City of Chicago

O2019-3426

Office of the City Clerk

Document Tracking Sheet

Meeting Date:	4/10/2019
Sponsor(s):	Emanuel (Mayor)
Type:	Ordinance
Title:	Authorization to execute lease and right-of-entry agreements for ground-mounted solar photovoltaic electric generation systems project on City-owned vacant property
Committee(s) Assignment:	Committee on Housing and Real Estate

HSG

OFFICE OF THE MAYOR

CITY OF CHICAGO

RAHM EMANUEL
MAYOR

April 10, 2019

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

Ladies and Gentlemen:

At the request of the Commissioner of Fleet and Facility Management, I transmit herewith ordinances authorizing the execution of right-of-entry agreements.

Your favorable consideration of these ordinances will be appreciated.

Very truly yours,

Rahm Emanuel

Mayor

ORDINANCE

WHEREAS, the City of Chicago is an Illinois municipal corporation and home rule unit of government ("City"); and

WHEREAS, the City owns vacant parcels of real property located at 1833 North Latrobe Avenue, 611 West 57th Street, 915 West 120th Street, 850 West 122nd Street, 12301 South Martin Luther King, Jr. Drive, 1107 East 133rd Street and 10601 South Torrence Avenue, all in Chicago, Illinois (each a "Site" and together the "Sites"); and

WHEREAS, on October 1, 2018 the Chicago Infrastructure Trust, an Illinois not-for-profit corporation ("CIT"), in coordination with the City, acting through its Department of Fleet and Facility Management ("2FM"), issued a Request for Proposals to Design, Build, Finance, Own, Operate, and Maintain Ground-Mounted Solar Photovoltaic Electric Generation Systems on City of Chicago Owned Vacant Land (the "RFP," a copy of which is attached to this ordinance as an exhibit); and

WHEREAS, 2FM has entered into or intends to enter into negotiations with one or more of the respondents to the RFP (each a "Respondent" and together the "Respondents") for ground leases for the Sites (each a "Lease," a sample of which was attached to the RFP as Exhibit C); and

WHEREAS, the term of each Lease shall not exceed 25 years and the annual rent charged thereunder shall not exceed $1; and

WHEREAS, pursuant to the Leases the Respondents shall be authorized and required to design, build, finance, own, operate, and maintain ground-mounted solar photovoltaic electric generation systems on the Sites; and

WHEREAS, it is anticipated that the Respondents will require access to the Sites for purposes of due diligence prior to executing the Leases; and

WHEREAS, pursuant to Section 2-51-050(l) of the Municipal Code of Chicago (the "Municipal Code"), the Commissioner of 2FM (the "Commissioner") has therefore entered into and may enter into right-of-entry agreements (or other similar documents) (the "Right-of-Entry Agreements") for the temporary and limited use and occupancy of the Sites by the Respondents for due diligence purposes prior to the execution of the Leases; and

WHEREAS, it is anticipated that the City may purchase electricity generated at the Sites from one or more of the Respondents pursuant to Section 2-51-050(q) of the Municipal Code of Chicago (the "Municipal Code"); 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 Commissioner or a designee thereof is hereby authorized, with the approval of the City's Corporation Counsel as to form and legality, to execute and deliver one or more Leases for one or more of the Sites with one or more of the Respondents, and such other supporting documents as may be necessary or appropriate to carry out and comply with the provisions of the Leases, with such terms and conditions as shall be approved by the persons

executing the Leases and such other supporting documents. The Commissioner is also hereby authorized to: (1) extend the terms of the Right-of-Entry Agreements beyond the maximum 180 days permitted by Section 2-51-050(l) of the Municipal Code; and (2) indemnify the Respondents under the Right-of-Entry Agreements and/or the Leases regarding the pre-existing environmental conditions of the Sites. The Commissioner shall provide copies of the Right-of-Entry Agreements and the Leases to the City Council by means of filing with the City Clerk.

SECTION 3. If any provision of this Ordinance shall be held to be invalid or unenforceable for any reason, the invalidity or unenforceability of such provision shall not affect any of the other provisions of this Ordinance.

SECTION 4. All ordinances, resolutions, motions or orders in conflict with this Ordinance (including but not limited to Section 2-51-050(l) of the Municipal Code) are hereby repealed to the extent of such conflict. No provision of the Municipal Code or violation of any provision of the Municipal Code shall be deemed to impair the validity of this ordinance or the instruments authorized by this ordinance or to impair the security for or payment of the instruments authorized by this ordinance; provided further, however, that the foregoing shall not be deemed to affect the availability of any other remedy or penalty for violation of any provision of the Municipal Code.

SECTION 5. This Ordinance shall be in full force and effect immediately upon its passage.

Ordinance Exhibit, RFP
(see attached)

Request for Proposals (RFP) to Design, Build, Finance, Own, Operate, and Maintain Ground-Mounted Solar Photovoltaic Electric Generation Systems on City of Chicago Owned Vacant Land

CHICAGO INFRASTRUCTURE TRUST

In coordination with the **City of Chicago** and the **Department of Fleet and Facility Management (2FM)**

FLEET & FACILITY MANAGEMENT

Issued by:
The Chicago Infrastructure Trust
Issued on:
October 1, 2018

RFP Responses Due:
No Later Than 1:00 p.m. CT on Friday, November 30, 2018

All responses must be addressed and delivered to:
Chicago Infrastructure Trust
35 E. Wacker Drive, Suite 1450
Chicago, Illinois 60601

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FORM 3	RFP RESPONDENT TEAM INFORMATION
FORM 4	PROJECT EXPERIENCE AND REFERENCES CONTACT INFORMATION
FORM 5	PRICING
FORM 6	ECONOMIC DISCLOSURE STATEMENT
FORM 7	SITE WAIVER

1 Project Description

Certain capitalized terms used herein shall have the meanings set forth in Section 7 – Definitions.

1.1 Introduction

On behalf of the City of Chicago ("City") and in close coordination with the Chicago Department of Fleet and Facility Management ("2FM"), the Chicago Infrastructure Trust ("CIT") is seeking a developer to design, build, finance, own, operate, and maintain ("DBFOM"), new ground-mounted solar photovoltaic (PV) electricity generation systems on City owned vacant land for the Chicago Solar-Ground Mount initiative ("CS-GM" or "Project").

The submissions ("Proposals") received in response to this Request for Proposals ("RFP") will be evaluated and ranked based on the criteria and process outlined herein. The top-ranked respondent(s) ("Selected Respondent(s)") will negotiate, and ultimately execute, a Project agreement ("PA" or "Contract") with the City and become the CS-GM developer ("Developer"), as described in this RFP.

1.2 Overview of Opportunity

The City of Chicago is invested in furthering the renewable energy economy in Illinois and ensuring that the expansion of the renewable energy economy benefits Chicagoans of all backgrounds. It has committed to using 100% clean and renewable energy in its public buildings by 2025. Now, in response to the incentives available through the State of Illinois Future Energy Jobs Act ("FEJA"), the City, through the Chicago Solar initiative, intends to promote and encourage clean renewable energy generation, within the City limits.

The Chicago Solar-Ground Mount Project incentivizes and catalyzes a local clean energy economy by offering below market rate long-term leases on select parcels of vacant City land when used for the generation of solar PV electricity. The City is offering the selected Developer a 25-year ground lease, with a rent of $1 USD per year, for each of the identified sites. The City is also offering to purchase a portion of the power generated by the resulting solar PV systems (up to the maximum allowed by FEJA incentive programs for anchor tenants, where applicable).

The City has identified seven (7) City-owned sites, totaling approximately 30-acres, with potential for solar PV systems to be directly interconnected with the Commonwealth Edison (ComEd) electric grid. Detailed site information can be found in Exhibit B. This RFP solicitation is seeking Proposals for solar PV systems on one, several, or all of the potential sites.

A sample Subscriber Lease Agreement is provided in Exhibit C of this RFP. It is anticipated that the developer will retain ownership of all SRECs produced.

The Chicago City Council must approve and authorize any lease or other project agreement prior to execution.

1.3 Project Goals and Objectives

The CS-GM project is intended to highlight the City of Chicago's commitment to renewable energy sources while demonstrating the viability of solar PV projects and programs within Chicago. The City is hopeful the CS-GM Project will catalyze and promote the solar energy economy within the City and is interested in all proposals that maximize benefits to the community.

The City anticipates the CS-GM Project will:

- Catalyze further solar development projects within the City;
- Incentivize *Illinois Solar for All* projects that provide low-income Chicago residents who live in Environmental Justice communities with opportunities to meaningfully participate in the solar economy;
- Provide opportunities for Chicago residents to purchase energy from renewable sources;
- Bring greater awareness to the general public about renewable energy production and avoided greenhouse gas emissions.

1.4 Procurement Timeline

The CIT anticipates, but is not bound to, conducting the procurement and implementing the Project on the following schedule:

RFP Schedule Description	Date
RFP Issued	October 1, 2018
Pre-Bid / Networking Conference	October 18, 2018
Project Site Visits	October 24 &25, 2018
Request for Clarification Deadline	October 29, 2018
Proposal Due Date	November 30, 2018
Respondent Interviews (if held)	December 10 – 20, 2018
Selection of Selected Respondent	December 31, 2018
Project agreement finalized	January 31, 2019
All RFP schedule descriptions and dates are tentative and subject to change.	

1.5 Chicago Infrastructure Trust Background Information

The CIT is a registered non-profit corporation organized and existing under the laws of the state of Illinois. The CIT is authorized, and governed pursuant to the provisions of Ordinance No. 02012-1366, adopted by the City Council of the City of Chicago, Illinois on April 24, 2012. The CIT's mission is to assist the City of Chicago, its sister agencies, and private industry in expanding their collective capacity to deliver transformative public infrastructure projects

2 RFP Response - Proposal Submittal Process

2.1 Pre-Submission Conference

A pre-submission conference and networking opportunity will be held on:

October 18, 2018 at 10:00 AM CT at
Chicago Cultural Center
Claudia Cassidy Theater
77 E Randolph St.
Chicago, IL 60601

The CIT invites all interested parties to attend. The purpose of the conference is to answer questions, clarify procurement provisions, and provide a forum for various firms of different sizes and specialties to meet and network.

2.2 Project Site Visits

All Respondents are welcome to inspect the proposed Project sites located at:

Site #	Address
1	1833 N Latrobe Ave
2	611 W. 57th Street
3	915 W. 120th Street
4	850 W. 122nd Street
5	12301 S. King Drive
6	1107 E. 133rd Street
7	10601 S. Torrence Avenue

Site inspections will be limited to the following dates:

- October 24, 2018
- October 25, 2018

Further information about site visits will be posted on the CIT website at chicagoinfrastructure.org/initiatives/csgm.

In order to participate all attendees will be required to bring a signed waiver which can be found in RFP Form 7.

No allowance will be made for any difficulties that may be encountered in executing the work due to a failure of the Respondent to inspect the sites. Further information about the sites can be found in RFP Exhibit B.

If additional access to one or more of the sites is needed, the Respondent must first obtain a Right of Entry (ROE) from 2FM. Applications should be emailed to 2FMRealEstate@cityofchicago.org.

An Example ROE can be found in RFP Exhibit G. Requirements for the ROE application can be found online at: https://www.cityofchicago.org/city/en/depts/dgs/provdrs/asset_management/svcs/right_of_entry.html.

2.3 Proposal Submission Instructions

2.3.1 Number of Copies

Submit one (1) original printed Proposal, (in the format described below in Section 3.1), along with one (1) unbound printed copy, two (2) electronic copies, and one (1) redacted electronic copy on separate USB memory sticks.

The original Proposal must be clearly marked as "ORIGINAL", and all documents requiring a signature, must bear the Authorized Respondent's original signature. Printed RFP Proposal submissions should be identical to electronic copies.

2.3.2 Submission Address

Proposals must be delivered to the following address:

The Chicago Infrastructure Trust
35 E. Wacker Drive, Suite 1450
Chicago, Illinois 60601

2.3.3 Submission Labeling

All Proposal documents must be enclosed in sealed envelopes or packages, the outside of each must be labeled as follows:

Proposal Enclosed
Chicago Solar-Ground Mount Project
Request for Proposals
Due 1:00 PM CT, Friday, November 30, 2018
Submitted by: _____
(Name of Respondent)
Package _____ of _____

2.3.4 Submission Deadline Rules

- Proposals must be received by the CIT no later than 1:00 PM CT on the Proposal Due Date.
- Respondents must deliver their Proposals by hand or courier or U.S. Mail to the address set out in Section 2.3.2. The CIT will not accept Proposals sent by facsimile, electronic mail, telex, or other telegraphic means.
- The determination of whether Proposals were received on time shall be based on the CIT's official time and date stamped on the receipt confirmation. The Respondent is solely responsible for ensuring it receives this stamped receipt confirmation.

- All Proposals received after the Proposal Due Date and time will be rejected and will not be eligible for evaluation.
- The CIT's opening of Respondents' sealed envelope(s) or package(s) containing a Proposal shall not constitute acceptance by the CIT of Respondent's Proposal. The CIT reserves the right to open and inspect all such sealed envelope(s) or package(s) for any purpose, regardless if they were submitted by the due date and time specified herein.

3 Proposal Requirements

Proposals submitted in response to this RFP must provide enough information to evaluate and competitively rank the Respondents based on the RFP evaluation criteria described in Section 4. The various types of information to be submitted along with the format and organization are summarized in this Section 3 and further described in RFP Exhibit A.

3.1 Proposal Format Requirements

Proposals must conform to the following requirements to be considered a compliant submission:

- Proposals should be prepared using a font no smaller than 11-point, on 8 ½" X 11" letter size paper, printed double-sided, and bound on the long side.
- The Respondent is to limit each subsection of their Proposal to the maximum number of pages indicated below in Section 3.2.2, where applicable. Page limitations mean a single-sided page. CIT will disregard pages that exceed stated page limitations. Blank pages for spacers or separators, provided they are marked "this page intentionally blank", will not count toward the page limit.
- Electronic copies of the Proposal should be provided on clearly marked USB format memory sticks. The Project name, the Respondent name, and memory stick numbering should appear on each USB format memory stick.
- Electronic copies should be provided in a searchable, text recognized PDF format that is created from software. Scanned images are not acceptable.
- In the event of any conflict or inconsistency between the Proposal marked "Original" and any copy, the "Original" Proposal shall take precedence.

3.2 Proposal Content & Organization

Proposals must contain all the information described in this Section. All forms must be completed in full.

3.2.1 Proposal Organization

Proposals must be clearly subdivided into the sections listed below. The subject matter content of each Proposal section is itemized below in Section 3.2.2 and detailed in Exhibit A. Each separate section and individual subsection should be clearly identified and/or separated by labeled tabs.

- Section 1: General Information

- Section 2: Qualifications and Experience
- Section 3: Project Approach
- Section 4: Administrative Submittals

3.2.2 Required Content

Each Proposal must include all the submittals outlined in the table below. Further information on each submittal requirement is provided in Exhibit A. Maximum page limits refer to a single-sided page.

Section 1 – General Information			
Subsection	*Submittal*	*Page Limit*	*Cross-Reference*
Part A	Proposal Cover Letter (Form 2)	1 page	Exhibit A– Section 1.1
Part B	Executive Summary	2 pages	Exhibit A– Section 1.2
Part C	Respondent Team Information (Form 3)	N/A	Exhibit A– Section 1.3
Part D	Management Structure	3 pages	Exhibit A– Section 1.4
Part E	MBE/WBE Participation Plans	2 pages	Exhibit A– Section 1.5
Part F	Workforce Development Plan	2 pages	Exhibit A– Section 1.6
Part G	Local Manufacturing and Materials Purchase Plan	2 pages	Exhibit A– Section 1.7
Section 2 – Qualifications and Experience			
Subsection	*Submittal*	*Limit*	*Cross- Reference*
Part A	Project Experience (Form 4)	5 project max.	Exhibit A– Section 2.1.1
	Reference Summary (Form 4)	5 project max.	Exhibit A– Section 2.1.2
Part B	Key Personnel Resumes	1 page per	Exhibit A– Section 2.2.1
Part C	Financial Capability	N/A	Exhibit A– Section 2.3
Section 3 – Project Approach			
Subsection	*Submittal*	*Page Limit*	*Cross- Reference*
Part A	Overall Project Delivery Approach	3 pages	Exhibit A – Section 3.1
Part B	Technical Approach	5 pages	Exhibit A – Section 3.2
Part C	Community Approach	6 pages	Exhibit A – Section 3.3
Part D	Financial Approach (including Form 5)	5 pages	Exhibit A – Section 3.4
Part E	Operations and Maintenance Plan	3 pages	Exhibit A – Section 3.5
Section 4 – Administrative Submittals			
Subsection	*Submittal*	*Page Limit*	*Cross- Reference*
Part A	Proposal Check List (Form 1)	N/A	Exhibit A – Section 4.1
Part B	Confidential Contents Index	1 page	Exhibit A – Section 4.2
Part C	Legal Stipulations	N/A	Exhibit A – Section 4.3
Part D	Conflicts of Interest	N/A	Exhibit A – Section 4.4
Part E	Insurance	N/A	Exhibit A – Section 4.5
Part F	Exceptions	N/A	Exhibit A – Section 4.6
Part G	EDS - Economic Disclosure Form(s) (Form 7)	N/A	Exhibit A – Section 4.7

4 Proposal Evaluation and Post-Selection Process

4.1 Responsiveness Evaluation

Upon receipt, each Proposal will be reviewed for conformance to the RFP instructions regarding organization, format, and required content. Proposals that are missing substantial information, to the extent where a full evaluation could not occur, will be deemed unresponsive and will not be eligible for further evaluation and eliminated from consideration.

4.1.1 Right to Exclude Proposals from Consideration or to Waive Mistakes

Those Proposals not responsive to the RFP may be excluded from further consideration. The CIT and the City may also exclude from consideration any Respondent whose Proposal contains any material misrepresentations.

Additionally, any one or more of the following causes may be considered sufficient for the rejection of a Respondent's Proposal regardless of Respondent's qualifications with respect to the other evaluation criteria set forth in Section 4.3; this list of causes is not exhaustive, and the CIT and the City reserve the right to reject any Proposal in its sole and absolute discretion:

- Evidence of collusion among Respondents
- Non-responsibility, as determined by the City in its sole judgment and discretion
- Default or arrearage on any contract or obligation with the City or other government entity, including debt contract, as surety or otherwise
- Submission of a Proposal that is incomplete, conditional, ambiguous, obscure or containing alterations or irregularities of any kind
- Evidence of improper lobbying efforts toward members of City Council and/or officers or employees of the City
- Failure to comply with the terms and conditions of this RFP

The CIT and the City reserve the right to waive minor informalities, irregularities, and apparent clerical mistakes that are unrelated to the substantive content of the Proposals.

4.2 Scored Evaluation

Such Proposals that have been deemed responsive will be evaluated and scored according to each of the evaluation criteria described in this Section 4.2. The following table provides a summary of the scored evaluation criteria categories and the relative weighting applied to the scoring of each:

Evaluation Criteria Categories	Percent Weighting
1. Qualifications and Experience	40%
2. Project Approach	35%
3. Workforce Utilization	25%

4.2.1 Qualifications and Experience

CIT will evaluate the Respondent's experience in successfully managing, designing, constructing and operating projects of similar scope and complexity, based on experience with the following:

- The extent and depth of the Respondent's experience with comparable projects;
- The extent and depth of experience of the Respondent's project management team and Key Personnel with comparable projects, project delivery methods, and roles;
- The demonstrated capability and experience identified in the Respondent's management structure and Key Personnel regarding design, construction, utility coordination, environmental mitigation, operations and maintenance;
- Designing and constructing within the City of Chicago, including interfacing with other contractors/projects in the local and immediate vicinity of the referenced Project;
- Preparing ready to issue construction documents in the City of Chicago, including experience with City of Chicago permitting and approval processes;
- Coordinating with utilities and public-sector agencies impacted by the construction activity;
- Delivering quality projects on time and within the original budget;
- Safety record on the past projects;
- Operations and maintenance record with demonstrated consistent service provision without undue interruption;
- Demonstrated financial capability of Respondent to deliver Project.

4.2.2 Project Approach

i) Technical Approach

Proposals will also be evaluated based on the Respondent's proposed technical approach for delivering the Chicago Solar-Ground Mount Project, based on the following:

- The extent to which Respondent's approach demonstrates a full and thoughtful understanding of the Project goals and objectives outlined in Section 1.3;
- The extent to which the Respondent's approach demonstrates an understanding of inherent challenges and Project risks that may arise during all Project phases, and potential solutions, innovations, and value engineering that could be implemented to minimize these challenges and risks;
- The extent to which the Respondent's conceptual design submittals utilize the Project sites to maximize generation capacity;
- The extent to which the conceptual site plan submission evidences a thoughtful process that addresses existing site condition constraints, and how Project design interfaces with, and responds to, the surrounding area;
- The reasoning behind why Respondents have selected proposed sites for PV system installation from the suggested site list provided by 2FM.

ii) Community Approach

Projects that provide opportunities for Chicago residents of all backgrounds to meaningfully participate in the solar economy will be favorably considered.

The City is interested in all proposals that maximize benefits to the community, particularly low-income and environmental justice participants. While community solar through the Illinois Solar for All program is the most obvious vehicle for providing these benefits, we will consider the community benefits brought through any proposal, regardless of whether that project is community solar, participates in Illinois Solar for All, or would utilize the City as an anchor subscriber.

Respondent's planned approach will be evaluated based on the following criteria:

- The extent to which the Respondent's proposal demonstrates a relevant and thoughtful approach to community outreach and participation that takes into account the racial and cultural complexities of Chicago;
- The extent to which Respondent's proposal provides opportunities for Chicago residents to purchase solar energy. Those projects that allow residents from low-income/environmental justice communities opportunity to purchase solar energy will be favorably considered;
- The extent to which the Respondent's approach demonstrates a full and thoughtful understanding of the FEJA incentive program they propose to utilize, including the approvals and accreditation process, and the ways which FEJA programs can be utilized to fulfill the Project goals;
- The extent to which the Respondent's proposal demonstrates a relevant and thoughtful approach to subscriber participation. The approach should provide maximum benefit to subscribers (bill savings) and an easy to understand sign-up process with minimal requirements or hidden costs;
- The extent to which the Respondent's approach to marketing demonstrates understanding of the inherent challenges that may arise and provides potential solutions and innovations to minimize these challenges;
- The extent to which the Respondent's Customer Service Plan understands the need to provide ongoing support and communication for subscribers and the capability and experience of the identified key personnel and management structure to deliver the plan.

iii) Financial Approach

Respondent's proposed financial approach for delivering the CS-GM Project, will be evaluated based on the following:

- Viability of proposed financial structure including;
    - Reasonable cost estimates for Project delivery: fabrication, installation, and operations and maintenance
    - Reasonable estimates for sale of SRECs and application of tax credits

- Value delivered to the City of Chicago and its Residents based on estimated total energy generated (kW), estimated total annual energy production forecast (kWh), proposed price per kWh produced ($/kWh). Proposals where energy value is balanced between the City and community subscribers, will be looked upon favorably. The City prefers that neither stakeholder subsidize the other.

iv) Operations and Maintenance

Respondents will be evaluated on the completeness and quality of their operations and maintenance plan, along with demonstrated past experience.

4.2.3 Workforce Utilization

Projects that provide opportunities for Chicago residents of all backgrounds to meaningfully participate in the solar workforce will be favorably considered. Including projects that provide opportunities for Chicago residents to gain technical skills and qualifications that are transferable outside the solar workforce. Respondents will be evaluated and scored on the following:

- Relevance and quality of the proposed MBE/WBE utilization plan. Respondents are reminded that MBE or WBE participation may be met by establishing a joint venture with one or more MBEs or WBEs as prime contractor, evaluations will consider the extent of the MBE's or WBE's participation in such joint venture;
- Relevance and quality of the proposed Workforce Development Plan, with consideration proportionate to the credit or consideration any such workforce development initiatives are afforded in ordinances that may be the basis of such initiatives;
- Relevance and quality of the proposed local manufacturing, assembly and/or materials purchase plan;
- Relevance and quality of the proposed job training plan;
- Respondent's demonstrated past project experience utilizing and successfully incorporating MBE/WBE and local hiring participation in projects;

4.2.4 Additional Considerations

- Exceptions taken to RFP requirements (particularly the Template Lease Agreement terms and conditions);
- Legal Stipulations;
- Economic Disclosure Forms.

4.3 Requests for Additional Information

The CIT and the City may, at any time after receipt of Proposals, request from specific Respondents additional information, clarification, verification, or certification, of any aspect of its Proposal. Any such request shall be in writing to Respondent's designated representative. Respondent shall respond to any such requests within two Business Days (or such other time as is specified by CIT) from

receipt of the request. Upon receipt, the Proposal may be re-evaluated to factor in the additional information.

4.4 Requests for Proposal Revisions

The CIT and the City may, at any time after receipt of Proposals, determine that it is appropriate to request changes to the Proposals ("Proposal Revisions"). The written request for Proposal Revisions will be sent to all Respondents and will identify any revisions to the RFP along with the terms and conditions applicable to the Proposal Revisions, including identifying a time and date for delivery. If Proposal Revisions are requested, the term "Proposal," as used in the RFP, shall mean the original Proposal, as modified by the Proposal Revision. Each Respondent may determine in its discretion whether to deliver the requested Proposal Revisions.

Upon receipt of Proposal Revisions, the CIT and the City will re-evaluate the Proposals as revised and will revise scoring as appropriate following the process described above.

4.5 Proposal Evaluation

The CIT and City anticipates utilizing an Evaluation Committee ("EC") to review and evaluate the Proposals in accordance with the criteria described in Section 4.2. The EC may include representatives of the CIT, the City, and technical experts. The CIT reserves the right to enlist independent consultants to assist with the evaluation of any portion of the Proposals, as it deems necessary.

After the EC completes its evaluation and finalizes its Respondent rankings, it may submit to senior City officials ("Selection Committee") its recommendation for approval to move the highest scored Respondent to the next phase of the procurement.

4.6 Interviews with RFP Respondents

The CIT and City reserves the right to conduct Respondent interviews. The CIT and City may invite any, or all, RFP Respondents to participate in such Respondent interviews. After a preliminary review of the Proposals, the Evaluation Committee will determine which, if any, Respondents will be invited to participate in a Respondent interview. The purpose of the interviews will be to further understand the Respondent's Proposal and to meet key members of the Respondent's team. The CIT may request clarification of a Respondent's Proposal during the interview and the CIT may treat these clarifications in the same fashion as clarifications provided in writing in accordance with RFP Section 4.4. Proposal evaluations may be informed and/or adjusted in light of information received as part of the Respondent interview process.

The CIT is under no obligation to conduct Respondent interviews. No statement, consent, waiver, acceptance, approval or anything else said or done in any interview by the CIT or the City, or any of their respective representatives, or employees will

have the effect of amending or waiving any provision of the RFP or be binding on the CIT or the City, nor may any of the foregoing be relied upon by any Respondent, or Team Member, except when and only to the extent expressly confirmed in an Addendum to this RFP.

4.7 Best and Final Offer

The CIT and City, at their discretion, may decide to seek best and final offers from one or more Respondents. The CIT and City may only request best and final offers once. Respondents may not request an opportunity to submit a best and final offer. Any requests for best and final offer shall be in writing to Respondent's designated representative. Such request for best and final offers will state the criteria to be covered and the date and time in which the best and final offer must be returned. Proposal scores will be adjusted in light of the new information received in the best and final offer.

4.8 Post-Selection Process

4.8.1 Contract Negotiations

The Selected Respondent will work collaboratively with the CIT and the City to fully negotiate and finalize the project agreement including the subscriber agreement and lease agreement.

Other requirements at this stage will include:

- A construction worker health and safety plan
- A waste management plan
- Contractor's affidavits of waste disposal locations

If the City determines that it is unable to reach mutually acceptable Contract terms with the Selected Respondent, the City may terminate negotiations with the Selected Respondent and negotiate with the next highest-ranked Respondent(s) until such time as the City has negotiated a Contract meeting its needs.

4.8.2 City Council Approval

The Chicago City Council must approve and authorize the Project transaction prior to the execution of any project agreement.

5 Additional RFP Terms and Conditions

5.1 Proposal Submission Rules

Respondents are required to conduct the preparation of their Proposals with professional integrity. Respondents must communicate only with the CIT in connection with this procurement. All questions must be submitted in writing as a

request for clarification as per Section 5.4 and sent to the CIT RFP Primary Contact Person identified in Section 5.3. No telephone calls will be accepted. Respondents are liable for all errors and omissions incurred by Respondents in preparing the Proposal. Respondents will not be allowed to alter their Proposal documents after the Proposal Due Date unless approved by CIT in writing.

5.2 Respondent Representative

Each Respondent shall be represented by a duly appointed and authorized representative ("Respondent Representative" or "Representative") for the purpose of submitting the Respondent's Proposal; and later, if invited, to participate in the Contract negotiation process. The Respondent Representative shall have the power and authority to bind all members of the Respondent's team for the purposes of this RFP.

5.3 CIT RFP Primary Contact Person

The designated Contact Person for the RFP process is:

George Marquisos
Managing Director
The Chicago Infrastructure Trust
35 East Wacker Drive
Suite 1450
Chicago, Illinois 60601
E-mail: SOLAR@chicagoinfrastructure.org

5.4 Respondent Request for Clarification

Any Respondent that has questions as to the meaning of any part of this RFP or the Project, or who believes that the RFP contains any error, inconsistency or omission, must submit its concern, in a written Request for Clarification ("RFC"), via email to the Contact Person at SOLAR@chicagoinfrastructure.org.

The RFC must be submitted in a Microsoft Excel Worksheet format substantially in the form of Exhibit E and received no later than Request for Clarification deadline; see Section 1.4. RFCs submitted to anyone other than the Contact Person, or by any other means other than an e-mailed RFC will not be answered.

RFCs may, or may not, be responded to in writing, at the CIT's and the City's discretion. The CIT and the City reserve the right to respond to RFCs submitted past the deadlines set in this RFP, if such response is deemed by the CIT and City necessary; however, the CIT and the City strongly discourage Respondents from submitting any RFCs past the RFC deadline.

Respondents must clearly label any question or comment it deems confidential and/or proprietary as such. At its discretion, the CIT may provide any or all RFCs,

without expressly identifying the originator, along with the CIT's responses, to all Respondents.

The CIT may rephrase questions as it deems appropriate and may consolidate similar questions. The CIT will post any responses on its website. Some questions or comments may be answered by an RFP Addendum, as outlined in Section 5.5.

Responses to RFCs are not part of the RFP and will not have the effect of amending the RFP. Only responses that end up being incorporated as an Addendum to the RFP will modify or amend the RFP. To reiterate, CIT clarifications or responses to RFCs will have no force or effect whatsoever and shall not be relied upon by any Respondent. Any oral or written response (other than those addressed by Addenda) provided by the CIT or its representatives in connection with the RFP will not be binding on the CIT, nor will it change, modify, amend or waive the requirements of the RFP in any way.

It is the Respondent's obligation to seek clarification from the CIT on any matter it considers to be unclear in accordance with this RFP. The CIT is not responsible in any way whatsoever for any misunderstanding by the Respondent of this RFP, supporting or background information, responses to RFCs, or any other type of information provided, or communication made, by the CIT.

5.5 Addenda

If it becomes necessary to revise or expand upon any part of this RFP, clarifications and/or addenda will be posted to the CIT Website. Each clarification or addendum is incorporated as part of the RFP documents. Failure to acknowledge clarifications and/or addenda when submitting the Proposal will render the Proposal non-responsive. Any harm to the Respondent resulting from failure to obtain all necessary documents, for whatever cause, will not be valid grounds for a protest against award(s) made under this RFP solicitation.

RFP clarifications and/or addendum will be posted on the CIT Website. However, respondents are solely responsible for acquiring the necessary information or materials from the CIT Website. Failure to obtain addenda from the CIT Website will not relieve the Respondent from being bound by any additional terms and/or conditions in the addenda.

5.6 Respondent Team Members Participating on More Than One Team

5.6.1 Prime Team Members

A Prime Team Member of any Proposal, or any Person related thereto, may not be a member in any capacity or otherwise participate in any other Proposal.

5.6.2 MBE and or WBE Team Members

This RFP does not prohibit MBE or WBE team members of one Proposal from also being a member of another Proposal, provided that it is not listed as Prime Team Member in any Proposal.

5.6.3 Key Personnel

An individual identified as Key Personnel by any Proposal may not be involved in the submission of more than one Proposal.

5.7 Use of Information

The CIT and its representatives shall not be liable for any information or advice or any errors or omissions that may be contained in this RFP or the Addendum, appendices, data, materials or documents (electronic or otherwise) attached or provided to the Respondents pursuant to this RFP or otherwise with respect to the Project.

The CIT and its representatives make no representations or warranties, and there are no representations, warranties or conditions, either express or implied, statutory or otherwise, in fact or in law, with respect to the accuracy or completeness of this RFP or any Addenda, appendices, data, materials, background information or documents related thereto, and the CIT and its representatives will not be responsible for any claim, action, cost, loss, damage or liability whatsoever arising from any Respondent's reliance on or use of this RFP or any other technical or historical addenda, appendices, data, materials, background information or documents provided, delivered or made available by the CIT or its representatives.

Each Respondent is responsible for obtaining its own architectural, engineering, environmental, other technical, or professional advice with respect to the Project, the RFP, and any Addenda, appendices, data, materials or documents provided, delivered or made available or required by the CIT.

5.8 Transparency Website; Trade Secrets

Consistent with the City's practice of making available all information submitted in response to a public procurement, all Proposals, any information and documentation contained therein, any additional information or documentation submitted to the City as part of this solicitation, and any information or documentation presented to City as part of negotiation of a contract or other agreement may be made publicly available through the CIT's or City's Internet websites. However, Respondents may designate those portions of a Proposal which contain trade secrets or other proprietary data ("Data") which Respondent desires remain confidential.

To designate portions of a Proposal as confidential, Respondent must:

- Mark the cover page as follows: "This RFP proposal includes trade secrets or other proprietary data."

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

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

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

<u>Indiscriminate labeling of material as "Confidential" may be grounds for deeming a Proposal as non-responsive.</u>

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

5.9 No Liability for Costs

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

5.10 Taxes Included in Proposal Prices

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

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

5.11 Protests

The Respondent shall submit any protests or claims regarding this solicitation to the office of the Executive Director of the CIT, located at 35 East Wacker Drive, Suite 1450, Chicago, Illinois 60601. A pre-Proposal protest must be filed no later than the five (5) City working days before the Proposal Due Date, a pre-award protest must be filed no later than 10 City working days after the Proposal Due Date, and a post-award protest must be filed no later than 10 City working days after the award of the contract.

Protests will be decided by the Commissioner of the City's Department of Transportation (CDOT). All protests or claims must set forth the name and address of the protester, the specification title and/or number, the grounds for the protest or claim, and the course of action that the protesting party desires that the Commissioner of CDOT take.

The CDOT Commissioner will follow the City of Chicago Department of Procurement Services' Solicitation and Contracting Process Protest Procedures ("Procedures"), available at: https://www.cityofchicago.org/content/dam/city/depts/dol/rulesandregs/SolicitationandContractingProtestProcedures.pdf.

The CDOT Commissioner shall occupy the role of the CPO in these procedures. Accordingly, all references to the CPO in the Procedures shall be replaced with the Commissioner of CDOT, and all references to the office of the CPO shall be replaced with the office of the Executive Director of CIT, located at the address set forth above.

5.12 Communications Among Respondents

A Respondent shall not discuss or communicate, directly or indirectly, with any other Respondent, any information whatsoever regarding the preparation of its own Proposal or the Proposal of the other Respondent in a fashion that would contravene Applicable Law. Each Respondent shall prepare and submit its Proposal independently and without any connection, knowledge, comparison of information, agreement or arrangement, direct or indirect, with any other Respondent. This applies to Respondents, their Team Members, and their respective representatives.

5.13 Prohibition on Certain Contributions – Mayoral Exec. Order No. 2011-4

No Contractor or any person or entity who directly or indirectly has an ownership or beneficial interest in Contractor of more than 7.5% ("Owners"), spouses and domestic partners of such Owners, Design-Builder's subcontractors, any person or entity who directly or indirectly has an ownership or beneficial interest in any subcontractor of more than 7.5% ("Sub-owners") and spouses and domestic partners of such Sub-owners (Contractor and all the other preceding classes of persons and entities are together, the "Identified Parties"), shall make a contribution

of any amount to the Mayor of the City of Chicago (the "Mayor") or to his political fundraising committee during (i) the bid or other solicitation process for this Contract or Other Contract, including while this Contract or Other Contract is executory, (ii) the term of this Contract or any Other Contract between City and Design-Builder, and/or (iii) any period in which an extension of this Contract or Other Contract with the City is being sought or negotiated.

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

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

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

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

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

For purposes of this provision:

"Other Contract" means any agreement entered into between the Contractor and the City that is (i) formed under the authority of MCC Ch. 2-92; (ii) for the purchase,

sale or lease of real or personal property; or (iii) for materials, supplies, equipment or services which are approved and/or authorized by the City Council.

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

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

5.14 False Statements

(a) 1-21-010 False Statements

Any Person who knowingly makes a false statement of material fact to the City in violation of any statute, ordinance or regulation, or who knowingly falsifies any statement of material fact made in connection with an application, report, affidavit, oath, or attestation, including a statement of material fact made in connection with a bid, proposal, contract or economic disclosure statement or affidavit, is liable to the city for a civil penalty of not less than $500.00 and not more than $1,000.00, plus up to three times the amount of damages which the city sustains because of the person's violation of this section. A person who violates this section shall also be liable for the city's litigation and collection costs and attorney's fees.

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

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

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

(c) 1-21-030 Enforcement.

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

5.15 Title VI Solicitation Notice

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

5.16 Conflict of Interest

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

Issues relating to conflicts or potential conflicts of interest will be considered on a case-by-case basis. If a Respondent has concerns regarding its potential conflicts of interest relative to this RFP, the Respondent may send a letter addressed to the CIT RFP Primary Contact Person and the Commissioner, detailing the basis for its concern, and seeking guidance on this issue, based on its circumstances. The City will make every effort to respond in a timely fashion.

5.17 Interpretation

In this RFP, words in the singular include the plural and vice-versa and; words in one gender include all genders, all references to dollar amounts are to the lawful currency of the United States of America, and the words "include", "includes" or "including" means "include without limitation", "includes without limitation" and "including without limitation", respectively, and the words following "include", "includes" or "including" will not be considered to set forth an exhaustive list.

Unless a contrary meaning is specifically noted elsewhere, the words "as required," "as directed," "as permitted" and similar words used in the RFP mean that requirements, directions of and permission of CIT are intended; similarly, the words "approved," "acceptable," "satisfactory" or words of like import mean "approved by," "acceptable to" or "satisfactory to" CIT. Words "necessary," "proper" or words of like import as used with respect to extent, conduct or character of Services specified shall mean that the Services must be conducted in a manner or be of character which is "necessary" or "proper" in the opinion of the CIT.

Any headings in this RFP are for convenience of reference only and do not define, limit, control or affect the meaning of the RFP provisions. In this RFP, unless the context otherwise requires, the terms "hereby," "herein," "hereof," "hereto," "hereunder" and any similar terms used in this RFP refer to this RFP. All section references, unless otherwise expressly indicated, are to sections of this RFP. All references to any Attachment or Exhibit or Addendum or document shall be deemed to include all supplements and/or amendments to any such documents. All references to any person or entity shall be deemed to include any person or entity

succeeding to the rights, duties, and obligations of such persons or entities in accordance with the terms and conditions of this RFP.

Unless explicitly otherwise stated herein, all references in this RFP to the CIT's "discretion" means the CIT's unqualified subjective discretion and all references to the CIT's "judgment" means the CIT's unqualified subjective judgment.

5.18 Respondent Communications

During the entire Project procurement period, commencing with the issuance of this RFP and up to the final award of contract, there can be no direct communications between Respondents and employees of the City. Respondents must communicate only with the CIT regarding this RFP. All questions or requests for clarification must be submitted in accordance with Section 5.4 of this RFP. A Respondent that deviates from any of these requirements is subject to immediate disqualification from this RFP process.

5.19 State of Illinois Equal Employment Opportunity Clause

City Contractors are subject to the requirements of 44 Ill. Admin. Code 750 Appendix A, including the requirement to hire new employees in a way that minorities and women are not underutilized. Appendix A provides as follows:

EQUAL EMPLOYMENT OPPORTUNITY

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

1) That he or she will not discriminate against any employee or applicant for employment because of race, color, religion, sex, sexual orientation, marital status, order of protection status, national origin or ancestry, citizenship status, age, physical or mental disability unrelated to ability, military status or an unfavorable discharge from military service; and, further, that he or she will examine all job classifications to determine if minority persons or women are underutilized and will take appropriate affirmative action to rectify any underutilization.

2) That, if he or she hires additional employees to perform this contract or any portion of this contract, he or she will determine the availability (in accordance with this Part) of minorities and women in the areas from which he or she may

reasonably recruit and he or she will hire for each job classification for which employees are hired in a way that minorities and women are not underutilized.

3) That, in all solicitations or advertisements for employees placed by him or her or on his or her behalf, he or she will state that all applicants will be afforded equal opportunity without discrimination because of race, color, religion, sex, sexual orientation, marital status, order of protection status, national origin or ancestry, citizenship status, age, physical or mental disability unrelated to ability, military status or an unfavorable discharge from military service.

4) That he or she will send to each labor organization or representative of workers with which he or she has or is bound by a collective bargaining or other agreement or understanding, a notice advising the labor organization or representative of the Design-Builder's obligations under the Act and this Part. If any labor organization or representative fails or refuses to cooperate with the Design-Builder in his or her efforts to comply with the Act and this Part, the Design-Builder will promptly notify the Department and the contracting agency and will recruit employees from other sources when necessary to fulfill its obligations under the contract.

5) That he or she will submit reports as required by this Part, furnish all relevant information as may from time to time be requested by the Department or the contracting agency, and in all respects, comply with the Act and this Part.

6) That he or she will permit access to all relevant books, records, accounts and work sites by personnel of the contracting agency and the Department for purposes of investigation to ascertain compliance with the Act and the Department's Rules and Regulations.

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

5.20 Examination and Interpretation of Documents and Information

Each Respondent is responsible for ensuring that it has all the information necessary to respond to this RFP and for independently informing and satisfying itself with

respect to the information contained in this RFP, any materials that may be supplied throughout the RFP Process, and any conditions that may in any way affect its Proposal.

5.21 Freedom of Information Act (FOIA)

Respondents are advised that the CIT may be required to disclose the RFP documents and Proposals pursuant to Applicable Law, rules and regulations. Specifically, notwithstanding anything to the contrary stated in this RFP, disclosure of any information obtained by either party or any of its officials, employees, agents or representatives in connection with this RFP will be subject to the provisions of the Freedom of Information Act (FOIA) and all legal authorities relating thereto.

Respondents are also advised that the FOIA may provide protection for confidential and proprietary business information. Respondents are strongly advised to consult their own legal advisors as to the appropriate way in which confidential or proprietary business information should be marked as such in their Part I and Part II Submissions.

Subject to the provisions of the FOIA, the CIT will use reasonable commercial efforts to safeguard the confidentiality of any information identified by the Respondents as confidential but shall not be liable in any way whatsoever to any Respondent or Team Member if such information is disclosed under Applicable Law.

5.22 Compliance with Laws

Respondents shall comply with all applicable federal, state, and local laws, statutes, ordinances, rules, regulations, codes, and executive orders, all as may be in effect from time to time, Including Title 2, Chapter 2-156 of the Municipal Code of Chicago, pertaining to or affecting the Respondents. Upon the CIT's request, Respondents shall provide evidence satisfactory to the CIT of such compliance.

The contract(s) awarded will be governed by the laws of the State of Illinois, and is (are) deemed payable and performable in the City of Chicago and Cook County, Illinois. The venue for all disputes thereunder shall be in these jurisdictions.

5.23 Property of Submissions

Proposals will become the property of the CIT and will not be returned to the Respondent.

5.24 Environmental Requirements

5.24.1 Site Assessment and Investigation

The Developer shall perform and provide the City with a Phase I ESA compliant with ASTM E-1527-13 for the site(s) prior to and conducted, or updated, within 180 days prior to the conveyance of the site(s).

Upon 2FM's request, the Developer shall perform studies and tests for determining whether any environmental or health risks would be associated with the development of the Project on the Property, including, without limitation, updating or expanding the Phase I ESA and performing initial or additional Phase II testing.

The Developer shall cooperate and consult with the City at all relevant times (and in all cases upon the City's request) with respect to environmental matters. 2FM shall have the right to review and approve the sufficiency of the Phase I and other environmental reports (if needed). The City must be named in a reliance letter for all environmental assessment reports produced concerning the Property.
City shall grant Developer a right of entry, in the City's customary form and subject to City's receipt from Developer of required documentation (e.g., evidence of insurance and an Economic Disclosure Statement and Affidavit that is current as of the date of the right of entry), in order for Developer to perform or cause to be performed any structural, physical and environmental inspections of the Property as Developer deems necessary; provided, however, City shall have the right to review and approve the scope of work. The City reserves the right to reject any structural, physical and/or environmental inspection reports, including, but not limited to any Phase I or Phase II ESA reports, submitted to the City and conducted on the Property without a fully executed right-of-entry. The ROE Template can be found in RFP Exhibit G.

5.24.2 Waste Handling

Prior to removing soil from the site(s), the contractor is responsible for performing all soil/waste characterization sampling necessary for proper disposal.

At a minimum, any soil or soil gas not meeting the requirements of 35 IAC Section 742.305 must be removed. Any underground storage tanks ("USTs") identified must be removed and closed in accordance with applicable regulations including Title 41 of IAC Part 175 and any identified leaking USTs must be properly addressed in accordance with 35 IAC Part 734. Such work must be completed before installing ground-mounted PV systems at the site(s).

All soil must be disposed of at a properly licensed and permitted facility, as applicable, depending upon the results of the Phase II investigations and waste characterization sampling. The contractor shall provide the name(s) of all anticipated hauling contractors and soil disposal locations for 2FM review and approval prior removing soil from the site(s). The Contractor shall also be responsible for obtaining the proper IEPA Generator Number. The Contractor must fully execute the proper excavation, transportation and disposal of site soil material. If the Contractor wishes to change disposal locations, they must obtain permission from 2FM in writing BEFORE ANY MATERIAL MAY BE SENT TO THAT LOCATION. If soil is sent to a site that is not approved by 2FM, the Contractor must retrieve the soil and take it to an approved disposal site at no additional cost to the City.

6 Reserved Rights & Disclaimer

6.1 CIT and City Reserved Rights

The CIT and the City may investigate the qualifications and Proposal of any Respondent under consideration, may require confirmation of information furnished by a Respondent and may require additional evidence of qualifications to perform DBFOM obligations under the Contract. The CIT and the City reserve the right, in their discretion, to:

a) Deliver the Project in any manner that they, in their discretion, deem necessary;
b) Reject any or all of the Proposals;
c) Modify any dates set or projected in the RFP and extend any deadlines;
d) Cancel, modify or withdraw the RFP in whole or in part;
e) Terminate this procurement and commence a new procurement for part or all of the Project;
f) Terminate evaluations of Proposals received at any time, in its discretion;
g) Suspend, discontinue or terminate negotiations of the Contract at any time, elect not to commence negotiations of the Contract with any responding Respondent and engage in negotiations with other than the highest ranked Respondent;
h) Modify the procurement process (with appropriate notice to Respondents);
i) Waive or permit corrections to data submitted with any response to the RFP until such time as the CIT and the City declares in writing that a particular stage or phase of its review of the responses to the RFP has been completed and closed;
j) Permit submittal of addenda and supplements to data previously provided in a Proposal pursuant to a request for clarification issued by the CIT and the City until The CIT and the City declares that a particular stage or phase of its review of the responses to the RFP has been completed and closed;
k) Appoint evaluation committees to review Proposals, make recommendations and seek the assistance of outside technical experts and consultants in Proposal evaluation;
l) Disclose information contained in a Proposal to the public as described herein;
m) Waive deficiencies, informalities, and irregularities in Proposals; accept, review, evaluate, and score a nonconforming Proposal, or a Proposal that did not pass the pass/fail criteria, or seek clarifications or modifications to a Proposal;
n) Not issue a notice to proceed after execution of the Contract;
o) Request or obtain additional information about any Proposal from any source;
p) Disqualify any Respondent that violates the terms of the RFP;
q) Issue Addenda, including after the Proposal Due Date, and including changes to conform the RFP to applicable legal requirements; and
r) Exercise any other right reserved or afforded to the CIT and the City under the RFP and applicable Law

6.2 Disclaimer

The RFP does not commit the City to enter into a contract. The CIT and the City assume no obligations, responsibilities or liabilities, fiscal or otherwise, to reimburse all or part of the costs incurred or alleged to have been incurred by parties considering a response to and/or responding to the RFP. All such costs shall be borne solely by each Respondent and Respondent team.

In no event shall the CIT and the City be bound by, or liable for, any obligations with respect to the Project until such time (if at all) as the Contract, in form and substance is satisfactory to the CIT and the City and has been authorized and executed by the City and, then, only to the extent set forth therein. In submitting a Proposal in response to the RFP, Respondent is specifically acknowledging these disclaimers.

7 Definitions

2FM: Means the City of Chicago Department of Fleet and Facility Management.

Addenda/Addendum: means supplemental additions, deletions, and modifications to the provisions of the RFP after the release date of the RFP.

Authorized Respondent/Respondent Representative: Has meaning set forth in Section 5.2

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

Calendar Day: Means all calendar days in accordance with the world-wide accepted calendar.

CIT: Means Chicago Infrastructure Trust.

CIT Board: Means the board of directors for the CIT.

City: Means City of Chicago.

Commissioner: Means 2FM Commissioner, i.e. the Commissioner of the Chicago Department of Fleet and Facility Management (2FM).
Contact Person: Designated contact person for the RFP process set forth in Section 5.3.

Developer: Means the Selected Respondent that has executed the Contract with the City.

EC: Means Evaluation Committee(s).

Environmental Justice Communities: Will have the meaning set forth by the IPA and their

administrator for the Illinois Solar for All Program.

FEJA: The Future Energy and Jobs Act, passed by the State of Illinois.

FOIA: Freedom of Information Act (5 ILCS 140/1 *et seq.*).

Lease Agreement: Has the meaning set forth in Section 1.2 and Exhibit C.

Key Personnel: Has the meaning set forth in Exhibit A, Section 2.2.

Lead Contractor: Means the member of the Respondent team, whether a single entity or joint venture, primarily responsible for the construction of the Project.

Lead Engineering/Design Firm: Means the member of the Respondent team, whether a single entity or joint venture, primarily responsible for the design and engineering of the Project.

Mayor: Means Mayor of the City of Chicago.

Minority Business Enterprise or MBE: Means a firm certified as a minority-owned business enterprise 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.

Prime Team Member: Means any Team Member meeting one or more of the following criteria: 1) entity itself solely constitutes a Respondent, 2) entity holds any direct equity interest in a Respondent, 3) entity has been designated the Lead Contractor or Lead Designer, or 4) entity is generally described as having responsibility corresponding to 30% or more of the anticipated cost to complete project delivery ("Principal Participation").

Project or Chicago Solar or CS-GM: Means the Chicago Solar Ground Mount Project as described in this RFP.

Proposal: Has the meaning set forth in Section 1.1.

Proposal Due Date: Means the submission date and time deadline for the Proposal submission to the CIT, as set forth in Section 1.6.

Proposal Revision: Has the meaning set forth in Section 4.5.

PV: Photovoltaic

RFC: Requests for Clarifications as defined in Section 5.4.

Respondent(s): Means an entity submitting a Proposal for the Project in response to this

RFP.

RFP: Means this Request for Proposals, as described in Section 1.1.

Selected Respondent: Means the Respondent whose Proposal was recommended by the Selection Committee to the CIT Executive Director as providing the apparent best value, to successfully negotiate a project agreement with such Respondent.

SRECS/RECS: (Solar) Renewable Energy Credits

Sustainable Chicago: Means the City's sustainability plan, which can be found at the following URL: https://www.cityofchicago.org/content/dam/city/progs/env/SustainableChicago2015.pdf.

Team Member: Means any entity within a Respondent.

Women Business Enterprise or WBE: Means a firm certified as a women-owned business enterprise in accordance with City Ordinances and Regulations as well as a firm awarded certification as a women owned business by Cook County, Illinois.

EXHIBIT A: PROPOSAL SUBMITTAL REQUIREMENTS

1 Section 1 – General Information

Section I of the Proposal shall contain the following:

1.1 Part A – Proposal Cover Letter (Form 2)

Each Proposal must include a proposal cover letter utilizing the template provided in Form 2. The Form 2 template must be duplicated and completed on Respondent's company letterhead and executed by an individual with appropriate authority to bind the Respondent to the representations, statements, and commitments made within the RFP response.

For Respondents that are (or are expected to be) joint ventures, partnerships, limited liability companies or other associates, the proposal cover letter shall have appended to it letters on the letterhead stationary of each entity with an equity interest in the Respondent stating that representations, statements, and commitments made by the lead firm on its behalf have been authorized by, are correct, and accurately represent the role of the its firm in the Respondent team.

1.2 Part B – Executive Summary – 2 Page Maximum

The Executive Summary shall be written in a non-technical style and contain sufficient information for reviewers with both technical and non-technical backgrounds to become familiar with the Respondent's qualifications and its ability to satisfy the requirements of the Project. Additionally, the Executive Summary should include the following information:

- A brief statement of interest for the Project
- A brief statement that demonstrates the Respondent's understanding of the Project's intent and objectives, the Project's major components, and the Respondent's approach to achieving those objectives.

1.3 Part C – RFP Respondent Team Information (Form 3)

Provide an executed original of Form 3 for the Respondent and each Prime Team Member.

1.4 Part D – Management Structure

Written narrative describing the Respondent's teaming arrangements and its management structure.

Management structure narrative will be supported by up to two organizational charts, on paper up to 11" x 17" in size, showing the following:

- Organization of Respondent's Prime Team Members, (if applicable indicate shareholder's percentage of each equity member of any joint venture or LLC);

- Respondent's team management structure and "chain of command"; each team member identified by their function and their reporting relationship throughout Project execution.

1.5 Part E – Ability to Meet MBE/WBE Participation Plan – 2 page maximum

Respondent must generally describe its plan and confirm its commitment to, at a minimum, meet the Project's MBE/WBE participation goals. The MBE participation goal is - at minimum 26% of the total contract value be awarded to MBE firms, and the WBE participation goal is - at minimum 6% of the total contract value. To be eligible for favorable consideration proposed MBE and/or WBE participation on a Respondent's team must include well-defined roles and responsibilities for the MBE and/or WBE team members.

Note: Though not required as part of the Proposal submission, it will be mandatory for the selected Respondent to provide a detailed MBE/WBE Compliance plan, including completed Schedule Cs and D, found in Exhibit F, that must be approved by the City, prior to receiving a Notice to Proceed with construction activities. Failure to achieve a City approved fully defined MBE/WBE Compliance plan in a timely manner could be grounds for termination of any project agreement.

1.6 Part F – Workforce Development Plan – 2 page maximum

The City urges Respondents to have a diverse workforce that is representative of the City. Consistent with the City's practice of encouraging and facilitating the participation of local residents, Proposals must include a Workforce Development Plan. This plan should at minimum address the Respondent's recruiting, training, subcontracting, hiring, staffing, and any other relevant strategies for achieving the City's desired workforce development goals.

City Resident Hiring Requirements: for all construction work, a minimum of 50% of the total work hours must be performed by City Residents unless the City determines otherwise. Additionally, at least 7.5% of the total work hours across all sites must be performed by Project Area Residents (work hours performed by Project Area Residents will also be applied toward the City Resident work hour requirements).

Project areas include residents from the following community areas:

- Austin
- Englewood
- Riverdale
- South Deering
- West Pullman

The plan should also include estimates for the number of jobs, both temporary and long-term, that will be created as an outcome of this project.

If the Respondent plans to utilize Illinois Solar for All or other incentive programs, please describe how the workforce development plan will comply with program requirements for local job training and hiring.

1.7 Part G – Local Manufacturing and Materials Sourcing Plan

Please provide a written narrative of from where the Respondent plans to source their materials. If local manufacturing will be utilized by the Respondent for the assembly of solar arrays or any other components, please provide details.

Respondents are encouraged to make use of local manufacturing and assembly of Project components where possible.

2 Section 2 – Qualifications

2.1 Part A – Project Experience and References

2.1.1 Project Experience

Provide relevant past project information where the Respondent worked on past project(s) of similar use by fully completing Form 4 for a maximum of five projects completed within the last five years. At least one project must demonstrate the experience of the Lead Contractor that will be responsible for installing the Project for the Respondent team. At least one project must demonstrate the experience of the Project team member responsible for operations and maintenance.

Provide one-page narrative project descriptions for each project listed on Form 4. The description should, at a minimum, give an overview of the project and explain why the experience gained on the project is relevant to the evaluation criteria provided in RFP Section 4. The project descriptions should clearly define the role and type of services provided by the Respondent.

In addition, in narrative format, provide an overview of the Respondent's commercial grid connected PV experience as necessary:

- Total commercial MW of grid-connected PV installed to date by your company:
    - In the United States
    - In the State of Illinois
    - For Illinois-based public utilities
    - Under a Power Purchase Agreement
    - Under a Subscription Agreement

2.1.2 Project References – Contact Information (Form 4)

Provide reference check contact information for people capable of verifying project experience listed on Form 4.

Respondents are requested to verify that contact information is correct and are advised that if the contact information provided is not current, CIT may elect to exclude the experience represented by that project in determining the Respondent's qualifications.

2.2 Part B – Key Personnel

2.2.1 Key Personnel Qualifications

Respondents are asked to provide evidence that the Respondent's Key Personnel, expected to be part of the CS-GM Project, possess the necessary experience and professional credentials/training, specifically regarding the specialized experience and qualifications associated with successfully designing, constructing, and managing projects of similar use, scope, and complexity. Provide separate resumes for all Key Personnel, as well as other relevant personnel included in the organizational chart provided in Exhibit A, Section 1.4 and whose qualifications and experience will be evaluated as described in RFP Section 4.

Key design and construction personnel should, at minimum, include:

- Project Manager (Overall)
- Project Design Principal
- Utility Coordinator
- Construction Project Manager
- Electrical Engineer

Key Operations and Maintenance Personnel

- Site manager
- Lead customer service agent (for Projects involving Community Solar, indicate who will serve as subscribers' service agent and the City's service agent, if different)
- Community outreach coordinator (for Community Solar projects)

Each 1-page resume should include relevant past projects, along with references. For each of the projects listed on a resume include the following information:

- Project name, location, and size;
- Client's contact information (name, job title, phone number, e-mail address);
- Dates work was performed;
- Description of the work or services provided and project role.

2.2.2 Commitment of Key Personnel to Project - 1 Page

An express, written statement committing that the Key Personnel designated in the Proposal for the positions or roles described in Exhibit A, Section 2.2.1 shall be available to serve the role so identified in connection with the Project. While CIT recognizes personnel availability are subject to change, Respondents are urged to

only identify and designate personnel that they believe will be available and primarily dedicated to the Project for the full Project delivery duration.

2.3 Part C – Financial Capability

Respondent must demonstrate that it, and any other party involved in the proposal, has adequate financial capability to execute the project.

2.3.1 Letters of Support

Respondent shall submit no less than one but no more than three letters of support from Financing Parties. Each letter must be provided by an underwriter, bank and/or financial institution that has long-term, unsecured debt ratings of not less than "BBB" or "Baa2", as applicable, issued by at least one of the three major rating agencies (Fitch Ratings, Moody's Investor Service, and Standard & Poor's Ratings Group).

Note: Financing Party Support Letters are meant to demonstrate the Respondent's ability to secure Project financing from credible financing institutions but does not commit the Respondent to securing Project financing solely from the financial institutions that provided Financing Party Support Letters as part of its Response.

In addition to the one required letter, one of the remaining two letters may demonstrate the Respondent's desire and ability to self-finance, if any.

The letter must be on financial institution stationery, signed by an official, and include title, address, telephone number and email address for verification purposes and include, at a minimum, the following:

i. Details regarding any experience the Financing Party has with Respondent or any of its Prime Team Members in connection with relevant public-private partnership financing packages involving relevant Design-Build-Finance-Operate-Maintain projects with receivables or credit-tenant-lease structures that have closed within the last seven years;
ii. Evidence of the Financing Party's long-term, unsecured debt rating;
iii. Explicit support for Respondent and interest in providing a loan or underwriting debt for the Project;
iv. Acknowledgement that the Financing Party has reviewed this RFP and is familiar with
    1. the contractual and financial structure described in Exhibit C and
    2. bringing to financial close the financing of a DBFOM project of the size and nature of the Project

2.3.2 Financial Statements

TO BE SUBMITTED IN ELECTRONIC FORM ONLY

Each proposal must include the following information:

- Annual audited reports for the three (3) most recent fiscal years or consolidated income statement and balance sheet for the three (3) most recent fiscal years
- If the relevant entity intends to receive support from Guarantors as evidenced in Form 3, then financial statements should be submitted for each Guarantor.
- Description of any current credit issues raised by rating agencies, banks, or accounting firms

3 Section 3 - Project Approach

3.1 Part A – Overall Project Delivery Approach – 2 Page Maximum

Provide a written narrative describing the Respondent's anticipated approach to delivering each stage of the Solar Project. This statement shall include an overview of the Respondent's:

- Understanding of the Project scope;
- Project risk mitigation;
- Project Management;
  - Including phasing approach for sites
- Proposed structure for finance and sale of generated energy
  - Use of S/RECs
  - Plans for utilizing any incentive programs made available through the Future Energy and Jobs Act (FEJA)
  - Desired City purchase commitment
  - Desired Community purchase commitment

3.2 Part B – Technical Approach – 5 Page Maximum (not including site plans)

3.2.1 Technical Specifications

The following technical information should be discussed in this section, as applicable for the project proposed:

- Major equipment manufacturers
  - Including summary of the commercial operating experience of the equipment used or to be chosen
- Description of technology and configuration
  - Expected annual energy production per array kWh
  - Expected kWh generated by month over a 12-month period
  - Performance of equipment components
  - Efficiency of major components such as PV panels and inverters
  - DC and AC capacity rating
- Electrical interconnection and metering configuration
- Structural PV rack design including foundation type

    - Given the industrial/commercial operations historically present at a number of the sites, it is recommended that the Developer attempt to minimize ground disturbance
- Controls, monitors and instrumentation
- Performance Warranties
    - Any warranty required to qualify for available rebates and/or incentives
    - Complete System Warranty
    - PV Panel Warranty
    - Complete Operational Power Warranty
- Start-up testing and commissioning
- Factory and performance tests
- Design loading (wind, snow etc.)

Proposals shall provide evidence that the proposed technology and equipment:

- Would meet or exceed all currently applicable and proposed safety and interconnection standards. All equipment components must be listed or recognized by an appropriate safety laboratory (e.g., Underwriter's Laboratory [UL]), and meet existing facility electrical, structural and fire safety requirements.
- Would meet or exceed all currently applicable and proposed environmental standards.
- Are designed for normal operation in the Chicago area local climate.

3.2.2 Conceptual Site Plans

Provide conceptual site plan(s) for each of the Respondent's proposed site(s) from the list of available sites, see Exhibit B for detailed site information. Site plans should include preliminary designs for:

- Panel locations and orientation
- Inverter locations
- Anticipated interconnection point(s)
    - 2FM has had preliminary conversations with ComEd in regard to interconnection points and site-specific grid details
    - Further interconnection information will be provided in an Addendum
- Any anticipated access road(s)
- Perimeter fencing and entrances/exits
- If battery storage is part of the Respondent's Proposal include proposed location and size of storage buildings

3.2.3 Storage Plan (if applicable)

If the Respondent proposes to include an energy storage system (ESS) on site(s) as part of their technical and financial approach, please provide a detailed description of the storage plan.

3.2.4 Monitoring and Reporting

Proposals shall demonstrate a plan for monitoring and tracking the following information and for reporting of this information to the City on a monthly basis at a minimum:

- Site-specific actual kWh production (average and cumulative totals)
- Site-specific maximum kWh production
- Actual meteorological data
- Solar irradiance
- Ambient and module temperature
- Capacity factor
- Degradation

The City's preference would be for a comprehensive data acquisition system with current and historical data available remotely through a real-time website, including an online dashboard for monitoring by 2FM as well as an education and outreach tool for use by community subscribers and the public.

3.2.5 Pre-Operational Milestones

Please provide a description of pre-operational milestones including:

- Financing
- Design
- Material procurement and assembly
- Permitting
- Interconnection application
  - The developer shall coordinate with ComEd to ensure that the project satisfies all ComEd criteria for interconnection of the project to the ComEd electric distribution system. This includes coordinating all negotiations, meeting with ComEd, design reviews, and participating in any needed interaction between ComEd and 2FM.
  - The developer will be responsible for preparing required submissions for obtaining the Net Energy Metering (NEM) and interconnection agreement from the utility
- Construction commencement and site preparation
  - Developer will be responsible for site clearance and preparation including any necessary tree removal
- Installation phasing across sites
  - Anticipated approach for development of PV systems across multiple locations
- Testing
- Completion dates

Provide in your narrative any information that could impact the cost, construction schedule or output capability of the project.

3.2.6 Project Schedule

Provide a preliminary Project timeline. Be sure to include preliminary schedules for the following project components:

- Finance
- Project Development and Design
- Environmental, Permitting, and Interconnection Application
- Site Preparation, Construction, and Testing
- Full operation across all sites

3.2.7 Permitting and Zoning

2FM met with the appropriate City Departments overseeing the zoning and building permit process for a preliminary review of the proposed sites and a project overview. The City of Chicago will help facilitate the permitting and zoning process.

Please note that under the current City ordinance, under Chapter 13-32 of Building Permit, Article II Permit Fees, subsection 13-32-350, it states that the fees imposed by this Article II shall not apply to permits issued to 2FM or its contractors for work undertaken for public or governmental use. However, fees for storm water management review will still apply.

The successful Respondent is exclusively responsible for obtaining and maintaining all required federal, state and local permits, licenses, approvals and/or variances, current or future. Respondents are required to demonstrate that they are capable of obtaining all required permits and licenses or provide a specific timeline for approval.

In addition, the successful Respondent must comply with Illinois building standard codes, utility requirements, wind uplift requirements per the American Society of Civil Engineers Standard for Minimum Design Loads for Buildings and Other Structures, as well as Occupational Health and Safety Administration (OSHA) requirements.

3.3 Part C – Community Approach – 6 Page Maximum

3.3.1 Executive Summary

Provide Respondent's overall approach for engagement and outreach with the Project communities. Include an overview of how the Project approach will provide economic opportunities and benefits for Chicago residents of all backgrounds to

meaningfully participate in the solar economy including the ability of residents to purchase renewable energy.

If the Respondent plans to use any of the incentive programs available under FEJA please detail which program, why it was chosen and how its utilization will impact the overall approach to the Project.

While community solar through the Illinois Solar for All program is the most obvious vehicle for providing community benefits to low-income environmental justice communities, the City will consider the community benefits brought through any proposal, regardless of whether that project is community solar, participates in Illinois Solar for All, or whether the proposal would utilize the City as an anchor subscriber.

3.3.2 Subscriber Approach

If the Respondent proposes Community Solar please detail the community outreach, marketing plan and customer sign-up process including:

- Estimated number of subscribers
- Estimated benefits for subscribers
- Requirements for subscribers to qualify and the sign-up process
    - Including proposed contract terms
- Plan for marketing to eligible communities including:
    - Subscriber recruitment strategies
    - Anticipated partnerships with local organizations
    - Educational campaigns
    - An estimated timeline for community outreach, the sign-up process and customer service plan
- Plan for subscriber reporting to the participating communities and City including:
    - Energy use and production
    - Estimated subscriber bill savings
    - Customer longevity

3.3.3 IPA Application and Approvals

Please provide details of what is needed for application and approvals under the FEJA incentive program the Respondent has chosen to utilize. Include any necessary compliance steps or pre-qualifications that will be undertaken and an anticipated timeline.

If the Respondent has already been designated as an approved vendor under the IPA's Adjustable Block program, please provide proof of this approval.

3.3.4 Customer Service Plan

Please detail the Respondent's ongoing customer service and support plan after the project is fully operational include:

- Key customer service personnel and their location
- Support for billing and service provision
- Plan for communications with subscribers
- Options for subscribers who move or want to discontinue their subscription
- Opportunities for new subscribers after initial sign-up

3.4 Part D – Financial Approach – 5 Page Maximum

3.4.1 Project Cost Estimates

Respondent should provide a detailed cost estimate for the proposed PV system(s) and other start-up costs. Respondent should specify the source of funds (cash, bank loan, etc.) for the capital improvements and start-up costs.

The cost estimate should delineate the costs of fabrication and installation for each Site; design and engineering fees for the entire proposal; customer service costs (both start-up and ongoing); operations and maintenance costs and other capital investments.

3.4.2 Proposed Financing Structure

Respondents should provide a detailed description of the proposed funding structure for the project including the estimated project payback period and data to support the conclusion such as all anticipated utilization of tax credits, FEJA incentives, and programs and/or other subsidies, along with pro forma earnings.

The successful Respondent will retain ownership of all SRECs generated by the PV system(s). Proposals should describe the plan for sale of said SRECs. Additionally, the successful Respondent will be responsible for taking all necessary steps to secure SREC incentives (e.g. registering the system with PJM-GATS, participation in Illinois Power Agency Programs, etc.).

For Proposals where the City is expected to act as an anchor tenant Respondents should provide the anticipated percentage of the total power generated that the City would be expected to subscribe for and provide details on any assumptions behind this number.

Ground lease payments of $1/site will be paid annually to the City of Chicago. Successful Respondents will be responsible for all utilities and taxes, as well as any and all other costs.

3.4.3 Pricing

In an effort to determine the estimated costs for the power generated, proposals shall include the information listed in Form 5. Respondents will be expected to provide the following information:

- Price per kWh that would be charged to City in 2018 dollars over a 25-year term
  - Based on the anticipated City power subscription as a percentage of total power generated
- For proposals where Community Solar/Illinois Solar for All is proposed also include price per kWh that would be charged to community residents
  - Based on anticipated number of subscribers
- The Weighted Price for each Site determined by multiplying the proposed price per kWh by the number of acres
- The Sum of Weighted Prices
- The Weighted Average Price determined by dividing the Sum of Weighted Price by Total Acres

Please refer to Exhibit B for a description of each Site. Respondents are strongly encouraged to provide competitive rates on price per kWh in order to provide the best overall value and benefit to the City and its residents. These rates should be balanced, with neither group subsidizing the other through their rate.

3.5 Part E – Operations and Maintenance Plan – 3 pages

Provide a description of the basic philosophy for performing O&M and include a discussion of contracting for outside services, if applicable. Respondent's proposal should include information on:

- Staffing
- Budget
- Equipment replacement schedules
- Management and control over sites including:
  - Security
  - Any additional site structures
  - Landscaping and site maintenance

4 Section 4 – Administrative Submittals

Section 5 of the Proposal shall contain the following:

4.1 Part A – Proposal Checklist (Form 1)

To facilitate the review and evaluation of Proposals, the Respondent must include a completed Proposal Checklist as provided in Form 1.

4.2 Part B – Confidential Content Index

A page executed by the Respondent that sets forth the specific items in the Proposal (specifying Section, Part and page numbers within the Proposal at which such items are located) that the Respondent deems confidential, trade secret or proprietary information protected by the Illinois Freedom of Information Act (as described in RFP Section 5.21).

4.3 Part C – Legal Stipulations

Submit the following information regarding legal issues/actions that could potentially impact the Respondent and its team members ability to perform or meet Project obligations:

4.3.1 Legal Issues

Identify and explain any significant anticipated legal issues which the Respondent must resolve in order to carry out the Project and anticipated obligations under a DB Agreement.

4.3.2 Legal Liabilities

Provide a list and a brief description of all instances during the last five years involving projects in which the Respondent (or any other organization that is under common ownership with the Respondent) or any Prime Team Member was (i) determined, pursuant to a final determination in a court of law, arbitration proceedings or other dispute resolution proceeding, to be liable for a material breach of contract or (ii) terminated for cause. For each instance, identify an owner's representative with a current phone and e-mail address.

4.3.3 Legal Proceedings

Provide a list and a brief description (including the resolution) of each arbitration, litigation, dispute review board and other dispute resolution proceeding occurring during the last five years between the public owner and the Respondent (or any other organization that is under common ownership with the Respondent), or any Prime Team Member, involving an amount in excess of $100,000 related to performance in projects with a value in excess of $1 million.

Include a similar list for all projects included in the response to Exhibit A, Section 2.1, regardless of whether the dispute occurred during the past five years or involved the same organization that is on the Respondent's team. For each instance, identify an owner's representative with a current phone and e-mail address.

4.4 Part D - Conflicts of Interest

Respondent must provide a statement and information regarding conflicts of interest required pursuant to RFP Section 5.16.

4.5 Part E – Insurance

Respondents are **not** required to submit evidence of insurance with the Proposal but must submit evidence of insurability indicating that if chosen as the Selected Respondent, they will provide evidence of insurance in the amounts specified in Exhibit D. If Selected Respondent is a joint venture or limited liability company the evidence of insurability and evidence of insurance, must be in the name of the joint venture or limited liability company.

4.6 Part F – Exceptions To RFP

In the case that a Respondent takes exception to any requirements of this RFP, including its exhibits and forms, such exceptions must be provided as part of the Proposal. Please provide the requirement, nature of the exception and explanation. Exceptions will be considered in the evaluation of the Proposals. Acceptance of a Proposal does not connote agreement to any exceptions stated by a Respondent but does indicate the City's desire to reach mutually agreeable terms through negotiation. The City will not accept any exceptions to any requirements set out in this RFP during contract negotiations that were not raised in the Proposal.

4.7 Part G - EDS-Economic Disclosure Form(s) (Form 7)

Respondents are required to submit filled out EDS forms (Form 7) for every entity that has a controlling interest in the Respondent team. At the discretion of the CIT, a Proposal that does not include an accurate and completed EDS may be found non-responsive and rejected from further consideration. Further information regarding the EDS filing requirements is provided in Form 7.

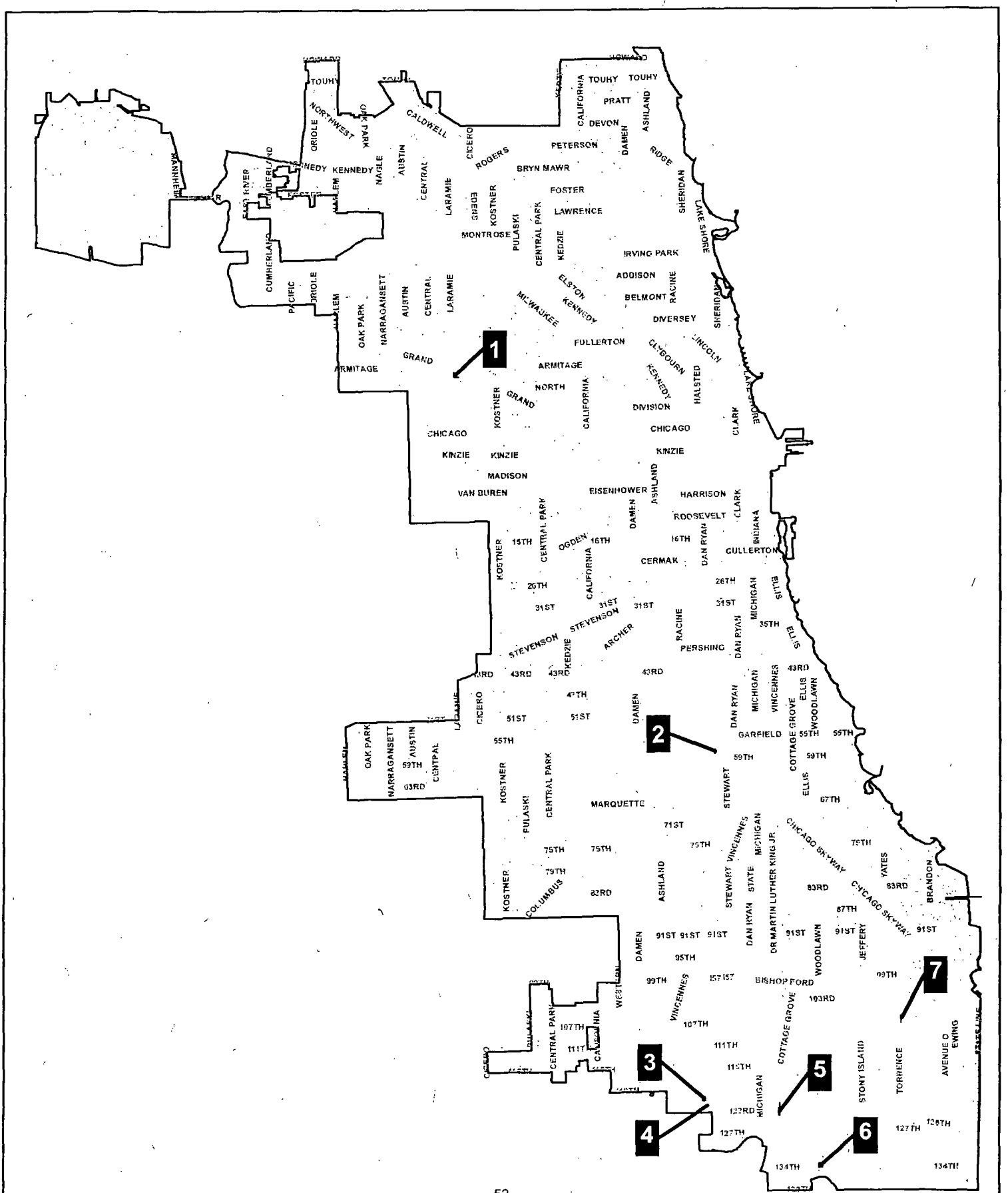
EXHIBIT B: SITE INFORMATION

SOLAR RFP - POTENTIAL SITES										
MAP #	LOCATION	WARD	COMMUNITY	ZONING	TIF	SIZE (acres)	MINOR UTILITY	EHS Initial Review	SETBACKS	FENCE HEIGHT RESTRICTIONS
1	1833 N Latrobe Ave	37	Austin	PD 1149	No TIF	6.8	PROHIBITED (zoning change required)	Limited subsurface Investigation Report	N/A	N/A
2	611 W 57th St	20	Englewood	M1-2	No TIF	2	PERMITTED	Phase I ESA, Phase II ESA, Summary of Site w/ attachments	YES	• More than 20% opaque allowed in front setback up to 4.5ft in height • Less than 20% opaque allowed in front setbacks up to 6ft in height • More than 20% opaque allowed in side and rear setbacks up to 6ft in height
3	915 W 120th St	34	West Pullman	PMD-10	119th & I-57 Redevelopment	5	PERMITTED	Interim RACR Surficial Soil Report, Settlement Agreement	NONE	• No fence height restrictions
4	850 W 122nd St	34	West Pullman	PMD-10	119th & I-57 Redevelopment	1.7	PERMITTED	Phase I ESA	YES	• More than 20% opaque allowed in front setback up to 4.5ft in height • Less than 20% opaque allowed in front setbacks up to 6ft in height • More than 20% opaque allowed in side and rear setbacks up to 6ft in height
5	12301 S King Dr	9	Riverdale	M3-3	No TIF	4.5	PERMITTED	Phase I ESA	NONE	No fence height restrictions
6	1107 E 133rd St	9	Riverdale	RS-3/PD 194	No TIF	7.2	PROHIBITED IN PD (zoning change required)	Property Screen Reports (2)	N/A	N/A
7	10601 S Torrence Ave	10	South Deering	M2-2	Lake Calumet Ind. Corridor	3.3	PERMITTED	Phase I ESA, Draft CSIR Section with Figure	NONE	No fence height restrictions

1. 2FM has identified key environmental documents for some of the subject sites including but not limited to Phase I Environmental Site Assessments (Phase I ESAs) and Phase II ESAs. Copies of records referenced in Exhibit B and are included with this RFP as a courtesy to the Respondent but do not replace the Developer's responsibility for conducting thorough due diligence and the RFP requirements in Section 5.24 for a Phase I ESA to be completed within 180 days prior to lease execution.

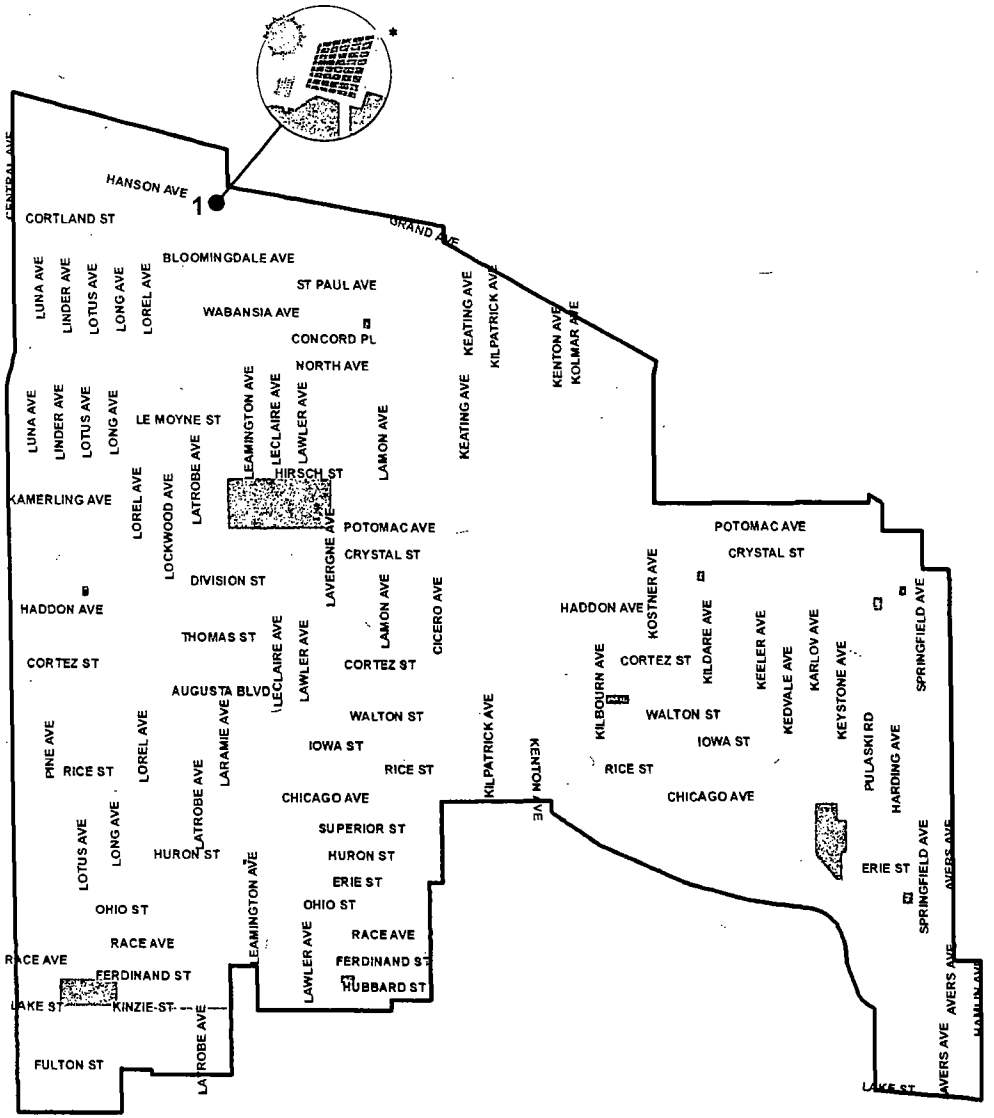
Solar RFP Locations

DEPARTMENT OF PLANNING AND DEVELOPMENT
DAVID L. REIFMAN
COMMISSIONER
Work Product
Copyright, 2018, City of Chicago

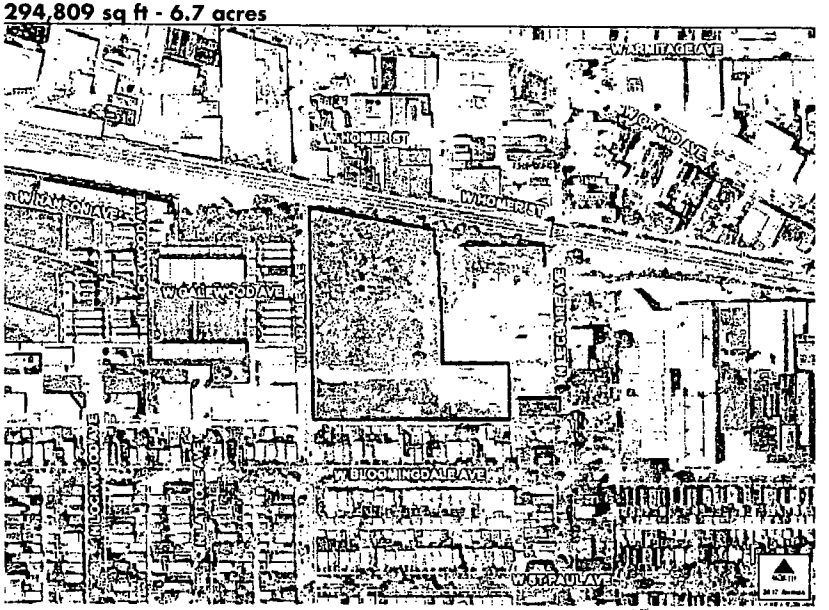


Site 1 - Ward 37

DEPARTMENT OF PLANNING AND DEVELOPMENT
DAVID L. REIFMAN, COMMISSIONER
Work Project
Copyright 2018, City of Chicago



*** Laramie/Moffat - Site 1**
294,809 sq ft - 6.7 acres



* Requires rezoning

Site 2 - Ward 20

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Work Project
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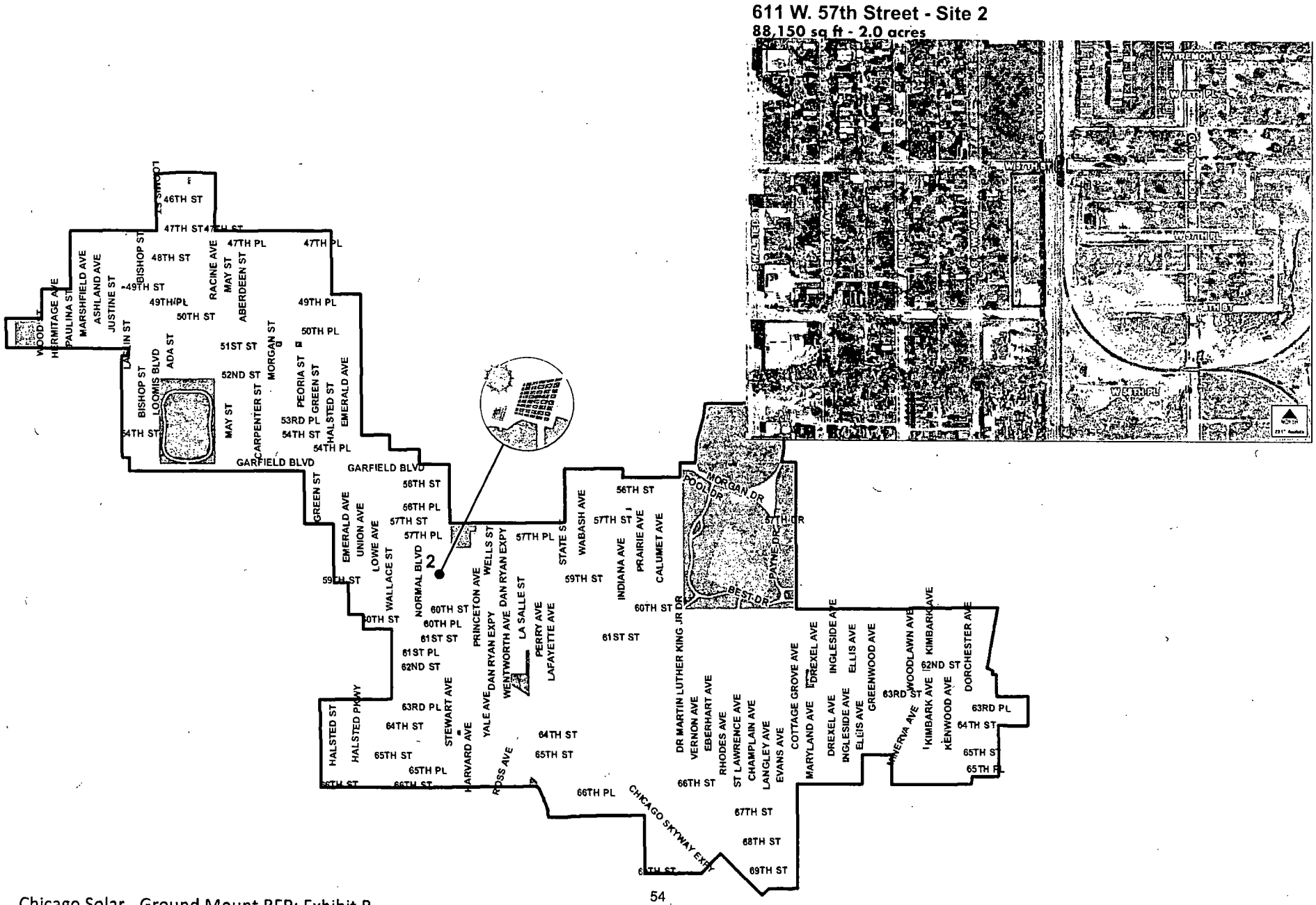

Sites 3 and 4 - Ward 34

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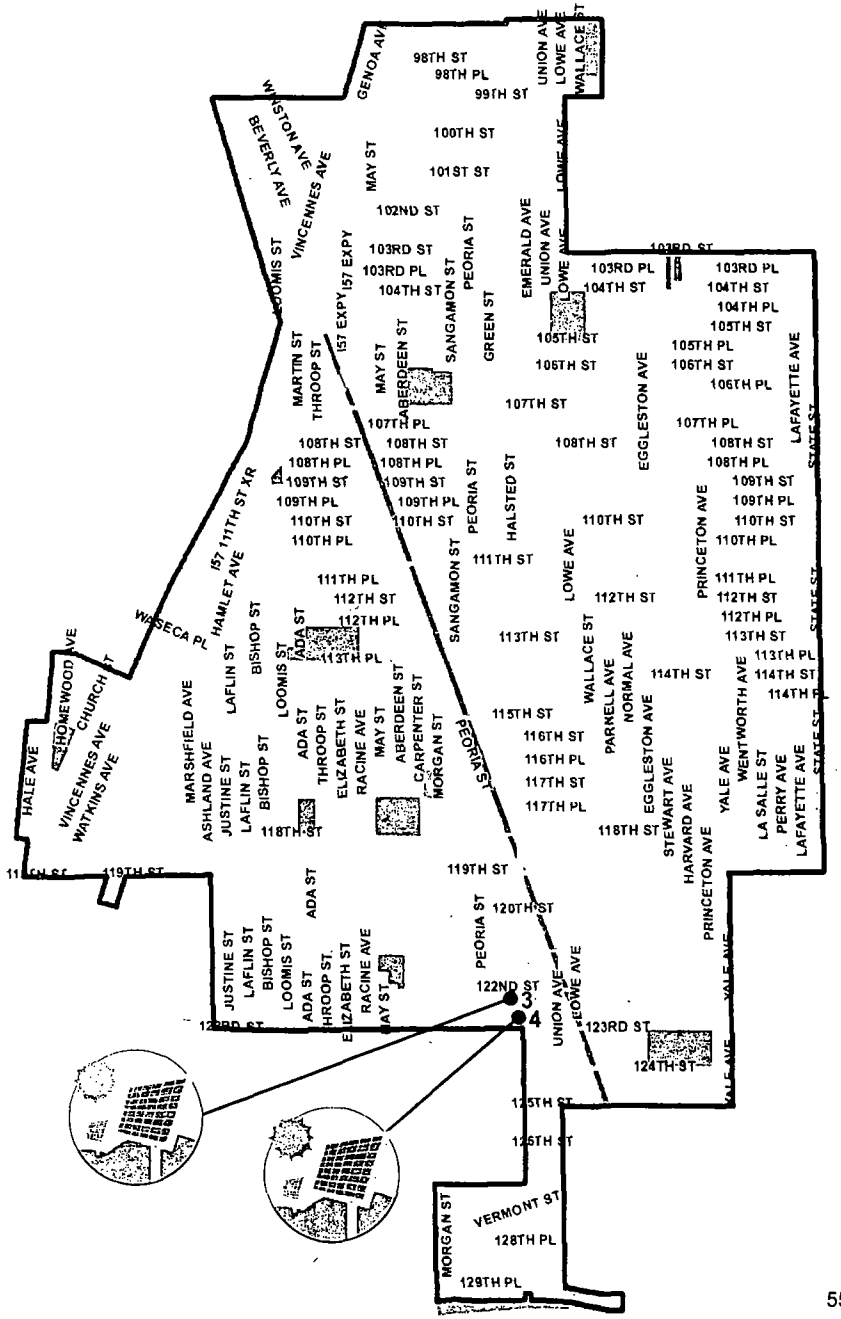
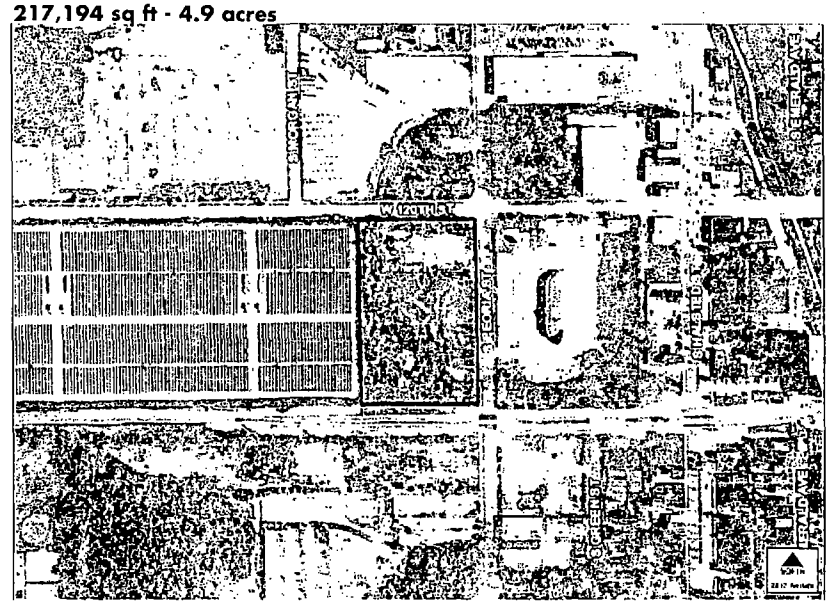


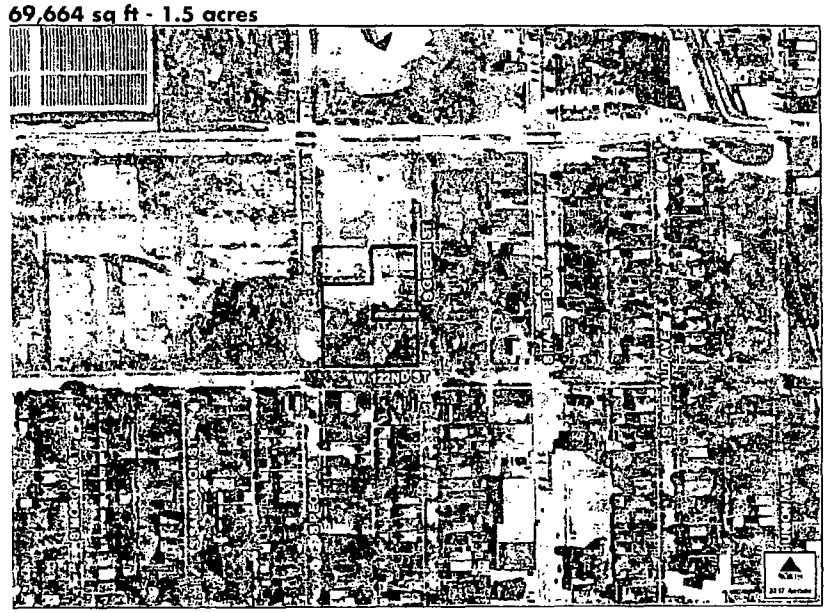
915 W. 120th Street - Site 3

217,194 sq ft - 4.9 acres



850 W. 122nd Street - Site 4

69,664 sq ft - 1.5 acres



Sites 5 and 6 - Ward 9

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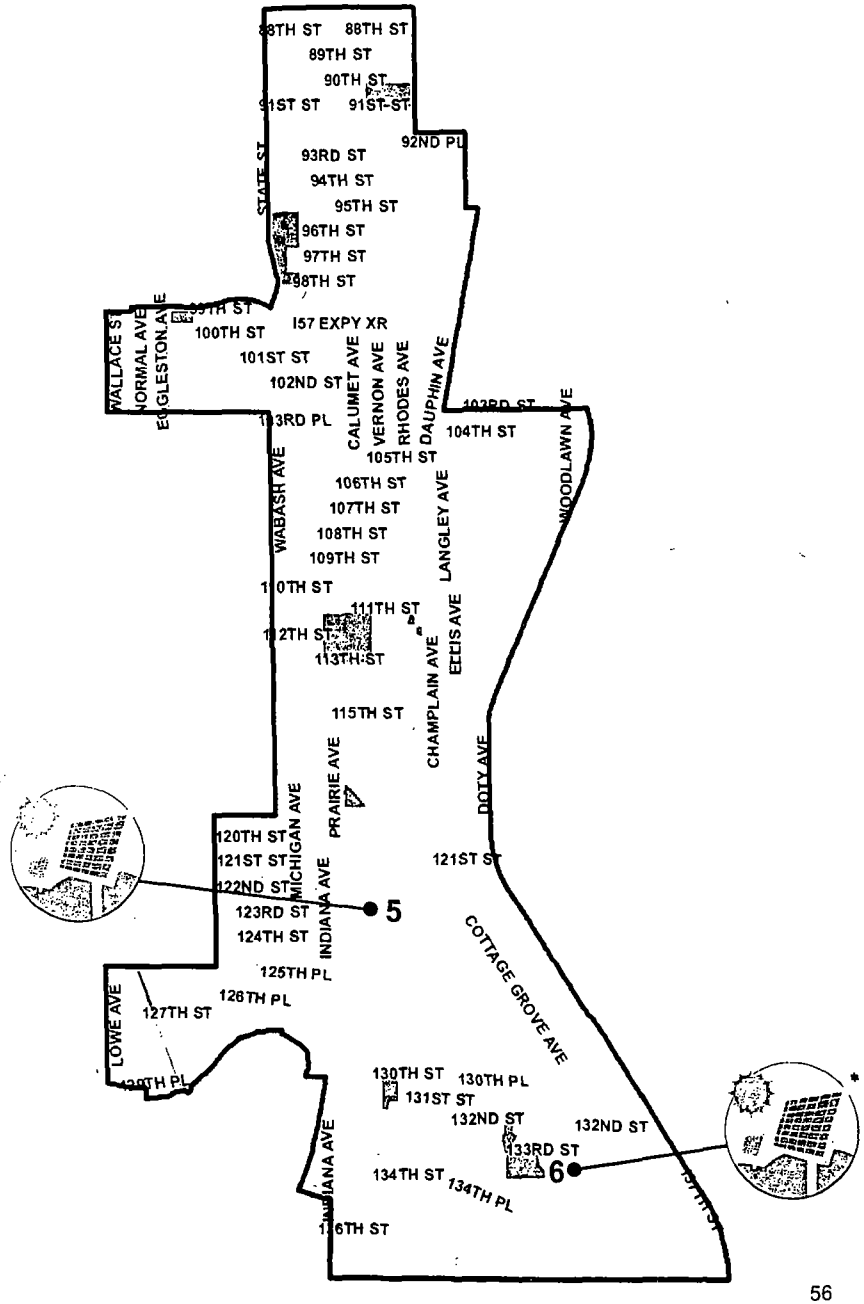
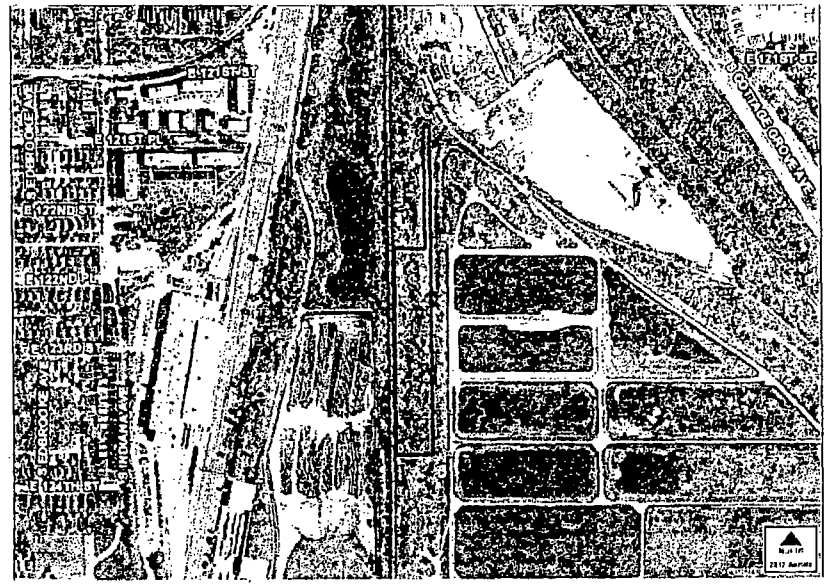


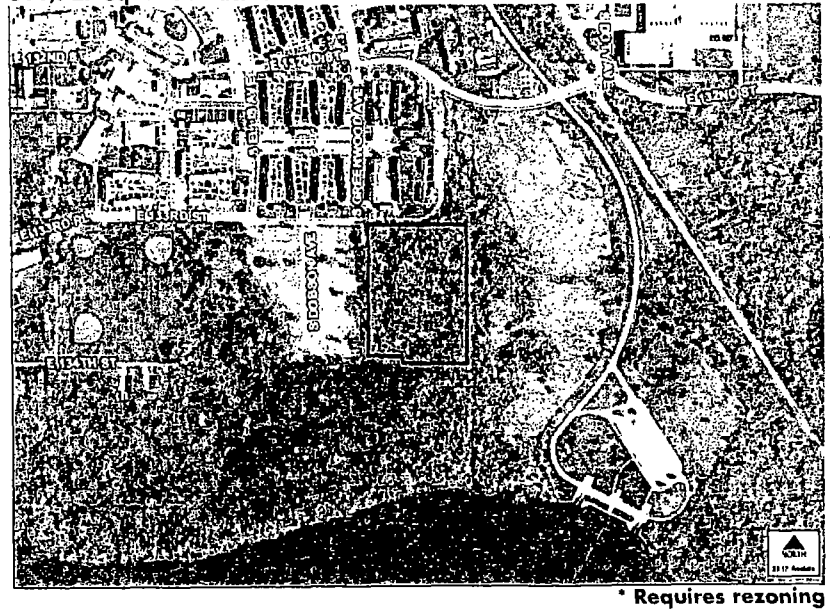
12301 S. King Drive - Site 5

195,425 sq ft - 4.4 acres



* 1100 E. 133rd Street - Site 6

311,727 sq ft - 7.1 acres



*** Requires rezoning**

Site 7 - Ward 10

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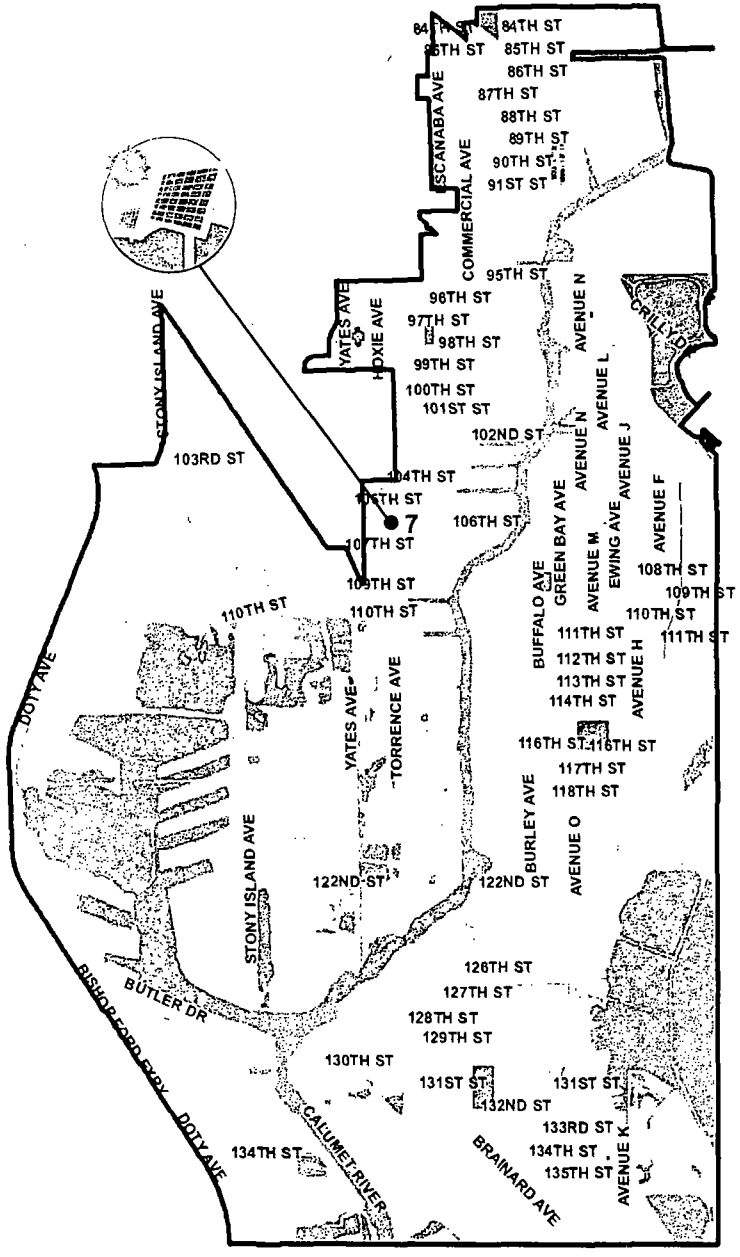

10601 S. Torrence Avenue - Site 7
142,072 sq ft - 3.2 acres

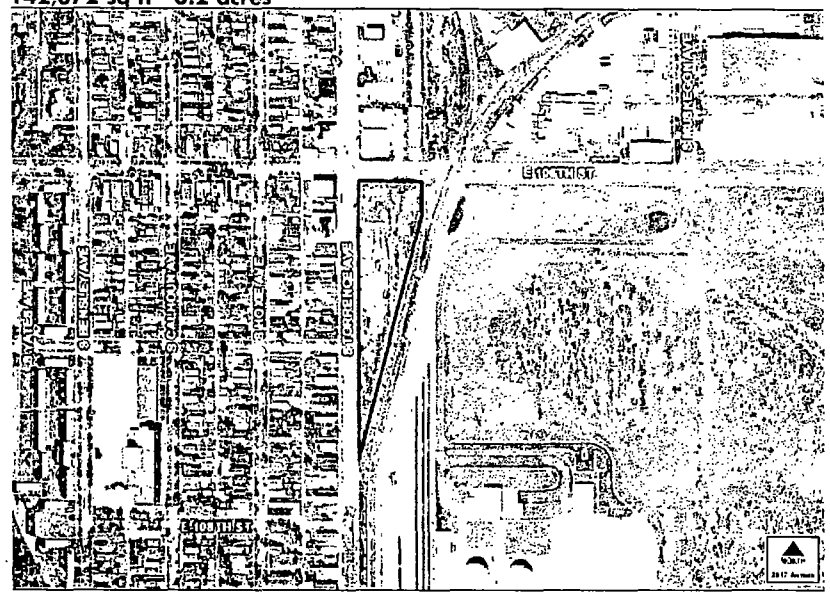

EXHIBIT C: TEMPLATE LEASE AGREEMENT

LEASE AGREEMENT

THIS LEASE AGREEMENT is made and entered into this ___ day of _____, 20___ (the "Effective Date"), by and between the City of Chicago, an Illinois municipal corporation and home rule unit of local government (the "City"), acting by and through its Department of Fleet and Facility Management or other successor department, having its principal offices at City Hall, 121 North LaSalle Street, Chicago, Illinois 60602, and _____, a [state of incorporation][type of entity] ("Lessee"), having its principal offices at _____.

RECITALS

WHEREAS, on _____, 20___, the Department of Fleet and Facility Management issued a Request for Proposals to Finance, Design, Construct, Install, Operate, Maintain, Repair and Replace New Ground-Mounted Photovoltaic Generation Facilities on City-Owned Vacant Lots (the "RFP"); and

WHEREAS, on _____, 2018, Lessee submitted a proposal in response to the RFP (the "Lessee Proposal"); and

WHEREAS, the Department of Fleet and Facility Management accepted the Lessee Proposal, and pursuant to an ordinance adopted on _____, 20___, and published at pages _____through _____in the Journal of Proceedings of the City Council of such date, the City Council authorized the execution of this Agreement; and

WHEREAS, the City has agreed to lease to Lessee up to seven different City-owned sites (each, a "Site" and collectively, the "Sites" or the "Property") within the boundaries of the City for the design, construction, installation, operation, maintenance and repair of the System; and,

WHEREAS, the Sites are identified in this Agreement as Sites 1, 2, 3, 4 ,5 ,6 and 7, and are generally depicted on Exhibits A-1 through A-7 and legally described on Exhibits B-1 through B-7; and

WHEREAS, collectively the Sites comprise a total of approximately 30 acres;

NOW, THEREFORE, in consideration of the foregoing and the mutual covenants and agreements contained in this Agreement, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties agree as follows:

ARTICLE 1: RECITALS

The foregoing recitals are, by this reference, fully incorporated into and made part of this Agreement.

ARTICLE 2: DEFINITIONS

As used in this Agreement, the following terms shall have the meanings set forth below, unless the context clearly indicates some other meaning. Words in the singular shall include the plural and words in the plural shall include the singular where the context so requires.

"Acceptance Certificate" has the meaning set forth in Section 7.3(c).

"Affiliate" means a Person or entity that, directly or indirectly, through one or more intermediaries, controls, is controlled by or is under common control with such specified Person or entity, and a Person or entity shall be deemed to be controlled by another Person or entity, if controlled in any manner whatsoever that results in control in fact by that other Person or entity (or that other Person or entity and any Persons or entities with whom that other Person or entity is acting jointly or in concert), whether directly or indirectly and whether through share ownership, a trust, a contract or otherwise.

"Agreement" means this Lease Agreement, including all Exhibits, as any of them may be amended or supplemented from time to time.

"Base Rent" has the meaning set forth in Section 5.1.

"Bundle" has the meaning set forth in Section 20.1(i).

"Buy Out Value" means a fee as described and calculated in accordance with Exhibit I hereto, payable to Lessee under certain circumstances in connection with the City's exercise of its option to purchase under Section 3.9.

"City" means the City of Chicago, its successors and assigns. In any case under this Agreement that the City may or shall take any action, the Commissioner (as hereinafter defined) is authorized to take such action unless this Agreement provides for action by the corporate authorities of the City or by resolution or ordinance, and except as otherwise provided now or hereafter by applicable Law, the rules and regulations of the City, or by resolution or ordinance of the corporate authorities of the City.

"City Default" has the meaning set forth in Section 11.3.

"City Indemnified Party" has the meaning set forth in Section 16.1(a).

"Commercial Operation" means, with respect to each PV Facility, that (a) the nameplate capacity of the PV Facility has been constructed, commissioned and tested (in accordance with the solar module manufacturer's requirements), (b) Lessee has obtained all necessary rights under the Interconnection Agreement for the interconnection and delivery of Solar Energy to the Delivery Point, and (c) Lessee is capable of making available Solar Energy from the PV Facility to the Delivery Points, all in accordance with Prudent Industry Practice.

"Commercial Operation Date" has the meaning set forth in Section 7.3(c).

"Commercially Reasonable Efforts" means the efforts that a prudent person desiring to achieve a result would use in similar circumstances to achieve that result as expeditiously as practicable; provided, however, that a person required to use Commercially Reasonable Efforts will not be required to undertake extraordinary or unreasonable measures.

"Commissioner" means the Commissioner of Fleet and Facility Management of the City (or any successor thereto).

"Completion Notice" has the meaning set forth in Section 7.3(b).

"Construction Program" has the meaning set forth in Section 20.4(a).

"Contract Year(s)" means each calendar year during the term of this Agreement, commencing on the Commercial Operation Date, provided that if the first and last Contract Years are not full calendar years, the first Contract Year shall mean the period from the Commercial Operation Date to December 31 of such calendar year, and the last Contract Year shall mean the period from January 1 of the last Contract Year through the last day of the term.

"Contractor(s)" means the EPC Contractor and all other contractors, subcontractors and materialmen of any tier providing services, material, labor, operation or maintenance on, about or adjacent to the Property, whether or not in privity with Lessee.

"Contribution" has the meaning set forth in Section 20.1(i).

"Delay Damages" has the meaning set forth in Section 7.4(b).

"Delay Damages Cap" has the meaning set forth in Section 7.4(b).

"Delivery Point(s)" means the point(s) where the PV Facilities connect to the existing electrical power distribution systems, as designated in the Interconnection Agreement.

"Designated Representative" has the meaning set forth in Section 21.1.

"Domestic Partners" has the meaning set forth in Section 20.1(i).

"Early Termination" has the meaning set forth in Section 3.7(a)

"EDS" means Economic Disclosure Statement, in the form and substance required by the City from time to time during the Term hereof.

"Effective Date" has the meaning set forth in the Preamble.

"Employer(s)" has the meaning set forth in Section 20.2.

"Environmental Attributes" means any and all presently existing or future benefits, emissions reductions, environmental air quality credits, emissions reduction credits, renewable energy credits, offsets and allowances, attributable to the System during the term of this Agreement, or otherwise attributable to the generation, purchase, sale or use of Solar Energy from or by the System during the term of this Agreement, howsoever entitled or named, resulting from the avoidance, reduction, displacement or offset of the emission of any gas, chemical or other substance, including any of the same arising out of presently existing or future legislation or regulation concerned with oxides of nitrogen, sulfur or carbon, with particulate matter, soot or mercury, or implementing the United Nations Framework Convention on Climate Change ("UNFCCC") or the Kyoto Protocol to the UNFCCC or crediting "early action" emissions reduction, or laws or regulations involving or administered by the Clean Air Markets Division of the Environmental Protection Agency, or any successor state or federal agency given jurisdiction over a program involving transferability of Environmental Attributes, and any REC Reporting Rights to such Environmental Attributes. Notwithstanding any other provision hereof, Environmental Attributes do not include: (a) any investment tax credits and any other tax credits associated with

the System, (b) state, federal or private grants or other benefits related to the System, or (c) Solar Energy.

"Environmental Law(s)" shall mean any Law which pertains to health, safety, any Hazardous Material, or the environment (including but not limited to ground or air or water or noise pollution or contamination, and underground or above-ground tanks) and shall include, without limitation the Occupational Safety and Health Act, 29 U.S.C. Section 651 et seq.; the Emergency Planning and Community Right-to-Know Act, 42 U.S.C. Section 11001 et seq.; the Toxic Substances Control Act, 15 U.S.C. Section 2601 et seq.; the Hazardous Materials Transportation Act, 49 U.S.C. Section 1801 et seq.; the Resource Conservation and Recovery Act ("RCRA"), 42 U.S.C. Section 6901 et seq., as amended by the Hazardous and Solid Waste Amendments of 1984; the Comprehensive Environmental Response, Compensation and Liability Act of 1980, 42 U.S.C. Section 9601 et seq. ("CERCLA"), as amended by the Superfund Amendments and Reauthorization Act of 1986 ("SARA"); the Federal Water Pollution Control Act, 33 U.S.C. Section 1251 et seq.; the Clean Air Act, 42 U.S.C. Section 7401 et seq.; the Illinois Environmental Protection Act, 415 ILCS 5/1 et seq.; the Gasoline Storage Act, 430 ILCS 15/0.01 et seq.; the Municipal Code; and any other local, state or federal environmental statutes, and all rules, regulations, orders and decrees now or hereafter promulgated under any of the foregoing, as any of the foregoing now exist or may be changed or amended or come into effect in the future.

"EPC Contractor" means _____, a [state of incorporation][type of entity], the Engineering, Procurement and Construction contractor selected by Lessee to design and construct the System.

"Excess Rent" has the meaning set forth in Section 18.3.

"Expected Commercial Operation Date" means _____.

"Expiration Date" means, with respect to each Site, the twenty-fifth (25th) anniversary of the Commercial Operation Date for the PV Facility located on such Site.

"Fair Market Value" shall mean the price at which an asset would change hands between a willing buyer and a willing seller, neither being under any compulsion to buy or to sell, and both having reasonable knowledge of relevant facts, as determined in accordance with Section 3.9 hereof.

"Federal Power Act" means the Federal Power Act, as amended, 16 U.S.C. § 791a, et seq.

"Force Majeure Event" has the meaning set forth in Section 13.1.

"Governmental Authority" means any Federal, state or local government, any political subdivision thereof or any other governmental, regulatory, quasi-governmental, judicial, public or statutory instrumentality, authority, body, agency, department, bureau, or entity now existing or hereafter created with authority to bind a Party at law.

"Governmental Charges" shall mean _____.

"Hazardous Material" shall mean any substance, whether solid, liquid or gaseous; which is listed, defined or regulated as a "hazardous substance," "hazardous waste" or "solid waste," or otherwise classified as hazardous or toxic, in or pursuant to any Environmental Law; or which is or

contains asbestos, radon, any polychlorinated biphenyl, urea formaldehyde foam insulation, explosive or radioactive material, or motor fuel or other petroleum hydrocarbons; or is a hazard to the environment or to the health or safety of persons.

"Human Rights Ordinance" has the meaning set forth in Section 20.2(a).

"Identified Parties" has the meaning set forth in Section 20.1(i).

"Initiating Party" has the meaning set forth in Section 17.1.

"Interconnection Agreement" means the interconnection agreement to be entered into by Lessee pursuant to which the System will be interconnected with the existing electrical power distribution systems serving _____.

"kW" means kilowatt.

"kWh" means kilowatt hour.

"Law(s)" means all present or future, ordinary or extraordinary, foreseen or unforeseen, laws, statutes, codes, acts, treaties, ordinances, orders, judgments, writs, decrees, injunctions, rules, regulations, Permits, directives, and requirements of any Governmental Authority.

"Lessee" has the meaning set forth in the Preamble.

"Lessee Default" has the meaning set forth in Section 11.1.

"Lessee Party" or "Lessee Parties" means the Lessee and its Affiliates, and their respective past, present and future directors, officers, managers, members, shareholders, trustees, employees, agents, representatives, advisors, consultants, engineers, Contractors, licensees, guests, invitees and others who may have been or may be on the Property at the invitation of any one of them.

"Lessee Proposal" has the meaning set forth in the Recitals.

"Letter of Credit" means an irrevocable, unconditional, transferable standby letter of credit in a form acceptable to the City from a bank approved by the City in the initial amount of _____ and No/100 Dollars ($_____.00).

"Lien(s)" means any mortgage, pledge, lien (including mechanics', labor or materialmen's lien), charge, security interest, encumbrance or claim of any nature.

"Loss(es)" means any and all liabilities, suits, judgments, settlements, arbitration or mediation awards, obligations, Liens, interest, fines, penalties, damages, claims, losses, costs, charges and expenses, including, without limitation, engineers', architects', consultants' and attorneys' fees, court costs and disbursements.

"Maintenance Outage" has the meaning set forth in Section 8.5(a).

"MBE/WBE Program" has the meaning set forth in Section 20.4(a).

"Metering Equipment" has the meaning set forth in Section 9.1.

"Municipal Code" means the Municipal Code of the City of Chicago.

"MW" means megawatt.

"MWh" means megawatt hour.

"Notice to Proceed" means notice from the City to Lessee to commence installation of the System, which shall be issued after the Department of Fleet and Facility Management (a) approves all documents in accordance with Section 7.1, (b) [intentionally omitted], and (c) receives evidence of insurance required pursuant to Section 16.2.

"Other Contract" has the meaning set forth in Section 20.1(i).

"Owners" has the meaning set forth in Section 20.1(i).

"Party" or "Parties" means Lessee and/or the City and any permitted successors and assigns of either.

"Permit" means any license, approval, authorization, consent, order, permit or similar document or action issued or taken by any Governmental Authority.

"Person" means any individual, partnership, firm, corporation, limited liability company, joint venture, association, trust, unincorporated organization or other business entity or Governmental Authority or political unit or agency.

"Photovoltaic" means arrays of cells containing a solar photovoltaic material that convert solar radiation into direct current electricity.

"Planned Outage(s)" means the planned removal of the System, or any portion thereof, from service for routine maintenance purposes that is scheduled in accordance with Section 8.4.

"Political fundraising committee" has the meaning set forth in Section 20.1(i).

"Procurement Program" has the meaning set forth in Section 20.4(a).

"Prudent Industry Practice" means any of the practices, methods, standards and acts (including practices, methods, standards and acts engaged in or adopted by a significant portion of the electric power generation industry in the United States during the applicable period) which, in the exercise of reasonable judgment in light of the facts known at the time the decision was made, could have been expected to accomplish the desired result consistent with reliability, economy, safety, and expedition. Prudent Industry Practice is not intended to be limited to any particular set of optimum practices, methods, standards or acts to the exclusion of all others, but rather is intended to include practices, methods, or acts generally accepted in the United States, having due regard for, among other things, manufacturers' recommendations and warranties, contractual obligations, applicable Law and requirements or guidance of Governmental Authorities and the North American Electric Reliability Council.

"PV Facility(ies)" means the structures, fixtures and equipment comprising each photovoltaic power generation facility on each Site, as specified, designed, and constructed in accordance with the requirements of this Agreement. Each PV Facility shall include, without

limitation, the integrated assembly of photovoltaic panels, mounting assemblies, power inverters, converters, metering equipment, lighting fixtures, transformers, ballasts, disconnects, combiners, switches, wiring devices, wiring, service equipment and Utility interconnections, as may be more specifically described in Exhibit F.

"REC(s)" or "Renewable Energy Certificate(s)" means any tradable credit, certificate, allowance, green tag, or other transferable property interest, howsoever entitled, that represents the Environmental Attributes and Reporting Rights associated with the generation of one (1) MWh of Solar Energy from the System as tracked through monthly meter readings. A REC is separate from the Solar Energy produced and may be separately transferred or conveyed.

"REC Reporting Rights" means the right to report to or register with any agency, Governmental Authority or other party, including, without limitation, under Section 1605(b) of the Energy Policy Act of 1992, or under any present or future federal, state or local law, regulation or bill, and international or foreign emissions trading program, exclusive ownership of the Environmental Attributes associated with the RECs.

"REC Revenue" means the proceeds from the sale of Lessee's right, title and interest in and to one (1) REC and the associated Environmental Attributes and REC Reporting Rights.

"Rejection Notice" has the meaning set forth in Section 7.3(b).

"Rent" means Base Rent, Taxes, and any other amount Lessee is obligated to pay under the terms of this Agreement.

"RFP" has the meaning set forth in the Recitals.

"Settlement Data" means for the relevant period (i) the Solar Energy in kWh to three decimal points format on an hourly basis, (ii) daily totals of all kWhs to three decimal points, (iii) monthly total of all kWhs to three decimal points, and (iv) the monthly total of all kWhs to three decimal points, rounded to the nearest whole kWh. Settlement Data shall include such additional information as may be reasonably requested by the City. Lessee shall provide an explanation for deviations between actual output and projected outputs in excess of +/- 15%.

"Site(s)" has the meaning set forth in the Recitals.

"Site Improvement Plans" has the meaning set forth in Section 7.1(a).

"Site Improvements" means the PV System on each Site and all other Site improvements.

"Site Plan(s)" means, with respect to each Site, a site plan showing perimeter controls, access points, internal roadways, structures, storm water retention or drainage, and any other Site improvements. Each Site Plan approved by the City pursuant to Section 7.1(a) shall be incorporated into this Agreement as part of Exhibit J.

"Solar Energy" means the total quantity of all actual net electric energy (measured in kWhac) in any given period of time that (a) is produced by the System, (b) is delivered by Lessee to the electric distribution grid and/or subscribers at the Delivery Points, and (c) conforms to applicable Utility and/or authoritative regulatory body standards. Solar Energy does not include Environmental Attributes.

"Special Waste" shall have the meaning set forth in 415 ILCS 5/3.45, as amended from time to time.

"Specified Rate" means for each calendar month, the lower of (1) the highest "prime rate" as published in The Wall Street Journal under the heading "Money Rates" on the first day of such month that such rates are published, plus 1% per annum and (2) the maximum rate allowed by applicable Law.

"Sub-owners" has the meaning set forth in Section 20.1(i).

"Substitute Site(s)" has the meaning set forth in Section 3.8.

"Summer Months" means May, June, July, August and September.

"System" means, collectively, those PV Facilities that have been installed or have been approved for installation (as evidenced by the City's issuance of a Notice to Proceed) from time to time.

"System Acceptance Testing" has the meaning set forth in Section 7.3(a).

"System Development Costs" means all costs associated with the design, acquisition, construction and installation of each PV Facility, as well as the projected expenses that Lessee will incur to connect each PV Facility to the existing electrical power distribution systems serving the Site(s).

"System Requirements" has the meaning set forth in Section 7.3(b).

"Taxes" means all taxes, assessments, charges, duties, fees, levies or other governmental charges, general and special, including special assessments, ordinary and extraordinary, foreseen or unforeseen of every name, nature and kind whatsoever, including all federal, state, local, foreign or other income, profits, unitary, business, franchise, capital stock, real property, personal property, intangible, withholding, FICA, unemployment compensation, disability, transfer, sales, use, excise and other taxes, assessments, charges, duties, fees, or levies of any kind whatsoever (whether or not requiring the filing of returns) and all deficiency assessments, additions to tax, penalties and interest.

"Temporary Shutdown" has the meaning set forth in Section 8.5(b).

"Term" has the meaning set forth in Section 3.1.

"Termination Value" means a fee as described and calculated in accordance with Exhibit I hereto, payable to Lessee under certain circumstances in connection with an Early Termination attributable to the City in accordance with Section 3.4(b).

"Test Energy" means any and all Solar Energy generated by a PV Facility prior to its Commercial Operation Date.

"Utility" means the local electric distribution company providing electric energy distribution and interconnection services to the City at the Site(s).

"Waste Sections" has the meaning set forth in Section 20.1(h).

ARTICLE 2
LEASE; PERMITTED USE

2.1 Lease. The City hereby leases to Lessee, and Lessee hereby leases from the City, each Site for the term set forth in Section 3.1, upon and subject to the conditions hereinafter provided. This Agreement is subject to all easements, encroachments, covenants and restrictions of record and not shown of record and such other title defects as may exist on the Effective Date.

2.2 Ingress and Egress. Subject to the rules and regulations promulgated by the City from time to time and the terms and provisions of this Agreement, Lessee and its employees, agents, invitees and licensees and their respective vehicles, shall have the right and privilege of ingress to and egress from the Property on Each Site(s) roadways available for use by the public or at other locations acceptable to the City. The City may, at any time, temporarily or permanently, close or consent to or request the closing of, or otherwise restrict access to, any roadway or other right-of-way for such ingress and egress, and any other area at the Each Site(s) or in its environs currently or hereafter used for ingress and egress.

2.3 Reservation of Right of Entry. The City reserves for itself and its employees, agents and representatives the right to enter upon the Property without prior notification of Lessee at any time for reasons it deems in its sole discretion to constitute an emergency requiring immediate response. The City further reserves for itself and its employees, agents and representatives the right, upon reasonable notice to Lessee, to enter upon the Property for any purpose necessary, incidental to or in connection with its obligations under this Agreement, or in the exercise of its governmental functions, or for the purpose of making any inspection or conducting any testing it deems necessary; provided that such entry upon the Property does not unreasonably interfere with Lessee's operations and use of the Property. No such entry by or on behalf of the City upon the Property shall constitute or cause a termination of this Agreement nor shall such entry be deemed to constitute an interference with the possession thereof by the Lessee.

2.4 Easements.

(a) Lessee acknowledges that there may currently exist, and that the City may grant in the future, easements and rights on, over or under the Property for the benefit of suppliers or owners of utilities that service each Site or adjacent land, and Lessee hereby consents to any such utility easements whether now in existence or later granted; provided, no such easements hereafter granted by the City shall materially and adversely interfere with Lessee's use of the Property for the construction, operation and maintenance of the System.

(b) The City reserves (for itself, its grantees, tenants, mortgagees, contractors, licensees and others claiming by, through or under the City) such rights and easements as the City shall deem necessary or appropriate from time to time in connection with each Site and adjacent land, including without limitation, for purposes of storm water drainage, utilities and like matters; provided, no such easements hereafter sought by the City shall materially and adversely interfere with Lessee's use of the Property for the construction, operation and maintenance of the System.

2.5 Use of Property.

(a) Subject to the terms and provisions contained in this Agreement, and all applicable Laws in connection with the conduct of activities by Lessee at or around each Site, Lessee shall use the Property for the construction, operation and maintenance of the System and for no other purpose.

(b) Lessee shall not use or occupy the Property, or permit the Property to be used or occupied, or do or permit anything to be done in or on the Property, in whole or in part, in a manner which would void or make voidable any insurance then in force with respect thereto, or which may make it impossible to obtain fire or other insurance thereon required to be furnished by Lessee under this Agreement, or which would constitute a public or private nuisance.

(c) Lessee shall not use or occupy the Property, or permit the Property to be used or occupied, in whole or in part, in a manner which may violate any applicable Laws, whether or not the City also is liable for compliance.

2.6 Lessee's Duty to Maintain Property. Lessee shall, at its sole cost and expense, maintain the Property in good order, condition and repair, in a safe, secure, clean and sanitary condition, and in full compliance with any and all applicable Laws and such rules, regulations and standards as the City shall maintain in effect from time to time. Without limiting the foregoing, Lessee, at its sole cost and expense, shall at all times exercise due diligence in protecting the Property against damage or destruction by fire and other causes. Lessee acknowledges and agrees that, from and after the Effective Date, the City shall have no maintenance, repair, replacement or other duty of any kind or nature with respect to any Site.

2.7 Security. Lessee shall be responsible for securing the Property at all times and preventing illegal and unauthorized uses of the Property, including, without limitation, vandalism and fly dumping. Lessee shall install surveillance cameras for full-time (24 hours per day, 365 days per year) monitoring access to each Site. The City assumes no security responsibilities.

ARTICLE 3
TERM; TERMINATION RIGHTS; OPTION TO PURCHASE

3.1 Term. The term of this Agreement ("Term"), with respect to each Site, shall commence on the Effective Date and expire on the Expiration Date, unless sooner terminated in accordance with the terms and provisions hereof.

3.2 Possession. The City shall deliver possession of each Site to Lessee upon the Effective Date, and Lessee shall not use or occupy the Site until such delivery.

3.3 Holding Over. Lessee shall have no right to occupy any Site after the Expiration Date or earlier termination of this Agreement or of Lessee's right to possession with respect to such Site, except in connection with the removal of property under Section 3.6(a) or Section 3.7(a). For each month or portion thereof Lessee retains possession of the Site, or any portion thereof, after such expiration or termination, Lessee shall pay the City an amount equal to three times the fair market value of the Site. Acceptance of said Rent shall not constitute a waiver by the City of any re-entry or other rights provided for under this Agreement or by law nor shall it be deemed an extension or renewal of the Term without a written election thereof by the City. In addition, Lessee shall be liable for all damages incurred by the City as a result of such holdover. Any holding over with the consent of the City in writing shall thereafter constitute a lease from month to month on the same terms and conditions as this Agreement, including payment of such Rent as the City shall specify by written notice to Lessee.

3.4 City's Termination Rights. The City shall have the right to terminate this Agreement as follows:

(a) For Cause. The City may terminate this Agreement, with respect to any Site, thirty (30) days after delivery of written notice to Lessee under the following circumstances: (i) if Lessee has not, within one hundred twenty (120) days after receipt of a Notice to Proceed, received all Permits necessary to design, install, construct, own, operate, monitor, maintain and repair the PV Facility on such Site and generate, deliver and sell Solar Energy in accordance with this Agreement; (ii) if the Commercial Operation Date for the subject PV Facility has not occurred by the Expected Commercial Operation Date, subject to Lessee's right to pay Delay Damages, pursuant to Section 7.4; (iii) upon occurrence of a Force Majeure Event in accordance with Section 13.3; or (iv) upon a Lessee Default in accordance with Article 11. If the Agreement is terminated pursuant to (i) or (ii) above, Lessee shall reimburse the City for legal costs it has incurred to date, in an amount not to exceed Fifteen Thousand Dollars ($15,000). If the Agreement is terminated pursuant to (iii) or (iv) above, Lessee shall remove the PV Facility and restore the Site.

(b) For City Purposes. In addition to the termination rights in subsection (a) above, the City reserves the right to terminate this Agreement, with respect to any Site, at any time before or after the Commercial Operation Date as necessary for Each Site(s) Purposes upon prior written notice to Lessee of at least six (6) months. If the Agreement is so terminated, the City shall pay Lessee a fee as described and calculated in Exhibit I hereto (the "Termination Value"). Upon the City's payment of the Termination Value pursuant to this Section 3.4(b), Lessee shall remove the PV Facility from the Site and restore the Site to its pre-installation condition, and this Agreement shall terminate automatically insofar as it applies to the subject Site.

3.5 Lessee's Termination Rights. Lessee may terminate this Agreement, with respect to any Site, thirty (30) days after delivery of written notice to the City under the following circumstances: (a) if Lessee has not, within one hundred twenty (120) days after receipt of a Notice to Proceed for such Site, after diligent efforts, obtained all Permits required to design, install, construct, own, operate, monitor, maintain and repair the PV Facility on the subject Site and generate, deliver and sell Solar Energy in accordance with this Agreement; (b) upon occurrence of a Force Majeure event in accordance with Section 13.3; (c) if the Commercial Operation Date for the subject PV Facility has not occurred by the Expected Commercial Operation Date, subject to Lessee's right to pay Delay Damages, pursuant to Section 7.4; or (d) upon a City Default in accordance with Article 11.

3.6 Expiration of Term. Upon the Expiration Date, with respect to each Site, Lessee shall, at the City's option, do one of the following:

(a) Removal and Restoration. Lessee shall, at its sole expense, within ninety (90) days (or such longer period of time as shall be mutually agreed upon by the parties), remove and properly dispose of the PV Facility and its other property (both real and personal) from the Site and repair any injury or damage to the Site which may result from such removal, and shall restore the Site to a condition substantially similar to its condition prior to the installation of the improvements. The City shall provide Lessee with reasonable access to the Site to perform such activities. If Lessee does not remove the PV Facility and its other property and restore the Site within the appointed time, the City shall have the right, at its option and at Lessee's expense, to remove the same and deliver them to any other place of business of Lessee or warehouse the same and restore the Site pursuant to the requirements of this Agreement, and Lessee shall pay the cost of such removal, delivery, warehousing and restoration to the City on demand.

(b) Transfer of Title. On the Expiration Date for each Site, all of Lessee's right, title and interest in and to the PV Facility on such Site, free and clear of any Liens and encumbrances, shall revert to the City at no charge without the necessity of any further action by either Party hereunder; provided, however, that upon the City's request, Lessee shall execute and deliver to the City (in recordable form) all documents necessary to evidence such conveyance, including, without limitation, a quitclaim deed and bill of sale. Lessee shall deliver to the City Lessee's executed counterparts of any service and maintenance contracts that are in Lessee's possession and are then affecting the Property, true and complete maintenance records for the Property, all original licenses and permits then pertaining to the Property, permanent certificates of occupancy then in effect for the Property, and all assignable warranties and guarantees then in effect which Lessee has received in connection with any work or services performed or equipment installed in the Property, together with a duly executed assignment of any of the foregoing to the City (but as to any service and maintenance contracts, only to the extent the City requests assignment), and all financial reports, documents, books and records whatsoever relating to the maintenance or condition of the Property. Upon the City's acceptance of possession and title in connection therewith, Lessee shall have no remaining obligations with respect to the PV Facility (other than obligations incurred through such date).

3.7 Early Termination.

(a) Removal of PV Facility. If this Agreement is terminated, with respect to any Site, for any reason prior to the Expiration Date for such Site ("Early Termination"), other than as a result of the City exercising its option to purchase under Section 3.9, the PV Facility shall remain the property of Lessee and shall be removed by Lessee within ninety (90) days after such termination. Lessee shall undertake such removal at no cost to the City, except as provided in subsection (b) below.

(b) Termination Value. In the event that a termination occurs for reasons attributable to the City (including termination pursuant to Section 3.4(b) above, but not including a Force Majeure event), the City shall pay to Lessee the greater of Fair Market Value or the Termination Value as set forth in Exhibit I (which shall be prorated for partial years), plus all other amounts then owing by the City to Lessee. The Parties agree that the Termination Value is not an approximation of the Fair Market Value. Upon the City's payment of the Termination Value pursuant to this Section 3.7(b), Lessee shall remove the PV Facility from the Site and restore the Site to its pre-installation condition, and this Agreement shall terminate automatically insofar as it applies to the subject Site.

3.8 Substitution. At any time during the term of this Agreement, provided the City is not otherwise in default under this Agreement, the City shall have the right to designate one or more alternate sites (the "Substitute Site(s)") upon which to install or relocate any PV Facility, subject to the approval of Lessee, which shall not be unreasonably withheld, conditioned or delayed. The City shall ask Lessee to provide a detailed estimate of any additional costs necessary to locate, or relocate, the PV Facility to such Substitute Site, which costs shall be the responsibility of the City. Any such Substitute Sites shall, to the extent practicable, be of a similar (or more advantageous) size, scope and economic impact as the Site being replaced. The City shall provide written notice of at least ninety (90) days prior to the date on which it desires to undertake such relocation. The City and Lessee shall, if necessary, prepare and execute such amendments to this Agreement and any other agreements that may be required in connection therewith, which shall remain in effect for the remainder of the term of this Agreement, and the

amended Agreement shall be deemed to be a continuation of the original Agreement without termination.

3.9 City's Option to Purchase. The City may purchase the PV Facility on any Site any time after the _____ anniversary of the Commercial Operation Date for such PV Facility, provided there is no existing City Default. If the City exercises its option to purchase a PV Facility, the purchase price shall be the greater of the then Fair Market Value or the Buy Out Value set forth in Exhibit I. The City shall provide written notice to Lessee of its intent to exercise its purchase option at least sixty (60) days prior to the exercise thereof. The "Fair Market Value" of the PV Facility shall be the value determined by the mutual agreement of the Parties within ten (10) Business Days after Purchaser's termination notice pursuant to this Section 3.9. If the City and Lessee cannot mutually agree upon a Fair Market Value, then the Parties shall select a nationally recognized independent appraiser with experience and expertise in the solar photovoltaic industry to value such equipment. If the Parties are unable to agree on the selection of an appraiser, such appraiser shall be selected by the two appraiser firms proposed by each Party. The appraiser shall act reasonably and in good faith to determine the Fair Market Value and shall set forth such determination in a written opinion delivered to the Parties. The valuation made by the appraiser shall be binding on the Parties in the absence of fraud or manifest error. The Parties shall split the costs of the appraisal equally. The City shall have a period of thirty (30) days after receipt of such appraisal to exercise its purchase option. If the City confirms its exercise of the purchase option, the closing of the purchase and sale of the PV Facility shall take place on a date mutually acceptable to the Parties, but in no event later than sixty (60) days after the City confirms its exercise of the purchase option. At the closing, (a) the City shall pay to Lessee the then Fair Market Value or Buy Out Value, as applicable, and all other amounts then owing by the City to Lessee, and (b) Lessee shall execute and deliver any and all documents necessary to (i) cause all of Lessee's right, title and interest in and to the PV Facility to pass to the City, free and clear of any Liens and encumbrances, and (ii) assign all warranties for the subject PV Facility to the City; provided, however, that Lessee shall have no obligation to provide any personal warranties with respect to the condition or continued operation of such PV Facility.

ARTICLE 4
INSPECTION AND ACCEPTANCE OF RISK; ENVIRONMENTAL MATTERS

4.1 Inspection and Acceptance of Risk. Lessee acknowledges that it is fully familiar with the condition of the Property and has, prior to the Effective Date, made such inspections as it desires of the Property and all factors relevant to its use. IN addition, the Lessee has completed a Phase I Environmental Site Assessment in accordance with ASTM Standard E-1527-13 within 180 days of the Effective Date of this Document. Lessee accepts the risk that any inspection may not disclose all material matters affecting the Property. Lessee agrees to accept the Property in its "as is," "where is" and "with all faults" condition on the Effective Date without any covenant, representation or warranty, express or implied, of any kind, as to any matters concerning the Property, including, without limitation: (a) the structural, physical or environmental condition of the Property; (b) the suitability of the Property for any purpose whatsoever; (c) the state of repair of the Property or the condition of soil, groundwater or any other physical characteristic of the Property; (d) the exposure of the Property to sunlight; or (e) compliance of the Property with any applicable Laws. Lessee acknowledges that it is relying solely upon its own inspection and due diligence activities and not upon any information (including, without limitation, environmental studies or reports of any kind) provided by or on behalf of the City or its agents or employees with respect thereto. Lessee agrees that it is Lessee's sole responsibility and obligation to perform any remedial activities and take such other action as is necessary to put the Property in a condition

suitable for its intended use. Lessee's taking possession of the Property shall be conclusive evidence that the Property was suitable for Lessee's intended purposes as of the date thereof.

4.2 Release and Indemnification. The Lessee, on behalf of itself and its officers, directors, employees, successors, assigns and anyone claiming by, through or under them (collectively, the "Lessee Parties"), hereby releases, relinquishes and forever discharges the City, its officers, agents and employees (collectively, the "Indemnified Parties"), from and against any and all Losses which the Lessee ever had, now have, or hereafter may have, whether grounded in tort or contract or otherwise, in any and all courts or other forums, of whatever kind or nature, whether known or unknown, foreseen or unforeseen, now existing or occurring after the Effective Date, based upon, arising out of or in any way connected with, directly or indirectly (i) any environmental contamination, pollution or hazards associated with the Property or any improvements, facilities or operations located or formerly located thereon, including, without limitation, any release, emission, discharge, generation, transportation, treatment, storage or disposal of Hazardous Materials, or threatened release, emission or discharge of Hazardous Materials; (ii) the structural, physical or environmental condition of the Property, including, without limitation, the presence or suspected presence of Hazardous Materials in, on, under or about the Property or the migration of Hazardous Materials from or to other Property; (iii) any violation of, compliance with, enforcement of or liability under any Environmental Laws, including, without limitation, any governmental or regulatory body response costs, natural resource damages or Losses arising under the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA); and (iv) any investigation, cleanup, monitoring, remedial, removal or restoration work required by any federal, state or local governmental agency or political subdivision or other third party in connection or associated with the Property or any improvements, facilities or operations located or formerly located thereon (collectively, "Released Claims"); provided, however, the foregoing release shall not apply to the extent such Losses are proximately caused by the gross negligence or willful misconduct of the City following the Closing Date. Furthermore, the Lessee shall indemnify, defend (through an attorney reasonably acceptable to the City) and hold the Indemnified Parties harmless from and against any and all Losses which may be made or asserted by any third parties (including, without limitation, any of the Lessee Parties) arising out of or in any way connected with, directly or indirectly, any of the Released Claims, except as provided in the immediately preceding sentence for the City's gross negligence or willful misconduct following the Effective Date. The Lessee Parties waive their rights of contribution and subrogation against the Indemnified Parties.

4.3 Additional Environmental Terms. Lessee hereby agrees that:

(a) Lessee shall, at its sole cost and expense, comply with all Environmental Laws that are or may become applicable to Lessee's activities on the Property

i. Lessee must comply with, and must cause Lessee's Sub-contractors to comply with, all federal, state and local environmental and resource conservation laws and regulations, whether existing or promulgated later, as they apply to this lease. Lessee must include these provisions in all subleases. Some, but not all, of the major federal laws that may affect this Lease include the National Environmental Policy Act of 1969, as amended, 42 USC § § 4321 et seq.; the Clean Air Act, as amended, 42 USC § § 7401 et seq. and scattered sections of 29 USC; the Clean Water Act, as amended, scattered sections of 33 USC and 12 USC; the Resource Conservation and Recovery Act, as amended, 42 USC §§ 6901 et seq.; and the Comprehensive Environmental Response, Compensation, and Liability Act, as amended, 42 USC § § 9601 et seq.. Lessee and Sub-

contractors must also comply with Executive Order No. 12898, "Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations," 59 Fed. Reg. 7629, Feb. 16, 1994; U.S. DOT statutory requirements on environmental matters at 49 USC § 5324(b); Council on Environmental Quality regulations on compliance with the National Environmental Policy Act of 1969, as amended, 40 CFR Part 1500 et seq.; and U.S. DOT regulations, "Environmental Impact and Related Procedures," 23 CFR Part 771 and 49 CFR Part 622.

ii. If Lessee or a Sub-contractor is required pursuant to any Environmental Laws to file any notice or report of a release or threatened release of Hazardous Materials or Special Wastes on, under, or about any premises Lessee uses to perform the Work required under this Lease, Lessee must provide a copy of that report or notice to the City. In the event of a release or threatened release of Hazardous Materials or special waste into the environment, or in the event of any claim, demand, action or notice made against Lessee regarding Lessee's failure or alleged failure to comply with any Environmental Law, Lessee must notify the City.

iii. If Lessee or Sub-contractor fails to comply with any Environmental Law, the City may terminate this Lease in accordance with the default provisions of this Lease and may adversely affect Lessee's eligibility for future lease/contract awards.

(b) Lessee shall not use, store or otherwise handle, or permit any use, storage, or other handling of, any Hazardous Material on or about or beneath the Property unless it is a material handled, used, or stored by Lessee in the ordinary course of constructing, operating and maintaining the System, in which event all such materials shall be handled, used, or stored by Lessee in accordance with applicable Environmental Law.

(c) Lessee shall be responsible for the proper disposal of any soils, Hazardous Materials, Special Waste, debris and other materials excavated or removed in connection with the construction, operation and maintenance of the System in accordance with all applicable Laws. No excavated or removed materials shall be classified as Clean Construction and Demolition Debris without written authorization of 2FM. Lessee shall be deemed the generator on all manifests for the disposal of Hazardous Materials and Special Waste resulting from Lessee's construction activities. The City shall have the right to approve both disposers and disposal facilities, which approval shall not be unreasonably withheld.

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a. Lessee must complete the Contractor's Affidavit Regarding the Identification of All Waste and Material Handling and Disposal Facilities, Exhibit N for each proposed facility. The Affidavit from the Contractor states that waste and materials will be handled, recycled and disposed only at those listed facilities and acknowledges terms and conditions relating thereto that Contractor has executed and attached to this Lease is incorporated by reference.

b. Lessee acknowledges that unless otherwise authorized in writing by the Commissioner of the Department of Fleet and Facility Management (2FM), Contractor must not continue to use a recycling/disposal/handling facility identified in the Affidavit that, (i) has been cited as being in violation of any environmental law or regulation or of any City ordinance; or (ii) does not have a necessary permit. If only one site was identified in the Affidavit, Contractor must arrange for a substitute recycling/disposal/handling facility that meets the requirements specified in the Affidavit and provide a revised Affidavit to the Commissioner of

2FM. Contractor further acknowledges that any such substitution is at no additional cost to the City, regardless of the reason necessitating such substitution.

(d) Lessee shall obtain written approval from the City of all fill material to be brought on the Property prior to delivery. The Lessee will procure and place CA-6 backfill for the excavated material as necessary. The backfill material must have a letter provided from the quarry stating the material is virgin material. The Lessee or its sub-contractor will work with 2FM and provide all required documentation for suitability of backfill material prior to bringing it on site. The Lessee must obtain written verification of written approval from 2FM prior to bringing backfill material onsite. If backfill materials do not meet appropriate criteria then the Lessee shall replace with acceptable backfill at no extra charge.

(e) If there is a release or threatened release of any Hazardous Materials under CERCLA or any other applicable Environmental Laws attributable to the operations or activities of Lessee or any Lessee Parties, Lessee shall promptly notify the City, and, if required by any applicable Environmental Laws, Lessee shall investigate and remediate the condition. At a minimum, any soil or soil gas not meeting the requirements of 35 IAC Section 742.305 must be removed. Any underground storage tanks ("USTs") identified must be removed and closed in accordance with applicable regulations including Title 41 of IAC Part 175 and any identified leaking USTs must be properly addressed in accordance with 35 IAC Part 734. Such work must be completed before installing ground-mounted PV systems at the site(s).

(f) Lessee shall maintain and, upon request, make available to the City, free of charge, copies of all: (i) environmental reports prepared or obtained by Lessee relating to the Property; (ii) transportation or disposal contracts relating to Hazardous Materials and associated inspection logs, manifests, schedules, receipts, load tickets and other information obtained by Lessee that tracks the generation, handling, storage, treatment and disposal of Hazardous Materials, as well as all other records required by any applicable Environmental Laws; (iii) permits issued to Lessee under any applicable Environmental Laws; (iv) documents or correspondence submitted to or received from any Governmental Authority relating to the environmental condition of the Property; and (v) any other documents concerning environmental matters relating to the Property. Lessee shall provide such copies to the City within ten (10) Business Days of receipt of the City's request.

(g) Lessee must notify the Commissioner of 2FM, within 24 hours, of receipt of any environmental complaints, fines, citations, violations or notices of violation ("Environmental Claim") by any governmental body or regulatory agency against Lessee or Sub-contractor or by any third party relating to the loading, hauling, recycling or disposal of materials, construction debris, soil or other wastes. Lessee must provide evidence to the Commissioners of 2FM that any such Environmental Claim has been addressed to the satisfaction of its issuer or initiator.

(h) Lessee must notify the City of any community meetings, media involvement or media coverage related to the loading, hauling, recycling or disposal of materials, construction debris, soil, and other wastes under this lease in which Lessee is asked to participate.

(i) Lessee shall obtain and maintain in effect all Permits required by any Environmental Laws for the System and shall at all times comply with all applicable Environmental Laws. When requested by the Commissioner of 2FM, Lessee must submit copies of all permits required by any Environmental Law. Copies of all permits and insurance certificates that require periodic renewal must be forwarded to 2FM throughout the duration of this Lease.

(j) Lessee must employ all reasonable measures to reduce the noise of heavy construction equipment and to control and minimize dust, smoke, and fumes from construction equipment and other operations on the Work site, and the dirt and noise created by heavy truck operations over City streets in accordance with ordinances of the City and orders of the Commissioner of the Chicago Department of Public Health. The discharge of Hazardous Materials into waterways and City sewers is not permitted.

ARTICLE 5
RENT, TAXES, AND UTILITIES

5.1 Base Rent. Lessee shall pay annual rent for each Site ("Base Rent") commencing on the Commercial Operation Date for each Site and thereafter through the Expiration Date for such Site in accordance with the terms and provisions of Exhibit C. Base Rent is due, without notice, demand or setoff, on or before January 1 of each calendar year, and is payable to the City at the address specified in Section 5.2 below or such other place as the City may from time to time designate in writing to Lessee. Base Rent shall be prorated for partial years within the Term. LESSEE ACKNOWLEDGES AND AGREES THAT ALL AMOUNTS PAYABLE TO THE CITY UNDER THIS AGREEMENT CONSTITUTE RENT AND THAT THIS LEASE CREATES A TAXABLE LEASEHOLD UNDER THE ILLINOIS PROPERTY TAX CODE, 35 ILCS 200/1 et seq. [USUALLY CALLED A LEASE PAYMENT IN $/MW]

5.2 Place of Payment. Lessee shall pay Base Rent and all other amounts owed to the City under this Agreement without set-off, deduction or discount, except as expressly provided in this Agreement, in lawful money of the United States, to the City at the Office of the City Comptroller, 121 North LaSalle Street, Room 700, Chicago, Illinois 60602, or to such other place or person as the City may direct Lessee by written notice. Payment of Rent is independent of every other covenant and obligation in this Agreement. The City shall not be obligated to bill Lessee for Base Rent. Payment by Lessee to the City of compensation pursuant to this Agreement shall not be considered to be a tax and shall be in addition to and exclusive of all license fees, taxes or franchise fees which Lessee may now or in the future be obligated to pay to the City, including under a use agreement or any other agreement with the City.

5.3 Other Charges. Lessee covenants and agrees that the Base Rent specified in this Article 5 shall be absolutely net to the City, except as expressly provided in this Agreement, to the end that this Agreement shall yield net to the City the entire Base Rent, and so that all costs, fees, interest, charges, maintenance and operating expenses, utility charges, water rates, electricity charges, gas charges and Taxes levied, assessed upon or related to the Property, or any part thereof, or the use or occupancy thereof; or upon the PV Facilities or other improvements at any time situated thereon, or levied or assessed upon the leasehold interest created hereby, during the Term, shall be deemed additional Rent due and payable by Lessee hereunder.

5.4 Interest on Overdue Amounts. Base Rent and any additional Rent or other charges not paid when due shall bear interest at the Specified Rate from the due date; provided that interest on overdue Taxes or insurance premiums or other additional Rent not payable to the City shall not accrue unless and until the City has expended such amounts following Lessee's failure to pay them.

5.5 Taxes. Lessee shall pay when due, directly to the collecting authority, all Taxes which at any time during the Term of this Agreement are taxed, charged, assessed, levied or imposed upon the Property or upon the leasehold estate hereby created. Lessee shall furnish

the City, within ten (10) days after the date when any Taxes would become delinquent, receipts of the appropriate taxing authority, or other evidence of payment reasonably satisfactory to the City. No later than the end of the calendar year in which the Commercial Operation Date for any Site occurs, Lessee shall advise the Cook County Assessor of this Agreement in order to have the Site separately assessed from other property of the City and separately assessed as a taxable leasehold estate, and in that connection, shall file appropriate tax division petitions, if necessary.

5.6 Utilities. Lessee shall be responsible for installing and/or obtaining, at its sole cost and expense, any utilities or municipal services it may require; provided, however, Lessee may not enter into any agreement with any other municipality or local government to provide utility services without notice and approval by the City of the conditions for furnishing such utility service. Lessee shall promptly pay for all utility services directly to the appropriate utility companies. The City has no responsibility to furnish Lessee with any utilities and makes no representations or warranties as to the availability of utilities. The City does not warrant that any utility services will be free from interruptions. Any interruption of utility service shall not be deemed an eviction or disturbance of Lessee's use and possession of the Property or any part thereof, or render the City liable to Lessee for damages, or relieve Lessee from performance of Lessee's obligations under this Agreement.

5.7 [intentionally omitted]

5.8 Accord and Satisfaction. No payment by Lessee or receipt by the City of Base Rent or additional Rent hereunder shall be deemed to be other than on account of the amount due, and no endorsement or statement on any check or any letter accompanying any check or payment of Base Rent or additional Rent shall be deemed an accord and satisfaction, and the City may accept such check as payment without prejudice to the City's right to recover the balance of such installment or payment of Base Rent or additional Rent or pursue any other remedies available to the City. No receipt of money by the City from Lessee after the termination of this Agreement or Lessee's right of possession of the Property shall reinstate, continue or extend the Term or Lessee's right of possession.

ARTICLE 6
[intentionally omitted]

ARTICLE 7
CONSTRUCTION; TESTING

7.1 Construction of PV Facilities.

(a) As a condition to the issuance of a Notice to Proceed, Lessee shall submit to the City for approval (a) a Site Plan for each Site to be developed, (b) the specifications for each PV Facility to be constructed, and (c) design drawings at the 45, 90 and 100 percent completion levels (collectively, the "Site Improvement Plans"). The City shall have thirty (30) days after receipt of any such Site Improvement Plans to review and approve the same. If the City does not approve or disapprove such documents within such 30-day period, the documents shall be deemed to be approved. Lessee shall provide to the City complete copies of all final specifications and design drawings, as well as a complete set of as-built drawings for each PV Facility upon completion of such PV Facility. Prior to commencement of construction on any Site, Lessee shall also procure the approval of the final Site Improvement Plans by any and all federal, state, municipal and other governmental authorities, offices and departments having jurisdiction

in the Site. The City will cooperate with Lessee in procuring such approval, provided that the City shall have given its prior approval to such final Site Improvement Plans.

(b) Neither the approval by the City of the Site Improvement Plans nor any other action taken by the City with respect thereto under the provisions of this Agreement shall constitute an opinion or representation by the City as to the sufficiency of said Site Improvement Plans, or such design standards as the City shall have in effect from time to time, compliance with any Laws or ability of Lessee to receive any permits from any department or agency of the City or other jurisdictions, nor impose any present or future liability or responsibility upon the City. Approval shall not constitute approval of the City or its departments or agencies for any construction, extension or renovation of any public utilities or public ways which may be necessary to service the Property. In any case where more than one standard, code, regulation or requirement applies to construction or the Site Improvement Plans, the strictest shall control.

(c) Lessee covenants and agrees and it is an express condition of this Agreement that Lessee shall, with due diligence and at Lessee's sole cost and expense, design, install and construct the PV Facility and utility grade interconnection system on each Site in compliance with the terms of this Agreement and all applicable Laws. Lessee shall be responsible for ensuring that its Contractors construct the PV Facility and utility grade interconnection system on each Site in accordance with the final Site Improvement Plans.

(d) Promptly following receipt of a Notice to Proceed, Lessee shall commence pre-installation activities relating to the PV Facilities, which shall include, without limitation, using Commercially Reasonable Efforts to:

(i) obtain financing for installation of the PV Facilities;

(ii) obtain all Permits required to design, install, construct, own, operate, monitor, maintain and repair the PV Facilities;

(iii) enter into any contract(s) required to design, install, construct, own, operate, monitor, maintain and repair the PV Facilities;

(iv) obtain all necessary authority from the Utility or other regulatory entities for the operation of the PV Facilities and sale and delivery of Solar Energy; and

(v) execute all agreements required for Utility interconnection of the PV Facilities.

(e) Lessee shall provide monthly status reports to the City on the progress of the pre-installation and installation activities for each PV Facility, commencing thirty (30) days after issuance of the Notice to Proceed and continuing through the Commercial Operation Date for each PV Facility.

(f) Prior to the execution of any contracts for engineering, construction or other services, Lessee shall furnish to the City the names of the person or entity whom Lessee desires to employ and the proposed form of contract. Such contractor shall be licensed in the discipline being contracted for, experienced in design and construction of improvements comparable to those for which its services are being required by Lessee and not be listed on any local, state or federal non-responsible bidders' list, and not be debarred under any state or federal statute, regulation or proceeding. In addition, all such contracts shall include the matters required by

Article 20 hereof and other provisions of this Agreement and shall include such other terms as may be reasonably requested by the City regarding construction practices at each Site(s).

(g) No later than thirty (30) days prior to commencement of construction on any Site, Lessee shall also deliver to and for the benefit of the City, and shall maintain in full force and effect, a construction performance bond in such amount and in such form as required by the Department of Fleet and Facility Management. Lessee shall also include in every subcontract a provision requiring the subcontractor to have a construction performance bond filed with the City before starting work, and shall verify that the subcontractor has filed a bond before permitting the subcontractor to start work.

(h) At least thirty (30) days prior to the commencement of any construction on any Site, Lessee shall deliver to the City a detailed budget for such Site Improvements itemizing all estimated costs of construction, and indicating all sources (including loans and equity) of funds to pay the aforesaid construction costs and demonstrate to the reasonable satisfaction of the City that it has sufficient funds to complete the construction of any improvements to be constructed and that said funds will be disbursed in a manner so as to provide reasonable assurances against the foreclosure of any Liens against the Site or Lessee's leasehold estate. If Lessee finances construction with a loan, no provision of any loan instruments or documents may conflict with the terms of this Agreement or require the City to amend this Agreement.

(i) Once commenced, Lessee shall diligently prosecute construction and substantially complete the Site Improvements within the time required by this Agreement. If any work does not comply with the provisions of this Agreement, the City may, by notice to Lessee require that Lessee stop the work and take steps necessary to cause corrections to be made.

(j) Lessee shall pay all costs of the construction incurred by Lessee, when due, and shall require all Contractors to deliver sworn statements of persons furnishing materials and labor before any payment is made and waivers of lien for all work for which payment is made, in order to prevent attachment of any Liens by reason of work, labor, services or materials furnished with respect to the Property.

(k) During the course of construction, Lessee, at its sole expense, will carry or cause to be carried, the insurance required to be carried pursuant to Section 16.2.

(l) During the course of the construction, the City, and its agents and employees on behalf of the Department of Fleet and Facility Management with responsibilities relating to the Property may enter upon and inspect each Site for the purpose of verifying that the Site Improvements are proceeding in accordance with the requirements of this Agreement. With respect to any such entry and inspection on behalf of the Department of Fleet and Facility Management, persons requiring entry shall present proper identification to Lessee. No right of review or inspection shall make the City responsible for work not completed in accordance with the Site Improvement Plans or applicable Laws. Lessee shall keep at each Site the applicable Site Improvement Plans relating to such construction, which the City may examine at all reasonable times and, if required by the City, Lessee shall also furnish the City with copies thereof.

(m) Any work performed at the direction of Lessee, even though performed by Contractors, shall be the responsibility of Lessee. All work shall be performed in accordance with (and all Site Improvements, when completed, shall comply with) the Site Improvement Plans and other documents submitted to and approved by the City, each Site(s) and construction conditions in effect at the time of construction and any other applicable Laws.

(n) Lessee shall notify the City in writing within five (5) Business Days after completing the construction of each PV Facility. The City shall have the right to inspect the PV Facility within ten (10) Business Days after receiving such notice and shall give Lessee written notice specifying any details of construction or mechanical adjustment which remain to be performed by Lessee. Upon satisfaction of any items set forth in such notice, Lessee shall provide to the City all final specifications, as well as a complete set of as-built drawings and records of the actual costs and expenses incurred.

(o) Lessee and its Contractors shall take all steps necessary to ensure that the City enjoys the benefits of all manufacturers' warranties of System equipment and installation.

(p) Upon completion of each PV Facility, Lessee shall document to the satisfaction of the City the value of the PV Facility by submitting to the City records of the actual costs and expenses incurred in connection with the design, acquisition, construction, installation and interconnection of the PV Facility, as well as the projected operating and maintenance expenses. By March 1 of each year of the term of this Agreement, Lessee shall provide to the City an annual accounting of operations and maintenance costs incurred during the preceding Contract Year.

(q) After the completion of each PV Facility in accordance with the provisions of Section 7.1, no alterations and changes of any kind shall be made without the written consent of the City (which may be withheld in its sole discretion).

7.2 Letter of Credit. Lessee shall deposit with the City, upon Lessee's execution and delivery of this Agreement, as security for the full and prompt performance by Lessee of all of Lessee's obligations hereunder, a Letter of Credit. In the event of a Lessee Default, the City may at once and without notice to Lessee be entitled to draw down on the Letter of Credit and apply such resulting sums to pay for the City's cure of any defaulted obligation, or to compensate the City for any loss or damage resulting from any default. The Letter of Credit shall be for a minimum period of one year, shall be renewed or replaced by Lessee not less than twenty (20) days prior to its expiration, and shall provide that the Letter of Credit may be drawn in the event that it is not so renewed or replaced. If the Letter of Credit is drawn due to a failure of Lessee to renew or replace, the proceeds of any such draw shall constitute collateral provided to the City in the form of cash. The City may keep the cash in its general funds and shall not be required to pay interest to Lessee on any such amount. The City may withdraw funds to pay any amount due and owing by Lessee under this Agreement that has not been paid within the time provided hereunder. The Letter of Credit shall not serve as a measure of the City's damages for any default under this Agreement.

7.3 System Acceptance Testing.

(a) Lessee shall test the PV Facility at each Site ("System Acceptance Testing") and coordinate the delivery of Test Energy during such testing. The City shall cooperate with Lessee to facilitate the System Acceptance Testing, provided that Lessee shall bear all expenses in connection therewith. Lessee shall use Commercially Reasonable Efforts to schedule testing at times acceptable to the City. The City shall not be required to pay for any Test Energy.

(b) If the results of the System Acceptance Testing demonstrate that the PV Facility is capable of delivering Solar Energy in an amount equal to or greater than the Minimum

Guaranteed Output for four (4) continuous hours using such instruments and meters as have been installed for such purposes (the "System Requirements") and the PV Facility satisfies all other conditions of Commercial Operation, then Lessee shall send a written notice to that effect to the City (a "Completion Notice"), accompanied by a copy of the results of the System Acceptance Testing. The City shall have ten (10) Business Days after its receipt of the Completion Notice to review the System Acceptance Testing results to determine that the statements set forth therein are true, accurate and complete. If the City determines in good faith that the Completion Notice is inaccurate in any material respect or that the System fails to meet the System Requirements or other conditions of Commercial Operation, the City shall provide Lessee with a detailed notice of such material inaccuracy or failure within such 10-day period (a "Rejection Notice"). Lessee shall promptly remedy at Lessee's cost the specified failure and conduct new System Acceptance Testing until the System Acceptance Testing indicates that the System meets the System Requirements. In each such case, Lessee shall send a new Completion Notice to the City with a copy of the results of the new System Acceptance Testing as provided above.

(c) Absent a timely Rejection Notice from the City pursuant to subsection (b) above, and provided that Lessee has obtained all Permits required for the operation of the PV Facility and such Permits are in full force and effect and there are no suits, proceedings, judgments, rulings or orders by or before any Governmental Authority that could reasonably be expected to materially and adversely affect the ability of the PV Facility to operate and produce Solar Energy, the City shall deliver the "Acceptance Certificate" in the form attached hereto as Exhibit L (the date of such certificate being the "Commercial Operation Date").

(d) Lessee shall test the System annually during the Term hereof to ensure that community subscribers are receiving generation and provide the City with the written results thereof.

7.4 Commercial Operation.

(a) Expected Commercial Operation Date. Lessee shall use Commercially Reasonable Efforts in accordance with Prudent Industry Practice to cause the Commercial Operation Date for each PV Facility to occur on or before the Expected Commercial Operation Date.

(b) Delay Damages. If Commercial Operation for any PV Facility has not been achieved on or before the Expected Commercial Operation Date, Lessee shall continue the installation work and shall pay $1,000.00 per day ("Delay Damages") to the City, as liquidated damages for such delay and not as a penalty. Delay Damages shall begin to accrue on the day following the Expected Commercial Operation Date for the subject PV Facility and continue daily until the earlier of (i) the Commercial Operation Date; or (ii) the date on which Lessee owes the City a cumulative amount of Delay Damages of $100,000.00 ("Delay Damages Cap").

7.5 Right to Terminate. If any PV Facility has not achieved Commercial Operation by the date upon which Lessee has paid to the City the Delay Damages Cap, either Party shall have the right to terminate this Agreement, with respect to the subject Site, within thirty (30) days of such date upon prior written notice to the other Party of at least ten (10) Business Days, provided that Lessee may elect to cure and prevent the City's termination right under this Section 7.5 by providing notice to the City within ten (10) Business Days after the City's notice to terminate and continuing to pay daily Delay Damages beyond the Delay Damages Cap. Neither Party shall have any liability to the other Party with respect to such termination, except for Lessee's

obligations to (a) pay to the City any unpaid Delay Damages through the date of termination, and (b) remove all of its equipment from and restore the Site as required by this Agreement.

7.6 Extension Due to Force Majeure Event. The Expected Commercial Operation Date for each PV Facility, and related termination rights in Section 4.5, shall be extended by a number of days equal to the duration of any Force Majeure Event that delays construction or the commencement of operation of such PV Facility. Lessee shall give written notice to the City describing any such Force Majeure Event within five (5) Business Days after the occurrence of the Force Majeure Event. The number of days of such extension shall be calculated from the date of the Force Majeure Event, provided that if the Force Majeure Event will delay Commercial Operation for more than three (3) months, either Party will have the right to terminate this Agreement without liability to the other Party.

7.7 Site Visits. During the construction, installation and start up of any portion of the System, and continuing throughout the term of this Agreement, Lessee shall permit the City and its agents, employees and representatives, upon reasonable prior notice to Lessee, to inspect the System, or any portion thereof, during normal business hours, subject to the safety rules and regulations of Lessee.

7.8 Delivery of System Documents. Lessee shall provide to the City all information that the City shall reasonably request in connection with the performance of this Agreement. Without limiting the foregoing, Lessee shall provide to the City: (i) two copies of each operation, maintenance, and/or parts manual for each PV Facility, including updates; (ii) two copies of any manuals that describe scheduled maintenance requirements, troubleshooting, and safety precautions specific to the supplied equipment, operations in emergency conditions and any other pertinent information for City personnel; and (iii) two (2) sets of as-built drawings of each PV Facility.

ARTICLE 8
SYSTEM OPERATION AND MAINTENANCE

8.1 Lessee's Duty to Operate and Maintain System. Lessee shall be solely responsible for the operation and maintenance of the System, at Lessee's sole cost and expense, in accordance with Prudent Industry Practice, throughout the term of this Agreement. Lessee shall, at all times during the term of this Agreement, maintain the System in good operating condition. Lessee shall bear all risk of loss with respect to the System, and shall have full responsibility for its operation and maintenance in compliance with all applicable Laws and Permits.

8.2 Qualified Personnel. Lessee shall employ or contract with qualified personnel for the purpose of operating and maintaining the System.

8.3 Permits and Compliance with Law.

(a) Lessee shall obtain and maintain in full force and effect all Permits that are necessary to design, install, construct, own, operate, monitor, maintain and repair the System and to generate, deliver and sell Solar Energy and/or renewable energy credits in accordance with this Agreement. The City shall cooperate with Lessee's efforts to obtain all such Permits, provided that Lessee shall bear all expenses in pursuing such Permits.

(b) Lessee shall, at all times during the term of this Agreement, comply with all applicable Laws related to the operation and maintenance of the System and Lessee's performance of its obligations under this Agreement.

8.4 Planned Outages; System Maintenance. Lessee shall arrange for Planned Outages at the System in accordance with Prudent Industry Practice and shall be permitted to reduce deliveries of Solar Energy during any period of project maintenance; provided, however, any such reductions shall not modify Lessee's obligation to meet the Minimum Guaranteed Output during any Contract Year. Lessee shall, prior to November 1 of each Contract Year, deliver to the City a schedule of Planned Outages for the System that conforms to Prudent Industry Practice. The City may, within fifteen (15) Business Days after receipt of the schedule, request reasonable modifications thereto, and the Parties shall use Commercially Reasonable Efforts to agree upon a revised schedule of Planned Outages. Lessee shall not schedule Planned Outages between 8:00 a.m. and 8:00 p.m. during the Summer Months.

8.5 Maintenance Outages; Temporary Shutdown.

(a) In addition to the Planned Outages, if Lessee determines, in its reasonable discretion and consistent with Prudent Industry Practice, that all or a portion of the System must be removed temporarily from service for maintenance purposes (a "Maintenance Outage"), Lessee shall notify the City of the commencement date and expected duration of any such Maintenance Outage and the anticipated maintenance plan for such Maintenance Outage as soon as practicable. If the City reasonably objects to the timing of the Maintenance Outage, the City shall notify Lessee as soon as practicable and the Parties shall use Commercially Reasonable Efforts to agree upon a mutually acceptable time to conduct the Maintenance Outage.

(b) If the City determines, in its sole discretion, that all or a portion of the System must be removed temporarily from service for each Site(s) purposes for more than a total of ten (10) days in any Contract Year (a "Temporary Shutdown"), the City will notify the Lessee of the commencement date and expected duration of any such Temporary Shutdown as soon as practicable. In such event, the City shall pay to Lessee an amount equal to the sum of the following: (i) Lessee's reasonable cost to remove and re-install or shut down and re-initiate the System or portion of the System; (ii) the cost, if any, of lost Solar Energy production during the period of Temporary Shutdown in excess of ten (10) days in any Contract Year at a fixed price no greater than the City's fixed wholesale supply retail contract rate then in effect; and (iii) an amount attributable to any lost Environmental Attributes, if any, calculated at Lessee's actual out-of-pocket loss in excess of ten (10) days in any Contract Year. The City may, at its option, elect to pay Lessee such amounts in a lump sum payment or in equal monthly payments, including interest at the Specified Rate on the unpaid balance, over not more than a twelve (12) month period.

8.6 Malfunctions and Emergencies.

(a) Each Party shall notify the other within twenty-four (24) hours after the discovery of any material malfunction in the operation of the System or of any interruption in the supply of Solar Energy. Each Party shall notify the other Party immediately upon the discovery of an emergency condition in the System. The Parties shall establish procedures for providing notice of emergency conditions, or conditions requiring Lessee's repair or alteration, at all times, twenty-four (24) hours per day, including weekends and holidays. If an emergency condition exists, Lessee shall promptly dispatch the appropriate personnel to perform the necessary repairs or corrective action in an expeditious and safe manner.

(b) Notwithstanding anything to the contrary in this Agreement, in cases of emergency in which the City determines that the continued operation of any PV Facility presents an imminent threat requiring immediate action to prevent or mitigate the loss or impairment of life, health, property or essential public services, the City shall have the right to disconnect such PV Facility prior to notification of Lessee. If the City disconnects a PV Facility pursuant to this provision, the City shall give notice to Lessee as soon as practicable thereafter. If the circumstances giving rise to such disconnection were beyond Lessee's control, the duration of any disconnection by the City pursuant to this provision shall be no longer than reasonably necessary to address such circumstances. The Parties agree that only Lessee or an agent designated by Lessee will be authorized to reconnect the System after the System is disconnected by the City pursuant to this Section 8.6(b).

8.7 Records of Maintenance and Repairs. Lessee shall maintain records of all preventive and corrective maintenance performed at each PV Facility and shall submit copies of all such records to the City on a quarterly basis.

ARTICLE 9
METERING, MEASUREMENT AND TESTING

9.1 Metering Equipment. Lessee shall measure the amount of Solar Energy delivered to the electric distribution grid and/or subscribers by the System at the Delivery Points utilizing Class 0.2 electricity meters that meet the requirements of ANSI C12.20-2010 and IEC 687.3 in addition to load metering, inverter monitoring, and sub-combiner monitoring meters (collectively, "Metering Equipment"). The Metering Equipment shall measure the alternating current output of the System on a continuous basis. The Metering Equipment shall have standard industry telemetry capabilities and/or automated metering infrastructure that will provide the City with the ability to incorporate the System electrical output data into the each Site(s)'s energy usage database, and shall also make such data readily available in secure web format.

(a) Lessee shall be responsible for maintaining the Metering Equipment in good working order in accordance with Prudent Industry Practice.

(b) Lessee shall conduct tests of the Metering Equipment at such times as it deems appropriate in accordance with Prudent Industry Practice, but not less than once in any calendar year. The City shall be allowed to observe the tests, and Lessee shall provide notice of the testing to the City at least ten (10) Business Days prior to the testing date. Lessee shall provide certified copies of the results of any tests to the City.

(c) In addition to the annual test, the City, or its authorized agent, shall have the right at any time to test the Metering Equipment and verify meter readings and calibrations. If such testing indicates that such equipment is in error by more than 0.3%, then Lessee shall reimburse the City for its reasonable out-of-pocket expenses in performing such testing and shall promptly repair or replace any such equipment.

9.2 Standard of Meter Accuracy; Resolution of Disputes as to Accuracy. All Metering Equipment shall be accurate within a 0.3% variance. The following steps shall be taken to resolve disputes regarding the accuracy of the Metering Equipment:

(a) If either Lessee or the City disputes the accuracy or condition of any Metering Equipment, it shall so advise the other Party in writing.

(b) If the Parties are unable to reach consensus as to the accuracy or condition of such Metering Equipment through reasonable negotiations, then any Party may request that Lessee test the Metering Equipment.

(c) If the Metering Equipment registers within the permitted 0.3% variance, the disputing Party shall bear the cost of inspection; otherwise, the Lessee shall bear the cost.

(d) If any Metering Equipment is found to be in error by not more than the permitted 0.3% variance, previous recordings of such Metering Equipment shall be considered accurate in computing Solar Energy hereunder.

(e) If any Metering Equipment becomes non-operational or is found to be in error by an amount exceeding the 0.3% variance, the Parties shall endeavor in good faith to address the equipment failure based upon, among other things, historical and cyclical consumption. If no reliable information exists as to the actual period over which such equipment was registering inaccurately, it shall be assumed for correction purposes hereunder that such inaccuracy was equal to one-half of the period from the date of the last previous test of such equipment through the date of the adjustments. To the extent that the Parties are unable to adjust the inaccuracy, the issue shall be resolved in accordance with Article 17 of this Agreement.

ARTICLE 10
RECORDS, MAINTENANCE, AUDITS AND REPORTING

10.1 [intentionally omitted]

10.2 [intentionally omitted]

10.3 Records; Auditing.

(a) Maintenance of Records. Lessee shall maintain all records with respect to its activities and business operations under this Agreement. Without limiting the foregoing, Lessee shall maintain complete and accurate records as may be necessary to ascertain the accuracy of all relevant data, estimates or statements of charges submitted hereunder until the later of (i) a period of at least three (3) years after the date the monthly invoice was received by the City, or (ii) if there is a dispute relating to an invoice, the date that is three (3) years after the date on which such dispute is resolved.

(b) Audit Rights. The City or its representative(s) shall have the right to audit the accounts, books and records of Lessee and its Affiliates to the extent reasonably necessary to verify the accuracy of any statement, charge, computation, or demand made under or pursuant to this Agreement and compliance with this Agreement. Any such audit(s) shall be undertaken at reasonable times and appropriate locations and consistent with Generally Accepted Accounting Principles, consistently applied; provided that the City shall be limited to one audit per PV Facility under this Section 10.3(b) during each Contract Year. Lessee agrees to reasonably cooperate with any such audit(s). This right to audit shall extend for a period of three (3) years following the date of each payment under this Agreement. The City shall pay the costs of any audit, unless the audit reveals a discrepancy or discrepancies in excess of 2% of the amounts reported in favor of the City, in which case Lessee shall pay the reasonable costs of the audit. Any Party discovering an error or discrepancy in any charge or statement shall promptly report the matter to the other Party. The Parties shall thereafter cooperate to correct the charge or statement, and the owing Party shall refund or pay, as applicable, any overpayment or underpayment, with interest at the

Specified Rate from the date of overpayment or underpayment to the date on which payment is made; provided however, if no such errors or discrepancies are reported within three (3) years from the end of the Contract Year in which such error or discrepancy occurred, the same shall be conclusively deemed to be correct absent fraud. Lessee shall cause its Affiliates to comply with the requirements of this Section 10.3(b).

ARTICLE 11
EVENTS OF DEFAULT; REMEDIES

11.1 Lessee Events of Default. The occurrence of any one or more of the following events shall constitute a breach of this Agreement by Lessee (each a "Lessee Default"):

(a) The System fails to generate at least fifty percent (50%) of the Expected Output as set forth on Exhibit H, pro rated for any portion of a year that the determination hereby is made, for a continuous period of ninety (90) days or for one hundred twenty (120) days in any nine (9) month period, other than as a result of Force Majeure or inclement weather, and the City notifies Lessee of the failure. If Lessee has commenced and is continuing to attempt to effect a cure within thirty (30) days of the date of receipt of such notice, a Lessee Default shall not be deemed to have occurred until the expiration of such longer period as may be reasonably necessary to complete the cure, but in no event shall such longer period exceed an additional ninety (90) days.

(b) Lessee fails to pay any amount of money payable hereunder, including without limitation any Taxes, when due, and such failure continues for more than ten (10) days after receipt of written notice from the City that such amount is past due.

(c) Lessee fails to perform, keep or observe, or otherwise breaches, any of the covenants, conditions, agreements or obligations of Lessee under this Agreement (other than as covered or described elsewhere in this Section 11.1) and such failure or breach continues for more than thirty (30) days after receipt of written notice from the City, or such additional time as may be reasonably necessary to remedy such default so long as Lessee is at all times diligently and expeditiously proceeding to cure such default and in fact cures such default within a reasonable time; provided, however, that such additional time beyond thirty (30) days shall not apply to a default that creates a present danger to persons or property or that materially or adversely affects the City's interest in the Property or the each Site(s), or if the failure or default by Lessee is one for which the City (or any official, employee or other agent) may be subject to fine or imprisonment.

(d) Lessee abandons or vacates the Property during the Term.

(e) Lessee suffers or permits any Liens or encumbrances to attach to the Property or the leasehold interest of Lessee and Lessee fails to discharge said Liens or encumbrances within thirty (30) days following written notice thereof, or within ten (10) days prior to any sale or disposition or forfeiture pursuant to such execution, whichever date shall first occur.

(f) Lessee fails to carry all required insurance under this Agreement and such failure continues for (i) thirty (30) days after receipt of written notice from the City, so long as the City receives prior written notice of at least sixty (60) days from the insurer of any change, cancellation or non-renewal thereof as provided in Section 16.2 hereof, or (ii) ten (10) days after receipt of written notice from the City, in the event that the City receives less than sixty (60) days' written notice from the insurer of any change, cancellation or non-renewal thereof.

(g) Lessee (or any person having more than a 7.5% direct or indirect ownership interest in Lessee) makes or furnishes any affidavit, statement, certification, disclosure, representation, warranty, schedule or report to the City (whether in this Agreement, an Economic Disclosure Statement or another document) which is false or misleading in any material respect as of the date made or ceases to remain true during the term of this Agreement.

(h) Lessee fails to comply with an order of a court of competent jurisdiction or proper order of a governmental agency relating to this Agreement within the required time period.

(i) Lessee defaults under any other agreement it may presently have or may enter into with the City during the Term of this Agreement, and fails to cure said default within any applicable cure period. Lessee agrees that in case of an Event of Default under this Agreement, the City also may declare a default under any such other agreements.

(j) Lessee: (i) is dissolved (other than pursuant to a consolidation, amalgamation or merger); (ii) becomes insolvent or admits in writing its inability, or is generally unable, to pay its debts as they become due; (iii) institutes or has instituted against it a proceeding seeking a judgment of insolvency or bankruptcy or any other relief under any federal or state bankruptcy or insolvency act or other similar law affecting creditors' rights, or a petition is presented for its winding-up or liquidation and, in the case of any such proceeding or petition instituted or presented against it, such proceeding or petition (1) results in a judgment of insolvency or bankruptcy or the entry of an order for relief or the making of an order for its winding-up or liquidation or (2) is not dismissed, discharged, stayed or restrained in each case within sixty (60) days of the institution or presentation thereof; (iv) has a resolution passed for its winding-up, official management or liquidation (other than pursuant to a consolidation, amalgamation or merger); (v) seeks or becomes subject to the appointment of an administrator, provisional liquidator, conservator, receiver, trustee, custodian or other similar official for it or for all or substantially all its assets; (vi) has a secured party take possession of all or substantially all its assets or has a distress, execution, attachment, sequestration or other legal process levied, enforced or sued on or against all or substantially all its assets; (vii) causes or is subject to any event with respect to it, which, under the applicable Laws of any jurisdiction, has an analogous effect to any of the events specified in clauses (i) through (vii) (inclusive); or (viii) takes any action in furtherance of, or indicating its consent to, approval of, or acquiescence in, any of the foregoing acts.

(k) Lessee assigns this Agreement or any of its rights hereunder, except as may be permitted under Article 18.

11.2 City's Remedies. Upon the occurrence of a Lessee Default, the City may exercise any one or more of the following described remedies, in addition to all other rights and remedies provided elsewhere herein or at law or equity:

(a) terminate this Agreement upon prior written notice to Lessee of at least thirty (30) days, in which event the City may forthwith repossess the Property and be entitled to recover forthwith as damages any sums for which Lessee is liable or in respect of which Lessee has agreed to indemnify the City under any provisions of this Agreement which may then be due and owing;

(b) suspend performance of its obligations under this Agreement;

(c) draw upon the Letter of Credit and use the proceeds thereof to pay or reimburse the City for performance of Lessees' obligations or compensate the City for any damages owed to the City by Lessee;

(d) if the applicable Lessee Default arises out of Lessee selling the Solar Energy to a third party in violation of this Agreement, Lessee agrees that in addition to other remedies available to the City, Lessee shall pay the City an amount equal to the proceeds of any third-party sales;

(e) deem Lessee non-responsible in future procurements by the City; and

(f) pursue any other remedy it may have at law or in equity.

11.3 City Defaults. The occurrence of any one or more of the following events shall constitute a breach of this Agreement by the City (each, a "City Default"):

(a) [intentionally omitted]; or

(b) The City fails to perform, keep or observe, or otherwise breaches, any of the covenants, conditions, agreements or obligations of the City under this Agreement (other than as covered or described elsewhere in this Section 11.3) and such failure or breach continues for more than thirty (30) days after receipt of written notice from Lessee, or such additional time as may be reasonably necessary to remedy such default so long as the City is at all times diligently and expeditiously proceeding to cure such default and in fact cures such default within a reasonable time; or

(c) If (i) the City shall be adjudicated bankrupt or become subject to an order for relief under federal bankruptcy law, (ii) the City shall institute a proceeding seeking an order for relief under federal bankruptcy law or seeking a reorganization, arrangement, adjustment or composition of it or all of its debts under Illinois bankruptcy law, (iii) with the consent of the City, there shall be appointed a receiver, liquidator or similar official for the City under federal bankruptcy law or under Illinois bankruptcy law, or (iv) without the application, approval or consent of the City, a receiver, trustee, liquidator or similar official shall be appointed for the City under federal bankruptcy law or under Illinois bankruptcy law or a proceeding described in clause (ii) above shall be instituted against the City, and such appointment continues undischarged or such proceeding continues undismissed or unstayed for a period of sixty (60) consecutive days.

11.4 Lessee's Remedies. Upon the occurrence of a City Default, Lessee may exercise any one or more of the following described remedies, in addition to all other rights and remedies provided elsewhere herein or at law or equity:

(a) terminate this Agreement upon prior written notice to the City of at least thirty (30) days;

(b) cease the provision of all Solar Energy and remove the System in compliance with the conditions of Section 3.7 hereof;

(c) sell to a third Person, free and clear of any claims by the City, all Solar Energy for such period during which Lessee suspends performance hereunder; or

(d) in case of a City Default which results in a termination of this Agreement by Lessee, in lieu of any other remedy hereunder, the City shall pay the Termination Value pursuant to Section 3.7(b).

11.5 Other Provisions.

(a) In addition to any other right or remedy that the City may have, the City may (but shall not be obligated to) cure at any time, with prior written notice of at least thirty (30) days to Lessee (except in an emergency), any failure by Lessee to perform under this Agreement and whenever the City so elects, all reasonable costs and expenses incurred by the City in curing such failure, including, without limitation, reasonable attorney's fees, shall be paid by Lessee to the City within thirty (30) days following the City's invoice therefor, and if not paid within such 30-day period, shall bear interest at the Specified Rate.

(b) If the City exercises the remedies provided for in Sections 11.5(a) above, Lessee shall surrender possession and vacate the Property or appropriate portion thereof immediately and deliver possession thereof to the City, and Lessee hereby grants to the City full and free license to enter into and upon the Property in such event and take complete and peaceful possession of the Property, to expel or remove Lessee and any other occupants and to remove any and all property therefrom without being deemed in any manner guilty of trespass, eviction, forcible entry and detainer, or conversion of property and without relinquishing the City's right to Rent or any other right given to the City hereunder or by operation of law.

(c) All property removed from the Property by the City pursuant to any provision of this Agreement or by law may be handled, removed or stored in a commercial warehouse or otherwise by the City at the risk, cost and expense of Lessee, and the City shall in no event be responsible for the value, preservation or safekeeping thereof. Lessee shall pay the City, upon demand, any and all expenses incurred by the City in such removal and storage charges against such property so long as the same shall be in the City's possession or under the City's control. All property not removed from the Property or retrieved from storage by Lessee within thirty (30) days after receipt of written notice from the City shall, if the City so elects, be conclusively deemed to have been forever abandoned by Lessee, in which case such property may be sold or otherwise disposed of by City without further accounting to Lessee.

(d) Lessee shall pay all of the City's costs, charges and expenses, including court costs and attorneys' fees, incurred in successfully enforcing Lessee's obligations under this Agreement.

(e) No waiver by the City of default of any of the terms, covenants or conditions hereof to be performed, kept and observed by Lessee shall be construed to be or act as a waiver of any subsequent default of any of such terms, covenants and conditions. No failure by the City to timely bill Lessee for any rentals, fees or charges of any kind shall in any way affect or diminish Lessee's obligation to pay said amounts. The acceptance of Rent, whether in a single instance or repeatedly, after it falls due, or after knowledge of any breach hereof by Lessee, or the giving or making of any notice or demand, whether according to any statutory provisions or not, or any act or series of acts except an express written waiver, shall not be construed as a waiver of any right hereby given the City, or as an election not to proceed under the provisions of this Agreement. The rights and remedies hereunder are cumulative and the use of one remedy shall not be taken to exclude or waive the right to the use of another, except where rights and remedies are specifically limited as set forth elsewhere in this Agreement.

ARTICLE 12
LIMITATION OF LIABILITY; SURVIVAL

12.1 Limitation on Liability. The City and Lessee each hereby expressly, irrevocably, fully and forever releases, waives and relinquishes any and all right to receive from the other (or any past, present or future member, trustee, director, officer, employee, agent, representative, or advisor of the other), in any claim, demand, action, suit, proceeding or cause of action in which the City and Lessee are parties, special, punitive, exemplary, incidental, indirect, or consequential damages, or losses or damages for lost revenue or lost profits or other business interruption damages, which in any way (directly or indirectly) arises out of, results from or relates to any of the following, in each case whether now existing or hereafter arising, whether foreseeable or not, and whether based on contract or tort or any other legal basis: this Agreement; any past, present or future act, omission, conduct or activity with respect to this Agreement; any transaction, event or occurrence contemplated by this Agreement; the performance of any obligation or the exercise of any right under this Agreement; or the enforcement of this Agreement. Lessee and the City reserve the right to recover actual damages, with interest, attorneys' fees, costs and expenses as provided in this Agreement, for any breach of this Agreement. To the extent any damages required to be paid hereunder are liquidated, the Parties acknowledge that the damages are difficult or impossible to determine, that otherwise obtaining an adequate remedy is inconvenient, and that the liquidated damages constitute a reasonable approximation of the anticipated harm or loss. It is the intent of the Parties that the limitations herein imposed on remedies and the measure of damages be without regard to the cause or causes related thereto, including the negligence of any Party, whether such negligence be sole, joint or concurrent, or active or passive. The Parties hereby waive any right to contest such payments as an unreasonable penalty. The Parties acknowledge and agree that money damages and the express remedies provided for herein are an adequate remedy for the breach by the other of the terms of this Agreement, and each Party waives any right it may have to specific performance with respect to any obligation of the other Party under this Agreement.

12.2 Survival. The provisions of this Article 12 shall survive the termination of this Agreement.

12.3 Third-Party Claims. The provisions of this Article 12 shall not apply with respect to claims made pursuant to Section 16.1.

ARTICLE 13
FORCE MAJEURE

13.1 Definition.

(a) "Force Majeure Event" means any act or event that delays or prevents a Party from timely performing all or a portion of its obligations under this Agreement or from complying with all or a portion of the conditions under this Agreement if such act or event, despite the exercise of reasonable efforts, cannot be avoided by and is beyond the reasonable control, and not the result of the fault or negligence, of the affected Party and such Party has been unable to overcome such act or event with the exercise of due diligence (including the expenditure of commercially reasonable sums). Subject to the foregoing conditions, a Force Majeure Event may include: (i) natural phenomena, such as storms, tornados, floods, lightning and earthquakes; (ii) explosions or fires arising from lightning or other causes unrelated to the acts or omissions of the Party seeking to be excused from performance; (iii) acts of war or public disorders, civil disturbances, riots, insurrection, sabotage, epidemic, terrorist acts, or rebellion; (iv) any restraint

or restriction imposed by a Governmental Authority, which by exercise of due diligence and in compliance with applicable Law a Party could not reasonably have been expected to avoid and to the extent which, by exercise of due diligence and in compliance with applicable Law, has been unable to overcome (so long as the affected Party has not applied for or assisted such act by a Governmental Authority).

(b) Notwithstanding the foregoing, the term "Force Majeure Event" does not include:

(i) [intentionally omitted], or

(ii) inability of a Party to make payment when due under this Agreement, unless the cause of such inability is an event that would otherwise constitute a Force Majeure Event as described above.

13.2 Excused Performance. Except as otherwise specifically provided in this Agreement, neither Party shall be considered in breach of this Agreement or liable for any delay or failure to comply with the Agreement, if and to the extent that any failure or delay in such Party's performance of one or more of its obligations hereunder is attributable to the occurrence of a Force Majeure Event; provided, that the Party claiming relief under this Article 13 shall as soon as practicable (a) notify the other Party in writing of the existence of the Force Majeure Event, (b) exercise all Commercially Reasonable Efforts necessary to minimize delay caused by such Force Majeure Event, (c) notify the other Party in writing when it is able to resume performance of its obligations and compliance with such conditions under this Agreement, and thereafter (d) resume performance of its obligations hereunder. If Lessee claims relief pursuant to a Force Majeure Event, the City shall be excused from making payment to Lessee until Lessee resumes performing its obligations under this Agreement; provided, however, that the City shall not be excused from making any payments due for any Solar Energy delivered prior to the Force Majeure Event performance interruption. If deliveries of Solar Energy are prevented in whole or in part by a Force Majeure Event, the deliveries in question shall not be made up and the term of this Agreement shall not be extended to permit any makeup or offset of the lost deliveries.

13.3 Force Majeure Termination.

(a) Either Party may terminate this Agreement, without liability to the other Party, by giving written notice of such termination to the other Party, if a single Force Majeure Event occurs and prevents Lessee from making available, or the City from taking, all of the Solar Energy, or its other material obligations or conditions under this Agreement for a period of one hundred twenty (120) consecutive days or one hundred eighty (180) days in the aggregate, provided, that if the claiming Party is the Party electing to terminate this Agreement, the claiming Party shall only be entitled to terminate this Agreement under this Section 13.3(a) if it has met its obligations under Section 13.2. Such termination shall be effective upon receipt of notice from the terminating Party by the non-terminating Party.

(b) Notwithstanding the provisions of Section 13.3(a), if the Force Majeure Event is one that has materially and adversely affected the production and sale of Solar Energy as contemplated by this Agreement and if:

(i) the Force Majeure Event is such that the suspension can be corrected through repair or restoration work to the System or other actions by Lessee;

(ii) Lessee furnishes to the City as soon as practicable after such Force Majeure Event, but in no event later than ninety (90) days after the occurrence of such Force Majeure Event, the plans and, if applicable, the construction contract, for the restoration or repair of the System, together with evidence reasonably satisfactory to the City of the total cost of restoration or repair of the System and of Lessee's ability to finance such total cost;

(iii) the City has the reasonable opportunity to review and comment on such plans and financing; and

(iv) Lessee has undertaken and is diligently pursuing the repair work, restoration or other actions, then neither Party shall have the right to terminate this Agreement during such suspension so long as Lessee is using Commercially Reasonable Efforts and applying Prudent Industry Practice to complete such repair work, restoration or such other actions.

13.4 Obligations. No Party shall be relieved by operation of this Article 13 of any liability for breach of any obligations that were to be performed or that accrued prior to the Force Majeure Event. If the City claims relief pursuant to a Force Majeure Event, Lessee may sell all or a portion of the Solar Energy to any Person; provided that no such sale shall be for a term of more than one hundred twenty (120) consecutive days. Upon resumption of the City's ability to perform under this Agreement, Lessee shall continue to be excused for failure to make available Solar Energy to the City to the extent resulting from Lessee's obligations under third-party contracts that Lessee entered into as permitted under this Section 13.4, until such third-party contracts are required to be terminated in accordance with the following:

(a) if the estimated duration of the Force Majeure Event, as stated in the notice provided by the City pursuant to Section 13.2 (as may be updated from time to time), is less than 180 days, Lessee shall use Commercially Reasonable Efforts, but shall not be required, to terminate such sales prior to the end of the period stated in the notice (as updated from time to time) if the actual period of such Force Majeure Event ends prior to such date, and

(b) in the event that the estimated duration of such Force Majeure Event, as stated in the original notice provided by the City pursuant to Section 13.2, is equal to or greater than 180 days, Lessee shall terminate such sales no later than the date that is 30 days after the City delivers notice to Lessee that the period of such Force Majeure Event has ended; provided, however, that Lessee shall use Commercially Reasonable Efforts, but shall not be required, to terminate such sales on such lesser notice as the City may provide; provided, further, that notwithstanding anything to the contrary in this Agreement, Lessee shall not be required to terminate such sales prior to the date that the City estimated as the date of the end of the period of the Force Majeure Event in its original notice specifying the estimate of the period of such Force Majeure Event.

ARTICLE 14
GENERAL COVENANTS

14.1 Lessee's Covenants. As a material inducement to the City's execution and delivery of this Agreement, Lessee covenants and agrees to the following:

(a) System Condition. Lessee shall take all actions consistent with Prudent Industry Practice to ensure that the System is capable of providing Solar Energy at the Minimum Guaranteed Output.

(b) Permits and Approvals. Lessee shall obtain and maintain all Permits necessary to design, install, construct, own, operate, monitor, maintain and repair the System and generate, deliver and sell Solar Energy in accordance with this Agreement. Lessee shall deliver copies of all such Permits to the City.

(c) Health and Safety. Lessee shall take all necessary and reasonable safety precautions with respect to the installation, operation and maintenance of the System, in compliance with all applicable Law relating to the safety of persons and real and personal property. Lessee shall immediately report to the City any death, lost time, injury or damage to the City's property that occurs at any Site.

(d) Liens and Encumbrances. Lessee shall not engage in any financing or other transaction which would create any mortgage, encumbrance or Lien on the Property, or directly or indirectly cause, create, incur, assume or suffer to exist any Liens on or with respect to the Property or any interest therein without the prior written consent of the City. Lessee shall promptly pay when due all Taxes, bills, debts, obligations, charges or fees relating to any work or services performed under this Agreement by Lessee or its Contractors on the Property. If Lessee breaches its obligations under this Section 14.1(d), it shall immediately notify the City in writing, shall promptly cause such Lien to be discharged and released of record without cost to the City, and shall defend and indemnify the City against all costs and expenses (including reasonable attorneys' fees and court costs at trial and on appeal) incurred in discharging and releasing such Lien.

(e) No Infringement. The System and Lessee's services hereunder, including, but not limited to, the installation, operation and maintenance of the System, or any portion thereof, shall not infringe any third party's intellectual property or other proprietary rights.

(f) Laws. Lessee shall carry out the activities set forth in this Agreement in accordance with all applicable Laws.

14.2 City Covenants. As a material inducement to Lessee's execution and delivery of this Agreement, the City covenants and agrees that it shall not directly or indirectly cause, create, incur, assume or suffer to exist any Liens on or with respect to the System or any interest therein. If the City breaches its obligations under this Section 14.2, it shall immediately notify Lessee in writing, and shall promptly cause such Lien to be discharged and released of record without cost to Lessee.

ARTICLE 15
REPRESENTATIONS AND WARRANTIES

15.1 Lessee's Representations and Warranties. In addition to any other representations and warranties contained in this Agreement, Lessee represents and warrants as follows:

(a) Lessee is a _____, duly organized, validly existing and in good standing under the laws of the State of _____, and is qualified to conduct business in each jurisdiction where the failure to so qualify would have a material adverse effect on the business or financial condition of Lessee.

(b) Lessee has the full right, power and authority to enter into, execute, deliver and perform its obligations under this Agreement, and is not prohibited from entering into this

Agreement or discharging and performing all covenants and obligations on its part to be performed under and pursuant to this Agreement.

(c) Lessee's execution, delivery and performance of this Agreement and all instruments and agreements contemplated hereby have been duly authorized by all necessary corporate or other action, and will not violate any existing applicable Law or result in a breach of, or constitute a default under, any other agreement to which Lessee is a party or by which any of its property is bound, or require the consent of any trustee or holder of any indebtedness or any other party to any other agreement with Lessee.

(d) This Agreement constitutes a legal, valid and binding obligation of Lessee, enforceable against Lessee in accordance with its terms, except as may be limited by applicable federal or state bankruptcy or insolvency act or other similar laws now or hereafter in effect affecting creditors' rights, or by the exercise of judicial discretion in accordance with general principles of equity.

(e) There is no action, litigation, investigation or proceeding pending or, to the best of Lessee's knowledge, threatened against Lessee or its Affiliates by or before any court or other Governmental Authority, and Lessee knows of no facts which could give rise to any such action, litigation, investigation or proceeding, which could: (i) affect the ability of Lessee to perform its obligations hereunder; or (ii) materially affect the operation or financial condition of Lessee.

(f) Lessee is now and for the term of this Agreement shall remain solvent and able to pay its debts as they mature.

(g) Lessee is not in default with respect to any indenture, loan agreement, mortgage, note or any other agreement or instrument related to the borrowing of money to which Lessee is a party or by which Lessee is bound.

(h) All certifications and statements contained in the Economic Disclosure Statement(s) last submitted to the City by Lessee (and any legal entity holding an interest in Lessee) are true, accurate and complete.

(i) Lessee has obtained or will obtain prior to the commencement of deliveries of Solar Energy hereunder, all Permits required by any Governmental Authority in order to perform its obligations hereunder.

(j) Lessee is not, and during the term of this Agreement shall not become, a "public utility company," "electric utility company" or a "holding company," "subsidiary company" or "affiliate" or "associate company" thereof, as such items are defined in the Public Utility Holding Lessee Act of 1935, as amended.

(k) Lessee has the requisite expertise and sufficiently skilled manpower, personnel and resources (including necessary supervision and support services) to install, operate and maintain the System and deliver the Solar Energy within the time limits and for the term of and in accordance with the other conditions set forth in this Agreement. Lessee shall ensure that its employees have the requisite training and are otherwise able to competently perform the installation, operation and maintenance work, and deliver the Solar Energy as required herein. Lessee guarantees and warrants that the installation, operation and maintenance of the System, and the delivery of Solar Energy pursuant to this Agreement, will comply with applicable Law.

(l) Lessee represents and warrants that the System Development Costs shall be as set forth on Exhibit K hereto (which amounts shall be determined after giving effect to any and all adjustments contemplated thereby). Lessee represents and warrants that the cost to operate and maintain the System, including capital replacement costs, shall be as set forth on Exhibit K hereto.

15.2 City's Representations and Warranties. In addition to any other representations and warranties contained in this Agreement, City represents and warrants that it has authority under its home rule powers to execute and deliver this Agreement and perform the terms and obligations contained herein.

15.3 Disclaimer. OTHER THAN THOSE WARRANTIES AND GUARANTIES EXPRESSLY SET FORTH IN THE TERMS OF THIS AGREEMENT, NEITHER PARTY MAKES ANY WARRANTIES OR GUARANTIES OF ANY KIND WHATSOEVER, EXPRESS, IMPLIED, ORAL, WRITTEN OR OTHERWISE, INCLUDING WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE, OR WARRANTIES ARISING BY CUSTOM, TRADE USAGE, PROMISE, EXAMPLE OR DESCRIPTION, ALL OF WHICH WARRANTIES AND GUARANTIES ARE EXPRESSLY DISCLAIMED.

ARTICLE 16
INDEMNITY; INSURANCE

16.1 Lessee's Indemnity.

(a) Lessee shall indemnify, defend and hold the City and any official, officer, agent, employee, contractor and representative of the City and their respective representatives, successors and assigns (each, a "City Indemnified Party") harmless from and against any and all Losses which may be imposed upon or incurred by or asserted against any City Indemnified Party, regardless of the legal theories upon which premised, in any way resulting from, relating to, or arising from or out of, directly or indirectly:

(i) any acts or omissions of Lessee or any Lessee Parties in connection with its operations or performance under this Agreement or its use or occupancy of real property or use of personal property hereunder;

(ii) any use, non-use, possession, occupation, alteration, repair, condition, operation, maintenance or management of the Property or any easement areas, to the extent attributable to any act or omission of Lessee or any Lessee Parties;

(iii) any accident, injury (including death, sickness and disease) or damage to any person or property (including City Property and City Indemnified Parties) occurring in, on or about the Property;

(iv) any failure to perform or comply with any of the covenants, agreements, terms or conditions contained in this Agreement on Lessee's part to be performed or complied with (other than the payment of money);

(v) any Lien or claim which may be alleged to have arisen against or on the Property, or any Lien or claim which may be alleged to have arisen out of this

Agreement and created or permitted to be created by Lessee against any assets of the City, or any liability which may be asserted against the City with respect thereto;

(vi) any action or proceedings brought against the City or the Property, or any part thereof, by virtue of any violation or alleged violation by Lessee or the Property of any Laws; and

(vii) any claim by third parties that the City or Lessee has infringed ownership rights in intellectual property.

Lessee's indemnity obligation does not apply to liability or damages proximately caused by the sole negligence of any City Indemnified Party. This indemnification shall survive the Closing or any termination of this Agreement (regardless of the reason for such termination).

(b) Any City Indemnified Party shall utilize the following procedure in enforcing any and all claims for indemnification against Lessee.

(i) If any claim, action or proceeding is made or brought against any City Indemnified Party against which it is indemnified under Section 16.1(a) hereof, then, the City Indemnified Party shall give notice hereunder to Lessee promptly after obtaining written notice of any claim as to which recovery may be sought against it. If such indemnity shall arise from the claim of a third party, Lessee may elect to assume the defense of any such claim and any litigation resulting from such claim at its own expense; provided, however, that failure by Lessee to notify the City Indemnified Party of its election to defend any such claim or action by a third party within thirty (30) days after notice thereof shall have been received by Lessee shall be deemed a waiver by Lessee of its right to defend such claim or action. Any notice given pursuant to this Section 16.1(b) shall include copies of any pleadings or demands. Subject to the foregoing provisions of this Section 16.1(b), the right to indemnification hereunder shall not be affected by any failure of the City Indemnified Party to give such notice or delay by them in giving such notice unless, and then only to the extent that, the rights and remedies of Lessee shall have been prejudiced as a result of the failure to give, or delay in giving, such notice.

(ii) If Lessee shall assume the defense of any City Indemnified Party with respect to such claim or litigation, its obligations hereunder as to such claim or litigation shall include taking all steps necessary in the defense or settlement of such claim or litigation against the City Indemnified Party and holding the City Indemnified Party harmless from and against any and all damages caused by or arising out of any settlement approved as provided herein, or any judgment in connection with such claim or litigation. Any counsel employed by Lessee to represent the City's interest shall be subject to the City's prior approval, not to be unreasonably withheld, conditioned or delayed. Approval shall not be required with respect to counsel employed by insurance companies providing required coverages under this Agreement. Notwithstanding any provision in this Section 16.1 to the contrary, in the event that Lessee assumes the defense of such claim or litigation, Lessee shall notify the City Indemnified Party and the City of all such defenses it proposes to assert and the City may determine, in its sole discretion, whether any of the defenses may be deemed not to be in the best interests of each Site(s). If the City determines that any such defense is not in the each Site(s)'s best interests: (a) Lessee shall not pursue the objectionable defense but shall be obligated to pursue in accordance with this Section 16.1 the remaining defenses to the claim or litigation; and (b) if a judgment or settlement is entered against or made on behalf of the City Indemnified Party, Lessee

shall not have any obligation to indemnify the City Indemnified Party under this Section 16.1 for the amount of such judgment or settlement provided that such objectionable defense would have been successful. Lessee shall not, in the defense of such claim or litigation, consent to the entry of any judgment (other than a judgment of dismissal on the merits without costs) except with the written consent of the City Indemnified Party (which consent shall not be unreasonably withheld) or enter into any settlement (except with the written consent of the City Indemnified Party, which shall not be unreasonably withheld) which does not include as an unconditional term thereof the giving by the claimant or the plaintiff to the City Indemnified Party, a release from all liability in respect of such claim or litigation. Anything in this Section 16.1 to the contrary notwithstanding, the City Indemnified Party may, with counsel of its choice and at its expense, participate in the defense of any such claim or litigation.

(iii) If Lessee shall not assume the defense of any such claim by a third party or litigation after receipt of notice from the City Indemnified Party, the City Indemnified Party may defend against such claim or litigation in such manner as it deems appropriate, and unless Lessee shall, at its option, provide a bond to, or deposit with the City Indemnified Party, a sum equivalent to the total amount demanded in such claim or litigation plus the City Indemnified Party's estimate of the costs of defending the same, the City Indemnified Party may settle such claim or litigation on such terms as it may reasonably deem appropriate, and Lessee shall promptly reimburse the City Indemnified Party for the amount of such settlement and for all damage incurred by it in connection with the defense against or settlement of such claim or litigation. If Lessee shall provide such bond or deposit, the City Indemnified Party shall not settle any such claim or litigation without the written consent of the Lessee, which shall not be unreasonably withheld.

(iv) Lessee shall promptly reimburse the City Indemnified Party for the amount of any judgment rendered and for all damages, costs, reasonable fees and expenses incurred or suffered by it in connection with the defense against such claim or litigation.

(c) The City shall not be liable to Lessee or any Lessee Parties for any injury to, or death of, any of them or of any other person or for any damage to Lessee's or any Lessee Party's property or loss of revenue caused by any third person in the maintenance, construction or operation of facilities at the each Site(s) or the Property, or caused by any third person using each Site(s) or the Property, or caused by any third person navigating any aircraft on or over each Site(s) or the Property, nor, to the extent permitted by Law, shall the City have any liability whatsoever to Lessee or any Lessee Parties for any damage, destruction, injury, loss or claim of any kind arising out of the use by any of the aforementioned of any parking lot located either on or off each Site(s). The City shall not be liable to Lessee or any Lessee Parties for damage to Lessee's or any Lessee Party's property or any loss of revenue to Lessee or any Lessee Party resulting from the City's acts or omissions in the maintenance and operation of each Site(s).

(d) The obligations of Lessee under this Section 16.1 shall survive the termination of this Agreement, and shall not be affected in any way by the amount of or the absence in any case of covering insurance, or by the failure or refusal of any insurance carrier to perform any obligation on its part under insurance policies affecting the Property or any part thereof.

(e) The City's officials, commissioners, agents and employees, shall, to the extent permitted by Law, have absolutely no personal liability with respect to any provision of this

Agreement or any obligation or liability arising from this Agreement or in connection with this Agreement or the Property in the event of a breach or default by the City of any of its obligations.

(f) Notwithstanding any other provision of this Agreement to the contrary, to the extent permitted by Law, Lessee hereby waives any and every claim for recovery from the City for any and all loss or damage to the Property or to the contents thereof, which loss or damage is covered by valid and collectable physical damage insurance policies maintained by Lessee or which would have been recoverable if the insurance required hereunder had been maintained by Lessee, to the extent that such loss or damage is recoverable, or would have been recoverable, as applicable, under said insurance policies. As this waiver will preclude the assignment of any such claim by subrogation (or otherwise) to an insurance company (or any other person), Lessee agrees to give each insurance company which has issued, or in the future may issue, its policies of physical damage insurance, written notice of the terms of this waiver, and to have said insurance policies properly endorsed, if necessary, to prevent the invalidation of insurance coverage by reason of said waiver. Lessee shall require the Lessee Parties to include similar waivers of subrogation in favor of the City.

(g) Lessee's indemnity obligation includes reasonable litigation fees and expenses, including court filing fees, court costs, arbitration fees or costs, witness fees, and all other fees and costs of investigating and defending or asserting any claim for indemnification under this Agreement, including in each case, reasonable attorneys' fees, other professionals' fees and disbursements.

(h) Insurance coverage requirements specified in this Agreement in no way lessen or limit the liability of the Lessee under the terms of this indemnification obligation. Lessee shall obtain, at its own expense, any additional insurance that it deems necessary for the City's protection in the performance of this Agreement.

16.2 Insurance.

(a) Lessee and its Contractors shall procure and maintain, or cause to be procured and maintained, at all times during the Term of this Agreement, and on any earlier date Lessee or its Contractor is permitted to enter onto the Property, and until each and every obligation of Lessee contained in this Agreement has been fully performed (including during any time period following expiration if Lessee or its Contractors performs any work), the types of insurance specified in Exhibit M, with insurance companies authorized to do business in the State of Illinois covering all operations under this Agreement, whether performed by Lessee or by its Contractors.

(b) Lessee will furnish the City, Department of Finance, Risk Management Office, 333 South State, Room 400, Chicago, Illinois, 60604, and the City, Department of Fleet and Facility Management, _____ Division, 30 North LaSalle Street, Suite ____, Chicago, Illinois 60602, original certificates of insurance evidencing the required coverage to be in force on the date of this Agreement, and renewal certificates of insurance, or such similar evidence, if coverages have an expiration or renewal date occurring during the term of this Agreement. Lessee shall submit evidence of insurance on the City of Chicago Insurance Certificate of Coverage Form (or other equivalent form acceptable to the City) upon its execution of this Agreement. The receipt of any certificate does not constitute agreement by the City that the insurance requirements in this Agreement have been fully met or that the insurance policies indicated on the certificate are in compliance with all requirements of this Agreement. The failure of the City to obtain certificates or other insurance evidence from Lessee shall not be deemed to

be a waiver by the City. Lessee shall advise all insurers of these provisions regarding insurance. Non-conforming insurance shall not relieve Lessee of the obligation to provide insurance as specified herein. Non-fulfillment of the insurance conditions shall constitute a violation of this Agreement, and the City retains the right to stop work until proper evidence of insurance is provided or terminate this Agreement as provided in Section 11.2.

(c) If Lessee fails to obtain or maintain any of the insurance policies under this Agreement or to pay any premium in whole or in part when due, the City may (without waiving or releasing any obligation or default by Lessee hereunder) obtain and maintain such insurance policies and take any other action which the City deems reasonable and any costs incurred by the City in obtaining and maintaining such policies, including reasonable attorneys' fees, court costs and expenses, shall be reimbursed by Lessee upon demand by the City.

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

(e) Lessee shall require all Contractors to carry the insurance required herein, or Lessee may provide the coverage for any or all Contractors. The Contractors shall be subject to the same insurance requirements of Lessee unless otherwise specified herein.

(f) Any and all deductibles or self-insured retentions on referenced insurance coverages shall be borne by Lessee.

(g) Lessee hereby waives and agrees to require its insurers to waive their rights of subrogation against the City and City Parties.

(h) Lessee expressly understands and agrees that any coverages and limits furnished by Lessee or its Contractors shall in no way limit Lessee's or its Contractors' liabilities and responsibilities specified within this Agreement or by applicable Law.

(i) Lessee expressly understands and agrees that any insurance or self insurance programs maintained by the City shall not contribute with insurance provided by the Lessee under this Agreement.

(j) The required insurance shall not be limited by any limitations expressed in the indemnification language herein or any limitation placed on the indemnity therein given as a matter of law.

(k) If Lessee is a joint venture or limited liability company, the insurance policies shall name the joint venture or limited liability company as a named insured.

(l) If Lessee or its Contractors desire additional coverage, higher limits of liability, or other modifications for its own protection, then Lessee or its Contractors shall each be responsible for the acquisition and cost of such additional protection. Lessee agrees to obtain such increases in limits or coverages as the City may, from time to time, reasonably request during the Term hereof.

(m) The City (through its Risk Management Department or any successor thereto) maintains the right to modify, delete, alter, or change these requirements upon reasonable prior written notice to Lessee to the extent that the City determines, in its reasonable discretion, that such modification, deletion, alteration, or change is reasonably necessary and is

otherwise consistent with insurance coverages and requirements applicable to other similar facilities.

(n) The insurance required by this Agreement, at the option of Lessee, may be effected by blanket or umbrella policies issued to Lessee, provided that the policies otherwise comply with the provisions of this Agreement and allocate to this Agreement the specified coverage, without possibility of reduction or coinsurance.

ARTICLE 17
DISPUTE RESOLUTION

17.1 Conference. If any dispute arises with respect to a Party's performance hereunder, either Party (the "Initiating Party") may submit a summary of the issue and its position with respect to said issue in writing to the non-Initiating Party. The non-Initiating Party shall, within thirty (30) days of receipt of the writing from the Initiating Party, respond with a written response of its position on the issue. Either Party may, after the exchange of written positions, send a Notice of Dispute to the other Party requesting a meeting of the Designated Representatives to attempt to resolve such dispute. The Designated Representatives shall meet, either in person or by telephone, within ten (10) Business Days of delivery of the Notice of Dispute or such other time as mutually agreed upon by the Designated Representatives. If the Designated Representatives are unable to resolve such dispute within thirty (30) days after their initial meeting (in person or by telephone), management personnel with authority to resolve the dispute shall meet, either in person or by telephone, within ten (10) Business Days after either Party delivers written notice that the Designated Representatives have been unable to resolve such dispute or such other time as mutually agreed upon by the Parties. If such management personnel are unable to resolve such dispute within fifteen (15) Business Days after their initial meeting (in person or by telephone), the Parties may agree to arbitrate the dispute or either Party may refer the dispute to a court pursuant to Section 17.3.

17.2 Arbitration. The Parties may, by mutual agreement, resolve any dispute arising out of or relating to this Agreement or the breach thereof, which cannot be resolved pursuant to the procedures described in Section 17.1, by arbitration in accordance with this Section 17.2. This agreement to arbitrate shall be specifically enforceable under the prevailing arbitration law. The award of the arbitrators shall be final, and a judgment may be entered upon it by any court having jurisdiction. A Party desiring to invoke this arbitration provision shall serve written notice upon the other of its desire to do so. Within ten (10) Business Days after receipt of such notice, the other Party shall accept or reject the offer to arbitrate. If the Parties agree to arbitrate, each shall, within fifteen (15) Business Days after the date of the notice to accept arbitration, serve upon the other the name of one individual, knowledgeable in matters pertaining to the performance of power purchase agreements and to the subject matter of the dispute, to serve as an arbitrator. If either Party fails to select an arbitrator and notify the other Party of that selection within such 15-day period the other Party may request the American Arbitration Association to select the arbitrator. The two arbitrators so selected shall select a third arbitrator within fifteen (15) days after the selection of the two arbitrators or, if the two arbitrators cannot agree upon a third arbitrator, the American Arbitration Association shall select the third arbitrator. The arbitration shall be conducted in accordance with the Commercial Arbitration Rules of the American Arbitration Association then prevailing, and shall be conducted in Cook County, Illinois, unless the Parties agree otherwise. Discovery shall be made available in accordance with the procedures set forth in the Federal Rules of Civil Procedure, but to a degree limited by the arbitrators as they deem appropriate to render the proceedings economical, efficient, expeditious and fair. Interest at the Specified Rate shall be added to any monetary award for sums found to

have been due under this Agreement. Each Party shall bear its own costs of the arbitration and the Parties shall equally divide the fees and costs-of the three arbitrators.

17.3 Legal Proceedings. In the absence of an agreement to arbitrate, any dispute arising out of or relating to this Agreement or the breach thereof, which cannot be resolved pursuant to the procedures described in Section 17.1, shall be brought by an action, suit, or proceeding in the Circuit Court of Cook County or in the United States District Court for the Northern District of Illinois. Each Party hereby irrevocably waives any claim that any such action, suit, or proceeding has been brought in an inconvenient forum and consents to service of process, and waives the right to object that such court does not have jurisdiction over the Parties. The Parties further agree, to the extent permitted by applicable Law, that any final and unappealable judgment against either of them in any proceeding contemplated above shall be conclusive and may be enforced in any other jurisdiction within or outside the United States by suit on the judgment, a certified copy of which shall be conclusive evidence of the fact and amount of such judgment. In order to expedite resolution of any actions, suits, or proceedings that arise under this Agreement, each of the Parties irrevocably waives the right to trial by jury in any such action, suit, or proceeding of any kind or nature in any court to which it may be a Party.

17.4 Performance During Dispute. While any dispute is pending, the Parties shall continue to perform their obligations under this Agreement to the fullest extent possible, without prejudice to their respective positions in the dispute.

ARTICLE 18
ASSIGNMENT AND SUBLETTING

18.1 Prohibition. Except as otherwise provided herein, Lessee shall not, directly or indirectly, transfer or assign this Agreement or any interest herein or sublease the Property or any part thereof, or permit the use or occupancy of the Property by any person or entity other than Lessee, or grant any license, concession, franchise or other rights or interest in this Agreement or the Property, without in each case obtaining the prior written consent of the Commissioner. Lessee shall not, directly or indirectly, without the prior written consent of the City (which consent may not be arbitrarily withheld), pledge, mortgage or hypothecate this Agreement or any interest herein. This Agreement shall not, nor shall any interest herein, be assignable as to the interest of Lessee involuntarily or by operation of law without the prior written consent of the City (which consent may not be arbitrarily withheld or delayed). Lessee agrees that the instrument by which any assignment or sublease through which the City's consent is accomplished shall expressly provide that the assignee or sublessee will perform all of the covenants to be performed by Lessee under this Agreement as and when performance is due after the effective date of the assignment or sublease and that the City will have the right to enforce such covenants directly against such assignee or sublessee. Any attempt by Lessee to transfer an interest in this Agreement or the Property, by document or other agreement or by operation of law in violation of the terms of this Agreement, shall be void and confer no rights on any third party and shall, at the City's option, constitute a default under this Agreement. Lessee shall be permitted to assign this Agreement or sublet all or any portion of the Property without the prior written consent of the City if the assignee or sublessee's interest in this Agreement arises out of the transfer of any of the following: all of Lessee's assets; the transfer of Lessee's assets incident to a merger or corporate consolidation; or a stock purchase by Lessee or of Lessee by an assignee or sublessee.

18.2 Consent. Except as otherwise provided herein, if Lessee wishes to assign this Agreement or sublease all or any part of the Property, Lessee shall give written notice to the City identifying the intended assignee or sublessee by name and address and specifying all of the

terms of the intended assignment or sublease. Lessee shall give the City such additional information concerning the intended assignee or sublessee (including complete financial statements and a business history) or the intended assignment or sublease (including true copies thereof) as the City requests. Except as otherwise provided herein, for a period of thirty (30) days after such written notice is given by Lessee, the City shall have the right, by giving written notice to Lessee, to consent in writing to the intended assignment or sublease, unless the City determines not to consent.

18.3 Completion. If the City consents in writing, Lessee may complete the intended assignment or sublease subject to the following covenants: (a) the assignment or sublease shall be on the same terms as set forth in the written notice given by Lessee to the City, (b) no assignment or sublease shall be valid and no assignee or sublessee shall take possession of the Property or any part thereof until an executed duplicate original of such assignment or sublease has been delivered to the City, and (c) all Excess Rent (as defined below) derived from such assignment or sublease shall be paid to the City. Such excess rent shall be deemed to be, and shall be paid by Lessee to the City as, additional Rent. Lessee shall pay such excess rent to the City immediately as and when such excess rent becomes due and payable to Lessee. As used in this Section 18.3, "Excess Rent" shall mean the amount by which the total money and other economic consideration to be paid by the assignee or sublessee as a result of an assignment or sublease, whether denominated rent or otherwise, exceeds, in the aggregate, the total amount of Rent which Lessee is obligated to pay to the City under this Agreement (prorated to reflect the Rent allocable to the portion of the Property subject to such assignment or sublease).

18.4 Lessee Not Released. Except as otherwise provided herein, no assignment or sublease shall release Lessee from Lessee's obligations and liabilities under this Agreement or alter the primary liability of Lessee to pay all Rent and to perform all obligations to be paid and performed by Lessee. No assignment or sublease shall amend or modify this Agreement in any respect, and every assignment and sublease shall be subject and subordinate to this Agreement. The acceptance of Rent by the City from any other person or entity shall not be deemed to be a waiver by the City of any provision of this Agreement. Consent to one assignment or sublease shall not be deemed consent to any subsequent assignment or sublease. Lessee shall pay to the City all direct costs and shall reimburse the City for all expenses incurred by the City in connection with any assignment or sublease requested by Lessee. Except as otherwise provided herein, if any assignee, sublessee or successor of Lessee defaults in the performance of any obligation to be performed by Lessee under this Agreement, the City may proceed directly against Lessee without the necessity of exhausting remedies against such assignee, sublessee or successor.

ARTICLE 19
[intentionally omitted]

ARTICLE 20
COMPLIANCE WITH ALL LAWS

20.1 Applicable Laws. Without limiting the provisions of Section 2.5(c) of this Agreement, Lessee shall, at its sole cost and expense, comply, and cause its Contractors and their respective agents and employees to comply, with all applicable Laws, including without limitation, the following:

(a) Non-Discrimination. Lessee shall comply with The Civil Rights Act of 1964, 42, U.S.C. Sec. 2000 et seq. (1981), as amended. Lessee shall further comply with Executive

Order No. 11,246,30 Fed. Reg. 12,319 (1965), reprinted in 42 U.S.C. 2000(e) note, as amended by Executive Order No. 11,375 32 Fed. Reg. 14,303 (1967) and by Executive Order No. 12,086, 43 Fed. Reg. 46,501 (1978); the Age Discrimination Act, 43 U.S.C. Sec. 6101-6106 (1981); the Rehabilitation Act of 1973, 29 U.S.C. Sec. 793-794 (1981); the Americans with Disabilities Act, P.L. 101-336; 41 C.F.R. Part 60 et seq. (1990); Lessee shall comply with the Illinois Human Rights Act, 775 ILCS 5/1-101 et seq. (1990), as amended; the Discrimination in Public Contracts Act, 775 ILCS 10/0.01 et seq. (1990), as amended; and the Environmental Barriers Act, 410 ILCS 25/1 et seq.

(b) Non-Collusion, Bribery of a Public Officer or Employee. Lessee shall comply with Municipal Code, 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 City of Chicago, the State of Illinois, or any agency of the federal government or any state or local government in the United States, in that officer's 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 shall be chargeable with the conduct. One business entity shall be chargeable with the conduct of an affiliated agency.

(iii) Ineligibility under this Section shall continue for three years following such conviction or admission. The period of ineligibility may be reduced, suspended, or waived by the Purchasing Agent under certain specific circumstances. Reference is made to Section 2-92-320 for a definition of "affiliated agency," and a detailed description of the conditions which would permit the Purchasing Agent to reduce, suspend or waive the period of ineligibility.

(c) Chapter 2-56 of the Municipal Code, Office of Inspector General. It shall be the duty of Lessee to cooperate with the Inspector General in any investigation or hearing undertaken pursuant to Chapter 2-56 of the Municipal Code. Lessee understands and will abide by all provisions of Chapter 2-56 of the Municipal Code. All contracts shall inform Contractors of this provision and require understanding and compliance herewith.

(d) Governmental Ethics Ordinance. Lessee shall comply with Chapter 2-156 of the Municipal Code, "Governmental Ethics," including but not limited to Section 2-156-120, pursuant to which no payment, gratuity or offer of employment shall be made in connection with any City contract, by or on behalf of a subcontractor to the prime contractor or higher tier

subcontractor or any person associated therewith, as an inducement for the award of a subcontract or order.

(e) MacBride Principles Ordinance. The City of Chicago through the passage of the MacBride Principles Ordinance seeks to promote fair and equal employment opportunities and labor practices for religious minorities in Northern Ireland and provides a better working environment for all citizens in Northern Ireland. In accordance with Section 2-92-580 of the Municipal Code, if Lessee conducts any business operations in Northern Ireland, it shall make all reasonable and good faith efforts to conduct any business operations in Northern Ireland in accordance with the MacBride Principles for Northern Ireland as defined in Illinois Public Act 85-1390 (1988 Ill. Laws 3220).

(f) Disclosure of Ownership. Pursuant to Chapter 2-92-010, 2-92-020, 2-92-030 and 65 ILCS 5/8-10-8,5, Lessee and any person having equal to or greater than a 7.5% direct or indirect ownership interest in Lessee, and any person, business entity or agency contracting with the City shall be required to complete Part I, Disclosure of Ownership Interests and Part VIII, Certification of Elected Officials' Business Relationships, in the Affidavit.

(g) Certification Regarding Various Federal Lists. Lessee hereby warrants and represents to the City that neither Lessee nor any Affiliate of Lessee appears on any of the following lists maintained by the Office of Foreign Assets Control of the U.S. Department of the Treasury, 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 Laws or Regulations: the Specially Designated Nationals List, the Denied Persons List, the Unverified List, the Entity List and the Debarred List.

(h) Environmental Warranties and Representations: In accordance with Section 11-4-1600(e) of the Municipal Code, Lessee warrants and represents that Lessee, and to the best of its knowledge, its Contractors, have not violated and are not in violation of the following sections of the Municipal Code (collectively, the "Waste Sections"):

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

During the Term of this Agreement, Lessee's violation of the Waste Sections, whether or not relating to this Agreement, constitutes a breach of and an event of default under this Agreement, for which the opportunity to cure, if curable, will be granted only at the sole designation of the Commissioner. Such breach and default entitles the City to all remedies under this Agreement, at law or in equity. This Section does not limit Lessee's and its Contractors' duty to comply with all applicable Laws in effect now or later, and whether or not they appear in this Agreement. Non-compliance with these terms and conditions may be used by the City as grounds for the termination of this Agreement, and may further affect Lessee's eligibility for future agreements with the City.

(i) [intentionally omitted]

(j) Firms Owned or Operated by Individuals with Disabilities. The City encourages contractors, including Lessee, to use subcontractors that are firms owned or operated by individuals with disabilities, as defined by Section 2-92-586 of the Municipal Code, where not otherwise prohibited by federal or state law.

(k) EDS / Certification Regarding Suspension and Debarment. Lessee certifies, as further evidenced in the EDS(s) on file with the City, by its acceptance of this Agreement that Lessee is not presently debarred, suspended, proposed for debarment, declared ineligible or voluntarily excluded from participation in this transaction by any Federal department or agency. Lessee further agrees by executing this Agreement that it will include this clause without modification in all lower tier transactions, solicitations, proposals, contracts and subcontracts. If Lessee or any lower tier participant is unable to certify to this statement, it must attach an explanation to this Agreement. Lessee must promptly update its EDS(s) on file with the City whenever any information or response provided in the EDS(s) is no longer complete and accurate.

20.2 Employment Opportunity. Lessee agrees, and shall contractually obligate its Contractors operating on the Property (collectively, the "Employers" and individually, an "Employer") to agree, that with respect to the provision of services in connection with the construction of the System:

(a) Neither Lessee nor any Employer shall discriminate against any employee or applicant for employment based upon race, religion, color, sex, national origin or ancestry, age, handicap or disability, sexual orientation, military discharge status, marital status, parental status or source of income as defined in the City of Chicago Human Rights Ordinance, Section 2-160-010 et seq. of the Municipal Code, as amended from time to time (the "Human Rights Ordinance"). Lessee and each Employer shall take affirmative action to ensure that applicants are hired and employed without discrimination, consistent with the Human Rights Ordinance, based upon the foregoing grounds, and are treated in a non-discriminatory manner with regard to all job-related matters, including, without limitation: employment, upgrading, demotion or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. Lessee and each Employer agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided by the City setting forth the provisions of this nondiscrimination clause. In addition, Lessee and each Employer, in all solicitations or advertisements for employees, shall state that all qualified applicants shall receive consideration for employment without discrimination, consistent with the Human Rights Ordinance, based upon the foregoing grounds.

(b) To the greatest extent feasible, Lessee and each Employer shall (i) present opportunities for training and employment of low and moderate income residents of the City, and (ii) provide that contracts for work in connection with the construction of the System be awarded to business concerns which are located in or owned in substantial part by persons residing in, the City.

(c) Lessee and each Employer shall comply with all federal, state and local equal employment and affirmative action statutes, rules and regulations, including, without limitation, the Human Rights Ordinance and the Illinois Human Rights Act, 775 ILCS 5/1-101 et seq. (1993), both as amended from time to time, and any regulations promulgated thereunder.

(d) Lessee, in order to demonstrate compliance with the terms of this Section 20.2, shall cooperate with and promptly and accurately respond to inquiries by the City, which has the responsibility to observe and report compliance with equal employment opportunity regulations of federal, state and municipal agencies.

(e) Lessee and each Employer shall include the foregoing provisions of subparagraphs (a) through (d) in every contract entered into in connection with the construction of the System, and shall require inclusion of these provisions in every subcontract entered into by any subcontractors, and every agreement with any affiliate operating on the Property, so that each such provision shall be binding upon each contractor, subcontractor or affiliate, as the case may be.

(f) Failure to comply with the employment obligations described in this Section 20.2 shall be a basis for the City to pursue remedies under the provisions of Section 11.2.

20.3 City Resident Employment Requirement.

(a) Lessee agrees, and shall contractually obligate each Employer to agree, that during the construction of the System, Lessee and each Employer shall comply with the minimum percentage of total worker hours performed by actual residents of the City of Chicago as specified in Section 2-92-330 of the Municipal Code (at least fifty percent); provided, however, that in addition to complying with this percentage, Lessee and each Employer shall be required to make good faith efforts to utilize qualified residents of the City in both unskilled and skilled labor positions.

(b) Lessee and the Employers may request a reduction or waiver of this minimum percentage level of Chicagoans as provided for in Section 2-92-330 of the Municipal Code in accordance with standards and procedures developed by the chief procurement officer of the City of Chicago.

(c) "Actual residents of the City of Chicago" shall mean persons domiciled within the City of Chicago. The domicile is an individual's one and only true, fixed and permanent home and principal establishment.

(d) Lessee and the Employers shall provide for the maintenance of adequate employee residency records to ensure that actual Chicago residents are employed on the construction of the System. Lessee and the Employers shall maintain copies of personnel documents supportive of every Chicago employee's actual record of residence.

(e) Lessee and the Employers shall submit weekly certified payroll reports (U.S. Department of Labor Form WH-347 or equivalent) to DCD in triplicate, which shall identify clearly the actual residence of every employee on each submitted certified payroll. The first time that an employee's name appears on a payroll, the date that Lessee or Employer hired the employee should be written in after the employee's name.

(f) Lessee and the Employers shall provide full access to their employment records to the chief procurement officer, the Department of Fleet and Facility Management, the Superintendent of the Chicago Police Department, the inspector general, or any duly authorized representative thereof. Lessee and the Employers shall maintain all relevant personnel data and records for a period of at least three (3) years after the issuance of the Certificate of Completion.

(g) At the direction of the Department of Fleet and Facility Management, Lessee and the Employers shall provide affidavits and other supporting documentation to verify or clarify an employee's actual address when doubt or lack of clarity has arisen.

(h) Good faith efforts on the part of Lessee and the Employers to provide work for actual Chicago residents (but not sufficient for the granting of a waiver request as provided for in the standards and procedures developed by the chief procurement officer) shall not suffice to replace the actual, verified achievement of the requirements of this Section 20.3 concerning the worker hours performed by actual Chicago residents.

(i) If the City determines that Lessee or an Employer failed to ensure the fulfillment of the requirements of this Section 20.3 concerning the worker hours performed by actual Chicago residents or failed to report in the manner as indicated above, the City will thereby be damaged in the failure to provide the benefit of demonstrable employment to Chicagoans to the degree stipulated in this Section 20.3. If such non-compliance is not remedied in accordance with the breach and cure provisions of Section 11.1, the parties agree that 1/20 of 1 percent (.05%) of the aggregate hard construction costs shall be surrendered by Lessee to the City in payment for each percentage of shortfall toward the stipulated residency requirement. Failure to report the residency of employees entirely and correctly shall result in the surrender of the entire liquidated damages as if no Chicago residents were employed in either of the categories. The willful falsification of statements and the certification of payroll data may subject Lessee and/or the other Employers or employees to prosecution.

(j) Nothing herein provided shall be construed to be a limitation upon the "Notice of Requirements for Affirmative Action to Ensure Equal Employment Opportunity, Executive Order 11246" and "Standard Federal Equal Employment Opportunity, Executive Order 11246," or other affirmative action required for equal opportunity under the provisions of this Agreement.

(k) Lessee shall cause or require the provisions of this Section 20.3 to be included in all construction contracts and subcontracts related to the construction of the System.

20.4 MBE/WBE Commitment. Lessee agrees for itself and its successors and assigns, and, if necessary to meet the requirements set forth herein, shall contractually obligate the general contractor to agree, that during the construction of the System:

(a) Consistent with the findings which support, as applicable, (i) the Minority-Owned and Women-Owned Business Enterprise Procurement Program, Section 2-92-420 et seq., Municipal Code (the "Procurement Program"), and (ii) the Minority- and Women-Owned Business Enterprise Construction Program, Section 2-92-650 et seq., Municipal Code (the "Construction Program," and collectively with the Procurement Program, the "MBE/WBE Program"), and in reliance upon the provisions of the MBE/WBE Program to the extent contained in, and as qualified by, the provisions of this Section 20.4, during the course of construction of the System, at least 26% of the aggregate hard construction costs shall be expended for contract participation by minority-owned businesses and at least 6% of the aggregate hard construction costs shall be expended for contract participation by women-owned businesses.

(b) For purposes of this Section 20.4 only:

(i) Lessee (and any party to whom a contract is let by Lessee in connection with the System) shall be deemed a "contractor" and this Agreement (and any contract let by Lessee in connection with the System) shall be deemed a "contract" or a "construction contract" as such terms are defined in Sections 2-92-420 and 2-92-670, Municipal Code, as applicable.

(ii) The term "minority-owned business" or "MBE" shall mean a business identified in the Directory of Certified Minority Business Enterprises published by the City's Department of Procurement Services, or otherwise certified by the City's Department of Procurement Services as a minority-owned business enterprise, related to the Procurement Program or the Construction Program, as applicable.

(iii) The term "women-owned business" or "WBE" shall mean a business identified in the Directory of Certified Women Business Enterprises published by the City's Department of Procurement Services, or otherwise certified by the City's Department of Procurement Services as a women-owned business enterprise, related to the Procurement Program or the Construction Program, as applicable.

(c) Consistent with Sections 2-92-440 and 2-92-720, Municipal Code, Lessee's MBE/WBE commitment may be achieved in part by Lessee's status as an MBE or WBE (but only to the extent of any actual work performed on the System by Lessee) or by a joint venture with one or more MBEs or WBEs (but only to the extent of the lesser of (i) the MBE or WBE participation in such joint venture, or (ii) the amount of any actual work performed on the System by the MBE or WBE); by Lessee utilizing a MBE or a WBE as the general contractor (but only to the extent of any actual work performed on the System by the general contractor); by subcontracting or causing the general contractor to subcontract a portion of the construction of the System to one or more MBEs or WBEs; by the purchase of materials or services used in the construction of the System from one or more MBEs or WBEs; or by any combination of the foregoing. Those entities which constitute both a MBE and a WBE shall not be credited more than once with regard to Lessee's MBE/WBE commitment as described in this Section 20.4. In accordance with Section 2-92-730, Municipal Code, Lessee shall not substitute any MBE or WBE general contractor or subcontractor without the prior written approval of DCD.

(d) Lessee shall deliver quarterly reports to the City's monitoring staff during the construction of the System describing its efforts to achieve compliance with this MBE/WBE commitment. Such reports shall include, inter alia, the name and business address of each MBE and WBE solicited by Lessee or the general contractor to work on the System, and the responses received from such solicitation, the name and business address of each MBE or WBE actually involved in the construction of the System, a description of the work performed or products or services supplied, the date and amount of such work, product or service, and such other information as may assist the City's monitoring staff in determining Lessee's compliance with this MBE/WBE commitment. Lessee shall maintain records of all relevant data with respect to the utilization of MBEs and WBEs in connection with the construction of the System for at least five (5) years after completion of the System, and the City's monitoring staff shall have access to all such records maintained by Lessee, on prior notice of at least five (5) business days, to allow the City to review Lessee's compliance with its commitment to MBE/WBE participation and the status of any MBE or WBE performing any portion of the construction of the System.

(e) Upon the disqualification of any MBE or WBE general contractor or subcontractor, if the disqualified party misrepresented such status, Lessee shall be obligated to discharge or cause to be discharged the disqualified general contractor or subcontractor, and, if

possible, identify and engage a qualified MBE or WBE as a replacement. For purposes of this subsection (e), the disqualification procedures are further described in Sections 2-92-540 and 2-92-730 of the Municipal Code, as applicable.

(f) Any reduction or waiver of Lessee's MBE/WBE commitment as described in this Section 20.4 shall be undertaken in accordance with Sections 2-92-450 and 2-92-730 of the Municipal Code, as applicable.

20.5 Pre-Construction Conference and Construction Compliance Requirements. Prior to commencing construction, Lessee and Lessee's construction manager shall meet with City monitoring staff regarding compliance with all requirements of Sections 20.2, 20.3 and 20.4. During this pre-construction meeting, Lessee shall present its plan to achieve its obligations under these sections. During the construction of the System, Lessee shall submit all documentation required by Sections 20.2, 20.3 and 20.4 to the City's monitoring staff, including, without limitation, the following: (a) Contractor's activity reports; (b) Contractor's certification concerning labor standards and prevailing wage requirements (if applicable); (c) Contractor letter of understanding; (d) monthly utilization report; (e) authorization for payroll agent; (f) certified payroll; and (g) evidence that MBE/WBE contractor associations have been informed of the construction of the System via written notice and hearings. Failure to submit such documentation on a timely basis, or a determination by the City's monitoring staff, upon analysis of the documentation, that Lessee is not complying with its obligations under Sections 20.2, 20.3 and 20.4, shall, upon the delivery of written notice to Lessee, be deemed a Lessee Default. Upon the occurrence of any such Lessee Default, in addition to any other remedies provided in this Agreement, the City may: (x) issue a written demand to Lessee to halt construction of the System, (y) withhold any further payment of any City funds to Lessee or the general contractor, or (z) seek any other remedies against Lessee available at law or in equity.

20.6 Conflicts of Interest.

(a) Lessee represents and warrants that, except as may otherwise be permitted under Section 2-156 of the Municipal Code, no member of the governing body of the City or other unit of government and no other officer, employee or agent of the City or other unit of government who exercises any functions or responsibilities in connection with this Agreement has any personal interests, direct or indirect, in this Agreement or in Lessee.

(b) Lessee covenants that, except as may otherwise be permitted under Section 2-156 of the Municipal Code, (i) no member of the governing body of the City and no officer, employee or agent of the City or other unit of government exercising any functions or responsibilities in connection with this Agreement shall acquire any personal, financial or economic interest, direct or indirect, in Lessee or this Agreement, and (ii) no member of or delegate to the Congress of the United States or the Illinois General Assembly and no alderman of the City or employee of the City shall be admitted to any share or part of this Agreement or any financial benefit to arise from it.

20.7 Business Relationships. Lessee acknowledges (a) receipt of a copy of Section 2-156-030 (b) of the Municipal Code of Chicago, (b) that it has read such provision and understands that pursuant to such Section 2-156-030 (b) it is illegal for any elected official of the City, or any person acting at the direction of such official, to contact, either orally or in writing, any other City official or employee with respect to any matter involving any person with whom the elected City official or employee has a "Business Relationship" (as described in Section 2-156-080 of the Municipal Code of Chicago), or to participate in any discussion in any City Council committee

hearing or in any City Council meeting or to vote on any matter involving the person with whom an elected official has a Business Relationship, and (c) notwithstanding anything to the contrary contained in this Lease, that a violation of Section 2-156-030 (b) by an elected official, or any person acting at the direction of such official, with respect to any transaction contemplated by this Lease shall be grounds for termination of this Lease and the transactions contemplated hereby. Lessee hereby represents and warrants that no violation of Section 2-145-030 (b) has occurred with respect to this Lease or the transactions contemplated hereby.

20.8 Patriot Act Certification. Lessee represents and warrants that neither Lessee nor any Affiliate (as hereafter defined) thereof is listed on any of the following lists maintained by the Office of Foreign Assets Control of the U.S. Department of the Treasury, 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 Laws: the Specially Designated Nationals List, the Denied Persons List, the Unverified List, the Entity List and the Debarred List. As used in this Section, an "Affiliate" shall be deemed to be a person or entity related to Lessee that, directly or indirectly, through one or more intermediaries, controls, is controlled by or is under common control with Lessee, and a person or entity shall be deemed to be controlled by another person or entity, if controlled in any manner whatsoever that results in control in fact by that other person or entity (or that other person or entity and any persons or entities with whom that other person or entity is acting jointly or in concert), whether directly or indirectly and whether through share ownership, a trust, a contract or otherwise.

20.9 Prohibition on Certain Contributions-Mayoral Executive Order No. 2011-4. Lessee agrees that Lessee, any person or entity who directly or indirectly has an ownership or beneficial interest in Lessee of more than 7.5 percent ("Owners"), spouses and domestic partners of such Owners, Lessee's contractors (i.e., any person or entity in direct contractual privity with Lessee regarding the subject matter of this Lease) ("Contractors"), any person or entity who directly or indirectly has an ownership or beneficial interest in any Contractor of more than 7.5 percent ("Sub-owners") and spouses and domestic partners of such Sub-owners (Lessee and all the other preceding classes of persons and entities are together the "Identified Parties"), shall not make a contribution of any amount to the Mayor of the City of Chicago (the "Mayor") or to his political fundraising committee (a) after execution of this Lease by Lessee, (b) while this Lease or any Other Contract (as hereinafter defined) is executory, (c) during the term of this Lease or any Other Contract, or (d) during any period while an extension of this Lease or any Other Contract is being sought or negotiated. This provision shall not apply to contributions made prior to May 16, 2011, the effective date of Executive Order 2011-4.

Lessee represents and warrants that from the later of (a) May 16, 2011, or (b) the date the City approached Lessee, or the date Lessee approached the City, as applicable, regarding the formulation of this Lease, no Identified Parties have made a contribution of any amount to the Mayor or to his political fundraising committee.

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

Lessee agrees that the Identified Parties must not engage in any conduct whatsoever designed to intentionally violate this provision or Mayoral Executive Order No. 2011-4 or to entice,

direct or solicit others to intentionally violate this provision or Mayoral Executive Order No. 2011-4.

Notwithstanding anything to the contrary contained herein, Lessee agrees that a violation of, non-compliance with, misrepresentation with respect to, or breach of any covenant or warranty under this Lease or violation of Mayoral Executive Order No. 2011-4 constitutes a breach and default under this Lease, and under any Other Contract for which no opportunity to cure will be granted, unless the City, in its sole discretion, elects to grant such an opportunity to cure. Such breach and default entitles the City to all remedies (including, without limitation, termination for default) under this Lease, and under any Other Contract, at law and in equity. This provision amends any Other Contract and supersedes any inconsistent provision contained therein.

If Lessee intentionally violates this provision or Mayoral Executive Order No. 2011-4 prior to the Closing, the City may elect to decline to close the transaction contemplated by this Lease.

For purposes of this provision:

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

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

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

(d) Individuals are "domestic partners" if they satisfy the following criteria:

(i) they are each other's sole domestic partner, responsible for each other's common welfare; and
(ii) neither party is married; and
(iii) the partners are not related by blood closer than would bar marriage in the State of Illinois; and
(iv) each partner is at least 18 years of age, and the partners are the same sex, and the partners reside at the same residence; and
(v) two of the following four conditions exist for the partners:

(1) **The partners have been residing together for at least 12 months.**
(2) The partners have common or joint ownership of a residence.
(3) The partners have at least two of the following arrangements:
(A) joint ownership of a motor vehicle;
(B) joint credit account;
(C) a joint checking account;
(D) a lease for a residence identifying both domestic partners as Lessees.

(4) Each partner identifies the other partner as a primary beneficiary in a will.

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

20.10 Failure to Maintain Eligibility to do Business with City. Failure by Lessee or any controlling person (as defined in Section 1-23-010 of the Municipal Code of Chicago) thereof to maintain eligibility to do business with the City of Chicago as required by Section 1-23-030 of the Municipal Code of Chicago shall be grounds for termination of this Lease and the transactions contemplated thereby. Lessee shall at all times comply with Section 2-154-020 of the Municipal Code of Chicago.

20.11 2014 Hiring Plan Prohibitions.

(i) The City is subject to the June 16, 2014 "City of Chicago Hiring Plan", as amended (the "2014 City Hiring Plan") entered in Shakman v. Democratic Organization of Cook County, Case No 69 C 2145 (United States District Court for the Northern District of Illinois). Among other things, the 2014 City Hiring Plan prohibits the City from hiring persons as governmental employees in non-exempt positions on the basis of political reasons or factors.

(ii) Lessee is aware that City policy prohibits City employees from directing any individual to apply for a position with Lessee, either as an employee or as a subcontractor, and from directing Lessee to hire any individual as an employee or as a subcontractor. Accordingly, Lessee must follow its own hiring and contracting procedures, without being influenced by City or City employees. Any and all personnel provided by Lessee under this Lease are employees or subcontractors of Lessee, not employees of the City. This Lease is not intended to and does not constitute, create, give rise to, or otherwise recognize an employer-employee relationship of any kind between the City and any personnel provided by Lessee.

(iii) Lessee will not condition, base, or knowingly prejudice or affect any term or aspect to the employment of any personnel provided under this Lease, or offer employment to any individual to provide services under this Lease, 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 Lease, a political organization or party is an identifiable group or entity that has as its primary purpose the support of or opposition to candidates for elected public office. Individual political activities are the activities of individual persons in support of or in opposition to political organizations or parties or candidates for elected public office.

(iv) In the event of any communication to Lessee by a City employee or City official in violation of paragraph (ii) above, or advocating a violation of paragraph (iii) above, Lessee will, as soon as is reasonably practicable, report such communication to the Hiring Oversight Section of the City's Office of the Inspector General ("OIG Hiring Oversight"), and also to the head of the relevant City department utilizing services provided under this Lease. Lessee will also cooperate with any inquiries by OIG Hiring Oversight.

ARTICLE 21
MISCELLANEOUS

21.1 Designated Representatives. Each Party shall name a designated representative (the "Designated Representative"), who shall have authority to act for such Party in all technical, real-time or routine matters relating to operation of the System and performance of this Agreement and to attempt to resolve disputes or potential disputes; provided, however, that the Designated Representatives, in their capacity as representatives, shall not have the authority to amend or modify any provision of this Agreement.

21.2 Notices. Except for real-time or routine communications between the Designated Representatives or as otherwise specifically provided in this Agreement, all notices, demands, requests, approvals, consents and other communications under this Agreement shall be in writing and either deposited in the United States mail, postage prepaid, certified with return receipt requested, or delivered by hand (which may be through a messenger or recognized delivery, courier or air express service), or sent via electronic mail, and addressed to the applicable Party as specified below (or such other personnel or place as a Party may from time to time designate in a written notice to the other Party). Such notices, demands, requests, approvals, consents and other communications shall be effective on the date: of receipt (evidenced by the certified mail receipt) if delivered by United States mail; of hand delivery if delivered by hand; or of electronic confirmation of transmission if sent via electronic mail on a Business Day before 5:00 p.m. (or the first Business Day thereafter if sent at any other time). Either Party, by notice given hereunder, may change its notice information. The refusal to accept delivery by any Party or the inability to deliver any communication because of a changed address of which no notice has been given in accordance with this Section 21.2 shall constitute delivery. Any request, approval, consent, notice or other communication under this Agreement may be given on behalf of a Party by the attorney for such Party.

If to the City:	City of Chicago Department of Fleet and Facility Management 30 North LaSalle Street, Suite ____ Chicago, IL 60602
With a copy to:	City of Chicago Department of Law 121 North LaSalle Street, Suite 600 Chicago, Illinois 60602 Attn: And Chicago Infrastructure Trust 35 E. Wacker Drive Suite 1450 Chicago, Illinois 6060 Attn: Executive Director
If to Lessee:	[Name] [Street Address] [City, State, Zip Code] Attn: [Name of Designated Representative]

With a copy to: [Name]
[Street Address]
[City, State, Zip Code]
Attn: [Name]

21.3 Quiet Enjoyment. The City agrees, unless otherwise provided by this Agreement, that if Lessee shall perform all obligations and make all payments as provided hereunder, Lessee shall be entitled to and shall have the quiet possession and enjoyment of the Property, and the rights and privileges leased to Lessee hereunder, subject to the provisions contained in this Agreement.

21.4 Interpretation. The headings in this Agreement are provided for convenience only and will not affect its construction or interpretation. All references to "Articles," "Sections," or "Exhibits" refer to the corresponding Articles, Sections, or Exhibits of or to this Agreement. Unless otherwise expressly provided, the word "including" does not limit the preceding words or terms. Unless otherwise stated, any reference in this Agreement to any Person shall include its permitted successors and assigns and, in the case of any Governmental Authority, any successor to its functions and capacities.

21.5 Governing Law. This Agreement and the rights and duties of the Parties hereunder shall be governed by and construed, enforced and performed in accordance with the laws of the State of Illinois, without regard to its principles of conflicts of law.

21.6 Entire Agreement. This Agreement constitutes the entire agreement between the Parties with respect to the subject matter hereof and supersedes all prior discussions and agreements between the Parties with respect to the subject matter hereof. There are no prior or contemporaneous agreements or representations affecting the same subject matter other than those expressed herein.

21.7 Time is of the Essence. Time is of the essence of this Agreement and of each and every provision hereof.

21.8 Amendment. No amendment, modification or change to this Agreement shall be enforceable unless set forth in writing and executed by both Parties.

21.9 Non-Waiver. No waiver by any Party hereto of any one or more defaults by the other Party in the performance of any of the provisions of this Agreement shall be construed as a waiver of any other default or defaults whether of a like kind or different nature. No failure or delay by any Party hereto in exercising any right, power, privilege, or remedy hereunder shall operate as a waiver thereof.

21.10 Severability. Any provision of this Agreement declared or rendered invalid, unlawful, or unenforceable by any applicable Governmental Authority or deemed unlawful because of a change in applicable Law shall not otherwise affect the remaining lawful obligations that arise under this Agreement, provided that the Parties shall use Commercially Reasonable Efforts to reform this Agreement in order to give effect to the original intention of the Parties.

21.11 Survival. All indemnity rights and audit rights shall survive the termination of this Agreement (with respect to indemnity rights, to the extent provided in Article 11, and with respect to audit rights for the period ending three years following termination of this Agreement).

21.12 Forward Contract. The Parties acknowledge and agree that this Agreement and the transactions contemplated by this Agreement constitute a "forward contract" and that each Party is a "forward contract merchant" within the meaning of the United States Bankruptcy Code.

21.13 No Third-Party Beneficiaries. Nothing in this Agreement shall provide any benefit to any third Person or entitle any third Person to any claim, cause of action, remedy or right of any kind, it being the intent of the Parties that this Agreement shall not be construed as a third-party beneficiary contract.

21.14 Relationships of Parties. The Parties shall not be deemed to be in a relationship of partners or joint venturers by virtue of this Agreement, nor shall any Party be an agent, representative, trustee or fiduciary of any other Party. Neither Lessee nor City shall have any authority to bind the other to any agreement.

21.15 Exhibits. Any and all exhibits referred to in this Agreement are, by such reference, incorporated herein and made a part hereof for all purposes.

21.16 Attorneys' Fees. If a Party commences a legal proceeding against the other Party because of an alleged breach of such Party's obligations under this Agreement, each Party shall bear its own expenses, including reasonable attorneys' fees, incurred in connection with the legal proceeding and any appeal thereof.

21.17 Binding Effect. This Agreement shall inure to the benefit of and be binding upon the Parties and their respective successors and permitted assigns.

21.18 Non-Recourse Obligations. Notwithstanding any other provision of this Agreement, no Person (nor any officer, employee, executive, director, agent or authorized representative of any such Person) other than Lessee and City and, to the limited extent explicitly set forth in any Letter of Credit, the Person obligated to provide such credit, shall be liable for any payments due hereunder or for the performance of any obligation hereunder.

21.19 Counterparts. This Agreement may be executed in counterparts, including in facsimile and electronic formats (including portable document format (.pdf)), each of which is an original and all of which constitute one and the same instrument.

21.20 Compliance with Law. Each Party shall at all times comply in all respects with all applicable Laws. As applicable, each Party shall give all required notices, and shall procure and maintain all Permits necessary for performance of this Agreement, and shall pay its respective charges and fees in connection therewith.

21.21 Further Assurances. Each Party hereby undertakes to take or cause to be taken all actions, including the execution of additional instruments or documents, necessary to give full effect to the provisions of this Agreement.

21.22 Public Announcements. Neither Party may issue or make any public announcement, press release or statement regarding this Agreement unless such public announcement, press release or statement is issued jointly by the Parties or, prior to the release of the public announcement, press release or statement, such Party furnishes the other Party with a copy of such announcement, press release or statement, and obtains the approval of the other Party, such approval not to be unreasonably withheld, conditioned or delayed; provided that, notwithstanding any failure to obtain such approval, no Party shall be prohibited from issuing or

making any such public announcement, press release or statement if it is necessary to do so in order to comply with applicable Laws, legal proceedings or rules and regulations of any stock exchange having jurisdiction over such Party.

[SIGNATURE PAGE FOLLOWS]

IN WITNESS WHEREOF, the parties have executed this Lease Agreement as of the day and year first above written.

CITY:

CITY OF CHICAGO, a municipal corporation and home rule unit of local government organized and existing under Article VII, Sections 1 and 6(a), respectively, of the 1970 Constitution of the State of Illinois

By:_____
David J. Reynolds
Commissioner, Department of Fleet and Facility Management

LESSEE:

[NAME OF COMPANY], a [State of Organization] [Type of Entity]

By:_____

Print Name:_____

Title:_____

Approved as to form:

_____
Deputy Corporation Counsel
Real Estate and Land Use Division

EXHIBITS A-1 THROUGH A-7

DEPICTION OF SITES

[TO BE ADDED]

EXHIBITS B-1 THROUGH B-7

LEGAL DESCRIPTION OF SITES

[TO BE ADDED]

EXHIBIT C

BASE RENT

Site:	Price per Sq. Ft.	Total Sq. Ft.	Annual Rent:
1	$___	_____	$1
2	$___	_____	$1
3	$___	_____	$1
4	$___	_____	$1
5	$___	_____	$1
6	$___	_____	$1
7	$___	_____	$1

EXHIBIT D

[intentionally omitted]

EXHIBIT E

[intentionally omitted]

EXHIBIT F

PLANS AND SPECIFICATIONS FOR PV FACILITIES

[TO BE ADDED]

EXHIBIT G

[intentionally omitted]

EXHIBIT H

EXPECTED OUTPUT AND MINIMUM GUARANTEED OUTPUT

Site Name: _____

System Size: _____

Annual Degradation Factor: _____% Applied annually on January 1 of each Contract Year

Term: Fifteen (15) Years

The Expected Output shall be adjusted on January 1 of each Contract Year by the annual degradation factor specified above. The Minimum Guaranteed Output shall be calculated as 90% of the Expected Output as tabulated below.

Year	Expected Output	Guaranteed Minimum Output (90% of Expected Output)
1		
2		
3		
4		
5		
6		
7		
8		
9		
10		
11		
12		
13		
14		
15		

EXHIBIT I

EARLY TERMINATION PURCHASE PRICE

Site Name: _____

The installed capital cost for the design and construction of the PV Facility on Site ___ is $_____.

Year	Buyout Value[1]	Removal Fee[2]	Termination Value[3]
1			
2			
3			
4			
5			
6			
7			
8			
9			
10			
11			
12			
13			
14			
15			

Contractor has put option to sell renewable asset at price equal to net present value of revenues contractor would have recovered during a twenty-year term subscriber agreement.

[1] Buyout value: Lump sum payment from the City to Lessee prior to the expiration of the Term of the Agreement, to take ownership of the PV Facility and terminate the Agreement.
[2] Removal Fee = All costs associated with the removal of the PV Facility.
[3] Termination Value: Lump sum payment from the City to Lessee upon termination of the Agreement. Termination Value = Buyout Value + Removal Fee

EXHIBITS J-1 THROUGH J-7

SITE DEVELOPMENT PLAN FOR EACH SITE

[TO BE ADDED]

EXHIBIT K

SYSTEM DEVELOPMENT AND O & M COSTS

[TO BE ADDED]

EXHIBIT L

FORM OF ACCEPTANCE CERTIFICATE

[TO BE ADDED]

EXHIBIT M

INSURANCE REQUIREMENTS

[TO BE ADDED]

EXHIBIT N

CONTRACTOR'S AFFIDAVIT REGARDING IDENTIFICATION OF ALL WASTE AND MATERIAL HANDLING AND DISPOSAL FACILITIES

Contractor to show here the name and location of the waste and material recovery facilities he/she is proposing to use for the subject project. Complete one page per facility:

SPECIFY THE TYPE OF MATERIALS TO BE DISPOSED OF:

_____

_____

_____

_____

LEGAL NAME OF WASTE AND MATERIAL RECOVERY FACILITY:

_____

(The Contractor must provide to the Commissioner or his/her designate representative with copies of all dump tickets, manifests, etc.)

LOCATION ADDRESS:

PHONE: (_____)_____

CONTACT PERSON: _____

If requested by the Commissioner of 2FM, the Contractor must submit copies of all contractual agreements, permits and/or licenses for those waste and material recovery facilities proposed by the Contractor.

EXHIBIT D: INSURANCE REQUIREMENTS

Department of Fleet and Facility Management
Chicago Vacant Lot Solar Initiative

A. INSURANCE REQUIRED – DEVELOPER

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

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, $500,000 disease-policy limit, and $500,000 disease-each employee, or the full per occurrence limits of the policy, whichever is greater.

Developer may use a combination of primary and excess/umbrella policy/policies to satisfy the limits of liability required herein. The excess/umbrella policy/policies must provide the same coverages/follow form as the underlying policy/policies.

2) Commercial General Liability (Primary and Umbrella)
Commercial General Liability Insurance or equivalent must be maintained with limits of not less than $1,000,000 per occurrence, or the full per occurrence limits of the policy, whichever is greater, for bodily injury, personal injury, and property damage liability. Coverages must include but not be limited to the following: All premises and operations, products/completed operations, separation of insureds, defense, and contractual liability (not to include Endorsement CG 21 39 or equivalent), and means, methods, techniques, sequences and procedures.

The City must be provided additional insured status with respect to liability arising out of Developer's work, services or operations performed on behalf of the City. The City's additional insured status must apply to liability and defense of suits arising out of Developer's acts or omissions, whether such liability is attributable to the Developer or to the City on an additional insured endorsement form acceptable to the City. The full policy limits and scope of protection also will apply to the City as an additional insured, even if they exceed the City's minimum limits required herein. Developer's liability insurance must be primary without right of contribution by any other insurance or self-insurance maintained by or available to the City.

Developer may use a combination of primary and excess/umbrella policy/policies to satisfy the limits of liability required herein. The excess/umbrella policy/policies must provide the same coverages/follow form as the underlying policy/policies.

3) Automobile Liability (Primary and Umbrella
Developer must maintain Automobile Liability Insurance with limits of not less than $1,000,000 per occurrence, or the full per occurrence limits of the policy, whichever is greater, for bodily injury and property damage. Coverage must include but not be limited to, the following: ownership, maintenance, or use of any auto whether owned, leased, non-owned or hired used in the performance of the work or devices, both on and off the

Project site. The City is to be named as an additional insured on a primary, non-contributory basis.

4) Excess/Umbrella
Excess/Umbrella Liability Insurance must be maintained with limits of not less than $2,000,000 per occurrence, or the full per occurrence limits of the policy, whichever is greater. The policy/policies must provide the same coverages/follow form as the underlying Commercial General Liability, Automobile Liability, Employers Liability and Completed Operations coverage required herein and expressly provide that the excess or umbrella policy/policies will drop down over reduced and/or exhausted aggregate limit, if any, of the underlying insurance. If a general aggregate limit applies the general aggregate must apply per project/location. The Excess/Umbrella policy/policies must be primary without right of contribution by any other insurance or self-insurance maintained by or available to the City.

Developer may use a combination of primary and excess/umbrella policies to satisfy the limits of liability required in sections A.1, A.2, A.3 and A.4 herein.

5) Professional Liability
When Developer performs work including professional services and/or operations in connection with this Contract, Professional Liability Insurance covering acts, errors, or omissions must be maintained with limits of not less than $1,000,000. When policies are renewed or replaced, the policy retroactive date must coincide with, or precede start of work by the Developer. A claims-made policy which is not renewed or replaced must have an extended reporting period of two (2) years.

6) Property
Developer is responsible for all loss or damage to Solar Panels and any other materials or equipment of Developer that is part of this Contract.

B. INSURANCE TO BE PROVIDED – ARCHITECT

1) Workers Compensation and Employers Liability (Primary and Umbrella)
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; $500,000 disease-policy limit; and $500,000 disease each employee, or the full per occurrence limits of the policy, whichever is greater.

Architect may use a combination of primary and excess/umbrella policy/policies to satisfy the limits of liability required herein. The excess/umbrella policy/policies must provide the same coverages/follow form as the underlying policy/policies.

2) Commercial General Liability (Primary and Umbrella)
Commercial General Liability Insurance or equivalent must be maintained with limits of not less than $1,000,000 per occurrence, or the full per occurrence limits of the policy, whichever is greater, for bodily injury, personal injury, and property damage liability. Coverages must include but not be limited to the following: All premises and operations, products/completed operations, separation of insureds, defense, and contractual liability (not to include Endorsement CG 21 39 or equivalent), and means, methods, techniques, sequences and procedures.

The City and other entities as required by City must be provided additional insured status with respect to liability arising out of Architect's work, services or operations performed on behalf of the City. The City's additional insured status must apply to liability and defense

of suits arising out of Architect's acts or omissions, whether such liability is attributable to the Architect or to the City on an additional insured endorsement form acceptable to the City. The full policy limits and scope of protection also will apply to the City as an additional insured, even if they exceed the City's minimum limits required herein. Architect's liability insurance must be primary without right of contribution by any other insurance or self-insurance maintained by or available to the City.

Architect may use a combination of primary and excess/umbrella policy/policies to satisfy the limits of liability required herein. The excess/umbrella policy/policies must provide the same coverages/follow form as the underlying policy/policies.

3) Automobile Liability (Primary and Umbrella)
Design Architect must maintain Automobile Liability Insurance with limits of not less than $1,000,000 per occurrence, or the full per occurrence limits of the policy, whichever is greater, for bodily injury and property damage. Coverage must include but not be limited to, the following: ownership, maintenance, or use of any auto whether owned, leased, non-owned or hired used in the performance of the work or devices, both on and off the Project site including loading and unloading. The City is to be named as an additional insured on a primary, non-contributory basis.

Architect may use a combination of primary and excess/umbrella policy/policies to satisfy the limits of liability required herein. The excess/umbrella policy/policies must provide the same coverages/follow form as the underlying policy/policies.

4) Excess/Umbrella
Excess/Umbrella Liability Insurance must be maintained with limits of not less than $1,000,000 per occurrence, or the full per occurrence limits of the policy, whichever is greater. The policy/policies must provide the same coverages/follow form as the underlying Commercial General Liability, Automobile Liability, Employers Liability and Completed Operations coverage required herein and expressly provide that the excess or umbrella policy/policies will drop down over reduced and/or exhausted aggregate limit, if any, of the underlying insurance. The Excess/Umbrella policy/policies must be primary without right of contribution by any other insurance or self-insurance maintained by or available to the City.

Architect may use a combination of primary and excess/umbrella policies to satisfy the limits of liability required in sections A.1, A.2, A.3 and A.4 herein.

5) Professional Liability
Architect performing work including professional services and/or operations in connection with this Contract, Professional Liability Insurance covering acts, errors, or omissions must be maintained with limits of not less than $2,000,000 Coverage must include but not be limited to pollution liability if environmental site assessments will be done. The policy retroactive date must precede start of work related to this Contract. When policies are renewed or replaced, the policy retroactive date must coincide with, or precede start of Architectural or Engineering work. A claims-made policy which is not renewed or replaced must have an extended reporting period of Two (2) years.

6) Valuable Papers
When any plans, designs, drawings, specifications, media, data, and other documents are produced or used under this Contract, Valuable Papers Insurance must be maintained in an amount to insure against any loss whatsoever, and must have limits sufficient to pay for the recreation and reconstruction of such records

C. INSURANCE TO BE PROVIDED - CONSTRUCTION

1) Workers Compensation and Employers Liability (Primary and Umbrella)
Workers Compensation Insurance, as prescribed by applicable law covering all employees who are to provide a work, services or operations under this Contract and Employers Liability coverage with limits of not less than $1,000,000 each accident, $1,000,000 disease-policy limit, and $1,000,000 disease-each employee, or the full per occurrence limits of the policy, whichever is greater. Coverage shall include but not be limited to: other states endorsement, alternate employer and voluntary compensation endorsement; when applicable.

Contractor may use a combination of primary and excess/umbrella policy/policies to satisfy the limits of liability required herein. The excess/umbrella policy/policies must provide the same coverages/follow form as the underlying policy/policies.

2) Commercial General Liability (Primary and Umbrella)
Commercial General Liability Insurance or equivalent must be maintained with limits of not less than $1,000,000 per occurrence, or the full per occurrence limits of the policy, whichever is greater, for bodily injury, personal injury, and property damage liability. Coverages must include but not be limited to, the following: All premises and operations, products/completed operations, explosion, collapse, underground, separation of insureds, defense, contractual liability (not to include endorsement CG 21 39 or equivalent), no exclusion for damage to work performed by Subcontractors, any limitation of coverage for designated premises or project is not permitted (not to include endorsement CG 21 44 or equivalent) and any endorsement modifying or deleting the exception to the Employer's Liability exclusion is not permitted. If a general aggregate limit applies, the general aggregate must apply per project/location and once per policy period if applicable, or Contractor may obtain separate insurance to provide the required limits which will not be subject to depletion because of claims arising out of any other work or activity of Contractor. If a general aggregate applies to products/completed operations, the general aggregate limits must apply per project and once per policy period.

The City must be provided additional insured status with respect to liability arising out of Contractor's work, services or operations and completed operations performed on behalf of the City. Such additional insured coverage must be provided on ISO form CG 2010 10 01 and CG 2037 10 01 or on an endorsement form at least as broad for ongoing operations and completed operations. The City's additional insured status must apply to liability and defense of suits arising out of Contractor's acts or omissions, whether such liability is attributable to the Contactor or to the City. The full policy limits and scope of protection also will apply to the City as an additional insured, even if they exceed the City's minimum limits required herein. Contractor's liability insurance must be primary without right of contribution by any other insurance or self-insurance maintained by or available to the City.

Contractor may use a combination of primary and excess/umbrella policy/policies to satisfy the limits of liability required herein. The excess/umbrella policy/policies must provide the same coverages/follow form as the underlying policy/policies.

3) Automobile Liability (Primary and Umbrella
Contractor must maintain Automobile Liability Insurance with limits of not less than $1,000,000 per occurrence, or the full per occurrence limits of the policy, whichever is greater, for bodily injury and property damage. Coverage must include but not be limited to, the following: ownership, maintenance, or use of any auto whether owned, leased,

non-owned or hired used in the performance of the work or devices, both on and off the Project site including loading and unloading. The City is to be named as an additional insured on a primary, non-contributory basis.

If applicable, coverage extension must include a) an MCS-90 endorsement where required by the Motor Carrier Act of 1980 and b) pollution coverage for loading, unloading and transportation of chemical, hazardous radioactive and special waste.

Contractor may use a combination of primary and excess/umbrella policy/policies to satisfy the limits of liability required herein. The excess/umbrella policy/policies must provide the same coverages/follow form as the underlying policy/policies.

4) Excess/Umbrella
Excess/Umbrella Liability Insurance must be maintained with limits of not less than $5,000,000 per occurrence, or the full per occurrence limits of the policy, whichever is greater. The policy/policies must provide the same coverages/follow form as the underlying Commercial General Liability, Automobile Liability, Employers Liability and Completed Operations coverage required herein and expressly provide that the excess or umbrella policy/policies will drop down over reduced and/or exhausted aggregate limit, if any, of the underlying insurance. If a general aggregate limit applies the general aggregate must apply per project/location. The Excess/Umbrella policy/policies must be primary without right of contribution by any other insurance or self-insurance maintained by or available to the City.

Contractor may use a combination of primary and excess/umbrella policies to satisfy the limits of liability required in sections A.1, A.2, A.3 and A.4 herein.

5) Builders Risk/Installation Floater
When Contractor undertakes any construction, including improvements, betterments, and/or repairs, the Contractor must provide All Risk Builders Risk/Installation Insurance at replacement cost for materials, supplies, equipment, machinery and fixtures that are or will be part of the project. Coverages must include but are not limited to, the following: material stored off-site and in-transit and equipment breakdown

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

6) Contractors Pollution Liability
When any work or services performed involves a potential pollution risk that may arise from the operations of Contractor's scope of services Contractors Pollution Liability must be provided or caused to be provided, covering bodily injury, property damage and other losses caused by pollution conditions with limits of not less than $1,000,000 per occurrence. Coverage must include but not be limited to completed operations, contractual liability, defense, excavation, environmental cleanup, remediation and disposal and if applicable, include transportation and non-owned disposal coverage. When policies are renewed or replaced, the policy retroactive date must coincide with or precede, start of work on the Contract. A claims-made policy which is not renewed or replaced must have an extended reporting period of two (2) years. The City is to be named as an additional insured.

D. ADDITIONAL REQUIREMENTS

Evidence of Insurance. Developer, Architect and Contractor must furnish the City, Department of Procurement Services 121 N. LaSalle Street, Room 806, Chicago, IL 60602, and Department of Fleet and Facility Management, attn.: Commissioner's Office, Room 300, 30 North LaSalle Street,

Chicago, IL 60602, original certificates of insurance and additional insured endorsement, or other evidence of insurance, to be in force on the date of this Contract, and renewal certificates of Insurance and endorsement, or such similar evidence, if the coverages have an expiration or renewal date occurring during the term of this Contract. Developer, Architect and Contractor must submit evidence of insurance prior to execution of Contract. 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 requirements of Contract. The failure of the City to obtain, nor the City's receipt of, or failure to object to a non-complying insurance certificate, endorsement or other insurance evidence from Developer, Architect and Contractor, its insurance broker(s) and/or insurer(s) will not be construed as a waiver by the City of any of the required insurance provisions. Developer, Architect and Contractor must advise all insurers of the Contract provisions regarding insurance. The City in no way warrants that the insurance required herein is sufficient to protect Developer, Architect and Contractor for liabilities which may arise from or relate to the Contract. The City reserves the right to obtain complete, certified copies of any required insurance policies at any time.

Failure to Maintain Insurance. Failure of the Developer, Architect and Contractor to comply with required coverage and terms and conditions outlined herein will not limit Developer's, Architect's and Contractor's liability or responsibility nor does it relieve Developer, Architect and Contractor of the obligation to provide insurance as specified in this Contract. Nonfulfillment of the insurance conditions may constitute a violation of the Contract, and the City retains the right to suspend this Contract until proper evidence of insurance is provided, or the Contract may be terminated.

Notice of Material Change, Cancellation or Non-Renewal. Developer, Architect and Contractor must provide for sixty (60) days prior written notice to be given to the City in the event coverage is substantially changed, canceled or non-renewed and ten (10) days prior written notice for non-payment of premium.

Deductibles and Self-Insured Retentions. Any deductibles or self-insured retentions on referenced insurance coverages must be borne by Developer, Architect and Contractor.

Waiver of Subrogation. Developer, Architect and Contractor hereby waives its rights and its insurer(s)' rights of and agrees to require their insurers to waive their rights of subrogation against the City under all required insurance herein for any loss arising from or relating to this Contract. Developer, Design Architect and Contractor agree to obtain any endorsement that may be necessary to affect this waiver of subrogation, but this provision applies regardless of whether or not the City received a waiver of subrogation endorsement for Developer's, Architect's and Contractor's insurer(s).

Contractors Insurance Primary. All insurance required of Developer, Architect and Contractor under this Contract shall be endorsed to state that Developer's, Architect's and Contractor's insurance policy is primary and not contributory with any insurance carrier by the City.

No Limitation as to Contractor's Liabilities. The coverages and limits furnished by Developer, Architect and Contractor in no way limit the Developer's, Architect's and Contractor's liabilities and responsibilities specified within the Contract or by law.

No Contribution by City. Any insurance or self-insurance programs maintained by the City do not contribute with insurance provided by Developer, Architect and Contractor under this Contract.

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

Insurance and Limits Maintained. If Developer, Architect and Contractor maintains higher limits and/or broader coverage than the minimums shown herein, the City requires and shall be entitled the higher limits and/or broader coverage maintained by Developer Architect and Contractor. Any available insurance proceeds in excess of the specified minimum limits of insurance and coverage shall be available to the City.

Joint Venture or Limited Liability Company. If Developer, Architect and Contractor is a joint venture or limited liability company, the insurance policies must name the joint venture or limited liability company as a named insured.

Other Insurance obtained by Developer, Architect and Contractor.
If Developer's, Architect's and Contractor's desires additional coverages the Developer's, Architect's and Contractor's will be responsible for the acquisition and cost.

Insurance required of Subcontractors. Developer, Architect and Contractor shall name Subcontractor(s) as a named insured(s) under Developer's, Architect's and Contractor's insurance or Developer, Architect and Contractor will require each Subcontractor(s) to provide and maintain Commercial General Liability, Commercial Automobile Liability, Worker's Compensation and Employers Liability Insurance and when applicable Excess/Umbrella Liability Insurance with coverage at least as broad as in outlined in Section A, Insurance Required. The limits of coverage will be determined by Developer, Architect and Contractor. Developer, Architect and Contractor shall determine if Subcontractor(s) must also provide any additional coverage or other coverage outlined in Section A, Insurance Required. Developer, Architect and Contractor are all responsible for ensuring that each Subcontractor has named the City as an additional insured where required and name the City as an additional insured on an additional insured endorsement form acceptable to the City. Developer, Architect and Contractor is also responsible for ensuring that each Subcontractor has complied with the required coverage and terms and conditions outlined in this Section B, Additional Requirements. When requested by the City, Developer, Architect and Contractor must provide to the City certificates of insurance and additional insured endorsements or other evidence of insurance. The City reserves the right to obtain complete, certified copies of any required insurance policies at any time. Failure of the Subcontractor(s) to comply with required coverage and terms and conditions outlined herein will not limit Developer's, Architect's and Contractor's liability or responsibility.

City's Right to Modify. Notwithstanding any provisions in the Contract to the contrary, the City, Department of Finance, Risk Management Office maintains the right to modify, delete, alter or change these requirements.

EXHIBIT E: REQUEST FOR CLARIFICATION ("RFC") TEMPLATE

The Requests for clarification must be submitted in a Microsoft Excel Worksheet format substantially in the form of the table below.
For each submitted question/comment, please indicate its priority by classifying it as a Category 1, 2, 3 or 4 question, as defined below:

"Category 1" means a potential "go/no-go" issue that, if not resolved in an acceptable fashion, may preclude the Respondent from submitting a Proposal.
"Category 2" means a major issue that, if not resolved in an acceptable fashion, will significantly affect value for money or, taken together with the entirety of other issues, may preclude the Respondent from submitting a Proposal.
"Category 3" means an issue that may affect value for money, or another material issue, but is not at the level of a Category 1 and Category 2 issue.
"Category 4" means an issue that is minor in nature, a clarification, a comment concerning a conflict between documents or within a document, etc.

Any comment that is not assigned a categorization will be treated as "Category 4."

Respondent Name	Question #	Section Cross Reference	Priority #	Question

EXHIBIT F: M/WBE PARTICIPATION - DOCUMENT TEMPLATES

SCHEDULE B: MBE/WBE Affidavit of Joint Venture

All information requested on 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, attach additional sheets. **In all proposed joint ventures, each MBE and/or WBE venture must submit a copy of its current Letter of Certification.**

Name of joint venture: _____
Address: _____
Telephone number of joint venture:
_____

Email address: _____
Name of non-MBE/WBE venture: _____
Address: _____
Telephone number: _____
Email address: _____
Contact person for matters concerning MBE/WBE compliance: _____

Name of MBE/WBE venture: _____
Address: _____
Telephone number: _____
Email address: _____
Contact person for matters concerning MBE/WBE compliance: _____

Describe the role(s) of the MBE and/or WBE venture(s) in the joint venture: _____
_____
_____
_____
_____

Attach a copy of the joint venture agreement.

In order to demonstrate the MBE and/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, the proposed joint venture agreement must include specific details related to: (1) the contributions of capital, personnel and equipment and share of the costs of bonding and insurance; (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 venture; and (4) the commitment of management, supervisory and operative personnel employed by the MBE/WBE to be dedicated to the performance of the project.

Ownership of the Joint Venture.

A. What is 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 details as applicable):

1. Profit and loss sharing: _____

2. Capital contributions:

a. Dollar amounts of initial contribution:_____

b. Dollar amounts of anticipated on-going contributions:_____

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

_____

_____

_____

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

_____

_____

_____

5. Costs of bonding (if required for the performance of the contract):

_____

6. Costs of insurance (if required for the performance of the contract):

_____

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

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

_____

_____

_____

VII. Control of and Participation in the Joint Venture.

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

A. Joint venture check signing:

_____

_____

_____

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

_____

_____

_____

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

_____

_____

_____

D. Acquisition of lines of credit:

E. Acquisition and indemnification of payment and performance bonds:

F. Negotiating and signing labor agreements:

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?

B. Identify the "managing partner," if any, and describe the means and measure of his/her compensation:

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?

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

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

X. 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 venturer (number) _____ Employed by MBE/WBE venturer_

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:

_____

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

1. _____
2. _____
3. _____
4. _____

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 that may be awarded and for initiating action under federal or state laws concerning false statements.

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

_____	_____
Name of MBE/WBE Partner Firm	Name of Non-MBE/WBE Partner Firm
_____	_____
Signature of Affiant	Signature of Affiant
_____	_____
Name and Title of Affiant	Name and Title of Affiant
_____	_____
Date	Date

On this _day of_____, 20 ____ , the above-signed officers

_____,

(names of affiants)

Personally appeared and, known to me be the persons described in the foregoing Affidavit, acknowledged that they executed the same in the capacity therein stated and for the purpose therein contained.

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

_____

Signature of Notary Public

My Commission Expires: _____(Seal)

SCHEDULE C: MBE/WBE Letter of Intent to Perform as a Subcontractor to the Prime Contractor

FOR CONSTRUCTION PROJECTS ONLY

NOTICE: THIS SCHEDULE MUST BE AUTHORIZED AND SIGNED BY THE MBE/WBE SUBCONTRACTOR FIRM. FAILURE TO COMPLY MAY RESULT IN THE BID BEING REJECTED AS NON-RESPONSIVE.

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 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, attach additional sheets as necessary. The description must establish that the undersigned is performing a commercially useful function:

_____

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

Pay Item No./Description	Quantity/Unit Price	Total

Subtotal:
$_____

Total @ 100%:
$_____

Total @ 60% (if the undersigned is performing work as a regular dealer): $_____

NOTICE: THIS SCHEDULE AND ATTACHMENTS REQUIRE ORIGINAL SIGNATURES ON EACH PAGE.

_____
(If not the undersigned, signature of person who filled out this Schedule C) (Date)

_____
(Name/Title-Please Print) (Company Name-Please Print)

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

_____
(Name/Title-Please Print)

Schedule C: MBE/WBE Letter of Intent to Perform as a Subcontractor to the Prime Contractor

Partial Pay Items

For any of the above items that are partial pay items, specifically describe the work and subcontract dollar amount(s):

Pay Item No./Description	Quantity/Unit Price	Total

Subtotal:

$_____

Total @ 100%:

$_____

Total @ 60% (if the undersigned is performing work as a regular dealer): $_____

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 in Construction Contracts.

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 ON EACH PAGE.

_____

(If not the undersigned, signature of person who filled out this Schedule C) (Date)

_____

(Name/Title-Please Print) (Company Name-Please Print)

_____

(Email & Phone Number)

_____

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

_____

(Name/Title-Please Print)

_____

(Email & Phone Number)

SCHEDULE C: MBE/WBE Letter of Intent to Perform as a 2nd Tier Subcontractor to the Prime Contractor

FOR CONSTRUCTION PROJECTS ONLY

NOTICE: THIS SCHEDULE MUST BE AUTHORIZED AND SIGNED BY THE MBE/WBE SUBCONTRACTOR FIRM. FAILURE TO COMPLY MAY RESULT IN THE BID BEING REJECTED AS NON-RESPONSIVE.

Project Name: _____ Specification No.: _____

From: _____
(Name of MBE/WBE Firm)

To: _____
(Name of 1st Tier Contractor)

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 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, attach additional sheets as necessary. The description must establish that the undersigned is performing a commercially useful function:

_____

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

Pay Item No./Description	Quantity/Unit Price	Total

Subtotal:
$_____

Total @ 100%:
$_____

Total @ 60% (if the undersigned is performing work as a regular dealer): $_____

NOTICE: THIS SCHEDULE AND ATTACHMENTS REQUIRE ORIGINAL SIGNATURES ON EACH PAGE.

_____
(If not the undersigned, signature of person who filled out this Schedule C) (Date)

_____
(Name/Title-Please Print) (Company Name-Please Print)

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

_____
(Name/Title-Please Print)

Schedule C: MBE/WBE Letter of Intent to Perform as a 2nd Tier Subcontractor to the Prime Contractor

Partial Pay Items

For any of the above items that are partial pay items, specifically describe the work and subcontract dollar amount(s):

Pay Item No./Description	Quantity/Unit Price	Total

Subtotal:

$_____

Total @ 100%:

$_____

Total @ 60% (if the undersigned is performing work as a regular dealer): $_____

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 in Construction Contracts.

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 ON EACH PAGE.

_____

(If not the undersigned, signature of person who filled out this Schedule C) (Date)

_____

(Name/Title-Please Print) (Company Name-Please Print)

_____

(Email & Phone Number)

_____

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

_____

(Name/Title-Please Print)

_____

(Email & Phone Number)

SCHEDULE C (Construction): MBE/WBE Letter of Intent to Perform as a SUPPLIER

Project Name: _____ Specification Number: _____

From _____
(Name of MBE or 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 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 supply the following goods in connection with the above named project/contract. On a separate sheet, 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

Pay Item No. / Description	Quantity / Unit Price	Total

Line 1: Sub Total: $_____

Line 2: Total @ 100%: $_____

Line 3: Total @ 60%. $_____

Partial Pay Items.

For any of the above items that are partial pay items, specifically describe the work and subcontract dollar amount(s):

Pay Item No. / Description	Quantity / Unit Price	Total

Line 1: Sub Total. $_____

Line 2: Total @ 100%: $_____

Line 3. Total @ 60%: $_____

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 in Construction Contracts.

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 Owner, President or Authorized Agent of MBE or WBE — Date

_____
Name /Title (Print)

_____ _____
Phone Number — Email Address

SCHEDULE D: Compliance Plan Regarding MBE & WBE Utilization Affidavit of Prime Contractor

FOR CONSTRUCTION PROJECTS ONLY

MUST BE SUBMITTED WITH THE BID. FAILURE TO SUBMIT THE SCHEDULE D 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 the

_____and a duly authorized representative of
(Title of Affiant)

_____.
(Name of Prime Contractor)

and that I have personally reviewed the material and facts set forth in the attached Schedule Cs regarding Minority Business Enterprise and Women Business Enterprise (MBE/WBE) to perform as subcontractor, Joint Venture Agreement, and Schedule B (if applicable). All MBEs and WBEs must be certified with the City of Chicago or Cook County in the area(s) of specialty listed.

Name of MBE	Type of Work to be Performed in accordance with Schedule Cs	Total MBE Participation in dollars	MBE Participation in percentage	Mentor Protégé Program Credit Claimed	Total MBE Participation in percentage
		$	%	%	%
		$	%	%	%
		$	%	%	%
		$	%	%	%
		$	%	%	%
		$	%	%	%
		$	%	%	%
		$	%	%	%
		$	%	%	%
		$	%	%	%
		$	%	%	%
		$	%	%	%

Name of WBE	Type of Work to be Performed in accordance with Schedule Cs	Total WBE Participation in dollars	WBE Participation in percentage	Mentor Protégé Program Credit Claimed	Total WBE Participation in percentage
		$	%	%	%
		$	%	%	%
		$	%	%	%

		$	%	%	%
		$	%	%	%
		$	%	%	%
		$	%	%	%
		$	%	%	%
		$	%	%	%
		$	%	%	%
		$	%	%	%
		$	%	%	%

☐ Check here if the following is applicable: The Prime Contractor intends to enter into mentor protégé agreements with certain MBEs/WBEs listed above as indicated by entries in the "Mentor Protégé Program Credit Claimed" column. Copies of each proposed mentoring program, executed by authorized representatives of the Prime Contractor and respective subcontractor, are attached to this Schedule D. 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.

Total MBE Participation $_____

Total MBE Participation % (including any Mentor Protégé Program credit)_____

Total WBE Participation $_____

Total WBE Participation % (including any Mentor Protégé Program credit)_____

Total Bid $_____

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

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, AND THAT I AM AUTHORIZED ON BEHALF OF THE PRIME CONTRACTOR TO MAKE THIS AFFIDAVIT.

_____ State

of:_____

(Name of Prime Contractor – Print or Type)

_____ County

of:_____
(Signature)

_____
(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:_____

SCHEDULE F: REPORT OF SUBCONTRACTOR SOLICITATIONS FOR CONSTRUCTION CONTRACTS

Submit Schedule F with the bid. Failure to submit the Schedule F may cause the bid to be rejected.

Duplicate sheets as needed.

Project Name:_____

Specification #:_____

I,_____on behalf of_____
(Name of reporter) (Prime contractor)

(A) have either personally solicited, or permitted a duly authorized representative of this firm to solicit, work for this contract from the following subcontractors which comprise all MBE/WBE and non-MBE/WBE subcontractors who bid or quoted price information on this contract

Company Name _____
Business Address _____
Contact Person _____
Date of contact_____
Method of contact _____
Response to solicitation_____
Type of Work Solicited_____
Please circle classification: MBE Certified WBE Certified MBE & WBE Certified Non- Certified

Company Name _____
Business Address _____
Contact Person _____
Date of contact_____
Method of contact _____
Response to solicitation_____
Type of Work Solicited_____
Please circle classification: MBE Certified WBE Certified MBE & WBE Certified Non- Certified

Company Name _____
Business Address _____
Contact Person _____
Date of contact_____
Method of contact _____
Response to solicitation_____
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Please circle classification: MBE Certified WBE Certified MBE & WBE Certified Non- Certified

Company Name _____
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Please circle classification: MBE Certified WBE Certified MBE & WBE Certified Non- Certified

Company Name _____
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Please circle classification: MBE Certified WBE Certified MBE & WBE Certified Non- Certified

Company Name _____
Business Address _____
Contact Person _____
Date of contact _____
Method of contact _____
Response to solicitation _____
Type of Work Solicited _____
Please circle classification: MBE Certified WBE Certified MBE & WBE Certified Non- Certified

I DO SOLEMNLY DECLARE AND AFFIRM UNDER PENALTIES OF PERJURY THAT THE CONTENTS OF THE FOREGOING DOCUMENT ARE TRUE AND CORRECT, AND THAT I AM AUTHORIZED ON BEHALF OF THE PRIME CONTRACTOR TO MAKE THIS AFFIDAVIT.

_____
(Name of Prime Contractor - Print or Type)

_____
(Signature)

_____
(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:_____

SCHEDULE H: DOCUMENTATION OF GOOD FAITH EFFORTS TO UTILIZE MBEs AND WBEs ON CONSTRUCTION CONTRACT

Project Name:_____
Specification #_____

The Department of Procurement Services reserves the right to audit and verify all Good Faith Efforts as a condition of award. Material misrepresentations and omissions shall cause the bid to be rejected.

(B) The following is documentation and explanation of the bidder's Good Faith Efforts to meet the contract specific goals as described in the Good Faith Efforts Checklist as part of Schedule D. The Schedule D cannot be modified without the written approval of DPS.

I,_____on behalf of_____
(Name of reporter) (Prime contractor)

have determined that it is unable to meet the contract specific goals in full or in part as set forth in the Special Conditions Regarding Minority and Women Business Enterprise Commitment in Construction Contracts. I hereby declare and affirm that the following good faith efforts were undertaken by the Bidder/Contractor to meet the MBE and/or WBE contract specific goals of this project.

Good Faith Efforts Checklist from Schedule D
Attach additional sheets as needed.

___ Solicited through reasonable and available means at least 50% (or at least 5 when there are more than 11 certified firms in the commodity area) of MBEs and WBEs certified in the anticipated scopes of subcontracting of the contract, within sufficient time to allow them to respond, as described in the Schedule F.
Attach copies of written notices sent to MBEs and WBEs.

___ Provided timely and adequate information about the plan, specifications and requirements of the contract.
Attach copies of contract information provided to MBES and WBEs.

___ Advertised the contract opportunities in media and other venues oriented toward MBEs and WBEs.
Attach copies of advertisements.

___ Negotiated in good faith with interested MBEs or WBEs that have submitted bids and thoroughly investigated their capabilities.
Attach Schedule F, Report of Subcontractor Solicitations for Construction Contracts.

___ Selected those portions of the work or material consistent with the available MBE or WBE subcontractors and suppliers, including, where appropriate, breaking out contract work items into economically feasible units to facilitate MBE or WBE participation.
Describe selection of scopes of work solicited from MBEs and WBEs and efforts to break out work items.

_____
_____
_____
_____
_____

___ Made efforts to assist interested MBEs or WBEs in obtaining bonding, lines of credit, or insurance as required by the City or bidder or contractor.

Describe assistance efforts.

___ Made efforts to assist interested MBEs or WBEs in obtaining necessary equipment, supplies, materials, or related assistance or services.
Describe assistance efforts.

___ Effectively used the services of the City; minority or women community organizations; minority or women assistance groups; local, state, and federal minority or women business assistance offices; and other organizations to provide assistance in the recruitment and placement of MBEs or WBEs as listed on Attachment A.

Describe efforts to use agencies listed on Attachment A.

I DO SOLEMNLY DECLARE AND AFFIRM UNDER THE PENALTIES OF PERJURY THAT THE CONTENTS OF THE FOREGOING DOCUMENT ARE TRUE AND CORRECT, AND THAT I AM AUTHORIZED, ON BEHALF OF THE CONTRACTOR, TO MAKE THIS AFFIDAVIT.

Name of Contractor:_____
(Print or Type)

Signature:_____
(Signature of Affiant)

Name of Affiant:_____
(Print or Type)

Date:_____
(Print or Type)

State of _____
County (City) of _____

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

_____
Signature of Notary Public

(Seal)

STATUS REPORT OF MBE/WBE (SUB) CONTRACT PAYMENTS

Specification No.:_____

Department Project No.: _____

Date: _____

Voucher No.: _____

STATE OF: _____)

COUNTY (CITY) OF: _____)

In connection with the above-captioned contract:

I HEREBY DECLARE AND AFFIRM that I am the _____

(Title - Print or Type)

and duly authorized representative of _____

(Name of Comp any - Print or Type)

_____ (_____)_____

(Address of Company) (Phone)

and that the following Minority and Women Business Enterprises (MBE/WBEs) have been contracted with, and have furnished, or are furnishing and preparing materials for, and have done or are doing labor on the above referenced project; that there is due and to become due them, respectively the amounts set opposite their names for material or labor as stated; and that this a full, true and complete statement of all such MBE/WBEs and of the amounts paid, due, and to become due to them:

MBE/WBE	GOODS/SERVICES PROVIDED	AMOUNT OF CONTRACT	AMOUNT PAID TO DATE
		$	$
		$	$
		$	$
		$	$
		$	$
		$	$

TOTAL AMOUNT PAID TO MBEs TO DATE: $_____

TOTAL AMOUNT PAID TO WBEs TO DATE: $_____

I DO SOLEMNLY DECLARE AND AFFIRM UNDER THE PENALTIES OF PERJURY THAT THE CONTENTS OF THE FOREGOING DOCUMENT ARE TRUE AND CORRECT, AND THAT I AM AUTHORIZED, ON BEHALF OF THE CONTRACTOR, TO MAKE THIS AFFIDAVIT.

Name of Contractor: _____
(Print or Type)

Signature: _____
(Signature of Affiant)

Name of Affiant: _____
(Print or Type)

Date: _____
(Print or Type)

State of _____

County (City) of _____

This instrument was acknowledged before me on _____ (date)

by _____(name/s of person/s)

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

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

_____
Signature of Notary Public

(Seal)

(Seal)

Special Conditions Regarding Minority Owned Business Enterprise Commitment and Women Owned Business Enterprise Commitment in Construction Contracts

Policy and Terms

As set forth in 2-92-650 *et seq.* of the Municipal Code of Chicago (MCC) it is the policy of the City of Chicago that businesses certified as Minority Owned Business Enterprises (MBEs) and Women Owned Business Enterprises (WBEs) in accordance with Section 2-92-420 *et seq.* of the MCC 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, shall have full and fair opportunities to participate fully in the performance of this contract. Therefore, Proposers shall not discriminate against any person or business on the basis of race, color, national origin, or sex, and shall take affirmative actions to ensure that MBEs and WBEs shall have full and fair opportunities to compete for and perform subcontracts for supplies or services.

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

Under the City's MBE/WBE Construction Program as set forth in MCC 2-92-650 *et seq*, the program-wide aspirational goals are 26% Minority Owned Business Enterprise participation and 6% Women Owned Business Enterprise participation. The City has set goals of 26% and 6% on all contracts in line with its overall aspirational goals, unless otherwise specified herein, and is requiring that Proposers make a good faith effort in meeting or exceeding these goals.

Contract Specific Goals and Bids

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:

A. An MBE/WBE compliance plan demonstrating how the Proposer plans to meet the Contract Specific Goals (Schedule D); and/or
B. Documentation of Good Faith Efforts (Schedule H).

If a Proposer's compliance plan falls short of the Contract Specific Goals, the Proposer must include either a Schedule H demonstrating that it has made Good Faith Efforts to find MBE and WBE firms to participate or a request for a reduction or waiver of the goals.

Accordingly, the Proposer or 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 the contract:

MBE Contract Specific Goal: 28%
WBE Contract Specific Goal: 8%

This Contract Specific Goal provision shall supersede any conflicting language or provisions that may be contained in this document.

For purposes of evaluating the Proposer's responsiveness, the MBE and WBE Contract Specific Goals shall be percentages of the Proposer's total base bid. However, the MBE and WBE Contract Specific Goals shall apply to the total value of this contract, including all amendments and modifications.

I. Contract Specific Goals and Contract Modifications

1. The MBE and WBE Contract Specific Goals established at the time of contract bid shall also apply to any modifications to the Contract after award. That is, any additional work and/or money added to the Contract must also adhere to these Special Conditions requiring Contractor to (sub)contract with MBEs and WBEs to meet the Contract Specific Goals.

   a. Contractor must assist the Construction Manager or user Department in preparing its "proposed contract modification" by evaluating the subject matter of the modification and determining whether there are opportunities for MBE or WBE participation and at what rates.
   b. Contractor must produce a statement listing the MBEs/WBEs that will be utilized on any contract modification. The statement must include the percentage of utilization of the firms. If no MBE/WBE participation is available, an explanation of good faith efforts to obtain participation must be included.

2. The Chief Procurement Officer shall review each proposed contract modification and amendment that by itself or aggregated with previous modification/amendment requests, increases the contract value by ten percent (10%) of the initial award, or $50,000, whichever is less, for opportunities to increase the participation of MBEs or WBEs already involved in the Contract.

II. Definitions

"Area of Specialty" means the description of a MBE's or WBE's activity that has been determined by the Chief Procurement Officer to be most reflective of the firm's claimed specialty or expertise. Each MBE and WBE letter of certification contains a description of the firm's Area of Specialty. Credit toward the Contract Specific Goals shall be limited to the participation of firms performing within their Area of Specialty. The Department of Procurement Services does not make any representation concerning the ability of any MBE or WBE to perform work within its Area of Specialty. It is the responsibility of the Proposer or contractor to determine the capability and capacity of MBEs and WBEs to 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 2-92-586.

"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.

"Construction Contract" means a contract, purchase order or agreement (other than lease of real property) for the construction, repair, or improvement of any building, bridge, roadway, sidewalk, alley, railroad or other structure or infrastructure, awarded by any officer or agency of the City, other than the City Council, and whose cost is to be paid from City funds.

"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 construction contract with the City, 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 done in their Area of Specialty directly related to the performance of the subject matter of the Construction Contract will count as Direct Participation toward the Contract Specific Goals.

"Directory" means the Directory of Minority Business MBEs and WBEs maintained and published by the Chief Procurement Officer. The Directory identifies firms that have been certified as MBEs and WBEs, and includes the date of their last certifications and the areas of specialty in which they have been certified. Proposers and contractors are responsible for verifying the current certification status of all proposed MBEs and WBEs.

"Executive Director" means the executive director of the Office of Compliance or his or her designee.

"Good Faith Efforts" means actions undertaken by a Proposer or contractor to achieve a Contract Specific Goal that, by their scope, intensity, and appropriateness to the objective, can reasonably be expected to fulfill the program's requirements.

"*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.

"Minority Business Enterprise" or "MBE" means a firm certified as a minority-owned business enterprise 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.

"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 the 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 Business Enterprise" or "WBE" means a firm certified as a women-owned business enterprise in accordance with City Ordinances and Regulations as well as a firm awarded certification as a women owned business by Cook County, Illinois.

III. 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:

1. 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;

2. 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;

3. Each joint venture partner executes the bid to the City; and

4. 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 1, 2, and 3 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 Proposer's Compliance Plan includes the participation of any MBE or WBE as a joint venture partner, the Proposer 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:

1. The parties' contributions of capital, personnel, and equipment and share of the costs of insurance and bonding;

2. 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;

3. Work items to be performed under the supervision of the MBE or WBE joint venture partner; and

4. 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.

IV. Counting MBE and WBE Participation Towards the Contract Specific Goals

Refer to this section when preparing the MBE/WBE compliance plan and completing Schedule D 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 Proposer's compliance plan as either a MBE or a WBE to demonstrate compliance with the Contract Specific Goals. For example, a firm certified as both a MBE and a WBE may only be listed on the Proposer's compliance plan under one of the categories, but not both. Additionally, a firm that is certified as both a MBE and a WBE could not self-perform 100% of a contract, it would have to show good faith efforts to meet the Contract Specific Goals by including in its compliance plan work to be performed by another MBE or WBE firm, depending on which certification that dual-certified firm chooses to count itself as.

A. Only expenditures to firms that perform a **Commercially Useful Function** as defined above may count toward the Contract Specific Goals.

   1. 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.
   2. 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.

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.

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.

C. If the MBE or WBE performs the work itself:
   1. 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 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. **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:
   1. 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 Proposer or contractor.

E. If the MBE or WBE is a distributor or supplier:
   1. 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:
   1. 0% of expenditures paid to brokers will be counted toward the Contract Specific Goals.
   2. As defined above, Brokers provide no commercially useful function.

G. If the MBE or WBE is a member of the joint venture contractor/Proposer:
   1. 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.
      i. OR 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 Schedule B.
   2. Note: a joint venture may also count the dollar value of work subcontracted to other MBEs and WBEs, however, work subcontracted out to non-certified firms may not be counted.

H. If the MBE or WBE subcontracts out any of its work:
   1. 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.
   2. 0% of the value of work that a MBE or WBE subcontracts to a non-certified firm counts toward the Contract Specific Goals (except for the cost of supplies 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 as allowed by C.1. above).
   3. 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 or the procurement of essential personnel, facilities, equipment, materials or supplies required for performance of the Contract, may be counted toward the Contract Specific Goals, 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.
   4. 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.
   5. 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.

V. Procedure to Determine Bid Compliance

The following Schedules and requirements govern the Proposer's or contractor's MBE/WBE proposal:

A. Schedule B: MBE/WBE Affidavit of Joint Venture

1. Where the Proposer's Compliance Plan includes the participation of any MBE or WBE as a joint venture partner, the Proposer must submit with its bid a Schedule B and the proposed joint venture agreement. See Section III above for detailed requirements.

B. Schedule C

The Proposer must submit the appropriate Schedule C with the bid for each MBE and WBE included on the Schedule D. The City encourages subcontractors to utilize the electronic fillable format Schedule C, which is available at the Department of Procurement Services website, http://cityofchicago.org/forms. Suppliers must submit the Schedule C for Suppliers, first tier subcontractors must submit a Schedule C for Subcontractors to the Prime Contractor and second or lower tier subcontractors must submit a Schedule C for second tier Subcontractors. Each Schedule C must 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 has been submitted with the bid, an executed original Schedule C must be submitted by the Proposer for each MBE and WBE included on the Schedule D within five (5) business days after the date of the bid opening.

C. Schedule D: Compliance Plan Regarding MBE and WBE Utilization

The Proposer must submit a Schedule D with the bid. The City encourages Proposers to utilize the electronic fillable format Schedule D, which is available at the Department of Procurement Services website, http://cityofchicago.org/forms. An approved Compliance Plan is required before a contract may commence.

The Compliance Plan must commit to the utilization of each listed MBE and WBE. The Proposer is responsible for calculating the dollar equivalent of the MBE and WBE Contract Specific Goals as percentages of the total base bid. All Compliance Plan commitments must conform to the Schedule Cs.

A Proposer or contractor may not modify its Compliance Plan after bid opening except as directed by the Department of Procurement Services to correct minor errors or omissions. Proposers 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, documented justification is provided, the Proposer or contractor shall not reduce the dollar commitment made to any MBE or WBE in order to achieve conformity between the Schedule Cs and Schedule D. All terms and conditions for MBE and WBE participation on the contract must be negotiated and agreed to between the Proposer or contractor and the MBE or WBE prior to the submission of the Compliance Plan. If a proposed MBE or WBE ceases to be available after submission of the Compliance Plan, the Proposer or contractor must comply with the provisions in Section VII.

D. Letters of Certification

A copy of each proposed MBE's and WBE's Letter of Certification from the City of Chicago or Cook County, Illinois, must be submitted with the bid.

Letters of Certification includes a statement of the MBE's or WBE's area(s) of specialty. The MBE's or WBE's scope of work as detailed in the Schedule C must conform to its area(s) of specialty. Where a MBE or WBE is proposed to perform work not covered by its Letter of Certification, the MBE or WBE must request the addition of a new area at least 30 calendar days prior to the bid opening.

E. Schedule F: Report of Subcontractor Solicitations for Construction Contracts

A Schedule F must be submitted with the bid, documenting all subcontractors and suppliers solicited for participation on the contract by the Proposer. Failure to submit the Schedule F may render the bid non-responsive.

F. Schedule H: Documentation of Good Faith Efforts to Utilize MBEs and WBEs on Construction Contract

1. If a Proposer determines that it is unable to meet the Contract Specific Goals, it must document its good faith efforts to do so, including the submission of Schedule C, Log of Contacts.

2. If the Proposer's Compliance Plan demonstrates that it has not met the Contract Specific Goals in full or in part, the Proposer must submit its Schedule H no later than three business days after notification by the Chief Procurement Officer of its status as the apparent lowest Proposer. Failure to submit a complete Schedule H will cause the bid to be rejected as non-responsive.

3. Documentation must include but is not necessarily limited to:

   a. A detailed statement of efforts to identify and select portions of work identified in the bid solicitation for subcontracting to MBEs and WBEs;

   b. A listing of all MBEs and WBEs contacted for the bid solicitation that includes:

      i. Names, addresses, emails and telephone numbers of firms solicited;
      ii. Date and time of contact;
      iii. Person contacted;
      iv. Method of contact (letter, telephone call, facsimile, electronic mail, etc.).

   c. Evidence of contact, including:
      i. Project identification and location;
      ii. Classification/commodity of work items for which quotations were sought;
      iii. Date, item, and location for acceptance of subcontractor bids;
      iv. Detailed statements summarizing direct negotiations with appropriate MBEs and WBEs for specific portions of the work and indicating why agreements were not reached.
      v. Bids received from all subcontractors.

d. Documentation of Proposer or contractor contacts with at least one of the minority and women assistance associations on Attachment A.

G. Agreements between a Proposer or contractor and a MBE or WBE in which the MBE or WBE promises not to provide subcontracting quotations to other Proposers or contractors are prohibited.

H. Prior to award, the Proposer agrees to promptly cooperate with the Department of Procurement Services in submitting to interviews, allowing entry to places of business, providing further documentation, or soliciting the cooperation of a proposed MBE or WBE. Failure to cooperate may render the bid non-responsive.

I. If the City determines that the Compliance Plan contains minor errors or omissions, the Proposer or contractor must submit a revised Compliance Plan within five (5) business days after notification by the City that remedies the minor errors or omissions. Failure to correct all minor errors or omissions may result in the determination that a bid is non-responsive.

J. No later than three (3) business days after receipt of the executed contract, the contractor must execute a complete subcontract agreement or purchase order with each MBE and WBE listed in the Compliance Plan. No later than eight (8) business days after receipt of the executed contract, the contractor must provide copies of each signed subcontract, purchase order, or other agreement to the Department of Procurement Services.

VI. Demonstration of Good Faith Efforts

A. In evaluating the Schedule H to determine whether the Proposer or contractor has made good faith efforts, the performance of other Proposers or contractors in meeting the goals may be considered.

B. The Chief Procurement Officer shall consider, at a minimum, the Proposer's efforts to:

1. Solicit through reasonable and available means at least 50% (or at least five when there are more than eleven certified firms in the commodity area) of MBEs and WBEs certified in the anticipated scopes of subcontracting of the contract, as documented by the Schedule H. The Proposer or contractor must solicit MBEs and WBEs within seven (7) days prior to the date bids are due. The Proposer or contractor must take appropriate steps to follow up initial solicitations with interested MBEs or WBEs.

2. Advertise the contract opportunities in media and other venues oriented toward MBEs and WBEs.

3. Provide interested MBEs or WBEs with adequate information about the plans, specifications, and requirements of the contract, including addenda, in a timely manner to assist them in responding to the solicitation.

4. Negotiate in good faith with interested MBEs or WBEs that have submitted bids. That there may be some additional costs involved in soliciting and using MBEs and WBEs is not a sufficient reason for a Proposer's failure to meet the Contract Specific Goals, as long as such costs are reasonable.

5. Not reject MBEs or WBEs as being unqualified without sound reasons based on a thorough investigation of their capabilities. The MBE's or WBE's standing within its industry, membership in specific groups, organizations, or associations and political or social affiliations are not legitimate causes for rejecting or not soliciting bids to meet the Contract Specific Goals.

6. Make a portion of the work available to MBE or WBE subcontractors and suppliers and selecting those portions of the work or material consistent with the available MBE or WBE subcontractors and suppliers; so as to facilitate meeting the Contract Specific Goals.

7. Make good faith efforts, despite the ability or desire of a Proposer or contractor to perform the work of a contract with its own organization. A Proposer or contractor who desires to self-perform the work of a contract must demonstrate good faith efforts unless the Contract Specific Goals have been met.

8. Select portions of the work to be performed by MBEs or WBEs in order to increase the likelihood that the goals will be met. This includes, where appropriate, breaking out contract work items into economically feasible units to facilitate MBE or WBE participation, even when the Proposer or contractor might otherwise prefer to perform these work items with its own forces.

9. Make efforts to assist interested MBEs or WBEs in obtaining bonding, lines of credit, or insurance as required by the City or Proposer or contractor.

10. Make efforts to assist interested MBEs or WBEs in obtaining necessary equipment, supplies, materials, or related assistance or services; and

11. Effectively use the services of the City; minority or women community organizations; minority or women assistance groups; local, state, and federal minority or women business assistance offices; and other organizations to provide assistance in the recruitment and placement of MBEs or WBEs.

C. If the Proposer disagrees with the City's determination that it did not make good faith efforts, the Proposer may file a protest pursuant to the Department of Procurement Services Solicitation and Contracting Process Protest Procedures within 10 business days of a final adverse decision by the Chief Procurement Officer.

VII. Changes to Compliance Plan

A. 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 Chief Procurement 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 Proposer 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 Proposer 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.

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

1. Unavailability after receipt of reasonable notice to proceed;
2. Failure of performance;
3. Financial incapacity;
4. Refusal by the subcontractor to honor the bid or proposal price or scope;
5. Mistake of fact or law about the elements of the scope of work of a solicitation where a reasonable price cannot be agreed;
6. Failure of the subcontractor to meet insurance, licensing or bonding requirements;
7. The subcontractor's withdrawal of its bid or proposal; or
8. De-certification of the subcontractor as a MBE or WBE. (Graduation from the MBE/WBE program does not constitute de-certification.

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

1. The Proposer or contractor must notify the Chief Procurement Officer in writing of the request to substitute a MBE or WBE or otherwise change the Compliance Plan. The request must state specific reasons for the substitution or change. A letter from the MBE or WBE to be substituted or affected by the change stating that it cannot perform on the contract or that it agrees with the change in its scope of work must be submitted with the request.

2. The City will approve or deny a request for substitution or other change within 15 business days of receipt of the request.

3. Where the Proposer 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 sections V and VI. 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 Proposer or contractor may substitute with a non-MBE or non-WBE.

4. If a Proposer or contractor plans to hire a subcontractor for any scope of work that was not previously disclosed in the Compliance Plan, the Proposer 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.

5. A new subcontract must be executed and submitted to the Chief Procurement Officer within five business days of the Proposer's or contractor's receipt of City approval for the substitution or other change.

D. 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.

VIII. Reporting and Record Keeping

A. During the term of the contract, the contractor and its non-certified subcontractors must submit partial and final waivers of lien from MBE and WBE subcontractors that show the accurate cumulative dollar amount of subcontractor payments made to date. Upon acceptance of the Final Quantities from the City of Chicago, FINAL certified waivers of lien from the MBE and WBE subcontractors must be attached to the contractor's acceptance letter and forwarded to the Department of Procurement Services, Attention: Chief Procurement Officer.

B. The contractor will be responsible for reporting payments to all subcontractors on a monthly basis in the form of an electronic audit. Upon the first payment issued by the City of Chicago to the 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 MBE and WBE. The reporting of payments to all subcontractors must be entered into the Certification and Compliance Monitoring System (C2), or whatever reporting system is currently in place, on or before the fifteenth (15th) day of each month.

Once the prime contractor has reported payments made to each MBE and WBE, including zero dollar amount payments, the MBE and WBE 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.

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: http://chicago.mwdbe.com

C. 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.

D. 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 final acceptance of the work. Full access to these records shall be granted to City, federal or state authorities or other authorized persons.

IX. Non-Compliance

A. 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.

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

C. Pursuant to 2-92-740, remedies or sanctions may include disqualification from contracting or subcontracting on additional City contracts for up to three years, and 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. The consequences provided herein shall be in addition to any other criminal or civil liability to which such entities may be subject.

D. 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 2-92-740 of the Municipal Code of the City of Chicago, within 15 business days of the final determination.

X. Arbitration

If the City determines that a contractor has not made good faith efforts to fulfill its Compliance Plan, the affected MBE or WBE may recover damages from the contractor.

Disputes between the contractor and the MBE or WBE shall be resolved by binding arbitration before the American Arbitration Association (AAA), with reasonable expenses, including attorney's fees and arbitrator's fees, being recoverable by a prevailing MBE or WBE. Participation in such arbitration is a material provision of the Construction Contract to which these Special Conditions are an Exhibit. This provision is intended for the benefit of any MBE or WBE affected by the contractor's failure to fulfill its Compliance Plan and grants such entity specific third party beneficiary rights. These rights 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 or WBE. Failure by the Contractor to participate in any such arbitration is a material breach of the Construction Contract.

A MBE or WBE seeking arbitration shall serve written notice upon the contractor and file a demand for arbitration with the AAA in Chicago, IL. The dispute shall be arbitrated in accordance with the Commercial Arbitration Rules of the AAA. All arbitration fees are to be paid *pro rata* by the parties.

The MBE or WBE must copy the City on the Demand for Arbitration within 10 business days after filing with the AAA. The MBE or WBE must copy the City on the arbitrator's decision within 10 business days of receipt of the decision. Judgment upon the arbitrator's award may be entered in any court of competent jurisdiction.

XI. 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 related to Proposer or contractor and subcontractor obligations.

EXHIBIT G: RIGHT OF ENTRY AGREEMENT

RIGHT OF ENTRY AGREEMENT

This **RIGHT OF ENTRY AGREEMENT** (the "**Agreement**") is made as of _____, 2018 (the "**Effective Date**"), by and between the **CITY OF CHICAGO,** an Illinois municipal corporation and home rule unit of government (the "**City**"), having its principal offices located at City Hall, 121 North LaSalle Street, Chicago, Illinois 60602, and _____, an Illinois corporation (the "**Licensee**"), having its principal offices located at _____, Chicago, Illinois _____.

RECITALS

WHEREAS, the City is the owner of the following vacant parcels of real property: _____), which together are identified as the "**Property**", as depicted on Attachment A attached hereto; and

WHEREAS, the City's Department of Fleet and Facility Management is in discussions with Licensee regarding Licensee's lease of the Property; and

WHEREAS, Licensee seeks access to the Property to perform a Phase I and II Environmental Site Assessment and Geotechnical Investigation (the "**Activity**"), as further detailed on Attachment B attached hereto, in order to further investigate the condition of the Property; and

WHEREAS, the location and scope of the Activity shall be limited to the locations upon and within the Property as they are described herein and no other access or activity shall be permitted without written City consent; and

WHEREAS, the City has agreed to grant such access upon the terms and conditions set forth herein.

NOW, THEREFORE, in consideration of the mutual covenants and agreements contained herein, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties agree as follows:

1. **Incorporation of Recitals.** The foregoing recitals constitute an integral part of this Agreement and are incorporated herein by this reference with the same force and effect as if set forth herein as agreements of the parties.

2. **Grant.** Subject to the terms and conditions set forth herein, the City hereby grants to Licensee a right of entry to the Property for the sole purpose of allowing Licensee to perform the Activity. The right of entry granted hereunder extends to, and Licensee shall be responsible for, its agents, employees, contractors, subcontractors, consultants, invitees, guests, vendors, patrons and any other parties who enter the Property at Licensee's direction or with Licensee's consent, including but not limited to _____ (collectively, "**Agents**"). Licensee shall be responsible for ensuring that all Agents comply with Licensee's obligations under this Agreement, and non-compliance by any Agent shall

be deemed to be non-compliance by Licensee. This right of entry is subject to all easements, encroachments, covenants, restrictions of record and not shown of record, and any other title encumbrances or defects affecting the Property. Licensee acknowledges that the City has not performed any title or survey work in connection with the negotiation and execution of this Agreement and agrees that it is Licensee's sole responsibility and obligation to confirm that the Activity occurs solely within the portions of the Property permitted by this Agreement.

3. **Term.** The term of this Agreement (the "**Term**") shall begin on the Effective Date and shall terminate upon the earlier of: (a) twenty-nine (29) days after the Effective Date for a period not to exceed thirty (30) days; or (b) the completion of the Activity and restoration of the Property in accordance with Section 10 hereof, whichever is earlier. The Term may be extended by up to five (5) additional thirty (30) day periods, up to a maximum of one hundred eighty (180) days, upon notification to and approval by the City's Department of Fleet and Facility Management. Prior to entering the Property, Licensee shall provide proof of insurance for itself and its Agents, as required by Section 8 of this Agreement, and copies of any necessary permits and approvals, if any, as required under Section 6 of this Agreement. Licensee agrees to notify the City at least two (2) days prior to commencing the Activity unless the City provides otherwise. Licensee further agrees to notify the City promptly upon early expiration of the Term under (b) above.

4. **Cost.** Licensee shall be responsible for all costs and expenses associated with the Activity without City reimbursement.

5. **Compliance with All Laws.** Licensee and its Agents shall comply at all times with any and all applicable municipal, county, state, federal or other statutes, laws (including common law), ordinances, codes, rules and regulations (collectively, "**Laws**"). Contract provisions that are required to be included in this Agreement by any such Laws shall be deemed included.

6. **Permits.** Prior to entering the Property, Licensee must secure, or cause its Agents to secure, at its sole cost and expense, all necessary permits and governmental approvals required to perform the Activity. Licensee understands that this Agreement shall not act as a substitute for any such permits or approvals that may be required. Licensee shall provide copies of all required permits and approvals to the City prior to entering the Property.

7. **Indemnification.** Licensee shall indemnify, defend (through an attorney reasonably acceptable to the City) and hold the City, its officers, officials, employees, agents and representatives (collectively, the "**City Parties**"), harmless from and against any and all actions, claims, suits, complaints, demands, legal or administrative proceedings, losses, damages, debts, liens, obligations, liabilities, judgments, amounts paid in settlement, arbitration or mediation awards, interest, fines, penalties, costs and expenses (including, without limitation, attorneys' fees, consultants' fees and court costs) (collectively, "**Claims**"), of whatsoever kind and nature, including without limitation, any and all environmental Claims, made or asserted by any third parties for injury, including personal injury or death of any person or persons, and for loss or damage to any property, occurring in connection with, or in any way arising out of or incident to (a) any and all acts, alleged acts or omissions of Licensee, its Agents or any other person entering the Property during the Term and (b) any entry upon or use of the Property or performance of the Activity by or on behalf of Licensee, its Agents or any other person entering the Property during the Term and (c) the failure of Licensee or its Agents to pay contractors, subcontractors or material suppliers in connection with this Agreement. The indemnification provided herein will be

effective to the maximum extent permitted by Law and is not limited by any amount of insurance required under this Agreement.

Licensee shall be solely responsible for the defense of any and all Claims against the City Parties, including without limitation, claims by any Agents of Licensee, even though the claimants may allege negligence or intentional and willful misconduct on the part of the City Parties. The City shall have the right, at its sole option, to participate in the defense of any such Claims, without relieving Licensee of its obligations hereunder.

Licensee shall promptly provide, or cause to be provided, to the City of Chicago, Department of Law, at 121 N. LaSalle St., Room 600, Chicago, IL 60602, copies of such notices as Licensee may receive of any Claims for which the City Parties are entitled to indemnification hereunder and to give the City Parties authority, information, and assistance for the defense of any such Claims.

This Section 7 shall survive the expiration or termination of this Agreement (regardless of the reason for such termination).

8. **Insurance.** Licensee must provide and maintain, and cause its Agents to procure and maintain, at Licensee's own expense (or the expense of its Agents as applicable) during the Term, the insurance coverages and requirements specified below, insuring all operations related to the Activity.

A. INSURANCE TO BE PROVIDED

a) Workers Compensation and Employers Liability

Workers Compensation Insurance, as prescribed by applicable law covering all employees who are to provide work in connection with the Activity, and Employers Liability coverage with limits of not less than $500,000 each accident, illness, or disease.

b) Commercial General Liability (Primary and Umbrella)

Commercial General Liability Insurance, or equivalent, with limits of not less than $2,000,000 per occurrence for bodily injury, personal injury, and property damage liability. Coverages must include the following: All premises and operations, products/completed operations, independent contractors, separation of insureds, defense, and contractual liability (not to include Endorsement CG 21 39 or equivalent).

The City of Chicago is to be named as an additional insured under the Licensee's and any subcontractor's policy. Such additional insured coverage shall be provided on ISO endorsement form CG 2010 for ongoing operations or on a similar additional insured form acceptable to the City. The additional insured coverage must not have any limiting endorsements or language under the policy such as but not limited to, Licensee's sole negligence or the additional insured's vicarious liability. Licensee's liability insurance shall be primary without right of contribution by any other insurance or self-insurance maintained by or available to the City. Licensee must ensure that the City is an additional insured on insurance required from subcontractors.

c) Automobile Liability (Primary and Umbrella)

When any motor vehicles (owned, non-owned and hired) are used in connection with the Activity, the Licensee 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.

When applicable, coverage extension must include a) an MC-90 endorsement where required by the Motor Carrier Act of 1980 and b) pollution coverage for loading, unloading and transportation of hazardous, materials.

d) Professional Liability

When any architects, engineers, construction managers or other professional consultants perform work or services in connection with the Activity, Professional Liability Insurance covering acts, errors, or omissions must be maintained with limits of not less than $1,000,000. When policies are renewed or replaced, the policy retroactive date must coincide with, or precede start of work on the Agreement. A claims-made policy which is not renewed or replaced must have an extended reporting period of two (2) years.

c) Contractors Pollution Liability

When any remediation work is performed which may cause a pollution exposure, Contractors Pollution Liability must be provided covering bodily injury, property damage and other losses caused by pollution conditions that arise from the Activity with limits of not less than $1,000,000 per occurrence. Coverage must include completed operations, contractual liability, defense, excavation, environmental cleanup, remediation and disposal. When policies are renewed or replaced, the policy retroactive date must coincide with or precede start of work on this Agreement. A claims-made policy which is not renewed or replaced must have an extended reporting period of two (2) years. The City of Chicago is to be named as an additional insured.

e) Property

The Licensee is responsible for all loss or damage to City property at full replacement cost that results from the Activity.

The Licensee is responsible for all loss or damage to personal property (including materials, equipment, tools, vehicles and supplies) owned, rented or used by Licensee ("**Personal Property**").

B. ADDITIONAL REQUIREMENTS

The Licensee must furnish, or cause its contractors or subcontractors to furnish, to the City of Chicago, Department of Fleet and Facility Management, 30 N. LaSalle, Room 300, Chicago, IL 60602 original Certificates of Insurance, or such similar evidence, to be in force on the date of this Agreement, and Renewal Certificates of Insurance, or

such similar evidence, if the coverages have an expiration or renewal date occurring during the term of this Agreement. The Licensee must submit evidence of insurance on an Insurance Certificate Form prior to execution of this Agreement. The receipt of any certificate does not constitute agreement by the City that the insurance requirements in this Agreement have been fully met or that the insurance policies indicated on the certificate are in compliance with all requirements in this Agreement. The failure of the City to obtain certificates or other insurance evidence from Licensee (or its contractors or subcontractors as applicable) is not a waiver by the City of any requirements for the Licensee to obtain and maintain the specified coverages. The Licensee shall advise all insurers of the Agreement provisions regarding insurance and the nature of its use of the Property. Non-conforming insurance does not relieve Licensee of the obligation to provide insurance as specified herein. Nonfulfillment of the insurance conditions may constitute a violation of the Agreement, and the City retains the right to order Licensee to cease all activities on the Property until proper evidence of insurance is provided, or the Agreement may be terminated.

The Licensee must provide 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 Licensee.

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

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

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

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

If the Licensee maintains higher limits than the minimums shown above, the City requires and shall be entitled to coverage for the higher limits maintained by the Licensee. Any available insurance proceeds in excess of the specified minimum limits of insurance and coverage shall be available to the City.

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

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

requirements of Licensee unless otherwise specified in this Agreement. Licensee must ensure that the City is an additional insured on Endorsement CG 2010 of the insurance required from subcontractors.

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

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

The City of Chicago is not responsible to provide insurance or security for the Property, or any vehicles, materials, equipment other personal property of Licensee or any of its contractors, subcontractors or other agents related to or in connection with the activity of Agreement.

9. **Inspection and Work.** Licensee agrees to carefully inspect, or cause its Agents to carefully inspect, the Property prior to commencing any activities on the Property to ensure that such activities will not damage the Property or any surrounding property, structures, utility lines or subsurface lines or cables. Licensee and its Agents shall take all reasonable safety precautions to ensure that the Activity will not pose a danger to the public or have a negative impact on the neighboring community, including, without limitation, adequately securing the Property throughout the Term. Licensee and its Agents shall perform the Activity in a good and workmanlike manner with due care and diligence, and in accordance with all applicable Laws. Licensee and its Agents shall keep the Property and any adjoining sidewalks and streets free of debris and materials and generally in a clean and safe condition throughout the Term. Licensee and its Agents shall limit their activities to those reasonably necessary to perform the Activity. The City reserves the right to inspect the Activity throughout the Term. If the Activity includes drilling bore holes and underground storage tanks ("USTs") or other items requiring immediate attention are identified during these activities then work must cease and the City of Chicago must be notified immediately. If Licensee or its agent, while advancing exploratory soil probes, penetrates an underground storage tank (UST) that results in a release then Licensee shall be responsible for removal of the UST, reporting the incident to the Illinois Emergency Management Agency (IEMA), associated Illinois Environmental Protection Agency (IEPA) reporting, and remediation of the site in accordance with IEPA Leaking Underground Storage Tank (LUST) regulations. If any bore holes exceed 30 feet in depth, gas levels must be measured at the surface of the borehole. If gas levels exceed the warning level (10-20% of LEL), all drilling and construction activities in the immediate vicinity of the borehole must be stopped. Once the gas meter levels indicate that the methane in the borehole has dissipated or is below the warning level (10-20% of LEL), the construction activities may continue. Any bore holes created as a part of the Activity must be monitored from time to time until it is backfilled. Soil and/or groundwater may be present at the site in concentrations that exceed one or more of the Illinois Environmental Protection Agency's Residential and/or Commercial/Industrial Tiered Approach to Corrective Action Objectives (TACO) Tier 1 objectives. Proper health and safety procedures must be implemented. Neither Licensee nor its Agents shall conduct any activity on the Property that may in any manner injure the health, safety and welfare of the public, diminish the value of the Property, interfere with City operations, or violate any Laws, including, without limitation, any Environmental Laws (as hereinafter defined).

10. **Disposal of Investigation Derived Waste.** If investigation-derived waste ("Waste") is generated from sampling conducted as part of the Activity, and such Waste cannot be returned to the borehole due to the Waste exhibiting visual or olfactory signs of contamination, then the Waste must be containerized and disposed of by the Licensee at a facility properly permitted to accept the Waste in accordance with all applicable municipal, county, state, federal or other statues, laws regarding the

disposal of said Waste. Disposal by Licensee of any material generated while performing this investigation that cannot be returned to the borehole shall be completed no later than forty-five (45) days of generation. Non-hazardous waste samples will be disposed of at a properly permitted landfill, and any waste from any samples determined to be hazardous shall be disposed of at the proper accredited treatment facility and in full accordance with all applicable laws and regulations. City shall have the right to review the testing results and approve of the disposal facility to be utilized by Licensee and any of its Agents. Licensee and its Agents are responsible for selecting and utilizing only properly permitted and legally authorized disposal facilities ("Disposal Facilities") and shall not be entitled to rely upon the City's approval of any of the Disposal Facilities. Only properly permitted Disposal Facilities shall be utilized for any and all disposal in accordance with all Environmental Laws. Licensee shall make available to City upon written request all documentation on all Disposal Facilities possessed by Licensee and shall provide City copies possessed by Licensee of all change of status documents and any notice of violation(s) on any of the Disposal Facilities.

11. **Obligation to Restore the Property.** Upon completion of the Activity, Licensee shall promptly restore the Property to the condition or better existing as of the Effective Date, and shall remove all Personal Property, trash, wastes and debris placed on the Property by Licensee or its Agents. Licensee shall dispose of all trash, wastes and debris in accordance with all applicable Laws, including without limitation, all applicable Environmental Laws (as hereinafter defined). Any Personal Property, trash or debris left by Licensee on or about the Property shall be considered abandoned and may be disposed of in the City's sole discretion. Licensee agrees to pay for any removal or disposal costs the City may incur. The City shall be reimbursed for all sums it pays in connection with this Agreement. Such reimbursement shall occur within fifteen (15) days of such City payment, with interest accruing from the date of such City payment at the rate of 12% per annum. Licensee shall be responsible for any damage to the Property or any surrounding property, structures, utility lines or subsurface lines or cables caused by the acts or omissions of Licensee or its Agents, including but not limited to, vandalism or misuse of the Property, and shall undertake any repairs necessitated by such acts or omissions.

12. **No Liens.** Licensee shall not cause or permit any lien or encumbrance, whether created by act of Licensee or its Agents, operation of law or otherwise, to attach to or be placed upon the City's title or interest in the Property. In case of any such lien attaching, Licensee shall immediately pay and remove such lien. If Licensee fails to pay and remove any lien, the City, at the City's election, may, but is not obligated to, pay and satisfy same, and all sums so paid by the City shall be reimbursed by Licensee within fifteen (15) days of such payment with interest from the date of payment at the rate of 12% per annum.

13. **Reports.** Licensee agrees to promptly deliver to the City copies of all reports, surveys, field data, correspondence and analytical results prepared by or for Licensee regarding the condition of the Property if such documentation is prepared as part of the Activity. If applicable, the City shall have the right to review in advance and approve all documents that will be submitted to the Illinois Environmental Protection Agency (IEPA) under the Site Remediation Program (SRP), as amended or supplemented from time to time, including, without limitation, the Comprehensive Site Investigation and Remediation Objectives Report, the Remedial Action Plan, and the Remedial Action Completion Report (collectively, the "SRP Documents") and any changes thereto, and the Licensee's estimate of the cost to perform the Remediation Work. The reports should be sent to the Department of Fleet and Facility Management, 30 North LaSalle, Suite 300, Chicago, IL 60602, Attn: Deputy Commissioner, Kimberly Worthington.

14. **No Representations or Warranties; Release of City Parties.** The City makes no warranties or representations, express or implied, of any kind, as to the structural, physical or environmental condition of the Property or the suitability of the Property for any purpose whatsoever. Licensee, on behalf of itself and its Agents, agrees to enter upon the Property in the Property's "as is," "where is" and "with all faults" condition and at the Licensee's own risk. Licensee, on behalf of itself and its Agents, acknowledges that it is relying solely upon its own inspection and other due diligence activities and not upon any information (including, without limitation, environmental studies or reports of any kind) provided by or on behalf of the City or any of the City Parties with respect thereto. Licensee, on behalf of itself and its Agents, hereby releases, relinquishes and forever discharges the City and all City Parties from and against any and all Claims that Licensee or any of its Agents now have or hereafter may have, whether grounded in tort or contract or otherwise, in any and all courts or other forums, of whatever kind or nature, whether known or unknown, foreseen or unforeseen, based upon, arising out of or in any way connected with, directly or indirectly, (a) the structural, physical or environmental condition of the Property, including, without limitation, the presence or suspected presence of Hazardous Substances (as hereafter defined) in, on, under or about the Property, (b) the condition of title to the Property, including, without limitation, any easements, encroachments, covenants, restrictions of record and not shown of record, and any other title defects; and (c) any entry upon or use of the Property by or on behalf of Licensee or its Agents.

15. **Right to Terminate.** Notwithstanding anything to the contrary contained herein, either party may terminate this Agreement for any reason upon prior written notice of at least five (5) days to the other party. In addition, in the event of any breach of this Agreement by Licensee the City shall have the right to order Licensee to immediately cease all activities on the Property and to immediately vacate the Property until such breach is cured or the City may immediately terminate this Agreement and pursue any and all remedies available at law or in equity. The City also reserves the right to terminate this Agreement at any time if Licensee's use of the Property interferes with the City's use of the Property or with any other municipal purpose or interest, as determined by the City in its sole discretion.

16. **Hazardous Substances**. Licensee shall not use or store any Hazardous Substances (defined below) on the Property. Licensee shall promptly notify the City if Licensee discovers any Hazardous Substances on the Property. As used in this Agreement, the term "**Hazardous Substances**" shall mean any toxic substance, hazardous material, hazardous chemical or hazardous, toxic or dangerous waste defined or qualifying as such in (or for the purposes of) any Environmental Laws (as defined hereunder), or any pollutant, toxic vapor, or contaminant, and shall include, but not be limited to, polychlorinated biphenyls (PCBs), crude oil, any fraction thereof, or refined petroleum products such as oil, gasoline, or other petroleum-based fuels, lead paint, asbestos or asbestos-containing materials, urea formaldehyde, any radioactive material or by-product material, radon and mold. "**Environmental Laws**" shall mean any and all Laws, permits and other requirements or guidelines of governmental authorities applicable to the Property and relating to the regulation and protection of human health, safety, the environment, natural resources or to any Hazardous Substances, including without limitation, any Laws requiring the filing of reports and notices relating to Hazardous Substances.

17. **Amendment.** This Agreement may not be amended, extended or modified without the written consent of the parties hereto.

18. **Captions.** The section headings in this Agreement are inserted for convenience of reference only and shall not in any way affect the meaning or construction of the Agreement.

•

19. **Entire Agreement.** This Agreement embodies the entire agreement and understanding between the parties and supersedes any prior oral or written agreements with respect to the matters stated herein.

•

20. **Counterparts.** This Agreement may be executed in two or more counterparts, each of which shall be deemed an original instrument and all of which together shall constitute one and the same instrument. A facsimile, electronic, or photocopy signature shall have the same legal effect as an original signature.

•

21. **No Other Rights.** This Agreement does not give Licensee any other right with respect to the Property, including, but not limited to, closure of streets, sidewalks or other public thoroughfares. Any rights not specifically granted to Licensee by and through this Agreement are reserved exclusively to the City.

•

22. **No Further City Obligations.** The execution of this Agreement does not obligate the City or the City Parties to provide Licensee or Licensee's Agents with any other assistance. Without limiting the generality of the foregoing, the City shall not provide any security, maintenance, or custodial services to the Property.

•

23. **Security; Full Liability.** Licensee assumes all legal and financial responsibility and liability for any and all uses of the Property by Licensee, its Agents, and any other person or persons entering the Property during the Term or upon the expiration of the Term where Licensee continues to access the Property. Licensee shall be responsible for properly securing and safeguarding the Property and all Personal Property during the Term, and shall be liable for failing to so secure and safeguard the Property and Personal Property. Licensee acknowledges that the City has no security responsibilities with respect to the Property or Personal Property under this Agreement. This Section 22 shall survive the expiration or earlier termination of this Agreement.

•

24. **No Principal/Agent or Partnership Relationship.** Nothing contained in this Agreement shall be deemed or construed by the parties hereto or by any third party as creating the relationship of principal and agent or of partnership or of joint venture between the parties hereto.

•

25. **No Alcohol or Drugs.** Licensee agrees that no alcoholic beverages or illegal drugs of any kind or nature shall be sold, given away, or consumed on the Property by Licensee or its Agents.

•

26. **Coordination and Oversight.** Licensee acknowledges that the City may require coordination with the Department of Fleet and Facility Management, which coordination may be necessary due to existing facilities, operations or other particular circumstances. Licensee acknowledges that any assistance or oversight provided by the City with respect to the Activity shall be provided at the City's sole and exclusive discretion and convenience.

•

27. **City Use Paramount.** Licensee shall refrain from undertaking any activities that interfere with the City's use of the Property as determined by the City in its sole discretion. The City reserves the right to terminate Licensee's use of the Property at any time in the event such use interferes

with the City's use of the Property or with any other municipal purpose or interest in the City's sole discretion.

28. **Time is of the Essence**. Time is of the essence for all obligations and deadlines contained in this Agreement.

29. **Assignment**. This Agreement may not be assigned by Licensee.

30. **Attachments**. All attachments referred to herein and attached hereto shall be deemed part of the Agreement.

31. **Non-Discrimination**. Licensee shall not discriminate against any person in connection with its use of the Property based upon race, religion, color, sex, national origin or ancestry, age, handicap or disability, sexual orientation, military discharge status, marital status, parental status or source of income as defined in the City of Chicago Human Rights Ordinance, Chapter 2-160, Section 2-160-010 et seq., Municipal Code.

32. **Severability**. If any provision of this Agreement is deemed to be unenforceable by any court of competent jurisdiction, it shall not affect the enforceability of any other provision.

33. **Governing Law; Consent to Jurisdiction.** This Agreement shall be governed and construed in accordance with the laws of the State of Illinois without reference to its conflicts of laws principles. Licensee waives any objection to the venue of any action filed in any court situated in the jurisdiction in which the Property is located.

34. **Licensee's Authority.** Licensee represents, warrants and covenants that it is duly organized, validly existing and qualified to do business in Illinois; that it has the right, power and authority to execute and deliver this Agreement and to perform its obligations hereunder; that the person signing this Agreement on behalf of Licensee has the authority to do so; and that this Agreement shall be binding upon and enforceable against Licensee in accordance with its terms.

34. **Scope of Work**. In the event of a conflict between the terms of this Agreement and Licensee's scope of work, when applicable, the terms of this Agreement shall control.

(*Signature Page Follows*)

IN WITNESS WHEREOF, the parties have executed this Agreement as of the Effective Date.

CITY OF CHICAGO,
an Illinois municipal corporation and home rule unit of government

By: _____
Commissioner
Department of Fleet and Facility Management

_____,
an Illinois corporation

By: _____

Print Name: _____

Title: _____

ATTACHMENT A
(the Property, shown in orange)

ATTACHMENT B
(Scope of Work)

FORM 1: RFP RESPONSE CHECKLIST

SOLAR GENERATION REQUEST FOR PROPOSALS (RFP)
PROPOSAL SUBMITTAL ADMINISTRATIVE CHECKLIST

NOTE: THIS CHECKLIST IS INTENDED TO ASSIST RESPONDENTS BUT MAY NOT BE A COMPLETE LIST OF REQUIRED DOCUMENTATION. RESPONDENT IS SOLELY RESPONSIBLE FOR ENSURING THAT ITS PROPOSAL INCLUDES ALL REQUIRED DOCUMENTS.

Section 1 – General Information

- ☐ **Part A- Proposal Cover Letter (Form 2)**
- ☐ **Part B - Executive Summary**
- ☐ **Part C - Respondent Information (Form 3)**
- ☐ **Part D - Management Structure**
- ☐ **Part E - MBE/WBE Participation Plan**
- ☐ **Part F - Workforce Development Plan**
- ☐ **Part G - Local Manufacturing and Materials Sourcing Plan**

Section 2 – Design and Construction Qualifications

- ☐ **Part A - Project Experience**
  - ☐ **Project Experience (Form 4)**
  - ☐ **Past Project References Contact Information (Form 4)**
  - ☐ **Past Project Descriptions**
- ☐ **Part B - Design/Build Key Personnel**
  - ☐ **Key Personnel Qualifications and Resumes**
- ☐ **Part C - Financial Capability**
  - ☐ **Recent Annual Report**
  - ☐ **Annual Audited Reports**
  - ☐ **Letters of Support**

Section 3 – Project Approach

- ☐ **Part A - Overall Project Delivery Approach**
- ☐ **Part B - Technical Approach**
- ☐ **Part C – FEJA Approach**
- ☐ **Part D – Financial Approach**
  - ☐ **Pricing Commitments (Form 5)**
- ☐ **Part E - Operations and Maintenance Plan**

Section 5 – Administrative Submittals

- ☐ **Part A - RFP Response Check List (Form 1)**
- ☐ **Part B - Confidential Contents Index**
- ☐ **Part C - Legal Stipulations**
- ☐ **Part D - Conflicts of Interest**
- ☐ **Part E - Insurance**
- ☐ **Part F - Exceptions**
- ☐ **Part G - Economic Disclosure Statement (EDS) (Form 6)**

FORM 2: PROPOSAL COVER LETTER TEMPLATE

To be duplicated and completed on Respondent's company letterhead

(Date)
Chicago Infrastructure Trust
35 East Wacker Drive, Suite 1450
Chicago, Illinois 60601
Re: Chicago Solar – Ground Mount RFP Response

Dear Ms. Darling:

On behalf of (Full legal name of Respondent), I am pleased to submit our response to the Chicago Infrastructure Trust's ("CIT") Request for Proposals ("RFP") for the Chicago Solar – Ground Mount Project. I state the following:

1. I have full authority to bind (Full legal name of Respondent) with respect to this RFP response and any oral or written presentations and representations regarding this RFP response made to the CIT or the City of Chicago ("City").

2. (Full legal name of Respondent) has read and understands the RFP and is fully willing, capable, and qualified to provide the design, construction, operation and maintenance services needed to deliver the comprehensive Solar Ground Mount project, as described within the RFP.

3. I have read and understand the RFP, including addenda numbers _____. If none were issued, indicate "NONE".

4. (Full legal name of Respondent) understands that the CIT and the City will rely on accuracy of this RFP response and the (Full legal name of Respondent) agrees to be bound by its representations and statements made herein and in any oral or written RFP presentation(s) made during the evaluation and selection process.

5. If requested by the CIT or City, (Full legal name of Respondent) agrees to furnish additional information or documentation and/or to participate in oral presentations / interviews to assist the CIT and the City's Proposal evaluations.

6. Neither I nor (Full legal name of Respondent) has any beneficial interest in or relationship with any other party working or performing services for, or otherwise affiliated with, the CIT or the City; and has no conflict of interest which could interfere with the provision of services to the City.

7. (Full legal name of Respondent) understands that the CIT and the City will rely upon the material representations set forth in the Proposal and that (Full legal name of Respondent) has a continuing obligation to update and inform the CIT and City in writing of any material changes or errors to their RFP Response. If the CIT and the City determine

that any information provided in the RFP response is false, incomplete or inaccurate, or if any provision of the requirements of the RFP is violated, any subsequent Project agreement may be void or voidable, and the CIT and the City may pursue any remedies under the Contract, at law, or in equity, including terminating the (Full legal name of Respondent) participation in the project or transaction and/or declining to allow the (Full legal name of Respondent) to participate in future CIT and/or City transactions.

8. It is understood that an original and multiple copies of the RFP Response have been submitted for consideration. (Full legal name of Respondent) warrants that all copies are identical to the original in all respects.

9. I declare that all required forms provided in this RFP Response have been examined by me and to the best of my knowledge and belief are true, correct, and complete.

10. (Full legal name of Respondent) understands and acknowledges that the certifications, disclosures, and acknowledgments contained within this RFP Response may become a part of any subsequent Project contract awarded to the Respondent by the City.

11. (Full legal name of Respondent) has designated the following individual as their Respondent Representative, per RFP Section 5.2:

Name: _____ Title: _____

Phone: _____ Email: _____

Organization: _____ Address: _____

_____

Signed: _____

_____ As: _____

Typed/lettered name of signatory (Relationship to Respondent/Title/etc.)

FORM 3: RFP RESPONDENT TEAM INFORMATION

Submit one copy of Form 3 for each of the following:

- **RFP Respondent** - Complete Parts A through G
- **Lead Design/Engineering Firm(s)** – Complete Parts A, B, C and D
- **Lead Contractor** – Complete Parts A, B, C and D

A. Name of Respondent: _____

Name of Firm: _____

Year Established: _____ Individual Contact: _____

Federal Tax ID No.: _____ Telephone No.: _____

Fax No.: _____

Name of Local Contact: _____
Name of Respondent: _____
Business Organization

- ☐ Corporation
- ☐ Partnership
- ☐ Joint
- ☐ Venture/Consortium
- ☐ Limited Liability Company
- ☐ Other (describe)

B. Business or Consultant Name: _____

Business Address: _____

Headquarters: _____

Office Performing Work: _____

Contact Telephone Number: _____

Contact Email Address: _____

Years of Operation: _____

C. Lead Contractor, Lead Engineering Firm and Guarantor(s). If the Lead Contractor or Lead Engineering Firm is a joint venture, consortium, partnership or limited liability company, indicate the name and role of each joint venturer, consortium member, partner or limited liability company member (as applicable) in the spaces below.

NAME AND ADDRESS	PROPOSED ROLE WITHIN THE CONSORTIUM, JOINT VENTURE, LIMITED LIABILITY COMPANY OR PARTNERSHIP	CURRENT OR EXPECTED PERCENTAGE OF INTEREST WITHIN THE CONSORTIUM, JOINT VENTURE, LIMITED LIABILITY COMPANY OR PARTNERSHIP AND TYPE OF INTEREST (IF APPLICABLE)

D. Respondent Team Information. In the chart below, list the members of the team and the percentage interest of each member. If a member is a joint venture, consortium, partnership or limited liability company, indicate the entities making up the joint venture, consortium, partnership or limited liability company and their percentage interest in the entity.

LEAD CONTRACTOR MEMBER NAME (COMPOSITION OF LEAD CONTRACTOR)	PERCENTAGE INTEREST IN RESPONDENT
Example: Contractor JV (Joint Venturer #1 - 75%) (Joint Venturer #2 - 25%)	50%
Member 1:	
Member 2:	
Member 3:	

AUTHORIZED REPRESENTATIVE:

Under penalty of perjury, I certify that the foregoing is true and correct, and that I am the Official Representative of the entity to which this form relates:

By: _____ Print Name: _____

Title: _____ Date: _____

[Please make additional copies of this form as needed]

FORM 4: PROJECT EXPERIENCE AND REFERENCES

Provide comprehensive information for a maximum of five commercial grid-connected PV projects installed in the United States over the last five (5) years by completing Form 4 below.

At least one project must demonstrate the experience of the Lead Contractor that will be responsible for installing the Project for the Respondent team. At least one project must demonstrate the experience of the Project team member responsible for operations and maintenance.

Respondent's must include at least one project which demonstrates the experience of the Contractor that will be responsible for installing the Project for the Respondent team.

Experience and Reference Information	**Project Name 1:**	**Project Name 2:**	**Project Name 3:**
Respondent's Role for the Project:			
Name of lead contractor:			
Location (Country, State, City):			
Date installed:			
Project cost:			
kW rating:			
Cumulative kWh produced since system installation:			
Current operational status of system:			
Community Solar Component Y/N?			
Customer's Name:			
Contact Name:			
Contact Role:			
Contact Telephone:			
Contact Email:			

Respondents must also provide a one-page narrative project description for each project listed on Form 4. For more information see Exhibit A, Section 2.1.1.

FORM 5: PRICING FORM

In an effort to determine the estimated costs to the City for the power generated, proposals shall include the information listed in the table below.

BASELINE ASSUMPTIONS
Anchor tenant (City of Chicago) % assumption*: _____
Number of Community Subscribers: _____
Community Subscriber % assumption*: _____
Anticipated value for SREC: _____
Number of SRECs generated: _____

*Percentage of total overall energy produced proposed to be bought by user group

	Site	Size (acres)	Price per kWh in cents[1] (For the City)	Price per kWh in cents[1] (For Subscribers)[3]	Weighted Price (price per kWh x acres)
1	1833 N Latrobe Ave	6.8			
2	611 W. 57th Street	2			
3	915 W. 120th Street	5			
4	850 W. 122nd Street	1.7			
5	12301 S. King Drive	4.5			
6	1107 E. 133rd Street	7.2			
	10601 S. Torrence Avenue	3.3			
	Total	**19 acres**	**Weighted Average Price[2]:**	**Weighted Average Price[2]:**	**Sum of Weighted Price:**

1. In 2018 USD, over a 25 year term
2. Price determined by dividing the Sum of Weighted Price by Total Acres
3. For proposals that will include community solar provide estimated cost for subscribers

Respondents are strongly encouraged to provide competitive rates on price per kWh in order to provide the best overall value and benefit to the City and its residents.

Respondents utilizing the Incentive Programs under FEJA will be responsible for ensuring proposed pricing complies with any program requirements.

FORM 6: ECONOMIC DISCLOSURE STATEMENT

Respondents are required to submit filled out EDS forms (Form 6) for every entity that has a controlling interest in the Respondent team. Answers to FAQs and further instructions can be found in Section 2 of this Form 6.

EDS Submission

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:

_____

Check ONE of the following three boxes:
Indicate whether the Disclosing Party submitting this EDS is:

1. [ ] the Applicant
OR

2. [ ] a legal entity currently holding, or anticipated to hold within six months after City action on the contract, transaction or other undertaking to which this EDS pertains (referred to below as the "Matter"), a direct or indirect interest in excess of 7.5% in the Applicant. State the Applicant's legal name:

_____

OR

3. [ ] a legal entity with a direct or indirect right of control of the Applicant (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: _____

_____

C. Telephone: _____ Fax: _____ Email: _____

D. Name of contact person: _____

E. Federal Employer Identification No. (if you have one):

_____

F. Brief description of the Matter to which this EDS pertains. (Include project number and location of property, if applicable):

_____

G. Which City agency or department is requesting this EDS?_

_____

SECTION II -- DISCLOSURE OF OWNERSHIP INTERESTS

A. NATURE OF THE DISCLOSING PARTY

1. Indicate the nature of the Disclosing Party:

[ ] Person
[ ] Limited liability company
[ ] Publicly registered business corporation
[ ] Limited liability partnership
[ ] Privately held business corporation
[ ] Joint venture
[ ] Limited partnership
[ ] Sole proprietorship
[ ] Not-for-profit corporation
[ ] General partnership (Is the not-for-profit corporation also a 501(c)(3))?
[ ] Yes [ ] No
[ ] Trust
[ ] Limited partnership
[ ] Other (please specify)

_____

2. For legal entities, the state (or foreign country) of incorporation or organization, if applicable:

_____

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 [ ] Organized in Illinois

B. IF THE DISCLOSING PARTY IS A LEGAL ENTITY:

1. List below the full names and titles, if applicable, of: (i) all executive officers and all directors of the entity; (ii) **for not-for-profit corporations**, all members, if any, which are legal entities (if there are no such members, write "no members which are legal entities"); (iii) **for trusts, estates or other similar entities**, the trustee, executor, administrator, or similarly situated party; (iv) **for general or limited partnerships, limited liability companies, limited liability partnerships or joint ventures**, each general partner, managing member, manager or any other person or legal entity that directly or indirectly controls the day-to-day management of the Applicant.

NOTE: Each legal entity listed below must submit an EDS on its own behalf.

Name Title

_____

_____

_____

2. Please provide the following information concerning each person or legal entity having a direct or indirect, current or prospective (i.e. within 6 months after City action) beneficial interest (including ownership) in excess of 7.5% of the Applicant. 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: Each legal entity listed below may be required to submit an EDS on its own behalf.

Name	Business	Address	Percentage Interest in the Applicant

SECTION III -- INCOME OR COMPENSATION TO, OR OWNERSHIP BY, CITY ELECTED OFFICIALS

Has the Disclosing Party provided any income or compensation to any City elected official during the 12-month period preceding the date of this EDS? [ ] Yes [ ] No

Does the Disclosing Party reasonably expect to provide any income or compensation to any City elected official during the 12-month period following the date of this EDS?

[ ] Yes [ ] No

If "yes" to either of the above, please identify below the name(s) of such City elected official(s) and describe such income or compensation:

_____

_____

Does any City elected official or, to the best of the Disclosing Party's knowledge after reasonable inquiry, any City elected official's spouse or domestic partner, have a financial interest (as defined in Chapter 2-156 of the Municipal Code of Chicago ("MCC") in the Disclosing Party?

[ ] Yes [ ] No

If "yes," please identify below the name(s) of such City elected official(s) and/or spouse(s)/domestic partner(s) and describe the financial interest(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 (as defined in MCC Chapter 2-156), 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. 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 answer

(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 MCC 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. [This paragraph 1 applies only if the Matter is a contract being handled by the City's Department of Procurement Services.] In the 5-year period preceding the date of this EDS, neither the Disclosing Party nor any Affiliated Entity [see definition in (5) below] has engaged, in connection with the performance of any public contract, the services of an integrity monitor, independent private sector inspector general, or integrity compliance consultant (i.e., an individual or entity with legal, auditing, investigative, or other similar skills, designated by a public agency to help the agency monitor the activity of specified agency vendors as well as help the vendors reform their business practices so they can be considered for agency contracts in the future, or continue with a contract in progress).

2. The Disclosing Party and its Affiliated Entities are not delinquent in the payment of any fine, fee, tax or other source of indebtedness owed to the City of Chicago, including, but not limited to, water and sewer charges, license fees, parking tickets, property taxes and sales taxes, nor is the Disclosing Party delinquent in the payment of any tax administered by the Illinois Department of Revenue.
3. 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, during the 5 years before 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 subparagraph (b) above;

d. have not, during the 5 years before the date of this EDS, had one or more public transactions (federal, state or local) terminated for cause or default; and

e. have not, during the 5 years before 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.

4. The Disclosing Party understands and shall comply with the applicable requirements of MCC

Chapters 2-56 (Inspector General) and 2-156 (Governmental Ethics).

5. Certifications (5), (6) and (7) 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 5 years before the date of this EDS, or, with respect to a Contractor, an Affiliated Entity, or an Affiliated Entity of a Contractor during the 5 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 Respondents or prospective Respondents, or been a party to any such agreement, or been convicted or adjudged guilty of agreement or collusion among Respondents or prospective Respondents, 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 subparagraph (a) or (b) above that is a matter of record, but have not been prosecuted for such conduct; or

d. violated the provisions referenced in MCC Subsection 2-92-320(a)(4)(Contracts Requiring a Base Wage); (a)(5)(Debarment Regulations); or (a)(6)(Minimum Wage Ordinance).

6. Neither the Disclosing Party, nor any 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.

7. Neither the Disclosing Party nor any Affiliated Entity is listed on a Sanctions List maintained by the United States Department of Commerce, State, or Treasury, or any successor federal agency.

8. [FOR APPLICANT ONLY] (i) Neither the Applicant nor any "controlling person" [see MCC Chapter 1-23, Article I for applicability and defined terms] of the Applicant 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 MCC Chapter 1-23, Article I applies to the Applicant, that Article's permanent compliance timeframe supersedes 5-year compliance timeframes in this Section V.

9. [FOR APPLICANT ONLY] The Applicant and its Affiliated Entities will not use, nor permit their subcontractors to use, any facility listed as having an active exclusion by the U.S. EPA on the federal System for Award Management ("SAM").

10. [FOR APPLICANT ONLY] The Applicant 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 Certifications (2) and (9) 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 Applicant has reason to believe has not provided or cannot provide truthful certifications.

11. 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:

_____

_____

_____

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.

12. 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 date of this EDS, an employee, or elected or appointed official, of the City of Chicago (if none, indicate with "N/A" or "none").

_____

_____

_____

13. 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 $25 per recipient, or (iii) a political contribution otherwise duly reported as required by law (if none, indicate with "N/A" or "none"). As to any gift listed below, please also list the name of the City recipient.

_____

_____

_____

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 MCC Section 2-32-455(b).

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 MCC Chapter 2-32. We further pledge that none of our affiliates is, and none of them will become, a predatory lender as defined in MCC Chapter 2-32. 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 MCC Section 2-32-455(b)) is a predatory lender within the meaning of MCC Chapter 2-32, explain here (attach additional pages if necessary):

_____

_____

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 FINANCIAL INTEREST IN CITY BUSINESS
Any words or terms defined in MCC Chapter 2-156 have the same meanings if used in this Part D.

1. In accordance with MCC Section 2-156-110: To the best of the Disclosing Party's knowledge after reasonable inquiry, 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), skip Items D(2) and D(3) and 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 financial interest and identify the nature of the financial interest:
Name Business Address Nature of Financial Interest

_____
_____
_____

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 (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.

____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, as amended, 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, as amended, 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," as that term is defined in the Lobbying Disclosure Act of 1995, as amended.

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 [ ] Reports not required

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:

_____

_____

SECTION VII -- FURTHER ACKNOWLEDGMENTS AND CERTIFICATION
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 Ordinance, MCC Chapter 2-156, imposes certain duties and obligations on persons or entities seeking City contracts, work, business, or transactions. The full text of this ordinance and a training program is available on line at 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 this ordinance.

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 City transactions. 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 in, and appended to, this EDS may be

made publicly available 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 MCC Chapter
1-23, Article I (imposing **PERMANENT INELIGIBILITY** for certain specified offenses), the information provided herein regarding eligibility must be kept current for a longer period, as required by MCC Chapter 1-23 and Section 2-154-020

CERTIFICATION

Under penalty of perjury, the person signing below: (1) warrants that he/she is authorized to execute this EDS, and Appendices A and B (if applicable), on behalf of the Disclosing Party, and (2) warrants that all certifications and statements contained in this EDS, and Appendices A and B (if applicable), are true, accurate and complete as of the date furnished to the City.

_____

(Print or type exact legal name of Disclosing Party)

By: _____

(Sign here)

_____

(Print or type name of person signing)

_____

(Print or type title of person signing)

Signed and sworn to before me on (date) _____,

at _____ County, _____ (state).

_____

Notary Public

Commission expires: _____

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%. It is not to be completed by any legal entity which has only an indirect ownership interest in the Applicant.

Under MCC 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% 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.

_____

_____

_____

CITY OF CHICAGO
ECONOMIC DISCLOSURE STATEMENT AND AFFIDAVIT
APPENDIX B

BUILDING CODE SCOFFLAW/PROBLEM LANDLORD CERTIFICATION

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% (an "Owner"). It is not to be completed by any legal entity which has only an indirect ownership interest in the Applicant.

1. Pursuant to MCC Section 2-154-010, is the Applicant or any Owner identified as a building code scofflaw or problem landlord pursuant to MCC Section 2-92-416?

[ ] Yes [ ] No

2. If the Applicant is a legal entity publicly traded on any exchange, is any officer or director of the Applicant identified as a building code scofflaw or problem landlord pursuant to MCC Section 2-92-416?

[ ] Yes [ ] No [ ] The Applicant is not publicly traded on any exchange.

3. If yes to (1) or (2) above, please identify below the name of each person or legal entity identified as a building code scofflaw or problem landlord and the address of each building or buildings to which the pertinent code violations apply.

_____

_____

_____

CITY OF CHICAGO
ECONOMIC DISCLOSURE STATEMENT AND AFFIDAVIT
APPENDIX C

PROHIBITION ON WAGE & SALARY HISTORY SCREENING - CERTIFICATION

This Appendix is to be completed only by an Applicant that is completing this EDS as a "contractor" as defined in MCC Section 2-92-385. That section, which should be consulted (www.amlegal.com), generally covers a party to any agreement pursuant to which they: (i) receive City of Chicago funds in consideration for services, work or goods provided (including for legal or other professional services), or (ii) pay the City money for a license, grant or concession allowing them to conduct a business on City premises.

On behalf of an Applicant that is a contractor pursuant to MCC Section 2-92-385, I hereby certify that the Applicant is in compliance with MCC Section 2-92-385(b)(1) and (2), which prohibit: (i) screening job applicants based on their wage or salary history, or (ii) seeking job applicants' wage or salary history from current or former employers. I also certify that the Applicant has adopted a policy that includes those prohibitions.

[ ] Yes

[ ] No

[ ] N/A – I am not an Applicant that is a "contractor" as defined in MCC Section 2-92-385.

This certification shall serve as the affidavit required by MCC Section 2-92-385(c)(1).

If you checked "no" to the above, please explain.

_____

_____

_____

EDS Frequently Asked Questions

The City of Chicago (the "City") requires disclosure of the information requested in this Economic Disclosure Statement and Affidavit ("EDS") before any City agency, department or City Council action regarding the matter that is the subject of this EDS. Please fully complete each statement, with all information current as of the date this EDS is signed. If a question is not applicable, answer with "N.A." An incomplete EDS will be returned and any City action will be delayed.

Please print or type all responses clearly and legibly. Add additional pages if needed, being careful to identify the portion of the EDS to which each additional page refers.

For purposes of this EDS:

"Applicant" means any entity or person making an application to the City for action requiring City Council or other City agency approval.

"Disclosing Party" means any entity or person submitting an EDS. If the Disclosing Party is participating in a matter in more than one capacity (for example, as underwriter and limited partner in a multi-family housing transaction), please indicate each such capacity in Section I.F. of the EDS.

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

"Person" means a human being.

WHO MUST SUBMIT AN EDS:

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

1. 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.
2. Entities holding an interest: Whenever a legal entity has a beneficial interest (i.e. direct or indirect ownership) of more than 7.5% in the Applicant, each such legal entity must file an EDS on its own behalf.
3. Controlling entities: Whenever a legal entity directly or indirectly controls the Applicant, each such controlling legal entity must file an EDS on its own behalf.

FORM 7: SITE WAIVER

GENERAL WAIVER AND RELEASE FROM LIABILITY

The undersigned ("User") desires to access the property owned by the City of Chicago ("City") located at _____ (the "Property") on _____. The sole purpose of this access is to _____ (the "Activity"). In relation to this requested access, User fully understands and agrees to the following:

1. The City makes no representations whatsoever with respect to the physical or environmental condition of the Property or its current compliance with any prior, current, or future, building codes.

2. User is accessing the Property and performing the Activity completely at its own risk, and the City cannot, and does not, guarantee User's safety. Potential risks include, but are not limited to, slips and falls, sprained muscles and ligaments, broken bones, other bodily injury, and death. Despite these risks, User is freely undertaking and assumes the risk of such access.

3. The City's Department of Fleet and Facility Management can at any time require that User immediately vacate the Property for User's safety, the safety of others, or for any reason as determined exclusively by the City's Department of Fleet and Facility Management.

4. The City makes no warranties or representations, express or implied, of any kind, as to the structural, physical or environmental condition of the Property or the suitability of the Property for any purpose whatsoever. User agrees to enter the Property in the Property's "as is," "where is" and "with all faults" condition and at the User's own risk.

5. User hereby releases, relinquishes and forever discharges the City and its officers, officials, employees, agents and representatives (collectively, the "City Parties"), from and against any and all actions, claims, suits, complaints, demands, legal or administrative proceedings, losses, damages, debts, liens, obligations, liabilities, judgments, amounts paid in settlement, arbitration or mediation awards, interest, fines, penalties, costs and expenses (including, without limitation, attorneys' fees, consultants' fees and court costs) (collectively, "Claims"), that User has or hereafter may have of whatever kind or nature, whether known or unknown, foreseen or unforeseen, based upon, arising out of or in any way connected with, directly or indirectly, any entry upon or use of the Property by or on behalf of User or performance of the Activity.

6. The User shall indemnify, defend and hold the City and the City Parties harmless from and against all Claims of whatever kind or nature made or asserted by any third parties for injury, including personal injury or death of any person or persons, and for loss or damage to any property, occurring in connection with, or in any way arising out of or incident to

the User's entry upon or use of the Property or performance of the Activity, regardless of cause or causes, or whether or not any negligence by User contributed to the Claim.

7. The User agrees to comply with all applicable State, federal, local and municipal laws, rules, regulations or orders while on the Property.

8. The User shall use reasonable care to prevent damage to the Property or any equipment located on the Property, and the User will reimburse the City for any damage or loss incurred as a result of User's access to the Property.

9. The User is at least eighteen (18) years of age.

10. User warrants that this General Waiver and Release from Liability shall be forever binding on User's heirs, assigns, beneficiaries, estate(s), and executor(s).

11. This is a legally binding document and this document shall be construed and be enforceable in accordance with the laws of the State of Illinois.

12. The User expressly agrees that if any portion of this General Waiver and Release from Liability is found to be void, unenforceable, or invalid, the remaining portions will remain in full force and effect.

I have read and understand and specifically agree to be forever bound by all the language in this General Waiver and Release from Liability. I understand that, by signing this release, I may be giving up rights afforded to me by law and willingly, voluntarily, and forever waive such rights.

Signature: _____

Print Name: _____

Date: _____

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:

AMERESCO, Inc.

Check ONE of the following three boxes:

Indicate whether the Disclosing Party submitting this EDS is:

1. [✓] the Applicant

OR

2. [ ] a legal entity currently holding, or anticipated to hold within six months after City action on the contract, transaction or other undertaking to which this EDS pertains (referred to below as the "Matter"), a direct or indirect interest in excess of 7.5% in the Applicant. State the Applicant's legal name: _____

OR

3. [ ] a legal entity with a direct or indirect right of control of the Applicant (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: 150 N. Michigan Ave., Ste. 420, Chicago, IL 60601

C. Telephone: 312-994-8620 Fax: 312-994-8600 Email: staggart@ameresco.com

D. Name of contact person: Steve Taggart, Vice President

E. Federal Employer Identification No. (if you have one): _____

F. Brief description of the Matter to which this EDS pertains. (Include project number and location of property, if applicable):

Chicago Infrastructure Trust Solar PV Design, Build, Own, Operate and Manage RFP

G. Which City agency or department is requesting this EDS? Fleet & Facility Management

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:

[ ] Person
[✓] Publicly registered business corporation
[ ] Privately held business corporation
[ ] Sole proprietorship
[ ] General partnership
[ ] Limited partnership
[ ] Trust

[ ] Limited liability company
[ ] Limited liability partnership
[ ] Joint venture
[ ] Not-for-profit corporation
(Is the not-for-profit corporation also a 501(c)(3))?
[ ] Yes [ ] No
[ ] Other (please specify)

2. For legal entities, the state (or foreign country) of incorporation or organization, if applicable:

Delaware

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 [ ] Organized in Illinois

B. IF THE DISCLOSING PARTY IS A LEGAL ENTITY:

1. List below the full names and titles, if applicable, of: (i) all executive officers and all directors of the entity; (ii) **for not-for-profit corporations**, all members, if any, which are legal entities (if there are no such members, write "no members which are legal entities"); (iii) **for trusts, estates or other similar entities**, the trustee, executor, administrator, or similarly situated party; (iv) **for general or limited partnerships, limited liability companies, limited liability partnerships or joint ventures**, each general partner, managing member, manager or any other person or legal entity that directly or indirectly controls the day-to-day management of the Applicant.

NOTE: Each legal entity listed below must submit an EDS on its own behalf.

Name	Title
See Attached List	

2. Please provide the following information concerning each person or legal entity having a direct or indirect, current or prospective (i.e. within 6 months after City action) beneficial interest (including ownership) in excess of 7.5% of the Applicant. 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: Each legal entity listed below may be required to submit an EDS on its own behalf.

Name	Business Address	Percentage Interest in the Applicant
George P. Sakellaris	111 Speen St , Ste. 410, Framingham, MA 01701	*See Attached

SECTION III -- INCOME OR COMPENSATION TO, OR OWNERSHIP BY, CITY ELECTED OFFICIALS

Has the Disclosing Party provided any income or compensation to any City elected official during the 12-month period preceding the date of this EDS? [ ] Yes [✓] No

Does the Disclosing Party reasonably expect to provide any income or compensation to any City elected official during the 12-month period following the date of this EDS? [ ] Yes [✓] No

If "yes" to either of the above, please identify below the name(s) of such City elected official(s) and describe such income or compensation:

Does any City elected official or, to the best of the Disclosing Party's knowledge after reasonable inquiry, any City elected official's spouse or domestic partner, have a financial interest (as defined in Chapter 2-156 of the Municipal Code of Chicago ("MCC")) in the Disclosing Party?
[ ] Yes [✓] No

If "yes," please identify below the name(s) of such City elected official(s) and/or spouse(s)/domestic partner(s) and describe the financial interest(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 (as defined in MCC Chapter 2-156), 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. 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.
See Attached List of anticipated contractors to be retained.			

(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 MCC 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. [This paragraph 1 applies only if the Matter is a contract being handled by the City's Department of Procurement Services.] In the 5-year period preceding the date of this EDS, neither the Disclosing Party nor any Affiliated Entity [see definition in (5) below] has engaged, in connection with the performance of any public contract, the services of an integrity monitor, independent private sector inspector general, or integrity compliance consultant (i.e., an individual or entity with legal, auditing, investigative, or other similar skills, designated by a public agency to help the agency monitor the activity of specified agency vendors as well as help the vendors reform their business practices so they can be considered for agency contracts in the future, or continue with a contract in progress).

2. The Disclosing Party and its Affiliated Entities are not delinquent in the payment of any fine, fee, tax or other source of indebtedness owed to the City of Chicago, including, but not limited to, water and sewer charges, license fees, parking tickets, property taxes and sales taxes, nor is the Disclosing Party delinquent in the payment of any tax administered by the Illinois Department of Revenue.

3. 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, during the 5 years before 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 subparagraph (b) above;

d. have not, during the 5 years before the date of this EDS, had one or more public transactions (federal, state or local) terminated for cause or default; and

e. have not, during the 5 years before 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.

4. The Disclosing Party understands and shall comply with the applicable requirements of MCC Chapters 2-56 (Inspector General) and 2-156 (Governmental Ethics).

5. Certifications (5), (6) and (7) 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 5 years before the date of this EDS, or, with respect to a Contractor, an Affiliated Entity, or an Affiliated Entity of a Contractor during the 5 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 subparagraph (a) or (b) above that is a matter of record, but have not been prosecuted for such conduct; or

d. violated the provisions referenced in MCC Subsection 2-92-320(a)(4)(Contracts Requiring a Base Wage); (a)(5)(Debarment Regulations); or (a)(6)(Minimum Wage Ordinance).

6. Neither the Disclosing Party, nor any 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.

7. Neither the Disclosing Party nor any Affiliated Entity is listed on a Sanctions List maintained by the United States Department of Commerce, State, or Treasury, or any successor federal agency.

8. [FOR APPLICANT ONLY] (i) Neither the Applicant nor any "controlling person" [see MCC Chapter 1-23, Article I for applicability and defined terms] of the Applicant 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 MCC Chapter 1-23, Article I applies to the Applicant, that Article's permanent compliance timeframe supersedes 5-year compliance timeframes in this Section V.

9. [FOR APPLICANT ONLY] The Applicant and its Affiliated Entities will not use, nor permit their subcontractors to use, any facility listed as having an active exclusion by the U.S. EPA on the federal System for Award Management ("SAM").

10. [FOR APPLICANT ONLY] The Applicant 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 Certifications (2) and (9) 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 Applicant has reason to believe has not provided or cannot provide truthful certifications.

11. 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.

12. 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 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

13. 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 $25 per recipient, or (iii) a political contribution otherwise duly reported as required by law (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 MCC Section 2-32-455(b).

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 MCC Chapter 2-32. We further pledge that none of our affiliates is, and none of them will become, a predatory lender as defined in MCC Chapter 2-32. 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 MCC Section 2-32-455(b)) is a predatory lender within the meaning of MCC Chapter 2-32, explain here (attach additional pages if necessary):
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.

D. CERTIFICATION REGARDING FINANCIAL INTEREST IN CITY BUSINESS

Any words or terms defined in MCC Chapter 2-156 have the same meanings if used in this Part D.

1. In accordance with MCC Section 2-156-110: To the best of the Disclosing Party's knowledge after reasonable inquiry, 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), skip Items D(2) and D(3) and 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 financial interest and identify the nature of the financial interest:

Name	Business Address	Nature of Financial Interest

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 (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.

✓ 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, as amended, who have made lobbying contacts on behalf of the Disclosing Party with respect to the Matter: (Add sheets if necessary):

N/A

_____

_____

(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, as amended, 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," as that term is defined in the Lobbying Disclosure Act of 1995, as amended.

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 [ ] Reports not required

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:

_____

_____

SECTION VII -- FURTHER ACKNOWLEDGMENTS AND CERTIFICATION

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 Ordinance, MCC Chapter 2-156, imposes certain duties and obligations on persons or entities seeking City contracts, work, business, or transactions. The full text of this ordinance and a training program is available on line at 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 this ordinance.

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 City transactions. 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 in, and appended to, this EDS may be made publicly available 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 MCC Chapter 1-23, Article I (imposing **PERMANENT INELIGIBILITY** for certain specified offenses), the information provided herein regarding eligibility must be kept current for a longer period, as required by MCC Chapter 1-23 and Section 2-154-020.

CERTIFICATION

Under penalty of perjury, the person signing below: (1) warrants that he/she is authorized to execute this EDS, and all applicable Appendices, on behalf of the Disclosing Party, and (2) warrants that all certifications and statements contained in this EDS, and all applicable Appendices, are true, accurate and complete as of the date furnished to the City.

AMERESCO, Inc.
(Print or type exact legal name of Disclosing Party)

By: _____
(Sign here)

Louis P. Maltezos
(Print or type name of person signing)

Executive Vice President
(Print or type title of person signing)

Signed and sworn to before me on (date) March 22, 2019,

at Cook County, Illinois (state).

_____
Notary Public

MARY KATHLEEN BURNS
OFFICIAL SEAL
Notary Public, State of Illinois
My Commission Expires
May 03, 2022

Commission expires: May 3, 2022

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%. It is not to be completed by any legal entity which has only an indirect ownership interest in the Applicant.

Under MCC 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% 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.

_____

_____

_____

CITY OF CHICAGO
ECONOMIC DISCLOSURE STATEMENT AND AFFIDAVIT
APPENDIX B

BUILDING CODE SCOFFLAW/PROBLEM LANDLORD CERTIFICATION

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% (an "Owner"). It is not to be completed by any legal entity which has only an indirect ownership interest in the Applicant.

1. Pursuant to MCC Section 2-154-010, is the Applicant or any Owner identified as a building code scofflaw or problem landlord pursuant to MCC Section 2-92-416?

[ ] Yes [✓] No

2. If the Applicant is a legal entity publicly traded on any exchange, is any officer or director of the Applicant identified as a building code scofflaw or problem landlord pursuant to MCC Section 2-92-416?

[ ] Yes [✓] No [ ] The Applicant is not publicly traded on any exchange.

3. If yes to (1) or (2) above, please identify below the name of each person or legal entity identified as a building code scofflaw or problem landlord and the address of each building or buildings to which the pertinent code violations apply.

_____

_____

_____

CITY OF CHICAGO
ECONOMIC DISCLOSURE STATEMENT AND AFFIDAVIT
APPENDIX C

PROHIBITION ON WAGE & SALARY HISTORY SCREENING - CERTIFICATION

This Appendix is to be completed only by an Applicant that is completing this EDS as a "contractor" as defined in MCC Section 2-92-385. That section, which should be consulted (www.amlegal.com), generally covers a party to any agreement pursuant to which they: (i) receive City of Chicago funds in consideration for services, work or goods provided (including for legal or other professional services), or (ii) pay the City money for a license, grant or concession allowing them to conduct a business on City premises.

On behalf of an Applicant that is a contractor pursuant to MCC Section 2-92-385, I hereby certify that the Applicant is in compliance with MCC Section 2-92-385(b)(1) and (2), which prohibit: (i) screening job applicants based on their wage or salary history, or (ii) seeking job applicants' wage or salary history from current or former employers. I also certify that the Applicant has adopted a policy that includes those prohibitions.

[✓] Yes

[ ] No

[ ] N/A – I am not an Applicant that is a "contractor" as defined in MCC Section 2-92-385.

This certification shall serve as the affidavit required by MCC Section 2-92-385(c)(1).

If you checked "no" to the above, please explain.

_____

_____

_____

AMERESCO
Green • Clean • Sustainable

AMERESCO, Inc. Executive Officers

name	position
George P. Sakellaris	Chairman, President and Chief Executive Officer
David J. Anderson	Executive Vice President and Director
Michael T. Bakas	Executive Vice President, Distibuted Energy Systems
Nicole A. Bulgarino	Executive Vice President and General Manager, Federal Solutions
David J. Corrsin	Executive Vice President, General Counsel and Secretary and Director
Joseph P. DeManche	Executive Vice President, Engineering and Operations
Mark Chiplock	Chief Accounting Officer, Interim CFO, Vice President & Treasurer
Louis P. Maltezos	Executive Vice President

AMERESCO, Inc. Directors

name	position
George P. Sakellaris	Chairman, President and Chief Executive Officer, Amerseco
David Anderson	Executive Vice President, Ameresco
David J. Corrsin	Executive Vice President, Ameresco, General Counsel & Secretary, Ameresco
Douglas I. Foy	President, Serrafix Corporation
Jennifer L. Miller	Chief Business Sustainability Officer, Sappi North America
Thomas S. Murley	Senior Advisor, HgCapital
Joseph W. Sutton	Chief Executive Officer, Sutton Ventures Group
Frank V. Wisneski	Partner (Retired), Wellington Management Company

AMERESCO
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Name: George P. Sakellaris, P.E., Chairman of the Board of Directors, President and Chief Executive Officer
Address: 111 Speen Street, Suite 410
City, state, zip code: Framingham, MA 01701
Phone number: (508) 661-2200

Please note as of December 31, 2018, George P. Sakellaris, Ameresco Inc.'s founder, principal stockholder, president and chief executive officer, beneficially owns approximately 80% of the combined voting power of Ameresco, Inc. Class A and Class B common stock and approximately 50% in the economic interest in Ameresco Inc.'s outstanding Class A and Class B common stock. Based on beneficial ownership filings on the Securities and Exchange Commission's EDGAR website as of December 31, 2017, Ameresco, Inc. is not aware that any other person or group beneficially owns more than 1.5% of the combined voting power of Ameresco, Inc. Class A and Class B common stock or 4% in the economic interest in Ameresco Inc.'s outstanding Class A and Class B common stock.

AMERESCO

FORM: 6 ECONOMIC DISCLOSURE STATEMENT

Section IV DISCLOSURE OF SUBCONTRACTORS ANTICIPATED TO BE RETAINED

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)
Lyons View Manufacturing	5261 W. Harrison, Chicago, IL 60644	Subcontractor	Estimated $ 3,900,000
HBK Engineering	921 W. Van Buren St., Suite 100, Chicago, IL 60607	Subcontractor	Estimated $ 400,000
Continental Electric Consturction Company	815 Commerce Dr., Oak Brook, IL 60523	Subcontractor	Estimated $ 1,796,000
John Burns Construction Company	1750 W. Fulton St., Chicago, IL 60612	Subcontractor	Estimated $ 1,600,000
The Power Bureau	10 West 35th St., Suite 1600, Chicago, IL 60616	Subcontractor	Estimated $ 40,000