

REQUEST FOR QUALIFICATIONS (RFQ) TO PROVIDE
CONSTRUCTION MANAGEMENT AT-RISK SERVICES

FOR

JOINT-USE CONSOLIDATED RENTAL CAR/PARKING FACILITY AND ATS EXTENSION FIXED FACILITIES

AT

O'HARE INTERNATIONAL AIRPORT

Specification No. 113722

Required for use by:

CITY OF CHICAGO
(Chicago Department of Aviation)



CITY OF CHICAGO
(Department of Procurement Services)

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

Jamie L. Rhee, Chief Procurement Officer
Attention: Robert Stuart, Contract Negotiator
City Hall, Department of Procurement Services, Bid & Bond Room 301
121 North LaSalle Street
Chicago, Illinois 60602

ALL RESPONSES MUST BE RECEIVED BY 4:00 P.M., CENTRAL TIME,
ON FRIDAY MARCH 1, 2013.

RAHM EMANUEL
MAYOR

JAMIE L. RHEE
CHIEF PROCUREMENT OFFICER

SUBMITTAL CHECKLIST

This checklist is provided for ease of review of the Respondent's submittal content; however, it is the responsibility of the Respondent to ensure that all the required material requested in this RFQ is addressed and included in the Respondent's submittal.

Volume I - Required Content

- Cover Letter
- Executive Summary and Associated Information
 - Respondent's Legal Entity Contracting Information
 - Joint Venture Agreement including Schedule B and Disclosures as appropriate
 - LLC Operating Agreement and Disclosures as appropriate
 - Licensing Information
- Relevant Experience with CM@Risk
- Project Approach and Methodology
- Expertise and Experience of Key Staff/Resumes
- Relevant Experience with Similar Projects
- DBE Participation Narrative
- Safety Questionnaire
- Schedule B and JV agreement if appropriate

Volume II - Required Content

- Conflict of Interests
- Respondent's Corporate History
- Legal Actions Form and other Required Information
- Financial Statements
- Economic Disclosure Statement and Affidavit
- DBE Documentation
 - Schedule C-1 for each proposed DBE Subcontractor
 - Letter of Certification from City of Chicago or the Illinois Unified Certification Program for each proposed DBE Subcontractor
 - Schedule D-1
- Insurance Certificate

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PART 3 – REFERENCE DOCUMENTS (Under Separate Cover)

<u>Reference Document Title</u>	<u>Pages/Volumes</u>
Joint-Use Consolidated Rental Car/Parking Facility - Design Guidelines	DG-1 through DG-15
Joint-Use Consolidated Rental Car/Parking Facility Project Drawings	Volumes 1 through 4
ATS Fixed Facilities Project Drawings.....	Volume 5

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Request for Qualifications (RFQ) to Provide
Construction Management At-Risk Services For
Joint-Use Consolidated Rental Car/Parking Facility
and ATS Extension Fixed Facilities

Chicago Department of Aviation

Specification No. 113722

PART 1
REQUEST FOR QUALIFICATIONS

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I. GENERAL INFORMATION

The City of Chicago ("City"), acting through its Chicago Department of Aviation ("Department or CDA"), invites the submission of Qualifications ("Statement of Qualifications" or "SOQs") for Construction Manager-at-Risk Services; which services include Pre-construction and Construction Management Services ("Services") as set forth on the attached Exhibit A for the development of a Joint-Use Consolidated Rental Car/Parking Facility and ATS Fixed Facilities at O'Hare International Airport ("Project"). The intent of this Request for Qualifications ("RFQ") is to select one qualified Respondent proposing to provide the Services under the terms that the City deems to be the most advantageous to the City.

"Respondent(s)" means the entities that submit Proposals in response to this RFQ. The Respondent awarded an Agreement pursuant to this RFQ, if any, sometimes referred to herein as "Construction Manager, Construction Manager at-Risk, or Contractor". "Agreement" refers to an agreement awarded to a Construction Manager.

A. Background

Project Description: The Chicago Department of Aviation is embarking in the development of a new Joint-Use Consolidated Rental Car/Parking Facility to be located at the corner of Zemke Boulevard and Mannheim Road. This facility will serve several functions, including but not limited to, the consolidated operations for all on-airport rental car companies, public parking, airport connection to regional and commercial buses and vehicles and interface with commuter train service. The development of the facility also includes the extension of the Airport's People Mover ("Airport Transit System" or "ATS") and the relocation of the System's terminus station to be integrated with the Joint-Use Consolidated Rental Car/Parking Facility. Ancillary to the extension of the ATS is an expansion of the Maintenance and Storage Facility.

Part 3, Reference Documents, of this Request for Qualifications, includes in-progress designs reflecting the scope and character of the Project and a brief description of the Design intent (Design Guidelines). This information is being provided as reference only with the understanding that the Project will continue to be defined and refined through the advancement of the design and with the input of the current Project stakeholders and successful Respondent.

The Scope of the Project does not include the procurement and installation of systems associated with the extension and expansion of the ATS. These Systems will be procured under a separate solicitation. These Systems include, but are not limited to:

- *Guideway Facilities and Equipment*
Guideway facilities include conduits, cable trays, chases, wireways, ductbanks, and junction/equipment boxes not required to be embedded in ATS Fixed Facilities; drainage interfaces; grounding interfaces and connections; lightning protection; emergency/maintenance walkway system, including lighting and railings; signage for ATS system equipment and along guideways necessary to ensure safety and those required for guideway emergency egress; and interface and design requirements submittals. Guideway equipment includes running surfaces (track); guidance and retention devices (track); guideway switches and associated special trackwork; overtravel buffers; and interface requirements submittals.

- *Station Facilities and Equipment*
Station facilities include platform edge threshold; platform edge rubstrips; grounding interfaces and connections; static signage associated with ATS system equipment; interface and design requirements submittals; and conduits, cable trays, chases, wireways, ductbanks, and junction/equipment boxes not required to be embedded in ATS Fixed Facilities. Station equipment includes the automatic platform door system; dynamic signage specific to the ATS system in station; any unique or supplemental fire protection system required by the ATS supplier; and interface requirements submittals.
- *Maintenance and Storage Facility (M&SF) and Equipment*
M&SF equipment includes facility outfitting and maintenance tools, machinery, and test equipment; departure test equipment and test track equipment; ATS system supplier-specific lighting system; ATS system supplier-specific electrical system; integration of operating system equipment with the M&SF facilities; warning lights; interface requirements submittals; wash/de-ice facility system equipment, and other waste storage and disposal equipment, including industrial and hazardous storage and disposal of all trash/waste.
- *Power Distribution Systems Facilities and Equipment*
The facilities portion of the system supplier's work for the power distribution system includes grounding interfaces and connections; interface requirements submittals; signage associated with the ATS system equipment; drainage connection and distribution, if required; and conduits, cable trays, chases, wireways, ductbanks, and junction/equipment boxes not required to be embedded in ATS Fixed Facilities. The equipment includes substation power conditioning equipment; primary feeders and switchgear; primary power hookup to ATS substation primary switchgear; non-propulsion ATS power distribution system equipment; lightning protection; propulsion power distribution system equipment; power rails; uninterruptible power supplies; power factor and/or harmonic correction equipment; any unique or supplemental fire protection system required by the ATS Systems supplier; blue-light stations; interface requirements submittals; power metering enclosures and bases; cathodic protection, as required by the operating system design; and furniture and fixtures.
- *Command, Control and Communication Facilities and Equipment*
The facilities portion of this work element includes finish-out, furnishings and fixtures at the control center; and interface requirements submittals. The equipment includes automatic train protection (ATP) equipment; automatic train operation (ATO) equipment; automatic train supervision (ATS) equipment; supervisory control and data acquisition (SCADA) system if provided separate from or adjunct to ATS equipment; central control facility ATS Systems equipment; wayside public address system (to stations and to M&SF); emergency telephone system; vehicle voice communication system; audio announcement system; color closed circuit television (CCTV) system; any unique or supplemental fire protection system required by the ATS Systems supplier; interface requirements submittals; audio, video, and/or data communications system; and audio and video recording and playback systems.

The Construction Manager at-Risk will be required to coordinate with the System's Supplier in the installation, testing and commissioning of all related ATS Systems.

LEED Certification: The City/CDA requires that Airport Facilities achieve a minimum certification level of Silver under the LEED rating system. Further the CDA requires that the Project meet the requirements defined in the Sustainable Airport Manual ("SAM") and achieve a minimum of three Airplanes as defined in the SAM rating system. Sustainable elements will include, but are not limited to: rainfall collection/harvesting systems; green roof; energy-efficient lighting, plumbing, heating and cooling systems, insulation; low-VOC construction materials. Other sustainable project elements have been identified in the course of the conceptual design and will be disclosed with the selected firm.

Design and Project Management Team: The City has a Program Management Structure in place to deliver other improvements associated with the O'Hare Modernization Program, thus has a Program Management Office ("PMO") in place. The PMO will serve as the Owner's representative for this project. Furthermore, the City has selected TranSystems Corporation ("TSC") as the City's Architect of Record ("AOR"). TSC initiated the programming, planning and conceptual design of this facility in the fall of 2010 and is currently completing the schematic design phase of the Project.

Proposed Project Schedule: The proposed design schedule, as well as any other proposed dates and bid packaging discussed in this RFQ, are all subject to change, modification or revision based on City or user agency requirements (or requirements of its consultants) and input from the successful Respondent. However, for the purposes of this RFQ, the anticipated Substantial Completion date is December 31, 2016.

Agreement for Construction Management Services: The City anticipates the successful Respondent will enter into an Agreement for Construction Management Services ("Construction Management Agreement") with the City in a form substantially similar to the Construction Management Agreement attached to this RFQ. The Construction Management Agreement will provide for the delivery of pre-construction and construction management services. As discussed below, the Construction Manager will provide significant pre-construction advising, value engineering and constructability reviews as to enable the project to be completed within the timeframe and budget specified. Pre-construction services are anticipated to begin in 2013.

Guaranteed Maximum Price ("GMP"): It is anticipated that the Construction Manager will assemble a Guaranteed Maximum Price ("GMP") based on Substantially Completed Construction Drawings. The Construction Manager will guarantee a maximum price to be included in the Construction Management Agreement by amendment at the appropriate time and by guaranteeing substantial completion and project delivery dates to the City. The performance of the Guaranteed Maximum Price construction management portion of the Construction Management Agreement will be conditioned upon successful negotiation of a GMP by the Construction Manager and the City, based on the construction documents developed for the Project.

Trade Contract Award and Management: Each individual bid package (hereon referred to as Trade Contract) advertised for competitive bids by the Construction Manager must be approved by the Chicago Department of Aviation ("CDA") and the Department of Procurement Services ("DPS"). The Construction Manager shall develop and administer all bidding and procurement activities in a timely manner so as not to disrupt the City's proposed construction schedule.

Trade Contracts shall be executed by the Construction Manager who shall have complete responsibility for managing each Trade Contract. The Construction Manager shall work with the CDA, the PMO, and AOR to assemble bid packages for Trade Contracts to be bid and awarded in conformity with the City requirement concerning DBE utilization.

Trade Contracts shall be bid by the Construction Manager in conjunction with the City so as to comply with all the City requirements and ensure maximum participation by potential bidders. Construction Manager may pre-qualify groups of Trade Contractors to bid on certain bid packages and administer the bid solicitation process to the pre-qualified group. The Construction Manager may also issue for public advertisement of Trade Contracts for bid without pre-qualification. The Construction Manager will be expected to work closely with the City to ensure that notification of Trade Contracts being bid and opportunities for pre-qualification are made through the City's normal communication channels including CDA's web-alerts system. Construction Manager may also post Trade Contract pre-qualification and bid opportunities on its own website or other means to ensure adequate notice is provided to the contracting community.

The Construction Manager shall schedule and administer a public bid opening for each Trade Contract. The City requires that any contract for construction be awarded to the responsible bidder submitting the lowest responsive bid. The Construction Manager shall work closely with the City to analyze bids received and determine each bidder's responsiveness. The Construction Manager's decision as to whether a bid is responsive shall be considered a conclusive and final determination. DBE participation in Trade Contracts is an important consideration in determining bidder responsibility and bid responsiveness and the participation goals must be clearly defined in the Construction Manager's Invitation for Bid. The City will work closely with the Construction Manager to establish protocols for including appropriate DBE goals in the Invitation for Bid. However, the Construction Manager shall be solely responsible for committing to and making appropriate efforts to achieve the goals for DBE participation on each Trade Contract.

Coordination with the Program Management Office ("PMO") and Architect of Record ("AOR"): The City has engaged DMJM Aviation Partners JV as the Program Manager and TranSystems Corporation as AOR for the Project. The Construction Manager will be an integral member of the management and design team and shall be responsible for coordinating the issuance of bid packages through the City and the PMO.

Proposed Design Schedule: The preliminary building design document schedule allows for approximately eight (8) months from the issuance of this RFQ for the AOR to produce 100% Construction Documents for trade contracts.

Pre-Construction Services: The Construction Manager shall provide Pre-construction Services to assist the City in estimating the probable construction costs, reviewing the design documents for constructability, identifying possible cost savings, and supporting the City and the AOR to develop a permitting strategy and obtain all necessary permits and approvals. The Construction Manager shall provide cost estimating services and develop a complete budget estimate at each design milestone.

B. Scope of Service

The services requested in this RFQ are described more fully in Part 2 of this RFQ under Exhibit A,

Scope of Services.

C. Term of Services

The City intends to award one (1) Agreement pursuant to this RFQ solicitation through the completion of the Project.

D. Communications; Pre-Submittal Conference; and Document Availability

1. Communications between the City and Respondents

Respondents must communicate only with the Department of Procurement Services ("DPS") regarding this RFQ. All questions or requests for clarification must be submitted to the following e-mail address: CMRISK@cityofchicago.org. The subject line of the email must clearly indicate that the contents are "Questions and Requests for Clarification" about the RFQ, and must refer to "Request for Qualifications (RFQ) to Provide Construction Management At-Risk Services for Joint-Use Consolidated Rental Car/Parking Facility and ATS Extension Fixed Facilities Specification No. 113722." The specification number must appear in the subject line of the e-mail. No telephone calls will be accepted.

All questions and requests for clarifications must be submitted no later than 4:00 p.m. Central Time on Wednesday, January 23, 2013 or no response will be provided except at the sole discretion of the Chief of Procurement Officer. A Respondent that deviates from any of these requirements is subject to immediate disqualification from this RFQ process.

2. Pre-Submittal Conference/Site Visit

The City will hold a pre-submittal conference at the Aviation's Administration Building located at 10510 West Zemke Road, Chicago, Illinois 60666 on Wednesday, January 9, 2013 at 10:00 a.m. Central Time. Attendance is not mandatory however it is strongly encouraged. The City will address questions regarding the RFQ at the pre-submittal conference, and may respond both to questions or requests for clarification submitted on the day of the conference, and to questions submitted prior to the conference date. However, Respondent may only rely on written addenda and/or clarifications. The City of Chicago accepts no responsibility for timely delivery of materials, and Respondents are solely responsible for acquiring necessary information, addenda and/or materials.

3. RFQ Document Availability, Information Resources

Respondents should obtain this RFQ from the Bid & Bond Room located at City Hall, 121 N. LaSalle St., Room 301, Chicago, Illinois 60602.

Respondents may request the Bid & Bond Room personnel mail them a copy of the RFQ by providing the Bid & Bond Room a FedEx account number or make arrangements with Bid & Bond Room personnel to have a package ready for pickup by their courier service. The Bid & Bond Room telephone number is (312) 744-9773. The City accepts no responsibility for the timely delivery of materials.

Alternatively, Respondents may download the RFQ from URL address: <http://www.cityofchicago.org/content/dam/city/depts/dps/ContractAdministration/Spec>

<cs/2012/Spec113772.pdf>. All Respondents who choose to download the RFQ are responsible for checking this website for clarifications and/or addenda.

If Respondent chooses to download the RFQ document, the Respondent must contact the Bid & Bond Room by faxing a legible copy of Respondent's business card, referencing Specification No. 113722 to (312) 744-5611 or by calling the Bid & Bond Room at (312) 744-9773 to register Respondent's company as an RFQ document holder, which will better enable Respondent to receive any future clarifications and/or addenda related to this RFQ. Respondents are responsible for obtaining all RFQ materials.

Under no circumstances shall failure to obtain clarifications and/or addenda relieve a Respondent from being bound by any additional terms and conditions set forth in the clarifications and/or addenda, or from considering additional information contained therein in preparing a Proposal. Furthermore, failure to obtain any clarification and/or addendum shall not be valid grounds for a protest against award(s) made under this RFQ.

E. Deadline and Procedures for Submitting Statement of Qualifications ("SOQ")

1. Statement of Qualifications must be received by the Bid & Bond Room no later than 4:00 p.m. Central Time, on Friday, March 1, 2013.
2. The City may not accept submittals that are not received by the date and time set forth in Section I.E.1 above. Only the City's Chief Procurement Officer, at her sole discretion, will determine whether to accept a submittal received after the due date and time.

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

3. The Respondent submittals must be delivered to the following address:

Jamie L. Rhee, Chief Procurement Officer
Department of Procurement Services
Bid & Bond Room
Room 301, City Hall
121 North LaSalle Street
Chicago, Illinois 60602
Attention: Robert Stuart, Contracts Negotiator

4. Respondents must submit one (1) original, two (2) paper copies, and fifteen (15) electronic copies of the Statement of Qualifications ("SOQ") on CD-ROM in PDF format. The electronic (PDF) version of the submittal must be in the form of a bound file per Volume containing all sections of the SOQ. Each CD-ROM should contain both Volumes of the SOQ. The original SOQ must be clearly marked as "ORIGINAL" and on all documents, requiring a signature must bear the original signature of Respondent's

authorized signatory. Respondent must enclose all documents in sealed envelopes or boxes. Respondents must submit their SOQs enclosed sealed envelopes, packages, or boxes, and addressed to the City of Chicago, Department of Procurement Services, Bid & Bond Room 301, City Hall, 121 North LaSalle Street, Chicago, IL 60602. Proposal packages in boxes must be dropped off in the Bid & Bond Room for date/time stamp during regular hours, 8:30 a.m. to 4:30 p.m. Central Time, Monday through Friday (except legal Holidays) prior to the date and time advertised. The Bid & Bond Room can be reached at (312) 744-3002 between the hours of 8:30 a.m. to 4:30 p.m. Central Time, Monday through Friday (excluding holidays).

5. The outside of each sealed envelope or box must be labeled as follows:

Statement of Qualifications Enclosed
Statement of Qualifications to Provide Construction Management At-Risk Services for
Joint-Use Consolidated Rental Car/Parking Facility and ATS Extension Fixed Facilities
Specification No. 113722
Due: 4:00 p.m. Central Time, Friday, March 1, 2013

Submitted by: _____
(Name of Respondent)

Package ____ of ____

The City's opening of Respondent's sealed envelope(s) or package(s) containing a SOQ shall neither be deemed nor constitute acceptance by the City of Respondent's SOQ. The City reserves the right to open and inspect all such sealed envelope(s) or package(s), regardless if the same were submitted by the due date and time specified herein, for any purpose, including without limitation, determining the particular RFQ to which Respondent has responded, determining if a SOQ was submitted by the date and time specified in this RFQ, and in order to determine a Respondent's return address.

- F. Procurement Timetable

The timetable for the selection process is summarized below. Note that these target dates are subject to change by the City.

Advertisement of Request for Qualifications..... Wednesday, December 19, 2012
Pre-Submittal Conference..... Wednesday, January 9, 2013
Question Cut-Off Date Wednesday, January 23, 2013
Statement of Qualifications Due Friday, March 1, 2013

- G. Conflicts of Interests

For the purposes of this Section I.D only, the term "Respondents" shall mean the entities that submit SOQs in response to this RFQ and, if Respondent is a joint venture or limited liability company, any partner in the joint venture or any member of the limited liability company. For the purposes of this section, the following definitions apply:

- "CARE+" or "Chicago Airport Resources Enterprises Plus" means a joint venture lead by

R.M. Chin & Associates, which serves as the Department's Construction Manager.

- "PMO" means DMJM Aviation Partners, a joint venture, which serves as the OMP's Program Management Office.
- "Master Civil Engineer" means BPC Airport Partners, a joint venture.
- "OMP CM" means Parsons Brinkerhoff (formerly PB Americas, Inc.), which serves as the OMP's Construction Manager.
- "OMP Planner" means Ricondo & Associates, Inc., which serves as the OMP's planning entity.
- "Architect of Record" ("AOR") means TranSystems Corporation.
- "ATS Conceptual Design Consultant" means URS Corporation.

Respondents will be subject to the following conflicts of interest rules:

1. If Respondent is CARE+ or any joint venture partner in CARE+, the PMO or any joint venture partner in the PMO, the Master Civil Engineer or any joint venture partner in the Master Civil Engineer, the CM, the OMP Planner, the Architect of Record; and the ATS Conceptual Design Consultant (Covered Entity #1), Respondent will be ineligible for consideration for award of an Agreement and may not participate on an Agreement as a subcontractor.
2. If Respondent is a subcontractor of CARE+, the PMO, the Master Civil Engineer, the CM, the OMP Planner, the Architect of Record; and the ATS Conceptual Design Consultant (Covered Entity #2), Respondent will be ineligible for consideration for award of an Agreement as a Construction Manager *unless* the Respondent's SOQ contains a letter stating the Respondent will terminate its role as a Covered Entity #2 if the Respondent is awarded a contract.
3. If Respondent proposes to use as one of its subcontractors any Covered Entity #2 as described above, Respondent must comply with the requirements set forth below to be eligible for consideration for award of an Agreement.
 - i. The Covered Entity #2 shall have no management role whatsoever in the Respondent; and
 - ii. The Covered Entity #2 shall have no beneficial interest whatsoever in the Respondent; and
 - iii. Respondent's SOQ shall propose to use Covered Entities #2 on no more than forty-nine percent (49%) of all Services under an Agreement; and
 - iv. Respondent must provide an accurate and complete description of the conflict of interest and the measures the Respondent proposes to mitigate the effects of the conflict of interest.

The CPO will make the determination of eligibility in his/her sole judgment based upon the requirements set forth above. The CPO's determination adverse to the Respondent shall be final unless the Respondent's SOQ contains a letter from the Covered Entity #2 agreeing to withdraw from Respondent's team in the event of such an adverse determination.

- 4A. If Respondent is an entity that has an Affiliated Relationship (as defined below), Respondent will be ineligible for consideration for award of an Agreement as a

Construction Manager but may provide Services as a subcontractor in accordance with Section 3 above.

For purposes of this section, an "Affiliated Relationship" exists if the Respondent and CARE+ or any joint venture partner of CARE+, the PMO or any joint venture partner of the PMO, the Master Civil Engineer or any joint venture partner of the Master Civil Engineer, the CM, or the OMP Planner or any subcontractor of the PMO, the Master Civil Engineer, the CM, the OMP Planner, the Architect of Record; and the ATS Conceptual Design Consultant (Covered Entity #3) have any common ownership, whether directly or indirectly (including, without limitation, if they are subsidiaries of the same parent company); however, if any institutional investor owns less than 10% of both the Respondent and the Covered Entity # 3, such ownership will not render the relationship between the Respondent and the Covered Entity #3 an Affiliated Relationship.

- 4B. If Respondent proposes to use any subcontractor that has an Affiliated Relationship with a Covered Entity #3 the Respondent must comply with the requirements set forth below to be eligible for consideration for award of an Agreement.
- a. The Covered Entity #3 shall have no management role whatsoever in the Respondent; and
 - b. The Covered Entity #3 shall have no beneficial interest whatsoever in the Respondent; and
 - c. Respondent's SOQ shall propose to use Covered Entities #3 on no more than forty-nine percent (49%) of all Services under an Agreement; and
 - d. Respondent must provide an accurate and complete description of the conflict or apparent conflict and the measures that the Respondent proposes to mitigate the effects of the conflict.

The CPO will make the determination of eligibility in his/her sole judgment based upon the requirements set forth above. The CPO's determination adverse to the Respondent shall be final unless the Respondent's SOQ contains a letter from the Covered Entity #3 agreeing to withdraw from Respondent's team in the event of such an adverse determination.

The City reserves the right to evaluate potential conflicts of interests, if any, not set forth above that could present a conflict in the performance of the Services. With respect to the evaluation of potential conflicts of interest, the City also reserves the right to render a final decision on the eligibility of a particular Respondent to be considered for an award of an Agreement, all in a manner consistent with the best interests of the City.

II. REQUIRED INFORMATION

Each SOQ must contain all of the following documents and must conform to the following requirements.

- A. Format
Hard copies of the SOQ responding to this RFO should be prepared using a font no smaller than 12 point on 8 ½" X 11" letter size paper (preferably recycled), printed double-sided and bound

on the long side. The City encourages using reusable, recycled, recyclable and chlorine-free printed materials for Proposal, reports, and all other documents prepared in connection with this RFQ. Expensive papers and bindings are discouraged as no materials will be returned. One page equals one side of content (e.g. printing on both sides of an 8-1/2" x 11" piece of paper equals two pages).

Proposals must be submitted in two separately-bound volumes. The first volume must contain the Respondent's Statement of Qualifications and must be labeled "*Volume I, Statement of Qualifications*"; the second volume must contain representations and certifications as described herein and must be labeled "*Volume II, Representations and Certifications*".

Each separate volume and individual sections should be clearly identified and/or separated by labeled tabs and organized in accordance with subject matter sequence as set forth below.

The electronic version of the SOQ must, to the extent practicable, mimic the structure required for the hard copies (Original and Copies).

B. Volume I – Statement of Qualifications – Required Content

Respondents are advised to adhere to the submittal requirements of this RFQ. Failure to comply with the instructions of this RFQ, including but not limited to the page limitations set forth below, may be cause for rejection of the non-compliant submittal. Submission of a SOQ constitutes the Respondent's acceptance of all requirements outlined in the RFQ. By submitting a response to this RFQ, Respondent acknowledges that if its SOQ is accepted by the City, its SOQ and related submittals may become part of the Agreement.

The SOQ must include the following information:

1. Cover Letter – limit of three pages

Respondent must submit a cover letter, signed by an authorized Respondent representative, committing Respondent to providing the Services in accordance with its SOQ and the terms and conditions of any Agreement, which may be awarded pursuant to this RFQ.

2. Executive Summary – limit of three pages

Respondent must provide an executive summary, which addresses the following information:

- A. Outline the number of years Respondent has been in business and identify Respondent's legal name, its headquarters address, its principal place of business, its legal form (i.e., corporation, joint venture, partnership, etc.), the names of its principals or partners, and whether Respondent is authorized to do business in the State of Illinois. If Respondent is a business entity comprised of more than one (1) legal entity, Respondent must identify all legal entities so comprising Respondent; it must identify each entity's respective ownership percentage of Respondent; and Respondent must summarize the role, degree of involvement and experience of each such separate entity;
- B. Indicate the name, mailing address, email address, and telephone number(s) of the principal contact for oral presentation or negotiations;

- C. Explain its understanding of the City's intent and objectives and its approach to achieving those objectives;
- D. Provide a brief summary of the qualifications, experience and background of the team and its committed Key Personnel (as herein defined);
- E. Summarize Respondent's commitment to comply with the DBE requirements as stated in the Special Conditions Regarding Disadvantaged Business Enterprise Commitment and Schedules, attached to this RFQ as Part 2, Sample Form of Agreement for Construction Management Services, Exhibit F; and
- F. Respondent must identify any exceptions or objections it has to the City's sample Agreement for Construction Management Services ("Agreement"), a copy of which is attached hereto as in Part 2 of this RFQ. Note that the City may from time to time revise this Agreement. The City will not accept or entertain any exceptions or objections to the Agreement at any time after receiving the submittal except and only to the extent the City subsequently makes a material change to a substantive provision of the Agreement.

3. Company Profile – limit of one page (plus any attachments required by the provisions below)

Respondents must briefly describe their legal structure and the way in which their business is organized.

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

- a) A Schedule B as shown in Exhibit F to the Sample Form of Agreement for Construction Management Services included in Part 2 of this RFQ., if Respondent's joint venture team includes a City-certified DBE firm(s), as applicable; and
- b) A Separate On-Line Economic Disclosure Statement and Affidavits ("EDS") for each joint venture partner. Instructions for filing online EDS are included in this RFQ.

If Respondent is a limited liability company, a copy of the operating agreement signed by an authorized member or manager of the limited liability company must be attached. Each member of the limited liability company must execute a separate On-Line EDS.

Note that the EDS Certificate of Filing forms should be placed in Volume II of the SOQ.

4. Construction Management At-Risk Experience – limit of three pages per project
Provide a Key Project Information Form (copy attached) and a narrative of not more than three pages on three comparable projects completed (complete or substantially complete) within the last five (5) years.

For purposes of this RFQ, CM At-Risk projects or services shall be strictly defined as projects

on which (i) the respondent provided significant pre-construction advising and bidding services to the Owner; (ii) the respondent entered into a Guaranteed Maximum Price contract for construction with the Owner including costs for pre-construction services, general For purposes of this RFQ, CM At-Risk projects or services shall be strictly defined as projects on which (i) the respondent provided significant pre-construction advising and bidding services to the Owner; (ii) the respondent entered into a Guaranteed Maximum Price contract for construction with the Owner including costs for pre-construction services, general conditions, construction manager fees and trade contract costs; (iii) the Guaranteed Maximum Price contract included a fixed date for completion of the project after which time liquidated damages or other measures would be assessed against the Construction Manager for failure to complete the specified project requirements; and (iv) the Construction Manager held the contracts with the trade contractors and was responsible for coordinating trade contractor work and managing all site activities.

- Comparable projects must be of similar or greater complexity, scope and magnitude.
- Respondent's role on each project must have been as a Construction Manager At-Risk ("CM At-Risk") where Respondent provided pre-construction and construction services.
- Comparable projects must have involved significant structural systems, building systems integration, transit systems and other relevant work.
- The sites of the comparable projects are in densely populated areas with significant logistical, traffic and adjacent use concerns (e.g., Airport, coordination of underground utilities, department of transportation and railroad company coordination and coordination with transit systems).

The narrative (in combination with the Key Project Information Form) must, at a minimum, provide the following information for each of the three projects submitted as comparable and representative examples of Respondent's CM At-Risk experience:

- a) Description of the project; total cost of completion, including location, schedule, square footage, construction type, below grade work and foundation system;
- b) Description of the pre-construction services provided on each project specifically addressing:
 - 1) site logistics planning;
 - 2) foundation systems analysis and selection;
 - 3) building systems analysis and selection (structural, mechanical, electrical, plumbing, fire protection, building envelope);
 - 4) earth retention requirements and strategies;
 - 5) underground and below grade coordination activities required for the Office of Underground Coordination, City of Chicago, public underground utilities, CDOT, airport transit systems and adjacent properties;
 - 6) value engineering analyses performed and cost savings recommendations made;
 - 7) cost estimating and budget management services provided;
 - 8) constructability reviews performed;
 - 9) bidding and procurement activities;
 - 10) construction scheduling services; and
 - 11) building permit strategies used (e.g., foundation permit followed by building permit or core & shell building permit followed by interior construction permit).

- c) Description of Construction Management Services provided on the project including the form and type of contract used (e.g. AIA A121 CMc with GMP, etc.);
 - d) Description of bid packages and work phases: List major Trade Contracts awarded and names of Trade Contractors for Earthwork/Earth Retention, Caissons/Foundations, Concrete, Masonry, Steel, Mechanical, Electrical, Plumbing, Fire Protection;
 - e) Original forecast completion date (at time GMP was established) and actual completion date and reason(s) for any variances;
 - f) Original budget/GMP and actual cost of project at completion and reason(s) for any variances;
 - g) Number of Change Orders and aggregate amount of change orders beyond specifically identified allowances;
 - h) Amount of construction manager contingency included in the GMP and amount remaining at project completion; and
 - i) References/Recommendations/Contact information from each project owner/developer and Architect of Record.
5. Project Approach and Methodology – limit of 15 pages
- a) Description of Respondent's proposed methodologies to be used during the Pre-Construction phase of the Project including Respondent's approaches to:
 - 1) Cost estimating, cost control and change management;
 - 2) Value engineering analysis;
 - 3) Constructability and building systems evaluation;
 - 4) Bid and Procurement Management: Specifically address bid packaging in fast track construction management environment; early purchasing requirements; market conditions and experience with public entity bidding requirements;
 - 5) Scheduling Compliance and Control including examples of schedule monitoring techniques;
 - 6) As-Built drawing and records management;
 - 7) Regulatory, environmental and permitting management;
 - 8) Proposed approach to site logistics planning; and
 - 9) Use of DBE consultants for pre-construction services and activities.
 - b) Description of Respondent's proposed methodologies to be used during the Bidding/Procurement phase of the Project including Respondent's approaches to:
 - 1) How Respondent proposes to manage the Trade Contractor bidding process;
 - 2) Compliance with public bidding requirements;
 - 3) Pre-qualification of Trade Contractors;
 - 4) Ensuring maximum participation by DBE firms;
 - 5) Maximizing opportunities for minority and female employment; and
 - c) Description of Respondent's proposed methodologies to be used during the Construction phase of the Project including Respondent's approaches to:
 - 1) Schedule control and management;
 - 2) Budget management and cost control;
 - 3) Maintaining construction site safety and security;
 - 4) Quality Control; and
 - 5) LEED certification and commissioning processes.
6. Expertise and Experience of Key Staff
Resumes should be no longer than two pages each and should indicate whether proposed

personnel are currently employed by Respondent. Experience should highlight the proposed Key Staff's recent experience in comparable roles. Reference information (names, organization, and phone numbers) for Key Staff's recent comparable experience is highly desirable.

Responder must include resumes and project experience of Respondent's staff ("Key Staff Members") proposed for the Pre-Construction phase including:

- Project Manager;
- Estimator(s);
- MEP/Technical Coordinator; and
- Constructability Reviewer/Manager
- APM-ATS Systems Integration

Responder must include resumes and project experience of Respondent's staff ("Key Staff Members") proposed for the Bidding/Procurement phase including:

- Project Manager;
- Procurement Manager; and
- Diversity DBE/EEO Manager.

Responder must include resumes and project experience of Respondent's staff ("Key Staff Members") proposed for the Construction phase including:

- Project Executive;
- Project Manager;
- Superintendent(s); and
- Project Engineer(s).

Additionally, Responder must submit organization chart of Respondent's proposed organization indicating Key Staff Members potential roles and responsibilities on the Project at each project phase (Pre-Construction, Bidding/Procurement & Construction).

7. Consolidated Rental Car, Parking Structures and Transit Systems Experience – limit of two pages per project

Provide a narrative of not more than two pages each on three projects completed (complete or substantially complete) within the last five (5) years where the Respondent provided pre-construction, construction management and/or general contracting services on projects of similar scope, complexity and magnitude.

The narrative must, at a minimum, provide the following information for each the three (3) projects submitted as comparable and representative examples of similar experience. The description of the projects must include their location, schedule, square footage, construction type, below grade work and foundation system.

Responder must describe any Pre-Construction Services provided on the project specifically addressing:

- building systems analysis and selection (structural, mechanical, electrical, plumbing, fire protection, building envelope);
- value engineering analyses performed and cost savings recommendations made;

- cost estimating and budget management services provided;
- constructability reviews performed;
- bidding and procurement activities;
- construction scheduling services; and
- building permit strategies used (e.g., foundation permit followed by building permit or core & shell building permit followed by interior construction permit, etc.).

For each project describe the construction management and/or general contracting services provided on the project including the form and type of contract used (e.g. AIA A121 CMc with modifications, AIA A101 with modifications, Cost Plus Fee with GMP, Lump Sum, etc.), the original forecast completion date and actual completion date and reason(s) for any variances; the original budget/GMP/Contract Amount and actual cost of project at completion and reason(s) for any variances; the number of Change Orders and aggregate amount of change orders beyond specifically identified allowances; the amount of construction manager contingency included in the GMP/Contract Amount and amount remaining at project completion; and reference contact information from each project owner/developer and Architect of Record.

8. Disadvantaged Business Enterprise (DBE) Participation – limit of 5 pages

Respondent must describe its plan for DBE participation and commitment to achieving meaningful technical and financial goals for the Pre-Construction, and Construction Phases of the Project. The current DBE participation goal is 24% of the total contract value. Consistent with the City's practice of encouraging and facilitating the participation of DBE's in prime contractor roles on City projects, the City urges Respondents to partner with DBE firms at the prime contractor level. To be eligible for favorable consideration under the Prime Contractor element of the criteria, proposed DBE participation on a Respondent's team must include well-defined management roles and responsibilities for the DBE team members and must allocate to the DBE financial risk commensurate with the financial rewards available to be achieved by a successful Respondent.

Further Respondent must address the following:

- a) Describe the commitments made by Respondent (if any) and percentages of actual DBE participation achieved on each of the three projects submitted as representative of Respondent's Construction Management At-Risk Experience.
- b) Describe the commitments made by Respondent (if any) and percentages of actual DBE participation achieved on the three (3) projects submitted as representative experience.
- c) Describe Respondent's proposed commitments to DBE participation in the Project, specifically address both the Pre-Construction and Construction phases of the Project. Compare Respondent's DBE commitments to the City goals
- d) Describe in detail the Respondent's bidding and procurement strategies and plan to achieve its Construction phase DBE commitments.

9. Equal Employment Opportunity

- a) Describe any commitments made by Respondent to employ minority, female and community labor on the three projects submitted as representative of Respondent's Construction Management At-Risk Experience. Compare Respondent's employment

commitments to Respondent's achievement on each project.

- b) Describe any commitments made by Respondent to employ DBE and community labor on the three projects submitted as representative of Respondent's experience. Compare Respondent's employment commitments to Respondent's achievement on each project.

10. Safety

Provide the Safety Program's Table of Contents and a copy of the Firm's NCCI current experience modification (EMR) rating worksheet. Complete the Safety Questionnaire included in this RFQ.

11. Quality

Describe the Respondent's approach to Quality Management, specifically to this Project. Provide the Table of Contents of one of the firm's recent Quality Control Programs. Respondent may elect to include a full copy of a sample Quality Control Program in Volume II of the response.

C. Volume II – Representations and Certifications – Required Content

1. Conflict of Interests

If applicable, Respondent must provide a statement and information regarding conflicts of interest required pursuant to Section I.G.

2. Respondent's Corporate History

Respondent must provide a chronological history of all mergers and/or acquisitions (if any) involving the Respondent and each legal entity comprising Respondent, including all present and former subsidiaries or divisions and any material restructuring activities, if applicable. Include any such forthcoming actions, if such disclosure has already been made generally available to the public and is permitted by law.

3. Legal Actions

Respondent, or each separate legal entity comprising Respondent, if applicable, must provide a listing and a brief description of all material legal actions, together with any fines and penalties, for the past five (5) years in which (a) Respondent any division, subsidiary or parent company of Respondent, or each separate legal entity comprising Respondent, or (b) any member or partner of Respondent, if Respondent is a business entity other than a corporation, has been:

- a) a debtor in bankruptcy;
- b) a defendant in a legal action for deficient performance under a contract, in violation of a statute or related to service reliability;
- c) a respondent in an administrative action for deficient performance on a project, in violation of a statute or related to service reliability;
- d) a defendant in any criminal action;
- e) a named insured of an insurance policy for which the insurer has paid a claim related to deficient performance under a contract, in violation of a statute or related to service reliability;
- f) a principal of a bond for which a surety has provided contract performance or compensation to an obligee of the bond due to deficient performance under a contract, in violation of a statute or related to service reliability; or

g) a defendant or respondent in a governmental inquiry or action regarding the accuracy of prepared financial statements or disclosure documents.

4. Financial Statements

Respondent, or each separate legal entity comprising Respondent, if applicable, must provide a copy of its most recent audited financial statements. The City reserves the right to accept or reject any financial documentation other than the audited financial statements.

5. Economic Disclosure Statement and Affidavit ("Disclosure Affidavit")

Respondent, or each separate legal entity comprising Respondent, if applicable, must submit an on-line completed and executed Disclosure Affidavit (see Section VIII of this RFQ). If the Respondent is a business entity other than a corporation, then each member or partner of the Respondent must complete an on-line Disclosure Affidavit. In addition, any entity that has an interest in the Respondent or in one or more of its members or partners and is required pursuant to the Municipal Purchasing Act for Cities of 500,000 or More Population (65 ILCS 5/8-10-8.5) ("Municipal Purchasing Act") or Chapter 2-154 of the Municipal Code of Chicago to provide a disclosure must submit a completed and executed Disclosure Affidavit (EDS) as an "entity holding an interest in an Applicant" as described in the Disclosure Affidavit. All affidavits must be notarized.

Subcontractors do not have to submit a Disclosure Affidavit at the time of submitting a Proposal but may be required to do so by the City at a later date.

6. DBE Documentation

Respondents must provide an original, fully executed Schedule D-1 indicating the DBE entities a Respondent proposes to include as part of its Proposal. The Schedule D-1 must indicate the participation percentage proposed for each DBE entity. The total dollar amount for each entity should be shown as Depends Upon Requirements ("DUR").

Each Schedule C-1 must include a copy of the current certification letter issued by IL UCP. Each DBE entity must be certified by the IL UCP at the time of Proposal Submission. The IL UCP's five participating agencies (IDOT, City of Chicago, Pace, CTA, Metra) maintain a Directory of DBE firms that can be viewed by the Respondents on <http://www.dot.state.il.us/ucp/ucp.html>.

Respondents must comply with the Special Conditions Regarding Disadvantaged Business Enterprise Commitment. Failure to comply with this requirement may result in disqualification from this RFQ process.

If the Respondent is joint venturing with a DBE firm then the Respondent must submit a fully executed Schedule B and a copy of the joint-venture agreement.

7. Insurance

Respondents are NOT required to submit evidence of insurance with the Proposal but must submit evidence of insurability indicating that if awarded an Agreement the Respondent will

provide evidence of insurance in the amounts specified in Exhibit E to the Agreement. Prior to award of an Agreement, the Respondent selected to perform the Services must submit evidence of insurance in the amounts specified and in the form provided in Exhibit E to the Agreement. If Respondent is a joint venture or limited liability company the evidence of insurability and evidence of insurance, if awarded an Agreement, must be in the name of the joint venture or limited liability company.

8. Sample Quality Control Program (Elective)

III. EVALUATION OF PROPOSALS

A. Evaluation Committee and Short-listing Process

An Evaluation Committee ("EC"), which may include representatives of the Chicago Department of Aviation, DPS, and other City departments, will review and evaluate the SOQs. The City reserves the right to enlist independent consultants to assist with the evaluation of all or any portion of the submittals, as it deems necessary. The EC will first assess the Respondent's compliance with and adherence to all Volume I and Volume II of the submittal requirements. Any incomplete submittal with missing key components necessary to fully evaluate the response may, at the discretion of the CPO, be rejected from further consideration due to "non-responsiveness" and rated Non-Responsive.

The EC will then evaluate the extent to which a Response meets the requirements set forth in the RFQ, including but not limited to a detailed analysis of Volumes I and II of the Response. The focus of the evaluations will be on the Respondent's approach and methodology, qualifications, experience, proposed implementation plan, and other factors based on the evaluation criteria outlined in this section. The EC may also review any other information that is available to it, including but not limited to information gained by checking references and by investigating the Respondent's financial condition.

The City reserves the right to seek clarification of any information that is submitted by any Respondent in any portion of its submittal or to request additional information at any time during the evaluation process. Any material misrepresentation made by a Respondent may void the Response and eliminate the Respondent from further consideration.

After the EC completes its review of Proposals, it may submit to the Commissioner of the Chicago Department of Aviation (the "Commissioner"): (1) a recommended short list of Respondents for further consideration; (2) a recommendation to select one or more Respondent(s) or (3) a recommendation to reject any or all Proposals.

If the EC submits a short list of Respondents for further review, then, in the sole discretion of the Commissioner, those short-listed Respondents may be required to provide additional information, be subject to a site visit and/or, be invited to appear before the EC for an oral interview, to clarify in more detail information submitted in a Proposal and/or to ask Respondent to respond to additional questions. The format of the oral interviews may require short-listed Respondents to respond to technical questions presented in advance of or at the time of the interview.

If the City elects to conduct oral interviews, the short-listed Respondents must be available to participate in these interviews including, at a minimum, the proposed Key Personnel. The proposed Key Personnel must be prepared to address the subjects and requirements for these Services.

The EC will then make a final evaluation and will submit a recommendation for one or more Respondents to the Commissioner. If the Commissioner concurs with the selection recommendation from the EC, the Commissioner will forward such concurrence and recommendation to the CPO for authorization to enter into contract negotiations with the selected Respondent(s).

The City will require the selected Respondent(s) to participate in contract negotiations, including but not limited to negotiations regarding compensation. The City's requirement that the selected Respondent negotiate is not a commitment by the City to award an Agreement, nor is such requirement an opportunity for Respondent to take exception or objection to any part of the Agreement, which it did not take exception or objection to as allowed in this RFQ. If the City determines that it is unable to reach an acceptable Agreement with a selected Respondent, including failure to agree on a fair and reasonable compensation for the Services or any other terms or conditions, the City may initiate negotiations with one or more Respondents and may terminate negotiations with such selected Respondent, and may commence negotiations with any of the other Respondent(s) until such time as the City has negotiated an Agreement or multiple Agreements meeting its needs.

B. Evaluation Criteria

The City will review the Respondent's Proposal using the following criteria (in no particular order of importance or evaluation weight):

1. Construction Management At-Risk Expertise and Experience
Quality of experience, resources and demonstrated expertise providing Construction Management At-Risk services as evidenced by the 3 projects offered as representative of their experience providing comparable Construction Management At-Risk services.
2. Project Approach and Methodology
Quality of Respondent's approach and methodology for providing pre-construction services, bidding and procurement services, and construction management services on the Project. Submittals that directly address the specific requirements of this project (as opposed to describing the Respondent's usual and customary approach to CM At-Risk services) will be favorably considered.

Substantial and meaningful participation of DBE firms as CM At-Risk joint venture partners and the utilization of DBE consultants during the pre-construction/professional services phase of the project will be judged favorably considering the overall quality of the participation provided for DBEs and suitability of the DBE firms and their personnel for the roles proposed.
3. Expertise and Experience of Key Staff
4. Experience with Similar Projects (Elevated Structures and Transit Systems)
Quality of Respondent's experience and management techniques in providing Construction Management and/or General Contracting services as evidenced by the three projects offered as representative of their expertise and experience.
5. Equal Employment Opportunity

- a) Respondent's unequivocal commitment to maximize the employment of minorities, women, Chicago and Community residents on the Project and to meet or exceed Respondent's commitments to employ minorities, women, Chicago and Community residents.
 - b) Respondent's verifiable past performance achieving minority/female/local resident employment on comparable projects.
 - c) The comprehensiveness of Respondent's plan to maximize minority/female/local resident employment on the Project.
6. Completeness and Comprehensiveness of Response to the Requirements of this RFQ
 7. Legal actions that might affect Respondent's ability to perform as contracted. See Section VII and Legal Actions – PS 1805 Form.
 8. Financial capacity to deliver the required Services
 9. Absence of any relationship that could constitute a conflict-of-interest or otherwise impede the ability of the Respondent to protect the interests of the City
 10. The level, relevance and quality of the proposed DBE utilization plan. In cases where multiple Respondents have demonstrated equivalent capabilities, resources and experience to provide the Services, preference may be given to Respondents who have established a joint venture or other team structure that affords DBE firms an equity position within the prime-contracting entity, and/or incorporates other capacity-building or innovative-utilization initiatives. The City will also consider DBE participation on Respondent's prior contracts with the City, if applicable. Specifically:
 - a) Respondent's unequivocal commitment to meet or exceed Respondent's DBE goal for the Project.
 - b) Respondent's verifiable past performance achieving substantial DBE participation on comparable projects.
 - c) The comprehensiveness of Respondent's plan to achieve maximum meaningful DBE participation on the Project.

Submittals must demonstrate Respondent's thorough understanding of the requirements for Trade Contractor pre-qualification and public bidding and must demonstrate Respondent's ability to manage a Trade Contractor procurement process that will ensure that the project goals for DBE participation are met or exceeded and that employment opportunities are maximized for minorities, women, City and community residents.

11. The Respondent's demonstrated ability to meet the compliance with Insurance requirements identified in Exhibit E to the Agreement
12. The Respondent's willingness to take no exceptions to the Agreement attached to this RFQ as an Part 2 – Sample Form of Agreement for Construction Management Services, inclusive of all Exhibits referenced thereto.
13. Outcome of oral interviews including technical analysis and presentation (if requested by the City)

IV. CONFIDENTIALITY AND PUBLIC INFORMATION

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

- A. Mark the title page as follows: "This submittal includes trade secrets or other proprietary Data that may not be disclosed outside the City and may not be duplicated, used or disclosed in whole or in part for any purpose other than to evaluate this Proposal. The City, for purposes of this provision, will include any consultants assisting in the evaluation of Proposal. If, however, an Agreement is awarded to this Respondent as a result of or in connection with the submission of this Data, the City has the right to duplicate, use or disclose the Data to the extent provided in the resulting Agreement. This restriction does not limit the City's right to use information contained in the Data if it is obtained from another source without restriction. The Data subject to this restriction are contained in sheets (insert page numbers or other identification)."
- B. Mark each sheet or Data to be restricted with the following legend:
"Use or disclosure of data contained on this sheet is subject to the restriction on the title page of this Proposal."
- C. Indiscriminate labeling of material as "Confidential" may be grounds for deeming a Proposal as non-responsive.
- D. All SOQs submitted to the City in response to this RFQ are subject to the Illinois Freedom of Information Act. The City will make the final determination as to whether the information 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 this information.
- E. 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 RFQ, and any information or documentation presented to City as part of the negotiation of an Agreement will be made publicly available through a Website hosted by the City. Data will only remain confidential if Respondent has marked the documents containing such data in the manner required by this Section IV.

V. ADDITIONAL DETAILS OF THE RFQ PROCESS

A. Addenda

If it becomes necessary to revise or expand upon any part of this RFQ, an addendum will be sent to all of the prospective Respondents listed on the "Specification Take-Out-Sheet" prior to the Proposal due date. Prospective Respondents are automatically included on the Specification Take-Out Sheet when they sign for a copy of the RFQ package in the Bid and Bond Room, request that the Bid and Bond Room personnel mail them a copy, or download the RFQ document per the instructions and requirements in Section I.D.3. Each addendum is incorporated as part of the RFQ documents, and receipt must be acknowledged by the prospective Respondents in the Cover Letter of their Proposals or as otherwise directed herein.

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

- A change of the Response due date;
- Clarifications to Respondents questions; and
- Terms and conditions the City anticipates will be included in the final signed contract.

B. City's Rights to Reject Proposal

The City is under no obligation to award an Agreement pursuant to this RFQ and, acting through the CPO, reserves the right to reject any and all Proposals. The City reserves the right to use any other procurement method available under applicable law to obtain the Services described herein.

C. No Liability for Costs

The City is not responsible for any costs or damages incurred by Respondents, its team member(s), subcontractors or other interested parties in connection with the RFQ process, including but not limited to costs associated with preparing the Proposal, and/or participation in any conferences, oral presentations or negotiations.

VI. SAFETY QUESTIONNAIRE

The City is committed to working with safe construction managers. To that end, the City has developed a safety questionnaire to aid in selection of construction managers with good safety records. As a part of the construction manager submittal process you must answer the questions below.

1. Does your organization have a safety program? Yes No

If yes, provide the following information:

Month and Year first implemented _____

Method of review of program _____

Whether regular work site safety meetings are held and how frequently _____

Copy of table of contents of safety/loss control manual (attach to Safety Questionnaire)

2. Have any OSHA or other citations been issued to your organization during the period of the last three (3) years for workplace safety law violation. Yes No

If yes, provide detailed information on separate page(s) for each occurrence regarding:

- a. The nature of the violation for which your organization was cited;
- b. Summary of your position of the matter; and
- c. Official resolution of violation.

3. Provide your organization's OSHA reportable incident rate: _____. If this is greater than 3.0, please attach your OSHA Form 300A Summaries for the last three years and a written explanation to the qualification questionnaire (attach as necessary).
4. Provide a copy of your organization's NCCI current experience modification (EMR) rating worksheet. If the rating is greater than 1.0 please attach the NCCI rating information for the last 3 years and a written explanation to the qualification questionnaire. As a follow up, you may be asked to provide your written safety plan.

VII. LEGAL ACTIONS

Please provide the information below. If the answer to any of the questions is "Yes", provide a brief description or explanation on a separate sheet.

Question	Yes	No
1. Has the firm or venture been issued a notice of default on any contract awarded in the last three years?		
2. Does the firm or venture have any judgments, claims (liquidated damages, or other), arbitration proceedings or suits pending or outstanding against the firm or venture or its officers? If yes, include the dollar amount of claims or judgments and the contract value of the contract on which the claim was filed. Attach explanation on separate page(s).		
3. Within the past three years, has the firm or venture been a party to any lawsuits or arbitration proceedings with regard to any contracts?		
4. Within the last three years, has any officer or principal of the firm or venture ever been an officer or principal of another organization that failed to complete any contract as a result of termination, litigation, arbitration or similar matter?		
5. Has any key person with the firm or venture or its predecessor ever been convicted of or charged with any state or federal crime (excluding traffic violations), including but not limited to, embezzlement, theft, forgery, bribery, falsification or destruction of records, receipt of stolen property, criminal anti-trust violations, bid rigging or bid-rotating?		
6. Has the firm or venture ever been temporarily or permanently debarred from a contract awarded by any federal, state, or local agency?		
7. Within the last three years, has the firm or venture been assessed penalties for any statutory or administrative violations, including MBE, WBE, DBE and/or EEO?		
8. Has the firm or venture ever failed to complete any work awarded to it?		

VIII. ECONOMIC DISCLOSURE STATEMENT (“EDS”) AND AFFIDAVIT AND APPENDIX A EDS ON-LINE INSTRUCTIONS

INSTRUCTIONS FOR COMPLETING ECONOMIC DISCLOSURE STATEMENT AND AFFIDAVIT (EDS) ON-LINE

The Respondent shall complete an online EDS prior to the Response due date. At the discretion of the CDA, a Respondent who does not file an electronic EDS prior to the Response due date, may be found non-responsive and its Response rejected.

If you are unable to complete the online EDS and print a Certificate of Filing prior to the Response due date, the City will accept a paper EDS provided written justification is provided explaining the Respondent's good faith efforts to complete it before the Response due date and the reasons why it could not be completed.

1.1. ONLINE EDS FILING REQUIRED PRIOR TO BID OPENING

The Respondent must complete an online EDS prior to the bid opening date.

A Respondent that does not file an electronic EDS prior to the Response due date will be found non-responsive and its Response will be rejected unless a paper EDS and written justification is submitted with the Response as explained in the above paragraph).

1.2. ONLINE EDS WEB LINK

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

1.3. ONLINE EDS NUMBER

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

EDS Number: _____

1.4. ONLINE EDS CERTIFICATION OF FILING

Upon completion of the online submission process, the Respondent will be able to print a hard copy Certificate of Filing. The Respondent should submit the signed Certificate of Filing with its bid. Please insert your Certification of Filing following this page.

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

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

1.5. PREPARATION CHECKLIST FOR REGISTRATION

To expedite and ease your registration process, we recommend that you collect the following information prior to registering for an Online EDS user account:

	1. Invitation number, if you were provided an invitation number.
	2. EDS document from previous years, if available.
	3. Email address to correspond with the Online EDS system.
	4. Company Information:
	a. Legal Name
	b. FEIN/SSN
	c. City of Chicago Vendor Number, if available.
	d. Address and phone number information that you would like to appear on your EDS documents.
	e. EDS Captain. Check for an EDS Captain in your company - this maybe the person that usually submits EDS for your company, or the first person that registers for your company.

1.6. PREPARATION CHECKLIST FOR EDS SUBMISSION

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

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

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

- _____
- _____
- a. List of controlling parties (if applicable).

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

- _____ 8. Contract related information (if applicable):

- _____ a. City of Chicago contract package
- _____ b. Cover page of City of Chicago bid/solicitation package
- _____ c. If EDS is related to a mod, then cover page of your current contract with the City.

- _____ 9. List of subcontractors and retained parties:

- _____ a. Name
- _____ b. Address
- _____ c. Fees – Estimated or paid

1.7. EDS FREQUENTLY ASKED QUESTIONS

Q: Where do I file?

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

Q: How do I get help?

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

Q: Why do I have to submit an EDS?

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

Q: Who is the Applicant?

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

Q: Who is the Disclosing Party?

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

Q: What is an entity or legal entity?

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

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

A: "Person" means a human being.

Q: Who must submit an EDS?

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

Applicants:	An Applicant must always file this EDS. If the Applicant is a legal entity, state the full name of that legal entity. If the Applicant is a person acting on his/her own behalf, state his/her name.
Entities holding an interest:	Whenever a legal entity has a beneficial interest (E. G. direct or indirect ownership) of more than 7.5% in the Applicant, each such legal entity must file an EDS on its own behalf.
Controlling entities:	Whenever a Disclosing Party is a general partnership, limited partnership, limited liability company, limited liability partnership or joint venture that has a general partner, managing member, manager or other entity that can control the day-to-day management of the Disclosing Party, that entity must also file an EDS on its own behalf. Each entity with a beneficial interest of more than 7.5% in the controlling entity must also file an EDS on its own behalf.

Q: What information is needed to submit an EDS?

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

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

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

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

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

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

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

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

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

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

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

Q: Who is the EDS Captain?

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

Q: Why do we need EDS Captains?

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

Q: Who is the EDS team?

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

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

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

Q: How do I complete an Online EDS?

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

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

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

Q: How do I attach documents?

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

Q: Who can complete an Economic Disclosure Statement online?

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

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

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

Q: Will my information be secure?

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

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

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

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

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

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

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

Q: Can I save a partially complete EDS?

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

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

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

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

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

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

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

KEY PROJECT INFORMATION SHEET

For each project submitted as representative of Respondent's Construction Management At-Risk Experience, provide the following information:

Project Name: _____
 Project Owner: _____
 Respondent's Key Staff: Project Executive: _____
 Project Manager: _____
 Constructability Manager: _____
 General Superintendent: _____
 Project Engineer: _____
 MEP Coordinator: _____
 Diversity Manager: _____
 Others: _____

Commencement of Services Dates for:	Month	Year
Pre-Construction		
Bidding/Procurement		
Construction		
Date Project GMP was established ("GMP Date"):		
Guaranteed Substantial Completion Date established at GMP Date:		
Project GMP Amount at GMP Date:	\$	
Actual Substantial Completion Date:	\$	
Reason for Variance (if any):	<i>(Explain in project description)</i>	
Final Contract Amount:	\$	
Reason for Variance (if any):	<i>(Explain in project description)</i>	

TRADE CONTRACTS AWARDED		
Contract	Trade Contractor Name	Trade Contractor Scope

Request for Qualifications (RFQ) to Provide
Construction Management At-Risk Services For
Joint-Use Consolidated Rental Car/Parking Facility
and ATS Extension Fixed Facilities

Chicago Department of Aviation

Specification No. 113722

PART 2
SAMPLE FORM OF AGREEMENT FOR CONSTRUCTION
MANAGEMENT SERVICES AND EXHIBITS TO THE AGREEMENT

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SAMPLE AGREEMENT FOR CONSTRUCTION MANAGEMENT SERVICES

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AGREEMENT FOR CONSTRUCTION MANAGEMENT SERVICES
(THIS IS ONLY A SAMPLE)

This agreement (the "Agreement") is entered into and made effective as of this ___ day of _____, 2013 (the "Effective Date"), by and between the City of Chicago, a municipal corporation organized and operating under the Constitution of the State of Illinois and having its principal office at 121 North LaSalle, Chicago, Illinois 60602 ("City"), and _____, a(n) _____ corporation, with offices at _____ ("Construction Manager").

RECITALS

WHEREAS, the City has undertaken the design and construction of the Joint-Use Consolidated Rental Car/Parking Facility and ATS Extension Fixed Facilities at Chicago O'Hare International Airport, Chicago, Illinois, 60666 (the "Project"); and

WHEREAS, the City requires certain professional construction management services (the "Services") described in this Agreement for the Project; and

WHEREAS, the City issued a Request for Qualifications dated _____ ("RFQ"), describing the Services required by the City and setting forth the terms and conditions for the performance of the Services; and

WHEREAS, Construction Manager responded to the RFQ and represented to the City that Construction Manager has the required knowledge, expertise, skill, experience and other resources necessary to provide the Services required by the Agreement for the Project; and

WHEREAS, the City, in reliance upon Construction Manager's representations, desires to retain Construction Manager under the terms and conditions set forth in this Agreement to provide the Services; and

WHEREAS, Construction Manager desires to be retained by the City to perform the Services;

NOW, THEREFORE, in exchange for good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged by the City and Construction Manager (collectively, the "Parties"), the Parties hereby agree as follows:

AGREEMENT

ARTICLE 1 – INCORPORATION OF RECITALS

The recitals set forth above are hereby incorporated in and made a part of this Agreement.

ARTICLE 2 – DEFINITIONS AND USAGE

Section 2.01 – Definitions. The following words or phrases have the meanings ascribed for the purposes of the Agreement:

- (a) Agreement. This Agreement for construction management services, including all attached exhibits, schedules, drawings, documents, and all those exhibits, schedules, documents and/or drawings incorporated by reference, all component parts and all amendments, modifications or revisions made in accordance with the terms hereof.

(b) Architect or Architect of Record (AOR). The person or entity retained by the City to provide design and engineering services for the Project. The Architect of Record for the Project is TransSystems Corporation (TSC).

(c) Authorized City Representative. One or more individuals designated, in writing, by the Commissioner of CDA to manage the Project on behalf of the City.

(d) Change Order. A Change Order is the document signed by the Construction Manager and a Subcontractor, or in circumstances explicitly set forth below, the Construction Manager alone, which authorizes either an adjustment in a Subcontract Price and/or Subcontract schedule, or a change in the Work that may not result in such an adjustment.

(e) City. The City of Chicago, a municipal corporation, acting by and through its Department of Aviation ("CDA"), the Commissioner of Aviation and Authorized City Representative.

(f) Construction Manager. The person or entity identified above that has been retained by the City to perform the Services required by this Agreement.

(g) Contract Documents. All of the documents necessary for the construction of the Project, including, but not limited to, technical specifications, drawings, addenda, bulletins and modifications, which are exhibits to or incorporated by reference within this Agreement.

(h) Day. Day means calendar day unless otherwise specifically defined.

(i) Deliverables. The documents, in any format (electronic or hard copy), that the Construction Manager is required to provide to the City under this Agreement, including, without limitation, estimates, budgets, reports, forms, recommendations, analyses and interpretations.

(j) Estimated Cost of Construction. The estimate of the cost for constructing the Project that is prepared by the Architect of Record, City or their consultants, validated by the Construction Manager and used by the City and the Construction Manager for purposes of establishing a GMP Budget Proposal.

(k) Facility Tenants. The City of Chicago intends to enter into a Concession Agreement with multiple Rental Car Companies, herein referenced as Facility Tenants. These Facility Tenants will conduct their operations out of the Project.

(l) Final Completion. Final Completion occurs on the date when the Construction Manager has performed all of its obligations under the Agreement, and the Services and Work have been accepted by the City. Final payment becomes due and payable on the date of Final Completion. The date of Final Completion will be confirmed by a Certificate of Final Completion executed by the City and Construction Manager.

(m) Guaranteed Maximum Price (GMP). The Guaranteed Maximum Price is the maximum amount payable to the Construction Manager for the performance of the Services under the terms and conditions of the Agreement. The Guaranteed Maximum Price includes any and all costs of the Services and the Work, and any and all fees due to Construction Manager for the performance of the Services.

(n) Key Personnel. The job titles and individuals identified on Exhibit G of this Agreement.

(o) Program Management Office. The person or entity retained by the City to provide project and program management services for the Project and act as the Authorized City Representative. The Program Manager is DMJM Aviation Partners, JV (DMJMAP).

(p) Project. The construction of Joint-Use Consolidated Rental Car/Parking Facility and ATS Extension Fixed Facilities at Chicago O'Hare International Airport, or a portion thereof

(q) Project Schedule. The Project Schedule shall include both the Pre-Construction Activities and the Construction Activities. The Project Schedule shall be submitted, reviewed and maintained as provided in Section 4.05 of this Agreement. The Schedule for Construction Activities shall be provided as specified in the Standard Terms and Conditions. References in this Agreement to the Project Schedule shall be deemed to refer to the Baseline Schedule or Target Schedule, as appropriate, as defined and modified from time to time in accordance with the Standard Terms and Conditions.

(r) Services. The Services include the duties, responsibilities and tasks that are necessary and appropriate to the provision of construction management services by the Construction Manager to the City under the terms and conditions of this Agreement.

(s) Subcontractors. Any person or entity hired or engaged by the Construction Manager pursuant to the terms of this Agreement to provide Services and/or Work required by this Agreement.

(t) Substantial Completion of the Work. Substantial Completion of the Work, or of a designated portion of the Work, occurs when the Work is sufficiently complete in accordance with the Contract Documents so that the City may occupy or utilize the Work, or the designated portion thereof, for the use for which it is intended. The issuance of a certificate of occupancy is not prerequisite for Substantial Completion if the certificate of occupancy cannot be obtained due to factors beyond Construction Manager's reasonable control. The date of Substantial Completion for all or any portion of the Work shall be confirmed by a Certificate of Substantial Completion executed by the City, Architect and Construction Manager.

(v) Work. Work includes, unless specifically excepted by the Contract Documents, the furnishing of all materials, labor, equipment, supplies, plant, tools, scaffolding, transportation, superintendence, permits, inspections, occupancy approvals, insurance, taxes, and all other services, facilities and expenses necessary for the full performance and completion of the requirements of the Contract Documents. Work also means that which is furnished, produced, constructed, or built pursuant to the Contract Documents.

Section 2.02 – Usage and Conventions

(a) Captions and Headings. The captions and headings of the various sections of the Agreement are used solely for reference purposes and do not construe, nor will they be deemed or used to construe, interpret, limit or extend the meaning or scope of any work, clause, paragraph or provision of the Agreement.

(b) The term "include," in all its forms, means "include, without limitation," unless expressly stated otherwise.

(c) Terms of one gender imply the other gender unless the context clearly indicates otherwise. Use of the singular includes the plural, and vice versa.

ARTICLE 3 – RELATIONSHIP OF THE PARTIES

Section 3.01 – City's Intent. The intent of the City in entering into this Agreement is to secure at-risk construction management services from Construction Manager. The Parties hereby acknowledge and agree that the Services are at-risk construction management services in that once the (i) Guaranteed Maximum Price has been negotiated and memorialized via an amendment according to the terms and conditions of this Agreement and (ii) the Notice to Proceed with Construction has been issued by the City to the Construction Manager pursuant to the terms of this Agreement, any risk or liability for any cost of the Services or the Work in excess of the Guaranteed Maximum Price shall be the responsibility of the Construction Manager unless and until the Guaranteed Maximum Price has been modified pursuant to the terms of the Agreement.

Section 3.02 – Relationship Throughout the Project. The City and Construction Manager agree to proceed with the Project on the basis of mutual trust, good faith and fair dealing.

Section 3.03 – Relationship During Pre-Construction Activities. Construction Manager acknowledges and agrees that with respect to any and all Services performed prior to the issuance of the Notice to Proceed with Construction ("Pre-Construction Services"), Construction Manager shall at all times be and perform as a fiduciary to the City. The Construction Manager accepts the relationship of trust and confidence established with the City through this Agreement, and will provide the City with Construction Manager's best skill and judgment in the performance of the Pre-Construction Services. Construction Manager shall cooperate with the City and the Architect in furthering the City's interests, and use Construction Manager's best efforts to perform the Pre-Construction Services in a thorough, diligent, expeditious and economical manner consistent with the interests of the City.

Section 3.03 – Relationship During Construction.

(a) The City and Construction Manager shall perform their obligations with integrity, ensuring, at a minimum, that (i) conflicts of interest shall be avoided or disclosed promptly to the other Party; and (ii) the Parties warrant that they have not and shall not pay nor receive any contingent fees or gratuities to or from the other Party, including their agents, officers and employees, subcontractors or others from whom they may be liable, to secure preferential treatment.

(b) Construction Manager shall use its best efforts to furnish construction administration and management services to perform the Work in an expeditious manner consistent with the Contract Documents. The City and Construction Manager will endeavor to promote harmony and cooperation among all participants in the Project.

(c) The Construction Manager is and shall remain an independent contractor in the performance of the Work, and neither the Construction Manager nor any of its agents or employees shall act on behalf of or in the name of the City, except as provided in this Agreement or as authorized, in writing, by the Authorized City Representative.

ARTICLE 4 – CONSTRUCTION MANAGER'S OBLIGATIONS

Section 4.01 – Scope of Work. The Construction Manager shall perform the services set forth in Exhibit A – Scope of Services, along with any and all tasks reasonably related to, necessary for and inferable from the services required by Exhibit A (collectively, the "Services"), all to the reasonable satisfaction of the City.

Section 4.02 – Standard of Care.

(a) Pre-Construction Services.

(1) During the preconstruction phase of the Project, the Construction Manager will advise, consult with and assist the City with respect to the design, engineering, contracting and administration of the Project ("Preconstruction Services"). The Preconstruction Services are more particularly set forth in Exhibit A, but in general include consulting with the City and the Architect regarding site use and improvements, materials, building systems and equipment, construction feasibility, actions that may minimize the adverse effects of labor and/or material shortages, time requirements for procurement, installation and construction, and issues associated with construction costs, including estimates of alternative designs and materials, preliminary budgets and possible economies.

(2) Construction Manager acknowledges the high degree of trust and confidence which the City places in Construction Manager as a fiduciary, and undertakes and accepts such fiduciary engagement for the performance of the Preconstruction Services subject to the terms and conditions of this Agreement. Construction Manager shall provide the Preconstruction Services with skill, diligence, best business judgment and expertise on behalf of, and in the best interests of, the City and the Project, and shall perform the Preconstruction Services at all times in compliance with the overall direction of the City. Construction Manager shall perform all Preconstruction Services as diligently and expeditiously as is consistent with a level of skill and care of others involved in providing similar services on similar projects, and the orderly progress of the design and preconstruction phases of the Project.

(b) Limitation on Construction Manager's Liability for Design. The Construction Manager will be required to review drawings and specifications prepared by the Architect (the "Design Documents"). The Construction Manager will review the Design Documents for clarity, consistency, constructability and coordination among the trades. The Construction Manager must report to the City and the Architect any and all errors and/or omissions, inconsistencies and ambiguities that Construction Manager discovers in the Design Documents. Regardless of any errors, omissions, inconsistencies or ambiguity in the Design Documents, the City will hold the Construction Manager responsible for such costs as would have been avoided if the Construction Manager had performed such obligations if (i) the Construction Manager recognized but failed to report such error and/or omission, inconsistency or ambiguity, or (ii) Construction Manager failed to recognize such error and/or omission, inconsistency or ambiguity due to its negligence or breach of the standards set forth in this Agreement for the performance of the Construction Manager's Services, including, but not limited to, Construction Manager's input with respect to the construction documents for the Project. Although the Construction Manager is not required to ascertain whether the Design Documents comply with all pertinent laws, statutes, ordinances, codes, rules or regulations, Construction Manager must report to the City and the Architect any instance of non-compliance in the Design Documents discovered by or made known in writing to the Construction Manager. The Construction Manager shall have no liability for any errors, omissions or instances of non-compliance in the Design Documents, unless Construction Manager knowingly failed to report an error, omission or instance of non-compliance.

(c) Effect of City Approvals. The City's approval of any of the Design Documents shall in no way serve to relieve Construction Manager of any of its obligations with respect to such Design Documents under this Agreement.

(d) Limitations of Construction Manager's Budget Review. Evaluations of the City's budget for the Project, the preliminary estimate of the Cost of the Work and updated estimates of the Cost of the Work prepared by the Construction Manager represent the Construction Manager's judgment as a construction management professional familiar with the construction industry. It is recognized, however, that neither the Construction Manager nor the City has control over the cost of labor, materials or equipment, over the

Subcontractors' methods of determining bid prices, or over competitive bidding, market or negotiating conditions.

(e) Procurement Services.

(1) Standard of Care. As set forth more completely in Exhibit A, the Construction Manager is responsible for the procurement of the trade subcontracts for the performance of Work on the Project. The standard of care for Preconstruction Services shall apply to the performance of any and all procurement Services under this Agreement, regardless of whether or not construction of any portion of the Work has commenced prior to the completion of the procurement of all trade subcontracts.

(2) Form of Subcontract. Construction Manager shall develop and submit a form subcontract for the trade subcontractors to the City for the City's review and approval. The City-approved form of subcontract is hereinafter referred to as the "Subcontract." Exhibit D sets forth certain terms and conditions for the Subcontract that Construction Manager shall cause to be included within each Subcontract let for the performance of Work on the Project.

(3) Procurement Process. The procurement of the Subcontracts must comply with the Municipal Purchasing Act for Cities of 500,000 or More Population, 65 ILCS 5/8-10-1 *et seq.* (the "Municipal Purchasing Act"), and Chapter 2-92 of the Municipal Code of Chicago ("Municipal Code"). The Construction Manager may pre-qualify all first-tier subcontractors under this Agreement. The pre-qualification criteria shall be developed by the Construction Manager and submitted in a timely manner for the review and approval of the City. Such pre-qualification criteria must address, *inter alia*, quality, performance, the time allotted for the performance of Work, capacity, and such other factors as the City and Construction Manager deem pertinent.

(4) Subcontract Execution. Construction Manager shall submit the subcontract form executed by the subcontractor.

(f) Construction Phase Services.

(1) Standard of Care. The City and Construction Manager acknowledge and agree that in the performance of the Services during the construction phase of the Project, the scope of Construction Manager's fiduciary duties to the City is more circumscribed. Specifically, Construction Manager is and will remain a fiduciary to the City with respect to any and all Project information provided to or reported by Construction Manager, including, without limitation, all information pertaining to the procurement of the Subcontracts. The Construction Manager will use its best efforts to furnish construction administration and management services in a timely and economical manner, consistent with a level of skill and care of other first class construction managers involved in providing similar services on projects of similar size, type complexity and location; and to ensure the orderly progress of the construction phase of the Project.

(2) Performance of Work by the Construction Manager. The Construction Manager may perform a portion of the Work only if (i) bidding produces no responsible, responsive bidder for that portion of the Work, the lowest responsive, responsible bidder will not execute a Subcontract for the bid portion of the Work, or the subcontractor defaults and a pre-qualified replacement cannot be obtained in a timely manner, and (ii) the City approves of the Construction Manager's performance of the Work. The Construction Manager must disclose the award of any Work to any person or entity that (i) is a parent, subsidiary, affiliate or other entity having common ownership or management with Construction

Manager, (ii) any stockholder in or management employee of the Construction Manager owns any interest in excess of ten percent (10%) in the aggregate, or (iii) has the right to control the business or affairs of the Construction Manager.

(g) Guarantees and Warranties.

(1) The Construction Manager guarantees all of the Work and each and every part thereof, including, by way of illustration and not limitation, all workmanship, materials, equipment, supplies, services, and facilities that are furnished, produced, fabricated, installed, constructed, or built pursuant to the Contract Documents for the respective periods of time called for by the respective requirements of the Contract Documents, and, if no period is specified, for a period of one (1) year, against defects which, in the opinion of the Architect or City, result from the use of defective or inferior materials, equipment, supplies, services, facilities or workmanship or from Work not in compliance with or not performed in accordance with the drawings or specifications. The Construction Manager will provide this guarantee to the City in writing using Exhibit H or such other form the Construction Manager may propose and the City may approve. The guarantee period will run from and after the date of Substantial Completion of the Work required by the Contract Documents, unless the Contract Documents specify a different date for the commencement of the running of the guarantee period. No part of the Work will be deemed by the City to be accepted until Substantial Completion of the Work, as evidenced by the execution of a Certificate of Substantial Completion.

(2) The Construction Manager agrees as part of this guarantee to repair or remove and replace as directed by the City and, at no additional cost to the City, all the Work, materials, equipment, supplies, services, and facilities which prove defective during the applicable guarantee period or which fail to conform to the Contract Documents; to repair, remove and replace, or pay for as directed by the City, at no additional cost to the City, all damaged portions of the Project and the contents and equipment thereof, resulting from or which are incidental to such defects or failure to conform to the Contract Documents. All repairs, removals and replacements must be commenced within ten (10) Days of written notice from the City, and sufficient labor and materials must be furnished to ensure prompt completion thereof. Should the Construction Manager fail to proceed in accordance with the above, the City, without further notice to the Construction Manager, may furnish all labor and material necessary for repairs, or removals and replacements, and the Construction Manager agrees to pay the City all such costs incurred.

(3) Manufacturer's Warranties. The Construction Manager will (i) ensure that all required manufacturers' warranties are assignable, and assigned, to the City, and (ii) submit all applicable manufacturers' warranties to the Authorized City Representative and ensure that all warranty forms have been completed in the City's name and registered with the appropriate manufacturers. Repairs and replacements made by the Construction Manager pursuant to this section will include a Manufacturer's Warranty, if standard with the Manufacturer, in addition to the Construction Manager's Warranty.

(h) Construction Manager's Failure to Meet the Standard of Care. If the Construction Manager fails to comply with its obligations under the standards of the Agreement, the Construction Manager must perform again at its own expense, all Services required to be re-performed as a direct or indirect result of that failure. In the event that any errors and omissions in the Design Documents are reproduced within the bid documents issued by the City and Construction Manager for the performance of Work, the City shall not be liable to Construction Manager for any costs or delays that may be caused by such errors and omissions if (i) Construction Manager recognized but failed to report such error or omission, or (ii) Construction Manager failed

to recognize such error or omission due to its negligence or breach of the standards set forth in this Agreement. Any review, approval, acceptance or payment for any of the Services by the City does not relieve the Construction Manager of its responsibility to render the Services and deliverables with the professional skill and care and technical accuracy required by the Agreement. This provision in no way limits the City's rights against the Construction Manager, whether under the Agreement, at law or equity.

(i) Notwithstanding anything contained herein, the City acknowledges that the Construction Manager is in no way providing professional design services which constitute the practice of architecture or engineering.

Section 4.03 – Guaranteed Maximum Price

(a) **Basis of Compensation.** The Construction Manager will be compensated for the performance of the Services on both a fixed fee and cost reimbursement basis up to a Guaranteed Maximum Price that will be established by agreement of the City and Construction Manager according to the terms set forth herein. There will be three components to the Guaranteed Maximum Price: (1) Construction Manager's fixed, lump sum fee for Preconstruction Services (the "Preconstruction Fee"), (2) the cost of the Work (hereinafter, "Cost of the Work") up to the Guaranteed Maximum Price for the Work on the Project site and (3) the Construction Manager's fee for construction phase Services (the "Construction Fee") which will consist of a fixed lump sum Construction Management Fee, and Construction Management Fixed General Conditions Reimbursement and Not-To Exceed General Conditions Reimbursement as further defined in Exhibit C – Compensation/Cost of the Work. The sum of these three components constitutes the Guaranteed Maximum Price for the Project (the "Project GMP").

(b) **Initial GMP.** The City has authorized the expenditure of up to \$_____ as the initial Guaranteed Maximum Price for the Project (the "Initial GMP"). The purpose of establishing this Initial GMP is to expedite the commencement of the Services, completion of design and the issuance of the first bid package(s) for the Work, e.g., the foundation and earth retention bid package(s), the structural concrete package and/or the mill order for the steel for the Project. The Construction Manager will have established its Preconstruction Fee and Construction Fee pursuant to the terms of Sections 4.03(c) and 4.03(e) below.

(c) **Preconstruction Fee.** The Preconstruction Fee shall be established as provided in Exhibit C. The Preconstruction Fee shall be Construction Manager's entire compensation for all Preconstruction Services, including, without limitation, all reviews of the Design Documents, all Procurement Services and any and all costs for labor, materials, communications, office supplies and whatever other resources may be necessary for the prompt completion of the Preconstruction Services; provided, however, that costs for the reproduction of bid documents shall be reimbursable costs and shall not be included within the Preconstruction Fee, but shall be paid as Not-To-Exceed Reimbursable costs pursuant to Exhibit C. The Preconstruction Fee shall be payable in equal installments over the term of Preconstruction Services, which schedule shall be agreed upon by the Parties and which shall be made a part of this Agreement.

(d) **Costs of the Work.**

(1) The Cost of the Work shall include those costs identified as Reimbursable Trade Contractor Costs in Exhibit C - Compensation/Cost of the Work attached hereto and incorporated by reference herein including Bonds and Insurance Costs, and the Construction Manager's Contingency. The Cost of the Work shall also include any cost not listed or otherwise addressed herein that is approved by the City via an Amendment to this Agreement.

(2) The Cost of the Work shall not include the following and Construction Manager may not to seek the costs of the following from the City:

- (a) Salaries and other compensation of Construction Manager's personnel, except as may be specifically provided in Exhibit C.
- (b) Expenses of the Construction Manager's principal office and offices.
- (c) Overhead and general expenses.
- (d) Construction Manager's capital expenses, including interest on Construction Manager's capital employed for the Work.
- (e) Rental costs of machinery and equipment other than machinery or equipment rented solely for the performance of the Services under this Agreement, or, subject to the approval of the City, portions of rental costs for machinery or equipment used for the performance of the Services and properly allocated to the Services under generally accepted accounting principles.
- (f) Costs due to the fault, negligence or breach of contract by the Construction Manager, Subcontractors or suppliers, or anyone directly or indirectly employed by any of them or for whose acts any of them may be liable, except as allowed by the Construction Manager's Contingency. Costs of repairs to the Work that are not due to the fault, negligence or breach of contract by the Construction Manager or Subcontractors may be a Cost of the Work, provided that reasonable notice of such costs are provided to the City, and that the City does not inform the Construction Manager, in writing, that such costs are, in the City's determination, due to the fault, negligence or breach of contract by Construction Manager or its Subcontractors.
- (g) Any cost not expressly identified as a Reimbursable Trade Contractor Cost in Schedule C or approved as a Cost of the Work by the City pursuant to Section 4.03(d)(1) above.
- (h) Costs, other than costs included in Change Orders approved by the City, that would cause the Project GMP to be exceeded.
- (i) Costs of computer services, including, without limitation, job site terminals, for purposes of field payroll preparation and control, and for scheduling, except as may be specifically provided in Exhibit C.

(e) Construction Fee. The Construction Fee shall be Construction Manager's entire compensation for the performance of the Construction Services, and shall include a fixed lump sum Construction Management Fee, and Fixed General Conditions Reimbursements and Not-To Exceed General Conditions Reimbursement as set forth in Exhibit C – Compensation/Cost of the Work. Construction Manager's proposed Construction Fee and components thereof, including line item budgets for Fixed and Not-To-Exceed General Conditions as set forth in Exhibit C shall be submitted to the City for review and approval and shall be made a part of the Agreement at the time of execution. The Construction Management Fee shall be payable in equal installments over the term established for the performance of the Construction Services. Fixed General Conditions shall be paid commensurate with the percentage completion of the Work. Reimbursable General Conditions shall be paid pursuant to the reimbursement procedures set forth in Exhibit C and the payment procedures provided in Article 5.

(f) Establishment of the Budget GMP, Cost of the Work and Project GMP.

(1) Budget GMP. Within _____ (__) days of receipt of the Notice of Award of this Agreement or by _____, _____, whichever comes later, Construction Manager shall furnish the City with its initial budget for the GMP for the Project (the "Budget GMP"), which Budget GMP shall be based on the _____ Issue of the Design Documents, but to which Construction Manager shall not be contractually bound. The Budget GMP is subject to the review and approval of the

City, must be satisfactory in form and substance to the City, and shall be adjusted from time to time in accordance with the progress of the Design Documents.

(2) Cost of the Work.

(a) Within thirty (30) days of the City's approval of the 100% Construction Document Issue of the Design Documents for the Work (the "100% Construction Documents"), or _____, whichever comes later, the Construction Manager shall submit its proposed Cost of the Work to the City for review and approval. The proposed Cost of the Work shall include a written statement of the basis of the proposed Cost of the Work, including (i) a list of the Design Documents, including all addenda thereto, and the conditions of the Subcontracts and bid packages which were used in the preparation of the Cost of the Work proposal, (ii) a list of allowances and a statement of their basis, (iii) a list of the clarifications and assumptions made by the Construction Manager in the preparation of the proposal, (iv) the proposed Cost of the Work, including a statement of the estimated costs organized by trade categories, allowances, contingency and other items and fees that comprise the Cost of the Work, and (v) the date of substantial completion of the Work upon which the proposed Cost of the Work is based.

(b) The Cost of the Work shall include a contingency established by the Construction Manager and the City in the Project GMP Amendment for the Construction Manager's use (the "Construction Manager's Contingency") to cover (i) costs incurred for delays on the Project for which the Construction Manager is not otherwise compensated, (ii) other costs which are properly reimbursable as Costs of the Work but are not the basis for a Change Order, and (iii) costs incurred to repair defective, damaged or non-conforming Work which are not otherwise payable as Costs of the Work pursuant to Section 4.03.d(2)(f). Any use of the Construction Manager contingency shall require contemporaneous written notice to the City Representative including a description and amount of the cost of the work to be covered by the Construction Manager's Contingency, the entities being paid and the reasons for use of the contingency. A summary of all such uses shall be provided on a monthly basis with each Payment Application that clearly indicates the amounts and use of any Construction Manager Contingency amounts.

(c) The City's approval of the proposed Cost of the Work will be memorialized in an Amendment to this Agreement issued in accordance with Section 8.04 hereof.

(3) Project GMP. The City's approval of the Cost of the Work will also establish the Project GMP, which shall be the total of the Preconstruction Fee, the Construction Fee, and the Cost of the Work (which includes the Construction Manager's Contingency, Bonds and Insurance and the Design Completion Allowance). The Amendment which memorializes the Cost of the Work shall also state the Project GMP for the Project.

Section 4.04 – Subcontracts and Subcontractors

(a) Procurement Plan. Within thirty (30) days of the Notice to Proceed with Pre-Construction Services, Construction Manager shall submit a Procurement Plan to the City for the City's review and approval. The proposed Procurement Plan must include: 1) Construction Manager's proposed breakdown of the Work into bid packages, with a clear statement of the scope of Work for each proposed bid package; 2) Construction Manager's proposed schedule for the issuance of the bid packages and receipt of bids, completion of the Preconstruction Services, the Architect's services, and the performance of the Work through substantial completion and final completion; 3) Construction Manager's plan with respect to the DBE goals for each trade bid package, as more fully set forth in Section 4.04(c) below; 4) Construction Manager's proposed terms and conditions for the Subcontracts; 5) Construction Manager's proposed process for the pre-qualification of contractors for the proposed bid packages; and 6) Construction Manager's proposed procedures for public bid

openings and otherwise complying with the procurement requirements of the Municipal Purchasing Act and Chapter 2-92 of the Municipal Code.

(b) Subcontracts. The terms and conditions of the Subcontracts that will be utilized by the Construction Manager in contracting for the performance of the Work required by this Agreement are subject to the review and approval of the City. The Subcontracts shall include the terms and conditions required by the City as set forth in Exhibit D, attached hereto and incorporated by reference herein. The Construction Manager shall not prequalify, and therefore shall not award Subcontracts to, any vendor that has been debarred by the City of Chicago, or has otherwise been deemed ineligible to contract with the City. The Construction Manager must, accordingly, ensure that the bid packages are advertised, followed by Subcontractors becoming prequalified in accordance with Section 4.02(e)(3) and then bid to the prequalified Subcontractors with the lowest responsive and responsible bidder for each bid package identified. The Construction Manager must provide the City notice of all Subcontractors retained prior to them beginning any work. The City will provide the form for such notice.

(c) DBE Compliance.

(1) Aspirational Goals for the Project. Unless otherwise expressly provided for in this Section 4.04(c), Construction Manager shall comply with Exhibit F - Special Conditions Regarding Disadvantaged Business Enterprise Commitments ("Special Conditions"). For example, in the event Construction Manager subcontracts with a DBE firm for the performance of a portion of the Preconstruction Services, Construction Manager shall complete and submit Schedule C(s) and D and report the participation by that subcontractor as required by the Special Conditions. The goals for DBE participation and this Project is 25%. For the purposes of this Agreement, the Contract Amount that the goals pertain to is the Project GMP.

(2) Aspirational Goals for Subcontracts. The City is relying upon Construction Manager's knowledge of the marketplace for construction in the greater Chicago area, and Construction Manager's knowledge of the capacity of certified DBE subcontractors within that marketplace. Construction Manager will establish aspirational goals for DBE participation on each Subcontract that are based upon the capacity for such participation that exists within the particular market for the scope of Work of the Subcontract in question, and that enable the Construction Manager to achieve its Project aspirational goals.

Section 4.05 – Time of Performance

(a) Commencement of the Services. The City of Chicago anticipates that the Construction Manager shall commence performance of the Preconstruction Services on or about _____, _____ as provided in the Notice to Proceed for Pre-Construction Services. Performance of the Construction Services, and the performance of any Work by any Subcontractor shall commence upon the date set forth in a Notice to Proceed on Construction Services or Bid Package issued by the City to the Construction Manager.

(b) Substantial Completion and Final Completion. Unless otherwise agreed upon by the Parties, the Date of Substantial Completion and the Date of Final Completion shall be established by the Amendment to this Agreement that also establishes the Cost of the Work and Project GMP, as required by Section 4.03(f)(2) above; provided, however, that the date of Substantial Completion shall be no later than _____, 2016 in accordance with the attached Exhibit _____ – Project Summary Schedule. All punch list Work must be completed by _____ to allow for a _____ Facility Opening Date. The Date of Final Completion shall be no later than 90 days after the Date of Substantial Completion. All commissioning requirements shall be met prior to Substantial Completion in

accordance with the Standard Terms and Conditions. Construction Manager acknowledges that the City may allow the development of tenant improvements in advance of the full commissioning of the facility(ies).

(c) Schedule of the Work. Construction Manager shall submit its initial proposed Schedule of the Work with its proposed Budget GMP. The proposed initial Schedule of the Work shall become the Project Schedule upon approval by the City. Construction Manager may propose revisions to the Project Schedule with the submittal of updates to the proposed Cost of the Work as provided in Exhibit A. The City will provide Construction Manager with written notice of its approval or rejection of any such proposed revisions, and Construction Manager shall then promptly submit the Project Schedule including any such approved revisions.

(d) Delays. If the Construction Manager is delayed at any time in the commencement or progress of the Work by any cause beyond the reasonable control of Construction Manager, the Construction Manager will be entitled to an equitable extension of the Date of Substantial Completion as provided in Article 7 of the Standard Terms and Conditions and an equitable adjustment of the Project GMP as provided in Article 10 of the Standard Terms and Conditions, subject to the limitations of Article 7 of the Standard Terms and Conditions. Examples of causes beyond the reasonable control of the Construction Manager include, but are not limited to: changes in the Work or the sequencing of the Work ordered by the City; labor disputes not involving the Construction Manager; fire; encountering Hazardous Materials; adverse weather conditions; concealed or unknown conditions; delay authorized by the City pending dispute resolution or suspension by the City pursuant to Section 5.03 hereof; acts of government, including delays in building permit review and issuance; and those events defined as Force Majeure in Section 7.06 of this Agreement and Article 7 of the Standard Terms and Conditions. The Construction Manager shall submit any requests for equitable extensions of the Project Schedule in accordance with the provisions of Article 10 of the Standard Terms and Conditions and shall submit requests for equitable adjustments to the Project GMP in accordance with the CPCO requirements of Section 10.03 of the Standard Terms and Conditions. Construction Manager shall provide the City prompt written notice of any delay after Construction Manager first recognizes such delay.

(e) Monitoring Progress and Costs. Construction Manager shall furnish monthly reports to the City showing the progress of the Work and Cost of the Work. The format, including the information to be included, of any and all such reports is subject to the review and approval of the City. At a minimum, such reports shall show variances between actual costs and the GMP, actual progress as compared to the Project Schedule, and include estimates of future costs and recovery programs if actual progress indicates that the Dates of Substantial Completion or Final Completion may not be met, all in accordance with Article 7 of the Standard Terms and Conditions.

(f) Submittals. Construction Manager shall comply with the requirements of Article 9 of the Standard Terms and Conditions. Construction Manager shall submit all required project documentation through the City's web based document controls system – Project Talk (“PT”). Construction Manager shall familiarize itself with the business processes and document control protocols administered through PT and avail itself of all necessary training provided by the City to administer the project fully through PT.

(g) Damages at Substantial Completion. The Construction Manager understands that if the Date of Substantial Completion established pursuant to this Agreement is not attained, the City will suffer damages. The Construction Manager agrees that if the Date of Substantial Completion is not attained, the Construction Manager shall pay the City all damages sustained for any and all extra costs, losses, expenses, claims, penalties and all other damages of whatsoever nature incurred by the City which are occasioned by any delay in achieving the Date of Substantial Completion. These damages may include but are not limited to claims made by the rental car companies, loss of rents, and loss of concession revenues.

Section 4.06 – Changes to the Work

(a) Change Orders. Change Orders pertain solely to changes in the Work, and any changes made to Subcontracts in accordance with those changes to the Work. All Change Orders are subject to the review and approval of the City. In the event that a Change Order requires any modification to the Project Schedule, or to the Cost of the Work or Construction Fee, and thereby to the Project GMP, such modification shall be accomplished through an Amendment to this Agreement pursuant to Section 8.04 hereof, the cost of which Amendment shall include costs for Bonds and Insurance at the rates agreed upon in Exhibit E or specified in this Agreement. The Construction Manager shall develop and implement policies and procedures with respect to the issuance of Change Orders to Subcontractors, which policies and procedures shall be subject to the review and approval of the City.

(b) Field Orders. The City may issue a written Field Order in the Work prior to reaching agreement with the Construction Manager regarding any adjustment to the Cost of the Work, Project Schedule, or Project GMP (or any component thereof). The Construction Manager shall negotiate expeditiously and in good faith with the Subcontractor that is to perform the Field Order for any adjustments to the Subcontract price or Subcontract schedule. Construction Manager shall proceed with the work pursuant to Article 10 of the Standard Terms and Conditions.

(c) Claims. Construction Manager shall develop and implement policies and procedures for the resolution of claims made by Subcontractors, and such policies and procedures are subject to the review and approval of the City. Construction Manager shall provide prompt notice to the City of any claim upon the Construction Manager's first recognition of the conditions giving rise to the claim, and maintain a log of such claims which shall be reported monthly to the City. The City expects and requires the Construction Manager to address claims promptly, diligently and fairly, acting at all times within the best interests of the Project. In the event that the disposition of a claim requires an adjustment to the Project Schedule or Project GMP (or any component thereof), Construction Manager and the City shall, promptly and in good faith, negotiate and execute an Amendment to this Agreement and, if necessary, a Change Order pursuant to Article 10 of the Standard Terms and Conditions.

Section 4.07 – Construction Manager's Personnel

(a) Key Personnel. Construction Manager must not reassign or replace Key Personnel without the written approval of the City. The City may at any time in writing notify Construction Manager that the City will no longer accept performance of Services under this Agreement by one or more Key Personnel listed in the Agreement in Exhibit G. Upon receipt of that notice Construction Manager must immediately suspend the Key Person or Key Persons from performing Services under this Agreement and must replace him or them with a person or persons with comparable professional credentials and experience. Such replacements are subject to approval by the City.

(b) Adequate Staffing. Construction Manager must, upon receiving a fully executed copy of this Agreement, assign and maintain for the duration of the Agreement, an adequate staff of competent personnel that is fully equipped, licensed as appropriate, available as needed, qualified and assigned exclusively to perform the Services. The Construction Manager must include among its staff the Key Personnel and positions as identified in the Agreement and specified in Exhibit G. The level of staffing may be revised from time to time by notice in writing from Construction Manager to the City.

(c) Nondiscrimination. In performing this Agreement the Construction Manager will not discriminate against any worker, employee, applicant for employment, or any member of the public, because of

race, color, creed, national origin, gender, age, or disability, or otherwise commit an unfair labor practice. Construction Manager certifies that he/she is familiar with, and will comply with, all applicable provisions of the Civil Rights Act of 1964, 28 U.S.C. § 1447, 42 U.S.C. §§ 1971, 1975a-1975d, 2000a to 2000h-6 (1992); the Age Discrimination in Employment Act of 1967, 29 U.S.C. §§ 623-634 (1992); the Americans with Disabilities Act of 1990, 29 U.S.C. § 706, 42 U.S.C. §§ 12101-12213, 47 U.S.C. §§ 152, 221, 225, 611 (1992); 41 C.F.R. § 60 (1992); 41 C.F.R. § 60 (1992); 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); P.L. 101-336; 41 C.F.R. part 60 *et seq.* (1990); 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; the Environmental Barriers Act., 410 ILCS 25/1 *et seq.*; and the Chicago Human Rights Ordinance, Chapter 2-160, Section 2-160-010 *et seq.*, of the Municipal Code (1990), as amended. Construction Manager will further furnish such reports and information as may be requested by the City, the Illinois Department of Human Relations, or any other administrative or governmental entity overseeing the enforcement, or administration of, or compliance with, the above mentioned laws and regulations.

(d) Employment Procedures; Preferences and Compliance. Salaries of employees of the Construction Manager performing Services under this Agreement will be paid unconditionally, and not less often than once a month, without deduction or rebate on any account except such payroll deductions as are mandatory or permitted by applicable law or regulations. Construction Manager certifies that he/she is familiar with, and will comply with, all applicable provisions of 820 ILCS 130/0.01 through 130/12 (Prevailing Wage Act), 30 ILCS 570/1 through 570/7 (Employment of Illinois Workers on Public Works Act) and 30 ILCS 560/0.01 through 560/7 (Public Works Preference Act). Construction Manager will also comply with all applicable "Anti-Kickback" laws and regulations, including the "Anti-Kickback" Act of 1986, 41 U.S.C. §§ 51-58 (1992); 18 U.S.C. § 874 (1992); 40 U.S.C. § 276c (1986) and the Illinois Criminal Code of 1961 720 ILCS 5/33E-1 *et seq.* If, in the performance of this Agreement, any direct or indirect "kick-back" is made, as defined in any of the above mentioned laws and regulations, the City may withhold from the Construction Manager, out of payments due to the Construction Manager, an amount sufficient to pay any underpaid employees the difference between the salaries required to be paid under the law and this Agreement and the salaries actually paid such employees for the total number of hours worked. The amounts withheld may be disbursed by the City for and on account of the Construction Manager to the respective employees to whom they are due, as determined by the City in its sole discretion.

Section 4.08 – Records

Construction Manager must maintain accurate and complete records of any and all costs by the Construction Manager, its consultants and Subcontractors in connection with the Project, the Services and the Work. Such records will be maintained in accordance with recognized commercial accounting practices. The City may examine such records at the Construction Manager's offices or field office upon reasonable notice during normal business hours. Construction Manager must retain all such records in accordance with the requirements of the Local Records Act, 50 ILCS 205/1 *et seq.*, but in no event for any period of less than five (5) years from the Date of Final Completion.

Section 4.09 – Indemnification of the City

(a) Indemnification. The Construction Manager hereby agrees to indemnify, defend, keep and save harmless the City and its officers, officials and employees, from and against all claims, demands, suits, losses, costs and expenses, including the fees and expenses of attorneys, (including court costs and expert's fees) that may arise out of or be based on any injury to persons or property that is, or is claimed to be, the result of the Construction Manager's negligent performance or non-performance of the agreement or of any error or

omission or negligent or willfully wrongful act of the Construction Manager, or any person employed by the Construction Manager, or any Subcontractor or consultant retained by the Construction Manager in connection with this Project. With regard to any Subcontractor default based on Subcontractors failure to indemnify the Indemnitees pursuant to the indemnification provisions of the Subcontract Agreement, the Construction Manager shall have the same opportunity to cure said default as provided in Section 6.02 hereof prior to the City's enforcement of Subcontractor's indemnity against Construction Manager, to the extent allowed by law.

(b) No Personal Liability of Public Officials or Employees. No official, employee or agent of the City shall be charged personally by the Construction Manager, or by any Subcontractor or assignee of the Construction Manager, with any liability or expenses of defense, or be held personally liable to them under any term or provision of this Agreement, or because of the City's execution or attempted execution of the Agreement, or because of any breach of the Agreement.

(c) No Limitation of Liability. To the extent permissible by law, Construction Manager waives any limits to the amount of its obligations to indemnify, defend or contribute to any sums due pursuant to Construction Manager's obligations under this Section 4.09, including, but not limited to, any claim by any employee of Construction Manager that may be subject to the Workers' Compensation Act, 820 ILCS 305/1 et seq., or any other law or judicial decision (such as *Kotecki v. Cyclops Welding Corporation*, 146 Ill. 2d 155 (1991)). The City, however, does not waive any limitations it may have on its liability under the Illinois Workers' Compensation Act, the Illinois Local Government and Governmental Employees Tort Immunity Act, the Illinois Pension Code, or any other statute.

Section 4.10 – Insurance Maintained by Construction Manager

The Construction Manager will purchase and maintain at all times during the performance of Services, for the benefit of the City and the Construction Manager, insurance coverage which will insure the City and the Construction Manager against claims and liabilities which could arise out of the performance of such Services, including the insurance coverage set forth in Exhibit E to this Agreement.

Section 4.11 – Payment and Performance Bond

(a) Within five (5) days of the City's execution of this Agreement, Construction Manager shall furnish to the City a payment and performance bond (the "Bond") in substantially the same form as specimen form of bond furnished in Exhibit E to this Agreement. The Bond shall be issued by a surety that is (i) admitted in the State of Illinois and (ii) is approved by the City. The penal sum of the Bond shall be 30% of the Budget GMP or the full amount of the Initial GMP (as specified in Paragraph 4.03(b)). A Bond in the penal sum of 100% of the Project GMP shall be furnished to the City with the Amendment fixing the Project GMP that has been executed by the Construction Manager. Any increase in the Project GMP that exceeds 10% in the aggregate shall require a rider to the Bond increasing penal sums accordingly. The Construction Manager shall keep its surety advised of any changes that may impact the Project GMP and/or Project Schedule. Construction Manager shall require that its surety waives any requirement to be notified of any alteration or extension of time within the scope of the original Agreement.

Any amendment or change order increasing or decreasing the Project GMP shall include and Construction Manager shall be reimbursed for additional cost to be incurred for the Bond or the City shall be credited for the reduction in costs for the Bond.

Section 4.12 – Representation and Covenant by Construction Manager

Neither the Construction Manager nor any affiliate of the Construction Manager is listed on any of the following lists maintained by the Office 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 law, rule, regulation, order or judgment: the Specially Designated Nationals List, the Denied Persons List, the Unverified List, the Entity List and the Debarred List. For purposes of this subparagraph only, the term "affiliate," when used to indicate a relationship with a specified person or entity, 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.

ARTICLE 5 – RIGHTS AND OBLIGATIONS OF THE CITY

Section 5.01 – Payment for Services

(a) **Payment Applications.** The City will promptly pay the Construction Manager for Services performed in accordance with the terms and conditions of this Agreement. It is the duty of the Construction Manager to effectively manage the payment application process and all related paperwork. The Construction Manager is responsible to the City for securing and delivering all paperwork required by the Agreement to be submitted with payment applications, including Subcontractor, consultant and material supplier lien waivers, certified payrolls, and all other required documents as further specified in the Standard Terms and Conditions. Repeated failure of the Construction Manager to promptly submit its payment applications to the City, in proper and complete form, will constitute a material breach of this Agreement, and constitute cause for termination. No payment application will include payment for Work for which the Construction Manager has not been billed by the applicable Subcontractor, material supplier, service provider or consultant. Construction Manager will submit payment applications in such a manner so as not to delay payment to any Subcontractor, material supplier, consultant or service provider whose billing and lien waiver paperwork is complete. All required certified payrolls, trailing lien waivers, and other required paperwork must be submitted with the payment application. Construction Manager's payment application will not include any request for payment for work of any Subcontractor, material supplier, consultant, or service provider whose certified payrolls, trailing lien waivers, or other payment paperwork is incomplete at the time the payment application is submitted.

(b) **Schedule of Values.** No later than fifteen (15) Days after the Notice to Proceed for the Project GMP, the Construction Manager will submit to the Authorized City Representative a Schedule of Values, showing values of the Work to be performed by trade contractors, which values shall be modified as Subcontract awards are made, and agreed upon Construction Fee containing such supporting details or other evidence as to its correctness as the Architect and Authorized City Representative may require. The Schedule of Values will list the value for each construction activity broken down by materials and labor to be included in the progress schedule. When approved by the Authorized City Representative, the Schedule of Values will be used as a basis for certificates of payment unless it is found to be in error.

(c) **Invoice Target Date.** The City will assign an invoice target date to the Construction Manager. Not later than ten (10) Days prior to the invoice target date, the Construction Manager will submit to the Authorized City Representative a pencil copy of the application for payment for Work completed through the end of the current month and the monthly progress report required by Article 7 of the Standard Terms and Conditions. Not later than five (5) Days prior to the invoice target date, the pencil copy will be reviewed for approval of value of the Work completed at the payment review meeting with the Architect and Authorized City Representative. Calculation of the value of Work completed will be made by summarizing the individual values of Work completed as such completion is reported in the monthly progress report reviewed by the Architect for the approval of the City. Submission of the monthly progress report five (5) Days prior to the payment review

meeting will be a condition precedent to the approval of the payment application. The pencil copy of the Payment Application will project completion of Work through the end of the current month.

(d) Sworn Statement. On the invoice target date of each month, the Construction Manager will submit to the Authorized City Representative, in triplicate, an application for partial payment including a notarized affidavit stating that all monetary obligations to all Subcontractors for the periods covered by all prior applications for payment for which payment has been made by the City, if any, have been completely fulfilled and discharged. The affidavit must be supported by receipts or receipted vouchers, and lien waivers, evidencing payments for such materials, services, labor, and payments to Subcontractors, together with a waiver of lien covering the amount for which the current payment is being requested and such other evidence of the Contractor's right to payment as the City Representative may direct. Construction Manager shall submit form of waiver of lien for partial or progress payment to the City for approval. The application for partial payment will conform to approvals made by the City Representative at the payment review meeting.

(e) Certified Payrolls. Three copies of certified payrolls for the payment period are to be submitted by the Construction Manager and all Subcontractors working on the Site to the City or its designated representative every week. The City may elect to utilize a Web-based method for electronic submittal of certified payrolls. In the event that the City elects to utilize electronic submittal, Construction Manager shall follow the directions provided by the City, and submit its certified payrolls electronically, as a replacement for the three hard copy submittals. All payrolls must be identified with Construction Manager or Subcontractor's name and Agreement name and number, and must be sequentially numbered. The payroll will be submitted by the Construction Manager and Subcontractor until all Work by the Construction Manager or Subcontractor is completed. If there are periods of no Work by Construction Manager or a Subcontractor, a payroll labeled "NO WORK" will be submitted. The final payroll will be labeled "FINAL." Certified payrolls are required to assure EEO compliance as well as wage compliance. Race, worker classification, and gender must be clearly marked for each employee on the certified payroll along with all additional information required by the City. An employee's address should appear every time his/her name appears on the payroll. The Construction Manager must submit the certified payrolls and additional information regarding EEO and wage compliance by providing a Payroll Summary Report in the form required by the City. The EEO report form required by the City and the U.S. Department of Labor must be submitted by Construction Manager and each Subcontractor, reflecting fully the periods of Work covered by the partial payment request.

(f) Payments for Materials Stored On-Site and Off-Site

(1) On-Site Materials. Payments for on-Site stored material will be made only if the City specifically approves, at its sole discretion, such payments. If payments are to be made on account of materials and equipment not incorporated in the Work but delivered and suitably stored at the Site, such payments will be conditioned upon submission by the Construction Manager of bills of sale, waivers of lien, and other such documents and compliance with other such procedures as the City requires to establish its title to such materials or equipment or otherwise protect its interest, including applicable insurance and transportation to the Site. Payment of stored material on the project site will be one hundred percent (100%) of a valid invoice less applicable retainage (as described in Section 5.01(j)) when the Construction Manager has provided the following documents:

- (i) A paid invoice from the supplier showing the unit, quantity, description of the material or equipment and costs.
- (ii) A waiver of lien from the supplier for the total amount of the material purchased.
- (iii) Inspection tickets for all the material stored.

(2) Payment for Material Stored off-Site. Payment for material stored off-site, if authorized or when approved in writing by the Commissioner and Authorized City Representative, will be one hundred percent (100%) of a valid invoice less applicable retainage (as described in Section 5.01(j)) when the Construction Manager has provided documents and complied with the requirements listed below:

- (i) A paid invoice from the supplier showing the unit, quantity, description of the material or equipment and costs.
- (ii) A waiver of lien from the supplier for the total amount of the material purchased.
- (iii) Inspection tickets for all the material stored.

(3) The Construction Manager must furnish the City Representative with a certified statement giving the exact location of the materials or equipment, and stating that:

- (i) Such materials are suitably stored and maintained at a bonded, secure and environmentally appropriate location agreed upon and subject to such conditions required or established by the City.
- (ii) The Construction Manager has complied with procedures satisfactory to the Commissioner to establish the City's title to such materials or otherwise protect the City's interest therein, including but not limited to, insurance, storage and transportation to the Project Site for such materials stored off-site, as the Commissioner or Authorized City Representative may reasonably require.
- (iii) The materials, equipment, and associated fabricated components will not be diverted away from the Project.

(4) The risk of loss will remain with the Construction Manager. The Construction Manager must provide the Authorized City Representative with a certificate of insurance coverage for the stored material upon which payment is requested. Simultaneously with payment for such material, the Construction Manager must prepare and execute any and all documents required transfer title to the City, including without any limitation, any Uniform Commercial Code Documentation necessary to perfect transfer of title. All material and Work covered by payments made will thereupon become the sole property of the City. The Construction Manager must pay the City's reasonable costs for consultants or attorneys relating to administration of the payment for material stored off site, to verify and review required filings and documents, inspect materials, and travel. Travel costs are to be paid based upon the current City Travel Guidelines.

(g) Documentation Supporting Monthly Payment Applications

(1) For the first Payment Application, the Construction Manager must provide its own Sworn Statement and its own partial lien waivers in support of the Payment Application.

(2) For the second Payment Application, the Construction Manager must provide: its own Sworn Statement, its own partial lien waivers for the current Payment Application and partial lien waivers from all of its first tier Subcontractors for the prior Payment Application.

(3) For the third Payment Application, the Construction Manager must provide: its own Sworn Statement, its own partial lien waivers for the current month, its First Tier Subcontractors partial lien waivers for the previous month, and partial lien waivers of the second tier Subcontractors for the first Payment Application.

(4) For the fourth and all subsequent Payment Applications, the Construction Manager must provide the corresponding supporting documentation as indicated in 5.01(g)(3) above. For the final Payment Application all lien waivers of the Construction Manager, its first tier Subcontractors, and all Second Tier Subcontractors must be “final” waivers.

(5) Prior to final payment and Final Completion and Acceptance of the Work, the Construction Manager must comply with the requirements of Section 5.01(i), below. Unless a written extension is granted by the City, the Construction Manager must submit the final payment application and waivers consistent with Section 4.05(b). The Construction Manager’s failure to do so within the required time period is an event of default.

(h) Deductions for Uncorrected Work. The City reserves the right to, in its sole discretion, deduct the cost of damaged or non-conforming Work from the Project GMP rather than require Construction Manager to repair or replace such damaged or non-conforming Work, but only in the event Construction Manager has failed to correct the non-conforming Work after receiving reasonable notice from the City that the City will correct the non-conforming Work, and Construction Manager has failed to commence correcting such non-conforming Work promptly upon receipt of such notice from the City.

(i) Certificates for Payment. If the Construction Manager has complied with the requirements of Section 5.01(a), “Payment Applications,” the Authorized City Representative will issue to the Construction Manager a certificate for such amount as the Authorized City Representative determines to be properly due as agreed upon during the payment review meeting during the preceding payment period. The amount of each partial payment will be the total sum of completed Work (including bonds, insurance and fees) less prior partial payments, retainage, and payments withheld in accordance with the provisions of Section 5.01(k) “Payments Withheld.” No certificate issued for payment, nor payment to the Construction Manager, nor partial or entire use of the Work, nor occupancy of the Site by the City will be an acceptance of any Work or materials not in accordance with the Contract Documents. Any certificates for payment are for the benefit of the City and will not be relied upon by any other party (including any surety or Subcontractor of the Construction Manager) in any action against the City, the Architect, or anyone acting on behalf of either of them.

(j) Retainage. The City will retain ten percent (10%) from the invoice sums approved and due to the Construction Manager up to a total of fifty percent (50%) of the Project GMP, including approved Change Orders. The amount so retained (“Retainage”) will be released to the Construction Manager in accordance with section 5.01(k) below. The Commissioner, at the Commissioner’s sole discretion, may increase the amount of the Retainage withheld if the Commissioner considers the Construction Manager’s performance or the progress of the Work to be such that the City will likely incur damages, including but not limited to liquidated damages, in excess of the amount of Retainage. The Construction Manager must not withhold retainage from its Subcontractors in excess of the percentage Retainage withheld by the City from payments to the Construction Manager, and must release Retainage to the Subcontractors under Section 5.01(l) or the prompt payment to Subcontractors required by Section 5.01(m).

(k) Payments Withheld. No payment shall be made to the Construction Manager until certificates of insurance, the Bond, or other evidence of compliance by the Construction Manager with all the requirements of the Agreement for insurance and bonds have been provided to the City. Further, no payments on the basis of Work performed by a Subcontractor shall be paid until copies of all bonds required and any certificates of insurance required of the Subcontractors by the Agreement have been filed with the City. The Authorized City Representative may decline processing a Payment Application if,

in the Commissioner's opinion, the Payment Application is not adequately supported. If the Construction Manager and Authorized City Representative cannot agree on a revised amount, the Authorized City Representative will process the Payment Application in the amount the Commissioner deems appropriate. The Authorized City Representative may decline to process any Payment Application or may rescind in whole or in part any approval previously made to such extent as may be necessary in his/her opinion because of any failure of the Construction Manager to perform any obligation under the Agreement, including but not limited to:

- (1) The Construction Manager's failure or refusal to provide the Authorized City Representative the required Project Schedule for the Work or monthly schedule updates and obtain the Authorized City Representative's approval for either as required by the Agreement.
- (2) The Construction Manager's failure to remedy defective Work following written notice from the City.
- (3) The Construction Manager's failure to make payments due to Subcontractors, employees, or material suppliers or for labor, materials or equipment, or provide partial lien waivers with Payment Applications.
- (4) The Construction Manager's persistent failure to maintain progress of the Work in accordance with the Project Schedule, or failure to carry out the Work in accordance with the Agreement as determined by the City.
- (5) The Construction Manager's refusal to follow City, state, federal, or Contract safety and security requirements.
- (6) The Construction Manager's failure to provide a plan to meet the requirements of the Chicago Residency Ordinance.

The City's rights under this Section 5.01(j) are cumulative to any other rights provided under the Agreement.

(l) Release of Retainage.

(1) At 75% Completion of the Project. When the Authorized City Representative determines that the Construction Manager has satisfactorily completed 75% of the Project, based upon invoice sums approved and due the Construction Manager, Retainage may be reduced to an amount equal to three percent (3%) of the Project GMP, including any approved Change Orders and Amendments.

(2) At Project Substantial Completion. When the Project is Substantially Completed, the Construction Manager must notify the Authorized City Representative, in writing, that the Project will be ready for inspection and/or testing on a definite date. Such notice must be given at least seven (7) calendar days in advance of said date. If the Authorized City Representative concurs that the Project will be ready for inspection and/or testing on the date given, the Commissioner and other parties will make such inspection as is convenient for all parties, but within a reasonable period of time. The scheduling of the inspection to determine whether the Project is Substantially Complete shall not relieve the Construction Manager of its responsibilities under the Agreement. The Construction Manager is required to furnish access for the inspection. If the Commissioner finds that the Work is acceptable under the Agreement and has been fully and satisfactorily performed on a timely basis, Retainage may

be reduced to an amount equal to one percent (1%) of the Project GMP, including any approved Change Orders and Amendments, provided that the Construction Manager has furnished: a) MBE / WBE final lien waivers, MBE/WBE conditional final lien waivers, or an affidavit of the MBE/WBE stating the final amount earned; b) complete certified payrolls; c) documentation of the turn over of "as-built" drawings, record shop drawings, and product data; d) spare stock of materials, spare parts, accessories, special tools, O & M manuals, guarantees, warranties; e) and all other items required by the Contract Documents or the Authorized City Representative.

(3) At Project Final Completion. The remaining Retainage will be paid when all remaining Work and punch list Work is complete and the Construction Manager submits to the Authorized City Representative a sworn affidavit that states the following:

- a. All payrolls, bills for materials and equipment, and all other indebtedness connected with the Work for which the City might in any way be responsible, have been paid or otherwise satisfied.
- b. The "Construction Manager's Sworn Statement and Affidavit" for final release of retainage has been provided to the Authorized City Representative.
- c. All claims made by Subcontractors of any tier, suppliers, and others against the Construction Manager, the City, any agents of the City, the Commissioner or Authorized City Representative have been resolved.
- d. "Final Waiver of Lien and Construction Manager's Affidavit" forms for all Subcontractors of any tier have been provided to the Authorized City Representative.
- e. All warranties and guarantees required by the Agreement have been provided to the Authorized City Representative.
- f. All warranties and guarantees are in full force and effect.
- g. Construction Manager has provided manufacturers' operating instructions for all equipment, and furnished proof that appropriate training of City personnel has been completed.
- h. The surety's written consent, signed by its authorized representative, for final payment to be made directly to the Construction Manager, has been provided to the Authorized City Representative.
- i. The Construction Manager agrees that acceptance of final payment will constitute a general release to the City, its representatives, officials and employees of all claims of liability for anything done or furnished or relating to the Work and Services required by the Agreement or for any act or neglect of the City or its agents, officials and employees relating to or connected with the Agreement.
- j. As-built documentation including but not limited to as-built drawings, as-built shop drawings and operation and maintenance manuals have been provided to the Authorized City Representative.
- k. All other documents requested by the Authorized City Representative have been

provided.

I. The Construction Manager must remove all of the Construction Manager's trailers, equipment, leftover materials, and trash from the Project site, staging area(s) or anywhere else on the Project Site. The Construction Manager must also restore the Construction Manager's staging area(s) to its pre-construction condition. If the Construction Manager does not comply with this requirement, the Authorized City Representative may provide written notice to comply within a period of time determined by the Authorized City Representative. If the Construction Manager fails to comply with the written notice, the Authorized City Representative may have the work done by others, and deduct the charge from the Contractor's Retainage.

(4) Notwithstanding the foregoing, the Authorized City Representative, in his sole discretion, may decline to release all or a portion of Retainage if the Authorized City Representative considers the Construction Manager's performance or the progress of the Work to be such that the City has incurred or will likely incur damages greater than the Retainage, including but not limited to liquidated damages.

(m) Prompt Payment to Subcontractors.

(1) The term "Subcontractor" has the same meaning as in Section 2.01. Construction Manager must state the requirements of the Prompt Payment provision in all Subcontracts and purchase orders. If Construction Manager fails to incorporate these provisions in all Subcontracts and purchase orders, the provisions of this Section are deemed to be incorporated in all Subcontracts and purchase orders. Construction Manager and the Subcontractors have a continuing obligation to make prompt payment to their respective Subcontractors. Compliance with this obligation is a condition of Construction Manager's participation and that of its Subcontractors on the Project.

(2) The Construction Manager must make payment to its Subcontractors within fourteen (14) days of receipt of payment from the City for each monthly Payment Application, but only if the Subcontractor has satisfactorily completed its Work in accordance with the Contract Documents and provided the Construction Manager with all of the documents and information required of the Construction Manager by this Section 5.01, "Payments". The Construction Manager may delay or postpone payment for a Payment Application when the Subcontractor's Work or materials do not comply with the requirements of the Contract Documents, and the Construction Manager is acting in good faith and not in retaliation for a Subcontractor exercising legal or contractual rights.

(3) The Construction Manager must make final payment to its Subcontractors within fourteen (14) days of receipt of such final payment from the City, and after the Subcontractor has satisfactorily completed all of its Work, including but not limited to, completion of punch list work, providing final lien waivers, and providing all of the documents required by the Contract Documents for payment of Retainage at Final Completion of the Project as provided for in Section 5.01(k). Retainage must be paid to Subcontractors as required by this section, whether the Project has been determined to have reached Substantial Completion as defined in Section 2.01. The Construction Manager may delay or postpone payment of Retainage if the Subcontractor's Work or materials do not comply with the requirements of the Contract Documents, the Construction Manager has substantial grounds for and has acted reasonably in making the determination, and the Construction Manager is acting in good faith and not in retaliation for a Subcontractor exercising legal or contractual rights.

(4) Construction Manager must make payment to Subcontractors so that they receive it within fourteen (14) days of Construction Manager's receipt of payment from the City. Payment is deemed

received by the Subcontractor at the time of hand delivery by the Construction Manager, or three (3) calendar days after mailing by the Contractor.

(5) To the extent feasible, to facilitate the flow of information to Subcontractor, the Authorized City Representative will post at the Project Field Office and on the City website (www.cityofchicago.org), a list of Construction Manager's Payment Applications, including the Subcontractors identified in them, submitted to the City for payment and the date of payments made to the Construction Manager by the City.

(6) Construction Manager must not delay or refuse to timely submit pay requests for a Subcontractor's work or materials. The City may construe such delay or refusal as Construction Manager's failure to act in good faith. "Timely", in this context, means within thirty (30) days after the portion of the Subcontractor's work that the Subcontractor has invoiced is in place in the Project or the materials delivered to the City (or off-site if payments for off-site delivery are permitted). In addition, Construction Manager must not delay or postpone payment for an undisputed portion of a Subcontractor's invoice or in connection with claims or disputes involving different Payment Applications on the same Project or different projects.

(7) The Commissioner may withhold payment from the Construction Manager when the Commissioner determines that the Construction Manager has not complied with this Section 5.01(m).

(8) These provisions do not confer any rights in Subcontractors against the City. Nothing in this section is to be construed to limit the rights of and remedies available to the City, including but not limited to various rights under the Agreement.

(n) Subcontractor Claims. The Construction Manager must pay all lawful claims made against it by its Subcontractors and all lawful claims made against Construction Manager by other third persons arising out of, in connection with, or because of its performance of this Agreement. The Construction Manager will cause all of its Subcontractors to pay all lawful claims made against them. In the event such lawful claims are not satisfied, the City is hereby empowered to disburse such sums for and on account of the Construction Manager directly to the respective parties to which such sums are due and owed.

(o) Pay Estimates and Payments Subject to Review. The City shall not be precluded or estopped by any measurement, estimate, or certificate made by Construction Manager or any Subcontractor either before or after the completion and acceptance of the Work and payment therefore, from showing the true amount and character of the Work performed and materials furnished by the Construction Manager, or from showing that any such measurement, estimate, or certificate is untrue or incorrectly made, or that the Work or materials do not conform in fact to the Agreement. The City will not be precluded or estopped, notwithstanding any such measurement, estimate, or certificate and payment in accordance therewith, from recovering from the Construction Manager and its sureties such damages as the City may sustain by reason of the Construction Manager's failure to comply with the terms of the Agreement.

(p) Salaries/Wages. Salaries of all employees of the Construction Manager performing Services or Work will be paid unconditionally and not less often than once a month without deduction or rebate on any account, except for payroll deductions as may be required by law. If there is any underpayment of salaries by the Construction Manager, the City may withhold, out of payments due to the Construction Manager, an amount sufficient to pay to employees the difference between the salaries required to be paid and the salaries actually paid such employees for the total number of hours worked.

(q) **No Waiver of Legal Rights.** Neither the acceptance by the City nor any payment by the City will operate as a waiver of any portion of the Agreement, or of any power herein reserved, or any right to damages herein provided. If the City elects to waive any breach of this Agreement, that waiver will not be held to be a waiver of any other or subsequent breach. The City will not be precluded or estopped from showing the true amount and character of the Work performed and materials furnished by Construction Manager, or from showing that any measurement, estimate, or certificate is untrue or incorrectly made, or that the Work or materials do not conform to the Contract Documents. The City will not be precluded or estopped from recovering from the Construction Manager and/or its sureties such damages as the City may sustain by reason of Construction Manager's failure to comply with the terms of the Agreement.

(r) **Liens.** Whenever the City receives notice in writing of a lien or claim of money due from the Construction Manager to any Subcontractor, worker, or employee for Work performed or for materials or equipment furnished and used in or about the Work, the City may direct that the amount of such claim be deducted from payments due or to become due the Construction Manager and withheld by the City until such claim has been paid or otherwise discharged; provided, however that, to the extent permitted by law, the City shall not direct that the amount of such claim be deducted or withheld from payments due or to become due to Construction Manager if Construction Manager demonstrates that (i) all documentation required by the Agreement for payment of said amount to Subcontractor, worker or employee or for such materials and equipment furnished and used in or about the Work has been properly submitted to the City by Construction Manager, or (ii) Construction Manager has received the approval of the Circuit Court of Cook County to furnish a bond as security for the lien. This provision is to be construed as being solely for the benefit of the City, and will not require the City to determine or adjust any claims or disputes between the Construction Manager and its Subcontractors, workers, or employees, or to withhold any money for their protection, unless the City elects to do so. This provision is not to be construed as conferring any rights hereunder for the benefit of Subcontractors, workers or employees, or as enlarging or altering the application or effect of existing lien laws. The final payment will not become due until the Construction Manager delivers to the City complete release of all liens, financial obligations or claims from the Construction Manager, Subcontractors, and other agents acting on its behalf in connection with the Work, arising out of the Work, and an affidavit that so far as it has knowledge or information, the releases include all the labor and material for which a claim could be made or a lien could be filed. If any lien remains unsatisfied after all payments have been made, the Construction Manager must refund to the City all moneys that the City may be compelled to pay in discharging such lien, including all costs and reasonable attorneys' fees.

Section 5.02 – Termination by the City

The City has the right, at any time, to terminate this Agreement in whole or in part, with or without cause, by written notice given to the Construction Manager at least thirty (30) days before the effective date of termination. So long as the Construction Manager is not in default under this Agreement at the time of termination, the City will pay the Construction Manager, in accordance with the terms of this Agreement, all compensation and reimbursements due to the Construction Manager for periods up to the effective date of termination, which reimbursement may include such reasonable de-mobilization costs approved by the City. The City may exercise any right of set off regarding Construction Manager's failure to properly perform Services from payments that are due to Construction Manager.

Section 5.03 – Suspension by the City

(a) The City has the right, at any time and from time to time, with or without cause, to suspend the performance of the Construction Manager hereunder with respect to all or any part of the Services, by written notice given to the Construction Manager at least five (5) days before the effective date of suspension. During the notice period the Construction Manager must wind down its Services. So long as the Construction Manager

is not in default under this Agreement at the time of suspension, the City will pay the Construction Manager, in accordance with the terms of this Agreement, all compensation and reimbursements due to the Construction Manager for periods up to the effective date of suspension

(b) During the period the Construction Manager's performance is suspended, the Construction Manager is not entitled to incur costs or fees, or bill the City, except for Construction Manager's time for participating in substantive meetings concerning the Project (but not for meetings to discuss Construction Manager's invoices or claims). The Construction Manager may invoice for such time spent during a suspension only if the Construction Manager's participation is requested by the City and only for the time of one individual per meeting. The City will pay for such time at the applicable hourly billing rate set forth in Exhibit G. Participation in meetings at the request of the City is not considered to be a resumption of the Construction Manager's Services.

(c) If the Construction Manager is required to resume its Services under this Agreement, the City will notify Construction Manager in writing, giving Construction Manager a reasonable period (not to exceed 10 Days) to remobilize. The Construction Manager may invoice the City for its time spent on remobilization, which shall be invoiced at the hourly rates set forth in Exhibit G and for actual reimbursable expenses. The number of days during which the suspension period lasted, including any remobilization time, and such additional times as the parties may mutually agree is required, will be added to the Date of Substantial and Final Completion, and Construction Manager will re-commence its Services at the point they were suspended and may resume billing in accordance with the terms of the Agreement.

(d) Termination or suspension of this Agreement in whole or in part does not relieve the Construction Manager from liability for its performance of any obligation under this Agreement that was performed or was to have been performed by the Construction Manager on or before the effective date of termination or suspension. In no event will the City be liable to the Construction Manager for any loss, cost or damage, including lost profits, which the Construction Manager or any other party may sustain by reason of the City terminating or suspending this Agreement as provided for in this Article 5.

Section 5.04 – Project Information

In connection with the administration of the Project by the City and the performance of the Agreement by the Construction Manager, the City has the following rights and obligations, in addition to those provided elsewhere in the Agreement:

(a) Information. The City will provide the Construction Manager all information reasonably required concerning the City's requirements for the Project and the Services.

(b) Review of Documents. Subject to the provisions of the Agreement, the City will make reasonable efforts to examine documents submitted by the Construction Manager and render decisions pertaining to them with reasonable promptness.

(c) Site Data. To the extent the City determines to be necessary for the Construction Manager to perform the Services, the City may furnish, or may authorize the Construction Manager to obtain from a company or companies approved by the City as Reimbursable Expenses:

(1) A certified survey of the site or sites providing, as required, all grades and lines of streets, alleys, pavements and adjoining property, rights-of-way, encroachments, boundaries and contours of the building site.

- (2) A certified title.
- (3) Information concerning locations, dimensions and data pertaining to existing buildings and other improvements
- (4) Title information as to restrictions, easements, zoning and deed restrictions.
- (5) Information concerning availability of both public and service and utility lines.
- (6) If the Construction Manager does procure these or any other services at the request of the City, the Construction Manager shall not be liable for the substantive accuracy or completeness of such services. Construction Manager shall name the City as a third-party beneficiary to any contract for the provision of the services described in this Section 5.03(c), and shall include a provision in such contracts indemnifying the City with respect to any damages incurred by the City due to the negligent performance or breach by any consultant providing services under this Section 5.03(c).

(d) Tests and Reports. To the extent required for the Construction Manager to perform the Services, the City may furnish structural, civil, chemical, mechanical, results of test borings and pits for determining soil and subsoil conditions and/or other tests and reports or may authorize the Construction Manager to procure such tests and reports from a consultant or consultants approved in writing by the City. The City will pay for such tests and reports as a Cost of the Work, however, the City may direct the Construction Manager to procure such professional services as Reimbursable Expenses and submit invoices to the City for payment as provided in Exhibit C.

(e) Limitation on City's Obligations and Liability with Respect to City-Provided Information ("CPI"). Construction Manager may rely upon the CPI provided by the City as described in this Section 5.03, provided, however, that the City expects the Construction Manager to review such CPI in detail and verify such CPI to the extent it may be reasonable and prudent for the Construction Manager to do so for the proper performance of the Services under this Agreement. The City makes no warranties and representations with respect to the accuracy of the information provided. Construction Manager must promptly report any errors, omissions, inconsistencies or ambiguities in the CPI it discovers in its role as a construction manager and not as a design professional, to the Authorized City Representative. In the event that Construction Manager believes that additional compensation and/or an adjustment to the Project Schedule is due to the Construction Manager from the City because of errors, omissions, inconsistencies or ambiguities in the CPI, the City will consider a request for additional compensation and/or time extension if, and only if, Construction Manager furnishes reasonable and appropriate evidence that Construction Manager has met its obligation to review and verify the CPI.

Section 5.05 – Ownership of the Project Documents

All drawings, documents, data, studies and reports prepared by the Construction Manager or any party engaged by the Construction Manager, pertaining to the Project and/or the Services, are and shall remain the property of the City. Construction Manager shall provide the City with the opportunity to review all such documents and shall provide copies to the City upon written request.

Section 5.06 – Audits

The City has the right to abstract and audit the books of the Construction Manager and its consultants and Subcontractors on all subjects relating to the Project and/or the Services.

ARTICLE 6 – EVENTS OF DEFAULT AND TERMINATION

Section 6.01 – Events of Default

Each of the following occurrences constitutes an Event of Default by the Construction Manager under the Agreement:

(a) Failure or refusal on the part of the Construction Manager to duly observe or perform any obligation or agreement on the part of the Construction Manager contained in the Agreement, which failure or refusal continues for a period of 3 Days (or such longer period as the City, in its sole discretion, may determine if such failure is not capable of being cured within such 3-Day period) after the date on which written notice of it has been given to the Construction Manager by the City.

(b) Any representation or warranty of the Construction Manager set forth in this Agreement or otherwise delivered pursuant to the Agreement will have been false in any material respect when so made or furnished.

(c) The Construction Manager becomes insolvent or ceases doing business as a going concern, or makes an assignment for the benefit of creditors, or generally fails to pay, or admits in writing its inability to pay, its debts as they become due, or files a voluntary petition in bankruptcy, or is adjudicated a bankrupt or an insolvent, or files a petition seeking for itself any reorganization, arrangement, composition, readjustment, liquidation, dissolution, or similar arrangement under any present or future statute, law or regulation relating to bankruptcy or insolvency, or files an answer admitting the material allegations of a petition filed against it in any such proceeding, or applies for, consents to or acquiesces in the appointment of a trustee, receiver, liquidator or other custodian of it or of all or any substantial part of its assets or properties, or if it or its principals will take any action in furtherance of any of the foregoing.

(d) Any proceeding is commenced against the Construction Manager seeking reorganization, arrangement, readjustment, liquidation, dissolution or similar relief under any present or future statute, law or regulation relating to bankruptcy which is not vacated, stayed, discharged, bonded or dismissed within sixty (60) days following commencement of the proceeding, or appointment of, without the Construction Manager's consent or acquiescence, any trustee, receiver, liquidator or other custodian of Custodian or of all or any substantial part of the Construction Manager's assets and properties, and such appointment will not have been vacated, stayed, discharged, bonded or otherwise dismissed within sixty (60) days of the appointment.

(e) The Construction Manager's material failure to perform any of its obligations under the Agreement, including any of the following:

(1) Repeated failure due to a reason or circumstance within the Construction Manager's reasonable control to perform the Services with sufficient personnel, and equipment or with sufficient material to ensure the performance of the Services required by this Agreement.

(2) Failure to properly perform the Services or inability to perform the Services as a result of insolvency, filing for bankruptcy or assignment for the benefit of creditors.

(3) Failure to promptly re-perform within a reasonable time the Services that were rejected as erroneous or unsatisfactory per the terms of this Agreement.

(4) Discontinuance of the Services for reasons within the Construction Manager's reasonable control.

- (5) Failure to comply with a material term of the Agreement, including the provisions concerning insurance and nondiscrimination.
- (6) Any change in ownership or control of the Construction Manager without prior written approval of the Commissioner, which approval the Commissioner will not unreasonably withhold.
- (7) The Construction Manager's default under any other agreement it presently may have or may enter into with the City. Construction Manager acknowledges that in event of a default under the Agreement, the municipal corporations listed above may also declare a default under any such other agreements.

Section 6.02 – Construction Manager's Opportunity to Cure

The Construction Manager shall have a ten (10) Day period to cure, or diligently commence curing, following written notice for the events of default listed here. Notwithstanding the foregoing, if the City, in its Chief Procurement Officer's sole and exclusive discretion, determines that an Event of Default by Construction Manager poses a threat to the health, safety or welfare of persons or property, the City may undertake such remedies as it deems reasonable and prudent under the circumstances, all at Construction Manager's cost.

Section 6.03 – City's Remedies

If an Event of Default occurs and continues, then the City may exercise any right, power or remedy permitted to it by law or in equity and has, in particular, without limiting the generality of the foregoing, the right to terminate the Agreement upon written notice to the Construction Manager, in which event the City has no further obligations hereunder or liability to the Construction Manager except as to payment for Services actually received and accepted by the City through the effective date of termination, subject to set off of any claims of the City against the Construction Manager for failure to properly perform its services. No course of dealing on the part of the City or delay or failure on the part of the City to exercise any right will operate as a waiver of such right or otherwise prejudice the City's rights, powers or remedies. The City's decision to terminate the Agreement is not subject to claim or dispute under the terms of this Agreement.

Section 6.04 – Remedies Not Exclusive

No right or remedy in the Agreement conferred upon or reserved to the City is exclusive of any right or remedy provided or permitted under this Agreement or by law or equity, but each, with the exception of the Liquidated Damages set forth in Article 4.05(f)(1), is cumulative of every other right or remedy given in the Agreement or now or hereafter existing at law or in equity or by statute or otherwise, and may be enforced concurrently or from time to time.

ARTICLE 7 – CLAIMS AND DISPUTES

Section 7.01 – General

All claims arising under, related to or in connection with the terms of this Agreement or its interpretation, whether involving law or fact or both, including questions concerning compensation, questions concerning the disposition of claims between the Construction Manager and Subcontractors that the City has objected to, and all claims for alleged breach of contract (collectively, "Claims") must be made pursuant to Article 11 of the Standard Terms and Conditions and must first be presented to the Authorized City Representative. Construction Manager must strictly comply with the notice requirement of Article 7 of the Standard Terms and Conditions. The Construction Manager will present all disputes which cannot be resolved by discussion with the Authorized

City Representative to the Commissioner for final determination, subject to Section 7.04 below and Article 11 of the Standard Terms and Conditions.

Section 7.02 – Claims Procedure

The Construction Manager will make all requests for determination of Claims in writing, specifically referencing this Section, and will include: 1) the issue(s) presented for resolution; 2) a statement of its position by the Construction Manager; 3) the facts underlying the dispute; 4) reference to the applicable provisions of the Agreement by page and section; 5) identification of any other parties believed to be necessary to the resolution; and 6) all documentation which describes and relates to the dispute. The Authorized City Representative will have fifteen (15) Days to respond in writing to the Claim by supplementing the submission or providing its own submission. The Authorized City Representative will attempt to negotiate a resolution of the Claim by agreement, but if a negotiated resolution is not achieved, the Authorized City Representative must provide a written ruling within thirty (30) days of receipt of the Claim. However, if the Construction Manager agrees in writing, an extension not to exceed sixty (60) days may be granted by the Commissioner.

Section 7.03 – Dispute Procedure

In the event that the Authorized City Representative and Construction Manager cannot resolve the Claim, the Construction Manager may file a Dispute to the Commissioner. The Dispute submission must be in writing and contain the information required in Section 7.02 above and be copied to the Authorized City Representative. The Authorized City Representative shall file a response within fifteen (15) days.

Section 7.04 – Commissioner's Determination

The Commissioner's decision will be rendered in writing no more than fifteen (15) Days after receipt of the response by the City Representative was filed or was due unless the Commissioner notifies the Construction Manager that additional time for the decision is necessary. If the Commissioner does not issue a decision or send notice of an extension, the Claim shall be considered denied. The Construction Manager must follow the procedures set out in this Article 7 to receive the Commissioner's decision. In the event the Construction Manager disagrees with the Commissioner's decision, the Construction Manager may file a dispute with the Chief Procurement Officer. The procedures for such disputes are set forth in the Standard Terms and Conditions for Construction, attached as Exhibit _ to this Agreement. In the event the Construction Manager disagrees with the decision of the Chief Procurement Officer, the Construction Manager may submit a common law writ of certiorari in the Circuit Court of Cook County which shall be the sole and exclusive judicial remedy of the Construction Manager. Construction Manager must have followed the procedures in this Article 7 as a condition precedent to filing a common law writ of certiorari. The Construction Manager shall not withhold performance of any Services required by the City under this Agreement during the dispute resolution period, and City shall continue making payment in accordance with the provisions of this Agreement.

Section 7.05 – Construction Manager's Self-Help Prohibited

The Construction Manager must never withhold performance of its Services by, for example, refusing to review and approve appropriately submitted invoices or pay applications, to make recommendations on Subcontractor claims, or promptly to issue other appropriate approvals needed by others where doing so would potentially harm third parties, such as its Subcontractors. Doing so to gain potential leverage in negotiating or settling the Construction Manager's claims against the City will constitute bad faith on the Construction Manager's part. This provision is not intended to prohibit the Construction Manager from exercising its well-considered professional judgment, however, in carrying out its duties and responsibilities under the Agreement.

Section 7.06 – Force Majeure

Neither of the parties will be liable to the other for any delay or failure in performance hereunder due to causes which are beyond the control of the party unable to perform. If a force majeure occurs, the party delayed or unable to perform will give prompt notice to the other party, and the City may, at any time during the continuation of the force majeure event, elect to suspend the performance of the Construction Manager under the Agreement for the duration of the force majeure. The term "force majeure" means an extraordinary event or effect that the parties could not have anticipated or controlled and that renders performance impossible or impracticable for the duration of the event or effect. Such events or effects include but are not limited to: extraordinary acts of nature, such as tornadoes; or of people, such as acts of terrorism; or of governments, such as imposition of martial law or other event beyond the Construction Manager's reasonable control. Notwithstanding the foregoing, Construction Manager may be entitled to an equitable adjustment to the Project Schedule and/or Project GMP, subject to the limitations of Article 7 of the Standard Terms and Conditions, in the event of a Force Majeure event.

ARTICLE 8 – ADDITIONAL TERMS AND CONDITIONS

Section 8.01 – Confidentiality

(a) Generally. All of the reports, information, or data prepared or assembled by the Construction Manager under the Agreement are confidential, and except as may be necessary to perform its services the Construction Manager must not make such reports, information or data available to any party without the prior written approval of the City. In addition, the Construction Manager must not, without the prior written consent of the City, prepare or distribute any news releases, articles, brochures, advertisements or other materials concerning the Agreement, the Project or the Services. If the Construction Manager is served with a subpoena requiring the production of documents or information which is deemed confidential, the Construction Manager will immediately notify the City in writing and provide a copy of the subpoena to the City in sufficient time for the City to attempt to quash, or take other action in relation to, the subpoena.

(b) Bid Documents. Construction Manager acknowledges and understands that the Services required by the City pursuant to this Agreement include the review of and advising on issuance of documents that the City, through the Construction Manager will use to solicit bids for the construction of the Joint-Use Consolidated Rental Car/Parking Facility and ATS Extension Fixed Facilities. It is of the utmost importance to the City that any and all information pertinent to such bids not be divulged to any third parties prior to the opening of any trade contract bids or any bid package pricing for the Project. Accordingly, Construction Manager and its Subcontractors, Subconsultants and trade contractors, of any tier, are expressly prohibited from divulging any information that might materially impact a bid for the Project to any person or individual that is not a party to this Agreement. Construction Manager acknowledges and agrees that its obligations to the City with respect to information pertinent to bidding on the Project are those of a fiduciary, and that the City will hold Construction Manager to the standard of care of a fiduciary in this respect.

Section 8.02 – Assignment of the Agreement

The Construction Manager acknowledges that the City is induced to enter into this Agreement by the personal qualifications of the principals, staff and employees of the Construction Manager and, therefore, that neither the Agreement nor any right or obligation in the Agreement may be assigned by the Construction Manager, in whole or in part, without the prior written approval of the City. For purposes of this paragraph, if the Construction Manager undergoes a change in control, the change in control is deemed an assignment of the Agreement; a change in control is defined as a transfer of more than 50% of the equity ownership of the Construction Manager during any 12-month period. In the event of an assignment by the Construction Manager

without the prior written approval of the City, the City will have the right to immediately terminate the Agreement without fault or responsibility. The Construction Manager further acknowledges that the Construction Manager represented to the City the availability of certain members of the Construction Manager's staff who will be assigned to Project; therefore, in the event of the unavailability of such members for any reason, the Construction Manager must notify the City in writing, and must assign other qualified members of the Construction Manager's staff, as approved by the City, to the Project.

Section 8.03 – Successors and Assigns

Except as otherwise provided in Section 8.02 above or elsewhere in this Agreement, the Agreement is binding upon and inures to the benefit of each of the parties to the Agreement and their respective successors and assigns.

Section 8.04 – Amendments to this Agreement

The City may from time to time request changes to the terms and Services of the Agreement. Such changes, including any increase or decrease in the amount of compensation and revisions to the duration of the Services, which are mutually agreed upon by and between the City and Construction Manager, will be incorporated in a written amendment to the Agreement ("Amendment"). The City will not be liable for any additional payment absent such written Amendment.

Section 8.05 – Non-liability of Public Officials

No City of Chicago employee, agent, officer, or official is personally liable to Construction Manager or its Subcontractors, and Construction Manager and its Subcontractors are not entitled to, and must not attempt to, charge any of them with liability or expense or hold them personally liable to Construction Manager or its Subcontractors under this Agreement.

Section 8.06 – Compliance with All Laws

General. In performing the Services required by this Agreement, the Construction Manager must comply with all applicable federal, state and local laws, rules, and regulations as defined in Article 14 of the Standard Terms and Conditions for Construction Management Services.

Section 8.07 – Governing Law. The Agreement has been negotiated and executed in the State of Illinois and will be construed under and in accordance with the laws of the State of Illinois.

Section 8.08 – Notices. All notices required to be given under this Agreement must be given in writing and must be hand delivered or sent by United States certified or registered mail, postage prepaid, addressed to the City or to the Construction Manager at their respective addresses set forth below, as appropriate. If given as provided in this Agreement, such notice is deemed to have been given on the date of delivery, if delivered by hand, and on the second business day after mailing, if given by mail. The City or the Construction Manager may, from time to time, change the address to which notices will be sent by giving notice to the other party in the manner provided in this subparagraph.

To the City: Chicago Department of Aviation
10510 W. Zemke Road
Chicago, Illinois 60666
Attention: Commissioner

Copy to: Department of Procurement Services

30 North LaSalle Street, Suite 1400
Chicago, IL 60602
Attn: Chief Procurement Officer

Copy to: Law Department
Aviation, Environmental, Regulatory & Contracts Div.
30 North LaSalle Street, Suite 1400
Chicago, IL 60602
Attn: Deputy Corporation Counsel

To the Construction Manager: _____

Section 8.09 – Entire Agreement

The Agreement constitutes the entire understanding and agreement between the Parties to this Agreement and supersedes any and all prior or contemporaneous oral or written representations or communications with respect to the subject matter hereof, all of which communications are merged in this Agreement. The Agreement must not be modified, amended or in any way altered except by an instrument in writing signed by both of the Parties.

Section 8.10 – Severability

If any provision of the Agreement is held to be invalid or unenforceable by a court of competent jurisdiction, such provision will be severed from the Agreement and such invalidity or unenforceability will not affect any other provision of the Agreement, the balance of which will remain in full force and effect; provided, however, that if such provision is deemed invalid or unenforceable as a matter of law, such provision will be deemed to have been modified so as to be valid and enforceable to the maximum extent permitted by law.

Section 8.11 – Non-Appropriation of Funds

If funds have not been appropriated in full or in part, the City has the right to terminate the Agreement. The City will not authorize the Construction Manager to provide Services under this Agreement unless sufficient funds are appropriated to pay for the Services.

Section 8.12 – Partial Funding

- (a) The City may award this Contract with less than the full Contract Price having been appropriated and available to make payments due under the Contract. The dollar amount appropriated and available to make payments and satisfy obligations of the City under the Contract will be indicated in an initial funding notice issued at the time of award (the "Funding Amount"). The Funding Amount may be increased from time to time by written notice from the City to the Contractor indicating the amount of increase in the Funding Amount. Contractor agrees to perform that amount of Work such that the amount of any payments due for Work performed plus the cost of demobilization will equal the Funding Amount. Contractor understands and agrees that the City will have no obligation whatsoever to increase the Funding Amount or to make payments or satisfy obligations beyond the Funding Amount and that the Work performed by Contractor that would result in the amount due under the Contract being in excess of the Funding Amount is performed at Contractor's risk at no liability to the City.
- (b) The Contractor must notify the Authorized City Representative of the date when the Contractor estimates that the sum of the amount of any payments due for Work performed plus the cost of

demobilization to suspend Work will exceed the balance of the Funding Amount (“Estimated Depletion Date”), Such notice must indicate the Estimated Depletion Date, the estimates costs of demobilization to suspend Work, and the date on which the estimated costs of demobilization will equal the balance of the Funding Amount less the amount of any payments due for Work performed (“Potential Suspension Date”). Such notice must be delivered to the Construction Manager and Director no later than the greater of 45 days prior to the Estimated Depletion Date or 30 days prior to the Potential Suspension Date. If, after such notice to the Authorized City Representative, the City has not added to the Funding Amount before the Potential Suspension Date, then except as provided below (and notwithstanding that the Contractor is otherwise prohibited from suspending Work without consent of the Commissioner), the Contractor may, by additional written notice to the Director, deem such event a suspension of Work under Section 5.05 of the Agreement, and may proceed with demobilization for suspension, provided that the City will have no obligation to make any payments beyond the Funding Amount.

The Contractor understands and agrees that failure to notify the Authorized City Representative of the Estimated Depletion Date and the Potential Suspension Date within the required timeframe may impact the City's ability to add funds to the Funding Amount on a timely basis and that, in the event of such failure, the Potential Suspension Date will be extended by, and Contractor shall continue to perform Work at its own risk for, the number of days that the Contractor failed to comply with the time requirements for notice to the City.

- (c) Notwithstanding paragraph b above and only in the event that the City has not increased the initial Funding Amount (established pursuant to the initial funding notice) before a Potential Suspension Date, the Commissioner may notify the Contractor to suspend Work for a period or consecutive periods not to exceed in the aggregate one hundred and twenty (120) days (the “Demobilization Period”). During the Demobilization Period, Contractor shall remain available to recommence Work without any increase in GMP. The duration of the Demobilization Period shall be deemed a delay in the prosecution of the Work by an act of the City. Failure by the City to issue a Notice to Proceed to Contractor no later than one hundred twenty (120) days after the commencement of the Demobilization Period, shall operate as if a suspension had been ordered by the City.

Section 8.12 – No Waiver

The waiver by either party of any breach of the Agreement will not constitute a waiver as to any succeeding breach.

Section 8.13 – Construction Manager's Authority

The Construction Manager represents that its execution of the Agreement is authorized by a resolution of its Board of Directors, if a corporation, or similar governing document if a partnership or a joint venture, and the signatures(s) of each person signing on behalf of the Construction Manager have been made with complete and full authority to commit the Construction Manager to all terms and conditions of the Agreement, including each and every representation, certification and warranty contained or incorporated by reference in it.

Section 8.14 – Counterparts

The Agreement may be executed in any number of counterparts, any of which will be deemed an original.

[EXECUTION PAGE FOLLOWS]

This Agreement is executed by the Parties stated below, and made effective by such execution pursuant to its terms.

CITY OF CHICAGO

By: _____
Rahm Emanuel, Mayor

By: _____
Jamie L. Rhee, Chief Procurement Officer

By: _____
Amer Ahmad, Comptroller

CONSTRUCTION MANAGER AT-RISK

By: _____

Print Name: _____

Its: _____

EXHIBIT A

SCOPE OF SERVICES

A.1 Pre-Construction Phase.

The Construction Manager shall provide the following Services:

A.1.1 Complete review and constructability analyses of the design and construction documentation prior to issuing of each Trade Contracts bid package for advertisement. Upon completion submit review comments to the City and its consultants for review and approval. The Construction Manager shall fully coordinate these activities with the City and its consultants to ensure the completeness and accuracy of the construction documents for each Trade Contract

A.1.2 Consult with the City, CDA, AOR and PMO regarding the goals and requirements of the Project.

A.1.3 Review the requirements of any federal, state, or local agencies having jurisdiction over various aspects of the Project with the CDA, PMO and AOR, regarding costs and alternatives.

A.1.4 Review, and augment as required written project procedures and controls, currently being used by the Program Management Office and integrate its procedures used for the management and coordination of this Project throughout the term of this Agreement.

A.1.5 Schedule and conduct regular meetings with the PMO, AOR, the City not less than once each week. Prepare and distribute minutes of all project meetings within two business days. The Construction Manager may be required to attend meetings with future tenants of the Facility.

A.1.6 Prepare detailed value-engineering procedures and submit to the PMO and the City for review and approval. Upon completion, review the construction documents along with any/all value engineering items with the PMO and the City. Recommend potential value engineering and constructability alternatives. The Construction Manager is required to provide value engineering services during the course of the Project. The value engineering project plan must be performed prior to bidding the work. The Construction Manager will not be required to prepare the value engineering management plan more than once per GMP iteration. The Construction Manager will coordinate these activities with the City and its consultants.

A.1.6.1 After a complete review of the Project, evaluate the Contract Documents available at the time of the Construction Manager's commencement of Pre-Construction Services, and obtain an understanding of the intent of the Architect of Record, CDA and the PMO, provide value analysis/constructability Services and offer cost savings suggestions and best value recommendations to the PMO. All recommendations shall be in writing and must be fully reviewed with the Architect of Record, PMO and CDA and approved by the CDA prior to implementation.

A.1.6.2 Perform value analysis efforts to result in a design that is most effective in first costs as well as long term operational costs relative to issues of energy use and facility maintainability. The Architect of Record will assist in performing the life cycle analysis of the alternatives and the Construction Manager will develop the cost analysis to support the effort of the team.

- A.1.6.3 Prepare detailed cost estimates supporting any/all value analysis. Value analysis efforts shall also take into consideration applicable constructability issues that may decrease the duration of the construction schedule and/or decrease the construction cost. Propose recommendations to the PMO and CDA on construction feasibility; actions designed to minimize adverse effects of labor or material shortages; time requirements for procurement, installation and construction completion; and factors related to construction cost including estimates of alternative designs or materials, preliminary budgets and possible economies.
- A.1.6.4 Promptly notify the PMO, the Architect of Record and the CDA in writing upon observing any features in the design that appear to be ambiguous, confusing, conflicting or erroneous.
- A.1.6.5 Provide value analysis recommendations within 15 days following the issuance of any interim Construction Documents (e.g., Design Development, 60% CD). At a minimum, each such written report shall contain: (1) a description of the value analysis/constructability issue with background information; (2) a summary of the Construction Manager's in-depth study/research; and, (3) written recommendations for addressing the issue.

A.1.7 Prepare a progress schedule for the project utilizing the Critical Path Method (CPM), in accordance with Article 7 of the Standard Terms and Conditions. The Construction Manager shall utilize Primavera Project Planner P3 or P6 as a scheduling software package. The Construction Manager's CPM schedule, as a minimum, shall indicate commencement dates of the various phases/stages of Services, including, without limitation the mobilization activities, placing or orders, delivery of materials and equipment, preparation, submittal, and approval of all required submittals, preparation and procurement of material and equipment furnished by any Trade Contractors, vendors, and suppliers. Interface all activities performed by others upon which the Construction Managers schedule depends, all work activities and field construction operations, utility agency related work, equipment installation, testing and balancing, and all required inspections by agencies having jurisdiction for permitting, licensing, and Certificate of Occupancy. The Construction Manager's schedule upon submittal for the Project GMP shall include estimates of craft hours and or crew sizes for each activity.

A.1.8 Prepare Budget GMPs for review by the PMO and the CDA.

- A.1.8.1 An overview of the current budget estimate compared to the CDA's budget.
- A.1.8.2 A detailed comparison and reconciliation of the current budget estimate to the previous budget estimate, with an explanation of any variance by component.
- A.1.8.3 A summary of all approved cost revisions.
- A.1.8.4 A list of Drawings and Specifications, including all addenda thereto.
- A.1.8.5 A list of the clarifications and assumptions made by the Construction Manager in the preparation of the GMP to supplement the information contained in the Drawings and Specifications.

A.1.9 The Construction Manager shall also include Budget GMP Contingencies in amounts approved by the City, to help reduce the risks assumed by the Construction Manager in providing the GMP for the Project. The

City and the Construction Manager acknowledge that the contingencies are included to adjust the estimates for eventualities that have not been taken into precise account in the establishment of the Budget GMP.

A.1.10 In the event that the proposed Project GMP exceeds the Project Construction Budget, the City may elect at its discretion to direct the Construction Manager to work in conjunction with the Architect of Record to re-design the Project (as an additional service subject to the limitations of Paragraph A.1.10.4 below) as a final Good Faith effort to maintain the Project Program and meet the Project Construction Budget as follows:

- A.1.10.1 The Construction Manager shall work with the CDA and the PMO, and provide input to alter and re-draft Construction Documents as necessary to accomplish the required reduction in cost.
- A.1.10.2 The Construction Manager shall develop and provide to the City a Project GMP in connection with the re-drafted and altered Construction Documents to accomplish the necessary reductions in costs.
- A.1.10.3 The Construction Manager shall analyze the Architect of Record's originally submitted and as altered and re-drafted Construction Documents and make recommendations to the City as to ways and methods to reduce the costs of constructing the Project to a sum which does not exceed the Project Construction Budget.
- A1.10.4 If the City determines in its reasonable discretion that the Construction Manager has not performed the Pre-Construction activities consistent with the standard of care required by the Agreement, any services required of the Construction Manager pursuant to the above Paragraphs A.1.10.1 through A1.1.10.3 shall not be an additional service, but shall be performed at no additional cost to the City.

A.1.11 The City has the right to reject or to withhold, in its discretion, approval of any Project GMP as originally submitted or as adjusted. In that event, the Contract will terminate without penalty according to Section 5.02 of the Agreement within thirty (30) days, or at the end of the Pre-Construction Phase of the work under the Contract, whichever occurs sooner.

The Construction Manager shall also:

A.1.12 Create and maintain a cost control system that compares the Project GMP with the actual cost for activities in progress and estimates for uncompleted tasks and proposed changes.

A.1.13 At the direction of the City, make appropriate adjustments to the Project GMP via an amendment to the Agreement if the City discovers any inconsistencies or inaccuracies in the information presented.

A.1.14 Prepare a bidding strategy(ies) including bid packaging and permitting strategy for review and approval by the City. At a minimum the bidding strategies shall contain, (a) project scope, (b) cost estimate, (c) schedule (d) identify long lead items (e) proposed bidders and procurement methodology, (f) proposed DBE participation, (g) proposed minority and female hiring plans with labor force projections, (h) proposed City of Chicago resident participation and (i) proposed community hiring plan/initiatives.

A.1.15 Establish and maintain an open line of communication with the entire team, including the City, its consultants, and the PMO throughout the project duration.

A.1.15.1 In connection with communications, the Construction Manager shall submit all required project documentation through the City's web based document controls system – ProjectTalk. Construction Manager shall familiarize itself with the business processes and document control protocols administered through ProjectTalk and avail itself of all necessary training provided by the City to administer the project fully through ProjectTalk.

Project documentation shall include, without limitation, RFIs, submittals, schedule information, project photographs, financial information, project correspondence and project logs to facilitate communications among the Construction Manager, its sub tier subcontractors, the City and the City's consultants. The Construction Manager shall coordinate all access requirements with the PMO.

A.1.16 Prepare and identify strategies that will assist in facilitating construction activities, which can reduce the overall construction duration.

A.1.17 Prepare a detailed cost estimate of the construction documents in accordance with the CSI Master Format.

A.1.18 Provide site security, as required.

A.1.19 Upon issuance of the building permit(s), coordinate with the PMO in the the issuance of the "Issue for Construction" drawings for each approved bid package with the Architect of Record to ensure completeness and accuracy.

A.1.20 Coordinate and conduct pre-construction conferences with all bidders, as necessary, to review all contract requirements at a location designated by the City. Prepare and issue meeting minutes, as required.

A.2 Bidding Phase

The Construction Manager shall:

A.2.1 Develop bid packages for all materials and work and provide full assignment, coordination and responsibility for the work. Provide the City a checklist of the Construction Manager's bidding and procurement process, from beginning to end, for the City's review and approval. The Construction Manager's bidding and procurement process shall include at a minimum all the items specified in Paragraph A.1.14.

A.2.2 Provide the City with a schedule for procurement of long-lead time items and confirm inclusion of all requirements for special receipt, handling, and installation of materials and equipment to meet the Project schedule. The Construction Manager shall procure and expedite the delivery of such long-lead time items in order to meet the Project schedule.

A.2.3 Where appropriate, develop bidding alternatives on materials, construction techniques, fabrication and installation methods, to take advantage of current conditions in the construction marketplace.

A.2.4 Prepare a Notice of Bid Opportunity for the City's approval. Upon the City's approval, bid the work in general accordance with City procurement.

A.2.5 Maintain accurate records of the bid notification process for each package. Provide a copy of these records to the City in a timely manner but in no event shall these records be presented to the City less than five (5) days prior to the bid opening.

A.2.6 Schedule and administer pre-bid conference(s), scope review sessions at a location designated by the City, outline the proposed approach to the Project, project logistics, manpower requirements, schedule and sequence of operations; and prepare and distribute minutes of the pre-bid meetings.

A.2.7 During the bidding period(s) in conjunction with the Architect of Record, prepare and distribute written addendum, to plan holders and agencies, to address questions raised by potential Sub tier subcontractors.

A.2.7.1 The format of the addendum should correspond with the City's format.

A.2.7.2 Review addendum material with the City, and obtain approval prior to issuing any addendum(s) to sub-Trade Contractors.

A.2.8 Schedule and administer Bid Opening(s) in accordance with City's Procurement protocol and in the presence of the City's Project Manger(s) and the PMO at a location designated by the City.

A.2.9 Evaluate base bids, alternate proposals, unit prices, and such other data as may be pertinent.

A.2.9.1 Determine the lowest responsive and responsible bidder.

A.2.10 Recommend the award of a Subcontract for each scope of work to the City in writing.

A.2.11 After the City approves the award of a Subcontract for a specific scope of work in writing, the Construction Manager shall prepare a Subcontract form for execution by the successful bidder and the Construction Manager.

A.2.12 In accordance with the requirements of A.1.1, ensure that the "Issue for Bid" Contract Documents include all constructability review comments.

A.2.13 Review and verify all necessary Instruction to Bidders, Proposal Forms, Contract Forms, General Conditions and Special Conditions of the contract supplied by the City.

A.2.14 Prepare and distribute bid packages, as required, for the project. Ensure that this activity is fully coordinated with the City, its consultants, and the Architect of Record prior to distributing the bid packages.

A.2.15 Coordinate the preparation of all bid packages, as required, with the City's consultants, including but not limited to Quality Assurance and Material and Testing (QAMT) and OMP Construction Manager and Environmental consultants, as deemed appropriate by the City.

A.2.16 Conduct and manage scope review sessions with all bidders upon submittal of bids with the City and the PMO to determine lowest responsive responsible bidder, as required, at a location designated by the City. Prepare and distribute written summaries of each scope review session to the City.

A.3 Construction Phase

A.3.1 The Construction Phase shall commence on the earlier of:

- A.3.1.1 The City's approval of the Project GMP and issuance of applicable Notice to Proceed; or
- A.3.1.2 The City's first authorization to the Construction Manager to award a Subcontract for Work, or to issue a purchase order for materials or equipment required for the Project in accordance with the Project Summary Schedule.

A.3.2 Throughout the construction phase, the Construction Manager shall maintain the following project controls:

- A.3.2.1 A Project Manager as the primary point of contact with the City, the PMO, the Architect of Record members and Trade Contractor(s) responsible for the day-to-day on-schedule and on-budget performance of the Work. The project manager shall monitor the Work of Sub tier subcontractors and coordinate the Work with the activities and responsibilities of the City, the Architect of Record and Construction Manager to complete the Project in accordance with the City's objectives of cost, time and quality.
- A.3.2.2 The Construction Manager shall maintain a competent and adequate fulltime staff approved by the City at the Project site to coordinate and provide adequate direction of the Work, and to monitor progress of the Sub tier subcontractors on the Project until final acceptance.
- A.3.2.3 It is understood that the designated and approved on-site resident Construction Manager representatives will remain on the job and in-charge as long as those persons remain employed by the Construction Manager, unless the City has reason to agree otherwise during the course of the Project and a contract amendment is issued accordingly by the City.
- A.3.2.4 The Construction Manager shall establish an on-site organization and lines of authority in order to carry out the overall plans of the Project Team.
- A.3.2.5 The Construction Manager shall conduct orientation sessions for its onsite field staff and Trade Contractor's staff, as applicable, as to the Project Procedures as developed during the Pre-Construction Phase. The City representatives may attend such sessions.
- A.3.2.6 The Construction Manager will provide for all coordination with the onsite Sub tier subcontractors the necessary on-site services for the construction activities and onsite requirements of the Construction Manager, the City, the PMO and Architect of Record.
- A.3.2.7 The Construction Manager shall require all Sub tier subcontractors to submit a Daily Report which is to include, but not be limited to, a summary of work performed, information required, status of change order time and materials (T&M) work, materials received, and safety incidents. Such documents shall be provided to the City not less frequently than on a weekly basis. Daily Reports must be prepared and uploaded in accordance with current procedures in ProjectTalk.
- A.3.2.8 The Construction Manager shall maintain a detailed daily diary of all events, which occur at the job site or elsewhere, and which affect, or may be expected to affect, project progress. The diary shall record weather data, including minimum and maximum temperatures, precipitation type and amount, sky conditions, and wind velocities. The diary shall also record all visitors, and include a detailed list of all material deliveries to the site. The diary shall be available to the City at all times and shall be turned over to the City upon completion of the Work.
- A.3.2.9 Review the adequacy of the Sub tier subcontractors' supervision, personnel and equipment and the availability of necessary materials and supplies. Where inadequate, direct that the necessary action be taken to remedy the deficiency.

- A.3.2.10 Maintain all Project documentation systems at the job site. These systems shall be used to organize and administer document updates and to continuously keep the Sub tier subcontractors up-to-date with the latest design conditions.
- A.3.2.11 Establish and maintain on the site a complete library of all Construction Documents, addenda, bulletins, scope changes, approved shop drawings and material samples.

A.3.3 The Construction Manager shall schedule and conduct progress meetings as conditions on the Project require, but at least weekly. The City, the PMO, the Architect of Record, specialty consultants and the Trade Contractor(s) must be in attendance. At a minimum agenda items should include review the overall project schedule, submittals, RFI's, bulletins, change orders, status of payments, pending issues and construction-related problems. The Construction Manager shall take and distribute complete minutes of meetings to all attendees and others as directed by the City within three days of such meetings. Representatives of the City may attend meetings and shall in any case receive all notices and minutes of meetings.

A.3.4 The Construction Manager shall be responsible for managing the final cleaning requirements for the project. The Construction Manager will bid the costs and assign a Trade Contractor responsible for all final cleaning.

A.3.5 The Construction Manager shall be responsible for fully coordinating all material and testing inspections required by the project specifications with the OMP's material testing and inspection consultant.

A.3.6 The Construction Manager shall be responsible for establishing and maintaining complete RFI and submittal logs throughout the duration of the project. The CM shall distribute copies of these logs to the City and PMO as directed.

A.3.7 Identify and schedule all required pre-installation conferences prior to the commencement of the required construction activities.

A.4 Project Close Out

The Construction Manager shall:

A.4.1 Perform comprehensive final inspections of all Trade Contractor work and elements of the work prior to inspection by the City, the PMO and the Architect of Record to verify that the materials furnished and Work performed are in accordance with the Contract Documents.

A.4.2 Request inspection for substantial completion in accordance with the Standard Terms and Conditions. Manage the issuance of the letter of Substantial Completion as prepared by the Architect of Record in consultation with the City and the PMO.

A.4.3 Coordinate the preparation of punch list(s) as required by the Architect of Record and City indicating the items of work remaining to be accomplished. All punch list work items must be completed within the time determined by the City pursuant to the Agreement and Standard Terms and Conditions, unless delivery of the material required to complete a specific punch list item extends beyond the time determined by the City, and Construction Manager has provided the Authorized City Representative notice of the schedule for such delivery. Obtain certificate of Final Completion as prepared by the Architect of Record pursuant to the Contract Documents in consultation with the City.

A.4.4 Deliver to the City all guarantees, warranties, operating and maintenance manuals required by the Contract Documents after review by the Architect of Record. Provide equipment and systems training sessions for CDA personnel. Make recommendations as to the withholding of payments to the Sub tier subcontractors. Determine the value of any uncorrected and/or deficient work and manage the completion of any such work per the Contract Documents.

A.4.5 Facilitate the preparation of record (i.e. "as-built") drawings as prepared by the Trade Contractor(s) and operations and maintenance manuals of the project in accordance with the specifications. The record documents will be subject to the approval of the City, the CDA, the AOR and the PMO. Submit approved record documents to the PMO upon completion of the Project.

A.4.6 Prepare/develop specific project close-out procedures to ensure an expeditious close-out of the project. Submit copies of these procedures to the City for approval. Upon approval by the City, the Construction Manager will be fully responsible for the implementation of these procedures. Project close-out must be accomplished within 90 Days of achieving Substantial Completion.

A.4.7 Prepare/develop specific procedures to efficiently manage the close-out process of the Trade Contractor activities that are completed prior to the completion of the entire project to expedite the release of Trade Contractor retainage. Identify specific Trade Contractor activities that are completed in the early stages of the construction phase, and implement the above procedures to ensure an expeditious close-out of these trades.

A.4.8 Develop preliminary and final acceptance procedures/requirements with the City, the PMO, and the CDA.

A.4.9 Create and maintain a close-out log to track all close-out items/requirements.

A.4.10 Develop the project's punch-list format, issuance, and completion procedures/requirements with the City, its consultants, and the User Agency.

EXHIBIT B

CONTRACT DOCUMENTS
(To Be Included with Final Executed Agreement)

Agreement for Construction Management Services

Exhibits to the Agreement for Construction Management Services (Exhibits __ through __)

Project Drawings:

Project Manual:

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EXHIBIT C

COMPENSATION/COST OF THE WORK

C.0 Pre-Construction Fee

As consideration for Construction Manager's performance of the Pre-Construction Services, the City shall pay Construction Manager a lump sum fee of \$_____ (XXXXXXXXXXXXXXXXXXXX dollars) ("Preconstruction Fee") which shall be payable in equal monthly installments over the _____ month pre-construction period as agreed to by the City and the Construction Manager. The Preconstruction Fee constitutes the Construction Manager's full fee for Preconstruction Services described in Exhibit A, Section A.1 and A.2. The Construction Management Fee will be allocated and payments made on a monthly basis on a mutually agreed to fee schedule but only as commensurate with the progress of the work.

C.1 Compensation For Construction Management Services

C.1.1 Construction Management Fee. The Construction Manager shall be paid a lump sum fee of _____% of the sum of (i) the Cost of the Work (which Cost of the Work shall include Bonds and Insurance, Allowances, Construction Manager's Contingency, Design Completion Allowance and Reimbursable Trade Contractor Costs, all as defined hereinafter), (ii) the Construction Management Fixed General Conditions Reimbursement and (iii) the Construction Management Not-to-Exceed General Conditions Reimbursement (the "Construction Management Fee"). If, however, the Project GMP at the time of completion exceeds the Project GMP fixed by the Project GMP Amendment to the Agreement by more than \$2,500,000.00 (aggregate additive Change Orders appropriately net of Deductive Change Orders) the Construction Manager will be paid the Construction Management Fee plus an additional amount equal to the product of _____% times the amount by which the Project GMP at completion as modified by Change Orders exceeds the sum of the Project GMP fixed by the Project GMP Amendment plus \$_____. The Construction Management Fee, in the absence of either a change in scope of the Project by the City or the issuance of City-originated additive change orders, or both, constitutes the Construction Manager's full fee for Construction Services described in Exhibit A, Section A.3 and A.4. The Construction Management Fee will be allocated and payments made on a monthly basis on a mutually agreed to fee schedule but only as commensurate with the progress of the work.

C.1.2 The Construction Management Fee will not include any Sub tier subcontractors costs, vendor costs, consultant costs, or any other construction costs.

C.2 Construction Manager's Fixed General Conditions Reimbursement

Construction Manager's Fixed General Conditions Reimbursement for the period beginning with the start of Construction Activities to the time the Project GMP Amendment is executed, in accordance with the Project Summary Schedule included as Exhibit K, shall be the fixed sum of \$_____ (XXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXX), as may be reduced to the extent any Fixed General Conditions Items (as specified below) are made a part of any subcontract or Trade Contractor agreement.

C.2.1 FIXED GENERAL CONDITIONS REIMBURSEMENT ITEMS.

The Construction Manager's Fixed General Conditions Reimbursement includes compensation for the following work and services:

- .1 Management, Supervisory and Technical Personnel, including, without limitation:
 - .1 Project Executive
 - .2 Senior Project Manager, Project Manager
 - .3 Assistant Project Manager, Project Engineers
 - .4 MEP Coordinator
 - .5 General Field Superintendent, Senior Field Superintendent
 - .6 Field Superintendent, Assistant Superintendent
 - .7 Timekeeper
 - .8 Secretary, Clerical
 - .9 Accountant

- .2 General and administrative expenses for site office, including, without limitation:
 - .1 Project Office/Field Office
 - .2 Storage Trailers/Sheds
 - .3 Office Supplies Furniture & Equipment
(Copier, Fax, Computers, Printers, Plotters)

- .3 Communication Equipment
 - .1 Telephone service including local calls and site telephone service.
 - .2 Mobile Phone Service
 - .3 Computer charges, including internet service.

- .4 Miscellaneous
 - .1 Parking, mileage and cab fares.
 - .2 Legal Expenses for Agreement (if any)

- .5 A fully functioning site office with provisions for document reproduction, facsimile transmission and telephone services, postage and express delivery. Construction Manager shall provide temporary facilities for the City.

- .6 Data processing costs related to the work.

C.3 Construction Manager's Not-To-Exceed General Conditions Reimbursement

Construction Manager's Not-To-Exceed General Conditions Reimbursement for the period beginning with the start of Construction Activities to the time the Project GMP Amendment is executed, in accordance with the Project Summary Schedule included as Exhibit K, shall be an amount equal to the actual costs and expenses incurred by the Construction Manager, subject to a Not-to-Exceed sum of \$_____ (XXXXXXXXXXXXXXXXXXXXXXXXX). Construction Manager's sole and complete compensation for an extension in the Date of Substantial Completion granted by the City shall compensation for the actual costs incurred by the Construction Manager due to the extension, subject to the review and approval of the City.

In the event that an overage on the Not-To-Exceed General Conditions Reimbursement is not the result of an excusable delay, the Construction Manager's Contingency may be used to pay for such overage, however, if the Construction Manager's Contingency has been exhausted., the Construction Manager shall not be entitled to any increase in the Project GMP or Construction Management Fee due to such overage.

C3.1 The Construction Manager's Not-To-Exceed General Conditions Reimbursement Items shall include the following:

- .1 Building Layout and Elevation Benchmarks
- .2 Street Cleaning/Snow Removal
- .3 Pest Control
- .4 Access Road Maintenance
- .5 Construction Barricade Graphics

- .6 Temporary Utilities
 - .1 Temporary Gas Lines
 - .2 Temporary Energy Costs (Stated as an Allowance)
 - .3 Temporary Utility Enclosures
 - .4 Temporary Heat
 - .5 Temporary Water for Drinking

- .7 Safety
 - .1 Carpenters for Safety Maintenance
 - .2 Temporary Stair Maintenance
 - .3 Handrails and Toe Board Maintenance
 - .4 Safety Equipment
 - .5 Overhead Protection/Canopies
 - .6 First Aid Supplies

- .8 Watchman Services
- .9 Fences and Gates

- .10 General Cleaning and Disposal
 - .1 General Construction Cleaning
 - .2 Dumpster Container service, removal and disposal
 - .3 Floor Trash Buggies
 - .4 Labor for General Cleanup
- .11 Miscellaneous
 - .1 Monthly Construction Progress Photos
 - .2 Postage/Overnight mail/Messenger Service
 - .3 Out of Town Travel Expenses
 - .4 Temporary Toilets
 - .5 Copier Charges
 - .6 Bidding Document CD's and Revisions
 - .7 Long Distance Communications

- .12 Pre-Conditions Site Survey
- .13 Settlement Survey
- .14 Vibration Monitoring
- .15 Indoor Air Quality Monitoring

C.4 Cost of The Work

C.4.1 Reimbursable Trade Contractor Costs. Reimbursable Trade Contractor Costs shall consist of the following:

- .1 The sum of the lowest responsible responsive subcontract amount and material supply bids including applicable bonds and insurance costs obtained in accordance with the competitive bidding process set forth in Section 4.02(e)(3) of the Agreement.
- .2 All subcontracts shall be on a lump sum basis with unit costs specified except where the City and the Construction Manager have deemed the purchase by unit prices to be appropriate.

C4.2 City Contingencies, City Allowance Items and Construction Manager Allowances

- .1 City Contingencies. The City has established certain City Contingencies in the Project GMP as set forth in Exhibit ___ to the Project GMP Amendment and the Project GMP Schedule of Values. The City Contingencies are for the exclusive use of the City at the City's sole and absolute discretion. In the event that any City Contingencies remain unused at the completion of the Work, the City shall issue a deductive Change Order to reduce the Project GMP so any unused portion of the City Contingencies remain with the City.
- .2 City Allowance Item(s). The City and the Construction Manager acknowledge that certain portions of the Work may not be fully specified prior to establishing the Cost of the Work and the Project GMP pursuant to the Project GMP Amendment. The City has established a reasonable estimate of the cost of such portions of the work based upon available information for such portions of the work ("City Allowance"). Such estimates are set forth in Exhibit __ to the Project GMP Amendment as City Allowances, the amount of which shall be designated the "City Allowance Amount." If appropriate, the Construction Manager shall manage the competitive bidding process per Section 4.02(e)(3) for the City Allowance Item(s) identified in Exhibit __ at the appropriate time as directed by the City. For those City Allowance Item(s) identified in Exhibit __, Construction Manager shall be entitled to an adjustment to the City Allowance Amount if the amount of the lowest responsive responsible bid accepted plus the cost for bonds, Trade Contractor default insurance, CCIP allocation ("Accepted Bid Contract Amount") for the scope of work represented by the City Allowance Item exceeds the City Allowance Amount ("City Allowance Overage"), and such adjustment shall be in the amount of the difference between the Accepted Bid Contract Amount and the City Allowance Amount. Any City Allowance Overage shall be funded by the City from the City Contingency or by Change Order from other City provided funds. The City Allowance Amount shall also be decreased by the difference between the City Allowance Amount and the Accepted Bid Contract Amount where the Accepted Bid Contract Amount is less than the City Allowance Amount ("City Allowance Savings") and any such difference shall be allocated to the City Contingency. At such time as the Construction Manager executes subcontracts for any of the scopes of work identified as City Allowance Items in Exhibit __, such City Allowance Items shall be deemed converted from City Allowance Items to Reimbursable Trade Contractor Costs at the Accepted Bid Contract Amount and shall be treated accordingly. Any allocations for a City Allowance Overage or a City Allowance Savings shall be made on the Payment Application for the month in which the subcontract for the scope of work was executed, provided the

corresponding Change Order has been executed by the City and the Construction Manager.

- .3 Construction Manager Allowances. The City and the Construction Manager acknowledge that the Construction Manager may carry allowances related to certain Reimbursable Trade Contractor Costs or General Requirements Costs for portions of the Work that are anticipated by both parties but have not been completely defined on the Construction Documents at the time of the Project GMP (“Construction Manager Allowances”). Construction Manager Allowances shall be shown in the Project GMP and Schedule of Values with the description and amounts indicated in Exhibit ___. Usage of Construction Manager Allowances shall be conditioned upon the Construction Manager providing the City with contemporaneous written notice, which notice shall include a description and cost of the Work to be covered by the use of the Construction Manager Allowance, the entities being paid, and the reasons for the use of the Construction Manager Allowance. In the event the City determines that the application of a Construction Manager Allowance was inconsistent with the terms of the Agreement or this Exhibit, the Construction Manager shall be responsible for returning such sums to the Construction Manager Allowance line item.
- .4 Construction Management Fees on City Contingencies and City Allowances. The Construction Manager shall not be entitled to any additional Construction Management Fee on any use of City Contingency or expenditure of City Allowance except as provided in Paragraph C.1.1 of this Exhibit C. For the purpose of determining whether the Project GMP at time of completion exceeds the Project GMP fixed by the Project GMP Amendment per Paragraph C.1.1, any use of City Contingency or expenditure of City Allowance shall be treated as Change Orders that modify the Project GMP.

C4.3 The sum of the Reimbursable Trade Contractor Costs, Allowances (as defined hereinafter), Bonds and Insurance, and the CM Contingency (as defined hereinafter) shall be referred to as the Cost of the Work.

C.5 Construction Manager’s Contingency

The Construction Manager’s Contingency (“CM Contingency”) shall be established at the time of the Project GMP as a percentage of the sum of the Cost of the Work, the Fixed General Conditions and the Not-to-Exceed General Conditions. The CM Contingency may be used to pay Reimbursable Trade Contractor Cost overages and additional costs associated with schedule recovery not the subject of a Change Order. Permissible uses of the CM Contingency also include, without limitation, funding shortfalls between line items in the Project GMP and the trade contracts that are not the result of the Construction Managers acts, errors or omissions (where such acts, errors or omissions are inconsistent with the standard of care set forth in the Agreement), Trade Contractor defaults, and the Builder’s Risk insurance deductible. The CM Contingency may be utilized to fund costs that would otherwise fall within the Fixed General Conditions Reimbursement or the Not-To-Exceed General Conditions Reimbursement to the extent such costs are associated with an event for which the Construction Manager is entitled to access the CM Contingency.

Payment of funds out of the CM Contingency is conditioned upon the Construction Manager diligently attempting to obtain performance from sub tier subcontractors without first using the CM Contingency. If Construction Manager accesses the CM Contingency in connection with an event for which insurance

proceeds may be available, the Construction manager shall take all reasonable measures to recover under the insurance coverage and shall reimburse the CM Contingency to the full amount of such recovery up to the amount of the CM Contingency allocation at issue. To the extent the CM Contingency payment resulted from a Trade Contractor default or other performance deficiency, the Construction Manager shall seek recovery from the responsible Trade Contractor and shall reimburse the CM Contingency to the full amount of such recovery up to the amount of the CM Contingency allocation at issue.

The Construction Manager shall not be entitled, to any additional overhead, profit or other markup on any CM Contingency expenditure as the parties acknowledge that the Construction Manager's Fee covers such overhead, profit or other mark-up. The CM Contingency shall be used in accordance with the Agreement and this Exhibit. When accessing the CM Contingency, the Construction Manager shall provide the City with contemporaneous written notice, which notice shall include a description and amount of the Cost of the Work to be covered by the CM Contingency, the entities being paid, and the reasons for the use of the CM Contingency. In the event that the City determines that the application of the CM Contingency was inconsistent with the terms of the Agreement or this Exhibit, the Construction Manager shall be responsible for returning such sums to the CM Contingency.

C.6 Bonds and Insurance

The Construction Manager shall provide bonds and insurance as specified in Exhibit E.

Insurance:

C.7 Items Not Included in the Cost of The Work

The following items are not included and shall not be included in the Cost of the Work.

- C.7.1 Salaries and other compensation of the Construction Manager's personnel stationed at the Construction Manager's principal office or offices other than the Project Site, unless identified in Exhibit G.
- C.7.2 Expenses of the Construction Manager's principal office and offices, other than the site office.
- C.7.3 Overhead and general expenses except as may be set forth in the Agreement or this Exhibit.
- C.7.4 The capital expenses of the Construction Manager and the sub tier subcontractors including interest on capital employed in furtherance of the Work
- C.7.5 Costs due to the default or negligence of the Construction Manager or anyone directly or indirectly employed by the Construction Manager, including without limitation, costs for the correction of damaged, defective or non-confirming Work, except as allowed by the Construction Manager's Contingency, disposal and replacement of materials and equipment incorrectly ordered or supplied and repairing damage to property not forming a part of the Work.
- C.7.6 Overtime wages or salaries (and fringe benefits related thereto) incurred by the Construction Manager as a result of the Construction Manager's failure to perform the work in a timely manner in accordance with the Construction Schedule except as allowed by the Construction Manager's Contingency;
- C.7.7 Costs that would cause the Project GMP to be exceeded.

C.8 Administration of Allowances and Contingencies

- .1 Construction Manager Allowances. Any Overage on a Construction Manager Allowance Item shall be allocated from the City Contingency or funded by a Change Order to the Project GMP from other City Funds at the City's sole discretion. Any such allocation shall be performed pursuant to the City's Change Order Process defined in Article 10 of Exhibit K, Standard Terms and Conditions for Construction Management Contracts. In the event that any Construction Manager Allowances or partial amounts thereof remain unused at the completion of the Work for which the Construction Manager Allowance was established, the Construction Manager shall allocate any such unused amounts to the City Contingency. Any such re-allocation shall be made on the Payment Application for the month in which the Work for which the Construction Manager Allowance was established.
- .2 Construction Manager Contingency. In the event that any Construction Manager Contingency remains unused at the completion of the Work, the City shall issue a deductive Change Order to reduce the Project GMP so any unused portion of the Construction Manager Contingency remains with the City.

C.9 Buyout Savings

Buyout Savings shall be defined as the difference between the amount identified in the Schedule of Values for the Project GMP and the executed subcontract amount, including appropriate insurance and bond costs. Such Buyout Savings shall be determined following the execution of the final subcontract between the City and the Trade Contractor to be assigned to the Construction Manager.

If, after the establishment of the Cost of the Work and GMP, the execution of subcontracts between the CM and sub tier subcontractors results in Buyout Savings, such Buyout Savings shall be allocated to the CM Contingency on the Payment Application for the month in which the subcontract is executed.

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EXHIBIT D

REQUIRED SUBCONTRACT PROVISIONS

Construction Manager must include each of the provisions listed below in any and all Subcontracts issued for the performance of Work on the Project. Construction Manager shall submit all bid forms and subcontract documents to the City (prior to publishing such documents for bid) for the City's review and approval, which approval may include modifications to certain provisions contained in this Exhibit D for inclusion in the bid forms and subcontract documents to be used for obtaining Trade Contractor bids on the Project.

1. Required for Bid Documents. The provisions in this Section 1 must be included in the invitations for bid for Work on the Project. For the purposes of this Exhibit D, Construction Manager means the Construction Manager identified in the Agreement with the City, and Trade Contractor refers to a Trade Contractor to the Construction Manager. The forms referenced are attached as schedules to this Exhibit D: Schedule 1 – Affidavit of Non-Collusion; Schedule 2 – DBE Special Conditions; Schedule 3 – Affidavit of Uncompleted Work; Schedule 4 – Bidder's Statement of Qualifications; Schedule 5 – Certificate of Filing On-Line EDS; Schedule 6 – Contractor's Performance and Payment Bond.

A. Affidavit of Non-Collusion

Each Bidder shall fully execute an affidavit, in the form provided, to the effect that the Bidder has not colluded with any other person, firm, or corporation in regard to any bid submitted. Such affidavit shall be attached to the bid.

B. DBE Commitments

The goals for DBE participation for this Contract is 25%. Each Bidder shall submit with its Bid affidavits and supporting documents describing the extent to which DBE firms will participate in the Contract in accordance with Schedule 3 "Special Conditions Regarding DBE Participation."

C. Affidavit of Uncompleted Work

The Bidder is required to submit a fully executed Affidavit of Uncompleted Work, which declares, among other things, the value and estimated completion date of all uncompleted contracts to be completed with Bidder's own forces and to be subcontracted to others. Such affidavit shall be attached to the bid on the form provided.

D. Bidder's Financial Statement

Each Bidder shall have on file in the office of the Construction Manager at the time of bid opening a financial statement dated not earlier than the end of said Bidder's last fiscal year period. This will be kept on file by the Construction Manager as a representative statement for a period of one year only. If a Bidder does not have such statement on file, it must submit a copy with its bid. Failure to have a current financial statement on file at the Construction Manager at time of bid opening may be cause for the rejection of the Trade Contractor's Bid.

E. Disclosure Affidavit

Each Bidder shall have on file in the office of the Construction Manager at the time of bid opening a fully executed Disclosure Affidavit. If a Bidder does not have such statement on file, it must submit a copy with its bid.

F. Statement of Bidder's Qualifications

Each Bidder shall have on file in the office of the Construction Manager at the time of bid opening a fully executed Statement of Bidder's Qualifications or a Qualification Submittal in response to a Request for Qualifications (RFQ). Construction Manager reserves the right to request additional information regarding the capability of the Bidder to perform the Contract.

G. Economic Disclosure Statements (EDS)

The apparent low Bidder and the apparent 2nd low bidder shall submit a fully-executed EDSs pursuant to the instructions on the document within five (5) days of receipt of notice to provide such Disclosure.

H. Submission of Bid

1. Two (2) copies of all bid documents with original signatures shall be enclosed in two (2) envelopes each (outer and inner), both of which shall be sealed and clearly labeled with "BID DOCUMENTS," the Contract number, name of Bidder, and date and time of opening.
2. Bids received prior to the advertised hour of opening will be securely kept by the Construction Manager.
3. Written modifications of bids will be considered only if received prior to the time stated for receipt of Proposals. Such modifications must be submitted in a sealed envelope and marked in the same manner as a bid. IN ADDITION, the envelope must state "BID MODIFICATIONS TO SEALED PROPOSAL" on the lower left-hand corner of the envelope in which the bid modification is enclosed, so that the modification will be recognized to prevent its being opened prior to scheduled public opening of bids. Telephonic or oral modifications will not be considered. Bidders are cautioned that modifications which are not explicit and which are in any sense subject to misinterpretation shall make the bid so modified or amended subject to rejection.

I. Withdrawal of Bids Before Bid Opening

Any Bidder may withdraw its bid by letter, facsimile, e-mail request, or by personally securing, with proper identification, the submitted bid proposal at any time prior to the time fixed for opening of bids. A telephonic request to withdraw a bid will not be considered.

J. Opening of Bids

At the time and place fixed for the opening of bids, the Construction Manager will cause bids to be opened and publicly read aloud every bid received within the time set for receiving bids irrespective of any irregularities therein. Bidders and other persons properly interested may be present in person or by representative.

K. Evaluation of Bids

1. The Construction Manager reserves the right to check all calculations and to correct all extensions in case of error in order to determine the correct amount of the Total Base Bid and/or the total amount of any other schedule required.
2. If a discrepancy occurs in an amount written both in words and in figures, the amount written in words will prevail.
3. Along with reviewing the calculations of each bid, the Construction Manager will evaluate each Bidder's responsiveness to all Bid requirements and responsibility.

4. The Construction Manager requires that the apparent low bidder and the apparent 2nd low bidder submit a breakdown of their bids by CSI Division or other appropriate basis and to attend a pre-award meeting to review their bids in detail with the CM and the City

L. Award of Trade Contract; Rejection of Bids

1. The Contract will be awarded to the responsible and responsive Bidder submitting the lowest Award Criteria Figure, as defined herein, complying with all conditions set forth in the Contract Documents.
2. The Bidder to whom the award is made will be notified at the earliest possible date.
3. Upon award of Contract, the Construction Manager, on behalf of the City, will process the Contract for final execution.

The Construction Manager and City reserve the right to reject any and all bids and to waive any informality in bids received whenever it determines such rejection or waiver is in the City's best interest.

2. Standard of Performance. Construction Manager will require that its Trade Contractors, at the minimum, meet the standard of performance set forth herein.

In addition to performing the Work in full compliance with the Contract Documents, the Trade Contractor will perform, or cause to be performed, all Work required of it under the terms and conditions of this Contract with that degree of skill, care, and diligence normally exercised by qualified and experienced Trade Contractors in performing work in projects of a scope and magnitude comparable to the Project. Unless otherwise specified, all materials and equipment will be new, and of such quality as required to comply with the Contract Documents. The Trade Contractor will, when required, furnish satisfactory evidence as to kind and quality of all materials and equipment. All labor will be performed by workers skilled in their respective trades, and workmanship will be of good quality so that first class work in accordance with the standards of construction set forth in the Contract Documents will result.

3. Permits, Licenses and Regulations. Subcontracts must contain the following provisions regarding permits, licenses and regulations.

A. Permits

1. The Trade Contractor will not be responsible for the building permit cost. However, all other trade specific permits and associated fees will be the responsibility of the Trade Contractor.
2. The nature of the foundation systems required on portions of this Project may be such that submittals, permits, and coordination will be required with the City of Chicago Bureau of Underground. If such systems are required by the Contract, the Trade Contractor, representing its familiarity with these systems and permit processes, is responsible for any and all submittals, fees, coordination, and any other items required to secure approvals required by the authorities having jurisdiction for the installation of these systems.

B. Licenses and Regulations

1. The Trade Contractor will include in the bid for the Project, obtain, and pay for all licenses and certificates of inspection required or necessary for the execution and completion of the Work.

2. The Trade Contractor must give all notices and comply with all laws, ordinances, codes, rules and regulations bearing on the conduct of the Work. If the Trade Contractor observes that the Drawings and specifications are at variance therewith, prompt notification in writing must be given to the Construction Manager. If the Trade Contractor fails to provide such notice, or otherwise performs the Work contrary to pertinent law, ordinances, codes, rules or regulations, the Trade Contractor will bear all costs arising from any Work performed that is contrary to such laws, ordinances, codes, rules, and regulations.
 3. The Trade Contractor must also comply with the current regulations of the National Board of Fire Underwriters where applicable, and all other codes named in the specifications for the various divisions of the Work.
 4. Regulations applicable to this Project include, but are not limited to, the following:
 - a. City of Chicago Building Codes (latest edition)
 - b. NEC 1990
 - c. NFPA 2006
 - d. Illinois Plumbing Code
 - e. Illinois Accessibility Standards
 - f. Americans with Disabilities Act Guidelines (ADAG)
 - g. ASHRAE/IES, Standard Efficiency Guidelines
 5. Where requirements of the applicable building codes differ, the more stringent requirement shall govern. Where requirements conflict, the Construction Manager shall determine which requirement shall govern and the Trade Contractor shall comply with the governing requirement.
 6. Submit copies of all permits, licenses, and similar permissions obtained, and receipts for fees paid, to the Construction Manager.
 7. It shall be the responsibility of the Trade Contractor to coordinate, procure and pay for all ties necessary for the completion and operation of the fire alarm system. Trade Contractor shall arrange and pay for all fees as required by the City of Chicago Bureau of Electricity.
4. Warranties. Construction Manager will require that its Trade Contractors, at the minimum, furnish the warranty set forth below for their Work on the Project.
1. The Trade Contractor guarantees all of the Work and each and every part thereof, including, by way of illustration and not limitation, all workmanship, materials, equipment, supplies, services, and facilities that are furnished, produced, fabricated, installed, constructed, or built pursuant to the Contract Documents for the respective periods of time called for by the respective requirements of the Contract Documents, and, if no period is specified, for a period of 1 year, against defects which, in the opinion of the Architect, result from the use of defective or inferior materials, equipment, supplies, services, facilities or workmanship or from Work not in compliance with or not performed in accordance with the Drawings or specifications. The Trade Contractor will provide this guarantee to the Construction Manager in writing using Exhibit H or such other guarantee form as that may be approved by the City. The guarantee period will run from and after the date of Substantial Completion of the Work required by the Contract Documents, unless the Contract Documents specify a different date for the commencement of the running of the guarantee period. No part of the Work will be held to be accepted until Substantial Completion of the Work.

2. The Trade Contractor agrees as part of this guarantee to repair or remove and replace, as directed by the Construction Manager, all the Work, materials, equipment, supplies, services, and facilities which prove defective during the applicable guarantee period or which fail to conform to the Contract Documents; to repair, remove and replace, or pay for as directed by the Construction Manager, all damaged portions of the Project and the contents and equipment thereof, resulting from or which are incidental to such defects or failure to conform to the Contract Documents. All repairs, removals and replacements must be commenced within 48 hours (or such other time as may be agreed to by the City) of written notice from the Construction Manager, and sufficient labor and materials sufficient must be furnished to ensure prompt completion thereof. Should the Trade Contractor fail to proceed in accordance with the above, the Construction Manager, without further notice to the Trade Contractor, may furnish all labor and material necessary for repairs, or removals and replacements, and the Trade Contractor agrees to pay the City all such costs incurred.

3. **Manufacturer's Warranties**

The Trade Contractor will ensure that all required Manufacturer's Warranties are assignable, and assigned, to the City and/or User Agency, and submit all applicable Manufacturer's Warranties to the City Representative and ensure that all warranty forms have been completed in the City's and/or User Agency's name and registered with the appropriate manufacturers.

Repairs and replacements made by the Trade Contractor pursuant to this section will include a Manufacturer's Warranty, if standard with the Manufacturer, in addition to the Trade Contractor's Warranty.

5. **Environmental Compliance**. Construction Manager shall require that Trade Contractors comply with the environmental provisions and regulations set forth below.

A. **Compliance with Environmental Laws**

1. The Trade Contractor must comply with all environmental laws including, without limitation, those listed in the Disclosure Affidavit that must be executed and notarized by the Trade Contractor, and any analogous future local, state, or federal ordinance or statute, rule, or regulation promulgated under or pursuant to the foregoing, and any other present or future law, ordinance, rule, regulation, permit or permit condition, order, or directive which regulates, relates to, imposes liability for, or establishes standards of conduct concerning any Hazardous Materials that may be set forth by the Federal government, any state or any political subdivision thereof, or any agency, court, or body of the Federal government, any state or any political subdivision thereof, exercising executive, legislative, judicial, regulatory, or administrative functions (collectively, "Environmental Laws").

2. If the Trade Contractor is required, pursuant to any Environment Laws, to file any notice or report of a release or threatened release of Hazardous Materials or Special Wastes on or about any premises used by Trade Contractor to perform the Work required hereunder, the Trade Contractor must provide a copy of such report or notice to the Construction Manager and if a release or threatened release of Hazardous Materials or Special Waste into the environment occurs, or if any claim, demand, action or notice is made against the Trade Contractor regarding the Trade Contractor's failure or alleged failure to comply with any Environmental Law, the Trade Contractor must notify the Construction Manager and the City Representative pursuant to Section F, "Disposal of Materials, Construction Debris, Soil, and Waste," herein below.

3. If the Trade Contractor fails to comply with any Environmental Law, Construction Manager may terminate this Contract in accordance with the default provisions of this Contract, which may adversely affect Trade Contractor's eligibility for future contract awards from the City and Construction Manager.

B. Environmental Permits

1. The Trade Contractor must show evidence of, and keep current throughout the term of this Contract, all waste hauling, Special Waste hauling, disposal permits and insurance certificates required by Federal, State, City, or other local governmental body or agency pursuant to any Environmental Law.
2. When requested by the Construction Manager, the Trade Contractor must submit copies of all hauling permits required by any Environmental Law. Copies of all permits and insurance certificates that require periodic renewal must be forwarded to the Construction Manager throughout the duration of this Contract. Noncompliance with this requirement may be cause for rejection of the bid and/or termination of this Contract.
3. Environmental Records and Reports: The Trade Contractor is required to prepare and maintain proper, accurate and complete records of accounts of all transactions related to the performance of this Contract, including, but not limited to the following:
 - a. Vehicle maintenance records.
 - b. Safety and accident reports.
 - c. IEPA or OSHA manifests.
 - d. Disposal records, including disposal site used, date, truck number and disposal weight.
 - e. Permit documentation and all other documentation and transactions pertaining to all Environmental Laws.

C. Energy Conservation Ordinance

Whenever the Trade Contractor is required to build new building(s) or structures, construct additions or make alterations to existing buildings, install systems such as mechanical, service water-heating, electrical distribution, and illumination, or install other equipment, it will be required to comply with Chapter 18-13 of the Municipal Code of Chicago, as well as any other pertinent Environmental Laws.

D. Environmental Controls

In performing the Work, the Trade Contractor must comply with all Federal, State, and local statutes, ordinances, and directives with respect to the elimination of excessive noise and pollution of air, water, and soil due to construction and other operations. Attention must be given to reduce the noise of heavy construction equipment and to the control of dust, smoke, and fumes from construction equipment and other operations on the 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 City. The discharge of Hazardous Materials into waterways and City sewers is prohibited.

E. Equipment and Environmental Control during Transport

The Trade Contractor must haul materials, construction debris, soil, and other wastes in vehicles and/or containers complying with all applicable Environmental Laws. All equipment used to transfer materials, construction debris, soil and other wastes will be designed to prevent spillage during the hauling operation. The Trade Contractor's equipment must fully comply with all City, State, and Federal regulations, laws, and ordinances pertaining to size, load, weight, safety, and any Environmental Law.

F. Disposal of Materials, Construction Debris, Soil, and Waste

1. The Trade Contractor is responsible for the proper disposal of all materials, construction debris, soil and other waste. Hauling and disposal by a sub tier subcontractor does not relieve the Trade Contractor from responsibility for proper disposal. Disposal of all materials, construction debris, soil, and other wastes must be at a disposal site that is properly licensed and permitted to accept the particular materials, construction debris, soil and other wastes delivered to it in accordance with all Environmental Laws. The Trade Contractor will identify the disposal site(s) or transfer station(s) to which it has contractual access and for which proper, sanitary landfill permits and/or licenses have been obtained. All of Trade Contractor's personnel shall be trained in the proper handling of the materials that are found.
2. The Trade Contractor must provide the Construction Manager with copies of all load tickets, manifests, bills of lading, scale tickets, and other pertinent documents. When requested by the Construction Manager, the Trade Contractor will provide copies of all permits and/or licenses for the proposed transfer station and/or landfill. If the transfer station and/or landfill proposed for use by the Trade Contractor does not possess the necessary permits and/or licenses to accept the materials, construction debris, soil or other wastes, the Trade Contractor will replace the transfer station and/or landfill submitted as part of their bid proposal at no additional cost to the Construction Manager. If the Trade Contractor disposes of materials, construction debris, soil or other wastes at a site which is not properly permitted, the Trade Contractor will be responsible for all costs associated with the removal of the waste to a properly licensed/permitted landfill or disposal site.
3. The Trade Contractor must notify the Construction Manager within 24 hours of receipt of any environmental complaints, fines, citations, violations, or notices of violation ("Claim") by any governmental body or regulatory agency against the Trade Contractor by any third party relating to the loading, hauling, or disposal of materials, construction debris, soil, or other wastes. The Trade Contractor will provide evidence to the Construction Manager that any such Claim has been addressed to satisfaction of the issuer or initiator of such Claim.
4. The Trade Contractor must notify the Construction Manager of any community meeting, media involvement, or media coverage related to the loading, hauling or disposal of materials, construction debris, soil, and other wastes under this Contract in which the Trade Contractor is asked to participate.
5. The Trade Contractor must verify, in writing, whenever requested by the Construction Manager, that all materials, construction debris, and other waste accepted by the Trade Contractor from the Construction Manager has been disposed of in compliance with all Environmental Laws.
6. The form for identifying the Trade Contractor's debris disposal/hauling site(s) and

acknowledging terms and conditions relating thereto which has been executed by the Trade Contractor may be attached to this Contract and incorporated by reference, as appropriate. In addition to the representations and requirements contained in the form, the Trade Contractor understands and agrees that the Trade Contractor, unless otherwise authorized in writing by the Construction Manager, must not continue to use a disposal/hauling site identified in the form that (i) has been cited as being in violation of any Environmental Law, regulation, or any City ordinance; or (ii) does not have a necessary permit. If only one site was identified in the form, the Trade Contractor must arrange for a substitute disposal/hauling site that meets the requirements specified in the form and provide a revised form to the Construction Manager. The Trade Contractor further understands and agrees that any such substitution is at no additional cost to the Construction Manager, regardless of the reason necessitating such substitution.

G. Open Dumping Prohibited

1. The removal of all recyclable materials and garbage, refuse, or other waste material, including but not limited to broken concrete, bricks, rocks, paving asphalt, and incidental debris generated from all construction or demolition activities performed under this Contract, must be transported to a facility that is zoned and permitted to accept such material pursuant to Section 11-4 of the City of Chicago Municipal Code and all applicable local, state, and federal regulations.
2. Bills of Lading, manifests, or other confirmatory receipts signed by a representative of accepting facility for each load of material must be retained by the Trade Contractor and made available to the Construction Manager upon request.

H. LEED Certification Requirements

1. The Trade Contractor must assist the Construction Manager, on behalf of the City, to achieve the LEED Certification level required for this project. The LEED Scorecard (Registered Project Checklist) identifying the LEED version and level, as well as prerequisites and credits to be achieved, is attached. The Trade Contractor must implement construction of the Project and provide documentation, in accordance with the requirements of the LEED version promulgated by the US Green Building Council indicated in the attached LEED Checklist so that the City can achieve the LEED rating identified.
2. The Trade Contractor must make all required LEED submittals to the Construction Manager Representative. The format and number of submittals must be approved by the Construction Manager.
3. The Trade Contractor must take the actions listed below, regarding LEED, within the time periods specified.
 - a. Erosion and Sedimentation Control Plan (if applicable) must be submitted within fifteen (15) days of the NTP. The Trade Contractor must implement the approved Plan prior to start of work on the Project site. The Trade Contractor may be required to incorporate or maintain an existing Plan from a previous phase of the work.
 - b. Construction Waste Management Plan must be submitted within fifteen (15) days of

NTP. The Construction Waste Management Coordinator must be identified and the approved plan be completed prior to the start of construction.

- c. Materials and Resources Plan must be submitted within thirty (30) days of the NTP
- d. Volatile Organic Compounds Plan must be submitted within thirty (30) days of NTP
- e. Construction Indoor Air Quality Plan must be submitted within thirty (30) days of NTP.

7. Indemnity and Insurance. Construction Manager shall cause its Trade Contractors, and its sub tier subcontractors and suppliers of any tier, to indemnify Construction Manager and the City as set forth below.

A. Indemnification

1. The Trade Contractor covenants to and must indemnify, defend and hold harmless the following indemnitees: the City, the User Agency, the Architect and its consultants, the City Representative, employees and representatives, individually and collectively, ("Indemnitees") from all claims, demands, actions and the like, of every nature and description, made or instituted by third parties, arising or alleged to arise out of the Work under this Contract. This indemnity includes any and all expenses incurred in connection with the investigation of any claim or the defense of any lawsuit brought by any third party, including all court costs and actual attorneys' fees incurred by the Indemnities herein. This indemnification is not limited by any amount of insurance required under this Contract. Further, the indemnity contained in this section will survive the expiration or termination of this Contract. If any injury (including death), loss or damage (or claim or claims therefore) occurs or is alleged to have occurred, the Trade Contractor must give immediate notice thereof to the City Representative.

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

2. The Trade Contractor shall be solely responsible for the defense of any and all claims, demands, or suits against the Indemnitees, including, without limitation, claims by an employee, sub tier subcontractors, agents, or servants of Trade Contractor even though the claimant may allege that the Indemnified Parties were in charge of the Work or allege negligence on the part of the Indemnified parties. The City will have the right, at its sole option, to participate in the defense of any such suit, without relieving the Trade Contractor of its obligations hereunder.

3. The obligations of the Trade Contractor under this Article do not extend to the liability of the Architect, its agents or employees arising out of: the preparation or approval of maps, Drawings, opinions, reports, surveys, Change Orders, designs or specifications, or the giving or failure to give directions or instructions by the Architect, its agents, or employees, provided such giving or failure to give directions or instructions is the primary cause of the injury or damage.

4. The Trade Contractor will promptly provide, or cause to be provided, to the Commissioner of Aviation and City Representative, copies of such notices as Trade Contractor may receive of any claims, actions, or suits as

may be given or filed in connection with the Trade Contractor's performance or the performance of any Sub tier subcontractor and for which the Indemnified parties are entitled to indemnification hereunder and to give the Indemnities authority, information, and assistance for the defense of any claim or action.

B. Insurance

1. The Trade Contractor must procure and maintain at all times, at Trade Contractor's own expense, through the completion of the warranty period, the types of insurance specified in Exhibit E hereof, with insurance companies authorized to do business in the State of Illinois and acceptable to the City, covering all operations under this Contract, whether performed by the Trade Contractor or by sub tier subcontractors. Upon written request by the City, the Trade Contractor must allow the Construction Manager or City to review and copy any original insurance policies the Trade Contractor is obligated to maintain under this policy.

2. The Trade Contractor waives any and every claim or right of recovery from the Construction Manager and City for any and all injuries and losses arising under this Contract or in any way related to the Work, including but not limited to any claim for loss of or damage to the Work or to the contents thereof, which injury, loss, or damage is covered by valid and collectible insurance policies, to the extent that such injury, loss, or damage is recoverable under said insurance policies. As this waiver will preclude the assignment of any claim by subrogation (or otherwise) to an insurance company (or any other person), the Trade Contractor agrees to give each insurance company which has issued, or in the future may issue, its policies of 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. The Trade Contractor must require each Sub tier subcontractor to include similar waivers of subrogation in favor of the City.

3. The Trade Contractor must cause contractual liability endorsement to be issued by the insurance companies and attached to the Commercial General Liability policies of each Trade Contractor and/or Sub tier subcontractor to include under the coverage therein extended an obligation on the part of the insurers to insure against the Trade Contractor and/or each Sub tier subcontractor's contractual liability under this Article. Such coverage will be afforded therein against all claims arising out of the operation of any structural work law or law imposing liability arising out of the use of scaffolds, hoists, cranes, stays, ladders, supports, or other mechanical contrivances.

The City reserves the right to change, modify or delete insurance requirements set forth in the Contract Documents, including, without limitation, the right to request that the Trade Contractor provide additional types of insurance.

8. City Property. Construction Manager will include the following provisions regarding the City's property in its Subcontracts:

A. Ownership of Drawings, Specifications and Models

All copies of Drawings and specifications furnished by the Architect are the property of the City. Such copies are not to be used on any other work or project and, with the exception of the signed Contract set, are to be returned to the Construction Manager with a copy of the transmittal letter to the Authorized City Representative at the completion of the Work. All models are the property of the City.

B. Right of Entry

1. The Trade Contractor, and any of its officers, employees, agents, and sub tier

subcontractors, are permitted to enter upon any part of the Site owned by the City or User Agency in connection with the performance of the Work hereunder, subject to the terms and conditions contained herein and those rules that may be established by the Construction Manager, City or User Agency. The Trade Contractor must provide advance notice to the Construction Manager of Trade Contractor's initial entry onto the Site. Consent to enter upon all or any part of the Site given by the Construction Manager, City will not create, nor be deemed to imply the creation of, any additional responsibilities on the part of the Construction Manager, City or User Agency.

2. Inspections. The Trade Contractor acknowledges that the City, the Architect and the Construction Manager have the right of access to the Site at all times and the right to inspect all Work during the term of the Contract.

3. The Trade Contractor must use, and must cause each of its officers, employees, agents, and Sub tier subcontractors to use, the highest degree of care when entering upon property owned by the City or User Agency in connection with the Work. In the case of any property owned by the City or User Agency, or property owned by and leased from the City, Trade Contractor must comply, and must cause each of its officers, employees, agents, and Sub tier subcontractors to comply, with any and all instructions and requirements for the use of such property, including any licenses for which requirement is being incorporated by reference. Any and all claims, suits, judgments, costs, or expenses, including reasonable attorneys' fees, arising from, by reason of, or in connection with any such entry is treated in accordance with the indemnification provisions contained in this Contract.

C. Use of Completed Portions of the Work

1. After Substantial Completion of the Work in any space(s) in the Project, the City will have the right to use and occupy such space(s) in advance of Final Completion and Acceptance of the Work, provided that the City's occupancy and use of such spaces will not unduly interfere with the Trade Contractor's operations nor delay completion of the Work. Occupancy and use of any space(s) in the building by the City or the Facility Tenants will not constitute Substantial Completion in the absence of written notification of Substantial Completion of the affected portion of the Work from the Architect.

2. If the City desires to exercise the right of partial occupancy prior to Substantial Completion and Final Completion and Acceptance of the Work as provided below, the Trade Contractor will cooperate with the City in making available for the City's use such services as heating, ventilating, cooling, water, lighting, and telephone for the space(s) to be occupied. If the equipment required to furnish such services is not entirely complete at the time the City desires to occupy the aforesaid space(s), the Trade Contractor will make all reasonable efforts to complete it as soon as possible.

3. The City's occupancy or use of such space(s) in the Project will not constitute the City's acceptance of any Work, materials, or equipment which are not in accordance with the requirements of the Contract Documents, nor relieve the Trade Contractor from its obligations or responsibilities under the Contract.

4. In any case, when the City occupies or begins to use any portion of the Work pursuant to this Section, the City will give the Trade Contractor notice in writing of its occupancy and/or

use of the space(s) involved.

9. No Assignment of Contract. Construction shall include the following provision prohibiting the assignment of the Subcontract in all Subcontracts:

The Contract must not be assigned or any part of the same subcontracted without the written consent of the Construction Manager. If the Construction Manager provides consent, such consent does not relieve the Trade Contractor from any of its obligations under the terms of the Contract, and Trade Contractor shall remain responsible for satisfactory performance of all Work undertaken by its sub tier subcontractor(s).

10. Compliance with All Laws. Construction Manager shall require that Sub tier subcontractors comply with all Federal, State and Local laws and the provisions included in Article 14 of the Standard Terms and Conditions for Construction Management Services.

A. Trade Contractor Must Comply with All Laws

1. The Trade Contractor must at all times observe and comply, and must cause its sub tier subcontractors to observe and comply, with all applicable Federal, State and local laws, ordinances, codes, rules, regulations, and executive orders, now existing or hereinafter in effect, which may in any manner affect the performance of the Contract. Provision(s) required by law, ordinance, codes, rules, regulations, or executive orders to be inserted in this Contract are deemed inserted, whether or not they appear in this Contract. In no event does the failure to insert such provision(s) prevent the enforcement of such provision(s) of this Contract.

2. In performing the Work, the Trade Contractor must follow the most stringent of the applicable agency and code requirements. The Trade Contractor is fully responsible for ascertaining and complying with all agency and code requirements applicable to the Work.

B. Equal Employment Opportunity

1. The Trade Contractor will be required to comply with all laws with respect to the employment of labor and payment of local prevailing wage rates.

2. Non-Discrimination

a. It is an unlawful employment practice for a Trade Contractor to fail to hire, to refuse to hire, to discharge, or to discriminate against any individual with respect to compensation or the terms, conditions, or privileges of employment because of such individual's race, color, religion, sex, age, handicap, or national origin; or to limit, segregate, or classify employees or applicants for employment or otherwise; or to adversely affect such individual's status as an employee because of such individual's race, color, religion, sex, age, handicap, or national origin.

b. Federal Requirements. Each Trade Contractor will comply with the Civil Rights Act of 1964, 42 U.S.C. Sec. 2000 et seq. (1981), as amended. Each Trade Contractor will further comply with all applicable provisions of the Civil Rights Act of 1964, 28 U.S.C. 1447, 42 U.S.C. 1971, 1975a-1975d, 2000a to 2000h-6 (1992); the Age Discrimination in Employment Act of 1967, 29 U.S.C. 623-634 (1992); the Americans with Disabilities Act of 1990, 29 U.S.C. 706, 42 U.S.C. 12101-12213, 47 U.S.C. 152,

221, 225, 611 (1992); 41 C.F.R. 60 (1992); 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); P.L. 101-336; 41 C.F.R. part 60 et seq. (1990).

- c. State Requirements. Each Trade Contractor must 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. The Trade Contractor will furnish such reports and information as requested by the City and the Illinois Department of Human Relations.
- d. City Requirements. Each Trade Contractor must comply with the Chicago Human Rights Ordinance, Chapter 2-160, Section 2-160-010 et seq. of the Municipal Code (1990), as amended. Further, each Trade Contractor will furnish such reports and information as requested by the Chicago City of Human Relations.
- e. Sub tier subcontractors. Each Trade Contractor agrees that all of the above provisions will be incorporated in all agreements entered into with any suppliers of materials, providers of services, sub tier subcontractors of any tier, and labor organizations which furnish skilled, unskilled, and craft union skilled labor, or which may provide any such materials, labor, or services in connection with this Contract.

3. Employment procedures: Preferences and Compliance

- a. Salaries of employees of Trade Contractor, performing Work under this agreement, will be paid unconditionally, and not less often than once a month, without deduction or rebate on any account except such payroll deductions as are mandatory or permitted by applicable law or regulations.
- b. Trade Contractor certifies that it is familiar with, and will comply with, all applicable provisions of 820 ILCS 130/0.01 through 130/12 thereof (Prevailing Wage Act), 30 ILCS 570/1 through 570/7 (Employment of Illinois Workers on Public Works Act) and 30 ILCS 560/0.01 through 560/7 (Public Works Preference Act).
- c. The Trade Contractor will also comply with all applicable Anti-Kickback laws and regulations, including the Anti-Kickback Act of June 13, 1934 (48 Stat. 948; 62 Stat. 740; 63 Stat. 108; 18 U.S.C. § 874; 40 U.S.C. § 276c) and the Illinois Criminal Code of 1961 720 ILCS 5/33E-1 *et seq.* If, in the performance of this agreement, there is any direct or indirect kickback as defined in any of the above-mentioned laws and regulations, the City may withhold from the Trade Contractor, out of payments due to the Trade Contractor, an amount sufficient to pay any underpaid employees the difference between the salaries required to be paid and the salaries actually paid such employees for the total number of hours worked. The amounts withheld may be disbursed by the City for and on account of the Trade Contractor to the respective employees to whom they are due, as determined by the City in its sole discretion.

4. The Trade Contractor assumes all liability for the payment of any unemployment

benefits payable under any federal or state law to individuals employed by it during the progress of the Work covered by this Contract.

5. The Trade Contractor agrees that in performing this Contract it will comply with: the Disadvantaged Business Enterprise Special Conditions of Schedule 3 "DBE Special Conditions," attached hereto, and residency requirements of Section C below, Chicago Residents As Employees.

6. A breach of any of the requirements of this Section may be grounds for termination of the Contract.

C. Veteran's Preference

The Trade Contractor will ensure that the following provision is inserted in all contracts entered into with any sub tier subcontractors and labor organizations which furnish skilled, unskilled and craft union skilled labor, or which may provide any material, labor, or services in connection with this Contract.

"Trade Contractor will comply with the provisions of 330 ILCS 55/0/01 et. seq., which requires that a preference be given to veterans in the employment and appointment to fill positions in the construction, addition, or alteration of all public works. In the employment of labor (except executive, administrative, and supervisory positions) preference will be given to veterans of hostilities and disabled veterans; however, this preference may be given only where the individuals are available and qualified to perform the Work to which the employment relates."

D. Trade Regulations

Wherever any provision of any section of the specifications conflicts with any agreements or regulations of any kind at any time in force among members of any trade associations, unions, or councils which regulate or distinguish what work will or will not be included in the work of any particular trade, the Trade Contractor will make all necessary arrangements to reconcile any such conflict without delay, damage or cost to the Construction Manager and without recourse to the City, Architect, or the City Representative. In case the progress of the Work is affected by any undue delay in furnishing or installing any items of material or equipment required under the Contract because of a conflict involving any such agreement or regulation, the Architect may require that other material or equipment of equal kind and quality be provided at no additional cost to the Construction Manager or the City.

E. Steel Products

To the extent permitted by law, this Contract will be subject to all provisions of the "Steel Products Procurement Act," 30 ILCS 565/1 et seq. as it may be amended from time to time.

F. Inspector General and Legislative Inspector General

1. It is the duty of any bidder, proposer, Trade Contractor, all sub tier subcontractors and all officers, directors, agents, partners and employees of any such entities on City-funded contracts to cooperate with the Inspector General of the City in any investigation or hearing undertaken pursuant to Chapter 2-56 of the Chicago Municipal Code. Each Trade Contractor

understands and will abide by all provisions of Chapter 2-55 and 2-56 of the Municipal Code of Chicago.

2. All Trade Contractors will inform their respective sub tier subcontractors of this provision and require compliance herewith.

G. Covenant against Contingent Fees

The Trade Contractor warrants that it has not employed any person to solicit or secure this Contract upon any agreement for a City, percentage, brokerage, or contingent fee. Breach of this warranty will give the City the right to terminate the Contract, or, in its discretion, to deduct from the Contract Price the amount of such City, percentage, brokerage, or contingent fees. This warranty does not apply to any City payable by the Trade Contractor upon contracts or sales secured or made through bona fide established commercial or selling agencies maintained by the Trade Contractor for the purpose of securing business.

H. Taxes

1. The Trade Contractor will pay for all federal, state, and local taxes on all materials, labor, or services furnished, and all taxes arising out of the operations under this Contract. Such taxes include, by way of illustration and not in limitation thereof, Retailers' Occupational, Old Age Benefit, Unemployment, customs, duties, and all deductions for income taxes now in force or hereafter enacted prior to Final Completion and Acceptance of the Work. This requirement excludes taxes and assessments on real property comprising the Site and Illinois, County and Municipal Retailers' Occupation and Service Occupation Taxes and Illinois Use, Sales and Service Use Taxes on building materials and fixtures to be incorporated into the Work but does include such taxes on building materials and equipment consumed or used in performing the construction, but not incorporated in it.

2. The City of Chicago, a municipal corporation and political subdivision of the State of Illinois, is exempt from federal Excise Taxes. The State of Illinois Tax Exemption Identification Number is E9978-1506-05.

I. Royalties and Patents

1. All fees for any patent invention, article or arrangement or other appurtenances that may be used upon or in any manner connected with the construction, erection or maintenance of the Work, or any part thereof embraced in the Contract, will be included in the Base Contract Price.

2. The approval of any method of construction, invention, appliance, process, article, device, or material of any kind by the City will only be an approval of its adequacy for the Work, and will not be an approval of the use thereof by the Trade Contractor in violation of any patent or other rights of any third person.

J. Conflict of Interest

No member of the governing body of the City 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 Contract will have any personal interest, direct or indirect, in this Contract. Each Trade Contractor covenants that it; its officers, directors and employees; the officers, director and employees of each of its members if a joint venture; and sub tier subcontractors presently have no interest and will not acquire interest, direct or indirect, in the Project which would conflict in any manner or degree with the performance of the Work hereunder. Each Trade Contractor further covenants that in the performance of this Contract, no person having any such interest will be employed. Each Trade Contractor agrees that if the City determines that any of a Trade Contractor's work for others conflicts with the Work, that the Trade Contractor will terminate such other services immediately upon request of the City.

K. Governmental Ethics Ordinance

1. Each Trade Contractor will comply with Chapter 2-156 of the Municipal Code of Chicago, Governmental Ethics, including but not limited to Section 2-156-120 of that chapter pursuant to which no payment, gratuity, or offer of employment will be made in connection with any City contract, by or on behalf of a sub tier subcontractor to the prime Trade Contractor or higher tier sub tier subcontractor or any person associated therewith, as an inducement for the award of a subcontract or order.
2. Any contract negotiated, entered into, or performed in violation of any of the provisions of this Section will be voidable by the Construction Manager and/or the City.

L. Disclosure Affidavit

1. The Trade Contractor is required to file a fully executed Disclosure Affidavit with the City no less than annually. Such document must be signed by an authorized officer of the company before a notary and is incorporated by reference into this Contract.
2. Such Disclosure Affidavit certifies, among other things, that the Trade Contractor and each joint venture partner, its agents, employees, officers, and any sub tier subcontractors:
 - a. have not engaged in or been convicted of bribery or attempted bribery of a public officer or employee of the City of Chicago, the State of Illinois, the City, any agency of the federal government or any state or local government in the United States;
 - b. have not been engaged in or been convicted of bid-rigging or bid-rotation activities as defined in the Disclosure Affidavit;
 - c. are not presently debarred or suspended by any local, state or federal procurement agency;
 - d. do not owe any debts to the State of Illinois, in accordance with 65 ILCS 5/11-42.1-1; and
 - e. do not owe any debts to the City of Chicago in violation of Chapter 2-92-380 of the Municipal Code of Chicago.

M. Disclosure of Retained Parties

The Trade Contractor is required to submit a fully executed Disclosure of Retained Parties within 5 days after bid opening. Such documents must be signed by an authorized officer of the company before a notary and are incorporated by reference into this Contract.

N. Non-Collusion, Bribery of a Public Officer or Employee

1. Each Trade Contractor, in performing under this Contract, will comply with Section 2-92-320 of the Municipal Code of Chicago as follows:
 - a. No person or business entity will be awarded a Contract or subcontract if that person or business entity:
 - b. 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 officers or employees official capacity; or
 - c. 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
 - d. Has made an admission of guilt of such conduct described in (1) or (2) above which is a matter of record but has not been prosecuted for such conduct.
2. 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 is chargeable with the conduct. One business entity will be chargeable with the conduct of an affiliated agency.
3. Ineligibility under this section will continue for 3 years following such conviction or admission. The period of ineligibility may be reduced, suspended, or waived by the City under certain specific circumstances. Reference is made to Section 2-92-320 of the Municipal Code of Chicago for a definition of affiliated agency, and a detailed description of the conditions that would permit the City to reduce, suspend, or waive the period of ineligibility.

O. Parking Violations

1. The Construction Manager will set off a portion of the Contract Price or compensation due under the Contract in an amount equal to the amount of the fines and penalties for each outstanding parking violation complaint and/or the amount of any debt owed by the contracting party to the Construction Manager in all contracts undertaken with City of Chicago funds.
2. For purposes of this provision, outstanding parking violation complaint means a parking ticket, notice of parking violation, or parking violation complaint on which neither has payment been made nor an appearance filed in the Circuit Court of Cook County within the time specified on the complaint. Debt means a specified sum of money owed to the City for which the period granted for payment has expired.
3. Notwithstanding the provisions of paragraph 1 above, no such debt(s) or outstanding violation complaint(s) will be set off from the Contract Price or compensation due under the Contract if one or more of the following conditions are met:

- a. The contracting party has entered into an agreement with the Department of Revenue, or other appropriate City department, for the payment of all outstanding parking complaints and/or debts owed to the City and the contracting party is in compliance with the agreement; or
- b. The contracting party is contesting liability for or the amount of the debt in a pending administrative or judicial proceeding; or
- c. The contracting party has filed a petition in bankruptcy and the debts owed in the City are dischargeable in bankruptcy.

SCHEDULE 1
Affidavit of Non-collusion

STATE OF ILLINOIS }
 } SS
COUNTY OF COOK }

_____, being first duly sworn, deposes and says that:

(1) He/She is

(Owner, Partner, Authorized Officer, or Representative or Agent) of

the Bidder that has submitted the attached Bid;

- (2) That Bidder is fully informed respecting the preparation and contents of the attached Bid and of all pertinent circumstances respecting such Bid;
- (3) Such Bid is genuine and is not a collusive or sham bid;
- (4) Neither Bidder nor any of its officers, partners, owners, agents, representatives, employees, or parties in interest, including this affiant, has in any way colluded, connived, conspired, or agreed, directly or indirectly, with any other Bidder, firm, or person to submit a collusive or sham bid in connection with the Contract for which the attached bid has been submitted or to refrain from bidding in connection with such Contract, or has in any manner, directly or indirectly, sought by agreement or collusion or communication or conference with any other Bidder, firm, or person to fix the price or prices in the attached bid or in that of any other Bidder, or to fix any overhead, profit, or cost element of the bid price of any other Bidder, or to secure through any collusion, conspiracy, connivance or unlawful agreement any advantage against the City of Chicago or any person interested in the proposed Contract; and
- (5) The price or prices quoted in the attached Bid are fair and proper and are not tainted by any collusion, conspiracy, connivance, or unlawful agreement on the part of the Bidder or any of its agents, representatives, owners, employees, or parties in interest, including this affiant.
- (6) The Bidder is not barred from bidding as a result of having violated Illinois Criminal Code, 720 ILCS 5/33E-3 (Bid-rigging), 720 ILCS 5/33E-4 (Bid rotating) or the Prevailing Wage Act, 30 ILCS 570/0.01 through 570/7.

(Signed)

(Title)

Subscribed and sworn to before me this _____ day of _____ 20 _____

Notary Public Signature

My Commission Expires:

(SEAL)

SCHEDULE 2

SPECIAL CONDITIONS REGARDING DISADVANTAGED
BUSINESS ENTERPRISE COMMITMENT
(FHWA, FTA, FAA, and IDOT Funded Construction, Commodities and Supply Contracts)
(Reference: DPS 11/2010)

Note: This Schedule applies to Construction, Commodities and Supply Contracts for the Construction Phase as Defined in Section A.3 of Exhibit A, "Scope of Services"

I. POLICY AND TERMS

A. It is the policy of the City of Chicago (City) that Disadvantaged Business Enterprises (DBEs) as defined in 49 CFR Part 26, have the maximum opportunity to participate fully in the performance of contracts subject to 49 CFR Part 26. The contractor must not discriminate against any person or business on the basis of race, color, national origin or sex in the performance of this contract. The contractor must carry out applicable requirements of 49 CFR part 26 in the award and administration of United States Department of Transportation (DOT)-assisted contracts and take affirmative action to ensure that businesses owned by socially and economically disadvantaged individuals have full opportunity to participate.

B. Failure to carry out the commitments and policies set forth in these Special Conditions constitutes a material breach of the contract and may result in the termination of the contract or such remedy as the City deems appropriate.

C. Accordingly, the City has established the following goals for contract participation by DBEs:

Overall DBE Program Goal: 30%

For purposes of this contract, the City has set the following contract goal:

Contract DBE Participation Goal: 25% of Total Project

D. The bidder/proposer must make good faith efforts to obtain DBE participation in this contract. The commitment will be reflected in Schedule D. The bidder/proposer must document that it has obtained enough DBE participation to meet the Contract DBE Participation Goal set forth above or, if unsuccessful in doing so, has made adequate Good Faith Efforts to meet the goal (see Section VII, Good Faith Efforts). If awarded the contract, the contractor must expend not less than the committed percentage of the total contract price (including any amendments and modifications) for contract participation by DBEs.

E. For purposes of evaluating bidder's/proposer's responsiveness, the Contract DBE Participation Goal will be a percentage of the Total Base Bid by the bidder/proposer. However, the Contract DBE Participation Goal applies to the total value of the contract, inclusive of all amendments, allowances and modifications. The Contract Compliance Administrator also has the authority to review each proposed contract modification and amendment that by itself or aggregated with previous modification/amendment requests, increases the contract value by 10 percent of the initial award or \$50,000, whichever is greater, for opportunities to increase participation of DBEs already involved in the contract.

- F. The Contract DBE Participation Goal may be met by the bidder's/proposer's status as DBE, or by joint venture with one or more DBEs, or by subcontracting a portion of the work to one or more DBEs, or by purchasing materials used in the performance of the contract from one or more DBEs or by any combination of the foregoing, as further described in Section V, Counting DBE Participation Towards the Contract DBE Participation Goal.
- G. Bidder/proposer is encouraged to use financial institutions owned and controlled by socially and economically disadvantaged individuals. Use of such institutions may be considered by the City as evidence of bidder's/proposer's willingness to do business with DBEs. Information about such institutions is available in the City's DBE Program document. In addition, the Illinois Unified Certification Program (IL UCP) Disadvantaged Business Enterprises Directory is available via the internet at www.cityofchicago/purchasing and in print at the City of Chicago, Bid and Bond Room, City Hall, 121 N. LaSalle, Room 301, Chicago, IL 60602.
- H. In the event of a conflict between these Special Conditions and 49 CFR Part 26, the provisions of 49 CFR Part 26 supersede the Special Conditions.

II. DEFINITIONS AND USAGE

Terms that are capitalized in these Special Conditions are defined terms and have the meanings set forth in 49 CFR ' 26.5, unless otherwise defined in these Special Conditions.

- A. "Area of Specialty" means the description of a DBE firm's business which has been determined by the Contract Compliance Administrator to be most reflective of the DBE firm's claimed specialty or expertise. Each DBE letter of certification contains a description of the firm's Area of Specialty. This information is also contained in the Directory. Credit toward the Contract DBE Participation Goal is limited to the participation of firms performing within their Areas of Specialty.

NOTICE: The Department of Procurement Services does not make any representation concerning the ability of any DBE to perform work within its Area of Specialty. It is the responsibility of all bidders/proposers to determine the capability and capacity of DBE firms to satisfactorily perform the work proposed.

- B. Certain terms are used in these Special Conditions to indicate the stage of bidding, proposing or contracting in which certain obligations arise. The term "bidder" means a firm responding to a publicly advertised solicitation by the City for the purchase of goods, work or services; the term "proposer" means a firm responding to a request for proposals by the City for professional or technical services or other procurement not adaptive to competitive bidding; a bidder or proposer becomes a "contractor" after being awarded a contract by the City.
- C. "Contract Compliance Administrator" means the officer appointed pursuant to Section 2-92-490 of the Municipal Code of Chicago, currently the Deputy Procurement Officer of the Office of Business Development.
- D. "Directory" means the IL UCP Disadvantaged Business Enterprises Directory, maintained by the City as well as all IL UCP participating agencies, that identifies all firms eligible to participate as DBEs. The Directory lists the firm's name, address, phone number, date of most recent

certification and the type of work the firm has been certified to perform as a DBE. The City revises the Directory on a monthly basis. The Directory is available via the internet on the City's web site at www.cityofchicago.org/purchasing, and in print at the City of Chicago, Bid and Bond Room 121 N. LaSalle St., Room 301, Chicago, Illinois, 60602. Bidders/proposers are responsible for verifying the current certification status of all proposed DBE firms.

- E. "Disadvantaged Business Enterprise" or "DBE" means a for-profit small business concern that (i) is at least 51 percent owned by one or more individuals who are both socially and economically disadvantaged, or in the case of a corporation, 51 percent of the stock is owned by one or more such individuals; and (ii) whose management and daily operations are controlled by one or more of the socially and economically disadvantaged individuals who own it.
- F. "Joint Venture" means an association between a DBE firm and one or more other firms in which property, capital, efforts, skill and knowledge are combined to carry out a single business endeavor engaged in for profit, the DBE is responsible for a distinct, clearly defined portion of the work of the contract and shares in the capital contribution, control, management, risks and profit commensurate with its ownership interest in the joint venture.

III. THIRD PARTY CHALLENGES TO ELIGIBILITY OF DBE FIRM

As noted in 49 CFR Section 26.87, any third party (complainant) may file a complaint alleging that a currently certified DBE is ineligible. The complaint must be made in writing to the City and specify the alleged reasons why the firm is ineligible and include all available information relevant to a determination of whether the challenged party is in fact socially and economically disadvantaged. The City, during its determination of findings, will notify the challenged party of the allegations and notify both parties in writing of the outcome. The confidentiality of the complainant's identity will be protected as provided in 49 CFR Section 26.109(b). If the City determines first, that there was not reasonable grounds presented in the complaint sufficient to justify an inquiry, then the City will notify the complainant and the challenged party of this determination and the reasons for it. During the pendency of any complaint, the presumption that the challenged party is a socially and economically disadvantaged will remain in effect.

IV. JOINT VENTURES

Bidders/proposers may develop joint venture agreements as an instrument to provide participation by DBEs in contract work. A joint venture seeking to be credited for DBE participation may be formed among DBE firms or among one or more DBE firms and non-DBE firms.

A joint venture is eligible if, and only if all of the following requirements are satisfied:

- a. The DBE venturer(s) share in the capital contribution, control, management, risks and profits of the joint venture are commensurate with its ownership interest
- b. The DBE venturer(s) is responsible for a distinct, clearly defined portion of the work of the contract, commensurate with its ownership interest in the joint venture
- c. The DBE venturer(s) actually performs with its own forces using its own equipment, work equal to at least 50% of the value of its ownership of the joint venture

The Contract Compliance Administrator will 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. In addition, the Contract Compliance Administrator will consider the record of joint venturers relative to work performed as joint venturers on City of Chicago contracts. The decision of the Contract Compliance Administrator regarding eligibility of the Joint Venture is final.

Note: Credit for participation by DBEs in joint ventures with non-DBEs does not require a minimum participation of 51 percent in venture ownership and control on the part of the DBE in order for the joint venture to receive credit towards the Contract DBE Participation Goal. An ownership interest in the venture by the DBE may be counted toward the Contract DBE Participation Goal in a pro rata fashion as indicated below (see Section V, Counting DBE Participation Toward the Contract DBE Participation Goal).

DBE/non-DBE joint ventures are creditable on either the prime or the subcontractor level and are otherwise subject to federal, state and City contract limitations restricting second tier subcontracting. (This paragraph is not applicable to FHWA-funded projects.)

NOTICE: The City requires that whenever a joint venture is proposed as the prime contractor each joint venturer must separately sign the proposal to the City on the pages marked TO BE EXECUTED BY A CORPORATION; TO BE EXECUTED BY A PARTNERSHIP; and/or TO BE EXECUTED BY A SOLE PROPRIETOR as applicable.

V. COUNTING DBE PARTICIPATION TOWARD THE CONTRACT DBE PARTICIPATION GOAL

A contractor (and bidders/proposers in their bids and proposals) may count only the following toward the Contract DBE Participation Goal and should report only the following to the Contract Compliance Administrator:

A. The value of the work actually performed by a DBE, as described below:

1. For construction contracts and contracts not involving bona fide services (as described in Section V.A.2. below):

The entire amount of that portion of a contract that is performed by the DBE's own forces. Include the cost of supplies and materials obtained by the DBE for the work of the contract, including supplies purchased or equipment leased by the DBE (except supplies and equipment the DBE subcontractor purchases or leases from the prime contractor or its affiliate).

2. For contracts involving the provision of bona fide services (such as professional, technical, consultant or managerial services, or for providing bonds or insurance specifically required for the performance of a DOT-assisted contract):

The entire amount of fees or commissions charged by a DBE for providing a bona fide service, provided that the fee is reasonable and not excessive as compared with fees customarily allowed for similar services. The determination of whether the fee is reasonable and not excessive will be made by the City.

3. When a DBE subcontracts part of the work of its contract to another firm, the value of the subcontracted work may be counted toward the Contract DBE Participation Goal

only if the DBE's subcontractor is itself a DBE. Work that a DBE subcontracts to a non-DBE firm does not count toward the Contract DBE Participation Goal.

- B. Joint Venture: When a DBE performs as a participant in a joint venture, 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 DBE performs with its own forces is counted towards the Contract DBE Participation Goal.
- C. Commercially Useful Function: Expenditures to a DBE contractor only if the DBE is performing a "commercially useful function" on that contract. The term "commercially useful function" is described in 49 CFR ' 26.55(c).
- D. Materials and Supplies: Regarding expenditures with a DBE for materials or supplies:
 - 1. If the materials or supplies are obtained from a DBE manufacturer, 100 percent of the cost of the materials or supplies. A manufacturer is a firm that operates or maintains a factory or establishment that produces, on the premises, the materials, supplies, articles or equipment required under the contract and of the general character described in the specifications.
 - 2. If the materials or supplies are purchased from a DBE "regular dealer," as that term is described in 49 CFR ' 26.55(e)(2), 60 percent of the cost of the materials or supplies.
- E. Trucking Firms: If the DBE manages and supervises the entire trucking operation for which it is responsible on a particular contract and the DBE itself owns and operates at least one fully licensed, insured and operational truck used on the contract and all leased trucks display the name and identification number of the DBE, then:
 - 1. The total value of the transportation services a DBE provides on the contract using trucks it owns, insures and operates using drivers it employs.
 - 2. The total value of the transportation services a DBE provides on the contract using trucks leased from another DBE trucking firm, including an owner-operator who is certified as a DBE trucking firm, but only if the lease indicates that the DBE lessee has exclusive use of and control over the truck, or, if the truck is used for work for others with the DBE lessee's consent, then the lease must give the DBE lessee absolute priority over its use.
 - 3. Only the value of the fee or commission the DBE receives under a lease arrangement with non-DBE firms for the lease of trucks used to provide transportation services on the contract but only if the lease indicates that the DBE has exclusive use of and control over the truck, or, if the truck works for others with the DBE's consent, then the lease must give the DBE absolute priority over its use.
- F. Firm Not Currently Certified: If a firm is not currently certified as a DBE in accordance with the standards of 49 CFR Part 26, subpart D, at the time of execution of the contract, do not count or report the firm's participation, except as provided in 49 CFR ' 26.87(i).

- G. Firm Whose Eligibility Has Been Removed: Do not report the dollar value of work performed under a contract with a firm after it has ceased to be certified.

Payment: Do not report the participation of a DBE subcontractor until the amount to be counted toward the goal has been paid to the DBE.

VI. PROCEDURE TO DETERMINE BID COMPLIANCE

The following Schedules and documents constitute the bidder's/proposer's DBE proposal, and must be submitted at the time of bid opening or submission of proposals unless stated otherwise:

- A. Schedule B: Affidavit of DBE/Non-DBE Joint Venture

Where the bidder's/proposer's DBE proposal includes the participation of any DBE as a joint venturer prime or subcontractor, the bidder/proposer must submit, together with its bid, a Schedule B: Affidavit of DBE/Non-DBE Joint Venture with an attached copy of the joint venture agreement proposed among the parties.

The Schedule B, in conjunction with the joint venture agreement, must clearly evidence that each DBE venturer will be responsible for a distinct, clearly defined portion of the work to be performed, and that each DBE firm's responsibilities are commensurate with its ownership interest. In order to demonstrate the DBE venturer's share in the capital contribution, control, management responsibilities, risks and profits of the joint venture, the proposed joint venture agreement must include specific details related to (1) the contributions of capital and equipment; (2) work items to be performed by the DBE's own forces; (3) work items to be performed under the supervision of the DBE venturer; and (4) the commitment of management, supervisory and operative personnel employed by the DBE to be dedicated to the performance of the project.

The Schedule B and the joint venture agreement must clearly evidence the commitment of the DBE venturer to actually perform (with its own forces and equipment) work equal to at least 50 percent of the value of its ownership of the joint venture. Only the amount of actual work performed by the DBE venturer is credited to the DBE Participation Goal.

- B. Schedule C: Letter of Intent to Perform as a Subcontractor, Subconsultant or Material Supplier

The bidder must submit the appropriate Schedule C with the bid for each DBE included on the Schedule D. 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 2nd Tier Subcontractors. Each Schedule C must accurately detail the work to be performed by the DBE and the agreed upon rates/prices. Each Schedule C must also include a separate sheet as an attachment on which the DBE fully describes its proposed scope of work, including a description of the commercially useful function being performed by the DBE. An executed original Schedule C must be submitted by the bidder for each DBE included on the Schedule D within three (3) business days after the date of the bid opening when a facsimile copy of the Schedule C has been submitted with the bid.

- C. Schedule D: Affidavit of Prime Contractor Regarding DBEs

Bidders must submit, together with the bid, and proposers must submit at the time specified in the request for proposals, a completed Schedule D committing them to the utilization of each listed DBE firm (but see, Section VII, Good Faith Efforts). The Schedule D must include the name, address, description of the work to be performed and dollar amount participation of each DBE subcontractor, supplier or consultant.

The bidder/proposer must use "Good Faith Efforts," as that term is described in Section VII to meet the Contract DBE Participation Goal (i.e., the specific dollar amount of participation by each DBE firm included on its Schedule D). The total dollar commitment to proposed DBE firms should equal the Contract DBE Participation Goal. Bidders are responsible for calculating the dollar equivalent of the Contract DBE Participation Goal as a percentage of their total base bid or proposal.

All commitments made by the bidder's/proposer's Schedule D must conform to those presented in the submitted Schedule Cs. Except in cases where substantial and documented justification is provided, bidders will not be allowed to reduce the dollar commitment made to any DBE in order to achieve the conformity between the Schedules C and D.

D. Schedule F: Report of Subcontractor Solicitations

All Bidders/Proposers must submit, together with their bid/proposal, a completed Schedule F report containing information on all subcontractors, DBEs and non-DBEs, solicited for participation in the contract. The Schedule F shall include the following subcontractor information:

Contractor name; Address; Contact person; name and telephone number; DBE status; Type of work solicited

E. Letters of Certification

A copy of each proposed DBE firm's Letter of Certification from the City or the Illinois Unified Certification Program (ILUCP) should be submitted with the bid or proposal if currently certified. All Letters of Certification issued by the ILUCP include a statement of the DBE firm's Area of Specialty. The DBE firm's scope of work, as detailed by its Schedule C, must conform to its stated Area of Specialty.

NOTICE: Failure to submit the following information at the time of bid opening or submission of proposals will render the bid or proposal non-responsive: the names and addresses of DBE firms that will participate in the contract (Schedule D), a description of the work that each DBE will perform (Schedule D), the dollar amount of the participation of each DBE firm participating (Schedule D), written documentation of the bidder/proposer's commitment to use a DBE subcontractor whose participation it submits to meet a contract goal (Schedule D), written confirmation from the DBE that it is participating in the contract as provided in the prime contractor's commitment (Schedule C), affidavit of joint venture when a DBE participates in the contract for DBE credit as a joint venturer (Schedule B), report on all subcontractors solicited for participation in the contract (Schedule F) and if the Contract goal is not met, evidence of good faith efforts, as set out in Section I.

F. The submittals must have all blank spaces on the Schedule pages applicable to the subject specification filled in correctly.

- G. Agreements between a bidder and a DBE in which the DBE promises not to provide subcontracting quotations to other bidders are prohibited.
- H. During the period before award, the submitted documentation will be evaluated. As required under 49 CFR ' 26.109(c), all participants in the DBE Program, including the bidder/proposer, must give, upon request, earnest and prompt cooperation to DOT, the City's Chief Procurement Officer and/or Contract Compliance Administrator or his or her authorized delegate in submitting to interviews that may be necessary, or in allowing entry to places of business or in providing further documentation, or in soliciting the cooperation of a proposed DBE in providing such assistance. A bid or proposal may be treated as non-responsive by reason of the determination that the bidder/proposer was found to be unresponsive or uncooperative when asked for further information about the proposal, or that false statements were made in the Schedules.
- I. Bidders/proposers will not be permitted to modify their DBE proposal except as permitted to do so by the City. All terms and conditions stipulated for prospective DBE sub-contractors or suppliers therefore should be satisfactorily negotiated prior to the submission to the City of the bidder's/proposer's DBE commitment as part of the DBE proposal. If circumstances arise, where a proposed DBE becomes no longer available, the process described in Section IX, DBE Substitutions, should be followed.

When necessary in the interest of time, the City may treat a bid or proposal as non-responsive instead of granting extended time for a bidder/proposer to replace DBEs named in the DBE proposal that are later determined to be ineligible or unavailable.

VII. GOOD FAITH EFFORTS

- A. In order for the bidder's bid to be responsive, at the time of the bid opening the bidder must demonstrate it has made Good Faith Efforts to meet the Contract DBE Participation Goal. Proposers likewise must make the required demonstration by the time specified in the request for proposals. In both cases, the demonstration is made in the form of the documentation described in Section VII.B. The bidder/proposer can demonstrate it has made Good Faith Efforts to meet the Contract DBE Participation Goal either by:
 - 1. Meeting the Contract DBE Participation Goal, as provided in these Special Conditions, and documenting commitments for participation by DBE firms sufficient for this purpose; or
 - 2. Documenting, in the manner described below, adequate Good Faith Efforts to meet Contract DBE Participation Goal. This means bidders must submit with their bids, and proposers at the time specified in the request for proposal, documentation to show that it took all necessary and reasonable steps to achieve the Contract DBE Participation Goal or other requirements of 49 CFR Part 26, Appendix A, which, by their scope, intensity and appropriateness to the objective, could reasonably be expected to obtain sufficient DBE participation, even if the bidder/proposer was not fully successful. The following are examples of documented actions the Contract Compliance Administrator may consider to determine whether the bidder/proposer made Good Faith Efforts:

- a. Soliciting through all reasonable and available means (e.g., attendance at pre-bid or pre-proposal meetings, advertising and/or written notices) the interest of all certified DBEs who have the capability to perform the work of the contract. The bidder/proposer must solicit this interest within sufficient time to allow the DBEs to respond to the solicitation. The bidder/proposer must determine with certainty if the DBEs are interested by taking appropriate steps to follow up initial solicitations.
- b. Selecting portions of the work to be performed by DBEs in order to increase the likelihood that the Contract DBE Participation Goal will be achieved. This includes, where appropriate, breaking out contract work items into economically feasible units to facilitate DBE participation, even where the prime contractor might otherwise prefer to perform these work items with its own forces.
- c. Providing interested DBEs with adequate information about the plans, specifications and requirements of the contract in a timely manner to assist them in responding to a solicitation.
- d. Negotiating in good faith with interested DBEs. It is the bidder's/proposer's responsibility to make a portion of the work available to DBE subcontractors and suppliers and to select those portions of the work or material needs consistent with the available DBE subcontractors and suppliers, so as to facilitate DBE participation. Evidence of such negotiation includes the names, addresses and telephone numbers of DBEs that were considered; a description of the information provided regarding the plans and specifications for the work selected for subcontracting; and evidence as to why additional agreements could not be reached for DBEs to perform the work. A bidder/proposer using good business judgment would consider a number of factors in negotiating with subcontractors, including DBE subcontractors, and would take a firm's price and capabilities as well as contract goals into consideration. However, the fact that there may be some additional costs involved in finding and using DBEs is not in itself sufficient reason for a bidder's/proposer's failure to meet the Contract DBE Participation Goal, as long as such costs are reasonable. Also, the ability or desire of a prime contractor to perform the work of a contract within its own organization does not relieve the bidder/proposer of the responsibility to make Good Faith Efforts. Prime contractors are not, however, required to accept higher quotes from DBEs if the price difference is excessive or unreasonable.
- e. Not rejecting DBEs as being unqualified without sound reasons based on a thorough investigation of their capabilities. The DBE's standing within its industry, membership in specific groups, organization or associations and political or social affiliation (for example union vs. non-union employee status) are not legitimate causes for the rejection or non-solicitation of bids in the bidder's/proposer's efforts to meet the Contract DBE Participation Goal.
- f. Making efforts to assist interested DBEs in obtaining bonding, lines of credit or insurance as required by the City or the bidder/proposer.

- g. Making efforts to assist interested DBEs in obtaining necessary equipment, supplies, materials, or related assistance or services.
 - h. Effectively using the services of available minority/women community organizations and contractors' groups; local, state and federal minority/women business assistance offices; and other organizations as allowed on a case-by-case basis to provide assistance in the recruitment and placement of DBEs.
- B. The following 10 types of documentation, as applicable to the situation, will be considered by the Contract Compliance Administrator in determining whether the bidder/proposer has made Good Faith Efforts to meet the Contract DBE Participation Goal. The documentation must be submitted at the time of bid opening or submission of proposals or the bid/proposal will be deemed non-responsive.
 - 1. A detailed statement of efforts to identify and select portions of work identified in the bid solicitation for subcontracting to certified DBE firms. Include copies of attendance logs from pre-bid meetings, advertisements and written notices, as applicable.
 - 2. A listing of all DBE firms contacted that includes:
 - a. names, address and telephone numbers of DBE firms solicited;
 - b. date and time of contact;
 - c. method of contact (written, telephone, facsimile transmittal, etc.)
 - d. name of the person contacted.
 - 3. Copies of letters or any other evidence of mailing that substantiates outreach to DBE vendors that includes:
 - a. project identification and location;
 - b. classification/commodity of work items for which quotations were sought;
 - c. date, item and location for acceptance of subcontractor bid proposals;
 - d. detailed statement which summarizes direct negotiations with appropriate DBE firms for specific portions of the work and indicates why negotiations were unsuccessful;
 - e. affirmation that good faith efforts have been demonstrated by choosing subcontracting opportunities likely to achieve the Contract DBE Participation Goal by not imposing any limiting conditions which were not mandatory for all subcontractors; or denying the benefits ordinarily conferred on DBE subcontractors for the type of work that was solicited.
 - 4. Copies of proposed plans for selecting portions of the work to be performed by DBEs in order to increase the likelihood that the Contract DBE Participation Goal will be achieved.
 - 5. Evidence that the bidder/proposer negotiated in good faith with interested DBEs.
 - 6. Evidence that the bidder/proposer did not reject DBEs as being unqualified without sound reasons based on a thorough investigation of their capabilities.

7. Evidence that the bidder/proposer made efforts to assist interested DBEs in obtaining bonding, lines of credit or insurance, as required by the City or the bidder/proposer.
8. Evidence that the bidder/proposer made efforts to assist interested DBEs in obtaining necessary equipment, supplies, materials or related assistance or services.
9. Evidence that the bidder/proposer has provided timely notice of the need for subcontractors to at least 50 percent of the DBEs listed in the City's Directory as being certified in the applicable Areas of Specialty. Proof of notification (e.g. certified mail receipt or facsimile transmittal receipt) prior to the date a proposer's DBE proposal is due is required for any proposal to be deemed responsive; the proof of notification must be dated prior to the date of bid submittal for any bid submitted to be deemed responsive on the date of bid opening. The Contract Compliance Administrator may contact the certified DBEs for verification of notification.
10. Evidence that subcontractor participation is excessively costly. Subcontractor participation will be deemed excessively costly when the DBE subcontractor proposal exceeds the average price quoted by more than 15 percent. In order to establish that a subcontractor's quote is excessively costly, the bidder must provide the following information at bid opening and proposers at the time specified in the request for proposals:
 - a. A detailed statement of the work identified for DBE participation for which the bidder/proposer asserts the DBE quote(s) were excessively costly (in excess of 15 percent higher).
 - (1) a listing of all potential subcontractors contacted for a quotation on that work item;
 - (2) prices quoted for the subcontract in question by all such potential subcontractors for that work item.
 - b. Other documentation that demonstrates to the satisfaction of the Contract Compliance Administrator that the DBE proposals are excessively costly, even though not in excess of 15 percent higher than the average price quoted. This determination will be based on factors that include, but are not limited to the following:
 - (1) the City's estimate for the work under a specific subcontract;
 - (2) the bidder/proposer's own estimate for the work under the subcontract;
 - (3) an average of the bona fide prices quoted for the subcontract;
 - (4) demonstrated increase in other contract costs as a result of subcontracting to the DBE or other firm.

Note: The City reserves the right to modify this procedure when deemed appropriate.

C. Administrative Reconsideration

1. The Contract Compliance Administrator makes the initial determination regarding a bidder's/proposer's responsiveness based upon his or her review of the documentation. Within five days of being informed by the City that it is not responsive because it has not documented sufficient Good Faith Efforts, a bidder/proposer may request administrative reconsideration. Bidder/proposer should make this request in writing to the following reconsideration official:

Chief Procurement Officer
Department of Procurement Services
City Hall
Room 403
121 N. LaSalle Street
Chicago, IL 60602

The Chief Procurement Officer will not have played any role in the Contract Compliance Administrator's determination that the bidder/proposer did not make or timely document sufficient Good Faith Efforts.

2. As part of this reconsideration, the bidder/proposer will have the opportunity to provide written documentation or argument concerning the issue of whether it met the Contract DBE Participation Goal or made adequate good faith efforts to do so. The bidder/proposer will have the opportunity to meet in person with the Chief Procurement Officer to discuss the issue of whether it met the Contract DBE Participation Goal or made adequate good faith efforts to do. The City will send the bidder/proposer a written decision on reconsideration, explaining the basis for finding that the bidder did or did not meet the Contract DBE Participation Goal or make adequate good faith efforts to do so.

VIII. REPORTING

- A. The bidder/proposer must, within five working days of receiving the awarded contract, execute formal subcontracts or purchase orders with the DBEs that were proposed, all in accordance with the terms of the bidder's/proposer's bid proposal and DBE assurances, and must promptly submit to the City a copy of the DBE subcontracts or purchase orders, each showing acceptance of the subcontract or purchase order by the DBE.
- B. During the life of the project, the bidder/proposer must submit partial and final waivers of lien from DBE subcontractors that are drawn up to show the true, cumulative dollar amount of subcontractor payments made to date. In cases where waivers of lien are not available, the Contract Compliance Administrator may deem other documentation appropriate for submittal.
- C. The bidder/proposer must file regular DBE utilization reports, on Purchases Form DBE Status - 1 entitled "Status Report of DBE (Sub) Contract Payments," according to the following procedure: at the time of signing each monthly payment voucher ("Summary of Estimate"), the bidder/proposer must present the notarized DBE Status form executed to reflect the current status of effective and projected payments to DBEs. The current voucher will not be submitted to the City Comptroller for payment until the current DBE Status form has been presented.

IX. DBE SUBSTITUTIONS

- A. Arbitrary changes by the bidder/proposer of the commitments earlier certified in the Schedule D are prohibited. Further, after once entering into each approved DBE subcontract, the bidder/proposer may neither terminate the subcontract, nor reduce the scope of the work to be performed by the DBE, nor decrease the price to the DBE, without in each instance (i) having just cause, including situations where bidder/proposer's contract with the DBE includes termination for convenience; (ii) making Good Faith Efforts to find another DBE subcontractor to substitute for the original DBE (these Good Faith Efforts must be directed at finding another DBE to perform at least the same amount of work under the contract as the DBE that was terminated, to the extent needed to meet the Contract DBE Participation Goal); and (iii) receiving the prior written approval of the City in all instances.

The bidder/proposer must give the Contract Compliance Administrator reasons that justify the bidder's/proposer's terminating a DBE, reducing the scope of work to be performed by a DBE, or decreasing the price to a DBE. The substitution procedure will be as follows:

1. The bidder/proposer must notify the Contract Compliance Administrator immediately in writing of an apparent necessity to reduce or terminate a DBE subcontract and to propose a substitute firm for some phase of work, if needed in order to sustain the fulfillment of the Contract DBE Participation Goal.
2. The bidder's/proposer's notification should include the specific reasons for the proposed substitution. Stated reasons which would be acceptable include any of the following examples: a committed DBE was found not to be able to perform, or not to be able to perform on time; a committed DBE was found not to be able to produce acceptable work; a committed DBE was discovered later to be not bona fide; a DBE committed at a given price later demands an unreasonable escalation of price; and, the work to be performed by the DBE under the bidder's/proposer's contract with the City is terminated or reduced.

The bidder's/proposer's position in these cases must be fully explained and supported with adequate documentation. Stated reasons which will not be acceptable include: A replacement firm has been recruited to perform the same work under terms more advantageous to the prime contractor; issues about performance by the committed DBE were disputed (unless every reasonable effort has already been made to have the issues resolved or mediated satisfactorily); a DBE has requested reasonable price escalation which may be justified due to unforeseen circumstances.

3. The bidder's/proposer's notification should include the name, address and principal official of any proposed substitute DBE and the dollar value and scope of work of the proposed subcontract. Attached should be all the same DBE affidavits, documents, and Letter of Intent which are required of bidders, as enumerated in Section, Procedure to Determine Bid Compliance.
4. The City will evaluate the submitted documentation, and respond within 15 working days to the request for approval of a substitution. The response may be in the form of a request for more information, or a request for an interview to clarify or mediate the problem. In the case of an expressed emergency need to receive the necessary decision for the sake of job progress, the City will instead respond as soon as practicable.

5. Actual substitution of a replacement DBE to fulfill the Contract DBE Participation Goal may not be made before City approval is given of the acceptability of the substitute DBE. A subcontract with the substitute DBE subcontractor must be executed within five working days following the City's approval, and a copy of the DBE subcontract with signatures of both parties to the agreement should be submitted immediately to the City.
- B. The City will not approve extra payment for escalated costs incurred by the bidder/proposer when a substitution of subcontractors becomes necessary for the bidder/proposer to comply with the Contract DBE Participation Goal.
- C. The Contract Compliance Administrator will make the initial determination of whether the bidder has exercised Good Faith Efforts.

X. NON-COMPLIANCE

- A. Each of the following constitutes a material breach of this contract and entitles 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 make good faith efforts to satisfy the Contract DBE Participation Goal proposed by the bidder/proposer and accepted by the City; and
 2. the contractor, a subcontractor or supplier is disqualified as a DBE, where the status was a factor in the contract award and was misrepresented by the contractor.

If the contractor is determined by the City not to have been involved in any misrepresentation of the status of a disqualified subcontractor or supplier, the contractor must discharge the disqualified subcontractor or supplier and, if possible, identify and engage a qualified DBE as its replacement. Furthermore, contractor's continued eligibility to enter into future contracting arrangements with the City may be jeopardized as a result of non-compliance. The City may withhold payments due to the contractor until corrective action is taken.
- B. The contractor's failure to comply with the Contract DBE Participation Goal proposed by the bidder/proposer and accepted by the City, or failure to comply with the provisions of Section IX, DBE Substitutions, will entitle the affected DBEs to recover from the contractor damages suffered by these DBEs as a result of such under- or non-utilization, but this provision will not apply to the extent the under- or non-utilization occurs pursuant to Good Faith Efforts approved by the City. See Section XI, Arbitration.

For contracts funded in whole, or in part, by Federal Highway Administration, Federal Transit Administration, Illinois Department of Transportation: When the contract requirements are completed, in the event that the City has determined that the bidder/proposer failed to comply with the Contract DBE Participation Goal proposed by the bidder/proposer and accepted by the City, the City will thereby be damaged in the failure to provide the benefit of participation to DBEs to the degree set forth in the Special Conditions. Therefore, in such case of non-

compliance, the City will deduct as liquidated damages cumulative amounts computed as follows:

For each one percent (or fraction thereof) of shortfall toward the Contract DBE Participation Goal, one percent of the base bid for this contract shall be surrendered by the bidder/proposer to the City of Chicago in payment as liquidated damages.

XI. ARBITRATION (FAA Funded Contracts)

- A. The contractor hereby agrees that any disputes between the contractor and any affected DBE regarding damages as a result of contractor's under- or non-utilization of the DBE on any contract funded, in whole or in part, by the Federal Aviation Administration may, at the sole discretion of the DBE, be resolved by binding arbitration before an independent arbitrator other than the City, with reasonable expenses, including attorneys' fees, being recoverable by a prevailing DBE in accordance with applicable City regulations. This provision is intended for the benefit of any DBEs affected by under- or non-utilization and grants them specific third party beneficiary rights. In cases where deemed appropriate by the Contract Compliance Administrator, notification of a dispute by the affected DBE or prime contractor may lead to the withholding of final contract payouts until the City receives a copy of the final arbitration decision. Any rights conferred by this regulation are non-waivable and take precedence over any agreement to the contrary, including those contained in a subcontract, suborder or communicated orally between a contractor and a DBE.
- B. If requested by the DBE, the DBE has the right to arbitrate. A DBE desiring to arbitrate must contact the contractor in writing to initiate the arbitration process. Except as otherwise agreed to in writing by the affected parties, subject to the limitation contained in the last sentence of the previous paragraph, within 10 days of the contractor receiving notification of the intent to arbitrate from the DBE the above-described disputes must be arbitrated in accordance with the Commercial Arbitration Rules of the American Arbitration Association (AAA), a not-for-profit agency, with an office at 225 North Michigan Avenue, Suite 1840, Chicago, Illinois 60601-7601 [Phone: (312) 616-6560; Fax: (312) 819-0404. All such arbitrations must be initiated by the DBE filing a demand for arbitration with the AAA; must be conducted by the AAA; and held in Chicago, Illinois.
- C. All fees of the arbitrator are the initial responsibility of the DBE; the arbitrator, however, is authorized to award reasonable expenses, including attorney's and arbitrator fees, as damages to a prevailing DBE.
- D. The DBE must send the City a copy of the "Demand for Arbitration" within 10 days after it is filed with the AAA. The DBE also must send the City a copy of the decision of the arbitrator within 10 days of receiving the decision. Judgment upon the award rendered by the arbitrator may be entered in any court of competent jurisdiction.

XII. RECORD KEEPING

The contractor must maintain records of all relevant data with respect to the utilization of DBEs, retaining these records for a period of at least five years after final acceptance of the work. The contractor grants full access to these records to the City, Federal or State authorities in this project, the U.S. Department of Justice, or any of their duly authorized representatives.

XIII. RESOURCE AGENCIES

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

U.S. Small Business Administration
500 W. Madison Street, Suite 1250
Chicago, Illinois 60601
Attention: Robert Conner
(312) 353-4528

S.B.A. - Bond Guarantee Program
Surety Bonds
500 W. Madison Street, Suite 1250
Chicago, Illinois 60601
Attention: Carole Harris
(312) 353-4003

S.B.A. - Procurement Assistance
500 W. Madison Street, Suite 1250
Chicago, Illinois 60601
Attention: Robert P. Murphy, Dir. of Government Contracting
(312) 353-7381

Project information; general DBE information; Directory of local and out-of-state construction and design DBEs:

City of Chicago
Department of Procurement Services
City Hall - Room 403
Chicago, Illinois 60602
Attention: Monica Jimenez
(312) 744-4900

Directory of Certified Disadvantaged, Minority and Women Business Enterprises:

City of Chicago
Department of Procurement Services
City Hall - Room 403
Chicago, Illinois 60602
(312) 744-4900

Department of Procurement Services general information on our website:

www.cityofchicago.org/purchasing

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

National Minority Suppliers
Development Council, Inc.
1040 Avenue of the Americas - 2nd Floor
New York, New York 10018
Attention: Harriet R. Michel
(212) 944-2430

Chicago Minority Business
Development Council
One East Wacker Drive, Suite 1200
Chicago, Illinois 60601
Attention: Tracye Smith
(312) 755-8880

XIV. PRIME CONTRACTOR ASSISTANCE

Prime contractors should themselves assist DBEs in overcoming barriers to program participation. The following instruments of assistance, for example, should be used as applicable:

- A. Developing solicitations of sub-contract bids so as to increase potential DBE participation. This can take the form of breaking down large subcontracts into smaller ones, and of issuing notice of solicitations in a timely manner.
- B. Providing technical assistance and guidance in the bidding, estimating and scheduling processes.
- C. Considering purchasing supplies and/or leasing the required equipment for a job, then subcontracting only for the expertise required to perform the work.
- D. Providing accelerated payments or establishing pro-rated payment and delivery schedules so as to minimize cash flow problems faced by small firms.
- E. Providing, waiving or reducing subcontractor bonding requirements; allowing stage bonding (bonding carried over from one project stage to the next).
- F. Providing a pre-bid conference for potential sub-contractors.

In addition to the employment of DBEs, the bidder/proposer should consider the utilization of DBEs in fields indirectly related to the contract, such as banking, office equipment sales, vehicles sales, mechanical repair, legal and accounting services, building security, graphics and advertising, etc.

XV. EQUAL EMPLOYMENT OPPORTUNITY

Compliance with DBE requirements will not diminish or supplant Equal Employment Opportunity and Civil Rights provisions as specified elsewhere in this contract and as they relate to prime contractor and subcontractor obligations.

Assist Agencies

Alliance of Business Leaders & Entrepreneurs (ABLE)
150 N. Michigan Ave. Suite 2800
Chicago, IL 60601
Phone: (312) 624-7733
Fax: (312) 624-7734
Web: www.ablechicago.com

Alliance of Minority and Female Contractors
c/o Federation of Women Contractors
5650 S. Archer Avenue
Chicago, IL 60638
Phone: (312) 360-1122
Fax: (312) 360-0239

American Brotherhood of Contractors Business
Development Center
11509 S. Elizabeth
Chicago, IL 60643
Phone: (773) 928-2225
Fax: (773)928-2209
Web: www.american-brotherhood.org

Asian American Institute
4753 N. Broadway St. Suite 904
Chicago, IL 60640
Phone: (773) 271-0899
Fax: (773) 271-1982
Web: www.aaichicago.org

Association of Asian Construction Enterprises
333 N. Ogden Avenue
Chicago, IL 60607
Phone: (847) 525-9693
Email: nakmancorp@aol.com

Black Contractors United
400 W. 76th Street, Suite 200
Chicago, IL 60620
Phone: (773) 483-4000
Fax: (773) 483-4150
Web: www.blackcontractorsunited.com

Chatham Business Association Small Business
Development, Inc.
8441 S. Cottage Grove Avenue
Chicago, IL 60619
Phone: (773)994-5006
Fax: (773)994-9871
Web: www.cbaworks.org

Chicago Area Gay & Lesbian
Chamber of Commerce
3656 N. Halsted
Chicago, IL 60613
Phone: (773) 303-0167
Fax: (773) 303-0168
Web: www.glchamber.org

Chicago Minority Supplier Development Council, Inc.
105 W. Adams, Suite 2300
Chicago, IL 60603-6233
Phone: (312) 755-8880
Fax: (312) 755-8890
Web: www.chicagomsdc.org

Chicago Urban League
4510 S. Michigan Ave.
Chicago, IL 60653
Phone: (773) 285-5800
Fax: (773) 285-7772
Web: www.cul-chicago.org

Cosmopolitan Chamber of Commerce
203 N. Wabash, Suite 518
Chicago, IL 60601
Phone: (312) 499-0611
Fax: (312) 332-2688
Web: www.cosmochamber.org

Federation of Women Contractors
5650 S. Archer Avenue
Chicago, IL 60638
Phone: (312) 360-1122
Fax: (312) 360-0239
Web: www.fwcchicago.com

Hispanic American Construction Industry Association
(HACIA)

901 West Jackson Boulevard, Suite 205
Chicago, IL 60607
Phone: (312) 666-5910
Fax: (312) 666-5692
Web: www.haciaworks.org

Illinois Hispanic Chamber of Commerce

855 W. Adams, Suite 100
Chicago, IL 60607
Phone: (312) 425-9500
Fax: (312) 425-9510
Web: www.ihccbusiness.net

Latin American Chamber of Commerce

3512 West Fullerton Avenue
Chicago, IL 60647
Phone: (773) 252-5211
Fax: (773) 252-7065
Web: www.latinamericanchamberofcommerce.com

National Association of Women Business Owners

Chicago Chapter
230 E. Ohio, Suite 400
Chicago, IL 60611
Phone: (312) 224-2605
Fax: (312) 6448557
Web: www.nawbochicago.org

Rainbow/PUSH Coalition

International Trade Bureau
930 E. 50th Street
Chicago, IL 60615
Phone: (773) 256-2781
Fax: (773) 373-4104
Web: www.rainbowpush.org

Suburban Minority Contractors Association

1250 Grove Ave. Suite 200
Barrington, IL 60010
Phone: (847) 852-5010
Fax: (847) 382-1787
Web: www.suburbanblackcontractors.org

Uptown Center Hull House

4520 N. Beacon Street
Chicago, IL 60640
Phone: (773) 561-3500
Fax: (773) 561-3507
Web: www.hullhouse.org
Women Construction Owners & Executives (WCOE)
Chicago Caucus
308 Circle Avenue
Forest Park, IL 60130
Phone: (708) 366-1250
Fax: (708) 366-5418
Web: www.wcoeusa.org

Women's Business Development Center

8 South Michigan Ave., Suite 400
Chicago, IL 60603
Phone: (312) 853-3477
Fax: (312) 853-0145
Web: www.wbdc.org

Chicago Women in Trades (CWIT)

4425 S. Western Blvd.
Chicago, IL 60609-3032
Phone: (773) 376-1450
Fax: (312) 942-0802
Web: www.chicagowomenintrades.org

Coalition for United Community Labor Force

1253 W. 63rd Street
Chicago, IL 60636
Phone: (773) 863-0283

Illinois Black Chamber of Commerce

331 Fulton Street, Suite 530
Peoria, IL 61602
Phone: (309) 740-4430
Fax: (309) 672-1379
Web: www.ilbcc.org

Englewood Black Chamber of Commerce

P.O. Box 21453
Chicago, IL 60621

South Shore Chamber, Incorporated

Black United Funds Bldg.
1813 E. 71st Street
Chicago, IL 60649-2000
Phone: (773) 955- 9508

United Neighborhood Organization (UNO)
954 W. Washington Blvd., 3rd Floor
Chicago, IL 60607
Phone: (312) 432-6301
Fax: (312) 432-0077
Web: www.uno-online.org

National Organization of Minority Engineers
33 West Monroe Suite 1540
Chicago, IL 60603
Phone: (312) 425-9560
Fax: (312) 425-9564
Web: www.nomeonline.org

ATTACHMENT B

(On bidder/Proposer's Letterhead)

RETURN RECEIPT REQUESTED

(Date)

Re: Specification: _____
Description: _____

(Assist Agency Name and Address)

Dear _____:

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

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

Our efforts to identify potential subcontractors have not been successful in order to meet the Disadvantaged Business Enterprise ("DBE") contract goal. If you are aware of any DBE firms that would be capable of performing in any of the above-identified areas, please contact

(Bidder/Proposer) _____ At _____

Name of Company Representative
Address/phone

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

Due to our inability to identify an appropriate DBE firm(s) certified by the Illinois Unified Certification Program ("IL UCP") to participate as a subcontractor or joint venture partner on this project, a request for the waiver of the contract goals will be submitted. Written comments on (Bidder/Proposer's) waiver request may be directed within fifteen (15) working days of your receipt of this letter to:

Jamie L. Rhee
Chief Procurement Officer
Department of Procurement Services
City of Chicago
121 N. LaSalle Street, Room 403
Chicago, Illinois 60602

If you wish to discuss this matter, please contact the undersigned at _____

Sincerely,

SCHEDULE B

Affidavit of DBE/Non-DBE Joint Venture
(FTA, FHWA and FAA Funded Contracts)

Note: If all joint venturers are DBEs, a written joint venture agreement between the DBE venturers may be submitted in lieu of this form. In all proposed joint ventures, each DBE venturer must submit a copy of its current Letter of Certification.

ALL INFORMATION REQUESTED BY THIS SCHEDULE MUST BE ANSWERED IN THE SPACES PROVIDED. DO NOT REFER TO YOUR JOINT VENTURE AGREEMENT EXCEPT TO EXPAND ON ANSWERS PROVIDED ON THIS FORM. IF ADDITIONAL SPACE IS REQUIRED, ADDITIONAL SHEETS MAY BE ATTACHED.

I. Name of joint venture: _____
Address of joint venture: _____

Phone number of joint venture: _____

II. Identify each non-DBE venturer(s): _____
Name of Firm: _____
Address: _____
Phone: _____
Contact person for matters concerning DBE compliance: _____

III. Identify each non-DBE venturer(s): _____
Name of Firm: _____
Address: _____
Phone: _____
Contact person for matters concerning DBE compliance: _____

IV. Describe the role(s) of the DBE venturer(s) in the joint venture:

V. Attach a copy of the joint venture agreement. In order to demonstrate the DBE venturer's share in the ownership, control, management responsibilities, risks and profits of the joint venture, the proposed joint venture agreement must include specific details related to: (1) the contributions of capital and equipment; (2) work items to be performed by the DBE's own forces; (3) work items to be performed under the supervision of the DBE venturer; and (4) the commitment of management, supervisory and operative personnel employed by the DBE to be dedicated to the performance of the project.

VI. Ownership of the Joint Venture.

A. What are the percentage(s) of DBE ownership of the joint venture?
DBE ownership percentage(s): _____
Non-DBE ownership percentage(s): _____

B. Specify DBE 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 and quantities of equipment to be provided by each venturer): _____

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

5. Provide copies of all written agreements between venturers concerning this project.
6. Identify each current City of Chicago contract (and each contract completed during the past two (2) years) by a joint venture of two or more firms participating in this joint venture:

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

A. Joint venture check signing:

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

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

D. Acquisition of lines of credit:

E. Acquisition and indemnification of payment and performance bonds:

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 their 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-DBE firm, the DBE firm, or the joint venture.

Trade	Non-DBE Firm (number of employees)	DBE (number of employees)	Joint Venture (number of employees)

Note: 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-DBE (number) _____ Currently employed by DBE _____

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.

(Attach additional sheets as needed)

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

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

Note: If there are any changes in the information submitted after filing this Schedule B and before the completion of the joint venture's work on the project, 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 DBE Partner Firm	_____ Name of Non-DBE 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 to 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)

Reference (DBE Professional Services (FTA/FHWA/FAA) SCHEDULE B Rev. 9/10/02)



SCHEDULE C
DBE Letter of Intent to
Perform as a Subcontractor or Supplier

FOR
CONSTRUCTION
PROJECTS ONLY

Project Name: _____ Specification No.: _____

From: _____
 (Name of DBE Firm)

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

The DBE status of the undersigned is confirmed by the attached City of Chicago or Illinois Uniform Certification Program Certification Letter.

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

<u>Pay Item No./Description</u>	<u>Quantity/Unit Price</u>	<u>Total</u>

Grand Total: \$ _____

Partial Pay Items

For any of the above items that are partial pay items specifically describe the work and subcontract dollar amount(s):

Grand Total: \$ _____

SUB-SUBCONTRACTING LEVELS

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

_____ % of the dollar value of the DBE subcontract that will be subcontracted to non-DBE contractors.

_____ % of the dollar value of the DBE subcontract that will be subcontracted to DBE contractors.

NOTICE: If any of the DBE 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.

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.

NOTICE: THIS SCHEDULE AND ATTACHMENTS REQUIRE ORIGINAL SIGNATURES

(Signature of President/Owner/CEO or Authorized Agent of DBE)

(Date)

(Name/Title-Please Print)

(Email & Phone Number)



SCHEDULE D
Compliance Plan Regarding DBE Utilization
Affidavit of Prime Contractor

**FOR
 CONSTRUCTION
 PROJECTS ONLY**

SCHEDULE D 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 and submitted with the attached Disadvantaged Business Enterprise certification forms, Schedule Cs, Joint Venture Agreement, and Schedule B (if applicable). DBE credit will not be given for work subcontracted to non-DBE contractors, except for as allowed in the Special Conditions Regarding Disadvantaged Business Enterprise Commitment in Construction Contracts.

Name of DBE Firms	Type of Work to be Performed in accordance with Schedule Cs	DBE Participation in dollars and percentage

Total DBE Participation % _____

Total DBE Participation: \$ _____

The Prime Contractor designates the following person as its DBE Liaison Officer:

(Name-Please Print or Type)

(Phone)

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

(Name of Prime Contractor – Print or Type)

State of: _____

(Signature)

County of: _____

(Name/Title of Affiant – Print or Type)

(Date)

On this _____ day of _____, 20____, the above signed officer _____
(Name of Affiant)

personally appeared and, known by me to be the person described in the foregoing Affidavit, acknowledged that (s)he executed the same in the capacity stated therein and for the purposes therein contained.
IN WITNESS WHEREOF, I hereunto set my hand and seal.

(Notary Public Signature)

SEAL:

Commission Expires: _____

SCHEDULE F
Report of Subcontractor Solicitations
(FHWA, FTA and FAA Funded Contracts)
(Reference DPS 11/2010)

Project Name: _____ Specification No.: _____

I, _____ on behalf of _____
(Name of reporter) (Prime contractor)

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 DBE and non-DBE subcontractors who bid or quoted price information on this contract:

Name of Subcontractor _____
Address of Subcontractor _____
Contact Person _____
Status: DBE Certified? _____ Yes No
Type of Work Solicited _____
Years in Business (if available) _____
Annual Gross Receipts (if available) _____

Name of Subcontractor _____
Address of Subcontractor _____
Contact Person _____
Status: DBE Certified? _____ Yes No
Type of Work Solicited _____
Years in Business (if available) _____
Annual Gross Receipts (if available) _____

Name of Subcontractor _____
Address of Subcontractor _____
Contact Person _____
Status: DBE Certified? _____ Yes No
Type of Work Solicited _____
Years in Business (if available) _____
Annual Gross Receipts (if available) _____

Name of Subcontractor _____
Address of Subcontractor _____
Contact Person _____
Status: DBE Certified? _____ Yes No
Type of Work Solicited _____
Years in Business (if available) _____
Annual Gross Receipts (if available) _____

DBE/MBE/WBE Utilization Report
(Reference DPS 11/2010)

NOTICE: This Report Is Not to Be Completed at the Time of Bid or Proposal Submission. If Awarded a Contract With an Approved DBE/MBE/WBE Plan, The Prime Contractor Will Be Required to Submit This Report in Accordance With The Reporting Requirements Stated in The Special Condition Regarding Disadvantaged or Minority And Women Business Enterprise Commitment.

Contract Administrator: _____ Specification No. _____
Phone No. _____ Purchase Order No. _____
Date of Award: _____
Utilization Report 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 Company - Print or Type)

_____ (_____)
(Address of Company) (Phone)

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

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

**Status Report of DBE (Sub) Contract Payments
 (FHWA, FTA and FAA Funded Contracts)**

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 Company - Print or Type)

 (Address of Company)

 (Phone)

and that the following Disadvantaged Business Enterprises (DBEs) 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 stated; and that this is a full, true and complete statement of all such DBEs and of the amounts paid, due and to become due to them:

DBE Name	Goods/Services Provided	Amount Of Contract	Amount Paid To Date
		\$	\$
		\$	\$
		\$	\$
		\$	\$
		\$	\$
		\$	\$
		\$	\$
		\$	\$
		\$	\$
		\$	\$

TOTAL AMOUNT PAID TO DBEs 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)

EXHIBIT A
Anticipated Workforce Projection Form
Affirmative Action Employment Program and Local Employment Program

DATE OF SUBMITTAL: _____

TRADE OR WORK CLASS		ETHNIC CLASS	
KEY: J	JOURNEYMAN	B	BLACK
L	LABORER	H	HISPANIC
A	APPRENTICE	A	ASIAN
EMPL	EMPLOYED	NA	NATIVE AMERICAN
RES	RESIDENT	O	OTHER

DATE: _____

NAME OF FIRM: _____

SIGNATURE: _____

SPECIFICATION NO.: _____

NAME OF PROJECT: _____

Trade or Work Class	Est. Dates of Empl. From-To	Wage Rate	No. of Empl.	Ethnic Class	Male		Female		Chicago Residents		Projected New Hires	
					Total Person Hours	% of Total	Total Person Hours	% of Total	Total Person Hours	% of Total	Total Person Hours	% of Total

Indicate above the number of employees, permanent, temporary or otherwise for each of the categories anticipated to be hired during the term of this contract and the date(s) for which the employee(s) are expected to be hired.

The developer or contractor shall submit this form with copies of W4's within five (5) working days after award of contract to the Attention of: Department of Procurement Services, Division of Contract Monitoring and Compliance, City Hall, Room 400, 121 North LaSalle Street, Chicago, IL 60602.

EXHIBIT B
Pay Period Canvass Report

Contractor: Title:	

Specification #: Award Amount:	

Week Number	Week Ending	Journeyworker			Apprentice			Laborer			Chicago Residents
		Total	Minority	Female	Total	Minority	Female	Total	Minority	Female	
TOTALS											

Note: The Contract's General Conditions require that this "Pay Period Canvass Report" be submitted by the Contractor for its own firm and all of its subcontractor(s) with each pay request. The report must be completed on a weekly basis for each pay period.

EXHIBIT C
Payroll Canvass Survey Report

Contractor:										
Project Title:										
Specification #:										
Award Amount:										
							Total Potential Damages	EEO		
								Residency		
Contractor	Journeyworker			Apprentice			Laborer			Chicago Residents
	Total	Minority	Female	Total	Minority	Female	Total	Minority	Female	
TOTALS										

	Journeyworker		Apprentice		Laborer		Chicago Residents
	Minority	Female	Minority	Female	Minority	Female	
Goals							
Achieved							
Deficiency							
Damages							

(This Page Left Intentionally Blank)

EXHIBIT D
DBE Requirement for Bidder/Proposer List

Pursuant to 49 CFR `26.11, The City is required to maintain a bidders list, consisting of all firms bidding or proposing on prime contracts and bidding or quoting subcontracts. The bidder/proposer is requested to provide a list of all DBE AND non-DBE subcontractors who bid or quote price information on this contract. Failure to cooperate may result in the bidder/proposer being deemed non-responsive in this and future bids. Bidder/proposer is requested to provide the following information:

Prime Contractor (Including all partners to a Joint Venture, if applicable)

Name: _____
Address: _____
Address: _____
City, State, Zip: _____
Goods or Services: _____

Subcontractors (all DBE AND non-DBE subcontractors)

1. Name: _____
Address: _____
Address: _____
City, State, Zip: _____
Goods or Services: _____

2. Name: _____
Address: _____
Address: _____
City, State, Zip: _____
Goods or Services: _____

- 3. Name: _____
Address: _____
Address: _____
City, State, Zip: _____
Goods or Services: _____

- 4. Name: _____
Address: _____
Address: _____
City, State, Zip: _____
Goods or Services: _____

- 5. Name: _____
Address: _____
Address: _____
City, State, Zip: _____
Goods or Services: _____

- 6. Name: _____
Address: _____
Address: _____
City, State, Zip: _____
Goods or Services: _____

Attach Additional Pages as Needed

SCHEDULE 3
Affidavit of Uncompleted Work

A. Work Under Contract

List below all work Bidder has under contract as either a general Trade Contractor or a Subcontractor, including all pending low bids not yet awarded or rejected. In a joint venture, list only that portion of the work that is the responsibility of the Bidder. The uncompleted dollar value is to be based upon the most recent estimate of the owner or engineer, and must include work subcontracted to others. If no work is contracted, indicate NONE.

	1	2	3	4	Awards Pending	TOTALS
Project						
Contract With						
Estimated Completion Date						
Total Contract Price						
Uncompleted Dollar Value if Firm is the GC						
Uncompleted Dollar Value if Firm is a Subcontractor						
TOTAL VALUE OF ALL WORK						

B. Uncompleted Work to be Completed with the Bidder's own Forces

List below the uncompleted dollar value of work for each contract to be completed with the Bidder's own forces, including all work indicated as awards pending. All work subcontracted to others will be listed on C. of this form. In a joint venture, list only that portion of the work to be done by the Bidder. If no work is contracted, indicate NONE.

	1	2	3	4	Awards Pending	TOTALS
Earthwork						
Demolition						
Sewer and Drain						
Foundation						
Painting						
Struct. Steel (Bldg Const.)						
Ornamental Steel (Bldg Construction)						

C. Work Subcontracted to Others

List below all work, according to each contract on the preceding page, that the Bidder has subcontracted to others. Do NOT include work to be performed by another general Trade Contractor in a joint venture. No work may be indicated as subcontracted to others on awards pending. If no work is subcontracted, indicate NONE.

	1	2	3	4	Awards Pending
Subcontractor					
Type of Work					
Subcontract Price					
Amount Uncompleted					
Subcontractor					
Type of Work					
Subcontract Price					
Amount Uncompleted					
Subcontractor					
Type of Work					
Subcontract Price					
Amount Uncompleted					
Subcontractor					
Type of Work					
Subcontract Price					
Amount Uncompleted					
Subcontractor					
Type of Work					
Subcontract Price					
Amount Uncompleted					
Subcontractor					
Type of Work					
Subcontract Price					
Amount Uncompleted					
TOTAL Uncompleted					

I, being duly sworn, do hereby declare that this affidavit is a true and correct statement relating to ALL uncompleted contracts of the undersigned for Federal, State, County, City, and private work including ALL subcontract work, ALL pending low bids not yet awarded or rejected, and ALL estimated completion dates.

Signature

Date

Name (Type or Print)

Title

Bidder Name

Address

City

State

Zip

Subscribed and sworn to before me this _____ day of _____ 20 _____

Notary Public Signature

My Commission Expires:

(SEAL)

SCHEDULE 4

Statement of Bidder's Qualifications

At the request of the City, the Bidder shall also submit additional information regarding the capability of the Bidder to perform the Contract.

Bidder

Submitted By _____

Title _____

Permanent Main Office Address _____

Local Address _____

Local Telephone No. and FAX No. _____

How many years operating as Trade Contractor for work of this nature? _____

List of recently completed contracts of similar dollar value and scope of work.

	Name/Address	Dollar Amount	Year of Contract	Nature of Project
1.				
2.				
3.				
4.				
5.				
6.				
7.				
8.				

The undersigned hereby authorizes any person, firm, or corporation to furnish any information requested by the City of Chicago in verification of this Statement of Bidder's Qualifications.

If submitted by a corporation:

(a) Corporation Name _____

(b) State and City in which incorporated _____

(c) If incorporated in another state, is firm authorized to do business in the State of Illinois?

Yes _____ No _____

(d) Name and address of registered agent in Illinois

(e) Names and titles of officers authorized to sign contracts

_____	_____
Name	Title
_____	_____
Name	Title

If submitted by a partnership:

(a) Firm Name _____
(b) Official Address _____
(c) Names of all Partners: _____

If submitted by an individual:

(a) Firm Name _____
(b) The Owner _____
(c) Official Address _____

Signature of Affiant

Subscribed and sworn to before me this _____ day of _____ 20 _____

Notary Public Signature

My Commission Expires: _____ (SEAL)

SCHEDULE 5

Certificate of Filing On-Line Economic Disclosure Statements (EDS) and Affidavit

The apparent 1st low and the apparent 2nd low Bidder are required to submit file an On-Line Economic Disclosure Statement (EDS) within five (5) days of their respective receipt of notice that they are the apparent 1st and 2nd low bidders.

A. Definitions and Disclosure Requirements

1. As used herein, "Trade Contractor" means a person or entity that has any contract or lease with the City of Chicago ("City").
2. City contracts and/or qualification submittals must be accompanied by a disclosure statement providing certain information about any lobbyists whom the Trade Contractor has retained or expects to retain with respect to the contract or lease. In particular, the Trade Contractor must disclose the name of each such person, his or her business address, the name of the relationship, and the amount of fees paid or estimated to be paid. The Trade Contractor is not required to disclose employees who are paid solely through the Trade Contractor's regular payroll.
3. "Lobbyists" means any person a) who for compensation or on behalf of any person other than himself undertakes to influence any legislative or administrative action, or b) any part of whose duties as an employee of another includes undertaking to influence any legislative or administrative action.

B. Certification

Trade Contractor hereby certifies as follows:

1. This Disclosure relates to the following transaction

: _____

Description of goods or services to be provided under Contract

2. Name of Trade Contractor: _____
3. EACH AND EVERY lobbyist retained or anticipated to be retained by the Trade Contractor with respect to or in connection with the contract or lease is listed below. Attach additional pages if necessary.

Check here if no such persons have been retained or are anticipated to be retained: _____

Retained Parties:

Name	Business Address	Relationship (Lobbyists, etc.)	Fees (indicate whether paid or estimated)

4. The Trade Contractor understands and agrees as follows:
- a. The information provided herein is a material inducement to the City execution of the contract or other action with respect to which this Disclosure of Retained Parties form is being executed, and the City may rely on the information provided herein. Furthermore, if the City determines that any information provided herein is false, incomplete, or inaccurate, the City may terminate the contract or other transaction, terminate the Trade Contractor's participation in the contract or other transactions with the City.
 - b. If the Trade Contractor is uncertain whether a disclosure is required, the Trade Contractor must either ask the City whether disclosure is required or make the disclosure.
 - c. This Disclosure of Retained Parties form, some or all of the information provided herein, and any attachments may be made available to the public on the Internet, in response to a Freedom of Information Act request, or otherwise. The Trade Contractor waives and releases any possible rights or claims it may have against the City in connection with the public release of information contained in the completed Disclosure of Retained Parties form and any attachments.

Under penalty of perjury, I certify that I am authorized to execute this Disclosure of Retained Parties on behalf of the Trade Contractor and that the information disclosed herein is true and complete.

 Signature Date

 Name (Type or Print) Title

Subscribed and sworn to before me
 this _____ day of _____, 20____ (SEAL)

 Notary Public Signature

Commission Expires: (SEAL)

SCHEDULE 6

Contractor's Performance and Payment Bond

RIDER ATTACHED

CONTRACTOR'S PERFORMANCE & PAYMENT BOND

Know All Men by these Presents, That we,

Principal, hereinafter referred to as Contractor, and _____, Surety
of the County of Cook and State of Illinois, are held and firmly bound unto the CITY OF CHICAGO in
the penal sum of _____

lawful money of the United States, for the payment of which sum of money, well and truly to be made, we
bind ourselves, our heirs, executors, administrators, successors and assigns, jointly and severally, firmly by
these presents.

Sealed with our seals and dated this _____ day of _____, 20_____.

The Condition of the Above Obligation is such, that whereas the above bounden Contractor has
entered into a certain contract with the CITY OF CHICAGO, bearing

Contract No. _____ and Specification No. _____ all in conformity with said contract, for,

Furnishing the City of Chicago, DEPARTMENT OF AVIATION, all labor, tools, material, and equipment required
and necessary for the project known as:

JOINT-USE CONSOLIDATED RENTAL CAR/PARKING FACILITY AND ATS EXTENSION FIXED FACILITIES
AT O'HARE INTERNATIONAL AIRPORT

* The attached rider is incorporated herein by reference.

Now, if the said Contractor shall in all respects well and truly keep and perform the said contract on its
part, in accordance with the terms and provisions of all of the Contract Documents comprising said contract,
and in the time and manner therein prescribed, and further shall save, indemnify, and keep harmless the City
of Chicago against all loss, damages, claims, liabilities, judgments, costs and expenses which may in anywise
accrue against said City of Chicago, in consequence of the granting of said contract, or which may in anywise
result therefrom, or which may result from strict liability, or which may in anywise result from any injuries to,
or death of, any person, or damage to any real or personal property, arising directly or indirectly from or in
connection with, work performed or to be performed under said contract by said Contractor, its Agents,
Employees or Workmen, assignees, subcontractors, or anyone else, in any respect whatever, or which may
result on account of any infringement of any patent by reason of the materials, machinery, devices or
apparatus used in the performance of said contract, and moreover, shall pay to said City any sum or sums of
money determined by the Purchasing Agent, and/or by a court of competent jurisdiction, to be due said City by
reason of any failure or neglect in the performance of the requirements of said contract, wherefore the said
Purchasing Agent shall have elected to suspend or cancel the same, and shall pay all claims and demands

whatsoever, which may accrue to each and every materialman and subcontractor, and to each and every person who shall be employed by the said Contractor or by its assignees and subcontractors, in or about the performance of said contract, and with wages paid at prevailing wage rates if so required by said contract, and shall insure its liability to pay the compensation, and shall pay all claims and demands for compensation which may accrue to each and every person who shall be employed by them or any of them in or about the performance of said contract, or which shall accrue to the beneficiaries or dependents of any such person, under the provisions of the Workers' Compensation Act, 820 ILCS 305, as amended, and the Workers' Occupational Disease Act, 820 ILCS 310, as amended (hereinafter referred to as "Acts") then is this obligation to be null and void, otherwise to remain in full force and effect.

And it is hereby expressly understood and agreed, and made a condition hereof, that any judgement rendered against said City in any suit based upon any loss, damages, claims, liabilities, judgements, costs or expenses which may in anywise accrue against said City as a consequence of the granting of said contract, or which may in anywise result therefrom, or which may in anywise result from any injuries to, or death of, any person, or damage to any real or personal property; arising directly or indirectly from, or in connection with, work performed, or to be performed under said contract by said Contractor or its agents, employees or workmen, assignees, subcontractors, or anyone else and also any decision of the Industrial Commission of the State of Illinois; and any order of court based upon such decision, or judgement thereon, rendered' against said City of Chicago in any suit or claim arising under the aforementioned Acts when notice of the pendency or arbitration proceedings or suit shall have been given said Contractor, shall be conclusive against each and all parties to this obligation, as to amount, liability and all other things pertaining thereto.

Every person furnishing material or performing labor in the performance of said contract, either as an individual, as a subcontractor, or otherwise, shall have the right to sue on this bond in the name of the City of Chicago for his use and benefit and in such suit said person as plaintiff, shall file a copy' of .this bond, certified by the party or parties in whose charge this bond shall be, which copy shall be,unless execution thereof be denied under oath; prima facie evidence of the execution and' delivery of the original; provided, that nothing in thus bond contained shall be 'taken to make the City of Chicago liable to any subcontractor, materialman, laborer or to any other person to any greater extent than it would have been liable prior to the enactment of the Public Construction Bond Act, 30 ILCS 550, as amended; provided further, that any person having a claim for labor and materials furnished m the performance of this contract shall have no right of action unless he shall have filed a verified notice of such claim with the Clerk of the City of Chicago within 180 days after the date of the last item of work or the furnishing. Of the last item of materials, and shall have furnished a copy of such verified notice to the contractor within 10 days of the filing of the notice with the City of Chicago. Such claim shall lie verified and shall contain the name and address of the claimant, the business address of the claimant within the State of Illinois, if any, or if the claimant be a foreign corporation having no place of business with the State the principal place of business of said corporation, and in all cases of partnership the names and residences of each. of the partners, the name of the contractor for the City of Chicago, the name of the person, firm or corporation by whom the claimant was employed or to whom such claimant furnished materials, the amount of the claim and a brief description of the public improvement for the construction or installation of which the contract is to be performed. Provided, further that no defect in the notice herein provided for shall deprive the claimant of his right of action under the terms and provisions of this bond unless it shall affirmatively appear that such defect has prejudiced the rights of an interested party asserting the same; provided, further, that no action shall be brought until the expiration of one hundred twenty (120) days after the date of the last item of work or of the furnishing of the last item of material, except in cases where the final settlement between the City of Chicago and the Contractor shall have been made prior to the expiration of the 120 day period in which case action may be taken immediately following such final settlement, and provided, further that no action of any kind shall be brought later than six (6) months after the

acceptance by the City of Chicago of the completion of work. Any suit upon this bond shall be brought only in a circuit court of the State of Illinois in the judicial district in which the contract shall have been performed.

The said Surety, for value received, hereby stipulates and agrees that no change, extension of time, alteration or addition to the terms of any of the Contract Documents comprising said contract, or to the work to be performed thereunder, shall in anywise affect the obligations on this bond, and it does by waive notice of any such change, extension of time, alteration or addition to the terms of said Contract Documents or to the work.

(COMPANY NAME)

Approved _____, 20_____

(Seal)

By: President

(Seal)

Attest: Secretary

Chief Procurement Officer

(Seal)

(Seal)

(Seal)

(Seal)

**PRINCIPAL
IF CORPORATION**

**STATE OF ILLINOIS, }
COUNTY OF COOK, } ss.**

I, _____, a Notary Public in and for the County and State
 aforesaid, DO HEREBY CERTIFY that _____ President and
 _____ Secretary of the _____
 who are personally known to me to be the same persons whose names are subscribed in the foregoing instrument as
 such _____ President and _____ Secretary, appeared
 before me this day in person and acknowledged that they signed, sealed and delivered the said instrument of writing as
 their free and voluntary act, and as the free and voluntary act of the said _____
 for the uses and purposes therein set forth, and caused the corporate seal of said Company to be thereto attached.

GIVEN under my hand and Notarial Seal this _____ day of _____ 20____

Notary Public

SURETY, IF CORPORATE

**STATE OF ILLINOIS, }
COUNTY OF COOK, } ss.**

I, _____, a Notary Public in and for the County and State
 aforesaid, DO HEREBY CERTIFY that _____
 _____ of the _____ who _____ personally known
 to be the same person _____ whose name _____ subscribed in the foregoing instrument as such _____
 _____, appeared before me this day in person and acknowledged that _____
 signed, sealed and delivered the said instrument of writing as _____ free and voluntary act, and as the free
 and voluntary act of the said _____
 for the uses and purposes therein set forth, and caused the corporate seal of said Company to be thereto attached.

GIVEN under my hand and Notarial Seal this _____ day of _____ 20____

Notary Public

**PRINCIPAL
IF INDIVIDUAL**

**STATE OF ILLINOIS, }
COUNTY OF COOK, } ss.**

I, _____, a Notary Public in and for the County and State
 aforesaid, DO HEREBY CERTIFY that _____
 who _____ personally known to me to be the same persons whose name _____ subscribed in the foregoing
 instrument, appeared before me this day in person and acknowledged that _____ he _____ signed, sealed and delivered the
 said instrument of writing as _____ free and voluntary act, for the uses and purposes therein set forth.

GIVEN under my hand and Notarial Seal this _____ day of _____ 20____

Notary Public

GRC-180211-26-1

RIDER TO CONTRACTOR'S PERFORMANCE AND PAYMENT BOND

This Rider supplements Contractor's Performance and Payment Bond ("Bond") on that certain contract with the City of Chicago ("City") bearing Contract No. _____ and Specification No. _____ ("Contract"). Surety acknowledges that the Contract requires Contractor to obtain from each of its subcontractors consent to a collateral assignment of their contracts with Contractor to the City. The Contract further grants the City the right, upon Contractor's default for failure to comply with Chapter 4-36 of the Municipal Code of the City, and at the City's sole option, to take over and complete the work to be performed by Contractor through the City's assumption of some or all of Contractor's subcontracts. If the City, in its sole discretion, exercises this right, then Surety waives any rights it may have to cure Contractor's default by performing the work itself or through others and remains bound by its other obligations under the Bond.

EXHIBIT E

INSURANCE AND BONDING REQUIREMENTS

1. The Construction Manager shall furnish proof of its ability to provide the bonds and insurance required by the Contract with its Proposal. With respect to the payment and performance bonds, a letter from the Construction Manager's surety affirming the surety's willingness to provide the Construction Manager's bonds is sufficient. With respect to the insurance, either a letter from the Construction Manager's insurer, or a certificate showing that the Construction Manager currently possesses the required coverage, is sufficient.
2. The insurance requirements for this project are as follows: The Construction Manager must provide and maintain at Construction Manager's own expense, the minimum insurance coverage and requirements specified below, insuring all operations related to the Contract. The insurance must remain in effect from: the date of the notice to proceed until Substantial Completion of the project, during completion of Punch List, as well as any time Construction Manager returns to perform additional work regarding warranties or for any other purpose.
3.
 - a) Insurance To Be Provided By the Construction Manager
The insurance requirements are included in this Exhibit E.
4. Upon approval by the City to award the Initial GMP and Project GMP, respectively, which approval shall be designated by a Notice to Proceed from the City to the Construction Manager, and within five (5) days after being given notice of approval of each, the successful Construction Manager must execute and deliver to the City the Performance and Payment Bond in the form included in the Contract Documents, and evidence of the required insurance coverage.
5. The Performance and Payment Bond shall be in the form provided herein, in the full amount of the Initial GMP and Project GMP, respectively, and shall be security for the faithful performance of the Contract and payment of all persons, firms, or corporations to whom the Construction Manager may become legally indebted for labor, material, facilities or services of any nature, employed or used by it in performing the Work. The current power of attorney for the persons who sign for any surety company shall be attached to such bond. Such power of attorney shall be sealed and certified with a "first hand signature" by an officer of the surety. A facsimile signature will not be accepted by the City. The City reserves the right to approve the surety company.
6. The failure of the Construction Manager to supply the required Performance and Payment Bond or evidence of the required insurance coverage within five (5) days of notice, or within such extended period as the City may grant based upon reasons determined sufficient by the City, shall constitute a default and the City may either award the Contract to the next lowest responsible Construction Manager or re-advertise for bids. The difference between the amount of its bid and the amount for which a contract for the work is subsequently executed may be charged against the Construction Manager, irrespective of whether the amount thus due exceeds the amount of the bid security. If a more favorable bid is received by re-advertising, the defaulting Construction Manager shall have no claim against the City for a refund. Because of the difficulty of ascertaining the damage caused to the City, such sum shall be considered liquidated damages and shall not constitute a penalty. The election by the City to grant an extension to the period allowed for the Construction Manager to provide an acceptable performance and payment bond and/or evidence of insurance coverage shall not entitle the Construction Manager to an extension of time required to complete the Work.

RIDER ATTACHED

CONTRACTOR'S PERFORMANCE & PAYMENT BOND

Know All Men by these Presents, That we,

Principal, hereinafter referred to as Contractor, and _____, Surety
of the County of Cook and State of Illinois, are held and firmly bound unto the CITY OF CHICAGO in
the penal sum of _____

lawful money of the United States, for the payment of which sum of money, well and truly to be made, we
bind ourselves, our heirs, executors, administrators, successors and assigns, jointly and severally, firmly by
these presents.

Sealed with our seals and dated this _____ day of _____, 20_____.

The Condition of the Above Obligation is such, that whereas the above bounden Contractor has
entered into a certain contract with the CITY OF CHICAGO, bearing

Contract No. _____ and Specification No. _____ all in conformity with said contract, for,

Furnishing the City of Chicago, DEPARTMENT OF AVIATION, all labor, tools, material, and equipment required
and necessary for the project known as:

JOINT-USE CONSOLIDATED RENTAL CAR/PARKING FACILITY AND ATS EXTENSION FIXED FACILITIES
AT O'HARE INTERNATIONAL AIRPORT

* The attached rider is incorporated herein by reference.

Now, if the said Contractor shall in all respects well and truly keep and perform the said contract on its
part, in accordance with the terms and provisions of all of the Contract Documents comprising said contract,
and in the time and manner therein prescribed, and further shall save, indemnify, and keep harmless the City
of Chicago against all loss, damages, claims, liabilities, judgments, costs and expenses which may in anywise
accrue against said City of Chicago, in consequence of the granting of said contract, or which may in anywise
result therefrom, or which may result from strict liability, or which may in anywise result from any injuries to,
or death of, any person, or damage to any real or personal property, arising directly or indirectly from or in
connection with, work performed or to be performed under said contract by said Contractor, its Agents,
Employees or Workmen, assignees, subcontractors, or anyone else, in any respect whatever, or which may
result on account of any infringement of any patent by reason of the materials, machinery, devices or
apparatus used in the performance of said contract, and moreover, shall pay to said City any sum or sums of
money determined by the Purchasing Agent, and/or by a court of competent jurisdiction, to be due said City by
reason of any failure or neglect in the performance of the requirements of said contract, wherefore the said
Purchasing Agent shall have elected to suspend or cancel the same, and shall pay all claims and demands
whatsoever, which may accrue to each and every materialman and subcontractor, and to each and every person
who shall be employed by the said Contractor or by its assignees and subcontractors, in or about the

performance of said contract, and with wages paid at prevailing wage rates if so required by said contract, and shall insure its liability to pay the compensation, and shall pay all claims and demands for compensation which may accrue to each and every person who shall be employed by them or any of them in or about the performance of said contract, or which shall accrue to the beneficiaries or dependents of any such person, under the provisions of the Workers' Compensation Act, 820 ILCS 305, as amended, and the Workers' Occupational Disease Act, 820 ILCS 310, as amended (hereinafter referred to as "Acts") then is this obligation to be null and void, otherwise to remain in full force and effect.

And it is hereby expressly understood and agreed, and made a condition hereof, that any judgement rendered against said City in any suit based upon any loss, damages, claims, liabilities, judgements, costs or expenses which may in anywise accrue against said City as a consequence of the granting of said contract, or which may in anywise result therefrom, or which may in anywise result from any injuries to, or death of, any person, or damage to any real or personal property; arising directly or indirectly from, or in connection with, work performed, or to be performed under said contract by said Contractor or its agents, employees or workmen, assignees, subcontractors, or anyone else and also any decision of the Industrial Commission of the State of Illinois; and any order of court based upon such decision, or judgement thereon, rendered' against said City of Chicago in any suit or claim arising under the aforementioned Acts when notice of the pendency or arbitration proceedings or suit shall have been given said Contractor, shall be conclusive against each and all parties to this obligation, as to amount, liability and all other things pertaining thereto.

Every person furnishing material or performing labor in the performance of said contract, either as an individual, as a subcontractor, or otherwise, shall have the right to sue on this bond in the name of the City of Chicago for his use and benefit and in such suit said person as plaintiff, shall file a copy' of .this bond, certified by the party or parties in whose charge this bond shall be, which copy shall be,unless execution thereof be denied under oath; prima facie evidence of the execution and' delivery of the original; provided, that nothing in thus bond contained shall be 'taken to make the City of Chicago liable to any subcontractor, materialman, laborer or to any other person to any greater extent than it would have been liable prior to the enactment of the Public Construction Bond Act, 30 ILCS 550, as amended; provided further, that any person having a claim for labor and materials furnished m the performance of this contract shall have no right of action unless he shall have filed a verified notice of such claim with the Clerk of the City of Chicago within 180 days after the date of the last item of work or the furnishing. Of the last item of materials, and shall have furnished a copy of such verified notice to the contractor within 10 days of the filing of the notice with the City of Chicago. Such claim shall lie verified and shall contain the name and address of the claimant, the business address of the claimant within the State of Illinois, if any, or if the claimant be a foreign corporation having no place of business with the State the principal place of business of said corporation, and in all cases of partnership the names and residences of each. of the partners, the name of the contractor for the City of Chicago, the name of the person, firm or corporation by whom the claimant was employed or to whom such claimant furnished materials, the amount of the claim and a brief description of the public improvement for the construction or installation of which the contract is to be performed. Provided, further that no defect in the notice herein provided for shall deprive the claimant of his right of action under the terms and provisions of this bond unless it shall affirmatively appear that such defect has prejudiced the rights of an interested party asserting the same; provided, further, that no action shall be brought until the expiration of one hundred twenty (120) days after the date of the last item of work or of the furnishing of the last item of material, except in cases where the final settlement between the City of Chicago and the Contractor shall have been made prior to the expiration of the 120 day period in which case action may be taken immediately following such final settlement, and provided, further that no action of any kind shall be brought later than six (6) months after the acceptance by the City of Chicago of the completion of work. Any suit upon this bond shall be brought only in a circuit court of the State of Illinois in the judicial district in which the contract shall have been performed.

The said Surety, for value received, hereby stipulates and agrees that no change, extension of time, alteration or addition to the terms of any of the Contract Documents comprising said contract, or to the work to be performed thereunder, shall in anywise affect the obligations on this bond, and it does by waive notice of any such change, extension of time, alteration or addition to the terms of said Contract Documents or to the work.

(COMPANY NAME)

Approved _____, 20_____

By: President (Seal)

Attest: Secretary (Seal)

Chief Procurement Officer

(Seal)

(Seal)

(Seal)

(Seal)

**PRINCIPAL
IF CORPORATION**

**STATE OF ILLINOIS, }
COUNTY OF COOK, } ss.**

I, _____, a Notary Public in and for the County and State
aforesaid, DO HEREBY CERTIFY that _____ President and
_____ Secretary of the _____
who are personally known to me to be the same persons whose names are subscribed in the foregoing instrument as
such _____ President and _____ Secretary, appeared
before me this day in person and acknowledged that they signed, sealed and delivered the said instrument of writing as
their free and voluntary act, and as the free and voluntary act of the said _____
for the uses and purposes therein set forth, and caused the corporate seal of said Company to be thereto attached.

GIVEN under my hand and Notarial Seal this _____ day of _____ 20____

Notary Public

SURETY, IF CORPORATE

**STATE OF ILLINOIS, }
COUNTY OF COOK, } ss.**

I, _____, a Notary Public in and for the County and State
aforesaid, DO HEREBY CERTIFY that _____
_____ of the _____ who _____ personally known
to be the same person _____ whose name _____ subscribed in the foregoing instrument as such _____
_____, appeared before me this day in person and acknowledged that _____
signed, sealed and delivered the said instrument of writing as _____ free and voluntary act, and as the free
and voluntary act of the said _____
for the uses and purposes therein set forth, and caused the corporate seal of said Company to be thereto attached.

GIVEN under my hand and Notarial Seal this _____ day of _____ 20____

Notary Public

**PRINCIPAL
IF INDIVIDUAL**

**STATE OF ILLINOIS, }
COUNTY OF COOK, } ss.**

I, _____, a Notary Public in and for the County and State
aforesaid, DO HEREBY CERTIFY that _____
who _____ personally known to me to be the same persons whose name _____ subscribed in the foregoing
instrument, appeared before me this day in person and acknowledged that _____ he _____ signed, sealed and delivered the
said instrument of writing as _____ free and voluntary act, for the uses and purposes therein set forth.

GIVEN under my hand and Notarial Seal this _____ day of _____ 20____

Notary Public

GRC-180211-26-1

RIDER TO CONTRACTOR'S PERFORMANCE AND PAYMENT BOND

This Rider supplements Contractor's Performance and Payment Bond ("Bond") on that certain contract with the City of Chicago ("City") bearing Contract No. _____ and Specification No. _____ ("Contract"). Surety acknowledges that the Contract requires Contractor to obtain from each of its subcontractors consent to a collateral assignment of their contracts with Contractor to the City. The Contract further grants the City the right, upon Contractor's default for failure to comply with Chapter 4-36 of the Municipal Code of the City, and at the City's sole option, to take over and complete the work to be performed by Contractor through the City's assumption of some or all of Contractor's subcontracts. If the City, in its sole discretion, exercises this right, then Surety waives any rights it may have to cure Contractor's default by performing the work itself or through others and remains bound by its other obligations under the Bond.

Issue Date: _____

CA/CN Initials: _____ TM

INSURANCE CERTIFICATE OF COVERAGE

Named Insured: _____
 Address: _____
 (Number and Street)

Specification #: _____
 RFP: _____
 Project #: _____
 Contract #: _____

 (City) (State) (ZIP)

Description of Operation/Location	
-----------------------------------	--

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

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

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

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

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

CONSTRUCTION MANAGER'S INSURANCE REQUIREMENTS

The Construction Manager must provide and maintain at Construction Manager's own expense, the minimum insurance coverage and requirements specified below, insuring all operations related to the Contract. The insurance must remain in effect from the date of the notice to proceed until Substantial Completion of the project, during completion of Punch List, as well as any time Construction Manager returns to perform additional work regarding warranties or for any other purpose.

I. OWNER CONTROLLED INSURANCE PROGRAM (OCIP)

The City has purchased insurance coverage for the City, the Construction Manager and its enrolled Trade Contractors of any tier for work performed on the Project.

The OCIP coverage is only for Work performed in and from the Project Site and operations necessary or incidental to the work performed at the Project Site. Project Site shall mean O'Hare Airport and any other adjacent property owned or acquired by the City or to which the City has been granted easements or rights of access. The City assumes no liability if the limits of coverage provided by the City are inadequate or exhausted. The City's failure to procure any such insurance shall not be deemed to be a breach of the Contract or an event of default and shall not diminish Construction Manager's obligation to perform.

While it is the intent of the City to keep the OCIP in force throughout the term of this Project and all other projects under the O'Hare Modernization Program (OMP), the City reserves the right to terminate or modify the terms, limits and conditions of the OCIP coverage. To exercise this right, the City shall provide thirty (30) days advance written notice of termination or material modification to Construction Manager and all Trade Contractor(s) of any tier covered by the OCIP. In the event that the OCIP is terminated in whole or in part by the City or the coverages are reduced below those required by Section II below, the Construction Manager shall be required to obtain replacement or additional coverage as described in Section II.

Upon Substantial Completion of the Construction Manager's Work, the OCIP coverage for the Construction Manager's Work will be terminated. If the Construction Manager or any Trade Contractor of any tier returns to do any work on the Project Site after Substantial Completion of the Project, including warranty or any other repair work, the Construction Manager and any Trade Contractors of any tier must procure and maintain the insurance coverages required by Section III and provide certificates of insurance for the coverages to the Director, prior to beginning the work.

The Construction Manager shall not include in its base bid price the cost of any insurance to be provided by the City under the City's OCIP described herein.

The furnishing of the OCIP shall in no way be interpreted as relieving the Construction Manager or any Trade Contractors of any tier of any obligation or responsibility whatsoever under the Contract or otherwise. Construction Manager or its Trade Contractors of any tier may carry, at their own expense, such additional insurance as the Construction Manager and/or its Trade Contractors of any tier may deem necessary.

An OCIP Project Manual will be provided to the Construction Manager and its enrolled Trade Contractors of any tier that will detail aspects of the OCIP and the Construction Manager and Trade Contractors of any tier reporting requirements.

Construction Manager and Trade Contractors of any tier agree that the purpose of this section is to provide information and a general understanding of the insurance coverages that will be provided by the City under the OCIP. Construction Manager and Trade Contractors of any tier agree that the policies actually procured and their limits of liability, coverage scope and terms, conditions, endorsement and exclusions shall determine the actual scope of coverage provide by and under the OCIP. The City does not covenant that the actual OCIP policies will provide, and conform to, the coverages described herein. In addition, termination of or reduction of coverages under the OCIP (once placed) arising from loss or reduction in market insurance capacity shall not result in either liability or additional costs to the City.

A. Insurance coverages to be included in OCIP:

1) Workers Compensation and Employers Liability

Workers Compensation as prescribed by applicable law covering all employees who are to perform Work under this Contract and all other Work under the O'Hare Modernization Program and Employers Liability.

Workers' Compensation and Employer's Liability Insurance will be provided in accordance with applicable State laws. Limits of Liability and coverage are being sought as follows:

- (a) Workers' Compensation, form WC 00 00 00 A, – With Applicable State Statutory Benefits
- (b) Employer's Liability with limits of:
 - (i) \$1,000,000 Bodily Injury each Accident
 - (ii) \$1,000,000 Bodily Injury by Disease – Policy Limit
 - (iii) \$1,000,000 Bodily Injury by Disease – Each Employee
- (c) Employers Liability Exclusions as follows:
 - (i) liability assumed under a contract;
 - (ii) punitive or exemplary damages;
 - (iii) bodily injury to an employee while knowingly employed in violation of the law;
 - (iv) obligations imposed by a workers compensation, occupational disease or similar law;
 - (v) bodily injury intentionally caused or aggravated by the insured;
 - (vi) bodily injury occurring outside of the United States of America;
 - (vii) damages arising out of employment practice or any personnel practices, policies acts or omissions;
 - (viii) bodily injury to any person subject to any federal workers or workmen's compensation law or occupational disease law;
 - (ix) bodily injury to any person in work subject to the Federal Employers' Liability Act;
 - (x) bodily injury to a master or member of the crew of any vessel;
 - (xi) fines or penalties imposed for violation of federal or state law;
 - (xii) damages payable under the Migrant and Seasonal Agricultural Worker Protection Act.

- (d) Additional Forms and Endorsements:
 - (i) WC 00 00 01, Information Page
 - (ii) Policy Jacket
 - (iii) WC 00 03 01 A, Alternate Employer Endorsement (Where required by written contract or agreement.), Designated Workplaces Exclusion Endorsement (Excludes all workplaces except work performed in and from the Project Site and operations necessary or incidental to the Project.
 - (iv) WC 00 03 03 C, Employers Liability Coverage Endorsement or its equivalent (Stop Gap)
 - (v) WC 34 03 01 B, Ohio Employers Liability Coverage or its equivalent (Stop Gap).
 - (vi) WC 00 03 11 A, Voluntary Compensation and Employers Liability (All officers and employees not subject to workers compensation law except masters and members of the crew of any vessel.)
 - (vii) WC 00 03 13, Waiver of Our Right to Recover from Others (Where required by written contract or agreement.)
 - (viii) Premium Discount
 - (ix) WC 00 04 14 (or its equivalent), Notification of Change in Ownership (You must report change of ownership within 90 days.)
 - (x) WC 00 04 19 (or its equivalent), Premium Due Date
 - (xi) Terrorism Risk Insurance Act
 - (xii) Consent to Transfer of Your Rights and Duties (Transfer of rights and duties for premium payment and reimbursement of losses to the City of Chicago)
 - (xiii) Unintentional Errors and Omissions (Unintentional misrepresentations prior to policy inception will not impair your rights under the policy.)
WC 12 06 01 C, Illinois Amendatory Endorsement
 - (xiv) Illinois Notice to Policyholder (Premium reduction if you accept a \$1,000 medical deductible per claim.)
 - (xv) Illinois Loss Reimbursement Endorsement (Program large deductible endorsement – deductible applies only to the City of Chicago.)
 - (xvi) Notice of Cancellation (60 days except nonpayment of premium.)
 - (xvii) Illinois Industrial Commission Operations Fund Surcharge
 - (xviii) Named Insured and Address Schedule and FEIN Number
 - (xix) Large Risk Rating Plan Endorsement
 - (xx) Waiver of Rights under Kotecki (Blanket are required by written contract or agreement.)
 - (xxi) Classification and Rating Schedule

2) Commercial General Liability

Commercial General Liability Insurance will be provided on an “occurrence” form under a master liability policy with the following Limits of Liability, Coverages, and Terms:

- (a) Limit of Liability:
 - \$2,000,000 Combined Single Limit any one occurrence for bodily injury or property damage and \$4,000,000 in the aggregate
- (b) Deductible:

The Construction Manager and Trade Contractors of any tier will be responsible for a deductible of \$10,000 each claim for property damage claims only, to be borne by the insured who becomes legally obligated to pay the damages).

- (c) Coverage and Terms:
 - (i) Occurrence Basis, CG 00 01 (most recent edition date at the time of occurrence);
 - (ii) Products and Completed Operations (Three Year Term); with a term aggregate of \$4,000,000;
 - (iii) Personal and Advertising Injury Liability \$2,000,000 per occurrence subject to the General Aggregate.

- (d) Exclusions:
 - (i) Expected or Intended Injury;
 - (ii) Contractual Liability;
 - (iii) Liquor Liability;
 - (iv) Workers' Compensation and Similar Laws;
 - (v) Employer's Liability;
 - (vi) Pollution;
 - (vii) Aircraft, Auto or Watercraft
 - (viii) Mobile Equipment;
 - (ix) War;
 - (x) Damage to Property;
 - (xi) Damage To Your Product;
 - (xii) Damage To Your Work;
 - (xiii) Damage To Impaired Property Or Property Not Physically Injured;
 - (xiv) Recall of Products, Work Or Impaired Property;
 - (xv) Electronic Data;
 - (xvi) Exclusion- Engineers, Architects Or Surveyors Professional Liability, form CG 22 43;

- (e) Exclusions for Medical Payments:
 - (i) Any Insured;
 - (ii) Hired Person;
 - (iii) Injury On Normally Occupied Premises;
 - (iv) Workers Compensation And Similar Laws;
 - (v) Athletic Activities;
 - (vi) Products-Completed Operations Hazard;
 - (vii) Coverage A Exclusions

- (f) Exclusions for Personal And Advertising Injury Liability:
 - (i) Knowing Violation Of Rights Of Another;
 - (ii) Material Published With Knowledge Of Falsity;
 - (iii) Material Published Prior To Policy Period;
 - (iv) Criminal Acts;
 - (v) Contractual Liability;
 - (vi) Breach Of Contract;
 - (vii) Quality Or Performance Of Goods- Failure To Conform To Statements;
 - (viii) Wrong Description Of Prices

- (ix) Infringement Of Copyright, Patent, Trademark Or Trade Secret;
 - (x) Insureds In Media And Internet Type Business;
 - (xi) Electronic Chatrooms Or Bulletin Boards;
 - (xii) Unauthorized Use Of Another's Name Or Product;
 - (xiii) Pollution;
 - (xiv) Pollution- Related;
 - (xv) War;
- (g) Additional Forms and Endorsements:
- (i) Declarations Pages
 - (ii) IL 0017, Common Policy Conditions
 - (iii) IL 0003, Calculation of Premium
 - (iv) CG 0062, War Liability Exclusion
 - (v) CG 0200, Illinois Changes - Cancellation and Non-renewal
 - (vi) CG 2144, Limitation of Coverage to Designated Premises or Project
(Excludes all workplaces except work performed in and from the Project Site and operations necessary or incidental to the Project).
 - (vii) Additional Insured Endorsements – Where required by written contract or agreement, coverage to apply on a primary basis.
 - i. CG 2010 0704, Additional Insureds – Owners, Lessees or Construction Managers
 - ii. CG 2037 0704, Additional Insureds – Owners, Lessees or Construction Managers – Completed Operations
 - iii. CG 2015 0704 Additional Insured - Vendors
 - iv. CG 2034 0704 Additional Insured - Lessor of Leased Equipment
 - v. CG 2012 0798 Additional Insured-State or Political Subdivisions-Permits
 - vi. CG 2032 0704 Additional Insured – Engineers, Architects or Surveyors
 - (viii) CG 2404 1093, Waiver of Transfer of Rights of Recovery Against Others to Us (Blanket as required by written contract or agreement.)
 - (ix) Amendment of Duties in the Event of Occurrence, Offense, Claim or Suit (duties under the policy in the event of a claim)
 - (x) Unintentional Errors and Omissions (Including Claim Reporting)
(Unintentional misrepresentations prior to policy inception will not impair your rights under the policy.)
 - (xi) Consent to Transfer of Your Rights and Duties (Transfer of rights and duties for premium payment and reimbursement of losses to the City of Chicago.)
 - (xii) No exclusion for "X, C, U" hazards. (Explosion, collapse, underground.)
 - (xiii) Named Insured Endorsement (Broad/automatic coverage)
 - (xiv) Complete Operations Extension Endorsement – three year term
 - (xv) Amendment of Fellow Employee Exclusion (Provides coverage for supervisory employees)
 - (xvi) Composite Rating Plan Premium Endorsement
 - (xvii) Large Risk Rating Plan/Deductible Endorsement (Program large deductible endorsement – applies only to the City of Chicago.)
 - (xviii) Deductible Endorsement – Property Damage (applies to property damage only, \$10,000 each claim, to be borne by the insured who becomes legally-obligated to pay the damages.)

- (xix) Notice of Cancellation (60 days except nonpayment of premium.)
- (xx) Additional Definitions Endorsement (Defines Construction Manager, Project Site and Project.)
- (xxi) CG 2417 1001, Contractual Liability – Railroads (Amend Definition of Insured Contract to Delete Exclusion within 50 feet of a Railroad)
- (xxii) Delete Exclusion for assumed liability from the Personal Injury coverage part
- (xxiii) Notice of Occurrence (Notice of a claim under the workers compensation policy that later develops into a liability claim shall not be deemed late notice.)
- (xxiv) Extended Bodily Injury or Property Damage (use of reasonable force to protect persons or property.)
- (xxv) Exclusion for Continuing or Progressive Bodily Injury, Personal and Advertising Injury or Property Damage
- (xxvi) Damage to Property Exclusion Modified (Excludes coverage for claims insured under the builders risk insurance policy.)
- (xxvii) Asbestos Exclusion
- (xxviii) Silica, Dust and Particulate Matter Exclusion
- (xxix) Mold/Fungus Exclusion
- (xxx) Radioactive Matter Exclusion
- (xxxi) CG 2155 0999 (or its equivalent), Total Pollution Exclusion with Hostile Fire Exception
- (xxxii) Total Lead Exclusion
- (xxxiii) EIFS (Exterior Insulation Finish Systems) Exclusion
- (xxxiv) CG 2279 0798 (or its equivalent), Exclusion – Construction Managers Professional Liability
- (xxxv) CG 2147 0798 (or its equivalent), Employment-Related Practices Exclusion
- (xxxvi) Exclusion – Violation of Statutes in Connection with Sending, Transmitting or Communicating any Material or Information
- (xxxvii) Terrorism exclusion
- (xxxviii) IL 0021 0702(or its equivalent), Nuclear Energy Liability Exclusion (Broad Form)

3) Excess

Excess Liability Insurance limits of not less than \$100,000,000 per occurrence and aggregate, excess of Commercial General Liability including Completed Operations and Employers Liability.

Coverage will be provided on an "occurrence" form under a master liability policy with the following Limits of Liability, Coverages, and Terms:

- (a) Additional Forms and Endorsements
 - (i) Excess Liability Declarations Page
 - (ii) Excess Liability Policy Form
 - (iii) Insurer Policy Jacket
 - (iv) Schedule of Underlying Insurance
 - (v) Specified/Designated Location and/or Project Endorsement
 - (vi) Completed Operations Extension Endorsement (three years)

- (vii) Terrorism Risk Insurance Act if available after December 31, 2005.
- (viii) Construction Managers Professional Liability Exclusion
- (ix) Care, Custody or Control Exclusion
- (x) Automobile Liability Exclusion
- (xi) EIFS (Exterior Insulation Finish Systems) Exclusion
- (xii) Exclusion for Continuing or Progressive Bodily Injury, Personal and Advertising Injury or Property Damage
- (xiii) Damage to Property Exclusion Modified (Excludes coverage for claims insured under the builders risk insurance policy.)
- (xiv) Asbestos Exclusion
- (xv) Silica, Dust and Particulate Matter Exclusion
- (xvi) Mold/Fungus Exclusion
- (xvii) Radioactive Matter Exclusion
- (xviii) Total Pollution Exclusion with Hostile Fire Exception
- (xix) Total Lead Exclusion
- (xx) Employment-Related Practices Exclusion
- (xxi) Nuclear Energy Liability Exclusion (Broad Form)
- (xvii) Terrorism Exclusion except as covered under the Terrorism Risk Insurance Act.

4) Construction Manager's Pollution Liability –bodily injury, property damage and cleanup costs for pollution liability for the contractors operation.

Construction Managers' Pollution Liability has been procured with limits of liability of \$10,000,000 each claim and aggregate for the term of and insuring bodily injury, property damage and cleanup costs for the contractors operation on all of the projects under the OMP. Construction Manager and all tiers of Trade Contractor shall be responsible for the policy deductible for each and every loss.

The policy will provide coverage for sums that Construction Manager and Trade Contractors become legally obligated to pay for loss as a result of claims for bodily injury, property damage or clean-up costs caused by pollution incident. Pollution incidents will include the discharge, dispersal, release or escape of any solid, liquid, gaseous or thermal irritant or contaminant, including but not limited smoke, vapors, soot, fumes, acids, alkalis, toxic chemicals, medical waste, waste materials, lead, hydrocarbons and microbial matter, including fungi, bacterial or viral matter which reproduces through release of spores or the splitting of cells or other means, including but not limited to, mold, mildew and viruses, whether or not such microbial matter is living.

- (a) Forms and Endorsements
 - (i) Insurer Policy Jacket
 - (ii) Construction Manager's Pollution Liability Policy Declarations Page
 - (iii) Construction Manager's Pollution Liability Insurance Policy
 - i. Policy Exclusions:
 - 1. Contractual Liability
 - 2. Employers Liability
 - 3. Fines and Penalties
 - 4. Insured's internal expenses arising from a claim
 - 5. Damage to Insured's property
 - 6. Intentional Acts
 - 7. Known Conditions

8. Non-owned disposal sites, unless specifically scheduled
9. Nuclear Hazards
10. Products Liability
11. Professional Liability
12. Claims arising out of the Use of Vehicles except as used in the performance of your operations at the project site
13. War or hostile acts
14. Workers Compensation
15. Knowing or willful noncompliance with statutes, regulation, etc.
16. Claims arising out of transportation beyond the boundaries of the project site.
17. Terrorism except as covered under the Terrorism Risk Insurance Act.

- (iv) Broad Named Insured
- (v) Duties of First Named Insured
- (vi) Definition of Insured
- (vii) Insured versus Insured claims exclusion
- (viii) Joint Defense Endorsement
- (ix) Amendment to Transportation Exclusion
- (x) Completed Operations Extension – three years
- (xi) Mold/Fungus (claims-made coverage form)
- (xii) Terrorism Risk Insurance Act if available after December 31, 2005.
- (xiii) EIFS (Exterior Insulation Finish Systems) Exclusion
- (xiv) Blanket Waiver of Subrogation as required by written contract or agreement
- (xv) Illinois Service of Suit Endorsement

5) Railroad Protective Liability

When any work is to be done adjacent to or on railroad or transit property, the City procured Railroad Protective Liability Insurance in the name of the railroads or transit entities, with limits of \$2,000,000 per occurrence and \$6,000,000 in the aggregate.

- (a) Forms and Endorsements
 - (i) Insurer Policy Jacket
 - (ii) Railroad Protective Liability Policy Declarations Page
 - (iii) Railroad Protective Liability Coverage Part
 - i Exclusions
 1. Expected or Intended injury
 2. Contractual liability
 3. Completed Work
 4. Acts or Omissions of the insured (Railroad)
 5. Workers Compensation
 6. Pollution
 7. Damage to owned, leased or entrusted property
 8. Nuclear incidents
 - (iv) Illinois Service of Suit Endorsement
 - (v) Securities and Financial Interest Exclusion
 - (vi) War Exclusion

(vii) Asbestos Exclusion

B. Construction Manager's and Trade Contractors of any tier' Responsibilities:

The Construction Managers and Trade Contractors of any tier are required to cooperate with the City or its representatives, and insurance carriers with regard to the administration and operation of the OCIP. The Construction Manager's and Trade Contractors of any tier responsibilities shall include, but not be limited to:

- (1) Completion of an OCIP enrollment form. Coverage under the OCIP will not be effective for any eligible Construction Manager or Trade Contractor of any tier until Construction Manager or Trade Contractor is enrolled in the OCIP. Construction Manager or Trade Contractor must not begin work at the project site until Construction Manager or Trade Contractor have enrolled in the OCIP and received a certificate of insurance evidencing coverage under the OCIP. Willis may require a "No Know Loss Letter" from the Construction Manager or Trade Contractor if the Form 2 received by Willis is more than ten (10) days after the start of your work.
- (2) Complying with applicable construction safety requirements, the O'Hare Modernization Program Construction Safety Manual, the OCIP Project Manual and Claims Procedures;
- (3) Providing necessary contract, operations and insurance information;
- (4) Immediately notifying the City of all Trade Contractors of any tier upon award of a subcontract prior to start of Trade Contractor's work;
- (5) Maintaining payroll records and other records as necessary for premium audit-;
- (6) Immediately notifying the City when any Construction Manager or Trade Contractor of any tier provided coverages have been canceled, materially changed, or non-renewed;
- (7) Timely completion of OCIP Forms; and
- (8) All enrolled Construction Managers and Trade Contractors of any tier in the OCIP must submit monthly payroll reports by workers compensation class codes to comply with the National Council of Compensation Insurance Premium Audit Rules certified by Construction Manager and Trade Contractors of any tier to their accuracy.

C. ADDITIONAL REQUIREMENTS

The City and Construction Manager waive their rights of subrogation against each other and against any other parties that are covered by the OCIP insurance policies ("Covered Parties") for any injury to persons or loss of or damage to property where such injury, loss or damage is insured (or is required by this Contract to be insured) either under an OCIP policy or another insurance policy (collectively, "Covered Losses"). Construction Manager shall require its insurers and its Trade Contractors of any tier and their insurers to waive their rights of subrogation against each other, the City and all other Covered Parties for such Covered Losses. The City shall require its insurers to waive their rights of subrogation against each other and against Covered Parties, including Construction Manager and its eligible Trade Contractors of any tier, for Covered Losses and shall include a similar provision in its contracts with other Covered Parties. Nothing herein precludes a party from seeking recovery from other parties for injuries, losses and damages that are not Covered Losses (to the extent that the party seeking recovery has not otherwise waived such claims against the other parties) or the City from collecting a deductible that is payable by the Construction Manager or a Trade Contractor of any tier in accordance with the insurance requirements of this Contract.

II. INSURANCE TO BE PROVIDED IN EVENT OCIP IS TERMINATED OR REDUCED

The Construction Manager and all Trade Contractors of any tier shall promptly obtain quotations for appropriate replacement insurance coverage as listed below. If such quotations are reasonably acceptable to City, then Construction Manager and Trade Contractors of any tier shall promptly bind such replacement coverage. If quotations obtained by Construction Manager or any of the Trade Contractors of any tier are not reasonably acceptable to the City, the Construction Manager will work with the City to identify appropriate cost for replacement insurance coverage that is reasonably acceptable to the City. Except as provided in Section I, the actual documented cost of such replacement insurance will be reimbursed by the City. Also, if replacement insurance is required due to the duration of the Work exceeding the duration of the term for the OCIP for reasons not deemed to be excusable delays as defined by the City, then the cost of such replacement insurance shall be at Construction Manager and Trade Contractors of any tier expense.

Construction Manager and all eligible Trade Contractors of any tier will be required to provide copies of their current declaration pages and premium rate pages for their workers' compensation, general liability and umbrella/excess liability policies and railroad protective if applicable, to verify the rates they are charging. If Construction Manager or Trade Contractors of any tier have insurance policies with deductibles or other loss sensitive programs, they must provide copies of the past five years audited workers compensation payrolls, currently dated claim loss runs for those same five years for their workers compensation, general liability, umbrella/excess liability and railroad protective and copies of their deductible or program agreement with their insurance carrier to support the calculation of the loss rate and fixed cost (premium) rate being utilized.

The Construction Manager must provide and maintain at Construction Manager's own expense, until Final Completion of work and during the time period following final completion if Construction Manager is required to return and perform any additional work, the insurance coverages and requirements specified below, insuring all operations related to the Contract.

A. Insurance to be Provided

1) Workers Compensation and Employers Liability

Workers Compensation 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 \$1,000,000 each accident or illness; \$1,000,000 for disease.

Coverage must include, at a minimum, the coverage described in the Section I or the actual coverage provided by the OCIP which ever is greater. All policy terms and conditions must be approved by the City prior to placement of coverage.

2) Commercial General Liability

Commercial General Liability Insurance or equivalent with limits of not less than \$1,000,000 per occurrence/ per project for bodily injury, personal injury, and property damage liability. Coverage must include the following: All premises and operations, products/completed operations (maintained for a minimum of five (5) years following Final Completion), explosion, collapse, underground, separation of insureds, defense, and contractual liability. The City of Chicago, DMJM Aviation Partners JV, PB Americas, Inc., and the Architect/Engineer are to be named as an additional insured and others as required by the City on a primary, non-contributory basis for any liability arising directly or indirectly from the work.

Coverage must include, at a minimum, the coverage described in the Section I or the actual coverage provided by the OCIP whichever is greater. All policy terms and conditions must be approved by the City prior to placement of coverage.

3) Excess

Umbrella/Excess Insurance limits of not less than \$50,000,000 per occurrence and \$50,000,000 per project annual aggregate or a lesser amount as deemed reasonable by City's Risk Manager, excess of Commercial General Liability including Complete Operations and Employers Liability Coverage must include the following: All premises and operations, products/completed operations (maintained for a minimum of five (5) years following Final Completion), explosion, collapse, underground, separation of insureds, defense, and contractual liability. The City of Chicago, DMJM Aviation Partners JV, PB Americas, Inc., and the Architect/Engineer are to be named as an additional insured and others as required by the City on a primary, non-contributory basis.

Trade Contractors of any tier performing work for Construction Manager must maintain limits of not less than \$5,000,000 with the same terms in this subsection.

Coverage must include, at a minimum, the coverage described in the Section I or the actual coverage provided by the OCIP which ever is greater. All policy terms and conditions must be approved by the City prior to placement of coverage.

4) Construction Manager's Pollution Legal Liability

When any work is performed which may cause a pollution exposure, Construction Manager must provide Construction Manager's Pollution Legal Liability with limits of not less than \$5,000,000 per occurrence. The policy will provide coverage for sums that Construction Manager and Trade Contractors of any tier become legally obligated to pay for loss as a result of claims for bodily injury, property damage, environmental cleanup, remediation, transportation and disposal caused by pollution condition and other losses caused by pollution conditions that arise from the Work. Pollution conditions will include the discharge, dispersal, release or escape of any solid, liquid, gaseous or thermal irritant or contaminant, including but not limited to asbestos, smoke, vapors, soot, fumes acids, alkalis, toxic chemicals, medical waste, waste materials, lead, hydrocarbons and microbial matter, including fungi, bacterial or viral matter which reproduces through release of spores or the splitting of cells or other means, including but not limited to, mold, mildew and viruses, whether or not such microbial matter is living.

When the 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 three (3) years. The City of Chicago, DMJM Aviation Partners JV, PB Americas, Inc., and the Architect/Engineer are to be named as an additional insured and others as required by the City on a primary, non-contributory basis.

Trade Contractors of any tier performing work for Construction Manager must maintain limits of not less than \$1,000,000 with the same terms in this subsection.

Coverage must include, at a minimum, the coverage described in the Section I or the actual coverage provided by the OCIP which ever is greater. All policy terms and conditions must be approved by the

City prior to placement of coverage.

5.) Railroad Protective Liability

When any work is to be done adjacent to or on railroad or transit property, Construction Manager must provide, with respect to the operations that Construction Manager or Trade Contractors of any tier perform, Railroad Protective Liability Insurance in the name of railroad or transit entity. The policy must have limits of not less than \$2,000,000 per occurrence and \$6,000,000 in the aggregate for losses arising out of injuries to or death of all persons, and for damage to or destruction of property, including the loss of use thereof.

Coverage must include, at a minimum, the coverage described in the Section I or the actual coverage provided by the OCIP which ever is greater. All policy terms and conditions must be approved by the City prior to placement of coverage.

B. Additional Requirements

The Construction Manager must furnish the City of Chicago, O'Hare Modernization Program, 10510 West Zemke Road, 60666, original Certificates of Insurance, or such similar evidence, to be in force on the date of this Contract or beginning or continuation of work, and Renewal Certificates of Insurance, or such similar evidence, if the coverages have an expiration or renewal date occurring during the term of this Contract. The Construction Manager must submit evidence of insurance on the City of Chicago Insurance Certificate Form (copy attached) or equivalent prior to Contract award. The receipt of any certificate does not constitute agreement by the City that the insurance requirements in the Contract have been fully met or that the insurance policies indicated on the certificate are in compliance with all Contract requirements. The failure of the City to obtain certificates or other insurance evidence from Construction Manager showing compliance with the requirements of the contract is not a waiver by the City of any requirements for the Construction Manager to obtain and maintain the specified coverages. The Construction Manager shall advise all insurers of the Contract provisions regarding insurance. Non-conforming insurance does not relieve Construction Manager of the obligation to provide insurance as specified herein. Nonfulfillment by the Construction Manager of the insurance conditions constitutes a default of the Contract, and the City retains the right to stop work until proper evidence of insurance is provided, obtain the required insurance at the Construction Manager's cost and either recover the amount spent or deduct it from any amounts due the Construction Manager or to exercise any remedies available to the City under the contract.

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

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

The Construction Manager 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 Construction Manager in no way limit the Construction Manager's liabilities and responsibilities specified within the Contract or by law.

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

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

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

The Construction Manager must require all Trade Contractors of any tier to provide the insurance required herein or Construction Manager may provide the coverages for Trade Contractors of any tier. All Trade Contractors of any tier are subject to the same insurance requirements of Construction Manager unless otherwise specified in this Contract.

If Construction Manager or subcontractor of any tier desires additional coverages, the party desiring the additional coverages is responsible for the acquisition and cost.

The City of Chicago Risk Management Division maintains the right to modify, delete, alter or change these requirements.

III. INSURANCE TO BE PROVIDED BY CONTRACTOR FOR COVERAGE NOT INCLUDED IN THE OCIP AND INSURANCE TO BE PROVIDED FOR CONTRACTORS NOT INSURED BY THE OCIP

The OCIP does not include activities of the Construction Manager and Trade Contractors of any tier not solely related to the Work including but not limited to, home and branch office activities off-site, warehouse or manufacturing facilities, the interest of vendors, and others who merely supply or transport personnel, materials, parts or equipment or any other items to or from the Project Site, any other activities of Construction Managers not solely related to the Work, consultants, including architects, engineers, land surveyors, interior designers and landscape architects, manufacturers, suppliers, vendors, materials dealers, janitorial services, truckers (including trucking to the project where delivery is the only scope of work performed), and temporary project services. In addition to the above, Construction Manager may choose not to include in the OCIP subcontractors of any tier at Construction Manager's discretion. If a subcontractor of any tier is not included in the OCIP at Construction Manager's discretion or is removed from the OCIP, this subcontractor is an ineligible subcontractor. Ineligible subcontractors shall be required to maintain their own insurance of the types and with the limits as set forth below, at their own expense, and shall promptly furnish Construction Manager or its designated representative, certificates of insurance giving evidence that all required insurance is in force.

The Construction Manager must provide and maintain at Construction Manager's own expense, until Final Completion and during the time period following Final Completion if Construction Manager is required to return and perform any additional work, including warranty or any other repair work, the insurance coverages and requirements specified below, insuring all operations related to the Contract.

A. Insurance to Be Provided

1) Workers Compensation and Employers Liability

Workers Compensation Insurance as prescribed by applicable law, covering all employees who are to perform work under this Contract and not covered by the OCIP and Employers Liability coverage with limits of not less than \$500,000 each accident or illness; \$500,000 for disease. Coverage shall include other states endorsement, alternate employer and voluntary compensation.

2) Commercial General Liability (Primary and Umbrella)

Commercial General Liability Insurance or equivalent for operations not covered by the OCIP with limits of not less than \$5,000,000 per occurrence for bodily injury, personal injury and property damage liability. Coverages must include the following: All premises and operations, products/completed operations (maintained for a minimum of 2 (two) years following final completion), separation of insureds, defense and contractual liability. The City of Chicago, DMJM Aviation Partners JV, PB Americas, Inc., and the Architect/Engineer are to be named as an additional insured and others as required by the City on a primary, non-contributory basis for any liability arising directly or indirectly from the work.

Trade Contractors of any tier performing work for Construction Manager must maintain limits of not less than \$2,000,000 with the same terms in this subsection.

3) Automobile Liability (Primary and Umbrella)

When any motor vehicles (owned, non-owned and hired) are used in connection with Services to be performed, Construction Manager must provide Automobile Liability Insurance with limits of not less than \$5,000,000 per occurrence for bodily injury and property damage. The City of Chicago, DMJM Aviation Partners JV, PB Americas, Inc., and the Architect/Engineer are to be named as an additional insured and others as required by the City on a primary, non-contributory basis.

4) Professional Liability Insurance (Errors & Omissions)

The Construction Manager and Trade Contractors of any tier whose contracts require design services or other professional services will maintain professional liability insurance with limits of not less than \$2,000,000 each claim, providing coverage for claims allegedly arising out of errors, omissions, negligent acts or breach of professional duties due to their performance, or failure to perform services including design, architectural, engineering, land surveying or interior design. When the 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.

Trade Contractors of any tier performing work for Construction Manager must maintain limits of not less than \$1,000,000 with the same terms in this subsection.

5) Valuable Papers

When any plans, designs, drawings, specifications, data, media, and any 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 re-creation and reconstruction of such records.

6) Property

Construction Manager will purchase and maintain Property Insurance, covering all property owned, leased, borrowed, or in control of, which is not to be incorporated into the Work, including, without limitation, tools, equipment and materials. Construction Manager and all Trade Contractors of any tier shall maintain Construction Managers' Equipment Floater Insurance for owned, leased, or borrowed equipment including equipment under its care, custody and control.

The City shall not be responsible for, nor shall they insure, the property of Construction Manager or any subcontractor of any tier, including, but not limited to, tools and equipment, located at the job site which is not intended to be incorporated into the work.

7) Watercraft and Aircraft Liability

In the event that the Construction Manager or Trade Contractor of any tier utilizes watercraft and/or aircraft in connection with the work, Construction Manager or Trade Contractor of any tier shall maintain protection and indemnity coverage and/or aircraft liability coverage in amounts not less than \$10,000,000 per occurrence, combined single limit for bodily injury liability and Property Damage. The City of Chicago, DMJM Aviation Partners JV, PB Americas, Inc., and the Architect/Engineer are to be named as an additional insured and others as required by the City on a primary, non-contributory basis.

8) Construction Managers Pollution Liability

When any excavation, environmental cleanup or remediation of known pollution incidents, or remediation work of unknown incidents is performed, Construction Manager must provide Construction Manager's Pollution Liability with limits of not less than \$5,000,000 per occurrence. The policy will provide coverage for sums that Construction Manager and Trade Contractors become legally obligated to pay for loss as a result of claims for bodily injury, property damage, completed operations, contractual liability, defense, transportation and disposal caused by pollution condition and other losses caused by pollution conditions that arise from the Work. Pollution conditions will include the discharge, dispersal, release or escape of any solid, liquid, gaseous or thermal irritant or contaminant, including but not limited to asbestos, smoke, vapors, soot, fumes acids, alkalis, toxic chemicals, medical waste, waste materials, lead, hydrocarbons and microbial matter, including fungi, bacterial or viral matter which reproduces through release of spores or the splitting of cells or other means, including but not limited to, mold, mildew and viruses, whether or not such microbial matter is living.

When the 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 three (3) years. The City of Chicago, DMJM Aviation Partners JV, PB Americas, Inc., and the Architect/Engineer are to be named as additional insureds and others as required by the City on a primary, non-contributory basis.

9) Asbestos Abatement Liability

When any asbestos work is performed in connection with this Agreement, Asbestos Abatement Liability Insurance must be provided with limits of not less than \$5,000,000 per occurrence insuring bodily injury, property damage and environmental cleanup. 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 one (1) year. The City of Chicago, DMJM Aviation Partners JV, PB Americas,

Inc., and the Architect/Engineer are to be named as additional insureds and others as required by the City on a primary, non-contributory basis.

10) Builders Risk

The Construction Manager must provide All Risk Builder's Risk Insurance at replacement cost of the Project. The policy must include but not be limited to 1) coverage for all materials, equipment, machinery, fixtures, and furniture; labor, reasonable overhead and profit; and forms, form work and temporary structures to be "used up" in the construction, 2) coverage for loss arising out of testing, including "hot" testing; resulting damage arising out of error or omission in design, plans or specifications; and resulting damage arising out of faulty or defective workmanship or materials, freezing, and collapse coverage, 3) a waiver of subrogation for City of Chicago, Construction Manager and all Trade Contractors of any tier of every tier, 4) permission for use or occupancy of the Work while insured by the policy, 5) off-premises utility interruption and changes in ordinances or laws and resulting increased cost of construction, 6) off-premises storage of materials, materials in-transit to the job-site and extra expense, 7) flood and earthquake coverage and 8) debris removal as 25% of the loss. The City of Chicago is to be included as a named insured.

B. **ADDITIONAL REQUIREMENTS**

The Construction Manager must furnish the City of Chicago, O'Hare Modernization Program, 10510 West Zemke Road, 60666, original Certificates of Insurance, or such similar evidence, to be in force on the date of this Contract or beginning or continuation of work, and Renewal Certificates of Insurance, or such similar evidence, if the coverages have an expiration or renewal date occurring during the term of this Contract. The Construction Manager must submit evidence of insurance on the City of Chicago Insurance Certificate Form (copy attached) or equivalent prior to Contract award. The receipt of any certificate does not constitute agreement by the City that the insurance requirements in the Contract have been fully met or that the insurance policies indicated on the certificate are in compliance with all Contract requirements. The failure of the City to obtain certificates or other insurance evidence from Construction Manager showing compliance with the requirements of the contract is not a waiver by the City of any requirements for the Construction Manager to obtain and maintain the specified coverages. The Construction Manager shall advise all insurers of the Contract provisions regarding insurance. Non-conforming insurance does not relieve Construction Manager of the obligation to provide insurance as specified herein. Nonfulfillment by the Construction Managers of the insurance conditions constitutes a default of the Contract, and the City retains the right to stop work until proper evidence of insurance is provided, obtain the required insurance at the Construction Manager's cost and either recover amount spent or deduct it from any amounts due the Construction Manager or to exercise any remedies available to the City under the contract.

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

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

The Construction Manager 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 Construction Manager in no way limit the Construction Manager's liabilities and responsibilities specified within the Contract or by law.

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

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

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

The Construction Manager must require all Trade Contractors of any tier to provide the insurance required herein, Construction Manager may provide the coverages for Trade Contractors of any tier. All Trade Contractors of any tier are subject to the same insurance requirements of Construction Manager unless otherwise specified in this Contract.

If Construction Manager or subcontractor of any tier desires additional coverages, the party desiring the additional coverages is responsible for the acquisition and cost.

The City of Chicago Risk Management Division maintains the right to modify, delete, alter or change these requirements.

EXHIBIT F

SPECIAL CONDITIONS REGARDING DISADVANTAGED
BUSINESS ENTERPRISE COMMITMENT
(FHWA, FTA, FAA, and IDOT Funded Professional Services Contracts)

Note: This Schedule applies to Construction, Commodities and Supply Contracts for the Pre-Construction Phase as Defined in Section A.1 of Exhibit A "Scope of Services"

I. POLICY AND TERMS

A. It is the policy of the City of Chicago (City) that Disadvantaged Business Enterprises (DBEs) as defined in 49 CFR Part 26, shall have full and fair opportunities to participate in the performance of contracts subject to 49 CFR Part 26. The contractor must not discriminate against any person or business on the basis of race, color, national origin or sex in the performance of this contract. The contractor must carry out applicable requirements of 49 CFR Part 26 in the award and administration of United States Department of Transportation (DOT)-assisted and Illinois Department of Transportation (IDOT)-assisted contracts and take affirmative action to ensure that businesses owned by socially and economically disadvantaged individuals have full and fair opportunities to compete for and perform subcontracts for supplies or services.

B. Failure to carry out the commitments and policies set forth in these Special Conditions constitutes a material breach of the contract and may result in the termination of the contract or such remedy as the City deems appropriate.

C. Contract Specific Goals and Proposals

A proposal may be rejected as non-responsive if the proposer fails to submit one or more of the following with its bid demonstrating its good faith efforts to meet the Contract DBE Participation Goal by reaching out to DBEs to perform work on the contract:

A DBE compliance plan demonstrating how the proposer plans to meet the Contract DBE Participation Goal (Schedule D-1 and Schedule(s) C-1); and/or Documentation of Good Faith Efforts to obtain DBE participation in this contract.

D. Accordingly, the City has established the following goals for contract participation by DBEs:

Overall DBE Program Goal: 30%

For purposes of this contract, the City has set the following contract goal:

Contract DBE Participation Goal: 25%.

E. The proposer must make good faith efforts to obtain DBE participation in this contract. The commitment will be reflected in Schedule D-1. The proposer must document that it has obtained enough DBE participation to meet the Contract DBE Participation Goal set forth above or, if unsuccessful in doing so, has made adequate Good Faith Efforts to meet the goal (see Section VII, Good Faith Efforts). If awarded the contract, the contractor must expend not less than the committed percentage of the total contract price (including any amendments and modifications) for contract participation by DBEs.

- F. For purposes of evaluating proposer's responsiveness, the Contract DBE Participation Goal will be a percentage of the total contract value. The Contract DBE Participation Goal applies to the total value of the contract, inclusive of all amendments and modifications. The Chief Procurement Officer also has the authority to review each proposed contract modification and amendment that by itself or aggregated with previous modification/amendment requests, increases the contract value by 10 percent of the initial award or \$50,000, whichever is greater, for opportunities to increase participation of DBEs already involved in the contract.
- G. The Contract DBE Participation Goal may be met by the proposer's status as DBE, or by joint venture with one or more DBEs, or by subcontracting a portion of the work to one or more DBEs, or by purchasing materials used in the performance of the contract from one or more DBEs or by any combination of the foregoing, as further described in Section V, Counting DBE Participation Towards the Contract DBE Participation Goal.
- H. Proposer is encouraged to use financial institutions owned and controlled by socially and economically disadvantaged individuals. Use of such institutions may be considered by the City as evidence of bidder's/proposer's willingness to do business with DBEs. Information about such institutions is available in the City's DBE Program document. In addition, the Illinois Unified Certification Program (IL UCP) Disadvantaged Business Enterprises Directory is available via the internet at www.cityofchicago.org/procurement and in print at the City of Chicago, Bid and Bond Room, City Hall, 121 N. LaSalle, Room 301, Chicago, IL 60602.
- I. In the event of a conflict between these Special Conditions and 49 CFR Part 26, the provisions of 49 CFR Part 26 supersede the Special Conditions.

Contract DBE Participation Goals and Contract Modifications

- 1. The DBE Participation Goals established at the time of proposal submission shall also apply to any modifications to the Contract after award. This is, any additional work and/or money added to the Contract must also adhere to these Special Conditions requiring Contractor to (sub)contract with DBEs to meet the DBE Participation 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 DBE participation and at what rates.
 - b. Contractor must produce a statement listing the DBEs that will be utilized on any contract modification. The statement must include the percentage of utilization of the firms. If no DBE 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 DBEs already involved in the Contract.

II. DEFINITIONS AND USAGE

Terms that are capitalized in these Special Conditions are defined terms and have the meanings set forth in 49 CFR Part 26.5, unless otherwise defined in these Special Conditions.

- A. "Area of Specialty" means the description of a DBE firm's business which has been determined to be most reflective of the DBE firm's claimed specialty or expertise. Each DBE letter of certification contains a description of the firm's Area of Specialty. This information is also contained in the Directory. Credit toward the Contract DBE Participation Goal is limited to the participation of firms performing within their Areas of Specialty.

NOTICE: The Department of Procurement Services does not make any representation concerning the ability of any DBE to perform work within its Area of Specialty. It is the responsibility of all proposers to determine the capability and capacity of DBE firms to satisfactorily perform the work proposed.

- B. Certain terms are used in these Special Conditions to indicate the stage of bidding, proposing or contracting in which certain obligations arise. The term "proposer" means a firm responding to a request for proposals by the City for professional or technical services or other procurement not adaptive to competitive bidding; a proposer becomes a "contractor" after being awarded a contract by the City.
- D. "Contractor" means any person or business entity that has entered into a contract with the City, and includes all partners, affiliates and joint ventures of such person or entity.
- E. "Directory" means the IL UCP Disadvantaged Business Enterprises Directory, maintained by the City as well as all IL UCP participating agencies, that identifies all firms eligible to participate as DBEs. The Directory lists the firm's name, address, phone number, date of most recent certification and the type of work the firm has been certified to perform as a DBE. The City revises the Directory on a monthly basis. The Directory is available via the internet on the City's web site at www.cityofchicago.org/procurement, and in print at the City of Chicago, Bid and Bond Room 121 N. LaSalle St., Room 301, Chicago, Illinois, 60602. Proposers are responsible for verifying the current certification status of all proposed DBE firms.
- F. "Disadvantaged Business Enterprise" or "DBE" means a for-profit small business concern that (i) is at least 51 percent owned by one or more individuals who are both socially and economically disadvantaged, or in the case of a corporation, 51 percent of the stock is owned by one or more such individuals; and (ii) whose management and daily operations are controlled by one or more of the socially and economically disadvantaged individuals who own it.
- G. "Joint Venture" means an association between a DBE 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 DBE 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.

III. THIRD PARTY CHALLENGES TO ELIGIBILITY OF DBE FIRM

As noted in 49 CFR Section 26.87, any third party (complainant) may file a complaint alleging that a currently certified DBE is ineligible. The complaint must be made in writing to the City and specify the alleged reasons why the firm is ineligible and include all available information relevant to a determination of whether the challenged party is in fact socially and economically disadvantaged. The City, during its determination of findings, will notify the challenged party of the allegations and notify both parties in writing of the outcome.

The confidentiality of the complainant's identity will be protected as provided in 49 CFR Section 26.109(b). If the City determines first, that there was not reasonable grounds presented in the complaint sufficient to justify an inquiry, then the City will notify the complainant and the challenged party of this determination and the reasons for it. During the pendency of any complaint, the presumption that the challenged party is a socially and economically disadvantaged will remain in effect.

IV. JOINT VENTURES

The formation of joint ventures to provide DBEs with capacity and experience at the prime contracting level, and thereby meet DBE Participation Goals (in whole or in part) is encouraged. A joint venture may consist of any combination of DBEs and non-certified firms as long as one member is a DBE.

A. The joint venture may be eligible for credit towards the Contract Specific Goals only if:

1. The DBE 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 DBE 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 DBE credit for work performed by the DBE joint venture partner(s) equal to the value of work performed by the DBE 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 DBE partner) perform the work then the value of the work may be counted toward the Contract Specific Goals at a rate equal to the DBE 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 DBEs. Work performed by the forces of a non-certified joint venture partner shall not be counted toward the Contract Specific Goals.

C. Schedule B: DBE Affidavit of Joint Venture

Where the proposer's Compliance Plan includes the participation of any DBE 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 DBE joint venture partner(s) will be responsible for a clearly defined portion of the work to be performed, and that the DBE'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 DBE'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 DBE joint venture partner; and
4. The DBE's commitment of management, supervisory, and operative personnel to the performance of the contract.

NOTE: Vague, general descriptions of the responsibilities of the DBE 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 DBE 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.

Note: Credit for participation by DBEs in joint ventures with non-DBEs does not require a minimum participation of 51 percent in venture ownership and control on the part of the DBE in order for the joint venture to receive credit towards the Contract DBE Participation Goal. An ownership interest in the venture by the DBE may be counted toward the Contract DBE Participation Goal in a pro rata fashion as indicated below (see Section V, Counting DBE Participation Toward the Contract DBE Participation Goal).

DBE/non-DBE joint ventures are creditable on either the prime or the subcontractor level and are otherwise subject to federal, state and City contract limitations restricting second tier subcontracting. (This paragraph is not applicable to FHWA-funded projects.)

NOTE: The City requires that whenever a joint venture is proposed as the prime contractor each joint venturer must separately sign the proposal to the City on the pages marked TO BE EXECUTED BY A CORPORATION; TO BE EXECUTED BY A PARTNERSHIP; and/or TO BE EXECUTED BY A SOLE PROPRIETOR as applicable.

V. COUNTING DBE PARTICIPATION TOWARD THE CONTRACT DBE PARTICIPATION GOAL

Refer to this section when preparing the MBE/WBE compliance plan and completing Schedule D-1 for guidance on what value of the participation by DBEs will be counted toward the stated DBE Participation Goal. The

“Percent Amount of Participation” depends on whether and with whom a DBE subcontracts out any portion of its work and other factors.

A contractor (and proposers in their proposals) may count only the following toward the Contract DBE Participation Goal and should report only the following to the Chief Procurement Officer:

A. The value of the work actually performed by a DBE, as described below:

1. For construction contracts and contracts not involving bona fide services (as described in Section V.A.2. below):

The entire amount of that portion of a contract that is performed by the DBE’s own forces. Include the cost of supplies and materials obtained by the DBE for the work of the contract, including supplies purchased or equipment leased by the DBE (except supplies and equipment the DBE subcontractor purchases or leases from the prime contractor or its affiliate).

2. For contracts involving the provision of bona fide services (such as professional, technical, consultant or managerial services, or for providing bonds or insurance specifically required for the performance of a DOT-assisted contract):

The entire amount of fees or commissions charged by a DBE for providing a bona fide service, provided that the fee is reasonable and not excessive as compared with fees customarily allowed for similar services. The determination of whether the fee is reasonable and not excessive will be made by the City.

3. When a DBE subcontracts part of the work of its contract to another firm, the value of the subcontracted work may be counted toward the Contract DBE Participation Goal only if the DBE's subcontractor is itself a DBE. Work that a DBE subcontracts to a non-DBE firm does not count toward the Contract DBE Participation Goal.

B. Joint Venture: When a DBE performs as a participant in a joint venture, 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 DBE performs with its own forces is counted towards the Contract DBE Participation Goal.

C. Commercially Useful Function: Expenditures to a DBE contractor only if the DBE is performing a "commercially useful function" on that contract. The term "commercially useful function" is described in 49 CFR 26.55(c).

D. Materials and Supplies: Regarding expenditures with a DBE for materials or supplies:

1. If the materials or supplies are obtained from a DBE manufacturer, 100 percent of the cost of the materials or supplies. A manufacturer is a firm that operates or maintains a factory or establishment that produces, on the premises, the materials, supplies, articles or equipment required under the contract and of the general character described in the specifications.
2. If the materials or supplies are purchased from a DBE "regular dealer," as that term is described in 49 CFR 26.55(e)(2), 60 percent of the cost of the materials or supplies.

3. With respect to materials or supplies purchased from a DBE which is neither a manufacturer nor a regular dealer, the amount of fees or commissions charged for assistance in the procurement of the materials and supplies, or fees or transportation charges for the delivery of materials or supplies required on a job site, provided that the fees are reasonable and not excessive as compared with fees customarily allowed for similar services. Do not count any portion of the cost of materials and supplies themselves.
- E. Trucking Firms: If the DBE manages and supervises the entire trucking operation for which it is responsible on a particular contract and the DBE itself owns and operates at least one fully licensed, insured and operational truck used on the contract and all leased trucks display the name and identification number of the DBE, then:
1. The total value of the transportation services a DBE provides on the contract using trucks it owns, insures and operates using drivers it employs.
 2. The total value of the transportation services a DBE provides on the contract using trucks leased from another DBE trucking firm, including an owner-operator who is certified as a DBE trucking firm, but only if the lease indicates that the DBE lessee has exclusive use of and control over the truck, or, if the truck is used for work for others with the DBE lessee's consent, then the lease must give the DBE lessee absolute priority over its use.
 3. Only the value of the fee or commission the DBE receives under a lease arrangement with non-DBE firms for the lease of trucks used to provide transportation services on the contract but only if the lease indicates that the DBE has exclusive use of and control over the truck, or, if the truck works for others with the DBE's consent, then the lease must give the DBE absolute priority over its use.
- F. Firm Not Currently Certified: If a firm is not currently certified as a DBE in accordance with the standards of 49 CFR Part 26, subpart D, at the time of execution of the contract, do not count or report the firm's participation, except as provided in 49 CFR 26.87(i).
- G. Firm Whose Eligibility Has Been Removed: Do not report the dollar value of work performed under a contract with a firm after it has ceased to be certified.

Payment: Do not report the participation of a DBE subcontractor until the amount to be counted toward the goal has been paid to the DBE.

Only the value of the dollars paid to the DBE firm for work that it performs in its Area of Specialty in which it is certified counts toward the DBE Participation Goals.

VI. PROCEDURE TO DETERMINE PROPOSAL COMPLIANCE

The following Schedules and documents constitute the bidder's/proposer's DBE proposal, and must be submitted at the time of submission of proposals unless stated otherwise:

A. Schedule B: Affidavit of DBE/Non-DBE Joint Venture

Where the proposer's DBE proposal includes the participation of any DBE as a joint venturer prime or subcontractor, the proposer must submit, together with its bid, a Schedule B: Affidavit of DBE/Non-DBE

Joint Venture with an attached copy of the joint venture agreement proposed among the parties. See Section IV above for detailed requirements.

B. Schedule C-1: Letter of Intent to Perform as a Subcontractor, Subconsultant or Material Supplier

A Schedule C-1, executed by the DBE firm (or Joint Venturer) must be submitted by the proposer for each DBE included on its Schedule D-1. Each Schedule C-1 must accurately detail the work to be performed by the DBE firm and the agreed rates and prices to be paid. Each Schedule C-1 must specify the percentage of the dollar value of the DBE's subcontract that will be sublet to non-DBE and DBE contractors and be signed and dated by the DBE. Each Schedule C-1 must also include a separate sheet as an attachment on which the DBE fully describes its proposed scope of work, including a description of the commercially useful function being performed by the DBE in its Area of Specialty. If a facsimile copy of the Schedule C-1 has been submitted with the proposal, an executed original Schedule C-1 must be submitted by the proposer for each DBE included on the Schedule D-1 within five (5) business days after the date of proposal opening.

Failure to submit any Schedule C-1 as required by this Section will result in a Chief Procurement Officer's determination that a bid or proposal is "non-responsive." The Chief Procurement Officer has the discretion to apply additional suitable sanctions against any proposer who fails to comply with these requirements. Appropriate sanctions may include, without limitation, forfeiture of the proposer's bid deposit, rejection of the proposer's bid, or suspension of the proposer's eligibility to enter into future contracting opportunities with the City.

C. Schedule D-1: Affidavit of Prime Contractor Regarding DBEs

Proposers must submit at the time specified in the request for proposals, a completed Schedule D-1 committing them to the utilization of each listed DBE firm (but see, Section VII, Good Faith Efforts). The Schedule D-1 must include the name, address, description of the work to be performed and dollar amount participation of each DBE subcontractor, supplier or consultant.

The proposer must use "Good Faith Efforts," as that term is described in Section VII to meet the Contract DBE Participation Goal (i.e., the specific dollar amount of participation by each DBE firm included on its Schedule D-1). The total dollar commitment to proposed DBE firms should equal the Contract DBE Participation Goal. Proposers are responsible for calculating the dollar equivalent of the Contract DBE Participation Goal as a percentage of their proposal. All commitments made by the proposer's Schedule D-1 must conform to those presented in the submitted Schedule C-1s.

A contractor may not modify its Compliance Plan after proposal opening except as directed by the Department of Procurement Services to correct minor errors or omissions. Proposers shall not be permitted to add DBEs after proposal opening to meet the Contract DBE Participation Goals, however, contractors are encouraged to add additional DBE 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 DBE in order to achieve conformity between the Schedule C-1s and Schedule D-1. All terms and conditions for DBE participation on the contract must be negotiated and agreed to between the proposer or contractor and the DBE prior to submission of the Compliance Plan. If a proposed DBE ceases to be available after submission of the Compliance Plan, the proposer or contractor must comply with the provisions of Section IX.

D. Schedule F: Report of Subcontractor Solicitations

All Bidders/Proposers must submit, together with their bid/proposal, a completed Schedule F report containing information on all subcontractors, DBEs and non-DBEs, solicited for participation in the contract. The Schedule F shall include the following subcontractor information:
Contractor name; Address; Contact person; DBE status; Type of work solicited

E. Letters of Certification

A copy of each proposed DBE firm's Letter of Certification from the IL UCP must be submitted with the bid or proposal if currently certified. All Letters of Certification issued by the IL UCP include a statement of the DBE firm's Area of Specialty. The DBE firm's scope of work, as detailed by its Schedule C-1, must conform to its stated Area of Specialty.

NOTE: Failure to submit the following information at the time of submission of proposals will render the bid or proposal non-responsive: the names and addresses of DBE firms that will participate in the contract (Schedule D-1), a description of the work that each DBE will perform (Schedule D-1), the dollar amount of the participation of each DBE firm participating (Schedule D-1), written documentation of the proposer's commitment to use a DBE subcontractor whose participation it submits to meet a contract goal (Schedule D-1), written confirmation from the DBE that it is participating in the contract as provided in the prime contractor's commitment (Schedule C-1), affidavit of joint venture when a DBE participates in the contract for DBE credit as a joint venturer (Schedule B), report on all subcontractors solicited for participation in the contract (Schedule F) and if the Contract goal is not met, evidence of good faith efforts, as set out in Section VII.

F. The submittals must have all blank spaces on the Schedule pages applicable to the subject specification filled in correctly.

G. Agreements between a proposer and a DBE in which the DBE promises not to provide subcontracting quotations to other proposers are prohibited.

H. During the period before award, the submitted documentation will be evaluated. As required under 49 CFR 26.109(c), all participants in the DBE Program, including the proposer, must give, upon request, earnest and prompt cooperation to DOT, the City's Chief Procurement Officer or his or her authorized delegate in submitting to interviews that may be necessary, or in allowing entry to places of business or in providing further documentation, or in soliciting the cooperation of a proposed DBE in providing such assistance. A proposal may be treated as non-responsive by reason of the determination that the proposer was found to be unresponsive or uncooperative when asked for further information about the proposal, or that false statements were made in the Schedules.

I. Proposers will not be permitted to modify their DBE proposal except as permitted to do so by the City. All terms and conditions stipulated for prospective DBE sub-contractors or suppliers therefore should be satisfactorily negotiated prior to the submission to the City of the proposer's DBE commitment as part of the DBE proposal. If circumstances arise, where a proposed DBE becomes no longer available, the process described in Section IX, DBE Substitutions, should be followed.

J. When necessary in the interest of time, the City may treat a proposal as non-responsive instead of granting extended time for a proposer to replace DBEs named in the DBE proposal that are later determined to be ineligible or unavailable.

VII. GOOD FAITH EFFORTS

- A. In order for a proposal to be responsive, at the time specified in the request for proposals, the proposer must demonstrate it has made Good Faith Efforts to meet the Contract DBE Participation Goal. The demonstration is made in the form of the documentation described in Section VII.B. The proposer can demonstrate it has made Good Faith Efforts to meet the Contract DBE Participation Goal either by:
1. Meeting the Contract DBE Participation Goal, as provided in these Special Conditions, and documenting commitments for participation by DBE firms sufficient for this purpose; or
 2. Documenting, in the manner described below, adequate Good Faith Efforts to meet Contract DBE Participation Goal. This means proposers must submit at the time specified in the request for proposal, documentation to show that it took all necessary and reasonable steps to achieve the Contract DBE Participation Goal or other requirements of 49 CFR Part 26, Appendix A, which, by their scope, intensity and appropriateness to the objective, could reasonably be expected to obtain sufficient DBE participation, even if the proposer was not fully successful. The following are examples of documented actions the Contract Compliance Administrator may consider to determine whether the proposer made Good Faith Efforts:
 - a. Soliciting through all reasonable and available means (e.g., attendance at pre-proposal meetings, advertising and/or written notices) the interest of all certified DBEs who have the capability to perform the work of the contract. The proposer must solicit this interest within sufficient time to allow the DBEs to respond to the solicitation. The proposer must determine with certainty if the DBEs are interested by taking appropriate steps to follow up initial solicitations.
 - b. Selecting portions of the work to be performed by DBEs in order to increase the likelihood that the Contract DBE Participation Goal will be achieved. This includes, where appropriate, breaking out contract work items into economically feasible units to facilitate DBE participation, even where the prime contractor might otherwise prefer to perform these work items with its own forces.
 - c. Providing interested DBEs with adequate information about the plans, specifications and requirements of the contract in a timely manner to assist them in responding to a solicitation.
 - d. Negotiating in good faith with interested DBEs. It is the proposer's responsibility to make a portion of the work available to DBE subcontractors and suppliers and to select those portions of the work or material needs consistent with the available DBE subcontractors and suppliers, so as to facilitate DBE participation. Evidence of such negotiation includes the names, addresses and telephone numbers of DBEs that were considered; a description of the information provided regarding the plans and specifications for the work selected for subcontracting; and evidence as to why additional agreements could not be reached for DBEs to perform the work. A proposer using good business judgment would consider a number of factors in negotiating with subcontractors, including DBE subcontractors, and would take a firm's price and capabilities as well as contract goals into consideration. However, the fact that there may be some additional costs involved in finding and using DBEs is not in itself sufficient

reason for a proposer's failure to meet the Contract DBE Participation Goal, as long as such costs are reasonable. Also, the ability or desire of a prime contractor to perform the work of a contract within its own organization does not relieve the proposer of the responsibility to make Good Faith Efforts. Prime contractors are not, however, required to accept higher quotes from DBEs if the price difference is excessive or unreasonable.

- e. Not rejecting DBEs as being unqualified without sound reasons based on a thorough investigation of their capabilities. The DBE's standing within its industry, membership in specific groups, organization or associations and political or social affiliation (for example union vs. non-union employee status) are not legitimate causes for the rejection or non-solicitation of bids in the proposer's efforts to meet the Contract DBE Participation Goal.
- f. Making efforts to assist interested DBEs in obtaining bonding, lines of credit or insurance as required by the City or the bidder/proposer.
- g. Making efforts to assist interested DBEs in obtaining necessary equipment, supplies, materials, or related assistance or services.
- h. Effectively using the services of available minority/women community organizations and contractors' groups; local, state and federal minority/women business assistance offices; and other organizations as allowed on a case-by-case basis to provide assistance in the recruitment and placement of DBEs.

B. The following 10 types of documentation, as applicable to the situation, will be considered by the Chief Procurement Officer in determining whether the proposer has made Good Faith Efforts to meet the Contract DBE Participation Goal. The documentation must be submitted at the time of submission of proposals or the proposal will be deemed non-responsive.

- 1. A detailed statement of efforts to identify and select portions of work identified in the request for proposals to certified DBE firms. Include copies of attendance logs from pre-proposal meetings, advertisements and written notices, as applicable.
- 2. A listing of all DBE firms contacted that includes:
 - a. names, address and telephone numbers of DBE firms solicited;
 - b. date and time of contact;
 - c. method of contact (written, telephone, facsimile transmittal, etc.)
 - d. name of the person contacted.
- 3. Copies of letters or any other evidence of mailing that substantiates outreach to DBE vendors that includes:
 - a. project identification and location;
 - b. classification/commodity of work items for which quotations were sought;
 - c. date, item and location for acceptance of subcontractor bid proposals;
 - d. detailed statement which summarizes direct negotiations with appropriate DBE firms for specific portions of the work and indicates why negotiations were unsuccessful;

- e. affirmation that good faith efforts have been demonstrated by choosing subcontracting opportunities likely to achieve the Contract DBE Participation Goal by not imposing any limiting conditions which were not mandatory for all subcontractors; or denying the benefits ordinarily conferred on DBE subcontractors for the type of work that was solicited.
 - f. Documentation may also include efforts to utilize the Department of Procurement Services' M/WBE forum for purposes of advertising subcontracting opportunities appropriate for MBEs and WBEs. The M/WBE forum is located at:

<https://webapps.cityofchicago.org/MWBEForum/forums/list.page>.
4. Copies of proposed plans for selecting portions of the work to be performed by DBEs in order to increase the likelihood that the Contract DBE Participation Goal will be achieved.
 5. Evidence that the proposer negotiated in good faith with interested DBEs.
 6. Evidence that the proposer did not reject DBEs as being unqualified without sound reasons based on a thorough investigation of their capabilities.
 7. Evidence that the proposer made efforts to assist interested DBEs in obtaining bonding, lines of credit or insurance, as required by the City or the proposer.
 8. Evidence that the proposer made efforts to assist interested DBEs in obtaining necessary equipment, supplies, materials or related assistance or services.
 9. Evidence that the proposer has provided timely notice of the need for subcontractors to at least 50 percent of the DBEs listed in the City's Directory as being certified in the applicable Areas of Specialty. Proof of notification (e.g. certified mail receipt or facsimile transmittal receipt) prior to the date a proposer's DBE proposal is due is required for any proposal to be deemed responsive. The Chief Procurement Officer may contact the certified DBEs for verification of notification.
 10. Evidence that subcontractor participation is excessively costly. Subcontractor participation will be deemed excessively costly when the DBE subcontractor proposal exceeds the average price quoted by more than 15 percent. In order to establish that a subcontractor's quote is excessively costly, the proposer must provide the following information at the time specified in the request for proposals:
 - a. A detailed statement of the work identified for DBE participation for which the bidder/proposer asserts the DBE quote(s) were excessively costly (in excess of 15 percent higher).
 - (1) a listing of all potential subcontractors contacted for a quotation on that work item;
 - (2) prices quoted for the subcontract in question by all such potential subcontractors for that work item.
 - b. Other documentation that demonstrates to the satisfaction of the Contract Compliance Administrator that the DBE proposals are excessively costly, even though not in excess

of 15 percent higher than the average price quoted. This determination will be based on factors that include, but are not limited to the following:

- (1) the City's estimate for the work under a specific subcontract;
- (2) the proposer's own estimate for the work under the subcontract;
- (3) an average of the bona fide prices quoted for the subcontract;
- (4) demonstrated increase in other contract costs as a result of subcontracting to the DBE or other firm.

Note: The City reserves the right to modify this procedure when deemed appropriate.

VIII. REPORTING

- A. The Contractor will, not later than thirty (30) calendar days from the award of a contract by the City, execute formal contracts or purchase orders with the DBEs included in their approved DBE Utilization Plan. These written agreements will be made available to the Chief Procurement Officer upon request.
- B. The contractor will be responsible for reporting payments to all subcontractors on a monthly basis in the form of an electronic 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 subcontractor. The reporting of payments to all subcontractors must be entered into the Certification and Compliance Monitoring System (C2), or whatever reporting system is currently in place, on or before the fifteenth (15th) day of each month.
- C. Once the prime contractor has reported payments made to each DBE, including zero dollar amount payments, the DBE will receive an email and or fax notification requesting them to log into the system and confirm payments received. All monthly confirmations must be reported on or before the 20th day of each month. Contractor and subcontractor reporting to the C2 system must be completed by the 25th of each month or payments may be withheld.
- D. All subcontract agreements between the contractor and DBE firms or any first tier non-certified firm and lower tier DBE firms must contain language requiring the DBE to respond to email and/or fax notifications from the City of Chicago requiring them to report payments received for the prime or the non-certified firm.

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

- E. The Chief Procurement Officer or any party designated by the Chief Procurement Officer, shall have access to the contractor's books and records, including without limitation payroll records, tax returns and records and books of account, to determine the contractor's compliance with its commitment to DBE participation and the status of any DBE performing any portion of the contract. This provision shall be in addition to, and not a substitute for, any other provision allowing inspection of the contractor's records by any officer or official of the City for any purpose.
- F. The contractor shall maintain records of all relevant data with respect to the utilization of DBEs 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. DBE SUBSTITUTIONS

- A. Arbitrary changes by the proposer of the commitments earlier certified in the Schedule D-1 are prohibited. Further, after once entering into each approved DBE subcontract, the proposer may neither terminate the subcontract, nor reduce the scope of the work to be performed by the DBE, nor decrease the price to the DBE, without in each instance (i) having just cause, including situations where proposer's contract with the DBE includes termination for convenience; (ii) making Good Faith Efforts to find another DBE subcontractor to substitute for the original DBE (these Good Faith Efforts must be directed at finding another DBE to perform at least the same amount of work under the contract as the DBE that was terminated, to the extent needed to meet the Contract DBE Participation Goal); and (iii) receiving the prior written approval of the City in all instances.

The proposer must give the Chief Procurement Officer reasons that justify the proposer's terminating a DBE, reducing the scope of work to be performed by a DBE, or decreasing the price to a DBE. The substitution procedure will be as follows:

1. The proposer must notify the Chief Procurement Officer immediately in writing of an apparent necessity to reduce or terminate a DBE subcontract and to propose a substitute firm for some phase of work, if needed in order to sustain the fulfillment of the Contract DBE Participation Goal.
2. The proposer's notification should include the specific reasons for the proposed substitution. Stated reasons which would be acceptable include any of the following examples: a committed DBE was found not to be able to perform, or not to be able to perform on time; a committed DBE was found not to be able to produce acceptable work; a committed DBE was discovered later to be not bona fide; a DBE committed at a given price later demands an unreasonable escalation of price; and, the work to be performed by the DBE under the bidder's/proposer's contract with the City is terminated or reduced.

The proposer's position in these cases must be fully explained and supported with adequate documentation. Stated reasons which will not be acceptable include: A replacement firm has been recruited to perform the same work under terms more advantageous to the prime contractor; issues about performance by the committed DBE were disputed (unless every reasonable effort has already been made to have the issues resolved or mediated satisfactorily); a DBE has requested reasonable price escalation which may be justified due to unforeseen circumstances.

3. The proposer's notification should include the name, address and principal official of any proposed substitute DBE and the dollar value and scope of work of the proposed subcontract. Attached should be all the same DBE affidavits, documents, and Letter of Intent which are required of bidders, as enumerated in Section, Procedure to Determine Bid Compliance.
4. The City will evaluate the submitted documentation, and respond within 15 working days to the request for approval of a substitution. The response may be in the form of a request for more information, or a request for an interview to clarify or mediate the problem. In the case of an expressed emergency need to receive the necessary decision for the sake of job progress, the City will instead respond as soon as practicable.

5. Actual substitution of a replacement DBE to fulfill the Contract DBE Participation Goal may not be made before City approval is given of the acceptability of the substitute DBE. A subcontract with the substitute DBE subcontractor must be executed within five working days following the City's approval, and a copy of the DBE subcontract with signatures of both parties to the agreement should be submitted immediately to the City.
- B. The City will not approve extra payment for escalated costs incurred by the proposer when a substitution of subcontractors becomes necessary for the proposer to comply with the Contract DBE Participation Goal.
- C. The Chief Procurement Officer will make the determination of whether the bidder has exercised Good Faith Efforts.
- X. NON-COMPLIANCE
- A. Each of the following constitutes a material breach of this contract and entitles 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 make good faith efforts to satisfy the Contract DBE Participation Goal proposed by the proposer and accepted by the City; and
 2. the contractor, a subcontractor or supplier is disqualified as a DBE, where the status was a factor in the contract award and was misrepresented by the contractor.

If the contractor is determined by the City not to have been involved in any misrepresentation of the status of a disqualified subcontractor or supplier, the contractor must discharge the disqualified subcontractor or supplier and, if possible, identify and engage a qualified DBE as its replacement. Furthermore, contractor's continued eligibility to enter into future contracting arrangements with the City may be jeopardized as a result of non-compliance. The City may withhold payments due to the contractor until corrective action is taken.

- B. The contractor's failure to comply with the Contract DBE Participation Goal proposed by the proposer and accepted by the City, or failure to comply with the provisions of Section IX, DBE Substitutions, will entitle the affected DBEs to recover from the contractor damages suffered by these DBEs as a result of such under- or non-utilization, but this provision will not apply to the extent the under- or non-utilization occurs pursuant to Good Faith Efforts approved by the City. See Section XI, Arbitration.

For contracts funded in whole, or in part, by Federal Highway Administration, Federal Transit Administration, Illinois Department of Transportation: When the contract requirements are completed, in the event that the City has determined that the proposer failed to comply with the Contract DBE Participation Goal proposed by the proposer and accepted by the City, the City will thereby be damaged in the failure to provide the benefit of participation to DBEs to the degree set forth in the Special Conditions. Therefore, in such case of non-compliance, the City will deduct as liquidated damages cumulative amounts computed as follows:

For each one percent (or fraction thereof) of shortfall toward the Contract DBE Participation Goal, one percent of the base bid for this contract shall be surrendered by the proposer to the City of Chicago in payment as liquidated damages.

XI. ARBITRATION (FAA Funded Contracts)

- A. The contractor hereby agrees that any disputes between the contractor and any affected DBE regarding damages as a result of contractor's under- or non-utilization of the DBE on any contract funded, in whole or in part, by the Federal Aviation Administration may, at the sole discretion of the DBE, be resolved by binding arbitration before an independent arbitrator other than the City, with reasonable expenses, including attorneys' fees, being recoverable by a prevailing DBE in accordance with applicable City regulations. This provision is intended for the benefit of any DBEs affected by under- or non-utilization and grants them specific third party beneficiary rights. In cases where deemed appropriate by the Contract Compliance Administrator, notification of a dispute by the affected DBE or prime contractor may lead to the withholding of final contract payouts until the City receives a copy of the final arbitration decision. Any rights conferred by this regulation are non-waivable and take precedence over any agreement to the contrary, including those contained in a subcontract, suborder or communicated orally between a contractor and a DBE.
- B. If requested by the DBE, the DBE has the right to arbitrate. A DBE desiring to arbitrate must contact the contractor in writing to initiate the arbitration process. Except as otherwise agreed to in writing by the affected parties, subject to the limitation contained in the last sentence of the previous paragraph, within 10 days of the contractor receiving notification of the intent to arbitrate from the DBE the above-described disputes must be arbitrated in accordance with the Commercial Arbitration Rules of the American Arbitration Association (AAA), a not-for-profit agency, with an office at 225 North Michigan Avenue, Suite 1840, Chicago, Illinois 60601-7601 [Phone: (312) 616-6560; Fax: (312) 819-0404]. All such arbitrations must be initiated by the DBE filing a demand for arbitration with the AAA; must be conducted by the AAA; and held in Chicago, Illinois.
- C. All fees of the arbitrator are the initial responsibility of the DBE; the arbitrator, however, is authorized to award reasonable expenses, including attorney's and arbitrator fees, as damages to a prevailing DBE.
- D. The DBE must send the City a copy of the "Demand for Arbitration" within 10 days after it is filed with the AAA. The DBE also must send the City a copy of the decision of the arbitrator within 10 days of receiving the decision. Judgment upon the award rendered by the arbitrator may be entered in any court of competent jurisdiction.

XII. PRIME CONTRACTOR ASSISTANCE

Prime contractors should themselves assist DBEs in overcoming barriers to program participation. The following instruments of assistance, for example, should be used as applicable:

- A. Developing solicitations of sub-contract bids so as to increase potential DBE participation. This can take the form of breaking down large subcontracts into smaller ones, and of issuing notice of solicitations in a timely manner.
- B. Providing technical assistance and guidance in the bidding, estimating and scheduling processes.
- C. Considering purchasing supplies and/or leasing the required equipment for a job, then subcontracting only for the expertise required to perform the work.
- D. Providing accelerated payments or establishing pro-rated payment and delivery schedules so as to minimize cash flow problems faced by small firms.
- E. Providing, waiving or reducing subcontractor bonding requirements; allowing stage bonding (bonding carried over from one project stage to the next).

F. Providing a pre-bid conference for potential sub-contractors.

In addition to the employment of DBEs, the bidder/proposer should consider the utilization of DBEs in fields indirectly related to the contract, such as banking, office equipment sales, vehicles sales, mechanical repair, legal and accounting services, building security, graphics and advertising, etc.

XII. EQUAL EMPLOYMENT OPPORTUNITY

Compliance with DBE requirements will not diminish or supplant Equal Employment Opportunity and Civil Rights provisions as specified elsewhere in this contract and as they relate to prime contractor and subcontractor obligations.

ATTACHMENT B

(On bidder/Proposer's Letterhead)

RETURN RECEIPT REQUESTED

(Date)

Re: Specification: _____
Description: _____

(Assist Agency Name and Address)

Dear _____:

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

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

Our efforts to identify potential subcontractors have not been successful in order to meet the Disadvantaged Business Enterprise ("DBE") contract goal. If you are aware of any DBE firms that would be capable of performing in any of the above-identified areas, please contact

(Bidder/Proposer) _____ At _____
Name of Company Representative
Address/phone

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

Due to our inability to identify an appropriate DBE firm(s) certified by the Illinois Unified Certification Program ("IL UCP") to participate as a subcontractor or joint venture partner on this project, a request for the waiver of the contract goals will be submitted. Written comments on (Bidder/Proposer's) waiver request may be directed within fifteen (15) working days of your receipt of this letter to:

Jamie L. Rhee
Chief Procurement Officer
Department of Procurement Services
City of Chicago
121 N. LaSalle Street, Room 403
Chicago, Illinois 60602

If you wish to discuss this matter, please contact the undersigned at _____

Sincerely,

SCHEDULE B
Affidavit of DBE/Non-DBE Joint Venture
(FTA, FHWA and FAA Funded Contracts)

Note: If all joint venturers are DBEs, a written joint venture agreement between the DBE venturers may be submitted in lieu of this form. In all proposed joint ventures, each DBE venturer must submit a copy of its current Letter of Certification.

ALL INFORMATION REQUESTED BY THIS SCHEDULE MUST BE ANSWERED IN THE SPACES PROVIDED. DO NOT REFER TO YOUR JOINT VENTURE AGREEMENT EXCEPT TO EXPAND ON ANSWERS PROVIDED ON THIS FORM. IF ADDITIONAL SPACE IS REQUIRED, ADDITIONAL SHEETS MAY BE ATTACHED.

I. Name of joint venture: _____
Address of joint venture: _____
Phone number of joint venture: _____

II. Identify each non-DBE venturer(s):
Name of Firm: _____
Address: _____
Phone: _____
Contact person for matters concerning DBE compliance: _____

III. Identify each non-DBE venturer(s):
Name of Firm: _____
Address: _____
Phone: _____
Contact person for matters concerning DBE compliance: _____

IV. Describe the role(s) of the DBE venturer(s) in the joint venture:

V. Attach a copy of the joint venture agreement. In order to demonstrate the DBE venturer's share in the ownership, control, management responsibilities, risks and profits of the joint venture, the proposed joint venture agreement must include specific details related to: (1) the contributions of capital and equipment; (2) work items to be performed by the DBE's own forces; (3) work items to be performed under the supervision of the DBE venturer; and (4) the commitment of management, supervisory and operative personnel employed by the DBE to be dedicated to the performance of the project.

VI. Ownership of the Joint Venture.
A. What are the percentage(s) of DBE ownership of the joint venture?
DBE ownership percentage(s): _____
Non-DBE ownership percentage(s): _____
B. Specify DBE 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 and quantities of equipment to be provided by each venturer): _____

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

- 5. Provide copies of all written agreements between venturers concerning this project.
- 6. Identify each current City of Chicago contract (and each contract completed during the past two (2) years) by a joint venture of two or more firms participating in this joint venture:

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

- A. Joint venture check signing:

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

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

- D. Acquisition of lines of credit:

E. Acquisition and indemnification of payment and performance bonds:

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 their 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-DBE firm, the DBE firm, or the joint venture.

Trade	Non-DBE Firm (number of employees)	DBE (number of employees)	Joint Venture (number of employees)

Note: 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-DBE (number) _____ Currently employed by DBE _____

- 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.

Attach additional sheets as needed.

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

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

Note: If there are any changes in the information submitted after filing this Schedule B and before the completion of the joint venture's work on the project, 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 DBE Partner Firm

Name of Non-DBE 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 to be the persons described in the foregoing Affidavit, acknowledged that they executed the same in the capacity therein stated and for the purpose therein contained.

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

Signature of Notary Public

My Commission Expires: _____

(SEAL)



SCHEDULE C-1
DBE Letter of Intent to Perform as a
Subcontractor, Supplier, or Consultant

**FOR
NON-CONSTRUCTION
PROJECTS ONLY**

Project Name: _____

Specification No.: _____

From: _____
(Name of DBE Firm)

To: _____ and the City of Chicago.
(Name of Prime Contractor/Consultant)

The DBE status of the undersigned is confirmed by the attached City of Chicago or Illinois Uniform Certification Program Certification Letter dated: _____

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 DBE proposed scope of work and/or payment schedule, including a description of the commercially useful function being performed. Attach additional sheets as necessary:

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

SUB-SUBCONTRACTING LEVELS

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

_____ % of the dollar value of the DBE subcontract that will be subcontracted to non-DBE contractors.

_____ % of the dollar value of the DBE subcontract that will be subcontracted to DBE contractors.

NOTICE: If any of the DBE 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. DBE credit will not be given for work subcontracted to Non-DBE contractors, except for as allowed in the Special Conditions Regarding Disadvantaged Business Enterprise Commitment.

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

NOTICE: THIS SCHEDULE AND ATTACHMENTS REQUIRE ORIGINAL SIGNATURES.

(Signature of President/Owner/CEO or Authorized Agent of DBE)

(Date)

(Name/Title-Please Print)

(Email & Phone Number)



SCHEDULE D-1
Compliance Plan Regarding DBE Utilization
Affidavit of Prime Contractor

**FOR
NON-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 a duly authorized representative of _____
(Name of Prime Consultant/Contractor)

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

All DBE firms included in this plan have been certified as such by the City of Chicago or Illinois Uniform Certification Program (Letters of Certification Attached).

- I. DBE Prime Consultant/Contractor: If prime consultant is a certified DBE firm, attach copy of DBE Letter of Certification.
- II. DBEs as Joint Ventures: If the Prime Consultant is a joint venture and one or more joint venture partners are certified DBEs, attach copies of Letters of Certification and a copy of a Joint Venture Agreement clearly describing the role of the DBE firm (s) and its ownership interest in the joint venture.

A. DBE Sub-Consultants: this section for each MBE/WBE Subcontractor/Supplier/Consultant participating on this contract:

1. Name of DBE: _____

Address: _____

Contact Person: _____

Phone Number: _____

Dollar Value of Participation; \$ _____

Percentage of Participation % _____

2. Name of DBE: _____

Address: _____

Contact Person: _____

Phone Number: _____

Dollar Value of Participation; \$ _____

Percentage of Participation % _____

3. Name of DBE: _____

Address: _____

Contact Person: _____

Phone Number: _____

Dollar Value of Participation; \$ _____

Percentage of Participation % _____

4. Attach Additional Sheets as Needed

II. Summary of DBE Proposal

DBE Firm Name	Dollar Amount Participation \$	Percent Amount Participation %
Total Direct DBE Participation		

The Prime Contractor designates the following person as its DBE 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: _____

EXHIBIT G

KEY PERSONNEL AND CONSTRUCTION MANAGER BILLING RATES

Name	Title/Role
	Project Executive
	Project Manager
	Superintendent
	Project Engineer
	Estimator/Preconstruction
	MEP Coordinator

Position/Title	Hourly Billing Rate
Project Executive	
Project Manager	
Superintendent	
Project Engineer	
Estimator	
MEP Coordinator	
Field Secretary	
Accounting/Cost	
Safety Engineer	
Purchasing Manager	
Safety Manager	

Hourly Position	Straight Time	Time and Half	Double Time
Laborer			
Laborer Foreman			
Carpenter			
Carpenter Foreman			
Operator			

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EXHIBIT H

FORM OF CONSTRUCTION MANAGER'S GUARANTEE

I, (name) _____, (title) _____
of (Construction Manager) _____, herewith guarantee the
(description of the work) _____ against defects in materials and workmanship
for a period of _____ year(s) from (the date of final acceptance) _____ as
defined in the Contract Documents and agree to correct any defects within this period at no cost to the City and
to pay for any damages to other work resulting from the defects or the repair of the same.

Signed by Authorized Representative

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

Title

Date

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EXHIBIT I

PROJECT SUMMARY SCHEDULE

(To Be Included in the Final Executed Agreement)

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EXHIBIT J

STANDARD TERMS AND CONDITIONS FOR CONSTRUCTION MANAGEMENT CONTRACTS

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ARTICLE 1. PROJECT ORGANIZATION

SECTION 1.01 The City Representative

1. The Commissioner of Aviation will assign an individual to be the City's Representative for the Project. The Commissioner will notify the Construction Manager of the assignment in writing at the time of execution of the Agreement. The City Representative may be changed from time to time.
2. The Construction Manager must route all Project communication and notices, whether intended for the City or the Architect, to the City Representative. The City Representative will also route responses from the City and Architect to the Construction Manager.
3. The City Representative has the authority to reject all or any portion of Work that does not conform to the Contract Documents.
4. The City Representative will not be responsible for acts or omissions of the Construction Manager or any Subcontractor.
5. The City Representative is responsible for the following:
 - a. Reviewing and monitoring, on a periodic basis, the Construction Manager's baseline and updated schedules for compliance with the Contract milestone dates and the master CPM milestone dates.
 - b. Representing the City at weekly meetings with the City, Construction Manager, Architect, and others to review the Project schedule, submittals, scope change, requests for information, outstanding bulletins, pending issues, and field problems.
 - c. Reviewing Construction Manager's payment applications in accordance with the City's policies and procedures and submitting the payment applications to City for approval and payment.
 - d. Establishing an on-Site organization line of authority to implement all construction phases of the Project in a coordinated and efficient manner.
 - e. Establishing and implementing procedures for, and maintain coordination among, the City, Architect, Construction Manager, and other agencies having jurisdiction of the Project with respect to all construction aspects of the Project.
 - f. Coordinating the submission, processing, procurement and assembly of all required permits, licenses, and certificates with the Construction Manager and arrange delivery of same to the City.
 - g. Conducting Site observations of the Construction Manager and Project to ensure that Work is progressing on schedule and in accordance with the requirements of the City and the Contract Documents.
 - h. Reviewing the adequacy of the supervision, personnel and equipment and the availability of necessary materials and supplies. Where inadequate, direct that the necessary action be taken to remediate the deficiency.
 - i. Receiving and reviewing all shop drawings, materials and all other required Submittals prior to transmittal of these documents to the Architect. Requests for approval of subcontractors, delivery schedules, material lists, shop drawings, samples, and the like will be commented upon and submitted to the City for concurring approval.
 - j. Monitoring the flow of all documents and materials for proper sequence of approvals so as not to delay the progress of the work.

- k. Receiving and reviewing all requests for additional compensation and time extensions sought by the Construction Manager.
- l. Conducting a comprehensive final inspection of the Project to verify that the materials furnished and Work performed are in accordance with the Contract Documents.
- m. Expediting the assembly and delivery to the City of all papers required by the Contract Documents, including but not limited to “as-built” drawings, guarantees, warranties, and operations and maintenance manuals. Reviewing, approving, and submitting such documents to the City upon completion of the Project.

ARTICLE 2. CONSTRUCTION MANAGER'S OBLIGATIONS

SECTION 2.01 Construction Manager

1. The Construction Manager must provide all Services required to be performed and provide, or cause to be provided, all of the labor, necessary tools, machinery, materials, schedules and other documents and all facilities for the construction of the Project as described herein and other work necessary to perform and complete in a workmanlike manner, and within the specified time, all of the Work in strict accordance with the Contract Documents. Construction Manager is solely responsible for selecting the means, methods, techniques, sequences, and procedures used in performing the Work.
2. The Construction Manager is solely responsible for properly laying out the Work, and for all lines, elevations and measurements for all of the Work executed under the Contract Documents. The Construction Manager must verify the figures shown on the Drawings before laying out the Work and will be held responsible for any errors or inaccuracies resulting from the failure to do so. Neither the Architect nor the City Representative will be responsible for laying out the Work.
3. The Construction Manager is responsible for the coordination of the various parts of the Work so that no part is left in an unfinished or incomplete condition owing to any disagreement between the various Subcontractors or any of the Subcontractors and the Construction Manager.
4. The Construction Manager must require each Subcontractor to become familiar with all provisions of the Contract Documents that may affect Subcontractor's work.
5. The Construction Manager shall at all times be responsible for the performance of the Work by its Subcontractors. The Construction Manager will manage and coordinate the Work of Subcontractors such that the Work progresses in an efficient, orderly and timely manner. In the event of any claim or dispute between Subcontractors, or any Subcontractor and Construction Manager, Construction Manager shall manage the resolution of any such claim or dispute. The Construction Manager shall at all times deal with its Subcontractors in good faith, and use all reasonable efforts to resolve claims or disputes in a prompt, cost-effective manner.
6. The Work is under the charge and care of the Construction Manager until Final Completion and Acceptance of the Work by the City, unless otherwise specified in the Contract Documents. The Construction Manager assumes all responsibility for injury or damage to the Work by action of elements, fire or any other causes whatsoever, including, injury or damage arising from the execution or non-execution of the Work, except for injury or damage caused by other contractors not working for the Construction Manager which the Construction Manager could not have prevented through its exercise of the standard of care provided in this Agreement. The Construction Manager must rebuild, repair, restore, and make good, at no additional cost to the City (except for injury or damage caused by other contractors not working for the Construction Manager which the Construction Manager could not have

prevented through its exercise of the standard of care provided in this Agreement), all injuries or damages to any portion of its Work before Final Completion and Acceptance of the Work. When equipment or materials are furnished to the Construction Manager by the City for use or inclusion in the Work, the Construction Manager's responsibility for safeguarding all such equipment and materials must be the same as for equipment and materials furnished by Construction Manager. Construction Manager shall ensure that Builder's Risk insurance and all other applicable coverages required in Exhibit E to the Agreement remain in place up to the date of Final Completion and Acceptance whereupon the Work is accepted for occupancy by the City or its Facility Tenants; provided, however, that in the event that the Facility Tenants elects to occupy the Project, in whole or in part, prior to Final Completion and Acceptance of the Work, the Construction Manager and the City acknowledge and agree that Contractor's Builders' Risk insurance will not cover damage to the Work in those areas of the Project for which the Facility Tenants has taken beneficial occupancy (the "Occupied Areas"). The parties further acknowledge and agree that Construction Manager shall remain liable for any damage that it or its Subcontractors cause to the Work in the Occupied Areas, but the City and the Facility Tenants shall look to property insurance furnished by the City or Facility Tenants for coverage for damage to the Work in the Occupied Areas caused by the City, the Facility Tenants or any third party.

7. The Work will not be considered complete and accepted until the Construction Manager receives written notice from the City confirming the Final Completion and Acceptance of the Work.

SECTION 2.02 Contract Documents

1. During the Pre-Construction Phase, the Construction Manager must carefully review and compare all Drawings, Technical Specifications, and other Contract Documents in compliance with the standard of care set forth in the Agreement. In the event the Construction Manager identifies an error or omission, the Construction Manager will promptly notify the City Representative, in writing, and then proceed with the Work in accordance with instructions from the City Representative concerning such error or omission. The Construction Manager acknowledges and agrees that any such errors or omissions are to the detriment of the Owner. Construction Manager shall not seek to take advantage of the discovery of any conflict, error or omission, or discrepancy in the Contract Documents after award of the Contract or establishment of the Project GMP, but shall cooperate with the City to resolve any such errors or omissions in a prompt and cost-effective manner. In the event such resolution involves a change to the Work, such change will be accomplished pursuant to Article 10 hereof. Any changes to the Work that are not performed pursuant to Article 10 will be done at the Construction Manager's expense.
2. The Contract Documents are complementary and intended to include all items required for the proper execution and completion of the Work. This does not mean that all items required will be found in both the Drawings and Technical Specifications. Generally, the Technical Specifications describe Work which cannot be readily indicated on the Drawings, and indicate types, qualities, and methods of installation of the various materials and equipment required. The Drawings and Technical Specifications are to be read and interpreted as a whole. If there are contradictions or ambiguities between the Contract Documents, the Construction Manager must submit a request for information (RFI) to the City Representative. Otherwise, the Construction Manager must perform the Work pursuant to the requirements of all Contract Documents. If, in the determination of the City, Construction Manager failed to meet its standard of care during the Pre-Construction Phase, the City shall hold the Construction Manager responsible for such costs as would have been avoided if the Construction Manager had performed such obligations pursuant to Article 4 of the Agreement; provided, however, that the Construction Manager

may expend the Construction Contingency for such repairs pursuant to Paragraph 4.03(f)(2)(b) of the Agreement.

3. Materials which are shown on the Drawings and which may not be specifically described in the Technical Specifications or Drawings will be furnished by the Construction Manager, suitable for the intended use, compatible with adjacent materials, and subject to review for conformance with the intent of the Contract Documents. If installation techniques are not specified, installation will be in accordance with manufacturer's currently published instructions and industry standards.
4. Dimensions of Work will not be determined by scale or rule. Figured dimensions must be followed at all times. If figured dimensions are lacking and cannot be calculated from other dimensions on Drawings, the Construction Manager must submit an RFI to the City Representative for resolution by the Architect.
5. The Construction Manager must keep at the Site, for reference, a complete set of documents pertaining to the Project, including, but not limited to, the complete Contract Documents, copies of all drawings and plans furnished by the Architect, all additional and revised drawings and plans furnished by the City Representative, all orders issued to the Construction Manager by the City that relate to the Work, and all submittals, including shop drawings, meeting minutes, reports, payment applications, and correspondence relating to the Work, and a set of updated as-built drawings.
6. As used in this Exhibit J, the terms "Agreement" shall mean the Agreement for Construction Management services, including all attached exhibits, schedules, drawings, documents, and all those exhibits, schedules, documents and/or drawings incorporated by reference, all component parts and all amendments, modifications or revisions made in accordance with the terms hereof.

SECTION 2.03 Site Conditions and Inspection

1. Surveys, soil borings, geotechnical information, data, plans or other materials generally describing the unimproved land or existing structures at the Site may be provided to the Construction Manager by the City.
2. The Construction Manager must take field measurements, verify field conditions and carefully compare such field measurements and conditions and any other information known to the Construction Manager about the Contract Documents before commencing the Work or any portion of the Work. No allowance will be made to the Construction Manager for any extra labor and/or materials required due to Site conditions or discrepancies that might have been discovered by a thorough and proper inspection of the Site. If land surveying Work is required under this Contract, Construction Manager must have such Work performed by a surveyor as described in Section 6.06 "Surveyor."
3. If conditions are encountered at the site that are:
 - a. Subsurface or otherwise concealed physical conditions that differ materially from those indicated in the Contract Documents, or
 - b. Pre-existing unknown physical conditions of an unusual nature, which differ materially from those ordinarily found to exist and generally recognized as inherent in construction activities of the character provided for in the Contract Documents, including the presence of unanticipated Hazardous Materials, then the Construction Manager will take no action to disturb the area until providing written notice to the City Representative immediately, and receiving notice from the City Representative as to how and when to proceed.

4. If conditions differ materially from those indicated in the Contract Documents and could not have been known to the Construction Manager through the exercise of its standard of care provided in the Agreement at the time the Project GMP was established or the bid package was awarded, and such conditions will cause a material increase or decrease in the Construction Manager's cost of, or time required for, the performance of any part of the Work, an equitable adjustment in the Contract Price or Contract term or both, will be made based upon Article 10, "Changes in the Work."
5. The Construction Manager must follow the requirement of written notice in Section 2.03.3b above and the requirements set out in Article 11 Claims and Disputes, regarding a claim for changed site conditions. The Construction Manager must also provide written notice of any claim regarding the changed site condition to the City Representative within three (3) business days after its discovery. The notice of changed site conditions must state the nature of the changed site condition, its location, and the work that is affected by it. The Construction Manager's failure to provide the written notice to the City Representative within three (3) business days after discovery of the changed site condition constitutes a waiver of the claim and the right to file a dispute to the Commissioner under Article 11.

SECTION 2.04 Construction Manager's Warranties and Representations

Construction Manager warrants and represents that:

1. It has carefully examined and analyzed the provisions and requirements of this Contract; it has inspected the Site to the extent made available by the City; from its own analysis it has satisfied itself as to the nature and scope of Work, all conditions, any obstructions, and requirements needed for the preparation of the Project GMP and the performance of its Contract, the general and local conditions, and all other matters which in any way may affect this Contract or its performance; and the time available for such examination, analysis, inspection, and investigation was adequate.
2. This Contract is feasible of performance in accordance with all of its provisions and requirements and that the Construction Manager can and must perform, or cause to be performed, the Work in strict accordance with the provisions and requirements of this Contract.
3. Except for the contents of this Contract, no representation, statement or promise, oral or written, or of any kind whatsoever, by the City, its officials, agents, representatives or employees, has induced the Construction Manager to respond to the RFQ or has been relied upon by the Construction Manager, including any reference to (i) the meaning, correctness, suitability or completeness of any provisions or requirements of this Contract; (ii) the nature, existence, or location of materials, structures, obstructions, utilities or conditions, surface or subsurface, which may be encountered at or on the Site; (iii) the nature, quantity, quality or size of any materials, equipment, labor and other facilities needed for the performance of this Contract; (iv) the general conditions which may in any way affect this Contract or its performance; (v) the compensation provisions of the Contract; or (vi) any other matter.

SECTION 2.05 Acceptance of Work

1. Substantial Completion of the Milestones, Phases and Project
 - a. The Construction Manager will notify the City Representative, in writing, of a date that the work on a milestone, phase, or the Project as a whole will be ready for inspection by the

- Commissioner and City Representative, to determine whether the Work is Substantially Complete. Notice will be given by the Construction Manager at least seven (7) days in advance of that date. If the City Representative concurs that the work will be ready for inspection and/or testing on the date stated, including all testing and balancing, commissioning, operational training and other activities and may be required by the City, the Commissioner, City Representative, Architect and other parties, selected by the Commissioner, will make such inspection within a reasonable period of time. The scheduling of the inspection will not relieve the Construction Manager of its responsibilities under the Contract Documents. The Construction Manager is required to furnish access to all parts of the Project for the inspection.
- b. Upon inspection, the Construction Manager will prepare a Certificate of Substantial Completion for execution by the Construction Manager and Architect, which Certificate shall be submitted to the City Representative. The Commissioner will determine whether Substantial Completion has been achieved and will issue a written notice to the Construction Manager of its acceptance of the Certificate of Substantial Completion for the pertinent Milestone, Phase or Project.

2. Final Completion and Acceptance of the Work

a. Punch List Completion

(1) The Construction Manager understands and agrees that time is of the essence in closing out the Work of this Contract. Upon Substantial Completion of the Work, the Punch List will be transmitted to the Construction Manager from the City. The Construction Manager agrees to begin performance of Punch List Work immediately after receipt of the Punch List.

(2) Failure of the Construction Manager or its Subcontractors to begin the Punch List Work within 3 business Days after receipt of the Punch List will be construed as failure to prosecute the Work of the Contract.

(3) Punch List Work will be continuously prosecuted once begun and completed within the period set forth in the Punch List by the City Representative. The City Representative shall establish the period for completion of the Punch List Work after consultation with the Construction Manager. The period established by the City Representative will be based on the City Representative's reasonable, good faith estimate of the time necessary for the Construction Manager to complete the Punch List Work.

- b. When the Construction Manager deems the Work, including all Punch List Work, to be complete, the Construction Manager must notify the City Representative in writing that the Work will be ready for an inspection and/or test on a date specified by the Construction Manager. Such notice is to be given at least 5 Days in advance of said date. If the City Representative concurs that the Work will be ready for inspection or testing on the date given, including submission of start-up reports, testing and balancing reports, instructions, warranties, Operations & Maintenance manuals, completion of all Punch List work and other work as may be required by the City, the City will make such inspection within a reasonable period of time. The scheduling of the inspection to determine whether the Work is complete does not relieve the Construction Manager of its responsibilities under the Contract Documents. The Construction Manager must cooperate in all respects in the scheduling and performance of the inspection. Upon inspection, the City will determine if Final Completion and Acceptance of the Work has been achieved and will issue a written notice to the Construction Manager confirming the Final Completion and Acceptance of the Work.

- c. No action of the City, the City Representative, the Architect, or their respective Commissioners, board members, officers, employees, or agents is to be construed as accepting Work done or material furnished in the performance of this Contract, which Work or materials are not in accordance with those specified and required by the Contract. The issuance of notice of Final Completion and Acceptance or the final payment does not affect the rights of the City against the Construction Manager (and the surety or sureties on the Performance and Payment Bond given by the Construction Manager) to enforce the complete performance of this Contract or to sue for the recovery of damages for failure to do so, nor affect the terms of Construction Manager's guarantee in connection therewith.

ARTICLE 3. PERMITS AND LICENSES

SECTION 3.01 Permits, Licenses, and Regulations

1. Permits

- a. The Construction Manager is responsible for obtaining all permits, including but not limited to sewer, water, crane, fence, driveway, and building permits, as prescribed by the City of Chicago and public utilities, and any other permits that may be necessary. The City shall be responsible for the cost of the City of Chicago building permit; any and all permit review fees or charges will be borne by the Construction Manager and included in the Project GMP.
- b. The Construction Manager will confer with the City Representative prior to applying for the City building permit, and the parties will agree on the process for obtaining the City building permit prior to Construction Manager's application for such permit. The City Representative will assist the Construction Manager in the building permit process, but the Construction Manager is solely responsible for obtaining all required permits in a timely fashion, subject to the Project Milestone Schedule per Section 4.05 of the Agreement.
- c. The nature of the foundation systems required on portions of this Project may be such that submittals, permits, and coordination will be required with the City of Chicago Bureau of Underground. If such systems are required by the Contract, the Construction Manager, representing its familiarity with these systems and permit processes, is responsible for any and all submittals, fees, coordination, and any other items required to secure approvals required by the authorities having jurisdiction for the installation of these systems.

2. Licenses and Regulations

- a. The Construction Manager shall include in the Project GMP, all costs necessary to obtain, and pay for all licenses and certificates of inspection required or necessary for the execution and completion of the Work.
- b. The Construction Manager must give all notices and comply with all laws, ordinances, codes, rules and regulations bearing on the conduct of the Work. If the Construction Manager observes that the Drawings and specifications are at variance therewith, prompt notification in writing must be given to the City Representative, and any necessary changes must be made in accordance with Article 10 "Changes in the Work." If the Construction Manager fails to provide such notice, or otherwise performs the Work, subject to the Standard of Care provided in the Agreement, contrary to pertinent law, ordinances, codes, rules or regulations, the Construction Manager will bear all costs arising from any Work performed that is contrary to such laws, ordinances, codes, rules, and regulations.

- c. The Construction Manager must also comply with the current regulations of the National Board of Fire Underwriters where applicable, and all other codes named in the specifications for the various divisions of the Work.
- d. Regulations applicable to this Project include, but are not limited to, the most current editions of, the following:
 - (1) City of Chicago Building Codes
 - (2) NEC
 - (3) NFPA
 - (4) Illinois Plumbing Code
 - (5) Illinois Accessibility Standards
 - (6) Americans with Disabilities Act Guidelines (ADAG)
 - (7) ASHRAE/IES, Standard Efficiency Guidelines
- e. Where requirements of the applicable building codes differ, the Authorized City Representative shall determine which requirement shall govern and the Construction Manager shall comply with the governing requirement. If the Construction Manager believes it is entitled to additional compensation or an extension of the Project Schedule it must follow the requirements set out in Article 11 "Claims and Disputes."
- f. Submit copies of all permits, licenses, and similar permissions obtained, and receipts for fees paid, to the City Representative.
- g. It shall be the responsibility of the Construction Manager to coordinate, procure and pay for all ties necessary for the completion and operation of the fire alarm system. Construction Manager shall arrange and pay for all fees as required by the City of Chicago Bureau of Electricity.

ARTICLE 4. CONSTRUCTION MANAGER'S PRACTICES AT SITE

SECTION 4.01 Project Health and Safety

The Construction Manager is responsible for project health and safety as of the date of execution of the Agreement.

1. Worker's Health and Safety

- a. Construction Manager has sole and complete responsibility for implementation of a safety program. The Construction Manager's safety program ("Safety Program") must include the Work of all the Construction Manager's Subcontractors. The Safety Program must be submitted to the City Representative before the start of the Work.
- b. The Construction Manager shall designate a safety representative for the project. This person shall be present whenever work is being performed at the site or whenever delivery of materials, products or equipment is being made at the site. The safety representative must have successfully completed the OSHA 30-hour course.
- c. Although the City Representative will observe construction and give the Construction Manager opinions and suggestions about safety defects and deficiencies, the City Representative's suggestions on safety will in no way relieve the Construction Manager of its responsibility for safety on the project. The Construction Manager has sole responsibility for safety.
- d. The Construction Manager must comply with the requirements of Regulations 29 CFR Part 1926 (originally CFR Part 1518) – Safety and Health Regulations for Construction of the Williams-Steiger Occupation Safety and Health Act of 1970 (Federal, OSHA). Copies may be obtained

from the Regional Administrator of the Department of Labor, Federal Office Building, Chicago, Illinois.

- e. The Construction Manager's must also comply with the "Health and Safety Act" of the State of Illinois. The rules pursuant to this Act are on file with the Secretary of State of Illinois and identical in every respect with the standards in effect under the Federal, OSHA, and law, pursuant to orders of the Illinois Industrial City. The Federal and State standards require that the Construction Manager provide reasonable protection to the lives, health and safety of all persons employed under the Contract. The State act, rules and the applicable parts thereof will be considered as part of these specifications.
- f. The Construction Manager must comply with all local safety laws including, those set forth in Title 15 of the Municipal Code of Chicago, Ch. 15-4, Art. 5, and Ch. 15-20, Art. 1.
- g. The Construction Manager must take any precautions that may be necessary to render all portions of the Work secure in every respect to decrease the possibility of accidents from any cause. The Construction Manager will furnish and install all necessary facilities to provide safe means of access to all points where Work is being performed and make all necessary provisions to insure the safety of workers and of consultants and inspectors during the performance of the Work.
- h. The Construction Manager must keep on the site of the Work, completely equipped first aid kits readily accessible at all times. The Construction Manager will designate a person on each shift, acceptable to the City Representative, to be in charge of first aid and will cause such person to receive proper instructions therein.
- i. Only such materials and equipment as are necessary for the construction of the Work under this Contract, as determined by the City Representative, will be placed, stored or allowed to occupy any such space of the site of the Work. If gasoline, flammable oils, or other highly combustible materials must be stored at the site, they will be stored in approved safety containers.

2. Hazardous Materials

- a. If the Construction Manager encounters material on the Site reasonably believed to be hazardous which has not been identified in the Contract Documents or rendered harmless, the Construction Manager will immediately stop Work in the Area affected and report the condition to the City Representative in writing. The Work in the affected area will be resumed in the absence of Hazardous Materials, or when it has been rendered harmless, by written notification from the City Representative to the Construction Manager.
- b. The Construction Manager will not be required to perform, without its consent, any Work in the presence of Hazardous Materials.
- c. If reasonable precautions will be inadequate to prevent foreseeable bodily injury or death to persons resulting from material or substance encountered on the Site by the Construction Manager, the Construction Manager, will, upon recognizing the condition, immediately stop Work in the affected area and report the condition to the City Representative and Architect in writing.

3. Coordination With Other Contractors - Safety

In accordance with the provisions of Article 5. "Coordination With Others," the Construction Manager will cooperate with any other contractor that may be performing work on the Site in connection with the compliance with regulations of OSHA and all other federal, state, and municipal laws, rules and regulations relating to Site safety and practice including, as may be relevant, correcting Work within

abatement periods, requesting extensions on abatement periods when work has been done by other contractors, and furnishing such supporting information or material as may be necessary to fully protect the rights of the City, its representatives, and other contractors on pending or prospective violation orders.

4. Public Health and Safety

- a. The Construction Manager must prevent the public from gaining access to the Project Site.
- b. The Construction Manager will take all necessary precautions to ensure the safety of the public and to prevent accidents or injury to persons or damage to property adjacent to the Site where the Work is being performed.
- c. The Construction Manager will erect and properly maintain at all times, as required by laws and regulations and the conditions and progress of the Work, proper safeguards for the protection of the public and post signs warning against the dangers created by falling materials, open excavations, and all other hazardous conditions.
- d. The Construction Manager must remove all snow and ice, and salt all sidewalks adjacent to the project site for the proper protection of pedestrians pursuant to Section 10-8-180 of the Chicago Municipal Code.
- e. If, in the prosecution of the Work, it is necessary to excavate or occupy any street, alley, or public grounds of the City of Chicago, the Construction Manager agrees to erect and maintain such barriers, and during the night, such lights as will effectively prevent the happening of any accidents or damage to life, limb, or property in consequence of such excavation or occupation of such street, alley, or public grounds. The Construction Manager is liable for all damage caused by the Construction Manager, its agents, employees, or Subcontractors of any tier in the excavation or occupation of any street, alley, or public grounds, and indemnifies the City pursuant to the Agreement.

5. Construction Site Cleanliness

- a. The Construction Manager must comply with all requirements of Section 13-32-125 of the "Chicago Municipal Code entitled, "Construction site cleanliness."
- b. The Construction Manager must mow all grass or weeds on the site as directed by the City Representative.

SECTION 4.02 Accidents

1. If death, serious injury, including any time an ambulance is called to the site, or serious damages are caused, the Construction Manager must notify the City Representative immediately via telephone or messenger.
2. The Construction Manager will promptly report in writing to the City Representative all accidents whatsoever arising out of, or in connection with, the performance of the Work, whether on or off the Site, which caused death, personal injury, or property damage, giving full details and statements of witnesses. It will be the responsibility of the Construction Manager to submit a written accident report, within 24 hours of the occurrence, containing the following:
 - a. Name of Person or Persons involved and Home Address(es)
 - b. Location of Occurrence
 - c. Time of Day and Date

- d. Description of Occurrence
 - e. Statements of Witnesses
 - f. Signature of Construction Manager's Superintendent
 - g. Any other documentation of the accident, if any (i.e. a police report, OSHA report, medical documentation, etc.)
3. The Construction Manager must send a copy of the accident report to the City and to the City Representative.
 4. If any claim is made by anyone against the Construction Manager or any Subcontractor on account of any accident, the Construction Manager will promptly report the facts and full details of the claim in writing to the City Representative.

ARTICLE 5. COORDINATION WITH OTHERS

SECTION 5.01 Other Contractors on the Site

1. The City reserves the right to let other contracts in connection with the Work. The Construction Manager will afford other contractors reasonable opportunity for the introduction and storage of their materials and for the performance of their work. Construction Manager will coordinate and tie-in, where appropriate, its Work with that of others in an acceptable manner and perform the Work in proper sequence to the work of others. Such work being performed by the City's separate contractors will not in any way constitute acceptance or partial acceptance of the Work by the City.
2. The Construction Manager must conduct the Work so as not to interfere with or hinder the progress or completion of the work being performed by other contractors within or adjacent to the Site.
3. If any part of the Construction Manager's Work depends, for proper performance or result, upon the work of any other contractor, the Construction Manager will inspect and measure the work of the other Construction Manager and promptly report to the City Representative any defects or discrepancies in such work. The Construction Manager's failure to inspect and make such report will constitute an acceptance of the other contractor's work as fit and proper for the proper performance of the Work, except as to latent defects.
4. Wherever work being done by any such contractors or subcontractors is contiguous to Work covered by the Contract Documents, the respective rights of the parties will be established by the City Representative to secure the completion of the various portions of the Work in a coordinated manner.
5. All requirements of this Section 5.01 shall be mutual of Other Contractors on the Site toward the Construction Manager.

SECTION 5.02 Mutual Responsibility of Contractors

1. The Construction Manager is responsible for Work not completed or accepted due to the presence and operations of other contractors.
2. The Construction Manager is liable, financially or otherwise, in connection with this Contract, and must protect and save harmless the City from any and all damages or claims that may arise because of

inconvenience, delay, or loss experienced due to the presence and operations of other contractors working within the limits of the Work.

3. The Construction Manager, where separate contractors or their subcontractors are employed on the Site, will not make claims against the City for loss or damage or injury caused by any fault or negligence of such other contractor or subcontractor. The Construction Manager will look solely to such contractors or subcontractors for recovery for any such damage or injury.
4. If any separate contractor or its subcontractor suffers loss or damage through any acts or omission on the part of the Construction Manager, or any of its subcontractors, the Construction Manager will reimburse such other contractor or subcontractor. If such separate contractor or its subcontractor asserts any claim against the City on account of any damage or loss alleged to have been so sustained, the City will notify the Construction Manager, and the Construction Manager will save the City harmless against such claims as provided in Section 4.09 of the Agreement.
5. Notwithstanding the foregoing paragraphs 1 – 4 of this Section 5.02, in the event that Construction Manager has met its standard of care as set forth in the Agreement, and the City is in privity with the other contractor that damaged or delayed, or was damaged or delayed by Construction Manager, the City will meet its obligations and enforce its rights under the respective contracts in an effort to resolve any claims or disputes between Construction Manager and other contractors.

ARTICLE 6. PERSONNEL

SECTION 6.01 Competency of Workers

The Construction Manager must employ only competent and efficient laborers, mechanics or artisans. Whenever, in the opinion of the City or its representatives, any worker is careless, incompetent, violates safety or security rules, obstructs the progress of the Work, acts contrary to instructions, acts improperly, or fails to follow the safety requirements of this Contract, the Construction Manager must, upon request by the City Representative, remove such worker from the Work. The Construction Manager must not permit any person or worker to enter any part of the Work or any buildings connected therewith who is under the influence of intoxicating liquors or controlled substances.

SECTION 6.02 Administration and Supervision of the Work

1. The Construction Manager will furnish a competent and adequate staff as necessary for the proper administration, coordination, and supervision of the Work; organize the procurement of all materials and equipment so that they will be available at the time they are needed for the Work; and keep an adequate force of skilled workers on the Site to complete the Work in accordance with all requirements of the Contract Documents. In the event the Commissioner determines, in his or her sole discretion, that additional supervision or administration is required, Construction Manager shall furnish sufficient personnel to perform such supervision or administration, reimbursable through the Construction Manager Contingency or if exhausted at Construction Manager's own expense.
2. Subsequent to notice of contract award, but prior to the Notice to Proceed, the Construction Manager will select a Project Manager and submit his/her résumé to the City Representative for the approval of the City. The Project Manager will have full responsibility for the prosecution of the Work with full authority to act in all matters as necessary for the proper coordination, direction, commitment of resources, and technical administration of the Work. The Project Manager will attend meetings at such

places and times as will be decided by the City or Architect in order to render reports on the progress of the Work. The Construction Manager will not change Project Manager without the consent of the City, unless such staff member proves to be unsatisfactory to the Construction Manager and ceases to be in its employ.

SECTION 6.03 Superintendence

3. The Construction Manager must keep on the Project throughout its duration a competent, experienced and qualified Superintendent and any necessary assistants, all of whom must be satisfactory to the City. This Superintendent's résumé will be submitted to the City Representative for approval at the time the Performance and Payment Bond and certificate(s) of insurance are submitted, or sooner if so requested by the City. The Superintendent will be present at the Site when Construction Manager's personnel and/or Subcontractors are present.
4. The Superintendent will not be changed without the consent of the City, unless the Superintendent proves to be unsatisfactory to the Construction Manager or becomes unavailable due to reasons beyond the control of Construction Manager. In order to change the Superintendent, the Construction Manager will give the City Representative written notice and submit for approval the qualifications of the proposed replacement Superintendent at least 15 Days prior to the intended change.
5. The Superintendent will represent the Construction Manager in the absence of the Project Manager and all directions given to the Superintendent will be as binding as if given to the Project Manager.

SECTION 6.04 Scheduler

1. To assist in the preparation and maintenance of the Schedule, the Construction Manager may engage, at its own expense, a consultant who is skilled in the application of network techniques for construction projects and the use of Primavera scheduling software. If the Construction Manager has qualified personnel on staff, the Construction Manager may perform the required scheduling with its own organization.
2. Prior to engaging a consultant or using staff personnel, and within five (5) Days after execution of the Agreement, the Construction Manager will submit to the City Representative:
 - a. The name and address of the proposed consultant or staff person
 - b. Sufficient information to show that the proposed consultant or the Construction Manager's staff has the qualifications to meet the Schedule requirements
 - c. A list of prior construction projects and three (3) selected Primavera network samples that the proposed consultant or Construction Manager's staff has prepared. These three CPM Schedules must be for projects similar in complexity and magnitude to this Project
3. The City has the right to approve or disapprove employment of the proposed consultant or the performance of the Schedule requirements of the Contract by the Construction Manager's staff, and the City Representative will notify the Construction Manager of its decision within seven (7) Days of receipt of the information. In case of disapproval, the Construction Manager will submit another person with supporting documents within seven Days. The City also reserves the right to disqualify the consultant or Construction Manager's staff personnel at any time throughout the Project if the preparation, presentation, reporting, and updating of do not, in the City's opinion, meet the degree of detail

described in the Contract Documents. Such approval or disapproval does not release the Construction Manager of any of its obligations under this Contract.

SECTION 6.05 Mechanical and Electrical Coordinator

The Construction Manager will provide a staff member or members, as necessary, who have the sole responsibility to perform mechanical and electrical coordination, as required by the City.

SECTION 6.06 Surveyor

Whenever required, the Construction Manager will engage and pay for the services of a surveyor. The surveyor is subject to the approval of the City. The surveyor must be licensed in the State of Illinois, must not be an employee of the Construction Manager, and must not have any interest in the Contract.

SECTION 6.07 Wage Rates

1. Not less than the prevailing rate of wages as determined by the Illinois Department of Labor must be paid to all laborers, mechanics, and other workers performing Work under this Contract.
2. Construction Manager's attention is called to the generally prevailing hourly rate of wages, as determined by the Illinois Department of Labor, which are hereby incorporated into the Contract Documents as if fully set forth herein.
3. In the performance of the Work, the Construction Manager is fully responsible for paying the generally prevailing hourly rate of wages in effect, as determined by the Department of Labor, at the time the Work is performed. One resource for determining the current prevailing wage rate is the Internet site <http://www.state.il.us/agency/idol/rates/rates.HTM> maintained by the State of Illinois Department of Labor. If the Department of Labor revises the prevailing rate of hourly wages to be paid for the Work prior to completion of the Project, the revised rate will apply to the Contract from the effective date of such revision, provided, however that such revision will not entitle the Construction Manager to any increased compensation under the terms hereof.
4. As a condition of making payment to the Contract, the City may request the Construction Manager to submit an affidavit to the effect that not less than the prevailing hourly wage rate is being paid to laborers, mechanics, and other workers employed on this Contract in accordance with Illinois law.

ARTICLE 7. SCHEDULE

SECTION 7.01 Time Is Of The Essence

TIME IS OF THE ESSENCE IN THIS CONTRACT. The Construction Manager agrees that it will commence the performance of the Work on the date directed by the City and that it will complete the Work within the time agreed upon in Project Summary Schedule included in Exhibit K and the amendment to the Agreement fixing the Project GMP.

SECTION 7.02 Construction Manager's Construction Schedule

1. General

- a. Construction Manager shall submit a schedule for the Work to the City for review and approval in accordance with the requirements of Section 4.05 of the Agreement and Exhibit A. The schedule must be provided in hard copy and editable electronic format. The Construction Manager will, when necessary and when not subject to a Change Order, use overtime, multiple shifts, weekend, and/or holiday work to maintain the approved Schedule without increase to the Project GMP, but reimbursement will be allowed through the Construction Manager Contingency.
- b. The Schedule will use the critical path method (CPM). The Construction Manager will utilize Primavera Project Planner as a scheduling software package.
- c. The Schedule will, at a minimum, indicate the dates for the starting and completion of the various stages of the Work, including, without limitation, pre-construction activities, bidding and preconstruction schedule, bid packaging and phasing plans, the placing of material orders, delivery of materials and equipment, preparation, submittal, and approval of all required Submittals; preparation and procurement of material and equipment furnished by the Construction Manager; interface activities performed by others upon which the Construction Manager's schedule depends; all Work activities and field construction operations including any weather related scheduling, equipment installation, testing, and balancing. The Construction Manager will provide estimates of craft hours and or crew sizes for each activity.
- d. The City's approval of the Schedule is done for the sole purpose of insuring that all CPM scheduling documents prepared by the Construction Manager conform to the Contract requirements. This approval does not relieve the Construction Manager of its sole responsibility for the means, methods, procedures, and sequence of the construction process, nor does it provide any entitlement to additional funds.

2. Schedule

- a. The Construction Manager will prepare a detailed Schedule consisting of all CPM diagrams as specified below. The format of the network diagram will utilize the precedence diagramming method (PDM) showing the proposed starting and completion date for the various stages of the Project, including any float time, and must be prepared such that it can be used to plot actual progress against proposed progress. The Schedule will be updated and submitted in both hard copy and editable electronic format no less than monthly, or more frequently as directed by the City.
- b. Specifications applicable to the Schedule and network diagram
 - (1) Each separate sheet will include the Project name, Contract number, Construction Manager's name, Project file, data date, and plot date. If multiple diagrams are prepared, each must, in addition to the above, include a descriptive title of that portion of the Work included therein.
 - (2) The Schedule will show the order and interdependency of activities, indicating the sequence in which the Work is to be performed as planned by the Construction Manager. The Schedule will describe and indicate the critical path. Activities with total float less than 10 Days are defined as near critical.
 - (3) The Schedule will be submitted to the City Representative; 3 color copies of the Schedule are required in 11x17 format. Construction Manager maybe required to provide full size plots of the schedule for the City or the project site. A copy of the Schedule will be submitted on a computer diskette acceptable to the City in Primavera format.

(4) Revised and/or updated Schedules, including the computer diskette, will be submitted when the Construction Manager's planned sequence is changed, when Contract changes are made which affect the Schedule, or when the Construction Manager prepares its monthly Schedule update.

(5) Activities shown on the CPM network diagrams will include, as a minimum, field construction operations, submittal and approval of all Submittals, procurement of material and equipment furnished by the Construction Manager or City, interface activities performed by others upon which the Schedule may depend, and equipment installation and testing.

(6) Summary Elements (elements of the schedule into which a number of individual activities roll up into for purposes of defining a larger piece of the Work) shall be cost loaded to show the estimated cost to perform the Summary Element of Work and should be resource loaded to show the total number of hours required to perform the Summary Element.

The following items define the term "activities" as it pertains to the Schedule:

(1) Each activity will be a unit of Work, which requires an amount of time for its performance.

(2) Each activity will be a logically separate part of the Work, defined by an observable start and an observable finish.

(3) To establish the scope of an activity for CPM purposes, the Construction Manager will form a single activity from the largest grouping of related operations, which permit a continuous and measurable flow of Work.

(4) The scope of an activity will be small enough to permit a reasonable appraisal of its status or as directed by the City.

(5) Activities of other contractors or companies that must be completed prior to the start of the Construction Manager's Work or portion of Work must be included in the Construction Manager's schedule as milestones and identified with a designation approved by the City.

c. The following information will be furnished on the network diagram for each activity in the schedule:

(1) Activity Number: The Construction Manager will utilize the Technical Specification division and section numbers in assigning activity numbers to the related portions of Work.

(2) Description of the activity.

(3) Duration of the activity in Days, unless otherwise noted.

(4) Each activity that is not performed by the Construction Manager will be assigned a responsibility code indicating which Subcontractor is to perform the activity.

(5) Each activity will be identified with early/late start, early/late finish, and total float.

(6) Calendar I.D.

d. In addition to the above, any activity whose start or finish date has been specified elsewhere in the documents will reflect such specified date in the progress schedule.

3. Completion Requirements

a. Upon receipt of the Construction Schedule with the Project GMP, the City will review the Schedule for conformance with the Contract Documents and degree of detail. Within 14 Days after receipt of the Schedule and supporting documents, the City will either (1) approve the Schedule, (2) approve the Schedule as noted or (3) disapprove the Schedule with the reasons set

forth. If the Schedule either is given a qualified approval or is disapproved, the Construction Manager must submit a revised Schedule within 7 Days.

- b. The baseline Construction Schedule must have the same duration for the performance of Work as provided in the Agreement.
- c. Failure by the Construction Manager to provide the baseline Schedule or monthly updated schedule within the required time period may be deemed an event of default by the Commissioner.

4. Submittal, Acceptance, and Construction Manager's Responsibility for the Schedule

- a. Prior to submitting the baseline Schedule to the City Representative, the Construction Manager will review and verify the procurement lead time for the fabrication and delivery of all construction materials and equipment along with the erection and/or installation duration for all the construction activities that make up the critical path of the Project.
- b. The Construction Manager will coordinate its letting of subcontracts, material purchases, shop drawing submissions, delivery of material, sequence of operations and approval of subcontracts to conform to the baseline Schedule and will furnish proof of same as may be required by written notification from the City.

5. Updating

- a. The originally approved baseline Schedule will be designated as the "Target Schedule" and will only be changed by a Change Order that extends the Contract duration. All updates will be plotted against the "Target Schedule."
- b. The Construction Manager will update the Schedule on a monthly basis coincident with the submission of the monthly pay estimate. The updated information will include the Target Schedule detail and the following additional information:

- (1) Actual start dates
- (2) Actual finish dates
- (3) Activity percent completion
- (4) Remaining duration of activities in progress
- (5) Identified or highlighted critical activities

- c. The Construction Manager will not make any changes to the original duration, activity relationships, constraints, costs, add or delete activities, or alter the Target Schedule's logic when updating the Target Schedule.
- d. The Construction Manager will submit scheduling documents in the same formats and number as indicated in this section.
- e. Upon receipt of the Schedule update, the City Representative will review the schedule for conformance with the Contract Documents and degree of detail. The City Representative, within 14 Days after receipt of the Schedule update and supporting document, will approve or reject it with written comments. If the Schedule update is rejected, the Construction Manager must submit a revised schedule update within 7 days after the date of rejection.

- f. As part of the normal Schedule update, the Construction Manager will prepare a written narrative report, highlighting the progress during the past update period. The written narrative report will include but not necessarily be limited to the following information:

Summary of Work accomplished during the past update period

Contract Milestone comparison Chart

Analysis of Critical Path(s)

Analysis of time lost/gained during the update period

Identification of problem areas

Recommended solutions to current problems

- g. The Construction Manager is required to attend a monthly Schedule update review meeting with the City Representative. The purpose of this meeting is to review past progress, current status, problem areas and future progress. The Construction Manager's narrative report will be reviewed at this meeting. The Construction Manager's representatives attending this meeting will have the authority to commit manpower and/or other resources to correct any negative impact to the Schedule.
- h. Any possible means of shortening the Schedule at no additional cost must be brought to the attention of the City.
- i. The updated Target Schedule will be used as a guide for verifying estimates of Work completed for which payment is requested and must accurately represent the Project's current status.

6. Changes to the Schedule Proposed by Construction Manager

- a. If the Construction Manager proposes to make any changes in the Target Schedule, Construction Manager will notify the City Representative in writing, stating the reasons for the change, identifying each changed activity (including duration and interrelationships between activities) and providing an electronic media of the proposed changed Schedule.
- b. The City has the authority to approve or disapprove the proposed change in the Target Schedule and will do so in writing within 10 Days after receipt to the Construction Manager's submission. If the City approves the change in the Target Schedule that changed schedule will be designated the new "Target Schedule." All subsequent monthly updates will be plotted against the new "Target Schedule."

7. Recovery Schedule

- a. The Construction Manager must maintain an adequate work force and the necessary materials, supplies and equipment to meet the Target Schedule. If the Construction Manager, in the judgment of the City, is failing to meet the Target Schedule, including any Contract milestones, the Construction Manager, upon the written request of the City Representative, shall submit a recovery schedule.
- b. The recovery schedule will set forth a plan to eliminate the schedule slippage (negative float). The plan must be specific to show the methods to achieve the recovery of time, i.e. increasing manpower, working overtime, weekend work, employing multiple shifts, re-sequencing of the work. All costs associated with implementing the recovery schedule will be an allowable utilization of the Construction Manager Contingency or if exhausted, will be borne by the Construction Manager.

- c. Upon receipt of the recovery schedule, the City Representative will review the recovery schedule for conformance with the Contract Documents and degree of detail. The City will approve the recovery schedule or reject it with written comments within 14 Days of receipt . If the detailed CPM recovery schedule is rejected, the Construction Manager must submit a revised CPM recovery schedule within 7 Days of the date of rejection.
- d. If the Construction Manager refuses to follow the direction of the City, the City reserves the right, after serving 7 Days written notice to the Construction Manager, during which time Construction Manager fails to commence a cure, to procure the materials, equipment and labor to proceed with or to complete the Work or any portion of it and charge the cost to the Construction Manager. The City's rights, excluding Liquidated Damages, under this provision are cumulative to rights under any other provisions of the Contract including the City's rights to terminate for default or convenience.

8. Schedule Changes Directed by the City

- a. The City Representative may direct the Construction Manager to revise the Target Schedule. Reasons for such direction may include, but are not limited to, the following: (1) changes in the Work, (2) re-phasing of the Project or any phase, (3) a change in the duration of the Project or phase, and (4) acceleration of the Project or phase.
- b. The City Representative will direct the Construction Manager to provide a revised Target Schedule in writing.
- c. The Construction Manager will provide the revised Target Schedule with 10 Days of receipt of the City's written direction.
- d. The City has the authority, in its sole discretion, to approve or reject the revised Target Schedule and will do so in writing within 10 days after receipt of the Construction Manager's submission. If the City Representative approves the revised Target Schedule, the City will initiate a Change Order, pursuant to which such revised Target Schedule will be designated the new "Target Schedule." Any revisions to the Project GMP necessitated by such schedule changes shall be incorporated into the Project GMP by amendment or change order as applicable.

SECTION 7.03 No Damages for Delay, Notices of Delay, Events of Delay, Delays Which Do Not Qualify for Time Extensions, Procedures for Time Extension Requests

1. No Damages for Delays

Should the Construction Manager be delayed in the commencement, prosecution or completion of the Work by any act of the City, including but not limited to a delay, change, addition, deletion or modification in the Work or any omission, neglect or default of the City, or by order of the Commissioner, or the City's Representative, or by any cause beyond the Construction Manager's control, none of which are due to any fault, neglect, act or omission on Construction Manager's part, then the Construction Manager shall be entitled solely and exclusively to an extension of time for the performance of the Work. Such extension of time shall release and discharge the City, its employees and representatives from any and all claims for damages of whatever character, including but not limited to, disruption, changes in sequence, interference, inefficiency, field or home office costs claimed by the Construction Manager on account of the aforesaid or any other causes of delay.

2. Compensable Delays

This provision constitutes the sole exception to Section 7.03.1 “No Damages for Delays.” In the event that the time for performance of the Work (as evidenced by a change order extending the Date of Substantial Completion) is extended by more than sixty (60) days as agreed due to changes or delays to the work caused by the City or cause beyond the Construction Manager’s reasonable control (as defined in Section 4.05 of the Agreement), then the City will pay for the Construction Manager’s costs listed below, provided the delay or change was not caused wholly or partly due to any fault, negligent act, failure to act, error, omission, or breach of a material term of the Contract by the Construction Manager. The costs that will be paid are: extended field staff time for prosecution of the Work, labor inefficiency, wage rate escalation (for only that portion of time escalated wage rates have taken effect pursuant to recognized collective bargaining agreements), idle time for equipment (provided that Construction Manager proves that it took reasonable steps to mitigate damages regarding the idle equipment, relocation or storage of material (on or off site), winter protection costs and the cost of re-sequencing the work. Such payment is also contingent on: 1) the delay being caused by the actions of the City or a cause beyond the reasonable control of the Construction Manager as defined in Paragraph 4.05(b) of the Agreement or by an event defined as Force Majeure in Section 7.06 of the Agreement or Section 7.03.4 below and not some other cause, and 2) there having been no concurrent delay caused by the Construction Manager.

3. Notice of Delay

In the event that Construction Manager's performance of its Work is delayed by causes beyond the reasonable control of the Construction Manager, the Target Schedule, including phases and/or milestones, may be extended by the City to reflect the extent of such delay. The Construction Manager must give the City Representative written notice within five (5) business days of the commencement of such delay. The written notice by the Construction Manager will comply with the requirements of 7.03.6. Consideration of a time extension for events beyond the reasonable control of the Construction Manager will only be made if the delay directly impacts critical path activities based on the Target Schedule in effect at the commencement of the delay.

4. Force Majeure

Events considered to be beyond the reasonable control of the Construction Manager are limited to acts of God, acts of the public enemy, fires, floods, earthquakes, epidemics, quarantine restrictions, labor strikes at the job site, or freight embargoes, provided that the listed causes were not foreseeable and did not result from the fault or negligence of the Construction Manager, and provided further that the Construction Manager has taken reasonable precautions to prevent further delays owing to such causes. Notwithstanding the foregoing, or any other provisions herein, Construction Manager will take all reasonable measures to protect its Work and to minimize the impact of climatic conditions on the progress of the Work.

5. Delays Which Do Not Qualify For Time Extensions

No extension of time will be granted under this section for any delay: (1) if the delay was caused by the action and/or inaction of the Construction Manager, including, but not limited to, the fault or negligence of the Construction Manager or its Subcontractors; or (2) for which any remedies are provided for or excluded by any other provision of the Contract. The Commissioner’s permitting the Construction Manager to proceed with its Work, or any part thereof, after such extension will in no way operate as a waiver of any other rights on the part of the City.

6. Procedure For Time Extension Requests

- a. No time extensions will be allowed unless they are set forth in a Change Order which has been approved and executed by the City.
- b. The Construction Manager expressly consents to both the time requirements and notice content requirements for requesting an extension of time set forth in this Section 7.03.6. The Construction Manager acknowledges that the notice requirements set forth in this section 7.03.6 shall be strictly enforced and agrees that any failure on the part of the Construction Manager to provide notice strictly in accordance with the requirements of this Section 7.03.6 shall constitute a waiver of the Construction Manager's right to seek an extension of time or to file a dispute to the Commissioner under Article 11. The Construction Manager further understands and agrees that, notwithstanding any case law decision to the contrary, the notice requirements of this Section 7.03.6 shall not be subject to or diminished by any claim on the part of the Construction Manager that the City or any person acting on behalf of the City had actual or constructive knowledge of any request for extension of time, entitlements to an extension of time or any facts or circumstances supporting an extension of time. The Construction Manager further acknowledges that the time requirements and content requirements of Section 7.03.6 have the purpose, among others, of allowing the City Representative and City to evaluate the time extension request contemporaneously with the event that has been claimed to cause the delay.
- c. In order to request a Time Extension, a "Commencement of Delay" notice must be provided in writing to the City Representative, no more than five (5) business days after the commencement of the delay, otherwise the claim for the time extension is waived.
- d. If the cause of the delay continues for more than five (5) calendar days after the start of the delay, a "Termination of Delay" notice must be provided in writing, to the City Representative along with the Request For Time Extension within ten (10) calendar days after the termination of the delay.
- e. The Construction Manager must submit its Request For Time Extension in writing to the City Representative within ten (10) calendar days after the termination of the delay. The Request For Time Extension must: (1) state the cause of the delay, (2) specifically demonstrate the negative impact of the delay on the critical path of the Target Schedule, and (3) state the number of days requested.
- f. The City Representative shall advise the Construction Manager of its recommendation regarding the Time Extension request, in writing, within ten days of receipt. If the Construction Manager and City Representative agree on the Time Extension to be granted, a Change Order will be signed which states the Time Extension to be provided. The Construction Manager must make a Dispute to the Commissioner, as required by Article 11, regarding any Time Extension request to which the City Representative and Construction Manager do not agree, as limited by Section 7.03.6.h.
- g. The Commissioner may: 1) recommend that the entire Time Extension be granted; 2) recommend that a portion of the Time Extension be granted; or 3) deny the Time Extension. The Commissioner will provide the Construction Manager a final decision in writing within fifteen (15) days of receipt of the Time Extension request from the City Representative, or such additional time as the Commissioner requires, but not to exceed ten (10) additional days.

Section 7.04 Liquidated Damages

If Construction Manager fails to complete the Work according to the Date of Substantial Completion identified in the Target Schedule, and if the Agreement provides for liquidated damages, then such liquidated damages, shall

be assessed. The City will recover liquidated damages by deducting the amount thereof out of any moneys due or that may become due the Construction Manager, and if said moneys are insufficient to cover said damages, then the Construction Manager will pay the amount due.

These liquidated damages are for Construction Manager's delay only, and nothing contained in this Contract limits the right of the City to recover from the Construction Manager any damages, costs and expenses sustained by the City due to Construction Manager's other improper performance hereunder, repudiation of the Contract by the Construction Manager, Construction Manager's other failure to perform, or Construction Manager's other breaches in any other respect, including but not limited to defective workmanship or materials.

Section 7.05 Completion of Punch List

1. It is also understood and agreed that TIME IS OF THE ESSENCE IN CLOSING OUT THE WORK. The Construction Manager agrees to begin performance immediately after receipt of notice of the Punch List Work.
2. The period to complete Punch List Work will be determined in the sole discretion of the City Representative. The time period for completion of the Punch List Work begins the day after the Punch List is provided to the Construction Manager. The City Representative may extend the period to complete Punch List Work for specific Work which requires the receipt of long lead-time materials. However, all other Punch List Work must be completed as required by this Section 7.05.
 - a. Unless otherwise directed by the City Representative, failure of the Construction Manager or its Subcontractors to begin the Punch List Work prior to the expiration of three (3) Days after receipt of the Punch List will be construed as failure to prosecute the Work of the Contract.
 - b. It is further understood and agreed that the Punch List Work will be continuously prosecuted once begun. Therefore, any gap of three (3) Days during which Punch List Work is not being performed on the job site will also be construed as failure to prosecute the Work of the Contract.

Section 7.06 Notice of Labor Disputes

Whenever the Construction Manager has knowledge that any actual or potential labor disputes is delaying or threatens to delay the timely performance of this Contract, the Construction Manager must immediately give notice to the City Representative in accordance with the Notice provision and must include all available information with respect thereto to the City.

ARTICLE 8. QUALITY OF WORKMANSHIP, MATERIALS, AND EQUIPMENT

Section 8.01 Standard of Performance

In addition to performing the Work in full compliance with the Contract Documents, the Construction Manager will perform, or cause to be performed, all Work required of it under the terms and conditions of this Contract with that degree of skill, care, and diligence normally exercised by qualified and experienced contractors in performing work in projects of a scope and magnitude comparable to the Project.

Section 8.02 Construction Manager's Quality Program

1. Scope of Construction Manager's Quality Program (CQP)

- a. Quality is the responsibility of the Construction Manager. This responsibility includes development and implementation of a Construction Manager's Quality Program for quality management and construction activities. The CQP must satisfy the requirements of the Contract Documents. The Construction Manager must develop and implement an appropriate quality program to achieve a level of quality consistent with the Contract requirements.
- b. Throughout the course of the work, the CQP will be subject to continual monitoring to assess the effectiveness of the quality processes employed by the Construction Manager. The Construction Manager's implementation of and compliance with its CQP are subject to monitoring and audit by the City. The Contactor must address the City's concerns and audit findings. The City will pursue its remedies under the Contract for Construction Manager's failure to appropriately resolve such concerns and findings.

2. Construction Manager's Quality Program

- a. The Construction Manager must establish, implement, and maintain an effective quality program to manage, control, and document the work and assure that the Work conforms to the requirements of the Contract. The Construction Manager must communicate, implement, and follow the CQP at all levels of its organization.
- b. The CQP must describe the policies, plans, procedures, and organization necessary to exercise control and ensure quality. It must cover materials, equipment, workmanship, fabrication, and operations furnished both onsite and offsite by the Contactor. The CQP must be an internally approved document, signed by the Construction Manager's management representative, and must contain a revision number and effective date. The CQP must also include a written statement, signed by the Construction Manager's Quality Representative, that the program satisfies the requirements of the Contract.
- c. Organization of the quality functions and activities for the Project must be supported by the management structure of the Construction Manager. The choice and level of application of the quality program must be appropriate for the Project.
- d. Responsibility for achievement of quality must be acknowledged by all management, construction and support personnel of the Construction Manager. Subcontractors (including suppliers), testing laboratories, and consultants employed by the Construction Manager must also conform to the commitments specified in the Contract and the CQP.

3. Submittal of Construction Manager's Quality Program

Within fourteen (14) days after the execution of the Agreement, the Construction Manager must provide its internally approved CQP to the City Representative for review and acceptance. If the Construction Manager fails to submit its CQP within the required time, or if the CQP is not accepted, the City may suspend the Work until the Construction Manager furnishes an acceptable CQP. The Construction Manager shall not receive a time extension for the period of any such suspension.

4. Acceptance of the Construction Manager's Quality Program

The City Representative is responsible for reviewing and accepting the CQP. This acceptance is conditional based on satisfactory performance throughout the course of the work. As work progresses, the Construction Manager may be required to revise the CQP to maintain a quality of construction

consistent with the Contract. Should this revision of the CQP be required, the revised CQP will again be subject to acceptance by the City Representative.

5. Proposed Changes to the Construction Manager's Quality Program

The Construction Manager must notify the City Representative, in writing, of any proposed change to the CQP. Any changes to the accepted CQP will be subject to the same acceptance process stated in Section 8.02.4.a. above.

ARTICLE 9. SHOP DRAWINGS, PRODUCT DATA, RECORDS, AND SAMPLES

Section 9.01 Documents at the Site

The Construction Manager must keep one complete set of the Contract Documents, including all Drawings, specifications, and submittals, at the Site, in good order and available to the City, Architect and the City Representative. The Drawings, specifications and submittals must be kept up to date by replacing obsolete sheets with revised sheets as they are issued.

Section 9.02 Construction Manager's Responsibilities and Submittal Procedures

1. Shop drawings, product data, video tape and samples are part of the Work under this Contract and they must be provided whenever required to the satisfaction of the City at the expense of the Construction Manager.
2. The Construction Manager must submit to the City Representative such shop drawings, product data, video tape and samples required for the Work involved under this Contract for review by the Architect in accordance with the schedule.
3. The Schedule must include proposed submittal dates. The dates listed in the schedule must allow sufficient time for review and processing by the Architect and re-submittal, if necessary, of the shop drawings or other data before the Work represented by shop drawings and samples is needed by the Construction Manager to complete its performance under this Contract. No extensions of time will be granted to Construction Manager because of its failure to have shop drawings, video tape, samples, and product data submitted in time to allow for review, re-submittal, and final review. Construction Manager must also submit a separate schedule (in table format), in addition to the Target Schedule, identifying all submittal dates to the City Representative for review and approval.
4. The Construction Manager must prepare and submit proper shop drawings, video tape, samples, and product data in accordance with its contractual obligations. By submitting shop drawings, video tape, product data, and samples, the Construction Manager represents that it has determined and verified all materials, field measurements, field conditions, and quantities and that it has checked and coordinated the information contained within each submittal, including its subcontractors' submittals, with the requirements of the Work and of the Contract Documents.
5. All shop drawings, video tape, product data, and samples must be dated and stamped by the Construction Manager and indicate that the submittal has been reviewed and checked by the Construction Manager prior to submittal and found to be in conformance with the Contract Documents. All submittals will be transmitted to the City Representative. The Construction Manager must clearly

identify each shop drawing, video tape, product data, and sample in accordance with the following for purposes of identification and record:

<u>SUBMITTAL IDENTIFICATION</u>	
Name of Project:	_____
Contract Name and Number:	_____
Date of Submittal:	_____
Re-submittal Number:	_____
Identification of Deviations from Contract Documents:	_____
Specification Section, Page, and Paragraph No. and/or Drawing No.:	_____
Type of Material and Manufacture:	_____
Intended use:	_____
Applicable Standards such as ASTM numbers:	_____
CHECKED AND SUBMITTED IN ACCORDANCE WITH DRAWINGS AND SPECIFICATION	
Construction Manager:	_____
By: _____	Date: _____

6. Shop drawings must be submitted with accurate dimensions. The shop drawings must represent the actual manner in which the Work is manufactured and installed, and the relation of the Work installed to that of other trades, clearances, and all other pertinent data. Dimensions must be expressed in feet and inches. Designs prepared in the metric system may be submitted with metric units, but the equivalent English units must also be shown. All weights and dimensions must be certified prior to submission for review.
7. The Architect's review and acceptance of shop drawings does not relieve Construction Manager from its standard of care for the performance of the Work. Construction Manager must submit all shop drawings, video tape, samples and product data to the City Representative for review by the Architect with an accompanying transmittal letter containing the above Submittal identification data and a list of items being submitted. The Construction Manager must coordinate Submittals into logical groups or sets to facilitate review of related items.
8. Any Submittal that, in the opinion of the Architect, is not complete and in proper form will be returned to the Construction Manager without review. The Construction Manager must not submit duplicates or reproductions of any Contract Documents issued by the City as shop drawings.
9. Construction Manager must provide each Submittal in the following quantities unless another number or method is specified elsewhere in the Contract Documents, or is required by the City:
 - a. Shop Drawings: Submit 1 reproducible and six (6) prints on sheets at a minimum of 30" by 42" in size. (Prints must be collated into sets).
 - b. Product data: Submit 6 copies of product data.
 - c. Samples: Submit 4 samples.
 - d. Video: Submit 1 digital video media.

10. Prior to submitting shop drawings, product data, video, or samples, the Construction Manager must notify the City Representative in writing of any deviations in the Submittal from the requirements of the Contract. If deviations from the Contract requirements are rejected by the Architect or if evaluation of the deviations delays the progress of Work, Construction Manager will not receive a time extension for any delay caused by the deviations in the submittal.
11. Additional requirements for submittals are stated in the Technical Specifications.

Section 9.03 Review by the Architect

1. Submittals will be reviewed by the Architect for compliance with the Contract Documents. In reviewing the Submittal, the Architect will not verify dimensions and field conditions. Any such review does not relieve the Construction Manager, Subcontractor, manufacturer, fabricator or supplier from responsibility for any deficiency that may exist, or from any departures or deviations from the requirements of the Contract Documents, nor does it relieve them from responsibility for (i) errors of any sort in shop drawings, samples and product data, (ii) responsibility for proper fitting of the Work, or (iii) the necessity of furnishing any Work required by the Contract documents which may not be indicated on shop drawings when reviewed. The Construction Manager is solely responsible for any quantities that may be shown on the shop drawings. The Architect's review of a specific item does not indicate approval of an assembly of which the item is a component.
2. The Construction Manager must not fabricate products, begin Work, order or have delivered any material, equipment or system that requires a reviewed Submittal until return of the Submittal from the Architect with a stamp authorizing Work and/or delivery and installation to be performed, as described in Paragraph 3 immediately below.
3. The Architect will return Submittal stamped as follows:
 - a. "No Exceptions" means no changes are necessary on the reviewed Submittal. The Construction Manager may proceed with the Work for that Submittal. Re-submittal is not required.
 - b. "Exceptions as Noted" indicates that the Submittal is accepted subject to the corrections and/or comments noted. The Construction Manager may proceed with the Work for that Submittal if the Construction Manager incorporates the Architect's comments, and/or corrections. Re-submittal is not required.
 - c. "Revise and Resubmit" means that the Submittal does not meet all the requirements necessary to proceed with the Work associated with the Submittal. The Construction Manager must resubmit in accordance with the reviewer's comments and/or corrections. Submittal marked in this manner must not be released for fabrication, delivery, or construction.
 - d. "Rejected" means the submittal does not meet the requirements set out in the Contract Documents. The Construction Manager must resubmit in accordance with the Contract Documents and any corrections and/or comments made regarding the Submittal by the reviewer. Submittals marked in this manner shall not be released for fabrication, delivery, or construction.
4. If the Submittal requires revision, the Construction Manager must notify the City Representative and all pertinent Subcontractors in writing that the reviewed set has been withdrawn.

5. Submittals that require revisions must be corrected and resubmitted to the City Representative for the review of the Architect to maintain the approved CPM schedule, but in no event more than 5 Days after receipt of the Architect's comments.
6. Shop Drawings: After review by the Architect, one reproducible stamped by the Architect as described in paragraph 3 above will be returned to the Construction Manager.
7. Submission and Review of Samples: If a considerable range of color, graining, texture, or other characteristics may be anticipated in finished products, a sufficient number of samples of the specified materials must be furnished by the Construction Manager to indicate the full range of such characteristics which will be present in the finished products. Any products delivered or erected without submittal and review of full range Samples will be subject to rejection. Each tag or sticker will have clear space for the stamps of the Construction Manager and Architect. Notice of the result of the review will be provided to the Construction Manager with one of the stamps indicated in Paragraph 3 above. Rejected samples will be returned. Accepted samples will be retained by the City and become the property of the City. Where color samples are required to be submitted, color samples must be submitted on the actual material which will finally be installed in the Work.
8. Product data: After review by the Architect, two (2) sets of product data stamped by the Architect as previously described will be returned to the Construction Manager.

Section 9.04 As-Built Drawings

1. As the Work progresses, the Construction Manager, and the Subcontractor for each trade or division of Work under the direction of the Construction Manager, must keep a complete and accurate record of the following:
 - a. Changes between the Work as shown on the Contract Drawings and the shop drawings indicating the Work as actually installed.
 - b. The specific location of all infrastructure elements, including piping, valves, ductwork, equipment, driveways, catch basins, sewer lines, waterlines, water mains, and other such elements which were not accurately located or changed location or elevation from that shown on the Contract Drawings.
 - c. Equipment schedules indicating manufacturers' names and model numbers installed.
2. Changes must be neatly and correctly recorded daily on full-size prints of the Contract Drawings. This record set of Contract Drawings must be kept at the Site for inspection by the City.
3. Upon completion of the Work, the Construction Manager will submit a final set of full-size prints to the City Representative for the Architect's review and acceptance.
4. At the time as-built drawings are delivered to the City, the Construction Manager and each Subcontractor will certify, in writing, that the as-built drawings are complete and accurate. The Construction Manager may obtain compact discs or original drawings from the Architect at Construction Manager's own expense for this purpose.

Section 9.05 Record Shop Drawings and Product Data

1. As the Work progresses, the Construction Manager must keep a complete and accurate record of the changes and deviations from the Work as shown on the shop drawings and product data indicating the Work performed. The Construction Manager must furnish record shop drawings in a form and quantity acceptable to the City. Record shop drawings must be submitted for all items reviewed as shop drawings. Record shop drawings must be provided in an editable electronic medium and hard copy as directed by the City. Unless otherwise specified, record shop drawings must be submitted on the same size sheets as the Contract Document Drawings and include an index of all items.
2. Unless otherwise specified, Construction Manager must furnish seven (7) record copies of product data loose-leaf binders. Loose-leaf binders must be subdivided by submittal numbers and must contain an index of all items unless otherwise specified.

Section 9.06 Instructions, Parts List, Operation and Maintenance Manuals, and Warranties

1. The Construction Manager must furnish a complete list of equipment actually installed. The list must include at least the following information: a copy of pertinent nameplate data, name and address of local representative who stocks or furnishes repair or replacement parts, and name, address, and telephone number of the Subcontractor responsible to the Construction Manager for the equipment under the guarantee.
2. The Construction Manager must submit operating instructions for each major component of equipment and its controls in accordance with the specifications. Proposed instructions must be submitted to the City Representative for the City's review and acceptance in the amount provided for in the specifications. Upon acceptance, the Construction Manager must post applicable instructions as required by the specifications or as otherwise directed by the City.
3. The Construction Manager must submit to the City Representative any and all maintenance data prepared by the manufacturer of each major component of equipment and its controls in accordance with the specifications. Data must include at least the following information: complete parts list; itemized lists of common purchase items of materials (e.g., bearing, packing, connectors, sealing devices, and other standard items) indicated by their standard trade designation; recommended routine and inspection maintenance, including testing recommendations to evaluate efficiency of performance; lists of special tools and gauges, lubricating instructions, and recommended spare parts; tolerance and clearances required for maintenance; and trouble-shooting guides prepared in a simple format to indicate complaint or problem, probable cause, and remedy. The proposed maintenance data must be submitted to the City Representative for the City's review and acceptance in the quantity provided for in the specifications.
4. The Construction Manager must submit all applicable manufacturer's warranties as described in Paragraph 4.02(g) of the Agreement "Guarantees and Warranties."

Section 9.07 Record Documents

Upon Substantial Completion of the Work, the Construction Manager must deliver to the City, in suitable transfer cases clearly marked "Record Documents," all as-built drawings, record shop drawings, video, product data, instructions, parts list, and operations and maintenance manuals arranged in proper order and indexed.

The submission of all Record Documents is a prerequisite to reduction of retention from 3% to 1% under Paragraph 5.01(k) of the Agreement, "Release of Retainage."

Section 9.08 Project Account Records

1. Project data and records

- a. The Construction Manager and each Subcontractor must keep an accurate record showing the names, occupation, and the actual hourly wages paid to all laborers, workers, and mechanics employed by them in connection with the Work. Such record must be open at all reasonable hours to the inspection of the City and to the Director of Labor of the State of Illinois and his/her deputies and agents. The Construction Manager also must furnish the City with certified copies of its payrolls in accordance with Article 5 of the Agreement.
- b. The Construction Manager and all Subcontractors must furnish the City with such information as the City may require relating to labor and materials, including all information necessary to determine the cost of the Work, such as the number of workers employed, their pay, the distribution of labor into Work items, equipment time distribution, and any other information which the City may require. The Construction Manager must, on request, furnish the City with copies of delivery tickets and invoices covering the expenditures on the Contract.

2. Audits

- a. The Construction Manager must furnish to the City Representative such information as may be requested relative to the progress, execution, and cost of the Work. The Construction Manager must maintain complete records showing actual time devoted and costs incurred. The Construction Manager must maintain its books, records, documents, and other evidence and adopt accounting procedures and practices sufficient to record properly all costs of whatever nature claimed to have been incurred and anticipated to be incurred for or in connection with the Work for seven (7) years after final payment. This system of accounting must be in accordance with generally accepted accounting principles and practices, consistently applied throughout.
- b. All books and accounts kept by the Construction Manager in connection with the Work, whether in hard copy, digital or other electronic form, must be open to inspection and audit by authorized representatives of the City. The Construction Manager must make these records available at reasonable times during the performance of the Work and must retain them in a safe place and make them available for inspection and audit for at least seven (7) years after final payment. No provision in this Contract granting the City right of access to records documents is intended to impair, limit, or affect any right to access to such records and documents which the City would have had in the absence of such provisions.
- c. The Construction Manager must reimburse the City for the costs of such audits if the audit demonstrates that the Construction Manager overstated the amount due on any invoice by 2% or more. This is in addition to the Construction Manager's obligation to reimburse the City for any overstated amount that might have been paid to Construction Manager.

3. Confidentiality

All of the reports, information, or data prepared or assembled by or provided to the Construction Manager under this Contract are confidential and the Construction Manager agrees that, except as

specifically authorized herein or as may be required by law, it will not make available said reports, information, or data to any other individual or organization without the prior approval of the City. This requirement will survive expiration or termination of this Contract.

ARTICLE 10. CHANGES IN THE WORK

Section 10.01 Owner's Right to Change Work

The City reserves the right to order, in writing, changes in the Work or the Schedule without prior notice to the Construction Manager's surety. The Construction Manager is obligated to perform the changed Work included in the written notice from the City in a timely manner. The Construction Manager must begin the changed Work upon receipt of a Field Order signed by the City Representative unilaterally directing changes in the Work or Schedule.

Section 10.02 Owner Directed Changes in the Work

1. The City may make changes in the Work by making alterations therein, or by making additions thereto, or by making deductions or omissions therefrom, without invalidating the Contract and without releasing or relieving the Construction Manager from any guarantee given pursuant to the Contract, without affecting the validity of the guarantee or Performance and Payment Bond and without relieving or releasing the surety or sureties of such bond. All such Work will be executed under the conditions of the original Contract. The Construction Manager will submit to the City Representative "as-built" or revised drawings clearly showing the revised Work.
2. Except in an emergency endangering life or property, no change in the Work will be made by the Construction Manager without receipt of a Field Order signed by the City Representative.
3. The Construction Manager will not perform changes to the Work directed by the Facility Tenant or any other any party unless authorized to do so by the City based upon a Field Order signed by the City Representative.

Section 10.03 Changes to the Work Initiated by Construction Manager

1. In the event that Construction Manager identifies an error or omission in the Contract Documents as described in Section 2.02 hereof, or encounters a differing site condition as set forth in Section 2.03 hereof, the Construction Manager shall submit a Request For Information (RFI) to the City Representative. If, upon receipt of a response from the Architect, via the City Representative, to the RFI, the Construction Manager believes that there has been a change to the Work, or if the Construction Manager believes that a delay has occurred pursuant to Section 4.05(d) of the Agreement, the Construction Manager will submit a Construction Manager Proposed Change Order (CPCO) to the City Representative. The CPCO will state: the issue presented; any change to the Work that, in the opinion of the Construction Manager the issue requires; Construction Manager's proposed resolution of the issue; and the cost of the Work.

The City Representative will respond promptly to the CPCO. The response will take one of two forms: i) the City Representative concurs with the Construction Manager, and issues a Field Order that incorporates the terms stated in the CPCO or a Field Order with other terms; ii) the City Representative denies the CPCO, and issues a response notifying the Construction Manager that there is no change to

the Work, and directing the Construction Manager to perform the Work pursuant to the answer to the RFI.

In the event that a CPCO is denied, the Construction Manager may file a claim pursuant to Article 11, "Claims and Disputes."

2. The Construction Manager, within 14 Days of receipt of a Field Order, must submit to the City Representative a CPCO for the revisions to the Work directed by the Field Order. The Construction Manager's failure to submit such request within the specified time will result in the issuance of a Change Order by the City for the adjustment to the Contract Price and/or time for the performance of the Work, if any, that the City deems appropriate for the Field Order. This Section 10.03.2 does not pertain to Field Orders issued pursuant to Section 10.03.1 above.

Section 10.04 Change Orders Finalize the Terms of Field Orders

The final terms and provisions of a Field Order, including any adjustment in the Contract Sum and/or the time for the performance of the Work, will be memorialized in a written Change Order signed first by the Construction Manager then by the City.

Section 10.05 Construction Manager's Release

Any and all Change Orders are a full release of the City from any liability for any additional compensation or extension of time arising or resulting from the circumstances that gave rise to, and the Work performed pursuant to, a Change Order. By acceptance of a Change Order, the Construction Manager accepts the compensation and/or time extension provided in full accord and satisfaction for that Change Order, and expressly waives, releases, and relinquishes any and all additional claims and demands relating to, or arising out of, the matters covered by that Change Order. The release that the Construction Manager must sign will state: "By executing this Change Order, Construction Manager certifies that it has reviewed and accepts the compensation and/or time extension provided in full accord and satisfaction for this Change Order and that it expressly waives and releases any and all additional claims and demands relating to, or arising out of, the matters covered by this Change Order as more fully described in the exhibit attached hereto including but not limited to: direct, indirect, overhead, home or field office costs; profits; damages; disruptions and impact."

Section 10.06 Performance of Changed Work

The Construction Manager will promptly proceed with any changes in the Work or Target Schedule as directed by a Field Order in accordance with Section 10.01 "Owner's Right to Change Work." The Construction Manager's refusal or failure to proceed promptly as directed with the changed Work or changes in the Target Schedule constitutes an event of default under the Contract. No change to the Work by the Construction Manager as directed by the City will invalidate the Contract or release the Construction Manager's surety.

Section 10.07 Change Claims and Disputes

If the Construction Manager and City Representative are unable to agree on the price and/or time extension in connection with a Field Order, the procedures set forth in Article 11 "Claims and Disputes" will govern.

ARTICLE 11. CLAIMS AND DISPUTES

Section 11.01 Claims

1. This provision of the Contract applies to claims for time and/or money based on: a differing site condition (Section 2.03), changes in the work under Article 10, including CPCOs that have been denied pursuant to Section 10.03, and all other claims made under the Contract.
2. Any claim made by the Construction Manager regarding the Project must be made in accordance with the requirements stated below.
 - a. The Construction Manager expressly consents to both the time requirements and notice content requirements for making a Claim or Dispute under this Section 11.01.2. The Construction Manager acknowledges that the notice requirements set forth in this Section 11.01.2. will be strictly enforced and agrees that any failure on the part of the Construction Manager to provide notice strictly in accordance with the requirements of this Section 11.01.2. will constitute a waiver of the Construction Manager's right to make a Claim to the City Representative or submit a Dispute to the Commissioner. The Construction Manager further understands and agrees that, notwithstanding any case law decision to the contrary, the notice requirements of this Section 11.01.2. will not be subject to or diminished by any claim on the part of the Construction Manager that the City Representative or Commissioner or any person acting on behalf of either of them had actual or constructive knowledge of any Claim or Dispute or any facts or circumstances supporting any such Claim or Dispute.
 - b. The Construction Manager must provide notice, in writing, to the City Representative of any claim for differing site conditions within three (3) business days of discovery as required by Section 2.03.
 - c. The Construction Manager must provide notice, in writing, to the City Representative of any claim that may be made, within five (5) days after starting the work that is affected by the claim. The notice shall be referenced as a "Notice of Claim Related Work" and must state the nature of the claim, the work that is affected by the claim, and the anticipated duration of the Work.
 - d. The Construction Manager must provide notice, in writing, to the City Representative of any claim based on: a differing site condition; a change in the Work directed by the City Representative; or any other cause within fifteen (15) days of completion of the changed Work.
 - e. The Construction Manager will designate the document "Claim." The Claim must include:
 - (1) The amount of money and/or time extension sought by the Construction Manager, and the contractual and factual basis for each;
 - (2) A general statement of the basis for the claim;
 - (3) The facts underlying the claim;
 - (4) The Notice of Claim Related Work to the City Representative;
 - (5) Reference to the applicable Contract provisions and;
 - (6) All documentation that describes, relates to, and/or supports the claim.
 - f. The City Representative will, within thirty (30) days of receipt of the Claim, respond by: requesting a meeting with the Construction Manager; making a written request for additional information from the Construction Manager; taking other action to attempt to resolve the Claim; and/or advising the Construction Manager, in writing of the City Representative's position regarding the relief sought in the Claim. If the City Representative's written response is that the Claim is denied, the letter will also advise the Construction Manager of its right to file a Dispute to the Commissioner. Any steps taken by the City Representative to resolve the Claim will not

- exceed sixty (60) days from receipt of the Claim, unless the Construction Manager agrees to an additional amount of time in writing.
- g. If the Claim cannot be resolved within the time frame stated in Section 11.01.2.f., the Construction Manager must file its Dispute within thirty (30) days of receipt of the written denial of the Claim by the City Representative.
 - h. The Dispute will be sent to the Commissioner and copied to the City Representative.
 - i. The Construction Manager's failure to file a Dispute with the Commissioner within thirty (30) days will constitute a waiver of the Claim and Dispute.

Section 11.02 Disputes

1. Construction Manager's Request: In the event of any disagreement between the Construction Manager and the City Representative which the Construction Manager and the City Representative have attempted, but been unable, to resolve, including, without limitation, changes, time extensions, claims, allowable costs or any other issues of fact or Contract interpretation based upon, relating to, or arising under the Contract, a request for resolution must be submitted to the Commissioner by the Construction Manager for final determination. The default or termination of the Construction Manager are not matters that may be disputed under this Section 11.02 Disputes. The Construction Manager's failure to submit the Dispute within thirty (30) days of receipt of the City Representative's response to the Construction Manager's Claim is a waiver of the Dispute. The Commissioner may consider issues of Contract interpretation in connection with decisions to be made in resolving Disputes.
2. Request Requirements: Requests for resolution of Disputes must be made by the Construction Manager in writing, specifically referencing this section, and include: 1) the issue(s) presented for resolution; 2) a statement of the respective positions of the Construction Manager and City Representative; 3) the facts underlying the Dispute; 4) reference to the applicable provision of the Contract Documents by page and section; 5) the identity of any other parties believed to be necessary to the resolution of the Dispute; 6) all documentation which describes and relates to the Dispute and 7) if applicable, a statement explaining why the Construction Manager believes that prior to rendering a final decision, the Commissioner should meet with the Construction Manager, City Representative or any other parties believed to be necessary to the resolution of the Dispute. Copies of the request for resolution of the Dispute must promptly be provided to the Commissioner and City Representative on the same day. In addition, the Construction Manager's Dispute and any subsequent correspondence that relates to the Dispute which the Construction Manager provides to the Commissioner, must be copied to the City Representative. The City Representative shall have thirty (30) days to respond in writing to the Construction Manager's submission by supplementing the Construction Manager's submission or to provide its own submission to the Commissioner and Construction Manager. However, the City Representative may request, and the Commissioner may allow an additional period of time to respond. Failure by the City Representative to respond shall not be deemed to be an admission of any allegations made in the request for dispute resolution, but may be deemed to constitute a waiver of the opportunity to respond to such allegation(s), if any, at this stage of the Dispute. The Commissioner's decision may thereafter be reached in accordance with such other information or assistance as may be deemed reasonable, necessary or desirable by the Commissioner.
3. Commissioner's Decision: The Commissioner's final decision shall be rendered in writing no more than thirty-five (35) days after receipt of the response of the City Representative was filed or was due, unless the Commissioner notifies the Construction Manager and City Representative before the end of the thirty-five (35) day period that an additional period, not to exceed thirty (30) days, is needed for the

Commissioner to respond. The Commissioner's decision shall be conclusive, final, and binding on all parties unless a judicial determination is sought in accordance with the provisions set forth below.

4. Implementation of Decision: In the event that the Commissioner's final decision requires a change to the Contract, the Commissioner's final decision shall be implemented through a Change Order which shall be made a part of the Contract, with or without the signature of the Construction Manager (if the Construction Manager refuses to sign the Change Order).
5. Construction Manager's Remedy: If either the Construction Manager or City does not agree with the decision of the Commissioner, the sole and exclusive remedy is judicial review by a common law *writ of certiorari*. Unless such review is sought within thirty-five (35) days of receipt of the Commissioner's decision, all right to seek judicial review is waived.
6. Construction Manager's Performance of Work: The Construction Manager may not withhold performance of and must prosecute any Work required by the Contract during the dispute resolution period, including judicial resolution, and City shall continue to make payments to the Construction Manager for such Work pursuant to the terms of the Agreement. The Construction Manager must prosecute all of its Work, including any disputed Work, with the same diligence and effort as if no dispute existed. The Commissioner's written determination must be complied with pending final resolution, including judicial resolution of the Dispute. Neither the Commissioner's determination, nor the actions of the Construction Manager or the City Representative in connection therewith, nor the continued performance by either party, shall constitute an admission as to any factual and/or legal position in connection with the dispute or a waiver of any rights under the Contract.
7. Administrative Appeal of Dispute: The Construction Manager must follow the procedures set out in this Article 11, "Claims and Disputes", and receive the Commissioner's final decision as a condition precedent to filing a judicial review of the decision by common law writ of certiorari.

Section 11.03 No Waiver of Legal Rights

1. Neither the acceptance by the City or any representative of the City, nor any payment for or acceptance of the whole or any part of the Work, nor any extension of time, nor any possession taken by the City will operate as a waiver by the City of any portion of the Contract, or of any power herein reserved or any right of the City to damages herein provided. A waiver of any breach of the Contract is not held to be a waiver of any other or subsequent breach.
2. Whenever under this Contract, the City by a proper authority waives the Construction Manager's performance in any respect or waives a requirement or condition to either the City or the Construction Manager's performance, the waiver so granted, whether express or implied, only applies to the particular instance and is not deemed a waiver forever or for subsequent instances of performance, requirement, or condition. No such waiver is construed as a modification of this Contract regardless of the number of times the City may have waived the performance requirement or condition.

ARTICLE 12. LEED CERTIFICATION REQUIREMENTS

Section 12.01 LEED Certification Requirements

1. The Construction Manager must assist the City to achieve the LEED Certification level required for this project. The LEED Scorecard (Registered Project Checklist) identifying the LEED version and level, as well

as prerequisites and credits to be achieved, is found in the Technical Specifications. The Construction Manager must implement construction of the Project and provide documentation, in accordance with the requirements of the LEED version promulgated by the US Green Building Council indicated in the Technical Specifications, so that the City can achieve the LEED rating identified in the Technical Specifications.

2. The Construction Manager must have a LEED Accredited Professional (LEED AP) assist the Construction Manager in fulfilling all LEED required tasks. The LEED AP is subject to the approval by the City, and must have had LEED experience in projects of a similar size and complexity, in order to be approved by the City.
3. Regarding commissioning of the Project systems, the Construction Manager must provide the appropriate labor to operate, adjust, and observe the systems, as directed by the Commissioning Agent to ensure that all the LEED requirements for commissioning of the heating ventilation and air conditioning systems and the electrical systems and other systems to be commissioned as identified in the Technical Specifications are met.
4. The Construction Manager must make all LEED submittals that are required of the Construction Manager or its subcontractors to the City Representative. The format and number of submittals must be approved by the City.
5. The Construction Manager must take the actions listed below, regarding LEED, within the time periods specified.
 - a. Construction Manager LEED AP qualifications must be submitted with thirty (30) calendar days of execution of the Agreement.
 - b. Erosion and Sedimentation Control Plan must be submitted no later than fifteen (15) days prior to the start of Construction Manager's Work at the Site. The Construction Manager must implement the approved Plan prior to start of work on the Project site. The Construction Manager may be required to incorporate or maintain an existing Plan from a previous phase of the work.
 - c. Construction Waste Management Plan must be submitted no later than fifteen (15) days prior to the start of Construction Manager's Work at the Site. The Construction Waste Management Coordinator must be identified and the approved plan be completed prior to the start of construction.
 - d. Materials and Resources Plan must be submitted no later than fifteen (15) days prior to the start of Construction Manager's Work at the Site.
 - e. Volatile Organic Compounds Plan must be submitted no later than fifteen (15) days prior to the start of Construction Manager's Work at the Site.
 - f. Construction Indoor Air Quality Plan must be submitted no later than fifteen (15) days prior to the start of Construction Manager's Work at the Site.

ARTICLE 13. AIRPORT SECURITY AND OPERATIONS

Section 13.01 Airport Security and Badging:

1. This Agreement is expressly subject to 49 U.S.C. Chapter 449, Security, the provisions of which, and all rules and regulations promulgated thereunder, are hereby incorporated by reference. Construction Manager must comply, and must cause its Trade Contractors, guests and invitees to comply, with all such rules and regulations as they apply to them and any other applicable rules and regulations governing the conduct and operation of the City's Airport which may be promulgated from time to time by the TSA, the FAA, or the Commissioner of Aviation.
2. If Construction Manager, or any Trade Contractor or individual employed by Construction Manager or Trade Contractor, in the performance of this Agreement, has (i) unescorted access or regular escorted access to aircraft located on or at the City's Airport; (ii) unescorted access or regular escorted access to Airside, or (iii) capability to allow others to have unescorted access to Airside, Construction Manager is subject to, and further must conduct with respect to its Trade Contractors and the respective employees of each, such investigations (including the submission of fingerprints to the City to conduct criminal history record checks) as the FAA, the TSA and the City may consider necessary. All such individuals that pass the requisite investigation will be required to participate in a security awareness program and will be issued an identification badge that must be visibly displayed at all times while on the AOA or other Airside areas of the Airport, consistent with federal requirements and Aviation regulations. They will further be required to report suspected security violations in accordance with rules and regulations promulgated by the Secretary of the United States Department of Transportation, by the Under Secretary of the TSA, and by the City. Failure to comply with applicable rules and regulations may result in administrative actions and/or judicial prosecution. The Construction Manager will be jointly liable for any fines imposed for violation of rules and regulations by its employees and those of its Trade Contractors, guests, and invitees.
3. Airport Security Badges: Each person requiring regular access to Airside areas of the Airport must submit a signed, completed Access Control Photo ID Badge and Fingerprint Application to the Department of Aviation to receive an Airport Security Badge, which may include authorization to drive on the Aircraft Operations Area (AOA). The FAA, TSA, and City require employees of Construction Managers and all Trade Contractors to provide fingerprints for a criminal history check conducted by the Federal Bureau of Investigation as a requirement to apply for an Airport Security Badge. Employees without proper credentials will be removed from the AOA or any secured area of the airport.
4. Airfield Access Vehicle Permits: In order for the Construction Manager to be issued Airfield Access Vehicle Permits for operation of a vehicle on the AOA, the Construction Manager must submit a Company Vehicle Access Form AIRFIELD. The Construction Manager is responsible for requesting and completing these forms for all vehicles to be used on the Project site. Vehicles without proper credentials will be removed from the AOA or any secured area of the airport.
5. The following rules related to Security Badges, Vehicle Permits, Driver's Licenses must be adhered to:
 - a. Each person must wear and display an Airport Security Badge issued to that person on his or her outer apparel, above the waist, at all times.

- b. Construction Manager must assure that its employees needing an ORD badge have met the security background checks and training requirements of the Airport Certification Manual and FAR Part 139. This includes, but may not be limited to:
 - i. 10-year employee background check (Construction Manager responsibility)
 - ii. Finger printing (completed at ORD)
 - iii. AOA awareness training meeting the requirements of FAR Part 139.303(c).
 - iv. Vehicle driver testing (completed at ORD)
 - c. All individuals operating a vehicle on the AOA must be familiar and comply with motor driving regulations and procedures of the State of Illinois, the City of Chicago, and the Department of Aviation. The operator must be in possession of a valid, state-issued Motor Vehicle Operator's Driver Licenses. All individuals operating a vehicle on the AOA without an escort must also be in possession of a valid Airport Security Badge that includes authorization to drive on the Airside. In order to receive a badge authorizing operation of a vehicle on the AOA, the individual must attend mandatory training and pass a written examination.
 - d. All vehicles and mobile construction equipment that are to be in use on the AOA for more than seven (7) days over the duration of the project must have an Airfield Access Vehicle Permit affixed to the vehicle at all times while operating on the AOA. All vehicles and construction equipment are subject to search as they enter the AOA or any time thereafter. In addition, all required City stickers and State Vehicle Inspection stickers must be valid.
 - e. Escorted vehicles or equipment that will be in use on the AOA for less than seven (7) days over the duration of the Project that do not have an Airfield Access Vehicle Permit are required by the TSA to be inspected as they enter the AOA.
6. Access to the Work sites will be as shown or designated on the Contract Documents drawings. The Construction Manager will use only designated access gates, service roads or haul roads while on Airport property.
 7. Whenever the Construction Manager receives permission to enter airport property in areas that are not exit/entering points secured by Airport Security police, the Construction Manager will be required to provide gates that comply with Airport design and construction standards. Two (2) bonded security guards will be required at the gates when the gates are in use. Unless otherwise directed by the City, the locks and security guards will be provided by Airport Security. If Construction Manager is required to provide security guards, Contractor's failure to provide the necessary security will result in an immediate closure by Airport personnel of the points of access. No extension of time will be allowed for the execution of Work if the Construction Manager is required to gain access through Airport Security exit/entry points.
 8. The Commissioner will determine areas in which the Construction Manager may stockpile materials, and park equipment, or vehicles, and any conditions related thereto.
 9. Damage to any security fencing, gates, or alarms caused by the Construction Manager must be immediately reported to the Commissioner, must be manned by a bonded security guard of the Construction Manager until restored, and must be restored to its original condition within an eight (8) hour period from the time of notice given by the Commissioner.

10. Temporary removal of any security fencing, gate or alarm to permit construction must be approved by the Commissioner and must be manned by a bonded security guard of the Construction Manager on a twenty-four (24) hour basis during the period of temporary removal and must be restored to its original condition when construction is completed.
11. Weapons, alcohol, illegal drugs, or other contraband are not allowed on the Airport.
12. All Construction Manager's personnel and vehicles working within the airport security limits will be properly identified. All Airfield Access Vehicle Permits and Airport Security Badges will be issued to the Construction Manager by the Commissioner, as required. Return of all Permits and Badges to the Commissioner after completion of the Project is the responsibility of the Construction Manager. Final Contract Payment will not be made until all Permits and Badges issued have been returned to Department of Aviation at the Airport.
13. The Construction Manager must place signage that identifies the Project and bid package on all vehicles and equipment used at the Airport. The size of the signage and information to be provided will be determined by the Commissioner.

Section 13.02 Airport Operations

1. The Airport will be in operation while construction under this Contract is taking place. Time and coordination of the Work is an essential feature of this Contract, and the Commissioner will require the completion of all Work herein specified so as to offer the least obstruction and/or impediment to Airport traffic and the general operation of the Airport. All existing utilities serving the Airport will remain in continuous operation during the prosecution of the Work. The Commissioner reserves the right to place sections of the Work required under this Contract in use upon written direction to the Construction Manager.
2. The Construction Manager's attention is called to the fact that existing runways, taxiways, vehicular roadways, loadways, loading aprons, and passenger right-of-ways at the Airport are being used for scheduled and unscheduled aircraft. Arrivals and departures are under the control of the FAA Air Traffic Control Tower. Use of the Airport by all aircraft and Airport Operations will have precedence over all Construction Manager's operations.
3. The Construction Manager must cooperate fully with the Department of Aviation Airport Operations, the Commissioner, and the Commissioner in all matters pertaining to public safety and airport operations. No compensation will be allowed for any delays as a result of Airport Operations, which require that Work must be interrupted or moved from one part of the site to another.
4. Prior to start of the Project, the City Representative will provide specific requirements and/or instructions, which are applicable to the particular building site areas.
5. The Construction Manager must not permit or allow its employees, Trade Contractors, material suppliers, invitees or any other persons over whom the Construction Manager has control to enter or remain upon, or to bring or permit any equipment or materials to remain upon, any part of the runways, taxi-ways, vehicular roadways, aprons, and passenger right-of-ways if any hazard to aircraft or to airport maintenance and operation, on or off the ground, would be created in the opinion of either the Commissioner or the Department of Aviation Airport Operations.

6. The Construction Manager must plan its construction operations so that material, equipment, supplies, and working personnel necessary to do the Work will enter and leave the Contract site via the gates and routes designated on the Contract Documents. No personal vehicles will be permitted within the AOA. The Construction Manager will be responsible for the construction, repair, and/or maintenance of all haul roads to and from the designated entrance to various Work sites.
7. All equipment and materials on the AOA must be marked with red obstruction lights, of a type acceptable to the Commissioner and Airport Operations. All obstruction lights will be kept on continuously, twenty-four hours a day, seven days a week.
8. Each vehicle and piece of equipment on the AOA must have a yellow rotating beacon or strobe light, in all operation at all times, mounted on the roof.
9. The Construction Manager, through the Commissioner and (Department of Aviation and FAA) Airport Operations personnel, must be in constant communications to insure safe operations on the AOA. The Construction Manager will notify the Commissioner forty-eight (48) hours prior to requesting the closing of any area so that the Airport Operations personnel can be properly coordinate the activities of the Airport and the Construction Manager.
10. All Vehicles and equipment must be kept within the work areas established for that work shift unless traveling to or from the project site. Under no circumstances shall vehicles or equipment be parked outside these areas. At no time shall any vehicles be parked or operate within one hundred thirty-one (131) feet of the centerline of any operational taxiway segment or within two hundred (250) feet of the centerline runway during any work shift. At no time shall any vehicles or equipment be parked within one hundred sixty (160) feet of the centerline of an operational taxiway segment or within four hundred (400) feet of the centerline of an operational runway (object free area) during periods other than the work shifts.
11. The Construction Manager must maintain existing utilities in operation at all times except when specific permission is given by the Commissioner to shut down such utilities for the purpose of making connections thereto. When such utility service must be taken out of operation, the Construction Manager will notify the Commissioner at least two weeks in advance of such time, and will obtain the Commissioner's approval for such shut down prior to interrupting the service. Interruption of service on all utilities will be kept to an absolute minimum, and the Commissioner will have the right to require the Construction Manager to perform Work which occasions such interruptions in stages in order to reduce time of each interruption. Interruptions in electrical services and the length of services outage will be kept to a minimum and in any case service must be placed in operation prior to sunset of the same day.
12. The Construction Manager must take the utmost care in construction operations such as trenching, jacking of pipe and casing, excavations of all types, grading and movement of vehicles over and around FAA facilities, equipment and structures. All such facilities are critical to the operation of the air traffic control function of the Airport. Failure of these facilities due to construction activity would be dangerous. The FAA regards the prospect of this event with the utmost gravity. IT MUST NOT HAPPEN.
13. Any cable or other existing utility lines that is damaged during the performance of this Contract must be repaired immediately by the Construction Manager, under the Commissioner's direction and at the

Construction Manager's expense. During the period of time that the above types of cables or utilities are out of service due to the Construction Manager's operations, all Work must be suspended unless otherwise directed by the Commissioner. The Commissioner may order, in writing, the Construction Manager to halt all operations until service is restored. The Construction Manager will not be allowed to make claims for extra costs or time extensions due to stoppages of the Work based on the Commissioner's order.

14. Open trenches and excavations at the construction site must be prominently marked with barricades and lighted with flashing or steady burning red or yellow obstruction lighting as directed by the Commissioner and of a type acceptable to the Commissioner. The lighting must remain on twenty-four hours a day, seven days a week. Under no circumstances are flare pots to be used.
15. The Construction Manager must provide and maintain lighted barricades and all signs required to control construction traffic. The exact location and spacing of all barricades will be determined by the Commissioner. Lights on barricades must be double faced or omnidirectional with flashing red lights.
16. All the Work under this Contract is in restricted areas. The Construction Manager cannot cross any active runways or taxiways to deliver materials or workers without escorts and expressed permission of the Commissioner. The Construction Manager's attention is called to the fact that access to certain contract areas may be limited and/or refused for limited periods of time. The Construction Manager must cooperate with Airport authorities to keep the Airport in operation.
17. No requirements of this Contract with respect to precautions required or omitted will be deemed to limit or impair any obligations assumed by the Construction Manager under or in connection with this Contract. The Construction Manager must at all times maintain adequate protection to safeguard aircraft, the public, and all persons engaged in the Work without interference with aircraft, the public, and maintenance or operations of the Airport.
18. Notwithstanding anything to the contrary contained in the Contract Documents, the Construction Manager and all Trade Contractors, material suppliers, laborers, invitees and all other persons under the control of the Construction Manager must immediately comply, strictly and faithfully, with any and all rules, regulations and directions which the Commissioner, from time to time, issues during the life of this Contract with regard to safety, security, maintenance, and operation of the Airport.
19. Construction Manager must use Airport Barricades as shown on the Contract Drawings to prevent Aircraft from entering construction areas.
20. All cranes or booms used for construction Work must be lowered to ground level during all hours of darkness and during all daylight hours when the aircraft ceiling is below the minimums specified in the FAA 7460 airspace study response letter and moved four hundred (400) feet from the runway centerline, and one hundred sixty-one (161) feet from the taxiway centerline, and aprons as directed. The Construction Manager must lower any cranes or booms when notified by Airport Operations personnel.
21. Attention must be given to reduce the noise of heavy construction equipment and to the control of dust, smoke and fumes from construction equipment and other operations on the Work site and the dirt and noise created by heavy truck operations in accordance with ordinances of the City and orders of the Commissioner. The discharge of oily, greasy and/or chemical materials or Hazardous Materials into waterways or City sewers will not be permitted.

22. The Construction Manager must establish a proactive Foreign Object Debris (FOD) Program including monitoring the Work Site on a continuous basis to prevent FOD from entering the AOA.

Section 13.03 Construction Notices to Federal Aviation Administration:

1. The City will submit a preliminary Federal Aviation Administration Form 7460-1.
2. The Construction Manager must cooperate with the City in the preparation and filing of the final Federal Aviation Administration FAA Form 7460-1 including the heights and locations of equipment to be used for the construction.
3. The Construction Manager will submit the final Federal Aviation Administration, FAA Form 7460-1, required for notice of proposed construction, including heights and locations of equipment to be used for the construction on or near an airport under Part 77, of the "Regulations of the Federal Aviation Administration" on or before the date of the Notice To Proceed.
4. The City will also file with the Federal Aviation Administration on or before the date of the Notice To Proceed, a notice advising the exact date of commencement of Work.
5. Upon receipt of the Notice to Proceed, it is the Construction Manager's responsibility to obtain from the Commissioner a copy of the Federal Aviation Administration's acknowledgment of the filing of FAA Form 7460-1 and a copy of the Work commencement date advisory notice aforesaid. No Work will be performed by the Construction Manager until it is in receipt of the foregoing documents, unless otherwise allowed by the Commissioner.

Section 13.04 Confidentiality of Project Data

Unless agreed otherwise by the Commissioner in writing, all Deliverables, data, findings or information in any form prepared, assembled or encountered by or provided to or by Construction Manager in connection with this Contract (collectively, Project Data) are property of the City and are confidential. Construction Manager agrees that, except as specifically authorized by the Commissioner in writing or as may be required by law, Project Data will be made available only to the Commissioner, her designees, and, on a need-to-know basis, Construction Manager's employees, Trade Contractors, material suppliers and consultants. Construction Manager acknowledges that Project Data may contain information vital to the security of the airport (Airport Security Data) and may be subject to the requirements of 49 CFR Parts 15 and 1520. If Construction Manager fails to safeguard the confidentiality of Airport Security Data, Construction Manager is liable for the reasonable costs of actions taken by the City, the airlines, the Federal Aviation Administration (FAA), or the Transportation Security Administration (TSA) that the applicable entity, in its sole discretion, determines to be necessary as a result, including without limitation the design and construction of improvements, procurement and installation of security devices, and posting of guards. All Subcontracts or purchase orders entered into by the Construction Manager, with parties providing material, labor or services to complete the Work, must contain the language of this section. If the Construction Manager fails to incorporate the required language in all Subcontracts or purchase orders, the provisions of this section are deemed incorporated in all Subcontracts or purchase orders.

ARTICLE 14. COMPLIANCE WITH ALL LAWS

Section 14.01 General

The Construction Manager will at all times observe and comply, and will cause its Trade Contractors to observe and comply, with all applicable federal, state and local laws, ordinances, rules, regulations, and executive orders, now existing or hereinafter in effect, which may in any manner affect the performance of the Contract. Provision(s) required by law ordinance, rules, regulations, or executive orders to be inserted in this Contract will be deemed inserted, whether or not they appear in this Contract, or, upon application by either party, this Contract will forthwith be physically amended to physically make such insertion; however, in no event will the failure to insert such provision(s) prevent the enforcement of such provision(s) or this Contract.

Section 14.02 Airport Rules and Regulations

The Construction Manager will comply, and will use all reasonable efforts to cause its workers Trade Contractors, guests, and invitees to comply, with all rules and regulations governing the conduct and operation of the Airport, which may be promulgated from time to time by the Commissioner.

Section 14.03 Human Rights

1. Non-Discrimination:

- a. The Construction Manager in performing under the Contract, will not discriminate against any worker, employee or applicant, or any member of the public, because of race, color, religion, age, mental or physical handicap unrelated to ability to perform sex, sexual orientation, marital status, ancestry or national origin, nor otherwise commit an unfair unemployment practice. The Construction Manager will take affirmative action to ensure that applicants are employed, and that employees are treated without regard to their race, creed, color, religion, age, mental or physical handicap unrelated to ability to perform sex, sexual orientation, marital status, ancestry or national origin during unemployment. Such action will include, but not be limited to the following: 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. The Construction Manager agrees to post, or cause to be posted, in conspicuous places, available to employees and applicants for employment, notices setting forth the provisions of this non-discrimination clause.
- b. The Construction Manager or Trade Contractor shall not discriminate on the basis or race, color, national origin, or sex in the performance of this contract. The Construction Manager shall carry out applicable requirements of 49 CFR Part 26 in the award and administration of DOT-assisted contracts. Failure by the Construction Manager to carry out these requirements is a material breach of this contract, which may result in the termination of this contract or such other remedy, as the City deems appropriate.
- c. No person in the United States will, on the grounds of race, creed, religious belief, age, sex, sexual orientation, marital status, citizenship as applicable, political affiliation, national origin or ancestry, physical or mental handicap unrelated to ability to perform, or unfavorable discharge from military service, be excluded from participation in, be denied the benefits of, or be subject to discrimination under any program or activity made possible by or resulting from this Contract.

d. During the performance of this Contract, the Construction Manager, for itself, its assignees and successors in interest (hereinafter referred to as the "Construction Manager") agrees to comply with the following requirements of the Civil Rights Act of 1964, Title VI:

(1) Compliance with Regulations. The Construction Manager shall comply with the Regulations relative to nondiscrimination in federally assisted programs of the Department of Transportation (hereinafter, "DOT") Title 49, Code of Federal Regulations, Part 21, as they may be amended from time to time (hereinafter referred to as the Regulations), which are herein incorporated by reference and made a part of this Contract.

(2) Nondiscrimination. The Construction Manager, with regard to the Work performed by it during the Contract, shall not discriminate on the grounds of race, color, or national origin in the selection and retention of Trade Contractors, including procurements of materials and leases of equipment. The Construction Manager shall not participate either directly or indirectly in the discrimination prohibited by section 21.5 of the Regulations, including employment practices when the Contract covers a program set forth in Appendix B of the Regulations.

(3) Solicitations for Subcontracts, Including Procurements of Materials and Equipment. In all solicitations either by competitive bidding or negotiation made by the Construction Manager for Work to be performed under a subcontract, including procurements of materials or leases of equipment, each potential Trade Contractor or supplier shall be notified by the Construction Manager of the Construction Manager's obligations under this Contract and the Regulations relative to nondiscrimination on the grounds of race, color, or national origin.

(4) Information and Reports. The Construction Manager shall provide all information and reports required by the Regulations or directives issued pursuant thereto and shall permit access to its books, records, accounts, other sources of information, and its facilities as may be determined by the City or the Federal Aviation Administration (FAA), or another Federal Agency, to be pertinent to ascertain compliance with such Regulations, orders, and instructions. Where any information required of a Construction Manager is in the exclusive possession of another who fails or refuses to furnish this information, the Construction Manager shall so certify to the City or the FAA, as appropriate, and shall set forth what efforts it has made to obtain the information.

(5) Sanctions for Noncompliance. In the event of the Construction Manager's noncompliance with the nondiscrimination provisions of this Contract, the City shall impose such contract sanctions as it or the FAA, or another Federal Agency, may determine to be appropriate, including, but not limited to:

(a) Withholding of payments to the Construction Manager under the Contract until the Construction Manager complies, and/or

(b) Cancellation, termination, or suspension of the Contract, in whole or in part.

(6) Incorporation of Provisions. The Construction Manager shall include the provisions of subparagraphs (1) through (5) in every subcontract, including procurements of materials and leases of equipment, unless exempt by the Regulations or directives issued pursuant thereto. The Construction Manager shall take such action with respect to any subcontract or procurement as the City or the FAA, or another Federal Agency, may direct as a means of

- enforcing such provisions including sanctions for noncompliance. Provided, however, that in the event a Construction Manager becomes involved in, or is threatened with, litigation with a Trade Contractor or supplier as a result of such direction, the Construction Manager may request the City to enter into such litigation to protect the interests of the City and, in addition, the Construction Manager may request the United States to enter into such litigation to protect the interests of the United States.
- e. The Construction Manager will comply with all applicable federal, state, and local non-discrimination laws, ordinances, rules and regulations and executive orders including without limitation:
- (1) Title VI of the Civil Rights Act of 1964 (42 U.S.C. Provision 2000d), and the regulations issued pursuant thereto, which provides that no person in the United States will, on the basis of race, color, or national origin, be excluded from participation under any program or activity for which the City receives federal financial assistance and the Construction Manager will immediately take any measures necessary to effectuate this assurance.
 - (2) Title VII of the Civil Rights Act of 1964 (42 U.S.C. Provision 2000e) which prohibits discrimination in employment.
 - (3) The Age Discrimination Act, as amended (42 U.S.C. Provisions 6101-6016), and the regulations issued pursuant thereto, which provides that no person will on the basis of age be denied the benefits of, or be subjected to discrimination under, any program or activity funded in whole or in part with federal financial assistance.
 - (4) Provisions 504 of the Rehabilitation Act of 1973, as amended (29 U.S.C. 793-794), and the regulations issued pursuant thereto, which provides that no person will on the basis of age be denied the benefits of, or be subjected to discrimination under, any program or activity funded in whole or in part with federal financial assistance.
 - (5) Executive Order 11246, as amended by Executive Orders 11375 and 12084, and all regulations issued pursuant thereto, which provides that no person will be discriminated against on the basis of race, color, religion, sex or national origin in all phases of employment during the performance of federal or federally assisted contracts. The Construction Manager will take affirmative action to insure fair treatment in employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination, rates of pay or other forms of compensation and selection for training and apprenticeship. The Construction Manager agrees that if it fails or refuses to comply with these undertakings, the Commissioner may take any or all of the following actions: terminate or suspend in whole or in part the Contract; withhold compensation to the Construction Manager with respect to which the failure or refusal occurred until satisfactory assurance of future compliance has been received from the Construction Manager; and refer the case to the Department of Justice for appropriate legal proceedings.
 - (6) Provision 520 of the Airport and Airway Improvement Act of 1982 (49 USC 47123), which provides that the Construction Manager assures that it will comply with pertinent statutes, Executive Orders and such rules as are promulgated to assure that no person shall, on the grounds of race, creed, color, national origin, sex, age, or handicap be excluded from participating in any activity conducted with or benefiting from Federal assistance. This provision obligates the tenant/concessionaire/lessee or its transferee for the period during which Federal

assistance is extended to the airport a program, except where Federal assistance is to provide, or is in the form of personal property or real property or interest therein or structures or improvements thereon. In these cases the provision obligates the party or any transferee for the longer of the following periods: (a) the period during which the property is used by the airport sponsor or any transferee for a purpose for which Federal assistance is extended, or for another purpose involving the provision of similar services or benefits or (b) the period during which the airport sponsor or any transferee retains ownership or possession of the property. In the case of Construction Managers, this provision binds the Construction Managers from the bid solicitation period through the completion of the contract. This provision is in addition to that required of Title VI of the Civil Rights Act of 1964.

(7) The Construction Manager further agrees that it will refrain from entering into any agreement subject to Executive Order 11246 of September 24, 1965, with Trade Contractors debarred from, or who have not demonstrated eligibility for, Federal contracts and Federally-assisted construction contracts pursuant to the Executive Order.

(8) The Construction Manager further agrees that it will be bound by the equal opportunity clause and other provisions of 41 CFR Part 60, implementing the above-referenced Executive Orders, with respect to its own employment practices.

(9) The provisions of 775 ILCS 10/0.01 et seq., as amended, prohibiting discrimination in public Contracts and incorporating the Illinois Human Rights Act, 775 ILCS 5/101 et seq. of the Illinois Revised Statutes, as amended, will apply.

(10) The provisions of the Human Rights Ordinance, of the Municipal Code of Chicago, as amended, will apply.

(11) Construction Manager will comply with all Rules and Regulations of FAA Circular No. 150/5100 15A.

Section 14.04 Affirmative Action, Equal Employment Opportunity, Goals and Timetables

1. General: Construction Manager assures that it will undertake an affirmative action program as required by 14 CFR Part 152, Subpart E, to insure that no person will on the grounds of race, creed, color, national origin, or sex be excluded from participation in any employment activities covered in 14 CFR Part 152, Subpart E. Construction Manager assures that no person will be excluded on these grounds from participation in or receiving the services or benefits of any program or activity covered by this subpart. Construction Manager assures that it will require that its covered suborganizations provide assurance to Construction Manager that they similarly will undertake affirmative action programs and they will require assurances from their sub organizations, as required by 14 CFR Part 152, Subpart E, to the same effect.
2. Notice of Requirement for Affirmative Action (41 CFR Part 60-2 and Executive Order 11246):
 - a. The goals and timetables for minority and female participation, expressed in percentage terms for the Construction Manager's aggregate workforce in each trade on all construction work in the covered area, are as follows:

Minority Group Employment Goal for each trade 18.6%
Female Employment Goal for each trade 6.4%

These goals are applicable to all the Construction Manager's construction work (whether or not it is Federal or federally assisted) performed in the coverage area. If the Construction Manager performs construction work in a geographical area located outside of the covered area, it will apply the goals established for such geographical area where the work is actually performed. With regard to this second area, the Construction Manager also is subject to the goals for both its federally involved and non-federally involved construction.

The Construction Manager's compliance with the Executive Order and the regulations in 41 CFR Part 60-4 will be based on its implementation of the Equal Opportunity Clause, specific affirmative action obligations required by the specifications set forth in 41 CFR 60-4.3(a), and its efforts to meet the goals established for the geographical area where the Contract is to be performed. The hours of minority and female employment and training must be substantially uniform throughout the length of the Contract and in each trade; and the Construction Manager will make a good faith effort to employ minorities and woman evenly on each of its projects. The transfer of minority or female employees or trainees from Construction Manager to Construction Manager or from project to project for the sole purpose of meeting the Construction Manager's goals will be a violation of the Contract, the Executive Order and the regulations in 41 CFR Part 60-4. Compliance with the goals will be measured against the total work hours performed.

- b. The Construction Manager will provide written notification to the Commissioner of the Office of Federal Contract Compliance Programs (U.S. Department of Labor, Office of Federal-Contract Compliance, Programs, 230 South Dearborn Street, 39th Floor, Chicago, Illinois 60604) within 10 working days of award of any construction subcontract in excess of \$10,000 at any tier for construction work under the Contract. The notification will list the name, address, and telephone number of the Trade Contractor; employer identification number of the Trade Contractor; estimated dollar amount of the subcontract; estimated starting and completion dates of the subcontract; and the geographical area in which the subcontract is to be performed.
 - c. As used in this provision, the term covered area includes the City of Chicago, Cook, DuPage, Kane, Lake, McHenry, and Will Counties (Standard Metropolitan Statistical Area).
3. Equal Employment Opportunity (41 CFR Part 60-1.4 and Executive Order 11246). During the performance of this contract, the Construction Manager agrees as follows:
- a. The Construction Manager will not discriminate against any employee or applicant for employment because of race, color, religion, sex, or national origin. The Construction Manager will take affirmative action to ensure that applicants are employed and that employees are treated during employment, without regard to their race, color, religion, sex, or national origin. Such action will include, but not be limited to the following: 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. The Construction Manager agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided by the contracting officer setting forth the provisions of this nondiscrimination clause.

- b. The Construction Manager will, in all solicitations or advertisements for employees placed by or on behalf of the Construction Manager, state that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex or national origin.
 - c. The Construction Manager will send to each labor union or representative of workers with which he has a collective bargaining agreement or other contract or understanding, a notice, to be provided by the agency contracting officer, advising the labor union or workers' representative of the Construction Manager's commitments under Section 202 of Executive Order No., 11246 of September 24, 1965, and of the rules, regulations, and relevant orders of the Secretary of Labor and shall post copies of the notice in conspicuous places available to employees and applicants for employment.
 - d. The Construction Manager will comply with all provisions of Executive Order No. 11246 of September 24, 1965, and of the rules, regulations, and relevant orders of the Secretary of Labor.
 - e. The Construction Manager will furnish all information and reports required by Executive Order No. 11246 of September 24, 1965, and by the rules, regulations, and orders of the Secretary of Labor, or pursuant thereto, and will permit access to his books, records, and accounts by the contracting agency and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulation, and orders.
 - f. In the event of the Construction Manager's noncompliance with the nondiscrimination clauses of this Contract or with any of such rules, regulations, or orders, this Contract may be canceled, terminated, or suspended in whole or in part and the Construction Manager may be declared ineligible for further Government contracts or federally assisted construction contracts in accordance with procedures authorized in Executive Order No. 11246 of September 24, 1965, and such other sanctions may be imposed and remedies involved as provided in Executive Order No. 11246 of September 24, 1965, or by rule, regulation, or order of the Secretary of Labor, or as otherwise provided by law.
 - g. The Construction Manager will include the provisions of the above Paragraphs (a) thorough (f) in every subcontract or purchase order unless exempted by rules, regulations, or orders of the Secretary of Labor issued pursuant to Section 204 of Executive Order No. 11246 of September 24, 1965, so that such provisions will be binding upon each Trade Contractor or vendor. The Construction Manager will take such action with respect to any subcontract or purchase order as the City or FAA may direct as a means of enforcing such provisions including sanctions for noncompliance; provided, however, that in the event the Construction Manager becomes involved in, or is threatened with, litigation with a Trade Contractor as a result of such direction by the City or FAA, the Construction Manager may request the United States to enter into such litigation to protect the interests of the United States.
4. Standard Federal Equal Employment Opportunity Construction Contract Provisions (41 CFR Part 60-4.3 and Executive Order 11246):
- a. As used in this provision:

- (1) Covered Area means City of Chicago, Cook, DuPage, Kane, Lake, McHenry, and Will Counties (Standard Metropolitan Statistical Area).
 - (2) EEO Director means Director, Office of Federal Contract Compliance Programs, United States Department of Labor, or any person to whom the EEO Director delegates authority;
 - (3) Employer Identification Number means the Federal Social Security number used on the Employer's Quarterly Federal Tax Return, U.S. Treasury Department Form 941.
 - (4) Minority includes:
 - (a) Black (all persons having origins in any of the Black African racial groups not of Hispanic origin); and
 - (b) Hispanic (all persons of Mexican, Puerto Rican, Cuban, Central or South American or other Spanish Culture or origin, regardless of race); and
 - (c) Asian and Pacific Islander (all persons having origins in any of the original peoples of the Far East, Southeast Asia, the Indian Subcontinent, or the Pacific Islands); and
 - (d) American Indian or Alaskan Native (all persons having origins in any of the original peoples of North America and maintaining identifiable tribal affiliations through membership and participation or community identification).
- b. Whenever the Construction Manager, or any Trade Contractor at any tier, subcontracts a portion of the Work involving any construction trade, it will physically include in each subcontract in excess of \$10,000 these provisions and a notice which contains the applicable goals for minority and female participation set forth in this Contract.
- c. If the Construction Manager is participating (pursuant to 41 CFR 60-4.5) in a Hometown Plan approved by the U.S. Department of Labor in the covered area either individually or through an association, its affirmative action obligations on all work in the Plan area (including goals and timetables) will be in accordance with the Plan for those trades which have unions participating in the Hometown Plan. Construction Managers must be able to demonstrate their participation in and compliance with the provisions of any such Hometown Plan. Each Construction Manager or Trade Contractor participating in an approved Hometown Plan is individually required to comply with its obligations under the EEO clause, and to make a good faith effort to achieve each goal under the Hometown Plan in each trade in which it has employees. The overall good faith performance by other Construction Managers or Trade Contractors toward a goal in an approved Hometown Plan does not excuse any covered Construction Manager's or Trade Contractor's failure to take good faith efforts to achieve the Hometown Plan goals and timetables.
- d. The Construction Manager will implement the specific affirmative action standards provided in Section XIX.D. of the General Conditions. The goals set forth in this Contract are expressed as percentages of the total hours of employment and training of minority and female utilization

- that the Construction Manager should reasonably be able to achieve in each construction trade in which it has employees in the covered area. Covered construction Construction Managers performing construction work in geographical areas where they do not have a Federal or federally assisted construction contract will apply the minority and female goals established for the geographical areas where the Work is being performed. Goals are published periodically in the Federal Register in notice form, and such notices may be obtained from any Office of Federal Contract Compliance Programs office or from Federal procurement contracting officers. The Construction Manager is expected to make substantially uniform progress in meeting in goals in each craft during the period specified.
- e. Neither the provisions of any collective bargaining agreement, nor the failure by a union with whom the Construction Manager has a collective bargaining agreement, to refer either minorities or woman will excuse the Construction Manager's obligations under these specifications, Executive Order 11246, or the regulations promulgated pursuant thereto.
 - f. In order for the nonworking training hours of apprentices and trainees to be counted in meeting the goals, such apprentices and trainees must be employed by the Construction Manager during the training period, and the Construction Manager must have made a commitment to employ the apprentices and trainees at the completion of their training, subject to the availability of employment opportunities. Trainees must be trained pursuant to training programs approved by the U.S. Department of Labor.
 - g. The Construction Manager will take specific affirmative actions to ensure equal opportunity. The evaluation of the Construction Manager's compliance with these specifications will be based upon its effort to achieve maximum results from its actions. The Construction Manager will document these efforts fully, and will implement affirmative action steps at least as extensive as the following:
 - (1) Ensure and maintain a working environment free of harassment, intimidation, and coercion at all sites, and in all facilities at which the Construction Manager's employees are assigned to work. The Construction Manager, where possible, will assign two or more women to each construction project. The Construction Manager will specifically ensure that all foremen, superintendents, and other on-site supervisory personnel are aware of and carry out the Construction Managers obligation to maintain such a working environment, with specific attention to minority or female individuals working at such sites or in such facilities.
 - (2) Establish and maintain a current list of minority and female recruitment sources, provide written notification to minority and female recruitment sources and to community organizations when the Construction Manager or its unions have employment opportunities available, and maintain a record for the organization's responses.
 - (3) Maintain a current file of the names, addresses, and telephone numbers of each minority and female off-the-street applicant and minority or female referral from a union, a recruitment source, or community organization and of what action was taken with respect to each such individual. If such individual was sent to the union hiring hall for referral and was not referred back to the Construction Manager by the union or, if

referred, not employed by the Construction Manager, this shall be documented in the file with the reason therefore along with whatever additional actions the Construction Manager may have taken.

- (4) Provide immediate written notification to the Commissioner when the union or unions with which the Construction Manager has a collective bargaining agreement has not referred to the Construction Manager a minority person or woman sent by the Construction Manager, or when the Construction Manager has other information that the union referral process has impeded the Construction Manager's efforts to meet its obligations.
- (5) Develop on-the-job training opportunities and/or participate in training programs for the area which expressly include minorities and women, including upgrading programs and apprenticeship and trainee programs relevant to the Construction Manager's employment needs, especially those programs funded or approved by the Department of Labor. The Construction Manager will provide notice of those programs to the sources compiled under Section XIX.D.4.g.(2) above.
- (6) Disseminate the Construction Manager's EEO policy by providing notice of the policy to unions and training programs and requesting their cooperation in assisting the Construction Manager in meeting its EEO obligations; by including it in any policy manual and collective bargaining agreement; by publicizing it in the company newspaper, annual report, etc; by specific review of the policy with all management personnel and with all minority and female employees at least once a year; and by posting the company EEO policy of bulletin boards accessible to all employees at each location where construction work is performed.
- (7) Review, at least annually, the company's EEO policy and affirmative action obligations under those specifications with all employees having any responsibility for hiring, assignment, layoff, termination or other employment decisions including specific review of these items with supervisory personnel such as Superintendents, General Foremen, etc., prior to the initiation of construction work at any job site. A written record will be made and maintained identifying the time and place of these meetings, persons attending, subject matter discussed, and disposition of the subject matter.
- (8) Disseminate the Construction Manager's EEO policy externally by including it in any advertising in the news media, specifically including minority and female news media, and providing written notification to and discussing the Construction Manager's EEO policy with other Construction Managers and Trade Contractors with whom the Construction Manager does or anticipates doing business.
- (9) Direct its recruitment efforts, both oral and written, to minority, female and community organizations, to schools with minority and female students, and to minority and female recruitment and training organizations serving in the Construction Manager's recruitment area and employment needs. Not later than one month prior to the date for the acceptance of applications for apprenticeship or other training by any recruitment source, the Construction Manager will send written notification to organizations such as the above, describing the openings, screening procedures, and tests to be used in the selection process.

- (10) Encourage present minority and female employees to recruit other minority persons and women and, where reasonable, provide after school, summer and vacation employment to minority and female youth both on the site and in other areas of a Construction Manager's workforce.
- (11) Validate all tests and other selection requirements where there is an obligation to do so under 41 CFR Part 60-3.
- (12) Conduct, at least annually, an inventory and evaluation at least of all minority and female personnel for promotional opportunities and encourage these employees to seek or to prepare for, through appropriate training, etc., such opportunities.
- (13) Ensure that seniority practices, job classifications, work assignments and other personnel practices, do not have a discriminatory effect by continually monitoring all personnel and employment related activities to ensure that the EEO policy and the Construction Manager's obligations under these specifications are being carried out.
- (14) As required by Executive Order 11246 and 41 CFR Part 60 – 1.8, the Construction Manager certifies that she or he does not maintain or provide, for his employees, any segregated facilities or company activities at any of his establishments and that she or he does not permit his employees to perform their services at any location, under his control, where segregated facilities or company activities are maintained. The Construction Manager certifies that she or he will not maintain or provide, for his employees, segregated facilities or company activities at any of his establishments and that she or he will not permit his employees to perform their services at any location under his control where segregated facilities or company activities are maintained. The Construction Manager agrees that a breach of this certification is a violation of the Equal Opportunity Clause in this Contract.
 - (a) As used in this certification, the term "segregated facilities" means any waiting rooms, work areas, restrooms, and washrooms, restaurants and other eating areas, timeclocks, locker rooms and other storage or dressing areas, parking lots, drinking fountains, recreation or entertainment areas, transportation, and housing facilities provided for employees which are segregated by explicit directives or are, in fact, segregated on the basis of race, color, religion, or national origin because of habit, local custom, or any other reason. The federally-assisted construction Construction Manager agrees that (except where she or he has obtained identical certifications from proposed Trade Contractors for specific time periods) she or he will obtain identical certifications from proposed Trade Contractors prior to the award of subcontracts exceeding \$10,000 which are not exempt from the provisions of the Equal Opportunity Clause and that she or he will retain such certifications in his files.
 - (b) Separate or single-user toilet and necessary changing facilities will be provided to assure privacy between the sexes.

- (c) Construction Manager will provide this notice to Prospective Trade Contractors regarding the requirements for Certification of Non-Segregated Facilities: (1) A Certification of Non-segregated Facilities shall be submitted prior to the award of a subcontract exceeding \$10,000, which is not exempt from the provisions of the Equal Opportunity Clause; and (2) Construction Managers receiving subcontract awards exceeding \$10,000 which are not exempt from the provisions of the Equal Opportunity Clause will be required to provide for the forwarding of this notice to prospective Trade Contractors for supplies and construction contracts where the subcontracts exceed \$10,000 and are not exempt from the provisions of the Equal Opportunity Clause. NOTE: The penalty for making false statements in offers is prescribed in 18 U.S.C. 1001.
- (15) Document and maintain a record of all solicitations of offers for subcontracts from minority and female construction Construction Managers and suppliers, including circulation of solicitations to minority and female Construction Manager associations and other business associations.
- (16) Conduct a review, at least annually, of all supervisors, adherence to and perform under the Construction Manager's EEO policies and affirmative action obligations.
- h. Construction Managers are encouraged to participate in voluntary associations which assist in fulfilling one or more of their affirmative action obligations Section XIX.D.4.g(1) through (16). The efforts of a Construction Manager association, joint Construction Manager-union, Construction Manager-community, or other similar group of which the Construction Manager is a member and participant, may be asserted as fulfilling any one or more of its obligations under Section XIX.D.4.g(1) through (16) of these Specifications, provided that the Construction Manager actively participates in the group, makes every effort to assure that the group has a positive impact on the employment of minorities and women in the industry, ensures that the concrete benefits of the program are reflected in the Construction Manager's minority and female workforce participation, makes a good faith effort to meet its individual goals and timetables, and can provide access to documentation which demonstrates the effectiveness of actions taken on behalf of the Construction Manager. The obligation to comply, however, is the Construction Manager's and failure of such a group to fulfill an obligation will not be a defense for the Construction Manager's noncompliance.
- i. A single goal for minorities and a separate single goal for women have been established. The Construction Manager, however is required to provide equal employment opportunity and to make affirmative action for all minority groups, both male and female, and all women, both minority and non-minority. Consequently, the Construction Manager may be in violation of the Executive Order if a particular group is employed in a substantially disparate manner (for example, even though the Construction Manager has achieved its goals for women generally, the Construction Manager may be in violation of the Executive Order if a specific minority group of women is underutilized.)
- j. The Construction Manager will not use the goals and timetables or affirmative action standards to discriminate against any person because of race, color, religion, sex, or national origin.
- k. The Construction Manager will not enter into any subcontract with any person or firm debarred from Government contracts pursuant to Executive Order 11246.

- I. The Construction Manager will carry out such sanctions and penalties for violation of these specifications and of the Equal Opportunity Clause, including suspension, termination and cancellation of existing subcontracts as may be imposed or ordered pursuant to Executive Order 11246, as amended, and its implementing regulations, by the Office of Federal Contract Compliance Programs. Any Construction Manager who fails to carry out such sanctions and penalties will be in violation of these specifications and Executive Order 11246, as amended.
- m. The Construction Manager, in fulfilling its obligations under these specifications, will implement specific affirmative action steps; at least as extensive as those standards prescribed in paragraph (g) of this provision, so as to achieve maximum results from its efforts to ensure goal employment opportunity. If the Construction Manager fails to comply with the requirements of the Executive Order, the implementing regulations, or this provision, the EEO Director will proceed in accordance with 41 CFR 60-4.8.
- n. The Construction Manager will designate a responsible official to monitor all employment related activity to ensure that the company EEO policy is being carried out, to submit reports relating to the provisions hereof as may be required by the Government and to keep records. Records will at least include for each employee the name, address, telephone numbers, construction trade, union affiliation if any, employee identification number when assigned, social security number, race, sex, status (e.g., mechanic, apprentice, trainee, helper, or laborer), dates of changes in status, hours worked per week in the indicated trade, rate of pay, and locations at which the work was performed. Records shall be maintained in an easily understandable and retrievable form; however, to the degree that existing records satisfy this requirement, Construction Managers shall not be required to maintain separate records.
- o. Nothing herein provided will be construed as a limitation upon the application of other laws, which establish different standards of compliance or upon the application of requirements for the hiring of local or other area residents (e.g., those under the Public Works Employment Act of 1977 and the Community Development Block Grant Program.)

Section 14.05 Illinois Human Rights Act

The Construction Manager will comply with the provisions of the Illinois Human Rights Act, 775 ILCS 5/101 et seq., as amended, and the rules and regulations of the Illinois Department of Human Rights.

Section 14.06 Disadvantaged Business Enterprise:

1. The Construction Manager acknowledges and agrees that certain portions of the Project are being funded by federal grants and that the Project is therefore subject to the special conditions regarding Disadvantaged Business Enterprises, implementing Provisions 511(a) and 520 of the Airport and Airway Improvement Act of 1982, and Executive Orders 11625, 12138, 12432, and the regulations promulgated pursuant thereto, including without limitation 49 CFR 26. The Construction Manager agrees that, in the performance of the Contract, it will abide by the Special Conditions Regarding Disadvantaged Business Enterprise Commitment attached hereto.
2. Construction Manager is encouraged to utilize financial institutions owned and controlled by socially and economically disadvantaged individuals. Use of such institutions may be considered by the City as evidence of Construction Manager's willingness to do business with DBEs. Information about such

institutions is available in the City of Chicago's DBE Program document, which is available on-line at www.cityofchicago.org/Purchasing; a hard copy of the DBE Program document is available at the City of Chicago, Procurement Services, Contracts and Supplies, City Hall, 121 N. LaSalle, Room 403, Chicago, IL 60602.

Section 14.07 Living Wage Ordinance:

1. Section 2-92-610 of the Municipal Code of Chicago provides for a living wage for certain categories of employees, specifically non-City employed security guards, parking attendants, day laborers, home and health care workers, cashiers, elevator operators, custodial workers and clerical workers (Covered Employees). Accordingly, pursuant to Section 2-92-610 and regulations promulgated thereunder:
 - a. If the Construction Manager has more than 25 full-time employees, and
 - b. If at any time during the performance of the contract the Construction Manager and/or any Trade Contractor or other entity that provides any portion of the Services (collectively the Performing Parties) uses 25 or more full-time security guards, or any number of other full-time Covered Employees in the performance of the Services required by this Contract, then
 - c. The Construction Manager must pay its Covered Employees, and must assure that all other Performing Parties pay their Covered Employees, not less than the minimum hourly rate as determined in accordance with this provision (the Base Wage) for all work performed pursuant to the Contract.
2. The Construction Manager's obligation to pay, and to assure payment of, the Base Wage will begin at any time during the Contract term when the conditions set forth in Sections 1.a through 1.c above are met, and will continue thereafter until the end of the Contract term.
3. Each July 1, the Base Wage will be adjusted, using the most recent federal poverty guidelines for a family of four as published annually by the U.S. Department of Health and Human Services, to constitute the following: the poverty guidelines for a family of four divided by 2000 hours or the current base wage, whichever is higher. At all times during the term of this Contract, Construction Manager and all other Performing Parties must pay the Base Wage (as adjusted in accordance with the above.) If the payment of prevailing wages is required for work or services done under this Contract, and the prevailing wages for Covered Employees are higher than the Base Wage, then the Construction Manager must pay the prevailing wage rates.
4. The Construction Manager must include provisions in all subcontracts requiring its Trade Contractors to pay the Base Wage to Covered Employees. The Construction Manager agrees to provide the City with documentation acceptable to the Chief Procurement Officer demonstrating that all Covered Employees, whether employed by the Construction Manager or by a Trade Contractor, have been paid the Base Wage, upon the City's request for such documentation. The City may independently audit the Construction Manager and/or Trade Contractors to verify compliance herewith. Failure to comply with the requirements of this Section will be an event of default under this Contract, and further, failure to comply may result in ineligibility for any award of a City contract or subcontract for up to three (3) years.
5. Not-for-Profit Corporations: If the Construction Manager is a corporation having federal tax-exempt status under Section 501 c(3) of the Internal Revenue Code and is recognized under Illinois not-for-profit law, then provisions of Section 1 through 4 above do not apply.

Section 14.08 Davis-Bacon Act

The Construction Manager agrees to comply and assures compliance with the requirements of 49 U.S.C. ' 5333(a), the Davis-Bacon Act, 40 U.S.C. " 276 a(7), and implementing U.S. DOL regulation, Labor Standards Provisions Applicable to Contracts Governing Federally Financed and Assisted Construction (also Labor Standards Provisions Applicable to Nonconstruction Contracts Subject to the Contract Work Hours and Safety Standards Act), 29 C.F.R. Part 5. In addition to other requirements that may apply, the Construction Manager agrees to pay wages to laborers and mechanics performing contract work at a rate not less than the minimum wages specified in a wage determination issued by the U.S. Secretary of Labor and not less frequently than once a week. The Construction Manager agrees to place a copy of the current prevailing wage determination issued by the U.S. DOL in each solicitation for Trade Contractor work under the Project, and agrees to refrain from awarding any affected subcontract until the Trade Contractor agrees to the required wage determination. The Construction Manager further agrees to report to FAA every suspected or reported violation of the Davis-Bacon Act or its Federal implementing regulations.

Section 14.09 Copeland Anti-Kickback Act

The Construction Manager agrees to comply with the Copeland Anti-Kickback Act, 18 U.S.C. '874 and 40 U.S.C.' 276c, and U.S. DOL regulations, Construction Managers and Trade Contractors on Public Building or Public Work Financed in Whole or in part by Loans or Grants from the United States, 29 C.F.R. Part 3. In addition to other requirements that may apply, the Construction Manager agrees that it will not induce, by any means, any person employed in the construction, completion, or repair of public work, to give up any part of the compensation to which that employee is otherwise entitled. The Construction Manager further agrees to report every suspected or reported violation of the Copeland Anti-Kickback Act or its Federal implementing regulations to FAA.

Section 14.10 No Exclusionary or Discriminatory Specifications

Apart from inconsistent requirements imposed by Federal statute or regulations, the Construction Manager agrees that it will comply with the requirements of 49 U.S.C.'5323(b)(2) by refraining from using any Federal assistance to support Trade Contractors procured using exclusionary or discriminatory specifications.

Section 14.11 Economic Disclosure Statement and Construction Manager's Affidavit (EDS):

1. Prior to Contract award: The Construction Manager must complete EDS(s) in which the Construction Manager (and its parent entities, if applicable) identifies all persons with 7.5% or more ownership interest and in which Construction Manager certifies (among other things) that the Construction Manager, its agents, employees, officers and any Trade Contractors: a) have not been engaged in or been convicted of bribery or attempted bribery of a public officer or employee of the City of Chicago, the State of Illinois, any agency of the federal government or any state or local government in the United States or engaged in or been convicted of bid-rigging or bid-rotation activities as defined in this section as required by the Illinois Criminal Code; b) do not owe any debts to the State of Illinois, in accordance with Section 65 ILCS 5/11-42.1-1 of the Illinois Municipal Code and c) are not presently debarred or suspended from public contracts.
2. Updates: Until Final Completion of the Project, the Construction Manager must provide, without need for request by the City, an updated EDS(s) if there is any change in ownership or change in any other circumstance that would render the EDS(s) then currently on file inaccurate or obsolete. Failure to provide an updated EDS(s) when required is an event of default. Any change in ownership that is within the Construction Manager's reasonable control (such as the sale of an ownership interest in a non-publicly traded entity) is subject to the prior written consent by the Commissioner and Chief

Procurement Officer, and Construction Manager's failure to obtain such prior written consent is an event of default. In the event of a change in ownership outside of the Construction Manager's reasonable control (such as acquisition of controlling interest in Construction Manager through purchase of shares on a public exchange), the City shall have the right to invoke the Early Termination provision if the Chief Procurement Officer determines such termination to be in the City's best interest.

Section 14.12 Anti-Scofflaw (Section 2-92-380 of the Municipal Code):

1. In accordance with Section 2-92-380 of the Municipal Code of Chicago and in addition to any other rights and remedies (including any of set-off) available to the City of Chicago (City) under the Contract, permitted at law or in equity, the City will be entitled to set off a portion of the Contract price or compensation due under the Contract, in an amount equal to the amount of the fines and penalties for each outstanding parking violation complaint and /or the amount of any debt owned by the contracting party to the City.
2. For purposes of this provision, "outstanding parking violation complaint" means a parking ticket, notice of parking violation, or parking violation, or parking violation complaint on which not payment has been made or appearance filed in the Circuit Court of Cook County within the time specified on the complaint, and "debt" means a specified sum of money owed to the City for which the period granted for payment has expired.
3. Notwithstanding 1. above, no such debt(s) or outstanding violation complaint(s) will be off set from the Contract Price or compensation due under the Contract if one or more of the following conditions are met:
 - a. The Construction Manager has entered into an agreement with the Department of Revenue, or other appropriate City department, for the payment of all outstanding parking complaints and/or debts owed to the City and the Construction Manager is in compliance with that agreement; or
 - b. The Construction Manager is contesting liability for or the amount of the debt in a pending administrative or judicial proceeding; or
 - c. The Construction Manager has filed a petition in bankruptcy and the debts owed in the City are dischargeable in bankruptcy.

Section 14.13 Americans with Disabilities Act

Any and all Work performed must comply with all federal, state, and local laws and regulations regarding accessibility standards for disabled or environmentally limited person including, but not limited to, the following: Americans With Disabilities Act, P.L. 101-336 (1990) and the Uniform Federal Accessibility Guidelines for Buildings and Facilities (ADAAG) and, the Illinois Environmental Barriers Act, 410 ILCS 25/1 et. seq. (1991), and the regulations promulgated thereto at 71 Ill. Adm. Code Ch. 1, Sec. 400.100. In the event that the above cited standards are inconsistent, the Construction Manager will comply with the standard providing greater accessibility.

Section 14.14 Section 2-92-586 of the Municipal Code

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

Section 14.15 False or Fraudulent Statements and Claims

1. The Construction Manager recognizes that the requirements of the Program Fraud Civil Remedies Act of 1986, as amended, 49 U.S.C. " 3081 et. seq. and U.S. DOT regulations, Program Fraud Civil Remedies, 49 C.F.R. Part 31, apply to its actions pertaining to the Project. Accordingly, by signing the Contract, the Construction Manager certifies or affirms the truthfulness and accuracy of any statement it has made, it makes, or it may make pertaining to the Contract. In addition to other penalties that may be applicable, the Construction Manager also acknowledges that if it makes a false, fictitious, or fraudulent claim, statement, submission, or certification, the Federal Government reserves the right to impose the penalties of the Program Fraud Civil Remedies Act of 1986, as amended, on the Construction Manager to the extent the Federal Government deems appropriate.
2. The Construction Manager also acknowledges that if it makes a false, fictitious, or fraudulent claim, statement, submission, or certification to the City or Federal Government in connection with an urbanized area formula project financed with Federal assistance authorized by 49 U.S.C.' 5307, the Government reserves the right to impose on the Construction Manager the penalties of 18 U.S.C.' 1001 and 49 U.S.C.' 5307(n)(1), to the extent the Federal Government deems appropriate.

Section 14.16 Disclosure of Ownership

Pursuant to Chapter 2-154-010, 2-154-020 and 2-154-030 of the Municipal Code of the City of Chicago, any person, or business entity of agency submitting a bid proposals to or contracting with the City of Chicago will be required to complete Section I, Disclosure of Ownership Interests, in the EDS.

Section 14.17 Employment of Illinois Laborers on Airport Projects

Construction Manager will use only Illinois Laborers in the performance of this Contract, to the extent: (i) required by the Employment of Illinois Laborers on Public Works Projects Act, 30 ILCS 570/0.01 et.seq as amended from time to time and; (ii) otherwise permitted by law.

Section 14.18 State Energy Conservation Plan

The Construction Manager will comply with all standards and policies relating to energy efficiency and energy conservation plans issued by the State of Illinois in compliance with the Energy Policy and Conservation Act (Public Law 94-163), which are incorporated in this agreement by reference.

Section 14.19 Environmental Requirements

Without limiting the environmental requirements set forth in Article XIV, the Construction Manager acknowledges and agrees that many federal and state Environmental Laws imposing environmental and resource conservation requirements may apply to the Contract. Some, but not all, of the major federal Environmental Laws that may affect the Contract include: the National Environmental Policy Act of 1969, as amended, 42 U.S.C.' 4321 et seq.; the Clean Air Act, as amended, 42 U.S.C.' 7401 et seq.; various sections of 29 U.S.C.; the Clean Water Act, as amended; various sections of 33U.S.C. and 12 U.S.C.; the Resource Conservation and Recovery Act, as amended, 42 U.S.C.' 6901 et seq.; and the Comprehensive Environmental Response, Compensation, and Liability Act, as amended, 42 U.S.C. ' 9601 et seq. The Construction Manager also recognizes U.S. EPA, U.S. DOT and other agencies of the federal government have issued and are expected in the future to issue regulations, guidelines, standards, orders, directives, or other requirements that may affect the Contract. The Construction Manager agrees to adhere to, and impose on its Trade Contractors, any such environmental and resource conservation requirements as the federal government may now or in the future promulgate. Listed below are requirements of particular concern. The Construction Manager acknowledges that this list does

not constitute the Construction Manager's entire obligation to meet all federal environmental and resource conservation requirements. The Construction Manager will include these provisions in all subcontracts.

1. **Environmental Protection:** The Construction Manager agrees to comply with the applicable requirements of the National Environmental Policy Act of 1969, as amended, 42 U.S.C.' 4321 et seq. in accordance 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 U.S.C. ' 5324(b); Council of Environmental Quality regulations on compliance with the National Environmental Policy Act of 1969,as amended, 40 C.F.R. Part 1500 et seq.; and U.S. DOT regulations, Environmental Impact and Related Procedures, 23 C.F.R. Part 771 and 49 C.F.R. Part 622.
2. **Air Quality:** The Construction Manager agrees to comply with all the requirements of Section 114 of the Clean Air Act, as amended, 42 U.S.C. '7401 et seq. , relating to inspection, monitoring, entry, reports, and information, as well as all other requirements specified in Section 114, and all other applicable standards, orders, regulations and guidelines issued thereunder. Specifically, the Construction Manager agrees to comply with applicable requirements of U.S. EPA regulations, "Conformity to State or Federal Implementation Plans of Transportation Plans, Programs, and Projects Developed, Funded or Approved Under Title 23 U.S.C. or the Federal Transit Act," 40 C.F.R. Part 51, Subpart T; and "Determining Conformity of Federal Actions to State or Federal Implementation Plans," 40 C.F.R. Part 93. The Construction Manager further agrees to report and require each Trade Contractor at any tier to report any violation of these requirements resulting from any Contract implementation activity to the City and the appropriate U.S. EPA Regional Office.
3. **Clean Water:** The Construction Manager agrees to comply with all the requirements of Section 308 of the Clean Air Act, as amended, 33 U.S.C. 1251 et seq., relating to inspection, monitoring, entry, reports, and information, as well as all other requirements specified in Section 308 of the Acts, and all other applicable standards, orders, regulations and guidelines issued thereunder. The Construction Manager further agrees to report and require each Trade Contractor at any tier to report any violation of these requirements resulting from any Contract implementation activity to the City and the appropriate U.S. EPA Regional Office.
4. **List of Violating Facilities:** The Construction Manager agrees that any facility to be used in the performance of the Contract or Subcontract or to benefit from the Contract is not and will not be listed on the U.S. EPA List of Violating Facilities ("List"), and the Construction Manager will promptly notify the City if the Construction Manager receives any communication from the U.S. EPA that a facility to be used for the performance of or benefit from the contract is under consideration for inclusion on the List.

Section 14.20 Buy American

For Contracts funded in whole or in part under the Aviation and Safety Capacity Expansion Act of 1990 (the "Act") or the Airport Improvement Program, Construction Manager will comply with the requirements of Section 9129 of the Act, "Buy American", 40 U.S.C. 10a., and the regulations issued thereunder (49 CFR Part 661), which generally require that all steel and each manufactured product to be provided hereunder is produced in the United States unless otherwise approved by the FAA.Components of unknown origin are considered to have been produced or manufactured outside the United States. Fraudulent use of "Made in America" labels may result in ineligibility for Federal contracts pursuant to Section 9130 of the Act.

Section 14.21 Foreign Trade Restrictions (49 CFR Part 30.13)

1. The Construction Manager or Trade Contractor certifies that it:
 - a. Is not owned or controlled by one or more citizens of a foreign country included in the list of countries that discriminate against U.S. firms published by the Office of the United State Trade Representatives (USTR);
 - b. Has not knowingly entered into any contract or subcontract for this Project with a person that is a citizen or national of a foreign country on said list, or is owned or controlled directly or indirectly by one or more citizens or nationals of a foreign country on said list.
 - c. Has not procured any product nor subcontracted for the supply of any product for use on the Project that is produced in a foreign country on said list.
2. Unless the restrictions of this clause are waived by the Secretary of Transportation in accordance with 49 C.F.R. 30.17, no contract may be awarded to a Trade Contractor who is unable to certify to the above. If the Construction Manager knowingly procures or subcontracts for the supply of any product or service of foreign country on said list for use on the Project, the Federal Aviation Administration may direct, through the City, cancellation of the Contract at no cost to the Government or City.
3. Further, the Construction Manager agrees that it will incorporate this provision for certification without modification in each contract and in all lower tier subcontracts. The Construction Manager may rely on the certification of a prospective Trade Contractor unless it has knowledge that the certification is erroneous.
4. The Construction Manager shall provide immediate written notice to the City if the Construction Manager learns that its certification or that of a Trade Contractor was erroneous when submitted or has become erroneous by reason of changed circumstances. The Trade Contractor agrees to provide written notice to the Construction Manager if at any time it learns that its certification was erroneous by reason of changed circumstances.
5. This certification is material representation of fact upon which reliance was placed when making the Contract award. If it is later determined that the Construction Manager or any Trade Contractor of any tier knowingly rendered an erroneous certification, the Federal Aviation Administration may direct, through the City, cancellation of the Contract or subcontract for default at no cost to the Government or City.
6. Nothing contained in the foregoing will be construed to require establishment of a system of records in order to render, in good faith, the certification required by this provision. The knowledge and information of a Construction Manager is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.
7. This certification concerns a matter within the jurisdiction of an agency of the United States of American and the making of a false, fictitious, or fraudulent certification may render the make subject to prosecution under Title 18, United States Code, Provision 1001.

Section 14.22 Veterans Preference (49 USC 47112(c))

The Construction Manager will insure that the following provision is inserted in all contracts entered into with any Trade Contractors and labor organizations which furnish skilled, unskilled, and craft union skilled labor, or which may provide any material, labor, or services in connection with this Agreement:

“The Construction Manager will comply with the provisions of 330 ILCS 55/0.01 et seq., which requires that a preference be given to veterans in the employment and appointment to fill positions in the construction, addition, or alternation of all public works. In the employment of labor (except in executive, administrative, and supervisory positions) preference should be given to veterans of the Vietnam era and disabled veterans as defined in provision 515(c)(1) and (2) of the Airport and Airway Improvement Act of 1982. However, this preference will apply only where the individuals are available and qualified to perform the work to which the employment relates.”

W. Office of Inspector General and Legislative Inspector General (Chapter 2-56 and 2-55 of the Municipal Code):

1. It will be the duty of any bidder, proposer, Construction Manager, all Trade Contractors and every applicant for certification of eligibility for a City contract or program, and all officers, directors, agents, partners and employees of any bidder, proposer, Construction Manager or such applicant to cooperate with the Inspector General in any investigation or hearing undertaken pursuant to Chapter 2 56 of the Chicago Municipal Code and with the Legislative Inspector General in any investigation or hearing undertaken pursuant to Chapter 2 55. The Construction Manager understands and will abide by all provisions of Chapters 2 56 and 2-55 of the Municipal Code of Chicago.
2. All Subcontracts or purchase orders entered into by the Construction Manager with parties providing materials, labor or services to complete the Work, must contain the following statement regarding Chapters 2-56 and 2-55 of the Chicago Municipal Code, Office of the Inspector General, and Office of the Legislative Inspector General, respectively. If the Construction Manager fails to incorporate the required language in all Subcontracts or purchase orders, the provisions of these Sections are deemed to be incorporated in all Subcontracts or Purchase Orders.

The Trade Contractor, (material supplier or other entity) its officers, directors, agents, partners and employees must cooperate with the Inspector General and Legislative Inspector General in any investigation or hearing undertaken pursuant to Chapter 2-56 or Chapter 2-55 of the Chicago Municipal Code and the Trade Contractor (material supplier or other entity) understands and will abide by all provisions of these sections of the Municipal Code.

Section 14.23 Shakman Accord

1. The City is subject to the May 31, 2007 Order entitled Agreed Settlement Order and Accord (the Shakman Accord) and the June 24, 2011 “City of Chicago Hiring Plan (the City Hiring Plan) entered in Shakman v. Democratic Organization of Cook County, Case No 69 C 2145 (United State District Court for the Northern District of Illinois). Among other things, the Shakman Accord and the City Hiring Plan prohibit the City from hiring persons as governmental employees in non-exempt positions on the basis of political reasons or factors.
2. Construction Manager is aware that City policy prohibits City employees from directing any individual to apply for a position with Construction Manager, either as an employee or as a Trade Contractor, and from directing Construction Manager to hire an individual as an employee or as a Trade Contractor. Accordingly, Construction Manager must follow its own hiring and contracting procedures, without being influenced by City employees. Any and all personnel provided by Construction Manager under this

Contract are employees or Trade Contractors of Construction Manager, not employees of the City of Chicago. This Contract is not intended to and does not constitute, create, give rise to, or otherwise recognize an employer-employee relationship of any kind between the City and any personnel provided by Construction Manager.

3. Construction Manager will not condition, base, or knowingly prejudice or affect any term or aspect of the employment of any personnel provided under this Contract, or offer employment to any individual to provide services under this Contract, based upon or because of any political reason or factor, including, without limitation, any individual's political affiliation, membership in a political organization or party, political support or activity, political financial contributions, promises of such political support, activity or financial contributions, or such individual's political sponsorship or recommendation. For purposes of this Contract, a political organization or party is an identifiable group or entity that has as its primary purpose the support of or opposition to candidates for elected public office. Individual political activities are the activities of individual persons in support of or in opposition to political organizations or parties or candidates for elected public office.
4. In the event of any communication to Construction Manager by a City employee or City official in violation of Section (2) above, or advocating a violation of Section (3) above, Construction Manager will, as soon as is reasonably practicable, report such communication to the Hiring Oversight Section of the City's Office of the Inspector General, and also to the head of the relevant City Department utilizing services provided under this Contract.

Section 14.24 Governmental Ethics Ordinance (Chapter 2 -156 of the Municipal Code):

1. Construction Manager must comply with Chapter 2-156 of the Municipal Code of Chicago, Governmental Ethics, including but not limited to Provision 2-156-120 pursuant to which no payment, gratuity or offer of employment will be made in connection with any City contract, by or on behalf of a Trade Contractor to the prime Construction Manager or higher tier Trade Contractor or any person associated there with, as in inducement for the award of a subcontract or order.
2. Any contract negotiated, entered into, or performed in violation of any of the provisions of this chapter will be voidable as to the City.

Section 14.25 Business Relationships with Elected Officials:

1. Pursuant to Section 2-156-030(b) of the Municipal Code of the City of Chicago, it is illegal for any elected official of the City, or any person acting at the direction of such official, to contact, either orally or in writing, any other City official or employee with respect to any matter involving any person with whom the elected official has a business relationship, or to participate in any discussion in any City Council committee hearing or in any City Council meeting or to vote on any matter involving the person with whom an elected official has a business relationship. Violation of Section 2-156-030(b) by any elected official with respect to this Contract shall be grounds for termination of this Contract. The term business relationship is defined as set forth in Section 2-156-080 of the Municipal Code of Chicago.
2. Section 2-156-080 defines a business relationship as any contractual or other private business dealing of an official, or his or her spouse, or of any entity which entitles an official to compensation or payment in the amount of \$2,500 or more in a calendar year; provided, however, a financial interest shall not include: (i) any ownership through purchase at fair market value or inheritance of less than one percent

of the share of a corporation, or any corporate subsidiary, parent or affiliate thereof, regardless of the value of or dividends on such share, if such shares are registered on a securities exchange pursuant to the Securities Exchange Act of 1934, as amended, (ii) the authorized compensation paid to an official or employee for his office or employment,; (iii) any economic benefit provided equally to all residents of the City; (iv) a time or demand deposit in a financial institution; or (v) an endowment or insurance policy or annuity contract purchased from an insurance company. A contractual or other private business dealing shall not include any employment relationship of an official's spouse with an entity when such spouse has no discretion concerning or input relating to the relationship between that entity and the City.

Section 14.26 Conflicts of Interest:

1. No member of the governing body of the City or other units of government and no other officer, employee, or agent of the City or other unit of government who exercises any functions or responsibilities in connection with the Services to which this Contract pertains, will have any personal interest, direct, or indirect, in this Contract. No member of or delegate to the Congress of the United States (pursuant to 41 U.S.C. ' 22) or the Illinois General Assembly and no alderman of the City or City employee will be permitted to any share or part of this Contract or to any financial benefit to arise from it.
2. The Construction Manager covenants that it, its officers, directors and employees, and the officers, directors and employees of each of its members if a joint venture, and Trade Contractors, presently have no interest and will acquire no interest, direct or indirect, in the Project which would conflict in any manner or degree with the performance of the Work hereunder. The Construction Manager further covenants that in the performance of this Contract, no person having any such interest will be employed. The Construction Manager agrees that if the City, by the Commissioner in his or her reasonable judgment, determines that any of Construction Manager's work for others conflicts with the Work, the Construction Manager will terminate such other services immediately upon request of the City.

Section 14.27 Steel Products:

1. This Contract is subject to all provisions of the Steel Products Procurement Act, 30 ILCS 565/1 et seq. as it may be amended from time to time. Steel Products issued or supplied in the performance of this Contract or any subcontract thereto must be manufactured or produced in the United States.
2. For purposes of this Provision "United States" means the United States and any place subject to the jurisdiction thereof and "Steel Products" means products rolled, formed, shaped, drawn, extruded, forged, cast, fabricated, or otherwise similarly processed or processed by a combination of two or more such operations, from Steel made in the United States by the open hearth, basic oxygen, electric furnace, Bessemer or other steel making processes. Knowing violation of this Provision may result in the filing and prosecution of a complaint by the Attorney General of the State of Illinois and will subject violators to a fine of the great of \$5,000 or the payment price received as a result of such violation.

Section 14.28 Preference for Recycled Products

To the extent practicable and economically feasible and to the extent that it does not reduce or impair the quality of the work, the Construction Manager agrees to use recycled products in the Project pursuant to U.S. Environmental Protection Agency (U.S. EPA) guidelines at 40 C.F.R. Parts 247-253, which implement section 6002 of the Resource Conservation and Recovery Act, as amended, 42 U.S.C. ' 6962.

Section 14.29 Cargo Preference-Use of United States Flag Vessels

The Construction Manager agrees to comply with U.S. Marine Administration regulations, Cargo Preference B U.S. Flag Vessels, 49 C.F.R. Part 381, to the extent those regulations apply to the Project. Specifically, the Construction Manager agrees to include the clauses required by those regulations, modified as necessary to identify the affected parties, in each subcontract or subagreement involving equipment, materials, or commodities suitable for transport by ocean vessel.

Section 14.30 Patent Rights

1. General. If any inventions, improvement, material, or discovery of the Construction Manager is conceived or first actually reduced to practice in the course of or under the Project, and that invention, improvement, material or discovery is patentable under the laws of the United States of America or any foreign country, the Construction Manager agrees to notify City immediately and provide a detailed report.
2. Federal Rights. Unless the Federal Government later makes a contrary determination in writing, the rights and responsibilities of the City, Construction Manager, and the Federal Government pertaining to that invention, improvement, material, or discovery will be determined in accordance with applicable Federal and City laws and regulations, including any waiver thereof. Unless the Federal Government later makes a contrary determination in writing, the Construction Manager agrees that, irrespective of its status or the status of any Trade Contractor at any tier, (i.e., a large business, small business, non-profit organization, institution or higher education, individual, etc.) the Construction Manager agrees it will transmit to the Federal Government those rights due the Federal Government in any invention resulting from the contract.

Section 14.31 Rights in Data and Copyrights

1. Definition. The term "subject data" used in this section means recorded information, whether or not copyrighted, that is delivered or specified to be delivered under the Contract. Examples include, but are not limited, to: computer software, engineering drawings and associated lists, specifications, standards, process sheets, manuals, technical reports, catalog item identifications, and related information. The term "subject data" does not include financial reports, cost analyses, and similar information incidental to Project administration.
2. Federal Restrictions. The following restrictions apply to all subject data first produced in the performance of the Contract. Except as provided in the Contract and except for its own internal use, the Construction Manager may not publish or publicly reproduce subject data in whole or in part, or in any manner or form, nor may the Construction Manager authorize others to do so, without the written consent of the Federal Government, until such times as the Federal Government may have either released or approved the release of such data to the public.
3. Federal Rights in Data and Copyrights. Construction Manager agrees that any copyrightable subject data generated in performance of this Contract are deemed "works for hire" and the City or Federal Government will own all copyrights therein. In accordance with 49 C.F.R. ' 18.34 and 49 C.F.R. ' 19.36, the City and the Federal Government reserve a royalty-free, non-exclusive and irrevocable license to reproduce, publish, or otherwise use, and to authorize others to use, for City or Federal Government

purposes, the types of other subject data described below. Without the copyright owner's consent, the City and Federal government may not extend their license to other parties.

- a. Any subject data developed under the Contract to the extent that a copyright has not been obtained by the City or Federal Government; and
 - b. Any previously copyrighted subject data which the Construction Manager purchases with federal assistance.
4. **Special Federal Rights for Planning, Research, and Development Projects.** When the Federal Government provides financial assistance for a planning, research, development, or a demonstration Project, its general intention is to increase public knowledge rather than limit the benefits of the Project to participants in the Project. Therefore, unless the Federal Government determines otherwise, the Construction Manager on a planning, research, development, or a demonstration Project agrees that, in addition to the rights in data and copyrights set forth above, the City or Federal Government may make available to any third party, either a license in the copyright to the subject data or a copy of the subject data. If the Project is not completed for any reason whatsoever, all data developed under the Project will become subject data and will be delivered as the City or Federal Government may direct. This subsection, however, does not apply to adaptations of automatic data processing equipment or programs for the City's use whose costs are financed with Federal transportation funds for capital projects.
 5. **Hold Harmless.** Unless prohibited by state law, upon request by the Federal Government, the Construction Manager agrees to indemnify, save, and hold harmless the City and the Federal Government and their officers, agents, and employees acting within the scope of their official duties against any liability, including costs and expenses, resulting from any willful or intentional violation by the Construction Manager of proprietary rights, copyrights, or right of privacy, arising out of the publication, translation, reproduction, delivery, use or disposition or any data furnished or used under the Contract. The Construction Manager will not be required to indemnify the City or Federal Government for any such liability arising out of the wrongful acts of employees or agents of the City or Federal Government.
 6. **Restrictions on Access to Patent Rights.** Nothing contained in this section on rights in data will imply a license to the Federal Government under any patent or be construed as affecting the scope of any license or other right otherwise granted to the Federal Government under any patent.
 7. **Application on Materials Incorporated into Project.** The requirements of Subsections 2,3, and 4 of this Section do not apply to material furnished by the City and incorporated into the work.

Section 14.32 Licensing of General Construction Managers

The Construction Manager must comply with all requirements of Chapter 4-36, Licensing of General Construction Managers, of the Chicago Municipal Code.

Section 14.33 Prohibition on Certain Contributions (Mayoral Executive Order No. 2011-4):

1. No Construction Manager or any person or entity who directly or indirectly has an ownership or beneficial interest in Construction Manager of more than 7.5% ("Owners"), spouses and domestic partners of such Owners, Construction Manager's Trade Contractors, any person or entity who directly or indirectly has an ownership or beneficial interest in any Trade Contractor of more than 7.5% ("Sub-owners") and spouses and domestic partners of such Sub-owners (Construction Manager 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 Construction Manager, and/or (iii) any period in which an extension of this Contract or Other Contract with the City is being sought or negotiated.

2. Construction Manager 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 Construction Manager or the date the Construction Manager approached the City, as applicable, regarding the formulation of this Agreement, no Identified Parties have made a contribution of any amount to the Mayor or to his political fund-raising committee.
3. Construction Manager 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 fund-raising committee; (b) reimburse its employees for a contribution of any amount made to the Mayor or to the Mayor's political fund-raising committee; or (c) bundle or solicit others to bundle contributions to the Mayor or to his political fund-raising committee.
4. Construction Manager 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.
5. Construction Manager agrees that a violation of, non-compliance with, misrepresentation with respect to, or breach of any covenant or warranty under this provision or violation of Mayoral Executive Order No. 2011-4 constitutes a breach and default under this Agreement, and under any Other Contract for which no opportunity to cure will be granted. Such breach and default entitles the City to all remedies (including without limitation termination for default) under this Agreement, under Other Contract, at law and in equity. This provision amends any Other Contract and supersedes any inconsistent provision contained therein.
6. If Construction Manager violates this provision or Mayoral Executive Order No. 2011-4 prior to award of the Agreement resulting from this specification, the Chief Procurement Officer may reject Construction Manager's bid.
7. For purposes of this provision:

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

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

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

Section 14.34 Federal Ineligible Construction Managers

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

Section 14.35 False Statements

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

Section 14.36 Ineligibility to do Business with the City

Failure by the Construction Manager 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 1-23-30 of the Municipal Code of Chicago shall be grounds for termination of this Contract.

Section 14.37 Project Labor Agreement

Pursuant to an Ordinance passed by City Council, effective as of February 22, 2011, the City has entered into the Project Labor Agreement ("PLA"), which is hereby referenced and included in the Contract Documents, with various trades regarding projects as described in the PLA, together with a list of signatory unions. Construction Manager acknowledges familiarity with the requirements of the PLA and its applicability to any Work under this Contract, and shall comply in all respects with the PLA.

Section 14.38 Emissions Reduction (Section 2-92-595 of the Chicago Municipal Code)

For contracts for construction work of \$2,000,000 or more, the following applies:

- a) The Construction Manager must comply with the Clean Diesel Contracting Ordinance, Section 2-92-595 of the Municipal Code of Chicago.
- b) The Construction Manager and any Trade Contractor(s) must utilize Ultra Low Sulfur Diesel Fuel (ULSD) for any heavy-duty diesel-powered vehicle, non-road vehicle or non-road equipment used in the performance of the Contract.
- c) The Construction Manager and any Trade Contractor(s) must minimize idling of motor vehicles and non-road vehicles used in the performance of the Contract during periods of inactivity, and must comply with the anti-idling requirements imposed by any applicable federal, state, or local law.
- d) The City may conduct an audit of the Construction Manager or inspect any vehicle or equipment used in the performance of the Contract to ensure compliance with the requirements specified above. In the event that Construction Manager or any Trade Contractor fails to utilize ULSD or fails to minimize idling or comply with anti-idling requirements, Construction Manager will be subject to liquidated damages of

\$5,000 per day for each violation and each day of noncompliance will be a separate violation; provided, however, the damages will not exceed \$50,000 for any one vehicle or piece of equipment, as specified in Section 2-92-595(e) of the Municipal Code of Chicago. Such liquidated damages are imposed not as a penalty but as an estimate of the damages that the City will sustain from delay in completion of the project and inspection and inspection and other enforcement costs, as well as the resultant damages to the public health of its citizens, which damages by their nature are not capable of precise proof. The City is authorized to withhold and deduct from monies otherwise payable to the Construction Manager the amount of liquidated damages due to the City.

- e) Construction Manager understands that pursuant to Section 2-92-595(e)(6) of the Municipal Code of Chicago, any person knowingly making a false statement of material fact to any City department with respect to compliance with the contract provisions specified in Section 2-92-595(e) of the Municipal Code of Chicago may be fined not less than \$1,000 or more than \$5,000 for each statement.