



Public Building Commission of Chicago  
Richard J. Daley Center, Room 200  
50 W. Washington Street  
Chicago, Illinois 60602  
www.pbcchicago.com

SAMPLE

ENGINEER OF RECORD SERVICES  
AGREEMENT

**PUBLIC BUILDING COMMISSION OF CHICAGO**

**AND**

**RESPONDENT**

**FOR**

**ENGINEER OF RECORD SERVICES FOR  
PROJECT NAME**

Public Building Commission of Chicago  
Richard J. Daley Center, Room 200  
50 W. Washington Street  
Chicago, Illinois 60602  
www.pbcchicago.com

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|                    |  |
| FIRM NAME:         |  |
| CONTACT NAME:      |  |
| CONTACT TELEPHONE: |  |
| CONTACT EMAIL:     |  |
| ADDRESS:           |  |

Mayor Rahm Emanuel  
Chairman

Carina Sánchez  
Executive Director

TABLE OF CONTENTS

| <u>Title</u>   | <u>Page</u> |
|--|-------------|
| Execution Page .....   | 3           |
| Terms and Conditions.....  | 5           |
| Schedule A – Scope of Services.....  | 18          |
| Schedule B – Compensation of the Engineer .....  | 33          |
| Schedule C – Insurance Requirements .....  | 35          |
| Schedule D – Key Personnel.....  | 38          |
| Exhibit A – Disclosure Affidavit.....  | 39          |
| Exhibit B – Legal Actions .....  | 47          |
| Exhibit C – Disclosure of Retained Parties .....   | 49          |
| Exhibit D – Special Conditions Regarding the Utilization of MBE and WBE Firms & Related Schedules..... | 52          |

SAMPLE

**EXECUTION PAGE**

**Engineer of Record Services for PROJECT NAME**

**THIS AGREEMENT** effective as of **DATE**, but actually executed on the date witnessed, is entered into by and between the Public Building Commission of Chicago, a municipal corporation of the State of Illinois, having its principal office at Room 200, Richard J. Daley Center, 50 West Washington Street, Chicago, Illinois 60602, (the "Commission"), and **EOR NAME and ADDRESS** (the "Engineer" or "Consultant").

**RECITALS**

**WHEREAS**, The Public Building Commission of Chicago ("**Commission**" or "**PBC**"), a municipal corporation organized and operating under the Constitution of the State of Illinois and on behalf of various clients including, but not limited to, the City of Chicago, Chicago Park District, Chicago Public Library, Chicago Department of Fleet and Facility Management, City Colleges of Chicago, and Board of Education, (referred to collectively in this Agreement as the "**User Agency**"), intends to undertake the renovation, repair, and/or improvement of the PROJECT NAME AND ADDRESS ("Project").

**WHEREAS**, the Commission requires certain professional services described in the Agreement, in connection with the Project and desires to retain the Engineer on the terms and conditions set forth in the Agreement to perform such Services. The Engineer desires to be so retained by the Commission and has represented to the Commission that the Engineer has the knowledge, skill, experience and other resources necessary to perform the Services in the manner provided by the Agreement;

**WHEREAS**, the Engineer represents that it is qualified and competent by education, training, and experience to prepare drawings, specifications and construction documents necessary to complete the Project in accordance with standards of reasonable professional skill and diligence and to review drawings, specifications and construction documents prepared by others for conformity with landscape design standards established by the Commission;

**WHEREAS**, the Commission has relied upon the Engineer's representations in selecting the Engineer;

**WHEREAS**, in reliance upon the Engineer's representations, the Commission has selected the Engineer to perform the Services on the terms and conditions set forth in this Agreement as modified from time to time by Task Order.

**NOW, THEREFORE**, the parties have executed this Agreement on the terms and conditions that follow:

**SAMPLE**

EXECUTION PAGE  
Engineer of Record Services for PROJECT NAME

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

**PUBLIC BUILDING COMMISSION OF CHICAGO**

By: \_\_\_\_\_  
Rahm Emanuel  
Chairman  
Date \_\_\_\_\_

By: \_\_\_\_\_  
Lori Ann Lypson  
Secretary  
Date \_\_\_\_\_

**SELECTED RESPONDENT**

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

Print Name: \_\_\_\_\_

Title: \_\_\_\_\_

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

AFFIX CORPORATE  
SEAL, IF ANY, HERE

Subscribed and sworn before me by \_\_\_\_\_

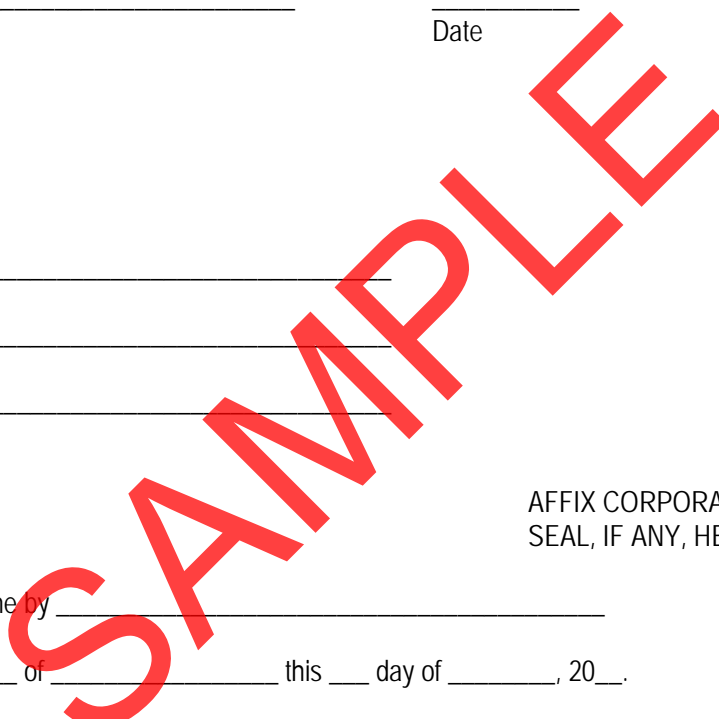
as \_\_\_\_\_ of \_\_\_\_\_ this \_\_\_\_ day of \_\_\_\_\_, 20\_\_.

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

My Commission Expires \_\_\_\_\_.

Approved as to Form and Legality:

By: \_\_\_\_\_  
Neal & Leroy, LLC  
Date \_\_\_\_\_



## TERMS AND CONDITIONS

### Article I. INCORPORATION OF RECITALS

**Section 1.01** The matters recited above, the "Background Information," are incorporated in and made a part of the Agreement.

### Article II. DEFINITIONS AND USAGE

**Section 2.01** Definitions. The following phrases have the following meanings for purposes of the Agreement:

- (a) *Agreement.* This Agreement for Engineer Services, between the Commission and the Engineer, including all attached exhibits, schedules and documents and all such exhibits, schedules and documents incorporated by reference, all component parts and all amendments, modifications, or revisions made in accordance with its terms.
- (b) *Engineer or Engineer of Record or Consultant.* The company or other entity identified in the Agreement, and such successors or assigns, if any, as may be authorized by the terms and conditions of the Agreement.
- (c) *Authorized Commission Representative(s).* One or more persons designated in writing by the Executive Director for the purposes of assisting the Commission in managing the Project. As specifically directed by the Commission, the Authorized Commission Representative will act on behalf of the Commission.
- (d) *Commission.* The Public Building Commission of Chicago, a municipal corporation, acting by and through its Chairman, Secretary, Assistant Secretary, Executive Director, including the Commission's Authorized Representative, as designated by the Executive Director in writing.
- (e) *CW or CW System.* The on-line collaboration workspace and document management system established and maintained by the Commission for electronic submission and receipt of documents and reports.
- (f) *Additional Services.* Additional services to be provided by the Engineer for the Project pursuant to the provisions of Schedule A.
- (g) *Day.* Unless otherwise indicated, the word "day" means calendar day. The phrase "business day" refers to Monday through Friday, except for national holidays.
- (h) *Deliverables.* The documents, in any format (electronic or hard copy) requested by the Commission, including technical specifications, designs, drawings, plans, reports, forms, recommendations, analyses, and interpretations, the Engineer is required, under this Agreement, to provide to the Commission.
- (i) *Executive Director.* The person employed by the Commission as its Executive Director or designee.
- (j) *Key Personnel.* Those job titles and individuals identified herein.
- (k) *Project.* The renovation, repair, and/or improvement of the PROJECT NAME.
- (l) *Services.* Collectively, the duties, responsibilities and tasks that are necessary to allow the Engineer to provide the Scope of Services required by the Commission under this Agreement.
- (m) *Subconsultant or Subcontractor.* Any person or entity hired or engaged by the Engineer to provide any part of the Services required under the terms of this Agreement.
- (n) *Task Order.* A document issued by the Commission to the Consultant pursuant to this Agreement that authorizes in writing Services and/or Deliverables to be provided by the Engineer, together with any applicable exhibits or schedules, a timetable for any Deliverables and the applicable fees.

- (o) *User Agency.* The governmental agency or agencies identified in the Background Information that requested the Commission to undertake the construction and/or improvement of the Project.

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

## Article III. INCORPORATION OF DOCUMENTS

The following documents are incorporated in and made a part of the Agreement. By executing the Agreement, the Engineer acknowledges that Engineer is familiar with the contents of each of such documents and will comply fully with all applicable portions of them in performing the Services.

**Section 3.01 Policies Concerning MBE and WBE.** The Commission's policies concerning utilization of minority business enterprises ("MBE") and women business enterprises ("WBE"), as the same may be revised from time to time.

**Section 3.02** All Exhibits and Schedules attached hereto at the time of execution are a part of and fully incorporated into this Agreement.

## Article IV. ENGAGEMENT AND STANDARDS FOR PERFORMING SERVICES

**Section 4.01 Engagement.** The Commission engages the Engineer, and the Engineer accepts the engagement, to provide the Services described in this Agreement, as those Services may be amended by an Amendment to the Agreement as provided below in Section 4.13.

**Section 4.02 Key Personnel.** The Engineer must not reassign or replace Key Personnel without the written consent of the Commission. The Commission may at any time in writing notify Engineer that the Commission will no longer accept performance of Services under this Agreement by one or more Key Personnel listed in the Agreement in Schedule D. Upon that notice Engineer must immediately suspend the Key Person or Key Persons from performing Services under this Agreement and must replace him/her or them with a person or persons with comparable professional credentials and experience. Such replacements are subject to approval by the Commission.

**Section 4.03 Adequate Staffing.** The Engineer 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 and qualified to perform the Services. The Engineer must include among its staff the Key Personnel and positions as identified in the Agreement and specified in Schedule D. The level of staffing may be revised from time to time by notice in writing from Engineer to the Commission and with prior written consent of the Commission.

**Section 4.04 Nondiscrimination.** In performing under this Agreement the Engineer 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. The Engineer 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. The Engineer will further furnish such reports and information as may be requested by the Commission, 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.

**Section 4.05 Employment Procedures; Preferences and Compliance.** Salaries of employees of the Engineer, 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. The Engineer 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). The Engineer 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 Commission may withhold from the Engineer, out of payments due to the Engineer, 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 Commission for and on account of the Engineer to the respective employees to whom they are due, as determined by the Commission in its sole discretion.

**Section 4.06 Compliance with Policies Concerning MBE and WBE.** Without limiting the generality of the requirements of the policies of the Commission referred to in Section 3.01 above, the Engineer will use every reasonable effort to utilize minority business enterprises and women business enterprises for the percentages outlined in Exhibit D, and in accordance with the Resolution passed by the Board of Commissioners of the Commission on October 1, 2004, and the Amended Resolution passed on June 12, 2012, concerning participation of minority business enterprises and women business enterprises on contracts, other than construction contracts, awarded by the Commission and to furnish to the Commission, such reports and other information concerning compliance with such Resolution as may be requested by the Commission from time to time.

**Section 4.07 Records.** The Engineer must maintain accurate and complete records of expenditures, costs and time incurred by the Engineer and by consultants engaged by the Engineer in connection with the Project and the Services. Such records will be maintained in accordance with recognized commercial accounting practices. The Commission may examine such records at the Engineer's offices upon reasonable notice during normal business hours. The Engineer must retain all such records for a period of not less than five calendar years after the termination of the Agreement. However, if there is a disagreement over fees, then five years or until a final resolution of the matter whichever occurs later.

**Section 4.08 Compliance with Laws.** In performing its engagement under the Agreement, the Engineer must comply with all applicable federal, state and local laws, rules, and regulations. The Engineer and its Subconsultants, including all officers, directors, agents, partners and employees of such entities shall cooperate with the Inspector General of the Public Building Commission and the Inspector General of the User Agency in any investigation or hearing undertaken pursuant to Public Building Commission Resolution 7576 adopted by the Board of Commissioners of the Public Building Commission of Chicago on October 1, 2010.

The Engineer has read and agrees to comply with all provisions of the Code of Ethics Resolution passed by the Commission on October 3, 2011, which is available on the Commission's website at [http://www.pbcchicago.com/pdf/RES\\_PBC\\_ECR\\_CodeofEthicsAmendOct32011\\_20110920.pdf](http://www.pbcchicago.com/pdf/RES_PBC_ECR_CodeofEthicsAmendOct32011_20110920.pdf), and is incorporated into this Agreement by reference.

**Section 4.09 Defects in Project.** The Engineer must notify the Commission immediately if the Engineer obtains knowledge of an issue or circumstances which could result in a delay in the performance of Services or significant problem in connection with the Project, including construction defects, cost overruns or scheduling delays.

**Section 4.10 Performance Standard.**

- (a) The Engineer represents that the Services performed under the Agreement will proceed with efficiency, promptness and diligence and will be executed in a competent and thorough manner, in accordance with reasonable professional standards in the field consistent with that degree of skill and care ordinarily exercised by practicing design professionals

performing services of a scope, purpose, and magnitude comparable with the Services to be provided under this Agreement. The Engineer further promises that it will assign at all times during the term of the Agreement the number of experienced, appropriately trained employees necessary for the Engineer to perform the Services in the manner required by the Agreement.

- (b) The Engineer must ensure that all Services that require the exercise of professional skills or judgment are accomplished by professionals qualified and competent in the applicable discipline and appropriately licensed, if required by law. The Engineer must maintain current copies of any such licenses and provide these copies upon request by the Commission. The Engineer remains responsible for the professional and technical accuracy of all Services furnished, whether by the Engineer or others on its behalf. All deliverables will be prepared in a form and content satisfactory to the Commission and delivered in a timely manner consistent with the requirements of the Agreement.
- (c) The Engineer must not use any business or individual who is disqualified by the Commission or debarred under any other governmental agency's procedures to provide the Services under the Agreement.
- (d) If the Engineer fails to comply with the obligations under the standards of the Agreement, the Engineer must perform again at its own expense, all Services required to be re-performed as a direct or indirect result of that failure. Any review, approval, acceptance or payment for any of the Services by the Commission does not relieve the Engineer 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 Commission's rights against the Engineer either under the Agreement, at law or equity.
- (e) Evaluations of the Commission'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 Engineer represent the Engineer's judgment as a design professional familiar with the construction industry. It is recognized, however, that neither the Engineer nor the Commission has control over the cost of labor, materials or equipment, over the Contractor's methods of determining bid prices, or over competitive bidding, market or negotiating conditions.

**Section 4.11 Errors and Omissions.** As directed by the Commission's Authorized Representative, the Engineer will, without additional compensation, prepare addenda, change orders and/or bulletins required to correct or clarify errors, omissions or ambiguities. The Commission has a committee that reviews the project for alleged errors and omissions by the Engineer. The Committee will, as appropriate, conduct an internal review of the alleged error and omission, provide a written statement of claim regarding the alleged error and omission to the Engineer, allow the Engineer to respond in writing, and meet with the Engineer to attempt to settle the claim when the Commission concludes an error or omission has occurred. The Engineer will attend such meetings without additional compensation. Upon notice or discovery, and as directed by the Commission, the Engineer will perform, without additional compensation, the required professional services to issue an addenda to the bidding documents, or change orders to the contract documents, to correct or clarify errors, omissions, or ambiguities. The Commission reserves the right to recover, from the Engineer, damages incurred by the Commission resulting from errors or omissions in the construction documents prepared by the Engineer. The Commission may withhold payments, in whole or in part, for a material breach of the Agreement, including but not limited to, the Engineer's failure to perform services or meet the schedule, design errors or omissions, and failure to adhere to terms of this Agreement.

If the Commission and the Engineer disagree with regard to the Engineer's fault or as to whether the Engineer is entitled to Additional Services for the work required by the Commission in this paragraph, then the Engineer may assert a dispute pursuant to the provisions of this Agreement. However, the Engineer must provide Services as directed by the Commission during the pendency of any dispute.

**Section 4.12 Amendments to this Agreement.** The Commission 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 Commission and Engineer, will be incorporated in a written amendment to the Agreement. The Commission will not be liable for any additional payment absent such written amendment.

**Section 4.13 Limitations on Sub-Consultants and Subcontractors.** Engineer must not use any business or individual who is disqualified by the Commission or debarred under any other governmental agency's procedures to provide the Services under the



Agreement.

#### Section 4.14 Task Orders.

- (a) **Task Order Service Requests.** During the term of the Agreement, the Commission may issue one or more requests or solicitations for specific Services to be performed under the Agreement (a "Task Order Service Request" or "TOSR"). Each such Task Order Request will identify the Project, describe the specific Services to be performed, the desired completion date, and any other information or documents to be provided by the Engineer in responding to the Task Order Service Request.
- (b) **Task Order Proposals.** Engineer must submit to the Commission a written response to the Task Order Service Request by providing the information and documents requested (the "Task Order Proposal"). The Task Order Proposal will propose a schedule, budget, Deliverables, a list of technical personnel who will perform the Services and any other information or documents listed in the Task Order Service Request. The Task Order Proposal must be submitted within the time specified in the Task Order Service Request. Any costs associated with the preparation of such Task Order Proposal are not compensable under the Agreement and the Commission is not liable for any such costs.
- (c) **Review Process.** The Commission will review the Task Order Proposal and may elect to approve it, reject it, or use it as a basis for further negotiations with the Engineer regarding the Task Order and specific Services to be performed and/or Deliverables to be provided. If the Commission and Engineer negotiate changes to the Task Order regarding the specific Services and/or Deliverables to be provided, Engineer must submit a revised Task Order Proposal (based upon such negotiations) to the Commission.
- (d) **Notice of Approval of Task Orders.** All Task Orders are subject to the written approval of the Commission and no Task Order will become binding upon the Commission until it is approved in writing by the Executive Director (or designee). Absent approval of a Task Order, as described below, the Commission will not be obligated to pay or have any liability to Engineer for any Services or Deliverables provided by Consultant pursuant to such Task Order. An approved Task Order shall include, a signed approval on Commission letterhead, Engineer's proposal, approved Certificate of Insurance, and an approved MBE/WBE Compliance plan.
- (e) **No Obligation.** Consultant acknowledges and agrees that the Commission is under no obligation to issue any Task Orders, and that it is within the Commission's discretion whether to include Consultant in any solicitation for Task Order Proposals.

**Section 4.15** The Commission may require the Engineer to use the Commission's electronic document management system in performing the Services and the assigned Task Order. At the direction of the Commission, the Engineer must follow the CW procedures and submit progress reports and other Deliverables through the CW System. The Engineer must attend courses and receive training on the CW System provided by or on behalf of the Commission. Any costs incurred by Engineer as a result of the attendance of Consultant's personnel at CW System courses are not compensable by the Commission.

#### Article V. TERM

**Section 5.01 Duration.** The term of this agreement shall continue through the Commission's final acceptance of Project deliverables.

**Section 5.02 Termination by the Commission.** The Commission 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 Engineer at least 30 days before the effective date of termination. So long as the Engineer is not in default under this Agreement at the time of termination, the Commission will pay the Engineer, in accordance with the terms of this Agreement, all compensation and reimbursements due to the Engineer for periods up to the effective date of termination. The Commission may exercise any right of set off regarding Engineer's failure to properly perform Services from payments that are due to Engineer.

**Section 5.03 Suspension by the Commission.** The Commission also has the right, at any time and from time to time, with or without cause, to suspend the performance of the Engineer hereunder with respect to all or any part of the Services, by written notice given to the Engineer at least 5 days before the effective date of suspension. During the notice period the Engineer must

wind down its Services. So long as the Engineer is not in default under this Agreement at the time of suspension, the Commission will pay the Engineer, in accordance with the terms of this Agreement, all compensation and reimbursements due to the Engineer for periods up to the effective date of suspension

- (a) During the period the Engineer's performance is suspended, the Engineer is not entitled to incur fees or bill the Commission, except for Engineer's time for participating in substantive meetings concerning the Project (but not for meetings to discuss Engineer's invoices or claims). The Engineer may bill such time spent during a suspension only if the Engineer's participation is requested by the Commission and only for the time of one individual per meeting. Commission will pay for such time at the applicable hourly billing rate set forth in Schedule B. Participation in meetings at the request of the Commission is not considered to be resumption of the Engineer's Services.
- (b) If the Engineer is required to resume its Services under this Agreement, the Commission will notify Engineer in writing, giving Engineer a reasonable period not to exceed 10 days to remobilize itself. The Engineer may bill such time spent on remobilization. The Commission will pay for such remobilization as is reasonable and billed at the hourly rate for one Senior Project Manager or less at the hourly billing rate set forth in Schedule B. The number of days during which the suspension period lasted, including any remobilization time, will be added to the Completion Date of Services as determined in accordance herein, establishing a revised Completion Date of Services, and Engineer will re-commence its Services at the point they were suspended and may resume billing in accordance with the terms of the Agreement.

**Section 5.04 Effect of Termination or Suspension.** Termination or suspension of this Agreement in whole or in part does not relieve the Engineer from liability for its performance of any obligation under this Agreement that was performed or was to have been performed by the Engineer on or before the effective date of termination or suspension. In no event will the Commission be liable to the Engineer for any loss, cost or damage, including lost profits, which the Engineer or any other party may sustain by reason of the Commission terminating or suspending this Agreement as provided in it.

**Section 5.05 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 Commission may, at any time during the continuation of the force majeure event, elect to suspend the performance of the Engineer under the Agreement for the duration of the force majeure. The Commission will not be obligated to pay for the Services to the extent and for the duration that performance of the Services is delayed or prevented by force majeure, but provided the Engineer is not in default of any obligation of the Engineer under the Agreement, the Commission will pay to the Engineer, according to the terms of the Agreement, all compensation and reimbursements due to the Engineer for periods up to the effective date of suspension. The term "force majeure" means an extrEORdinary 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: extrEORdinary acts of nature, such as tornadoes; or of people, such as acts of terrorism; or of governments, such as imposition of martial law.

## **Article VI. COMPENSATION OF ENGINEER**

**Section 6.01** The Commission will compensate the Engineer for the Services in the amount and manner set forth as described in Schedule B and as modified by each duly executed Task Order.

**Section 6.02 Maximum Compensation.** Engineer's compensation under this Agreement shall be established by each duly authorized Task Order.

**Section 6.03 Delays.** The Engineer agrees that no charges for damages or claims for damages shall be asserted by it against the Commission for any delays or hindrances from any cause whatsoever during the progress of any portion of the Services. Such

delays or hindrances, if any, shall be compensated for by an extension of time to complete the Services, for such reasonable period as may be mutually agreed upon between the parties, it being understood, however, that the agreement of the Commission to allow the Consultant to complete the Services or any part of them after the time provided for the completion thereof herein shall in no way operate as a waiver on the part of the Commission of any of its rights hereunder.

## Article VII. RIGHTS AND OBLIGATIONS OF COMMISSION

**Section 7.01 General and Specific.** In connection with the administration of the Project by the Commission and the performance of the Agreement by the Engineer, the Commission has the following rights and obligations, in addition to those provided elsewhere in the Agreement:

- (a) Information. The Commission will provide the Engineer all information reasonably required concerning the Commission's requirements for the Project and the Services.
- (b) Review of Documents. Subject to the provisions of the Agreement, the Commission will make reasonable efforts to examine documents submitted by the Engineer and render decisions pertaining to them with reasonable promptness.
- (c) Site Data. To the extent the Commission determines to be necessary for the Engineer to perform the Services, the Commission may furnish, or may authorize the Engineer to obtain from a company or companies approved by the Commission as Reimbursable Expenses:
  - (i) 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.
  - (ii) A certified title.
  - (iii) Information concerning locations, dimensions and data pertaining to existing buildings and other improvements
  - (iv) Title information as to restrictions, easements, zoning and deed restrictions.
  - (v) Information concerning availability of both public and service and utility lines. See Schedule A for more details.
  - (vi) If the Engineer does procure these or any other site information services at the request of the Commission, the Engineer shall not be liable for the substantive accuracy or completeness of such services, nor shall the Engineer be vicariously liable for the procured services.
- (d) Tests and Reports. To the extent required for the Engineer to perform the Services, the Commission 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 Engineer to procure such tests and reports from a consultant or consultants approved in writing by the Commission. See Schedule A for more details. The Commission will pay for such tests and reports, however, the Commission may direct the Engineer to procure such professional services as Reimbursable Expenses and submit invoices to the Commission for payment as provided in Schedule B.

**Section 7.02 Audits.** The Commission has the right to abstract and audit the books of the Engineer and its subcontractors on all subjects relating to the Project and/or the Services.

**Section 7.03 Legal, Auditing and other Services.** The Commission will arrange and pay for such legal, auditing, insurance counseling and other services as the Commission, in its sole discretion, may determine to be required for the Project. Such payments will not include legal or auditing expenses arising out of or relating to any errors or omissions, or claimed errors or omissions, of the Engineer.

**Section 7.04 Ownership of Documents.** All designs, drawings, documents, data, studies and reports prepared by the Engineer or any party engaged by the Engineer, pertaining to the Project and/or the Services will be the property of the Commission. Engineer shall provide the Commission with opportunity to review all such documents and shall provide copies to the Commission upon written request. The Engineer may reuse standard details and specifications on other projects.

- (a) The parties intend that, to the extent permitted by law, the drawings, specifications and other design documents to be produced by the Engineer and its subcontractors pursuant to this Agreement (the "Work") will conclusively be deemed "works made for hire" within the meaning and purview of Section 101 of the United States Copyright Act, 17 U.S.C. § 101 et seq., and that the Commission, the User Agency and their successors and assigns, will be the copyright owner of all aspects, elements and components of them in which copyrights can subsist. To the extent that any of the foregoing does not qualify as a "work made for hire," the Engineer hereby irrevocably grants, conveys, bargains, sells, assigns, transfers and delivers to the Commission, the User Agency and their successors and assigns, all right, title, and interest in and to the copyrights and all U.S. and foreign copyright registrations, copyright applications and copyright renewals for them, and all other intangible, intellectual property embodied in or pertaining to the Work contracted for under the Agreement, free and clear of any liens, claims or other encumbrances, to the fullest extent permitted by law.
- (b) The Engineer will execute all documents and, at the expense of the Commission, perform all acts that the Commission may reasonably request in order to assist the Commission, the User Agency and their successors and assigns, in perfecting their rights in and to the copyrights relating to the Work.
- (c) The Engineer represents to the Commission, the User Agency and their successors and assigns, that (1) the Work constitutes a work of authorship; (2) on the date of this Agreement the Engineer is the lawful owner of good and marketable title in and to the copyrights for the Work (including the copyrights on designs and plans relating to the Work); (3) the Engineer has the legal right to fully assign any such copyright with respect to the Work; (4) the Engineer has not assigned any copyrights nor granted any licenses, exclusive or non-exclusive, to any other party; and (5) the Engineer is not a party to any other agreement or subject to any other restrictions with respect to the Work.
- (d) In addition, the Engineer represents that the plans and designs for the Work will, upon completion of the Services be complete, entire and comprehensive in accordance with the typical practices and performance standard of this Agreement. The Engineer will provide the Commission the final plans and specifications for the project in an editable, electronic form. Further, the Engineer will not restrict or otherwise interfere with the Commission's and/or the User Agency's future actions in authorizing the use, adaptation, revision, or modification or destruction of the Work provided that the Engineer is indemnified by the Commission for any damages resulting from any such future re-use or adaptation of the Work.

#### Article VIII. INDEMNIFICATION

- (a) Professional Indemnity. For claims alleging professional negligence, the Engineer must indemnify and hold the Commission and the User Agency and their respective commissioners, board members, officers, officials and employees (hereafter the Indemnified Parties) free and harmless from and against all claims, demands, suits, losses, costs and expenses, including reasonable fees and expenses of attorneys, court costs and expert's fees, that may arise out of the Engineer's negligent acts, errors and omissions and misconduct in the Engineer's performance under this agreement or the performance of any Subcontractor retained by the Engineer in connection with this agreement.
- (b) General Indemnity. For all other claims, the Engineer must protect, indemnify, and hold the Commission and the User Agency and their respective commissioners, board members, officers, officials and employees (hereafter the Indemnified Parties) free and harmless from and against all claims, demands, suits, losses, costs and expenses, including the fees and expenses of attorneys, 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 Engineer's performance under this agreement or any Subcontractor retained by the Engineer in connection with this agreement.
- (c) The indemnification obligations provided in this Article VIII will be effective to the maximum extent permitted by law. This indemnity extends to reasonable legal costs, including, without limitation: attorney fees, costs, liens, judgments, settlements, penalties, professional fees or other expenses incurred by the Indemnified Party(ies), including but not limited to reasonable settlement of such claims. This indemnification is not limited by any amount of insurance required under this Agreement. Further, the indemnity contained in this section will survive the expiration or termination of this Agreement. For claims subject to the general indemnity, the Engineer shall be solely responsible for the defense of any and all claims, demands, or suits against the Indemnified Parties, including without limitation, claims by an employee, subcontractor, agents or servants of the Engineer even though the claimant may allege that the Indemnified Parties were in charge of the Services or allege negligence on the part of the Indemnified Parties. The Indemnified Party/Parties will

have the right, at its sole option, to participate in the defense of any such suit, without relieving the Engineer of its obligations hereunder.

To the extent permissible by law, the Engineer waives any limits to the amount of its obligations to indemnify or contribute to any sums due pursuant to Engineer's obligations. Notwithstanding the forgoing, nothing in this Article VIII obligates the Engineer to indemnify an Indemnified Party for the Indemnified Party's own negligence or willful misconduct. Defense costs shall be allocated on a comparable fault basis.

#### **Article IX. INSURANCE MAINTAINED BY THE ENGINEER**

The Engineer will purchase and maintain at all times during the performance of Services, for the benefit of the Commission, the User Agency and the Engineer, insurance coverage which will insure the Commission, the User Agency and the Engineer against claims and liabilities which could arise out of the performance of such Services, including the insurance coverages set forth in Schedule C to this Agreement.

#### **Article X. DEFAULT**

**Section 10.01** Events of Default. Each of the following occurrences constitutes an Event of Default by the Engineer under the Agreement:

- (a) Failure or refusal on the part of the Engineer to duly observe or perform any obligation or agreement on the part of the Engineer contained in the Agreement, which failure or refusal continues for a period of 10 days (or such longer period as the Commission, in its sole discretion, may determine if such failure is not capable of being cured within such 10-day period) after the date on which written notice of it has been given to the Engineer by the Commission;
- (b) Any representation or warranty of the Engineer 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 Engineer 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 Engineer 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 60 days following commencement of the proceeding, or appointment of, without the Engineer's consent or acquiescence, any trustee, receiver, liquidator or other custodian of Custodian or of all or any substantial part of the Engineer's assets and properties, and such appointment will not have been vacated, stayed, discharged, bonded or otherwise dismissed within 60 days of the appointment.
- (e) The Engineer's material failure to perform any of its obligations under the Agreement, including any of the following:
  - (i) Failure due to a reason or circumstance within the Engineer's reasonable control to perform the Services with sufficient personnel, and equipment or with sufficient material to ensure the performance of the Services according to this Agreement;
  - (ii) 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;
  - (iii) Failure to promptly re-perform within a reasonable time the Services that were rejected as erroneous or unsatisfactory per the Terms of this Agreement;



- (iv) Discontinuance of the Services for reasons within the Engineer's reasonable control; or
- (v) Failure to comply with a material term of the Agreement, including the provisions concerning insurance and nondiscrimination.
- (vi) The Engineer shall have a ten day period to cure following written notice for the events of default listed here.
- (f) Any change in ownership or control of the Engineer (as defined in Article XIII) without prior written approval of the Executive Director which approval the Executive Director will not unreasonably withhold.
- (g) The Engineer's default under any other agreement it presently may have or may enter into with the Commission, the User Agency, the City of Chicago, the Chicago Public Schools or the Chicago Park District. Engineer acknowledges that in event of a default under any such Agreement the Commission may also declare a default under this Agreement.

**Section 10.02** If an Event of Default occurs and continues, then the Commission 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 Engineer, in which event the Commission has no further obligations hereunder or liability to the Engineer except as to payment for Services actually received and accepted by the Commission through the effective date of termination, subject to set off of any claims of the Commission against the Engineer for failure to properly perform its services. No courses of dealing on the part of the Commission or delay or failure on the part of the Commission to exercise any right will operate as a waiver of such right or otherwise prejudice the Commission's rights, powers or remedies. The Commissioner's decision to terminate the Agreement is not subject to claim or dispute under Article XI.

**Section 10.03** Remedies Not Exclusive. No right or remedy in the Agreement conferred upon or reserved to the Commission is exclusive of any right or remedy provided or permitted under this Agreement or by law or equity, but each 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 XI. CLAIMS AND DISPUTES**

**Section 11.01** 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 allowability of compensation, and all claims for alleged breach of contract will first be presented to the Authorized Commission Representative. The Engineer will present all disputes which can not be resolved, by discussion with the Authorized Commission Representative, to the Executive Director for final determination, subject to Section 11.04 below.

**Section 11.02** Claim Procedure. The Engineer 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 the position of the Engineer; 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 Commission Representative will have 30 business days to respond in writing to the Claim by supplementing the submission or providing its own submission. The Authorized Commission Representative will attempt to negotiate a resolution of the claim by agreement, but if a negotiated resolution is not achieved, the Authorized Commission Representative must provide a written ruling within 60 days of receipt of the Claim.

However, if the Engineer agrees in writing, an extension not to exceed sixty (60) days may be granted by the Executive Director. The Dispute must be filed within thirty (30) days of the receipt of the ruling by the Authorized Commission Representative.

**Section 11.03** Dispute Procedure. In the event that the Authorized Commission Representative and Engineer can not resolve the Claim, the Engineer may file a Dispute to the Executive Director. The Dispute submission must be in writing and contain the information required in Section 11.02 above and be copied to the Authorized Commission Representative. The Authorized Commission Representative shall file a response within thirty (30) days.

**Section 11.04** Executive Director's Determination. The Executive Director's final decision will be rendered in writing no more than 45 business days after the response by the Commission Representative was filed or was due unless the Executive Director

notifies the Engineer that additional time for the decision is necessary. The Engineer must follow the procedures set out in this Section to receive the Executive Director's final decision. In the event the Engineer disagrees with the Executive Director's final decision, the Engineer may file, a common law *writ of certiorari* in the Circuit Court of Cook County which shall be the sole and exclusive judicial remedy of the Engineer. However, the Engineer must have followed the procedures in this section as a condition precedent to filing a common law *writ of certiorari*. The Engineer shall not withhold performance of any Services required by the Commission under this Agreement during the dispute resolution period.

**Section 11.05** Engineer Self-Help Prohibited. The Engineer must never withhold performance of its Services by, for example, refusing to review and approve appropriately submitted invoices or pay applications, timely to make recommendations on general contractor claims, or promptly to issue other appropriate approvals needed by others where doing so would potentially harm third parties, such as subconsultants, the general contractor, or its subcontractors. Doing so to gain potential leverage in negotiating or settling the Engineer's claims against the Commission or User Agency will constitute bad faith on the Engineer's part. This provision is not intended to prohibit the Engineer from exercising its well-considered professional judgment, however, in carrying out its duties and responsibilities under the Agreement.

## **Article XII. CONFIDENTIALITY**

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

## **Article XIII. ASSIGNMENT**

The Engineer acknowledges that the Commission is induced to enter into this Agreement by the personal qualifications of the principals, staff and employees of the Engineer and, therefore, that neither the Agreement nor any right or obligation in the Agreement may be assigned by the Engineer, in whole or in part, without the prior written approval of the Commission. For purposes of this paragraph, if the Engineer 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 Engineer during any 12-month period. In the event of an assignment by the Engineer without the prior written approval of the Commission, the Commission will have the right to immediately terminate the Agreement without fault or responsibility.

The Engineer further acknowledges that the Engineer represented to the Commission the availability of certain members of the Engineer's staff who will be assigned to Project; therefore, in the event of the unavailability of such members for any reason, the Engineer must so notify the Commission in writing, and must assign other qualified members of the Engineer's staff, as approved by the Commission, to the Project.

## **Article XIV. RELATIONSHIP OF PARTIES**

Under the Agreement, the relationship of the Engineer to the Commission is that of an independent contractor, and the Engineer will have no right or authority to make contracts or commitments for or on behalf of the Commission, to sign or endorse on behalf of the Commission any instruments of any nature or to enter into any obligation binding upon the Commission. The Agreement will not be construed as an agreement of partnership, joint venture, or agency.

## **Article XV. GENERAL**

**Section 15.01** Engineer's Authority. The Engineer 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 Engineer have been made with complete and full authority to commit the Engineer to all

terms and conditions of the Agreement, including each and every representation, certification and warranty contained or incorporated by reference in it.

**Section 15.02** Counterparts. The Agreement may be executed in any number of counterparts, any of which will be deemed an original.

**Section 15.03** 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 15.04** 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 15.05** No Waiver. The waiver by either party of any breach of the Agreement will not constitute a waiver as to any succeeding breach.

**Section 15.06** 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 Commission or to the Engineer at their respective addresses set forth above, 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 Commission or the Engineer 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.

**Section 15.07** Non-liability of Public Officials. No Commission Board member, employee, agent, officer, or official is personally liable to Engineer or its subcontractors, and Engineer 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 Engineer or its subcontractors under this Agreement.

**Section 15.08** 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 15.09** Successors and Assigns. Except as otherwise provided in the 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 15.10** Non-appropriation of Funds. If funds have not been appropriated in full or in part, the Commission has the right to terminate the Agreement. The Commission will not authorize the Engineer to provide services under this Agreement unless sufficient funds are appropriated to pay for the services.

**Section 15.11** Firearms. The PBC is committed to providing a safe and secure workplace for the benefit of its employees, consultants, contractors and the general public; therefore, threatening behavior by any person on or about the PBC office premises, project sites and any place in which PBC business is conducted is prohibited. Further, possession of firearms, explosives, or other weapons anywhere on PBC property and project sites or while conducting PBC business is prohibited. Employees and contractors must, at a minimum, comply with all federal, state and local laws relating to the possession and use of firearms, including the Illinois Firearm Concealed Carry Act, 430 ILCS 66/1, et. seq.; the Illinois Criminal Code – Article 5, Deadly Weapons, 720 ILCS 5/Art. 24 et. seq.; and the City of Chicago Firearms and Other Weapons Ordinance, Chicago Municipal Code, Sec. 8-24-005, et. seq. Further, as a condition of employment and/or contract, individuals may not bring weapons onto PBC premises or project sites (including parking lots), even in situations where such conduct would be allowed under the cited laws.

## **Article XVI. EXISTING CONTRACT DOCUMENTS**

The Contract Documents in existence at the time of execution of this Agreement are as follows:

As defined in herein, the following Schedules and Exhibits are a part of and fully incorporated into this Agreement:



- Schedule A      Scope of Services
- Schedule B      Compensation of the Engineer
- Schedule C      Insurance Requirements
- Schedule D      Key Personnel
- Exhibit A        Disclosure Affidavit
- Exhibit B        Legal Actions
- Exhibit C        Disclosure of Retained Parties
- Exhibit D        Special Conditions Regarding the Utilization of Minority and Women Owned Business Enterprises for Professional Services

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**SAMPLE**

**SCHEDULE A  
ENGINEER OF RECORD SCOPE OF SERVICES**

As a Project may be funded by specific grants, Engineer may be required to provide documentation and services in accordance with each specific grant, at the direction of the Commission. Engineer may also be required to provide specific services related to historic sites or those sites requiring specific preservationist services. Any references to LEED will not apply to any Project(s) failing to seek LEED accreditation.

**I. Part I – Study and Report Phase**

During the Study and Report Phase the Engineer shall:

1. Consult with Owner to define and clarify Owner's requirements for a Specific Project and available data.
  2. Advise Owner as to the necessity of Owner's providing data or services which are not part of Engineer's Basic Services, and if requested, assist Owner in obtaining such data and services.
  3. Identify, consult with, and analyze requirements of governmental authorities having jurisdiction to approve the portions of a Specific Project designed or specified by Engineer, including but not limited to mitigating measures identified in the environmental assessment.
  4. Identify and evaluate the number of alternate solutions available to Owner listed in the Task Order for a Specific Project, and, after consultation with Owner, recommend to Owner those solution which in Engineer's judgment meet Owner's requirements for a Specific Project.
  5. Prepare a report (the "Report") which will, as appropriate, contain schematic layouts, sketches and conceptual design criteria with appropriate exhibits to indicate the agreed-to-requirements, considerations involved, and those alternate solutions available to Owner which Engineer recommends. This Report may be accompanied by Engineer's opinion of Total Project Costs for each solution which is so recommended for a Specific Project if specifically requested in the Task Order Scope of Services.
  6. Furnish the number of review copies of the Report to Owner within the time period set forth in the Task Order and review it with Owner.
  7. Revise the Report in response to Owner's and other parties' comments, as appropriate, and furnish the number of final copies of the revised Report to the Owner within the time period set forth in the Task Order.
- B. Engineer's services under the Study and Report Phase will be considered complete on the date when the final copies of the revised Report have been accepted by Owner.

**II. Part II – Design / Engineering for Site Preparation**

**A. Scope Development Phase**

During the Scope Development Phase, the Engineer shall provide the following Services:

1. Upon review of the Commission's Environmental Consultant's findings, develop a proposed Site Preparation scope of work and a foundation system scope of work coordinated with the geotechnical consultant findings and the proposed utility service connections into the building. The site preparation design may include all work necessary to abate and demolish existing structures on the site, as well as to prepare the site both environmentally and geotechnically in order to implement the building construction and site development scope of work, including, but not limited to, the development of soil management strategies that will be subject to the review and approval of the Commission. The site preparation scope of work may also require the design of all utilities to be brought within 5 feet of the building perimeter. The foundation scope of work shall include all work to install the foundation system.

These proposed scopes of work will be submitted to the Authorized Commission Representative for review and approval.

2. Engineer will coordinate the site preparation and foundation phase design with the vertical (building) design such that the site preparation and foundation design and contract documents support compliance with all project sustainability goals.

## **B. Construction Documents Phase**

During the Construction Documents Phase, the Engineer shall provide the following Services:

1. 75% Construction Documents or as directed by Authorized Commission Representative. Preliminary development of the Site Preparation and Foundation Package inclusive of necessary geotechnical and site utility service termination, rerouting or connection scope of work and coordination of environmental scope of work with the Commissions environmental consultant.
  - a) Site Preparation and Foundation Documents (including specifications)
  - b) Integrate Sustainability or LEED strategies into the Construction Documents.
  - c) Site Preparation and Foundation Construction Cost Estimate
2. 100% Construction Documents. Final development of the Site Preparation and Foundation Package inclusive of necessary geotechnical and site utility service termination, rerouting or connection scope of work and coordination of environmental scope of work with the Commissions environmental consultant.
  - a) Site Preparation and Foundation Documents (including specifications).
  - b) Provide a list of required submittals and a schedule for submission with the 100% construction documents.
  - c) Integrate Sustainability or LEED strategies into the Construction Documents.
3. Site Preparation and Foundation Construction Cost Estimate

## **C. Bidding and Contract Administration Phase**

During the Contract Administration Phase, the Engineer shall provide the following Services:

1. Respond and document Requests for Information (RFI) submitted by the contractor and provide responses within a reasonable time.
2. Provide field observation of the construction as necessary each week to adequately monitor the progress and conformance of the permanent features of the Work to the requirements of the Contract Documents. The Engineer's on-site representative shall not be removed or replaced before Final Completion of the Project without the prior written approval of the Authorized Commission Representative. The Engineer's on-site representative will be removed immediately upon the written request of the Authorized Commission Representative.
3. Attend and participate in regularly scheduled:
  - a) Weekly Project meetings.
  - b) Monthly pay application meetings for approval of contractor pay requests.
4. During Site Preparation Construction administer the Project's LEED compliance and submittal program as necessary to insure that LEED / sustainability requirements have been achieved and are documented to support Vertical Construction goals.

## **D. Closeout Phase**

During the Close-out Phase, the Engineer shall provide the following Services:

1. Conduct a comprehensive final inspection of the Project with the Authorized Commission Representative and User Agency to verify that the materials furnished and the work performed are substantially compliant with the contract documents.
2. The Engineer is responsible for facilitating a walkthrough on site with the Authorized Commission Representative, Commissioning Agent and User Agency to review punchlist items identified in the Contractor prepared initial punchlist. The Engineer will consolidate and prepare punch lists indicating the items of work remaining to be accomplished before a Certificate of Final Acceptance will be issued. Prepare certificates of preliminary and final completion in consultation with the Commission and the User Agency.
3. Oversee the Contractor's efforts to prepare and deliver to the Commission "as-built" drawings and site survey for the Project.
4. Oversee the Contractor's efforts to prepare and deliver to the Commission all required LEED documentation.
5. Upon completion of the construction contract issue a Certificate of Final Acceptance. A Certificate must not be issued by the Engineer until, to the best of its knowledge, information and belief, all work has been completed in accordance with the Contract Documents.

### **III. Part III – Design / Engineering for Building Construction and Site Development**

#### **A. Building Assessment and Concept Review**

The Commission expects the Engineer to undertake a thorough review of the Concept Design and Program for purposes that include, but are not necessarily limited to, the identification and correction of any errors, omissions, inconsistencies, ambiguities or other issues, including, but not limited to, compliance with all codes in effect at the time of performance of the Services. The Commission will look solely to the Engineer for any and all liabilities that may arise from any error or omission present in the construction documents for the Project. The Engineer shall create a narrative-based work product containing sufficient detail to document existing conditions. This product shall include but not be limited to information provided by landscape, structural, mechanical, electrical, plumbing, fire protection engineers, as necessary. The following steps will be necessary in order to provide this deliverable:

1. Procure and manage a professional, licensed Land Surveyor. Assemble and review all boundary survey documentation as necessary to define the scope of work.
2. Procure and manage a licensed Environmental Soils Management and licensed Environmental Renovation /Demolition Consultant(s). Assemble and manage a comprehensive environmental assessment limited to the extent necessary to define and design the scope of work.
3. Site visits and review of as-built drawings.
4. Detailed review of conceptual estimate.
5. Detailed review of concept design and its compatibility with the existing conditions.
6. Building assessments including, but not limited to Engineerural, landscape, structural, mechanical, electrical, conveying systems, plumbing, life safety and civil disciplines.
  - a) Comprehensive exterior envelope assessments including, but not limited to, roof, wall, and fenestrations, to extent necessary to define and design exterior envelope scope of work for the Project and in tandem with interior renovations.
  - b) Comprehensive interior conditions assessment limited to the extent necessary to define interior scope of

- work for interior renovations and interior renovations associated with building systems tie-ins.
- c) Comprehensive building systems assessment necessary to define MEP renovations/upgrades, and scope of work in tandem with the Project.
  - d) Comprehensive assessment of all roof drains and sanitary waste lines to the extent necessary to define and design the interior and exterior renovations/upgrades and scope of work related to the existing plumbing systems. Assessment should include, at minimum, rodding with the possibility of televising.
7. Meeting with User Agency representatives.
  8. Meetings with City Agencies as necessary, including but not limited to Department of Buildings, Department of Fleet and Facility Management, Bureau of Fire Prevention, MOPD, Department of Water Management, Chicago Department of Transportations, Landmarks, DPD and others including but not limited to the purpose of identifying key conceptual design elements and design strategies.

## B. Schematic Design Phase

During the Schematic Design Phase, the Engineer shall provide the following Services:

1. Consultation with the Commission, the User Agency and others, as appropriate, regarding the goals and requirements of the Project, including the total Project Construction Budget (comprised of the construction budgets for both Site Preparation and Building Construction/Renovation scope of work).
2. Analysis of the requirements of the Project, including confirmation and development of the established Concept Design, the conditions of the site and the survey, and consultation with the Commission to establish the final design scope, Project Schedule and Construction Budget of the Project.
3. Engineer will prepare narratives, plans, elevations and other drawings and outline specifications necessary to illustrate the scope, phasing, and character of the Project in its essentials including kinds of materials, type of structure, mechanical and electrical systems and such other work as may be required.
4. Preparation and presentation of documents necessary for User Agency departmental approvals.
5. Review the Schematic Design Documents, along with value engineering items, with the Authorized Commission Representative and incorporate modifications and revisions into the Schematic Design Documents as required to align with the Estimate of Probable Construction Costs with the Construction Budget for the Project.
6. Facilitate and document a sustainable design charrette and follow up sessions with all sub consultants and such other participants as directed by the Authorized Commission Representative. The purpose of the charrette is to confirm that the Project's target sustainability or LEED Certification rating to be determined is achievable and to develop the appropriate design strategies, for all project phases, to ensure that this rating can be achieved or to make alternative plans if it is determined that the desired rating is not feasible.
7. If the project is determined to seek LEED certification, register the project as a LEED project under the current version of LEED with the Green Building Certification Institute (GBCI).
8. Prepare documents necessary for the Zoning Approval Process whether it is the Planned Development process or the process required to achieve a Planned Development Waiver, Zoning Variance, Administrative Adjustment, or Approval As of Right, as well as participation in any required meetings to facilitate the rezoning of the Project site.
9. Prepare documents necessary to illustrate any required amendments to the public right of way.
10. Conduct and document preliminary reviews with required regulatory agencies, including, but not limited to, Department of Buildings, Department of Fleet and Facility Management, Bureau of Fire Prevention, Chicago Department of Transportation, Mayor's Office for People with Disabilities, and Office of Emergency Management and Communications.

11. Conduct and prepare a code analysis package, including, but not limited to, the following components:
  - a) Occupancy classification
  - b) Construction type
  - c) Occupant load by area and floor
  - d) Travel distances
  - e) Accessibility
  - f) Exit types, units and widths
  - g) Plumbing fixture counts
  - h) Loading berths and parking requirements
  - i) Fire resistance requirements
  
12. Post all Design Documents of this subsection into the System, as defined.

### C. Design Development Phase

During the Design Development Phase, the Engineer shall provide the following Services:

1. Consultation with the Commission, the User Agency and others, as appropriate, regarding the goals and requirements of the Project, including the total Project Construction Budget (comprised of the construction budgets for both Site Preparation and Building Construction/Renovation scope of work).
2. Analysis of the requirements of the Project, including confirmation and development of the established Concept Design, the conditions of the site and the survey, and consultation with the Commission to establish the final design scope, Project Schedule and Construction Budget of the Project.
3. Engineer will collaborate in analysis and will prepare conceptual documentation such as narratives, drawings and specification detail necessary to illustrate alternative design development strategies under consideration by the Commission, and the Using Agency. These alternative strategies will be forward progression analysis of key decisions made in concept design and may include but are not limited to: alternative structural detailing; alternative design applications of base line building systems, sustainable systems and storm water management systems; materials; equipment; and constructability considerations.
4. Preparation and presentation of documents necessary for User Agency departmental approvals, including tracking and responding to review comments.
5. Preparation of documents necessary for the Zoning Approval process including participation in any required meetings.
6. Preparation of documents necessary to illustrate any required amendments to the public right of way.
7. Conduct and document preliminary reviews with required regulatory agencies, including, but not limited to, Department of Buildings, Department of Fleet and Facility Management, Bureau of Fire Prevention, Chicago Department of Transportation, Mayor's Office for People with Disabilities, Department of Water Management, and Office of Emergency Management and Communications.
8. Conduct and prepare a code analysis package, including, but not limited to, the following components:
  - a) Occupancy classification
  - b) Construction type
  - c) Occupant load by area and floor
  - d) Travel distances
  - e) Accessibility
  - f) Exit types, units and widths
  - g) Plumbing fixture counts
  - h) Loading berths and parking requirements

- i) Fire resistance requirements
9. A log of material deviations from the Concept Design must be demonstrated in a final Design Development Package by the Engineer and approved, in writing, by the Authorized Commission Representative.
10. Using a complete set of Design Development Documents, reflecting all improvements described for the Project, in the development of the Estimate of Probable Construction Cost.
11. Provide a Sustainable Design / LEED update, with a detailed narrative correlating goals and strategies established in the sustainability charrette with strategies currently included in the project. Review all VE options with respect to their impact on sustainability goals.
12. Review the Design Development Documents along with value engineering items, with the Authorized Commission Representative and incorporate modifications and revisions into the Design Development Documents as required aligning with the Estimate of Probable Construction Costs with the Construction Budget for the Project.
13. Prepare a Design Development phase presentation to the Commission. Presentation to be made as directed in writing by the Authorized Commission Representative. Presentation shall include a colored Site Development Plan, Colored Floor Plans, Colored Elevations and a minimum of two Perspective Renderings.
14. Immediately upon the Authorized Commission Representative's review, written responses to review and written approval of the deliverables of the Design Development phase, begin the next phase on the updated and approved schedule.
15. Post all Design Documents of this subsection into the System, as defined.

#### **D. Construction Documents Phase**

During the Construction Documents phase, the Engineer shall provide the following Services:

1. Consistent with the approved Design Development Documents, Engineer will prepare all Construction Documents as necessary to obtain bids for the construction of the project. Milestone reviews will be performed at 60%, and 90%, or as directed by the Commission, on the dates listed in Project Schedule, including Engineerural and engineering working drawings, designs, plans, calculations and specifications setting forth in detail construction industry standard elements required for the Engineerural, structural, civil, mechanical, electrical, plumbing, heating, ventilation, air conditioning, fire protection, conveying devices, service-connected equipment, site work, and sustainability strategies and requirements. At the completion of every milestone, provide the Commission with editable electronic drawing files in the most current version of AutoCAD as well as multiple hard copies at the direction of the Authorized Commission Representative.
2. At a minimum, the Engineer must prepare a combination of elevation and plan detail sections in areas where large services and/or a significant concentration of smaller services share adjacent space. As part of the 60% Design Review, the Engineer will propose for the Commission's concurrence, the locations where these coordination details will be prepared. These details will typically be prepared for the following areas:
  - a) Above ceilings in corridors to confirm that service, fixtures, and other devices can fit between the existing or designed ceiling height and the bottom of any new or existing structural members or other obstructions. The horizontal spacing of these items will also be reviewed to confirm that desired locations of lighting fixtures and other devices can be achieved.
  - b) Slabs where services would logically be installed within the slab on grade or on deck. The Engineer will confirm that these services can fit within the slab cross section without compromising the structural integrity of existing or new slabs. Any limitations on embedded services will be noted on the construction documents.
  - c) Areas and/or rooms where a significant number of services converge. This includes mechanical rooms, MDF rooms, IDF rooms, electrical closets, fire pump rooms, and any other areas or rooms where the coordination of



individual or multiple services are required with multiple disciplines. Where a significant number of services penetrate a wall, floor, ceiling, or roof in close proximity, the Engineer will design and detail an appropriate chase with respect to structural elements, code issues, and proper installation of the services.

- d) Within mechanical, equipment, and other specialty rooms to confirm that the required equipment, panels, racks, fixtures, ventilation, and other equipment, along with the services entering these rooms will fit within the designed and existing spaces and layout. Checks will be made for door swings, as well as, equipment accessibility into and within the room.
  - e) Locations on the site or under the building where major existing or new utilities come in close proximity to each other and/or other new or existing structures. This would include locations where these services enter the building or penetrate the foundations.
3. The Engineer will prepare documents that confirm that the appropriate power, communication, and other low voltage services are shown running to and from each required device/fixture and back to the appropriate originating or receiving location are included in the design. This coordination may be represented by a composite device/service schedule that cross references the appropriate interface points.
  4. The Engineer will prepare documents that confirm that water supply, drainage, condensate lines, and vents for each required device, fixture, and piece of equipment are included in the design.
  5. The Engineer will be responsible for the overall coordination review. As each coordination document is completed, the Engineer will review and resolve significant conflicts. The Engineer must resolve all known conflicts prior to issuing the bid documents. Any items where the Engineer recommends leaving coordination to the construction contractor must be specifically reviewed by the Engineer with the Commission's design review team.
  6. Prepare an Inspection and Testing Plan as part of the construction documents. The plan must be in spreadsheet format, following the specification section numbering system. Each inspection, test and required certificate will be identified by specification section number. The Authorized Commission Representative will identify the testing firm(s) that will be used on the Project, and provide a sample Inspection and Testing Plan for use of the Engineer. The Inspection and Testing Plan must provide for:
    - f) Verification of responsibilities for providing inspections, tests and certificates.
    - g) Scope of services for the testing and inspection services.
    - h) A scorecard to monitor the completion of required inspections and tests, and the submittal of required certificates.
  7. The Engineer shall coordinate their scope with the Environmental Soils Management and Environmental Renovation /Demolition Consultant(s) in the development of the environmental bid documents and specifications. Scope coordination shall include but not be limited to the Engineerural, demolition, plumbing, mechanical, electrical sub-consultants. The environmental documents prepared under the supervision of the Engineer's environmental consultants for the proper management of environmental soils, Asbestos Containing Material (ACM) Lead Based Paint (LBP) abatement/mitigation, and management/disposal of Hazardous Materials and Universal Waste shall be included as part of the construction document milestone submittals and bidding documents.
  8. Prior to submission of 90% Construction Documents to the Commission, Architect shall prepare coordination documents to confirm that the various elements of the Architect's Construction Documents are sufficiently coordinated to support an accurate bid process and minimize the potential for change orders during the construction phase of the project. These documents establish a baseline for the Commission's Errors and Omissions Policy. The Architect will resolve any known conflicts prior to issuing the Bid Set of documents. Coordination documents shall address the following, at a minimum:
    - a) Limited available space for installation or service. Engineer shall overlay plans of each design discipline and verify space requirements and conflicts between trades and/or disciplines. Engineer shall make revisions to the design drawings to resolve conflicts between various disciplines.
    - b) Incompatibility between items provided under different disciplines (such as difference in voltage between



- equipment specified under Division 15 and electrical power provided under Division 16).
- c) Inconsistencies between drawings and specifications (between disciplines and within each discipline).
  - d) As required to manage discipline coordination, the Engineer must prepare multi layered, color-coded CAD drawings to manage discipline coordination, resolve conflicts, and present the findings of coordination process to the Commission's design review team. The Engineer will provide reproducible and CAD drawing files of these documents to the Commission.
9. At the completion of 90% Construction Documents, the Engineer shall submit the project for permit.
- a) Permit Submittal Phase: The Engineer shall enter the project into the City of Chicago E-Plan permit system, obtain an application number, administer and obtain all required documentation, and upload all required permit documents into the E-Plan Project Docs system for preliminary review. The Engineer shall complete all permit submittal phase tasks on a timeline to facilitate Preliminary Approval from Department of Buildings Project Manager in accordance with the approved Commission schedule. For green permit submissions, the permit package shall include:
    - (1) LEED registration information.
    - (2) Sustainable Design Goals and LEED documentation, including a detailed narrative describing project-specific strategies to achieve each credit.
    - (3) Current 90% Construction Drawings and Specifications
    - (4) Energy Simulation Modeling.
  - b) Permit Review Phase: Engineer shall monitor the progress of permit reviews and report on a weekly basis the status of reviews to the Authorized Commission Representative. At the conclusion of the first round of all reviews, the Engineer shall respond to all permit comments and upload all required permit document corrections into the E-Plan Project Docs system for second review within a reasonable time (not to exceed 15 days) or in accordance with the Commission's approved schedule. The Engineer shall complete all permit review activities on a timeline to facilitate permit approval in accordance with the Commission's approved schedule.
  - c) Permit Initiation Phase: Upon receipt of all Contractor permit documentation, upload all documents into the E-Plan Project Docs system for permit issuance.
10. Conduct and prepare a code analysis package, including, but not limited to, the following components:
- a) Occupancy classification
  - b) Construction type
  - c) Occupant load by area and floor
  - d) Travel distances
  - e) Accessibility
  - f) Exit types, units and widths
  - g) Plumbing fixture counts
  - h) Loading berths and parking requirements
  - i) Fire resistance requirements
11. Prepare 60%, and 90% Construction Documents including modifications and revisions as approved by written direction of the Authorized Commission Representative. Construction Document Deliverables for each milestone 60% and 90% include:
- a) Certification of Compliance with Commission's Design Checklist
  - b) Design Guidelines and Standards Deviation Log
  - c) Request for Clarification (RFC) Log
  - d) Request for Design Change (RFDC) Log
  - e) Issue updated Submittal and Closeout Matrix
    - (1) The Submittal Matrix shall be a list of submittals required during the Construction Phase of the project.
    - (2) The Closeout Matrix shall be a list of submittals required once Construction is complete and prior to Final Acceptance.

- f) Site Preparation Construction Documents (including specifications)
  - g) Building Construction Documents (including specifications)
  - h) Sustainable Design Goals and LEED documentation, to include a matrix with detailed narrative describing project- specific strategies integrated into the design to achieve sustainability goals and/or LEED credits that were targeted in the sustainability charrette, as shown in the Commission's Design Management Manual:
  - i) Sustainable Design submittal package for Commissioning Authority Review. Documentation shall include all systems and equipment to be commissioned as part of the project. Energy Simulation Modeling using modeling software acceptable to LEED and for building code. This may include DOE2 based Energy Modeling Software. Use energy model as a design tool and provide model results to demonstrate achievability of energy efficiency goals. Model the energy use of the building and provide both a hard copy and electronic version on a compact disk of the input and the output. The information provided regarding the input and output will become the property of the Commission. An updated model must be provided with each project milestone. Updated Storm water Analysis and Management Proposal.
  - j) Compilation of issued meeting minutes
  - k) Issuance of updated zoning analysis package and required rezoning documentation as required
  - l) Issuance of updated code analysis package
  - m) Issuance of updated MEP coordination documentation
  - n) Issuance of and coordination with Site Environmental and Environmental Demolition and Renovation drawings prepared by the Commissions Consultant
  - o) Issuance of milestone packages for review
12. Using a complete set of 60% and 90% Construction Documents, reflecting all improvements described for the Project, assist the Commission's independent cost consultant in the development of the Estimate of Probable Construction Cost.
  13. At the completion each Construction Document phase 60% and 90%, prepare a written and oral report of the Construction Document phase for presentation to the User Agency. Presentation to be made as directed in writing by the Authorized Commission Representative. Subject to the prior written direction of the Authorized Commission Representative, incorporate User Agency comments into the subsequent phase of the Construction Documents.
  14. Issue hard copies of the 60% and 90% Construction Document Drawings, Outline Specifications, and Narratives to various stakeholders designated by the Authorized Commission Representative for the Construction Document Milestone Reviews. Upon receipt of the review comments, the Engineer will be required to respond in writing on the review form furnished by the Authorized Commission Representative.
  15. Review the 60% and 90% Construction Documents along with value engineering items, with the Authorized Commission Representative. Incorporate modifications and revisions into the Issue for Bid Documents as required aligning with the Estimate of Probable Construction Costs with the Construction Budget for the Project.
  16. Immediately upon the Commission's review and written approval of the deliverables of each Construction Documents phase 60% and 90%, begin the next phase on the updated and approved schedule.
  17. If requested, attend the Commission's internal Bid Package Review Conference where the Commission will verify that the construction documents, including the coordination documents, prepared by the Engineer are ready to issue for bids.
  18. Commission's Performance Evaluation of Construction Documents: The Commission will review the Engineer's performance in providing Construction Documents after the project has been bid. If requested by the Commission the Engineer will be required to attend a meeting to discuss its performance review.

## E. Bidding Phase

During the Bidding Phase, the Engineer shall provide the following Services:

1. Assemble and review all Bid Documents required, including, but not limited to all drawings, and technical

specifications, Commissioning Agent Design Intent and Commissioning Plan.

2. Attend a Pre-Bid Meeting and present the project at the Technical Review Meeting. The purpose of the meeting is to present the project in detail and respond to questions from prospective bidders.
3. Respond and document Requests for Information (RFI) submitted by the contractor and provide responses within a reasonable time.
4. Prepare addenda, as directed by the Commission, to address bidder's questions that require clarification. Consider and document all written requests for product substitutions before receipt of bids.
5. Review bids and prepare an evaluation and recommendation for award relative to the Project and Construction Budget. Assist in finalizing the agreement(s) with the contractor(s) to construct the Project. Attend if requested by the Commission a pre-award meeting.
6. Coordinate, assemble and submit the design phase package to the LEED review Authority (GBCI), if required.

#### F. Construction Administration

The Engineer of Record shall be on site weekly to conduct construction administration. Time requirement shall be determined by project complexity and scope of work. During the Construction Administration Phase, the Engineer shall provide the following Services:

1. Attend and participate in regularly scheduled:
  - a) Weekly Project meetings
  - b) Pre-installation meetings
  - c) Environmental Project meetings
  - d) Utility Coordination Project meetings
  - e) Monthly pay applications meetings for approval of contractor pay requests.
2. Provide field observation of the construction each week of construction in order to monitor the progress and conformance of the permanent features of the work to the requirements of the Contract Documents. Immediately review with the Authorized Commission Representative and the Contractor any items of non-conformance observed in the field. Furnish a field observation report documenting observations, items of non-conformance and field discussions within two (2) days of the site visit. The Engineer's on-site representative shall not be removed or replaced before final completion of the Project without the prior written approval of the Authorized Commission Representative. The Engineer's on-site representative will be removed immediately upon written request of the Authorized Commission Representative.
3. If necessary during construction, interpret the meaning and intent of the Contract Documents, and with the Authorized Commission Representative's concurrence, transmit such information to the contractor. If requested by the Authorized Commission Representative, make recommendations on any claims between the Commission and any contractor with whom the Commission has a contract relating to the Project and any other matters relating to the execution and progress of the work or the interpretation of the Contract Documents.
4. Unless the Commission specifies, in writing, a shorter or longer time period, within 5 business days following receipt the Engineer must comment upon and submit to the Authorized Commission Representative Engineer's responses to requests for approval of subcontractors, delivery schedules, material lists, shop drawings, samples, and the like. However, the parties acknowledge that the Engineer's internal costs and efficiencies during the construction phase are dependent on the Contractor's submittals and inquiries conforming to pre-approved schedules and deadlines and the Contractor's accuracy and completeness of submittals. Any time limits for the Engineer's review of shop drawings or other submittals is conditioned upon the Contractor's preparing and obtaining the Engineer's approval of a master schedule of submittals and subsequently transmitting the submittals to the Engineer in accordance with this schedule. Additionally, if after commencement of construction, the

Commission requests Engineer to review and analyze a requested product or material substitution, the Engineer shall undertake such review only as an Additional Service and after obtaining the Commission's approval to do so.

5. Provide and distribute Construction Documents and explanatory sketches as required during construction. Review and approve samples, shop drawings, product data, as-built drawings, product substitutions and other submissions for compliance with the design concept of the Project and fulfillment of the contractor's obligations as set forth in the Contract Documents.
6. Provide an expert in roofing on the Project Site throughout the construction/installation of the roof for the Project, if required.
7. Implement the Commission's specifications and procedures for processing scope changes, including applications for extensions of time. Receive and review all proposals, revisions in drawings and change orders requested by the contractor, Commission, User Agency, or as required by unforeseen conditions in the field, and make recommendations regarding practicality, costs, unit prices, time and material changes, effect on completion schedule and risk to the project.
8. Submit recommendations to the Authorized Commission Representative for approval before instituting any changes to the requirements of the Contract Documents. Process and prepare all bulletins, proposals, revisions in drawings and change orders approved by the Commission. Monitor all scope changes during construction to ensure compliance with approved revisions.
9. Identify instances of non-conformance of the Work, document such instances in a manner acceptable to the Authorized Commission Representative, and assist the Authorized Commission Representative in providing notice to contractors of such instances of non-conformance as necessary.
10. Issue clarifications for proper execution of the Work required by the Contract Documents; provided, however, the Engineer shall not have control or charge of and will not be responsible for construction means and methods, techniques, sequences or procedures, or for safety precautions and programs in connection with the Work or for the act or omissions of the contractor, subcontractors or any other persons performing any of the work in accordance with the Contract Documents. Notwithstanding any contrary or potentially ambiguous description of the Engineer's Services, it is intended that the Engineer shall have no responsibility for jobsite safety on the Project. The Contractor and Subcontractors shall have full and sole authority for all safety programs and precautions in connection with the Work. When the Engineer is present at the site, such presence shall be only for the purpose reviewing the Work for deviations from the Construction Documents or defects, and the Engineer shall have no authority to take any action whatsoever on the site regarding safety precautions or procedures.
11. Maintain RFI and Bulletin logs in a format acceptable to the Authorized Commission Representative.
12. During Construction administer the Project's sustainability or LEED compliance and submittal program as part of construction administration
  - a) Participate in the Sustainability or LEED Construction kickoff mtg. Agenda by the Commission. Purpose of the meeting is to outline the General Contractor (GC) responsibilities and path for all pertinent submittals and information flow throughout the project.
13. For LEED projects (this subsection may be applicable to the Project at sole discretion of the Commission):
  - a) Serve as LEED On-Line Project Administrator:
    - i. Invite GC and whomever else Commission designates to join the LEED On-Line project.
  - b) Manage LEED On-Line Design Submittal: Coordinate, assemble and submit design package to the Green Building Certification Institute (GBCI):
    - i. Assign Design Credits to consultants etc. to upload; Set reasonable timeline for each credit upload.
    - ii. Review the uploaded material for compliance with format and intent, and for reasonable quality and clarity of content, for each credit package prior to submittal of the whole package to GBCI for review.

- iii. Once all credit packages are complete and acceptable, submit to GBCI through LEED On-line for review.
  - iv. Monitor GBCI review timeline.
  - v. Once GBCI comments are received, assign responsible parties to address clarification requirements, and timeline to provide responses / revised information to GBCI. Review all responses provided prior to submittal to GBCI. Review with appropriate commission representative where necessary.
  - vi. Once all responses acceptable, submit for GBCI re-review.
  - vii. Credit Interpretations Requests (CIR) and / or Credit Appeals are not part of this proposal.
- c) Review/ comment/ approve GC's Sustainability / LEED Plans. Propose formats if required for Plans.
- i. LEED AP qualifications,
  - ii. Erosion and Sedimentation Control Plan (ESCP) Plan (narrative and tracking plan)
  - iii. Waste Management Plan (narrative and tracking format - should align with requirements of Specification sections 01352 and 01524)
  - iv. Materials and Resources (MR) and Low Emitting Materials (LEM) Plans - tracking formats and narratives
  - v. Indoor Air Quality (IAQ) Plans - During Construction and Before Occupancy (Flush Out)
- d) Administer LEED / Sustainability requirements as part of Construction Administration (CA) Includes:
- i. Review LEED submittals for all materials that need them. (Submittal is incomplete until LEED component is also complete.)
  - ii. EOR is to send MEP submittals to the Commissioning Authority (CxA); EOR's MEP consultant is to triage / review comments from CxA so only one set of comments is returned to the GC. Inform PBC if there is conflicting thinking and Owner input is required.
  - iii. Review monthly Sustainability reports from GC and all backup for adequacy and completeness, and alignment with pace and submittals reported in overall submittal log.
  - iv. Have Mechanical engineer calculate or check calculations for flush-out for IAQ plan
  - v. Attend monthly Sustainability meetings to review monthly report content and discuss problems or concerns.
  - vi. Identify violations of IAQ management Plans during site walkthroughs. Understand content of GC's Plans and LEED credit intent.
  - vii. Keep tabs on Commissioning (Cx) process - make sure MEP consultants are engaged in / informed about the pace of the process, and any issues encountered.
- e) Manage LEED On-Line Construction Submittal: Coordinate, assemble and submit package to GBCI:
- i. Assign Construction Credits; Set reasonable timeline for each credit upload.
  - ii. Review the uploaded material for compliance with format and intent, and for reasonable quality and clarity of content of each credit package (does it address LEED credit requirements adequately) prior to submittal of the whole package to GBCI for review.
  - iii. Once all credit packages are deemed acceptable, submit to GBCI through LEED On-line for review.
  - iv. Monitor GBCI review timeline
  - v. Once GBCI comments are received, assign responsible parties to address clarification requirements, and timeline to provide responses / revised information to GBCI. Review all responses provided prior to submittal to GBCI.
  - vi. Once all responses are acceptable, submit for GBCI re-review.
  - vii. Credit Interpretations Requests (CIR) and / or Credit Appeals are not part of this proposal.
- f) Serve as project LEED Administrator throughout construction and closeout as required until LEED Certification is received.
- g) Review the Work to establish preliminary acceptance of the Project.

## G. Close Out Phase

During the Project Close out Phase, the Engineer shall provide the following Services:

1. Attend and participate in regularly scheduled weekly closeout meetings
2. Conduct a comprehensive final inspection of the Project with the Authorized Commission Representative and User Agency to verify that the materials furnished and the work performed are substantially compliant with the contract documents.
3. The EOR is responsible for facilitating a walkthrough on site with the Authorized Board Representative, Commissioning Agent and User Agency to review punch list items identified in the Contractor prepared initial punch list. The EOR will consolidate and prepare punch lists indicating the items of work remaining to be accomplished before a Certificate of Final Acceptance will be issued. Prepare certificates of preliminary and final completion in consultation with the Commission and the User Agency.
4. Oversee the Contractor's efforts to assemble and deliver to the Commission all guarantees, warranties, operating and maintenance manuals required by the Contract Documents.
5. The User Agency requires a set of record drawings prepared and coordinated by the Engineer. This set of record drawings must be provided in editable, auto-CAD format. The Engineer shall, accordingly, oversee the Contractor's efforts to expedite the preparation and delivery of the Contractor's own record, "as-built" drawings and operations and maintenance manuals of the Project in accordance with the specifications. The "as-built" documents will be subject to the approval of the Commission. Submit approved "as-built" documents to the Commission upon completion of the Project.
6. Upon completion of the construction contract and all "punch list" items in accordance with the Contract Documents, issue a Certificate of Final Acceptance. A Certificate must not be issued by the Engineer until, to the best of its knowledge, information and belief, all work has been completed in accordance with the Contract Documents.
7. Post Construction Review. The Commission will review Engineer's performance in providing services during construction after the project punch list is complete. The Engineer will be required to attend a meeting to discuss the performance review.
8. Project Close-out Approval Form. The Engineer shall draft and complete the Project Closeout Approval Form for the Project.
9. Assist the Commission on performing and documenting a warranty inspection 11 months walkthrough following Substantial Completion of the Project.
10. At the 11 month walkthrough the Engineer shall recalibrate the design energy model to incorporate actual operation, utility and weather information collected during the first 11 months that the building has been occupied, and any changes made during construction.

## IV. Part IV – Additional Responsibilities and Representations within the Engineer's Base Scope of Services

The Engineer shall provide the following Services:

- A. For all parts and phases of the project, if the Authorized Commission Representative requests a change in scope of the Project, and after review and comment and upon written request of the Authorized Commission Representative, Engineer shall revise or modify any or all of the Project design, drawings and specifications, as necessary, in a manner satisfactory to the Commission and consistent process set forth in Schedule A. In the event that the Engineer believes that additional compensation is due to the Engineer from the Commission because of errors, omissions, inconsistencies



or ambiguities in the Commission-Provided Information, the Commission will consider a request for additional compensation in accordance with Article VII, Section 7.01.

- B. The Engineer is solely responsible for the development of the Project specifications. Specifications must comply with the following criteria.
1. Specifications will follow performance criteria outline format.
  2. Specifications will identify acceptable manufacturers.
  3. No proprietary specifications will be permitted without written authorization from the Authorized Commission Representative.
  4. On projects where template specifications have been provided, the Engineer is responsible for the development of any specifications which have not been provided. The Engineer is responsible for the verification of all manufacturer names and model numbers as well as the compatibility with other systems and materials specified. Further, the Engineer is responsible for verifying that each cited acceptable manufacturer is capable of providing the product as documented in the performance criteria. Deviations from major systems, materials or specialty items must be approved in writing on projects where template specifications have been provided.
- C. All phases of this Project are required to be designed to achieve sustainability goals or a minimum LEED certification level as the Commission may designate; the requirements for the LEED rating designated by the Commission are set forth in the US Green Building Council LEED Reference Guide. LEED requirements are to be fully integrated into the bid documents, including drawings and specifications, and are included in the scope of the Engineer's responsibilities with respect to contract administration. The Engineer to provide LEED registration, including fees for Design/Construction reviews along with final Plaque to Owner.
- D. At all phases of the project the Engineer shall review the Environmental and Geotechnical Consultant's findings, and fully coordinate the Construction Documents. The Engineer shall include the Environmental and Geotechnical Consultant's documentation in the Construction Documents at each milestone and Issue for Bid Documents.
- E. At all phases of the project facilitate and document the value engineering process. Evaluate proposed building systems as to quality, first cost and life cycle cost, impact on energy efficiency, sustainability goals / LEED certification, constructability, and material/product availability. Propose alternate materials and system assemblies as well as the resultant cost savings opportunities.
- F. Develop a furniture, fixture and equipment (FFE) plan to locate electronic devices, including power, data, communications, security and life safety equipment. Provide selection of FFE for the Project inclusive of selection, development of bid specifications and plans and administration of the project through the FFE installation.
- G. The Engineer will be responsible for infrastructure coordination and design integration of any owner-furnished furniture, fixture and equipment (e.g., furniture, communication equipment, sound systems, security/surveillance cameras, photovoltaic panels or public art).
- H. The Engineer will provide expertise in vertical transportation design of new or existing construction, initial and final submittal review of shop drawings, construction phase meetings and on-site final acceptance for compliance with specs and submittals, all in coordination with the User Agency specifications for the scope of work.
- I. Provide assistance in expediting, coordinating and securing all necessary orders, ordinances, permits, licenses, fees, or other approvals, as applicable that are required by local, state and federal agencies to permit construction of the Project. Such assistance will include conferences with and presentations to appropriate regulatory agencies including the Building Department and Fire Prevention Bureau of the City of Chicago and other governmental bodies. Coordinate all aspects of the Project with any quasi-public agencies or utility companies involved in the Project. Provide permit expediter services with due diligence on research for requirements, timeframes and approvals needed for the submittal process. Include meetings and monitoring for corrections and tracking of documentation. Identify which permit phases of work are deemed applicable to the project (ie. OUC, Foundations, Vertical building, DWM, etc).

- J. Oversee the Contractor's procurement and assembly of all required permits, licenses, and certificates from the contractor and arrange delivery of same to the Commission. Provide reimbursable services for permit expediter.
- K. The Engineer will be responsible for assisting the Commission with any documentation and coordination necessary to facilitate amendments to the public right of way.
- L. During all phases of the project the Engineer will be responsible for the utility coordination and public infrastructure aspect of the Project including, but not limited to, the following:
1. Present the Project to the Commission's Utility Roundtable Meeting attended by each public utility and coordinated by the Commission's Utility Coordinator. The Engineer will assist the Utility Coordinator as necessary.
  2. Meet with the engineers from Commonwealth Edison to determine if infrastructure relocations will be required. Provide all necessary assistance and coordination for the relocations.
  3. Provide Commonwealth Edison with the electrical service requirements for the new facility. Provide necessary assistance and coordination for the new service. Assist and monitor the transition to permanent power for the facility.
  4. Meet with the engineers from AT&T to determine if infrastructure relocations will be required. Provide the necessary assistance and coordination for the relocation(s).
  5. Provide AT&T with voice and data service requirements for the new facility. Provide the necessary assistance and coordination for the new service.
  6. Meet with the engineers from People's Energy to determine if infrastructure relocations will be required. Provide the necessary assistance and coordination for the relocation(s).
  7. Provide People's Energy with gas service requirements for the new facility. Provide the necessary assistance and coordination for the new service.
  8. Meet with the Department of Water Management to review and gain approval for water service and sewer design. Provide the necessary assistance and coordination for the new service.
  9. Meet with the engineers from the City of Chicago Department of Streets and Sanitation, Bureau of Electricity to determine if infrastructure relocations or new street lighting will be required. Provide the necessary assistance and coordination for the relocations and new lighting.
  10. Meet with the Fire Prevention Bureau to determine whether infrastructure relocations or new hydrants will be required. Provide the necessary assistance and coordination for the relocations and the new hydrants.
  11. Meet with the Office of Emergency Management and Communications to determine whether infrastructure relocations or new infrastructure will be required. Provide the necessary assistance and coordination for the relocations and new infrastructure.
  12. Meet with the Chicago Department of Transportation to determine whether infrastructure relocations or new infrastructure will be required. Provide the necessary assistance and coordination for the relocations and new infrastructure.
- M. The Engineer shall participate and document all "lessons learned" throughout the design and construction phases of the Project. The intent of this exercise is to conduct a comprehensive design review, thereby documenting ways in which the prototype design may be improved during this and future implementations of the prototype design.
- N. If the Engineer takes any photographs of the Project for any purpose, Engineer shall provide a complete set of such photographs, in negative or digital format, to the Commission.
- O. The Engineer shall participate in weekly meetings, provide an agenda for each meeting responsible for creating and distributing timely, complete meeting minutes.
- P. Immediately notify the Authorized Commission Representative in writing if it appears that the Engineer's fees for the project will be exceeded or if a request from the Authorized Commission Representative warrants a fee for an additional service. Any delays by the Engineer to notify the Authorized Commission Representative may waive the Engineer's right to additional costs.



**SCHEDULE B  
COMPENSATION OF THE ENGINEER**

**I. ENGINEER'S COMPENSATION**

The Commission shall, subject to the prior written authorization of the Executive Director, pay the Engineer for the satisfactory performance of the Services in accordance with the terms of Task Order Service Proposals requested by the Commission. Proposals may be on the basis of: 1) Fee plus limited Reimbursables ("Proposal Basis"); 2) Hourly Rates (Not-to-Exceed) plus limited Reimbursables ("Hourly Rate Basis"); or 3) other composition as agreed by the Commission and the Engineer.

**II. BILLING RATES**

The following billing rates shall be in effect for the duration of this agreement. For tasks performed on an Hourly Rate basis, Commission will pay Engineer for Services performed in accordance with the following agreed upon billing rates:

INSERT RATE TABLE HERE

Additional titles and billing rates may be added by prior written approval of the Executive Director. The above will be included in Engineer's fixed fee.

**III. REIMBURSABLE EXPENSES**

A. "Reimbursable Expenses" as referred to in this Agreement are actual expenditures at cost without mark-up or surcharge, incurred by the Engineer, and required for the Services. Reimbursable Expenses must be supported with proper documentation in the form of itemized invoices which include a notation stating the Project-related purpose of the expenditure.

The following will be considered Reimbursable Expenses:

1. Environmental investigation, design, technical testing, abatement, and/or reports.
2. Televising drains as directed by the Commission.
3. Destructive, investigative testing as required and directed by the Commission.
4. Plotting, printing, reproduction and distribution of drawings specifications, and presentation materials requested by the Commission, or required for scheduled reviews of the progress of the work by the Commission and/or the User Agency, public or city agency meetings and hearings, and as required for professional peer reviews of documents as directed by the Commission.
5. Printing and distribution costs associated with shop drawing and submittal reviews during construction.

The following are NOT Reimbursable Expenses:

1. Plotting, printing and distribution of drawings and specifications for the purpose of coordination between members of the Engineer's team, or otherwise incidental to the Engineer's Services are not Reimbursable Expenses.
  2. Office and administrative expenses, including telephone system expenses, photocopying, duplicating costs, postage, office & drafting supplies, fax and delivery services (except as noted above in A. 1. and A. 2. are not Reimbursable Expenses.
- B. The following shall be Reimbursable Expenses provided that the Engineer has obtained the prior written approval by the Authorized Commission Representative:
1. Expense of transportation and living of principals and employees traveling in connection with the Project, but not including travel and expense to and from the job site or within a 50-mile radius of downtown Chicago. Travel

expenses include coach air fare, hotel and per diem costs, auto rental, fuel and insurance, and must be supported with proper documentation in the form of itemized invoices.

2. Fees and costs of special consulting services requested by the Commission such as surveying, environmental, estimating, acoustical, theater, food service, commissioning, LEED AP, masonry, roofing and elevator consultants will be paid as a reimbursable expense. Civil, structural, mechanical, electrical, plumbing and fire protection engineering services are included within the Fixed Fee, unless otherwise indicated by a signed Task Order.
3. Costs for rental or purchase of special items or equipment requested by the Commission.
4. Fees and costs to secure necessary permits or civil agency approvals, including permit fees and expenditure fees.
5. Costs of surveys and geotechnical.
6. Permitting expenses, including but not limited to: fees, third party review services, and expediting services.
7. Other direct costs of the Project may be approved as a Reimbursable Expense by Commission's Authorized Representative provided that written approval is obtained in advance of incurring the expense and provided that the expense is to be reimbursed on a Lump Sum basis.

#### IV. METHOD OF PAYMENT

- A. Invoices. Once each month, the Engineer will submit an invoice to the Commission for Services performed during the preceding month.

Each invoice must be supported with such reasonable detail and data as the Commission may require, including detail and data related to Subconsultant costs. In accordance with the terms of the Agreement, the Engineer must maintain complete documentation of all costs incurred for review and audit by the Commission or its designated audit representative(s). Each invoice must be submitted in the format directed by the Commission. Invoices must be accompanied by a progress report in a format acceptable to the Commission. Such progress report must identify any variances from budget or schedule and explain the reasons for such variances.

- B. Payment Process. Payments will be processed within 30 days after Commission receives an acceptable invoice from the Engineer.
- C. Invoice Disputes. If the Commission disputes certain items in the Engineer's invoices, the amount not disputed will be paid in full. The amount in question must be resolved in accordance with the Claim and Disputes provisions of this Agreement.

#### V. INVOICING

The Engineer will submit one original of its monthly invoice to the Authorized Commission Representative for approval.

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**SCHEDULE C  
ENGINEER OF RECORD SERVICES  
INSURANCE REQUIREMENTS**

The Engineer of Record (Engineer) must provide and maintain at Engineer's own expense, until expiration or termination of the agreement and during the time period following expiration if Engineer is required to return and perform any additional work, the insurance coverage and requirements specified below, insuring all operations related to the Agreement.

**C.1. INSURANCE TO BE PROVIDED:**

**C.1.1. Workers' Compensation and Employers Liability**

Workers' Compensation Insurance, as prescribed by applicable law covering all employees who are to provide a service under the Agreement and Employers Liability coverage with limits of not less than \$1,000,000 each accident, illness, or disease.

**C.1.2. Commercial General Liability (Primary and Umbrella)**

Commercial General Liability Insurance or equivalent with limits of not less than \$3,000,000 per occurrence for bodily injury, personal injury, and property damage liability. Coverage must include, but are not limited to the following: All premises and operations, products/completed operations, defense, and contractual liability. The Public Building Commission of Chicago, the City of Chicago Department of Fleet and Facility Management, and City of Chicago must be named as Additional Insured on a primary, non-contributory basis for any liability arising directly or indirectly from the work.

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

**C.1.3. Automobile Liability (Primary and Umbrella)**

When any motor vehicles (owned, non-owned and hired) are used in connection with work to be performed, the Engineer must provide Automobile Liability Insurance, with limits of not less than \$1,000,000 per occurrence for bodily injury and property damage. The Public Building Commission of Chicago, the City of Chicago Department of Fleet and Facility Management, and City of Chicago must be named as Additional Insured on a primary, non-contributory basis.

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

**C.1.4. Professional Liability**

When Engineer performs work in connection with the Agreement, Professional Liability Insurance must be maintained with limits of not less than \$4,000,000 covering acts, errors, or omissions. The policy will include coverage for wrongful acts, including but not limited to errors, acts or omissions, in the rendering or failure to render professional services resulting in a pollution incident. When policies are renewed or replaced, the policy retroactive date must coincide with, or precede the, start of work on the Agreement. Coverage must be maintained for two years after substantial completion. A claims-made policy, which is not renewed or replaced, must have an extended reporting period of two (2) years.

Subcontractors performing work for Engineer must maintain limits of not less than \$1,000,000 per occurrence with the same terms herein. In the event that the subcontractor/subconsultant is performing geotechnical services, that subcontractor/subconsultant must maintain limits of not less than \$1,000,000 per occurrence subject to the same terms herein.

### C.1.5. Property

The Engineer is responsible for all loss or damage to Commission, City of Chicago Fleet and Facility Management, and/or City of Chicago property at full replacement cost. The Engineer is responsible for all loss or damage to personal property (including but not limited to materials, equipment, tools and supplies) owned, rented, or used by Engineer.

### C.1.6. Valuable Papers

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

### C.1.7 Pollution Liability

Pollution coverage is required with limits of not less than \$2,000,000 per occurrence for any portion of the services, which may entail, exposure to any pollutants, whether in the course of sampling, remedial work or any other activity under this contract. The pollution liability policy will provide coverage for sums that the insured become legally obligated to pay as loss as a result of claims for bodily injury, property damage and/or clean-up costs caused by any pollution incident arising out of the Work including remediation operations, transportation of pollutants, owned and non-owned disposal sites and any and all other activities of Contractor and its subcontractors. Pollution incidents will include, but not be limited to, 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, asbestos, silica, 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.

The policy will be maintained for a period of three years after final completion and include completed operations coverage. The policy will include the Public Building Commission of Chicago, the City of Chicago Department of Fleet and Facility Management, and City of Chicago, and others as may be required by the Public Building Commission of Chicago, as Additional Insured on a primary and non-contributory basis for on-going and completed operations.

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

### ADDITIONAL REQUIREMENTS

The Engineer must furnish the Public Building Commission Procurement Department, Richard J. Daley Center, Room 200, Chicago, IL 60602, original Certificates of Insurance, or such similar evidence, to be in force on the date of this Agreement, and Renewal Certificates of Insurance, or such similar evidence, if any insurance policy has an expiration or renewal date occurring during the term of this Agreement. The Engineer must submit evidence of insurance to the PBC prior to Agreement award. The receipt of any certificate does not constitute agreement by the PBC that the insurance requirements in the Agreement have been fully met or that the insurance policies indicated on the certificate are in compliance with all Agreement requirements. The failure of the Public Building Commission to obtain certificates or other insurance evidence from Engineer is not a waiver by the PBC of any requirements for the Engineer to obtain and maintain the specified insurance. The Engineer will advise all insurers of the Agreement provisions regarding insurance. Non-conforming insurance does not relieve Engineer of the obligation to provide insurance as specified in this Agreement. Nonfulfillment of the insurance conditions may constitute a breach of the Agreement, and the PBC retains the right to stop work until proper evidence of insurance is provided, or the Agreement may be terminated.

The PBC reserves the right to obtain copies of insurance policies and records from the Engineer and/or its subcontractors at any time upon written request.

The insurance must provide for 30 days prior written notice to be given to the PBC if coverage is substantially changed, canceled, or non-renewed.

Any deductibles or self-insured retentions on referenced insurance coverage must be borne by Engineer. All self-insurance, retentions and/or deductibles must conform to these requirements.

The Engineer hereby waives and agrees that their insurers waive their rights of subrogation against the Public Building Commission of Chicago, the City of Chicago Department of Fleet and Facility Management, and City of Chicago, their respective Board members, employees, elected officials, or representatives.

If Engineer is a joint venture or limited liability company, the insurance policies must name the joint venture or limited liability company as a Named Insured.

The insurance coverage and limits provided by Engineer in no way limit the Engineer's liabilities and responsibilities specified within the Agreement or by law.

Any insurance or self-insurance programs maintained by the Public Building Commission of Chicago, the City of Chicago Department of Fleet and Facility Management, and City of Chicago do not contribute with insurance provided by the Engineer under the Agreement.

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

The Engineer must require all its subcontractors to provide the insurance required in this Agreement, or Engineer may provide the coverage for its subcontractors. All subcontractors are subject to the same insurance requirements of Engineer unless otherwise specified in this Agreement.

If Engineer or its subcontractors desires additional coverage, the party desiring the additional coverage is responsible for the acquisition and cost.

The Public Building Commission maintains the rights to modify, delete, alter or change these requirements.

SAMPLE

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## SCHEDULE D - KEY PERSONNEL

SAMPLE ONLY  
(Actual Titles will be Different)

Principal

Assistant Principal

Architect of Record / Project Manager

Assistant Architect

SAMPLE



ATTACHMENT A  
DISCLOSURE AFFIDAVIT

(FORM FOLLOWS)

SAMPLE

**ATTACHMENT A  
DISCLOSURE AFFIDAVIT**

Any firm proposing to conduct any business transactions with the Public Building Commission of Chicago must complete this Disclosure Affidavit. Please note that in the event the Contractor is a joint venture, the joint venture and each of the joint venture partners must submit a completed Disclosure Affidavit.

The undersigned \_\_\_\_\_, as \_\_\_\_\_  
Name Title

and on behalf of \_\_\_\_\_  
("Bidder/Proposer/Respondent or Contractor") having been duly sworn under oath certifies the following:

|               |  |      |  |
|---------------|--|------|--|
| Name of Firm: |  |      |  |
| Address:      |  |      |  |
| Telephone:    |  | Fax: |  |
| FEIN:         |  | SSN: |  |

1. \_\_\_\_\_
2. \_\_\_\_\_
3. \_\_\_\_\_
4. \_\_\_\_\_

5. Nature of transaction (check the appropriate box):

- Sale or purchase of land
- Construction Contract
- Professional Services Agreement
- Other \_\_\_\_\_

6. Disclosure of Ownership Interests

Pursuant to Resolution No. 5371 of the Board of Commissioners of the Public Building Commission of Chicago, all bidders/proposers shall provide the following information with their bid/proposal. If the question is not applicable, answer "NA". If the answer is none, please answer "none".

- Corporation
- Partnership
- Sole Proprietorship
- Joint Venture
- Limited Liability Company
- Limited Liability Partnership
- Not-for-profit Corporation
- Other: \_\_\_\_\_

**CORPORATIONS AND LLC'S**

- 1. State of Incorporation or organization: \_\_\_\_\_
- 2. Authorized to conduct business in the State of Illinois:  Yes  No
- 3. Identify the names of all officers and directors of the business entity (attach list if necessary).

| Name | Title |
|------|-------|
|      |       |
|      |       |
|      |       |
|      |       |
|      |       |

- 4. Identify all shareholders whose ownership percentage exceeds 7.5% of the business entity (attach list if necessary).

| Name | Address | Ownership Interest Percentage |
|------|---------|-------------------------------|
|      |         |                               |
|      |         |                               |
|      |         |                               |
|      |         |                               |
|      |         |                               |

- 5. LLC's ONLY, indicate management type and name:  
 Member-managed  
 Manager-managed  
Name: \_\_\_\_\_
- 6. Is the corporation or LLC owned partially or completely by one or more other corporations or legal entities?  
 Yes  
 No

If "yes" provide the above information, as applicable, for each such corporation or entity such that any person with a beneficial ownership interest of 7.5% or more in the corporation contracting in the PBC is disclosed. For example, if Corporation B owns 15% of Corporation A, and Corporation A is contracting with the PBC, then Corporation B must complete a Disclosure Affidavit. If Corporation B is owned by Corporations C and D, each of which owns 50% of Corporation B, then both Corporations C and D must complete Disclosure Affidavits.

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**PARTNERSHIPS**

1. If the bidder/proposer or Contractor is a partnership, indicate the name of each partner and the percentage of interest of each therein. Also indicate, if applicable, whether general partner (GP) or limited partner (LP)

| Name | Ownership Interest Percentage |
|------|-------------------------------|
|      |                               |
|      |                               |
|      |                               |
|      |                               |
|      |                               |

**SOLE PROPRIETORSHIP**

1. The bidder/proposer or Contractor is a sole proprietorship and is not acting in any representative capacity on behalf of any beneficiary:  Yes  No

If the answer to the previous question is no, complete items 2 and 3 of this section.

2. If the sole proprietorship is held by an agent(s) or a nominee(s), indicate the principal(s) for whom the agent or nominee holds such interest.

| Name(s) of Principal(s) |
|-------------------------|
|                         |
|                         |
|                         |
|                         |

3. If the interest of a spouse or any other party is constructively controlled by another person or legal entity, state the name and address of such person or entity possessing such control and the relationship under which such control is being or may exercised

| Name | Address |
|------|---------|
|      |         |
|      |         |
|      |         |
|      |         |

**CONTRACTOR CERTIFICATION**

**A. CONTRACTORS**

1. The Contractor, or any affiliated entities of the Contractor, or any responsible official thereof, or any other official, agent or employee of the Contractor, any such affiliated entity, acting pursuant to the direction or authorization of a responsible official thereof has not, during a period of three years prior to the date of execution of this certification:
  - a. Bribed or attempted to bribe, or been convicted of bribery or attempting to bribe 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 (if an officer or employee, in that officer's or employee's official capacity);  
or

- b. Agreed or colluded, or been convicted of agreement or collusion among bidders or prospective bidders in restraint of freedom of competition by agreement to bid a fixed price or otherwise; or
  - c. Made an admission of such conduct described in 1(a) or (b) above which is a matter of record but has not been prosecuted for such conduct.
2. The Contractor or agent, partner, employee or officer of the Contractor is not barred from contracting with any unit of state or local government as a result of engaging in or being convicted of bid-rigging<sup>2</sup> in violation of Section 3 of Article 33E of the Illinois Criminal Code of 1961, as amended (720 ILCS 5/33E-3), or any similar offense of any state or the United States which contains the same elements as the offense of bid-rigging during a period of five years prior to the date of Submission of this bid, proposal or response.
  3. The Contractor or any agent, partner, employee, or officer of the Contractor is not barred from contracting with any unit of state or local government as a result of engaging in or being convicted of bid-rotating<sup>4</sup> in violation of Section 4 of Article 33E of the Illinois Criminal Code of 1961, as amended (720 ILCS 5/33E-4), or any similar offense of any state or the United States which contains the same elements as the offense of bid-rotating.
  4. The Contractor understands and will abide by all provisions of Chapter 2-56 of the Municipal Code entitled "Office of the Inspector General" and all provisions of the Public Building Commission Code of Ethics Resolution No.5339, as amended by Resolution No. 5371.
  5. The Contractor certifies to the best of its knowledge and belief, that it and its principals:
    - a. Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any federal, state or local department or agency.
    - b. Have not within a three-year period preceding this bid or proposal been convicted of or had a civil judgment rendered against them for: commission of fraud or 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; violation of federal or state antitrust statutes; commission of embezzlement, theft, forgery, bribery, falsification or destruction of records; making false statements; or receiving stolen property;
    - c. Are not presently indicted for or otherwise criminally or civilly charged by a governmental entity (federal, state or local) with commission of any of the offenses enumerated in paragraph (5)(b) above; and
    - d. Have not within a three-year period preceding this bid or proposal had one or more public transactions (federal, state or local) terminated for cause or default.

## B. SUBCONTRACTORS

1. The Contractor has obtained from all subcontractors being used in the performance of this contract or agreement, known by the Contractor at this time, disclosures substantially in the form of Section 1, and certifications substantially in the form of Section 2, of this Disclosure Affidavit. Based on such disclosures and certification(s), and any other information known or obtained by the Contractor, is not aware of any such subcontractor or subcontractor's affiliated entity or any agent, partner, employee or officer of such subcontractor or subcontractor's affiliated entity having engaged in or been convicted of (a) any of the conduct described as prohibited in this document; (b) bid-rigging, bid-rotating, or any similar offense of any state or the United States which contains the same elements as bid-rigging or bid-rotating, or having made an admission of guilt of the conduct described in Section 2 which is matter of record but has/have not been prosecuted for such conduct.
2. The Contractor will, prior to using them as subcontractors, obtain from all subcontractors to be used in the performance of this contract or agreement, but not yet known by the Contractor at this time, certifications substantially in the form of this certification. The Contractor shall not, without the prior written permission of the Commission, use any of such subcontractors in the performance of this contract if the Contractor, based on such certifications or any other information known or obtained by Contractor, became aware of such subcontractor, subcontractor's affiliated entity or any agent, employee or officer of such subcontractor or subcontractor's affiliated entity having engaged in or been convicted of (a) any of the conduct described as prohibited in this document of or (b) bid-rigging, bid-rotating or any

similar offenses of any state or the United States which contains the same elements as bid-rigging or bid-rotating or having made an admission of guilt of the conduct described as prohibited in this document which is a matter of record but has/have not been prosecuted for such conduct. The Contractor shall cause such subcontractors to certify as to all necessary items. In the event any subcontractor is unable to certify to a particular item, such subcontractor shall attach an explanation to the certification.

3. For all subcontractors to be used in the performance of this contract or agreement, the Contractor shall maintain for the duration of the contract all subcontractors' certifications required by this document and Contractor shall make such certifications promptly available to the Public Building Commission of Chicago upon request.
4. The Contractor will not, without the prior written consent of the Public Building Commission of Chicago, use as subcontractors any individual, firm, partnership, corporation, joint venture or other entity from whom the Contractor is unable to obtain a certification substantially in the form of this certification.
5. The Contractor hereby agrees, if the Public Building Commission of Chicago so demands, to terminate its subcontractor with any subcontract if such subcontractor was ineligible at the time that the subcontract was entered into for award of such subcontract. The Contractor shall insert adequate provisions in all subcontracts to allow it to terminate such subcontract as required by this certification.

#### C. STATE TAX DELINQUENCIES

1. The Contractor is not delinquent in the payment of any tax administered by the Illinois Department of Revenue or, if delinquent, the Contractor is contesting, in accordance with the procedures established by the appropriate Revenue Act, its liability for the tax or amount of the tax.
2. Alternatively, the Contractor has entered into an agreement with the Illinois Department of Revenue for the payment of all such taxes that are due and is in compliance with such agreement.
3. If the Contractor is unable to certify to any of the above statements, the Contractor shall explain below. Attach additional pages if necessary.

If the letters "NA", the word "None" or no response appears on the lines above, it will be conclusively presumed that the Undersigned certified to the above statements.

4. If any subcontractors are to be used in the performance of this contract or agreement, the Contractor shall cause such subcontractors to certify as to paragraph (C)(1) or (C)(2) of this certification. In the event that any subcontractor is unable to certify to any of the statements in this certification, such subcontractor shall attach an explanation to this certification.

#### D. OTHER TAXES/FEEES

1. The Contractor is not delinquent in paying any fine, fee, tax or other charge owed to the City of Chicago.
2. If Contractor is unable to certify to the above statement, Contractor shall explain below and (attach additional pages if necessary).

If the letters "NA", the word "None" or no response appears on the lines above, it will be conclusively presumed that the Undersigned certified to the above statements.

#### E. PUNISHMENT

1. A Contractor who makes a false statement material to Section II(A)(2) of this certification commits a Class 3 felony. 720 ILCS 5/33E-11(b).

#### F. JUDICIAL OR ADMINISTRATIVE PROCEEDINGS

1. The Contractor is not a party to any pending lawsuits against the City of Chicago or the Public Building Commission of Chicago nor has Contractor been sued by the City of Chicago or the Public Building Commission of Chicago in any judicial or administrative proceeding.
2. If the Contractor cannot certify to the above, provide the (1) case name; (2) docket number; (3) court in which the action is or was pending; and (4) a brief description of each such judicial or administrative proceeding. Attach additional sheets if necessary.

If the letters "NA", the word "None" or no response appears on the lines above, it will be conclusively presumed that the Undersigned certified to the above statements.

#### **CERTIFICATION OF ENVIRONMENTAL COMPLIANCE**

- A. Neither the Contractor nor any affiliated entity of the Contractor has, during a period of five years prior to the date of execution of this Affidavit: (1) violated or engaged in any conduct which violated federal, state or local Environmental Restriction<sup>5</sup>, (2) received notice of any claim, demand or action, including but not limited to citations and warrants, from any federal, state or local agency exercising executive, legislative, judicial, regulatory or administrative functions relating to a violation or alleged violation of any federal, state or local statute, regulation or other Environmental Restriction; or (3) been subject to any fine or penalty of any nature for failure to comply with any federal, state or local statute, regulation or other Environmental Restriction.

If the Contractor cannot make the certification contained in the above paragraph, identify any exceptions (attach additional pages if necessary):

If the letters "NA", the word "None" or no response appears on the lines above, it will be conclusively presumed that the Undersigned certified to the above statements.

- B. Without the prior written consent of the Public Building Commission of Chicago, Contractor will not employ any subcontractor in connection with the contract or proposal to which this Affidavit pertains without obtaining from such subcontractor a certification similar in form and substance to the certification contained in Paragraph A of this Section III prior to such subcontractor's performance of any work or services or furnishing any goods, supplies or materials of any kind under the proposal or the contract to which this Affidavit pertains.
- C. Until completion of the Contractor's performance under the proposal or contract to which this Affidavit pertains, the Contractor will not violate any federal, state or local statute, regulation or other Environmental Restriction, whether in the performance of such contract or otherwise.

#### **INCORPORATION INTO CONTRACT AND COMPLIANCE**

The above certification shall become part of any contract awarded to the Contractor set forth on page 1 of this Disclosure Affidavit and are a material inducement to the Public Building Commission of Chicago's execution of the contract, contract modification or contract amendment with respect to which this Disclosure Affidavit is being executed and delivered on behalf of the Contractor. Furthermore, Contractor shall comply with these certifications during the term and/or performance of the contract.



**VERIFICATION**

Under penalty of perjury, I certify that I am authorized to execute this Disclosure Affidavit on behalf of the Contractor set forth on page 1, that I have personal knowledge of all the certifications made herein and that the same are true.

The Contractor must report any change in any of the facts stated in this Affidavit to the Public Building Commission of Chicago within 14 days of the effective date of such change by completing and submitting a new Disclosure Affidavit. Failure to comply with this requirement is grounds for your firm to be deemed non-qualified to do business with the PBCC. Deliver any such new Disclosure Affidavit to: Public Building Commission of Chicago, Director of Compliance, 50 W. Washington, Room 200, Chicago, IL 60602.

\_\_\_\_\_  
Name of Authorized Officer (Print or Type)

\_\_\_\_\_  
Signature of Authorized Officer

\_\_\_\_\_  
Title

\_\_\_\_\_  
Telephone Number

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

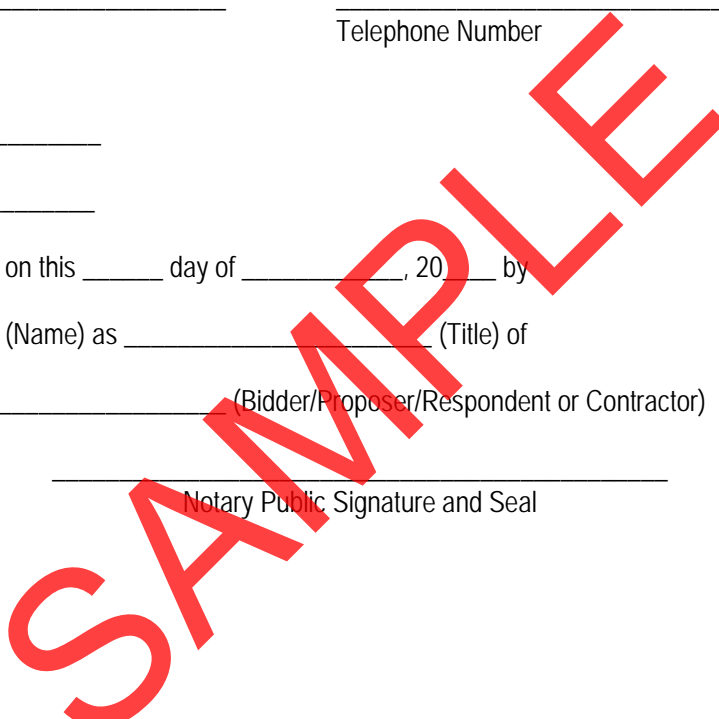
County of \_\_\_\_\_

Signed and sworn to before me on this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_ by \_\_\_\_\_

\_\_\_\_\_  
(Name) as \_\_\_\_\_ (Title) of

\_\_\_\_\_  
(Bidder/Proposer/Respondent or Contractor)

\_\_\_\_\_  
Notary Public Signature and Seal



ATTACHMENT B  
LEGAL ACTIONS

SAMPLE

(FORM FOLLOWS)

**ATTACHMENT B  
LEGAL ACTIONS**

FIRM NAME: \_\_\_\_\_

If the answer to any of the questions below is **YES**, you must provide a type written, brief description, and/or explanation on a separate sheet following this page. Each question must be answered.

| Question  | Yes                      | No                       |
|---|--------------------------|--------------------------|
| Has the firm or venture been issued a notice of default on any contract awarded to it in the last 3 years?  | <input type="checkbox"/> | <input type="checkbox"/> |
| Does the firm or venture have any legally filed judgments, claims (liquidated damages, or other), arbitration proceedings or suits pending or outstanding against the firm or venture or its officers?  | <input type="checkbox"/> | <input type="checkbox"/> |
| If the answer to the preceding question is "Yes", provide the requisite explanation on a separate sheet and enter the dollar amount of claims or judgments and the contract value of the contract on which the claim was filed _____.   |                          |                          |
| Within the past 3 years has the firm or venture been a party to any lawsuits or arbitration proceedings with regard to any contracts?   | <input type="checkbox"/> | <input type="checkbox"/> |
| Within the last 3 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?  | <input type="checkbox"/> | <input type="checkbox"/> |
| 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? | <input type="checkbox"/> | <input type="checkbox"/> |
| Has the firm or venture ever been temporarily or permanently debarred from contract award by any federal, state, or local agency?   | <input type="checkbox"/> | <input type="checkbox"/> |
| Within the last 3 years, has the firm or venture been investigated or assessed penalties for any statutory or administrative violations (including but not limited to MBE, WBE, EEOC violations)?   | <input type="checkbox"/> | <input type="checkbox"/> |
| Within the last three years, has the firm or venture received any notices of violation from the Chicago or Illinois Department of Public Health, the Illinois or United States Environmental Protection Agency?   | <input type="checkbox"/> | <input type="checkbox"/> |
| Has the firm or venture ever failed to complete any work awarded to it?   | <input type="checkbox"/> | <input type="checkbox"/> |

ATTACHMENT C  
DISCLOSURE OF RETAINED PARTIES

**SAMPLE**  
(FORM FOLLOWS)

**ATTACHMENT C  
DISCLOSURE OF RETAINED PARTIES**

**Definitions and Disclosure Requirements**

As used herein, "Consultant" means a person or entity who has any contract with the Public Building Commission of Chicago ("Commission").

Commission bids, contracts, and/or qualification submissions must be accompanied by a disclosure statement providing certain information about lobbyists whom the Consultant has retained or expects to retain with respect to the contract. In particular, the Consultant 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 Consultant is not required to disclose employees who are paid solely through the Consultant's regular payroll.

"Lobbyists" means any person who (a) for compensation or on behalf of any person other than himself undertake 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.

**Certification**

Consultant hereby certifies as follows:

This Disclosure relates to the following transaction(s):

Description of goods or services to be provided under Contract:

Name of Consultant:

**EACH AND EVERY** lobbyist retained or anticipated to be retained by the Consultant with respect to or in connection with the contract listed below. Attach additional pages if necessary.

Retained Parties:

| Name | Business Address | Relationship<br>(Attorney, Lobbyist,<br>etc.) | Fees<br>(indicate total whether paid<br>or estimated) |
|------|------------------|---|---|
|      |                  |   |   |
|      |                  |   |   |
|      |                  |   |   |
|      |                  |   |   |
|      |                  |   |   |

Check Here If No Such Persons Have been Retained or Are Anticipated To Be Retained

The Consultant understands and agrees as follows:

- a. The information provided herein is a material inducement to the Commission execution of the contract or other action with respect to which this Disclosure of Retained Parties form is being executed, and the Commission may rely on the information provided herein. Furthermore, if the Commission determines that any information provided herein is false, incomplete, or inaccurate, the Commission may terminate the contract or other transaction, terminate the Consultant's participation in the contract or other transactions with the Commission.
- b. If the Consultant is uncertain whether a disclosure is required, the Consultant must either ask the Commission's Representative or his or her manager 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 Consultant waives and releases any possible rights or claims it may have against the Commission 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 Consultant 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\_\_\_\_

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

ATTACHMENT D  
SPECIAL CONDITIONS REGARDING THE UTILIZATION OF  
MINORITY AND WOMEN OWNED BUSINESS ENTERPRISES  
FOR PROFESSIONAL SERVICES

&

RELATED SCHEDULES

(FORM AND SCHEDULES FOLLOW)

**SAMPLE**



ATTACHMENT D  
SPECIAL CONDITIONS REGARDING THE UTILIZATION OF  
MINORITY AND WOMEN OWNED BUSINESS ENTERPRISES  
FOR PROFESSIONAL SERVICES

1. Policy Statement

- a. It is the policy of the Public Building Commission of Chicago ("PBC") to ensure competitive business opportunities for MBE and WBE firms in the performance of Contracts, to prohibit discrimination in the award of or participation in Contracts, and to abolish arbitrary barriers to full participation in Contracts by all persons, regardless of race, sex or ethnicity. Therefore, during the performance of this Contract, the Professional Service Provider must agree that it will not discriminate against any person or business on the basis of race, color, religion, ancestry, age, marital status, physical or mental handicap, unfavorable discharge from military service, parental status, sexual orientation, national origin or sex, in the solicitation or the purchase of goods and services or the subcontracting of work in the performance in this Contract.
- b. The Commission requires the Professional Service Provider also agree to take affirmative action to ensure that MBE and WBE firms have the maximum opportunity to compete for and perform subcontracts with respect to this Contract.
- c. The Commission requires the Professional Service Provider to notify MBE and WBE firms, utilized on this contract, about opportunities on contracts without affirmative action goals.

2. Aspirational Goals

- a. Upon the effective date of these Special Conditions, the bi-annual aspirational goals are to award 25% of the annual dollar value of all Commission Construction Contracts to certified MBEs and 5% of the annual dollar value of all Commission Construction Contracts to qualified WBEs.
- b. The contract specific goal for MBE/WBE participation WILL BE DETERMINED BY THE COMMISSION. This goal may be met by participation of a MBE firm, WBE firm, or a combination of both.
- c. Further, the Professional Service Provider must agree to use its best efforts to include MBE and WBE firms in any Contract modification work that increases the Contract value. Where the proposed contract modification involves work which can be performed by MBEs and WBEs already performing work on the contract such MBEs and WBEs will participate in such work specified in the contract modification..
- d. Failure to carry out the commitments and policies set forth in this Program constitute a material breach of contract and may result in termination of the Professional Service Provider or such other remedy, as the Commission deems appropriate.

3. Definitions

- a. For purposes of this Special Condition, the following definitions applies:
  - (1) "Certified Minority Business Enterprise" means a person or entity granted certification by the City of Chicago or County of Cook.
  - (2) "Certified Women's Business Enterprise" means a person or entity granted certification by the City of Chicago or County of Cook.
  - (3) "Construction Contract" means a contract for the construction, repair, alteration, renovation or improvement of any building, facility or other structure.
  - (4) "Contract Specific Goals" means the subcontracting goals for MBE and WBE participation established for a particular contract based upon the availability of MBEs and WBEs to perform any anticipated scope of work of the contract and the Commission's progress towards meeting the aspirational goals.
  - (5) "Contractor" means any person or business entity that seeks to enter into a Construction Contract with the Commission and includes all partners, affiliates and joint ventures of such person or entity.
  - (6) "Established Business" means a person or entity granted certification by the City of Chicago.
  - (7) "Executive Director" means the Executive Director of the Commission or his/her duly designated representative as appointed in writing.
  - (8) "Good faith efforts" means actions undertaken by a Contractor to achieve a Contract Specific Goal that by their scope, intensity and appropriateness to the objective can reasonably be expected to fulfill the Program's requirements.

- (9) "Joint venture" means an association of two or more persons or entities or any combination of two or more business enterprises and persons numbering two or more, proposing to perform a single for-profit business enterprise, in which each joint venture partner contributes property, capital, efforts, skill and knowledge, and in which the MBE or WBE is responsible for a distinct, clearly-defined portion of the work of the contract and whose share in the capital contribution, control, management, risks and profits of the joint venture is equal to its ownership interest. Joint ventures must have an agreement in writing specifying the terms and conditions of the relationships between the parties and their relationship and responsibilities to the contract.
- (10) "Participating Established Business" means an established business which is eligible to participate in the minority- and women-owned business enterprise program set forth in Section 8 below.
- (11) "Professional Service Provider" means any person or business entity that seeks to enter into Professional Service Contract with the Commission and includes all partners affiliates, and joint ventures of such person or entity.
- (12) "Program" means the minority- and women-owned business enterprise construction procurement program established in this special condition.

#### 4. Determining MBE/WBE Utilization

- a. The methodology for determining MBE and WBE utilization will be determined for purposes of analysis with respect to this contract as follows:
- b. The total dollar value of the contract awarded to the certified MBE or WBE firm will be credited to such participation. Only minority business participation may be counted toward MBE participation and only women business participation may be counted toward WBE participation.
- c. The total dollar value of a contract with a firm owned and controlled by minority women is counted toward either the MBE or WBE goal, but not both. The Professional Service Provider employing the firm may choose the goal to which the contract value is applied. Various work done by one and the same sub-consultant will be considered, for the purpose of this principle, as work effectively done under one subcontract only, which sub-consultant may be counted toward only one of the goals, not toward both.
- d. A Professional Service Provider may count toward its MBE or WBE goal the portion of the total dollar value of a contract with an eligible joint venture equal to the percentage of the ownership and control of the MBE or WBE partner in the joint venture. A joint venture seeking to be credited for MBE participation may be formed among certified MBE and WBE firms, or between certified MBE and WBE firms and a non-MBE/WBE firm. A joint venture satisfies the eligibility standards of this Program if the certified MBE or WBE participant of the joint venture:
  - (1) Shares in the ownership, control, management responsibilities, risks and profits of the joint venture; and
  - (2) Is responsible for a clearly defined portion of work to be performed in proportion to the MBE or WBE ownership percentage.
- e. A Professional Service Provider may count toward its MBE and WBE goals only expenditures to firms that perform a commercially useful function in the work of a contract. A firm is considered to perform a commercially-useful function when it is responsible for execution of a distinct element of the work of a contract and carries out its responsibilities by actually performing, managing, and supervising the work involved. To determine whether a firm is performing a commercially useful function, the Commission will evaluate the amount of work subcontracted, industry practices and other relevant factors.
- e. Consistent with normal industry practices, a MBE or WBE firm may enter into subcontracts. If a MBE or WBE Professional Service Provider subcontracts a significantly greater portion of the work of a contract than would be expected on the basis of normal industry practices, the MBE or WBE will be rebuttably presumed not to be performing a commercially-useful function.
- f. A Professional Service Provider may count toward its goals expenditures to MBE or WBE manufacturers (i.e., suppliers that produce goods from raw materials or substantially alters them before resale).
- g. A Professional Service Provider may count toward its goals expenditures to MBE or WBE suppliers provided that the supplier performs a commercially useful function in the supply process.

#### 5. Submission of Proposals

- a. The following schedules and documents constitute the Proposer's MBE/WBE compliance proposal and must be submitted at the time of the proposal.
  - (1) Evidence of Certification: Affidavit of MBE/WBE. A copy of each proposed MBE and WBE firm's Letter of Certification from the City of Chicago, Department of Procurement Services or any other entity

accepted by the Public Building Commission of Chicago must be submitted. The PBC accepts certification by the City of Chicago, and County of Cook.

(2) Schedule B: Affidavit of MBE/Non-MBE or WBE/Non-WBE Joint Ventures. Where the Proposer's MBE/WBE compliance proposal includes participation of any MBE or WBE as a joint venture participant, the Proposer must submit a "Schedule B: Affidavit of MBE/Non-MBE or WBE/Non-WBE Joint Venture" with an attached copy of the joint venture agreement proposed among the parties. The Schedule B and the joint venture agreement must clearly evidence that the MBE or WBE participant will be responsible for a clearly defined portion of the work to be performed and that the MBE or WBE firm's responsibilities are in proportion with its ownership percentage.

(3) Schedule C: Letter of Intent to Perform as a sub-consultant, Subconsultant, or Material Supplier, Schedule C, executed by the MBE/WBE firm (or Joint Venture sub-consultant) must be submitted by the Proposer for each MBE/WBE included on the Schedule D. Schedule C must accurately detail the work to be performed by the MBE or WBE firm and the agreed rates and prices to be paid.

(4) Schedule D: Affidavit of Prime Professional Service Provider Regarding MBE or WBE Utilization. A completed Schedule D committing to the utilization of each listed MBE or WBE firm. Unless the Proposer has submitted a completed request for a waiver of participation by MBE/WBE firms (See Request for Waiver procedures in Section 7), the Proposer must include the specific dollar amount or percentage of participation of each MBE/WBE firm listed on its Schedule D. The total dollar commitment to proposed MBE firms must at least equal the MBE goal, and the total dollar commitment to proposed WBE firms must at least equal the WBE goal. Proposers are responsible for calculating the dollar equivalent of MBE or WBE utilization as percentages of their total proposal.

- b. The submittals must have all blank spaces on the Schedule pages applicable to the contract correctly filled in. Agreements between a Proposer and a MBE/WBE in which the MBE/WBE promises not to provide subcontracting quotations to other Proposers are prohibited.

## 6. Evaluation of Compliance Proposals

- a. The Proposer's MBE/WBE compliance proposal will be evaluated by the Commission. The Proposer agrees to provide, upon request, earnest and prompt cooperation to the Executive Director or his / her designee in submitting to interviews that may be necessary, in allowing entry to places of business, in providing further documentation, or in soliciting the cooperation of a proposed MBE or WBE firm in providing such assistance. A proposal may be treated as non-responsive by reason of the determination that the Proposer's proposal did not contain a sufficient level of Certified MBE or WBE participation, that the Proposer was unresponsive or uncooperative when asked for further information relative to the proposal, or that false statements were made in the Schedules.
- b. If the Commission's review of a Proposer's proposal concludes that the MBE or WBE proposal was deficient, the Commission will promptly notify the Proposer of the apparent deficiency and instruct the Proposer to submit (within 3 business days of such notice given by the Commission) a modification of the MBE or WBE Proposal, in proper format, which remedies the deficiencies cited. Failure to correct all deficiencies cited by the Commission will be cause for rejection of the Proposer's proposal as non-responsive.
- c. Proposers will not be permitted to modify their MBE/WBE compliance proposal except insofar as directed to do so by the Commission. Therefore, all terms and conditions stipulated for prospective MBE and WBE consultants or suppliers should be satisfactorily negotiated prior to the submission to the Commission of the Proposer's MBE/WBE compliance proposal. If circumstances should arise, however, where a proposed MBE/WBE is no longer available, the process described in Section 12 should be followed.
- d. If the Compliance Proposal includes participation by material suppliers, the PBC will request copies of the offers from such suppliers. The offers must be furnished to the PBC within three (3) business days of the bidder's receipt of the request for such offers from the PBC. The PBC may make such request by electronic mail. The offers must specify: (i) the particular materials, equipment and/or supplies that will be furnished; (ii) the supplier's price for each of the items; (iii) the total price of the items to be furnished by the supplier, (iv) the supplier's source for the items (e.g., manufacturer, wholesaler) and (v) the subcontractor that the supplies will be purchased by

## 7. Request for Waiver

- a. If a Proposer is unable to identify qualified MBE and WBE firms to perform sufficient work to fulfill the MBE or WBE percentage goals for this Contract, the proposal must include a written request for waiver. A request for waiver must be sent to the Executive Director and must set forth the Proposer's inability to obtain sufficient MBE and WBE firms notwithstanding good faith attempts to achieve such participation.
- b. Good Faith efforts to achieve participation include but are not limited to:

- (1) Attendance at the Pre-bid conference;
  - (2) Solicit certified MBE and WBE firms. Soliciting through reasonable and available means at least 50% of MBE and WBE firms certified in the anticipated scope(s) of work.
  - (3) The Bidder's general affirmative action policies regarding the utilization of MBE and WBE firms, plus a description of the methods used to carry out those policies;
  - (4) Advertise the contract opportunity in trade association newsletters, other media, and/or venues oriented toward and minority and woman-oriented;
  - (5) Timely notification (at least seven (7) days in advance of the bid due date) of specific sub-bid opportunities must be made to MBE and WBE firms and corresponding assistance agencies/associations;
  - (6) Provide interested MBE and WBE firms with adequate information regarding the plans, specifications, and contract requirements in a timely manner;
  - (7) Make efforts to assist interested MBE and WBE firms in obtaining bonding, lines of credit, or insurance;
  - (8) Make efforts to assist interested MBE and WBE firms in obtaining necessary equipment, supplies, materials, or related assistance/services;
  - (9) Effectively use the services of the City; minority or women community organizations/assistance groups, and other organizations to provide assistance in the recruitment and placement of MBE and WBE firms.
  - (10) Negotiate in good faith with interested MBE/WBE firms and provide a description of direct negotiations with MBE and WBE firms for specific sub-bids, including:
    - i. The name, address and telephone number of MBE and WBE firms contacted;
    - ii. A description of the information provided to MBE and WBE firms regarding the portions of the work to be performed; and
    - iii. The reasons why additional MBE and WBE firms were not obtained in spite of negotiations.
  - (11) A statement of the efforts made to select portions of the work proposed to be performed by MBE and WBE firms (such as sub-supplier, transport, engineering, distribution, or any other roles contributing to production and delivery as specified in the contract) in order to increase the likelihood of achieving sub participation;
  - (12) Decision to reject MBE and WBE firms deemed unqualified must be sound and based on a thorough investigation of firms capabilities. As to each MBE and WBE contacted which the Bidder considers to be not qualified, a detailed statement of the reasons for the Bidder's conclusion;
  - (13) Efforts made by the Bidder to expand its search for MBE and/or WBE firms beyond usual geographic boundaries.
  - (14) Must take appropriate, documented steps to follow up initial solicitations with interested MBE and WBE firms.
  - (15) General efforts made to assist MBE and WBE firms to overcome participation barriers.
- c. The Executive Director, after review and evaluation of the request provided by the Bidder, may grant a waiver request upon the determination that:
- (1) Sufficient qualified MBE and/or WBE firms capable of providing the goods or services required by the contract are unavailable despite the good faith efforts of the Bidder;
  - (2) The price(s) quoted by potential MBE and/or WBE firms for goods or services is above competitive levels to an extent unwarranted by any increased cost of doing business attributable to the present effects of disadvantage or discrimination.

8. Established Business Participation in the MBE and WBE Procurement Program

- a. A local business entity which meets all the requirements to be certified as an MBE or WBE under this article except that it has become an established business may participate in the minority- and women-owned business enterprise program as follows:
  - (1) For a one-year period after the business entity has become an established business, only 75 percent of such business's participation in the Contract shall account for the MBE or WBE, as applicable, participation requirement set forth in Section 4;
  - (2) For a one-year period starting on the one-year anniversary of the date the business entity became an

established business, only 50 percent of such business's participation in the Contract shall account for the MBE or WBE, as applicable, participation requirement set forth in Section 4.

(3) For a one-year period starting on the two-year anniversary of the date the business entity became an established business, only 25 percent of such business's participation in the Contract shall account for the MBE or WBE, as applicable, participation requirement set forth in Section 4.

b. An Establish Business entity shall not be eligible to participate in the minority- and women-owned business enterprise procurement program starting on the three-year anniversary of the date the business entity became an established business.

#### 9. Failure To Achieve Goals

a. If the Contractor cannot achieve the contract specific goals, as the Project proceeds, it must have documented its good faith efforts to do so. In determining whether the contractor has made such good faith efforts, the performance of other contractors in meeting the goals may be considered. The Executive Director shall consider, at a minimum, the Contractor's efforts to do the following:

(1) Soliciting through reasonable and available means the interest of MBEs or WBEs that provide interested MBEs or WBEs with adequate information about the plans, specifications and requirements of the contract, including addenda, in a timely manner to assist them in responding to the solicitation.

(2) Provide interested MBEs or WBEs with adequate information about the plans, specifications and requirements of the contract, including addenda, in a timely manner to assist them in responding to the solicitation.

(3) Negotiating in good faith with interested MBEs or WBEs that have submitted bids. Documentation of negotiation must include the names, addresses and telephone numbers of MBEs or WBEs that were solicited; the date of each such solicitation; a description of the information provided regarding the plans and specifications for the work selected for subcontracting; and evidence as to why agreements could not be reached with MBEs or WBEs to perform the work. That there may be some additional costs involved in solicitation and using MBEs and WBEs is not a sufficient reason for a contractor's failure to meet the goals, as long as such costs are reasonable.

(4) Not rejecting MBEs or WBEs as being unqualified without sound reasons based on the thorough investigation of their capabilities. The MBEs' or WBEs' standing within its industry, membership in specific groups, organizations, or associations and political or social affiliations are not legitimate cases for rejecting or not soliciting bids to meet the goals.

(5) Making a portion of the work available to MBE or WBE subcontractors and suppliers and to select those portions of the work or material consistent with the available MBE or WBE subcontractors and suppliers, so as to facilitate meeting the goals.

(6) Making good faith efforts despite the ability or desire of a Contractor to perform the work of a contract with its own organization. A Contractor that desires to self-perform the work of a contract must demonstrate good faith efforts unless the goals have been met.

(7) Selecting portions of the work to be performed by MBEs or WBEs in order to increase the likelihood that the goals will be met. This includes, where appropriate, breaking out contract work items into economically feasible units to facilitate MBE or WBE participation even when the Contract might otherwise prefer to perform these items with its own forces.

(8) Making efforts to assist interested MBEs or WBEs in obtaining bonding lines of credit or insurance as required by the Commission or Contractor.

(9) Making efforts to assist interested MBEs or WBEs in obtaining necessary equipment, supplies, materials or related assistance or services, including participation in a mentor-protégée program; and

(10) Effectively using the services of the Commission; minority or women community organizations; minority or women contractors' groups; local, state and federal minority or women business assistance offices; and other organizations to provide assistance in the recruitment and placement of MBEs or WBEs.

b. In the event the Public Building Commission Procurement Officer determines that the Contractor did not make a good faith effort to achieve the goals, the Contractor may file a Dispute to the Executive Director as provided in the Section on Disputes.

#### 10. Reporting and Record-Keeping Requirements

a. The Professional Service Provider, within 5 working days of contract award, must execute a formal subcontract or purchase order in compliance with the terms of the Professional Service Provider's proposal and MBE/WBE



assurances. Upon request by the PBC, the Professional Service Provider must provide copies of the contracts or purchase orders executed between it and the MBE and WBE firms. During the performance of the contract, the Professional Service Provider will submit partial and final waivers of lien from MBE and WBE sub-consultant and suppliers indicating the current payment amount and the cumulative dollar amount of payments made to date.

- b. The Professional Service Provider must maintain records of all relevant data with respect to the utilization of MBE and WBE firms, including without limitation payroll records, tax returns and records, and books of account in such detail as the Commission requires, and retain such records for a period of at least 3 years after final acceptance of the work. Full access to such records will be granted to the Commission and/or its designees, on 5 business days' notice in order for the Commission to determine the Professional Service Provider's compliance with its MBE and WBE commitments and the status of any MBE or WBE firm performing any portion of the contract.
- c. The Professional Service Provider will file regular MBE and WBE utilization reports on the form entitled "Status Report of MBE and WBE Sub-Contract Payments", at the time of submitting each monthly invoice. The report should indicate the current and cumulative payments to the MBE and WBE sub-contractors.

#### 11. Disqualification of MBE or WBE

- a. The Contract may be terminated by the Executive Director upon the disqualification of the Professional Service Provider as an MBE or WBE if the sub-consultants status as an MBE or WBE was a factor in the award and such status was misrepresented by the Professional Service Provider.
- b. The Contract may be terminated by the Executive Director upon the disqualification of any MBE or WBE if the sub-consultants or supplier's status as an MBE or WBE was a factor in the award of the contract and the status of the sub-consultant or supplier was misrepresented by the Professional Service Provider. If the Professional Service Provider is determined not to have been involved in any misrepresentation of the status of the disqualified sub-consultant or supplier, the Professional Service Provider shall make good faith efforts to engage a qualified MBE or WBE replacement.

#### 12. Prohibition On Changes To MBE/WBE Commitments

- a. The Professional Service Provider must not make changes to its contractual MBE and WBE commitments or substitute such MBE or WBE sub-consultants without the prior written approval of the Executive Director. Unauthorized changes or substitutions, including performing the work designated for a sub-consultant with the Professional Service Provider's own forces, is a violation of this section and a breach of the contract with the Commission, and may cause termination of the contract for breach, and/or subject the Professional Service Provider to contract remedies or other sanctions. The facts supporting the request must not have been known nor reasonably should have been known by the parties prior to entering into the subcontract.

#### 13. MBE/WBE Substitution Requirements and Procedures

- a. Arbitrary changes by the Contractor of the commitments earlier certified in the Schedule D are prohibited. Further, after once entering into each approved MBE and WBE sub-contract agreement, the Contractor shall thereafter neither terminate the subcontract, nor reduce the scope of the work to be performed by the MBE or WBE, nor decrease the price to the MBE or WBE, without in each instance receiving the prior written approval of the Executive Director. In some cases, however, it may become necessary to substitute a new MBE or WBE in order to actually fulfill the MBE or WBE requirements. In such cases, the Executive Director must be given reasons justifying the release by the Contractor of prior specific MBE or WBE commitments established in the contract, and will need to review the eligibility of the MBE or WBE presented as a substitute. The substitution procedure will be as follows:
  - (1) If needed and in order to sustain the fulfillment of the MBE/WBE contract requirements, the Contractor must notify the Executive Director immediately in writing of an apparent necessity to reduce or terminate a MBE or WBE subcontract and to propose a substitute firm for some phase of work.
  - (2) The Contractor's notification should include the specific reasons for the proposed substitution. Stated reasons which would be acceptable include any of the following reasons: a) unavailability after receipt of reasonable Notice to Proceed; b) failure of performance; c) financial incapacity; d) refusal by the subcontractor to honor the bid or proposal price or scope; e) mistake of fact or law about the elements of the scope of work of a solicitation where a reasonable price cannot be agreed; f) failure of the subcontractor to meet insurance, licensing or bonding requirements; g) the subcontractor's withdrawal of its bid or proposal; or h) decertification of the subcontractor as MBE or WBE.
  - (3) The Contractor's position must be fully explained and supported with adequate documentation. Stated reasons which will not be acceptable include: replacement firm has been recruited to perform the same work under terms more advantageous to the Contractor; issues about performance by the committed MBE or WBE were disputed (unless every reasonable effort has already been taken to have the issues resolved or mediated satisfactorily); an MBE or WBE has requested reasonable price escalation which may be justified

due to unforeseen circumstances.

- (4) The Contractor's notification should include the names, address and principal official of any proposed substitute MBE or WBE and the dollar value and scope of work of the proposed subcontract. Attached should be all the same MBE/WBE affidavits, documents and Letters of Intent which are required of the proposed MBE or WBE firms, as enumerated above in Section on Submission of Bid Proposals.
- (5) The Executive Director will evaluate the submitted documentation, and respond within fifteen (15) business days to the request for approval of a substitution. The response may be in the form of requesting more information, or requesting 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 Executive Director will instead respond as soon as practicable.
- (6) Actual substitution of a replacement MBE or WBE to fulfill contract requirements must not be made before the Executive Director's approval is given of the acceptability of the substitute MBE or WBE. This subcontract must be executed within five (5) business days, and a copy of the MBE WBE subcontract with signatures of both parties to the agreement should be submitted immediately to the Executive Director.
  - i. The Executive Director will not approve extra payment for escalated costs incurred by the Contractor when a substitution of subcontractors becomes necessary for the Contractor in order to comply with MBE/WBE contract requirements.
  - ii. No relief of the MBE/WBE requirements will be granted by the Executive Director except in exceptional circumstances. Requests for complete or partial waiver of the MBE/WBE requirements of this contract must be made in writing, stating all details of the request, the circumstances, and any additional relevant information. The request must be accompanied by a record of all efforts taken by the Contractor to locate specific firms, solicit MBE and WBE bids, seek assistance from technical assistance agencies, and other good faith efforts undertaken to achieve compliance with the MBE/WBE goals.

#### 14. Non-Compliance

- a. The Executive Director has the authority to apply suitable sanctions to the Professional Service Provider if the Professional Service Provider is found to be in non-compliance with the MBE and WBE requirements. Failure to comply with the MBE or WBE terms of this contract or failure to use MBE or WBE firms as stated in the Professional Service Provider's assurances constitutes a material breach of the contract, and may lead to the suspension or termination of the contract in part or in whole. In some cases, monthly progress payments may be withheld until corrective action is taken.
- b. When the contract is completed, if the Executive Director has determined that the Professional Service Provider did not comply in the fulfillment of the required MBE and/or WBE goals, and a grant of relief of the requirements was not obtained, the Commission will be damaged in the failure to provide the benefit of participation to minority or women business to the degree set forth in this Special Condition. In that case, the Commission may disqualify the Professional Service Provider from entering into future contracts with the Commission.

#### 15. Severability

- a. If any section, subsection, paragraph, clause, provision or application of these Special Conditions is held invalid by any court, the invalidity of such section, paragraph, clause or provision will not affect any of the remaining provisions hereof.

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SCHEDULE B  
Joint Venture Affidavit

(SCHEDULE FOLLOWS)

**SAMPLE**

**SCHEDULE B**  
Joint Venture Affidavit (1 of 3)

*This form is not required if all joint venturers are MBE/Non-MBE or WBE/Non-WBE firms. In such case, however, a written joint venture agreement among the MBE/Non-MBE or WBE/Non-WBE firms should be submitted. Each MBE/WBE joint venturer must also attach a copy of their current certification letter.*

A. Name of joint venture \_\_\_\_\_

B. Address of joint venture \_\_\_\_\_

\_\_\_\_\_

C. Phone number of joint venture \_\_\_\_\_

D. Identify the firms that comprise the joint venture

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

1. Describe the role(s) of the MBE/WBE firm(s) in the joint venture. (Note that a "clearly defined portion of work" must here be shown as under the responsibility of the MBE/WBE firm.)

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

2. Describe very briefly the experience and business qualifications of each non-MBE/WBE joint venturer.

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

E. Nature of joint venture's business

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

F. Provide a copy of the joint venture agreement.

G. Ownership: What percentage of the joint venture is claimed to be owned by MBE/WBE? \_\_\_\_\_%

H. Specify as to:

1. Profit and loss sharing \_\_\_\_\_%

2. Capital contributions, including equipment \_\_\_\_\_%

3. Other applicable ownership interests, including ownership options or other agreements which restrict ownership or control.

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

**SCHEDULE B**  
Joint Venture Affidavit (2 of 3)

4. Describe any loan agreements between joint venturers, and identify the terms thereof.

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I. Control of and participation in this Contract: Identify by name, race, sex, and "firm" those individuals (and their titles) who are responsible for day-to-day management and policy decision making, including, but not limited to, those with prime responsibility for:

1. Financial decisions

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2. Management decisions such as:

a. Estimating

---

b. Marketing and Sales

---

c. Hiring and firing of management personnel

---

d. Other

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3. Purchasing of major items or supplies

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4. Supervision of field operations

---

5. Supervision of office personnel

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6. Describe the financial controls of the joint venture, e.g., will a separate cost center be established; which venturer will be responsible for keeping the books; how will the expense therefor be reimbursed; the authority of each joint venturer to commit or obligate the other. Describe the estimated contract cash flow for each joint venturer.

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7. State approximate number of operational personnel, their craft and positions, and whether they will be employees of the majority firm or the joint venture.

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

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**SCHEDULE B**  
**Joint Venture Affidavit (3 of 3)**

THE UNDERSIGNED SWEAR 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 BY EACH JOINT VENTURER IN THE UNDERTAKING. FURTHER, THE UNDERSIGNED COVENANT AND AGREE TO PROVIDE TO THE PUBLIC BUILDING COMMISSION OF CHICAGO CURRENT, COMPLETE AND ACCURATE INFORMATION REGARDING ACTUAL JOINT VENTURE WORK AND THE PAYMENT THEREFOR AND ANY PROPOSED CHANGES IN ANY OF THE JOINT VENTURE AGREEMENTS AND TO PERMIT THE AUDIT AND EXAMINATION OF THE BOOKS, RECORDS, AND FILES OF THE JOINT VENTURE, OR THOSE OF EACH JOINT VENTURER RELEVANT TO THE JOINT VENTURE, BY AUTHORIZED REPRESENTATIVES OF THE COMMISSION. ANY MATERIAL MISREPRESENTATION WILL BE GROUNDS FOR TERMINATING ANY CONTRACT WHICH MAY BE AWARDED AND FOR INITIATING ACTION UNDER FEDERAL OR STATE LAWS CONCERNING FALSE STATEMENTS.

Note: If, after filing this Schedule B and before the completion of the joint venture's work on this Contract, there is any significant change in the information submitted, the joint venture must inform the Public Building Commission of Chicago, either directly or through the Prime if the joint venture is a subcontractor.

\_\_\_\_\_  
Name of Joint Venturer

\_\_\_\_\_  
Name of Joint Venturer

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Name

\_\_\_\_\_  
Name

\_\_\_\_\_  
Title

\_\_\_\_\_  
Title

\_\_\_\_\_  
Date

\_\_\_\_\_  
Date

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

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

On this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_  
before me appeared (Name)

On this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_  
before me appeared (Name)

\_\_\_\_\_  
to me personally known, who, being duly sworn,  
did execute the foregoing affidavit, and did state  
that he or she was properly authorized by  
(Name of Joint Venture)

\_\_\_\_\_  
to me personally known, who, being duly sworn,  
did execute the foregoing affidavit, and did state  
that he or she was properly authorized by  
(Name of Joint Venture)

\_\_\_\_\_  
to execute the affidavit and did so as his or her  
free act and deed.

\_\_\_\_\_  
to execute the affidavit and did so as his or her  
free act and deed.

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

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

Commission expires:  
(SEAL)

Commission expires:  
(SEAL)

SCHEDULE C  
Letter of Intent from MBE/WBE To Perform As  
Subcontractor, Subconsultant, and/or Material Supplier

(SCHEDULE FOLLOWS)

**SAMPLE**

**SCHEDULE C**  
**Letter of Intent from MBE/WBE (1 of 2)**  
**To Perform As**  
**Subcontractor, Subconsultant, and/or Material Supplier**

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

Project Number: \_\_\_\_\_

FROM:

\_\_\_\_\_ MBE \_\_\_\_\_ WBE \_\_\_\_\_  
(Name of MBE or WBE)

TO:

\_\_\_\_\_ and Public Building Commission of Chicago  
(Name of Bidder)

The undersigned intends to perform work in connection with the above-referenced project as (check one):

\_\_\_\_\_ a Sole Proprietor

\_\_\_\_\_ a Corporation

\_\_\_\_\_ a Partnership

\_\_\_\_\_ a Joint Venture

The MBE/WBE status of the undersigned is confirmed by the attached Letter of Certification, dated \_\_\_\_\_ . In addition, in the case where the undersigned is a Joint Venture with a non-MBE/WBE firm, a Schedule B, Joint Venture Affidavit, is provided.

The undersigned is prepared to provide the following described services or supply the following described goods in connection with the above-named project.

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

The above-described services or goods are offered for the following price, with terms of payment as stipulated in the Contract Documents.

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

**SCHEDULE C**  
**Letter of Intent from MBE/WBE (2 of 2)**  
**To Perform As**  
**Subcontractor, Subconsultant, and/or Material Supplier**

**PARTIAL PAY ITEMS**

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

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

**SUB-SUBCONTRACTING LEVELS**

\_\_\_\_\_ % of the dollar value of the MBE/WBE subcontract will be sublet to non-MBE/WBE contractors.  
\_\_\_\_\_ % of the dollar value of the MBE/WBE subcontract will be sublet to MBE/WBE contractors.

If MBE/WBE subcontractor will not be sub-subcontracting any of the work described in this Schedule, a zero (0) must be filled in each blank above. If more than 10% percent of the value of the MBE/WBE subcontractor's scope of work will be sublet, a brief explanation and description of the work to be sublet must be provided.

The Undersigned (Contractor) will enter into a formal agreement for the above work with the Bidder, conditioned upon its execution of a contract with the Public Building Commission of Chicago, and will do so within five (5) working days of receipt of a notice of Contract award from the Commission.

Additionally, the Undersigned certifies to the best of its knowledge and belief that it, its principals and any subcontractors used in the performance of this contract, meet the Agency requirements and have not violated any City or Sister Agency policy, codes, state, federal or local laws, rules or regulations and have not been subject to any debarment, suspension or other disciplinary action by any government agency. Additionally, if at any time the Contractor becomes aware of such information, it must immediately disclose it to the Commission.

BY:

\_\_\_\_\_  
Name of MBE/WBE Firm (Print)

\_\_\_\_\_  
Date

\_\_\_\_\_  
Phone

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Name (Print)

IF APPLICABLE:

BY:

\_\_\_\_\_  
Joint Venture Partner (Print)

\_\_\_\_\_  
Date

\_\_\_\_\_  
Phone

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Name (Print)

MBE \_\_\_\_ WBE \_\_\_\_ Non-MBE/WBE \_\_\_\_



SCHEDULE D  
Affidavit of Professional Service Provider Regarding MBE/WBE Participation

(SCHEDULE FOLLOWS)

SAMPLE

**SCHEDULE D**

**Affidavit of Professional Service Provider Regarding MBE/WBE Participation (1 of 2)**

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

STATE OF ILLINOIS     }  
                                      }SS  
COUNTY OF COOK     }

In connection with the above-captioned contract, I HEREBY DECLARE AND AFFIRM that I am the

\_\_\_\_\_

Title and duly authorized representative of

\_\_\_\_\_

Name of Professional Service Provider whose address is

\_\_\_\_\_

in the City of \_\_\_\_\_, State of \_\_\_\_\_

and that I have personally reviewed the material and facts submitted with the attached Schedules of MBE/WBE participation in the above-referenced Contract, including Schedule C and Schedule B (if applicable), and the following is a statement of the extent to which MBE/WBE firms will participate in this Contract if awarded to this firm as the Contractor for the Project.

| Name of MBE/WBE Contractor       | Type of Work to be Done in Accordance with Schedule C | Dollar Credit Toward MBE/WBE Goals |     |
|----------------------------------|---|------------------------------------|-----|
|                                  |   | MBE                                | WBE |
|                                  |   | \$                                 | \$  |
|                                  |   | \$                                 | \$  |
|                                  |   | \$                                 | \$  |
|                                  |   | \$                                 | \$  |
|                                  |   | \$                                 | \$  |
|                                  |   | \$                                 | \$  |
|                                  |   | \$                                 | \$  |
|                                  |   | \$                                 | \$  |
|                                  |   | \$                                 | \$  |
| <b>Total Net MBE/WBE Credit</b>  |   | \$                                 | \$  |
| <b>Percent of Total Base Bid</b> |   | %                                  | %   |

The Prime may count toward its MBE/WBE goal a portion of the total dollar value of a contract with a joint venture equal to the percentage of the ownership and control of the MBE/WBE partner.

**SCHEDULE D**

**Affidavit of Professional Service Provider Regarding MBE/WBE Participation (2 of 2)**

The Undersigned will enter into a formal agreement for the above work with the above-referenced MBE/WBE firms, conditioned upon performance as Contractor of a Contract with the Commission, and will do so within five (5) business days of receipt of a notice of Contract award from the Commission.

Additionally, the Undersigned certifies to the best of its knowledge and belief that it, its principals and any subcontractors used in the performance of this contract, meet the Agency requirements and have not violated any City or Sister Agency policy, codes, state, federal or local laws, rules or regulations and have not been subject to any debarment, suspension or other disciplinary action by any government agency. Additionally, if at any time the Contractor becomes aware of such information, it must immediately disclose it to the Commission.

BY:

\_\_\_\_\_  
Name of Contractor (Print)

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Date

\_\_\_\_\_  
Name (Print)

\_\_\_\_\_  
Phone

IF APPLICABLE:

BY:

\_\_\_\_\_  
Joint Venture Partner (Print)

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Date

\_\_\_\_\_  
Name (Print)

\_\_\_\_\_

MBE \_\_\_\_ WBE \_\_\_\_ Non-MBE/WBE \_\_\_\_

**SAMPLE**