

**Exhibit C**  
**Grant Agreement**

**TERMS AND CONDITIONS**

**ARTICLE 1. FUNDING CHANGES**

At any time upon written notice to you the City, in its sole discretion, including without limitation based on periodic reviews of the spending levels under this Agreement, may reduce the Compensation. Upon reduction of the Compensation, you will fully cooperate with the City's deobligation and/or reprogramming of funds. See Article 5, Compensation, and Article 13, Additional Compensation Provisions, and other provisions for further terms and conditions related to compensation under this Agreement.

**ARTICLE 2. DEFINITIONS**

**2.1 Definitions.** The following words and phrases have the following meanings for purposes of this Agreement:

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

"**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.

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

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

"**Municipal Code**" means the Municipal Code of Chicago, as amended.

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

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

**2.2 Interpretation**

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

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

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

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

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

vi. All references to a number of days mean calendar days, unless indicated otherwise.

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

**3.1 Scope of Services.** This description of Services is intended to be general in nature and is neither a complete description of your Services nor a limitation on the Services that you are to provide under this Agreement. You must provide the Services in accordance with the standards of performance set forth in Section 3.3, Standard of Performance. The Services that you must provide include, but are not limited to, those described in Exhibit A, which is attached to this Agreement and incorporated by reference as if fully set forth herein. Exhibit A will set forth specific reporting requirements, if any.

**3.2 Deliverables.** In carrying out your Services, you must prepare or provide to the City various Deliverables. “**Deliverables**” include work product, such as written reviews, recommendations, reports and analyses, produced by you for the City. The City may reject Deliverables that do not include relevant information or data, or do not include all documents or other materials specified in this Agreement or reasonably necessary for the purpose for which the City made this Agreement or for which the City intends to use the Deliverables. If the City determines that you have failed to comply with the foregoing standards, the City has 30 days from the discovery to notify you of your failure. If you do not correct the failure, if it is possible to do so, within 30 days after receipt of notice from the City specifying the failure, then the City, by written notice, may treat the failure as a default of this Agreement under Section 9.1, Events of Default Defined. Partial or incomplete Deliverables may be accepted for review only when required for a specific and well-defined purpose for the benefit of the City and when consented to in advance by the City. Such Deliverables will not be considered as satisfying the requirements of this Agreement and partial or incomplete Deliverables in no way relieve you of your commitments under this Agreement.

**3.3 [intentionally omitted]**

**3.4 Personnel**

**(a) Adequate Staffing, Personnel Qualifications, Background Checks**

You must, upon receiving a fully executed copy of this Agreement, assign and maintain during the term of this Agreement and any extension of it an adequate staff of competent personnel that is fully equipped, licensed as appropriate, available as needed, qualified and assigned to perform the Services. You, if exempt from licensure under any applicable statute, must utilize personnel who are otherwise competent and qualified to perform the Services required. You must retain and make available to the City proof of certification or expertise including, but not limited to, resumes and job descriptions. The level of staffing may be revised from time to time by notice in writing from you to the City and with written consent of the City, which consent the City will not withhold unreasonably. If the City, fails to object to the revision within 14 days after receiving the notice, then the revision will be considered accepted by the City.

If you provide any Services to children you shall, at your own cost and expense, comply with all applicable Federal, State and local laws, ordinances, policies, procedures, regulations, rules, requirements and executive orders relating to background checks, fingerprinting and screening procedures as in effect from time to time (the "**Legal Requirements**"). In connection with the Services, you will not permit any adult, whether a member of your staff or otherwise, to be involved with the Services or to have direct contact with children if any applicable Legal Requirements would prohibit such adult from having such involvement or contact.

(b) **Salaries and Wages**

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

**3.5 [intentionally omitted]**

**3.6 [intentionally omitted]**

**3.7 Indemnification**

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

- (i) injury, death or damage of or to any person (including abuse, assault or battery thereof) or property;
- (ii) any infringement or violation of any property right (including any patent, trademark or copyright);
- (iii) your failure to pay or perform or cause to be paid or performed your covenants and obligations as and when required under this Agreement or otherwise, including your failure to pay or perform your obligations to any Subcontractor, employee, agent or vendor;
- (iv) the City's exercise of its rights and remedies under Section 9.2, Remedies, and
- (v) injuries to or death of any employee of yours or any Subcontractor under any workers compensation statute.

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

(c) At the City Corporation Counsel's option, you must defend all suits brought upon all such Losses and must pay all costs and expenses incidental to them, but the City has the right, at its option, to

participate, at its own cost, in the defense of any suit, without relieving you of any of your obligations under this Agreement. Any settlement must be made only with the prior written consent of the City Corporation Counsel, if the settlement requires any action on the part of the City.

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

(e) The indemnities in this section survive expiration or termination of this Agreement for matters occurring or arising during the term of this Agreement or as the result of or during your performance of Services beyond the term. You acknowledge that the requirements set forth in this section to indemnify, keep and save harmless and defend the City are apart from and not limited by your duties under this Agreement.

**3.8 [intentionally omitted]**

**3.9 [intentionally omitted]**

**3.10 Records and Audits**

**(a) Records**

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

(ii) You must maintain any such records including Deliverables not delivered to the City or demanded by the City for a period of 5 years after the final payment made in connection with this Agreement and, if later, (a) until any related litigation, claim or audit started during such 5-year period is finally resolved and (b) 4 years after disposing of any real property and Personal Property bought with funds under this Agreement. You must not dispose of such documents following the expiration of this period without notification of and written approval from the City in accordance with Article 11, Notices.

(iii) You must maintain and make available to the City such information necessary to assist the City in its compliance with all applicable laws including dates and reports regarding your activities. You must maintain all documents pertaining to this Agreement including all financial, statistical, property and participant information documentation.

(A) The City has the authority to make physical inspections of the premises used by you in the performance of your Services under this Agreement and to require such physical safeguards to safeguard the property and/or equipment authorized by this Agreement including requiring locks, alarms, safes, fire extinguishers and sprinkler systems.

(B) Further, the City has the authority to be present at any and all meetings held by you, including staff meetings, board of directors meetings, advisory committee meetings and advisory board meetings, if an item relating to this Agreement is to be discussed.

(iv) You must maintain and provide to the City the following information and documents within the time periods indicated: (A) prior to this Agreement being fully executed, a copy of the executed lease for any real property used by you in connection with the Services, an affidavit stating whether the landlord

is a Related Party (as defined below), and with respect to any insurance, utility or other costs not based on your actual use, documentation satisfactory to the City in its sole discretion supporting the allocation of these costs to you; (B) within six months after the end of your fiscal year, annual financial statements that include a statement of your financial position and statement of activities, and a trial balance; (C) within 30 days after the transaction occurs, a report of any transaction between you and any Related Party. For purposes of this Section 3.10(a)(iv), “**Related Party**” means any of your board members, officers or employees, and any relative of any of your board members, officers or employees.

(b) **Audits**

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

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

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

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

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

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

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

If the City is unable to make a determination regarding overcharges to the City as a result of your not having maintained records as required under this Agreement, you must promptly reimburse the City for some or all of the cost of the audit, as determined in the sole discretion of the City. Your failure to reimburse the City in accordance with this Section 3.10 is an event of default under Section 9.1, Events of

*Default Defined*, and you will be liable for all of the City's costs of collection, including any court costs and attorneys' fees.

### **3.11 Confidentiality**

(a) [intentionally omitted]

(b) [intentionally omitted]

(c) [intentionally omitted]

(d) To the extent not defined herein, the capitalized terms below and in Exhibit D will have the same meaning as set forth in the Health Insurance Portability and Accountability Act ("**HIPAA**"). See 45 CFR parts 160, 162 and 164. You and all your subcontractors must comply with HIPAA and all rules and regulations applicable to you or them including the Privacy Rule, which sets forth the Standards for Privacy of Individually Identifiable Health Information at 45 CFR part 160 and part 164 subparts A and E; the Standards for Electronic Transactions, which are located at 45 CFR parts 160 and 162 and the Security Standards, which are located at 45 CFR parts 160, 162 and 164. You must also comply with the Illinois AIDS Confidentiality Act (410 ILCS 305/1 through 16), the Illinois Mental Health and Developmental Disabilities Confidentiality Act (740 ILCS 110/1 through 17) and all other Illinois state statutes concerning the confidentiality, preservation, and disclosure of protected health information (as that term is defined in HIPAA) and the rules and regulations promulgated under those state statutes. If you fail to comply with the applicable provisions under HIPAA and the Illinois state statutes, rules and regulations concerning the confidentiality, preservation, and disclosure of protected health information, such failure will constitute an event of default under this Agreement for which no opportunity for cure will be provided. Additionally, if you are a Business Associate you must comply with all requirements of HIPAA applicable to Business Associates including the provisions contained in Exhibit D. You shall maintain for a minimum of six (6) years all protected health information.

**3.12 Assignments and Subcontracts.** You must not assign, delegate or otherwise transfer all or any part of your rights or obligations under this Agreement or any part of it, unless otherwise provided for in this Agreement or without the express written consent of the City. The absence of such a provision or written consent voids the attempted assignment, delegation or transfer and is of no effect as to the Services or this Agreement. No approvals given by the City operate to relieve you of any of your obligations or liabilities under this Agreement.

All subcontracts and all approvals of Subcontractors are, regardless of their form, considered conditioned upon performance by the Subcontractor in accordance with the terms and conditions of this Agreement. If any Subcontractor fails to observe or perform the terms and conditions of this Agreement to the satisfaction of the Department, the City has the absolute right upon written notification to immediately rescind approval and to require the performance of this Agreement by you personally or through any other City-approved Subcontractor. Any approval for the use of Subcontractors in the performance of the Services under this Agreement under no circumstances operates to relieve you of any of your obligations or liabilities under this Agreement.

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

You must not transfer or assign any funds or claims due or to become due under this Agreement without the prior written approval of the City. The attempted transfer or assignment of any funds, either in

whole or in part, or any interest in them, which are due or to become due to you under this Agreement, without such prior written approval, has no effect upon the City.

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

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

#### **ARTICLE 4. TERM OF PERFORMANCE**

##### **4.1 Timeliness of Performance**

(a) You must provide the Services and Deliverables within the term and within the time limits required under this Agreement, pursuant to Exhibit B. **Further, you acknowledge that TIME IS OF THE ESSENCE and that your failure to comply with the time limits described in this Section 4.1 may result in economic or other losses to the City.**

(b) Neither you nor your agents, employees or Subcontractors are entitled to any damages from the City, nor is any party entitled to be reimbursed by the City, for damages, charges or other losses or expenses incurred by you by reason of delays or hindrances in the performance of the Services, whether or not caused by the City.

**4.2 Agreement Extension Option.** The City may at any time before this Agreement expires elect to extend this Agreement for up to 2 additional one-year periods under the same terms and conditions as this original Agreement, except as provided otherwise in this Agreement, by notice in writing to you. After notification by the City, this Agreement must be modified to reflect the time extension in accordance with the provisions of Section 10.3, Amendments. You acknowledge that this Agreement does not create any expectation of renewal or extension.

#### **ARTICLE 5. COMPENSATION**

**5.1 Basis of Payment.** You will be compensated for Services performed and costs incurred directly by you pursuant to the Budget, which is attached to this Agreement as Exhibit A and incorporated by reference as if fully set forth herein. Requests for budget revisions which do not affect the Compensation must be submitted for review and approval to the Department. If the Department approves and signs the request for budget revision, the Department will forward the request to the City Comptroller for final review, approval and processing.

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

Compensation will be awarded in one payment, made upon the City's receipt of this signed Agreement.

The City reserves the right to salvage any funds not expended by you by the end of the term of the Agreement.

**5.3 Non-Appropriation.** Funding for this Agreement is subject to the availability of funds and their appropriation by the City Council of the City. If no funds or insufficient funds are appropriated and budgeted in any fiscal period of the City for payments to be made under this Agreement, then the City will notify you in writing of that occurrence, and this Agreement will terminate on the earlier of the last day of the fiscal period for which sufficient appropriation was made or whenever the funds appropriated

for payment under this Agreement are exhausted. Payments for Services completed to the date of notification will be made to you. No payments will be made or due to you under this Agreement beyond those amounts appropriated and budgeted by the City to fund payments under this Agreement.

## **ARTICLE 6. DISPUTES**

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

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

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

(a) You must observe and comply with all applicable laws, ordinances, rules, executive orders and regulations of the federal, state, local and city government, which may in any manner affect the performance of this Agreement, all of which will be deemed to be included in this Agreement the same as though written herein in full. You are responsible for ensuring compliance with all applicable laws, rules and regulations, including but not limited to those specifically referenced herein, and for paying when due all Governmental Charges and obtaining all required licenses, certificates and other authorizations. Except where expressly required by applicable laws and regulations, the City shall not be responsible for monitoring your compliance. Notwithstanding anything in this Agreement to the contrary, references to a statute or law are considered to be a reference to (i) the statute or law as it may be amended from time to time; (ii) all regulations and rules pertaining to or promulgated pursuant to the statute or law; and (iii) all future statutes, laws, regulations, rules and executive orders pertaining to the same or similar subject matter.

(b) You will use the City's online submission process to provide the City with a correctly completed Economic Disclosure Statement and Affidavit ("**EDS**"), which is incorporated by reference, and further will provide any other affidavits or certifications as may be required by federal, state or local law in the award of public contracts, all of which affidavits and certifications are incorporated by reference. You will cause your Subcontractors or, if a partnership or joint venture, all members of the partnership or joint venture, to submit all required affidavits to the City. Notwithstanding acceptance by the City of the EDS, failure of the EDS to include all information required under the Municipal Code renders this Agreement voidable at the option of the City. You and any other parties required by this Section 7.1 to complete an EDS must promptly update their EDS(s) on file with the City whenever any information or response provided in the EDS(s) is no longer complete and accurate, including changes in ownership, and changes in disclosures and information pertaining to ineligibility to do business with the City under Chapter 1-23 of the Municipal Code, as such is required under Sec. 2-154-020, and failure to promptly provide the updated EDS(s) to the City will constitute an event of default under this Agreement.

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



(c) You have the right before any delinquency occurs to contest or object in good faith to the amount or validity of any Governmental Charge by appropriate legal proceedings properly and diligently instituted and prosecuted in such manner as shall stay the collection of the contested Governmental Charge and prevent the imposition of a lien or the sale or forfeiture of any program facility. No such contest or objection shall be deemed or construed in any way as relieving, modifying or extending your covenants to pay any such Governmental Charge at the time and in the manner provided in this Agreement unless you have given prior written notice to the City of your intent to contest or object to a Governmental Charge and, unless, at the City's sole option, (i) you shall demonstrate to the City's satisfaction that legal proceedings instituted by you contesting or objecting to a Governmental Charge shall conclusively operate to prevent or remove a lien against, or the sale or forfeiture of, all or any part of the program facility to satisfy such Governmental Charge prior to final determination of such proceedings; and/or (ii) you shall furnish a good and sufficient bond or other security satisfactory to the City in such form and amounts as the City shall require, or a good and sufficient undertaking as may be required or permitted by law to accomplish a stay of any such sale or forfeiture of the program facility during the pendency of such contest, adequate to pay fully any such contested Governmental Charge and all interest and penalties upon the adverse determination of such contest. "**Governmental Charge**" shall mean all Federal, State, county, City, or other governmental (or any instrumentality, division, agency, body, or department thereof) taxes, levies, assessments, charges, liens, claims or encumbrances relating to you, your operations, the program facility or the Services. If you are delinquent in filing and/or paying any Governmental Charges and/or related returns, the City in its sole discretion may continue to reimburse you for Services provided under this Agreement only if you (i) have entered into an installment payment agreement with the applicable authority, (ii) have delivered to the City a copy of such fully-signed installment payment agreement and (iii) remain in good standing therewith. You may not use funds you receive under this Agreement to discharge outstanding Governmental Charges.

(d) To the best of your knowledge and belief, you, your principals and key project personnel: (a) are not presently declared ineligible or voluntarily excluded from contracting with any Federal or State department or agency; (b) have not within a three-year period preceding this Agreement been convicted of any felony; been convicted of a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, State, or local) transaction or contract under a public transaction; had a civil judgment rendered against them for commission of fraud; been found in violation of Federal or State antitrust statutes; or been convicted of embezzlement, theft, larceny, forgery, bribery, falsification or destruction of records, making false statement, or receiving stolen property; and (c) are not presently indicted for or otherwise criminally or civilly charged by a government entity (Federal, State or local) with commission of any of the offenses enumerated in subparagraph (b) of this certification. Any request for an exception to the provisions of this paragraph must be made in writing, listing the name of the individual, home address, type of conviction and date of conviction.

## **7.2 Nondiscrimination**

In performing the Services under this Agreement, you must comply with applicable laws and regulations prohibiting discrimination against individuals and groups.

(a) **Federal Requirements.** In performing the Services under this Agreement and in your employment practices you must not engage in unlawful employment practices, such as: (i) failing or refusing to hire or discharging any individual, or otherwise discriminating against any individual with respect to his or her compensation, or the terms, conditions, or privileges of his or her employment, because of such individual's race, color, religion, sex, age, handicap/disability or national origin; or (ii) limiting, segregating, or classifying your employees or applicants for employment in any way that would deprive or tend to deprive any individual of employment opportunities or otherwise adversely affect the individual's status as an employee, because of that individual's race, color, religion, sex, age, handicap/disability or national origin.

You must comply with, and the procedures you utilize and the Services you provide under this Agreement must comply with, the Civil Rights Act of 1964, 42 U.S.C. § 2000 et seq., as amended and the

Civil Rights Act of 1991, P.L. 102-166; Fair Housing Act, 42 U.S.C. § 3601-3619; Executive Order No. 11246, as amended by Executive Order No. 11375 and by Executive Order No. 12086; Executive Order 13160 (2000); the Age Discrimination Act of 1975, 42 U.S.C. §§ 6101-6106; Age Discrimination in Employment Act, 29 U.S.C. §§ 621-34; Title IX of the Education Amendments of 1972, as amended (20 U.S.C. 1681-83 and 1685-86); the Rehabilitation Act of 1973, 29 U.S.C. §§ 793-794; the Americans with Disabilities Act, 42 U.S.C. § 12101 et seq.; 41 CFR part 60 et seq. (1990); Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (PL 104-193); and all other applicable federal statutes, regulations and other laws.

(b) **State Requirements.** In performing the Services under this Agreement, you must comply with the Illinois Human Rights Act, 775 ILCS 5/1-101 et seq., the Public Works Employment Discrimination Act, 775 ILCS 10/0.01 et seq. and any rules and regulations promulgated thereunder, including, but not limited to, the Equal Employment Opportunity Clause, 44 Ill. Admin. Code § 750 Appendix A, and all other applicable state statutes, regulations and other laws.

(c) **City Requirements.** In performing the Services under this Agreement, you must comply with the Chicago Human Rights Ordinance, Municipal Code § 2-160-010, and all other applicable City ordinances and rules. Further, you must furnish, and cause every Subcontractor to furnish, such reports and information as may be requested from time to time by the Chicago Commission on Human Relations.

(d) **Subcontractors Required to Comply.** You will incorporate all of the provisions set forth in this Section in all subcontracts entered into with all suppliers of materials, furnishers of services, Subcontractors of any tier, and labor organizations which furnish skilled, unskilled and craft union skilled labor, or which may provide any materials, labor or services in connection with this Agreement.

You must cause your Subcontractors to execute such certificates as may be necessary in furtherance of these provisions. Such certifications will be attached and incorporated by reference in the applicable subcontracts. If any Subcontractor is a partnership or joint venture, you will also include provisions in your subcontract insuring that the entities comprising such partnership or joint venture will be jointly and severally liable for the partnership's or joint venture's obligations under the subcontract.

**7.3 Inspector General.** It is your duty and the duty of any bidder, proposer, contractor, subcontractor, and every applicant for certification of eligibility for a City contract or program, and all of your officers, directors, agents, partners, and employees and any such bidder, proposer, contractor, subcontractor or such applicant: (a) to cooperate with the Inspector General in any investigation or hearing undertaken pursuant to Chapter 2-56 of the Municipal Code and (b) to cooperate with the Legislative Inspector General in any investigation undertaken pursuant to Chapter 2-55 of the Municipal Code. You represent that you understand and will abide by all provisions of Chapters 2-56 and 2-55 of the Municipal Code and that you will inform subcontractors of this provision and require their compliance.

**7.4 Business Relationships with Elected Officials.** Pursuant to Section 2-156-030(b) of the Municipal Code, it is illegal for any elected official of the City, or any person acting at the direction of such official, to contact, either orally or in writing, any other City official or employee with respect to any matter involving any person with whom the elected official has a business relationship, or to participate in any discussion in any City Council committee hearing or in any City Council meeting or to vote on any matter involving the person with whom an elected official has a business relationship. **Violation of Section 2-156-030(b) by any elected official with respect to this Agreement is grounds for termination of this Agreement.** The term business relationship is defined as set forth in Section 2-156-080 of the Municipal Code.

Section 2-156-080 defines a “**business relationship**” as any contractual or other private business dealing of an official, or his or her spouse or domestic partner, or of any entity in which an official or his or her spouse or domestic partner has a financial interest, with a person or entity which entitles an official to compensation or payment in the amount of \$2,500 or more in a calendar year;

provided, however, a financial interest shall not include: (i) any ownership through purchase at fair market value or inheritance of less than one percent of the share of a corporation, or any corporate subsidiary, parent or affiliate thereof, regardless of the value of or dividends on such shares, if such shares are registered on a securities exchange pursuant to the Securities Exchange Act of 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 or domestic partner with an entity when such spouse or domestic partner has no discretion concerning or input relating to the relationship between that entity and the City.

#### **7.5 [intentionally omitted]**

**7.6 Compliance with Environmental and Safety Laws.** You shall be subject to, obey and adhere to any and all federal, state and local laws, statutes, ordinances, codes, rules, regulations and executive orders relating to public health and safety and the environment as are now or may be in effect during the term of this Agreement which may be applicable to you, including but not limited to the following Sections of the Municipal Code: Section 7-28-390, 7-28-440, 11-4-1410, 11-4-1420, 11-4-1450, 11-4-1500, 11-4-1530, 11-4-1550, or 11-4-1560, whether or not in the performance of this Agreement.

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

### **ARTICLE 8. SPECIAL CONDITIONS**

**8.1 Warranties and Representations.** You acknowledge, represent, warrant and covenant, as of the date of this Agreement and throughout the Term, that:

(a) you are appropriately licensed and/or certified under Illinois law to perform the Services required under this Agreement and will perform no Services for which a professional license and/or certification is required by law and for which you are not appropriately licensed and/or certified;

(b) no officer, agent or employee of the City is employed by you or has a financial interest directly or indirectly in this Agreement or the compensation to be paid, except as may be permitted in writing by the City's Board of Ethics; that no payment, gratuity or offer of employment will be made by or on behalf of any Subcontractors of any tier, as an inducement for the award of a subcontract or order; you acknowledge that any agreement entered into, negotiated or performed in violation of any of the provisions of City's Ethics Ordinance, Municipal Code § 2-156 et seq., is voidable by the City; in accordance with 41 U.S.C. § 22, you must not admit any member of or delegate to the United States Congress to any share or part of the Services or the Agreement, or any benefit derived therefrom;

(c) you are financially solvent; you and each of your employees, agents and Subcontractors of any tier are competent to perform the Services required under this Agreement; and you are legally authorized to execute and perform or cause to be performed this Agreement under the terms and conditions stated in this Agreement;

(d) you will not knowingly use the services of any ineligible contractor or Subcontractor for any purpose in the performance of the Services under this Agreement;

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

(f) you have carefully examined and analyzed the provisions and requirements of this Agreement; you understand the nature of the Services required; from your own analysis you have satisfied yourself as to the nature of all things needed for the performance of this Agreement; this Agreement is feasible of performance in accordance with all of its provisions and requirements, and you warrant that you can and will perform, or cause to be performed, the Services in strict accordance with the provisions and requirements of this Agreement;

(g) you and, to the best of your knowledge, your Subcontractors are not in violation of the provisions of Section 2-92-320 of Chapter 2-92 of the Municipal Code, the Illinois Criminal Code, 720 ILCS 5/33E-1, and the Illinois Municipal Code, 65 ILCS 5/11-42.1-1;

(h) you and your Subcontractors understand and will abide by all provisions of Chapter 2-26-010 et seq. of the Municipal Code;

(i) any certification, affidavit or acknowledgment made under oath in connection with this Agreement is made under penalty of perjury and, if false, is also cause for termination under Section 9.1, Events of Default Defined, and Section 9.3, Early Termination;

(j) any violation of Chapter 1-21 of the Municipal Code, False Statements, is also cause for termination under Sections 9.1 and 9.3;

(k) neither you nor any Affiliate is listed on any of the following lists maintained by the Office of Foreign Assets Control of the U.S. Department of the Treasury, the Bureau of Industry and Security of the U.S. Department of Commerce or their successors, or on any other list of persons or entities with which the City may not do business under any applicable 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; and

(l) you are current as to the filing and payment of any Governmental Charges (as defined in Section 7.1(c), Compliance with all Laws Generally, and/or related returns and you are not delinquent in your payment of Governmental Charges.

## **8.2 Ethics**

(a) In addition to the foregoing warranties and representations, you warrant:

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

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

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

## **8.3 [intentionally omitted]**

**8.4 Business Documents.** At the request of the City, you must provide copies of your latest articles of incorporation, by-laws and resolutions, or partnership or joint venture agreement, as applicable.

## 8.5 Conflicts of Interest

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

(b) You covenant that you, and to the best of your knowledge, your Subcontractors if any (collectively, "**Consulting Parties**"), presently have no direct or indirect interest and will not acquire any interest, direct or indirect, in any project or contract that would conflict in any manner or degree with the performance of your Services under this Agreement.

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

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

(e) You further covenant that, in the performance of this Agreement, no person having any conflicting interest will be assigned to perform any Services. If the City, by the Commissioner in his reasonable judgment, determines that any of your Services for others conflict with the Services you are to render for the City under this Agreement, you must terminate such other services immediately upon request of the City.

(f) [intentionally omitted]

(g) You shall establish safeguards to prohibit officers, directors, agents, employees and family members from using positions of employment for a purpose that is, or gives the appearance of, being motivated by a desire for a private gain for themselves or others, particularly those with whom they have family business or other ties. Safeguards; evidenced by rules or bylaws, shall be established to prohibit persons from engaging in actions, which create or which appear to create a conflict of interest as described herein.

**8.6 Non-Liability of Public Officials.** You and any of your assignees or Subcontractors must not charge any official, employee or agent of the City personally with any liability or expenses of defense or hold any official, employee or agent of the City personally liable to them under any term or provision of this Agreement or because of the City's execution, attempted execution or any breach of this Agreement.

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

**9.1 Events of Default Defined.** In addition to any others mentioned elsewhere in this Agreement, the following constitute events of default:

- A. Any material misrepresentation, whether negligent or willful and whether in the inducement or in the performance, made by you to the City.
- B. Any material failure by you to perform any of your obligations under this Agreement including, but not limited to, the following:
  - i. Failure to perform the Services with sufficient personnel and equipment or with sufficient material to ensure the performance of the Services;
  - ii. Failure to have and maintain all professional licenses required by law to perform the Services;
  - iii. Failure to timely perform the Services;
  - iv. Failure to perform the Services in a manner satisfactory to the City, or inability to perform the Services satisfactorily as a result of insolvency, filing for bankruptcy or assignment for the benefit of creditors;
  - v. Failure to promptly re-perform within a reasonable time Services that were rejected as erroneous or unsatisfactory;
  - vi. Discontinuance of the Services for reasons or circumstances within your reasonable control;
  - vii. Failure to comply with any other material term or condition of this Agreement including, but not limited to, the provisions concerning insurance, compensation, reporting, monitoring, licensing and nondiscrimination;
  - viii. Failure promptly to update EDS(s) furnished in connection with this Agreement when the information or responses contained in it or them is no longer complete or accurate, including changes in ownership, and to provide the updated EDS(s) to the City as provided under Section 7.1(b), *Compliance with all Laws Generally*; and
  - ix. Any other acts specifically stated in this Agreement as constituting an act or event of default.
- C. Your default under any other agreement you may presently have or may enter into with the City during the Term. You consent that in the event of a default under this Agreement, the City may also declare a default under any other agreements with the City.
- D. Your failure to comply with Section 7, *Compliance with all Laws*, in the performance of the Agreement.
- E. Your violations of City ordinance(s) unrelated to performance under the Agreement that in the opinion of the Commissioner indicate a willful or reckless disregard for City ordinances and regulations.
- F. Any action or failure to act by you that causes the City to be in violation of any agreements it has with Federal or State departments or agencies.
- G. Any change in ownership or control of you without the prior written approval of the Commissioner (when such prior approval is permissible by law), which approval the Commissioner will not unreasonably withhold.
- H. Your failure, or the failure by any party that is a Controlling Person (defined in Section 1-23-010 of the Municipal Code) with respect to you, to maintain eligibility to do business with the City in violation of Section 1-23-030 of the Municipal Code; such failure shall render this Agreement voidable or subject to termination, at the option of the Chief Procurement Officer. You agree that your failure to maintain eligibility (or failure by any Controlling Person with respect to you to maintain eligibility) to do business with the City in violation of Section 1-23-030 of the Municipal Code shall constitute an event of default.

**9.2 Remedies.** The occurrence of any event of default permits the City, at the City's sole option, to declare you in default. The City may in its sole discretion give you an opportunity to cure the default within a certain period of time, which period of time must not exceed 30 days unless extended by

the City. Whether to declare you in default is within the sole discretion of the City and neither that decision nor the factual basis for it is subject to review or challenge under the Disputes provision of this Agreement.

The Commissioner will give you written notice of the default, either in the form of a cure notice ("**Cure Notice**"), or, if no opportunity to cure will be granted, a default notice ("**Default Notice**"). If the Commissioner gives a Default Notice, he will also indicate any present intent the City may have to terminate this Agreement, and the decision to terminate is final and effective upon giving the notice. If the City decides not to terminate, this decision will not preclude the City from later deciding to terminate the Agreement in a later notice, which will be final and effective upon the giving of the notice or on the date set forth in the notice, whichever is later. The Commissioner may give a Default Notice if, within the cure period given in a Cure Notice, in the sole opinion of the City, you fail to effect a cure or fail to commence and continue diligent efforts to cure the event of default. When a Default Notice with intent to terminate is given as provided in this Section 9.2 and Article 11, Notices, you must discontinue any Services, unless otherwise directed in the notice, and deliver all materials accumulated in the performance of this Agreement, whether completed or in the process, to the City.

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

- (a) The right to take over and complete the Services, or any part of them, at your expense and as agent for you, either directly or through others, and bill you for the cost of the Services, and you must pay the difference between the total amount of this bill and the amount the City would have paid you under the terms and conditions of this Agreement for the Services that were assumed by the City as agent for you under this Section 9.2;
- (b) The right to terminate this Agreement as to any or all of the Services yet to be performed effective at a time specified by the City;
- (c) The right of specific performance, an injunction or any other appropriate legal or equitable remedy;
- (d) The right to money damages;
- (e) The right to withhold all or any part of your compensation under this Agreement;
- (f) The right to deem you non-responsible in future contracts to be awarded by the City; and
- (g) The right to declare default on any other contract or agreement you may have with the City.

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

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

**9.3 Early Termination.** In addition to termination under Section 9.1, Events of Default Defined, and Section 9.2, Remedies, the City may terminate this Agreement, or all or any portion of the Services to be performed under it, at any time by a notice in writing from the City to you. The City will give notice to you in accordance with the provisions of Article 11, Notices. The effective date of termination will

be the date the notice is received by you or the date stated in the notice, whichever is later. If the City elects to terminate this Agreement in full, all Services to be provided under it must cease and all materials that may have been accumulated in performing this Agreement, whether completed or in the process, must be delivered to the City effective 10 days after the date the notice is considered received as provided under Article 11 (if no date is given) or upon the effective date stated in the notice.

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

You must include in your contracts with Subcontractors an early termination provision in form and substance equivalent to this early termination provision to prevent claims against the City arising from termination of subcontracts after the early termination. You will not be entitled to make any early termination claims against the City resulting from any Subcontractor's claims against you or the City to the extent inconsistent with this provision.

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

#### **9.4 [intentionally omitted]**

#### **9.5 Right to Offset**

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

- (i) if the City terminates this Agreement for default or any other reason resulting from your performance or non-performance;
- (ii) if the City exercises any of its remedies under Section 9.2, Remedies; or
- (iii) if the City has any credits due or has made any overpayments under this Agreement.

The City may offset these incremental costs and other damages by use of any payment due for Services completed before the City terminated this Agreement or before the City exercised any remedies. If the amount offset is insufficient to cover those incremental costs and other damages, you are liable for and must promptly remit to the City the balance upon written demand for it. This right to offset is in addition to and not a limitation of any other remedies available to the City.

(b) As provided under Section 2-92-380 of the Municipal Code and in addition to any other rights and remedies (including any of set-off) available to the City under this Agreement or permitted at law or in equity, the City is entitled to set off a portion of the price or compensation due under this Agreement 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 you to the City, as those terms are defined in Section 2-92-380.



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

## **ARTICLE 10. GENERAL CONDITIONS**

**10.1 [intentionally omitted]**

**10.2 [intentionally omitted]**

**10.3 [intentionally omitted]**

**10.4 Governing Law and Jurisdiction.** This Agreement is governed as to performance and interpretation in accordance with the laws of the State of Illinois. You irrevocably submit yourself to the original jurisdiction of those courts located within the County of Cook, State of Illinois, with regard to any controversy arising out of, relating to, or in any way concerning the execution or performance of this Agreement. Service of process on you may be made, at the option of the City, either by registered or certified mail addressed to the applicable office as provided for in this Agreement, by registered or certified mail addressed to the office actually maintained by you, or by personal delivery on any officer, director, or managing or general agent of you. If any action is brought by you against the City concerning this Agreement, the action must be brought only in those courts located within the County of Cook, State of Illinois.

**10.5 [intentionally omitted]**

**10.6 [intentionally omitted]**

**10.7 [intentionally omitted]**

**10.8 [intentionally omitted]**

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

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

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

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

(c) The City is not required to deduct or withhold any taxes, FICA or other deductions from any compensation provided to you.

**10.10 [intentionally omitted]**

**10.11 [intentionally omitted]**

**ARTICLE 11. NOTICES**

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

If to the **City**: The Department’s mailing address noted on the cover page of this Agreement, with copies to

Department of Law Room 600, City Hall 121 North LaSalle Street Chicago, Illinois 60602 Attention: Corporation Counsel	and	Office of Budget and Management Room 604, City Hall 121 N. LaSalle Street Chicago, Illinois 60602 Attention: Budget Director
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If to **Grantee (“You”)**: Your mailing address noted on the cover page of this Agreement.

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

You will advise the City of any significant change in your organizational structure. Significant changes include, but are not limited to, changes to:

- (a) the official to whom notice regarding the Agreement is provided and their mailing address;
- (b) the officers of the corporation, including president, chairman, vice president, treasurer, secretary; and
- (c) your key staff and/or your program sites, including executive director, site director, fiscal director; name, ownership, Federal employer identification number (FEIN) or taxpayer certification; legal status (including not-for-profit status); and site address or agency official address or telephone numbers.

Such communication must be directed within 10 calendar days of such occurrence (or, in the case of changes in legal status (including not-for-profit status), address, DUNS number, name, ownership, FEIN or taxpayer certification, 45 days in advance), to the Department’s Mailing Address noted on the cover page of this Agreement. No promise or undertaking made in this Agreement is an assurance that the City agrees to continue this Agreement should you reorganize, change owners, or otherwise substantially change the character of your corporate or other business structure.

**ARTICLE 12. AUTHORITY**

Your execution of this Agreement is authorized by a resolution of your Board of Directors, if a corporation, or similar governing document, and the signature(s) of each person signing on your behalf have been made with complete and full authority to commit you to all terms and conditions of this Agreement, including each and every representation, certification and warranty contained in it, including the representations, certifications and warranties collectively incorporated by reference in it.

**ARTICLE 13. [intentionally omitted]**

**ARTICLE 14. RELIGIOUS ACTIVITIES**

(a) You warrant that you will not engage in any inherently religious activities, such as worship, religious instruction, or proselytization, as part of or while carrying out the funded programs or Services.

(b) You warrant that if you do engage in inherently religious activities, such as worship, religious instruction, or proselytization,

- i. such activities will always be conducted separately, in time or location, from the funded programs or Services; and
- ii. any participation in such activities on the part of beneficiaries of the funded programs or Services must be wholly voluntary.

(c) You warrant that you will not discriminate against a beneficiary or prospective beneficiary of the funded programs or Services on the basis of religion, religious belief, or participation or nonparticipation in any inherently religious activities.

(d) If the Agreement involves any grant of funds for the acquisition, construction, or rehabilitation of structures, you warrant:

- i. The room or space that the grant funds will be used to acquire, construct or rehabilitate is not your primary place of worship; and
- ii. Grant funds will be used only for those portions of the acquisition, construction, or rehabilitation of the structures that are attributable to eligible activities; and
- iii. If in the future the structure is used for inherently religious activities or otherwise ceases being used for eligible activities, you will adhere to the rules on real property use and disposition and government reimbursement found in the applicable laws and regulations.

(e) For purposes of this section, "beneficiary" means a child participating in a Program and, in addition, his or her parents, guardians, other responsible adults and family members.

#### **ARTICLE 15. ACKNOWLEDGMENT**

You must confer with the City in advance of any public announcement, promulgation or other distribution with respect to the Services. You must clearly acknowledge the co-sponsorship of the City on all promotional materials including brochures, flyers, written or electronic public notices, news releases, public service announcements, acknowledgments at any special events intended to promote the Services, or solicitation of the private sector with the following language: "This project is partially supported by a Cultural Outreach Program grant from the City of Chicago Department of Cultural Affairs & Special Events." You must not attribute any statement to the City without the City's prior written approval. Further, all reports, maps and other documents completed as part of this Agreement, other than documents exclusively for internal use within the City, must contain the following information in a conspicuous place near the front of the report, map or document: name of City, month and year of preparation, and name of the project or portion of the project.

#### **ARTICLE 16. COMPLIANCE WITH ACCESSIBILITY LAWS**

You warrant that all Services and programs produced under this Agreement must comply with all accessibility standards for persons with disabilities or environmentally limited persons including, but not limited to the following: Americans with Disabilities Act of 1990, 42 U.S.C. § 12101 *et seq.* and Rehabilitation Act of 1973, 29 U.S.C. §§ 793-94. In the event that the above cited standards are inconsistent, you must comply with the standard providing greater accessibility.

#### **ARTICLE 17. PROHIBITION ON CERTAIN CONTRIBUTIONS - MAYORAL EXECUTIVE ORDER No. 2011-4**

You agree that you, any person or entity who directly or indirectly has an ownership or beneficial interest in you of more than 7.5 percent ("**Owners**"), spouses and domestic partners of such Owners, your Subcontractors, any person or entity who directly or indirectly has an ownership or beneficial interest in any Subcontractors of more than 7.5 percent ("**Sub-owners**") and spouses and domestic partners of such Sub-owners (you and all the other preceding classes of persons and entities are together, the "**Identified Parties**"), shall not make a contribution of any amount to the Mayor of the City (the "**Mayor**") or to his political fundraising committee (i) after execution of this bid, proposal or Agreement by you, (ii) while this Agreement or any Other Contract is executory, (iii) during the term of this Agreement or any Other Contract between you and the City, or (iv) during any period while an extension of this Agreement or any Other Contract is being sought or negotiated.

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

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

You agree 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.

You agree 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 any Other Contract, at law and in equity. This provision amends any Other Contract and supersedes any inconsistent provision contained therein.

If you violate this provision or Mayoral Executive Order No. 2011-4 prior to award of the Agreement resulting from this specification, the Commissioner may reject your bid.

For purposes of this provision:

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

**"Other Contract"** means any other agreement with the City to which you are a party that is (i) formed under the authority of chapter 2-92 of the Municipal Code; (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.

For purposes of this Article 17 only, individuals are "**Domestic Partners**" if they satisfy the following criteria: (a) they are each other's sole domestic partner, responsible for each other's common welfare; and (b) neither party is married, as marriage is defined under Illinois law; and (c) the partners are not related by blood closer than would bar marriage in the State of Illinois; and (d) each partner is at least 18 years of age, and the partners are the same sex, and the partners reside at the same residence; and

(e) two of the following four conditions exist for the partners: (i) the partners have been residing together for at least 12 months, (ii) the partners have common or joint ownership of a residence, (iii) the partners have at least two of the following arrangements: (A) joint ownership of a motor vehicle; (B) a joint credit account; (C) a joint checking account; and (D) a lease for a residence identifying both domestic partners as tenants, and (iv) each partner identifies the other partner as a primary beneficiary in a will.

**"Political fundraising committee"** means a "political fundraising committee" as defined in Chapter 2-156 of the Municipal Code.

**ARTICLE 18. [intentionally omitted]**

**ARTICLE 19. EXCLUDED PROVIDER WARRANTY AND INDEMNITY**

You hereby represent and warrant that you and your employees and agents are not now and at no time have been excluded from participation in any federally funded health care program, including Medicare and Medicaid. This is an ongoing obligation of yours to ensure that you are not employing or contracting with individuals that have been sanctioned by the U.S. Department of Health and Human Services Office of Inspector General ("**OIG**") or barred from federal procurement programs. You shall check the **OIG's** cumulative sanctions reports and General Series Administration website on a monthly basis. You hereby agree to immediately notify the City of any threatened, proposed, or actual exclusion from any such program of yours or any such program of any of your employees or agents. In the event that you or any of your employees or agents performing Services hereunder are excluded from participation in any federally funded health care program during the term of this Agreement, or at any time after the effective date of this Agreement, you shall be deemed to be in breach of this section and this agreement shall, as of the effective date of such exclusion or breach, automatically terminate. You shall indemnify and hold harmless the City against all actions, claims, demands and liabilities, and against all loss, damage, and costs and expenses, including reasonable attorney's fees, arising directly or indirectly, out of any violation of this section or due to the exclusion of you or any of your employees and agents from a federally funded health care program, including Medicare or Medicaid.

**Exhibit D**  
**Grant Agreement**

**COMPLIANCE WITH HEALTH INSURANCE PORTABILITY AND ACCOUNTABILITY ACT (HIPAA)  
REQUIREMENTS**

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

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