



# City of Chicago



O2013-8434

Office of the City Clerk

## Document Tracking Sheet

<b>Meeting Date:</b>	11/13/2013
<b>Sponsor(s):</b>	Emanuel (Mayor)
<b>Type:</b>	Ordinance
<b>Title:</b>	Authorization for Retrofit One transaction and energy services agreement with Chicago Infrastructure Trust
<b>Committee(s) Assignment:</b>	Committee on Finance



OFFICE OF THE MAYOR  
CITY OF CHICAGO

RAHM EMANUEL  
MAYOR

November 13, 2013

TO THE HONORABLE, THE CITY COUNCIL  
OF THE CITY OF CHICAGO

Ladies and Gentlemen:

At the request of the Chief Financial Officer, the Commissioner of Fleet and Facility Management, the Acting Comptroller and the Commissioner of Water Management, I transmit herewith an ordinance authorizing the Retrofit One transaction with the Chicago Infrastructure Trust and associated agreements.

Your favorable consideration of this ordinance will be appreciated.

Very truly yours,

Mayor

## ORDINANCE

WHEREAS, the City of Chicago (the "City") is a home rule unit of local government under the 1970 Constitution of the State of Illinois and has the authority to promote the health, safety and welfare of its inhabitants, to furnish essential governmental services through its various departments and agencies and to enter into contractual agreements with units of local government for the purpose of achieving the aforesaid objectives; and

WHEREAS, the City established the Chicago Infrastructure Trust (the "CIT") by an ordinance adopted by the City Council of the City (the "City Council") on April 24, 2012, published at pages 23972 through 23988, inclusive, of the Journal of Proceedings of the City Council for such date (the "Original CIT Ordinance") to assist the City and its sister agencies, including the Board of Education of the City of Chicago, commonly known as Chicago Public Schools ("CPS"), in providing alternative financing and project delivery options for transformative infrastructure projects by attracting capital from diverse types of investors, demonstrating real risk transfer to third-party investors, and stimulating cross-agency financing while creating efficient capital structures; and

WHEREAS, the CIT has proposed to finance various energy-saving projects on behalf of the City as described on Exhibit A hereto (the "City Projects"); the financing by the CIT of the City Projects is referred to herein as "Retrofit One"; and

WHEREAS, an "Energy Services Agreement" is an operating contract that permits energy efficiency to be packaged as a service that generally requires minimal upfront cost to the building owner as the owner pays for the service from the cost savings realized by the implementation of energy conservation measures by the energy service provider at the provider's initial expense; and

WHEREAS, the CIT has proposed to finance the City Projects by means of Energy Services Agreements (the "ESAs") between the CIT and the City, pursuant to which the CIT (or a special purpose entity created by it) would own the energy conservation measures described on Exhibit A ("ECMs") and the City, as the owner of the facilities in which the ECMs would be located, would agree to pay the CIT an amount equal to agreed-upon savings from the ECMs as long as the agreed-upon savings are achieved; and

WHEREAS, the CIT would also enter into one or more guaranteed energy performance contracts (each, a "GEPC") with each of the energy service companies described below (referred to herein as "ESCOs"), which defines the scope of work for implementing the ECMs and pursuant to which the respective ESCO would provide a guaranty for the amount of energy savings to be achieved from the related project; and

WHEREAS, pursuant to that certain Program Formulation Request between the Public Building Commission of Chicago (the "Commission") and the City dated September 11, 2012 (the "Formulation Request"), the Commission contracted with Ameresco, Inc., Noresco, LLC and Schneider Electric Buildings Americas, Inc. (collectively, the "ESCOs") for investment-grade audits for energy-saving retrofit work in certain City facilities, as detailed in Exhibit A hereto; and

WHEREAS, it is anticipated that the CIT will enter into a loan and security agreement with lenders for the financing of the City Projects (the "Loan Agreement"); and

WHEREAS, it is anticipated that the interest component of the loan to be repaid by the CIT pursuant to the Loan Agreement will be excludable from gross income of the lenders thereunder for federal income tax purposes: and

WHEREAS, in order to effect the proposed Retrofit One transaction on such a tax-exempt basis, it is now necessary to amend the Original CIT Ordinance such that the City grants to the CIT the power to be an "on behalf of issuer" of the City and to provide that any obligations issued by the CIT on behalf of the City must be approved by the City Council prior to issuance; now, therefore,

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF CHICAGO:

SECTION 1. The above recitals are incorporated herein and made a part hereof.

SECTION 2. The Original CIT Ordinance is hereby amended by adding a new Section 11 to read as follows:

"SECTION 11. Grant of On Behalf Of Issuance Powers.

- (a) Subject to Section 5(b) hereof, the City hereby grants the Trust the power to issue bonds, notes, certificates, contract rights and other obligations (collectively, "Obligations") "on behalf of" the City, within the meaning of U.S. Treasury Regulation Section 1.103-1(b). No such Obligation, whether for the benefit of the City or any Co-Ordinate Unit of Government, may be validly issued or entered into by the Trust without the prior approval of the City Council.
- (b) The City's grant of power to the Trust in the foregoing paragraph (a) is subject to the agreement by the Trust to comply with the following conditions:
  - (i) In the case of tax-exempt Obligations, the Trust (i) will take those actions which are necessary to be taken (and avoid those actions which it is necessary to avoid taking) so that interest on the tax-exempt Obligations will not be or become included in gross income for federal income tax purposes under the Internal Revenue Code of 1986 (the "Code"); (ii) will take those actions reasonably within its power to take which are necessary to be taken (and avoid taking those actions which are reasonably within its power to avoid taking and which it is necessary to avoid) so that interest on the tax-exempt Obligations will not be or become included in gross income for federal income tax purposes under the Code as in effect from time to time; and (iii) will take no action or permit any action in the investment of any fund or account of the Trust which would result in making interest on the tax-exempt Obligations subject to federal income taxes by reason of causing the tax-exempt Obligations to be "arbitrage bonds" within the meaning of Section 148 of the Code.
  - (ii) In furtherance of the foregoing provisions, but without limiting their generality, the Trust will agree: (1) through its officers, to make such further specific covenants, certifications and representations as shall be truthful, and assurances as may be necessary or advisable; (2) to comply with all representations, covenants and assurances contained in



certificates or agreements as may be prepared by counsel approving the tax-exempt Obligations; (3) to consult with such counsel and to comply with such advice as may be given; (4) to file such forms, statements and supporting documents as may be required and in a timely manner; and (5) if deemed necessary or advisable by its officers, to employ and pay fiscal agents, financial advisors, attorneys and other persons to assist the Trust in such compliance."

**SECTION 3.** The City Council hereby authorizes the Commissioner of 2FM (or his designee) to enter into one or more ESAs, in substantially the form set forth in Exhibit B attached hereto and made a part hereof, with the CIT for the purpose of financing and implementing the City Projects included in Retrofit One, with such revisions in text as the Commissioner of 2FM (or his designee) executing the same shall determine are necessary or desirable, the execution thereof by such officer or employee to evidence the City Council's approval of all such revisions.

The City acknowledges that the ECMs shall be owned by the CIT pursuant to the ESA. Therefore, the ESCOs by virtue of their GEPCs with the CIT shall have certain of the incidents and burdens of such ownership, including rights of access to the buildings where the ECMs are located for purposes of installation, maintenance, removal and replacement. Such access shall be granted only upon reasonable notice and in compliance with all security and other regulations of the applicable public buildings, as set forth in the ESA. The City shall not own the ECMs simply by virtue of them being installed in City buildings.

**SECTION 4.** The Loan Agreement is hereby approved subject to the following parameters: (a) the aggregate principal amount of the loan thereunder shall not exceed \$30,000,000; (b) the term of the loan thereunder shall not exceed 25 years; and (c) the highest interest rate on the loan thereunder shall not exceed 5.00% per annum.

Pursuant to the ESA, subsequent to the execution and delivery of the Loan Agreement, the CIT shall be obligated to file in the Office of the City Clerk a notification of sale directed to the City Council setting forth the aggregate principal amount, the maturities, the interest rates of the loan under the Loan Agreement and attaching copies of the executed Loan Agreement, GEPCs and ESAs.

**SECTION 5.** The Loan Agreement is not an obligation of the City, but is payable from moneys received by the CIT under and pursuant to the ESAs. The Loan Agreement shall not be deemed to constitute an indebtedness or a loan against the general taxing powers or credit of the City, within the meaning of any constitutional or statutory provision. The lenders under the Loan Agreement shall not have the right to compel any exercise of the taxing power of the City, the State of Illinois or any political subdivision thereof to pay the principal of or interest on any loan under the Loan Agreement.

**SECTION 6.** The Mayor, the Chief Financial Officer, the City Comptroller, the City Treasurer, the City Clerk, any Deputy Clerk, the Commissioner of 2FM (or his designee) (each, an "Authorized Officer") are each authorized to execute and deliver on behalf of the City such other documents, agreements and certificates and to do such other things consistent with the terms of this Ordinance as such officers and employees shall deem necessary or appropriate in order to effectuate the intent and purposes of this Ordinance, and any such actions heretofore taken by an Authorized Officer in accordance with the provisions hereof are hereby ratified and approved.

SECTION 7. To the extent that any ordinance, resolution, rule, order or provision of the Municipal Code of Chicago (the "Municipal Code"), or part thereof, is in conflict with the provisions of this Ordinance, the provisions of this Ordinance shall be controlling. If any section, paragraph, clause or provision of this Ordinance shall be held invalid, the invalidity of such section, paragraph, clause or provision shall not affect any of the other provisions of this Ordinance. No provision of the Municipal Code or violation of any provision of the Municipal Code shall be deemed to render voidable at the option of the City any document, instrument or agreement authorized hereunder or to impair the validity of this Ordinance or the instruments authorized by this Ordinance; provided further that the foregoing shall not be deemed to affect the availability of any other remedy or penalty for any violation of any provision of the Municipal Code.

SECTION 8. This Ordinance shall be in full force and effect immediately upon its passage and approval.

## City Projects

SSO\_05/28/13

Updated: 05/28/13, Noresco 98%, Ameresco 98%, & Schneider 98%

Retrofit Chicago-2FM - 98% Investment Grade Audit - ECM Matrix - Maximum Size Program																					Maximum Program		
		Schneider	129	24	31	11	11	2	1	0	14	0	18	0	9	7	1	1	\$ 9,936,035	\$ 766,925	13.0		
4		Noresco	6	1	0	0	0	0	0	0	1	1	1	0	0	1	1	1	\$ 3,609,549	\$ 311,328	11.6		
39		Ameresco	90	18	0	24	2	2	1	3	9	22	0	1	3	2	3	3	\$ 12,037,849	\$ 903,541	13.3		
Subtotal			225	43	31	35	13	4	2	3	24	23	19	1	12	10	5	5	\$ 25,583,433	\$ 1,981,794	12.9		
ESCO	Facility ID #	Facility Name	Address	Lighting Retrofits	Building Weatherization	Retro-commission Mechanical Systems	Demand Control Ventilation	Motor or Pump Upgrades & VFDs	Steam Trap Repairs / Replacements	Existing HVAC Systems Refurbish or Upgrade	Upgrade Controls to BDC Refurbish Existing System	Cooling Refurbish or Upgrade	Furnace or AHU or VAV Upgrade or Replacement	New Boiler, Chiller, Condensor Unit, or RTU	Misc. Other	Total Energy Savings (Large 20 Yr. 4.5% Program)		ESCO Project Cost (Large 20 Yr. 4.5% Program)		Simple Payback (Yrs.) Large			
AMERESCO	P011	CENTRAL DISTRICT OFFICE (WATER)	3901 S. Ashland Ave.	\$ 14,481	\$ 29,281		\$ 14,481		\$ 27,300		\$ 116,902						\$ 398,298	\$ 42,022	\$ 124,741	\$ 9,596	13.0		
AMERESCO	P029	LEGIER LIBRARY	115 S. Pulaski Rd.		\$ 3,376						\$ 74,212							\$ 74,212	\$ 4,570	\$ 78,126	\$ 5,677	16.7	
AMERESCO	P030	SOUTH CHICAGO LIBRARY	9055 S. Houston Ave.		\$ 1,900														\$ 48,198	\$ 5,677	\$ 53,781	\$ 5,664	9.5
AMERESCO	P052	BESSIE COLEMAN LIBRARY	731 E. 63rd St.		\$ 1,004					\$ 37,990								\$ 37,990	\$ 5,677	\$ 53,781	\$ 5,664	9.5	
AMERESCO	P055	WOODSON REGIONAL LIBRARY	9525 S. Halsted St.	\$ 184,714	\$ 30,794				\$ 20,145	\$ 11,941	\$ 113,645							\$ 11,941	\$ 36,178	\$ 382,004	\$ 36,178	16.1	
AMERESCO	P058	6TH DISTRICT POLICE STATION	7808 S. Halsted St.	\$ 42,428														\$ 53,781	\$ 5,664	\$ 59,445	\$ 5,664	9.5	
AMERESCO	P070	PUELLMAN LIBRARY	11001 S. Lurana Ave.		\$ 13,906						\$ 44,955							\$ 44,955	\$ 7,352	\$ 87,029	\$ 7,352	11.8	
AMERESCO	P073	HAROLD WASHINGTON LIBRARY	400 S. State St.	\$ 60,642	\$ 11,724	\$ 116,520				\$ 48,432								\$ 115,360	\$ 907,282	\$ 248,415	\$ 248,415	21.7	
AMERESCO	P075	WHITNEY M. YOUNG, JR. LIBRARY	7901 S. MLK Jr Dr.	\$ 27,942	\$ 2,691													\$ 187,231	\$ 13,135	\$ 143,135	\$ 143,135	14.3	
AMERESCO	P077	SOUTH SHORE LIBRARY	2505 E. 73rd St.								\$ 54,098							\$ 57,318	\$ 3,021	\$ 3,021	\$ 3,021	19.0	
AMERESCO	P086	MLK JR. BRANCH LIBRARY	3436 S. MLK Dr.							\$ 72,114								\$ 73,627	\$ 4,874	\$ 4,874	\$ 4,874	15.1	
AMERESCO	P097	CLENNING LIBRARY	6423 W. 62nd Pl.		\$ 2,270						\$ 58,791							\$ 64,014	\$ 5,735	\$ 5,735	\$ 5,735	11.2	
AMERESCO	F100	WRIGHTWOOD - ASHURN LIBRARY	8530 S. Kedzie Ave.						\$ 62,224									\$ 64,473	\$ 5,510	\$ 5,510	\$ 5,510	11.7	
AMERESCO	F107	MCKNILEY PARK LIBRARY	1915 W. 35th St.						\$ 65,981									\$ 67,815	\$ 3,699	\$ 3,699	\$ 3,699	18.3	
AMERESCO	F111	WEST BELMONT LIBRARY	3104 N. Narragansett Ave.		\$ 3,351				\$ 34,968		\$ 65,981							\$ 108,029	\$ 3,713	\$ 3,713	\$ 3,713	29.1	
AMERESCO	F114	NORTTOWN LIBRARY	6435 N. California Ave.						\$ 62,619		\$ 62,619							\$ 64,118	\$ 2,815	\$ 2,815	\$ 2,815	22.8	
AMERESCO	F117	GEORGE HALL LIBRARY	4801 S. Michigan Ave.		\$ 1,580				\$ 2,967	\$ 11,714	\$ 50,994							\$ 58,216	\$ 4,139	\$ 4,139	\$ 4,139	14.1	
AMERESCO	F119	WALKER LIBRARY	11071 S. Hoyle Ave.		\$ 2,467				\$ 50,912		\$ 50,912							\$ 54,499	\$ 3,420	\$ 3,420	\$ 3,420	15.9	
AMERESCO	F120	THURGOOD MARSHALL LIBRARY	7506 S. Racine Ave.		\$ 2,097				\$ 19,426		\$ 19,426							\$ 64,080	\$ 5,690	\$ 5,690	\$ 5,690	11.3	
AMERESCO	F124	LINCOLN BELMONT LIBRARY	1659 W. Melrose St.		\$ 20,712				\$ 20,941		\$ 55,426							\$ 84,011	\$ 7,573	\$ 7,573	\$ 7,573	11.1	
AMERESCO	F125	NEAR NORTH BRANCH LIBRARY	310 W. Division St.		\$ 3,379				\$ 48,944		\$ 48,944							\$ 46,683	\$ 2,042	\$ 2,042	\$ 2,042	22.9	
AMERESCO	F160	ADMINISTRATIVE HEARINGS	400 W. Superior St.								\$ 522,856							\$ 539,056	\$ 13,601	\$ 13,601	\$ 13,601	39.6	
AMERESCO	F223	POLICE TRAINING ACADEMY	1300 W. Jackson Blvd.	\$ 162,860	\$ 6,201				\$ 54,516		\$ 67,962							\$ 2,035,840	\$ 97,622	\$ 97,622	\$ 97,622	20.9	
AMERESCO	F230	NTV ADMIN/MENTAL HEALTH-BUDG. C	5901 N. Pulaski Rd.															\$ 44,960	\$ 4,559	\$ 4,559	\$ 4,559	9.9	
AMERESCO	F247	MOUNT GREENWOOD LIBRARY	11010 S. Kedzie Ave.		\$ 7,496						\$ 56,096							\$ 63,098	\$ 4,268	\$ 4,268	\$ 4,268	14.8	
AMERESCO	F253	CHICAGO CULTURAL CENTER	78 E. Washington St.	\$ 107,718	\$ 10,852						\$ 184,714							\$ 134,464	\$ 72,477	\$ 72,477	\$ 72,477	18.6	
AMERESCO	F256	311 CITY SERVICES	2111 W. Leaventon St.	\$ 22,812	\$ 4,468						\$ 99,337							\$ 134,871	\$ 4,858	\$ 4,858	\$ 4,858	27.8	
AMERESCO	F283	14TH DISTRICT POLICE STATION	2150 N. California Ave.	\$ 44,331														\$ 50,240	\$ 4,934	\$ 4,934	\$ 4,934	10.2	
AMERESCO	F388	CENTRAL OFFICE (CDOF)	1501 W. Pershing Rd.	\$ 62,534	\$ 4,516				\$ 19,627									\$ 310,582	\$ 24,436	\$ 24,436	\$ 24,436	12.7	

ESCO	Facility ID #	Facility Name	Address	Lighting Retrofits	Lighting Occupancy Sensors	Building Weatherization	Retro-commission Mechanical Systems	Demand Control Ventilation	Motor or Pump Upgrades & VFDs	Steam Trap Repairs / Replacements	Existing HVAC Systems Refurbish or Upgrade	Upgrade Controls to DDC Refurbish Existing System	New BAS (Bldg. Automation System)	Cooling Refurbish or Upgrade	Furnace or AHU or VAV Upgrade or Replacement	New Boiler, Chiller, or RTU	Misc. Other	ESCO Project Cost (Large 20 Yr. 4.5% Program)	Total Energy Savings (Large 20 Yr. 4.5% Program)	Simple Payback (Yrs.) Large
AMERESCO	F398	18TH DISTRICT POLICE STATION	1100 N. LaSalle St.	\$ 15,744														\$ 45,523	\$ 7,451	1.9
AMERESCO	F399	20TH DISTRICT POLICE STATION	5400 N. Lincoln Ave.	\$ 8,944														\$ 9,582	\$ 11,604	0.3
AMERESCO	F407	LOOP OPERATIONS OFFICES (OSS)	351 E. Lower Randolph St.	\$ 14,080	\$ 443	\$ 874,106												\$ 129,238	\$ 11,488	11.3
AMERESCO	F408	AUSTIN IRVING LIBRARY	6100 W. Irving Park Rd.	\$ 15,345	\$ 335							\$ 30,942						\$ 59,743	\$ 4,971	12.0
AMERESCO	F415	BUILDING WOODS LIBRARY	5630 N. Lincoln Ave.									\$ 33,899						\$ 35,805	\$ 4,334	8.3
AMERESCO	F545	OSS STREET OPERATIONS	1754 S. Clark St.	\$ 36,010	\$ 191,343													\$ 232,471	\$ 16,631	14.0
AMERESCO	F584	COLUCCI'S BUILDING	1615 W. Chicago Ave.			\$ 874,106					\$ 17,111							\$ 1,070,242	\$ 23,151	46.2
AMERESCO	F675	WATER DEPT. / CENTRAL DISTRICT	1424 W. Pershing Rd.	\$ 165,590								\$ 162,801						\$ 349,583	\$ 28,312	12.3
AMERESCO	F690	AYALON BRANCH LIBRARY	8148 S. Stony Island Ave.															\$ 120,884	\$ 7,108	17.0
NORESKO	F693	R. I. QUINN ACADEMY (FIRE)	558 W. De Koven St.															\$ 119,723	\$ 14,216	8.4
NORESKO	F538	POLICE-FIRE-OSS WAREHOUSE	1869 W. Pershing Rd.	\$ 24,555														\$ 246,167	\$ 53,644	4.6
NORESKO	F596	CITY HALL	121 N. La Salle St.									\$ 21,523						\$ 3,226,269	\$ 231,677	13.9
NORESKO	F771	FIRE ENGINE COMPANY 18	1360 S. Blue Island Ave.															\$ 17,590	\$ 11,791	1.5
SCHNEIDER	F001	19TH DISTRICT POLICE (AREA 3)	2452 W. Belmont Ave.	\$ 2,517	\$ 28,145	\$ 7,188	\$ 711		\$ 12,495									\$ 1,238,715	\$ 35,361	35.0
SCHNEIDER	F006	SOUTHWEST CENTER (AGING)	6117 S. Kedzie Ave.	\$ 716	\$ 7,492													\$ 320,526	\$ 20,053	16.0
SCHNEIDER	F069	4TH DISTRICT POLICE STATION	2255 E. 103rd St.	\$ 3,186	\$ 10,821	\$ 12,440												\$ 201,778	\$ 15,304	13.2
SCHNEIDER	F109	AGING AND MOPD	2102 W. Ogden Ave.		\$ 6,012													\$ 236,846	\$ 7,356	32.1
SCHNEIDER	F120	24TH DISTRICT POLICE STATION	8464 N. Clark St.	\$ 194	\$ 10,746	\$ 2,680												\$ 33,540	\$ 2,790	12.0
SCHNEIDER	F221	5TH DIST. POLICE (AREA 2) & GARAGE	727 E. 111th St.	\$ 51,192	\$ 25,046	\$ 2,840												\$ 628,357	\$ 32,484	19.3
SCHNEIDER	F222	25TH DIST. POLICE (AREA 5) & GARAGE	5555 W. Grand Ave.	\$ 8,663	\$ 1,044	\$ 14,578												\$ 564,887	\$ 38,188	14.8
SCHNEIDER	F224	11TH DIST. POLICE STATION (AREA 4)	3151 W. Harrison St.	\$ 37,107	\$ 11,143	\$ 1,930	\$ 1,004	\$ 14,457										\$ 658,717	\$ 50,163	13.1
SCHNEIDER	F243	3RD DISTRICT POLICE STATION	7040 S. Cottage Grove Ave.	\$ 63,586	\$ 1,934													\$ 77,530	\$ 5,830	13.3
SCHNEIDER	F257	911 CENTER	1411 W. Madison St.	\$ 2,608	\$ 37,482		\$ 8,107											\$ 181,292	\$ 32,944	5.5
SCHNEIDER	F273	16TH DISTRICT POLICE STATION	5151 N. Milwaukee Ave.	\$ 2,844	\$ 13,823													\$ 57,451	\$ 4,248	13.5
SCHNEIDER	F329	WISCONSIN HEALTH CENTER	2418 W. Division St.	\$ 9,374	\$ 800													\$ 432,521	\$ 18,013	24.0
SCHNEIDER	F331	ENGLEWOOD HEALTH CENTER	641 W. 63rd St.	\$ 1,077	\$ 9,186													\$ 713,736	\$ 48,524	14.7
SCHNEIDER	F353	UPTOWN HEALTH CENTER	845 W. Wilson Ave.	\$ 12,274	\$ 4,440													\$ 285,085	\$ 11,726	24.3
SCHNEIDER	F354	ROSELAND HEALTH CENTER	2100 E. 115th St.	\$ 12,018	\$ 14,571													\$ 296,114	\$ 7,992	37.1
SCHNEIDER	F358	SACHS CLINIC / WSDC	2160 W. Ogden Ave.	\$ 5,427	\$ 15,312													\$ 455,531	\$ 23,217	19.6
SCHNEIDER	F389	HUMAN SQUARE (POLICE)	3340 W. Fullerton St.		\$ 11,160													\$ 1,496,860	\$ 65,559	22.8
SCHNEIDER	F392	1ST DISTRICT POLICE STATION	1718 S. State St.		\$ 17,180													\$ 256,265	\$ 19,506	13.1
SCHNEIDER	F396	POLICE HEADQUARTERS	3510 S. Michigan Ave.	\$ 3,495	\$ 27,038		\$ 18,574											\$ 319,845	\$ 172,236	1.9
SCHNEIDER	F433	GARFIELD COMMUNITY CENTER	10 S. Kedzie Ave.	\$ 1,852	\$ 10,743													\$ 829,432	\$ 60,257	13.8
SCHNEIDER	F527	17TH DISTRICT POLICE STATION	4650 N. Paulist Rd.	\$ 19,307	\$ 19,307		\$ 41,731											\$ 90,146	\$ 9,847	9.2
SCHNEIDER	F531	AREA 1 POLICE AND 2ND DISTRICT	5101 S. Wentworth Ave.	\$ 19,886	\$ 76,415	\$ 1,649												\$ 1,063,475	\$ 46,037	23.1

ESCO	Facility ID #	Facility Name	Address	Lighting Retrofits	Lighting Occupancy Sensors	Building Weatherization	Retro-commission Mechanical Systems	Demand Control Ventilation	Motor or Pump Upgrades & VFDs	Steam Trap Repairs / Replacements	Existing HVAC Systems Refurbish or Upgrade	Upgrade Controls to BDC Refurbish Existing System	New BAS (Bldg. Automation System)	Cooling Refurbish or Upgrade	Furnace or AHU or VAV Upgrade or Replacement	New Boiler, Chiller, or RTU	Misc. Other	ESCO Project Cost (Large 20 Yr. 4.5% Program)	Total Energy Savings (Large 20 Yr. 4.5% Program)	Simple Payback (Yrs.) Large	
SCHEIDER	F541	10TH DISTRICT POLICE STATION	3315 W. Ogden Ave.	\$ 29,273	\$ 11,650						\$ 32,079							\$	\$ 113,702	\$ 25,579	4.4
SCHEIDER	F591	AGING - NORTHEAST (LEVY CENTER)	2019 W. Lawrence Ave.	\$ 4,247	\$ 46,314						\$ 1,981								\$ 44,632	\$ 3,732	12.0
SCHEIDER	F592	COPERNICUS AGING CENTER	3160 N. Milwaukee Ave.	\$ 218	\$ 15,664														\$ 88,808	\$ 10,415	8.5
SCHEIDER	F601	MILK COMMUNITY CENTER	4314 S. Cottage Grove Ave.	\$ 12,260	\$ 15,902		\$ 18,961				\$ 17,238	\$ 297,009				\$ 2,061			\$ 742,977	\$ 54,173	13.7
SCHEIDER	F640	DEPARTMENT OF PUBLIC HEALTH	2133 W. Lexington St.	\$ 31,222			\$ 25,814				\$ 31,809								\$ 89,036	\$ 16,859	5.3
SCHEIDER	F668	15TH DISTRICT POLICE STATION	5701 W. Madison St.		\$ 26,264		\$ 22,264												\$ 51,867	\$ 9,808	5.3
SCHEIDER	F687	JUVENILE DETENTION FACILITY	3900 S. California Ave.	\$ 291	\$ 47,674						\$ 16,499								\$ 258,219	\$ 15,610	16.5
SCHEIDER	F706	8TH DISTRICT POLICE STATION	3420 W. 63rd St.	\$ 798	\$ 31,257		\$ 32,278												\$ 64,819	\$ 8,513	7.6
SCHEIDER	F783	9TH DISTRICT POLICE STATION	3120 S. Hales St.	\$ 9,602	\$ 22,247														\$ 82,551	\$ 21,751	3.8
SCHEIDER	F785	7TH DISTRICT POLICE STATION	1438 W. 63rd St.	\$ 666	\$ 26,816						\$ 50,606								\$ 28,684	\$ 2,473	11.6
SCHEIDER	F808	23RD & 19TH DISTRICT POLICE	850 W. Addison St.	\$ 495	\$ 22,462														\$ 32,696	\$ 7,033	4.6

**Exhibit B**

**Form of Energy Services Agreement**

**ENERGY SERVICES AGREEMENT**

by and between

**CHICAGO INFRASTRUCTURE TRUST**

and

**THE CITY OF CHICAGO**

dated

[DATE]

Related to Chicago Department of Fleet and Facility Management/[ESCO] Project

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## ENERGY SERVICES AGREEMENT

This ENERGY SERVICES AGREEMENT (this “Agreement”), dated the \_\_\_\_ day of December, 2013 (the “Effective Date”), is by and between CHICAGO INFRASTRUCTURE TRUST, an Illinois nonprofit corporation (the “Provider”) and the CITY OF CHICAGO, a home rule unit of local government under the Constitution and laws of the State of Illinois (the “Customer”) (each of the Customer and the Provider, a “Party” and collectively, the “Parties”).

### RECITALS

WHEREAS, the Provider is authorized and empowered pursuant to the provisions of an ordinance adopted by the City Council of the City (the “City Council”) on April 24, 2012, as amended by an ordinance adopted by the City Council on [DATE], and a resolution adopted by the board of directors of the Provider on [DATE] to, among other things, acquire and finance certain energy conservation projects for the benefit of the Customer; and

WHEREAS, the Customer desires to engage the Provider to procure, install, implement, own, operate and maintain certain energy conservation measures and energy efficiency measures (as further described herein, “ECMs”), to be located at certain facilities of the Customer (as further described herein, the “Facilities”) for the purposes of achieving energy and operational savings at the Facilities subject to the terms and conditions of this Agreement; and

WHEREAS, the Provider desires to procure, install, implement, own, operate and maintain the ECMs and measure and verify energy and operational savings produced by the ECMs under the terms and conditions of this Agreement;

NOW THEREFORE, in consideration of the premises and the mutual promises and agreements of the Parties herein expressed, the Parties, intending to be legally bound, hereby agree as follows:

### ARTICLE I DEFINITIONS

Section 1.1      Definitions. Terms used in this Agreement shall have the meanings set forth in this Article I unless a different meaning clearly appears from the context.

“Agreement” means this Energy Services Agreement, together with all appendices, exhibits and schedules thereto, as any of them may be amended.

“Business Day” means any Day other than a Saturday, Sunday or a Day observed as a holiday by the Customer, the State of Illinois or the United States government, except that in the event that an obligation to be performed under this Agreement falls due on a Day other than a Business Day, the obligation shall be deemed due on the next Business Day thereafter (with no additional charge for such deferral).

“Change Order” means a written order signed by the Parties authorizing an addition, deletion or other change in the Installation Work, the Installation Schedule or the Project Costs or any other obligation of the Provider or the Customer pursuant to this Agreement.

“Commission” means the Public Building Commission of Chicago, a public body corporate and politic of the State of Illinois.

“Concealed Conditions” means subsurface or otherwise concealed physical conditions at the Facilities of an unusual nature that differ materially from those conditions ordinarily found to exist and generally recognized as inherent in construction activities of the type and character as the Installation Work, and that the Provider could not have discovered through the exercise of reasonable diligence during the performance of the Investment Grade Audit unless excluded thereunder.

“Customer Equipment” means all Customer-owned and leased equipment and fixtures located at the Facilities or related thereto that may affect the energy consumption savings that may be achieved by the ECMs.

“Day” means a calendar day and shall include Saturdays, Sundays and holidays.

“Determination of Taxability” means any determination, decision or decree by the Commissioner of Internal Revenue or any court of competent jurisdiction that an Event of Taxability shall have occurred.

“Discount Rate” means \_\_\_\_\_ percent (\_\_\_\_%).

“Dispute” means a Savings Dispute or a Non-Savings Dispute.

“Documents” means this Agreement with conditions set forth herein, the Plans and Specifications, the Installation Schedule, any Change Orders and any modifications to the foregoing documents issued after execution of this Agreement.

“ECMs” means the equipment, devices, materials, and/or software to be acquired and installed at the Facilities by the Provider and all related services as described in Exhibit A.

“Environmental Attributes” means all rights, credits (including tax credits), rebates, grants, benefits, reductions, offsets, and allowances and entitlements of any kind, howsoever entitled or named (including carbon credits and allowances), whether arising under federal, state or local law, international treaty, trade association membership or the like, arising from the development or installation of the ECMs and the reduction of energy usage at the Facilities. Without limiting the foregoing, “Environmental Attributes” includes utility rebates or incentive programs, green tags, renewable energy credits, tradable renewable certificates, portfolio energy credits, the right to apply for (and entitlement to receive) incentives under any state tax credit program, grants from nongovernmental organizations, and the right to claim federal income tax credits under Sections 45 and/or 48 of the Internal Revenue Code.

“Event of Taxability” means if as the result of any act, failure to act by the Customer or any misrepresentation or inaccuracy in any of the representations, warranties or covenants contained in this Agreement by the Customer, the interest on any tax-exempt financing for the Project is or becomes includable in Lender’s gross income for federal income tax purposes.

“Expected Savings Production” means, at any time, the Savings expected to be produced by the Project during the remaining Term of this Agreement as determined in accordance with Exhibit B and based on the underlying assumptions and performance projections for the Project.

“Fair Market Value” means the value determined on the following basis: (i) the subject value shall be the amount which would be obtained in an arm’s length transaction between an informed and willing buyer (who is not a used equipment dealer), and an informed and willing seller under no compulsion to sell; (ii) the costs of removal of the equipment from its then location shall not be a deduction from such value; and (iii) in determining any such value, to the extent the Customer is obligated to maintain any equipment, it shall be assumed (whether or not the same be true) (A) that such equipment has been maintained and is in the condition required in accordance with this Agreement, and (B) such value has not been diminished due to the existence of any damage history.

“Force Majeure Event” means any cause beyond the reasonable control of, and not due to the fault or negligence of, the Party affected, and which could not have been avoided by due diligence and use of reasonable efforts, including, but not limited to, drought, flood, earthquake, storm, mudslide, fire, lightning, epidemic, war, riot, civil disturbance, sabotage, explosions, material changes in Law, or strikes or labor disputes. “Force Majeure Event” also means the failure of any contractor to a Party hereto to furnish labor, services, materials or equipment, but only if such failure is itself due to a Force Majeure Event (as defined in the previous sentence).

“Hazardous Materials” means all hazardous or toxic substances, wastes or other pollutants, including petroleum, petroleum hydrocarbons or petroleum products, petroleum by-products, radioactive materials, asbestos or asbestos-containing materials, gasoline, diesel fuel, pesticides, radon, urea formaldehyde, lead or lead-containing materials, polychlorinated biphenyls; and any other chemicals, materials, substances or wastes in any amount or concentration which are now included in the definition of “hazardous substances,” “hazardous materials,” “hazardous wastes,” “extremely hazardous wastes,” “restricted hazardous wastes,” “toxic substances,” “toxic pollutants,” “pollutants,” “regulated substances,” “solid wastes,” or “contaminants” or words of similar import, under any applicable law.

“Independent Engineer” means a third party professional engineering firm, which firm shall be reasonably acceptable to both the Provider and the Customer.

“Installation Schedule” means the construction schedule included in Exhibit A hereto for the Installation Work that includes, without limitation, a schedule related to the entire Project and for each ECM, and that provides for expeditious and practicable execution of all aspects of the Installation Work.

“Installation Work” means the work and services required by the Documents during the implementation of the ECMs prior to the Substantial Completion Date and the completion of any related Punch List items and during any period of time during which the Provider is required to correct or replace its work and services pursuant to this Agreement, whether completed or partially completed and, includes all labor, materials, equipment, and services provided or to be provided by the Provider to fulfill the Provider’s obligations under this Agreement.

“Interim Completion” means the achievement of the requirements for Substantial Completion for a particular ECM(s) prior to the Substantial Completion Date.

“Investment Grade Audit” means the report prepared by [ESCO] that sets forth, among other things, (a) an assessment of the energy consumption characteristics of each Facility, (b) specific energy analysis related to each Facility and its operation, and (c) recommendations for projects or programs to achieve cost and/or energy savings in the operation of the Facilities.

“Law” means any applicable constitution, charter, act, statute, law (including common law), ordinance, code, rule, regulation, judgment, decree, writ, order, permit, approval, or the like, as any of the foregoing may change from time to time, of any federal, state or local government or any agency, department, authority, court, political subdivision or other instrumentality thereof.

“Lender” means any one, several or all of the banks, financial institutions, and bondholders (or trustees, agents, or representatives on their behalf) providing financing, credit support, credit enhancements and/or permanent debt financing for the construction and/or operation of the Project on behalf of the Provider.

“Liquidated Damages Amount” means, at any time, the amount equal to the net present value of \_\_\_\_ percent (\_\_\_\_%) of the Savings, plus any unearned Environmental Attributes, calculated at the Discount Rate, assuming the Project will produce Savings at the Expected Savings Production for the remaining Term.

“M&V Services” means the measurement and verification services and other services to be performed described in Exhibit B of this Agreement which M&V Services shall commence on the earlier of (i) the first Interim Completion for a particular ECM or (ii) the Substantial Completion of the Project.

“MCC” means the Municipal Code of Chicago.

“Measured Savings” means energy and operational savings achieved by the ECMs as determined pursuant to Exhibit B.

“Non-Savings Dispute” means any claim, dispute, controversy or other matter arising out of or related to the validity, scope, making, interpretation, enforceability, performance, breach of, or relating in any way to this Agreement or the relationship between the Parties created by this Agreement or the subject matter of this Agreement, including but not limited to the authority or capacity of any signatory to this Agreement, but excluding a Savings Dispute.

“Period” means the semi-annual period commencing with the semi-annual period following the Substantial Completion Date or Interim Completion of ECM(s), as applicable.

“Plans and Specifications” means the drawings, specifications, designs, plans, and related documents, prepared by or on behalf of the Customer, the Provider, and/or Subcontractors in connection with the Project.

“Project” means the design, engineering, installation, repairs, retrofit, and implementation of the ECMs, as more fully described in Exhibit A hereto and the other terms and provisions of this Agreement.

“Project Costs” means the costs incurred by Provider in performing the Installation Work.

“Punch List” means minor items of Work to be completed after Substantial Completion, which do not prevent an ECM or the Project from being used for the purpose for which it is intended and which will not prevent the issuance of applicable permits or certificates for such use.

“Savings” means Measured Savings and Stipulated Savings.

“Savings Dispute” means any claim, dispute, controversy relating to an invoice for payment related to Savings.

“Savings Percentage” is defined in Section 8.1 of this Agreement.

“Services” means the Installation Work and the M&V Services.

“Stipulated Savings” means energy and operational savings agreed by the Parties to be achieved as a result of the ECMs as more particularly described in Exhibit B.

“Subcontract” means an agreement between the Provider and a Subcontractor to provide all or a portion of the Services.

“Subcontractor” or “Subcontractors” means one or more person or entity that furnishes labor, services, material, or equipment to the Provider or any other Subcontractor to the Provider.

“Substantial Completion” means the date that is the later of the following: (i) the Provider has determined that the Installation Work is sufficiently implemented in accordance with the Documents, including commissioning of any systems required by the Documents, so that the Customer may realize the benefits of the Project or the particular ECM, as the case may be, and is fully complete except for minor items, adjustments, and/or corrections that do not interfere with the Customer’s use and occupancy of the Facilities; or (ii) if the nature of such Installation Work requires that a certificate of occupancy be issued, it means the date of issuance of the required certificate of occupancy for the portion of the Facilities related to such Installation Work.

“Substantial Completion Date” means a date no later than \_\_\_\_\_, 20\_\_\_\_, subject only to extension as provided in this Agreement.

“Tax Certificate” means the Tax Certificate executed and delivered by the Provider in connection with the tax-exempt financing of the Project.



“Term” means the period of time from the Effective Date until [SCHEDULED END DATE], unless extended pursuant to the terms of this Agreement.

Section 1.2            Rules of Interpretation. Unless otherwise required by the context in which any term appears: (a) capitalized terms used in this Agreement have the meanings specified in this Article; (b) the singular shall include the plural and vice versa; (c) references to “Articles,” “Sections,” “Schedules,” “Annexes,” “Appendices,” “Attachments,” or “Exhibits” (if any) shall be to articles, sections, schedules, annexes, appendices, attachments or exhibits (if any) of this Agreement and references to a Schedule, Annex, Appendix, Attachment, or Exhibit shall mean the referenced Schedule, Annex, Appendix, Attachment, or Exhibit and any sub-exhibits, sub-parts, components or attachments that form a part thereof; (d) all references to a person or entity includes its successors and permitted assigns, and in the case of a governmental authority, any person succeeding to its functions and capacities; (e) the words “herein,” “hereof” and “hereunder” shall refer to this Agreement as a whole and not to any particular section or subsection of this Agreement; (f) all accounting terms not specifically defined herein shall be construed in accordance with generally accepted accounting principles in the United States of America, consistently applied; (g) references to this Agreement shall include a reference to all appendices, annexes, schedules and exhibits hereto, as the same may be amended, modified, supplemented or replaced from time to time; (h) references to any agreement, document or instrument shall mean a reference to such agreement, document or instrument as the same may be amended, modified, supplemented or replaced from time to time (provided that no such amendment, modification, supplement or replacement shall serve to eliminate or lessen any Party’s obligation under this Agreement as in effect on the Effective Date without the other Party’s written consent) and any term defined or provision incorporated in this Agreement by reference to another document, instrument or agreement shall continue to have the meaning or effect ascribed thereto whether or not such other document, instrument or agreement is in effect; (i) the use of the word “including” in this Agreement to refer to specific examples shall be construed to mean “including, without limitation” or “including but not limited to” and shall not be construed to mean that the examples given are an exclusive list of the topics covered; (j) references to Laws shall mean a reference to such Laws as the same may be amended, modified, supplemented or restated and be in effect from time to time; (k) the gender of all words used herein shall include the masculine, feminine and neuter; and (l) the term “or” is not exclusive.

## **ARTICLE II**

### **TERM; DISPOSITION OF ECMS**

#### **Section 2.1            Term.**

(a) This Agreement shall be in effect for the Term, unless terminated earlier in accordance with the provisions hereof. The Provider agrees to undertake the Installation Work in accordance with the Installation Schedule.

(b) At the end of the original Term, the Parties may, upon mutual agreement in writing, elect to extend the Term for one (1) period of up to five (5) years.

## Section 2.2

### Substantial Completion; Interim Completion.

(a) The Provider will commence the Installation Work within thirty (30) days after the date of this Agreement and will achieve Substantial Completion of the Project no later than the Substantial Completion Date; provided, however, the Provider may achieve Interim Completion for a particular ECM(s) in advance of the Substantial Completion Date. When the Provider determines that it has achieved Substantial Completion or Interim Completion of the entire Project or a particular ECM, as the case may be, the Provider will provide written notice of Substantial Completion or Interim Completion and a Punch List to the Customer. If the Customer does not concur that the Installation Work has achieved Interim or Substantial Completion and/or that the Punch List is not complete or correct, then the Customer shall notify the Provider within thirty (30) days of any discrepancies. To the extent the Provider does not dispute the discrepancies raised by the Customer, the Provider shall (i) promptly and diligently correct the Work to conform to the description of the Work set forth herein, and resubmit the certificate of Interim or Substantial Completion to the Customer, and (ii) promptly complete all items on the Punch List. If the Provider disagrees with the discrepancies raised by the Customer, the Provider shall notify the Customer of a dispute and such dispute shall be resolved in accordance with paragraph (b) below. If the Customer does not deliver written notice to the Provider within thirty (30) days of receiving the certificate of Interim or Substantial Completion and the Punch List, the Customer will be deemed to have agreed to, signed and returned the certificate of Interim or Substantial Completion and the Punch List.

(b) Any disputes concerning the Interim or Substantial Completion of the Work will be resolved by submitting the issue to an Independent Engineer. The Independent Engineer shall be authorized to make determinations and bind the Parties on issues related solely to interpretations or adequacy of the Plans and Specifications or the execution and/or completion of the Installation Work embodied in the Plans and Specifications as it relates to the determination of Interim or Substantial Completion. The Independent Engineer shall not have the authority to render determinations regarding delay claims, payment disputes or other contract disputes that do not involve or arise out of the content of the Plans and Specifications and/or the quality of the execution of the Installation Work. All disputes beyond the authority of the Independent Engineer shall be resolved pursuant to Article XII herein. The determination of the Independent Engineer with respect to Interim or Substantial Completion will be final and binding upon the Parties. The Provider and the Customer shall share equally the costs or fees for such firm in connection with such dispute resolution process.

## Section 2.3

### Fair Market Value Purchase Option.

(a) Provided that no Default by Customer has occurred and is continuing, at the end of the Term the Customer shall have the option upon written notice to the Provider at least sixty (60) Days prior to the end of the Term and payment of all amounts then due in respect of Savings pursuant to Section 8.1 to purchase the ECMs at their Fair Market Value.

(b) The Parties shall consult for the purpose of determining the Fair Market Value of the ECMs and any values agreed upon in writing between the Parties shall be binding. If the Parties fail to agree upon any such value within thirty (30) days of the commencement of such

consultation, the Provider shall then appoint an independent appraiser (reasonably acceptable to the Customer) to determine the applicable value, and such determination by the independent appraiser shall be set forth in a written opinion delivered to the Parties within thirty (30) days after such appointment and shall be binding on the Parties in the absence of fraud or manifest error. The independent appraiser shall make any such determination acting reasonably and in good faith and utilizing the definition of Fair Market Value, including all assumptions. The Customer agrees to pay the costs and expenses of any such determination and appraisal.

(c) Notwithstanding the foregoing, the Customer shall have a period of five (5) days after agreement by the Parties on the Fair Market Value, or receipt by the Customer of the determination of the independent appraiser, as the case may be, to confirm or retract its decision to exercise the purchase option under this Section 2.3.

(d) Upon the payment of the purchase price of the ECMs and all other amounts due and payable under this Agreement, the Provider shall transfer to the Customer ownership of the ECMs, the related Plans and Specifications, any related manufacturer warranties and its interest in the Facilities (free and clear of any liens, claims, security interests or other encumbrances) promptly upon payment by the Customer of such purchase price.

Section 2.4            Disposition of the ECMs by the Provider. At the end of the Term if the Customer does not elect to purchase the ECMs pursuant to Section 2.3, the Provider may, at its sole option, either (i) subject to the Provider's compliance with the other terms and conditions of this Agreement, surrender possession and transfer ownership of all or a portion of the ECMs to the Customer or (ii) at its own expense and upon the Provider providing evidence reasonably satisfactory to the Customer of the Provider's ability to pay such expense, remove all or a portion of the ECMs within a period of one hundred eighty (180) Days from the last Day of the Term and leave the Facilities, return the Facilities to their original condition, except for ordinary wear and tear, and leave the Facilities in neat and clean order. If the Provider fails or is unable to provide to the Customer such evidence of its ability to pay such expense, the Provider shall be deemed to have surrendered possession and transferred ownership of the ECMs to the Customer (and, in the event of such surrender, the Provider shall, within ten (10) Business Days of the surrender occurring deliver to the Customer such documents evidencing the transfer of title as are reasonably acceptable to the Customer). If the Provider determines to surrender possession of the ECMs, the Provider will transfer to the Customer ownership of such ECMs, the related Plans and Specifications, any related manufacturer warranties and its interest in the Facilities (free and clear of any liens, claims, security interests or other encumbrances). If the Provider determines to remove all or a portion of the ECMs and fails to remove them within the agreed upon period, the Customer shall have the right, at its option, to remove the ECMs to a public warehouse or other storage location or dispose of them, and restore the Facilities to their original condition, except for ordinary wear and tear, at the Provider's reasonable cost.

### **ARTICLE III SERVICES AND RELATED OBLIGATIONS**

Section 3.1            Subcontractors; Project Manager.

(a) The Provider shall perform and execute the provisions of this Agreement as an independent contractor and shall not be a partner, agent or employee of the Customer. The Provider shall have the right to have any of the Services performed by Subcontractors pursuant to written subcontracts between the Provider and such Subcontractors. No contractual relationship shall exist between the Customer and any Subcontractor with respect to the Installation Work to be performed hereunder. No Subcontractor is intended to be or shall be deemed a third-party beneficiary of this Agreement, unless otherwise expressly stated herein with respect to limitations of liability. The Provider shall be responsible to the Customer for acts and omissions of the Subcontractors, their agents and employees, and any other persons performing portions of the Services on behalf of the Provider, to the same extent as the acts or omissions of the Provider hereunder.

(b) Pursuant to [CIT/PBC Agreement], the Provider has retained the Commission as its construction and program manager for the Project and the Services and, in such capacity, the Commission has the authority to act on behalf of the Provider in connection therewith.

Section 3.2            Installation Schedule. The Provider shall submit a revised Installation Schedule when the Provider's planned construction sequence is changed or when Project changes are made that affect the Installation Schedule. Any changes to the Installation Schedule which would extend the Substantial Completion Date beyond one hundred eighty (180) Days past the originally scheduled Substantial Completion Date shall be subject to review by the Customer.

Section 3.3            Supervision and Performance of the Services; Safety.

(a) The Provider shall supervise, perform, and direct the Services using the professional skill, care, and attention reasonably required for projects similar to the Project. The Provider shall be solely responsible for and have control over means, methods, techniques, sequences, and procedures and for coordinating all portions of the Installation Work. The Provider will, at all times, act in the best interest of the Customer.

(b) Notwithstanding any other provision herein, the Provider shall directly or through Subcontractors design, engineer, procure, construct, commission and test the Project in a good workmanlike and quality manner, with all reasonable care, skill and diligence. The Customer shall have reasonable opportunity to review the Plans and Specifications prior to the performance of Installation Work. The purpose of the Customer's review shall be to ascertain the compatibility of the Provider's design with existing facility systems and, based on the Customer's knowledge and experience in the operation of the facilities, advise the Provider regarding the impact of proposed ECMs on operating costs. The Provider shall at all times remain wholly responsible and liable for the design of the Project.

(c) The Provider shall be responsible for maintaining and supervising reasonable safety precautions and programs in connection with the performance of the Services. The Provider shall take reasonable precautions for safety of, and shall provide reasonable and appropriate protection to prevent damage, injury or loss to (1) employees performing the Services and other persons who may be affected thereby; (2) the Installation Work and materials

and equipment to be incorporated in the Project; and (3) other property at the Facilities or adjacent thereto.

(d) The Provider must employ only competent and efficient workers and whenever, in the opinion of the Customer, any such worker is careless, incompetent, violates safety or security rules, obstructs the progress of the work or services to be performed under this Agreement, acts contrary to instructions or acts improperly, or fails to follow the safety requirements of this Agreement, the Provider must, upon request of the Customer, discharge or otherwise remove such worker from the work or services to be performed under this Agreement and must not use such worker again, except with the written consent of the Customer. The Provider must not permit any person to work upon the work or services to be performed under this Agreement or enter into any buildings connected therewith who is under the influence of intoxicating liquors or controlled substances.

Section 3.4 Use of Facilities. The Provider shall confine its operations to the portions of the Facilities identified in the Documents or otherwise approved by the Customer, and shall not unreasonably encumber the portions of the Facilities used for the Installation Work with materials, equipment, or similar items. The Provider and all Subcontractors shall use only such entrances to the Facilities as are designated by the Customer. During occupied hours, the Provider shall limit construction operations to methods and procedures that do not adversely and unduly affect the environment of occupied spaces within the Facilities, including but not limited to creating noise, odors, air pollution, ambient discomfort, or poor lighting. The Provider is responsible for conducting the Services in such a manner as to minimize debris left in the Facilities or public way and shall provide clean-up as required by the Customer. Whenever the Customer determines any type of operation constitutes a nuisance, the Provider will immediately proceed to conduct its operations in an approved manner. Upon completion of work activities, the Provider must remove all materials, tools and machinery and restore the site to the same general condition that existed prior to the commencement of its operations. While on Customer premises, the Provider will not store any equipment, tools or materials without prior written authorization from the Customer. The Customer will not be responsible for or liable to pay the Provider for any loss of equipment, tools, or materials stored in unsecured areas without proper authorization. The Provider shall promptly report to the Customer any death, lost time injury, or property damage to the Customer's property that occurs on the Facilities or as part of the Provider's operation of the Project on the Facilities. The Customer may at any time require additional provisions if such are deemed necessary for public safety or convenience.

Section 3.5 Permits and Approvals. Except for those permits and fees that are specified in the Documents as the responsibility of the Customer, the Provider shall secure and pay for necessary, licenses, building permits, approvals, assessments and charges required for the proper execution and completion of the Installation Work.

Section 3.6 Commissioning; Testing. The Provider shall conduct a thorough and systematic performance test of each ECM in accordance with Exhibit A, and demonstrate that all ECMs comply with the requirements of the Documents. The Provider shall correct or adjust all deficiencies in operation of the ECMs identified during the course of the tests described in this Section.

Section 3.7                    Concealed Conditions; Hazardous Materials.

(a)     The Provider shall immediately notify the Customer if it encounters Concealed Conditions at the Facilities prior to significantly disturbing the same. If such Concealed Conditions cause an increase in the Provider's cost of, or time required for, performance of any part of the Installation Work, the Provider and the Customer shall agree, by Change Order, on how to proceed and any adjustment to the Installation Schedule and the Savings Percentage related thereto.

(b)     The Provider is responsible for all Hazardous Materials that it or its Subcontractors or suppliers bring to or use at the Facilities ("Provider's Hazardous Materials"). The Customer will be responsible for all other Hazardous Materials present or occurring on the Facilities ("Customer's Hazardous Materials"). The Customer will advise the Provider of any risk of exposure to the Customer's Hazardous Materials prior to any Installation Work. The Provider may temporarily interrupt the Installation Work and will promptly inform the Customer if it reasonably believes there is undue risk of exposure to Customer's Hazardous Materials. The Provider will cooperate with the Customer to determine when it and others under its control may safely resume interrupted Installation Work. The Provider will be entitled to a change in the Installation Schedule and the Savings Percentage in connection with such interruption.

Section 3.8                    Operation and Maintenance of Project. The Provider shall operate and maintain the ECMs in accordance with accepted industry practices for the purposes for which the ECMs were designed. The Provider shall retain the sole right to specify operating policies and procedures related to the Project and, subject to thirty (30) days' prior written notice to, and consultation with, the Customer, may modify such policies and procedures from time to time.

Section 3.9                    Provider Improvements. The Provider may, at any time during the Term and at its cost, change or modify the ECMs or implement additional ECMs for the purpose of generating incremental Savings and/or optimizing the performance of its ECMs; provided, however, that no such change, modification or implementation of additional ECMs shall occur without at least thirty (30) days' prior written notice to, and consultation with, the Customer.

Section 3.10                    Compliance with Laws. The Provider shall comply with all Laws in the course of performing the Services. If any new or different requirement, condition, change or anything beyond the Provider's control alters the Services to be performed hereunder or adversely affects the Project Costs or the Installation Schedule, including without limitation any operation or change of Law (including but not limited to changes to Laws imposing sales, use, excise, transportation, privilege, payroll or occupational taxes or contributions) or requirement in connection with the financing of the Project that becomes applicable after the date of this Agreement, then Provider shall be entitled to propose to the Customer adjustments to the Installation Schedule and the Savings Percentage, and the Parties shall thereafter resolve such proposal in good faith.

Section 3.11                    Taxes. Unless otherwise provided in the Documents, the Provider shall pay all applicable federal, state or local sales, consumer, use, and other similar taxes for

which it bears the incidence of taxation during the Term. The Provider shall pay all applicable real and personal property taxes relating to the ECMs and the Provider's interest in the Facilities. Notwithstanding the foregoing, the Provider may contest any such taxes, assessments and other charges and, in the event of any such contest, may permit the taxes, assessments or other charges so contested to remain unpaid during that period of such contest and any appeal therefrom. [The Customer will provide its sales tax exemption certification for purchases of equipment, tools, materials, and supplies relating to the Project.]

Section 3.12      Intellectual Property. The Provider shall pay all royalties and license fees related to the Services; shall defend suits or claims for infringement of patent rights required for the Services to be performed; and shall hold the Customer harmless from loss on account thereof.

Section 3.13      Standard Working Hours. Pursuant to MCC Section 2-92-220, a standard working day consists of 8 hours for this Agreement. The Provider shall cause any Subcontractors providing the Services to coordinate shifts with the Customer. No overtime or premium pay will be permitted by the Provider unless less otherwise specified in the Plans and Specifications and authorized by the Customer.

Section 3.14      Quality of Materials and Inspection. The Customer will have a right to inspect any material to be used in performance of the Services for this Agreement. The Customer is not responsible for the availability of any materials or equipment required under this Agreement. The Provider is responsible for the meeting the contractual obligations and standards regarding the quality of all materials, components, or Services performed under this Agreement up to the time of final acceptance by the Customer. Non-compliant materials, components or Services may be rejected by the Customer and must be replaced or re-performed by the Provider or its Subcontractors at no cost to the Customer. The Customer shall provide written notice to the Provider indicating the time period in which Provider must, at its expense or the expense of its Subcontractor, remove from Customer premises, any materials or components rejected by the Customer. Any and all labor and materials which may be required to correct or replace damaged, defective or non-conforming products must be provided by the Provider or its Subcontractors at no cost to the Customer. The Provider must, or cause its Subcontractors to, correct or replace the incorrect, damaged or defective or non-conforming goods within seven (7) Business Days of the return unless otherwise provided in the Plans and Specifications. The Customer will not be subject to restocking charges. Failure to correct or replace unacceptable goods, or repeated delivery of unacceptable goods, will be an event of default under this Agreement. Without limiting the scope or duration of any manufacturer's warranty provided for specific parts of the work, all work furnished under this Agreement is guaranteed by Provider (or Provider shall cause its Subcontractor(s) to a guarantee) against defective materials and workmanship, improper installation or performance, and non-compliance with this Agreement for a period of one year. Unless otherwise specified, the one-year period will begin on the date of final acceptance by the Customer.

Section 3.15      Records. Upon request, the Provider must furnish to the Customer such information related to the progress, execution, and cost of the Services. All books and accounts in connection with this Agreement must be open to inspection by authorized

representatives of the Customer. The Provider must make these records available at reasonable times during the performance of the Services and will retain them in a safe place and must retain them for at least five (5) years after the expiration or termination of this Agreement.

Section 3.16      Audits. The Customer may, in its sole discretion, audit the records of the Provider or its Subcontractors, or both, at any time during the term of this Agreement or within five (5) years after the Contract ends, in connection with the goods, work, or Services provided under this Agreement. Each calendar year or partial calendar year may be deemed an “audited period.” If, as a result of such an audit, it is determined that the Provider or any of its Subcontractors has overcharged the Customer in the audited period, the Customer will notify the Provider. The Provider must, or cause its Subcontractor to, then promptly reimburse the Customer for any amounts the Customer has paid the Provider due to the overcharges and, depending on the facts, also some or all of the cost of the audit, as follows: If the audit has revealed overcharges to the Customer representing less than 5% of the total value, based on the contract prices, of the goods, work, or services provided in the audited period, then the Provider must reimburse the Customer for 50% of the cost of the audit and 50% of the cost of each subsequent audit that the Customer conducts; if, however, the audit has revealed overcharges to the Customer representing 5% or more of the total value, based on the contract prices, of the goods, work, or services provided in the audited period, then Provider must, or cause its Subcontractor to, reimburse the Customer for the full cost of the audit and of each subsequent audit. Failure of Provider or its Subcontractor to reimburse the Customer in accordance with the foregoing is an event of default under this Agreement, and the Provider will be liable for all of the Customer’s costs of collection, including any court costs and attorneys’ fees.

#### **ARTICLE IV CUSTOMER COVENANTS**

Section 4.1      Access to Facilities; Grant of License. The Customer shall provide the Provider with access to the Facilities as reasonably necessary to allow the Provider to perform the Services and any other rights of the Provider hereunder, including ingress and egress rights to the Facilities for Provider and its employees, and Subcontractors. The Customer hereby covenants that the Provider shall have access to the Facilities and ECMs during the Term in order to perform the Services and for so long as needed after termination to remove the ECMs pursuant to the applicable provisions herein. The Customer and its authorized representatives shall at all times have access to and the right to observe the Services or ECM removal but shall not interfere with or handle any Provider equipment or the ECMs without written authorization from the Provider; provided, however, in the event of a material malfunction or emergency condition, the Customer shall be permitted to take those actions necessary to prevent injury or damage.

Section 4.2      Remote Access. The Customer hereby grants to the Provider the right to connect the ECMs to the necessary intranet and/or internet networks so that it is possible for the Provider to remotely monitor the performance of the ECMs.



Section 4.3            Compliance with Laws. The Customer shall comply with all Laws with respect to the performance of its obligations under this Agreement, including federal, state, and local anti-discrimination laws.

Section 4.4            Project Specific Customer Responsibilities. The Provider has the sole right to determine and direct the operating policies and procedures for the ECMs. The Customer, on behalf and at the direction of the Provider, agrees to undertake the obligations specified in Exhibit C with respect to the ECMs and the Customer acknowledges that the amount of its payment obligations under this Agreement have been determined, in part, in consideration of such undertaking by the Customer on behalf of the Provider.

Section 4.5            Governmental Approvals. The Customer shall cooperate with the Provider in obtaining any permits or approvals required to be obtained by the Provider relating this Agreement or the Provider's performance hereunder; provided that such obligation shall not require the Customer to waive or otherwise change any Customer-required permit or approval process.

Section 4.6            Notice of Damage. The Commissioner of the Customer's Department of Fleet and Facility Management shall provide prompt written notice to the Provider of any matters of which it becomes aware of pertaining to any damage to or loss of the use of the ECMs or that could reasonably be expected to materially adversely affect the Services or the Savings.

Section 4.7            Energy Supply. The Customer shall be responsible for maintaining uninterrupted energy supply and utility service to the Facilities. Except in the case of emergencies and subject to Article X, the Customer shall provide prompt written notice to the Provider of any material interruption or alteration of the energy supply or utility service to the Facilities that could affect the ECMs or the Savings.

Section 4.8            Information Reporting.

(a) Non-confidential information requested by the Provider and under the Customer's control necessary for the performance of the Services shall be furnished by the Customer with reasonable promptness upon written request by the Provider. Without limiting the foregoing, such information will include, but is not limited to, the following items: (i) monthly utility invoices and billing history for all of the meters listed in Exhibit A; (ii) construction documents, equipment inventories, and other documents that may be helpful in evaluating a Change Order; and (iii) any data from meters or sub-meters relevant to the Services.

(b) To the extent not otherwise publicly available and upon prior written request of the Lender, the Customer shall provide the audited financial statements of the Customer with the unqualified opinion of an independent certified public accountant.

Section 4.9            Maintenance. The Customer agrees to maintain the Facilities and all Customer Equipment in good repair and in all respects thereof that may affect the Savings that may be achieved by the ECMs including, without limitation, the condition and integrity of the

building envelopes of the Facilities and the condition of all energy-consuming Customer Equipment. The Customer shall ensure the availability of, and maintain during the Term, all connections between the ECMs and the Facilities and all energy-consuming Customer Equipment. The Customer shall cooperate with the Provider in establishing and maintaining such connections.

Section 4.10      Alterations to ECMs. The Customer shall not (i) remove the ECMs or (ii) alter or change in any way any ECMs that materially damage the functional capabilities or economic value of the ECMs or have the effect of reducing the Savings that are may be produced by the ECMs, without the Provider's prior written consent.

Section 4.11      Tax-Exempt Financing.

(a)      It is the intention of the parties hereto that the interest component of debt service payments received by Lender be and remain excludable from gross income for purposes of federal income taxation. The Provider and the Customer each covenants that it shall, at all times, do and perform all acts and things necessary and within its control in order to assure that such interest shall, for the purposes of Federal income taxation, be excludable from gross income of the Lender. The Provider and the Customer shall not permit the use of proceeds of any tax-exempt financing for the Project, or take or omit to take any action, so as to cause such interest portion to cease to be excludable from gross income of the Lender for the purposes of Federal income taxation. Without limiting the foregoing, the Provider agrees to comply with its obligations under the Tax Certificate.

(b)      The Provider and the Customer each covenant that it will not take or permit any action or omit to take any action that would cause the any tax-exempt financing for the Project to be an arbitrage bond within the meaning of Section 148 of the Internal Revenue Code.

## **ARTICLE V CHANGE TO SERVICES**

Section 5.1      Change Orders. The Provider may order, or the Customer may request changes in the Installation Work consisting of additions, deletions, or modifications to the Installation Work, changes to the Installation Schedule and/or changes to the total Project Costs. Such changes in the Installation Work shall be authorized only by written Change Order signed by the Parties, which Change Order shall specify any adjustment to the Installation Schedule and Savings Percentage related thereto. To the extent the Provider reasonably determines that any change in the Installation Work requested or directed by the Customer will materially and adversely impact the availability, timing or amounts of Savings, the Provider shall have the right, in its sole and absolute discretion, to decline such change in the Installation Work.

Section 5.2      Installation Work Delays. Notwithstanding anything to the contrary herein, if the Provider is delayed at any time in progress of the Installation Work by labor disputes, fire, unusual delay in deliveries, abnormal adverse weather conditions that affect the Installation Work not reasonably anticipatable, unavoidable casualties or any other causes which are beyond the control of the Provider, then the Term may be extended by Change Order

provided that: (i) the Provider has notified the Customer in writing of such delay within thirty (30) days following the date when the Provider becomes aware, or should have become aware through the exercise of reasonable diligence, of such delay; (ii) the Provider has taken all reasonable steps to avoid any such delay (including its continuance); and (iii) such delay is not a theoretical delay but does actually adversely affect the critical path of the Installation Work.

## **ARTICLE VI INSURANCE; CASUALTY OR CONDEMNATION**

Section 6.1            Provider Insurance. The Provider shall purchase from and maintain in a company or companies lawfully authorized to do business in the City of Chicago policies of insurance (a) insuring the ECMs against loss or damage by fire and all other risks covered by the standard extended coverage endorsement then in use in such jurisdiction, in an amount at least equal to the full replacement cost of the ECMs and (b) third party liability insurance covering against legal responsibility to others as a result of bodily injury, property damage and personal injury arising from the operation and maintenance of the Project. [Notwithstanding the foregoing, the Customer agrees to include the ECMs under the insurance provided pursuant to Section 6.2 and acknowledges that the amount of its payment obligations under this Agreement have been determined, in part, in consideration of such undertaking on behalf of the Provider.]

Section 6.2            Customer Insurance. The Customer shall during the Term maintain or cause to be maintained (a) casualty insurance insuring the Facilities against loss or damage by fire and all other risks covered by the standard extended coverage endorsement then in use in the State in an amount at least equal to the replacement value of the Facilities; (b) liability insurance naming Customer and the Lender as additional insureds that protects Provider and the Lender from liability in all events. Notwithstanding the foregoing, the Customer may self-insure against the risks described the foregoing sentence if the Customer shall furnish to the Provider evidence of such insurance or self-insurance coverage throughout the Term. The Customer shall not cancel or modify such insurance or self-insurance coverage in any way that would affect the interests of the Provider without first giving written notice thereof to Provider at least thirty (30) days in advance of such cancellation or modification.

Section 6.3            Casualty or Condemnation. If the Facilities[, the ECMs] or any portion thereof is destroyed, in whole or in part, or is damaged by fire or other casualty or title to, or the temporary use of, the Facilities[,the ECMs] or any part thereof shall be taken under the exercise or threat of the power of eminent domain by any governmental body or by any person, firm or corporation acting pursuant to governmental authority, the Customer will provide written notice to the Provider promptly upon the occurrence of such event. If such casualty or condemnation adversely effects the Expected Savings Production, the Customer shall pay to the Provider within thirty (30) days of written demand therefor the Liquidated Damages Amount or ratable portion thereof, less the amount of any insurance or condemnation proceeds paid to the Provider.

Section 6.4            Insurer Qualifications. All insurance maintained hereunder shall be maintained with companies either rated no less than A- as to Policy Holder's Rating in the current edition of Best's Insurance Guide (or with an association of companies each of the

members of which are so rated) or having a parent company's debt to policyholder surplus ratio of 1:1.

## **ARTICLE VII PROJECT OWNERSHIP**

Section 7.1      Title. Legal title to and ownership of the ECMs shall remain in the Provider free and clear of any and all liens, claims, security interests or other encumbrances caused, created or permitted by the Customer. The Parties agree the ECMs are and will remain personal property and will not be deemed to be affixed to or a part of the real estate on which it may be situated, notwithstanding that the ECMs or any part thereof may be or hereafter become in any manner physically affixed or attached to real estate or any building thereon. Upon the request of the Provider, the Customer will, at the Customer's expense, furnish a waiver of any interest in the ECMs from any party having an interest in any such real estate or building. The Customer shall not claim depreciation or an investment credit with respect to the ECMs or otherwise take any action or fail to take any action inconsistent with the Provider's ownership of the ECMs.

Section 7.2      Risk of Loss. The Provider shall, except as otherwise provided in this Agreement, bear risk of loss and have care, custody and control pertaining thereto of any materials, equipment, spare parts, supplies and maintenance equipment (including temporary materials, equipment, and supplies) on the Facilities or located off-site, or any other Work completed with respect to the Facilities until such time that the transfer of care, custody, and control is effectuated in accordance with the terms of this Agreement. Any ECMs lost, damaged, stolen or impaired before the transfer of care, custody, and control is effectuated in accordance with the terms of this Agreement shall be replaced promptly by the Provider. Such replacement shall be without additional cost except to the extent of the negligence, gross negligence or willful misconduct of the Customer or any party for which the Customer is responsible.

### Section 7.3      Environmental Attributes; Other Incentives.

(a)      Environmental Attributes. The Provider shall own, and may assign or sell in its sole discretion, all right, title, and interest associated with Environmental Attributes. Environmental Attributes will not be included within any calculation of Savings or otherwise reduce the Customer's obligation to pay for Savings hereunder. The Customer agrees to cooperate with the Provider in obtaining any Environmental Attributes.

(b)      Other Incentives. The Provider shall own, and may assign or sell in its sole discretion, all right, title, and interest to applicable and available utility-provided incentives for energy efficiency projects, including the right to utilize its ECMs to participate in utility programs that provide incentives related to the curtailment or reduction of energy use during times of peak demand, provided that such participation does not negatively affect the Customer's operations at the Facilities. The Customer agrees to cooperate with the Provider in obtaining any such utility-provided incentives.

## **ARTICLE VIII SAVINGS**

Section 8.1            Savings. The Customer agrees to pay the Provider on a semi-annual basis an amount equal to \_\_\_\_\_ percent (the "Savings Percentage") of each \$1.00 of Savings as such Savings are determined pursuant to Exhibit B. The Savings Percentage shall not change during the Term except as otherwise provided herein prior to the completion of the Installation Work. The obligation of the Customer to pay, and the right of the Provider to receive, amounts for Savings depends on the achievement of Savings as provided herein. The Customer acknowledges and agrees that the Provider shall not be required to achieve any amount of Savings.

## **ARTICLE IX PAYMENT**

Section 9.1            Invoicing. The Provider will submit invoices to the Customer on a semi-annual basis commencing with the initiation of Savings as a result of Interim Completion or Substantial Completion of the Project, as determined by the Provider in its sole discretion. For administrative convenience, each semi-annual invoice for Savings shall be based on the ratable portion of the Expected Savings Production for the corresponding Period, subject to the annual reconciliation process in Section 9.4.

Section 9.2            Payment. The Customer shall make payment to the Provider (or to such other payee as directed in a payment invoice) no later than [thirty (30) days] from the date of a payment invoice meeting the requirements of this Article IX. Any amounts payable by and not paid by the Customer on the due date thereof shall bear interest at the rate with interest at the rate equal to the lesser of (i) ten percent (10%) per annum or (ii) the highest rate permitted by applicable law.

Section 9.3            Utility Bills. Commencing on the Effective Date and continuing for the Term, the Customer will provide the Provider with all utility bills necessary or convenient for the Savings calculations described in this Agreement within thirty (30) days of receipt. The Customer may provide the Provider with copies of bills, or access to invoices via an on-line system. If Customer fails to provide utility bills within the time period required, the Provider may estimate the Customer's utility usage, utility rates and other data for such period which estimate shall be deemed conclusive for purposes of calculating Savings payable by the Customer pursuant to the invoice for the corresponding Period, subject to the annual reconciliation process in Section 9.4.

Section 9.4            Reconciliation. The Provider will provide a an annual savings report to the Customer no later than sixty (60) Days following the anniversary of the Substantial Completion Date during each year of the Term. If the annual report indicates that one or more invoices understated the Savings for the respective Periods, then the Provider shall provide a supplemental invoice to the Customer and the Customer shall be unconditionally obligated to pay such invoice in accordance with its terms. If the annual report indicates that one or more invoices overstated Savings, then the Provider shall provide the Customer with a credit against

Savings payable by the Customer for the immediately succeeding Period in the amount by which the Customer overpaid such Savings. Within thirty (30) days of the Customer's receipt of the annual report, the Customer will notify the Providers of (1) the Customer's agreement of all or any portion of the annual report; and/or (2) the Customer's disapproval of all or any portion of the annual report, including the basis for the disapproval. If the Customer disapproves all or any portion of the annual report, the Parties will use good faith efforts to resolve such dispute within thirty (30) days of notification to the Provider. If the Parties are unable to resolve the matter within a thirty (30) day period, the dispute shall be resolved in accordance with Article XII.

Section 9.5            Unconditional Payment Obligation. Notwithstanding any other provision of this Agreement, the obligations of the Customer to make Savings Payments, to pay any other amounts under this Agreement and to perform and observe the other covenants and agreements contained in this Agreement shall be absolute and unconditional in all events without abatement, diminution, deduction, set-off or defense, for any reason whatsoever.

Section 9.6            Payments Subject to Annual Appropriation. The Customer is obligated only to pay such payments under this Agreement as may lawfully be made from funds appropriated for that purpose during the Customer's then current fiscal year. If funds to pay any amount payable hereunder are not appropriated and not otherwise made available for that purpose, this Agreement shall be deemed terminated at the end of the then current fiscal year. The Customer agrees to deliver notice to the Provider of such termination promptly after any decision to non-appropriate is made, but failure to give such notice shall not extend the Term beyond the then current fiscal year. The decision whether or not to budget and appropriate funds is within the discretion of the Customer. If this Agreement is terminated in accordance with this Section, the Customer agrees to cease use of all the ECMs as of the last day of the last fiscal year for which appropriations and payments have been made, dismantle and peaceably deliver all the ECMs to Provider at the location(s) to be specified by the Provider and in the same condition and appearance as originally installed at the Facilities (reasonable wear and tear from normal operation excepted), and free of all liens and claims created or permitted by the Customer (except any Lender lien). The Provider shall have all legal and equitable rights to take possession of the ECMs.

Section 9.7            Funding. The source of funds for payments under this Agreement is Fund Number [click and type number]. Funding for this Agreement is subject to the availability of funds and their appropriation by the City Council of the Customer.

## **ARTICLE X FORCE MAJEURE**

Section 10.1           Excused Performance. Each Party hereto shall be excused from performance and shall not be considered to be in default with respect to any obligation hereunder (except the obligation to make payments), if and to the extent that its failure of, or delay in, performance is due to a Force Majeure Event; provided:

(a) Such Party gives the other Party written notice describing the particulars of the Force Majeure Event as soon as is reasonably practicable, but in no event later than seven days after the occurrence of such event;

(b) The suspension of performance is of no greater scope and of no longer duration than is reasonably required by the Force Majeure Event;

(c) No obligations of the Party which arose before the occurrence causing the suspension of performance are excused as a result of the occurrence;

(d) The Party uses commercially reasonable efforts to overcome or mitigate the effects of such occurrence; and

(e) When the Party is able to resume performance of its obligations under this Agreement, such Party shall give the other Party written notice to that effect and shall promptly resume performance hereunder.

Section 10.2      Settlement of Strikes. Notwithstanding the foregoing, nothing in this Article X shall be construed to require the settlement of any strike, walkout, lockout or other labor dispute on terms which, in the sole judgment of the Party involved in the dispute, are contrary to such Party's interest. It is understood and agreed that the settlement of strikes, walkouts, lockouts or other labor disputes shall be entirely within the discretion of the Party experiencing such action.

Section 10.3      Burden of Proof. If the Parties are unable in good faith to agree that a Force Majeure Event has occurred, the Parties shall submit the dispute for resolution pursuant to Article XII and the Party claiming a Force Majeure Event shall have the burden of proof as to whether such Force Majeure Event (i) has occurred, (ii) was not a result of such Party's or its agents' fault or negligence, and (iii) could not have been avoided by due diligence or the use of reasonable efforts of such Party or its agent.

## **ARTICLE XI DEFAULT AND REMEDIES**

Section 11.1      Customer Events of Default. Any one of the following which occurs and continues shall constitute an "Event of Default" by Customer:

(a) Failure by the Customer to make any payment required by Article IX hereof when due [which continues for a period of thirty (30) Days after written notice of such failure is received by the Customer from the Provider]; or

(b) The Customer restricts or attempts to restrict the Provider's access by to the Facilities or the ECMs; or

(c) Failure by the Customer to insure the Facilities [or the ECMs] as required by [Section 6.1 or] Section 6.2; or

(d) Failure by the Customer to observe and perform any covenant, condition or agreement on its part required to be observed or performed by this Agreement (other than as provided in clause (a), (b) or (c) above), which continues for a period of 30 days after written notice by the Provider delivered to the Customer, which notice shall specify such failure and request that it be remedied, provided, however, that if the failure stated in the notice cannot be corrected within such period if corrective action is instituted within such period and diligently pursued in good faith until the default is corrected; or

(e) The Customer materially decreases its occupancy or utilization of the Facilities;  
or

(f) Any representation or warranty made by the Customer under or in connection with this Agreement or any of the Documents shall prove to be untrue in any material respect on the date as of which it was made; or

(g) The occurrence of a Determination of Taxability; or

(h) The Customer shall (i) apply for or consent to the appointment of a receiver, trustee, custodian or liquidator of the Customer, or of all or a substantial part of the assets of the Customer, (ii) be unable, fail or admit in writing its inability generally to pay its debts as they become due, (iii) make a general assignment for the benefit of creditors, (iv) have an order for relief entered against it under applicable federal bankruptcy law, or (v) file a voluntary petition in bankruptcy or a petition or an answer seeking reorganization or an arrangement with creditors or taking advantage of any insolvency law or any answer admitting the material allegations of a petition filed against the Customer in any bankruptcy, reorganization or insolvency proceeding;  
or

(i) An order, judgment or decree shall be entered by any court of competent jurisdiction, approving a petition or appointing a receiver, trustee, custodian or liquidator of all or a substantial part of the assets of the Customer, in each case without its application, approval or consent, and such order, judgment or decree shall continue unstayed and in effect for any period of 60 consecutive days.

Section 11.2      Remedies Upon Customer Default. Whenever any Event of Default by Customer shall have occurred and shall be continuing, the Provider may, at its option, and upon prior written notice to the Customer:

(a) Take whatever action at law or in equity as may be necessary or desirable to collect the payments and other amounts then due and thereafter to become due or to enforce performance and observance of any obligation, agreement or covenant of the Customer under this Agreement;

(b) Terminate this Agreement and surrender possession of all or a portion of the ECMs and transfer ownership of such ECMs, the Plans and Specifications and any related manufacturer warranties and its interest in the Facilities (free and clear of any liens, claims,



security interests or other encumbrances) to the Customer without any liability to the Customer in connection with such actions;

(c) With or without terminating this Agreement decommission and/or remove all or a portion of the ECMs without any liability to the Customer in connection with such actions including, without limitation, any obligation to restore or repair the Facilities and any other affected portions of the Facilities;

(d) Terminate this Agreement and elect to be paid an amount equal to the Liquidated Damages Amount plus any other amounts due and payable hereunder and upon the Customer's payment of such amount transfer to the Customer ownership to the ECMs, the Plans and Specifications, any related manufacturer warranties and any interest held by the Provider in the Facilities (free and clear of any liens, claims, security interests or other encumbrances).

Section 11.3 Provider Events of Default. Any one of the following which occurs and continues shall constitute an "Event of Default" by the Provider:

(a) Failure by the Provider to observe and perform any covenant, condition or agreement on its part required to be observed or performed by this Agreement which continues for a period of thirty (30) days after written notice by the Customer delivered to the Provider, which notice shall specify such failure and request that it be remedied; provided, however, that if the failure stated in the notice cannot be corrected within such period, if corrective action is instituted within such period and diligently pursued in good faith until the default is corrected; or

(b) Any representation or warranty made by the Provider under or in connection with this Agreement or any of the Documents shall prove to be untrue in any material respect on the date as of which it was made; or

(c) The Provider shall (i) apply for or consent to the appointment of a receiver, trustee, custodian or liquidator of the Provider, or of all or a substantial part of the assets of the Provider, (ii) be unable, fail or admit in writing its inability generally to pay its debts as they become due, (iii) make a general assignment for the benefit of creditors, (iv) have an order for relief entered against it under applicable federal bankruptcy law, or (v) file a voluntary petition in bankruptcy or a petition or an answer seeking reorganization or an arrangement with creditors or taking advantage of any insolvency law or any answer admitting the material allegations of a petition filed against the Provider in any bankruptcy, reorganization or insolvency proceeding; or

(d) An order, judgment or decree shall be entered by any court of competent jurisdiction, approving a petition or appointing a receiver, trustee, custodian or liquidator of all or a substantial part of the assets of the Provider, in each case without its application, approval or consent, and such order, judgment or decree shall continue unstayed and in effect for any period of sixty (60) consecutive days.

Section 11.4 Remedies Upon Provider Default. Whenever any Event of Default by the Provider shall have occurred and shall be continuing, the Customer may, at its option and upon prior written notice to the Provider:

(a) Terminate this Agreement and pay to the Provider the Liquidated Damages Amount and any other amounts due and payable hereunder (less any amounts due and payable by the Provider hereunder) whereupon the Provider shall transfer to the Customer ownership of the ECMs, the Plans and Specifications, any related Subcontract and any manufacturer warranties and any interest in the Facilities (free and clear of any liens, claims, security interests or other encumbrances).

(b) Terminate this Agreement and request the Provider to remove the ECMs from the Facilities upon which the Provider shall remove all or a portion of the ECMs as requested within thirty (30) Days, return the Facilities to their original condition, except for ordinary wear and tear, and leave the Facilities in neat and clean order, without any other liability to the Customer in connection with such actions; provided that if the Provider fails to remove the ECMs within such period, the Customer shall have the right, at its option, to remove the ECMs to a public warehouse or other storage location or dispose of them, and restore the Facilities to their original condition, except for ordinary wear and tear, at Provider's reasonable cost; or

(c) Take whatever action at law or in equity as may be necessary or desirable to enforce performance and observance of any obligation, agreement or covenant of the Provider under this Agreement.

Section 11.5      Agreement to Pay Attorneys' Fees and Expenses. In the event a Party should default under any of the provisions of this Agreement and the other Party should employ attorneys or incur other expenses for the collection of the payments due under this Agreement or the enforcement of performance or observance of any obligation or agreement on the part of the non-defaulting Party herein contained, the defaulting Party agrees to pay promptly to the non-defaulting Party the reasonable fees and expenses of such attorneys and such other reasonable out-of-pocket expenses so incurred by such Party, whether incurred at trial, on appeal, in bankruptcy proceedings, or otherwise.

Section 11.6      No Remedy Exclusive. No remedy herein conferred upon or reserved to the Provider or the Customer is intended to be exclusive of any other available remedy or remedies, but each and every such remedy shall be cumulative and shall be in addition to every other remedy given under this Agreement or now or hereafter existing at law or in equity or by statute. No delay or omission to exercise any right or power accruing upon any default hereunder shall impair any such right or power or shall be construed to be a waiver thereof, but any such right and power may be exercised from time to time and as often as may be deemed expedient.

Section 11.7      No Additional Waiver Implied by One Waiver. In the event any agreement or covenant contained in this Agreement should be breached by a Party and thereafter waived by the other Party, such waiver shall be limited to the particular breach so waived and shall not be deemed to waive any other breach hereunder.

Section 11.8      Liquidated Damages Amount. The parties agree that the formulations of damages described in this Article XI, including the formulation of the Liquidated Damages Amount, are fair and reasonable approximations of the damages each Party would

incur upon a termination based on an Event of Default and are not intended to be, nor should they be interpreted to result in, a penalty.

## **ARTICLE XII DISPUTE RESOLUTION**

### **Section 12.1      Procedure.**

(a). Savings Disputes. If a Savings Dispute arises between the Customer and the Provider, the Parties will use good faith efforts to resolve such dispute within twenty (20) Days of written notification from the other Party of the dispute. If the Parties are unable to resolve the matter within a twenty (20) Day period, the dispute shall be submitted to the Independent Engineer. The determination of the Independent Engineer will be final and binding upon both the Customer and the Provider. The Provider and the Customer will each be responsible for half of the fees of the Independent Engineer.

(b) Non-Savings Disputes. The Parties commit to first attempt to settle any Non-Savings Dispute through direct discussions of the Parties' management representatives within ten (10) Days after receipt of initial written notification of such Dispute. If within ten (10) Days the Parties have not succeeded in negotiating a resolution of the Dispute, such Dispute will be submitted to senior officers of the Parties, to attempt further in good faith to negotiate a resolution of the Dispute. If within ten (10) Days after such meeting the Parties have not succeeded in negotiating a resolution of the Dispute, the Parties may initiate litigation in any court having jurisdiction in the State.

Section 12.2      Continuation of Work. Notwithstanding any Dispute that the Provider may have undertaken or be involved with, whether pursuant to this Article XII or otherwise, and regardless of the basis thereof or grounds therefor, including, but not limited to Disputes based on or related to any Change Order, the Provider agrees that it will, for so long as this Agreement has not been terminated, diligently perform the Services in accordance with the terms of this Agreement. Any failure by the Provider to perform the Services in accordance with the terms of this Agreement shall give the Customer the immediate right to terminate its participation in any dispute resolution process under this Article XII and exercise its remedies pursuant to Article XI.

Section 12.3      Continuation of Payment. Notwithstanding any Dispute that the Customer may have undertaken or be involved with, whether pursuant to this Article XII or otherwise, and regardless of the basis thereof or grounds therefor, the Customer agrees that it will, for so long as this Agreement has not been terminated, pay all amounts invoiced without setoff or diminution and at the times required pursuant to Article IX and otherwise perform its obligations in accordance with the terms of this Agreement. Any failure by the Customer to pay any invoiced amounts shall give the Provider the immediate right to terminate its participation in any dispute resolution process under this Article XII and exercise its remedies pursuant to Article XI.

## **ARTICLE XIII INDEMNIFICATION**

### **Section 13.1      Indemnification.**

(a) The Provider agrees to indemnify, defend and hold harmless the Customer and its officers, officials and employees from and against legal or administrative proceedings, claims, demands, damages, fines, penalties, liabilities, interest, costs, and expenses (including reasonable attorneys' fees) for deaths, bodily injuries or damages to third party tangible property to the extent caused, in whole or in part, by the grossly negligent acts or omissions of the Provider during the performance of the Services and violations of Law by the Provider. The indemnity provisions expressed in this Article XIII shall apply to the fullest extent permitted by Law and shall in no manner amend, abridge, modify, or restrict any other obligation of the Provider expressed elsewhere in this Agreement. This provision shall survive the termination of this Agreement.

(b) The Customer agrees to indemnify, defend and hold harmless the Provider, the Lender and their respective officers, officials and employees from and against legal or administrative proceedings, claims, demands, damages, fines, penalties, liabilities, interest, costs and expenses (including reasonable attorneys' fees) for deaths, bodily injuries or damages to third party tangible property to the extent caused, in whole or in part, by the grossly negligent acts or omissions of the Customer during the performance of the Customer's obligations under this Agreement and violations of Law by Customer. The indemnity provisions expressed in this Article XIII shall apply to the fullest extent permitted by Law and shall in no manner amend, abridge, modify, or restrict any other obligation of the Customer expressed elsewhere in this Agreement. This provision shall survive the termination of this Agreement.

## **ARTICLE XIV REPRESENTATIONS AND WARRANTIES**

**Section 14.1      Provider Representations and Warranties.** The Provider represents and warrants as of the Effective Date that:

(a) The Provider is a nonprofit corporation duly formed and validly existing under the laws of the State of Illinois.

(b) The Provider is not in violation of any applicable Law promulgated or judgment entered by any federal, state, local or governmental authority that individually or in the aggregate, would affect its performance of any obligations under this Agreement.

(c) The Provider and its Subcontractors are, or will be, the holder of all federal, state, local or other governmental consents, licenses, permits, or other authorizations required to permit it to operate or conduct its business as contemplated by this Agreement.

(d) The execution and delivery of this Agreement and any documents executed or delivered in connection herewith, the consummation of the transactions herein contemplated or

compliance with the terms and provisions hereof will not conflict with or result in a breach of, or require any consent under, the organizational documents of the Provider, or any applicable law or regulation, or any order, writ, injunction or decree of any court, or any agreement or instrument to which the Provider is a party or by which it is bound or to which it is subject, or constitute a default under any such agreement or instrument.

(e) The Provider has all necessary power and authority to execute, deliver and perform its obligations under this Agreement; and the execution, delivery and performance by Provider of this Agreement has been duly authorized by all necessary action on its part; and this Agreement has been duly and validly executed and delivered by the Provider and constitutes the legal, valid and binding obligation of the Provider enforceable in accordance with its terms, except as the enforceability thereof may be limited by bankruptcy, insolvency, reorganization or moratorium or other similar Laws relating to the enforcement of creditors' rights generally and by general equitable principles.

Section 14.2      Customer Representations and Warranties. The Customer represents and warrants as of the Effective Date that:

(a) The Customer is a political subdivision of the State of Illinois and home rule city duly formed and validly existing under the laws of the State of Illinois.

(b) The Customer is not in violation of any applicable Law promulgated or judgment entered by any federal, state, local or governmental authority that would , individually or in the aggregate, materially adversely affect its performance of any obligations under this Agreement.

(c) None of the execution and delivery of this Agreement, the consummation of the transactions herein contemplated or compliance with the terms and provisions hereof will conflict with or result in a breach of, or require any consent under, or any applicable law or regulation, or any order, writ, injunction or decree of any court, or any material agreement or instrument to which the Customer is a party or by which it is bound or to which it is subject, or constitute a default under any such material agreement or instrument.

(d) The Customer has all necessary power and authority to execute, deliver and perform its obligations under this Agreement; and the execution, delivery and performance by the Customer of this Agreement has been duly authorized by all necessary action on its part; and this Agreement has been duly and validly executed and delivered by the Customer and constitutes the legal, valid and binding obligation of the Customer enforceable in accordance with its terms, except as the enforceability thereof may be limited by bankruptcy, insolvency, reorganization or moratorium or other similar Laws relating to the enforcement of creditors' rights generally and by general equitable principles.

(e) The Customer is the fee simple owner of the Facilities and has not mortgaged, pledged, liened, leased, granted a security interest, encumbrance or claim on or with respect to the Facilities or any interest therein.

(f) The Customer intends to continue to use the Facilities in a manner similar to its present use.

(g) The information provided by the Customer to Provider relating to the Documents and the Project is true, correct and complete in every material respect and contains no untrue statement of material fact or omits no material fact necessary to make the statements contained therein not misleading.

## **ARTICLE XV ASSIGNMENT**

Section 15.1 Assignment by Provider. The Provider may assign all or part of its right, title, and interest in, but not its obligations under, this Agreement or the Project as collateral security for its obligations to the Lender. The Customer agrees to execute and deliver any documents reasonably required by the Provider or any assignee of the Provider in connection with any such assignment of this Agreement and/or the Project.

Section 15.2 Assignment by Customer. The Customer may not assign this Agreement or any partial or total interest therein without the Provider's and the Lender's prior written consent (which consent the Provider or the Lender may refuse in either of their reasonable discretion).

## **ARTICLE XVI REQUIRED CITY TERMS**

Section 16.1 Prompt Payment to Subcontractors.

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

(b) Payment to Subcontractors Within Fourteen Days. The Provider must make payment to its Subcontractors within fourteen (14) Days of receipt of payment from the Customer for each invoice, but only if the Subcontractor has satisfactorily provided goods or services or completed its work or services in accordance with this Agreement and provided the Provider with all of the documents and information required of the Provider. The Provider may delay or postpone payment to a Subcontractor when the Subcontractor's work or materials do not comply with the requirements of this Agreement, the Provider is acting in good faith, and not in retaliation for a Subcontractor exercising legal or contractual rights.

(c) Reporting Failures to Promptly Pay. (i) The Customer posts payments to prime contractors on the web at:

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

(i) If the Provider, without reasonable cause, fails to make any payment to its Subcontractors and material suppliers within fourteen (14) Days after receipt of payment under this Agreement, the Provider shall pay to its Subcontractors and material suppliers, in addition to the payment due them, interest in the amount of 2% per month, calculated from the expiration of the 14-Day period until fully paid.

(ii) In the event that the Provider fails to make payment to a Subcontractor within the 14-Day period required above, the Subcontractor may notify the Customer by submitting a report form that may be downloaded from the DPS website at:

[http://www.cityofchicago.org/content/dam/city/depts/dps/ContractAdministration/StandardFormsAgreements/Failure\\_to\\_Promptly\\_Pay\\_Fillable\\_Form\\_3\\_2013.pdf](http://www.cityofchicago.org/content/dam/city/depts/dps/ContractAdministration/StandardFormsAgreements/Failure_to_Promptly_Pay_Fillable_Form_3_2013.pdf)

The report will require the Subcontractor to affirm that (a) its invoice to the Provider was included in the payment request submitted by the Provider to the Customer and (b) the Subcontractor has not, at the time of the report, received payment from the Provider for that invoice. The report must reference the payment (voucher) number posted on-line by the Customer in the notice of the payment to the Provider. Subcontractors are hereby reminded that per Chapters 1-21, "False Statements," and 1-22, "False Claims," of the Municipal Code of Chicago, making false statements or claims to the Customer are violations of law and subject to a range of penalties including fines and debarment.

Section 16.2      Whistleblower Protection. The Provider shall not take any retaliatory action against any Subcontractor for reporting non-payment pursuant to this Section 16.2. Any such retaliatory action is an event of default under this Agreement and is subject to the remedies set forth herein, including termination. In addition to those remedies, any retaliatory action by the Provider may result in the Provider being deemed non-responsible for future Customer contracts or, if, in the sole judgment of the Customer, such retaliatory action is egregious, the City may initiate debarment proceedings against the contractor. Any such debarment shall be for a period of not less than one year.

Section 16.3      Liquidated Damages for Failure to Promptly Pay. Much of the Customer's economic vitality derives from the success of its small businesses. The failure by contractors to pay their subcontractors in a timely manner, therefore, is clearly detrimental to the Customer. Inasmuch as the actual damages to the Customer due to such failure are uncertain in amount and difficult to prove, the Provider and the Customer agree that the Customer may assess liquidated damages against contractors who fail to meet their prompt payment requirements. Such liquidated damages shall be assessed to compensate the Customer for any and all damage incurred due to the failure of the contractor to promptly pay its subcontractors, and does not constitute a penalty. Any and all such liquidated damages collected by the Customer shall be used to improve the administration and outreach efforts of the Customer's Small Business Program.

Section 16.4      Action by the Customer. Upon receipt of a report of a failure to pay, the Customer will issue notice to the Provider and provide the Provider with an opportunity to demonstrate reasonable cause for failing to make payment within applicable period set forth in this Agreement. The Customer shall determine whether any cause for nonpayment provided by Provider is reasonable. In the event that the Provider fails to demonstrate reasonable cause for failure to make payment, the City shall notify the Provider that it will assess liquidated damages. Any such liquidated damages will be assessed according to the following schedule:

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

Section 16.5      Business Enterprises Owned by People With Disabilities (BEPD). It is the policy of the Customer that businesses certified as a business enterprise owned by people with disabilities (“BEPD”) in accordance with MCC Section 2-92-337 *et seq.*, Regulations Governing Certification of BEPDs, and all other regulations promulgated under the aforementioned sections of the MCC; shall have the full and fair opportunities to participate fully in the performance of this Agreement. The Provider shall not discriminate against any person or business on the basis of disability, and shall take affirmative actions to ensure BEPDs shall have full and fair opportunities to compete for and perform subcontracts for supplies or services. Failure to carry out the commitments and policies set forth herein shall constitute a material breach of this Agreement and may result in the termination of this Agreement or such remedy as the Customer deems appropriate.

Section 16.6      Wages.

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

(i)      if (1) the Provider has 25 or more full-time employees, and (2) if at any time during the performance of this Agreement the Provider and/or any Subcontractor or any other entity that provides any portion of the Services (collectively “Performing Parties”) uses 25 or more full-time security guards or any number of other full-time Covered Employees, then the Provider’s obligation to pay, and to assure payment of, the Base Wage (as defined herein) will begin at any time during Term when the conditions set forth in (1) and (2) above are met, and will continue thereafter until the end of the Term.

(ii)      As of July 1, 2013 the Base Wage is \$11.78. The current rate can be found on the Department of Procurement Services’ website. Each July 1st the Base Wage will be adjusted, using the most recent federal poverty guidelines for a family of four (4) as published annually by the U.S. Department of Health and Human Services, to constitute



the following: the poverty guidelines for a family of four (4) divided by 2000 hours or the current base wage, whichever is higher. At all times during the term of this Agreement, the Provider and all Subcontractors must pay the Base Wage (as adjusted in accordance with the above). If the payment of prevailing wages is required for work or services done under this Agreement, and the prevailing wages for Covered Employees are higher than the Base Wage, then the Provider must pay the prevailing wage rates.

(iii) The Contractor must include provisions in all subcontracts requiring its Subcontractors to pay the Base Wage to Covered Employees. The Provider agrees to provide the Customer with documentation acceptable to the Chief Procurement Officer of the Customer (the "CPO") demonstrating that all Covered Employees, whether employed by the Provider or by a Subcontractor, have been paid the Base Wage, upon the Customer's request for such documentation. The Customer may independently audit the Provider and/or Subcontractors to verify compliance herewith.

(iv) 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 Customer contract or subcontract for up to three years.

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

(b) Prevailing Wage Rates. This Agreement calls for the construction of a "public work" within the meaning of Illinois Prevailing Wage Act, 820 ILCS 130/.01 et seq. (the "Act"); the Act requires contractors and subcontractors to pay laborers, workers and mechanics performing services on public works projects no less than the current "prevailing rate of wages" (hourly cash wages plus amount for fringe benefits) in the county where the work is performed. The Illinois Department of Labor (the "Department") publishes the prevailing wage rates on its website at <http://www.state.il.us/agency/idol/rates/rates.HTM>. The Department revises the prevailing wage rates and the Provider and its Subcontractors have an obligation to check the Department's web site for revisions to prevailing wage rates. For information regarding current prevailing wage rates, please refer to the Department's website. All contractors and subcontractors rendering services under this Agreement must comply with all requirements of the Act, including but not limited to, all wage requirements and notice and record keeping duties.

As a condition of making payment to the Provider, the Customer may require the Provider to submit an affidavit to the effect that not less than the prevailing hourly wage rate is being paid to laborers, mechanics, and other workmen employed on this Agreement in accordance with Illinois or federal law, as applicable.

(c) Multi-Project Labor Agreement. The Customer has entered into the Multi-Project Labor Agreement (the "PLA") with various trades regarding projects involving construction, demolition, maintenance, rehabilitation, and/or renovation work, as described in the PLA, a copy of which may be found on the City's website at:

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

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

Section 16.7 Business Relationships With Elected Officials. Pursuant to MCC Section 2-156-030(b), it is illegal for any elected official, or any person acting at the direction of such official, to contact either orally or in writing any other Customer official or employee with respect to any matter involving any person with whom the elected official has any business relationship that creates a financial interest on the part of the official, or the domestic partner or spouse of the official, or from whom or which he has derived any income or compensation during the preceding twelve months or from whom or which he reasonably expects to derive any income or compensation in the following twelve (12) months. In addition, no elected official may participate in any discussion in any City Council committee hearing or in any City Council meeting or vote on any matter involving the person with whom the elected official has any business relationship that creates a financial interest on the part of the official, or the domestic partner or spouse of the official, or from whom or which he has derived any income or compensation during the preceding twelve months or from whom or which he reasonably expects to derive any income or compensation in the following twelve months. Violation of MCC Sect. 2-156-030 by any elected official with respect to this Agreement will be grounds for termination of this Agreement. The term financial interest is defined as set forth in MCC Chapter 2-156.

Section 16.8 MCC 1-23 and 720 ILCS 5/33E Bribery, Debts, and Debarment Certification.

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

(b) The Provider, in performing under this Agreement shall comply with MCC Section 2-92-320, as follows:

(i) No person or business entity shall be awarded a contract or sub-contract if that person or business entity: (a) has been convicted of bribery or attempting to bribe a public officer or employee of the Customer, the State of Illinois, or any agency of the federal government or of any state or local government in the United States, in that officers or

employee's official capacity; or (b) has been convicted of agreement or collusion among bidders or prospective bidders in restraint of freedom of competition by agreement to bid a fixed price, or otherwise; or (c) has made an admission of guilt of such conduct described in (a) or (b) above which is a matter of record but has not been prosecuted for such conduct.

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

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

Section 16.9 Federal Terrorist (No-Business) List. The Provider warrants and represents that neither the Provider nor an Affiliate, as defined below, appears on the Specially Designated Nationals List, the Denied Persons List, the Unverified List, the Entity List, or the Debarred List as maintained by the Office of Foreign Assets Control of the U.S. Department of the Treasury or by the Bureau of Industry and Security of the U.S. Department of Commerce or their successors, or on any other list of persons or entities with which the City may not do business under any applicable law, rule, regulation, order or judgment.

For purposes of this Section 16.9, "Affiliate" means a person or entity which directly, or indirectly through one or more intermediaries, controls, is controlled by or is under common control with the Provider. 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.

Section 16.10 Inspector General and Legislative Inspector General. It is the duty of any bidder, proposer or the Provider, all Subcontractors, every applicant for certification of eligibility for a Customer contract or program, and all officers, directors, agents, partners and employees of any bidder, proposer, the Provider, all Subcontractors or such applicant to cooperate with the Inspector General or the Legislative Inspector General in any investigation or hearing, if applicable, undertaken pursuant to MCC Chapter 2-56 or 2-55, respectively. The Provider understands and will abide by all provisions of MCC Chapter 2-56 and 2-55. All Subcontracts must inform Subcontractors of this provision and require understanding and compliance with them.

Section 16.11 Governmental Ethics Ordinance 2-156. The Provider must comply with MCC Chapter 2-156, Governmental Ethics, including but not limited to MCC Section 2-156-120 pursuant to which no payment, gratuity or offer of employment will be made in connection with any Customer contract, by or on behalf of a Subcontractor or higher tier subcontractor or any

person associated therewith, as an inducement for the award of a Subcontract or order. Any contract negotiated, entered into, or performed in violation of any of the provisions of this this Section will be voidable as to the City.

#### Section 16.12 Restrictions on Business Dealings.

(a) Conflicts of Interest. The Provider covenants that it presently has no interest and will not acquire any interest, direct or indirect, in any enterprise which would conflict in any manner or degree with the performance of the work, services or goods to be provided hereunder. The Provider further covenants that in its performance of this Agreement no person having any such interest shall be employed. If the Customer determines that the Provider does have such a conflict of interest, the Customer will notify the Provider in writing, stating the basis for its determination. The Provider will thereafter have 30 days in which to respond with reasons why the Provider believes a conflict of interest does not exist. If the Provider does not respond or if the Customer still reasonably determines a conflict of interest to exist, the Provider must terminate its interest in the other enterprise.

(b) Prohibition on Certain Contributions, Mayoral Executive Order 2011-4. Neither the Provider or any person or entity who directly or indirectly has an ownership or beneficial interest in the Provider of more than 7.5% ("Owners"), spouses and domestic partners of such Owners, Provider's Subcontractors, any person or entity who directly or indirectly has an ownership or beneficial interest in any Subcontractor of more than 7.5% ("Sub-owners") and spouses and domestic partners of such Sub-owners (Provider and all the other preceding classes of persons and entities are together, the "Identified Parties"), shall make a contribution of any amount to the Mayor of the City of Chicago (the "Mayor") or to his political fundraising committee during (i) the bid or other solicitation process for this Agreement or Other Contract, including while this Contract or Other Contract is executory, (ii) the term of this Agreement or any Other Contract between City and Provider, and/or (iii) any period in which an extension of this Agreement or Other Contract with the Customer is being sought or negotiated. The Provider 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 Customer approached the Provider or the date the Provider approached the Customer, 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.

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

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

Violation of, non-compliance with, misrepresentation with respect to, or breach of any covenant or warranty under this provision or violation of Mayoral Executive Order No. 2011-4 constitutes a breach and default under this Agreement, and under any Other Contract for which no opportunity to cure will be granted. Such breach and default entitles the Customer to all remedies (including without limitation termination for default) under this Agreement, under any Other Contract, at law and in equity. This provision amends any Other Contract and supersedes any inconsistent provision contained therein.

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

For purposes of this provision:

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

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

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

Section 16.13 Debts Owed to the City; Anti-Scofflaw, MCC Sect. 2-92-380. Pursuant to MCC Section 2-92-380 and in addition to any other rights and remedies (including set-off) available to the Customer under this Agreement or permitted at law or in equity, the Customer will be entitled to set off a portion of the contract price or compensation due under the Agreement, in an amount equal to the amount of the fines and penalties for each outstanding parking violation complaint and the amount of any debt owed by the Provider to the Customer. For purposes of this Section, outstanding parking violation complaint means a parking ticket, notice of parking violation, or parking violation complaint on which no payment has been made or appearance filed in the Circuit Court of Cook County within the time specified on the complaint, and debt means a specified sum of money owed to the Customer for which the period granted for payment has expired. However no such debt(s) or outstanding parking violation complaint(s) will be offset from the contract price or compensation due under this Agreement if one or more of the following conditions are met:

(i) The Provider has entered into an agreement with the Department of Revenue, or other appropriate Customer department, for the payment of all outstanding parking violation complaints and debts owed to the Customer and the Provider is in compliance with such agreement; or

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

Section 16.14 Shakman Accord.

(a) The Customer is subject to the May 31, 2007 Order entitled “Agreed Settlement Order and Accord” (the “Shakman Accord”) and the June 24, 2011 “City of Chicago Hiring Plan” (the “City Hiring Plan”) entered in *Shakman v. Democratic Organization of Cook County*, Case No 69 C 2145 (United States District Court for the Northern District of Illinois). Among other things, the Shakman Accord and the City Hiring Plan prohibit the Customer from hiring persons as governmental employees in non-exempt positions on the basis of political reasons or factors.

(b) The Provider is aware that the Customer’s policy prohibits Customer employees from directing any individual to apply for a position with the Provider, either as an employee or as a Subcontractor, and from directing the Provider to hire an individual as an employee or as a Subcontractor. Accordingly, the Provider must follow its own hiring and contracting procedures, without being influenced by Customer employees. Any and all personnel provided by the Provider under this Agreement are employees or Subcontractors of the Provider, not employees of the Customer. 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 Customer and any personnel provided by the Provider.

(c) The Provider 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.

(d) In the event of any communication to the Provider by a Customer employee or Customer official in violation of paragraph (b) above, or advocating a violation of paragraph (c) above, the Provider will, as soon as is reasonably practicable, report such communication to the Hiring Oversight Section of the Customer’s Office of the Inspector General, and also to the head of the relevant Customer Department utilizing services provided under this Agreement. The Provider will also cooperate with any inquiries by IGO Hiring Oversight or the Shakman Monitor’s Office related to this Agreement.

Section 16.15 No Waste Disposal in Public Way MCC 11-4-1600(E). The Provider 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 MCC (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;  
§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, the Provider'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 Contract, for which the opportunity to cure, if curable, will be granted only at the sole discretion of the CPO. Such breach and default entitles the Customer to all remedies under this Agreement, at law or in equity.

This Section does not limit the Provider'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 Customer as grounds for the termination of this Agreement, and may further affect the Provider's eligibility for future contract awards.

Section 16.16 Duty to Report Corrupt or Unlawful Activity. It is the duty of the Provider to report to the Inspector General of the Customer, directly and without undue delay, any and all information concerning conduct which it knows or should reasonably know to involve corrupt or other unlawful activity by its employees or the employees of any of its Subcontractors, in connection with the performance of its work hereunder, or by any person dealing with the Customer which concerns the person's dealings with the Customer. Knowing failure to make such a report will be an event of default under this Agreement.

Section 16.17 MBE/WBE Program Participation and Goals. The rules, regulations, and forms for achieving MBE and WBE goals are set forth in the Special Conditions Regarding Minority Business Enterprise Commitment and Women Business Enterprise Commitment ("M/WBE Special Conditions") attached as Exhibit D to this Contract.

## **ARTICLE XVII MISCELLANEOUS**

Section 17.1 Entire Agreement. This Agreement contains the entire understanding of the Parties with respect to the subject matter hereof and reflects the prior agreements and commitments with respect thereto. There are no other oral understandings, terms or conditions and neither Party has relied upon any representation, express or implied, not contained in this Agreement.

Section 17.2 Exhibits. All exhibits and attachments referenced in this Agreement shall be incorporated into this Agreement by such reference and shall be deemed to be an integral part of this Agreement.

Section 17.3      Amendments. No change, amendment or modification of this Agreement shall be valid or binding upon the Parties hereto unless such change, amendment or modification shall be in writing and duly executed by both Parties hereto.

Section 17.4      Captions. The captions contained in this Agreement are for convenience and reference only and in no way define, describe, extend and or limit the scope of intent of this Agreement or the intent of any provision contained herein.

Section 17.5      Severability. The invalidity of one or more phrases, sentences, clauses, sections or articles contained in this Agreement shall not affect the validity of the remaining portions of this Agreement so long as the material purposes of this Agreement can be determined and effectuated.

Section 17.6      Notices. Any notice, demand, offer, or other instrument required or permitted to be given pursuant to this Agreement shall be in writing signed by the Party giving such notice and shall be hand delivered or sent by registered letter, overnight courier or electronic mail (if mutually acceptable procedures are developed) to the other Party at such address as set forth below.

(a)      If delivered to the Customer: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Attention:  
Telephone:  
Email:

(b)      If delivered to the Provider:      Chicago Infrastructure Trust  
222 West Merchandise Mart  
Suite 1212  
Chicago, Illinois 60657  
Attention: Executive Director  
Email: ssb@shapechicago.org

And to:      Public Building Commission of Chicago  
50 West Washington, Suite 200  
Chicago, IL 60602  
Attention:  
E-mail:

Each Party shall have the right to change the place to which notice shall be sent or be delivered by similar notice sent or like manner to the other Party. The effective date of any notice issued pursuant to this Agreement shall be as of the addressee's receipt of such notice.

Section 17.7      No Waiver. Any failure of any Party to enforce any of the provisions of this Agreement or to require compliance with any of its terms at any time during the pendency of this Agreement shall in no way affect the validity of this Agreement, or any part



hereof, and shall not be deemed a waiver of the right of such Party thereafter to enforce any and each such provision.

Section 17.8        Successors and Assigns. This Agreement shall be binding upon the Parties hereto, their successors and permitted assigns.

Section 17.9        No Joint Venture or Partnership. The relationship between the Provider and the Customer shall not be that of partners, agents, or joint ventures for one another, and nothing contained in this Agreement shall be deemed to constitute a partnership or agency agreement between them for any purposes, including federal income tax purposes. The Provider and the Customer, in performing any of their obligations hereunder, shall be independent contractors or independent parties and shall discharge their contractual obligations at their own risk.

Section 17.10       Disclaimer. The Provider makes no representation or warranty with respect to the Customer's treatment of any federal or state tax Laws, any applicable accounting treatment or conventions or the assessment of any rating agency in connection with this Agreement, the other Documents, the Project or any particular ECM.

Section 17.11       Further Assurances. The Provider and the Customer agree to provide such information, execute and deliver any instruments and documents, and to take such other actions as may be necessary or reasonably requested by the other Party that are not inconsistent with the provisions of this Agreement and that do not involve the assumptions of obligations other than those provided for in this Agreement, in order to give full effect to this Agreement and to carry out the intent of this Agreement.

Section 17.12       Priority. In the event of any conflict or inconsistency among the various provisions of this Agreement (including the attachments thereto and any other incorporated documentation), the provision imposing the more stringent standard or requirement or requiring a more expansive scope of supply shall prevail.

Section 17.13       Governing Law. THIS AGREEMENT SHALL BE GOVERNED BY, AND CONSTRUED IN ACCORDANCE WITH, THE LAW OF THE STATE OF ILLINOIS.

Section 17.14       Waiver of Jury Trial. EACH PARTY HERETO HEREBY IRREVOCABLY WAIVES, TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, ANY RIGHT IT MAY HAVE TO A TRIAL BY JURY IN ANY LEGAL PROCEEDING DIRECTLY OR INDIRECTLY ARISING OUT OF OR RELATING TO THIS AGREEMENT OR THE TRANSACTIONS CONTEMPLATED HEREBY (WHETHER BASED ON CONTRACT, TORT OR ANY OTHER THEORY). EACH PARTY HERETO (A) CERTIFIES THAT NO REPRESENTATIVE, AGENT OR ATTORNEY OF ANY OTHER PERSON HAS REPRESENTED, EXPRESSLY OR OTHERWISE, THAT SUCH OTHER PERSON WOULD NOT, IN THE EVENT OF LITIGATION, SEEK TO ENFORCE THE FOREGOING WAIVER AND (B) ACKNOWLEDGES THAT IT AND THE OTHER PARTIES HERETO HAVE BEEN INDUCED TO ENTER INTO THIS AGREEMENT BY,

AMONG OTHER THINGS, THE MUTUAL WAIVERS AND CERTIFICATIONS IN THIS SECTION.

Section 17.15      Counterparts. This Agreement may be signed in any number of counterparts and each counterpart shall represent a fully executed original as if signed by both Parties.

[Remainder of Page Intentionally Left Blank]

[Signature Page Follows]

IN WITNESS WHEREOF, the Parties have caused this Agreement to be executed  
as of the date first written above.

CHICAGO INFRASTRUCTURE TRUST

By \_\_\_\_\_  
Name \_\_\_\_\_  
Title \_\_\_\_\_

CITY OF CHICAGO

By \_\_\_\_\_  
Name \_\_\_\_\_  
Title \_\_\_\_\_

Approved for the Customer for Form and Legal Sufficiency

\_\_\_\_\_

## **Exhibit A**

### Description of Facilities and Project

[This Exhibit will incorporate the scope of work, construction schedule and commissioning/testing plan to be performed by the applicable ESCO substantially as described in, or contemplated by, the related Investment Grade Audit]

## **Exhibit B**

### Savings Methodology and Calculation

[This Exhibit will incorporate the baseline energy use and cost assumption and savings calculations substantially as described in, or contemplated by, the related Investment Grade Audit].

## **Exhibit C**

### Customer Project-Specific Obligations

[This Exhibit will incorporate the Customer's obligations to provide maintenance for the ECMs pursuant to the Computerized Maintenance Management System to be implemented as described in the related Investment Grade Audit and such other obligations as determined by the Commission.]

**Exhibit D**

MBE/WBE Special Conditions

(Attached)



**CITY OF CHICAGO**  
**Department of Procurement Services**  
**Jamie L. Rhee, Chief Procurement Officer**  
121 North LaSalle Street, Room 806  
Chicago, Illinois 60602-1284

**Fax: 312-744-3281**

**COMMODITIES AND WORK SERVICES MBE & WBE SPECIAL CONDITIONS**

**ARTICLE 1. SPECIAL CONDITIONS REGARDING MINORITY BUSINESS ENTERPRISE COMMITMENT AND WOMEN BUSINESS ENTERPRISE COMMITMENT FOR COMMODITIES OR SERVICES**

**1.1. Policy and Terms**

It is the policy of the City of Chicago that Local Businesses certified as Minority Owned Business Enterprises (MBE) and Women Owned Business Enterprises (WBE) in accordance with Section 2-92-420 et seq. of the Municipal Code of Chicago and Regulations Governing Certification of Minority and Women-owned Businesses and all other Regulations promulgated under the aforementioned sections of the Municipal Code, as well as MBEs and WBEs certified by Cook County, Illinois, will have full and fair opportunities to participate fully in the performance of this contract. Therefore, the Contractor will not discriminate against any person or business on the basis of race, color, sex, gender identity, age, religion, disability, national origin, ancestry, sexual orientation, marital status, parental status, military discharge status or source of income and will take affirmative action to ensure that women and minority businesses will have the maximum opportunity to compete for and perform subcontracts for supplies or services.

Pursuant to Section 2-92-430 of the Municipal Code of Chicago, the Chief Procurement Officer has established a goal of awarding not less than 25% of the annual dollar value of all non-construction contracts to certified MBEs and 5% of the annual dollar value of all non-construction contracts to certified WBEs.

Accordingly, the Contractor commits to make Good Faith Efforts to expend at least the following percentages of the total contract price (inclusive of any and all modifications and amendments), if awarded, for contract participation by MBEs and WBEs:

<u>MBE Percentage</u>	<u>WBE Percentage</u>
25%	5%

This commitment is met by the Contractor's status as a MBE or WBE, or by a joint venture with one or more MBEs or WBEs as prime contractor (to the extent of the MBE or WBE participation in such joint venture), or by subcontracting a portion of the work to one or more MBEs or WBEs, or by the purchase of materials used in the performance of the contract from one or more MBEs or WBEs, or by 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 will be credited more than once against a Contractor's MBE or WBE commitment with respect to all government 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 MBE and WBE may only be listed on a bidder's compliance plan as either a MBE or a WBE, but not both to demonstrate compliance with the Contract Specific Goals.

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 will 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 by it to involve MBEs and WBEs directly in the performance of this Contract.

The Contractor also may meet all or part of this commitment through credits received pursuant to Section 2-92-530 of the Municipal Code of Chicago for the voluntary use of MBEs or WBEs in private sector contracts.

Pursuant to 2-92-535, the prime contractor may apply be awarded an additional 0.333 percent credit, up to a maximum of a total of 5 percent additional credit, for every 1 percent of the value of a contract self-performed by MBEs or WBEs, or combination thereof, that have entered into a mentor agreement with the contractor. This up to 5% may be applied to the Contract Specific Goals, or it may be in addition to the Contract Specific Goals.

## **1.2. Definitions**

**"Area of Specialty"** means the description of an MBE or WBE firm's business which has been determined by the Chief Procurement Officer to be most reflective of the MBE or WBE firm's claimed specialty or expertise. Each MBE/WBE letter of certification contains a description of the firm's Area of Specialty. This information is also contained in the Directory (defined below). Credit toward this Contract's MBE and WBE participation goals shall be limited to the participation of firms performing within their Area of Specialty.

**NOTICE:** *The City of Chicago does not make any representation concerning the ability of any MBE/WBE to perform work within their Area of Specialty. It is the responsibility of all contractors to determine the capability and capacity of MBEs/WBEs to satisfactorily perform the work proposed.*

**"B.E.P.D."** means an entity certified as a Business enterprise owned or operated by people with disabilities as defined in MCC Section 2-92-586.

**"Bid"** means a bid, proposal, or submittal detailing a description of the services or work to be provided by the contractor in response to a bid solicitation, request for proposal, request for qualification of task order request (issued in accordance with the Master Consulting Agreement) that is issued by the City.

**"Bidder"** means any person or business entity that submits a bid, proposal, qualification or submittal that seeks to enter into a contract with the City, and includes all partners, affiliates and joint ventures of such person or entity.

**"Broker"** means a person or entity that fills orders by purchasing or receiving supplies from a third party supplier rather than out of its own existing inventory and provides no commercially useful function other than acting as a conduit between his or her supplier and his or her customer.

**"Chief Procurement Officer" or "CPO"** means the chief procurement officer of the City of Chicago or his or her designee.

**"Commercially Useful Function"** means responsibility for the execution of a distinct element of the work of the contract, which is carried out by actually performing, managing, and supervising the work involved, evidencing the responsibilities and risks of a business owner such as negotiating the terms of (sub)contracts, taking on a financial risk commensurate with the contract or its subcontract, responsibility for acquiring the appropriate lines of credit and/or loans, or fulfilling responsibilities as a joint venture partner as described in the joint venture agreement.

**"Contract Specific Goals"** means the subcontracting goals for MBE and WBE participation established for a particular contract.

**"Contractor"** means any person or business entity that has entered into a contract with the City as described herein, and includes all partners, affiliates, and joint ventures of such person or entity.

**"Direct Participation"** the value of payments made to MBE or WBE firms for work that is performed in their Area of Specialty directly related to the performance of the subject matter of the Contract will count as Direct Participation toward the Contract Specific Goals.

**"Directory"** means the Directory of Certified "Minority Business Enterprises" and "Women Business Enterprises" maintained and published by the City of Chicago. The Directory identifies firms that have been certified as MBEs and WBEs, and includes both the date of their last certification and the area of specialty in which they have been certified. Contractors are responsible for verifying the current certification status of all proposed MBE, and WBE firms.

**"Good Faith Efforts"** means actions undertaken by a bidder or contractor to achieve a Contract Specific Goal that the CPO or his or her designee has determined, by their scope, intensity, and appropriateness to the objective, can reasonably be expected to fulfill the program's requirements.

**"Indirect Participation"** refers to the value of payments made to MBE or WBE firms for work that is done in their Area of Specialty related to other aspects of the Contractor's business. (Note: no dollar of such indirect MBE or WBE participation shall be credited more than once against a contractor's MBE or WBE commitment with respect to all government contracts held by that contractor.)

**"Joint venture"** means an association of a MBE or WBE firm and one or more other firms to carry out a single, for-profit business enterprise, for which each joint venture partner contributes property, capital, efforts, skills and knowledge, and in which the MBE or WBE is responsible for a distinct, clearly defined portion of the work of the contract and whose share in the capital contribution, control, management, risks, and profits of the joint venture are commensurate with its ownership interest.

**"Mentor-Protégé Agreement"** means an agreement between a prime and MBE or WBE subcontractor pursuant to MCC 2-92-535, that is approved by the City of Chicago and complies with all requirements of MCC 2-92-535 and any rules and regulations promulgated by the Chief Procurement Officer.

**"Minority Owned Business Enterprise" or "MBE"** means a firm awarded certification as a minority owned and controlled business in accordance with City Ordinances and Regulations as well as a firm awarded certification as a minority owned and controlled business by Cook County, Illinois.

**"Municipal Code of Chicago" or "MCC"** means the Municipal Code of the City of Chicago.

**"Supplier" or "Distributor"** refers to a company that owns, operates, or maintains a store, warehouse or other establishment in which materials, supplies, articles or equipment are bought, kept in stock and regularly sold or leased to the public in the usual course of business. A regular distributor or supplier is a firm that owns, operates, or maintains a store, warehouse, or other establishment in which the materials or supplies required for performance of a contract are bought, kept in stock, and regularly sold to the public in the usual course of business. To be a regular distributor the firm must engage in, as its principal business and in its own name, the purchase and sale of the products in question. A regular distributor in such bulk items as steel, cement, gravel, stone, and petroleum products need not keep such products in stock if it owns or operates distribution equipment.

**"Women Owned Business Enterprise" or "WBE"** means a firm awarded certification as a women owned and controlled business in accordance with City Ordinances and Regulations as well as a firm awarded certification as a women owned business by Cook County, Illinois.

### **1.3. Joint Ventures**

The formation of joint ventures to provide MBEs and WBEs with capacity and experience at the prime contracting level, and thereby meet Contract Specific Goals (in whole or in part) is encouraged. A joint venture may consist of any combination of MBEs, WBEs, and non-certified firms as long as one member is an MBE or WBE.

- a. The joint venture may be eligible for credit towards the Contract Specific Goals only if:
  - i. The MBE or WBE joint venture partner's share in the capital contribution, control, management, risks and profits of the joint venture is equal to its ownership interest;
  - ii. The MBE or WBE joint venture partner is responsible for a distinct, clearly defined portion of the requirements of the contract for which it is at risk;

- iii. Each joint venture partner executes the bid to the City; and
  - iv. The joint venture partners have entered into a written agreement specifying the terms and conditions of the relationship between the partners and their relationship and responsibilities to the contract, and all such terms and conditions are in accordance with the conditions set forth in Items i, ii, and iii above in this Paragraph a.
- b. The Chief Procurement Officer shall evaluate the proposed joint venture agreement, the Schedule B submitted on behalf of the proposed joint venture, and all related documents to determine whether these requirements have been satisfied. The Chief Procurement Officer shall also consider the record of the joint venture partners on other City of Chicago contracts. The decision of the Chief Procurement Officer regarding the eligibility of the joint venture for credit towards meeting the Contract Specific Goals, and the portion of those goals met by the joint venture, shall be final.

The joint venture may receive MBE or WBE credit for work performed by the MBE or WBE joint venture partner(s) equal to the value of work performed by the MBE or WBE with its own forces for a distinct, clearly defined portion of the work.

Additionally, if employees of the joint venture entity itself (as opposed to employees of the MBE or WBE partner) perform the work, then the value of the work may be counted toward the Contract Specific Goals at a rate equal to the MBE or WBE firm's percentage of participation in the joint venture as described in Schedule B.

The Chief Procurement Officer may also count the dollar value of work subcontracted to other MBEs and WBEs. Work performed by the forces of a non-certified joint venture partner shall not be counted toward the Contract Specific Goals.

c. **Schedule B: MBE/WBE Affidavit of Joint Venture**

Where the bidder's Compliance Plan includes the participation of any MBE or WBE as a joint venture partner, the bidder must submit with its bid a Schedule B and the proposed joint venture agreement. These documents must both clearly evidence that the MBE or WBE joint venture partner(s) will be responsible for a clearly defined portion of the work to be performed, and that the MBE's or WBE's responsibilities and risks are proportionate to its ownership percentage. The proposed joint venture agreement must include specific details related to:

- i. The parties' contributions of capital, personnel, and equipment and share of the costs of insurance and bonding;
- ii. Work items to be performed by the MBE's or WBE's own forces and/or work to be performed by employees of the newly formed joint venture entity;
- iii. Work items to be performed under the supervision of the MBE or WBE joint venture partner; and
- iv. The MBE's or WBE's commitment of management, supervisory, and operative personnel to the performance of the contract.

**NOTE:** Vague, general descriptions of the responsibilities of the MBE or WBE joint venture partner do not provide any basis for awarding credit. For example, descriptions such as "participate in the budgeting process," "assist with hiring," or "work with managers to improve customer service" do not identify distinct, clearly defined portions of the work. Roles assigned should require activities that are performed on a regular, recurring basis rather than as needed. The roles must also be pertinent to the nature of the business for which credit is being sought. For instance, if the scope of work required by the City entails the delivery of goods or services to various sites in the City, stating that the MBE or WBE joint venture partner will be responsible for the performance of all routine maintenance and all repairs required to the vehicles used to deliver such goods or services is pertinent to the nature of the business for which credit is being sought.

#### 1.4. Counting MBE/WBE Participation Toward the Contract Specific Goals

Refer to this section when preparing the MBE/WBE compliance plan and completing Schedule D-1 for guidance on what value of the participation by MBEs and WBEs will be counted toward the stated Contract Specific Goals. The "Percent Amount of Participation" depends on whether and with whom a MBE or WBE subcontracts out any portion of its work and other factors.

Firms that are certified as both MBE and WBE may only be listed on a bidder's compliance plan as either a MBE or a WBE to demonstrate compliance with the Contract Specific Goals. For example, a firm that is certified as both a MBE and a WBE may only be listed on the bidder's compliance plan under one of the categories, but not both. Only Payments made to MBE and WBE firms that meet BOTH the Commercially Useful Function and Area of Specialty requirements above will be counted toward the Contract Specific Goals.

- a. Only expenditures to firms that perform a Commercially Useful Function as defined above may count toward the Contract Specific Goals.
  - i. The CPO will determine whether a firm is performing a commercially useful function by evaluating the amount of work subcontracted, whether the amount the firm is to be paid under the contract is commensurate with the work it is actually performing and the credit claimed for its performance of the work, industry practices, and other relevant factors.
  - ii. A MBE or WBE does not perform a commercially useful function if its participation is only required to receive payments in order to obtain the appearance of MBE or WBE participation. The CPO may examine similar commercial transactions, particularly those in which MBEs or WBEs do not participate, to determine whether non MBE and non WBE firms perform the same function in the marketplace to make a determination.
  - iii. Indications that a subcontractor is not performing a commercially useful function include, but are not limited to, labor shifting and equipment sharing or leasing arrangements with the prime contractor or a first tier subcontractor.
- b. Only the value of the dollars paid to the MBE or WBE firm for work that it performs in its Area of Specialty in which it is certified counts toward the Contract Specific Goals.
- c. For maintenance, installation, repairs or inspection, or professional services, if the MBE or WBE performs the work itself: 100% of the value of work actually performed by the MBE's or WBE's own forces shall be counted toward the Contract Specific Goals, including the cost of supplies and materials purchased or equipment leased by the MBE or WBE from third parties or second tier subcontractors in order to perform its (sub)contract with its own forces (except supplies and equipment the MBE or WBE subcontractor purchases or leases from the prime contractor or its affiliate). 0% of the value of work at the project site that a MBE or WBE subcontracts to a non-certified firm counts toward the Contract Specific Goals.
- d. If the MBE or WBE is a manufacturer: 100% of expenditures to a MBE or WBE manufacturer for items needed for the Contract shall be counted toward the Contract Specific Goals. A manufacturer is a firm that operates or maintains a factory or establishment that produces on the premises the materials or supplies obtained by the bidder or contractor.
- e. If the MBE or WBE is a distributor or supplier: 60% of expenditures for materials and supplies purchased from a MBE or WBE that is certified as a regular dealer or supplier shall be counted toward the Contract Specific Goals.
- f. If the MBE or WBE is a broker:
  - i. Zero percent (0%) of expenditures paid to brokers will be counted toward the Contract Specific Goals.
  - ii. As defined above, Brokers provide no commercially useful function.

- g. If the MBE or WBE is a member of the joint venture contractor/bidder:
  - i. A joint venture may count the portion of the total dollar value of the contract equal to the distinct, clearly defined portion of the work of the contract that the MBE or WBE performs with its own forces toward the Contract Specific Goals; or
  - ii. If employees of this distinct joint venture entity perform the work then the value of the work may be counted toward the Contract Specific Goals at a rate equal to the MBE or WBE firm's percentage of participation in the joint venture as described in the Schedule B.
  - iii. A joint venture may also count the dollar value of work subcontracted to other MBEs and WBEs.
- h. If the MBE or WBE subcontracts out any of its work:
  - i. 100% of the value of the work subcontracted to other MBEs or WBEs performing work in its Area of Specialty may be counted toward the Contract Specific Goals.
  - ii. 0% of the value of work that a MBE or WBE subcontracts to a non-certified firm counts toward the Contract Specific Goals (except as allowed by (c) above).
  - iii. The fees or commissions charged for providing a bona fide service, such as professional, technical, consulting or managerial services or for providing bonds or insurance and assistance in the procurement of essential personnel, facilities, equipment, materials or supplies required for performance of the Contract, provided that the fee or commission is determined by the Chief Procurement Officer to be reasonable and not excessive as compared with fees customarily allowed for similar services.
  - iv. The fees charged for delivery of materials and supplies required on a job site (but not the cost of the materials and supplies themselves) when the hauler, trucker, or delivery service is not also the manufacturer of or a regular dealer in the materials and supplies, provided that the fee is determined by the Chief Procurement Officer to be reasonable and not excessive as compared with fees customarily allowed for similar services.
  - v. The fees or commissions charged for providing any bonds or insurance, but not the cost of the premium itself, specifically required for the performance of the Contract, provided that the fee or commission is determined by the Chief Procurement Officer to be reasonable and not excessive as compared with fees customarily allowed for similar services.

#### **1.5. Regulations Governing Reductions to or Waiver of MBE/WBE Goals**

The following Regulations set forth the standards to be used in determining whether or not a reduction or waiver of the MBE/WBE commitment goals of a particular contract is appropriate. If a bidder determines that it is unable to meet the MBE and/or WBE Contract-Specific Goals on a City of Chicago contract, a written request for the reduction or waiver of the commitment must be included in the bid or proposal.

The written request for reduction or waiver from the commitment must be in the form of a signed petition for grant of relief from the MBE/WBE percentages submitted on the bidder's letterhead, and must demonstrate that all required efforts as set forth in this document were taken to secure eligible Minority and Women Business Enterprises to meet the commitments. The Chief Procurement Officer or designee shall determine whether the request for the reduction or waiver will be granted.

A bidder will be considered responsive to the terms and conditions of these Regulations if, at the time of bid, it submits a waiver request and all supporting documentation that adequately addresses the conditions for waiver of MBE/WBE goals, including proof of notification to assist agencies except:

- Bidders responding to Request for Proposals (RFPs) who have been identified as a short listed candidate and/or a prospective awardee will be given a designated time allowance, but no more than

fourteen (14) calendar days to submit to the Department of Procurement Services complete documentation that adequately addresses the conditions for waiver described herein; and

- Bidders responding to Request for Information and or Qualifications (RFI/RFQs) deemed by the Chief Procurement Officer or authorized designee to be the most responsive and responsible shall submit documentation that adequately addresses the conditions for waiver described herein during negotiations.

Failure to submit documentation sufficient to support the waiver request will cause the bid/proposal to be found non-responsive by the Chief Procurement Officer, and the bid/proposal will be rejected. In such cases the remedies to be taken by the Chief Procurement Officer, in his or her discretion, may include, but are not limited to, forfeiture of bid deposit; negotiating with the next lowest bidder; or re-advertising the bid/proposal. All bidders must submit all required documents at the time of bid opening to expedite the contract award.

#### **1.5.1. 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.

- a. The bidder has documented the unsuccessful solicitation for either subcontractors or joint venture partners of at least 50% (or at least five when there are more than eleven certified firms in the commodity area) of the appropriate certified MBE/WBE firms to perform any direct or indirect work identified or related to the advertised bid/proposal. Documentation must include but is not necessarily limited to:
  1. A detailed statement of efforts to identify and select portions of work identified in the bid solicitation for subcontracting to certified MBE/WBE firms;
  2. A listing of all MBE/WBE firms contacted that includes:
    - Name, address, telephone number and email of MBE/WBE firms solicited;
    - Date and time of contact;
    - Method of contact (written, telephone, transmittal of facsimile documents, email, etc.)
  3. Copies of letters or any other evidence of mailing that substantiates outreach to MBE/WBE vendors that includes:
    - Project identification and location;
    - Classification/commodity of work items for which quotations were sought;
    - Date, item and location for acceptance of subcontractor bid proposals;
    - Detailed statement which summarizes direct negotiations with appropriate MBE/WBE firms for specific portions of the work and indicates why negotiations were unsuccessful;
    - Affirmation that Good Faith Efforts have been demonstrated by:
      - choosing subcontracting opportunities likely to achieve MBE/WBE goals;
      - not imposing any limiting conditions which were not mandatory for all subcontractors;

- providing notice of subcontracting opportunities to M/WBE firms and assist agencies at least five (5) business days in advance of the initial bid due date.

**OR**

- b. Subcontractor participation will be deemed excessively costly when the MBE/WBE subcontractor proposal exceeds the average price quoted by more than twenty percent (20%). In order to establish that a subcontractor's quote is excessively costly, the bidder must provide the following information:
1. A detailed statement of the work identified for MBE/WBE participation for which the bidder asserts the MBE/WBE quote(s) were excessively costly (in excess of 20% higher).
    - A listing of all potential subcontractors contacted for a quotation on that work item;
    - Prices quoted for the subcontract in question by all such potential subcontractors for that work item.
  2. Other documentation which demonstrates to the satisfaction of the Chief Procurement Officer that the MBE/WBE proposals are excessively costly, even though not in excess of 20% higher than the average price quoted. This determination will be based on factors that include, but are not limited to the following:
    - The City's estimate for the work under a specific subcontract;
    - The bidder's own estimate for the work under the subcontract;
    - An average of the bona fide prices quoted for the subcontract;
    - Demonstrated increase in other contract costs as a result of subcontracting to the M/WBE or other firm.

#### **1.5.2. Assist Agency Participation in waiver/reduction requests**

Every waiver and/or reduction request must include evidence that the bidder has provided timely notice of the need for subcontractors to an appropriate association/assist agency representative of the MBE/WBE business community. This notice must be given at least five (5) business days in advance of the initial bid due date.

The notice requirement of this Section will be satisfied if a bidder contacts at least one of the associations on Attachment A to these Regulations when the prime contractor seeks a waiver or reduction in the utilization goals. Attachment B to these Regulations provides the letter format that a prime contractor may use. Proof of notification prior to bid submittal (e.g. certified mail receipt or facsimile transmittal receipt) will be required to be submitted with the bid for any bid/proposal to be deemed responsive. If deemed appropriate, the Contract Compliance Officer may contact the assist agency for verification of notification.

#### **1.5.3. Impracticability**

If the Chief Procurement Officer determines that a lesser MBE and/or WBE percentage standard is appropriate with respect to a particular contract subject to competitive bidding prior to the bid solicitations for such contract, bid specifications shall include a statement of such revised standard.

The requirements set forth in these Regulations (this subsection 1.5 "Regulations Governing Reductions to or Waiver of MBE/WBE Goals") shall not apply where the Chief Procurement Officer determines prior to the bid solicitations that MBE/WBE subcontractor participation is impracticable.

This may occur whenever the Chief Procurement Officer determines that for reasons of time, need, industry practices or standards not previously known by the Chief Procurement Officer, or such other extreme circumstances as may be deemed appropriate, such a Waiver is in the best interests of the City. This determination may be made in connection with a particular contract, whether before the contract is let for bid, during the bid or award process, before or during negotiation of the contract, or during the performance of the contract.

For all notifications required to be made by bidders, in situations where the Chief Procurement Officer has determined that time is of the essence, documented telephone contact may be substituted for letter contact.

#### **1.6. Procedure to Determine Bid Compliance**

A bid may be rejected as non-responsive if it fails to submit one or more of the following with its bid demonstrating its Good Faith Efforts to meet the Contract Specific Goals by reaching out to MBEs and WBEs to perform work on the contract:

- An MBE/WBE compliance plan demonstrating how the bidder plans to meet the Contract Specific Goals; and/or
- A request for reduction or waiver of the Contract Specific Goals in accordance with Section 2-92-450 of the MCC.

Only compliance plans utilizing MBE and WBE firms that meet BOTH the Commercially Useful Function and Area of Specialty requirements will be counted toward the Contract Specific Goals.

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

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

The bidder must submit the appropriate Schedule C-1 with the bid for each MBE and WBE included on the Schedule D-1. Suppliers must submit the Schedule C-1 for Suppliers, first tier subcontractors must submit a Schedule C-1 for Subcontractors to the Prime Contractor and second or lower tier subcontractors must submit a Schedule C-1 for second tier Subcontractors. The City encourages subcontractors to utilize the electronic fillable format Schedule C-1, which is available at the Department of Procurement Services website, <http://cityofchicago.org/forms>. Each Schedule C-1 must be executed by each MBE and WBE and accurately detail the work to be performed by the MBE or WBE and the agreed upon rates/prices. Each Schedule C must also include a separate sheet as an attachment on which the MBE or WBE fully describes its proposed scope of work, including a description of the commercially useful function being performed by the MBE or WBE in its Area of Specialty. If a facsimile copy of the Schedule C-1 has been submitted with the bid, an executed original Schedule C-1 must be submitted by the bidder for each MBE and WBE included on the Schedule D-1 within five business days after the date of the bid opening.

Failure to submit a completed Schedule C-1 in accordance with this section shall entitle the City to deem the bid/proposal non-responsive and therefore reject the bid/proposal.

**(2) Letters of Certification.**

A copy of each proposed MBE/WBE firm's current Letter of Certification from the City of Chicago or Cook County Illinois, must be submitted with the bid/proposal. All Letters of Certification issued by the City of Chicago and Cook County include a statement of the MBE/WBE firm's Area of Specialty. The MBE/WBE firm's scope of work, as detailed by their Schedule C-1, must conform to their stated Area of Specialty.

**(3) Schedule B: Affidavit of Joint Venture, and Joint Venture Agreements (if applicable).**



If the bidder's MBE/WBE proposal includes the participation of a MBE/WBE as joint venture on any tier (either as the bidder or as a subcontractor), the bidder must provide a copy of the joint venture agreement and a Schedule B along with all other requirements listed in Section 1.3, "Joint Ventures," above. In order to demonstrate the MBE/WBE partner's share in the ownership, control, management responsibilities, risks and profits of the joint venture, the proposed joint venture agreement must include specific details related to: (1) contributions of capital and equipment; (2) work responsibilities or other performance to be undertaken by the MBE/WBE; and (3) the commitment of management, supervisory and operative personnel employed by the MBE/WBE to be dedicated to the performance of the contract. The joint venture agreement must also clearly define each partner's authority to contractually obligate the joint venture and each partner's authority to expend joint venture funds (e.g., check signing authority).

**(4) Schedule D-1: Required Schedules Regarding MBE/WBE Utilization**

Bidders must submit, together with the bid, a completed Schedule D-1 committing them to the utilization of each listed MBE/WBE firm. The City encourages bidders to utilize the electronic fillable format Schedule D-1, which is available at the Department of Procurement Services website, <http://cityofchicago.org/forms>. Except in cases where the bidder has submitted a request for a complete waiver of or variance from the MBE/WBE commitment in accordance with Section 1.5 "Regulations Governing Reductions to or Waiver of MBE/WBE Goals" herein, the bidder must commit to the expenditure of a specific dollar amount of participation by each MBE/WBE firm included on their Schedule D-1. The total dollar commitment to proposed MBEs must at least equal the MBE goal, and the total dollar commitment to proposed WBEs must at least equal the WBE goal. Bidders are responsible for calculating the dollar equivalent of the MBE and WBE goals as percentages of their total base bids or in the case of Term Agreements, depends upon requirements agreements and blanket agreements, as percentages of the total estimated usage. All commitments made by the bidder's Schedule D-1 must conform to those presented in the submitted Schedule C-1. If Schedule C-1 is submitted after the opening, the bidder may submit a revised Schedule D-1 (executed and notarized to conform with the Schedules C-1). Bidders shall not be permitted to add MBEs or WBEs after bid opening to meet the Contract Specific Goals, however, contractors are encouraged to add additional MBE/WBE vendors to their approved compliance plan during the performance of the contract when additional opportunities for participation are identified. Except in cases where substantial and documented justification is provided, bidders will not be allowed to reduce the dollar commitment made to any MBE or WBE in order to achieve conformity between the Schedules C-1 and D-1.

All commitments for joint venture agreements must be delineated in the Schedule B.

**(5) Application for Approval of Mentor Protégé Agreement**

Any applications for City approval of a Mentor Protégé agreement must be included with the bid. If the application is not approved, the bidder must show that it has made good faith efforts to meet the contract specific goals.

**1.7. Reporting Requirements During the Term of the Contract**

- a. The Contractor will, not later than thirty (30) calendar days from the award of a contract by the City, execute formal contracts or purchase orders with the MBEs and WBEs included in their approved MBE/WBE Utilization Plan. These written agreements will be made available to the Chief Procurement Officer upon request.
- b. The Contractor will be responsible for reporting payments to all subcontractors on a monthly basis in the form of an electronic report. Upon the first payment issued by the City of Chicago to the contractor for services performed, on the first day of each month and every month thereafter, email and or fax audit notifications will be sent out to the Contractor with instructions to report payments that have been made in the prior month to each subcontractor. The

reporting of payments to all subcontractors must be entered into the Certification and Compliance Monitoring System (C2), or whatever reporting system is currently in place, on or before the fifteenth (15th) day of each month.

- c. Once the prime Contractor has reported payments made to each subcontractor, including zero dollar amount payments, the subcontractor will receive an email and or fax notification requesting them to log into the system and confirm payments received. All monthly confirmations must be reported on or before the 20th day of each month. Contractor and subcontractor reporting to the C2 system must be completed by the 25th of each month or payments may be withheld.
- d. All subcontract agreements between the contractor and MBE/WBE firms or any first tier non-certified firm and lower tier MBE/WBE firms must contain language requiring the MBE/WBE to respond to email and/or fax notifications from the City of Chicago requiring them to report payments received for the prime or the non-certified firm.

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

- e. The Chief Procurement Officer or any party designated by the Chief Procurement Officer, shall have access to the contractor's books and records, including without limitation payroll records, tax returns and records and books of account, to determine the contractor's compliance with its commitment to MBE and WBE participation and the status of any MBE or WBE performing any portion of the contract. This provision shall be in addition to, and not a substitute for, any other provision allowing inspection of the contractor's records by any officer or official of the City for any purpose.
- f. The Contractor shall maintain records of all relevant data with respect to the utilization of MBEs and WBEs, retaining these records for a period of at least five years after project closeout. Full access to these records shall be granted to City, federal or state authorities or other authorized persons.

#### **1.8. Changes to Compliance Plan**

##### **1.8.1. Permissible Basis for Change Required**

No changes to the Compliance Plan or contractual MBE and WBE commitments or substitution of MBE or WBE subcontractors may be made without the prior written approval of the Contract Compliance Officer. Unauthorized changes or substitutions, including performing the work designated for a subcontractor with the contractor's own forces, shall be a violation of these Special Conditions and a breach of the contract with the City, and may cause termination of the executed Contract for breach, and/or subject the bidder or contractor to contract remedies or other sanctions. The facts supporting the request for changes must not have been known nor reasonably could have been known by the parties prior to entering into the subcontract. Bid shopping is prohibited. The bidder or contractor must negotiate with the subcontractor to resolve the problem. If requested by either party, the Department of Procurement Services shall facilitate such a meeting. Where there has been a mistake or disagreement about the scope of work, the MBE or WBE can be substituted only where an agreement cannot be reached for a reasonable price for the correct scope of work.

Substitutions of a MBE or WBE subcontractor shall be permitted only on the following basis:

- a) Unavailability after receipt of reasonable notice to proceed;
- b) Failure of performance;
- c) Financial incapacity;
- d) Refusal by the subcontractor to honor the bid or proposal price or scope;
- e) Mistake of fact or law about the elements of the scope of work of a solicitation where a reasonable price cannot be agreed;

- f) Failure of the subcontractor to meet insurance, licensing or bonding requirements;
- g) The subcontractor's withdrawal of its bid or proposal; or
- h) De-certification of the subcontractor as a MBE or WBE (graduation from the MBE/WBE program does not constitute de-certification).
- i) Termination of a Mentor Protégé Agreement.

#### **1.8.2. Procedure for Requesting Approval**

If it becomes necessary to substitute a MBE or WBE or otherwise change the Compliance Plan, the procedure will be as follows:

- a) The bidder or contractor must notify the Contract Compliance Officer and Chief Procurement Officer in writing of the request to substitute a MBE or WBE or otherwise change the Compliance Plan. The request must state specific reasons for the substitution or change. A letter from the MBE or WBE to be substituted or affected by the change stating that it cannot perform on the contract or that it agrees with the change in its cope of work must be submitted with the request.
- b) The City will approve or deny a request for substitution or other change within 15 business days of receipt of the written request.
- c) Where the bidder or contractor has established the basis for the substitution to the satisfaction of the Chief Procurement Officer, it must make Good Faith Efforts to meet the Contract Specific Goal by substituting a MBE or WBE subcontractor. Documentation of a replacement MBE or WBE, or of Good Faith Efforts, must meet the requirements in section 5. If the MBE or WBE Contract Specific Goal cannot be reached and Good Faith Efforts have been made, as determined by the Chief Procurement Officer, the bidder or contractor may substitute with a non-MBE or non-WBE.
- d) If a bidder or contractor plans to hire a subcontractor for any scope of work that was not previously disclosed in the Compliance Plan, the bidder or contractor must obtain the approval of the Chief Procurement Officer to modify the Compliance Plan and must make Good Faith Efforts to ensure that MBEs or WBEs have a fair opportunity to bid on the new scope of work.
- e) A new subcontract must be executed and submitted to the Contract Compliance Officer within five business days of the bidder's or contractor's receipt of City approval for the substitution or other change.

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

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

Without limitation, the following shall constitute a material breach of this contract and entitle the City to declare a default, terminate the contract, and exercise those remedies provided for in the contract, at law or in equity: (1) failure to demonstrate Good Faith Efforts; and (2) disqualification as a MBE or WBE of the contractor or any joint venture partner, subcontractor or supplier if its status as an MBE or WBE was a factor in the award of the contract and such status was misrepresented by the contractor.

Payments due to the contractor may be withheld until corrective action is taken.

Pursuant to MCC 2-92-445 or 2-92-740, as applicable, remedies or sanctions may include a penalty in the amount of the discrepancy between the amount of the commitment in the Compliance Plan, as such amount may be amended through change orders or otherwise over the term of the contract, and the amount paid to MBEs or WBEs, and disqualification from contracting or subcontracting on additional City contracts for up to three years. The consequences provided herein shall be in addition to any other criminal or civil liability to which such entities may be subject.

The contractor shall have the right to protest the final determination of non-compliance and the imposition of any penalty by the Chief Procurement Officer pursuant to MCC 2-92-445 or 2-92-740, within 15 business days of the final determination.

#### **1.10. Arbitration**

- a) In the event a contractor has not complied with the contractual MBE/WBE percentages in its Schedule D, underutilization of MBEs/WBEs shall entitle the affected MBE/WBE to recover from the contractor damages suffered by such entity as a result of being underutilized; provided, however, that this provision shall not apply to the extent such underutilization occurs pursuant to a waiver or substitution approved by the City. The Ordinance and contracts subject thereto provide that any disputes between the contractor and such affected MBEs/WBEs regarding damages shall be resolved by binding arbitration before an independent arbitrator other than the City, with reasonable expenses, including attorney's fees, being recoverable by a prevailing MBE/WBE in accordance with these regulations. This provision is intended for the benefit of any MBE/WBE affected by underutilization and grants such entity specific third party beneficiary rights. Any rights conferred by this regulation are non-waivable and take precedence over any agreement to the contrary, including but not limited to those contained in a subcontract, suborder, or communicated orally between a contractor and a MBE/WBE.
- b) An MBE/WBE desiring to arbitrate shall contact the contractor in writing to initiate the arbitral process. Except as otherwise agreed to in writing by the affected parties subject to the limitation contained in the last sentence of the previous paragraph, within ten (10) calendar days of the contractor receiving notification of the intent to arbitrate from the MBE/WBE the above-described disputes shall be arbitrated in accordance with the Commercial Arbitration Rules of the American Arbitration Association (AAA), a not-for-profit agency, with an office at 225 North Michigan Avenue, Suite 2527, Chicago, Illinois 60601-7601 [Phone: (312) 616-6560; Fax: (312) 819-0404]. All such arbitrations shall be initiated by the MBE/WBE filing a demand for arbitration with the AAA; shall be conducted by the AAA; and held in Chicago, Illinois.
- c) All arbitration fees are to be paid pro rata by the parties, however, that the arbitrator is authorized to award reasonable expenses, including attorney and arbitrator fees, as damages to a prevailing MBE/WBE.
- d) The MBE/WBE must send the City a copy of the Demand for Arbitration within ten (10) calendar days after it is filed with the AAA. The MBE/WBE also must send the City a copy of the decision of the arbitrator within ten (10) calendar days of receiving such decision. Judgment upon the award rendered by the arbitrator may be entered in any court of competent jurisdiction.

#### **1.11. Equal Employment Opportunity**

Compliance with MBE and WBE requirements will not diminish or supplant equal employment opportunity and civil rights provisions as required by law.

#### **1.12. Attachments and Schedules**

The following attachments and schedules follow, they may also be downloaded from the Internet at:

<http://www.cityofchicago.org/forms>

- Attachment A: Assist Agencies
- Attachment B: Sample Format for Requesting Assist Agency Comments on Bidder's Request for Reduction or Waiver of MBE/WBE Goals
- Schedule B: Affidavit of Joint Venture (MBE/WBE)
- Schedule C-1: Letter of Intent From MBE/WBE To Perform As Subcontractor, Supplier and/or Consultant
- Schedule D-1: Compliance Plan Regarding MBE/WBE Utilization

Attachment A – Assist Agency List



Assist Agencies are comprised of not-for-profit agencies and/or chamber of commerce agencies that represent the interest of small, minority and/or women owned businesses.

<p><b>American Brotherhood of Contractors</b> 935 West 175<sup>th</sup> Street Homewood, Illinois 60430 Phone: (773) 491-5640 Email: <a href="mailto:arba@constructive-business.com">arba@constructive-business.com</a></p> <p><b>Asian American Business Expo</b> 207 East Ohio St. Suite 218 Chicago, IL 60611 Phone: 312-233-2810 Fax: 312-268-6388 Email: <a href="mailto:Janny@AsianAmericanBusinessExpo.org">Janny@AsianAmericanBusinessExpo.org</a></p> <p><b>Asian American Institute</b> 4753 N. Broadway St. Suite 904 Chicago, IL 60640 Phone: (773) 271-0899 Fax: (773) 271-1982 Email: <a href="mailto:kfernicola@aaichicago.org">kfernicola@aaichicago.org</a> Web: <a href="http://www.aaichicago.org">www.aaichicago.org</a></p> <p><b>Association of Asian Construction Enterprises</b> 333 N. Ogden Avenue Chicago, IL 60607 Phone: (847) 525-9693 Email: <a href="mailto:nakmancorp@aol.com">nakmancorp@aol.com</a></p> <p><b>Black Contractors United</b> 400 W. 76<sup>th</sup> Street, Suite 200 Chicago, IL 60620 Phone: (773) 483-4000 Fax: (773) 483-4150 Email: <a href="mailto:bcunewera@att.net">bcunewera@att.net</a> Web: <a href="http://www.blackcontractorsunited.com">www.blackcontractorsunited.com</a></p> <p><b>Cosmopolitan Chamber of Commerce</b> 203 N. Wabash, Suite 518 Chicago, IL 60601 Phone: (312) 499-0611 Fax: (312) 332-2688 Email: <a href="mailto:ccarey@cosmococ.org">ccarey@cosmococ.org</a> Web: <a href="http://www.cosmochamber.org">www.cosmochamber.org</a></p> <p><b>Eighteenth Street Development Corporation</b> 1843 South Carpenter Chicago, Illinois 60608 Phone: (312) 733-2287 Fax: (773)-353-1683 <a href="mailto:asoto@eighteenthstreet.org">asoto@eighteenthstreet.org</a> <a href="http://www.eighteenthstreet.org">www.eighteenthstreet.org</a></p>	<p><b>Chatham Business Association Small Business Development, Inc.</b> 8441 S. Cottage Grove Avenue Chicago, IL 60619 Phone: (773)994-5006 Fax: (773)994-9871 Email: <a href="mailto:melkelcba@sbcglobal.net">melkelcba@sbcglobal.net</a> Web: <a href="http://www.cbaworks.org">www.cbaworks.org</a></p> <p><b>Chicago Area Gay &amp; Lesbian Chamber of Commerce</b> 3656 N. Halsted Chicago, IL 60613 Phone: (773) 303-0167 Fax: (773) 303-0168 Email: <a href="mailto:info@glchamber.org">info@glchamber.org</a> Web: <a href="http://www.glchamber.org">www.glchamber.org</a></p> <p><b>Chicago Minority Supplier Development Council, Inc.</b> 105 W. Adams, Suite 2300 Chicago, IL 60603-6233 Phone: (312) 755-8880 Fax: (312) 755-8890 Email: <a href="mailto:pbarreda@chicagomsdc.org">pbarreda@chicagomsdc.org</a> Web: <a href="http://www.chicagomsdc.org">www.chicagomsdc.org</a></p> <p><b>Chicago Urban League</b> 4510 S. Michigan Ave. Chicago, IL 60653 Phone: (773) 285-5800 Fax: (773) 285-7772 Email: <a href="mailto:president@thechicagourbanleague.org">president@thechicagourbanleague.org</a> Web: <a href="http://www.cul-chicago.org">www.cul-chicago.org</a></p> <p><b>Chicago Women in Trades (CWIT)</b> 4425 S. Western Blvd. Chicago, IL 60609-3032 Phone: (773) 376-1450 Fax: (312) 942-0802 Email: <a href="mailto:cwitinfo@cwit2.org">cwitinfo@cwit2.org</a> Web: <a href="http://www.chicagowomenintrades.org">www.chicagowomenintrades.org</a></p> <p><b>Coalition for United Community Labor Force</b> 1253 W. 63<sup>rd</sup> Street Chicago, IL 60636 Phone: (312) 243-5149 Email: <a href="mailto:johnrev.hatchett@comcast.net">johnrev.hatchett@comcast.net</a></p>
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(rev 5-27)

<p><b>Federation of Women Contractors</b>  5650 S. Archer Avenue  Chicago, IL 60638  Phone: (312) 360-1122  Fax: (312) 360-0239  Email: <a href="mailto:fwcchicago@aol.com">fwcchicago@aol.com</a>  Web: <a href="http://www.fwcchicago.com">www.fwcchicago.com</a></p> <p><b>Hispanic American Construction Industry Association (HACIA)</b>  650 West Lake Street  Chicago, IL 60661  Phone: (312) 666-5910  Fax: (312) 666-5692  Email: <a href="mailto:info@haciaworks.org">info@haciaworks.org</a>  Web: <a href="http://www.haciaworks.org">www.haciaworks.org</a></p> <p><b>Illinois Hispanic Chamber of Commerce</b>  855 W. Adams, Suite 100  Chicago, IL 60607  Phone: (312) 425-9500  Fax: (312) 425-9510  Email: <a href="mailto:oduque@ihccbbusiness.net">oduque@ihccbbusiness.net</a>  Web: <a href="http://www.ihccbbusiness.net">www.ihccbbusiness.net</a></p> <p><b>Latin American Chamber of Commerce</b>  3512 West Fullerton Avenue  Chicago, IL 60647  Phone: (773) 252-5211  Fax: (773) 252-7065  Email: <a href="mailto:d.lorenzopadron@latinamericanchamberofcommerce.com">d.lorenzopadron@latinamericanchamberofcommerce.com</a>  Web: <a href="http://www.latinamericanchamberofcommerce.com">www.latinamericanchamberofcommerce.com</a></p> <p><b>National Organization of Minority Engineers</b>  33 West Monroe Suite 1540  Chicago, Illinois 60603  Phone: (312) 425-9560  Fax: (312) 425-9564  Email: <a href="mailto:shandy@infrastructure-eng.com">shandy@infrastructure-eng.com</a>  Web: <a href="http://www.nomeonline.org">www.nomeonline.org</a></p> <p><b>National Association of Women Business Owners</b>  Chicago Chapter  230 E. Ohio, Suite 400  Chicago, IL 60611  Phone: (312) 224-2605  Fax: (312) 6448557  Email: <a href="mailto:info@nawbochicago.org">info@nawbochicago.org</a>  Web: <a href="http://www.nawbochicago.org">www.nawbochicago.org</a></p>	<p><b>Rainbow/PUSH Coalition</b>  International Trade Bureau  930 E. 50<sup>th</sup> Street  Chicago, IL 60615  Phone: (773) 256-2781  Fax: (773) 373-4104  Email: <a href="mailto:bevans@rainbowpush.org">bevans@rainbowpush.org</a>  Web: <a href="http://www.rainbowpush.org">www.rainbowpush.org</a></p> <p><b>South Shore Chamber, Incorporated</b>  Black United Funds Bldg.  1750 E. 71<sup>st</sup> Street  Chicago, IL 60649-2000  Phone: (773) 955- 9508  Email: <a href="mailto:sshorechamber@sbcglobal.net">sshorechamber@sbcglobal.net</a>  Web: <a href="http://www.southshorechamberinc.org">www.southshorechamberinc.org</a></p> <p><b>Suburban Minority Contractors Association</b>  1250 Grove Ave. Suite 200  Barrington, IL 60010  Phone: (847) 852-5010  Fax: (847) 382-1787  Email: <a href="mailto:aprilcobra@hotmail.com">aprilcobra@hotmail.com</a>  Web: <a href="http://www.suburbanblackcontractors.org">www.suburbanblackcontractors.org</a></p> <p><b>Women Construction Owners &amp; Executives (WCOE)</b>  Chicago Caucus  308 Circle Avenue  Forest Park, IL 60130  Phone: (708) 366-1250  Fax: (708) 366-5418  Email: <a href="mailto:mkm@mkmservices.com">mkm@mkmservices.com</a>  Web: <a href="http://www.wcoeusa.org">www.wcoeusa.org</a></p> <p><b>Women's Business Development Center</b>  8 South Michigan Ave., Suite 400  Chicago, IL 60603  Phone: (312) 853-3477  Fax: (312) 853-0145  Email: <a href="mailto:fcurry@wbdc.org">fcurry@wbdc.org</a>  Web: <a href="http://www.wbdc.org">www.wbdc.org</a></p>
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SP 1114

**Attachment B - Sample Format for Requesting Assist Agency Comments on Bidder's Request for Reduction or Waiver of MBE/WBE Goals**

**On Bidder/Proposer's Letterhead – SEND TO THE ASSIST AGENCIES – DO NOT SEND TO THE CITY**

RETURN RECEIPT REQUESTED

(Date)

**Specification No.:** {Specification Number}  
**Project Description:** {PROJECT DESCRIPTION}

(Assist Agency Name and Address – **SEND TO THE ASSIST AGENCIES – DO NOT SEND TO THE CITY**)

Dear \_\_\_\_\_:

\_\_\_\_\_ (Bidder/Proposer) intends to submit a bid/proposal in response to the above referenced specification with the City of Chicago. Bids are due \_\_\_\_\_ advertised specification with the City of Chicago.

The following areas have been identified for subcontracting opportunities on both a direct and indirect basis:

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

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

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

within (10) ten business days of receipt of this letter.

Under the City of Chicago's MBE/WBE/DBE Ordinance, your agency is entitled to comment upon this waiver request to the City of Chicago. Written comments may be directed within ten (10) working days of your receipt of this letter to:

Monica Jimenez, Deputy Procurement Officer  
Department of Procurement Services  
City of Chicago  
121 North La Salle Street, Room 806  
Chicago, Illinois 60602

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

Sincerely,



## Schedule B – Affidavit of Joint Venture

### SCHEDULE B: Affidavit of Joint Venture (MBE/WBE)

This form need not be submitted if all joint venturers are MBEs and/or WBEs. In such a case, however, a written joint venture agreement among the MBE and WBE venturers must be submitted. In all proposed joint ventures, each MBE and/or WBE venturer must submit a copy of their current Letter of Certification.

All Information Requested by this Schedule must Be Answered in the Spaces Provided. Do Not Refer to Your Joint Venture Agreement Except to Expand on Answers Provided on this Form. If Additional Space Is Required, Additional Sheets May Be Attached.

- I. Name of joint venture: \_\_\_\_\_  
Address of joint venture: \_\_\_\_\_  
Phone number of joint venture: \_\_\_\_\_
- II. Identify each non-MBE/WBE venturer(s):  
Name of Firm: \_\_\_\_\_  
Address: \_\_\_\_\_  
Phone: \_\_\_\_\_  
Contact person for matters concerning MBE/WBE compliance: \_\_\_\_\_
- III. Identify each MBE/WBE venturer(s):  
Name of Firm: \_\_\_\_\_  
Address: \_\_\_\_\_  
Phone: \_\_\_\_\_  
Contact person for matters concerning MBE/WBE compliance: \_\_\_\_\_
- IV. Describe the role(s) of the MBE and/or WBE venturer(s) in the joint venture: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_
- V. Attach a copy of the joint venture agreement. In order to demonstrate the MBE and/or WBE venturer's share in the ownership, control, management responsibilities, risks and profits of the joint venture, the proposed joint venture agreement must include specific details related to: (1) the contributions of capital and equipment; (2) work items to be performed by the MBE/WBE's own forces; (3) work items to be performed under the supervision of the MBE/WBE venturer; and (4) the commitment of management, supervisory and operative personnel employed by the MBE/WBE to be dedicated to the performance of the project.
- VI. Ownership of the Joint Venture.
  - A. What are the percentage(s) of MBE/WBE ownership of the joint venture?  
MBE/WBE ownership percentage(s) \_\_\_\_\_  
Non-MBE/WBE ownership percentage(s) \_\_\_\_\_
  - B. Specify MBE/WBE percentages for each of the following (provide narrative descriptions and other detail as applicable):
    1. Profit and loss sharing: \_\_\_\_\_
    2. Capital contributions:  
(a) Dollar amounts of initial contribution: \_\_\_\_\_

**Schedule B: Affidavit of Joint Venture (MBE/WBE)**

(b) Dollar amounts of anticipated on-going contributions: \_\_\_\_\_

3. Contributions of equipment (Specify types, quality and quantities of equipment to be provided by each venturer): \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

4. Other applicable ownership interests, including ownership options or other agreements which restrict or limit ownership and/or control: \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

5. Provide copies of all written agreements between venturers concerning this project.

6. Identify each current City of Chicago contract (and each contract completed during the past two (2) years) by a joint venture of two or more firms participating in this joint venture:

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

VII. Control of and Participation in the Joint Venture. Identify by name and firm those individuals who are, or will be, responsible for, and have the authority to engage in the following management functions and policy decisions. (Indicate any limitations to their authority such as dollar limits and co-signatory requirements.):

A. Joint venture check signing:

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

B. Authority to enter contracts on behalf of the joint venture:

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

C. Signing, co-signing and/or collateralizing loans:

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

D. Acquisition of lines of credit:

\_\_\_\_\_

\_\_\_\_\_

**Schedule B: Affidavit of Joint Venture (MBE/WBE)**

E. Acquisition and indemnification of payment and performance bonds:

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F. Negotiating and signing labor agreements:

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G. Management of contract performance. (Identify by name and firm only):

1. Supervision of field operations: \_\_\_\_\_
2. Major purchases: \_\_\_\_\_
3. Estimating: \_\_\_\_\_
4. Engineering: \_\_\_\_\_

VIII. Financial Controls of joint venture:

A. Which firm and/or individual will be responsible for keeping the books of account?

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B. Identify the managing partner, if any, and describe the means and measure of their compensation:

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C. What authority does each venturer have to commit or obligate the other to insurance and bonding companies, financing institutions, suppliers, subcontractors, and/or other parties participating in the performance of this contract or the work of this project?

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IX. State the approximate number of operative personnel (by trade) needed to perform the joint venture's work under this contract. Indicate whether they will be employees of the non-MBE/WBE firm, the MBE/WBE firm, or the joint venture.

### Schedule B: Affidavit of Joint Venture (MBE/WBE)

[illegible]

If any personnel proposed for this project will be employees of the joint venture:

- A. Are any proposed joint venture employees currently employed by either venturer?  
Currently employed by non-MBE/WBE (number) \_\_\_\_\_ Employed by MBE/WBE \_\_\_\_\_
- B. Identify by name and firm the individual who will be responsible for hiring joint venture employees:  
\_\_\_\_\_
- C. Which venturer will be responsible for the preparation of joint venture payrolls:  
\_\_\_\_\_
- X. Please state any material facts of additional information pertinent to the control and structure of this joint venture.

[illegible]

### Schedule B: Affidavit of Joint Venture (MBE/WBE)

The undersigned affirms that the foregoing statements are correct and include all material information necessary to identify and explain the terms and operations of our joint venture and the intended participation of each venturer in the undertaking. Further, the undersigned covenant and agree to provide to the City current, complete and accurate information regarding actual joint venture work and the payment therefore, and any proposed changes in any provision of the joint venture agreement, and to permit the audit and examination of the books, records and files of the joint venture, or those of each venturer relevant to the joint venture by authorized representatives of the City or the Federal funding agency.

Any material misrepresentation will be grounds for terminating any contract which may be awarded and for initiating action under federal or state laws concerning false statements.

**Note:** If, after filing this Schedule B and before the completion on the joint venture's work on the project, there is any change in the information submitted, the joint venture must inform the City of Chicago, either directly or through the prime contractor if the joint venture is a subcontractor.

Name of MBE/WBE Partner Firm	Firm

Name of Non-MBE/WBE Partner

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



**SCHEDULE C-1**  
**MBE/WBE Letter of Intent to Perform as a**  
**Subcontractor, Supplier, or Consultant**

**FOR  
NON-CONSTRUCTION  
PROJECTS ONLY**

Project Name: \_\_\_\_\_ Specification No.: \_\_\_\_\_

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

To: \_\_\_\_\_ and the City of Chicago.  
(Name of Prime Contractor)

The MBE or WBE status of the undersigned is confirmed by the attached City of Chicago or Cook County, Illinois Certification Letter. 100% MBE or WBE participation is credited for the use of a MBE or WBE "manufacturer." 60% participation is credited for the use of a MBE or WBE "regular dealer."

The undersigned is prepared to perform the following services in connection with the above named project/contract. If more space is required to fully describe the MBE or WBE proposed scope of work and/or payment schedule, including a description of the commercially useful function being performed. Attach additional sheets as necessary:

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

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

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

**SUB-SUBCONTRACTING LEVELS**

A zero (0) must be shown in each blank if the MBE or WBE will not be subcontracting any of the work listed or attached to this schedule.

\_\_\_\_\_ % of the dollar value of the MBE or WBE subcontract that will be subcontracted to non MBE/WBE contractors.

\_\_\_\_\_ % of the dollar value of the MBE or WBE subcontract that will be subcontracted to MBE or WBE contractors.

**NOTICE: If any of the MBE or WBE scope of work will be subcontracted, list the name of the vendor and attach a brief explanation, description and pay item number of the work that will be subcontracted. MBE/WBE credit will not be given for work subcontracted to Non-MBE/WBE contractors, except for as allowed in the Special Conditions Regarding Minority Business Enterprise Commitment and Women Business Enterprise Commitment.**

The undersigned will enter into a formal written agreement for the above work with you as a Prime Contractor, conditioned upon your execution of a contract with the City of Chicago, within three (3) business days of your receipt of a signed contract from the City of Chicago.

The undersigned has entered into a formal written mentor protégé agreement as a subcontractor/protégé with you as a Prime Contractor/mentor: ( ) Yes ( ) No

**NOTICE: THIS SCHEDULE AND ATTACHMENTS REQUIRE ORIGINAL SIGNATURES.**

\_\_\_\_\_  
(Signature of President/Owner/CEO or Authorized Agent of MBE/WBE) (Date)

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

\_\_\_\_\_  
(Email & Phone Number)

**Schedule D-1: Affidavit of Implementation of MBE/WBE Goals and Participation Plan**



**SCHEDULE D-1**  
**Compliance Plan Regarding MBE/WBE Utilization**  
**Affidavit of Prime Contractor**

**FOR  
NON-CONSTRUCTION  
PROJECTS ONLY**

**MUST BE SUBMITTED WITH THE BID. FAILURE TO SUBMIT THE SCHEDULE D-1 WILL CAUSE THE  
BID TO BE REJECTED. DUPLICATE AS NEEDED.**

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

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

In connection with the above captioned contract, I HEREBY DECLARE AND AFFIRM that I am a duly authorized  
representative of \_\_\_\_\_  
(Name of Prime Consultant/Contractor)

and that I have personally reviewed the material and facts set forth herein describing our proposed plan to achieve the  
MBE/WBE goals of this contract.

All MBE/WBE firms included in this plan have been certified as such by the City of Chicago and/or Cook County,  
Illinois (Letters of Certification Attached).

**I. Direct Participation of MBE/WBE Firms:**

**NOTE:** The bidder/proposer shall, in determining the manner of MBE/WBE participation, first consider involvement with  
MBE/WBE firms as joint venture partners, subcontractors, and suppliers of goods and services directly related to the  
performance of this contract.

A. If bidder/proposer is a joint venture and one or more joint venture partners are certified MBEs or WBEs, attach  
copies of Letters of Certification, Schedule B form and a copy of Joint Venture Agreement clearly describing the role  
of each MBE/WBE firm(s) and its ownership interest in the joint venture.

B. Complete this section for each MBE/WBE Subcontractor/Supplier/Consultant participating on this contract:

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

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

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

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

Dollar Value of Participation \$ \_\_\_\_\_

Percentage of Participation % \_\_\_\_\_

Mentor Protégé Agreement (attach executed copy): ( ) Yes ( ) No Add'l Percentage Claimed:<sup>1</sup> \_\_\_\_\_ %

**Total Participation %** \_\_\_\_\_

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

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

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

<sup>1</sup> The Prime Contractor may claim an additional 0.333 percent participation credit (up to a maximum of five (5) percent) for  
every one (1) percent of the value of the contract performed by the MBE/WBE protégé firm.

**Schedule D-1: Prime Contractor Affidavit-MBE/WBE Compliance Plan**

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

Dollar Value of Participation \$ \_\_\_\_\_

Percentage of Participation % \_\_\_\_\_

Mentor Protégé Agreement (attach executed copy): ( ) Yes ( ) No Add'l Percentage Claimed: \_\_\_\_%

**Total Participation %** \_\_\_\_\_

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

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

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

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

Dollar Value of Participation \$ \_\_\_\_\_

Percentage of Participation % \_\_\_\_\_

Mentor Protégé Agreement (attach executed copy): ( ) Yes ( ) No Add'l Percentage Claimed: \_\_\_\_%

**Total Participation %** \_\_\_\_\_

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

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

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

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

Dollar Value of Participation \$ \_\_\_\_\_

Percentage of Participation % \_\_\_\_\_

Mentor Protégé Agreement (attach executed copy): ( ) Yes ( ) No Add'l Percentage Claimed: \_\_\_\_%

**Total Participation %** \_\_\_\_\_

5. Attach Additional Sheets as Needed

**II. Indirect Participation of MBE/WBE Firms**

**NOTE:** This section need not be completed if the MBE/WBE goals have been met through the direct participation outlined in Section I. If the MBE/WBE goals have not been met through direct participation, Contractor will be expected to demonstrate that the proposed MBE/WBE direct participation represents the maximum achievable under the circumstances. Only after such a demonstration will indirect participation be considered.

MBE/WBE Subcontractors/Suppliers/Consultants proposed to perform work or supply goods or services where such performance does not directly relate to the performance of this contract:

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

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

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



**Schedule D-1: Prime Contractor Affidavit-MBE/WBE Compliance Plan**

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

Dollar Value of Participation \$ \_\_\_\_\_

Percentage of Participation % \_\_\_\_\_

Mentor Protégé Agreement (attach executed copy): ( ) Yes ( ) No Add'l Percentage Claimed: \_\_\_\_%

**Total Participation %** \_\_\_\_\_

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

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

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

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

Dollar Value of Participation \$ \_\_\_\_\_

Percentage of Participation % \_\_\_\_\_

Mentor Protégé Agreement (attach executed copy): ( ) Yes ( ) No Add'l Percentage Claimed: \_\_\_\_%

**Total Participation %** \_\_\_\_\_

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

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

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

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

Dollar Value of Participation \$ \_\_\_\_\_

Percentage of Participation % \_\_\_\_\_

Mentor Protégé Agreement (attach executed copy): ( ) Yes ( ) No Add'l Percentage Claimed: \_\_\_\_%

**Total Participation %** \_\_\_\_\_

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

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

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

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

Dollar Value of Participation \$ \_\_\_\_\_

Percentage of Participation % \_\_\_\_\_

Mentor Protégé Agreement (attach executed copy): ( ) Yes ( ) No Add'l Percentage Claimed: \_\_\_\_%

**Total Participation %** \_\_\_\_\_

**5.** Attach Additional Sheets as Needed

**Schedule D-1: Prime Contractor Affidavit-MBE/WBE Compliance Plan**

**III. Summary of MBE/WBE Proposal**

**A. MBE Proposal (Direct & Indirect)**

1. MBE Direct Participation

MBE Firm Name	Dollar Amount Participation (\$)	Percent Amount Participation (%)
<b>Total Direct MBE Participation</b>		

2. MBE Indirect Participation

MBE Firm Name	Dollar Amount Participation (\$)	Percent Amount Participation (%)
<b>Total Indirect MBE Participation</b>		

**B. WBE Proposal (Direct & Indirect)**

1. WBE Direct Participation

WBE Firm Name	Dollar Amount Participation (\$)	Percent Amount Participation (%)
<b>Total Direct WBE Participation</b>		

2. WBE Indirect Participation

WBE Firm Name	Dollar Amount Participation (\$)	Percent Amount Participation (%)
<b>Total Indirect WBE Participation</b>		

**Schedule D-1: Prime Contractor Affidavit-MBE/WBE Compliance Plan**

The Prime Contractor designates the following person as its MBE/WBE Liaison Officer:

\_\_\_\_\_  
(Name- Please Print or Type)

\_\_\_\_\_  
(Phone)

**I DO SOLEMNLY DECLARE AND AFFIRM UNDER PENALTIES OF PERJURY THAT THE CONTENTS OF THE FOREGOING DOCUMENT ARE TRUE AND CORRECT, THAT NO MATERIAL FACTS HAVE BEEN OMITTED, AND THAT I AM AUTHORIZED ON BEHALF OF THE PRIME CONTRACTOR TO MAKE THIS AFFIDAVIT.**

\_\_\_\_\_  
(Name of Prime Contractor – Print or Type)

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

\_\_\_\_\_  
(Signature)

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

\_\_\_\_\_  
(Name/Title of Affiant – Print or Type)

\_\_\_\_\_  
(Date)

On this \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, the above signed officer \_\_\_\_\_  
(Name of Affiant)

personally appeared and, known by me to be the person described in the foregoing Affidavit, acknowledged that (s)he executed the same in the capacity stated therein and for the purposes therein contained.

IN WITNESS WHEREOF, I hereunto set my hand and seal.

\_\_\_\_\_  
(Notary Public Signature)

SEAL:

Commission Expires: \_\_\_\_\_

## ARTICLE 2. INSURANCE REQUIREMENTS

[NOTE TO CA- PLEASE FILL IN CORRECT VALUES/INSERT CORRECT ATTACHMENT]

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

### 2.1. Insurance to be Provided

#### 2.1.1. Workers Compensation and Employers Liability

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

#### 2.1.2. Commercial General Liability (Primary and Umbrella)

Commercial General Liability Insurance or equivalent with limits of not less than \$5,000,000 per occurrence for bodily injury, personal injury, and property damage liability. Coverages must include the following: All premises and operations, products/completed operations, explosion, collapse, underground, separation of insureds, defense, and contractual liability (with no limitation endorsement). The City of Chicago is to be named as an additional insured on a primary, non-contributory basis for any liability arising directly or indirectly from the work.

Subcontractors performing work for the Contractor must maintain limits of not less than \$1,000,000 with the same terms herein.

#### 2.1.3. Automobile Liability (Primary and Umbrella)

When any motor vehicles (owned, non-owned and hired) are used in connection with work to be performed, the Contractor must provide Automobile Liability Insurance with limits of not less than \$2,000,000 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.

Subcontractors performing work for the Contractor must maintain limits of not less than \$1,000,000 with the same terms herein.

#### 2.1.4. All Risk Property

The Contractor must maintain All Risk Commercial Property Insurance covering loss or damage at full replacement cost to any City of Chicago equipment, materials, parts, or supplies while in the care, custody, and control of the Contractor as part of the Contract. The Contractor is responsible for any damage to City property at replacement cost that results from this Contract.

### 2.2. Additional Requirements

The Contractor must furnish the City of Chicago, Department of Procurement Services, City Hall, Room 806, 121 North LaSalle Street, Chicago, Illinois 60602, original Certificates of Insurance, or such similar evidence, to be in force on the date of this Contract, and Renewal Certificates of Insurance, or such similar evidence, if the coverages have an expiration or renewal date occurring during the term of this Contract. The Contractor must submit evidence of insurance on the City of Chicago Insurance Certificate Form (copy attached as an exhibit) or equivalent prior to Contract award. The receipt of any certificate does not constitute agreement by the City that the insurance requirements in the Contract have been fully met or that the insurance policies indicated on the certificate are in compliance with all Contract requirements. The failure of the City to obtain certificates or other insurance evidence from Contractor is not a waiver by the City of any requirements for the Contractor to obtain and maintain the specified coverages. The Contractor must advise all insurers of the Contract provisions regarding insurance. Non-conforming insurance does not relieve Contractor of the obligation to provide insurance as specified herein. No fulfillment of the insurance conditions may constitute a violation of the Contract, and the City retains the right to stop work until proper evidence of insurance is provided, or the Contract may be terminated.

Contractor must furnish Certificates Insurance of Coverage of any or all insurance policies listing the City as an additional insured upon request by the Chief Procurement Officer. All Certificates Insurance of Coverage must be signed, dated and reference the City contract number.

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

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

#### 1.2.1.2.

*Insurance Requirements*

#### 1.2.1.3.

The Contractor agrees that insurers waive their rights of subrogation against the City of Chicago, its employees, elected officials, agents, or representatives.

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

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

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

If Contractor is a joint venture or limited liability company, the insurance policies must name the joint venture or limited liability company and each of its separate constituent entities as named insureds.

*The Contractor must require all subcontractors to provide the insurance required herein, or Contractor may provide the coverages for subcontractors. All subcontractors are subject to the same insurance requirements of Contractor unless otherwise specified in this Contract.*

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

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

### ARTICLE 3. ECONOMIC DISCLOSURE STATEMENT AND AFFIDAVIT (EDS)

#### 3.1. Online EDS Filing Required Prior To Bid Opening

The Bidder must prepare an online EDS prior to the bid opening date.

A BIDDER THAT DOES NOT PREPARE AN ELECTRONIC EDS PRIOR TO THE BID OPENING WILL BE FOUND NON-RESPONSIVE AND ITS BID WILL BE REJECTED.

#### NOTE:

- A. Filing an "EDS Information Update" does NOT satisfy the requirement to file an electronic EDS prior to bid opening.
- B. Filing an EDS in a hard copy or paper copy form does NOT satisfy the requirement to file an electronic EDS prior to bid opening.
- C. Filing an EDS for another mater (different bid, contract, etc.) does NOT satisfy the requirement to file an electronic EDS prior to bid opening.
- D. When completing the online EDS, please choose the Department of Procurement Services as the City agency or department that is requesting the EDS.

#### 3.2. Online EDS Web Link

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

#### 3.3. Online EDS Number

Upon completion of the online EDS submission process, the Bidder will be provided an EDS number. Bidders should provide this number here:

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

#### 3.4. Online EDS Certification of Filing

Upon completion of the online submission process, the Bidder will be able to print a hard copy Certificate of Filing. The Bidder should submit the signed Certificate of Filing with its bid.

**Please insert your Certification of Filing following this page.**

A Bidder that does not include a signed Certificate of Filing with its bid must provide it upon the request of the Chief Procurement Officer.

### 3.5. 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.

### 3.6. Preparation Checklist for EDS Submission

To expedite and ease your EDS submission, we recommend that you collect the following information prior to updating your EDS information online.

Items #1 through #7 are needed for both EDS information updates and contract related EDS documents:

- \_\_\_\_\_ 1. Invitation number, if you were provided with an invitation number.
- \_\_\_\_\_ 2. Site address that is specific to this EDS.
- \_\_\_\_\_ 3. Contact that is responsible for this EDS.
- \_\_\_\_\_ 4. EDS document from previous years, if available.
- \_\_\_\_\_ 5. Ownership structure and if applicable, owners' company information:
  - \_\_\_\_\_ a. % of ownership
  - \_\_\_\_\_ b. Legal Name
  - \_\_\_\_\_ c. FEIN/SSN
  - \_\_\_\_\_ d. City of Chicago Vendor Number, if available.
  - \_\_\_\_\_ e. Address
- \_\_\_\_\_ 6. List of directors, officers, titleholders, etc. (if applicable).
- \_\_\_\_\_ 7. For partnerships/LLC/LLP/Joint ventures, etc.; List of controlling parties (if applicable).

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

- 1. Contract related information (if applicable):
  - \_\_\_\_\_ a. City of Chicago contract package
  - \_\_\_\_\_ b. Cover page of City of Chicago bid/solicitation package
  - \_\_\_\_\_ c. If EDS is related to a mod, then cover page of your current contract with the City.
- 2. List of subcontractors and retained parties:
  - \_\_\_\_\_ a. Name

- \_\_\_\_\_ b. Address
- \_\_\_\_\_ c. Fees – Estimated or paid

### 3.7. EDS Frequently Asked Questions

Q: Where do I file?

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

Q: How do I get help?

A: If there is a question mark on a page or next to a field, click on the question mark for help filling out the page or field. You may also consult the User Manual and the Training Videos available on the left menu.

Q: Why do I have to submit an EDS?

A: The Economic Disclosure Statement (EDS) is required of applicants making an application to the City for action requiring City Council, City department or other City agency approval. For example, all bidders seeking a City contract are required to submit an EDS. Through the EDS, applicants make disclosures required by State law and City ordinances and certify compliance with various laws and ordinances. An EDS is also required of certain parties related to the applicant, such as owners and controlling parties.

Q: Who is the Applicant?

A: “Applicant” means any entity or person making an application to the City for action requiring City Council or other City agency approval. The applicant does not include owners and parent companies.

Q: Who is the Disclosing Party?

A: “Disclosing Party” means any entity or person submitting an EDS. This includes owners and parent companies.

Q: What is an entity or legal entity?

A: “Entity” or “Legal Entity” means a legal entity (for example, a corporation, partnership, joint venture, limited liability company or trust).

Q: What is a person for purposes of the EDS?

A: “Person” means a human being.

Q: Who must submit an EDS?

A: An EDS must be submitted in any of the following three circumstances:

Applicants: An Applicant must always file this EDS. If the Applicant is a legal entity, state the full name of that legal entity. If the Applicant is a person acting on his/her own behalf, state his/her name.

Entities holding an interest: Whenever a legal entity has a beneficial interest (E. G. direct or indirect ownership) of more than 7.5% in the Applicant, each such legal entity must file an EDS on its own behalf.

Controlling entities: Whenever a Disclosing Party is a general partnership, limited partnership, limited liability company, limited liability partnership or joint venture that has a general partner, managing member, manager or other



entity that can control the day-to-day management of the Disclosing Party, that entity must also file an EDS on its own behalf. Each entity with a beneficial interest of more than 7.5% in the controlling entity must also file an EDS on its own behalf.

Q: What information is needed to submit an EDS?

A: The information contained in the Preparation Checklist for EDS submission.

Q: I don't have a user ID & password. Can I still submit an Online EDS?

A: No. You must register and create a user ID and password before submitting an Online EDS.

Q: What information is needed to request a user ID & password for Online EDS?

A: The information contained in the Preparation Checklist for Registration is needed to request a login for the Online EDS.

Q: I already have a username and password from another City web site (City Web Portal, Department of Construction and Permits, Department of Consumer Services, etc.). Can I log-in the Online EDS with that account?

A: Usually not. The Online EDS uses a user ID and password system that is shared by the Public Vehicle Advertising and Water Payment web sites. You may use a username and password from those sites by answering "Yes" to "Is this an existing City of Chicago user ID?" when registering. Other usernames and passwords will not be automatically recognized. However, you may choose to create an identical username for the Online EDS if it is not already taken.

Q: I don't have an email address. How do I submit an Online EDS?

A: You cannot get an account to submit an online EDS without an email address. If you need an e-mail address, we suggest that you use a free internet email provider such as [www.hotmail.com](http://www.hotmail.com), [www.yahoo.com](http://www.yahoo.com) or [mail.google.com](http://mail.google.com) to open an account. The City does not endorse any particular free internet email provider. Public computers are available at all Chicago Public Library branches.

Q: I forgot my user ID. Can I register again?

A: No. If you are the EDS Captain of your organization, please contact the Department of Procurement Services at 312-744-4900. If you are an EDS team member, contact your EDS Captain, who can look up your user ID.

Q: Who is the EDS Captain?

A: The EDS Captain is a person who performs certain administrative functions for an organization which files an EDS. Each organization registered with the Online EDS has at least one EDS Captain. There may be co-captains, who are all equal. EDS Captains approve new users, change contact information for an organization and de-active accounts of employees who have left the organization. Please see the User Manual for more information.

Q: Why do we need EDS Captains?

A: The Online EDS is designed to be a self-service web application which allows those doing or seeking to do business with the City to perform as many routine functions as possible without City intervention. Because many organizations have multiple staff filing an EDS, the EDS Captain role allows those organizations to self-manage the contact information and users.

Q: Who is the EDS team?

A: The EDS team for an organization is everyone who is registered to file an EDS on behalf of the organization.

Q: I forgot my password. What should I do?

A: To retrieve a temporary password, click the "Forgot your password?" link on the login page. Enter your user ID that you provided when you registered your account. The system will automatically generate a temporary password and send it to you. When you log-in with your temporary password, you will be asked to create a new password.

Q: How do I complete an Online EDS?

A: Click on "Create New" after logging in. The Online EDS system will walk you through the EDS questions. Please see the User Manual for details.

Q: How do I fill out a Disclosure of Retained Parties?

A: There is no longer a separate Disclosure of Retained Parties filing. After logging in, click on "Create New". Answer (click) "Contract" to "Is this EDS for a contract or an EDS information update?" Click "Fill out EDS" and click on the "Retained Parties" tab. When finished, click on "Ready to Submit".

Q: How do I attach documents?

A: Attachments are discouraged. If at all possible, please provide a concise explanation in the space provided in the online form. Attachments with pages of officers are not acceptable. Names of officers must be typed into the system. If you must provide an attachment for another reason, please send it to your City of Chicago contact (contract administrator or negotiator for procurements) and they will attach it for you. Documents can be sent in PDF (preferred), Word or paper format.

Q: Who can complete an Economic Disclosure Statement online?

A: Any authorized representative of your business with a user ID and password can complete your EDS online. One person, such as an assistant, can fill in the information and save it and another person can review and electronically sign the Online EDS.

Q: What are the benefits of filing my Economic Disclosure statement electronically?

A: Filing electronically reduces the chance of filing an incomplete EDS and speeds up the processing of contract awards. A certificate of filing can be printed at the completion of the process and inserted into your bid package. The biggest benefit for those who frequently do business with the City is that after the first EDS, each EDS is much easier to fill out because non-contract specific information is pre-filled from the last submitted EDS.

Q: Will my information be secure?

A: Yes. When making your internet connection to our Web Server, you will connect through a Secure Socket Layer (SSL for short) to the "Online EDS" login page. All information you type will be protected using strong encryption. Within the login page, you will provide us with a user ID, password and secret question for user authentication, only you will have knowledge of this unique identification information.

Q: I am filing electronically. How do I sign my EDS?

A: Once you have completed the EDS, you will be prompted to enter your password and answer to your secret question. Together, these will serve as your electronic signature. Although you will also print and physically sign an EDS certification of filing as a notice that your EDS was filed, your EDS is complete as a legal document with only the electronic filing.

Q: My address has changed. How can I update my information?

A: You must be an EDS Captain for your organization to update this. Log-in and click on "Vendor Admin, Site Administration". Select the appropriate site and click edit.

Q: I have more questions. How can I contact the Department of Procurement Services?

A: Please contact the contract administrator or negotiator assigned to your solicitation or contract. You may call DPS at 312-744-4900 between 8:30 AM and 5:00 PM Central Time.

Q: Can I save a partially complete EDS?

A: Yes. Click "Save". To avoid data loss, we recommend you save your work periodically while filling out your EDS.

Q: Do I have to re-type my information each time I submit an EDS?

A: No. The system will remember non-contract specific information from your last submitted EDS for one year. This information will be filled-in for you in your new EDS. You will have an opportunity to correct it if it has changed since your last filing. When you submit your new EDS, the information is saved and the one-year clock begins running anew.

Q: What are the system requirements to use the Online EDS?

A: The following are minimum requirements to use the Online EDS:

- A PDF viewer such as Adobe Reader is installed and your web browser is configured to display PDFs automatically. You may download and install Adobe Reader free at [www.adobe.com/products/reader/](http://www.adobe.com/products/reader/)
- Your web browser is set to permit running of JavaScript.
- Your web browser allows cookies to be set for this site. Please note that while we use cookies in the Online EDS, we do not use them to track personally identifiable information, so your privacy is maintained.
- Your monitor resolution is set to a minimum of 1024 x 768.
- While not required to submit an EDS, if you wish to view the training videos, you must have Adobe Flash Plugin version 9 or higher, speakers and sound. Please note that very old computers may not be able to run Adobe Flash and will not be able to play the training videos. In that case, we encourage you to seek help using the Online EDS Manuals. You may download and install Adobe Flash Plugin free at <http://get.adobe.com/flashplayer>

The Online EDS has been tested on Internet Explorer 6.0, 7.0, Firefox 2.0 and 3.0 on Windows XP and Mac OS X. Although it should work on other browsers and operating systems, the City of Chicago cannot guarantee compatibility.

**ARTICLE 4. PROPOSAL PAGES**

Proposal page(s) follow.

Remainder of page intentionally blank.

1.3.1.4.

1.3.1.5.

**ARTICLE 5. BIDDER CONTACT INFORMATION**

**Person to contact regarding bid:**

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

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

**Indicate if you are:**

Manufacturer: YES \_\_\_\_\_ NO \_\_\_\_\_

Exclusive dealer/distributor/reseller\*: YES \_\_\_\_\_ NO \_\_\_\_\_

Authorized dealer/distributor/reseller\*: YES \_\_\_\_\_ NO \_\_\_\_\_

\* If an exclusive or authorized distributor of the proposed manufacturer, bidder must attach to the bid current written documentation from the proposed manufacturer verifying bidder's status.

Manufacturer's name: \_\_\_\_\_

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

Phone: (\_\_\_\_\_) \_\_\_\_\_

Location of facility where inventory maintained: \_\_\_\_\_

Bid Line: \_\_\_\_\_

Proposed Manufacturer and Model Number: \_\_\_\_\_

Exceptions (explain): \_\_\_\_\_

### CITY-BASED BUSINESS AFFIDAVIT

The City-Based Business bid preference of 2%, as described in Section 2-92-412 of the Municipal Code of Chicago ("MCC") is applicable to competitively bid Contracts funded in whole by City funds. Bidder must complete this form if it desires to be considered for this preference. Bidders that do not complete this page will not be regarded as City-Based Businesses. If bidder's operations are at multiple locations in the City of Chicago, use additional sheets if necessary. If this preference is allocated, the Local Goods Incentive described in described in MCC 2-92-410 will not be allocated to the same bid.

1. Is bidder a "City-Based Business" as defined in the Requirements for Bidding and Instructions for Bidders portion of this bid solicitation and in MCC 2-92-412?  
( ) Yes ( ) No
2. Does the bidder report to the Internal Revenue Service that the place of employment for the majority (more than 50%) of its regular, full-time workforce is a facility within the City of Chicago?  
( ) Yes ( ) No
3. Does the bidder conduct meaningful day-to-day business operations at a facility within the City of Chicago?  
( ) Yes ( ) No
4. Street address of business location within the City of Chicago (P.O. address not accepted):  
\_\_\_\_\_
5. Describe the business activities are carried out at the location listed above: \_\_\_\_\_  
\_\_\_\_\_
6. How many full-time regular employees are currently employed at the location listed above? \_\_\_\_\_
7. Total number of full-time regular employees employed at all locations worldwide? \_\_\_\_\_
8. List City of Chicago business license(s) held. If none are required, indicate "none required": \_\_\_\_\_  
\_\_\_\_\_

In order for the Chicago Business Preference to be allocated to Bidder's bid if applicable, the undersigned affirms that the above statements are correct.

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

Signature of Authorized Officer: \_\_\_\_\_  
(Signature)

Title of Signatory: \_\_\_\_\_  
(Print or Type)

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

On this \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, \_\_\_\_\_ personally appeared as an Authorized Officer of \_\_\_\_\_ (Business Name) and, known to me be the person described in the this Affidavit, acknowledged that he/she executed the same in the capacity herein stated and for the purpose herein contained.

(seal)

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

Commission Expires: \_\_\_\_\_

### BIDDER'S COMMITMENT TO PROVIDE LOCALLY MANUFACTURED GOODS

The Locally Manufactured Goods Incentive as described in Section 2-92-410 of the Municipal Code of Chicago ("MCC") is applicable to competitively bid Contracts funded in whole by City funds. Bidder must submit this form with the bid, as well as a *Manufacturer's Affidavit of Local Manufacturing* for each local manufacturer from which goods will be sourced, if it desires to be considered for this bid incentive. Bidders that do not submit this page with their bid will not be regarded as providing locally manufactured goods. Attach additional sheets if necessary. If this incentive is allocated, the City Based Business Preference described in described in MCC 2-92-412 will not be allocated to the same bid.

Unless otherwise provided in the applicable bid solicitation, in order for an item to be considered Locally Manufactured Goods, more than 50% of the value of the item must be derived from manufacturing activities that occur within a city-based manufacturer's facility located within the City of Chicago.

*Note: The CPO may request additional information or documentation before determining to apply the preference.*

1. Contract title: \_\_\_\_\_ Specification #: \_\_\_\_\_
2. The value of Locally Manufactured Goods (as defined in MCC 2-92-410 and the applicable bid solicitation) that Bidder commits to provide will be what percentage of the total dollar value of the contract?  
( ) 25% to 49%-- 1% incentive      ( ) 50% to 74%-- 1.5% incentive      ( ) 75% or greater-- 2% incentive
3. Identify the bid lines under which Locally Manufactured Goods will be provided and their value, based on the bid specification's estimated quantities (attach additional sheets if necessary):

Bid Line #	Locally Manufactured Item(s) to be provided	Manufacturer*	Value of Item(s)
			\$
			\$
			\$
TOTAL:			\$

\*Bidder must provide *Manufacturer's Affidavit of Local Manufacturing* for each manufacturer listed.

Bidder understands that if it fails to supply the committed percentage of Locally Manufactured Goods, under MCC 2-92-410 it may be fined in an amount equal to three times the amount of the difference between the bid incentive allocated and the bid incentive that would have been allocated to that contractor for the amount of locally manufactured goods actually supplied.

In order for the Locally Manufactured Goods Incentive to be allocated to Bidder's bid if applicable, the undersigned affirms that the above statements are correct.

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

Signature of Authorized Officer: \_\_\_\_\_  
(Signature)

Title of Signatory: \_\_\_\_\_  
(Print or Type)

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

On this \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, \_\_\_\_\_ personally appeared as an Authorized Officer of \_\_\_\_\_ (Business Name) and, known to me be the person described in the this Affidavit, acknowledged that he/she executed the same in the capacity herein stated and for the purpose herein contained.

(seal)

\_\_\_\_\_  
Notary Public Signature      Commission Expires: \_\_\_\_\_

1.3.1.10.

*Affidavit of Local Manufacturing*

1.3.1.11.



## MANUFACTURER'S AFFIDAVIT OF LOCAL MANUFACTURING

The Locally Manufactured Goods Incentive as described in Section 2-92-410 of the Municipal Code of Chicago ("MCC") is applicable to competitively bid Contracts funded in whole by City funds. Bidder must submit this form with the bid, in order to be considered for this bid incentive. Bidders that do not submit this page with their bid will not be regarded as providing locally manufactured goods. If goods will be manufactured by multiple manufacturers or at multiple facilities in the City of Chicago, submit an affidavit for each. Attach additional sheets if necessary. If this incentive is allocated, the City Based Business Preference described in described in MCC 2-92-412 will not be allocated to the same bid.

*Note: The CPO may request additional information or documentation before determining to apply the preference.*

1. Contract Title: \_\_\_\_\_ Specification #: \_\_\_\_\_  
Bidder/Contractor Name: \_\_\_\_\_
2. Is manufacturer a "City-Based Manufacturer" as defined in the Requirements for Bidding and Instructions for Bidders portion of this bid solicitation and in MCC 2-92-410? ( ) Yes ( ) No
3. Street address of manufacturing facility location within the City of Chicago (P.O. address not accepted):  
\_\_\_\_\_
4. Describe the manufacturing activities carried out at the location listed above: \_\_\_\_\_  
\_\_\_\_\_
5. List the goods to be manufactured at this facility manufacturer is prepared to provide to Bidder/Contractor, describe the production steps performed at the facility in the manufacture of each item, and the percentage of the item's value derived from manufacturing activities at this facility, and attach a catalog page, cut sheet, or product specification for each item:  
Item: \_\_\_\_\_ Production steps: \_\_\_\_\_ % of value  
Item: \_\_\_\_\_ Production steps: \_\_\_\_\_ % of value
6. List City of Chicago business license(s) held. If none are required, indicate "none required": \_\_\_\_\_  
\_\_\_\_\_

The undersigned commits to enter into a formal written agreement for supply with Bidder/Contractor, conditioned upon its execution of a contract with the City of Chicago to which the Locally Manufactured Goods Incentive is applied, within three (3) business days of its receipt of a signed contract from the City of Chicago.

The undersigned affirms that the above statements are correct.

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

Signature of Manufacturer Authorized Officer: \_\_\_\_\_  
(Signature)

Title of Signatory: \_\_\_\_\_  
(Print or Type)

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

On this \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, \_\_\_\_\_ personally appeared as an Authorized Officer of \_\_\_\_\_ (Business Name) and, known to me be the person described in the this Affidavit, acknowledged that he/she executed the same in the capacity herein stated and for the purpose herein contained.

(seal)

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

Commission Expires: \_\_\_\_\_

1.3.1.10.

Affidavit of Local Manufacturing  
42

1.3.1.11.

**AFFIDAVIT OF ELIGIBLE BUSINESS FOR BID INCENTIVE FOR ALTERNATIVELY POWERED VEHICLES**

If this is a competitively bid Contract funded in whole by City funds, an Eligible Business preference for alternatively powered vehicles may be applicable. Bidder must complete this form if it desires to be considered for this preference. Bidders who do not complete and submit this form with their bid will be deemed to be non-Eligible Businesses.

1. Is bidder a business located within the counties of Cook, DuPage, Kane, Lake, McHenry or Will in the State of Illinois (the "Six County Region")? ( ) Yes ( ) No

2. Street address of principal place of business: \_\_\_\_\_

3. How many total vehicles, as defined in the Terms and Conditions, "Bid Incentive for Alternatively Powered Vehicles," are currently owned, operated, leased or otherwise controlled by bidder?

Line 3(a): \_\_\_\_\_

4. How many of bidder's vehicles are located and used within the Six County Region?

Line 4(a): number of vehicles \_\_\_\_\_

Line 4(b): percentage of fleet (line 4(a) divided by line 3(a)) \_\_\_\_\_ %

5. How many of bidder's vehicles located and used within the Six County Region are alternatively powered vehicles, as defined in the Terms and Conditions, Bid Incentive for Alternatively Powered Vehicles?

Line 5(a): number of vehicles \_\_\_\_\_

Line 5(b): percentage of Six County fleet (line 5(a) divided by line 4(a)) \_\_\_\_\_ %

Bidder understands that it may be required to produce records to the chief procurement officer to verify the information provided herein.

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

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

Signature of Authorized Officer: \_\_\_\_\_  
(Signature)

Title of Signatory: \_\_\_\_\_  
(Print or Type)

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

On this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, \_\_\_\_\_ personally appeared as an Authorized Officer of \_\_\_\_\_ (Business Name) and, known to me be the person described in the this Affidavit, acknowledged that he/she executed the same in the capacity herein stated and for the purpose herein contained.

(seal)

\_\_\_\_\_  
Notary Public Signature Commission Expires: \_\_\_\_\_

**ARTICLE 6. EXECUTION AND ACCEPTANCE PAGES**

Bid execution and acceptance pages follow.

Remainder of page intentionally blank.

### 6.1. Bid Execution By a Corporation

The undersigned, hereby acknowledges having received Specification Number \_\_\_\_\_ containing a full set of Contract Documents, including, but not limited to, 1) Requirements for Bidding and Instructions to Bidders, 2) Standard Terms and Conditions - General Conditions, 3) Special Conditions for Supply Contracts, 4) Contract Plans or Drawings (if applicable) 5) Detailed Specifications, 6) Proposal Pages, 7) Certifications, and 8) Addenda Nos. (none unless indicated here) \_\_\_\_\_, and affirms that the corporation shall be bound by all the terms and conditions contained in the Contract Documents, regardless of whether a complete set thereof is attached to this proposal or bid, except only to the extent that the corporation has taken express written exception thereto in the sections of this specification designated for that purpose.

Under penalty of perjury, the undersigned: (1) warrants that he/she was authorized to submit an EDS on behalf of the Disclosing Party on-line; (2) warrants that all certifications and statements contained in the EDS are true, accurate and complete as of the date the EDS was submitted on-line; and (3) further warrants that, as of the date of submission of this proposal or bid, there have been no changes in circumstances since the date that the EDS was submitted that would render any certification in the EDS false, inaccurate or incomplete.

Further, the undersigned being duly sworn deposes and says on oath that no disclosures of ownership interests have been withheld and the information provided therein to the best of its knowledge is current and the undersigned has not entered into any agreement with any other Bidder (proposer) or prospective Bidder (proposer) or with any other person, firm or corporation relating to the price named in this proposal or any other proposal, nor any agreement or arrangement under which any act or omission in restraint of freedom of competition among Bidders (proposers) and has not disclosed to any person, firm or corporation the terms of this bid (proposal) or the price named herein.

Proposals must be submitted with original signatures in the space provided. Proposals not properly signed will be rejected.

NAME OF CORPORATION: \_\_\_\_\_  
(Print or Type)

SIGNATURE OF PRESIDENT\*:  
(Or Authorized Officer) \_\_\_\_\_  
(Signature)

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

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

\*Note: In the event that this bid (proposal) is signed by other than the President, attach hereto a certified copy of that section of Corporate By-Laws or other authorization, such as a resolution by the Board of Directors, which permits the person to sign the offer for the Corporation.

ATTEST: \_\_\_\_\_  
(Corporate Secretary Signature) (Affix Corporate Seal)

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

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

\_\_\_\_\_  
Notary Public Signature Commission Expires: \_\_\_\_\_

## 6.2. Bid Execution By A Joint Venture

The undersigned, hereby acknowledges having received Specification Number \_\_\_\_\_ containing a full set of Contract Documents, including, but not limited to, 1) Requirements for Bidding and Instructions to Bidders, 2) Standard Terms and Conditions - General Conditions, 3) Special Conditions for Supply Contracts, 4) Contract Plans or Drawings (if applicable) 5) Detailed Specifications, 6) Proposal Pages, 7) Certifications, and 8) Addenda Nos. (none unless indicated here) \_\_\_\_\_, and affirms that the Joint Venture shall be bound by all the terms and conditions contained in the Contract Documents, regardless of whether a complete set thereof is attached to this proposal, except only to the extent that the Joint Venture has taken express written exception thereto in the sections of this specification designated for that purpose.

Under penalty of perjury, the undersigned: (1) warrants that he/she was authorized to submit an EDS on behalf of the Disclosing Party on-line; (2) warrants that all certifications and statements contained in the EDS are true, accurate and complete as of the date the EDS was submitted on-line; and (3) further warrants that, as of the date of submission of this proposal or bid, there have been no changes in circumstances since the date that the EDS was submitted that would render any certification in the EDS false, inaccurate or incomplete.

Further, the undersigned being duly sworn deposes and says on oath that no disclosures of ownership interests have been withheld and the information provided therein to the best of its knowledge is current and the undersigned has not entered into any agreement with any other Bidder (proposer) or prospective Bidder (proposer) or with any other person, firm or corporation relating to the price named in this proposal or any other proposal, nor any agreement or arrangement under which any act or omission in restraining of free competition among Bidders (proposers) and has not disclosed to any person, firm or corporation the terms of this bid (proposal) or the price named herein.

Proposals must be submitted with original signatures in the space provided. Proposals not properly signed will be rejected.

JOINT VENTURE NAME: (Print or Type) \_\_\_\_\_

JOINT VENTURE ADDRESS: (Print or Type) \_\_\_\_\_

If you are operating under an assumed name, provide County registration number herein under as provided in the Illinois Revised Statutes 1965 Chapter 96 Sec. 4 et seq. Registration Number: \_\_\_\_\_

SIGNATURES AND ADDRESSES OF ALL MEMBERS OF THE JOINT VENTURE (If all members of the Joint Venture do not sign, indicate authority of signatories by attaching copy of Joint Venture agreement or other authorizing document):

SIGNATURE OF Authorized Party: (Signature ) \_\_\_\_\_

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

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

ATTEST: (Joint Venture Secretary Signature) \_\_\_\_\_  
(Affix Joint Venture Seal)

OR  
Joint Venturer Signature: (Signature) \_\_\_\_\_

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

Joint Venturer Signature: (Signature) \_\_\_\_\_

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

Joint Venturer Signature: (Signature) \_\_\_\_\_

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

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

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

Notary Public Signature: \_\_\_\_\_

Commission Expires: \_\_\_\_\_ (Seal)

### 6.3. Bid Execution By A Partnership

The undersigned, hereby acknowledges having received Specification Number \_\_\_\_\_ containing a full set of Contract Documents, including, but not limited to, 1) Requirements for Bidding and Instructions to Bidders, 2) Standard Terms and Conditions - General Conditions, 3) Special Conditions for Supply Contracts, 4) Contract Plans or Drawings (if applicable) 5) Detailed Specifications, 6) Proposal Pages, 7) Certifications, and 8) Addenda Nos. (none unless indicated here) \_\_\_\_\_, and affirms that the partnership shall be bound by all the terms and conditions contained in the Contract Documents, regardless of whether a complete set thereof is attached to this proposal, except only to the extent that the partnership has taken express written exception thereto in the sections of this specification designated for that purpose.

Under penalty of perjury, the undersigned: (1) warrants that he/she was authorized to submit an EDS on behalf of the Disclosing Party on-line; (2) warrants that all certifications and statements contained in the EDS are true, accurate and complete as of the date the EDS was submitted on-line; and (3) further warrants that, as of the date of submission of this proposal or bid, there have been no changes in Circumstances since the date that the EDS was submitted that would render any certification in the EDS false, inaccurate or incomplete.

Further, the undersigned being duly sworn deposes and says on oath that no disclosures of ownership interests have been withheld and the information provided therein to the best of its knowledge is current and the undersigned has not entered into any agreement with any other Bidder (proposer) or prospective Bidder (proposer) or with any other person, firm or corporation relating to the price named in this proposal or any other proposal, nor any agreement or arrangement under which any act or omission in restraining of free competition among Bidders (proposers) and has not disclosed to any person, firm or corporation the terms of this bid (proposal) or the price named herein.

Proposals must be submitted with original signatures in the space provided. Proposals not properly signed will be rejected.

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

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

If you are operating under an assumed name, provide County registration number herein under as provided in the Illinois Revised Statutes 1965 Chapter 96 Sec. 4 et seq. Registration Number: \_\_\_\_\_

#### SIGNATURES AND ADDRESSES OF ALL MEMBERS OF THE PARTNERSHIP

(If all General Partners do not sign, indicate authority of partner signatories by attaching copy of partnership agreement or other authorizing document):

Partner Signature: (Signature) \_\_\_\_\_

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

Partner Signature: (Signature) \_\_\_\_\_

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

Partner Signature: (Signature) \_\_\_\_\_

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

State of \_\_\_\_\_; County of \_\_\_\_\_

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

Notary Public Signature: \_\_\_\_\_

Commission Expires: \_\_\_\_\_

(Seal)

#### 6.4. Bid Execution By a Sole Proprietor

The undersigned, hereby acknowledges having received Specification Number 92081 containing a full set of Contract Documents, including, but not limited to, 1) Requirements for Bidding and Instructions to Bidders, 2) Standard Terms and Conditions - General Conditions, 3) Special Conditions for Supply Contracts, 4) Contract Plans or Drawings (if applicable) 5) Detailed Specifications, 6) Proposal Pages, 7) Certifications, and 8) Addenda Nos. (none unless indicated here) \_\_\_\_\_, and affirms that the sole proprietor shall be bound by all the terms and conditions contained in the Contract Documents, regardless of whether a complete set thereof is attached to this proposal, except only to the extent that the sole proprietor has taken express written exception thereto in the sections of this specification designated for that purpose.

Under penalty of perjury, the undersigned: (1) warrants that he/she was authorized to submit an EDS on behalf of the Disclosing Party on-line; (2) warrants that all certifications and statements contained in the EDS are true, accurate and complete as of the date the EDS was submitted on-line; and (3) further warrants that, as of the date of submission of this proposal or bid, there have been no changes in Circumstances since the date that the EDS was submitted that would render any certification in the EDS false, inaccurate or incomplete.

Further, the undersigned being duly sworn deposes and says on oath that no disclosures of ownership interests have been withheld and the information provided therein to the best of its knowledge is current and the undersigned has not entered into any agreement with any other Bidder (proposer) or prospective Bidder (proposer) or with any other person, firm or corporation relating to the price named in this proposal or any other proposal, nor any agreement or arrangement under which any act or omission in restraining of free competition among Bidders (proposers) and has not disclosed to any person, firm or corporation the terms of this bid (proposal) or the price named herein.

Proposals must be submitted with original signatures in the space provided. Proposals not properly signed will be rejected.

SIGNATURE OF PROPRIETOR: \_\_\_\_\_  
(Signature )

DOING BUSINESS AS: \_\_\_\_\_  
(Print or Type)

Business Address: \_\_\_\_\_  
(Print or Type)  
\_\_\_\_\_  
(Print or Type)

If you are operating under an assumed name, provide County registration number herein under as provided in the Illinois Revised Statutes 1965 Chapter 96 Sec. 4 et seq.

Registration Number: \_\_\_\_\_  
(Print or Type)

State of \_\_\_\_\_; County of \_\_\_\_\_

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

Notary Public Signature: \_\_\_\_\_

Commission Expires: \_\_\_\_\_ (Seal)

**6.5. Bid Acceptance by City**

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

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

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

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

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

The undersigned, on behalf of the CITY OF CHICAGO, a municipal corporation of the State of Illinois, hereby accept the foregoing bid items as identified in the proposal.

CITY OF CHICAGO

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

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

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



## EXHIBITS

Exhibits follow this page. Remainder of page intentionally blank.

## Exhibit 1: Insurance Certificate of Coverage

Named Insured: \_\_\_\_\_  
Address: \_\_\_\_\_  
(Number and Street)  
\_\_\_\_\_  
(City) (State) (ZIP)

Specification #: \_\_\_\_\_  
RFP: \_\_\_\_\_  
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
General Liability [ ] Claims made [ ] Occurrence [ ] Premise-Operations [ ] Explosion/Collapse Underground [ ] Products/Completed-Operations [ ] Blanket Contractual [ ] Broad Form Property Damage [ ] Independent Contractors [ ] Personal Injury [ ] Pollution				CSL Per Occurrence \$ _____  General Aggregate \$ _____  Products/Completed Operations Aggregate \$ _____
Automobile Liability				CSL Per Occurrence \$ _____
[ ] Excess Liability [ ] Umbrella Liability				Each Occurrence \$ _____
Worker=s Compensation and Employer=s Liability				Statutory/Illinois Employers Liability \$ _____
Builders Risk/Course of Construction				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: AThe 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  
City of Chicago  
Procurement Department  
121 N. LaSalle St., #806  
Chicago, IL 60602

Signature of Authorized Rep. \_\_\_\_\_  
Agency/Company: \_\_\_\_\_  
Address \_\_\_\_\_  
Telephone \_\_\_\_\_

### For City use only

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



**CITY OF CHICAGO  
ECONOMIC DISCLOSURE STATEMENT  
AND AFFIDAVIT**

**SECTION I -- GENERAL INFORMATION**

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

Chicago Infrastructure Trust

Check ONE of the following three boxes:

Indicate whether the Disclosing Party submitting this EDS is:

1. ☒ the Applicant  
OR

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

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

B. Business address of the Disclosing Party:

156 Lakewood Place  
Highland Park, IL 60035

C. Telephone: (847) 847-4414 Fax: (847) 432-4420 Email: ssb@shapechicago.com

D. Name of contact person: Stephen Beitter

E. Federal Employer Identification No. (if you have one): \_\_\_\_\_

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

Funding of annual budget

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

Department of Finance

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

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

## SECTION II -- DISCLOSURE OF OWNERSHIP INTERESTS

### A. NATURE OF THE DISCLOSING PARTY

1. Indicate the nature of the Disclosing Party:

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

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

Illinois

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

☐ Yes

☐ No

☐ N/A

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

1. List below the full names and titles of all executive officers and all directors of the entity.

**NOTE:** For not-for-profit corporations, also list below all members, if any, which are legal entities. If there are no such members, write "no members." For trusts, estates or other similar entities, list below the legal titlcholder(s).

If the entity is a general partnership, limited partnership, limited liability company, limited liability partnership or joint venture, list below the name and title of each general partner, managing member, manager or any other person or entity that controls the day-to-day management of the Disclosing Party.

**NOTE:** Each legal entity listed below must submit an EDS on its own behalf.

Name

Title

<u>James Bell, David Hoffman,</u>	
<u>Diana Ferguson, John Pope, Jorge Ramirez</u>	<u>— Directors</u>
<u>Stephen Beitler</u>	<u>— Executive Director and CEO</u>

2. Please provide the following information concerning each person or entity having a direct or indirect beneficial interest (including ownership) in excess of 7.5% of the Disclosing Party. Examples of such an interest include shares in a corporation, partnership interest in a partnership or joint venture,

interest of a member or manager in a limited liability company, or interest of a beneficiary of a trust, estate or other similar entity. If none, state "None." **NOTE:** Pursuant to Section 2-154-030 of the Municipal Code of Chicago ("Municipal Code"), the City may require any such additional information from any applicant which is reasonably intended to achieve full disclosure.

Name

Business Address

Percentage Interest in the  
Disclosing Party

None

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

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

☐ Yes

☒ No

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

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

The Disclosing Party must disclose the name and business address of each subcontractor, attorney, lobbyist, accountant, consultant and any other person or entity whom the Disclosing Party has retained or expects to retain in connection with the Matter, as well as the nature of the relationship, and the total amount of the fees paid or estimated to be paid. The Disclosing Party is not required to disclose employees who are paid solely through the Disclosing Party's regular payroll.

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

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

Name (indicate whether retained or anticipated to be retained)	Business Address	Relationship to Disclosing Party (subcontractor, attorney, lobbyist, etc.)	Fees (indicate whether paid or estimated.) NOTE: "hourly rate" or "t.b.d." is not an acceptable response.
----------------------------------------------------------------	------------------	----------------------------------------------------------------------------	-----------------------------------------------------------------------------------------------------------

Kirkland & Ellis LLP	300 N. La Salle, Chicago 60654	Attorneys	Pro Bono
PFM (Public Financial Management, Inc.)	222 N. La Salle, Chicago 60601	Financial Advisor	Pro Bono
Washington, Pittman & McKeever	819 S. Wabash Ave, Ste. 600, Chicago 60605	Accountants	Hourly Rate

(Add sheets if necessary)

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

## SECTION V -- CERTIFICATIONS

### A. COURT-ORDERED CHILD SUPPORT COMPLIANCE

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

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

☐ Yes

☐ No

☒ No person directly or indirectly owns 10% or more of the Disclosing Party.

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

☐ Yes

☐ No

### B. FURTHER CERTIFICATIONS

1. Pursuant to Municipal Code Chapter 1-23, Article I ("Article I")(which the Applicant should consult for defined terms (e.g., "doing business") and legal requirements), if the Disclosing Party submitting this EDS is the Applicant and is doing business with the City, then the Disclosing Party certifies as follows: (i) neither the Applicant nor any controlling person is currently indicted or charged with, or has admitted guilt of, or has ever been convicted of, or placed under supervision for, any criminal offense involving actual, attempted, or conspiracy to commit bribery, theft, fraud, forgery, perjury, dishonesty or deceit against an officer or employee of the City or any sister agency; and (ii) the Applicant understands and acknowledges that compliance with Article I is a continuing requirement for doing business with the City. NOTE: If Article I applies to the Applicant, the permanent compliance timeframe in Article I supersedes some five-year compliance timeframes in certifications 2 and 3 below.

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

- a. are not presently debarred, suspended, proposed for debarment, declared ineligible or voluntarily excluded from any transactions by any federal, state or local unit of government;
- b. have not, within a five-year period preceding the date of this EDS, been convicted of a criminal offense, adjudged guilty, or had a civil judgment rendered against them in connection with: obtaining, attempting to obtain, or performing a public (federal, state or local) transaction or contract under a public transaction; a violation of federal or state antitrust statutes; fraud; embezzlement; theft; forgery; bribery; falsification or destruction of records; making false statements; or receiving stolen property;
- c. are not presently indicted for, or criminally or civilly charged by, a governmental entity (federal, state or local) with committing any of the offenses set forth in clause B.2.b. of this Section V;
- d. have not, within a five-year period preceding the date of this EDS, had one or more public transactions (federal, state or local) terminated for cause or default; and
- e. have not, within a five-year period preceding the date of this EDS, been convicted, adjudged guilty, or found liable in a civil proceeding, or in any criminal or civil action, including actions concerning environmental violations, instituted by the City or by the federal government, any state, or any other unit of local government.

3. The certifications in subparts 3, 4 and 5 concern:

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



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

- a. bribed or attempted to bribe, or been convicted or adjudged guilty of bribery or attempting to bribe, a public officer or employee of the City, the State of Illinois, or any agency of the federal government or of any state or local government in the United States of America, in that officer's or employee's official capacity;
- b. agreed or colluded with other bidders or prospective bidders, or been a party to any such agreement, or been convicted or adjudged guilty of agreement or collusion among bidders or prospective bidders, in restraint of freedom of competition by agreement to bid a fixed price or otherwise; or
- c. made an admission of such conduct described in a. or b. above that is a matter of record, but have not been prosecuted for such conduct; or
- d. violated the provisions of Municipal Code Section 2-92-610 (Living Wage Ordinance).

4. Neither the Disclosing Party, Affiliated Entity or Contractor, or any of their employees, officials, agents or partners, is barred from contracting with any unit of state or local government as a result of engaging in or being convicted of (1) bid-rigging in violation of 720 ILCS 5/33E-3; (2) bid-rotating in violation of 720 ILCS 5/33E-4; or (3) any similar offense of any state or of the United States of America that contains the same elements as the offense of bid-rigging or bid-rotating.

5. Neither the Disclosing Party nor any Affiliated Entity is listed on any of the following lists maintained by the Office of Foreign Assets Control of the U.S. Department of the Treasury or the Bureau of Industry and Security of the U.S. Department of Commerce or their successors: the Specially Designated Nationals List, the Denied Persons List, the Unverified List, the Entity List and the Debarred List.

6. The Disclosing Party understands and shall comply with the applicable requirements of Chapters 2-55 (Legislative Inspector General), 2-56 (Inspector General) and 2-156 (Governmental Ethics) of the Municipal Code.

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

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

8. To the best of the Disclosing Party's knowledge after reasonable inquiry, the following is a complete list of all current employees of the Disclosing Party who were, at any time during the 12-month period preceding the execution date of this EDS, an employee, or elected or appointed official, of the City of Chicago (if none, indicate with "N/A" or "none").

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9. To the best of the Disclosing Party's knowledge after reasonable inquiry, the following is a complete list of all gifts that the Disclosing Party has given or caused to be given, at any time during the 12-month period preceding the execution date of this EDS, to an employee, or elected or appointed official, of the City of Chicago. For purposes of this statement, a "gift" does not include: (i) anything made generally available to City employees or to the general public, or (ii) food or drink provided in the course of official City business and having a retail value of less than \$20 per recipient (if none, indicate with "N/A" or "none"). As to any gift listed below, please also list the name of the City recipient.

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#### C. CERTIFICATION OF STATUS AS FINANCIAL INSTITUTION

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

☐ is

☒ is not

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

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

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

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

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

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

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

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

☐ Yes

☒ No

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

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

Does the Matter involve a City Property Sale?

☐ Yes

☐ No

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

Name

Business Address

Nature of Interest

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

**E. CERTIFICATION REGARDING SLAVERY ERA BUSINESS**

Please check either 1. or 2. below. If the Disclosing Party checks 2., the Disclosing Party must disclose below or in an attachment to this EDS all information required by paragraph 2. Failure to

comply with these disclosure requirements may make any contract entered into with the City in connection with the Matter voidable by the City.

~~X~~ 1. The Disclosing Party verifies that the Disclosing Party has searched any and all records of the Disclosing Party and any and all predecessor entities regarding records of investments or profits from slavery or slaveholder insurance policies during the slavery era (including insurance policies issued to slaveholders that provided coverage for damage to or injury or death of their slaves), and the Disclosing Party has found no such records.

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

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## SECTION VI -- CERTIFICATIONS FOR FEDERALLY FUNDED MATTERS

**NOTE: If the Matter is federally funded, complete this Section VI. If the Matter is not federally funded, proceed to Section VII.** For purposes of this Section VI, tax credits allocated by the City and proceeds of debt obligations of the City are not federal funding.

### A. CERTIFICATION REGARDING LOBBYING

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

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

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

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

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

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

#### B. CERTIFICATION REGARDING EQUAL EMPLOYMENT OPPORTUNITY

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

Is the Disclosing Party the Applicant?

☐ Yes

☐ No

If "Yes," answer the three questions below:

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

☐ Yes

☐ No

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

☐ Yes

☐ No

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

☐ Yes

☐ No

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

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

The Disclosing Party understands and agrees that:

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

B. The City's Governmental Ethics and Campaign Financing Ordinances, Chapters 2-156 and 2-164 of the Municipal Code, impose certain duties and obligations on persons or entities seeking City contracts, work, business, or transactions. The full text of these ordinances and a training program is available on line at [www.cityofchicago.org/Ethics](http://www.cityofchicago.org/Ethics), and may also be obtained from the City's Board of Ethics, 740 N.

Sedgwick St., Suite 500, Chicago, IL 60610, (312) 744-9660. The Disclosing Party must comply fully with the applicable ordinances.

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

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

E. The information provided in this EDS must be kept current. In the event of changes, the Disclosing Party must supplement this EDS up to the time the City takes action on the Matter. If the Matter is a contract being handled by the City's Department of Procurement Services, the Disclosing Party must update this EDS as the contract requires. **NOTE:** With respect to Matters subject to Article I of Chapter 1-23 of the Municipal Code (imposing **PERMANENT INELIGIBILITY** for certain specified offenses), the information provided herein regarding eligibility must be kept current for a longer period, as required by Chapter 1-23 and Section 2-154-020 of the Municipal Code.

The Disclosing Party represents and warrants that:

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

F.2 If the Disclosing Party is the Applicant, the Disclosing Party and its Affiliated Entities will not use, nor permit their subcontractors to use, any facility listed by the U.S. E.P.A. on the federal Excluded Parties List System ("EPLS") maintained by the U. S. General Services Administration.

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

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

#### CERTIFICATION

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

Chicago Infrastructure Trust  
(Print or type name of Disclosing Party)

By: Steve G...  
(Sign here)

Stephen Beitter  
(Print or type name of person signing)

Executive Director and CEO  
(Print or type title of person signing)

Signed and sworn to before me on (date) 19th, September, 2013  
at COOK County, Illinois (state).

Flora R. Walsh Notary Public.

Commission expires: 9/11/2016.



**CITY OF CHICAGO  
ECONOMIC DISCLOSURE STATEMENT AND AFFIDAVIT  
APPENDIX A**

**FAMILIAL RELATIONSHIPS WITH ELECTED CITY OFFICIALS AND DEPARTMENT HEADS**

**This Appendix is to be completed only by (a) the Applicant, and (b) any legal entity which has a direct ownership interest in the Applicant exceeding 7.5 percent. It is not to be completed by any legal entity which has only an indirect ownership interest in the Applicant.**

Under Municipal Code Section 2-154-015, the Disclosing Party must disclose whether such Disclosing Party or any "Applicable Party" or any Spouse or Domestic Partner thereof currently has a "familial relationship" with any elected city official or department head. A "familial relationship" exists if, as of the date this EDS is signed, the Disclosing Party or any "Applicable Party" or any Spouse or Domestic Partner thereof is related to the mayor, any alderman, the city clerk, the city treasurer or any city department head as spouse or domestic partner or as any of the following, whether by blood or adoption: parent, child, brother or sister, aunt or uncle, niece or nephew, grandparent, grandchild, father-in-law, mother-in-law, son-in-law, daughter-in-law, stepfather or stepmother, stepson or stepdaughter, stepbrother or stepsister or half-brother or half-sister.

"Applicable Party" means (1) all executive officers of the Disclosing Party listed in Section II.B.1.a., if the Disclosing Party is a corporation; all partners of the Disclosing Party, if the Disclosing Party is a general partnership; all general partners and limited partners of the Disclosing Party, if the Disclosing Party is a limited partnership; all managers, managing members and members of the Disclosing Party, if the Disclosing Party is a limited liability company; (2) all principal officers of the Disclosing Party; and (3) any person having more than a 7.5 percent ownership interest in the Disclosing Party. "Principal officers" means the president, chief operating officer, executive director, chief financial officer, treasurer or secretary of a legal entity or any person exercising similar authority.

Does the Disclosing Party or any "Applicable Party" or any Spouse or Domestic Partner thereof currently have a "familial relationship" with an elected city official or department head?

[ ] Yes

☒ No

If yes, please identify below (1) the name and title of such person, (2) the name of the legal entity to which such person is connected; (3) the name and title of the elected city official or department head to whom such person has a familial relationship, and (4) the precise nature of such familial relationship.

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**CITY OF CHICAGO  
ECONOMIC DISCLOSURE STATEMENT  
AND AFFIDAVIT**

**SECTION I -- GENERAL INFORMATION**

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

Kutak Rock LLP

**Check ONE of the following three boxes:**

Indicate whether the Disclosing Party submitting this EDS is:

1. ☒ the Applicant

OR

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

OR

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

B. Business address of the Disclosing Party: One S. Wacker Drive, Suite 2050  
Chicago, IL 60606

C. Telephone: 312-602-4100 Fax: 312-602-4101 Email: jerry.wallack@kutakrock.com

D. Name of contact person: Jerry B. Wallack

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

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

City of Chicago - Retrofit Chicago Project (Chicago Infrastructure Trust)

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

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

Specification # N/A and Contract # N/A

## SECTION II -- DISCLOSURE OF OWNERSHIP INTERESTS

### A. NATURE OF THE DISCLOSING PARTY

1. Indicate the nature of the Disclosing Party:

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

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

Nebraska

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

☒ Yes ☐ No ☐ N/A

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

1. List below the full names and titles of all executive officers and all directors of the entity.

**NOTE:** For not-for-profit corporations, also list below all members, if any, which are legal entities. If there are no such members, write "no members." For trusts, estates or other similar entities, list below the legal titleholder(s).

If the entity is a general partnership, limited partnership, limited liability company, limited liability partnership or joint venture, list below the name and title of each general partner, managing member, manager or any other person or entity that controls the day-to-day management of the Disclosing Party.

**NOTE:** Each legal entity listed below must submit an EDS on its own behalf.

Name

Title

David A. Jacobson - Chairman

Robert D. Irvin - Vice Chairman

(All Partners are General Partners)

2. Please provide the following information concerning each person or entity having a direct or indirect beneficial interest (including ownership) in excess of 7.5% of the Disclosing Party. Examples of such an interest include shares in a corporation, partnership interest in a partnership or joint venture,

interest of a member or manager in a limited liability company, or interest of a beneficiary of a trust, estate or other similar entity. If none, state "None." **NOTE:** Pursuant to Section 2-154-030 of the Municipal Code of Chicago ("Municipal Code"), the City may require any such additional information from any applicant which is reasonably intended to achieve full disclosure.

Name	Business Address	Percentage Interest in the Disclosing Party
<u>None in excess of 7.5%</u>		
<u> </u>		
<u> </u>		

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

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

☐ Yes

☒ No

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

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

The Disclosing Party must disclose the name and business address of each subcontractor, attorney, lobbyist, accountant, consultant and any other person or entity whom the Disclosing Party has retained or expects to retain in connection with the Matter, as well as the nature of the relationship, and the total amount of the fees paid or estimated to be paid. The Disclosing Party is not required to disclose employees who are paid solely through the Disclosing Party's regular payroll.

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

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

Name (indicate whether retained or anticipated to be retained)	Business Address	Relationship to Disclosing Party (subcontractor, attorney, lobbyist, etc.)	Fees (indicate whether paid or estimated.) <b>NOTE:</b> "hourly rate" or "t.b.d." is not an acceptable response.

(Add sheets if necessary)

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

## SECTION V – CERTIFICATIONS

### A. COURT-ORDERED CHILD SUPPORT COMPLIANCE

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

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

☐ Yes
         
 ☐ No
         
 ☒ No person directly or indirectly owns 10% or more of the Disclosing Party.

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

☐ Yes
         
 ☐ No

### B. FURTHER CERTIFICATIONS

1. Pursuant to Municipal Code Chapter 1-23, Article I ("Article I")(which the Applicant should consult for defined terms (e.g., "doing business") and legal requirements), if the Disclosing Party submitting this EDS is the Applicant and is doing business with the City, then the Disclosing Party certifies as follows: (i) neither the Applicant nor any controlling person is currently indicted or charged with, or has admitted guilt of, or has ever been convicted of, or placed under supervision for, any criminal offense involving actual, attempted, or conspiracy to commit bribery, theft, fraud, forgery, perjury, dishonesty or deceit against an officer or employee of the City or any sister agency; and (ii) the Applicant understands and acknowledges that compliance with Article I is a continuing requirement for doing business with the City. **NOTE:** If Article I applies to the Applicant, the permanent compliance timeframe in Article I supersedes some five-year compliance timeframes in certifications 2 and 3 below.

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

- a. are not presently debarred, suspended, proposed for debarment, declared ineligible or voluntarily excluded from any transactions by any federal, state or local unit of government;
- b. have not, within a five-year period preceding the date of this EDS, been convicted of a criminal offense, adjudged guilty, or had a civil judgment rendered against them in connection with: obtaining, attempting to obtain, or performing a public (federal, state or local) transaction or contract under a public transaction; a violation of federal or state antitrust statutes; fraud; embezzlement; theft; forgery; bribery; falsification or destruction of records; making false statements; or receiving stolen property;
- c. are not presently indicted for, or criminally or civilly charged by, a governmental entity (federal, state or local) with committing any of the offenses set forth in clause B.2.b. of this Section V;
- d. have not, within a five-year period preceding the date of this EDS, had one or more public transactions (federal, state or local) terminated for cause or default; and
- e. have not, within a five-year period preceding the date of this EDS, been convicted, adjudged guilty, or found liable in a civil proceeding, or in any criminal or civil action, including actions concerning environmental violations, instituted by the City or by the federal government, any state, or any other unit of local government.

3. The certifications in subparts 3, 4 and 5 concern:

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

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

- a. bribed or attempted to bribe, or been convicted or adjudged guilty of bribery or attempting to bribe, a public officer or employee of the City, the State of Illinois, or any agency of the federal government or of any state or local government in the United States of America, in that officer's or employee's official capacity;
- b. agreed or colluded with other bidders or prospective bidders, or been a party to any such agreement, or been convicted or adjudged guilty of agreement or collusion among bidders or prospective bidders, in restraint of freedom of competition by agreement to bid a fixed price or otherwise; or
- c. made an admission of such conduct described in a. or b. above that is a matter of record, but have not been prosecuted for such conduct; or
- d. violated the provisions of Municipal Code Section 2-92-610 (Living Wage Ordinance).

4. Neither the Disclosing Party, Affiliated Entity or Contractor, or any of their employees, officials, agents or partners, is barred from contracting with any unit of state or local government as a result of engaging in or being convicted of (1) bid-rigging in violation of 720 ILCS 5/33E-3; (2) bid-rotating in violation of 720 ILCS 5/33E-4; or (3) any similar offense of any state or of the United States of America that contains the same elements as the offense of bid-rigging or bid-rotating.

5. Neither the Disclosing Party nor any Affiliated Entity is listed on any of the following lists maintained by the Office of Foreign Assets Control of the U.S. Department of the Treasury or the Bureau of Industry and Security of the U.S. Department of Commerce or their successors: the Specially Designated Nationals List, the Denied Persons List, the Unverified List, the Entity List and the Debarred List.

6. The Disclosing Party understands and shall comply with the applicable requirements of Chapters 2-55 (Legislative Inspector General), 2-56 (Inspector General) and 2-156 (Governmental Ethics) of the Municipal Code.

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

See Attached Exhibit B

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

8. To the best of the Disclosing Party's knowledge after reasonable inquiry, the following is a complete list of all current employees of the Disclosing Party who were, at any time during the 12-month period preceding the execution date of this EDS, an employee, or elected or appointed official, of the City of Chicago (if none, indicate with "N/A" or "none").

None

9. To the best of the Disclosing Party's knowledge after reasonable inquiry, the following is a complete list of all gifts that the Disclosing Party has given or caused to be given, at any time during the 12-month period preceding the execution date of this EDS, to an employee, or elected or appointed official, of the City of Chicago. For purposes of this statement, a "gift" does not include: (i) anything made generally available to City employees or to the general public, or (ii) food or drink provided in the course of official City business and having a retail value of less than \$20 per recipient (if none, indicate with "N/A" or "none"). As to any gift listed below, please also list the name of the City recipient.

None

#### C. CERTIFICATION OF STATUS AS FINANCIAL INSTITUTION

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

☐ is ☒ is not

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

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

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

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

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

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

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

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

☐ Yes

☒ No

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

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

Does the Matter involve a City Property Sale?

☐ Yes

☐ No

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

Name

Business Address

Nature of Interest

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

**E. CERTIFICATION REGARDING SLAVERY ERA BUSINESS**

Please check either 1. or 2. below. If the Disclosing Party checks 2., the Disclosing Party must disclose below or in an attachment to this EDS all information required by paragraph 2. Failure to



comply with these disclosure requirements may make any contract entered into with the City in connection with the Matter voidable by the City.

X 1. The Disclosing Party verifies that the Disclosing Party has searched any and all records of the Disclosing Party and any and all predecessor entities regarding records of investments or profits from slavery or slaveholder insurance policies during the slavery era (including insurance policies issued to slaveholders that provided coverage for damage to or injury or death of their slaves), and the Disclosing Party has found no such records.

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

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## SECTION VI – CERTIFICATIONS FOR FEDERALLY FUNDED MATTERS

**NOTE: If the Matter is federally funded, complete this Section VI. If the Matter is not federally funded, proceed to Section VII. For purposes of this Section VI, tax credits allocated by the City and proceeds of debt obligations of the City are not federal funding.**

### A. CERTIFICATION REGARDING LOBBYING

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

None

---

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

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

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

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

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

#### **B. CERTIFICATION REGARDING EQUAL EMPLOYMENT OPPORTUNITY**

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

Is the Disclosing Party the Applicant?

☐ Yes

☐ No

If "Yes," answer the three questions below:

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

☐ Yes

☐ No

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

☐ Yes

☐ No

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

☐ Yes

☐ No

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

---

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

The Disclosing Party understands and agrees that:

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

B. The City's Governmental Ethics and Campaign Financing Ordinances, Chapters 2-156 and 2-164 of the Municipal Code, impose certain duties and obligations on persons or entities seeking City contracts, work, business, or transactions. The full text of these ordinances and a training program is available on line at [www.cityofchicago.org/Ethics](http://www.cityofchicago.org/Ethics), and may also be obtained from the City's Board of Ethics, 740 N.

Sedgwick St., Suite 500, Chicago, IL 60610, (312) 744-9660. The Disclosing Party must comply fully with the applicable ordinances.

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

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

E. The information provided in this EDS must be kept current. In the event of changes, the Disclosing Party must supplement this EDS up to the time the City takes action on the Matter. If the Matter is a contract being handled by the City's Department of Procurement Services, the Disclosing Party must update this EDS as the contract requires. **NOTE:** With respect to Matters subject to Article I of Chapter 1-23 of the Municipal Code (imposing **PERMANENT INELIGIBILITY** for certain specified offenses), the information provided herein regarding eligibility must be kept current for a longer period, as required by Chapter 1-23 and Section 2-154-020 of the Municipal Code.

The Disclosing Party represents and warrants that:

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

F.2 If the Disclosing Party is the Applicant, the Disclosing Party and its Affiliated Entities will not use, nor permit their subcontractors to use, any facility listed by the U.S. E.P.A. on the federal Excluded Parties List System ("EPLS") maintained by the U. S. General Services Administration.

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

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

#### CERTIFICATION

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

Kutak Rock LLP  
(Print or type name of Disclosing Party)

By: Jerry Blumack  
(Sign here)

Jerry Blumack  
(Print or type name of person signing)

Partner  
(Print or type title of person signing)

Signed and sworn to before me on (date) Nov. 7, 2013,  
at Cook County, Illinois (state).

Cynthia A. Palkoska Notary Public.

Commission expires: 6/1/15



**CITY OF CHICAGO  
ECONOMIC DISCLOSURE STATEMENT AND AFFIDAVIT  
APPENDIX A**

**FAMILIAL RELATIONSHIPS WITH ELECTED CITY OFFICIALS AND DEPARTMENT HEADS**

**This Appendix is to be completed only by (a) the Applicant, and (b) any legal entity which has a direct ownership interest in the Applicant exceeding 7.5 percent. It is not to be completed by any legal entity which has only an indirect ownership interest in the Applicant.**

Under Municipal Code Section 2-154-015, the Disclosing Party must disclose whether such Disclosing Party or any "Applicable Party" or any Spouse or Domestic Partner thereof currently has a "familial relationship" with any elected city official or department head. A "familial relationship" exists if, as of the date this EDS is signed, the Disclosing Party or any "Applicable Party" or any Spouse or Domestic Partner thereof is related to the mayor, any alderman, the city clerk, the city treasurer or any city department head as spouse or domestic partner or as any of the following, whether by blood or adoption: parent, child, brother or sister, aunt or uncle, niece or nephew, grandparent, grandchild, father-in-law, mother-in-law, son-in-law, daughter-in-law, stepfather or stepmother, stepson or stepdaughter, stepbrother or stepsister or half-brother or half-sister.

"Applicable Party" means (1) all executive officers of the Disclosing Party listed in Section II.B.1.a., if the Disclosing Party is a corporation; all partners of the Disclosing Party, if the Disclosing Party is a general partnership; all general partners and limited partners of the Disclosing Party, if the Disclosing Party is a limited partnership; all managers, managing members and members of the Disclosing Party, if the Disclosing Party is a limited liability company; (2) all principal officers of the Disclosing Party; and (3) any person having more than a 7.5 percent ownership interest in the Disclosing Party. "Principal officers" means the president, chief operating officer, executive director, chief financial officer, treasurer or secretary of a legal entity or any person exercising similar authority.

Does the Disclosing Party or any "Applicable Party" or any Spouse or Domestic Partner thereof currently have a "familial relationship" with an elected city official or department head?

[ ] Yes

☒ No

If yes, please identify below (1) the name and title of such person, (2) the name of the legal entity to which such person is connected; (3) the name and title of the elected city official or department head to whom such person has a familial relationship, and (4) the precise nature of such familial relationship.

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**KUTAK ROCK LLP PARTNERS**  
(As of September 30, 2013)

Adams, Michelle G.  
Ahrenholz, Robert J.  
Allsworth, Douglas H.  
Alvano, Michael W.  
Amen, Steven P.  
Amorena-Kenny, Danielle J.  
Amsden, David L.  
Anderson, Natalie C.  
Andrews, Jennifer L.  
Arney, Neil L.  
Arundel, James D.  
Ascher, Beth M.  
Assouad, JP  
Atchley, Russell C.  
Bailey, Kate A.  
Balisy, Sam S.  
Bangert, Jack T.  
Barham, James T.  
Barnes, Naomi J.  
Barney, Kevin L.  
Barrett, Jennifer K.  
Barrett, Peter J.  
Baumgart, Bradley J.  
Beck, Scott H.  
Belitz, Paul E.  
Bergquist, Eric N.  
Bernstein, John H.  
Bima-Reeves, Theresa M.  
Bishop, Tory M.  
Bonifazi, Michael E.  
Bonness, Richard K.  
Boyce, Gilbert W.  
Boyer, Bradley P.  
Bragin, Mitchell J.  
Britschgi, Richard F.  
Brown, Michael E.  
Buddin, Richard L.  
Buescher, Brian C.  
Burdyny, Patricia A.  
Burmoor, Brent C.  
Burr, Kevin E.  
Bydalek, Michael K.  
Caid, Brian V.  
Caid, Kristin G.  
Carey, Katherine A.  
Carlile, Larry L.  
Carroll, J.R.  
Casey, Kimberly A.

Chase, Marcellus A.  
Chen, Cyrus C.  
Childers, S. David  
Christensen, Curtis L.  
Clark, Robin E.  
Cohen, Robert L.  
Condyles, Michael A.  
Connery, Michael G.  
Coon, Robert D.  
Cox, Juliet A.  
Creigh, James C.  
Crochet, Gregory R.  
Cung, Niki  
Curry, Michael L.  
Dahl, David H.  
Dahlquist, Mercedes A.  
Dailey, Steven M.  
Davis, Jad T.  
Deaver, Shane R.  
Delgado II, Randy D.  
Della Cava, Mia K.  
Dietrich, Gregory R.  
Dixon, Tracy L.  
Dossett, Mark W.  
Dowdy, Sisera M.  
Eades, Brian C.  
Egan, Andrew D.  
Ellis, Mark A.  
Enenbach, Matthew M.  
Fehringer, Raymond J.  
Fernandes, Dane K.  
Fields, Larry D.  
Fitzpatrick, Jeremy T.  
Fletcher, Jeffrey M.  
Fox, Heather M.  
Frazier, Randal B.  
Fuller, Joseph L.  
Garms, Janet S.  
Gary, James M.  
Gerardo, Jeffrey S.  
Gerding, Paul S.  
Gerding, Paul S., Jr.  
Giancana, Anthony V.  
Gilbert, Jay  
Gillen, Sean M.  
Gish, Anne M.  
Glos, Christopher D.  
Goldstein, Jill H.

Gorham, William C.  
Green, Rayburn W.  
Gregory, H. Watt III  
Griffin, Patrick B.  
Griffiths, Walter L.  
Guckenberger, Kenneth A.  
Gwilt, Paul  
Hahn, Howard Fredrick  
Halverson, Micah J.  
Handlos, Bryan G.  
Hansen, Brian F.  
Hartzell, Kevin D.  
Harvison, Scott E.  
Hathaway, Jim  
Heard, Daniel L.  
Heim, Buck  
Henry, John A.  
Hession, Conal L.  
Hewitt, Antoinette P.  
Hingle, Stephanie A.  
Hirsch, Adam L.  
Holsapple, Dennis L.  
Houser, Wade A.  
Humphrey, Nathan P.  
Ingrisano, Joseph A.  
Irmen, J. Douglas  
Irvin, Robert D. – Vice Chairman  
Isaac, Ruth E.  
Ismert, Stephen J.  
Jackler, Hilary A.  
Jacobson, David A. - Chairman  
Jellema, Calvin P.  
Jensen, Elizabeth D.  
Johnson, Eric S.  
Johnson, Jeremy T.  
Johnson, Michael R.  
Jones, Kate E.  
Jordan, Brian J.  
Kavan, Joseph O.  
Kazamias, Michael A.  
Keim, Robert B.  
Keller, John M.  
Kendrick, Heather L.  
Kennison, Patrick W.  
Kenny, Thomas J.  
Kerstein, Joshua M.  
Kilgore, Kelly S.  
Kirshenber, Seth D.

Kober, Karilyn E.  
 Koger, M. Courtney  
 Kruchek, Joseph Wm.  
 Lambert, Michael T.  
 Langdon, Peter C.  
 Larsen, Julie Dean  
 Lasee, Mark E.  
 Lay, Kristine R.  
 Levinson, Lizbeth R.  
 Lieberman, Marc R.  
 Likes, Steven C.  
 Looney, Bryan G.  
 Lynch, Daniel C.  
 Magli, Kathryn M.  
 Makens, Thomas J.  
 Marienthal, Frederic H.  
 Marlar, Drew  
 Marquette, Ed  
 Martin, Paige A.  
 Martin, William S.  
 Maxwell, Saranne K.  
 May, Christopher C.  
 McCleron, Erin R.  
 McDonnell, Michael T. III  
 McElhiney, Matthew S.  
 McFarland, John M.  
 McGill, John K.  
 Michelson, Arik J.  
 Moynihan, Dennis J.  
 Mullin, Michael G.  
 Musselman, John E.  
 Nash, Timothy C.  
 Negovan, Julie B.  
 Neill, Scott C.  
 Nethers, Mark R.  
 Newberry, Lucinda D.  
 Nielsen, Bradley J.  
 Nitta, Chad T.  
 Nix, David A.  
 Nye, Debby Thetford  
 O'Gara, Erin M.  
 Oglesby, Edward T.  
 O'Hara, Gillian  
 Olmstead, Richard A.  
 Overcash, Philip A.

Padover, Mitchell S.  
 Parrot, Hester M.  
 Passarelli, John P.  
 Peck, Jeremy D.  
 Peltz, Thomas M.  
 Peters, Douglas W.  
 Peters, Kathryn P.  
 Peterson, Patricia S.  
 Petr, John L.  
 Pfeiffer, Loc  
 Phillips, Christopher D.  
 Pierson, Dianne E.  
 Pool, Terry W.  
 Probasco, Angela  
 Prosser, Deborah C.  
 Raders, M. Lou  
 Ray, Patrick A.  
 Reno, Juliana  
 Reppe, Michael K.  
 Reynoldson, Kelly G.  
 Richards, Edwin J.  
 Richter, Peggy A.  
 Riley, Dorothea K.  
 Roe, Jessica L.  
 Romshek, Andrew P.  
 Rosenblatt, Richard J.  
 Roth, Robert C., Jr.  
 Roubidoux, Thomas T.  
 Rupe, Alan L.  
 Ruskin, Debbie Sinclair  
 Ryan, Patricia C.  
 Saltzman, Kevin M.  
 Sappington, G. Mark  
 Sarver, Lisa A.  
 Schembari, John E.  
 Schlossberg, George R.  
 Schweikart, Judith A.  
 Scioli, Anthony D.  
 Selanders, Jay N.  
 Selvidge, Mark F.  
 Sender, Eric R.  
 Sewell, Jennifer K.  
 Shaham, Jessica I.  
 Sillyman, Michael W.  
 Slovek, Robert M.

Smith, David A.  
 Smith, Emily K.  
 Smith, Paul M.  
 Smith, Tasha Cycholl  
 Snyder, Thomas W.  
 Sper, Jane  
 Stanley, Bryan P.  
 Star, Robert M.  
 Starick, Kathryn A.  
 Stasiak, Tiffanie D.  
 Stebbins, Susan B.  
 Steinberg, Barry P.  
 Stephenson, Patrick C.  
 Stitt, Jason D.  
 Stover, Donald R.  
 Stych, Jason D.  
 Sulentic, James M.  
 Sullivan, Joy A.  
 Swanson, J. Toger  
 Terry, Alicia A.  
 Thomas, Michael G.  
 Thompson, Cory B.  
 Thompson, Erin W.  
 Thompson, Karen R.  
 Thompson, Lawrence L.  
 Trimble, Mario T.  
 Ueding, Michelle M.  
 Van Horne, Amy L.  
 VanderVeen, Joel W.  
 Wagner, John J.  
 Wallack, Jerry B.  
 Warin, Edward G.  
 Washkuhn, Marcia A.  
 Wegner, Jeffrey T.  
 Weihe, Thomas C.  
 Wickman, Margot J.  
 Wiegert, Joel L.  
 Wilbourn, Gordon M.  
 Willette, Shawn M.  
 Willis, Mark C.  
 Wilson, Bruce A.  
 Woolery, Mitch  
 Yeutter, Gregg S.  
 Young, Craig B.  
 Ziolkko, Lynn T.

## **Exhibit B**

Pursuant to an agreement with the federal Office of the Comptroller of the Currency, one corporate transaction attorney in Kutak Rock's Denver office is prohibited from representing insured depository institutions in any type of legal matter. That firm member would in no way be involved in Kutak Rock's representation of the City of Chicago. We are not aware of any other sanction imposed by an oversight body against a Kutak Rock attorney.



CITY OF CHICAGO  
ECONOMIC DISCLOSURE STATEMENT  
AND AFFIDAVIT

SECTION I – GENERAL INFORMATION

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

Charity & Associates, P.C.

Check ONE of the following three boxes:

Indicate whether the Disclosing Party submitting this EDS is:

1. ☒ the Applicant  
OR

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

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

B. Business address of the Disclosing Party: 20 N. Clark Street, Suite 1150  
Chicago, Illinois 60602

C. Telephone: (312) 849-9000 Fax: (312) 849-9001 Email: elvin.charity@charity-associates.com

D. Name of contact person: Elvin E. Charity

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

F. Brief description of contract, transaction or other undertaking (referred to below as the "Matter") to which this EDS pertains. (Include project number and location of property, if applicable):  
Counsel to the City in connection with the Chicago Infrastructure Retrofit Project.

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

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

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

## SECTION II -- DISCLOSURE OF OWNERSHIP INTERESTS

### A. NATURE OF THE DISCLOSING PARTY

1. Indicate the nature of the Disclosing Party:

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

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

Illinois

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

☐ Yes ☐ No ☐ N/A

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

1. List below the full names and titles of all executive officers and all directors of the entity.

NOTE: For not-for-profit corporations, also list below all members, if any, which are legal entities. If there are no such members, write "no members." For trusts, estates or other similar entities, list below the legal titleholder(s).

If the entity is a general partnership, limited partnership, limited liability company, limited liability partnership or joint venture, list below the name and title of each general partner, managing member, manager or any other person or entity that controls the day-to-day management of the Disclosing Party. NOTE: Each legal entity listed below must submit an EDS on its own behalf.

Name	Title
Elvin E. Charity	President
Alan M. Bell	Secretary

2. Please provide the following information concerning each person or entity having a direct or indirect beneficial interest (including ownership) in excess of 7.5% of the Disclosing Party. Examples of such an interest include shares in a corporation, partnership interest in a partnership or joint venture,

interest of a member or manager in a limited liability company, or interest of a beneficiary of a trust, estate or other similar entity. If none, state "None." NOTE: Pursuant to Section 2-154-030 of the Municipal Code of Chicago ("Municipal Code"), the City may require any such additional information from any applicant which is reasonably intended to achieve full disclosure.

Name	Business Address	Percentage Interest in the Disclosing Party
Elvin E. Charity	20 N. Clark Street, #1150, Chicago, IL 60602	100%

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

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

☐ Yes                      ☒ No

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

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

The Disclosing Party must disclose the name and business address of each subcontractor, attorney, lobbyist, accountant, consultant and any other person or entity whom the Disclosing Party has retained or expects to retain in connection with the Matter, as well as the nature of the relationship, and the total amount of the fees paid or estimated to be paid. The Disclosing Party is not required to disclose employees who are paid solely through the Disclosing Party's regular payroll.

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

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

Name (indicate whether retained or anticipated to be retained)	Business Address	Relationship to Disclosing Party (subcontractor, attorney, lobbyist, etc.)	Fees (indicate whether paid or estimated.) NOTE: "hourly rate" or "t.b.d." is not an acceptable response.
----------------------------------------------------------------	------------------	----------------------------------------------------------------------------	-----------------------------------------------------------------------------------------------------------

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(Add sheets if necessary)

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

**SECTION V -- CERTIFICATIONS**

**A. COURT-ORDERED CHILD SUPPORT COMPLIANCE**

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

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

☐ Yes                      ☒ No                      ☐ No person directly or indirectly owns 10% or more of the Disclosing Party.

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

☐ Yes                      ☐ No

**B. FURTHER CERTIFICATIONS**

1. Pursuant to Municipal Code Chapter 1-23, Article I ("Article I")(which the Applicant should consult for defined terms (e.g., "doing business") and legal requirements), if the Disclosing Party submitting this EDS is the Applicant and is doing business with the City, then the Disclosing Party certifies as follows: (i) neither the Applicant nor any controlling person is currently indicted or charged with, or has admitted guilt of, or has ever been convicted of, or placed under supervision for, any criminal offense involving actual, attempted, or conspiracy to commit bribery, theft, fraud, forgery, perjury, dishonesty or deceit against an officer or employee of the City or any sister agency; and (ii) the Applicant understands and acknowledges that compliance with Article I is a continuing requirement for doing business with the City. NOTE: If Article I applies to the Applicant, the permanent compliance timeframe in Article I supersedes some five-year compliance timeframes in certifications 2 and 3 below.

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

- a. are not presently debarred, suspended, proposed for debarment, declared ineligible or voluntarily excluded from any transactions by any federal, state or local unit of government;
- b. have not, within a five-year period preceding the date of this EDS, been convicted of a criminal offense, adjudged guilty, or had a civil judgment rendered against them in connection with: obtaining, attempting to obtain, or performing a public (federal, state or local) transaction or contract under a public transaction; a violation of federal or state antitrust statutes; fraud; embezzlement; theft; forgery; bribery; falsification or destruction of records; making false statements; or receiving stolen property;
- c. are not presently indicted for, or criminally or civilly charged by, a governmental entity (federal, state or local) with committing any of the offenses set forth in clause B.2.b. of this Section V;
- d. have not, within a five-year period preceding the date of this EDS, had one or more public transactions (federal, state or local) terminated for cause or default; and
- e. have not, within a five-year period preceding the date of this EDS, been convicted, adjudged guilty, or found liable in a civil proceeding, or in any criminal or civil action, including actions concerning environmental violations, instituted by the City or by the federal government, any state, or any other unit of local government.

3. The certifications in subparts 3, 4 and 5 concern:

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

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

- a. bribed or attempted to bribe, or been convicted or adjudged guilty of bribery or attempting to bribe, a public officer or employee of the City, the State of Illinois, or any agency of the federal government or of any state or local government in the United States of America, in that officer's or employee's official capacity;
- b. agreed or colluded with other bidders or prospective bidders, or been a party to any such agreement, or been convicted or adjudged guilty of agreement or collusion among bidders or prospective bidders, in restraint of freedom of competition by agreement to bid a fixed price or otherwise; or
- c. made an admission of such conduct described in a. or b. above that is a matter of record, but have not been prosecuted for such conduct; or
- d. violated the provisions of Municipal Code Section 2-92-610 (Living Wage Ordinance).

4. Neither the Disclosing Party, Affiliated Entity or Contractor, or any of their employees, officials, agents or partners, is barred from contracting with any unit of state or local government as a result of engaging in or being convicted of (1) bid-rigging in violation of 720 ILCS 5/33E-3; (2) bid-rotating in violation of 720 ILCS 5/33E-4; or (3) any similar offense of any state or of the United States of America that contains the same elements as the offense of bid-rigging or bid-rotating.

5. Neither the Disclosing Party nor any Affiliated Entity is listed on any of the following lists maintained by the Office of Foreign Assets Control of the U.S. Department of the Treasury or the Bureau of Industry and Security of the U.S. Department of Commerce or their successors: the Specially Designated Nationals List, the Denied Persons List, the Unverified List, the Entity List and the Debarred List.

6. The Disclosing Party understands and shall comply with the applicable requirements of Chapters 2-55 (Legislative Inspector General), 2-56 (Inspector General) and 2-156 (Governmental Ethics) of the Municipal Code.

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

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

8. To the best of the Disclosing Party's knowledge after reasonable inquiry, the following is a complete list of all current employees of the Disclosing Party who were, at any time during the 12-month period preceding the execution date of this EDS, an employee, or elected or appointed official, of the City of Chicago (if none, indicate with "N/A" or "none").

In August 2006, Elvin E. Charity was appointed by Mayor Richard M. Daley as Chairman of the Chicago Gary Regional Airport Authority and he continues to serve in that capacity.

9. To the best of the Disclosing Party's knowledge after reasonable inquiry, the following is a complete list of all gifts that the Disclosing Party has given or caused to be given, at any time during the 12-month period preceding the execution date of this EDS, to an employee, or elected or appointed official, of the City of Chicago. For purposes of this statement, a "gift" does not include: (i) anything made generally available to City employees or to the general public, or (ii) food or drink provided in the course of official City business and having a retail value of less than \$20 per recipient (if none, indicate with "N/A" or "none"). As to any gift listed below, please also list the name of the City recipient.

N/A

#### C. CERTIFICATION OF STATUS AS FINANCIAL INSTITUTION

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

☐ is ☒ is not

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

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

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

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

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

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

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

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

☐ Yes

☒ No

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

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

Does the Matter involve a City Property Sale?

☐ Yes

☒ No

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

Name	Business Address	Nature of Interest
<hr/>		
<hr/>		
<hr/>		

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

#### E. CERTIFICATION REGARDING SLAVERY ERA BUSINESS

Please check either 1. or 2. below. If the Disclosing Party checks 2., the Disclosing Party must disclose below or in an attachment to this EDS all information required by paragraph 2. Failure to



comply with these disclosure requirements may make any contract entered into with the City in connection with the Matter voidable by the City.

  X   1. The Disclosing Party verifies that the Disclosing Party has searched any and all records of the Disclosing Party and any and all predecessor entities regarding records of investments or profits from slavery or slaveholder insurance policies during the slavery era (including insurance policies issued to slaveholders that provided coverage for damage to or injury or death of their slaves), and the Disclosing Party has found no such records.

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

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

## SECTION VI -- CERTIFICATIONS FOR FEDERALLY FUNDED MATTERS

NOTE: If the Matter is federally funded, complete this Section VI. If the Matter is not federally funded, proceed to Section VII. For purposes of this Section VI, tax credits allocated by the City and proceeds of debt obligations of the City are not federal funding.

### A. CERTIFICATION REGARDING LOBBYING

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

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

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

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

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

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

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

## B. CERTIFICATION REGARDING EQUAL EMPLOYMENT OPPORTUNITY

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

Is the Disclosing Party the Applicant?

☐ Yes

☐ No

If "Yes," answer the three questions below:

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

☐ Yes

☐ No

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

☐ Yes

☐ No

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

☐ Yes

☐ No

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

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## SECTION VII – ACKNOWLEDGMENTS, CONTRACT INCORPORATION, COMPLIANCE, PENALTIES, DISCLOSURE

The Disclosing Party understands and agrees that:

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

B. The City's Governmental Ethics and Campaign Financing Ordinances, Chapters 2-156 and 2-164 of the Municipal Code, impose certain duties and obligations on persons or entities seeking City contracts, work, business, or transactions. The full text of these ordinances and a training program is available on line at [www.cityofchicago.org/Ethics](http://www.cityofchicago.org/Ethics), and may also be obtained from the City's Board of Ethics, 740 N.

Sedgwick St., Suite 500, Chicago, IL 60610, (312) 744-9660. The Disclosing Party must comply fully with the applicable ordinances.

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

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

E. The information provided in this EDS must be kept current. In the event of changes, the Disclosing Party must supplement this EDS up to the time the City takes action on the Matter. If the Matter is a contract being handled by the City's Department of Procurement Services, the Disclosing Party must update this EDS as the contract requires. **NOTE:** With respect to Matters subject to Article I of Chapter 1-23 of the Municipal Code (imposing **PERMANENT INELIGIBILITY** for certain specified offenses), the information provided herein regarding eligibility must be kept current for a longer period, as required by Chapter 1-23 and Section 2-154-020 of the Municipal Code.

The Disclosing Party represents and warrants that:

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

F.2 If the Disclosing Party is the Applicant, the Disclosing Party and its Affiliated Entities will not use, nor permit their subcontractors to use, any facility listed by the U.S. E.P.A. on the federal Excluded Parties List System ("EPLS") maintained by the U. S. General Services Administration.

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

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

## CERTIFICATION

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

Charity & Associates, P.C.

(Print or type name of Disclosing Party)

By: 

(Sign here)

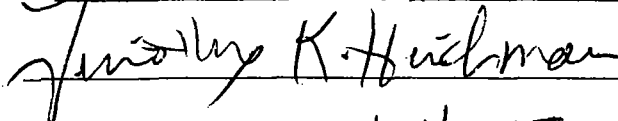
Elvin E. Charity

(Print or type name of person signing)

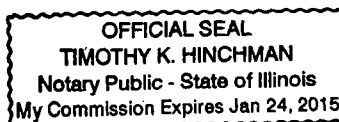
President

(Print or type title of person signing)

Signed and sworn to before me on (date) November 7, 2013,  
at Gook County, Illinois (state).

 Notary Public.

Commission expires: 01/24/2015.



CITY OF CHICAGO  
ECONOMIC DISCLOSURE STATEMENT AND AFFIDAVIT  
APPENDIX A

**FAMILIAL RELATIONSHIPS WITH ELECTED CITY OFFICIALS AND DEPARTMENT HEADS**

This Appendix is to be completed only by (a) the Applicant, and (b) any legal entity which has a direct ownership interest in the Applicant exceeding 7.5 percent. It is not to be completed by any legal entity which has only an indirect ownership interest in the Applicant.

Under Municipal Code Section 2-154-015, the Disclosing Party must disclose whether such Disclosing Party or any "Applicable Party" or any Spouse or Domestic Partner thereof currently has a "familial relationship" with any elected city official or department head. A "familial relationship" exists if, as of the date this EDS is signed, the Disclosing Party or any "Applicable Party" or any Spouse or Domestic Partner thereof is related to the mayor, any alderman, the city clerk, the city treasurer or any city department head as spouse or domestic partner or as any of the following, whether by blood or adoption: parent, child, brother or sister, aunt or uncle, niece or nephew, grandparent, grandchild, father-in-law, mother-in-law, son-in-law, daughter-in-law, stepfather or stepmother, stepson or stepdaughter, stepbrother or stepsister or half-brother or half-sister.

"Applicable Party" means (1) all executive officers of the Disclosing Party listed in Section II.B.1.a., if the Disclosing Party is a corporation; all partners of the Disclosing Party, if the Disclosing Party is a general partnership; all general partners and limited partners of the Disclosing Party, if the Disclosing Party is a limited partnership; all managers, managing members and members of the Disclosing Party, if the Disclosing Party is a limited liability company; (2) all principal officers of the Disclosing Party; and (3) any person having more than a 7.5 percent ownership interest in the Disclosing Party. "Principal officers" means the president, chief operating officer, executive director, chief financial officer, treasurer or secretary of a legal entity or any person exercising similar authority.

Does the Disclosing Party or any "Applicable Party" or any Spouse or Domestic Partner thereof currently have a "familial relationship" with an elected city official or department head?

☐ Yes

☒ No

If yes, please identify below (1) the name and title of such person, (2) the name of the legal entity to which such person is connected; (3) the name and title of the elected city official or department head to whom such person has a familial relationship, and (4) the precise nature of such familial relationship.

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**CITY OF CHICAGO  
ECONOMIC DISCLOSURE STATEMENT  
AND AFFIDAVIT**

**SECTION I -- GENERAL INFORMATION**

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

McGuireWoods LLP

**Check ONE of the following three boxes:**

Indicate whether the Disclosing Party submitting this EDS is:

1. ☒ the Applicant

OR

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

OR

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

B. Business address of the Disclosing Party: 7 Saint Paul Street, Suite 1000  
Baltimore, MD 21202

C. Telephone: 410-659-4400 Fax: 410-659-4599 Email: mdow@mcguirewoods.com

D. Name of contact person: Michael F. Dow

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



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

Chicago Infrastructure Trust Retrofit One financing

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

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

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

## SECTION II -- DISCLOSURE OF OWNERSHIP INTERESTS

### A. NATURE OF THE DISCLOSING PARTY

1. Indicate the nature of the Disclosing Party:

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

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

Virginia

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

☒ Yes

☐ No

☐ N/A

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

1. List below the full names and titles of all executive officers and all directors of the entity.

**NOTE:** For not-for-profit corporations, also list below all members, if any, which are legal entities. If there are no such members, write "no members." For trusts, estates or other similar entities, list below the legal titleholder(s).

If the entity is a general partnership, limited partnership, limited liability company, limited liability partnership or joint venture, list below the name and title of each general partner, managing member, manager or any other person or entity that controls the day-to-day management of the Disclosing Party.

**NOTE:** Each legal entity listed below must submit an EDS on its own behalf.

Name

Title

Richard Cullen

Chairman

Thomas E. Cabaniss

Managing Partner

Robert J. Couture

Executive Director

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2. Please provide the following information concerning each person or entity having a direct or indirect beneficial interest (including ownership) in excess of 7.5% of the Disclosing Party. Examples of such an interest include shares in a corporation, partnership interest in a partnership or joint venture,

interest of a member or manager in a limited liability company, or interest of a beneficiary of a trust, estate or other similar entity. If none, state "None." **NOTE:** Pursuant to Section 2-154-030 of the Municipal Code of Chicago ("Municipal Code"), the City may require any such additional information from any applicant which is reasonably intended to achieve full disclosure.

Name	Business Address	Percentage Interest in the Disclosing Party
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None

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

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

☐ Yes

☒ No

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

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

The Disclosing Party must disclose the name and business address of each subcontractor, attorney, lobbyist, accountant, consultant and any other person or entity whom the Disclosing Party has retained or expects to retain in connection with the Matter, as well as the nature of the relationship, and the total amount of the fees paid or estimated to be paid. The Disclosing Party is not required to disclose employees who are paid solely through the Disclosing Party's regular payroll.

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

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



Name (indicate whether retained or anticipated to be retained)	Business Address	Relationship to Disclosing Party (subcontractor, attorney, lobbyist, etc.)	Fees (indicate whether paid or estimated.) <b>NOTE:</b> "hourly rate" or "t.b.d." is not an acceptable response.
----------------------------------------------------------------	------------------	----------------------------------------------------------------------------	------------------------------------------------------------------------------------------------------------------

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(Add sheets if necessary)

[X] Check here if the Disclosing Party has not retained, nor expects to retain, any such persons or entities.

## SECTION V -- CERTIFICATIONS

### A. COURT-ORDERED CHILD SUPPORT COMPLIANCE

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

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

☐ Yes
 ☐ No
 ☒ No person directly or indirectly owns 10% or more of the Disclosing Party.

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

☐ Yes
 ☐ No

### B. FURTHER CERTIFICATIONS

1. Pursuant to Municipal Code Chapter 1-23, Article I ("Article I")(which the Applicant should consult for defined terms (e.g., "doing business") and legal requirements), if the Disclosing Party submitting this EDS is the Applicant and is doing business with the City, then the Disclosing Party certifies as follows: (i) neither the Applicant nor any controlling person is currently indicted or charged with, or has admitted guilt of, or has ever been convicted of, or placed under supervision for, any criminal offense involving actual, attempted, or conspiracy to commit bribery, theft, fraud, forgery, perjury, dishonesty or deceit against an officer or employee of the City or any sister agency; and (ii) the Applicant understands and acknowledges that compliance with Article I is a continuing requirement for doing business with the City. **NOTE:** If Article I applies to the Applicant, the permanent compliance timeframe in Article I supersedes some five-year compliance timeframes in certifications 2 and 3 below.

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

- a. are not presently debarred, suspended, proposed for debarment, declared ineligible or voluntarily excluded from any transactions by any federal, state or local unit of government;
- b. have not, within a five-year period preceding the date of this EDS, been convicted of a criminal offense, adjudged guilty, or had a civil judgment rendered against them in connection with: obtaining, attempting to obtain, or performing a public (federal, state or local) transaction or contract under a public transaction; a violation of federal or state antitrust statutes; fraud; embezzlement; theft; forgery; bribery; falsification or destruction of records; making false statements; or receiving stolen property;
- c. are not presently indicted for, or criminally or civilly charged by, a governmental entity (federal, state or local) with committing any of the offenses set forth in clause B.2.b. of this Section V;
- d. have not, within a five-year period preceding the date of this EDS, had one or more public transactions (federal, state or local) terminated for cause or default; and
- e. have not, within a five-year period preceding the date of this EDS, been convicted, adjudged guilty, or found liable in a civil proceeding, or in any criminal or civil action, including actions concerning environmental violations, instituted by the City or by the federal government, any state, or any other unit of local government.

3. The certifications in subparts 3, 4 and 5 concern:

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

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

- a. bribed or attempted to bribe, or been convicted or adjudged guilty of bribery or attempting to bribe, a public officer or employee of the City, the State of Illinois, or any agency of the federal government or of any state or local government in the United States of America, in that officer's or employee's official capacity;
- b. agreed or colluded with other bidders or prospective bidders, or been a party to any such agreement, or been convicted or adjudged guilty of agreement or collusion among bidders or prospective bidders, in restraint of freedom of competition by agreement to bid a fixed price or otherwise; or
- c. made an admission of such conduct described in a. or b. above that is a matter of record, but have not been prosecuted for such conduct; or
- d. violated the provisions of Municipal Code Section 2-92-610 (Living Wage Ordinance).

4. Neither the Disclosing Party, Affiliated Entity or Contractor, or any of their employees, officials, agents or partners, is barred from contracting with any unit of state or local government as a result of engaging in or being convicted of (1) bid-rigging in violation of 720 ILCS 5/33E-3; (2) bid-rotating in violation of 720 ILCS 5/33E-4; or (3) any similar offense of any state or of the United States of America that contains the same elements as the offense of bid-rigging or bid-rotating.

5. Neither the Disclosing Party nor any Affiliated Entity is listed on any of the following lists maintained by the Office of Foreign Assets Control of the U.S. Department of the Treasury or the Bureau of Industry and Security of the U.S. Department of Commerce or their successors: the Specially Designated Nationals List, the Denied Persons List, the Unverified List, the Entity List and the Debarred List.

6. The Disclosing Party understands and shall comply with the applicable requirements of Chapters 2-55 (Legislative Inspector General), 2-56 (Inspector General) and 2-156 (Governmental Ethics) of the Municipal Code.

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

N/A \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

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

8. To the best of the Disclosing Party's knowledge after reasonable inquiry, the following is a complete list of all current employees of the Disclosing Party who were, at any time during the 12-month period preceding the execution date of this EDS, an employee, or elected or appointed official, of the City of Chicago (if none, indicate with "N/A" or "none").

N/A \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

9. To the best of the Disclosing Party's knowledge after reasonable inquiry, the following is a complete list of all gifts that the Disclosing Party has given or caused to be given, at any time during the 12-month period preceding the execution date of this EDS, to an employee, or elected or appointed official, of the City of Chicago. For purposes of this statement, a "gift" does not include: (i) anything made generally available to City employees or to the general public, or (ii) food or drink provided in the course of official City business and having a retail value of less than \$20 per recipient (if none, indicate with "N/A" or "none"). As to any gift listed below, please also list the name of the City recipient.

N/A \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

#### C. CERTIFICATION OF STATUS AS FINANCIAL INSTITUTION

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

☐ is ☒ is not

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

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

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

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

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

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

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

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

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

☐ Yes

☒ No

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

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

Does the Matter involve a City Property Sale?

☐ Yes

☒ No

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

Name

Business Address

Nature of Interest

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

**E. CERTIFICATION REGARDING SLAVERY ERA BUSINESS**

Please check either 1. or 2. below. If the Disclosing Party checks 2., the Disclosing Party must disclose below or in an attachment to this EDS all information required by paragraph 2. Failure to

comply with these disclosure requirements may make any contract entered into with the City in connection with the Matter voidable by the City.

  X   1. The Disclosing Party verifies that the Disclosing Party has searched any and all records of the Disclosing Party and any and all predecessor entities regarding records of investments or profits from slavery or slaveholder insurance policies during the slavery era (including insurance policies issued to slaveholders that provided coverage for damage to or injury or death of their slaves), and the Disclosing Party has found no such records.

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

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

**NOTE: If the Matter is federally funded, complete this Section VI. If the Matter is not federally funded, proceed to Section VII.** For purposes of this Section VI, tax credits allocated by the City and proceeds of debt obligations of the City are not federal funding.

### **A. CERTIFICATION REGARDING LOBBYING**

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

N/A 

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

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

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

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

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

## B. CERTIFICATION REGARDING EQUAL EMPLOYMENT OPPORTUNITY

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

Is the Disclosing Party the Applicant?

☒ Yes

☐ No

If "Yes," answer the three questions below:

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

☐ Yes

☒ No

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

☒ Yes

☐ No

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

☐ Yes

☒ No

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

McGuireWoods is not required to develop or file affirmative action programs pursuant to applicable federal law. \_\_\_\_\_

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

The Disclosing Party understands and agrees that:

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

B. The City's Governmental Ethics and Campaign Financing Ordinances, Chapters 2-156 and 2-164 of the Municipal Code, impose certain duties and obligations on persons or entities seeking City contracts, work, business, or transactions. The full text of these ordinances and a training program is available online at [www.cityofchicago.org/Ethics](http://www.cityofchicago.org/Ethics), and may also be obtained from the City's Board of Ethics, 740 N.

Sedgwick St., Suite 500, Chicago, IL 60610, (312) 744-9660. The Disclosing Party must comply fully with the applicable ordinances.

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

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

E. The information provided in this EDS must be kept current. In the event of changes, the Disclosing Party must supplement this EDS up to the time the City takes action on the Matter. If the Matter is a contract being handled by the City's Department of Procurement Services, the Disclosing Party must update this EDS as the contract requires. **NOTE:** With respect to Matters subject to Article I of Chapter 1-23 of the Municipal Code (imposing **PERMANENT INELIGIBILITY** for certain specified offenses), the information provided herein regarding eligibility must be kept current for a longer period, as required by Chapter 1-23 and Section 2-154-020 of the Municipal Code.

The Disclosing Party represents and warrants that:



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

F.2 If the Disclosing Party is the Applicant, the Disclosing Party and its Affiliated Entities will not use, nor permit their subcontractors to use, any facility listed by the U.S. E.P.A. on the federal Excluded Parties List System ("EPLS") maintained by the U. S. General Services Administration.

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

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

#### CERTIFICATION

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

McGuireWoods LLP

(Print or type name of Disclosing Party)

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

(Sign here)

Alan C. Cason

(Print or type name of person signing)

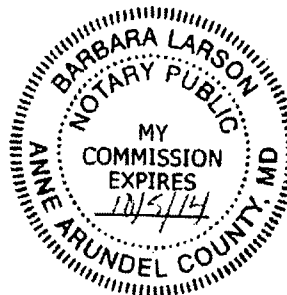
Partner

(Print or type title of person signing)

Signed and sworn to before me on (date) November 11, 2013,  
at Anne Arundel County, Maryland (state).

Barbara Larson Notary Public.

Commission expires: 10/5/2014.



**CITY OF CHICAGO  
ECONOMIC DISCLOSURE STATEMENT AND AFFIDAVIT  
APPENDIX A**

**FAMILIAL RELATIONSHIPS WITH ELECTED CITY OFFICIALS AND DEPARTMENT HEADS**

**This Appendix is to be completed only by (a) the Applicant, and (b) any legal entity which has a direct ownership interest in the Applicant exceeding 7.5 percent. It is not to be completed by any legal entity which has only an indirect ownership interest in the Applicant.**

Under Municipal Code Section 2-154-015, the Disclosing Party must disclose whether such Disclosing Party or any "Applicable Party" or any Spouse or Domestic Partner thereof currently has a "familial relationship" with any elected city official or department head. A "familial relationship" exists if, as of the date this EDS is signed, the Disclosing Party or any "Applicable Party" or any Spouse or Domestic Partner thereof is related to the mayor, any alderman, the city clerk, the city treasurer or any city department head as spouse or domestic partner or as any of the following, whether by blood or adoption: parent, child, brother or sister, aunt or uncle, niece or nephew, grandparent, grandchild, father-in-law, mother-in-law, son-in-law, daughter-in-law, stepfather or stepmother, stepson or stepdaughter, stepbrother or stepsister or half-brother or half-sister.

"Applicable Party" means (1) all executive officers of the Disclosing Party listed in Section II.B.1.a., if the Disclosing Party is a corporation; all partners of the Disclosing Party, if the Disclosing Party is a general partnership; all general partners and limited partners of the Disclosing Party, if the Disclosing Party is a limited partnership; all managers, managing members and members of the Disclosing Party, if the Disclosing Party is a limited liability company; (2) all principal officers of the Disclosing Party; and (3) any person having more than a 7.5 percent ownership interest in the Disclosing Party. "Principal officers" means the president, chief operating officer, executive director, chief financial officer, treasurer or secretary of a legal entity or any person exercising similar authority.

Does the Disclosing Party or any "Applicable Party" or any Spouse or Domestic Partner thereof currently have a "familial relationship" with an elected city official or department head?

☐ Yes

☒ No

If yes, please identify below (1) the name and title of such person, (2) the name of the legal entity to which such person is connected; (3) the name and title of the elected city official or department head to whom such person has a familial relationship, and (4) the precise nature of such familial relationship.

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**CITY OF CHICAGO  
ECONOMIC DISCLOSURE STATEMENT  
AND AFFIDAVIT**

**SECTION I – GENERAL INFORMATION**

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

Eduardo M. Cotillas dba Cotillas and Associates

**Check ONE of the following three boxes:**

Indicate whether the Disclosing Party submitting this EDS is:

1. ☒ the Applicant  
OR

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

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

B. Business address of the Disclosing Party: 20 N. Clark St. #1150  
Chicago, IL 60602

C. Telephone: 312-217-1593 Fax: 312-849-9001 Email: ecotillas@cotillaslaw.com

D. Name of contact person: Eduardo M. Cotillas

E. Federal Employer Identification No. (if you have one): 26-3814947

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

Retrofit One Chicago Infrastructure Trust

G. Which City agency or department is requesting this EDS? Department of Finance

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

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

## SECTION II -- DISCLOSURE OF OWNERSHIP INTERESTS

### A. NATURE OF THE DISCLOSING PARTY

1. Indicate the nature of the Disclosing Party:

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

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

N/A

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

☐ Yes ☐ No ☒ N/A

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

1. List below the full names and titles of all executive officers and all directors of the entity.

**NOTE:** For not-for-profit corporations, also list below all members, if any, which are legal entities. If there are no such members, write "no members." For trusts, estates or other similar entities, list below the legal titleholder(s).

If the entity is a general partnership, limited partnership, limited liability company, limited liability partnership or joint venture, list below the name and title of each general partner, managing member, manager or any other person or entity that controls the day-to-day management of the Disclosing Party.

**NOTE:** Each legal entity listed below must submit an EDS on its own behalf.

Name	Title
Eduardo M. Cotillas	Owner

2. Please provide the following information concerning each person or entity having a direct or indirect beneficial interest (including ownership) in excess of 7.5% of the Disclosing Party. Examples of such an interest include shares in a corporation, partnership interest in a partnership or joint venture,

interest of a member or manager in a limited liability company, or interest of a beneficiary of a trust, estate or other similar entity. If none, state "None." NOTE: Pursuant to Section 2-154-030 of the Municipal Code of Chicago ("Municipal Code"), the City may require any such additional information from any applicant which is reasonably intended to achieve full disclosure.

Name	Business Address	Percentage Interest in the Disclosing Party
Eduardo M. Cotillas	20 N. Clark St, #1150 Chicago, IL 60602	100%

### SECTION III – BUSINESS RELATIONSHIPS WITH CITY ELECTED OFFICIALS

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

☐ Yes

☒ No

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

### SECTION IV – DISCLOSURE OF SUBCONTRACTORS AND OTHER RETAINED PARTIES

The Disclosing Party must disclose the name and business address of each subcontractor, attorney, lobbyist, accountant, consultant and any other person or entity whom the Disclosing Party has retained or expects to retain in connection with the Matter, as well as the nature of the relationship, and the total amount of the fees paid or estimated to be paid. The Disclosing Party is not required to disclose employees who are paid solely through the Disclosing Party's regular payroll.

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

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

Name (indicate whether retained or anticipated to be retained)	Business Address	Relationship to Disclosing Party (subcontractor, attorney, lobbyist, etc.)	Fees (indicate whether paid or estimated.) NOTE: "hourly rate" or "t.b.d." is not an acceptable response.

(Add sheets if necessary)

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

## SECTION V -- CERTIFICATIONS

### A. COURT-ORDERED CHILD SUPPORT COMPLIANCE

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

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

☐ Yes      ☒ No      ☐ No person directly or indirectly owns 10% or more of the Disclosing Party.

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

☐ Yes      ☐ No

### B. FURTHER CERTIFICATIONS

1. Pursuant to Municipal Code Chapter 1-23, Article I ("Article I")(which the Applicant should consult for defined terms (e.g., "doing business") and legal requirements), if the Disclosing Party submitting this EDS is the Applicant and is doing business with the City, then the Disclosing Party certifies as follows: (i) neither the Applicant nor any controlling person is currently indicted or charged with, or has admitted guilt of, or has ever been convicted of, or placed under supervision for, any criminal offense involving actual, attempted, or conspiracy to commit bribery, theft, fraud, forgery, perjury, dishonesty or deceit against an officer or employee of the City or any sister agency; and (ii) the Applicant understands and acknowledges that compliance with Article I is a continuing requirement for doing business with the City. NOTE: If Article I applies to the Applicant, the permanent compliance timeframe in Article I supersedes some five-year compliance timeframes in certifications 2 and 3 below.

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

- a. are not presently debarred, suspended, proposed for debarment, declared ineligible or voluntarily excluded from any transactions by any federal, state or local unit of government;
- b. have not, within a five-year period preceding the date of this EDS, been convicted of a criminal offense, adjudged guilty, or had a civil judgment rendered against them in connection with: obtaining, attempting to obtain, or performing a public (federal, state or local) transaction or contract under a public transaction; a violation of federal or state antitrust statutes; fraud; embezzlement; theft; forgery; bribery; falsification or destruction of records; making false statements; or receiving stolen property;
- c. are not presently indicted for, or criminally or civilly charged by, a governmental entity (federal, state or local) with committing any of the offenses set forth in clause B.2.b. of this Section V;
- d. have not, within a five-year period preceding the date of this EDS, had one or more public transactions (federal, state or local) terminated for cause or default; and
- e. have not, within a five-year period preceding the date of this EDS, been convicted, adjudged guilty, or found liable in a civil proceeding, or in any criminal or civil action, including actions concerning environmental violations, instituted by the City or by the federal government, any state, or any other unit of local government.

3. The certifications in subparts 3, 4 and 5 concern:

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

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

- a. bribed or attempted to bribe, or been convicted or adjudged guilty of bribery or attempting to bribe, a public officer or employee of the City, the State of Illinois, or any agency of the federal government or of any state or local government in the United States of America, in that officer's or employee's official capacity;
- b. agreed or colluded with other bidders or prospective bidders, or been a party to any such agreement, or been convicted or adjudged guilty of agreement or collusion among bidders or prospective bidders, in restraint of freedom of competition by agreement to bid a fixed price or otherwise; or
- c. made an admission of such conduct described in a. or b. above that is a matter of record, but have not been prosecuted for such conduct; or
- d. violated the provisions of Municipal Code Section 2-92-610 (Living Wage Ordinance).

4. Neither the Disclosing Party, Affiliated Entity or Contractor, or any of their employees, officials, agents or partners, is barred from contracting with any unit of state or local government as a result of engaging in or being convicted of (1) bid-rigging in violation of 720 ILCS 5/33E-3; (2) bid-rotating in violation of 720 ILCS 5/33E-4; or (3) any similar offense of any state or of the United States of America that contains the same elements as the offense of bid-rigging or bid-rotating.

5. Neither the Disclosing Party nor any Affiliated Entity is listed on any of the following lists maintained by the Office of Foreign Assets Control of the U.S. Department of the Treasury or the Bureau of Industry and Security of the U.S. Department of Commerce or their successors: the Specially Designated Nationals List, the Denied Persons List, the Unverified List, the Entity List and the Debarred List.

6. The Disclosing Party understands and shall comply with the applicable requirements of Chapters 2-55 (Legislative Inspector General), 2-56 (Inspector General) and 2-156 (Governmental Ethics) of the Municipal Code.

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

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

8. To the best of the Disclosing Party's knowledge after reasonable inquiry, the following is a complete list of all current employees of the Disclosing Party who were, at any time during the 12-month period preceding the execution date of this EDS, an employee, or elected or appointed official, of the City of Chicago (if none, indicate with "N/A" or "none").

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None

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9. To the best of the Disclosing Party's knowledge after reasonable inquiry, the following is a complete list of all gifts that the Disclosing Party has given or caused to be given, at any time during the 12-month period preceding the execution date of this EDS, to an employee, or elected or appointed official, of the City of Chicago. For purposes of this statement, a "gift" does not include: (i) anything made generally available to City employees or to the general public, or (ii) food or drink provided in the course of official City business and having a retail value of less than \$20 per recipient (if none, indicate with "N/A" or "none"). As to any gift listed below, please also list the name of the City recipient.

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Purse; Orchestra Hall Tickets

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Mary Susan Lopez

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### C. CERTIFICATION OF STATUS AS FINANCIAL INSTITUTION

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

☐ is ☒ is not

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

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

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

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

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

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

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

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

☐ Yes

☒ No

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

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

Does the Matter involve a City Property Sale?

☐ Yes

☒ No

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

Name

Business Address

Nature of Interest

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

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**E. CERTIFICATION REGARDING SLAVERY ERA BUSINESS**

Please check either 1. or 2. below. If the Disclosing Party checks 2., the Disclosing Party must disclose below or in an attachment to this EDS all information required by paragraph 2. Failure to

comply with these disclosure requirements may make any contract entered into with the City in connection with the Matter voidable by the City.

X 1. The Disclosing Party verifies that the Disclosing Party has searched any and all records of the Disclosing Party and any and all predecessor entities regarding records of investments or profits from slavery or slaveholder insurance policies during the slavery era (including insurance policies issued to slaveholders that provided coverage for damage to or injury or death of their slaves), and the Disclosing Party has found no such records.

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

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## SECTION VI -- CERTIFICATIONS FOR FEDERALLY FUNDED MATTERS

**NOTE: If the Matter is federally funded, complete this Section VI. If the Matter is not federally funded, proceed to Section VII. For purposes of this Section VI, tax credits allocated by the City and proceeds of debt obligations of the City are not federal funding.**

### A. CERTIFICATION REGARDING LOBBYING

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

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

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

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

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

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

#### B. CERTIFICATION REGARDING EQUAL EMPLOYMENT OPPORTUNITY

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

Is the Disclosing Party the Applicant?

☐ Yes

☐ No

If "Yes," answer the three questions below:

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

☐ Yes

☐ No

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

☐ Yes

☐ No

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

☐ Yes

☐ No

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

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

The Disclosing Party understands and agrees that:

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

B. The City's Governmental Ethics and Campaign Financing Ordinances, Chapters 2-156 and 2-164 of the Municipal Code, impose certain duties and obligations on persons or entities seeking City contracts, work, business, or transactions. The full text of these ordinances and a training program is available on line at [www.cityofchicago.org/Ethics](http://www.cityofchicago.org/Ethics), and may also be obtained from the City's Board of Ethics, 740 N.

Sedgwick St., Suite 500, Chicago, IL 60610, (312) 744-9660. The Disclosing Party must comply fully with the applicable ordinances.

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

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

E. The information provided in this EDS must be kept current. In the event of changes, the Disclosing Party must supplement this EDS up to the time the City takes action on the Matter. If the Matter is a contract being handled by the City's Department of Procurement Services, the Disclosing Party must update this EDS as the contract requires. **NOTE:** With respect to Matters subject to Article I of ~~Chapter 1-23 of the Municipal Code (imposing PERMANENT INELIGIBILITY for certain specified offenses)~~, the information provided herein regarding eligibility must be kept current for a longer period, as required by Chapter 1-23 and Section 2-154-020 of the Municipal Code.

The Disclosing Party represents and warrants that:

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

F.2 If the Disclosing Party is the Applicant, the Disclosing Party and its Affiliated Entities will not use, nor permit their subcontractors to use, any facility listed by the U.S. E.P.A. on the federal Excluded Parties List System ("EPLS") maintained by the U. S. General Services Administration.

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

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

#### CERTIFICATION

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

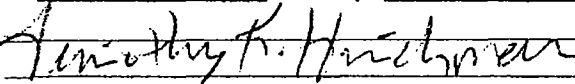
Eduardo M. Cotillas dba Cotillas and Associates  
(Print or type name of Disclosing Party)

By:   
(Sign here)

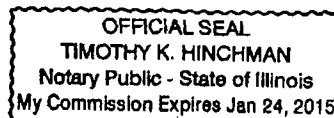
Eduardo M. Cotillas  
(Print or type name of person signing)

Owner  
(Print or type title of person signing)

Signed and sworn to before me on (date) November 12, 2013  
at Cook County, Illinois (state).

 Notary Public.

Commission expires: 01/24/2015



**CITY OF CHICAGO  
ECONOMIC DISCLOSURE STATEMENT AND AFFIDAVIT  
APPENDIX A**

**FAMILIAL RELATIONSHIPS WITH ELECTED CITY OFFICIALS AND DEPARTMENT HEADS**

**This Appendix is to be completed only by (a) the Applicant, and (b) any legal entity which has a direct ownership interest in the Applicant exceeding 7.5 percent. It is not to be completed by any legal entity which has only an indirect ownership interest in the Applicant.**

Under Municipal Code Section 2-154-015, the Disclosing Party must disclose whether such Disclosing Party or any "Applicable Party" or any Spouse or Domestic Partner thereof currently has a "familial relationship" with any elected city official or department head. A "familial relationship" exists if, as of the date this EDS is signed, the Disclosing Party or any "Applicable Party" or any Spouse or Domestic Partner thereof is related to the mayor, any alderman, the city clerk, the city treasurer or any city department head as spouse or domestic partner or as any of the following, whether by blood or adoption: parent, child, brother or sister, aunt or uncle, niece or nephew, grandparent, grandchild, father-in-law, mother-in-law, son-in-law, daughter-in-law, stepfather or stepmother, stepson or stepdaughter, stepbrother or stepsister or half-brother or half-sister.

"Applicable Party" means (1) all executive officers of the Disclosing Party listed in Section II.B.1.a., if the Disclosing Party is a corporation; all partners of the Disclosing Party, if the Disclosing Party is a general partnership; all general partners and limited partners of the Disclosing Party, if the Disclosing Party is a limited partnership; all managers, managing members and members of the Disclosing Party, if the Disclosing Party is a limited liability company; (2) all principal officers of the Disclosing Party; and (3) any person having more than a 7.5 percent ownership interest in the Disclosing Party. "Principal officers" means the president, chief operating officer, executive director, chief financial officer, treasurer or secretary of a legal entity or any person exercising similar authority.

Does the Disclosing Party or any "Applicable Party" or any Spouse or Domestic Partner thereof currently have a "familial relationship" with an elected city official or department head?

☐ Yes

☒ No

If yes, please identify below (1) the name and title of such person, (2) the name of the legal entity to which such person is connected; (3) the name and title of the elected city official or department head to whom such person has a familial relationship, and (4) the precise nature of such familial relationship.

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