposals**

Respondents are advised to adhere to the submittal requirements of the RFP. Failure to comply with the instructions of this RFP may be cause for rejection of the non-compliant Proposal. Respondent must provide information in the appropriate areas throughout the RFP. By submitting a response to this RFP, you are acknowledging that if your Proposal is accepted by the City, your Proposal and related submittals may become part of the contract.

At a minimum, the Proposal must include the following items:

##### **1. Cover Letter**

Respondent(s) must submit a cover letter signed by an authorized representative of the entity committing Respondent to provide the Services as described in this RFP in accordance with the terms and conditions of any contract awarded pursuant to the RFP process. The cover letter must:

- (i) Indicate the number of years the entity has been in business, and provide an overview of the experience and background of the entity and its key personnel committed to the Chicago account.
- (ii) Identify the legal name of the entity, its headquarters address, its principal place of business, its legal form (i.e., corporation, joint venture, limited partnership, etc.), and the names of its principals or partners and authority to do business in Illinois.
- (iii) Indicate the name and telephone number(s) of the principal contact for oral presentation or negotiations.
- (iv) Summary of Respondent's commitment to comply with the MBE/WBE requirements as stated in the Special Conditions Regarding Minority Business Enterprise (MBE) and Women Business Enterprise (WBE) Commitment as stipulated in Exhibit 5 of this RFP.
- (v) Include a statement of any objections or comments, to the sample City of Chicago Professional Services Agreement containing some of the terms that the City requires as stipulated in Exhibit 8 of this RFP.
- (vi) Acknowledge receipt of Addendum issued by the City, if any.



**2. Executive Summary**

Respondent must provide an executive summary which explains its understanding of the City's intent and objectives and how their Proposal would achieve those objectives. The summary must discuss Respondent's strategy and methodology for successfully implementing and monitoring the Services, approach to project management; strategies, tools and safeguards for ensuring performance of all required Services; equipment, software and firmware considerations; training and on-going support; and any additional factors for the City's consideration.

**3. Professional Qualifications and Specialized Experience of Respondent and Key Personnel Committed to the Chicago Account**

If Respondent proposes that major portions of the work will be performed by different key personnel, Respondent must provide the required information as described below for each such key personnel.

**A. Company Profile Information (See Form in Exhibit 3)**

Identify participants in Respondent's "Key Personnel." For example if Respondent is a business entity that is comprised of more than one legal participant (e.g., Respondent is a general partnership, joint venture, etc.), then Respondent must identify or cause to be identified all participants involved, their respective ownership percentages, and summarize the role, degree of involvement, and experience of each participant separately.

If Respondent has a prime contractor/subcontractor relationship instead, this information regarding role, involvement and experience is also required for any subcontractor that is proposed to provide a significant portion of the work.

Provide a chronological history of all mergers and/or acquisitions involving the Respondent key personnel, including all present and former subsidiaries or divisions and any material restructuring activities, if applicable. Include any such forthcoming actions, if such disclosure has already been made generally available to the public and is permitted by law.

If Respondent is a joint venture, attach a copy of the joint venture agreement signed by an authorized officer of each joint venture partner. Each partner must execute:

- (i) Schedule B as shown in Exhibit 5, if joint venture includes City of Chicago certified MBE/WBE firms(s), as applicable.
- (ii) Separate Economic Disclosure Statement and Affidavit ("EDS") completed by each partner and one in the name of the joint venture as shown in Exhibit 6.
- (iii) Insurance certificate in the name of the joint venture business entity.

**B. Company References/Client Profile (See Form in Exhibit 4)**

Respondent must provide a minimum of 3 references, preferably at least one from a municipality or government agency related to a contract of similar scope and magnitude as described in this RFP. Experience will not be considered unless complete reference data is provided. At a minimum, the following information must be included for each client reference:

- Client name, address, contact person name, telephone, and fax number.
- Description of services provided similar to the services outlined in Exhibit 1, Scope of Services of this RFP.
- Nature and extent of Respondent's involvement as the prime contractor. Identify services, if any, subcontracted, and to what other company.
- Total dollar value of the contract.
- Contract term (Start and Expiration).

All client reference information must be supported and verified. Reference contacts must be aware that they are being used and agreeable to City interview for follow-up.

The City may solicit from previous clients, including the City of Chicago, or any available sources, relevant information concerning Respondent's record of past performance.

**C. Business License/Authority to do Business in Illinois**

Respondent must provide copies of appropriate licenses or certifications required of any individual or entity performing the services described in this RFP in the City of Chicago, County of Cook and State of Illinois, for itself, its partners and its subcontractors, including evidence that Respondent is authorized by the Secretary of State to do business in the State of Illinois. Provide copies with the Proposal submission.

These requirements will vary depending upon the circumstances of each Respondent. See the Department of Business Affairs and Consumer Protection (BACP) website for additional information: [www.cityofchicago.org/businessaffairs](http://www.cityofchicago.org/businessaffairs)

If required by law, Respondents are required to have an Illinois Business License. See the State of Illinois, Department of Business Services website for additional information: (<http://www.cyberdriveillinois.com/>).

Additionally, visit the State of Illinois' Division of Professional Regulation for information regarding the State of Illinois' Professional Certifications: <http://www.idfpr.com/DPR/>.

**E. Capacity to Perform City Program**

Respondent must provide a summary of current and future projects and commitments and include projected completion dates. Describe how any uncompleted projects and/or contractual commitments to other clients will affect your ability to deliver Services, capacity to perform within City's timeline and affect dedicated resources committed to the City's program. Identify what

percentage of the Services will be performed utilizing your own workforce, equipment and facilities. What percentage of the work will be subcontracted?

**4. Professional Qualifications and Specialized Experience and Local Availability of Committed Key Personnel.**

Respondent must provide a summary who will be dedicated to the Services described in this RFP. For each person identified, describe the following information:

- Title and reporting responsibility.
- Proposed role in this program, including the functions and tasks for which they will have prime responsibility (also indicate areas of secondary responsibility, if appropriate)
- Pertinent areas of expertise and past experience
- Base location (local facility, as applicable)
- Resumes or corporate personnel profiles which describe their overall experience and expertise.

**5. Implementation Plan**

Respondent must provide a comprehensive and detailed plan for implementing Services as outlined in Exhibit 1, Scope of Services in this RFP. Each Respondent will be evaluated on its overall strategy, methodology, timetable and approach to service delivery and meeting the City's requirements.

The implementation plan must include, but not be limited to, the following:

**A. Approach to Implementing Services**

The plan must address your approach to implementing and managing the Services described in this RFP. Describe your policies and procedures for implementing services for clients, quality control checks, and project management. Describe your program support and reporting/recommendation services, including your approach to overcoming obstacles, if any, and troubleshooting to resolve problems.

**B. Organization Chart**

Submit an organization chart which clearly illustrates all firms (joint venture partners, if any, subcontractors); their relationship in terms of proposed Services; and key personnel involved and the following information:

- (i) A chart which identifies not only the proposed organizational structure, but also key personnel by name and title. Staffing levels of each organizational unit should be estimated.
- (ii) The specific role of each of the firms in a team or joint venture for each task/work activity must be described.

**C. Dedicated Resources**

- (i) Describe facilities, equipment, personnel, communication technologies and other resources available for implementing the proposed Services.
- (ii) Staffing requirements. Provide an assessment of staffing needs for each major activity area by job title and function. The assessment should include full-time equivalents for professional staff and supervisors committed to the City of Chicago. Specify if the assigned personnel will be on a full or part-time basis. Specify how each employee turnover will be handled (i.e. Sick, vacation, leave of absence, etc.)

## **6. Cost Proposal**

The City is requesting information regarding the costs for the Services required. In Exhibit 2, provide detail for the price schedule options indicated. The Respondent is responsible for disclosing any charges or fees that the City would incur with the Respondent, before, during, and after the implementation. Proposals that fail to include complete cost information will be rejected as incomplete and deemed non-responsive.

For purposes of comparing costs between Respondents, Respondent should not deviate from the compensation methods outlined in Exhibit 2. The City reserves the right to negotiate a final fixed price, terms, and conditions with the selected Respondent.

## **7. Minority and Women Business Enterprises Commitment**

Respondent must complete and submit the forms that are attached to this RFP in Exhibit 5 to evidence Respondent's proposed MBE/WBE participation in some aspect of the contract. The current Minority Business Enterprise (MBE) participation goal is 25%, and the current Women Business Enterprise (WBE) participation goal is 5% of the total contract value.

Respondent must submit a completed Schedule D-1 and obtain a separate Schedule C-1 completed and signed by each proposed MBE and WBE firm describing the services to be provided. With each Schedule C-1 form, Respondent should submit a current Letter of Certification issued by the City of Chicago. The proposed MBE or WBE firm must be certified by the City of Chicago at the time of Proposal submission. The City reserves the right to require Respondents to replace any proposed MBE/WBE that is not certified with the City of Chicago.

Further, the percentage participation for each MBE or WBE firm on the individual Schedule C-1s should match the percentages for each MBE or WBE firm listed on the Schedule D-1. All schedules submitted must be original signature. Failure to submit these documents, or incomplete documents, may result in Respondent being declared non-responsive.

In order to determine the best way in which to achieve and document MBE/WBE participation, Respondent must refer to the Special Conditions Regarding Minority Business Enterprise Commitment and Women Business Enterprise Commitment attached to this RFP as Exhibit 5. To locate MBE/WBE firms who are currently certified with the City of Chicago in various areas of specialty, you can search the City's MBE/WBE Directory Database on the City's website: [www.cityofchicago.org/Procurement](http://www.cityofchicago.org/Procurement).

## 8. Financial Statements

Respondent must provide a copy of its audited financial statements for the last 3 years. Respondents that are comprised of more than one entity must include financial statements for each entity. The City reserves the right to accept or reject any financial documentation other than the financial statements requested by this section.

If Respondent is unable to provide audited financial statements, state the reasons in your Proposal response and provide financial documentation in sufficient detail to enable the City to assess the financial condition of your company.

Sufficient alternate documentation would be un-audited financial statements from those Respondents not required to have their financial statements audited. At a minimum, the statements need to be the balance sheets and income statements (or equivalent) for the requested three years. Assets/liabilities and income/expenses must be presented in adequate detail for the City to assess the financial condition of the Respondent.

## 9. Economic Disclosure Statement and Affidavit (“EDS”).

Respondent shall submit a completed and executed Economic Disclosure Statement and Affidavit and Appendix A. **See Online City of Chicago EDS Instructions and Attachment A Online EDS Acknowledgement in Exhibit 6.** If Respondent is a business entity other than a corporation, then each member, partner, etc., of Respondent must complete an EDS, as applicable, per the instructions on the EDS form. In addition, any entity that has an interest in Respondent or in one or more of its members, partners, etc., and is required pursuant to the Municipal Purchasing Act for Cities of 500,000 or More Population (65 ILCS 5/8-10-8.5) or Chapter 2-154 of the Municipal Code of Chicago to provide a disclosure must submit a completed and executed EDS as an “entity holding an interest in an Applicant” as described in the EDS. All affidavits must be notarized. **Upon completion of Online EDS, Respondent shall submit a copy of 2 documents with their proposal: 1) Certificate of Filing printed from system and 2) hardcopy of the executed Attachment A, Online EDS Acknowledgement form in lieu of hardcopy EDS forms.**

Subcontractors may be asked, at the City’s discretion, to provide an EDS during the evaluation process.

## 10. Legal Actions

Respondent must provide a listing and a brief description of all material legal actions, together with any fines and penalties (i) Respondent or any division, subsidiary or parent entity of Respondent, or (ii) any member, partner, etc., of Respondent if Respondent is a business entity other than a corporation, has been:

- A. A debtor in bankruptcy; or
- B. A plaintiff or defendant in a legal action for deficient performance under a contract or violation of a statute or related to service reliability; or
- C. A respondent in an administrative action for deficient performance on a project or in violation of a statute or related to service reliability; or
- D. A defendant in any criminal action; or

- E. A named insured of an insurance policy for which the insured has paid a claim related to deficient performance under a contract or in violation of a statute or related to service reliability; or
- F. A principal of a bond for which a surety has provided contract performance or compensation to an obligee of the bond due to deficient performance under a contract or in violation if a statute or related to service reliability; or
- G. A defendant or respondent in a governmental inquiry or action regarding accuracy of preparation of financial statements or disclosure documents.

The City reserves the right to request similar legal action information from Respondent's key personnel members during the evaluation process.

#### **11. Insurance**

Prior to contract award, the Contractor will be required to submit evidence of insurance in the amounts specified in the attached Exhibit 7.

### **V. EVALUATING PROPOSALS**

An Evaluation Committee, which will include representatives from the Department of Housing and Economic Development and the Department of Procurement Services and may include representatives of other departments of the City ("Evaluation Committee" or "EC") will review and evaluate the Proposals, as described below.

In evaluating Proposals, the EC will first consider the completeness and responsiveness of the Respondent's Proposal. The Proposal evaluation process is organized into three phases:

- Phase I - Preliminary Proposal Assessment
- Phase II - Proposal Evaluation
- Phase III - Site Visits and/or Oral Presentations (if necessary)

#### Phase I - Preliminary Proposal Assessment

Phase I will involve an assessment of the Respondent's compliance with and adherence to all submittal requirements requested in Section 4.2., Required Content of the Proposal. Proposals which are incomplete and missing key components necessary to fully evaluate the Proposal may, at the discretion of the EC, be rejected from further consideration due to "non-responsiveness" and rated Non-Responsive. Proposals providing responses to all sections will be eligible for detailed analysis in Phase II, Proposal Evaluation.

#### Phase II - Proposal Evaluation

In Phase II, the EC will evaluate the extent to which a Respondent's Proposal meets the program objectives set forth in the RFP. Phase II will include a detailed analysis of the Respondent's qualifications, experience, proposed implementation plan, cost proposal and other factors based on the evaluation criteria outlined in Section V, Evaluating Proposals.

As part of the evaluation process, the EC will review the information required by Section IV, for each Proposal received. The EC may also review other information gained by checking references and by investigating the Respondent's financial condition.

The City reserves the right to seek clarification of any information that is submitted by any Respondent in any portion of its Proposal or to request additional information at any time during

the evaluation process. Any material misrepresentation made by a Respondent may void the Proposal and eliminate the Respondent from further consideration.

The City reserves the right to enlist independent consulting services to assist with the evaluation of all or any portion of the Proposal responses as it deems necessary.

In addition, the Evaluation Committee will review the Respondent's Proposal to determine overall responsiveness and completeness of the Proposal with respect to the components outlined in the RFP using the following criteria (not necessarily listed in order of importance):

A. Professional Competence:

1. Professional Qualifications and Specialized Experience of Respondent and Key Personnel with emphasis on specific experience on projects of similar scope and magnitude as outlined in Exhibit 1, Scope of Services of the RFP.
2. Past and Current Performance of the Respondent on other contracts in terms of quality of services and compliance with budgets and performance schedules. The Committee may solicit from current and/or previous clients including the City of Chicago, other government agencies, or any available sources, relevant information concerning the Respondent's record of performance.

B Professional Qualifications and Specialized Experience of Respondent's Key Personnel and Local Availability of Key Personnel with emphasis on specific experience on projects of similar scope and magnitude as outlined in Exhibit 1, Scope of Services of the RFP.

C. Quality, Comprehensiveness and Adequacy of the proposed Implementation Plan including its responsiveness and understanding of the needs of the City of Chicago and how the City's program may be best accomplished.

The Evaluation Committee will review each Proposal for the Respondent's understanding of the objectives of the Services and how these objectives may be best accomplished. Each Respondent will be evaluated on their overall strategy, methodology and approach to meeting the City's program objectives.

D. Cost Proposal relative to information provided in Exhibit 2.

E. The level, relevancy and quality of participation by MBE/WBE firms certified by the City of Chicago. Failure to meet this requirement may be cause for the prospective Respondent to be disqualified.

F. Legal Actions - The EC will consider any legal actions, if any, against Respondent and any division, subsidiary or parent company of Respondent, or against any member, partner, etc., of Respondent if Respondent is a business entity other than a corporation.

G. Financial Stability – The EC will consider the financial condition of Respondent. Respondent must be financially stable to ensure performance over the duration of the contract.

- H. Compliance with Laws, Ordinances, and Statutes. The EC will consider Respondent's compliance with all laws, ordinances, and statutes governing the contract.
- I. Degree to which Respondent accepts City's Terms and Conditions in the sample Professional Services Agreement in Exhibit 8 enabling the City to successfully negotiate a contract.
- J. Conflict of Interest – The EC will consider any information regarding Respondent, including information contained in Respondent's Proposal, that may indicate any conflicts (or potential conflicts) of interest which might compromise Respondent's ability to satisfactorily perform the proposed Services or undermine the integrity of the competitive procurement process. If any Respondent has provided any services for the City in researching, consulting, advising, drafting or reviewing of this RFP or any services related to this RFP, such Respondent may be disqualified from further consideration.

## **VI. SELECTION PROCESS**

After the Evaluation Committee ("EC") completes its review of Proposals in Phase II, it may submit to the Commissioner of the Housing and Economic Development and Chief Procurement Officer a recommended short list of Respondents (Phase III), or the EC may forego Phase III and submit a recommendation to select one Respondent, or a recommendation to reject any or all Proposals.

### Phase III- Oral Presentations and/or Site Visit

If the EC submits a short list of Respondents for further review, then, in the sole discretion of the Chief Procurement Officer, those short-listed Respondents may be subject to a site visit and/or invited to appear before the Evaluation Committee for an oral presentation to clarify in more detail information what was submitted in Respondent's Proposal; and/or to ask Respondent to respond to additional questions. Afterwards, the Evaluation Committee will make a final evaluation, including a final ranking of the Respondents, and will submit a recommendation for one Respondent to the Commissioner.

If the Commissioner makes a vendor selection recommendation, the recommendation will be forwarded to the Chief Procurement Officer for authorization to enter into contract negotiations with the selected Respondent.

The City will require the selected Respondent to participate in contract negotiations. The City's requirement that the selected Respondent negotiate is not a commitment by the City to award a contract. If the City determines that it is unable to reach an acceptable contract with the selected Respondent, including failure to agree on a fair and reasonable cost proposal for the Services or any other terms or conditions, the Commissioner may ask the Chief Procurement Officer to terminate negotiations with the selected Respondent, and to negotiate with any of the other qualified Respondents, until such time as the City has negotiated a contract meeting its needs.

The City reserves the right to terminate this RFP solicitation at any stage if the Chief Procurement Officer determines this action to be in the City's best interests. The receipt of Proposals or other documents will in no way obligate the City of Chicago to enter into any contract of any kind with any party.



## **VII. ADDITIONAL DETAILS OF THE RFP PROCESS**

### **7.1 Addenda**

If it becomes necessary to revise or expand upon any part of this RFP, an addendum will be sent to all of the prospective Respondents listed on the "Take Out Sheet" prior to the Proposal due date. Prospective Respondents are automatically listed when they sign or leave a business card for a copy of the RFP package in the Bid and Bond Room. Each addendum is incorporated as part of the RFP documents, and the prospective Respondent must acknowledge receipt.

The addendum may include, but will not be limited to, the following:

1. Responses to questions and requests for clarification sent to the Department of Procurement Services according to the provisions of Section 3.1 A herein; or
2. Responses to questions and requests for clarification raised at the Pre-Proposal Conference or by the deadline for submission of questions.

### **7.2 City's Rights to Reject Proposals**

The City of Chicago, acting through its Chief Procurement Officer, reserves the right to reject any and all Proposals that do not conform to the requirements set forth in this RFP; or that do not contain at least the information required by Section IV. If no Respondent is selected through this RFP process, then the Chief Procurement Officer may utilize any other procurement method available under the Municipal Purchasing Act and the Municipal Code of Chicago, to obtain the Services described here.

### **7.3 No Liability for Costs**

The City is not responsible for costs or damages incurred by Respondents, member(s), partners, subcontractors or other interested parties in connection with the RFP process, including but not limited to costs associated with preparing the Proposal and/or participating in any conferences, site visits, product/system demonstrations, oral presentations or negotiations.

### **7.4 Prohibition on Certain Contributions – Mayoral Executive Order No. 2011-4**

Pursuant to Mayoral Executive Order No. 2011-4, from the date of public advertisement of this request for qualifications/proposals/information through the date of award of a contract pursuant to this request for qualifications/proposals/information, Respondent, any person or entity who directly or indirectly has an ownership or beneficial interest in Respondent of more than 7.5 percent ("Owners"), spouses and domestic partners of such Owners, Respondent's proposed Subcontractors, any person or entity who directly or indirectly has an ownership or beneficial interest in any Subcontractor of more than 7.5 percent ("Sub-owners") and spouses and domestic partners of such Sub-owners (Respondent and all the other preceding classes of persons and entities are together, the "Identified Parties") must not: (a) make a contribution of any amount to the Mayor of the City of Chicago (the "Mayor") or to his political fundraising committee; (b) coerce, compel or intimidate its employees to make a contribution of any amount to the Mayor or to the Mayor's political fundraising committee; (c) reimburse its employees for a contribution of any amount made to the Mayor or to the Mayor's political fundraising committee; or (d) bundle or solicit others to handle contributions to the Mayor or to his political fundraising

committee;

If Respondent violates this provision or Mayoral Executive Order No. 2011-4 prior to the award of an agreement resulting from this request for qualifications/proposals/ information, the Chief Procurement Officer may reject Respondent's proposal.

For purposes of this provision:

"Bundle" means to collect contributions from more than one source which are then delivered by one person to the Mayor or to his political fundraising committee.

"Contribution" means a "political contribution" as defined in Chapter 2-156 of the Municipal Code of Chicago, as amended.

Individuals are "Domestic Partners" if they satisfy the following criteria:

- (A) they are each other's sole domestic partner, responsible for each other's common welfare; and
- (B) neither party is married; and
- (C) the partners are not related by blood closer than would bar marriage in the State of Illinois; and
- (D) each partner is at least 18 years of age, and the partners are the same sex, and the partners reside at the same residence; and
- (E) two of the following four conditions exist for the partners:
  - 1. The partners have been residing together for at least 12 months.
  - 2. The partners have common or joint ownership of a residence.
  - 3. The partners have at least two of the following arrangements:
    - a. joint ownership of a motor vehicle;
    - b. a joint credit account;
    - c. a joint checking account;
    - d. a lease for a residence identifying both domestic partners as tenants.
  - 4. Each partner identifies the other partner as a primary beneficiary in a will.

"Political fundraising committee" means a "political fundraising committee" as defined in Chapter 2-156 of the Municipal code of Chicago, as amended.

Any contract awarded pursuant to this solicitation will be subject to and contain provisions requiring continued compliance with Executive Order 2011-04.

## **7.5 False Statements**

### **(a) 1-21-010 False Statements**

Any person who knowingly makes a false statement of material fact to the city in violation of any statute, ordinance or regulation, or who knowingly falsifies any statement of material fact made in connection with an application, report, affidavit, oath, or attestation, including a statement of material fact made in connection with a bid, proposal, contract or economic disclosure statement or affidavit, is liable to the city for a civil penalty of not less than \$500.00 and not more than \$1,000.00, plus up to three times the amount of damages which the city sustains because of the person's violation

of this section. A person who violates this section shall also be liable for the city's litigation and collection costs and attorney's fees.

The penalties imposed by this section shall be in addition to any other penalty provided for in the municipal code. (Added Coun. J. 12-15-04, p. 39915, § 1)

(b) 1-21-020 Aiding and Abetting.

Any person who aids, abets, incites, compels or coerces the doing of any act prohibited by this chapter shall be liable to the city for the same penalties for the violation. (Added Coun. J. 12-15-04, p. 39915, § 1)

(c) 1-21-030 Enforcement.

In addition to any other means authorized by law, the corporation counsel may enforce this chapter by instituting an action with the department of administrative hearings. (Added Coun. J. 12-15-04, p. 39915, § 1)

## **7.6 Compliance with CDBG Regulations**

Consultant must comply with, and certify that Consultant is in compliance with all the provisions and regulations of the CDBG Program, and all related City of Chicago, State of Illinois and United States rules, regulations and requirements as described at [http://www.access.gpo.gov/nara/cfr/waisidx\\_04/24cfr570\\_04.htm](http://www.access.gpo.gov/nara/cfr/waisidx_04/24cfr570_04.htm).

## EXHIBIT 1

### SCOPE OF SERVICES

#### Definitions

“**Court**” means the Circuit Court of Cook County, and such courtrooms and judges as preside over heat call cases;

“**Court Receiver**” means Consultant’s employee who is designated by Consultant to be appointed a heat Receiver by the Court;

“**Department**” means the Department of Housing and Economic Development;

“**Key Personnel**” means an employee representative of selected vendor, assigned to assist the Court Receiver on provision of Services;

“**Receiver’s Certificate**” means a heat receivership certificate setting forth court approved expenses, fees and other information that may be issued by the Receiver upon authorization by the Court, pursuant to 65 ILCS 5/11-31-1 and 5/11-31-2 .

#### Program Description:

The City of Chicago has a specific call in Circuit Court to handle buildings which have been found by the Department of Buildings to have no heat or dangerously insufficient heat. The Department of Housing and Economic Development’s (HED) heat receivership program contracts with a selected receiver to be present at all times during the Heat Call and be ready to act as receiver in any heat case which calls for one. These are specialized receiverships which look to first restore heat service whenever feasible or if heat service cannot be restored to help relocate tenants as quickly as possible.

#### General Description of Services

Consultant must provide professional heat receivership services to the presiding judge of the Court under the Department’s Heat Receivership Program (“**Services**”). Consultant must designate an employee for appointment as Court Receiver in all cases before the Court in which the City petitions for the appointment of a Court Receiver. Consultant and the Court Receiver must perform the Services described in this Exhibit 1.

#### Attendance at Court Hearings

The Court Receiver must attend all Court hearings in connection with all heat related receiverships and must respond to all judicial inquiries and directions in connection with the heat related receiverships.

#### Performance Requirements

Consultant must assure that the Court Receiver performs the Services in accordance with the requirements of the Agreement and to the satisfaction of the Court. Consultant must provide the Services for properties located within the city’s geographic boundaries. Upon receiving a complaint about heating and utility and related conditions in a building that does not meet Municipal Code requirement 13-196-400, et seq, and related sections of the code, the City will, in its sole discretion, determine whether the building involved meets the City’s criteria for the criteria for the appointment of a Court Receiver. If the City determines that appointment of a Court Receiver is appropriate, the City will petition the Court for the appointment of a Court Receiver.

At the Court’s discretion, under 735 ILCS 5/2-415(a), as security for the opposing party’s damages, a bond may be required from the Court Receiver (“**Receiver’s Bond**”). In order for the City to seek waiver of the Receiver’s Bond under 65 ILCS 5/11-31-2.3 the Consultant and/or the Court Receiver must:

1. Prior to the filing of a Heat Receiver petition, provide the Law Department with a resume of the key personal member designated by Consultant to be Court Receiver. The resume must outline his/her qualifications and expertise in property management, construction management and receiverships. The resume will be attached to the petition as evidence of special qualifications.
2. Submit to the City an affidavit supporting the City's request for excuse of the Receiver's Bond, setting forth the reason and supporting facts justifying the excuse. The affidavit must be such form and delivered at such time that City can attach the affidavit to its petition for appointment of a Court Receiver.

After appointment, the Court Receiver must carry out its receivership duties to the satisfaction of the City and the Court. Receivership duties include but are not limited to:

- (a) Collecting rents from tenants and occupants of the property(s); if authorized by the Court
- (b) Establishing utility account(s) in the name of the Court Receiver when necessary
- (c) Repairing or replacing utility equipment on the property(s) as necessary;
- (d) Filing the necessary program status reports with the City as specified; and
- (e) Conducting periodic on-site inspections of the property of properties and advising the City and the Court whether heat is being supplied and whether any dangerous or hazardous conditions exist on the property or properties.
- (f) Providing tenant relocation assistance, as authorized by the Court, approved by the City and in accordance with the City's Option Relocation Policy.

#### **Submission of the Heat Receivership Certificates**

The amount of each Receiver Certificate is generally calculated to be equal to the sum of: (1) Court approved expenses for repairs, utility expenditures, and other costs and (2) the Court approved fees due to Consultant for providing the Services, less the sum of rents (and other income) received in the course of the receivership of the building.

**BEFORE** the issuance of a Receiver's Certificate, Consultant and/or the Court Receiver must submit to the Court and the City the following documents for each property for which a Receiver's Certificate is being sought:

- (1) Notice of petition for Court Receiver's fees;
- (2) Petition for Court Receiver's fees;
- (3) Court Receiver's accounting of expenses and receipts;
- (4) A draft of the order approving the court Receiver's fees and authorizing issuance of Court Receiver's Certificate and
- (5) A draft of the Court Receiver's Certificate with accompanying assignment;
- (6) Such other documents as the Cour or City may require.

When the Court Receiver's Services are no longer needed, the Court will issue an order discharging the Court Receiver, pending submission of a final accounting. The accounting must detail all expenses and include all supporting documentation, including but not limited to: payroll, time sheets, rent rolls, receipts, bids, bank account statements. Consultant submits the accounting to the Court the City attorney handling the case, and all parties to the Court case, along with a petition for the Court to approve the fees and expenses and authorize issuance of a Receiver Certificate for all costs and fees not covered by rents and revenues generated during the receivership.

The Court will set a date by which the accounting and petition is to be submitted and ruled upon by the Court. If the Court does not set a date, the Court Receiver will have (3) three months after discharge to submit to the Court, the City attorney handling the case, and all parties to the Court case, the accounting and motion for approval and Receiver Certificate.

- The Court Receiver may, at any time before discharge, submit an interim accounting of expenses and receipts and a petition for fees and notice.

- The Court Receiver must also submit a draft of the Receiver Certificate, with an attached assignment to the City, as part of an interim petition for fees and certificate.
- The Court Receiver must submit a final Receiver's Accounting of Expenses and Receipts, Petition for Receiver Fees, Notice of Petition for Receiver's Fees, a draft of the order approving Receiver's fees and authorizing issuance of Receiver Certificate, a draft Receiver Certificate with accompanying assignment and the order of discharge **AFTER** discharge by the court as Court Receiver for each property.

**All preceding submissions must be made to the Court, the city attorney handling the case, and all parties to the Court case.**

Upon the entry of the appropriate court order authorizing the issuance of a Receiver Certificate, the Court Receiver must submit to the City the Receiver Certificate and any and all other documentation required by the City in order that the City may determine whether the City will purchase the Receiver Certificate; the city may elect to purchase or not to purchase the Receiver Certificate. The City in its sole discretion will make the determination whether the documentation that the Court Receiver provides to the City is sufficient.

The City will not purchase any Receiver Certificates or other debts which have not received Court authorization or which are not otherwise fully documented in accordance with City requirements or not authorized by this Agreement. If the City elects to purchase a Receiver Certificate, Consultant must sell and fully assign the Receiver Certificate to the City for the compensation as finally negotiated in the executed Agreement.

### **Deliverables**

- I. Consultant must use reasonable effort to submit the following Deliverables to the City within the time limits prescribed, including reports and other documentation:
  - (a) Tenant profiles including tenant identification, demographic information and income levels completed and signed by each tenant which each request for compensation. If during the course of the receivership, the identity of the tenant changes, a new profile must be submitted. If any apartment in a building in receivership becomes vacant, the City must be notified of the event in writing.
  
- II. Consultant must submit the following Deliverables to the City within the time limits prescribed, including reports and other documentation:
  - (a) Property conditions report including, pictures of the front and rear of each building. This report must be submitted at the Court date immediately following the Court's appointment of the Court Receiver.
  - (b) Utility service bills and repair bills, if any, for each case in which the Court Receiver was appointed. Such bills must be submitted no later than 10 working days after the Court Receiver's discharge and before final accounting for the case is approved by the Court, and with each invoice submitted to the City by Consultant.
  - (c) Written notification identifying any building that will receive heat-related repairs. The City must receive notification no later than 3 working days after Consultant has formally solicited bids for the heat-related repairs in conformance with Community Development Block Grant ("**CDBG**") regulations. Consultant must solicit no less than 3 bids for all proposed heat-related repairs at or above \$10,000 (ten thousand dollars). Consultant must contract with the Subcontractor with the lowest qualified bid for the heat related repair.
  - (d) With each request to the City for compensation, the Court Receiver must include, by property address: monthly rent rolls with documentation demonstrating paid rents; utility service bills; Court Receiver time sheets; invoices for heat related repairs made to the property including the name, address, and telephone number of the Subcontractor and a description and cost of the work or service performed; a final accounting; and, when

available, tenant profiles by tenant income level as set forth in the City's heat receiver report.

Consultant must submit the following Deliverables to the Department and to the City's Law Department: an end of the year report summarizing the following expense categories by property address: current rent rolls, all utility and repair expenses, the total amount of the Receiver's Certificate issued, the amount of payments received during the duration of the receivership, if any, and the Court Receiver's estimate of the likelihood of success of future collection efforts for each property, and such other related information reasonably requested by the City.

Consultant warrants and represents that it understands the responsibilities and duties of the Court Receiver as set forth in this Exhibit 1 and assumes all responsibilities there under by its execution of this Agreement. Consultant further warrants and represents that it will cooperate with the City, including the city's official employees, agent and all other interested parties in the performance of the services described in this Agreement. Consultant expressly assumes all liability for any and all acts or omissions by each and every employee who accepts appointments as and undertakes to render the services of, a Court Receiver pursuant to this Agreement.

### **Statement of Work**

The Heat Receiver agrees to perform the following Heat Receivership Services.

One Court Receiver and an attorney will be assigned by the Consultant to a Heat Receiver project.. Additional Key Personnel will be added only after request by the Consultant and written approval of the Department

### **Court Receiver**

The Court Receiver is responsible for going to court. Court time will consist of the Court Receiver being appointed to new projects and presenting information obtained on old projects. The Court Receiver will go to each project to do a site inspection in order to prepare a feasibility and assessment report. Court Receiver will seek bids hire, and oversee contractors needed to repair heating systems. Court Receiver is also responsible for rent collection. Court Receiver will also have to prepare, or oversee the preparation of court documents needed for payment of fees and the disposition of receiver assignments. The Court Receiver will be responsible for other areas as necessary.

### **Attorney**

Provide legal advice and representation of the Court Receiver as necessary and/or required by the Court.

### **Additional Key Personnel**

Subject to negotiation.

**EXHIBIT 2**

**SCHEDULE OF COMPENSATION/COST PROPOSAL**

If the City elects to purchase a Receiver Certificate, the City will compensate the Consultant according to the following fee schedule.

**A. Hourly Rate Schedule**

Key Personnel/ Job Title	Maximum Hourly Rate 2012-13 Season	Maximum Hourly Rate 2013-14 Season	Maximum Hourly Rate 2014-15 Season	Maximum Hourly Rate 2015-16 Season	Maximum Hourly Rate 2016-17 Season	Maximum Hourly Rate 2017-18 Season	If not employed by the Consultant, indicate the Subcontractor's name
Court Receiver	\$175	\$175	\$175	\$175	\$175	\$175	
Attorney*	\$250	\$250	\$250	\$250	\$250	\$250	

1. Court Receiver: Not to exceed \$175.00 per hour.
2. Attorney\*: Not to exceed \$200/hr. and \$250.00 for in-court time.
3. Other Key Personnel as necessary for Consultant to perform Services, as required by the Scope of Services, and as approved by the City. Respondent must list additional key personnel job titles and proposed maximum hourly rates in the above columns.

Attorney\* shall be compensated for work limited to: drafting and filing appearances, motions, answers, responses, arguing motions, presenting receiver accountings in court and, reviewing accountings on behalf of the Receiver/Consultant

**B. Reimbursable Expenses**

Reimbursable expenses such as local travel according to the City of Chicago Travel Guidelines, phone services, photocopying, subcontractors and other Heat Receiver related costs shall be reimbursed at cost subject to approval by the Department Commissioner. The Commissioner reserves the right to review and accept the appropriateness of each reimbursement expense based on item justification and supporting documentation provided.



**EXHIBIT 3**

**COMPANY PROFILE INFORMATION**

**Submit a completed company profile information sheet for prime, each joint venture partner and subcontractor(s), as applicable.**

- (1) Legal Name of Firm: \_\_\_\_\_
- (2) Doing Business under Other Company Name?  
If yes, Name of Company: \_\_\_\_\_
- (3) Headquarters Address: \_\_\_\_\_
- (4) City, State, Zip Code: \_\_\_\_\_
- (5) Web Site Address: \_\_\_\_\_
- (6) Proposed Role:    Prime            Subcontractor/Subconsultant    Joint Venture Partner  
                                   Supplier or    Other: \_\_\_\_\_
- (7) Number of Years in Business:  
\_\_\_\_\_
- (8) Total Number of Employees:  
\_\_\_\_\_
- (9) Total Annual Revenues separated by last 3 full fiscal years:  
\_\_\_\_\_
- (10) Major Products and/or Services Offered:  
\_\_\_\_\_  
\_\_\_\_\_
- (11) Other Products and/or Services:  
\_\_\_\_\_  
\_\_\_\_\_
- (12) Briefly describe your firm's strategy for providing service solutions for a client:  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_
- (13) Briefly describe your firm's experience in Heat Receiver Services for clients:  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**EXHIBIT 4**

**COMPANY REFERENCES/CLIENT PROFILE INFORMATION**

**Submit a completed client profile information sheet for each company reference. Provide a minimum of 3 references.**

- (1) Client Name: \_\_\_\_\_
- (2) Address: \_\_\_\_\_
- (3) City, State, Zip Code: \_\_\_\_\_
- (4) Project Manager: \_\_\_\_\_
- (5) Telephone Number: \_\_\_\_\_
- (6) E-mail: \_\_\_\_\_
- (7) Number of Employees in Client Organization: \_\_\_\_\_
- (8) Project Scope of Services/Goals: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_
  
- (9) Contract Award Date: \_\_\_\_\_ Completion Date: \_\_\_\_\_
- (10) Initial Contract Amount: \$ \_\_\_\_\_ Final Contract Amount: \$ \_\_\_\_\_
- (11) Describe how the client's goals were met. Describe the Heat Receiver Services offered and implemented. Attach additional pages, as necessary.  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_
  
- (12) Discuss significant obstacles to providing the required services and how those obstacles were overcome:  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_
  
- (13) Is the client still utilizing the Heat Receiver Services?  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_
  
- (14) What was the cost/financing structure of the contract?  
\_\_\_\_\_  
\_\_\_\_\_

**EXHIBIT 5**

**SPECIAL CONDITIONS REGARDING MINORITY AND WOMEN OWNED BUSINESS  
ENTERPRISE (MBE/WBE) COMMITMENT AND SCHEDULES**

**SPECIAL CONDITION REGARDING MINORITY BUSINESS ENTERPRISE COMMITMENT AND WOMEN  
BUSINESS ENTERPRISE COMMITMENT  
(MBE/WBE Professional Services)**

**I. Policy and Terms**

- A. It is the policy of the City of Chicago that Local Businesses certified as Minority Business Enterprises (MBE) and Women 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 shall have the maximum opportunity to participate fully in the performance of this agreement. Therefore, the contractor shall not discriminate against any person or business on the basis of race, color, national origin or sex, and shall take affirmative action to ensure that women and minority businesses shall have the maximum opportunity to compete for and perform subcontracts for supplies or services.

**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.**

- B. 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 of Chicago deems appropriate.
- C. For the purposes of this agreement, the total contract price will be the total value of the gross sales realized through the operation of the concession. Accordingly, the contractor commits 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 Contract Goal: 25.0  
WBE Contract Goal: 5.0

- D. The commitment is met by the contractor's status as an MBE or WBE, or by a joint venture with one or more certified MBEs or WBEs that will perform work on the project, 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 the indirect participation of MBEs or WBEs in other aspects of the contractor's business (but no dollar of such indirect MBE or WBE participation shall be credited more than once against a contractor's MBE or WBE commitment with respect to all contracts of such contractor), or by any combination of the foregoing.

**Note: MBE/WBE participation goals are separate and those businesses certified with the City of Chicago as both an MBE and WBE shall not be credited more than once against a contractor's MBE or WBE commitment in the performance of the contract.**

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

The contractor also may with prior approval of the Chief Procurement Officer or designee, 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 projects

## II. Definitions

- A. "Minority Business Enterprise" or "MBE" means a firm awarded certification as a minority owned and controlled business in accordance with City Ordinances and Regulations.
- B. "**Women Business Enterprise**" or "**WBE**" means a firm awarded certification as a women owned and controlled business in accordance with City Ordinances and Regulations.
- C. "**Directory**" means the Directory of Certified "Disadvantaged Business Enterprises," "Minority Business Enterprises" and "Women Business Enterprises" maintained and published by the Contract Compliance Administrator. 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.
- D. "**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. 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 Department of Procurement Services 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.**

- E. "**Joint Venture**" means an association of two or more businesses to carry out a single business enterprise for profit, and for which purpose they combine their expertise, property, capital, efforts, skill and knowledge. Contractors may develop joint venture agreements as an instrument to provide participation by MBEs and WBEs in contract work.
- F. "**Contract Compliance Administrator**" means the officer appointed pursuant to Section 2-92-490 of the Municipal Code of Chicago.

## III. Joint Ventures

Bidders may develop joint venture agreements as an instrument to provide participation by certified MBEs and WBEs in contract work. A joint venture seeking to be credited for MBE and/or WBE participation may be formed among MBE and/or WBE firms or between an MBE and/or WBE firm and a non-MBE/WBE firm.

A joint venture is eligible for MBE or WBE credit if the MBE/WBE joint venture partner(s) share in the ownership, control and management responsibilities, risks and profits of the joint venture, and are responsible for a clearly defined portion of work to be performed, in proportion with the MBE and/or WBE ownership percentage.

**Notice: The City requires that, whenever a joint venture is proposed as the prime contractor, each joint venture partner must separately sign the proposal to the City, in the pages captioned, TO BE**

**EXECUTED BY A CORPORATION; TO BE EXECUTED BY A PARTNERSHIP; and/or TO BE EXECUTED BY A SOLE PROPRIETOR, as applicable.**

**IV. Counting MBE/WBE Participation Toward the Contract Goals**

- A. The inclusion of any MBE or WBE in the contractor's MBE/WBE Utilization Plan shall not conclusively establish the contractor's right to full MBE/WBE credit for that firm's participation in the contract. Once an MBE or WBE is determined to be eligible in accordance with these rules, the total dollar value of the work awarded to the MBE or WBE may be counted toward the MBE or WBE goal except as indicated below:
- B. The Chief Procurement Officer reserves the right to deny or limit MBE/WBE credit to the contractor where any MBE or WBE is found to be engaged in substantial subcontracting or pass-through activities with others. A contractor may count toward its MBE and WBE goals only expenditures to firms that perform a commercially useful function. A firm is considered to perform a commercially useful function when it is responsible for the performance of a clearly defined and distinct element of work and is carrying out its responsibilities by actually performing, managing, and supervising the work involved. To determine whether a firm is performing a commercially useful function, the Chief Procurement Officer shall evaluate the amount of work subcontracted, industry practices, and other relevant factors. The amount of MBE/WBE participation credit shall be based upon an analysis by the Chief Procurement Officer of the specific duties that will be performed by the MBE or WBE. Each MBE/WBE shall be expected to actually perform a substantial (i.e., more than eighty-five percent (85%)) portion of the work contemplated for it by any subcontract or agreement through the use of its own employees and equipment.

Requested information may include, without limitation: (1) specific information concerning brokers' fees and/or commissions; (2) intended sub-suppliers or other sources of goods and/or services; and (3) specific financial or other risks to be assumed by the MBE/WBE.

- C. MBEs and WBEs who have been certified as "brokers" shall no longer be considered eligible to participate for any consideration of MBE or WBE credit on contracts awarded by the City in 1993 and thereafter, until further notice.
- D. A joint venture may count toward its MBE or WBE goal the dollar value of the actual work performed by the MBE and/or WBE joint venture partner with its own resources.

**The Chief Procurement Officer reserves the right to disallow goal credit for all, or any portion, of work performed by an MBE or WBE joint venturer based on evaluations of non-compliance with these Special Conditions or any other City, State and/or Federal regulation.**

**V. Regulations Governing Reduction 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 or proposer determines that it is unable to meet the MBE and/or WBE goal percentage 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/proposer'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.

**Bidders/proposers will be considered responsive to the terms and conditions of these Regulations if a waiver request and proof of notification to an assist agency is submitted at the time of bid/proposal**

**opening.** Once the bids have been opened, the lowest responsive and responsible bidder so deemed by the Chief Procurement Officer or authorized designee will have no more than fourteen (14) calendar days to submit to the Department of Procurement complete documentation that adequately addresses the conditions for waiver described herein. **Proposers 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. Respondents 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 discretion, may include, but are not limited to, forfeiture of bid deposit; negotiating with the next lowest bidder/proposer; or re-advertising the bid/proposal. All bidders/proposers are encouraged to submit all required documents at the time of bid opening to expedite the contract award.

**A. Direct/Indirect Participation**

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

1. The bidder/proposer has documented the unsuccessful solicitation for either subcontractors or joint venture partners of at least 50% (or at least five when there are more than eleven certified firms in the commodity area) of the appropriate certified MBE/WBE firms to perform any direct or indirect work identified or related to the advertised bid/proposal. Direct participation involves subcontracting a portion of the goods/services specifically required in the bid/proposal. Indirect participation is the subcontracting of goods/services not specifically related to the performance of this contract. Documentation must include but is not necessarily limited to:
  - a. A detailed statement of efforts to identify and select portions of work identified in the bid solicitation for subcontracting to certified MBE/WBE firms;
  - b. A listing of all MBE/WBE firms contacted that includes:
    - (1) Names, address and telephone numbers of MBE/WBE firms solicited;
    - (2) Date and time of contact;
    - (3) Method of contact (written, telephone, facsimile, etc.)
  - c. Copies of letters or any other evidence of mailing that substantiates outreach to MBE/WBE vendors that includes:
    - (1) Project identification and location;
    - (2) Classification/commodity of work items for which quotations were sought;
    - (3) Date, item and location for acceptance of subcontractor bid proposals;
    - (4) Detailed statement which summarizes direct negotiations with appropriate MBE/WBE firms for specific portion of the work and indicates why negotiations were unsuccessful;
    - (5) Affirmation that good faith efforts have been demonstrated by choosing subcontracting opportunities likely to achieve MBE/WBE goals by not imposing any limiting conditions which were not mandatory for all subcontractors; or denying the benefits ordinarily conferred on MBE/WBE subcontractors for the type of work that was solicited.

OR

2. 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 subcontract quote is excessively costly, the bidder/proposer must provide the following information:

- a. A detailed statement of the work identified for MBE/WBE participation for which the bidder/proposer asserts the MBE/WBE quote(s) were excessively costly (in excess of 20% higher).
  - (1) A listing of all potential subcontractors contacted for a quotation on that work item;
  - (2) Prices quoted for the subcontract in question by all such potential subcontractors for that work item.
  
- b. 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:
  - (1) The City\*s estimate for the work under a specific subcontract;
  - (2) The bidder/proposer\*s own estimate for the work under the subcontract;
  - (3) An average of the bona fide prices quoted for the subcontract;
  - (4) Demonstrated increase in other contract costs as a result of subcontracting to the M/WBE or other firm.

**B. Assist Agency Participation**

Every waiver and/or reduction request must include evidence that the bidder/proposer has provided timely notice of the need for subcontractors to an appropriate association/assist agency representative of the MBE/WBE business community.

The notice requirement of this Section will be satisfied if a bidder/proposer contacts at least one of the associations on Attachment A when the prime contractor seeks a waiver or reduction in the utilization goals. Attachment B 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 for any bid/proposal submitted to be deemed responsive on the date of bid opening. If deemed appropriate, the Chief Procurement Officer or Contract Compliance Officer may contact the assist agency for verification of notification.

**C. Impracticability**

1. 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.

2. The requirements set forth in these Regulations 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 Procurement Department administrator, 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/proposers, in situations where the Chief Procurement Officer has determined that time is of the essence, documented telephone contact may be substituted for letter contact.

**VI. Procedure To Determine Bid Compliance**



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

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

A Schedule C-1 executed by the MBE/WBE (subcontractor or Joint Venture partner) must be submitted by the bidder/proposer for each MBE/WBE included on their Schedule D-1 and must accurately detail the work to be performed by the MBE/WBE and the agreed rates and prices to be paid.

If any fully completed and executed Schedule C-1 is not submitted with the bid/proposal, it must be received by the Contract Administrator within ten (10) days of the bid/proposal opening. (All post bid/proposal submissions must have original signatures on all documents). 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.

B. Letters of Certification.

A copy of each proposed MBE/WBE firm's current Letter of Certification from the City of Chicago must be submitted with the bid/proposal.

All Letters of Certification issued by the City of Chicago 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.

C. Joint Venture Agreements.

If the bidders/proposers MBE/WBE proposal includes the participation of an MBE/WBE as joint venture on any tier (either as the bidder/proposer or as a subcontractor), the bidder/proposer must provide a copy of the joint venture agreement.

D. Schedule D-1: Affidavit of MBE/WBE Goal Implementation Plan

Bidders must submit, together with the bid, a completed Schedule D-1 committing them to the utilization of each listed MBE/WBE firm.

Except in cases where the bidder/proposer has submitted a request for a complete waiver of or variance from the MBE/WBE commitment in accordance with Section V. herein, the bidder/proposer must commit to the expenditure of a specific dollar amount of participation and a specific percentage of the total award amount for 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, as percentages of the total estimated usage.

All commitments made by the bidders Schedule D-1 must conform to those presented in the submitted Schedule C-1. If Schedule C-1 is submitted after the bid opening (see Section VI. A., above), the bidder/proposer may submit a revised Schedule D-1 (executed and notarized) to conform with the Schedule C-1. Except in cases where substantial and documented justification is provided, bidders/proposers 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.

**VII. Reporting Requirements During The Term of The Contract**

A. The Contractor shall, not later than thirty (30) 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 shall be made available to the Chief Procurement Officer upon request.

- B. In the case of one time procurements of supplies with either single or multiple deliveries to be performed in less than one year from the date of contract award, an "MBE/WBE Utilization Report," indicating final MBE and WBE payments shall be submitted directly to the Department of Procurement Services so as to assure receipt either at the same time, or before the using Department receives the contractor's final invoice. Final payments may be held until the Utilization Reports have been received.

**NOTICE: Do not submit invoices with "MBE/WBE Utilization Reports."**

**C. During the term of all other contracts, the contractor shall submit regular "MBE/WBE Utilization Reports," a copy of which is attached. The frequency with which these reports are to be submitted will be determined by the**

Chief Procurement Officer, but in no case will reports be required less often than on a quarterly basis. In the absence of written notice from the Chief Procurement Officer, the contractor's first "MBE/WBE Utilization Report" will be due ninety (90) days after the date of contract award, and reports will be due quarterly thereafter.

- D. "MBE/WBE Utilization Reports" are to be submitted directly to: Department of Procurement Services, Office of Vendor Relations, City Hall, Room 403, 121 N. LaSalle Street, Chicago, Illinois 60602.
- E. The Contract Compliance Administrator shall be entitled to examine, on five (5) business days notice, the contractor's books and records including without limitation payroll records, tax returns and records, and books of account, to determine whether the contractor is in compliance with its commitment to MBE/WBE participation and the status of any MBE or WBE performing any portion of the contract. Such rights are in addition to any other audit inspection rights contained in the contract.

#### **VIII. MBE/WBE Substitutions**

Changes by the contractor of the commitments earlier certified in the Schedule D-1 are prohibited. In some cases, however, it may become necessary to substitute a new MBE or WBE in order to actually fulfill the MBE/WBE requirements.

The contractor must notify the Chief Procurement Officer immediately in writing of the necessity to reduce or terminate an MBE/WBE subcontract and to utilize a substitute firm for some phase of work. The contractor's notification should include the reason for the substitution request, as well as, the name, address and principal official of the substitute MBE/WBE and the dollar value and scope of work of the subcontract. Attached should be all the requisite MBE/WBE affidavits and documents, as enumerated above in Section VI. above, "Procedure to Determine Bid Compliance."

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

After award of contract, no relief of the MBE/WBE requirements will be granted by the City except in exceptional circumstances. Requests for complete or partial waiver of the MBE/WBE requirements of this contract must be made in writing, stating all details of the request, the circumstances, and any additional relevant information. The request must be accompanied by a record of all efforts taken by the contractor to locate specific firms, solicit MBE/WBE bids, seek assistance from technical assistance agencies, etc., as outlined above in the section V. above, entitled "Regulations Governing Reductions To or Waiver of MBE/WBE Goals".

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

The following constitutes a material breach of this contract and shall 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 satisfy the MBE/WBE percentages required by the contract; and

- (2) the contractor or subcontractor is disqualified as an MBE or WBE, and such status was a factor in contract award, and was misrepresented by the contractor.

In the event that the contractor is determined not to have been involved in any misrepresentation of the status of the disqualified subcontractor or supplier, the contractor shall seek to discharge the disqualified subcontractor or supplier, upon proper notification to the Chief Procurement Officer and/or Contract Compliance Administrator and make every effort to identify and engage a qualified MBE or WBE as its replacement. Furthermore, continued eligibility to enter into future contracting arrangements with the City may be jeopardized as a result of non-compliance. Payments due to the contractor may be withheld until corrective action is taken.

## **X. Arbitration**

- A. In the event that 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 an MBE/WBE.
- B. An MBE/WBE desiring to arbitrate shall contact the contractor in writing to initiate the arbitative process. Except as otherwise agreed to in writing by the affected parties subject to the limitation contained in the last sentence of the previous paragraph, Section X. A. above, within ten (10) 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 fees of the arbitrator are the initial responsibility of the MBE/WBE; provided, however, that the arbitrator is authorized to award reasonable expenses, including attorney\*s 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) 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) days of receiving such decision. Judgment upon the award rendered by the arbitrator may be entered in any court of competent jurisdiction.

## **XI. Record Keeping**

**The Contractor shall maintain records of all relevant data with respect to the utilization of MBEs/WBEs, retaining these records for a period of at least three years after final acceptance of the work. Full access to these records shall be granted to the City of Chicago, Federal or State authorities in this project, the U.S. Department of Justice, or any duly authorized representatives thereof.**

## **XII. Information Sources**

Small business guaranteed loans; surety bond guarantees; 8 (a) certification:

**U.S. Small Business Administration**

500 W. Madison Street, Suite 1250  
Chicago, Illinois 60661  
General Information  
(312) 353-4528

**S.B.A. - Bond Guarantee Program  
Surety Bonds**

500 West Madison, Suite 1250  
Chicago, Illinois 60661  
Attention: Carole Harris  
(312) 353-4003

**S.B.A. - Procurement Assistance**

500 West Madison, Suite 1250  
Chicago, Illinois 60661  
Attention: Robert P. Murphy, Area Regional Administrator  
(312) 353-7381

Project information and general MBE/WBE information:

**City of Chicago**

**Department of Procurement**

**Contract Administration Division**

City Hall - Room 403  
Chicago, Illinois 60602  
Attention: Monica Jimenez  
(312) 744-0845

Directory of Certified Disadvantaged, Minority and Women Business Enterprises:

**City of Chicago**

Office of Compliance  
ATTN: Supplier Diversity Program  
333 State Street, Suite 540  
Chicago, IL 60604

General Information, Department of Procurement Services: [www.cityofchicago.org](http://www.cityofchicago.org)

Information on MBE/WBE availability in the manufacturing, sales or supplies, and related fields (direct assistance from 42 regional affiliates located throughout the U.S.):

**National Minority Suppliers  
Development Council, Inc.**

1040 Avenue of the Americas, 2<sup>nd</sup> floor  
New York, New York 10018  
Attention: Harriet R. Michel  
(212) 944-2430

**Chicago Minority Business  
Development Council**

1 East Wacker Drive  
Suite 1200  
Chicago, Illinois 60601  
Attention: Tracye Smith, Executive Director  
Phone #: (312) 755-8880  
Fax #: (312) 755-8890

MBE/WBE Professional Services rev. 8/3/10 (jmm)

**ATTACHMENT B  
(On Bidder/proposer's Letterhead)**

**RETURN RECEIPT REQUESTED**

(Date)

Re: Specification \_\_\_\_\_  
Description: \_\_\_\_\_

(Assist Agency Name and Address)

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:

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

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

\_\_\_\_\_ at \_\_\_\_\_  
Name of Company Representative  
Address/phone

within (10) ten working 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 fifteen (15) 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 403  
Chicago, Illinois 60602

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

Sincerely,

\_\_\_\_\_

**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: \_\_\_\_\_  
\_\_\_\_\_

(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:

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

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: \_\_\_\_\_

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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.



Trade	Non-MBE/WBE Firm (Number)	MBE/WBE (Number)	Joint Venture (Number)

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:

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C. Which venturer will be responsible for the preparation of joint venture payrolls:

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X. Please state any material facts of additional information pertinent to the control and structure of this joint venture.

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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**

Name of Project/Contract: \_\_\_\_\_  
Specification Number: \_\_\_\_\_

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

MBE: Yes \_\_\_\_\_ No \_\_\_\_\_  
WBE: Yes \_\_\_\_\_ No \_\_\_\_\_

To: \_\_\_\_\_ and the City of Chicago:  
(Name of Prime Contractor - Bidder/Proposer)

The undersigned intends to perform work in connection with the above projects as a:

\_\_\_\_\_ Sole Proprietor                      \_\_\_\_\_ Corporation  
\_\_\_\_\_ Partnership                      \_\_\_\_\_ Joint Venture

The MBE/WBE status of the undersigned is confirmed by the attached letter of Certification from the City of Chicago effective date of \_\_\_\_\_ to \_\_\_\_\_ for a period of five years.

The undersigned is prepared to provide the following described services or supply the following described goods in connection with the above named project/contract:

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

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

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

If more space is needed to fully describe the MBE/WBE firm's proposed scope of work and/or payment schedule, attach additional sheets.

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, and will do so within (3) three working days of receipt of a signed contract from the City of Chicago.

\_\_\_\_\_  
(Signature of Owner or Authorized Agent)

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

\_\_\_\_\_  
Date

\_\_\_\_\_  
Phone

Rev. 9/03

**SCHEDULE D-1**  
Affidavit of MBE/WBE Goal Implementation Plan

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

State of \_\_\_\_\_

County (City) of \_\_\_\_\_

I HEREBY DECLARE AND AFFIRM that I am 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 (Letters of Certification Attached).

I. MBE or WBE Prime Consultant/Contractor. If prime consultant is a certified MBE or WBE firm, attach copy of City of Chicago Letter of Certification. (Certification of the prime consultant as a MBE satisfies the MBE goal only. Certification of the prime consultant as a WBE satisfies the WBE goal only.)

II. MBEs and WBEs as Joint Venturers. If prime consultant is a joint venture and one or more joint venture partners are certified MBEs or WBEs, attach copies of Letters of Certification and a copy of Joint Venture Agreement clearly describing the role of the MBE/WBE firm(s) and its ownership interest in the joint venture.

III. MBE/WBE Subconsultants. Complete for each MBE/WBE subconsultant/subcontractor/supplier.

1. Name of MBE/WBE: \_\_\_\_\_

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

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

Dollar Amount of Participation \$ \_\_\_\_\_

Percent Amount of Participation: \_\_\_\_\_ %

2. Name of MBE/WBE: \_\_\_\_\_

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

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

Dollar Amount of Participation \$ \_\_\_\_\_

Percent Amount of Participation: \_\_\_\_\_ %

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

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

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

Dollar Amount of Participation \$ \_\_\_\_\_

Percent Amount of Participation: \_\_\_\_\_ %

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

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

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

Dollar Amount of Participation \$ \_\_\_\_\_

Percent Amount of Participation: \_\_\_\_\_ %

5. Name of MBE/WBE: \_\_\_\_\_

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

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

Dollar Amount of Participation \$ \_\_\_\_\_

Percent Amount of Participation: \_\_\_\_\_ %

6. Name of MBE/WBE: \_\_\_\_\_

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

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

Dollar Amount of Participation \$ \_\_\_\_\_

Percent Amount of Participation: \_\_\_\_\_ %

7. Name of MBE/WBE: \_\_\_\_\_

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

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

Dollar Amount of Participation \$ \_\_\_\_\_

Percent Amount of Participation: \_\_\_\_\_ %

8. Attach additional sheets as needed.

IV. Summary of MBE Proposal:

MBE Firm Name	Dollar Amount of Participation	Percent Amount of participation
_____	\$ _____	_____ %
_____	\$ _____	_____ %
_____	\$ _____	_____ %
_____	\$ _____	_____ %
_____	\$ _____	_____ %
<b>Total MBE Participation:</b>	<b>\$ _____</b>	<b>_____ %</b>

V. Summary of WBE Proposal:

WBE Firm Name	Dollar Amount of Participation	Percent Amount of participation
_____	\$ _____	_____ %
_____	\$ _____	_____ %
_____	\$ _____	_____ %
_____	\$ _____	_____ %
_____	\$ _____	_____ %
<b>Total WBE Participation:</b>	<b>\$ _____</b>	<b>_____ %</b>

To the best of my knowledge, information and belief, the facts and representations contained in this Schedule are true, and no material facts have been omitted.

The contractor designates the following person as their MBE/WBE Liaison Officer:

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

I do solemnly declare and affirm under penalties of perjury that the contents of the foregoing document are true and correct, and that I am authorized, on behalf of the contractor, to make this affidavit.

\_\_\_\_\_  
Signature of Affiant (Date)

State of \_\_\_\_\_

County of \_\_\_\_\_

This instrument was acknowledged before me on \_\_\_\_\_ (date)  
 by \_\_\_\_\_ (name /s of person/s)  
 as \_\_\_\_\_ (type of authority, e.g., officer, trustee, etc.)  
 of \_\_\_\_\_ (name of party on behalf of whom instrument  
 was executed).

(Seal)

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

## MBE/WBE UTILIZATION REPORT

Utilization Report No. \_\_\_\_\_ Specification No. \_\_\_\_\_

Contract No. \_\_\_\_\_

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

STATE OF: \_\_\_\_\_)

COUNTY (CITY) OF: \_\_\_\_\_)

In connection with the above-captioned contract:

I HEREBY DECLARE AND AFFIRM that I am the \_\_\_\_\_  
(Title - Print or Type)

and duly authorized representative of \_\_\_\_\_  
(Name of Prime Consultant /Contractor - Print or Type)

\_\_\_\_\_ (Address of Prime Consultant/Contractor)      (\_\_\_\_\_) \_\_\_\_\_ (Phone)

*and that the following Minority and Women Business Enterprises have been contracted with, and have furnished, or are furnishing and preparing materials for, and rendering services stated in the contract agreement.*

*The following Schedule accurately reflects the value of each MBE/WBE sub-agreement and the amounts of money paid to each to date.*

MBE/WBE FIRM NAME	GOODS/SERVICES PROVIDED	AMOUNT OF CONTRACT	AMOUNT PAID TO-DATE
_____	_____	\$ _____	\$ _____
_____	_____	\$ _____	\$ _____
_____	_____	\$ _____	\$ _____
_____	_____	\$ _____	\$ _____
_____	_____	\$ _____	\$ _____
_____	_____	\$ _____	\$ _____
_____	_____	\$ _____	\$ _____

Total MBE: \$ \_\_\_\_\_

Total WBE: \$ \_\_\_\_\_

*I do solemnly declare and affirm under the penalties of perjury that the contents of the foregoing document are true and correct, and that I am authorized, on behalf of the contractor, to make this affidavit.*

Name of Contractor: \_\_\_\_\_  
(Print or Type)

Signature: \_\_\_\_\_  
(Signature of affiant)

Name of Affiant: \_\_\_\_\_  
(Print or Type)

Date: \_\_\_\_\_  
(Print or Type)

State of \_\_\_\_\_

County (City) of \_\_\_\_\_

This instrument was acknowledged before me on \_\_\_\_\_ (date)

by \_\_\_\_\_ (name/s of person/s)

as \_\_\_\_\_ (type of authority, e.g., officer, trustee, etc.)

of \_\_\_\_\_ (name of party on behalf of whom instrument was executed).

\_\_\_\_\_  
Signature of Notary Public  
(Seal)



**EXHIBIT 6**

**ONLINE CITY OF CHICAGO ECONOMIC DISCLOSURE STATEMENT AND AFFIDAVIT (EDS)**

**AND**

**ATTACHMENT A, ONLINE EDS ACKNOWLEDGEMENT**

## **ONLINE CITY OF CHICAGO ECONOMIC DISCLOSURE STATEMENT AND AFFIDAVIT (EDS) INSTRUCTIONS**

WHEN SUBMITTING YOUR RESPONSE TO THIS REQUEST FOR PROPOSAL (RFP) FOR HEAT RECEIVER SERVICES FOR THE CITY OF CHICAGO OFFICE OF HOUSING AND ECONOMIC DEVELOPMENT, SPECIFICATION NO. 99577, THE RESPONDENT SHALL SUBMIT 2 DOCUMENTS: 1) A **"CERTIFICATE OF FILING"** EVIDENCING COMPLETION OF YOUR ONLINE EDS AND 2) AN EXECUTED **ATTACHMENT A, ONLINE EDS ACKNOWLEDGEMENT** SIGNED BY AN AUTHORIZED OFFICER BEFORE A NOTARY.

### **1. ONLINE EDS FILING**

#### **1.1. ONLINE EDS FILING REQUIRED PRIOR TO RESPONSE DUE DATE**

The Respondent shall complete an online EDS prior to the response due date. A Respondent who does not file an electronic EDS prior to the response due date may be found non-responsive and its response rejected. If you are unable to complete the online EDS 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 your good faith efforts to complete it before the response due date and the reasons why it could not be completed.

**NOTE: ALWAYS SELECT THE "CONTRACT" (NOT UPDATE) BOX WHEN COMPLETING AN ONLINE EDS TO ENSURE A NEW CONTRACT SPECIFIC ONLINE EDS IS CREATED RELATED TO THE SOLICITATION DOCUMENT. CLICKING THE UPDATE BOX ONLY UPDATES PREVIOUS EDS INFORMATION.**

#### **1.2. ONLINE EDS WEB LINK**

The web link for the Online EDS is <https://webapps.cityofchicago.org/EDSWeb>

#### **1.3. ONLINE EDS NUMBER**

UPON COMPLETION OF THE ONLINE EDS SUBMISSION PROCESS, THE RESPONDENT WILL BE PROVIDED AN EDS NUMBER. RESPONDENT SHOULD RECORD THIS NUMBER HERE:

EDS Number: \_\_\_\_\_

#### **1.4. ONLINE EDS CERTIFICATION OF FILING AND ATTACHMENT A, ONLINE EDS ACKNOWLEDGEMENT**

Upon completion of the online submission process, the Respondent will be able to print a hard copy Certificate of Filing. The Respondent should submit the signed Certificate of Filing and Attachment A, Online EDS Acknowledgement form with its response. Please insert your Certification of Filing and Attachment A, Online EDS Acknowledgement form following the Cover Letter. See Section 4.2, Item 9, Required Contents of Proposal in the RFP. A Respondent who does not include a signed Certificate of Filing and/or Attachment A, Online EDS Acknowledgement form with its response must provide it upon the request of the Chief Procurement Officer.

#### **1.5. 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.

**1.6. 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.:
  - \_\_\_\_\_ a. List of controlling parties (if applicable).

Items #8 and #9 are needed ONLY for contract related EDS documents:

- \_\_\_\_\_ 8. 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.
- \_\_\_\_\_ 9. List of subcontractors and retained parties:
  - \_\_\_\_\_ a. Name
  - \_\_\_\_\_ b. Address
  - \_\_\_\_\_ c. Fees – Estimated or paid

## 1.7. 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:

<b>Applicants:</b>	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.
<b>Entities holding an interest:</b>	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.
<b>Controlling entities:</b>	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) or [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 and 7.0 and 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.



**ATTACHMENT A**

**ONLINE EDS ACKNOWLEDGEMENT**

The undersigned, hereby acknowledges having received Specification No. 99577 containing a full set of RFP Documents, including, Addenda Numbers (none unless indicated here) \_\_\_\_\_, and affirms that the Respondent shall be bound by all the terms and conditions contained in the RFP Documents, regardless of whether a complete set thereof is attached to this response.

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 response, 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 respondent or prospective respondent 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 respondents and has not disclosed to any person, firm or corporation the terms of this proposal or the price named herein.

COMPANY NAME: \_\_\_\_\_  
(Print or Type)

AUTHORIZED OFFICER SIGNATURE: \_\_\_\_\_

TITLE OF SIGNATORY: \_\_\_\_\_  
(Print or Type)

BUSINESS ADDRESS: \_\_\_\_\_  
(Print or Type)

State of \_\_\_\_\_ (Affix Corporate Seal)  
County of \_\_\_\_\_

This instrument was acknowledged before me on this \_\_\_\_ day of \_\_\_\_\_, 20\_\_ by \_\_\_\_\_ as President (or other authorized officer) and \_\_\_\_\_ as Secretary of \_\_\_\_\_ (Company Name)

Notary Public Signature: \_\_\_\_\_ (Seal)

**EXHIBIT 7**

**CONTRACT INSURANCE REQUIREMENTS AND INSURANCE CERTIFICATE**

## **INSURANCE REQUIREMENTS**

### **Heat Receiver Services**

Consultant must provide and maintain at Consultant's own expense, during the term of the Agreement and any time period following expiration if Consultant is required to return and perform any of the Services or Additional Services under this Agreement, the insurance coverage and requirements specified below, insuring all operations related to the Agreement.

#### **A. INSURANCE TO BE PROVIDED**

1) Workers Compensation and Employers Liability

Workers Compensation Insurance, as prescribed by applicable law, covering all employees who are to provide a service under this Agreement and Employers Liability coverage with limits of not less than \$500,000 each accident, illness or disease.

2) Commercial General Liability (Primary and Umbrella)

Commercial General Liability Insurance or equivalent with limits of not less than \$2,000,000 per occurrence for bodily injury, personal injury and property damage liability. Coverages must include the following: All premises and operations, products/completed operations, separation of insureds, defense and contractual liability (not to include Endorsement CG 21 39 or equivalent). The City of Chicago is to be named as an additional insured on a primary, non-contributory basis for any liability arising directly or indirectly from the Services.

Subcontractors performing Services for Consultant must maintain limits of not less than \$1,000,000 with the same terms in this subsection.

3) Automobile Liability (Primary and Umbrella)

When any motor vehicles (owned, non-owned and hired) are used in connection with Services to be performed, Consultant must provide Automobile Liability Insurance with limits of not less than \$1,000,000 per occurrence for bodily injury and property damage. The City of Chicago is to be named as an additional insured on a primary, non-contributory basis.

4) Professional Liability

When any professional consultants including property/project managers, accountants, attorneys perform Services in connection with this Agreement, Professional Liability Insurance covering acts, errors or omissions must be maintained or cause to be maintained, with limits of not less than \$2,000,000. When policies are renewed or replaced, the policy retroactive date must coincide with, or precede, start of Services on the Agreement. A claims-made policy which is not renewed or replaced must have an extended reporting period of 2 years.

Subcontractors performing professional services for Consultant must maintain limits of not less than \$1,000,000 with the same terms in this subsection.

5) Valuable Papers

When any plans, designs, drawings, media, data, records, reports, billings and other documents are produced or used under this Agreement, Valuable Papers Insurance must be maintained in an amount to insure against any loss whatsoever, and must have limits sufficient to pay for the re-creation and reconstruction of such records.

6) Blanket Crime

The Consultant must provide Blanket Crime coverage covering all persons handling funds, including rents, under this Agreement, against loss by dishonesty, robbery, theft, destruction or disappearance, computer fraud, credit card forgery and other related crime risks. The policy limit must be written to cover losses in the amount of maximum monies collected, received and in the possession of Consultant at any given time.

7) Property

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

**B. ADDITIONAL REQUIREMENTS**

Consultant must furnish the City of Chicago, Department of Procurement Services, City Hall, Room 403, 121 North LaSalle Street, Chicago IL. 60602, original Certificates of Insurance, or such similar evidence, to be in force on the date of this Agreement, and Renewal Certificates of Insurance, or such similar evidence, if the coverages have an expiration or renewal date occurring during the term of this Agreement. Consultant must submit evidence of insurance on the City of Chicago Insurance Certificate Form (copy attached as Exhibit-) or equivalent prior to execution of Agreement. The receipt of any certificate does not constitute agreement by the City that the insurance requirements in the Agreement have been fully met or that the insurance policies indicated on the certificate are in compliance with all requirements of Agreement. The failure of the City to obtain certificates or other insurance evidence from Consultant is not a waiver by the City of any requirements for the Consultant to obtain and maintain the specified coverages. Consultant must advise all insurers of the Agreement provisions regarding insurance. Non-conforming insurance does not relieve Consultant of the obligation to provide insurance as specified in this Agreement. Nonfulfillment of the insurance conditions may constitute a violation of the Agreement, and the City retains the right to suspend this Agreement until proper evidence of insurance is provided, or the Agreement may be terminated.

The Consultant must provide for 60 days prior written notice to be given to the City in the event coverage is substantially changed, canceled or non-renewed.

Any deductibles or self-insured retentions on referenced insurance coverages must be borne by Consultant.

Consultant hereby waives and agrees to require their insurers to waive their rights of subrogation against the City of Chicago, its employees, elected officials, agents or representatives.

The coverages and limits furnished by Consultant in no way limit the Consultant's liabilities and responsibilities specified within the Agreement or by law.

Any insurance or self-insurance programs maintained by the City of Chicago do not contribute with insurance provided by Consultant under this Agreement.

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

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

Consultant must require all Subcontractors to provide the insurance required herein, or Consultant may provide the coverages for Subcontractors. All Subcontractors are subject to the same insurance requirements of Consultant unless otherwise specified in this Agreement.

If Consultant or Subcontractor desire additional coverages, the party desiring the additional coverages is responsible for the acquisition and cost.

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

## INSURANCE CERTIFICATE OF COVERAGE

Name Insured:		Specification #:	99577
Address (Street):		RFP:	
(City/State/Zip)		Project #:	
		Contract #:	
Description of Operation/Location:			

The insurance policies and endorsements indicated below have been issued to the designated named insured with the policy limits as set forth herein covering the operation described within the contract involving the named insured and the City of Chicago. The Certificate issuer agrees that in the event of cancellation, non-renewal or material change involving the indicated policies, the issuer will provide at least sixty (60) days prior written notice of such change to the City of Chicago at the address shown on this Certificate. This certificate is issued to the City of Chicago in consideration of the contract entered into with the named insured, and it is mutually understood that the City of Chicago relies on this certificate as a basis for continuing such agreement with the named insured:

Type of Insurance	Insurer Name	Policy Number	Expiration Date	Limits of Liability All Limits in Thousands
<b>General Liability</b>				
Claims made [ ] Occurrence				CSL Per Occurrence \$
Premise-Operations				
Explosion/Collapse Underground				General Aggregate \$
Products/Completed-Operations				
Blanket Contractual				Products/Completed Operations Aggregate \$
Broad Form Property Damage				
Independent Contractors				Pollution
Personal Injury				
<b>Automobile Liability</b>				
Excess Liability				CSL Per Occurrence \$
Umbrella Liability				Each Occurrence \$
<b>Worker's Compensation and Employer's Liability</b>				
				Statutory/Illinois Employers Liability \$
<b>Builders Risk/Course of Construction</b>				
Professional Liability				Amount of Contract \$
Owner Contractors Protective				\$
Other				\$

- |    |   |
|----|---|
| a. | Each Insurance policy required by this agreement, excepting policies for worker's compensation and professional liability, will read: "The City of Chicago is an additional insured as respects operations and activities of, or on behalf of the named insured, performed under contract with or permit from the City of Chicago." |
| b. | The General, Automobile and Excess/Umbrella Liability Policies described provide for severability of Interest (cross liability) applicable to the named insured and the City.   |
| c. | Workers Compensation and Property Insurers shall waive all rights of subrogation against the City of Chicago.   |
| d. | The receipt of this certificate by the City does not constitute agreement by the City that the insurance requirements in the contract have been fully met, or that the insurance policies indicated by this certificate are in compliance with all contract requirements.   |

Name and Address of Certificate Holder and Recipient of Notice	
Certificate Holder/Additional Insured	Signature of Authorized Rep _____
City of Chicago	Agency/Company: _____
Procurement Department	Address _____
121 N. LaSalle St., #403	Telephone _____
Chicago, IL 60602	

**For City use only**

Name of City Department requesting certificate: (Using Dept.)			
Address:	ZIP Code:	Attention:	

**EXHIBIT 8**

**SAMPLE**

**CITY OF CHICAGO PROFESSIONAL SERVICES AGREEMENT**

Contract (PO) No \_\_\_\_\_  
Specification No. \_\_\_\_\_  
Vendor No. \_\_\_\_\_

**PROFESSIONAL SERVICES AGREEMENT**

**BETWEEN**

**THE CITY OF CHICAGO  
DEPARTMENT OF HOUSING AND ECONOMIC DEVELOPMENT**

**AND**

\_\_\_\_\_  
**(Company Name)**



\_\_\_\_\_  
**(Subject of Agreement)**

**RAHM EMANUEL  
MAYOR**



## PROFESSIONAL SERVICES AGREEMENT

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## **List of Exhibits**

- EXHIBIT 1 SCOPE OF SERVICES AND TIME LIMITS FOR PERFORMANCE
- EXHIBIT 2 SCHEDULE OF COMPENSATION
- EXHIBIT 3 SPECIAL CONDITIONS REGARDING MBE/WBE COMMITMENT AND SCHEDULES
- EXHIBIT 4 ONLINE ECONOMIC DISCLOSURE STATEMENT AND AFFIDAVIT CERTIFICATE OF FILING
- EXHIBIT 5 INSURANCE REQUIREMENTS AND EVIDENCE OF INSURANCE
- EXHIBIT 6 CONTRACTUAL REQUIREMENTS RELATED TO HIPAA
- EXHIBIT 7 LIST OF KEY PERSONNEL
- EXHIBIT 8 PROVISIONS REQUIRED IF FEDERAL FUNDS ARE INVOLVED
- EXHIBIT 9 CITY OF CHICAGO MULTI-PROJECT LABOR AGREEMENT
- EXHIBIT 10 COMPLIANCE WITH CDBG REGULATIONS

**AGREEMENT**

This Agreement is entered into as of the \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_ ("Effective Date") by and between \_\_\_\_\_, a \_\_\_\_\_ corporation ("**Consultant**"), and the City of Chicago, a municipal corporation and home rule unit of local government existing under the Constitution of the State of Illinois, acting through its Department of \_\_\_\_\_ ("**City**"), at Chicago, Illinois. The City and Consultant agree as follows:

**BACKGROUND INFORMATION**

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

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

NOW, THEREFORE, the City and the Consultant agree as follows:

**ARTICLE 1. INCORPORATION OF BACKGROUND INFORMATION**

The Background Information set forth above is incorporated and made a part of this Agreement by reference.

**TERMS AND CONDITIONS**

**ARTICLE 2. DEFINITIONS**

**2.1 Definitions**

The following words and phrases have the following meanings for purposes of this Agreement:

"**Additional Services**" means those services, which are within the general scope of Services of this Agreement, but beyond the description of services required under Section 3.1, and all services reasonably necessary to complete the Additional Services to the standards of performance required by this Agreement. Any Additional Services requested by the Department require the approval of the City in a written amendment under Section 10.3 of this Agreement before Consultant is obligated to perform those Additional Services and before the City becomes obligated to pay for those Additional Services.

"**Agreement**" means this Professional Services Agreement, including all exhibits attached to it and incorporated in it by reference, and all amendments, modifications or revisions made in accordance with its terms.

"**Chief Procurement Officer**" means the Chief Procurement Officer of the City and any representative duly authorized in writing to act on his behalf.

**Exhibit 8 – Sample Professional Services Agreement**

"**Commissioner**" means the Commissioner of the Department of Housing and Economic Development, and any representative authorized in writing to act on the Commissioner's behalf.

"**Department**" means the City Department of Housing and Economic Development.

"**Services**" means, collectively, the services, duties and responsibilities described in Article 3 and Exhibit 1 of this Agreement and any and all work necessary to complete them or carry them out fully and to the standard of performance required in this Agreement.

"**Subcontractor**" means any person or entity with whom Consultant contracts to provide any part of the Services, including subcontractors and subconsultants of any tier, suppliers and materials providers, whether or not in privity with Consultant.

## **2.2 Interpretation**

(a) The term "**include**" (in all its forms) means "include, without limitation" unless the context clearly states otherwise.

(b) All references in this Agreement to Articles, Sections or Exhibits, unless otherwise expressed or indicated are to the Articles, Sections or Exhibits of this Agreement.

(c) Words importing persons include firms, associations, partnerships, trusts, corporations and other legal entities, including public bodies, as well as natural persons.

(d) Any headings preceding the text of the Articles and Sections of this Agreement, and any table of contents or marginal notes appended to it, are solely for convenience or reference and do not constitute a part of this Agreement, nor do they affect the meaning, construction or effect of this Agreement.

(e) Words importing the singular include the plural and vice versa. Words of the masculine gender include the correlative words of the feminine and neuter genders.

(f) All references to a number of days mean calendar days, unless indicated otherwise.

## **2.3 Incorporation of Exhibits**

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

Exhibit 1	Scope of Services and Time Limits for Performance
Exhibit 2	Schedule of Compensation
Exhibit 3	Special Conditions Regarding MBE/WBE Commitment and Schedules
Exhibit 4	Online Economic Disclosure Statement and Affidavit Certificate of Filing
Exhibit 5	Insurance Requirements and Evidence of Insurance
Exhibit 6	Contractual Requirements Related to HIPAA
Exhibit 7	List of Key Personnel

**Exhibit 8 – Sample Professional Services Agreement**

Exhibit 8	Provisions Required If Federal Funds Are Involved
Exhibit 9	City of Chicago Multi-Project Labor Agreement

## **ARTICLE 3. DUTIES AND RESPONSIBILITIES OF CONSULTANT**

### **3.1 Scope of Services**

This description of Services is intended to be general in nature and is neither a complete description of Consultant's Services nor a limitation on the Services that Consultant is to provide under this Agreement. Consultant must provide the Services in accordance with the standards of performance set forth in Section 3.3. The Services that Consultant must provide are described in Exhibit 1, Scope of Services and Time Limits for Performance.

### **3.2 Deliverables**

In carrying out its Services, Consultant must prepare or provide to the City various Deliverables. "**Deliverables**" include work product, such as written reviews, recommendations, reports and analyses, produced by Consultant for the City.

The City may reject Deliverables that do not include relevant information or data, or do not include all documents or other materials specified in this Agreement or reasonably necessary for the purpose for which the City made this Agreement or for which the City intends to use the Deliverables. If the City determines that Consultant has failed to comply with the foregoing standards, it has 30 days from the discovery to notify Consultant of its failure. If Consultant does not correct the failure, if it is possible to do so, within 30 days after receipt of notice from the City specifying the failure, then the City, by written notice, may treat the failure as a default of this Agreement under Section 9.1.

Partial or incomplete Deliverables may be accepted for review only when required for a specific and well-defined purpose for the benefit of the City and when consented to in advance by the City. Such Deliverables will not be considered as satisfying the requirements of this Agreement and partial or incomplete Deliverables in no way relieve Consultant of its obligations under this Agreement.

### **3.3 Standard of Performance**

Consultant must perform all Services required of it under this Agreement with that degree of skill, care and diligence normally shown by a consultant performing services of a scope and purpose and magnitude comparable with the nature of the Services to be provided under this Agreement. Consultant acknowledges that it is entrusted with or has access to valuable and confidential information and records of the City and with respect to that information, Consultant agrees to be held to the standard of care of a fiduciary. Any review, approval, acceptance of Services or Deliverables or payment for any of the Services by the City does not relieve Consultant of its responsibility for the professional skill and care and technical accuracy of its Services and Deliverables. This provision in no way limits the City's rights against Consultant under this Agreement, at law or in equity.

Consultant must be appropriately licensed to perform the Services, if required by law, and must ensure that all Services that require the exercise of professional skills or judgment are

**Exhibit 8 – Sample Professional Services Agreement**

accomplished by professionals qualified and competent in the applicable discipline and appropriately licensed as may be required by law. Consultant must provide copies of any such licenses. Consultant remains responsible for the professional and technical accuracy of all Services or Deliverables furnished, whether by Consultant or its Subcontractors or others on its behalf. All Deliverables must be prepared in a form and content satisfactory to the Department and delivered in a timely manner consistent with the requirements of this Agreement.

If Consultant fails to comply with the foregoing standards, Consultant must, at the City's option, perform again, at its own expense, all Services required to be re-performed as a direct or indirect result of that failure, unless the reason is failure to have and maintain required licensure. See subsection 9.1 (b)(ii) regarding failure to comply with licensure requirements.

### **3.4 Personnel**

#### **(a) Adequate Staffing**

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

#### **(b) Key Personnel**

Consultant must not reassign or replace Key Personnel without the written consent of the City. "**Key Personnel**" means those job titles and the persons assigned to those positions in accordance with the provisions of this Section 3.4(b). The Department may at any time in writing notify Consultant that the City will no longer accept performance of Services under this Agreement by one or more Key Personnel listed. Upon that notice Consultant must immediately suspend the key person or persons from performing Services under this Agreement and must replace him or them in accordance with the terms of this Agreement. Key Personnel, if any, are identified in Exhibit 7.

#### **(c) Salaries and Wages**

Consultant and Subcontractors must pay all salaries and wages due all employees performing Services under this Agreement unconditionally and at least once a month without deduction or rebate on any account, except only for those payroll deductions that are mandatory by law or are permitted under applicable law and regulations. If in the performance of this Agreement Consultant underpays any such salaries or wages, the Comptroller for the City may withhold, out of payments due to Consultant, an amount sufficient to pay to employees underpaid the difference between the salaries or wages required to be paid under this Agreement and the salaries or wages actually paid these employees for the total number of hours worked. The amounts withheld may be disbursed by the Comptroller for and on account of Consultant to the respective employees to whom they are due. The parties acknowledge that this Section 3.4(c) is solely for the benefit of the City and that it does not grant any third party beneficiary rights.

### **3.5 Minority and Women's Business Enterprises Commitment**

In the performance of this Agreement, including the procurement and lease of materials or equipment, Consultant must abide by the minority and women's business enterprise commitment requirements of the Municipal Code of Chicago ("**Municipal Code**"), §§ 2-92-420 *et seq.* (1990), except to the extent waived by the Chief Procurement Officer and the Special Conditions Regarding MBE/WBE Commitment set forth in Exhibit 3. Consultant's completed Schedules C-1 and D-1 in Exhibit 3, evidencing its compliance with this requirement, are a part of this Agreement, upon acceptance by the Chief Procurement Officer. Consultant must utilize minority and women's business enterprises at the greater of the amounts listed in those Schedules C-1 and D-1 or the percentages listed in them as applied to all payments received from the City.

### **3.6 Insurance**

Consultant must provide and maintain at Consultant's own expense, during the term of this Agreement and any time period following expiration if Consultant is required to return and perform any of the Services or Additional Services under this Agreement, the insurance coverages and requirements specified in Exhibit 5 of this Agreement, insuring all operations related to this Agreement.

### **3.7 Indemnification**

(a) Consultant must defend, indemnify, and hold harmless the City, its officers, representatives, elected and appointed officials, agents and employees from and against any and all Losses, including those related to:

- (i) injury, death or damage of or to any person or property;
- (ii) any infringement or violation of any property right (including any patent, trademark or copyright);
- (iii) Consultant's failure to perform or cause to be performed Consultant's promises and obligations as and when required under this Agreement, including Consultant's failure to perform its obligations to any Subcontractor;
- (iv) the City's exercise of its rights and remedies under Section 9.2 of this Agreement; and
- (v) injuries to or death of any employee of Consultant or any Subcontractor under any workers compensation statute.

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

**Exhibit 8 – Sample Professional Services Agreement**



(c) At the City Corporation Counsel's option, Consultant 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 Consultant of any of its obligations under this Agreement. Any settlement must be made only with the prior written consent of the City Corporation Counsel, if the settlement requires any action on the part of the City.

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

(e) The indemnities in this section survive expiration or termination of this Agreement for matters occurring or arising during the term of this Agreement or as the result of or during Consultant's performance of Services beyond the term. Consultant acknowledges that the requirements set forth in this section to defend, indemnify, and hold harmless the City are apart from and not limited by the Consultant's duties under this Agreement, including the insurance requirements in Exhibit 5 of this Agreement.

### **3.8 Ownership of Documents**

All Deliverables, data, findings or information in any form prepared, assembled or encountered by or provided to Consultant under this Agreement are property of the City, including, as further described in Section 3.9 below, all copyrights inherent in them or their preparation. During performance of its Services, Consultant is responsible for any loss or damage to the Deliverables, data, findings or information while in Consultant's or any Subcontractor's possession. Any such lost or damaged Deliverables, data, findings or information must be restored at the expense of Consultant. If not restorable, Consultant must bear the cost of replacement and of any loss suffered by the City on account of the destruction, as provided in Section 3.7.

### **3.9 Copyright Ownership**

Consultant and the City intend that, to the extent permitted by law, the Deliverables to be produced by Consultant at the City's instance and expense under this Agreement are conclusively deemed "works made for hire" within the meaning and purview of Section 101 of the United States Copyright Act, 17 U.S.C. §101 *et seq.*, and that the City will be the sole copyright owner of the Deliverables and of all aspects, elements and components of them in which copyright can subsist, and of all rights to apply for copyright registration or prosecute any claim of infringement.

To the extent that any Deliverable does not qualify as a "work made for hire," Consultant hereby irrevocably grants, conveys, bargains, sells, assigns, transfers and delivers to the City, its successors and assigns, all right, title and interest in and to the copyrights and all U.S. and foreign copyright registrations, copyright applications and copyright renewals for them, and

other intangible, intellectual property embodied in or pertaining to the Deliverables prepared for the City under this Agreement, and all goodwill relating to them, free and clear of any liens, claims or other encumbrances, to the fullest extent permitted by law. Consultant will, and will cause all of its Subcontractors, employees, agents and other persons within its control to, execute all documents and perform all acts that the City may reasonably request in order to assist the City in perfecting its rights in and to the copyrights relating to the Deliverables, at the sole expense of the City. Consultant warrants to the City, its successors and assigns, that on the date of transfer Consultant is the lawful owner of good and marketable title in and to the copyrights for the Deliverables and has the legal rights to fully assign them. Consultant further warrants that it has not assigned and will not assign any copyrights and that it has not granted and will not grant any licenses, exclusive or nonexclusive, to any other party, and that it is not a party to any other agreements or subject to any other restrictions with respect to the Deliverables. Consultant warrants that the Deliverables are complete, entire and comprehensive, and that the Deliverables constitute a work of original authorship.

### **3.10 Records and Audits**

#### **(a) Records**

(i) Consultant must deliver or cause to be delivered to the City all documents, including all Deliverables prepared for the City under the terms of this Agreement, promptly in accordance with the time limits prescribed in this Agreement, and if no time limit is specified, then upon reasonable demand for them or upon termination or completion of the Services under this Agreement. If Consultant fails to make such delivery upon demand, then Consultant must pay to the City any damages the City may sustain by reason of Consultant's failure.

(ii) Consultant must maintain any such records including Deliverables not delivered to the City or demanded by the City for a period of 5 years after the final payment made in connection with this Agreement. Consultant must not dispose of such documents following the expiration of this period without notification of and written approval from the City in accordance with Article 11.

#### **(b) Audits**

(i) Consultant and any of Consultant's Subcontractors must furnish the Department with all information that may be requested pertaining to the performance and cost of the Services. Consultant must maintain records showing actual time devoted and costs incurred. Consultant must keep books, documents, papers, records and accounts in connection with the Services open to audit, inspection, copying, abstracting and transcription and must make these records available to the City and any other interested governmental agency, at reasonable times during the performance of its Services.

(ii) To the extent that Consultant conducts any business operations separate and apart from the Services required under this Agreement using, for example, personnel, equipment, supplies or facilities also used in connection with this Agreement, then Consultant must maintain and make similarly available to the City detailed records supporting Consultant's allocation to this Agreement of the costs and expenses attributable to any such shared usages.

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

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

(v) The City may in its sole discretion audit the records of Consultant or its Subcontractors, or both, at any time during the term of this Agreement or within five years after the Agreement ends, in connection with the goods, work, or Services provided under this Agreement. Each calendar year or partial calendar year is considered an "audited period." If, as a result of any such audit, it is determined that Consultant or any of its Subcontractors has overcharged the City in the audited period, the City will notify Consultant. Consultant must then promptly reimburse the City for any amounts the City has paid Consultant due to the overcharges and also some or all of the cost of the audit, as follows:

A. If the audit has revealed overcharges to the City representing less than 5% of the total value, based on the Agreement prices, of the goods, work, or Services provided in the audited period, then the Consultant 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;

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

Failure of Consultant to reimburse the City in accordance with subsection A or B above is an event of default under Section 9.1 of this Agreement, and Consultant will be liable for all of the City's costs of collection, including any court costs and attorneys' fees.

### **3.11 Confidentiality**

(a) All Deliverables and reports, data, findings or information in any form prepared, assembled or encountered by or provided by Consultant under this Agreement are property of the City and are confidential, except as specifically authorized in this Agreement or as may be required by law. Consultant 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 Consultant 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. Consultant must implement such measures as may be necessary to ensure that its staff and its Subcontractors are bound by the confidentiality provisions in this Agreement.

(b) Consultant 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 Agreement,

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

(c) If Consultant 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 Consultant's possession by reason of this Agreement, Consultant must immediately give notice to the Commissioner 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, data or documents are submitted to a court or other third party. Consultant, however, is not obligated to withhold the delivery beyond the time ordered by a court or administrative agency, unless the subpoena or request is quashed or the time to produce is otherwise extended.

(d) HIPAA and AIDS Confidentiality Act. To the extent not defined here the capitalized terms below and in Exhibit 6 will have the same meaning as set forth in the Health Insurance Portability and Accountability Act (Act). See 45 CFR parts 160, 162 and 164. Consultant and all its Subcontractors must comply with the Act and all rules and regulations applicable to it including the Privacy Rule, which sets forth the Standards for Privacy of Individually Identifiable Health Information at 45 CFR part 160 and part 164 subparts A and E; the Standards for Electronic Transactions, which are located at 45 CFR parts 160 and 162 and the Security Standards, which are located at 45 CFR parts 160, 162 and 164. Consultant must also comply with the Illinois AIDS Confidentiality Act (410 ILCS 305/1 through 16) and the rules and regulations of the Illinois Department of Public Health promulgated under it. If Consultant fails to comply with the applicable provisions under the ACT or the Illinois AIDS Confidentiality Act, such failure will constitute an event of default under this Agreement for which no opportunity for cure will be provided.

Additionally, if Consultant is a Business Associate it must comply with all requirements of the Act applicable to Business Associates including the provisions contained in Exhibit 6.

### **3.12 Assignments and Subcontracts**

(a) Consultant must not assign, delegate or otherwise transfer all or any part of its rights or obligations under this Agreement: (i) unless otherwise provided for elsewhere in this Agreement; or (ii) without the express written consent of the Chief Procurement Officer and the Department. The absence of such a provision or written consent voids the attempted assignment, delegation or transfer and is of no effect as to the Services or this Agreement. No approvals given by the Chief Procurement Officer, including approvals for the use of any Subcontractors, operate to relieve Consultant of any of its obligations or liabilities under this Agreement.

(b) All Subcontractors are subject to the prior approval of the Chief Procurement Officer. Approval for the use of any Subcontractor in performance of the Services is conditioned upon performance by the Subcontractor in accordance with the terms and conditions of this Agreement. If any Subcontractor fails to perform the Services in accordance with the terms and conditions of this Agreement to the satisfaction of the Department, the City has the absolute right upon written notification to immediately rescind approval and to require the performance of this Agreement by Consultant personally or through any other City-approved Subcontractor. Any approval for the use of Subcontractors in the performance of the Services under this

**Exhibit 8 – Sample Professional Services Agreement**

Agreement under no circumstances operates to relieve Consultant of any of its obligations or liabilities under this Agreement.

(c) Consultant, upon entering into any agreement with a Subcontractor, must furnish upon request of the Chief Procurement Officer or the Department a copy of its agreement. Consultant must ensure that all subcontracts contain provisions that require the Services be performed in strict accordance with the requirements of this Agreement, provide that the Subcontractors are subject to all the terms of this Agreement and are subject to the approval of the Department and the Chief Procurement Officer. If the agreements do not prejudice any of the City's rights under this Agreement, such agreements may contain different provisions than are provided in this Agreement with respect to extensions of schedule, time of completion, payments, guarantees and matters not affecting the quality of the Services.

(d) Consultant must not transfer or assign any funds or claims due or to become due under this Agreement without the prior written approval of the Chief Procurement Officer. The attempted transfer or assignment of any funds, either in whole or in part, or any interest in them, which are due or to become due to Consultant under this Agreement, without such prior written approval, has no effect upon the City.

(e) Under § 2-92-245 of the Municipal Code, the Chief Procurement Officer may make direct payments to Subcontractors for Services performed under this Agreement. Any such payment has the same effect as if the City had paid Consultant that amount directly. Such payment by the City to Consultant's Subcontractor under no circumstances operates to relieve Consultant of any of its obligations or liabilities under this Agreement. This section is solely for the benefit of the City and does not grant any third party beneficiary rights.

(f) The City reserves the right to assign or otherwise transfer all or any part of its interests under this Agreement to any successor.

## **ARTICLE 4. DURATION OF AGREEMENT**

### **4.1 Term of Performance**

This Agreement takes effect as of the Effective Date and continues, except as provided under Sections 5.4 or Article 9, until the later of (i) \_\_\_\_\_, as that date may be extended under Section 4.3, or (ii) completion of the final task assigned before the date, if and as extended, in (i).

### **4.2 Timeliness of Performance**

(a) Consultant must provide the Services and Deliverables within the time limits required under any task order or request for services pursuant to the provisions of Section 3.1 and Exhibit 1. **Further, Consultant acknowledges that TIME IS OF THE ESSENCE and that the failure of Consultant to comply with the required time limits may result in economic or other losses to the City.**

(b) Neither Consultant nor Consultant's agents, employees or Subcontractors are entitled to any damages from the City, nor is any party entitled to be reimbursed by the City, for

damages, charges or other losses or expenses incurred by Consultant by reason of delays or hindrances in the performance of the Services, whether or not caused by the City.

#### **4.3 Agreement Extension Option**

This Agreement will be in effect for the dates indicated within this Agreement for a thirty six (36) month term. The Chief Procurement Officer may exercise the City's right to extend this Agreement following the expiration of the base Agreement term for up to thirty six (36) months, subject to acceptable performance by the Consultant and contingent upon the appropriation of sufficient funds for the procurement of services provided for in this Agreement.

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

With the same amount of notice as for options, the City reserves the right to extend the Agreement for a period of no more than one hundred eighty-one (181) calendar days, either in lieu of exercising an option period or following the exhaustion of all option periods, for the purpose of providing continuity of service while procuring a replacement contract.

### **ARTICLE 5. COMPENSATION**

#### **5.1 Basis of Payment**

The City will pay Consultant according to the Schedule of Compensation in the attached Exhibit 2 for the completion of the Services in accordance with this Agreement, including the standard of performance in Section 3.3.

#### **5.2 Method of Payment**

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

#### **5.3 Invoices**

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:

INVOICES  
City of Chicago, Office of the City Comptroller  
33 N. LaSalle St., Room 700  
Chicago, IL 60602

OR

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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 compensation schedule.

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. As stated the City of Chicago is exempt from paying State of Illinois sales tax and Federal excise taxes on purchases.

If required, Subcontractor Payment Certification forms must be mailed to the department that ordered the goods or services.

#### **5.4 Taxes**

Federal Excise Tax does not apply to materials purchased by the City of Chicago by virtue of Exemption Certificate No. 36-6005820 and State of Illinois Sales Tax does not apply by virtue of Exemption Certificate No. E9998-1874-07. Illinois Retailers Occupation Tax, Use Tax, and Municipal Retailers Occupation Tax do not apply to materials or services purchased by the City of Chicago by virtue of Statute. The price or prices quoted herein shall include all other Federal and/or State, direct and/or indirect taxes which apply. The prices quoted herein shall comply with all Federal laws and regulations.

#### **5.5 Funding**

The source of funds for payments under this Agreement is Fund number\_\_\_\_\_. Payments under this Agreement must not exceed \$\_\_\_\_\_ without a written amendment in accordance with Section 10.3. Funding for this Agreement is subject to the availability of funds and their appropriation by the City Council of the City.

**Exhibit 8 – Sample Professional Services Agreement**

## **5.6 Non-Appropriation**

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

## **5.7 Subcontractor Payments**

The Consultant will be responsible for reporting payments to all Subcontractors on a monthly basis in the form of an electronic audit. Upon the first payment issued by the City of Chicago to the Consultant for services performed, on the first day of each month and every month thereafter, e-mail and/or fax audit notifications will be sent out to the Consultant 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.

Once the Consultant has reported payments made to each MBE and WBE, including zero dollar amount payments, the MBE and WBE will receive an e-mail and/or fax notification requesting them to log onto the system and confirm payments received. All monthly confirmations must be reported on or before the 20<sup>th</sup> day of each month. Consultant and Subcontractor reporting to the C2 system must be completed by the 25<sup>th</sup> of each month or payments may be withheld.

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

## **ARTICLE 6. DISPUTES**

Except as otherwise provided in this Agreement, Consultant must and the City may bring any dispute arising under this Agreement which is not resolved by the parties to the Chief Procurement Officer for decision based upon the written submissions of the parties. (A copy of the "Regulations of the Department of Procurement Services for Resolution of Disputes between Contractors and the City of Chicago" is available in City Hall, 121 N. LaSalle Street, Room 301, Bid and Bond Room, Chicago, Illinois 60602.) The Chief Procurement Officer will issue a written decision and send it to the Consultant by mail. The decision of the Chief Procurement Officer is final and binding. The sole and exclusive remedy to challenge the decision of the Chief Procurement Officer is judicial review by means of a common law writ of certiorari.

## **ARTICLE 7. COMPLIANCE WITH ALL LAWS**

**Exhibit 8 – Sample Professional Services Agreement**



## **7.1 Compliance with All Laws Generally**

(a) Consultant must observe and comply with all applicable federal, state, county and municipal laws, statutes, ordinances and executive orders, in effect now or later and whether or not they appear in this Agreement, including those set forth in this Article 7, and Consultant must pay all taxes and obtain all licenses, certificates and other authorizations required by them. Consultant must require all Subcontractors to do so, also. Further, Consultant must execute an online Economic Disclosure Statement and Affidavit ("**EDS**") which includes a Disclosure of Retained Parties. Submit an electronically signed, one page Certificate of Filing to Exhibit 4 which validates that the EDS has been filed. The web address to submit your EDS is <http://webapps.cityofchicago.org/EDSWeb>. Notwithstanding acceptance by the City of the EDS, Consultant's failure in the EDS to include all information required under the Municipal Code renders this Agreement voidable at the option of the City. Consultant must promptly update its online EDS(s) with the City whenever any information or response provided in the EDS(s) is no longer complete and accurate.

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

(c) The Consultant will comply with Section 2-154-020 of the Municipal Code of Chicago. Failure by the Consultant or any controlling person (as defined in Section 1-23-010 of the Municipal Code of Chicago) thereof to maintain eligibility to do business with the City of Chicago as required by Section 1-23-030 of the Municipal Code of Chicago shall be grounds for termination of this Agreement.

## **7.2 Nondiscrimination**

### **(a) Consultant**

Consultant must comply with applicable federal, state, and local laws and related regulations prohibiting discrimination against individuals and groups. If this Agreement is federally funded in whole or in part, additional provisions related to nondiscrimination may be set forth in Exhibit 8.

#### **(i) Federal Requirements**

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

Consultant must comply with, and the procedures Consultant utilizes and the Services Consultant provides under this Agreement must comply with, the Civil Rights Act of 1964, 42 U.S.C. sec. 2000e *et seq.* (1981), as amended and the Civil Rights Act of 1991, P.L. 102-166. Attention is called to: Exec. Order No. 11246, 30 Fed. Reg. 12,319 (1965), reprinted in 42 U.S.C. 2000e note, as amended by Exec. Order No. 11375, 32 Fed. Reg. 14,303 (1967) and by Exec. Order No. 12086, 43 Fed. Reg. 46,501 (1978); Age Discrimination Act, 42 U.S.C. §§ 6101-6106 (1981); Age Discrimination in Employment Act, 29 U.S.C. §§621-34; Rehabilitation Act of 1973, 29 U.S.C. §§ 793-794 (1981); Americans with Disabilities Act, 42 U.S.C. §12101 *et seq.*; 41 C.F.R. Part 60 *et seq.* (1990); and all other applicable federal statutes, regulations and other laws.

(ii) **State Requirements**

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

(iii) **City Requirements**

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

(b) **Subcontractors**

Consultant must incorporate all of this Section 7.2 by reference in all agreements entered into with any suppliers of materials, furnisher of services, Subcontractors of any tier, and labor organizations that furnish skilled, unskilled and craft union skilled labor, or that may provide any such materials, labor or services in connection with this Agreement. Further, Consultant must furnish and must cause each of its Subcontractor(s) to furnish such reports and information as requested by the federal, state, and local agencies charged with enforcing such laws and regulations, including the Chicago Commission on Human Relations.

**7.3 Inspector General**

It is the duty of any bidder, proposer or Consultant, 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, Consultant, Subcontractor or such applicant to cooperate with the Inspector General or Legislative Inspector General in any investigation or hearing undertaken pursuant to Chapter 2-56 or 2-55, respectively, of the Municipal Code. Consultant understands and will abide by all provisions of Chapter 2-56 and 2-55 of the Municipal Code. All subcontracts must inform Subcontractors of the provision and require understanding and compliance with it.

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#### **7.4 Office of Compliance**

It is the duty of any bidder, proposer, Consultant, Contractor, all Subcontractors, and every applicant for certification of eligibility for a City Agreement or program, and all officers, directors, agents, partners and employees of any bidder, proposer, consultant or such applicant to cooperate with the Office of Compliance in any investigation or audit pursuant to Chapter 2-26 of the Municipal Code of Chicago. The Consultant understands and will abide by all provisions of Chapter 2-26 of the Municipal Code of Chicago. All subcontracts will inform Subcontractors of this provision and require understanding and compliance with it.

#### **7.5 MacBride Ordinance**

The City of Chicago through the passage of the MacBride Principles Ordinance seeks to promote fair and equal employment opportunities and labor practices for religious minorities in Northern Ireland and provide a better working environment for all citizens in Northern Ireland.

In accordance with Section 2-92-580 of the Municipal Code of the City of Chicago, if Consultant conducts any business operations in Northern Ireland, the Consultant must make all reasonable and good faith efforts to conduct any business operations in Northern Ireland in accordance with the MacBride Principles for Northern Ireland as defined in Illinois Public Act 85-1390 (1988 Ill. Laws 3220).

The provisions of this Section 7.5 do not apply to contracts for which the City receives funds administered by the United States Department of Transportation, except to the extent Congress has directed that the Department of Transportation not withhold funds from states and localities that choose to implement selective purchasing policies based on agreement to comply with the MacBride Principles for Northern Ireland, or to the extent that such funds are not otherwise withheld by the Department of Transportation.

#### **7.6 Business Relationships with Elected Officials**

Pursuant to § 2-156-030(b) of the Municipal Code, it is illegal for any elected official of the City, 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 a business relationship, or to participate in any discussion in any City Council committee hearing or in any City Council meeting or to vote on any matter involving the person with whom an elected official has a business relationship. Violation of Section 2-156-030(b) by any elected official with respect to this Agreement is grounds for termination of this Agreement. The term business relationship is defined as set forth in § 2-156-080 of the Municipal Code.

Section 2-156-080 defines a "business relationship" as any contractual or other private business dealing of an official, or his or her spouse, or of any entity in which an official or his or her spouse has a financial interest, with a person or entity which entitles an official to compensation or payment in the amount of \$2,500 or more in a calendar year; provided, however, a financial interest shall not include: (i) any ownership through purchase at fair market value or inheritance of less than one percent of the share of a corporation, or any corporate subsidiary, parent or affiliate thereof, regardless of the value of or dividends on such shares, if such shares are registered on a securities exchange pursuant to the Securities Exchange Act of

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1934, as amended; (ii) the authorized compensation paid to an official or employee for his office or employment; (iii) any economic benefit provided equally to all residents of the City; (iv) a time or demand deposit in a financial institution; or (v) an endowment or insurance policy or annuity contract purchased from an insurance company. A "contractual or other private business dealing" shall not include any employment relationship of an official's spouse with an entity when such spouse has no discretion concerning or input relating to the relationship between that entity and the City.

## 7.7 Chicago "Living Wage" Ordinance

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

(i) If Consultant has 25 or more full-time employees, and

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

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

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

(c) As of July 1, 2011, the Base Wage is \$11.18 per hour, and each July 1 thereafter, the Base Wage will be adjusted using the most recent federal poverty guidelines for a family of four as published annually by the U.S. Department of Health and Human Services, to constitute the following: the poverty guidelines for a family of four divided by 2000 hours or the current base wage, whichever is higher. The currently applicable Base Wage is available from the Department of Procurement Services. At all times during the term of this Agreement, Consultant and all other Performing Parties must pay the Base Wage (as adjusted in accordance with the above). If the payment of prevailing wages is required for Services done under this Agreement, and the prevailing wages for Covered Employees are higher than the Base Wage, then Consultant and all other Performing Parties must pay the prevailing wage rates.

(d) Consultant must include provisions in all subcontracts requiring its Subcontractors to pay the Base Wage to Covered Employees. Consultant agrees to provide the City with documentation acceptable to the Chief Procurement Officer demonstrating that all Covered Employees, whether employed by Consultant or by a Subcontractor, have been paid the Base Wage, upon the City's request for such documentation. The City may independently

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audit Consultant and/or Subcontractors to verify compliance with this section. Failure to comply with the requirements of this section will be an event of default under this Agreement, and further, failure to comply may result in ineligibility for any award of a City contract or subcontract for up to 3 years.

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

## **7.8 Environmental Warranties and Representations**

In accordance with Section 11-4-1600(e) of the Municipal Code of Chicago, Consultant warrants and represents that it, and to the best of its knowledge, its subcontractors have not violated and are not in violation of the following sections of the Code (collectively, the Waste Sections):

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

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

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

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

## **7.9 Prohibition on Certain Contributions**

Consultant agrees that Consultant, any person or entity who directly or indirectly has an ownership or beneficial interest in Consultant of more than 7.5 percent ("**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 percent ("**Sub-owners**") and spouses and domestic partners of such Sub-owners (Consultant and all the other preceding classes of persons and entities are together, the

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**"Identified Parties"**), shall not make a contribution of any amount to the Mayor of the City of Chicago ("**Mayor**") or to his political fundraising committee (i) after execution of this Agreement by Consultant, (ii) while this Agreement or any Other Contract is executory, (iii) during the term of this Agreement or any Other Contract between Consultant and the City, or (iv) during any period while an extension of this Agreement or any Other Contract is being sought or negotiated.

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

Consultant agrees that it 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.

Consultant agrees that 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.

Consultant agrees that a 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 Agreement, 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 Agreement, under Other Contract, at law and in equity. This provision amends any Other Contract and supersedes any inconsistent provision contained therein.

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

For purposes of this provision:

"Bundle" means to collect contributions from more than one source which are then delivered by one person to the Mayor or to his political fundraising committee.

"Other Contract" means any other agreement with the City of Chicago to which Consultant is a party that is (i) formed under the authority of chapter 2-92 of the Municipal Code of Chicago; (ii) entered into for the purchase or lease of real or personal property; or (iii) for materials, supplies, equipment or services which are approved or authorized by the city council.

"Contribution" means a "political contribution" as defined in Chapter 2-156 of the Municipal Code of Chicago, as amended.

Individuals are "Domestic Partners" if they satisfy the following criteria:

- (A) they are each other's sole domestic partner, responsible for each other's common welfare; and
- (B) neither party is married; and
- (C) the partners are not related by blood closer than would bar marriage in the State of Illinois; and
- (D) each partner is at least 18 years of age, and the partners are the same sex, and the partners reside at the same residence; and
- (E) two of the following four conditions exist for the partners:
  - 1. The partners have been residing together for at least 12 months.
  - 2. The partners have common or joint ownership of a residence.
  - 3. The partners have at least two of the following arrangements:
    - a. joint ownership of a motor vehicle;
    - b. a joint credit account;
    - c. a joint checking account;
    - d. a lease for a residence identifying both domestic partners as tenants.
  - 4. Each partner identifies the other partner as a primary beneficiary in a will.

"Political fundraising committee" means a "political fundraising committee" as defined in Chapter 2-156 of the Municipal code of Chicago, as amended."

#### **7.10 Firms Owned or Operated by Individuals with Disabilities**

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

#### **7.11 Deemed Inclusion**

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

#### **7.12 False Statements**

- (a) 1-21-010 False Statements

Any person who knowingly makes a false statement of material fact to the city in violation of any statute, ordinance or regulation, or who knowingly falsifies any statement of material fact made in connection with an application, report, affidavit, oath, or attestation, including a statement of material fact made in connection with a bid,

proposal, contract or economic disclosure statement or affidavit, is liable to the city for a civil penalty of not less than \$500.00 and not more than \$1,000.00, plus up to three times the amount of damages which the city sustains because of the person's violation of this section. A person who violates this section shall also be liable for the city's litigation and collection costs and attorney's fees.

The penalties imposed by this section shall be in addition to any other penalty provided for in the municipal code. (Added Coun. J. 12-15-04, p. 39915, § 1)

(b) 1-21-020 Aiding and abetting.

Any person who aids, abets, incites, compels or coerces the doing of any act prohibited by this chapter shall be liable to the city for the same penalties for the violation. (Added Coun. J. 12-15-04, p. 39915, § 1)

(c) 1-21-030 Enforcement.

In addition to any other means authorized by law, the corporation counsel may enforce this chapter by instituting an action with the department of administrative hearings. (Added Coun. J. 12-15-04, p. 39915, § 1)

## **ARTICLE 8. SPECIAL CONDITIONS**

### **8.1 Warranties and Representations**

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

(a) warrants that Consultant is appropriately licensed under Illinois law to perform the Services required under this Agreement and will perform no Services for which a professional license is required by law and for which Consultant is not appropriately licensed;

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

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

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

(e) represents that it has carefully examined and analyzed the provisions and requirements of this Agreement; it understands the nature of the Services required; from its own analysis it has satisfied itself as to the nature of all things needed for the performance of this Agreement; this Agreement is feasible of performance in accordance with all of its provisions

## **Exhibit 8 – Sample Professional Services Agreement**



and requirements, and Consultant warrants it can and will perform, or cause to be performed, the Services in strict accordance with the provisions and requirements of this Agreement;

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

(g) acknowledges that any certification, affidavit or acknowledgment made under oath in connection with this Agreement is made under penalty of perjury and, if false, is also cause for termination under Sections 9.2 and 9.3 of this Agreement; and

(h) warrants and represents that neither Consultant nor an Affiliate of Consultant (as defined below) appears on the Specially Designated Nationals List, the Denied Persons List, the unverified List, the Entity List, or the Debarred List as maintained by the Office of Foreign Assets Control of the U.S. Department of the Treasury or by the Bureau of Industry and Security of the U.S. Department of Commerce (or their successors), or on any other list of persons or entities with which the City may not do business under any applicable law, rule, regulation, order or judgment. "Affiliate of Consultant" means a person or entity that directly (or indirectly through one or more intermediaries) controls, is controlled by or is under common control with Consultant. 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.

## **8.2 Ethics**

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

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

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

(b) Consultant further acknowledges that any Agreement entered into, negotiated or performed in violation of any of the provisions of Chapter 2-156 is voidable as to the City.

## **8.3 Joint and Several Liability**

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

**Exhibit 8 – Sample Professional Services Agreement**

#### **8.4 Business Documents**

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

#### **8.5 Conflicts of Interest**

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

(b) Consultant represents that it, and to the best of its knowledge, its Subcontractors if any (Consultant and Subcontractors will be collectively referred to in this Section 8.5 as "**Consulting Parties**"), presently have no direct or indirect interest and will not acquire any direct or indirect interest in any project or contract that would conflict in any manner or degree with the performance of its Services under this Agreement.

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

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

(e) Further, Consulting Parties must not assign any person having any conflicting interest to perform any Services under this Agreement or have access to any confidential information, as described in Section 3.11 of this Agreement. If the City, by the Commissioner in his reasonable judgment, determines that any of Consulting Parties' services for others conflict with the Services that Consulting Parties are to render for the City under this Agreement, Consulting Parties must terminate such other services immediately upon request of the City.

(f) Furthermore, if any federal funds are to be used to compensate or reimburse Consultant under this Agreement, Consultant represents that it is and will remain in compliance with federal restrictions on lobbying set forth in Section 319 of the Department of the Interior and Related Agencies Appropriations Act for Fiscal Year 1990, 31 U.S.C. § 1352, and

related rules and regulations set forth at 54 Fed. Reg. 52,309 ff. (1989), as amended. If federal funds are to be used, Consultant must execute a Certification Regarding Lobbying, which is part of the EDS and incorporated by reference as if fully set forth here.

#### **8.6 Non-Liability of Public Officials**

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

#### **8.7 EDS / Certification Regarding Suspension and Debarment**

Consultant certifies, as further evidenced in the EDS attached as Exhibit 4, by its acceptance of this Agreement that neither it nor its principals is presently debarred, suspended, proposed for debarment, declared ineligible or voluntarily excluded from participation in this transaction by any federal department or agency. Consultant further agrees by executing this Agreement that it will include this clause without modification in all lower tier transactions, solicitations, proposals, contracts and subcontracts. If Consultant or any lower tier participant is unable to certify to this statement, it must attach an explanation to the Agreement.

### **ARTICLE 9. EVENTS OF DEFAULT, REMEDIES, TERMINATION, SUSPENSION AND RIGHT TO OFFSET**

#### **9.1 Events of Default Defined**

The following constitute events of default:

- (a) Any material misrepresentation, whether negligent or willful and whether in the inducement or in the performance, made by Consultant to the City.
- (b) Consultant's failure to perform any of its obligations under this Agreement including the following:
  - (i) Failure to perform the Services with sufficient personnel and equipment or with sufficient material to ensure the timely performance of the Services;
  - (ii) Failure to have and maintain all professional licenses required by law to perform the Services;
  - (iii) Failure to timely perform the Services;
  - (iv) Failure to perform the Services in a manner reasonably satisfactory to the Commissioner or the Chief Procurement Officer or inability to perform the Services satisfactorily as a result of insolvency, filing for bankruptcy or assignment for the benefit of creditors;

(v) 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;

(vi) Discontinuance of the Services for reasons within Consultant's reasonable control;

(vii) Failure to comply with Section 7.1 in the performance of the Agreement;

(viii) Failure promptly to update EDS(s) furnished in connection with this Agreement when the information or responses contained in it or them is no longer complete or accurate; and

(ix) Any other acts specifically stated in this Agreement as constituting an act of default.

(c) Any change in ownership or control of Consultant without the prior written approval of the Chief Procurement Officer (when such prior approval is permissible by law), which approval the Chief Procurement Officer will not unreasonably withhold.

(d) Consultant's default under any other agreement it may presently have or may enter into with the City for the duration of this Agreement. Consultant acknowledges that in the event of a default under this Agreement the City may also declare a default under any such other agreements.

(e) Consultant's violation of City ordinance(s) unrelated to performance under the Agreement such that, in the opinion of the Chief Procurement Officer, it indicates a willful or reckless disregard for City laws and regulations.

(f) Consultant's failure to update its EDS to reflect any changes in information, including changes in ownership, and to provide it to the City as provided under Section 7.1(a).

## **9.2 Remedies**

(a) Notices. The occurrence of any event of default permits the City, at the City's sole option, to declare Consultant in default. The Chief Procurement Officer may in his sole discretion give Consultant an opportunity to cure the default within a certain period of time, which period of time must not exceed 30 days unless extended by the Chief Procurement Officer. Whether to declare Consultant in default is within the sole discretion of the Chief Procurement Officer and neither that decision nor the factual basis for it is subject to review or challenge under the Disputes provision of this Agreement.

The Chief Procurement Officer will give Consultant 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 the Chief Procurement Officer gives a Default Notice, he will also indicate any present intent he may have to terminate this Agreement, and the decision to terminate is final and effective upon giving the notice. If the Chief Procurement Officer decides not to terminate, this decision will not preclude him from later deciding to terminate the Agreement in a later notice, which will be final and effective upon the giving of the notice or on the date set forth in the notice, whichever is later. The Chief Procurement Officer may give a

Default Notice if Consultant fails to effect a cure within the cure period given in a Cure Notice. When a Default Notice with intent to terminate is given as provided in this Section 9.2 and Article 11, Consultant must discontinue any Services, unless otherwise directed in the notice, and deliver all materials accumulated in the performance of this Agreement, whether completed or in the process, to the City.

(b) Exercise of Remedies. After giving a Default Notice, the City may invoke any or all of the following remedies:

(i) The right to take over and complete the Services, or any part of them, at Consultant's expense and as agent for Consultant, either directly or through others, and bill Consultant for the cost of the Services, and Consultant must pay the difference between the total amount of this bill and the amount the City would have paid Consultant under the terms and conditions of this Agreement for the Services that were assumed by the City as agent for Consultant under this Section 9.2;

(ii) The right to terminate this Agreement as to any or all of the Services yet to be performed effective at a time specified by the City;

(iii) The right of specific performance, an injunction or any other appropriate equitable remedy;

(iv) The right to money damages;

(v) The right to withhold all or any part of Consultant's compensation under this Agreement;

(vi) The right to deem Consultant non-responsible in future contracts to be awarded by the City;

(vii) The right to declare default on any other contract or agreement Consultant may have with the City.

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

(d) Non-Exclusivity of Remedies. The remedies under the terms of this Agreement 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.

### **9.3 Early Termination**

(a) In addition to termination under Sections 9.1 and 9.2 of this Agreement, the City may terminate this Agreement, or all or any portion of the Services to be performed under it, at any time by a notice in writing from the City to Consultant. The City will give notice to Consultant in accordance with the provisions of Article 11. The effective date of termination will be the date the notice is received by Consultant or the date stated in the notice, whichever is later. If the City elects to terminate this Agreement in full, all Services to be provided under it must cease and all materials that may have been accumulated in performing this Agreement, whether completed or in the process, must be delivered to the City effective 10 days after the date the notice is considered received as provided under Article 11 of this Agreement (if no date is given) or upon the effective date stated in the notice.

(b) After the notice is received, Consultant must restrict its activities, and those of its Subcontractors, to winding down any reports, analyses, or other activities previously begun. No costs incurred after the effective date of the termination are allowed. Payment for any Services actually and satisfactorily performed before the effective date of the termination is on the same basis as set forth in Article 5, but if any compensation is described or provided for on the basis of a period longer than 10 days, then the compensation must be prorated accordingly. No amount of compensation, however, is permitted for anticipated profits on unperformed Services. The City and Consultant must attempt to agree on the amount of compensation to be paid to Consultant, but if not agreed on, the dispute must be settled in accordance with Article 6 of this Agreement. The payment so made to Consultant is in full settlement for all Services satisfactorily performed under this Agreement.

(c) Consultant must include in its contracts with Subcontractors an early termination provision in form and substance equivalent to this early termination provision to prevent claims against the City arising from termination of subcontracts after the early termination. Consultant will not be entitled to make any early termination claims against the City resulting from any Subcontractor's claims against Consultant or the City.

(d) If the City's election to terminate this Agreement for default under Sections 9.1 and 9.2 is determined in a court of competent jurisdiction to have been wrongful, then in that case the termination is to be considered to be an early termination under this Section 9.3.

### **9.4 Suspension**

The City may at any time request that Consultant suspend its Services, or any part of them, by giving 15 days prior written notice to Consultant or upon informal oral, or even no notice, in the event of emergency. No costs incurred after the effective date of such suspension are allowed. Consultant must promptly resume its performance of the Services under the same terms and conditions as stated in this Agreement upon written notice by the Chief Procurement Officer and such equitable extension of time as may be mutually agreed upon by the Chief Procurement Officer and Consultant when necessary for continuation or completion of Services. Any additional costs or expenses actually incurred by Consultant as a result of recommencing the Services must be treated in accordance with the compensation provisions under Article 5 of this Agreement.

No suspension of this Agreement is permitted in the aggregate to exceed a period of 45 days within any one year of this Agreement. If the total number of days of suspension exceeds 45 days, Consultant by written notice to the City may treat the suspension as an early termination of this Agreement under Section 9.3.

## **9.5 Right to Offset**

(a) In connection with Consultant's performance under this Agreement, the City may offset any incremental costs and other damages the City incurs in any or all of the following circumstances:

(i) if the City terminates this Agreement for default or any other reason resulting from Consultant's performance or non-performance;

(ii) if the City exercises any of its remedies under Section 9.2 of this Agreement;

(iii) if the City has any credits due or has made any overpayments under this Agreement.

The City may offset these incremental costs and other damages by use of any payment due for Services completed before the City terminated this Agreement or before the City exercised any remedies. If the amount offset is insufficient to cover those incremental costs and other damages, Consultant 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.

(b) As provided under § 2-92-380 of the Municipal Code, the City may set off from Consultant's compensation under this Agreement 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 Consultant to the City as those italicized terms are defined in the Municipal Code.

(c) In connection with any liquidated or unliquidated claims against Consultant, and without breaching this Agreement, the City may set off a portion of the price or compensation due under this Agreement in an amount equal to the amount of any liquidated or unliquidated claims that the City has against Consultant unrelated to this Agreement. When the City's claims against Consultant are finally adjudicated in a court of competent jurisdiction or otherwise resolved, the City will reimburse Consultant to the extent of the amount the City has offset against this Agreement inconsistently with such determination or resolution.

## **ARTICLE 10. GENERAL CONDITIONS**

### **10.1 Entire Agreement**

#### **(a) General**

This Agreement, and the exhibits attached to it and incorporated in it, constitute the entire agreement between the parties and no other terms, conditions, warranties, inducements,

considerations, promises or interpretations are implied or impressed upon this Agreement that are not addressed in this Agreement.

**(b) No Collateral Agreements**

Consultant acknowledges that, except only for those representations, statements or promises contained in this Agreement and any exhibits attached to it and incorporated by reference in it, no representation, statement or promise, oral or in writing, of any kind whatsoever, by the City, its officials, agents or employees, has induced Consultant to enter into this Agreement or has been relied upon by Consultant, including any with reference to: (i) the meaning, correctness, suitability or completeness of any provisions or requirements of this Agreement; (ii) the nature of the Services to be performed; (iii) the nature, quantity, quality or volume of any materials, equipment, labor and other facilities needed for the performance of this Agreement; (iv) the general conditions which may in any way affect this Agreement or its performance; (v) the compensation provisions of this Agreement; or (vi) any other matters, whether similar to or different from those referred to in (i) through (vi) immediately above, affecting or having any connection with this Agreement, its negotiation, any discussions of its performance or those employed or connected or concerned with it.

**(c) No Omissions**

Consultant acknowledges that Consultant was given ample opportunity and time and was requested by the City to review thoroughly all documents forming this Agreement before signing this Agreement in order that it might request inclusion in this Agreement of any statement, representation, promise or provision that it desired or on that it wished to place reliance. Consultant did so review those documents, and either every such statement, representation, promise or provision has been included in this Agreement or else, if omitted, Consultant relinquishes the benefit of any such omitted statement, representation, promise or provision and is willing to perform this Agreement in its entirety without claiming reliance on it or making any other claim on account of its omission.

**10.2 Counterparts**

This Agreement is comprised of several identical counterparts, each to be fully signed by the parties and each to be considered an original having identical legal effect.

**10.3 Changes, Modifications, and Amendments**

No change, modification, or amendment of this Agreement, or any part hereof, is valid unless stipulated in writing and signed by the Mayor, Comptroller, and Chief Procurement Officer of the City. The City incurs no liability for Additional Services without a written amendment to this Agreement under this Section 10.3. This Section, 10.3, does not apply, however, to Agreement extensions governed by section 4.3, Agreement Extension Option.

**10.4 Governing Law and Jurisdiction**

This Agreement is governed as to performance and interpretation in accordance with the laws of the State of Illinois.



Consultant irrevocably submits itself to the original jurisdiction of those courts located within the County of Cook, State of Illinois, with regard to any controversy arising out of, relating to, or in any way concerning the execution or performance of this Agreement. Service of process on Consultant may be made, at the option of the City, either by registered or certified mail addressed to the applicable office as provided for in this Agreement, by registered or certified mail addressed to the office actually maintained by Consultant, or by personal delivery on any officer, director, or managing or general agent of Consultant. If any action is brought by Consultant against the City concerning this Agreement, the action must be brought only in those courts located within the County of Cook, State of Illinois.

#### **10.5 Severability**

If any provision of this Agreement is held or deemed to be or is in fact invalid, illegal, inoperative or unenforceable as applied in any particular case in any jurisdiction or in all cases because it conflicts with any other provision or provisions of this Agreement or of any constitution, statute, ordinance, rule of law or public policy, or for any other reason, those circumstances do not have the effect of rendering the provision in question invalid, illegal, inoperative or unenforceable in any other case or circumstances, or of rendering any other provision or provisions in this Agreement invalid, illegal, inoperative or unenforceable to any extent whatsoever. The invalidity, illegality, inoperativeness or unenforceability of any one or more phrases, sentences, clauses or sections in this Agreement does not affect the remaining portions of this Agreement or any part of it.

#### **10.6 Assigns**

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

#### **10.7 Cooperation**

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

#### **10.8 Waiver**

Nothing in this Agreement authorizes the waiver of a requirement or condition contrary to law or ordinance or that would result in or promote the violation of any federal, state or local law or ordinance.

Whenever under this Agreement the City by a proper authority waives Consultant's performance in any respect or waives a requirement or condition to either the City's or Consultant's performance, the waiver so granted, whether express or implied, only applies to the particular instance and is not a waiver forever or for subsequent instances of the performance, requirement or condition. No such waiver is a modification of this Agreement

regardless of the number of times the City may have waived the performance, requirement or condition. Such waivers must be provided to Consultant in writing.

### **10.9 Independent Contractor**

(a) This Agreement 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 Consultant and the City. The rights and the obligations of the parties are only those set forth in this Agreement. Consultant must perform under this Agreement as an independent contractor and not as a representative, employee, agent, or partner of the City.

(b) This Agreement is between the City and an independent contractor and, if Consultant is an individual, nothing provided for under this Agreement constitutes or implies an employer-employee relationship such that:

(i) The City will not be liable under or by reason of this Agreement for the payment of any compensation award or damages in connection with the Consultant performing the Services required under this Agreement.

(ii) Consultant 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 Consultant.

(c) Shakman Accord

(i) The City is subject to the May 31, 2007 Order entitled "Agreed Settlement Order and Accord" (the "Shakman Accord") and the August 16, 2007 "City of Chicago Hiring Plan" (the "City Hiring Plan") entered in *Shakman v. Democratic Organization of Cook County*, Case No 69 C 2145 (United State District Court for the Northern District of Illinois). Among other things, the Shakman Accord and the City Hiring Plan prohibit the City from hiring persons as governmental employees in non-exempt positions on the basis of political reasons or factors.

(ii) Consultant is aware that City policy prohibits City employees from directing any individual to apply for a position with Consultant, either as an employee or as a subcontractor, and from directing Consultant to hire an individual as an employee or as a subcontractor. Accordingly, Consultant must follow its own hiring and contracting procedures, without being influenced by City employees. Any and all personnel provided by Consultant under this Agreement are employees or subcontractors of Consultant, not employees of the City of Chicago. This Agreement 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 Consultant.

(iii) Consultant will not condition, base, or knowingly prejudice or affect any term or aspect of the employment of any personnel provided under this Agreement, or offer employment to any individual to provide services under this Agreement, 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 Agreement, 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.

(iv) In the event of any communication to Consultant by a City employee or City official in violation of Section 10.9(c) (ii) above, or advocating a violation of Section 10.9(c)(iii) above, Consultant 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 Agreement. Consultant will also cooperate with inquiries by IGO Hiring Oversight or the Shakman Monitor's Office related to the contract

#### **10.10 Electronic Ordering and Invoices**

The Consultant shall cooperate in good faith with the City in implementing electronic ordering and invoicing, including but not limited to catalogs, purchase orders, releases, and invoices. Consultant shall accept electronic purchase orders and releases upon request of the Chief Procurement Officer. Consultant shall provide the City electronic catalogs, copies of invoices and other electronic documents upon request. The electronic ordering and invoice documents shall 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 Chief Procurement Officer reserves the right to change the document format and/or the means of transmission upon written notice to the Consultant. Consultant shall ensure that the essential information, as determined by the Chief Procurement Officer, in the electronic document, corresponds to that information submitted by the Consultant in its paper documents. The electronic documents shall be in addition to paper documents required by this contract, however, by written notice to the Consultant, the Chief Procurement Officer 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.

#### **10.11 Participation by Other Local Government Agencies**

Other local government agencies may be eligible to participate in this agreement 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 City of Chicago's Chief Procurement Officer, and if such purchases have no net adverse effect on the City of Chicago, and result in no diminished services from the Consultant 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), Cook County 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.

**ARTICLE 11. NOTICES**

Notices provided for in this Agreement, unless provided for otherwise in this Agreement, must be given in writing and may be delivered personally or by placing in the United States mail, first class and certified, return receipt requested, with postage prepaid and addressed as follows:

If to the City: Department of Housing and Economic Development  
21 N. LaSalle Street, Room 1003  
Chicago, Illinois 60602 |  
Attention: Commissioner

and

Department of Procurement Services  
Room 403, City Hall  
121 North LaSalle Street  
Chicago, Illinois 60602  
Attention: Chief Procurement Officer

With Copies to: Department of Law  
Room 600, City Hall  
121 North LaSalle Street  
Chicago, Illinois 60602  
Attention: Corporation Counsel

If to Consultant: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
Attention:\_\_\_\_\_

Changes in these addresses must be in writing and delivered in accordance with the provisions of this Article 11. Notices delivered by mail are considered received three days after mailing in accordance with this Article 11. Notices delivered personally are considered effective upon receipt. Refusal to accept delivery has the same effect as receipt.

**ARTICLE 12. AUTHORITY**

Execution of this Agreement by Consultant is authorized by a resolution of its Board of Directors, if a corporation, or similar governing document, and the signature(s) of each person signing on behalf of Consultant have been made with complete and full authority to commit

Consultant to all terms and conditions of this Agreement, including each and every representation, certification and warranty contained in it, including the representations, certifications and warranties collectively incorporated by reference in it.

**ARTICLE 13. COMPLIANCE WITH CDBG REGULATIONS**

Consultant must comply with the additional provisions set forth in Exhibit 10.

*[Signature Pages, Exhibits and Schedules follow.]*

**CONTRACT SIGNATURE PAGE**

Contract No.: \_\_\_\_\_

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

Vendor Name: \_\_\_\_\_

Total Amount (Value): \_\_\_\_\_

Fund Chargeable: \_\_\_\_\_

\_\_\_\_\_  
(Consultant)

By: \_\_\_\_\_

Its: \_\_\_\_\_

Attest: \_\_\_\_\_

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: \_\_\_\_\_

**CITY OF CHICAGO**

\_\_\_\_\_  
Mayor Date

\_\_\_\_\_  
Comptroller Date

\_\_\_\_\_  
Chief Procurement Officer Date

**EXHIBIT 1**  
**SCOPE OF SERVICES AND TIME LIMITS FOR PERFORMANCE**

**EXHIBIT 2  
SCHEDULE OF COMPENSATION**



**EXHIBIT 3  
SPECIAL CONDITIONS REGARDING  
MBE/WBE COMMITMENT AND SCHEDULES**

**EXHIBIT 4**  
**ONLINE ECONOMIC DISCLOSURE STATEMENT AND AFFIDAVIT**  
**CERTIFICATE OF FILING**

Complete the online Economic Disclosure Statement (EDS) which includes a Disclosure of Retained Parties. Submit an electronically signed, one page EDS Certificate of Filing which validates that the EDS has been filed. Additionally, the Municipal Code of Chicago requires the disclosure of Familial Relationships with Elected City Officials and Department Heads. The web address to submit your EDS and Familial Relationships Disclosure is: <http://webapps.cityofchicago.org/EDSWeb>.

**EXHIBIT 5**  
**INSURANCE REQUIREMENTS AND EVIDENCE OF INSURANCE**

**INSURANCE CERTIFICATE OF COVERAGE**

Name Insured: \_\_\_\_\_ Specification #: \_\_\_\_\_  
 Address (Street): \_\_\_\_\_ RFP: \_\_\_\_\_  
 (City/State/Zip) \_\_\_\_\_ Project #: \_\_\_\_\_  
 Contract #: \_\_\_\_\_

Description of Operation/Location: \_\_\_\_\_

The insurance policies and endorsements indicated below have been issued to the designated named insured with the policy limits as set forth herein covering the operation described within the contract involving the named insured and the City of Chicago. The Certificate issuer agrees that in the event of cancellation, non-renewal or material change involving the indicated policies, the issuer will provide at least sixty (60) days prior written notice of such change to the City of Chicago at the address shown on this Certificate. This certificate is issued to the City of Chicago in consideration of the contract entered into with the named insured, and it is mutually understood that the City of Chicago relies on this certificate as a basis for continuing such agreement with the named insured:

Type of Insurance	Insurer Name	Policy Number	Expiration Date	Limits of Liability All Limits in Thousands
<b>General Liability</b>				
Claims made [ ] Occurrence				CSL Per Occurrence \$ _____  General Aggregate \$ _____  Products/Completed Operations Aggregate \$ _____
Premise-Operations				
Explosion/Collapse Underground				
Products/Completed-Operations				
Blanket Contractual				
Broad Form Property Damage				
Independent Contractors				
Personal Injury				
Pollution				
<b>Automobile Liability</b>				CSL Per Occurrence \$ _____ Each Occurrence \$ _____
Excess Liability				
Umbrella Liability				\$ _____
<b>Worker's Compensation and Employer's Liability</b>				Statutory/Illinois Employers Liability \$ _____
<b>Builders Risk/Course of Construction</b>				Amount of Contract \$ _____ \$ _____ \$ _____
Professional Liability				\$ _____
Owner Contractors Protective				\$ _____
Other				\$ _____

- Each Insurance policy required by this agreement, excepting policies for worker's compensation and professional liability, will read: "The City of Chicago is an additional insured as respects operations and activities of, or on behalf of the named insured, performed under contract with or permit from the City of Chicago."
- The General, Automobile and Excess/Umbrella Liability Policies described provide for severability of Interest (cross liability) applicable to the named insured and the City.
- Workers Compensation and Property Insurers shall waive all rights of subrogation against the City of Chicago.
- The receipt of this certificate by the City does not constitute agreement by the City that the insurance requirements in the contract have been fully met, or that the insurance policies indicated by this certificate are in compliance with all contract requirements.

Name and Address of Certificate Holder and Recipient of Notice	
Certificate Holder/Additional Insured	Signature of Authorized Rep _____
City of Chicago	Agency/Company: _____
Procurement Department	Address _____
121 N. LaSalle St., #403	Telephone _____
Chicago, IL 60602	

**For City use only**

Name of City Department requesting certificate: (Using Dept.) \_\_\_\_\_  
 Address: \_\_\_\_\_ ZIP Code: \_\_\_\_\_ Attention: \_\_\_\_\_

**Exhibit 8 – Sample Professional Services Agreement**

## EXHIBIT 6

### CONTRACTUAL REQUIREMENTS RELATED TO HIPAA

The terms below that are capitalized and in bold have the same meanings as set forth in the Health Insurance Portability and Accountability Act. See 45 CFR parts 160 and 164.

1. Consultant must not use or further disclose Protected Health Information ("PHI") other than as permitted or required by this Agreement or as Required by Law. (<http://www.hhs.gov/ocr/hipaa/>)
2. Consultant must use appropriate safeguards to prevent the use or disclosure of PHI other than as provided for in this Agreement.
3. Consultant must mitigate to the extent practicable any harmful effect that is known to Consultant of a use or disclosure of PHI by Consultant in violation of the requirements of this Agreement.
4. Consultant must report any use or disclosure of the PHI not provided for by this Agreement to the City.
5. Consultant must ensure that any agent, including a subcontractor, to whom it provides PHI received from, or created or received by Consultant on behalf of the City agrees to the same restrictions and conditions that apply through this Agreement to Consultant with respect to such information.
6. If the Consultant has PHI in a Designated Record Set then Consultant must provide access, at the request of the City, and in the time and manner designated by the City, to PHI in a Designated Record Set, to City or, as directed by City, to an Individual in order to meet the requirements under 45 CFR 164.524.
7. If the Consultant has PHI in a Designated Record Set then Consultant must make any amendments to PHI in a Designated Record Set that the City directs or agrees to pursuant to 45 CFR 164.526 at the request of City or an Individual, and in the time and manner designated by City.
8. Consultant must make internal practices, books and records relating to the use and disclosure of PHI received from, or created or received by Consultant on behalf of, City available to the City, or at the request of the City to the Secretary, in a time and manner designated by the City or the Secretary, for purposes of the Secretary determining City's compliance with the Privacy Rule.
9. Consultant must document the disclosure of PHI and information relating to such disclosures as would be required for City to respond to a request by an Individual for an accounting of disclosures of PHI in accordance with 45 CFR 164.528.
10. Consultant must provide to City or an Individual, in time and manner designated by City, information collected which relates to the disclosure of PHI, to permit City to respond to a request by an Individual for an accounting of disclosures of PHI in accordance with 45 CFR 164.528.
11. Consultant must either return all PHI to the City or destroy it, at the City's option, upon termination or expiration of this Agreement.
12. Consultant must implement administrative, physical, and technical safeguards that reasonably and appropriately protect the confidentiality, integrity, and availability of the electronic health information that it creates, receives, maintains, or transmits on behalf of the City as required by 45 CFR part 164.
13. Consultant must ensure that any agent, including a subcontractor, to whom it provides such information agrees to implement reasonable and appropriate safeguards to protect it.
14. Consultant must report to the City any security incident of which it becomes aware.

**EXHIBIT 7  
LIST OF KEY PERSONNEL**

Name:

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Title:

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**EXHIBIT 8**

**PROVISIONS REQUIRED IF FEDERAL FUNDS ARE INVOLVED**

**EXHIBIT 9**  
**City of Chicago Multi-Project Labor Agreement**

Multi-Party Labor Agreement (PLA). The City has entered into the PLA with the various trades regarding projects as described in the PLA, a copy of which is attached hereto, together with a list of signatory unions. Contractor acknowledges familiarity with the requirements of the PLA and its applicability to the rehabilitation, construction, or renovation work on a heat receivership project that it receives pursuant to the terms of this Agreement, if (i) the project is covered by the PLA as defined in paragraph 1 of the PLA, and (ii) prevailing wages must be paid for such work pursuant to the terms of the Davis Bacon Act.



CITY OF CHICAGO

MULTI-PROJECT LABOR AGREEMENT

This Model Multi-Project Labor Agreement ("Agreement") is entered into by and between City of Chicago, an Illinois municipal corporation, as Owner, on behalf of itself and each of its contractors, subcontractors of whatsoever tier performing construction work on any project to which this Agreement shall be applicable, and each of the undersigned labor organizations signatory hereto.

Whereas, Owner is responsible for construction, demolition, rehabilitation, maintenance, and/or renovation of real property located in Chicago, Illinois; Due to the size, scope, cost and duration of the multitude of Projects traditionally performed by the City of Chicago, the parties to this Agreement have determined that it is in their interest to have these Projects completed in the most timely, productive, economical and orderly manner possible, and without labor disruptions of any kind that might interfere with, or delay, any of these Projects;

Whereas, the parties have determined that it is desirable to eliminate the potential for friction and disruption of these Projects by using their best efforts and ensuring that all work is performed by the trade unions that are signatory hereto and which have traditionally performed and have trade and geographic jurisdiction over such work. Experience has proven the value of such cooperation, and that such mutual undertakings should be maintained, and if possible, strengthened, and that the ultimate beneficiaries remain the Owner of the project; and,

Whereas, the Owner acknowledges that it has a serious and ongoing concern regarding labor relations associated with the Projects and through its completion irrespective of the existence of a collective bargaining relationship with any of the signatory labor organizations.

NOW THEREFORE, in order to further these goals and objectives and to maintain the spirit of harmony, labor-management cooperation and stability, the parties agree as follows:

1. During the term of this Agreement, Owner its representatives and agents shall not contract or subcontract, nor permit any other person, firm, company, or entity to contract or subcontract, any construction, demolition, rehabilitation or renovation work for the Project work covered under this Agreement or within the trade jurisdiction of the signatory labor organization, to be performed at the Site of construction or off-site solely for installation at the Site (including all tenant improvements, if applicable), unless such work is performed only by a person, firm or company signatory, or willing to become signatory, to the applicable area-wide collective bargaining agreement(s) with the union(s) or the appropriate trade/craft union(s) or subordinate body or affiliate of the Chicago & Cook County Building & Construction Trades Council ("Council") or the Teamsters' Joint Council No. 25. Copies of all such current collective bargaining agreements constitute Appendix "A" of this Agreement, attached hereto and made an integral part hereof, and as may be modified from time to time during the term of this Agreement. Said provisions of this Agreement shall be included in all Requests for Bids and/or Proposals and shall be explicitly included in all contracts or subcontracts of whatsoever tier by all contractors and subcontractors; provided that the total Project value exceeds \$25,000.00. In no event shall contracts be "split" so as to avoid the applicability of this Agreement. In the event a dispute arises with respect to the applicability of this Multi-Project Labor Agreement to a particular project, the parties agree to submit said dispute to final and binding arbitration before a Permanent Umpire who shall be mutually agreed to by the parties.

2. With respect to a contractor or subcontractor who is the successful bidder, but is not signatory to the applicable collective bargaining agreement, the collective bargaining agreement(s) executed by said bidder shall be the relevant area-wide agreement(s) regulating or governing wages, hours and other terms and conditions of employment.
3. During the term of this Agreement, the Owner or any Project contractor and subcontractor shall engage in no lockout.
4. During the term of this Agreement, no labor organization signatory hereto, or any of its members, officers, stewards, agents, representatives, or employees shall instigate, authorize, support, sanction, maintain, or participate in any strike, walkout, work stoppage, work slowdown, work curtailment, cessation or interruption of production, or in any picketing of any Site covered under this Agreement for any reason whatsoever, including but not limited to the expiration of any of the collective bargaining agreements referred to on Appendix A. In the event of an economic strike or other job action upon the termination of an existing collective bargaining agreement, in no event shall any adverse job action be directed against any covered Project. All provisions of the subsequently negotiated collective bargaining agreement shall be retroactive for all employees working at a Project Site, provided such a provision for retroactivity is contained in the newly negotiated collective bargaining agreement.
5. Each Union signatory hereto agrees that it will use its best efforts to prevent any of the acts forbidden in Paragraph 4, and that in the event any such act takes place or is engaged in by any employee or group of employees, each Union signatory hereto further agrees that it will use its best efforts (including its full disciplinary power under its Constitution and/or By-Laws) to cause an immediate cessation thereof.
6. Any contractor or subcontractor signatory or otherwise bound stipulated or required to abide by and to any provisions of this Agreement shall have the right to discharge or discipline any employee who violates the provisions of this Agreement. Such discharge or discipline by a contractor or subcontractor shall be subject to the Grievance/Arbitration procedure of the applicable collective bargaining agreement only as to the fact of such employee's violation of this Agreement. If such fact is established, the penalty imposed shall not be disturbed. Work at any Site covered under this Agreement shall continue without disruption or hindrance of any kind during any Grievance/ Arbitration procedure.
7. The parties expressly authorize a court of competent jurisdiction to order appropriate injunctive relief to restrain any violation of this Agreement, any form of self-help remedy is expressly forbidden. Nothing in the foregoing shall restrict any party to otherwise judicially enforce any provision of its collective bargaining agreement between any labor organization and a contractor with whom it has a collective bargaining relationship.
8. This Agreement shall become effective, and shall be included in all Requests for Proposals and/or Bids, all Purchase Orders, Contracts or other arrangements issued by the City of Chicago for work described in Paragraph 1 above immediately subsequent to the ratification of the Ordinance authorizing this Multi-Project Labor Agreement by the City Council.
9. This Agreement shall expire on December 31, 2016 and shall be automatically extended for an additional five (5) year term unless the parties issue a notice to terminate between sixty (60) and (30) days prior to the initial expiration date.

10. In the event a dispute shall arise between any contractor or subcontractor of the Project and any signatory labor organization and/or fringe benefit fund established under any of the appropriate collective bargaining agreements as to the obligation and/or payment of fringe benefit contributions provided under the collective bargaining agreement, upon proper notice to the contractor(s) or subcontractor(s) by the applicable labor organization or fringe benefit fund and to the contractor or subcontractor, an amount sufficient to satisfy the amount claimed shall be withheld from the contractor's or subcontractor's regularly scheduled periodic payment from the contractor or subcontractor, or their agents until such time as said claim is resolved.
11. In the event of a jurisdictional dispute by and between any labor organizations signatory hereto, such labor organizations shall take all steps necessary to promptly resolve the dispute. In the event of a dispute relating to trade or work jurisdiction, all parties, including the employers, contractors or subcontractors, agree that a final and binding resolution of the dispute shall be resolved as follows:
  - a.) Representatives of the affected trades shall meet on the job site within forty-eight (48) hours after receiving notice in an effort to resolve the dispute. (In the event there is a dispute between local unions affiliated with the same International Union, the decision of the General President, or his/her designee, as the internal jurisdictional authority of that International Union, shall constitute a final and binding decision and determination as to the jurisdiction of work.)
  - b.) If no settlement is achieved subsequent to the preceding Paragraph, the matter shall be referred to the Chicago & Cook County Building & Construction Trades Council, which shall meet with the affected trades within forty-eight (48) hours subsequent to receiving notice. An agreement reached at this Step shall be final and binding.
  - c.) If no settlement agreement is reached during the proceedings contemplated by Paragraph "a" or "b" above, the matter shall be immediately referred to the Joint Conference Board, established by the Standard Agreement between the Construction Employers' Association and the Chicago & Cook County Building & Construction Trades Council, which may be amended from time to time, for final and binding resolution of said dispute. Said Standard Agreement is attached hereto as Appendix "B" and specifically incorporated into this Agreement.
12. This Agreement shall be incorporated into and become part of the collective bargaining agreements between the Unions signatory hereto and contractors and subcontractors. In the event of any inconsistency between this Agreement and any collective bargaining agreement, the terms of this Agreement shall supersede and prevail except for all work performed under the NT Articles of Agreement, the National Stack/Chimney Agreement, the National Cooling Tower Agreement, all instrument calibration work and loop checking shall be performed under the terms of the UA/IBEW Joint National Agreement for instrument and Control Systems Technicians, and the National Agreement of the International Union of Elevator Constructors with the exception of the content and subject matter of Articles V, VI and VII of the AFL-CIO's Building & Construction Trades Department model Project Labor Agreement.
13. The parties agree that in the implementation and administration of this Agreement, it is vitally necessary to maintain effective and immediate communication so as to minimize the potential of labor relations disputes arising out of this Agreement. To that end, each party hereto agrees to designate, in writing, a representative to whom problems can be

directed which may arise during the term of this Agreement. Within forty-eight (48) hours after notice of the existence of any problem, representatives of each party shall meet to discuss and, where possible, resolve such problems. The representative of the signatory unions shall be Thomas Villanova, or his designee, President of the Chicago & Cook County Building & Construction Trades Council. The representative of Owner shall be the Corporation Counsel or his/her designee.

14. If any provision, section, subsection or other portion of this Agreement shall be determined by any court of competent jurisdiction to be invalid, illegal, or unenforceable in whole or in part, and such determination shall become final, such provision or portion shall be deemed to be severed or limited, but only to the extent required to render the remaining provisions and portions of this Agreement enforceable. This Agreement, as thus amended, shall be enforced so as to give effect to the intention of the parties insofar as that is possible. In addition, the parties hereby expressly empower a court of competent jurisdiction to modify any term or provision of this Agreement to the extent necessary to comply with existing law and to enforce this Agreement as modified.
15. Owner and General Contractor, on behalf of themselves and their contractors and subcontractors agree that the applicable substance abuse policy (i.e., drug, alcohol, etc.) applicable to the employees working on any covered Project shall be that as contained, or otherwise provided for, in the area-wide collective bargaining agreements attached at Appendix "A" to this Agreement. Nothing in the foregoing shall limit the Owners and/or General Contractor, its contractors or subcontractors from instituting its own substance abuse policy governing other employees performing work on a Project not otherwise covered under this Agreement. In the event there is no substance abuse policy in the applicable collective bargaining agreement, the policy adopted by the Owners and/or General Contractor may apply.
16. The parties recognize a desire to facilitate the entry into the building and construction trades of veterans who are interested in careers in the building and construction industry. The parties agree to utilize the services of the Center for Military Recruitment, Assessment and Veterans Employment (hereinafter referred to as the "Center") and the Center's Helmets to Hardhats" program to service as a resource for preliminary orientation, assessment of construction aptitude, referral to apprenticeship programs or hiring halls, counseling and mentoring, support network, employment opportunities and other needs as identified by the parties. The parties also agree to coordinate with the Center to create and maintain an integrated database of veterans interested in working on this project and of apprenticeship and employment opportunities for these Projects. To the extent permitted by law, the parties will give appropriate credit to such veterans for bona fide, provable past experience, in the building and construction industry.

The parties recognize the importance of facilitating the goals and objectives of the Apprenticeship & Training Initiative agreed to by the parties in separate collective bargaining agreements applicable to employees of the Owner. Additionally, parties agree to incorporate the duties and responsibilities associated with the Supplemental Addendum to the Multi-Project Labor Agreement between the signatory labor organizations and the Chicago Public Schools attached hereto in Appendix "C" and incorporated herein. Towards these ends, the undersigned labor organizations will assist and cooperate with the Owner, the Chicago Public Schools, City Colleges and contractors in monitoring and enforcing the foregoing commitments, including providing relevant information requested by the Owner for the purpose of such monitoring and enforcement, including

the information provided for in Paragraph 3(E) of the Supplemental Addendum with CPS. Upon execution of this Agreement, representatives of the Owner and the Chicago Building Trades Council will immediately meet for the purpose of establishing the specific mechanism by which this information will be gathered, processed and reported.

The parties hereto agree and acknowledge that the commitments set forth herein, including those in the attached Appendix "C" are interdependent. In the event the goals and commitments set forth in Appendix "C" are not realized, the City shall bring this to the attention of the Chicago Building Trades Council ("Council"), and the parties shall immediately meet for the purpose of identifying the cause(s) of said failure and implement necessary measures to remedy the failure. Should the Council's affiliate members refuse to implement measures reasonably necessary to realize these goals and commitments, the City may terminate this Agreement subsequent to January 13, 2013. If, as of June 1, 2012, the City believes that the Council's affiliate members have failed to implement measures reasonably necessary to realize these goals and commitments, the City may at that time deliver to the Council formal written notice of intent to terminate this Agreement on January 1, 2013. Upon deliverance of such notice, the parties shall immediately meet to craft and implement additional measures to remedy such failure. If the parties are unsuccessful in implementing satisfactory measures, the City may implement said notice of termination on January 1, 2013.

The parties acknowledge the Residency requirement for employees of contractors and subcontractors in the standard City of Chicago construction contract. The parties also agree to cooperatively work and monitor compliance with these requirements and to work cooperatively to facilitate and work in good faith to the achievement of said required Residency provision including union attendance at pre-bid conferences with prospective contractors and subcontractors as well as other reasonable undertakings to demonstrate progress in this regard.

17. The parties agree that contractors and subcontractors working under the provisions of this Agreement shall be required to strive to utilize the maximum number of apprentices on said Project as permitted under the applicable collective bargaining agreement as contained in Appendix "A".
18. This document, with each of the Attachments, constitutes the entire agreement of the parties and may not be modified or changed except by the subsequent written agreement of the parties.
19. All parties represent that they have the full legal authority to enter into this Agreement.

The undersigned, as the Owner and Labor Organizations on the Project, agree to all of the terms and conditions contained in this Agreement.

Dated this the 9<sup>th</sup> day of February, 2011 in Chicago, Cook County, Illinois.

On behalf of Owner:

  

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Corporation Counsel

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Duly Authorized Officer of the City of Chicago

On behalf of \_\_\_\_\_

(Insert Name of Labor Organization)

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Its Duly Authorized Officer

**EXHIBIT 9**

**CITY OF CHICAGO TRAVEL GUIDELINES**

## **CITY OF CHICAGO TRAVEL GUIDELINES**

1. The City of Chicago Travel Guidelines are issued by:

City of Chicago  
Office of Budget and Management  
City Hall, Room 604  
121 North LaSalle  
Chicago, Illinois 60602  
**Effective April 2008**

The City of Chicago Travel Policy consists of guidelines and procedures for current and prospective City employees and contractors who travel on behalf and for the benefit of the City. This policy is administered by the Office of Budget and Management (OBM).

This policy:

- Is not intended to cover routine local travel related to the performance of an employee's regular job duties. Rather, this policy is intended for out of town travel or travel to Chicago from another city.
- Applies to all City departments, employees and contractors regardless of funding sources (i.e. grants).
- Requires that all employees secure the most economical means of travel, including cost, travel time and work requirements.
- Will be strictly enforced. Any deviation from these guidelines must be justified in writing and approved by the Budget Director prior to travel.

The City is not obligated to reimburse any employee, contractor or representative of the City for travel expenses which were not previously approved by OBM.

When an individual is required to travel on behalf and for the benefit of the City, the employee is expected to exercise good judgment in managing travel costs and make every effort to secure the most economical travel arrangements available at that time.

For purposes of this policy, the Chicago metropolitan area is defined as Cook, DuPage, Will, Lake and McHenry counties

### 2. General Approval

#### a. General Requirements

The City recognizes the following activities as appropriate for travel purposes:

- Delivery of legislative testimony
- As a stipulation or condition of grant funding or otherwise required for state or federal certification
- Presentation on behalf of the City at a conference or seminar
- Financial or tax audit
- Site visits or operational evaluations related to departmental improvement efforts
- Court proceedings or case preparation
- Attendance at conferences, meetings, seminars or training sessions for which:
  - the topic is of critical interest to the City;
  - representation at the event is in the best interest of the City, and
  - the topic is related to an employee's professional development.

Before planning out-of-town travel, every effort should be made to identify local options for comparable conferences, meetings, seminars or training sessions.

#### b. Limits on Participants



Attendance at conferences, meetings, seminars or training sessions held outside the Chicago metropolitan area is limited to two employees from any one department unless otherwise approved by OBM. City of Chicago

c. Travel Approval Procedure

- All travel arrangements are to be secured through the City's designated travel management agency—Corporate Travel Management Group (CTMG).
- All travel outside the Chicago metropolitan area requires approval from OBM.
- Complete original Travel Request Form and support documentation must be approved by the appropriate department head and submitted to OBM no later than seven (7) business days prior to the date of travel.
- In emergency situations in which there are fewer than seven (7) business days prior to a proposed trip, the Travel Request Form may be faxed to the requesting department's budget analyst at (312) 744-3618.
- The City is not obligated to reimburse employees for travel expenses which were not previously approved by OBM.
- A Travel Expense Report must be accurately and clearly completed and submitted with all receipts in order to obtain reimbursement for travel expenses.
- If there is a disputed reimbursement, a representative from the Comptroller's Office will contact the department to resolve the outstanding matter. If it is not resolved in a timely manner, the undisputed portion will be reimbursed along with an explanation and instructions to resolve the outstanding amount.
- All expenses incurred while traveling will be charged to Account 0245.
- No petty cash reimbursements are allowed.
- No cash advances will be provided.

d. Travel Outside the Continental United States

- All requests for City travel outside the continental U.S. must be submitted to OBM fourteen (14) business days prior to travel. OBM will seek approval from the Mayor's Chief of Staff and will notify the department of approval or denial.
- Travelers should convert all foreign expenses to U.S. currency prior to submitting a Travel Expense Report. Official documentation of the exchange rate at the time of travel (i.e. bank receipt) must accompany all original receipts.

3. Reimbursable Travel Expenses

a. Business Related Expenses

- Business-related expenses incurred while on City business may be reimbursed at the discretion of the department head. Following are examples of acceptable reimbursable business expenses:
  - Photocopying
  - Sending or receiving faxes
  - Express mail services
  - Internet connections
- Original receipts must be provided for reimbursement.

b. Transportation

• **City-owned Vehicles**

- Employees traveling on City business in a City-owned vehicle are entitled to reimbursement for gas, parking and toll expenses but not the standard "per mile" reimbursement.
- Original receipts must be provided for all expenses.
- Travel in a City-owned vehicle outside the Chicago metropolitan area (see p. 7) requires prior approval from OBM.
- Employees are responsible for all fines related to parking or moving violations issued while traveling on City business.
- Refer to the City of Chicago vehicle policy for other rules and regulations regarding the use of

City-owned vehicles.

- **Personal Vehicles**

- Employees may use personal vehicles for business travel within a 300-mile radius of Chicago.
- Employees will be reimbursed at the rate stated in the Annual Appropriation Ordinance or applicable collective bargaining agreement, but in no event will the reimbursement exceed the cost of coach airfare.
- “Per mile” reimbursement includes the cost of gas, oil and general maintenance.
- Parking and toll expenses will be reimbursed separately with original receipts.
- Employee must carry liability and property damage insurance for business use of his or her vehicle and submit a copy of these insurance policies to the appropriate personnel within his or her department.
- Employees are responsible for all fines related to parking or moving violations issued while traveling on City business. Absolutely no exceptions will be made.

- **Car Rental**

- Car rental is a reimbursable expense only when there is no other transportation available or the distance between lodging and/or meeting site(s) makes public transportation, taxi or other mode of transportation impractical.
- Car rental will not be approved for travel within the Chicago metropolitan area. City pool cars or I-Go cars should be reserved for such travel.
- The compact car rental rate will be reimbursed unless the need for a larger car can be justified.
- Daily rental rates, taxes, surcharges, gas, car rental insurance and oil expenses are considered reimbursable items.
- Only one car rental will be allowed per trip.
- Employees are responsible for all fines related to parking or moving violations issued while traveling on City business. Absolutely no exceptions will be made.
- Original receipts are required for reimbursement.

- **Common Carrier (Air, Train, Bus)**

- To take advantage of any available discount fares, all reservations and ticket purchases should be made as far in advance as possible.
- First-class travel is prohibited.
- Electronic tickets are the only acceptable delivery method of tickets unless this option is not available. The City’s travel agency will advise.
- Any charges incurred as a result of changes to an original airline reservation made prior to or during travel are subject to OBM approval.
- The lowest priced airfare often requires a Saturday night stay. The City of Chicago Travel Policy does not require or suggest that an employee include a Saturday stay in their itinerary in order to take advantage of these lower fares. However, an employee may choose to stay over a Saturday night if the difference between the airfares exceeds the cost of lodging for each extra day added together. For example, if the difference between airfares is \$500 and lodging for that Saturday and Sunday totals \$300, employees have the option of the Saturday night stay. The following applies when a traveler has opted for a Saturday night stay, but is not conducting City businesses on Saturday or Sunday:
  - Supporting documentation comparing airfares is needed to approve Saturday night stay options.
  - Cost of lodging and ground transportation to and from the airport/hotel are reimbursable expenses.
  - Meals (per diem) are reimbursable at the appropriate rate.

- **Ground Transportation (Taxis, Public Transportation, Limousine Service)**

- Transportation to and from the airport is included in the ground transportation amount in the reimbursement rate.
- Public transportation is encouraged.

- Ground transportation expense guidelines are provided on the Transportation Reimbursement Rate form
  - Ground transportation expenses are reimbursable with original receipts at the discretion of the department head.
  - Limousine service may be used if the cost is less than the cost of a taxi service or other means of transportation.
  - Gratuity for ground transportation is the sole responsibility of the traveler.
  - Original receipts are required for reimbursement.
- c. Laundry
- Employees traveling on City business for three or more consecutive days are entitled to reimbursement for laundry expenses up to a maximum of \$10 per three-day period beginning with the fourth day.
  - Original receipts are required for reimbursement.
- d. Lodging
- The cost of a standard hotel room is reimbursable up to the maximum daily rate for the city group as listed in the “Rates” (page 14) section of this policy, exclusive of applicable taxes.
  - The maximum daily rate may be exceeded only if a lower priced room is not available within a reasonable distance, and only if approved by OBM.
  - Employees may stay at higher priced hotels, but they will only receive reimbursement up to the maximum daily rate for the applicable city group in the “Rates” section, if a lower priced hotel is available within a reasonable distance.
  - Hotel lodging within the Chicago metropolitan area is not a reimbursable expense.
  - All personal expenses must be paid for separately or deducted from the lodging bill before it is submitted for reimbursement.
  - Original receipts are required for reimbursement.
- e. Meals
- Employees are entitled to a daily per diem allowance, as outlined in the “Rates” section of this policy, as reimbursement for all meals inclusive of tax and gratuity.
  - If meals are included in registration fees, per diem will not be reimbursed for pre-paid meals
  - If travel is conducted within the Chicago metropolitan area, meals will be reimbursed at the discretion of the department head and with prior approval from OBM
  - Meals on travel days can begin when arriving at the airport or departing the Chicago metropolitan area.
- f. Telephone Calls
- If the employee has a City-issued cell phone, that phone should be used for all telephone calls (unless there is no service).
  - Employees are allowed up to twenty (20) minutes (no more than \$5.00) for reimbursable personal phone calls per day while traveling on City business.
  - Business calls may be reimbursed at the discretion of the department head with a maximum reimbursement of \$10 per day.
  - When possible, employees should avoid hotel surcharges by using cell phones or phones outside the hotel room for personal and business calls.
  - Original receipts are required for reimbursement.
- g. Additional Expenses
- Original receipts are required to claim reimbursement for incidental expenses not listed above.
  - Reimbursement for incidental expenses will be approved at the discretion of the department head.
  - Employees are entitled to a daily per diem allowance, as outlined in the “Rates” (see p. 14) section of this policy, as reimbursement for all meals inclusive of tax and gratuity.

- If meals are included in registration fees, per diem will not be reimbursed for pre-paid meals.
  - If travel is conducted within the Chicago metropolitan area (page 7), meals will be reimbursed at the discretion of the department head and with prior approval from OBM.
  - Meals on travel days can begin when arriving at the airport or departing the Chicago metropolitan area (page 7).
- h. Travel Expense Advances
- Cash advances are not allowed.
- i. Conference Registration Fees -
- Registration fees may be charged to the department's education and professional development accounts (Account 0169) at the discretion of the department head.
  - Meals included in conference registration fees will be charged to Account 0169.
  - Every effort should be made to take advantage of early registration discounts.
- j. Travel by City of Chicago Consultants or Contractors
- Travel by consultants or contractors engaged by the City should adhere to the City of Chicago Travel Policy. Travel expenses should be included in the contract price and billed as required by the contract.
  - Travel by non-employees at the invitation of the City (i.e. candidates for employment, speakers) must be approved by the Mayor's Chief of Staff and adhere to the City of Chicago Travel Policy.
  - Reimbursement for non-employees will be for actual expenses incurred not any flat per diem.
  - Travel by City employees to consultant's location prior to approved contract is prohibited.
- k. Non-Reimbursable Travel Expenses
- Non-reimbursable expenses include, but are not limited to, the following:
- Additional charges for room upgrades or special "club" floors.
  - Alcoholic beverages
  - Coat check services
  - Entertainment, including but not limited to in-room movies
  - Late check-out and guarantee charges
  - Parking or moving violation tickets
  - Personal services (i.e. barber, shoe shine, health club, massage)
  - Spousal expenses
  - Toiletries
  - Travel accident insurance
  - Other expenses of a purely personal nature and not listed as reimbursable in these guidelines.

#### 4. Travel Reimbursement Rates

Reimbursement rates are categorized by relative travel costs associated with certain cities. Group II, III and IV are not all inclusive. For cities not listed, please consult with the Office of Budget and Management for appropriate reimbursement rates.

**Travel Reimbursement Rates**

	<b>Group I Cities</b>	<b>Group II Cities</b>	<b>Group III Cities</b>	<b>Group IV Cities</b>
	Boston, MA  New York City and metro areas  Los Angeles, CA  Miami, FL  San Francisco, CA  Washington, DC and metro areas	Atlanta, GA  Chicago, IL  Houston, TX  Philadelphia, PA  San Jose, CA	Baltimore, MD Cleveland, OH Cincinnati, OH Columbus, OH Dallas, TX Denver, CO Detroit, MI Indianapolis, IN Las Vegas, NV Memphis, TN Milwaukee, WI Minneapolis/St Paul, MN Nashville, TN New Orleans, LA Orlando, FL Phoenix, AZ Portland, OR San Diego, CA Seattle, WA Tampa, FL	Kansas City, MO Louisville, KY Madison, WI Pittsburgh, PA St Louis, MO Springfield, IL**
<b>GROUND TRANSPORTATION</b> Including parking at point of departure	\$55	\$50	\$40	\$30
<b>TRANSPORTATION</b> <i>AIR:</i> <i>BUS:</i> <i>RAIL:</i> <i>PERSONAL CAR*:</i>	Coach Economy Economy \$.0585/mile	Coach Economy Economy \$.0585/mile	Coach Economy Economy \$.0585/mile	Coach Economy Economy \$.0585/mile
<b>LODGING</b> Maximum daily rate is exclusive of applicable taxes. Taxes will be included in the reimbursement.	\$250.00	\$225.00	\$150.00	\$125.00
<b>PER DIEM</b> Including tax and gratuity	\$64	\$59	\$54	\$49

\* Mileage reimbursement follows the rate as determined by the Internal Revenue Service, 2008 rate is listed.

\*\* When the Illinois legislature is in session, the Springfield, IL maximum is increased to Group III.

## **EXHIBIT 10**

### **COMPLIANCE WITH CDBG REGULATIONS**

#### **Exhibit E**

#### **Community Development Block Grant**

#### **ADDITIONAL AGREEMENT PROVISIONS**

**E-1.1 NATIONAL OBJECTIVE.** You will perform the Services hereunder in a manner that complies with a criterion for national objectives described in 24 CFR § 570.208.

#### **E-1.2 CERTIFICATION REGARDING ENVIRONMENTAL TOBACCO SMOKE**

The Subgrantee certifies that, in accordance with the Pro-Children Act of 1994 (the "Act")(Pub. L. 103-227), smoking must not be permitted in any portion of any indoor facility owned or leased or contracted for by Subgrantee and used routinely or regularly for the provision of health, day care, early childhood development services, education, or library services to children under the age of 18, if the services are funded by federal programs either directly or through state or local governments, by federal grant, contract, loan or loan guarantee. The Act also applies to children's services that are provided in indoor facilities that are constructed, operated or maintained with federal funds. The Act does not apply to children's services provided in private residences, portions of facilities used for inpatient drug or alcohol treatment, service providers whose sole source of applicable federal funds is Medicare or Medicaid or facilities where WIC coupons are redeemed. Failure to comply with the provisions of the Act may result in the imposition of a civil monetary penalty of up to \$1,000 per day and/or the imposition of an administrative compliance order on the responsible entity. The Subgrantee must require the language contained in this Section to be included in any subawards which contain provision for children's services, and that all subgrantees must certify accordingly.

#### **E-1.3 CERTIFICATION AND RESTRICTIONS ON LOBBYING**

**A.** You acknowledge that receipt of funds under this Agreement may require compliance with Section 319 of Public Law 101-121(31 U.S.C.A. 1352) regarding the certification and disclosure of lobbying activities with the Federal Government and agree to comply with those provisions, and all federal rules promulgated by HUD, the funding source for implementation of programs operated under this Agreement; and will require that this assurance of compliance is part of any subcontracts executed hereunder.

Subgrantee certifies that:

- 1.** No federal appropriated funds have been paid or will be paid, by or on behalf of Subgrantee, to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any federal contract, the making of any federal grant, the making of any federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any federal contract, grant, loan, or cooperative agreement.
- 2.** In addition, no part of federal appropriated funds will be used, other than for normal and recognized executive-legislative relationships, for publicity or propaganda purposes, for the preparation, distribution, or use of any kit, pamphlet, booklet, publication, radio, television, or video presentation designed to support or defeat legislation pending before the Congress or any State or local legislature, except in presentation to the Congress or any State or local legislature itself. No part of the federal appropriated funds will be used to pay the salary or expenses of any grant or contract recipient, or agent acting for such recipient, related to any activity designed to influence legislation or appropriations pending before the Congress or any State or local legislature.
- 3.** If any funds other than federally appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this federal

contract, grant, loan, or cooperative agreement, the undersigned must complete and submit Standard Form-LLL "Disclosure of Lobbying Activities," in accordance with its instructions.

4. Subgrantee must require that the language of this certification be included in the award documents for all subawards at all tiers (including subcontracts, subgrants, and contracts under grants, loans and cooperative agreements) and that all subrecipients must certify and disclose accordingly.

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by 31U.S.C. 1352. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

- B. This Agreement is subject to the restrictions on lobbying found in the CDBG Regulations and Section 503 of Public Law 105-78. Section 503 provides, in part:
  1. No part of any appropriation contained in this Act shall be used, other than for normal and recognized executive-legislative relationships, for publicity or propoganda purposes, for the preparation, distribution, or use of any kit, pamphlet, booklet, publication, radio, television, or video presentation designed to support or defeat legislation pending before the Congress, except in presentation to the Congress itself or any State legislature.
  2. No part of any appropriation contained in this Act shall be used to pay the salary or expenses of any grant or contract recipient, or agency acting for such recipient, related to any activity designed to influence legislation or appropriations pending before the Congress or any State legislature.

#### **E-1.4 COMPLIANCE WITH GRANT REGULATIONS Standard Form 424B (Rev. 7-97)**

Subgrantee must comply with all applicable provisions of the Grant and must not cause the City to not be compliant with the Grant. Subgrantee must comply with, and certify that Subgrantee is in compliance with, all applicable laws (including implementing regulations), ordinances, policies, guidelines, procedures, regulations, rules, requirements and executive orders of the City of Chicago, the State of Illinois and all political subdivisions thereof, the federal government and HUD in the performance of this Agreement including, but not limited to, the following, in each case as amended from time to time:

- A. The provisions under the Housing and Community Development Act of 1974, Title I, Public Law 93-383, 88 Stat. 633, 42 U.S.C 5301 et seq., and implementing regulations promulgated thereunder.
- B. Administrative Requirements for Grants and Cooperative Agreements to State, Local and Federally Recognized Indian Tribal Governments (24 CFR 85); Uniform Administrative Requirements for Grants and Agreements with Institutions of Higher Education, Hospitals, and Other Nonprofit Organizations (24 CFR 84); Environmental Review Procedures for Entities Assuming HUD Environmental Responsibilities (24 CFR Part 58); Economic Opportunities for Low- and Very Low-Income Persons (24 CFR 135); and Grants and Agreements (2 CFR).
- C. The Intergovernmental Personnel Act of 1970 (42 U.S.C. §§ 4728-4763).
- D. All federal statutes relating to nondiscrimination, including, but not limited to:
  1. Title VI of the Civil Rights Act of 1964 (Pub. L. 88-352) which prohibits discrimination on the basis of race, color or national origin;
  2. Title IX of the Education Amendments of 1972 (20 U.S.C. §§ 1681-1683, 1685-1686) which prohibits discrimination on the basis of sex;
  3. Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. § 794) which prohibits discrimination on the basis of handicaps;
  4. Age Discrimination in Employment Act of 1967 and The Age Discrimination Act of 1975 (42 U.S.C. §§ 6101-6107) which prohibits discrimination on the basis of age;
  5. The Drug Abuse Office and Treatment Act of 1972 (Pub. L. 92-255) relating to nondiscrimination on the basis of drug abuse;

6. The Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment and Rehabilitation Act of 1970 (Pub. L. 91-616) relating to nondiscrimination on the basis of alcohol abuse or alcoholism;
  7. Sections 523 and 527 of the Public Health Service Act of 1912 (42 U.S.C. §§ 290 dd-3 and 290 ee-3) relating to confidentiality of alcohol and drug abuse patient records;
  8. Title VIII of the Civil Rights Act of 1968 (42 U.S.C. § 3601 et seq.) relating to nondiscrimination in the sale, rental or financing of housing;
  9. The Civil Rights Restoration Act of 1987;
  10. Executive Order 12250;
  11. Federal Equal Pay Act of 1963;
  12. Civil Rights Act of 1991; and
  13. Executive Order 11063, as amended by Executive Order 12259; and
  14. Section 188 of the Workforce Investment Act of 1998 (20 U.S.C. 9201), and any other applicable nondiscrimination statutes.
- E. All environmental standards including, but not limited to, those standards which may be prescribed by:
1. National Environmental Policy Act of 1969 (Pub. L. 91-190) and Executive Order 11514
  2. Notification of violating facilities pursuant to Executive Order 11738;
  3. Protection of wetland pursuant to Executive Order 11990;
  4. Evaluation of flood hazards in floodplains in accordance with Executive Order 11988;
  5. Assurance of project consistency with the approved State management program developed under the Coastal Zone Management Act of 1972 (16 U.S.C. §§ 1451 et seq.);
  6. Conformity with the approved State Implementation Plan developed pursuant to Section 176(c) of the Clean Air Act of 1955 (42 U.S.C. § 7401 et seq.); and
  7. The protection of underground sources of drinking water under the Safe Drinking Water Act of 1974 (Pub. L. 93-523).
  8. The protection of endangered species under the Endangered Species Act of 1973, 16 U.S.C. § 1531 et seq.; and
  9. Section 102(a) of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234).
- F. The National Historic Preservation Act of 1966 (16 U.S.C. § 470), Executive Order 11593 and the Archeological and Historic Preservation Act of 1974 (16 U.S.C. § 469a-1 et seq.).
- G. An Act to Amend the Public Health Service Act to Establish a Program of National Research Service Awards to Assure to Continued Excellence of Biomedical and Behavioral Research and to Provide for the Protection of Human Subjects Involved in Biomedical and Behavioral Research and for Other Purposes (Pub. L. 93-348).
- H. The Laboratory Animal Welfare Act of 1966 (7 U.S.C. §§ 2131 et seq.); the Lead-Based Paint Poisoning Prevention Act (42 U.S.C. § 4801 et seq.); the Residential Lead-Based Paint Hazard Reduction Act of 1992 (Pub.L. 101-550; 42 U.S.C. 4851 et seq.) and implementing regulations at 24 CFR Part 35.
- J. The Single Audit Act of 1984 and the Single Audit Act Amendments of 1996.
- K. The Program Fraud Civil Remedies Act of 1986 (31 U.S.C. § 3801 et seq.) (in accordance therewith, the authorized official signing on your behalf certifies that the statements in this Agreement are true, complete and accurate to the best of his or her knowledge, and that he or she is aware that any false, fictitious or fraudulent statements or claims may subject him or her to criminal, civil or administrative penalties, and agrees that you will comply with the terms and conditions with respect to the Grant).
- L. Subgrantee must comply with the applicable provisions of OMB Circulars A-21, A-87, A-102, A-110, A-122, A-128 and A-133, as amended,
- M. The Hatch Act (5 U.S.C. 1501-1508 and 7324-7328), which limits the political activities of employees whose principal employment activities are funded in whole or in part with federal funds.
- N. To the extent applicable in this Agreement, The Wild and Scenic Rivers Act of 1968 (16 U.S.C. §§ 1271 et seq.), the Davis-Bacon Act (40 U.S.C. §§ 276a to 276a-7), the Copeland Act (40 U.S.C. §§ 276c and 18 U.S.C. § 874), the Contract Work Hours and Safety Standards Act (40 U.S.C. §§ 327-333) and Title II and III of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (P.L. 91-646), and implementing regulations at 49 CFR 24.
- O. The Medicare and Medicaid anti-kickback statute (42 U.S.C. 1320a-7b(b))
- P. Government wide Debarment and Suspension (Nonprocurement) and Government wide Requirements for Drug-Free Workplace (Grants)(24 CFR 24 and Executive Orders 12549 and 12689)
- Q. Pursuant to the Trafficking Victims Protection Act of 2000, as amended (22 U.S.C. § 7104 et seq.), you and or your employees and subcontractor may not, under this Agreement, (a) engage in severe forms of trafficking in persons during the period of time that this Agreement is in effect; (b) procure a commercial sex act during the



period of time that this Agreement is in effect; or (c) use forced labor in the performance of this Agreement. HUD or the City may terminate this Agreement without penalty, if you or any employee or subcontractor (i) engage in severe forms of trafficking in persons or have procured a commercial sex act during the period of time that this Agreement is in effect, or (ii) use forced labor in the performance of this Agreement.

**E-1.5** To the greatest extent practicable, all equipment and products purchased with funds received from the City pursuant to this Agreement should be American-made.

**E-1.6** The mandatory standards and policies relating to energy efficiency which are contained in the State of Illinois energy conservation plan issued in compliance with the Energy Policy and Conservation Act (Pub. L. 94-163).

**E-1.7** None of the Federal funds provided under this Agreement shall be used to carry out any program for distributing sterile needles or syringes for the hypodermic injection of any illegal drug.

#### **E-1.8 PREVAILING WAGE**

If the nature of the work or services under the agreement is subject to the requirements of 49 U.S.C. 5333(a), the Davis-Bacon Act, 40 U.S.C. 276 a(7), and implementing U.S. DOL regulation, "Labor Standards Provisions Applicable to Contracts Governing Federally Financed and Assisted Construction (also Labor Standards Provisions Applicable to Nonconstruction Contracts Subject to the Contract Work Hours and Safety Standards Act)" 29 CF Part 5, then in addition to other requirements that may apply, you agree to the following: (a) to pay wages to laborers and mechanics performing contract work at a rate not less than the minimum wages specified in a wage determination issued by the U.S. Secretary of Labor and not less frequently than once a week; (b) to place a copy of the current prevailing wage determination issued by the U.S. DOL in each solicitation for subcontractor work under the Agreement, and to refrain from awarding any affected subcontract until the subcontractor agrees to the required wage determination; and (c) to report to DOL every suspected or reported violation of the Davis-Bacon Act or its Federal implementing regulations.

#### **E-1.9 DRUG FREE WORKPLACE**

Subgrantee will provide a drug free workplace by provision and enforcement of the following:

- a. Publishing a statement notifying employees that the unlawful manufacture, distribution, dispensing, possession or use of a controlled substance, including cannabis, is prohibited in Subgrantee's workplace and specifying the actions that will be taken against employees for violation of such prohibition.
- b. Establishing an ongoing drug free awareness program to inform employees about:
  1. The dangers of drug abuse in the workplace;
  2. The Subgrantee's policy of maintaining a drug free workplace;
  3. Any available drug counseling, rehabilitation and employee assistance programs; and
  4. The penalties that may be imposed upon employees for drug abuse violations occurring in the workplace.
- c. Providing a copy of the statement required by paragraph (a) to each employee engaged in the performance of the contract and posting a copy of the statement in a prominent place in the workplace.
- d. Notifying the employee in the statement required by paragraph (a) that, as a condition of employment under the contract, the employee will:
  1. Abide by the terms of the statement, and
  2. Notify the employer of any criminal drug statute conviction for a violation occurring in the workplace no later than five calendar days after such conviction.
- e. Notifying the Department in writing within ten calendar days after receiving notice under sub-paragraph d(2) from an employee or otherwise receiving actual notice of such conviction.

- f. Taking one of the following actions, within thirty calendar days of receiving notice under sub-paragraph d(2), with respect to any employee who is convicted:
  - 1. Taking appropriate personnel action against such an employee, up to and including termination, consistent with the requirements of the Rehabilitation Act of 1973, as amended; or
  - 2. Requiring such employee to participate satisfactorily in a drug abuse assistance or rehabilitation program approved for such purposes by a Federal, State or local health, law enforcement and/or other appropriate agency and as required by Section 5 of the Drugfree Workplace Act (30 ILCS 580/5).
- g. Making a good faith effort to continue to maintain a drug free workplace through implementation of paragraphs (a), (b), (c), (d), (e), and (f) and implementation of the Drugfree Workplace Act (30 ILCS 580/5).

**E-1.10 ACKNOWLEDGMENT.** In accordance with Section 2.13, *Acknowledgement of Funding Sources*, of this Agreement all publication material, including but not limited to, publications, journal articles and pamphlets, must bear an acknowledgment and disclaimer, as appropriate, such as: "This project was supported by a Grant awarded by the Office of Community Planning and Development, U.S. Department of Housing and Urban Development. The opinions, findings, conclusions and recommendations expressed in this publication/program/exhibition are those of the author(s) and do not necessarily reflect the views of the U.S. Department of Housing and Urban Development."